R156. Commerce, Occupational and Professional Licensing. R156-1. General Rules of the Division of Occupational and Professional Licensing. R156-1-101. Title.

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These rules are known as the General Rules of the Division of Occupational and Professional Licensing.

R156-1-102. Definitions.

In addition to the definitions in Title 58, as used in Title 58 or these rules:

- (1) "Active and in good standing" means a licensure status which allows the licensee full privileges to engage in the practice of the occupation or profession subject to the scope of the licensee's license classification.
- (2) "Aggravating circumstances" means any consideration or factors that may justify an increase in the severity of an action to be imposed upon an applicant or licensee.
- (3) "Cancel" or "cancellation" means nondisciplinary action by the division to rescind, repeal, annul, or void a license issued in error. Such action includes rescinding a license issued to an applicant whose payment of the required application fee is dishonored when presented for payment.
- (4) "Charges" means the acts or omissions alleged to constitute either unprofessional or unlawful conduct or both by a licensee, which serve as the basis to consider a licensee for inclusion in the diversion program authorized in Section 58-1-404
- (5) "Denial of licensure" means action by the division refusing to issue a license to an applicant for initial licensure, renewal of licensure, reinstatement of licensure or relicensure.
- (6) "Disciplinary action" means adverse licensure action by the division under the authority of Subsections 58-1-401(2)(a) through (2)(b).
- (7) "Diversion agreement" means a formal written agreement between a licensee, the division, and a diversion committee, outlining the terms and conditions with which a licensee must comply as a condition of entering in and remaining under the diversion program authorized in Section 58-1-404.
- (8) "Diversion committees" mean diversion advisory committees authorized by Subsection 58-1-404(2)(a)(i) and created under Subsection R156-1-404a.
- (9) "Duplicate license" means a license reissued to replace a license which has been lost, stolen, or mutilated.
- (10) "Emergency review committees" mean emergency adjudicative proceedings review committees created by the division under the authority of Subsection 58-1-108(2).
- (11) "Expire" or "expiration" means the automatic termination of a license which occurs:
- (a) at the expiration date shown upon a license if the licensee fails to renew the license before the expiration date; or
 - (b) prior to the expiration date shown on the license:
 - (i) upon the death of a licensee who is a natural person;
- (ii) upon the dissolution of a licensee who is a partnership, corporation, or other business entity; or
- (iii) upon the issuance of a new license which supersedes an old license, including a license which:
 - (A) replaces a temporary license;
- (B) replaces a student or other interim license which is limited to one or more renewals or other renewal limitation; or
- (C) is issued to a licensee in an upgraded classification permitting the licensee to engage in a broader scope of practice in the licensed occupation or profession.
- (12) "Inactive" or "inactivation" means action by the division to place a license on inactive status in accordance with Sections 58-1-305 and R156-1-305.
- (13) "Investigative subpoena authority" means, except as otherwise specified in writing by the director, the division enforcement counsel, or if the division enforcement counsel is

unable to so serve for any reason, the assistant director, or if both the division enforcement counsel and the assistant director are unable to so serve for any reason, the department enforcement counsel.

- (14) "License" means a right or privilege to engage in the practice of a regulated occupation or profession as a licensee.
- (15) "Limit" or "limitation" means nondisciplinary action placing either terms and conditions or restrictions or both upon a license:
- (a) issued to an applicant for initial licensure, renewal or reinstatement of licensure, or relicensure; or
- (b) issued to a licensee in place of the licensee's current license or disciplinary status.
- (16) "Mitigating circumstances" means any consideration or factors that may justify a reduction in the severity of an action to be imposed upon an applicant or licensee.
- (17) "Nondisciplinary action" means adverse licensure by the division under the authority of Subsections 58-1-401(1) or 58-1-401(2)(c) through (2)(d).
- (18) "Peer committees" mean advisory peer committees to boards created by the legislature in Title 58 or by the division under the authority of Subsection 58-1-203(1)(f).
- (19) "Private reprimand" means disciplinary action to formally reprove or censure a licensee for unprofessional or unlawful conduct, with the documentation of the action being classified as a private record.
- (20) "Probation" means disciplinary action placing terms and conditions upon a license;
- (a) issued to an applicant for initial licensure, renewal or reinstatement of licensure, or relicensure; or
- (b) issued to a licensee in place of the licensee's current license or disciplinary status.
- (21) "Public reprimand" means disciplinary action to formally reprove or censure a licensee for unprofessional or unlawful conduct, with the documentation of the action being classified as a public record.
- (22) "Regulatory authority" as used in Subsection 58-1-501(2)(d) means any governmental entity who licenses, certifies, registers, or otherwise regulates persons subject to its jurisdiction, or who grants the right to practice before or otherwise do business with the governmental entity.
- (23) "Reinstate" or "reinstatement" means to activate an expired license or to restore a license which is restricted, as defined in Subsection (26)(b), or is suspended, or placed on probation, to a lesser restrictive license or an active in good standing license.
- (24) "Relicense" or "relicensure" means to license an applicant who has previously been revoked or has previously surrendered a license.
- (25) "Remove or modify restrictions" means to remove or modify restrictions, as defined in Subsection (26)(a), placed on a license issued to an applicant for licensure.
- (26) "Restrict" or "restriction" means disciplinary action qualifying or limiting the scope of a license:
- (a) issued to an applicant for initial licensure, renewal or reinstatement of licensure, or relicensure in accordance with Section 58-1-304; or
- (b) issued to a licensee in place of the licensee's current license or disciplinary status.
- (27) "Revoke" or "revocation" means disciplinary action by the division extinguishing a license.
- (28) "Suspend" or "suspension" means disciplinary action by the division removing the right to use a license for a period of time or indefinitely as indicated in the disciplinary order, with the possibility of subsequent reinstatement of the right to use the license.
- (29) "Surrender" means voluntary action by a licensee giving back or returning to the division in accordance with Section 58-1-306, all rights and privileges associated with a

license issued to the licensee.

- (30) "Temporary license" or "temporary licensure" means a license issued by the division on a temporary basis to an applicant for initial licensure, renewal or reinstatement of licensure, or relicensure in accordance with Section 58-1-303.
- (31) "Unprofessional conduct" as defined in Title 58 is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-1-502.
- (32) "Warning or final disposition letters which do not constitute disciplinary action" as used in Subsection 58-1-108(3) mean letters which do not contain findings of fact or conclusions of law and do not constitute a reprimand, but which may address any or all of the following:
 - (a) division concerns;
 - (b) allegations upon which those concerns are based;
 - (c) potential for administrative or judicial action; and
 - (d) disposition of division concerns.

R156-1-103. Authority - Purpose.

These rules are adopted by the division under the authority of Subsection 58-1-106(1)(a) to enable the division to administer Title 58.

$\begin{array}{llll} \textbf{R156-1-106.} & \textbf{Division} & \textbf{-} & \textbf{Duties,} & \textbf{Functions,} & \textbf{and} \\ \textbf{Responsibilities.} & & & & & & & & & \\ \end{array}$

- (1) In accordance with Subsection 58-1-106(2), the following responses to requests for lists of licensees may include multiple licensees per request and may include home telephone numbers and home addresses, subject to the restriction that the addresses and telephone numbers shall only be used by a requester for purposes for which the requester is properly authorized and shall not be sold or otherwise redisclosed by the requester:
- (a) responses to requests from another governmental entity, government-managed corporation, a political subdivision, the federal government, another state, or a not-for-profit regulatory association to which the division is a member;
- (b) responses to requests from an occupational or professional association, private continuing education organizations, trade union, university, or school, for purposes of education programs for licensees;
- (c) responses to a party to a prelitigation proceeding convened by the division under Title 78, Chapter 14;
- (d) responses to universities, schools, or research facilities for the purposes of research; and
- (e) responses to requests from licensed health care facilities or third party credentialing services, for the purpose of verifying licensure status for credentialing or reimbursement purposes.
- (2) In accordance with Subsection 58-1-106(3)(a), the division may deny a request for an address or telephone number of a licensee to an individual who provides proper identification and the reason for the request, in writing, to the division, if the reason for the request is deemed by the division to constitute an unwarranted invasion of privacy or a threat to the public health, safety, and welfare.
- (3) In accordance with Subsection 58-1-106(3)(c), proper identification of an individual who requests the address or telephone number of a licensee and the reason for the request, in writing, shall consist of the individual's name, mailing address, and daytime number, if available.

R156-1-107. Organization of Rules - Content, Applicability and Relationship of Rules.

- (1) The rules and sections in Title R156 shall, to the extent practicable, follow the numbering and organizational scheme of the chapters in Title 58.
- (2) Rule R156-1 shall contain general provisions applicable to the administration and enforcement of all

occupations and professions regulated in Title 58.

- (3) The provisions of the other rules in Title R156 shall contain specific or unique provisions applicable to particular occupations or professions.
- (4) Specific rules in Title R156 may supplement or alter Rule R156-1 unless expressly provided otherwise in Rule R156-1

R156-1-109. Presiding Officers.

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In accordance with Subsection 63-46b-2(1)(h), Sections 58-1-104, 58-1-106, 58-1-109, 58-1-202, 58-1-203, 58-55-103, and 58-55-201, except as otherwise specified in writing by the director, or for Title 58, Chapter 55, the Construction Services Commission, the designation of presiding officers is clarified or established as follows:

- (1) The division regulatory and compliance officer is designated as the presiding officer for issuance of notices of agency action and for issuance of notices of hearing issued concurrently with a notice of agency action or issued in response to a request for agency action, provided that if the division regulatory and compliance officer is unable to so serve for any reason, the assistant director is designated as the alternate presiding officer.
- (2) Subsections 58-1-109(2) and 58-1-109(4) are clarified with regard to defaults as follows. Unless otherwise specified in writing by the director, or with regard to Title 58, Chapter 55, by the Construction Services Commission, the department administrative law judge is designated as the presiding officer for entering an order of default against a party, for conducting any further proceedings necessary to complete the adjudicative proceeding, and for issuing a recommended order to the director or commission, respectively, determining the discipline to be imposed, licensure action to be taken, relief to be granted, etc.
- (3) Except as provided in Subsection (4) or otherwise specified in writing by the director, the presiding officer for adjudicative proceedings before the division are as follows:
- (a) Director. The director shall be the presiding officer for:
- (i) formal adjudicative proceedings described in Subsections R156-46b-201(1)(f) through (g), and R156-46b-201(2)(a) through (b), however resolved, including stipulated settlements and hearings; and
- (ii) informal adjudicative proceedings described in Subsections R156-46b-202(1)(g), (j),(l), (o), (p), (r), and (s), and R156-46b-202(2)(a) through (d), however resolved, including memorandums of understanding and stipulated settlements.
- (b) Bureau managers or program coordinators. Except for Title 58, Chapter 55, the bureau manager or program coordinator over the occupation or profession or program involved shall be the presiding officer for:
- (i) formal adjudicative proceedings described in Subsections R156-46b-201(1)(a) through (c), provided that any evidentiary hearing requested shall be conducted by the appropriate board who shall be designated as the presiding officer to act as the fact finder at any evidentiary hearing and shall issue a recommended order to the division based upon the record developed at the hearing determining all issues pending before the division to the director for a final order, and R156-46b-201(1)(e). The authority of the presiding officer in formal adjudicative proceedings described in R156-46b-201(1)(e) shall be limited to approval of claims, conditional denial of claims, and final denial of claims based upon jurisdictional defects;
- (ii) formal adjudicative proceedings described in Subsection R156-46b-201(1)(h), for purposes of determining whether a request for a board of appeal is properly filed as set forth in Subsections R156-56-105(1) through (4); and
- (iii) informal adjudicative proceedings described in Subsections R156-46b-202(1)(a) through (f), (h), (i), (k), (m),

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and (r).

- (iv) At the direction of a bureau manager or program coordinator, a licensing technician or program technician may sign an informal order in the name of the licensing technician or program technician provided the wording of the order has been approved in advance by the bureau manager or program coordinator and provided the caption "FOR THE BUREAU MANAGER" or "FOR THE PROGRAM COORDINATOR" immediately precedes the licensing technician's or program technician's signature.
- (c) Contested Citation Hearing Officer. The regulatory and compliance officer or other contested citation hearing officer designated in writing by the director shall be the presiding officer for the adjudicative proceeding described in Subsection R156-46b-202(1)(n).
- (d) Uniform Building Code Commission. The Uniform Building Code Commission shall be the presiding officer for the adjudicative proceeding described in Subsection R156-46b-201(1)(h) for convening a board of appeal under Subsection 58-56-8(3), for serving as fact finder at any evidentiary hearing associated with a board of appeal, and for entering the final order associated with a board of appeal. An administrative law judge shall perform the role specified in Subsection 58-1-109(2).
- (e) Residence Lien Recovery Fund Advisory Board. The Residence Lien Recovery Fund Advisory Board shall be the presiding officer for adjudicative proceedings described in Subsection R156-46b-201(1)(e) and R156-46b-202(1)(i) that exceed the authority of the program coordinator, as delegated by the board, or are otherwise referred by the program coordinator to the board for action.
- (4) Unless otherwise specified in writing by the Construction Services Commission, the presiding officers and process for adjudicative proceedings under Title 58, Chapter 55, are established or clarified as follows:
 - (a) Commission.
- (i) The commission shall be the presiding officer for all adjudicative proceedings under Title 58, Chapter 55, except as otherwise delegated by the commission in writing or as otherwise provided in these rules; provided, however, that all orders adopted by the commission as a presiding officer shall require the concurrence of the director.
- (ii) Unless otherwise specified in writing by the commission, the commission is designated as the presiding officer:
- (A) for formal adjudicative proceedings described in Subsections R156-46b-201(1)(g) and R156-46b-201(2)(a) through (b), however resolved, including stipulated settlements and hearings;
- (B) informal adjudicative proceedings described in Subsections R156-46b-202(1)(g), (o), (p), (r), and (s), and R156-46b-202(2)(a) and (c), however resolved, including memorandums of understanding and stipulated settlements;
- (C) to serve as fact finder and adopt orders in formal evidentiary hearings associated with adjudicative proceedings involving persons licensed as or required to be licensed under Title 58, Chapter 55; and
- (D) to review recommended orders of a board, an administrative law judge, or other designated presiding officer who acted as the fact finder in an evidentiary hearing involving a person licensed or required to be licensed under Title 58, Chapter 55, and to adopt an order of its own. In adopting its order, the commission may accept, modify or reject the recommended order.
- (iii) If the commission is unable for any reason to act as the presiding officer as specified, it shall designate another presiding officer in writing to so act.
- (iv) Orders of the commission shall address all issues before the commission and shall be based upon the record

- developed in an adjudicative proceeding conducted by the commission. In cases in which the commission has designated another presiding officer to conduct an adjudicative proceeding and submit a recommended order, the record to be reviewed by the commission shall consist of the findings of fact, conclusions of law, and recommended order submitted to the commission by the presiding officer based upon the evidence presented in the adjudicative proceeding before the presiding officer.
- (v) The commission or its designee shall submit adopted orders to the director for the director's concurrence or rejection within 30 days after it receives a recommended order or adopts an order, whichever is earlier. An adopted order shall be deemed issued and constitute a final order upon the concurrence of the director.
- (vi) If the director or his designee refuses to concur in an adopted order of the commission or its designee, the director or his designee shall return the order to the commission or its designee with the reasons set forth in writing for the nonconcurrence therein. The commission or its designee shall reconsider and resubmit an adopted order, whether or not modified, within 30 days of the date of the initial or subsequent return, provided that unless the director or his designee and the commission or its designee agree to an extension, any final order must be issued within 90 days of the date of the initial recommended order, or the adjudicative proceeding shall be dismissed. Provided the time frames in this subsection are followed, this subsection shall not preclude an informal resolution such as an executive session of the commission or its designee and the director or his designee to resolve the reasons for the director's refusal to concur in an adopted order.
- (vii) The record of the adjudicative proceeding shall include recommended orders, adopted orders, refusals to concur in adopted orders, and final orders.
- (viii) The final order issued by the commission and concurred in by the director may be appealed by filing a request for agency review with the executive director or his designee within the department.
- (ix) The content of all orders shall comply with the requirements of Subsection 63-46b-5(1)(i) and Sections 63-46b-10 and 63-46b-11.
- (b) Director. Unless otherwise specified in writing by the commission, the director is designated as the presiding officer for conducting informal adjudicative proceedings specified in R156-46b-202(2)(b).
- (c) Administrative Law Judge. Unless otherwise specified in writing by the commission, the department administrative law judge is designated as the presiding officer to conduct formal adjudicative proceedings before the commission and its advisory boards, as specified in Subsection 58-1-109(2).
- (d) Bureau Manager. Unless otherwise specified in writing by the commission, the responsible bureau manager is designated as the presiding officer for conducting:
- (i) formal adjudicative proceedings specified in Subsections R156-46b-201(1)(a) through (c), provided that any evidentiary hearing requested shall be conducted by the appropriate board or commission who shall be designated as the presiding officer to act as the fact finder at any evidentiary hearing and to adopt orders as set forth in these rules; and
- (ii) informal adjudicative proceedings specified in Subsections R156-46b-202(1)(a) through (f), (h), (k), and (r).
- (iii) At the direction of a bureau manager, a licensing technician may sign an informal order in the name of the licensing technician provided the wording of the order has been approved in advance by the bureau manager and provided the caption "FOR THE BUREAU MANAGER" immediately precedes the licensing technician's signature.
- (e) Plumbers Licensing Board. Except as set forth in Subsection (c) or as otherwise specified in writing by the commission, the Plumbers Licensing Board is designated as the

presiding officer to serve as the fact finder and to issue recommended orders to the commission in formal evidentiary hearings associated with adjudicative proceedings involving persons licensed as or required to be licensed as plumbers.

- (f) Electricians Licensing Board. Except as set forth in Subsection (c) or as otherwise specified in writing by the commission, the Electricians Licensing Board is designated as the presiding officer to serve as the fact finder and to issue recommended orders to the commission in formal evidentiary hearings associated with adjudicative proceedings involving persons licensed as or required to be licensed as electricians.
- (g) Alarm System Security and Licensing Board. Except as set forth in Subsection (c) or as otherwise specified in writing by the commission, the Alarm System Security and Licensing Board is designated as the presiding officer to serve as the fact finder and to issue recommended orders to the commission in formal evidentiary hearings associated with adjudicative proceedings involving persons licensed as or required to be licensed as alarm companies or agents.

R156-1-110. Issuance of Investigative Subpoenas.

- (1) All requests for subpoenas in conjunction with a division investigation made pursuant to Subsection 58-1-106(1)(c), shall be made in writing to the investigative subpoena authority and shall be accompanied by an original of the proposed subpoena.
- (a) Requests to the investigative subpoena authority shall contain adequate information to enable the subpoena authority to make a finding of sufficient need, including: the factual basis for the request, the relevance and necessity of the particular person, evidence, documents, etc., to the investigation, and an explanation why the subpoena is directed to the particular person upon whom it is to be served.
- (b) Approved subpoenas shall be issued under the seal of the division and the signature of the subpoena authority.
- (2) The investigative subpoena authority may quash or modify an investigative subpoena if it is shown to be unreasonable or oppressive.
- R156-1-205. Peer or Advisory Committees Executive Director to Appoint Terms of Office Vacancies in Office Removal from Office Quorum Requirements Appointment of Chairman Division to Provide Secretary Compliance with Open and Public Meetings Act Compliance with Utah Administrative Procedures Act No Provision for Per Diem and Expenses.
- (1) The executive director shall appoint the members of peer or advisory committees established under Title 58 or Title R156.
- (2) Except for ad hoc committees whose members shall be appointed on a case-by-case basis, the term of office of peer or advisory committee members shall be for four years. The executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the peer or advisory committee is appointed every two years.
- (3) No peer or advisory committee member may serve more than two full terms, and no member who ceases to serve may again serve on the peer or advisory committee until after the expiration of two years from the date of cessation of service.
- (4) If a vacancy on a peer or advisory committee occurs, the executive director shall appoint a replacement to fill the unexpired term. After filling the unexpired term, the replacement may be appointed for only one additional full term.
- (5) If a peer or advisory committee member fails or refuses to fulfill the responsibilities and duties of a peer or advisory committee member, including the attendance at peer committee meetings, the executive director may remove the peer or

advisory committee member and replace the member in accordance with this section. After filling the unexpired term, the replacement may be appointed for only one additional full term.

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- (6) Committee meetings shall only be convened with the approval of the appropriate board and the concurrence of the division.
- (7) Unless otherwise approved by the division, peer or advisory committee meetings shall be held in the building occupied by the division.
- (8) A majority of the peer or advisory committee members shall constitute a quorum and may act in behalf of the peer or advisory committee.
- (9) Peer or advisory committees shall annually designate one of their members to serve as peer or advisory committee chairman. The division shall provide a division employee to act as committee secretary to take minutes of committee meetings and to prepare committee correspondence.
- (10) Peer or advisory committees shall comply with the procedures and requirements of Title 52, Chapter 4, Open and Public Meetings, in their meetings.
- (11) Peer or advisory committees shall comply with the procedures and requirements of Title 63, Chapter 46b, Administrative Procedures Act, in their adjudicative proceedings.
- (12) Peer or advisory committee members shall perform their duties and responsibilities as public service and shall not receive a per diem allowance, or traveling or accommodations expenses incurred in peer or advisory committees business, except as otherwise provided in Title 58 or Title R156.
- R156-1-206. Emergency Adjudicative Proceeding Review Committees Appointment Terms Vacancies Removal Quorum Chairman and Secretary Open and Public Meetings Act Utah Administrative Procedures Act Per Diem and Expenses.
- (1) The chairman of the board for the profession of the person against whom an action is proposed may appoint the members of emergency review committees on a case-by-case or period-of-time basis.
- (2) With the exception of the appointment and removal of members and filling of vacancies by the chairman of a board, emergency review committees, committees shall serve in accordance with Subsections R156-1-205(7), and (9) through

R156-1-301. Cheating on Examinations.

(1) Policy.

- The passing of an examination, when required as a condition of obtaining or maintaining a license issued by the division, is considered to be a critical indicator that an applicant or licensee meets the minimum qualifications for licensure. Failure to pass an examination is considered to be evidence that an applicant or licensee does not meet the minimum qualifications for licensure. Accordingly, the accuracy of the examination result as a measure of an applicant's or licensee's competency must be assured. Cheating by an applicant or licensee on any examination required as a condition of obtaining a license or maintaining a license shall be considered unprofessional conduct and shall result in imposition of an appropriate penalty against the applicant or licensee.
 - (2) Cheating Defined.
- Cheating is defined as the use of any means or instrumentality by or for the benefit of an examinee to alter the results of an examination in any way to cause the examination results to inaccurately represent the competency of an examinee with respect to the knowledge or skills about which they are examined. Cheating includes:
 - (a) communication between examinees inside of the

examination:

examination room or facility during the course of the

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- (b) communication about the examination with anyone outside of the examination room or facility during the course of the examination;
- (c) copying another examinee's answers or looking at another examinee's answers while an examination is in progress;
 - (d) permitting anyone to copy answers to the examination;
- (e) substitution by an applicant or licensee or by others for the benefit of an applicant or licensee of another person as the examinee in place of the applicant or licensee;
- (f) use by an applicant or licensee of any written material, audio material, video material or any other mechanism not specifically authorized during the examination for the purpose of assisting an examinee in the examination;
- (g) obtaining, using, buying, selling, possession of or having access to a copy of the examination prior to administration of the examination.
 - (3) Action Upon Detection of Cheating.
- (a) The person responsible for administration of an examination, upon evidence that an examinee is or has been cheating on an examination shall notify the division of the circumstances in detail and the identity of the examinees involved with an assessment of the degree of involvement of each examinee;
- (b) If cheating is detected prior to commencement of the examination, the examinee may be denied the privilege of taking the examination; or if permitted to take the examination, the examinee shall be notified of the evidence of cheating and shall be informed that the division may consider the examination to have been failed by the applicant or licensee because of the cheating; or
- (c) If cheating is detected during the examination, the examine may be requested to leave the examination facility and in that case the examination results shall be the same as failure of the examination; however, if the person responsible for administration of the examination determines the cheating detected has not yet compromised the integrity of the examination, such steps as are necessary to prevent further cheating shall be taken and the examinee may be permitted to continue with the examination.
- (d) If cheating is detected after the examination, the division shall make appropriate inquiry to determine the facts concerning the cheating and shall thereafter take appropriate action.
- (e) Upon determination that an applicant has cheated on an examination, the division may deny the applicant a license and may establish conditions the applicant must meet to qualify for a license including the earliest date on which the division will again consider the applicant for licensure.
 - (4) Notification.

The division shall notify all proctors, test administrators and examinees of the rules concerning cheating.

R156-1-302. Consideration of Good Moral Character, Unlawful Conduct, Unprofessional Conduct, or Other Mental or Physical Condition.

Pursuant to the provisions of Subsection 58-1-401(1) and (2), if an applicant or licensee has failed to demonstrate good moral character, has been involved in unlawful conduct, has been involved in unprofessional conduct, or has any other mental or physical condition which conduct or condition, when considered with the duties and responsibilities of the license held or to be held, demonstrates a threat or potential threat to the public health, safety or welfare, including the Division may consider various relevant factors in determining what action to take regarding licensure include the following:

(1) aggravating circumstances, as defined in Subsection R156-1-102(2);

- (2) mitigating circumstances, as defined in Subsection R156-1-102(16);
- (3) the degree of risk to the public health, safety or welfare:
 - (4) the degree of risk that a conduct will be repeated;
 - (5) the degree of risk that a condition will continue;
- (6) the magnitude of the conduct or condition as it relates to the harm or potential harm;
- (7) the length of time since the last conduct or condition has occurred;
- (8) the current criminal probationary or parole status of the applicant or licensee;
- (9) the current administrative status of the applicant or
- licensee;
- (10) results of previously submitted applications, for any regulated profession or occupation;
- (11) results from any action, taken by any professional licensing agency, criminal or administrative agency, employer, practice monitoring group, entity or association;
- (12) evidence presented indicating that restricting or monitoring an individual's practice, conditions or conduct can protect the public health, safety or welfare;
 - (13) psychological evaluations; or
- (14) any other information the Division or the board reasonably believes may assist in evaluating the degree of threat or potential threat to the public health, safety or welfare.

R156-1-305. Inactive Licensure.

- (1) In accordance with Section 58-1-305, except as provided in Subsection (2), a licensee who holds an active in good standing license under Title 58 may apply for inactive licensure status.
- (2) The following licenses issued under Title 58 may not be placed on inactive licensure status:
 - (a) Agency performing animal euthanasia;
 - (b) Analytical laboratory;
 - (c) Branch pharmacy;
 - (d) Certified professional accountant firm;
 - (e) Controlled substance;
 - (f) Controlled substance handler;
- (g) Controlled substance precursor distributors and purchasers;
 - (h) Cosmetologist/barber school;
 - (i) Funeral service establishment;
- (j) Hospital, institutional, nuclear, out-of-state mail service and retail pharmacy;
 - (k) Licensed substance abuse counselor;
- (l) Pharmaceutical manufacturer, researcher, teaching organization, wholesaler or distributor;
 - (m) Preneed funeral arrangement provider;
 - (n) Professional employer organization; and
 - (o) Veterinary pharmaceutical outlet.
- (3) Applicants for inactive licensure shall apply to the division in writing upon forms available from the division. Each completed application shall contain documentation of requirements for inactive licensure, shall be verified by the applicant, and shall be accompanied by the appropriate fee.
- (4) If all requirements are met for inactive licensure, the division shall place the license on inactive status.
- (5) A license may remain on inactive status indefinitely except as otherwise provided in Title 58 or rules which implement Title 58.
- (6) An inactive license may be activated by requesting activation in writing upon forms available from the division. Unless otherwise provided in Title 58 or rules which implement Title 58, each reactivation application shall contain documentation that the applicant meets current renewal requirements, shall be verified by the applicant, and shall be accompanied by the appropriate fee.

R156-1-308a. Renewal Dates.

(1) The following standard two-year renewal cycle renewal dates are established by license classification in accordance with the Subsection 58-1-308(1):

the S	Subsection 58-1-308(1):				
TABLE					
(1) (2) (3) (4) (5) (6) (7) (8) (10) (11) (12) (13) (14) (15) (16) (17) (18) (19) (20) (21)	RENEWAL DATES Acupuncturist Advanced Practice Registered Nurse Animal Euthanasia Agency Alternate Dispute Resolution Provdr Analytical Laboratory Architect Athlete Agent Audiologist Branch Pharmacy Building Inspector Burglar Alarm Security C.P.A. Firm Certified Shorthand Reporter Certified Dietitian Certified Nurse Midwife Certified Registered Nurse Anesthetist Certified Social Worker Chiropractic Physician Clinical Social Worker Construction Trades Instructor	May 31 May 31 September 30 May 31 May 31 July 31 July 31 September 30 May 31 September 30 January 31 September 30 January 31 September 30 January 31 September 30	odd years even years odd years odd years odd years odd years even years		
(22) (23)	Contractor Controlled Substance Precursor Distributor		odd years		
(24) (25) (26) (27) (28) (29) (30) (31)	Controlled Substance Precursor Purchaser Controlled Substance Handler Cosmetologist/Barber Cosmetology/Barber School Deception Detection Dental Hygienist Dentist Electrician	May 31 May 31 September 30 September 30 July 31 May 31 May 31	odd years odd years		
(31)	Apprentice, Journeyman, Maste Residential Journeyman,	er,			
(32) (33) (34) (35) (36) (37) (38) (39)	Residential Master Electrologist Electrology School Environmental Health Scientist Esthetician Esthetics School Factory Built Housing Dealer Funeral Service Director Funeral Service	July 31 September 30 September 30 May 31 September 30 September 30 September 30	odd years odd years odd years odd years		
(40) (41) (42)	Establishment Genetic Counselor Health Care Assistant Health Facility Administrator	September 30 November 30 May 31	even years even years odd years		
(43)	Hearing Instrument	September 30	even years		
(44) (45) (46) (47) (48)	Hospital Pharmacy Institutional Pharmacy Landscape Architect Licensed Practical Nurse Licensed Substance Abuse Counselor	May 31 May 31 May 31 January 31 May 31 September 30	odd years odd years even years even years odd years		
(49)	Therapist		J		
(50) (51) (52) (53) (54)	Massage Apprentice, Therapist Master Esthetician Nail Technologist Nail Technology School Naturopath/Naturopathic Physician	May 31 September 30 September 30 September 30 May 31	odd years		
(55) (56) (57)	Nuclear Pharmacy Occupational Therapist Occupational Therapy Assistant	May 31 May 31 May 31	odd years odd years odd years		
(58) (59)	Optometrist Osteopathic Physician and	September 30 May 31	even years even years		
(60)	Surgeon Out of State Mail Order Pharmacy	May 31	odd years		
(61)	Pharmaceutical Administration Facility	May 31	odd years		
(62) (63) (64)	Pharmaceutical Dog Trainer Pharmaceutical Manufacturer Pharmaceutical Researcher	May 31 May 31 May 31	odd years odd years odd years		

(65)	Pharmaceutical Teaching	May 31	odd years
(00)	Organization	nay 51	oud years
(66)	Pharmaceutical		
(67)	Wholesaler/Distributor Pharmacist	May 31	odd years
(68)	Pharmacist Pharmacy Technician	May 31 May 31	odd years odd years
(69)	Physical Therapist	May 31	odd years
(70)	Physician Assistant	May 31	even years
(71)	Physician and Surgeon	January 31	even years
(72)	Plumber	oundary or	even jeu.
. ,	Apprentice, Journeyman,		
	Residential Apprentice,		
	Residential Journeyman	July 31	even years
(73)	Podiatric Physician	September 30	even years
(74)	Pre Need Funeral	21	
(75)	Arrangement Provider	May 31	even years
(75)	Pre Need Funeral Arrangement Sales Agent	May 31	even years
(76)	Private Probation Provider	May 31	odd years
(77)	Professional Counselor	September 30	
(78)	Professional Engineer	December 31	even years
(79)	Professional Geologist	December 31	even years
(80)	Professional Land Surveyor	December 31	even years
(81)	Professional Structural	December 31	even years
,	Engineer		
(82)	Psychologist	September 30	
(83)	Radiology Practical	May 31	odd years
(84)	Technician Radiology Technologist	May 31	odd years
(85)	Recreational Therapy	May 31	oud years
(00)	Technician, Specialist,		
	Master Specialist	May 31	odd years
(86)	Registered Nurse	January 31	
(87)	Respiratory Care	September 30	
,	Practitioner		
(88)	Retail Pharmacy	May 31	odd years
(89)	Security Personnel	July 31	even years
(90) (91)	Social Service Worker	September 30	
(91)	Speech-Language Pathologist Veterinarian	May 31 September 30	odd years
(93)	Veterinarian Veterinary Pharmaceutical	May 31	odd years
(55)	Outlet	1105 01	oud jeurs

- (2) The following non-standard renewal terms and renewal or extension cycles are established by license classification in accordance with Subsection 58-1-308(1) and in accordance with specific requirements of the license:
- (a) Certified Marriage and Family Intern licenses shall be issued for a three year term and may be extended if the licensee presents satisfactory evidence to the division and the board that reasonable progress is being made toward passing the qualifying examinations or is otherwise on a course reasonably expected to lead to licensure; but the period of the extension may not exceed two years past the date the minimum supervised experience requirement has been completed.
- (b) Certified Professional Counselor Intern licenses shall be issued for a three year term and may be extended if the licensee presents satisfactory evidence to the division and the board that reasonable progress is being made toward passing the qualifying examinations or is otherwise on a course reasonably expected to lead to licensure; but the period of the extension may not exceed two years past the date the minimum supervised experience requirement has been completed.
- (c) Certified Social Worker Intern licenses shall be issued for a three year term and may be extended if the licensee presents satisfactory evidence to the Division and the board that reasonable progress is being made toward passing the qualifying examinations or is otherwise on a course reasonably expected to lead to licensure; but the period of the extension may not exceed two years past the date the minimum supervised experience requirement has been completed.
- (d) Funeral Service Apprentice licenses shall be issued for a two year term and may be extended for an additional two year term if the licensee presents satisfactory evidence to the division and the board that reasonable progress is being made toward passing the qualifying examinations or is otherwise on a course reasonably expected to lead to licensure.
- (d) Professional Employer Organization registrations expire every year on September 30.

(e) Psychology Resident licenses shall be issued for a two year term and may be extended if the licensee presents satisfactory evidence to the division and the board that reasonable progress is being made toward passing the qualifying examinations or is otherwise on a course reasonably expected to lead to licensure; but the period of the extension may not exceed two years past the date the minimum supervised experience requirement has been completed.

R156-1-308b. Renewal Periods - Adjustment of Renewal Fees for an Extended or Shortened Renewal Period.

- (1) Except as otherwise provided by statute or as required to establish or reestablish a renewal period, each renewal period shall be for a period of two years.
- (2) The renewal fee for a renewal period which is extended or shortened by more than one month to establish or reestablish a renewal period shall increased or decreased proportionately.

R156-1-308c. Renewal of Licensure Procedures.

The procedures for renewal of licensure shall be as follows:

- (1) The division shall mail a renewal notice to each licensee at least 60 days prior to the expiration date shown on the licensee's license.
- (2) Renewal notices shall be sent by letter deposited in the post office with postage prepaid, addressed to the last address shown on the division's automated license system. Such mailing shall constitute legal notice. It shall be the duty and responsibility of each licensee to maintain a current address with the division.
- (3) Renewal notices shall specify the renewal requirements and require that each licensee document or certify that the licensee meets the renewal requirements.
- (4) Renewal notices shall specify a renewal application due date at least 30 days prior to the expiration date shown on the licensee's license in order to permit the renewal applications to be processed prior to the expiration of licensure in accordance with Subsection 58-1-308(4).
- (5) Renewal notices shall advise each licensee that a license that is not renewed prior to the expiration date shown on the license automatically expires and that any continued practice without a license constitutes a criminal offense under Subsection 58-1-501(1)(a).
- (6) Renewal notices shall further advise each licensee that if the licensee fails to return the renewal application to the division or its designee by the renewal application due date, the licensee's license may expire before it is renewed.
- (7) Renewal notices shall specify the address or addresses to where the renewal applications should be submitted.
- (8) When a renewal application contains multiple parts to be returned to separate addresses, the division shall facilitate proper submission by using, to the extent resources permit, color coded renewal applications with perforated sections and return envelopes.
- (9) Licensees licensed during the last four months of a renewal cycle shall be licensed for a full renewal cycle plus the period of time remaining until the impending renewal date, rather than being required to immediately renew their license.

R156-1-308d. Waiver of Continuing Education Requirements - Renewal Requirements.

- (1)(a) In accordance with Subsection 58-1-203(1)(g), a licensee may request a waiver of any continuing education requirement established under this title or an extension of time to complete any requirement on the basis that the licensee was unable to complete the requirement due to a medical or related condition, humanitarian or ecclesiastical services, extended presence in a geographical area where continuing education is not available, etc.
 - (b) A request must be submitted no later than the deadline

for completing any continuing education requirement.

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- (c) A licensee submitting a request has the burden of proof and must document the reason for the request to the satisfaction of the Division.
- (d) A request shall include the beginning and ending dates during which the licensee was unable to complete the continuing education requirement and a detailed explanation of the reason why. The explanation shall include the extent and duration of the impediment, extent to which the licensee continued to be engaged in practice of his profession, the nature of the medical condition, the location and nature of the humanitarian services, the geographical area where continuing education is not available, etc.
- (e) The Division may require that a specified number of continuing education hours, courses, or both, be obtained prior to reentering the practice of the profession or within a specified period of time after reentering the practice of the profession, as recommended by the appropriate board, in order to assure competent practice.
- (f) While a licensee may receive a waiver from meeting the minimum continuing education requirements, the licensee shall not be exempted from the requirements of Subsection 58-1-501(2)(i), which requires that the licensee provide services within the competency, abilities and education of the licensee. If a licensee cannot competently provide services, the waiver of meeting the continuing education requirements may be conditioned upon the licensee restricting practice to areas in which the licensee has the required competency, abilities and education.

R156-1-308e. Automatic Expiration of Licensure Upon Dissolution of Licensee.

- (1) A license that automatically expires prior to the expiration date shown on the license due to the dissolution of the licensee's registration with the Division of Corporations, with the registration thereafter being retroactively reinstated pursuant to Section 16-10a-1422, shall:
- (a) upon written application for reinstatement of licensure submitted prior to the expiration date shown on the license, be retroactively reinstated to the date of expiration of licensure;
- (b) upon written application for reinstatement submitted after the expiration date shown on the current license, be reinstated on the effective date of the approval of the application for reinstatement, rather than relating back retroactively to the date of expiration of licensure.

R156-1-308f. Denial of Renewal of Licensure - Classification of Proceedings - Conditional Renewal or Reinstatement During Pendency of Adjudicative Proceedings, Audit or Investigation.

- (1) Denial of renewal of licensure shall be classified as a formal adjudicative proceeding under Rule R156-46b.
- (2) When a renewal application is denied and the applicant concerned requests a hearing to challenge the division's action as permitted by Subsection 63-46b-3(3)(d)(ii), unless the requested hearing is convened and a final order is issued prior to the expiration date shown on the applicant's current license, the division shall conditionally renew the applicant's license during the pendency of the adjudicative proceeding as permitted by Subsection 58-1-106(1)(h).
- (3)(a) When a renewal applicant or a reinstatement applicant under Subsections 58-1-308(5) or (6)(b) is selected for audit or is under investigation, the division may conditionally renew or reinstate the applicant pending the completion of the audit or investigation.
- (b) The undetermined completion of a referenced audit or investigation rather than the established expiration date shall be indicated as the expiration date of a conditionally renewed or

reinstated license.

- (c) A conditional renewal or reinstatement shall not constitute an adverse licensure action.
- (d) Upon completion of the audit or investigation, the division shall notify the renewal or reinstatement applicant whether the applicant's license is unconditionally renewed, reinstated, denied, or partially denied or reinstated.
- (e) A notice of unconditional denial or partial denial of licensure to a licensee who the division determines may be conditionally renewed or reinstated shall include the following:
- (i) that the licensee's unconditional renewal or reinstatement of licensure is denied or partially denied and the basis for such action;
- (ii) the division's file or other reference number of the audit or investigation;
- (iii) that the denial or partial denial of unconditional renewal or reinstatement of licensure is subject to review and a description of how and when such review may be requested;
- (iv) that the licensee's license automatically will or did expire on the expiration date shown on the license, and that the license will not be renewed or reinstated unless or until the applicant timely requests review; and
- (v) that if the licensee timely requests review, the licensee's conditionally renewed or reinstated license does not expire until an order is issued unconditionally renewing, reinstating, denying, or partially denying the renewal or reinstatement of the licensee's license.

R156-1-308g. Reinstatement of Licensure which was Active and in Good Standing at the Time of Expiration of Licensure - Requirements.

The following requirements shall apply to reinstatement of licensure which was active and in good standing at the time of expiration of licensure:

- (1) In accordance with Subsection 58-1-308(5), if an application for reinstatement is received by the division between the date of the expiration of the license and 31 days after the date of the expiration of the license, the applicant shall:
- (a) submit a completed renewal form as furnished by the division demonstrating compliance with requirements and/or conditions of license renewal; and
 - (b) pay the established license renewal fee and a late fee.
- (2) In accordance with Subsection 58-1-308(5), if an application for reinstatement is received by the division between 31 days after the expiration of the license and two years after the date of the expiration of the license, the applicant shall:
- (a) submit a completed renewal form as furnished by the division demonstrating compliance with requirements and/or conditions of license renewal; and
- (b) pay the established license renewal fee and reinstatement fee.
- (3) In accordance with Subsection 58-1-308(6)(a), if an application for reinstatement is received by the division more than two years after the date the license expired and the applicant has not been active in the licensed occupation or profession while in the full-time employ of the United States government or under license to practice that occupation or profession in any other state or territory of the United States during the time the license was expired, the applicant shall:
- (a) submit an application for licensure complete with all supporting documents as is required of an individual making an initial application for license demonstrating the applicant meets all current qualifications for licensure and compliance with requirements and/or conditions of license reinstatement;
- (b) provide information requested by the division and board to clearly demonstrate the applicant is currently competent to engage in the occupation or profession for which reinstatement of licensure is requested;
 - (c) if the applicant has not been engaged in unauthorized

practice of the applicant's occupation or profession following the expiration of the applicant's license, pay the established license fee for a new applicant for licensure and the reinstatement fee; and

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- (d) if the applicant has been engaged in unauthorized practice of the applicant's occupation or profession following the expiration of the applicant's license, pay the current license renewal fee multiplied by the number of renewal periods for which the license renewal fee has not been paid since the time of expiration of license, plus a reinstatement fee.
- (4) In accordance with Subsection 58-1-308(6)(b), if an application for reinstatement is received by the division more than two years after the date the license expired but the applicant has been active in the licensed occupation or profession while in the full-time employ of the United States government or under license to practice that occupation or profession in any other state or territory of the United States shall:
- (a) submit documentation of prior licensure in the State of Utah;
- (b) submit documentation that the applicant has been active in the licensed occupation or profession while in the full-time employ of the United States government or under license to practice that occupation or profession in any other state or territory of the United States;
- (c) provide documentation that the applicant has completed or is in compliance with any renewal qualifications;
- (d) provide information requested by the division and board to clearly demonstrate the applicant is currently competent to engage in the occupation or profession for which reinstatement of licensure is requested;
- (e) pass a law and rules examination if such an examination has been adopted for the occupation or profession to which the application pertains; and
- (f) pay the established license renewal fee and the reinstatement fee.

R156-1-308h. Reinstatement of Restricted, Suspended, or Probationary Licensure During Term of Restriction, Suspension, or Probation - Requirements.

- (1) Reinstatement of restricted, suspended, or probationary licensure during the term of limitation, suspension, or probation shall be in accordance with the disciplinary order which imposed the discipline.
- (2) Unless otherwise specified in a disciplinary order imposing restriction, suspension, or probation of licensure, the disciplined licensee may, at reasonable intervals during the term of the disciplinary order, petition for reinstatement of licensure.
- (3) Petitions for reinstatement of licensure during the term of a disciplinary order imposing restriction, suspension, or probation, shall be treated as a request to modify the terms of the disciplinary order, not as an application for licensure.

R156-1-308i. Reinstatement of Restricted, Suspended, or Probationary Licensure After the Specified Term of Suspension of the License or After the Expiration of Licensure in a Restricted or Probationary Status - Requirements.

Unless otherwise provided by a disciplinary order, an applicant who applies for reinstatement of a license after the specified term of suspension of the license or after the expiration of the license in a restricted or probationary status shall:

- submit an application for licensure complete with all supporting documents as is required of an individual making an initial application for license demonstrating the applicant meets all current qualifications for licensure and compliance with requirements and conditions of license reinstatement;
 - (2) pay the established license renewal fee and the

reinstatement fee; and

(3) provide information requested by the division and board to clearly demonstrate the applicant is currently competent to be reinstated to engage in the occupation or profession for which the applicant was suspended, restricted, or placed on probation.

R156-1-308j. Relicensure Following Revocation of Licensure - Requirements.

An applicant for relicensure following revocation of licensure shall:

- (1) submit an application for licensure complete with all supporting documents as is required of an individual making an initial application for license demonstrating the applicant meets all current qualifications for licensure and compliance with requirements and/or conditions of license reinstatement;
- (2) pay the established license fee for a new applicant for licensure; and
- (3) provide information requested by the division and board to clearly demonstrate the applicant is currently competent to be relicensed to engage in the occupation or profession for which the applicant was revoked.

$R156\mbox{-}1\mbox{-}308\mbox{k}.$ Relicensure Following Surrender of Licensure - Requirements.

The following requirements shall apply to relicensure applications following the surrender of licensure:

- (1) An applicant who surrendered a license that was active and in good standing at the time it was surrendered shall meet the requirements for licensure listed in Section R156-1-308.
- (2) An applicant who surrendered a license while the license was active but not in good standing as evidenced by the written agreement supporting the surrender of license shall:
- (a) submit an application for licensure complete with all supporting documents as is required of an individual making an initial application for license demonstrating the applicant meets all current qualifications for licensure and compliance with requirements and/or conditions of license reinstatement;
- (b) pay the established license fee for a new applicant for licensure; and
- (c) provide information requested by the division and board to clearly demonstrate the applicant is currently competent to be relicensed to engage in the occupation or profession for which the applicant was surrendered.

R156-1-404a. Diversion Advisory Committees Created.

- (1) There are created diversion advisory committees of at least three members for the professions regulated under Title 58. The diversion committees are not required to be impaneled by the director until the need for the diversion committee arises. Diversion committees may be appointed with representatives from like professions providing a multi-disciplinary committee.
- (2) Committee members are appointed by and serve at the pleasure of the director.
- (3) A majority of the diversion committee members shall constitute a quorum and may act on behalf of the diversion committee.
- (4) Diversion committee members shall perform their duties and responsibilities as public service and shall not receive a per diem allowance, or traveling or accommodations expenses incurred in diversion committees business.

R156-1-404b. Diversion Committees Duties.

The duties of diversion committees shall include:

(1) reviewing the details of the information regarding licensees referred to the diversion committee for possible diversion, interviewing the licensees, and recommending to the director whether the licensees meet the qualifications for diversion and if so whether the licensees should be considered

for diversion;

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- (2) recommending to the director terms and conditions to be included in diversion agreements;
- (3) supervising compliance with all terms and conditions of diversion agreements;
- (4) advising the director at the conclusion of a licensee's diversion program whether the licensee has completed the terms of the licensee's diversion agreement; and
- (5) establishing and maintaining continuing quality review of the programs of professional associations and/or private organizations to which licensees approved for diversion may enroll for the purpose of education, rehabilitation or any other purpose agreed to in the terms of a diversion agreement.

R156-1-404c. Diversion - Eligible Offenses.

In accordance with Subsection 58-1-404(4), the unprofessional conduct which may be subject to diversion is set forth in Subsections 58-1-501(2)(e) and (f).

R156-1-404d. Diversion - Procedures.

- (1) Diversion committees shall complete the duties described in Subsections R156-1-404b(1) and (2) no later than 60 days following the referral of a licensee to the diversion committee for possible diversion.
- (2) The director shall accept or reject the diversion committee's recommendation no later than 30 days following receipt of the recommendation.
- (3) If the director finds that a licensee meets the qualifications for diversion and should be diverted, the division shall prepare and serve upon the licensee a proposed diversion agreement. The licensee shall have a period of time determined by the diversion committee not to exceed 30 days from the service of the proposed diversion agreement to negotiate a final diversion agreement with the director. The final diversion agreement shall comply with Subsections 58-1-404.
- (4) If a final diversion agreement is not reached with the director within 30 days from service of the proposed diversion agreement, the division shall pursue appropriate disciplinary action against the licensee in accordance with Section 58-1-108.
- (5) In accordance with Subsection 58-1-404(5), a licensee may be represented, at the licensee's discretion and expense, by legal counsel during negotiations for diversion, at the time of execution of the diversion agreement and at any hearing before the director relating to a diversion program.

R156-1-404e. Diversion - Agreements for Rehabilitation, Education or Other Similar Services or Coordination of Services.

- (1) The division may enter into agreements with professional or occupational organizations or associations, education institutions or organizations, testing agencies, health care facilities, health care practitioners, government agencies or other persons or organizations for the purpose of providing rehabilitation, education or any other services necessary to facilitate an effective completion of a diversion program for a licensee.
- (2) The division may enter into agreements with impaired person programs to coordinate efforts in rehabilitating and educating impaired professionals.
- (3) Agreements shall be in writing and shall set forth terms and conditions necessary to permit each party to properly fulfill its duties and obligations thereunder. Agreements shall address the circumstances and conditions under which information concerning the impaired licensee will be shared with the division.
- (4) The cost of administering agreements and providing the services thereunder shall be borne by the licensee benefiting from the services. Fees paid by the licensee shall be reasonable and shall be in proportion to the value of the service provided.

Payments of fees shall be a condition of completing the program of diversion.

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(5) In selecting parties with whom the division shall enter agreements under this section, the division shall ensure the parties are competent to provide the required services. The division may limit the number of parties providing a particular service within the limits or demands for the service to permit the responsible diversion committee to conduct quality review of the programs given the committee's limited resources.

R156-1-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

- (1) surrendering licensure to any other licensing or regulatory authority having jurisdiction over the licensee or applicant in the same occupation or profession while an investigation or inquiry into allegations of unprofessional or unlawful conduct is in progress or after a charging document has been filed against the applicant or licensee alleging unprofessional or unlawful conduct;
- (2) practicing a regulated occupation or profession in, through, or with a limited liability company which has omitted the words "limited company," "limited liability company," or the abbreviation "L.C." or "L.L.C." in the commercial use of the name of the limited liability company;
- (3) practicing a regulated occupation or profession in, through, or with a limited partnership which has omitted the words "limited partnership," "limited," or the abbreviation "L.P." or "Ltd." in the commercial use of the name of the limited partnership;
- (4) practicing a regulated occupation or profession in, through, or with a professional corporation which has omitted the words "professional corporation" or the abbreviation "P.C." in the commercial use of the name of the professional corporation:
- (5) using a DBA (doing business as name) which has not been properly registered with the Division of Corporations and with the Division of Occupational and Professional Licensing; or
- (6) failing to conform to the Privacy Rules of the federal Health Insurance Portability and Accountability Act (HIPAA) as a licensed health care provider.

R156-1-503. Reporting Disciplinary Action.

The division may report disciplinary action to other state or federal governmental entities, state and federal data banks, the media, or any other person who is entitled to such information under the Government Records Access and Management Act.

KEY: diversion programs, licensing, occupational licensing January 20, 2004 58-1-106(1)(a) Notice of Continuation May 2, 2002 58-1-308

R156. Commerce, Occupational and Professional Licensing. R156-5a. Podiatric Physician Licensing Act Rules. R156-5a-101. Title.

These rules are known as the "Podiatric Physician Licensing Act Rules".

R156-5a-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 5a, as used in Title 58, Chapters 1 and 5a or these rules:

- (1) "Recognized residency program" as used in Subsection 58-5a-302(5) means a residency program that is accredited by the Council on Podiatric Medical Education.
- (2) "Recognized school" as used in Subsection 58-5a-306(2) means a school that is accredited by the Council on Podiatric Medical Education.

R156-5a-103. Authority - Purpose.

These rules are adopted by the division under the authority of Subsection 58-1-106(1) to enable the division to administer Title 58, Chapter 5a.

R156-5a-104. Organization - Relationship to Rule R156-1.

The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.

R156-5a-302a. Qualifications for Licensure - Education Requirements.

In accordance with Subsections 58-1-203(2) and 58-1-301(3), the postgraduate training requirements for licensure in Section 58-5a-302 is defined, clarified, or established as requiring each applicant to have successfully completed at least 12 months of postgraduate training in a residency program that was accredited by the Council on Podiatric Medical Education of the American Podiatric Medical Association at the time the applicant received that training.

R156-5a-302b. Qualifications for Licensure - Examination Requirements.

- (1) In accordance with Subsection 58-1-203(2) and 58-1-301(3), the examination requirements for licensure in Section 58-5a-302 are established as follows:
- (a) the National Board of Podiatric Medical Examiners examination:
- (b) the Podiatric Medicine Licensing examination (PMLexis); and
 - (c) the Utah Podiatric law examination.
- (2) To be eligible to sit for the PMLexis, an applicant must submit the following to the Division:
 - (a) an application for licensure as a podiatric physician;
 - (b) licensing application fee;
- (c) a transcript indicating completion of an approved podiatric program; and
 - (d) a copy of the test application submitted to PMLexis.

R156-5a-303. Renewal Cycle - Procedures.

- (1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to licensees under Title 58, Chapter 5a is established by rule in Section R156-1-308.
- $\left(2\right)$ Renewal procedures shall be in accordance with Section R156-1-308.

R156-5a-304. Continuing Education.

- (1) There is hereby established a continuing professional education requirement for all individuals licensed under Title 58, Chapter 5a.
- (2) During each two year period commencing on September 30 of each even numbered year, a licensee shall be required to complete not less than 40 hours of qualified

professional education directly related to the licensee's professional clinical practice.

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- (3) The required number of hours of professional education for an individual who first becomes licensed during the two year period shall be decreased in a pro-rata amount equal to any part of that two year period year preceding the date on which that individual first became licensed.
- (4) Qualified professional education under this section shall:
- (a) have an identifiable clear statement of purpose and defined objective for the educational program directly related to the practice of a podiatric physician;
 - (b) be relevant to the licensee's professional practice;
- (c) be presented in a competent, well organized, and sequential manner consistent with the stated purpose and objective of the program;
- (d) be prepared and presented by individuals who are qualified by education, training, and experience; and
- (e) have associated with it a competent method of registration of individuals who actually completed the professional education program and records of that registration and completion are available for review; or
 - (f) be sponsored or approved by the following:
- (i) one of the organizations listed in Subsection 58-5a-304(3); or
 - (ii) the American Podiatric Medical Association.
- (5) Credit for professional education shall be recognized in accordance with the following:
- (a) unlimited hours shall be recognized for professional education completed in blocks of time of not less than one hour in formally established classroom courses, seminars, or conferences;
- (b) a maximum of 40 hours per two year period may be recognized for teaching in a college or university or teaching qualified professional education courses in the field of podiatry;
- (c) a maximum of ten hours per two year period may be recognized for clinical readings directly related to practice as a podiatric physician.
- (6) A licensee shall be responsible for maintaining competent records of completed qualified professional education for a period of four years after close of the two year period to which the records pertain. It is the responsibility of the licensee to maintain such information with respect to qualified professional education to demonstrate it meets the requirements under this section.
- (7) A licensee who documents they are engaged in full time activities or is subjected to circumstances which prevent that licensee from meeting the continuing professional education requirements established under this section may be excused from the requirement for a period of up to three years; however, it is the responsibility of the licensee to document the reasons and justify why the requirement could not be met.

R156-5a-305. Radiology Course for Unlicensed Podiatric Assistants.

In accordance with Subsection 58-54-4.3(3), radiology courses for an unlicensed person performing services under the supervision of a podiatric physician shall include radiology theory consisting of the following:

- (1) orientation of radiation technology;
- (2) terminology;
- (3) radiographic podiatric anatomy and pathology (cursory);
 - (4) radiation physics (basic);
 - (5) radiation protection to patient and operator;
- (6) radiation biology including interaction of ionizing radiation on cells and tissues and matter;
- (7) factor influencing biological response to cells and tissues to ionizing radiation and cumulative effects of x-

radiation;

- (8) external radiographic techniques;
 (9) processing techniques including proper disposal of chemicals; and
 (10) infection control in podiatric radiology.

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R156. Commerce, Occupational and Professional Licensing. R156-26a. Certified Public Accountant Licensing Act Rules. R156-26a-101. Title.

These rules are known as the "Certified Public Accountant Licensing Act Rules".

R156-26a-102. Definitions.

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

- (1) "Administering organization" means an organization approved by the Division of Occupational and Professional Licensing and the Utah Board of Accountancy which will administer peer reviews in the Peer Review Program.
- (2) "AICPA" means American Institute of Čertified Public Accountants.
- (3) "Incidental to regular practice" as defined in Subsection 58-26a-305(1)(a) is further defined to mean:
- (a) An individual or a firm licensed as a certified public accountant or equivalent designation in any other state, district, or territory of the United States or any foreign country may perform services in this state for a client whose principal office or residence is located outside of this state as long as the services are incidental to primary services being performed outside of this state for that client.
- (b) An individual or firm licensed in another jurisdiction, as incidental to their practice in such other jurisdiction, may advertise in this state that their services are available by any means including, but not limited to television, radio, newspaper, magazine or Internet advertising provided such representations are not false, misleading or deceptive; and provided that such individual or firm does not establish a CPA/Client relationship to perform services requiring a CPA license or CPA firm registration with any individual, business or other legal entity having its principal office or residence in this state without first obtaining a CPA license and CPA firm registration in this state.
- (c) Incidental to regular practice in another jurisdiction includes a licensed CPA or equivalent designation continuing a CPA/Client relationship with an individual which originated while the client's residence was located outside of this state but thereafter the client moved their residence to this state.
- (4) "Qualified continuing professional education (CPE)" as used in these rules means continuing education that meets the standards set forth in Section R156-26a-303b.
- (5) "Standard setting bodies" means the Financial Accounting Standards Board, the Government Accounting Standards Board, the American Institute of Certified Public Accountants, the Securities and Exchange Commission, and the Federal Accounting Standards Advisory Board and other generally recognized standard setting bodies.
- (6) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 26a, is further defined, in accordance with Subsection 58-1-203(5), in Section R156-26a-501.
- (7) "Year of review" means the calendar year during which a quality review is to be conducted.

R156-26a-103. Authority.

These rules are adopted by the division under the authority of Subsection 58-1-106(1) to enable the division to administer Title 58, Chapter 26a.

R156-26a-104. Organization - Relationship to Rule R156-1.

The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.

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

(1) There is created in accordance with Subsection 58-1-203(6), the Education Advisory Committee to the Utah Board of Accountancy consisting of one full-time faculty from each

college or university in Utah which has an accredited program as set forth in Section R156-26a-302a, a majority of which committee are to be licensed CPAs.

- (a) The Education Advisory Committee shall be appointed and serve in accordance with Section R156-1-204.
- (b) The duties and responsibilities of the Education Advisory Committee shall include assisting the division in collaboration with the board in their duties, functions, and responsibilities defined in Section 58-1-202 as follows:
- (i) reviewing an applicant's transcript of credits to determine satisfactory completion of the education requirements prior to approving the applicant to take the qualifying examination and advising the board as to the acceptability of an educational institution.
- (c) The committee shall consider the following when advising the board of the acceptability of the educational institution:
- (i) the institution's accreditation, the acceptability by other state licensing boards, faculty qualifications and other educational resources.
- (2) There is created in accordance with Subsection 58-1-203(6), the Peer Review Committee to the Utah Board of Accountancy consisting of not more than ten licensed CPAs.
- (a) The committee shall be appointed and serve in accordance with Section R156-1-204.
- (b) The duties and responsibilities of the Peer Review Committee shall include administration of peer reviews in which the Division is the administering organization and shall include:
- (i) considering and accepting the results of peer reviews and requiring corrective action of firms with significant deficiencies noted in the review process;
 - (ii) evaluating compliance of CPE programs;
- (iii) performing random audits to determine compliance with the CPE requirements and the standards for CPE programs;
- (iv) reviewing complaints and recommending whether certain acts, practices or omissions violate the ethical standards of the profession;
 - (v) providing technical assistance to the division; and
 - (vi) serving as expert witnesses at administrative hearings.

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

The education requirements for CPA licensure in Subsection 58-26a-302(1)(d) are defined, clarified, or established as follows:

- (1) An applicant shall submit transcripts showing completion of course work consisting of a minimum of 150 semester hours (225 quarter hours) as follows:
- (a) a graduate or undergraduate program within an institution whose business or accounting education program is accredited by the American Assembly of Collegiate Schools of Business (AACSB), or the Association of Collegiate Business Schools and Programs (ACBSP), from which the applicant received one of the following:
 - (i) a graduate degree in accounting;
- (ii) a master of business administration degree which includes not less than:
- (A) 24 semester hours (36 quarter hours) in upper division accounting courses covering the subjects of financial accounting, auditing, taxation, and management accounting; or
- (B) 15 semester hours (23 quarter hours) graduate level accounting courses covering the subjects of financial accounting, auditing, taxation, and management accounting; or
- (C) an equivalent combination of graduate and upper division accounting courses covering the subjects of financial accounting, auditing, taxation, and management accounting with one hour of graduate level course work being equivalent to 1.6 hours of upper division course work; or
 - (iii) a baccalaureate degree in business or accounting and

30 semester hours (45 quarter hours) beyond the requirements for a baccalaureate degree which includes not less than:

- (A) 16 semester hours (24 quarter hours) in upper division accounting courses, which when combined with the accounting courses listed in Subsection (B) below, have at least one course with a minimum of two semester hours (three quarter hours) each covering the subjects of financial accounting, auditing, taxation, and management accounting;
- (B) eight semester hours (12 quarter hours) in graduate level accounting courses, which when combined with the accounting courses listed in Subsection (A) above, have at least one course each covering the subjects of financial accounting, auditing, taxation, and management accounting;
- (C) 12 semester hours (18 quarter hours) in upper division non-accounting business courses;
- (D) 12 semester hours (18 quarter hours) in graduate level business or accounting courses; and
- (E) 10 semester hours (15 quarter hours) of either graduate or upper division accounting or business courses.
- (b) a graduate or undergraduate program from an institution accredited by the Northwest Association of Schools and Colleges, Commission on Colleges, or the North Central Association of Colleges and Schools, Commission on Institutions of Higher Education, or an equivalent accrediting institution from which the applicant received a baccalaureate or graduate degree with not less than:
- (i) 30 semester hours (45 quarter hours) in business or related courses providing a minimum of two semester hours (three quarter hours) in each of the following subjects:
 - (A) business law;
 - (B) computers;
 - (C) economics;
 - (D) ethics;
 - (E) finance;
 - (F) statistics and quantitative methods;
 - (G) written and oral communications; and
- (H) business administration such as marketing, production, management, policy or organizational behavior;
- (ii) 24 semester hours (36 quarter hours) in upper division accounting courses with a minimum of two semester hours (three quarter hours) in each of the following subjects:
 - (A) auditing;
 - (B) finance;
 - (C) managerial or cost;
 - (D) systems; and
 - (E) taxes: and
- (iii) 30 semester hours (45 quarter hours) beyond the requirements for a baccalaureate degree of additional business related course work including not less than:
- (A) eight semester hours (12 quarter hours) in graduate accounting courses;
- (B) 12 semester hours (18 quarter hours) in graduate accounting or graduate business courses; and
- (C) 10 semester hours (15 quarter hours) of additional business related hours shall be taken in upper division undergraduate or graduate level courses.
- (2) The division in collaboration with the board or the education subcommittee of the board may make a written finding for cause that a particular accredited institution or program is not acceptable.
- (3) The Division in collaboration with the board or the education subcommittee of the board may accept education of a person who holds a license as a certified public accountant or equivalent designation in a foreign country, if the applicant has obtained from the National Association of State Boards of Accountancy (NASBA) verification of compliance with the terms of an agreement for reciprocal licensure between the foreign country and the International Qualifications Appraisal Board of NASBA, which agreement provides the applicant's

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

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

In accordance with Subsections 58-1-203(7) and 58-1-301(3), the experience requirements for licensure in Section 58-26a-302 are clarified, or supplemented as follows:

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

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

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

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

(1) General.

In accordance with Subsections 58-1-308(3)(b) and 58-26a-303(2)(b), there is created a peer review requirement as a condition for renewal of licenses issued under the Certified Public Accountant Licensing Act, providing for review of the work products of licensees and firms.

- (a) The purpose of the program is to monitor compliance with applicable accounting and auditing standards adopted by generally recognized standard setting bodies. The program shall emphasize education and may include other remedial actions determined appropriate where a firm's work product and services do not comply with established professional standards. In the event a firm is unwilling or unable to comply with established standards, or intentionally disregards professional standards so as to warrant disciplinary action, the administering organization shall refer the matter to the division and shall consult with the division regarding appropriate action to protect the public interest.
 - (2) Scheduling of the Peer Review.
- (a) A firm's initial peer review shall be assigned a due date to require that the initial review be started no later than 18 months after the date of the issuance of its initial report as defined in Subsection 58-26a-102(16).
- (b) Not less than once in each three years a firm engaged in the practice of public accounting shall undergo, at its own expense, a peer review commensurate in scope with its practice.
- (c) The administering organization will assign the year of review. A firm enrolled in a practice monitoring program which

is administered by the American Institute of Certified Public Accountants (AICPA) will use the year of review assigned by the AICPA. The firm will notify the administering organization of the deadlines set by the AICPA.

- (d) A peer review number will be assigned by the administering organization. The firm is required to provide this number and its registration number assigned by the division to all licensees employed by the firm. Licensees will be required to include these numbers with their application for renewal of a license to practice public accounting.
 - (3) Selection of a Peer Reviewer.
- A firm scheduled for peer review shall engage a reviewer qualified to conduct the peer review.
 - (4) Qualifications of a Peer Reviewer.
- (a) Peer reviewers must provide evidence of one of the two following minimum qualifications to the administering organization:
 - (i) acceptance as a peer reviewer by the AICPA; or
- (ii) compliance with the qualifications required by the AICPA to qualify as a peer reviewer.
- (b) Peer reviewers must be licensed or hold a permit to practice as a CPA in the state of Utah or another state or jurisdiction of the United States.
- (c) The administering organization will approve reviewers for those reviews not administered by the AICPA.
- (5) Conduct of Peer Review. Peer review shall be conducted as follows:
- (a) Standards for review: Peer reviews shall be conducted according to the "Standards for Performing and Reporting on Peer Reviews" promulgated by the AICPA, effective October 5, 1998 as amended, are hereby incorporated by reference and adopted as the minimum standards for quality reviews of all firms. This section shall not require any firm or licensee to become a member of AICPA or any administering organization.
- (6) Procedures in Case of Substandard Review, a Modified or Adverse Report or repeat findings.
- (a) If the administering organization finds that a peer review was not performed in accordance with these rules or the peer review results in a modified or adverse report or in repeat findings, the Peer Review Committee may require remedial action to assure that the review or performance of the CPA or CPA firm being reviewed meets the objectives of the peer review program.
 - (7) Review of Multi-State Firms.
- (a) With respect to a multi-state firm, the Division may accept a peer review based solely upon work conducted outside of this state as satisfying the requirement to undergo peer review under these rules, if:
- (i) the peer review is conducted during the year scheduled or rescheduled under R156-26a-303a(2);
- (ii) the peer review is performed in accordance with requirements equivalent to those of this state;
 - (iii) the peer review:
- (A) studies, evaluates and reports on the quality control system of the firm as a whole in the case of on-site reviews, or;
- (B) results in an evaluation and report on selected engagements in the case of off-site reviews;
- (iv) the firm's internal inspection procedures require that the firm's personnel from another office outside the state perform the inspection of the office located in this state not less than once in each three year period; and
- (v) at the conclusion of the peer review, the peer reviewer issues a report equivalent to that required by R156-26a-303a(6).
- (b) A multi-state firm not granted approval under R156-26a-303a(8)(a) shall undergo a peer review pursuant to these rules which shall comply with R156-26a-303a(8)(a) of the multi-state firm within this state.
- (c) A multi-state firm seeking approval under R156-26a-303a(8)(a) shall submit an application to the administering

- organization by February 1 of the year of review establishing that the peer review it proposes to undergo meets all of the requirements of R156-26a-303a(5).
- (d) A multi-state firm shall submit the peer review report it receives to the Utah administering organization as required by R156-26a-303a(6) within 30 days of acceptance.
 - (8) Exemption.
- (a) A firm which does not perform services as set out in R156-26a-303a(5)(b) or (c) is exempt from peer review and shall notify the Division of Occupational and Professional Licensing of the exemption at the time of renewal of its registration. A firm which begins providing these services must commence a peer review within 18 months of the date of the issuance of its initial report as defined in Subsection 58-26a-102(16).
 - (9) Mergers, Combinations, Dissolutions or Separations.
- (a) Mergers or combinations: In the event that two or more firms are merged or sold and combined, the surviving firm shall retain the year of review of the largest firm.
- (b) Dissolutions or separations: In the event that a firm is divided, the new firms shall retain the year of review of the former firm. In the event that this period is less than 12 months, a new year shall be assigned so that the review occurs after 12 months of operation.
- (c) Upon application to the administering organization and a showing of hardship caused solely by compliance with R156-26a-303a(10)(a) or (b), the Division may authorize a change in a firm's year of review.
 - (10) Extension.
- (a) If the firm can demonstrate that the time established for the conduct of a peer review will create an unreasonable hardship upon the firm, the Division may approve an extension not to exceed 180 days from the date the peer review was originally scheduled. A request for extension shall be addressed in writing by the firm to the Division with a copy to the administering organization responsible for administration of that firm's peer review. The written request for extension must be received by the Division and the administering organization not less than 30 days prior to the date of scheduled review or the request will not be considered. The Division shall inform the administering organization of the approval of any extension.
 - (11) Retention of Documents Relating to Peer Reviews.
- (a) All documentation necessary to establish that each peer review was performed in conformity with peer review standards adopted by the board, including the peer review working papers, the peer review report, comment letters and related correspondence indicating the firm's concurrence or nonconcurrence, and any proposed remedial actions and related implementation shall be maintained.
- (b) The documents described in R156-26a-303a(12)(a) shall be retained for a period of time corresponding to the designated retention period of the relevant administering organization. In no event shall the retention period be less than 90 days.
 - (12) Costs and Fees for Peer Review.
- (a) All costs associated with firm-on-firm reviews will be negotiated between the firm and the reviewer and paid directly to the reviewer. All costs associated with committee assigned review team (CART) reviews will be set by the administering organization. The administering organization will collect the fees associated with CART reviews and pay the reviewer.
- (b) All costs associated with the administration of the review process, including the administering organization and the PROC, will be paid from fees charged to the firms. The fees will be collected by the administering organization. The schedule of fees will be included in the administering organization's proposal. The fee schedule will specify how much is to be paid each year and will be based on the firm size.
 - (13) Peer Review Administered by the Division of

Occupational and Professional Licensing.

- (a) Any firms not participating in a peer review program administered by an administering organization approved by the Division will be administered by the division.
- (14) All financial statements, working papers, or other documents reviewed are confidential. Access to those documents shall be limited to being made available, upon request, to the Peer Review Committee or the technical reviewer for purposes of assuring that peer reviews are performed according to professional standards.

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

- (1) All CPAs are required to maintain current knowledge, skills, and abilities in all areas in which they provide services in order to provide services in a competent manner. To maintain or to obtain the knowledge, skills and abilities to competently provide services, a CPA may be required to obtain CPE above and beyond the 80 minimum CPE credits specified in Section 58-26a-304
- (a) The following standards have been broadly stated in recognition of the diversity of practice and experience among CPAs. They establish a framework for the development, presentation, measurement, and reporting of CPE programs and thereby help to ensure that CPAs maintain the required knowledge, skills and abilities necessary to competently provide services and to enable to the CPA to provide evidence of meeting the minimum CPE requirements specified under these rules.
 - (2) General Standards for CPAs.
- (a) Standard No. 1. All CPAs must participate in CPE learning activities that maintain and/or improve their professional competence. This CPE must include a minimum of 80 hours of CPE in each two-year period as specified in Subsection 58-26a-304(1).
- (i) The term "must", as used in these standards, means departure from those specific standards is not permitted. The term "should", as used in these standards, means that CPAs and CPE program sponsors are expected to follow such standards as written and are required to justify any departures from such standards when unusual circumstances warrant such departures.
- (ii) Selection of CPE learning activities should be a thoughtful, reflective process addressing the individual CPA's current and future professional plans, current knowledge and skills level, and desired or needed additional competence to meet future opportunities and/or professional responsibilities.
- (iii) A CPA's field of employment does not limit the need for CPE. CPAs performing professional services need to have a broad range of knowledge, skills, and abilities. Thus, the concept of professional competence should be interpreted broadly. Accordingly, acceptable continuing education encompasses programs contributing to the development and maintenance of both technical and non-technical professional skills.
- (iv) Acceptable CPE subjects include accounting, assurance/auditing, consulting services, specialized knowledge and applications, management, taxation, and ethics. Other subjects, including personal development, may also be acceptable if they maintain and/or improve the CPA's professional competence. Such subjects may include, but are not limited to: accounting and auditing, taxation, management advisory services, information technology, communication arts, mathematics, statistics, probability and quantitative analysis, economics, business law and litigation support, functional fields of business such as finance, production, marketing, personnel relations, development and management, business management and organizations, social environment of business, and specialized areas of industry such as film industry, real estate, or farming.

(v) To help guide their professional development, CPAs may find it useful to develop a learning plan. The learning plan can be used to evaluate learning and professional competence development.

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- (Å) A learning plan means a structured process that helps guide CPAs in their professional development. A learning plan is used to evaluate and document learning and professional competence development. A learning plan should be reviewed regularly and modified as a CPA's professional competence needs change. A learning plan should include:
- (I) a self-assessment of the gap between current and needed knowledge, skills, and abilities;
- (II) a set of learning objectives arising from this assessment; and
- (III) learning activities to be undertaken to fulfill the learning plan.
- (b) Standard No 2. CPAs should comply with all applicable CPE requirements and should claim CPE credit only for CPE programs when the CPE program sponsors have complied with the Standards for CPE Program Presentation (Nos. 8 11) and Standard for CPE Program Reporting No. 17.
- (i) In addition to minimum CPE requirements specified in these rules, CPAs are responsible for compliance with all applicable CPE requirements, rules, and regulations of other state licensing bodies, other governmental entities and other professional organizations or bodies who have standard setting authority. CPAs should contact each appropriate entity to which they report to determine its specific requirements or any exceptions it may have to the standards presented herein.
- (ii) Periodically, CPAs may participate in learning activities which do not comply with all applicable CPE requirements, for example specialized industry programs offered through industry sponsors. If CPAs propose to claim credit for such learning activities, they should retain all relevant information regarding the program to provide documentation to the Division, other state licensing bodies, and/or all other professional organizations or bodies showing that the learning activity is equivalent to one which meets all these or other applicable Standards.
- (c) Standard No. 3. CPAs are responsible for accurate reporting of CPE credits earned and should retain appropriate documentation of their participation in learning activities, including: name and contact information of CPE program sponsor, title and description of content, date of program, location and number of CPE credits, all of which should be included in documentation provided by the CPE program sponsor.
- (i) Although CPAs are required to document a minimum level of CPE hours, through periodic reporting of CPE, the objective of CPE must always be maintenance/enhancement of professional competence, not just attainment of minimum credits.
- (ii) Compliance with regulatory and other requirements mandates that CPAs keep documentation of their participation in activities designed to maintain and/or improve professional competence. In the absence of legal or other requirements for longer retention, a CPA must retain documentation for a minimum of five years from the end of the year in which the learning activities were completed.
- (iii) Participants must document their claims of CPE credit. Examples of acceptable evidence of completion include:
- (A) For group and independent study programs, a certificate or other verification supplied by the CPE program sponsor.
- (B) For self-study programs, a certificate supplied by the CPE program sponsor after satisfactory completion of an examination.
- (C) For instruction credit, a certificate or other verification supplied by the CPE program sponsor.

- (D) For a university or college course that is successfully completed for credit, a record or transcript of the grade the participant received.
- (É) For university or college non-credit courses, a certificate of attendance issued by a representative of the university or college.
- (F) For published articles, books, or CPE programs, (1) a copy of the publication (or in the case of a CPE program, course development documentation) that names the writer as author or contributor, (2) a statement from the writer supporting the number of CPE hours claimed, and (3) the name and contact information of the independent reviewer or publisher.
- (d) Standard No. 4. CPAs who complete sponsored learning activities that maintain or improve their professional competence should claim the CPE credits recommended by CPE program sponsors.
- (i) CPAs may participate in a variety of sponsored learning activities, such as workshops, seminars and conferences, self-study courses, Internet-based programs, and independent study. While CPE program sponsors determine credits, CPAs should claim credit only for activities through which they maintained or improved their professional competence. CPAs who participate in only part of a program should claim CPE credit only for the portion they attended or completed.
- (ii) In order to qualify as CPE, an Internet-based program must qualify as a group program as provided in Subsection R156-26a-303b(3)(b)(i) or as a self-study program as provided in Subsection R156-26a-303b(3)(g).
- (e) Standard No. 5. CPAs may engage in independent study under the direction of a CPE program sponsor who has met the applicable standards for CPE program sponsors when the subject matter and level of study maintain or improve their professional competence.
- (i) Independent study is an educational process designed to permit a participant to learn a given subject under the guidance of a CPE program sponsor one-on-one. Participants in an independent study program should:
- (A) Enter into a written learning contract with a CPE program sponsor who must comply with the applicable standards for CPE program sponsors.
- (B) Accept the written recommendation of the CPE program sponsor as to the number of credits to be earned upon successful completion of the proposed learning activities. CPE credits will be awarded only if:
- (I) all the requirements of the independent study as outlined in the learning contract are met;
- (II) the CPE program sponsor reviews and signs the participant's report;
- (III) the CPE program sponsor reports to the participant the actual credits earned; and
- (IV) the CPE program sponsor provides the participant with contact information.
- (ii) The credits to be recommended by an independent study CPE program sponsor should be agreed upon in advance and should be equated to the effort expended to improve professional competence. The credits cannot exceed the time devoted to the learning activities and may be less than the actual time involved.
- (iii) Retain the necessary documentation to satisfy regulatory requirements as to the content, inputs, and outcomes of the independent study.
- (iv) Complete the program of independent study in 15 weeks or less.
- (3) Standards for CPE Program Sponsors (Standard 1), Standards for CPE Program Development (Standards 2-7), Standards for CPE Program Presentation (Standards 8-11), Standards for Program Measurement (Standards 12-16), and Standards for CPE Program Reporting (Standards 17-18). "CPE sponsor", as used herein, means the individual or organization

- responsible for setting learning objectives, developing the program materials to achieve such objectives, offering a program to participants, and maintaining the documentation required by these standards. The term "CPE program sponsor" may include associations of CPAs, whether formal or informal, as well as employers who offer in-house programs.
- (a) Standard No. 1. CPE program sponsors are responsible for compliance with all applicable standards and other CPE requirements.
- (i) In addition to the minimum requirements under these rules, CPE program sponsors may have to meet specific CPE requirements of other state licensing bodies, other governmental entities, and/or other professional organizations or bodies. CPE program sponsors should contact the appropriate entity to determine requirements.
- (b) Standard No. 2. Sponsored learning activities must be based on relevant learning objectives and outcomes that clearly articulate the knowledge, skills, and abilities that can be achieved by participants in the learning activities.
- (i) Learning activities, meaning an educational endeavor that improves or maintains professional competence, provided by CPE program sponsors for the benefit of CPAs, should specify the level, content, and learning objectives so that potential participants can determine if the learning activities are appropriate to their professional competence development needs. Learning activity levels include, for example, basic, intermediate, advanced, update, and overview as defined as follows:
- (A) Advanced. Learning activity level most useful for individuals with mastery of the particular topic. This level focuses on the development of in-depth knowledge, a variety of skills, or a broader range of applications. Advanced level programs are often appropriate for seasoned professionals within organizations; however, they may also be beneficial for other professionals with specialized knowledge in a subject area.
- (B) Basic. Learning activity level most beneficial to CPAs new to a skill or an attribute. These individuals are often at the staff or entry level in organizations, although such programs may also benefit a seasoned professional with limited exposure to the area.
- (C) Intermediate. Learning activity level that builds on a basic program, most appropriate for CPAs with detailed knowledge in an area. Such persons are often at a mid-level within the organization, with operational and/or supervisory responsibilities.
- (D) Overview. Learning activity level that provides a general review of a subject area from a broad perspective. These programs may be appropriate for professionals at all organizational levels.
- (E) Update. Learning activity level that provides a general review of new developments. This level is for participants with a background in the subject area who desire to keep current.
- (c) Standard No. 3. CPE program sponsors should develop and execute learning activities in a manner consistent with the prerequisite education, experience, and/or advance preparation of participants.
- (i) To the extent it is possible to do so, CPE program sponsors should make every attempt to equate program content and level with the backgrounds of intended participants. All programs must clearly identify prerequisite education, experience, and/or advance preparation, if any, in precise language so that potential participants can readily ascertain whether they qualify for the program.
- (d) Standard No. 4. CPE program sponsors must use activities, materials, and delivery systems that are current, technically accurate, and effectively designed, and include discussions of ethical issues that may apply to the subject matter. CPE program sponsors must be qualified in the subject

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- (i) To best facilitate the learning process, sponsored programs and materials must be prepared, presented and updated in a timely manner. Learning activities must be developed by individuals or teams having expertise in the subject matter. Expertise may be demonstrated through practical experience or education.
- (ii) CPE program sponsors must review the course materials periodically to ensure that they are accurate and consistent with currently accepted standards relating to the program's subject matter.
- (e) Standard No. 5. CPE program sponsors of group and self-study programs must ensure learning activities are reviewed by qualified persons other than those who developed them to ensure that the program is technically accurate and current and addresses the stated learning objectives. These reviews must occur before the first presentation of these materials and again after each significant revision of the CPE programs.
- (i) Individuals or teams qualified in the subject matter must review programs. When it is impractical to review certain programs in advance, such as lectures given only once, greater reliance should be placed on the recognized professional competence of the instructors or presenters. Using independent reviewing organizations familiar with these standards may enhance quality assurance.
- (f) Standard No. 6. CPE program sponsors of independent study learning activities must be qualified in the subject matter.
- (i) A CPE program sponsor of independent study learning activities must have expertise in the specific subject area related to the independent study. The CPE program sponsor must also:
- (A) Review, evaluate, approve and sign the proposed independent study learning contract, including agreeing in advance on the number of credits to be recommended upon successful completion.
- (B) Review and sign the written report developed by the participant in independent study.
- (C) Retain the necessary documentation to satisfy regulatory requirements as to the content, inputs, and outcomes of the independent study.
- (g) Standard No. 7. Self-study programs must employ learning methodologies that clearly define learning objectives, guide the participant through the learning process, and provide evidence of a participant's satisfactory completion of the program.
- (i) To guide participants through a learning process, CPE program sponsors of self-study programs must elicit participant responses to test for understanding of the material, offer evaluative feedback to incorrect responses, and provide reinforcement feedback to correct responses. To provide evidence of satisfactory completion of the course, CPE program sponsors of self-study programs must require participants to successfully complete a final examination with a minimumpassing grade of at least 70 percent before issuing CPE credit for the course.
- (A) Evaluative feedback, as used in this subsection, means: specific response to incorrect answers to questions in self-study programs. Unique feedback must be provided for each incorrect response, as each one is likely to be wrong for differing reasons.
- (B) Reinforcement feedback, as used in this subsection, means: specific responses to correct answers to questions in self-study programs. Such feedback restates why the answer selected was correct.
- (ii) Examinations may contain questions of varying format (for example, multiple-choice, essay and simulations.) If objective type questions are used, at least five questions per CPE credit must be included on the final examination. For example, the final examination for a five-credit course must include at least 25 questions.
- (iii) Self-study programs must be based on materials specifically developed for instructional use. Self-study programs

- requiring only the reading of general professional literature, IRS publications, or reference manuals followed by a test will not be acceptable. However, the use of the publications and reference materials in self-study programs as supplements to the instructional materials could qualify if the self-study program complies with each of the CPE standards.
- (h) Standard No. 8. CPE program sponsors must provide descriptive materials that enable CPAs to assess the appropriateness of learning activities. To accomplish this, CPE program sponsors must inform participants in advance of: learning objectives, prerequisites, program level, program content, advance preparation, instructional delivery methods, recommended CPE credit, and course registration requirements. Instructional delivery methods, as used in this subsection, means: delivery strategies such as case studies, computer-assisted learning, lectures, group participation, programmed instruction, teleconferencing, use of audiovisual aids, or work groups employed in group, self-study, or independent study programs.
- (i) For potential participants to effectively plan their CPE, the program sponsor should disclose the significant features of the program in advance (e.g., through the use of brochures, Internet notices, invitations, direct mail, or other announcements). When CPE programs are offered in conjunction with non-educational activities, or when several CPE programs are offered concurrently, participants should receive an appropriate schedule of events indicating those components that are recommended for CPE credit. The CPE program sponsor's registration policies and procedures should be formalized, published, and made available to participants.
- (ii) CPE program sponsors should distribute program materials in a timely manner and encourage participants to complete any advance preparation requirements. All programs should clearly identify prerequisite education, experience, and/or advance preparation requirements, if any, in the descriptive materials. Prerequisites should be written in precise language so that potential participants can readily ascertain whether they qualify for the program.
- (i) Standard No. 9. CPE program sponsors must ensure instructors are qualified with respect to both program content and instructional methods used.
- (i) Instructors are key ingredients in the learning process for any group program. Therefore, it is imperative that CPE program sponsors exercise great care in selecting qualified instructors for all group programs. Qualified instructors are those who are capable, through training, education, or experience of communicating effectively and providing an environment conducive to learning. They should be competent and current in the subject matter, skilled in the use of the appropriate instructional methods and technology, and prepared in advance. As used in this subsection, Group Program means: An educational process designed to permit a participant to learn a given subject through interaction with an instructor and other participants either in a classroom or conference setting or by using the Internet.
- (ii) CPE program sponsors should evaluate the instructor's performance at the conclusion of each program to determine the instructor's suitability to serve in the future.
- (j) Standard No. 10. CPE program sponsors must employ an effective means for evaluating learning activity quality with respect to content and presentation, as well as provide a mechanism for participants to assess whether learning objectives were met.
- (i) The objectives of evaluation are to assess participant satisfaction with specific programs and to increase subsequent program effectiveness. Evaluations, whether written or electronic, should be solicited from participants and instructors for each program session, including self-study, to determine, among other things, whether:

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- (A) Stated learning objectives were met.
- (B) If applicable, prerequisite requirements were appropriate.
 - (C) Program materials were accurate.
- (D) Program materials were relevant and contributed to the achievement of the learning objectives.
 - (E) Time allotted to the learning activity was appropriate.
 - (F) If applicable, individual instructors were effective.
- (G) Facilities and/or technological equipment was appropriate.
- (H) Handout or advance preparation materials were satisfactory.
 - (I) Audio and video materials were effective.
- (ii) CPE program sponsors should periodically review evaluation results to assess program effectiveness and should inform developers and instructors of evaluation results.
- (k) Standard No. 11. CPE program sponsors must ensure instructional methods employed are appropriate for the learning activities. Instructional methods means: delivery strategies such as case studies, computer-assisted learning, lectures, group participation, programmed instruction, teleconferencing, use of audiovisual aids, or work groups employed in group, self-study, or independent study programs. Learning activities should be presented in a manner consistent with the descriptive and technical materials provided.
- (i) CPE program sponsors should evaluate the instructional methods employed for the learning activities to determine if the delivery is appropriate and effective. Integral aspects in the learning environment that should be carefully monitored include the number of participants and the facilities and technologies employed in the delivery of the learning activity.
- (ii) CPE program sponsors are expected to present learning activities that comply with course descriptions and objectives. Appropriate supplemental materials may also be used.
- (i) Standard No. 12. Sponsored learning activities are measured by program length, with one 50-minute period equal to one CPE credit. One-half CPE credit increments (equal to 25 minutes) are permitted after the first credit has been earned in a given learning activity.
- (i) For learning activities in which individual segments are less than 50 minutes, the sum of the segments should be considered one total program. For example, five 30-minute presentations would equal 150 minutes and should be counted as three CPE credits.
- (ii) When the total minutes of a sponsored learning activity are greater than 50, but not equally divisible by 50, the CPE credits granted should be rounded down to the nearest one-half credit. Thus, learning activities with segments totaling 140 minutes should be granted two and one-half CPE credits.
- (iii) While it is the participant's responsibility to report the appropriate number of credits earned, CPE program sponsors must monitor group learning activities to assign the correct number of CPE credits.
- (iv) For university or college credit courses that meet these CPE Standards, each unit of college credit shall equal the following CPE credits: semester system 15 credits; quarter system 10 credits.
- (v) For university or college non-credit courses that meet these CPE standards, CPE credits shall be awarded only for the actual classroom time spent in the non-credit course.
- (vi) Credit is not granted to participants for preparation
- (vii) Only the portions of committee or staff meetings that are designed as programs of learning and comply with these standards qualify for CPE credit.
- (m) Standard No. 13. CPE credit for self-study learning activities must be based on a pilot test of the average completion time.
 - (i) A sample of intended professional participants should

be selected to test program materials in an environment and manner similar to that in which the program is to be presented. The sample group of at least three individuals must be independent of the program development group and possess the appropriate level of knowledge before taking the program.

(ii) The sample does not have to ensure statistical validity. CPE credits should be recommended based on the average completion time for the sample. If substantive changes are subsequently made to program materials, further pilot tests of the revised program materials should be conducted to affirm or amend, as appropriate, the average completion time.

(iii) The maximum credit for self-study learning activities cannot exceed 25 percent of the CPE requirement.

- (n) Standard No. 14. Instructors or discussion leaders of learning activities should receive CPE credit for both their preparation and presentation time to the extent the activities maintain or improve their professional competence and meet the requirements of these CPE standards.
- (i) Instructors, discussion leaders, or speakers who present a learning activity for the first time should receive CPE credit for actual preparation time up to two times the number of CPE credits to which participants would be entitled, in addition to the time for presentation. For example, for learning activities in which participants could receive 8 CPE credits, instructors may receive up to 24 CPE credits (16 for preparation plus 8 for presentation).
- (ii) For repeat presentations, CPE credit can be claimed only if it can be demonstrated that the learning activity content was substantially changed and such change required significant additional study or research.
- (iii) The maximum credit for instructors, discussion leaders or speakers cannot exceed 50 percent of the CPE requirement.
- (o) Standard No. 15. Writers of published articles, books, or CPE programs should receive CPE credit for their research and writing time to the extent it maintains or improves their professional competence.
- (i) Writing articles, books, or CPE programs for publication is a structured activity that involves a process of learning. For the writer to receive CPE credit, the article, book, or CPE program must be formally reviewed by an independent party. CPE credits should be claimed only upon publication.
- (ii) The maximum credit for books or articles cannot exceed 25 percent of the CPE requirement.
- (p) Standard No. 16. CPE credits recommended by a CPE program sponsor of independent study must not exceed the time the participant devoted to complete the learning activities specified in the learning contract.
- (i) The credits to be recommended by an independent study CPE program sponsor should be agreed upon in advance and should be equated to the effort expended to improve professional competence. The credits cannot exceed the time devoted to the learning activities and may be less than the actual time involved.
- (q) Standard No. 17. CPE program sponsors must provide program participants with documentation of their participation, which includes the following: CPE program sponsor name and contact information, participant's name, course title, course field of study, date offered or completed, if applicable, location, the name of the CPE registry issuing approval, and the approval number assigned to that program by the Registry, type of instructional/delivery method used, amount of CPE credit recommended, verification by CPE program sponsor representative.
- (i) CPE program sponsors should provide participants with documentation to support their claims of CPE credit. Acceptable evidence of completion includes:
- (A) For group and independent study programs, a certificate or other verification supplied by the CPE program

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sponsor.

- (B) For self-study programs, a certificate supplied by the CPE program sponsor after satisfactory completion of an examination.
- (C) For instruction credit, a certificate or other verification supplied by the CPE program sponsor.
- (D) For a university or college course that is successfully completed for credit, a record or transcript of the grade the participant received.
- (É) For university or college non-credit courses, a certificate of attendance issued by a representative of the university or college.
- (F) For published articles, books, or CPE programs: (1) a copy of the publication (or in the case of a CPE program, course development documentation) that names the writer as author or contributor, (2) a statement from the writer supporting the number of CPE hours claimed, and (3) the name and contact information of the independent reviewer(s) or publisher.
- (r) Standard No. 18. CPE program sponsors must retain adequate documentation for five years to support their compliance with these standards and the reports that may be required of participants.
- (i) Evidence of compliance with responsibilities set forth under these Standards which is to be retained by CPE program sponsors includes, but is not limited to: records of participation, dates and locations, instructor names and credentials, number of CPE credits earned by participants, and results of program evaluations.
- (ii) Information to be retained by developers includes copies of program materials, evidence that the program materials were developed and reviewed by qualified parties, and a record of how CPE credits were determined.
- (iii) For CPE program sponsors offering self-study programs, appropriate pilot test records must be retained regarding the following:
 - (A) When the pilot test was conducted.
 - (B) The intended participant population.
 - (C) How the sample was determined.
 - (D) Names and profiles of sample participants.
- (E) A summary of participants actual completion time.
 (4) Programs or Activities Which Do Not Qualify. The following activities do not satisfy the standards for programs of
- following activities do not satisfy the standards for programs of this section and are not eligible for satisfaction of CPE requirements:
- (a) Personal study: personal study includes reading professional journals and publications, studying and researching matters such as tax code revisions, practicing software programs on a computer and watching video movies of a conference; and
- (b) Committee meetings, dinner and luncheon meetings, firm meetings or other activities that do not meet the standards outlined in this section.
- (5) Reporting Requirements. Each licensee applying for license renewal shall report, by January 31 of each even numbered year, demonstrating completion of at least the minimum number of credits required in Section 58-26a-304 for qualified continuing professional education hours completed for the preceding two calendar years. Each person applying for license reinstatement shall file a report at the time of application demonstrating completion of the CPE required under Subsection R156-26a-307.
 - (a) Such report shall be by means of one of the following:
- (i) certification from an approved continuing professional education registry of the hours of qualified continuing education completed; or
- (ii) a report to the Division for review and approval of continuing professional education.
- (b) It is the responsibility of the applicant or licensee to demonstrate to the Division that the applicant or licensee successfully completed all CPE reported and meets the

- requirements of this section or that the CPE has been approved by an approved continuing professional education registry and that reported courses maintained or increased the professional competence of the applicant or licensee.
- (6) Continuing Professional Education Registry. To obtain approval as a continuing professional education registry, an organization shall:
- (a) be a professional association primarily consisting of individuals licensed as certified public accountants;
- (b) be organized and in good standing according to the laws of the state:
- (c) enter into a written agreement with the Division under which the organization agrees to:
- (i) review and approve only those programs which meet the standards set forth under this section;
- (ii) publish and disseminate to their members or other CPAs on request, listings of continuing professional education programs which meet the standards and are approved for qualified continuing professional education credit;
- (iii) maintain accurate records of qualified continuing professional education completed by each of its registrants and provide each of its registrants with a certificate on a timely basis to permit the registrant to file that certificate with the registrant's application to the division for renewal or reinstatement of his license as a certified public accountant. The certificate shall contain the name of the instructor, the date of the program, location of the program, title of the program, the name of the sponsor, the name of the CPE registry issuing approval, and the approval number assigned to that program by the Registry, and the number of CPE hours granted; and
- (iv) make records of approved of qualified continuing professional education programs and records of qualified continuing professional education completed by registrants available for audit by representatives of the division, the board or peer advisory committees of the board.
- (7) Fees. A registry may charge a reasonable fee to registrants for services provided for approval of courses. Sponsors of approved courses may charge a lower fee to members of the sponsoring association for participation as a registrant than it charges to non-members of the association.
- (8) Other CPE requirements and failure to complete CPE requirements.
- (a) Interim Licensure CPE requirements. Those individuals who become licensed or certified between renewal periods shall be required to complete CPE based upon ten hours per calendar quarter for the remaining quarters of the reporting period
- (b) Carry Forward Provision. A licensee who completes more than 80 hours of CPE during the two year reporting period may carry forward up to 40 hours to the next succeeding reporting period.
 - (c) Failure to comply with CPE requirements.
- (i) Failure to meet the 80 hour requirement. An individual holding a current Utah license who fails to complete the required 80 hours of CPE by the reporting deadline will not be allowed to renew their license unless they complete and report to the division at least 30 days prior to their expiration date two times the number of CPE hours the license holder was short for the reporting period (penalty hours). The penalty hours shall not be considered to satisfy in whole or part any of the CPE hours required for subsequent renewal of the license.
- (ii) Non-Qualifying or Disqualified CPE hours. An individual who reports nonqualifying hours or who has hours disqualified by the Utah Board of Accountancy shall not be allowed to renew their license unless they complete and report to the division, within 60 days of receiving notification by the division of their shortage and the relevant penalty hours requirement under R156-26-303b(8)(c)(i).
 - (iii) Waiver for Medical Reasons. A licensee may request

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the board to waive the requirements or grant an extension for continuing professional education on the basis that the licensee was not able to complete the continuing professional education due to medical or related conditions confirmed by a qualified health care provider. Such medical confirmation shall include the beginning and ending dates during which the medical condition would have prevented the licensee from completing the continuing professional education, the extent of the medical condition and the effect that the medical condition had upon the ability of the licensee to continue to engage in the practice of accountancy. The board in determining whether the waiver is appropriate shall consider whether or not the licensee continued to be engaged in the practice of accountancy practice on a full or part time basis during the period specified by the medical confirmation. Granting a waiver of meeting the minimum CPE hours shall not be construed as a waiver of a CPA being required to provide services in a competent manner with current knowledge, skill and ability. When medical or other conditions prevent the CPA from providing services in a competent manner, the CPA shall refrain from providing such services.

R156-26a-303c. Renewal Cycle.

In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to licensees under Title 58, Chapter 26a is established by rule in Section R156-1-308.

R156-26a-303d. Renewal Procedures.

Renewal procedures shall be in accordance with Section R156-1-308.

R156-26a-305. Use of Certified Public Accountant (CPA) Title.

An individual who has a current CPA license issued by any other state may use the title or designation "Certified Public Accountant" but may only practice public accountancy in the state of Utah if currently licensed in the state of Utah or if performing public accountancy which is incidental to regular practice in another state as defined in Subsection 58-26a-305(1) and as further clarified in R156-26a-102(4).

R156-26a-307. Reinstatement of Licenses.

- (1) An individual having held a Utah license which has expired for failure to renew for nonpayment of fees, or an individual applying for reinstatement from emeritus status, may be relicensed upon satisfactory completion of:
- (a) submission of an application on forms supplied by the division which shall contain information as to why the person allowed their license to lapse;
- (b) 80 hours of acceptable CPE, completed within the 12 months preceding the submission of an application for reinstatement, which shall include a minimum of 16 hours in accounting or auditing or both and shall include successful completion of the AICPA Ethics Self-Study Examination and the Utah Law and Rules Examination with a minimum score of at least the minimum score required for initial licensure. Successful completion of the two examinations will count as eight hours of CPE towards the 80 hour requirement.
- (i) The requirements in Subsection R156-26-307(1)(b) are waived if the reinstatement applicant has not been practicing within the state of Utah since the expiration of the license being reinstated, the reinstatement applicant has continuously since the expiration been licensed and practicing in another state and the reinstatement applicant demonstrates that the applicant has met all the CPE requirements that would have been applicable in the state of Utah during the time the license was expired in the state of Utah.
- (ii) The requirements in Subsection R156-26a-307(1)(b) are waived, if the applicant failed to renew because of

inadvertent failure to pay the renewal fees, to sign application documents, or to meet similar technical application requirements and the application for reinstatement is filed with the Division within 24 months after expiration date of the license and at time of application for reinstatement the applicant demonstrates by proof of attendance at acceptable CPE courses that at all times the applicant was in full compliance with the CPE requirements.

- (2) A licensee who reinstates their license must obtain ten hours of CPE per full calendar quarter remaining in the current CPE reporting period after reinstatement is granted.
- (3) The number of hours required to reinstate the license shall not be considered to satisfy in whole or part any of the 80 hours of CPE required for subsequent renewal of the license.

R156-26a-501. Unprofessional Conduct.

"Unprofessional conduct" includes:

- (1) a licensee willfully failing to comply with continuing professional education or fraudulently reporting continuing professional education; or
- (2) commission of an act or omission that fails to conform to the accepted and recognized standards and ethics of the profession including those stated in the "Code of Professional Conduct" of the American Institute of Certified Public Accountants (AICPA) as adopted January 12, 1998, as amended, January 14, 1992 and October 28, 1997, which is hereby incorporated by reference.

KEY: accountants, licensing, peer review, continuing professional education
January 6, 2004 58-26a-101
Notice of Continuation April 15, 2002 58-1-106(1)(a)

58-1-202(1)(a)

R156. Commerce, Occupational and Professional Licensing. R156-37c. Utah Controlled Substance Precursor Act Rules. R156-37c-101. Title.

These rules are known as the "Utah Controlled Substance Precursor Act Rules."

R156-37c-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 37c, as used in Title 58, Chapters 1 and 37c or these rules:

- (1) "Involved officer, director, partner, proprietor, employee or manager" means an individual who has direct responsibility for the purchasing, storage, handling, disbursement, sale, shipping or disposal of controlled substance precursors.
- (2) "Unusual and extraordinary regulated transaction" means:
 - (a) a cash transaction;
- (b) a transaction of a magnitude outside of standard business conduct; or
- (c) a transaction in which the distributor does not have good knowledge of the legitimate use by the purchaser of the controlled substance precursors being purchased.

R156-37c-103. Authority - Purpose.

These rules are adopted by the division under the authority of Subsection 58-1-106(1) to enable the division to administer Title 58, Chapter 37c.

R156-37c-104. Organization - Relationship to Rule R156-1.

The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.

$R156\mbox{-}37c\mbox{-}302a.$ Qualifications for Licensure - Application Requirements.

In accordance with Subsection 58-37c-8(2), an applicant shall submit a complete application on a form provided by the division which includes the following:

- (1) identifying information including business legal name, physical location and mailing address, contact person for licensing purposes, organization type and identifying information, trade or business names;
 - (2) disclosure of nature of business;
 - (3) all facilities where business will be conducted;
- (4) identification of all controlled substance precursors for which licensure is requested; and
- (5) qualifying information concerning involved officers, directors, partners, proprietors, employees, and managers.

R156-37c-601. Routine Transactions.

In accordance with Subsection 58-37c-10(4)(a), the following are the recordkeeping and reporting requirements which shall be met by a regulated controlled substance precursor distributor and purchaser transaction.

- (1) Each distributor shall submit to the division the following:
- (a) all records of purchase 15 days following the end of the calendar quarter;
- (b) all records of sale or transfer 15 days following the end of each calendar month; and
- (c) all inventory reconciliations 15 days following the end of the calendar quarter.
- (2) Each purchaser shall submit to the division the following:
- (a) all records of purchase 15 days following the end of each calendar month;
- (b) all records of disposition 15 days following the end of the calendar quarter; and
- (c) all inventory reconciliations 15 days following the end of the calendar quarter.

R156-37c-602. Extraordinary or Unusual Regulated Transactions.

In accordance with Subsection 58-37c-10((4)(b), the following are the recordkeeping and reporting requirements which shall be met by a regulated controlled substance precursor distributor and purchaser with respect to each extraordinary or unusual regulated transaction.

- (1) Each distributor shall cause records of sale or transfer to be received by the division within 72 hours after the sale or transfer.
- (2) Each purchaser shall cause records of purchase to be received by the division within 72 hours after purchase.

R156-37c-603. Identification.

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In accordance with Subsection 58-37c-10(4)(c), the following is the identification which shall be presented by a purchaser to a distributor and the requirements for recording that identification by the distributor prior to the sale or transfer or any controlled substance precursor in a regulated transaction.

- (1) A purchaser shall present a copy of the controlled substance precursor license and a photo identification, if the purchase is to be shipped by other than a common carrier.
- (2) A distributor shall record the controlled substance precursor license number and organization name along with the date of sale and material and quantity sold. This identification can be kept on file for a customer for the duration of a license period. A notarized photocopy of the license is acceptable proof of licensure. For transactions involving purchasers outside the state, no license number is required, but all other reporting is required.

R156-37c-604. Theft, Loss, or Shortage of Controlled Substance Precursor.

In accordance with Subsection 58-37c-10(4)(e), purchasers and distributors shall file a report with respect to a theft, loss, or shortage of a controlled substance precursor with the division within 72 hours of discovery of the loss or shortage using the format required for unusual transactions except in the case of minor shortages discovered during inventory which would be consistent with expected handling losses which will not be reported except in the inventory reconciliation.

KEY: licensing, controlled substances, precursor*

58-1-106(1)

Notice of Continuation January 27, 2004 58-1-202(1)

58-37c-1

R156. Commerce, Occupational and Professional Licensing. R156-39a. Alternative Dispute Resolution Providers Certification Act Rules. R156-39a-101. Title.

These rules are known as the "Alternative Dispute Resolution Providers Certification Act Rules".

R156-39a-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 39a, as used in Title 58, Chapters 1 and 39a or these rules:

- (1) "Alternative dispute resolution provider" or "ADRP" means one who holds himself out as an arbitrator, negotiator, mediator, neutral fact finding expert, qualified neutral person, special master, conciliator, or any other title intended to cause a reasonable person to believe he is engaged in the alternative dispute resolution process.
- (2) "Arbitration" means a forum in which one or more qualified neutral individuals, knowledgeable in the subject matter of the dispute, and educated, trained or experienced in the dispute resolution process, hears the positions, facts, and evidence presented by conflicting parties to a dispute, defines the issues, and makes a binding or non-binding decision regarding the matter in dispute.
- (3) "Certified alternative dispute resolution provider" means an individual who is certified under Title 58, Chapter 39a as an alternative dispute resolution provider and designated as an arbitrator, mediator, or negotiator.
- (4) "License" as used in Title 58, Chapter 39a means certification.
- (5) "Negotiation" means a process in which there is an attempt to resolve a dispute or reach agreement in a matter employing the services of one or more negotiators who represent the interests of a party to a dispute or matter not agreed upon.
- (6) "Mediation" means that defined in Subsection 78-31b-1(5).
- (7) "Mini-trial" means that defined in Subsection 78-31b-1(6).
- (8) "Moderated settlement conference" means that defined in Subsection 78-31b-1(7).
- (9) "Neutral expert fact-finding" means a process in which the issue or issues in dispute are of such a technical or complex nature, and the assessment of the issues by the disputing parties and their respective experts is so divergent, that the services of a neutral expert are retained by the parties to the dispute to hear the issues and advise the parties to the dispute of their neutral and expert opinion for the purpose of improving the opportunity for settlement between the parties.
- (10) "Qualified neutral person" means a person who is determined by the parties to a dispute as competent to act as an alternative dispute resolution provider.
- (11) "Summary jury trial" means that defined in Subsection 78-31b-1(8).
- (12) "Unprofessional conduct" is defined in Subsection 58-1-501(2).
- (13) "Use of special masters and related processes in civil disputes" means the use of individuals to perform duties assigned by a court or administrative agency in the resolution of disputes in accordance with the direction and authority of the court of administrative agency.

R156-39a-103. Authority - Purpose.

These rules are adopted by the division under the authority of Subsection 58-1-106(1) to enable the division to administer Title 58, Chapter 39a.

R156-39a-104. Organization - Relationship to Rule 156-1.

The organization of this rule and its relationship to Rule 156-1 is as described in Section R156-1-107.

R156-39a-301. Certificate Classifications.

- (1) In accordance with Subsection 58-39a-4(1), the division shall issue certificates in the following classifications:
- (a) Certified Alternative Dispute Resolution Provider Arbitrator;
- (b) Certified Alternative Dispute Resolution Provider Mediator; and
- (c) Certified Alternative Dispute Resolution Provider Negotiator.
- (2) Each classification shall be considered a separate certificate and shall be obtained by filing a separate application for each and paying the related fee.

$R156\mbox{-}39a\mbox{-}302a.$ Qualifications for Certification - Education and Training Requirements.

In accordance with Subsections 58-1-203(2) and 58-1-301(3), the education and training requirements for certification in Section 58-39a-5 are defined, clarified, or established as follows:

- (1) An applicant to obtain certification as an arbitrator shall document completion of education and training as follows:
- (a) satisfactory completion of 30 clock hours of education in arbitration which program of education may include the following subject material:
- (i) arbitration language including the phrases and clauses necessary to initiate the procedure;
- (ii) implementing the procedures required in adjudicating a proper award including conduct of proceedings, preparation, evidence, timeliness, records and documentation;
 - (iii) analyzing conflicts to narrow issues in dispute;
 - (iv) principles of dispute resolution;
 - (v) effective listening;
 - (vi) sensitivity and awareness of cross-cultural issues;
 - (vii) maintaining neutrality;
 - (viii) appropriate decision making processes;
- (ix) control of the process and effective adjudication of the issues in dispute;
 - (x) historical perspective of arbitration;
 - (xi) critical thinking and reasoning skills;
 - (xii) various types of arbitration;
 - (xiii) effective writing; and
- (b) verification that the applicant has satisfactorily served as an arbitrator in three separate cases or ten clock hours, whichever is greater.
- (2) An applicant to obtain certification as a mediator shall document completion of education and training as follows:
- (a) satisfactory completion of 30 clock hours of education in mediation which may include the following subject material:
 - (i) stages and value of conflict in empowering change;
 - (ii) principles of dispute resolution;
 - (iii) effective listening;
 - (iv) empathy and validation;
 - (v) sensitivity and awareness of cross-cultural issues;
 - (vi) maintaining neutrality;
 - (vii) identifying and reframing issues;
 - (viii) establishing trust and respect;
 - (ix) techniques for achieving agreement and settlement;
- (x) creating a climate conducive to resolution, identifying options, reaching consensus, and working toward agreement;
 - (xi) shaping and writing agreements;
 - (xii) ethical standards for conduct of mediations; and
- (b) verification that the applicant has satisfactorily served as a mediator in three separate cases or ten clock hours, whichever is greater.
- (3) An applicant to obtain certification as a negotiator shall document completion of education and training as follows:
- (a) satisfactory completion of 30 clock hours of education in negotiation which may include the following subject material:
 - (i) stages and value of conflict in empowering change;

- (ii) principles of negotiation;
- (iii) effective listening;
- (iv) empathy and validation;
- (v) sensitivity and awareness of cross-cultural issues;

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- (vi) maintaining neutrality;
- (vii) identifying and reframing issues;
- (viii) establishing trust and respect;
- (ix) shaping and writing agreements;
- (x) ethical standards for conduct of negotiations; and
- (b) verification that the applicant has satisfactorily served as a negotiator in three separate cases or ten clock hours, whichever is greater.

$R156\mbox{-}39a\mbox{-}302b.$ Qualifications for Licensure - Experience Requirements.

In accordance with Subsections 58-1-203(2) and 58-1-301(3), the experience requirements for certification in Section 58-39a-5 are defined, clarified, or established as follows:

- (1) An applicant may be certified as an ADRP Arbitrator without the necessity of completing the education and training requirements provided in R156-39a-302a(1) by providing evidence that the applicant has served as an arbitrator in cases involving not less than 32 clock hours.
- (2) An applicant may be certified as an ADRP Mediator without the necessity of completing the education and training requirements provided in R156-39a-302a(2) by providing evidence that the applicant has served as a mediator in cases involving not less than 32 clock hours.
- (3) An applicant may be certified as an ADRP Negotiator without the necessity of completing the education and training requirements provided in R156-39a-302a(3) by providing evidence that the applicant has served as a negotiator in cases involving not less than 32 clock hours.

R156-39a-302c. Qualifications for Certification - Examination Requirement.

In accordance with Subsections 58-1-203(2) and 58-1-301(3), the examination requirement for certification in Section 58-1-309 is defined, clarified, or established to include passing of the ADRP Utah law and rules examination.

R156-39a-303. Renewal Cycle - Procedures.

- (1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to certificates under Title 58, Chapter 39a, is established by rule in Section R156-1-308.
- (2) Renewal procedures shall be in accordance with Section R156-1-308.

KEY: licensing, arbitration, mediation, alternative dispute resolution*

1994 58-1-106(1) Notice of Continuation January 27, 2004 58-1-202(1) 58-39a-1

R156. Commerce, Occupational and Professional Licensing. R156-54. Radiology Technologist and Radiology Practical Technician Licensing Act Rules.

R156-54-101. Title.

These rules are known as the "Radiology Technologist and Radiology Practical Technician Licensing Act Rules."

R156-54-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 54, as used in Title 58, Chapters 1 and 54 or these rules:

- (1) "ARRT" means the American Registry of Radiologic Technologists.
- (2) "Supervision", "general supervision" or "direct supervision" as used in Subsections 58-54-2(5), (6) and (7) and Section 58-54-8 means that the supervising radiologist or radiology practitioner shall be available for consultation while the radiology technologist or the radiology practical technician is performing any radiographic procedures. Consultation may be in person, by telephone, by radio or any other means of direct verbal communication. The supervising radiologist or radiology practitioner shall be responsible for the radiographic procedures performed by the radiology technologist or the radiology practical technician.
- (3) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 54, is further defined, in accordance with Subsection 58-1-203(5), in Section R156-54-502.

R156-54-103. Authority - Purpose.

These rules are adopted by the division under the authority of Subsection 58-1-106(1) to enable the division to administer Title 58, Chapter 54.

R156-54-104. Organization - Relationship to Rule R156-1.

The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.

R156-54-301. Equivalent Education Requirements for Licensure as a Radiology Technologist.

In accordance with Subsection 58-54-5(2)(a), a four year bachelors of science degree in radiology is an equivalent radiological educational program approved for licensure as a radiology technologist.

R156-54-302a. Examination Requirements - Radiology Technologist.

- In accordance with Subsection 58-54-5(2)(b), the examination requirement for licensure as a radiology technologist requires passing:
- (1) an applicable American Registry of Radiologic Technologists (ARRT) Examination in Radiology Technology. The exams are:
 - (a) Radiography;
 - (b) Nuclear Medicine Technology;
 - (c) Radiation Therapy Technology; or
- (2) the Nuclear Medicine Technology Certification Board Examination.

R156-54-302b. Examination Requirements - Radiology Practical Technician.

In accordance with Subsection 58-54-5(3), the examination requirement for licensure as a radiology practical technician requires passing:

- (1) the ARRT Limited Scope of Practice in Radiography Examination with a minimum score of 65% for the following:
 - (a) core; and
 - (b) one or more of the following sections:
 - (i) chest;
 - (ii) extremities;
 - (iii) skull/sinuses;

- (iv) spine; and
- (v) podiatric; or
- (2) the ARRT Bone Densitometry Equipment Operators Examination (BDEO) with a minimum score of 59%.

R156-54-303. Renewal Cycle - Procedures.

- (1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to licensees under Title 58, Chapter 54 is established by rule in Section R156-1-308.
- (2) Renewal procedures shall be in accordance with Section R156-1-308.

R156-54-304. Professional Education.

- (1) In accordance with Subsection 58-54-6(2), each licensee shall be required to complete a program of professional education during each two year period commencing June of each odd numbered year.
- (2) The required number of hours of professional education for an individual who first becomes licensed during the two year period shall be decreased in a pro-rata amount equal to any part of that two year period preceding the date on which that individual first becomes licensed.
- (3) Qualified professional education under this section shall:
 - (a) be relevant to the licensee's professional practice;
- (b) be prepared and presented by individuals who are qualified by education, training and experience; and
 - (c) have a method of verification of attendance.
- (4) Unlimited hours of professional education shall be recognized for professional education completed in blocks of time not less than 50 minutes in formally established classroom courses, seminars, lectures, labs, training sessions or conferences which are approved by or conducted under the sponsorship of:
 - (a) an accredited institution of higher education;
- (b) American Society of Radiologic Technologists or other similar professional organizations;
- (c) an acute care hospital or medical treatment facility; or
- (d) a professional association representing one of the licensed professions regularly engaged in radiologic procedures.
- (5) Ten hours of professional education shall be recognized on a one time basis for passing the Utah Radiology Technologist and Radiology Practical Technician Law and Rule Examination if the exam was not required at the time of licensure.
- (6) Each licensee shall be responsible for keeping documentation of his professional education hours for a period of four years after close of the two year period to which the records pertain.
- (7) A licensee who has a serious health condition or has left the United States for an extended period of time which prevent the licensee from meeting the professional education requirements established under this section may be excused from the requirement for that period of time. However, it is the responsibility of the licensee to document the reasons and justify why the requirement could not be met.

R156-54-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

- (1) performing mammography when not in compliance with the Utah State Department of Health, Bureau of Health Facility Licensure, Mammography Quality Assurance Rules, R432-950;
- (2) performing a radiological procedure without having first passed the appropriate qualifying examination;
- (3) performing a radiological procedure when not supervised in accordance with Section R156-54-102(2); and
 - (4) failing to conform to the generally accepted and

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recognized standards and ethics of the profession including those established in the ARRT "Standards of Ethics", June 1997 edition, which is hereby incorporated by reference.

KEY: licensing, radiology technologists, radiology practical technicians

58-54-1 58-1-106(1)(a) 58-1-202(1)(a) January 20, 2004 Notice of Continuation April 8, 2002

R156. Commerce, Occupational and Professional Licensing. R156-76. Professional Geologist Licensing Act Rules. R156-76-101. Title.

These rules are known as the "Professional Geologist Licensing Act Rules".

R156-76-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 76, as used in Title 58, Chapters 1 and 76, or these rules:

- "ASBOG" means Association of State Boards of Geology.
- (2) "Geosciences", as used in Subsection 58-76-302(4)(a), means an earth science degree, which results in sufficient geological knowledge to enable the practice of geology before the public.
- (3) "Qualified individual", as used in Section R156-76-302c, means a person who is licensed as a professional geologist in a recognized jurisdiction, or who otherwise meets the requirements for licensure as defined in Sections 58-76-302 and R156-76-302b and R156-76-302c.
- (4) "Practice of geology before the public" does not include the following aspects of paleontology:
 - (a) taxonomy;
 - (b) biologic analysis of organisms; or
- (c) investigation and reporting of deposits which may be fossiliferous, including incidental geological analysis.
- (5) "Practice of geology before the public" does not include the following aspects of the practice of anthropology and archeology:
 - (a) archeological survey, excavation, and reporting;
- (b) production of archeological plan views, profiles, and regional overviews; or
- (c) investigation and reporting of artifacts or deposits that are modified or affected by past human behavior.
- (6) "Principal", as used in Subsection 58-76-603(2), means the licensee assigned to and personally accountable for the production of specified professional geologic projects within an organization.
- (7) "Recognized jurisdiction", as used in Subsection R156-76-302d(2), means any state, district or territory of the United States that issues a license for a professional geologist, and whose licensure requirements include:
- (a) a bachelors or post graduate degree in the geosciences from an accredited institution or equivalent foreign education as determined by the International Credentialing Association and the Division in collaboration with the board;
- (b) documented qualifying experience requirements similar to the experience requirements found in Subsection 58-76-302(5) and Section R156-76-302; and
- (c) passing the ASBOG Fundamentals of Geology (FG) and the ASBOG Principles and Practice of Geology (PG) Examination.
- (8) "Unprofessional conduct", as defined in Title 58, Chapters 1 and 76, is further defined, in accordance with Subsection 58-1-203(5), in Section R156-76-501.

R156-76-103. Authority - Purpose.

These rules are adopted by the division under the authority of Subsection 58-1-106(1) to enable the division to administer Title 58, Chapter 76.

R156-76-104. Organization - Relationship to Rule R156-1.

The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.

R156-76-302b. Qualifications for Licensure - Education Requirements.

(1) In accordance with Section 58-76-302, the education requirements for graduates of an approved geoscience program

are as follows:

- (a) an earned bachelors or masters degree in geology from an accredited institution; or
- (b) an earned bachelor or post-graduate degree in the geosciences from an accredited institution including the completion of a minimum of 24 semester or 36 quarter hours in upper level or graduate geology courses, which includes one or more of the following subject areas:
 - (i) structural geology;
 - (ii) geophysics;
 - (iii) sedimentology/stratigraphy/paleontology;
 - (iv) mineralogy/petrology/geochemistry;
 - (v) engineering geology/environmental geology;
 - (vi) hydrogeology/hydrology;
 - (vii) geomorphology/remote sensing;
 - (viii) economic geology/petroleum geology; and
 - (ix) field geology.
- (2) In accordance with Section 58-1-302, an applicant who has been educated in a foreign country shall submit a course-by-course accreditation evaluation completed by International Credentialing Associates to determine program equivalency.

R156-76-302c. Qualifications for Licensure - Experience Requirements.

- In accordance with Subsection 58-76-302(5), active professional practice requirements are clarified or established as follows:
- (1) Professional practice shall be obtained after completing the minimum educational requirement for licensure.
- (2) One year of active professional practice shall consist of a minimum of 2,000 hours of geological work experience under the supervision of a qualified individual, or in responsible charge as permitted by law.
- (3) No more than 2,000 hours of active professional practice may be gained in any 12 month period of time.
- (4) Qualifying work engagements consist of a range of activities included in the practice of geology consisting of more than the performance or supervision of geological work activities that are routine, such as routine sampling, laboratory work, or geological drafting, where the elements of initiative, scientific judgment and decision-making are lacking.
- (5) Three years of geologic research or teaching activity in upper division or graduate level geology classes at an accredited university is equivalent to one year of qualifying experience.

R156-76-302d. Qualifications for Licensure - Examination Requirements.

- (1) In accordance with Subsection 58-76-302(6), except as otherwise provided in Subsection (2) or(3), the examination requirements for licensure as a professional geologist after January 1, 2004 are established as follows:
- (a) the ASBOG Fundamentals of Geology ("FG") Examination with a passing score as recommended by the ASBOG; and
- (b) the ASBOG Principles and Practice of Geology ("PG") Examination with a passing score as established by the ASBOG.
- (2) The ASBOG FG Examination shall not be required for an applicant who:
- (a) has practiced as a principal for five years of the last seven years preceding the date of the license application;
- (b) was not required to pass the ASBOG FG Examination for initial licensure from the recognized jurisdiction the applicant was originally licensed; and
 - (c) has passed the ASBOG PG Examination.
- (3) The ASBOG FG and PG Examinations shall not be required for an applicant who:
- (a) has practiced as a principal for five years during the last seven years preceding the date of the license application;
 - (b) has been licensed for 20 years preceding the date of the

license application; and

(c) Who was not required to pass the ASBOG FG and PG Examination for initial licensure from the recognized jurisdiction the applicant was originally licensed, but was required to pass a predecessor exam established by the recognized jurisdiction.

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R156-76-303. Renewal Cycle - Procedures.

In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to licensees under Title 58, Chapter 76, is established by rule in Section R156-1-308.

R156-76-304. Exemption from Licensure.

The exemption from licensure in Subsection 58-76-304(1) is defined or clarified as follows: An "employee" or "subordinate", as used therein and elsewhere in Title 58, Chapter 76, or these rules, means an individual who:

- (1) is not licensed as a professional geologist;
- (2) works with, for, or provides professional geologic services on work initiated by a person licensed as a professional geologist; and
- (3) works only under the administration, charge, control, command, authority, oversight, guidance, jurisdiction, regulation, management, and authorization of a person licensed as a professional geologist.

R156-76-501. Unprofessional Conduct.

"Unprofessional conduct" includes:

- (1) submitting an incomplete final plan, specification, report or set of plans to:
- (a) a client, when the licensee represents, or could reasonably expect the client to consider the plan, specification, report or set of plans to be complete and final; or
- (b) to a government official for the purpose of obtaining a permit;
 - (2) failing as a principal to exercise responsible charge;
- (3) failing as a supervisor to exercise supervision of an employee, subordinate, associate or drafter; or
- (4) failing to conform to the accepted and recognized standards and ethics of the profession including those stated in the "American Geological Institute's Guidelines for Ethical Professional Conduct", April 2, 1999, which is hereby incorporated by reference.

R156-76-601. Seal Requirements.

- (1) In accordance with Section 58-76-601, the seal design and implementation shall be:
- (a) each seal shall be a circular seal, 1-1/2 inches minimum diameter;
- (b) each seal shall include the licensee's name, license number, "State of Utah", and "Licensed Professional Geologist";
- (c) each seal shall be signed and dated with the signature and date appearing across the face of each seal imprint;
- (d) each original set of final geologic map, cross-section, sketch, drawing, plan, or report prepared, as a minimum, shall have the original seal imprint, original signature and date placed on the cover or title sheet:
- (e) a seal may be a wet stamp, embossed, or electronically produced; and
- (f) copies of the original set of plans, specifications, reports, maps, sketches, surveys, drawings, documents and plats which contain the original seal, original signature and date are permitted, if the seal, signature and date is clearly recognizable.

KEY: licensing, professional geologists, geology

January 20, 2004 58-1-106(1)(a) 58-1-202(1)(a)

58-76-101

R162. Commerce, Real Estate. R162-105. Scope of Authority. R162-105-1. Scope of Authority.

105.1 Transaction value. "Transaction value" means:

- 105.1.1 For loans or other extensions of credit, the amount of the loan or extension of credit;
- 105.1.2 For sales, leases, purchases, and investments in or exchanges of real property, the market value of the real property interest involved; and
- 105.1.3 For the pooling of loans or interests in real property for resale or purchase, the amount of the loan or market value of the real property calculated with respect to each such loan or interest in real property.
- 105.2 State-Licensed Appraisers. In federally-related transactions, the Utah Real Estate Appraiser Licensing Act and the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and related federal regulations allow State-Licensed Appraisers to perform the appraisal of non-complex one to four residential units having a transaction value of less than \$1,000,000 and complex one to four residential units having a transaction value of less than \$250,000.
- 105.2.1 Subject to the transaction value limits in Section 105.2, State-Licensed Appraisers may also perform appraisals in federally-related transactions of vacant or unimproved land that is utilized for one to four family purposes, or for which the highest and best use is 1-4 family purposes, so long as net income capitalization analysis is not required by the terms of the assignment.
- 105.2.2 State-Licensed Appraisers may not perform appraisals of subdivisions in federally-related transactions for which a development analysis/appraisal is necessary or for which discounted cash flow analysis is required by the terms of the assignment.
 - 105.3 Unclassified Individuals.
- Unclassified individuals who have not yet accumulated 100 experience points and who have not successfully completed the education required for licensure may perform the following duties under the direct supervision of a state-licensed or state-certified appraiser: typing an appraiser's research notes; typing an appraisal report; accompanying an appraiser on an inspection visit to a property; assisting an appraiser in measuring a property; taking photographs of specific properties selected and inspected by the appraiser; performing routine calculations; and obtaining copies of assessment records, deeds, maps, and data from real property data bases relating to properties selected by the appraiser.
- 105.3.1.1 The unclassified individual may accumulate the first 100 experience points with each duty listed in the following table being worth 20% of the total points awarded from the Appraisal Experience Points Schedule under Section 104-18.1. or 104-18.2. not to exceed the maximum number of points awarded for each property. Applicants must have experience in at least five of the following categories and no more than onethird of the experience can come from any one of the following categories.
 - (a) type an appraiser's research notes 20% of total points
 - (b) type an appraisal report 20% of total points
- (c) accompany an appraiser on an inspection visit 20% of total points
- (d) assist an appraiser in measuring property 20% of total
- (e) take photographs of specific properties selected and inspected by the appraiser - 20% of total points
 - (f) perform routine calculations 20% of total points
- (g) obtain copies of assessment records, deeds, maps and data from real property databases relating to properties selected by the supervising appraiser - 20% of total points 105.3.1.2. Unclassified individuals who have not yet
- accumulated 100 experience points and who have not

successfully completed the education required for licensure may not participate in: selecting comparables for an appraisal assignment; making adjustments to comparables; drafting an appraisal report; and, except when working in the presence of a state-licensed or state-certified appraiser, inspecting a property that is the subject of an appraisal or that may be used as a comparable in an appraisal, or measuring a property.

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105.3.2. Unclassified individuals who have accumulated 100 experience points and have successfully completed at least 30 hours of the education required for licensure may act in the capacity of an appraisal "trainee" under the direct supervision of a state-licensed or state-certified appraiser. A "trainee" is permitted to have more than one supervising appraiser.

105.3.2.1. An appraiser "trainee" may, under the direct supervision of a state-licensed or state-certified appraiser, participate in selecting comparables for an appraisal assignment, participate in making adjustments to comparables, draft appraisal reports, and when working in the presence of a statelicensed or state-certified appraiser, inspect a property that is the subject of an appraisal or that may be used as a comparable in an appraisal, and measure a property.

105.3.2.2. The unclassified individual who is a "trainee" may accumulate the experience points with each duty listed in the following table being worth 33.3% of the total points awarded from the Appraisal Experience Points Schedule under Section 104-18.1. or 104-18.2. not to exceed the maximum number of points awarded for each property. experience must be earned in at least three of the following categories and no more than one-third of their experience can come from any one of the following categories.

(a) participate in selecting comparables for an appraisal assignment - 33.3% of total points

(b) participate in making adjustments to comparables -33.3% of total points

(c) draft appraisal reports - 33.3% of total points

(d) when working in the presence of a state-licensed or state-certified appraiser, inspect a property that is the subject of an appraisal or that may be used as a comparable in an appraisal, and measure the property - 33.3% of total points

- 105.3.3. All experience points cannot be earned in one 12month period. For applicants for licensure, a maximum of 300 points will be credited for any one 12-month period. Credit will be given for appraisal experience earned only within five years immediately preceding the licensure or certification application. Applicants who believe the Experience Points Schedule does not adequately reflect their experience may refer to Section 104-
- 105.3.4. All unclassified individuals are prohibited from signing an appraisal report or discussing an appraisal assignment with anyone other than the appraiser responsible for the assignment, state enforcement agencies and such third parties as may be authorized by due process of law, or a duly authorized professional peer review committee.

105.3.5. A classified appraiser who supervises an unclassified individual shall be responsible for the training and direct supervision of the unclassified individual.

105.3.5.1 Direct supervision shall consist of critical observation and direction of all aspects of the appraisal process and accepting full responsibility for the appraisal and the contents of the appraisal report.

105.3.5.2 A classified appraiser shall require the unclassified appraiser to maintain a log in a form satisfactory to the Board which shall contain, at a minimum, the following information for each appraisal.

- (a) Type of property;
- (b) Address of appraised property;
- (c) Description of work performed;
- (d) Number of work hours;
- (e) Signature and state license/certification number of the

supervising appraiser.
105.3.6. The unclassified individual shall maintain a separate appraisal log for each supervising appraiser.

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105.4. Term of Revocation or Surrender. 105.4.1 Unless otherwise ordered by the Board, any appraiser whose appraiser certification, license, or registration has been revoked or suspended by the Board, or who has surrendered a certification, license, or registration as a result of an investigation by the Division, may not serve as an unclassified appraiser for a period of five years after the date of the revocation or surrender, nor may a licensed or certified appraiser employ or supervise him during that period in the activities permitted unclassified persons.

KEY: real estate appraisal

61-2b

Notice of Continuation January 13, 2004

R164. Commerce, Securities.

R164-11. Registration Statement. R164-11-1. General Registration Provisions.

A. Preliminary Notes

- (1) This R164-11-1 applies to public offerings registered by notification, coordination or qualification pursuant to Sections 8, 9 and 10 of the Utah Uniform Securities Act (the "Act"), except this rule shall not apply to offerings which are registered in twenty or more states, including the state of Utah.
- (2) The purpose of the rule is to ensure full disclosure of material information, prohibit offerings which tend to work a fraud on purchasers and prohibit unreasonable amounts of promoters' profits.
- (3) Failure to comply with the provisions of this rule shall be grounds for denial, suspension or revocation of the effectiveness of a registration statement.
- (4) For purposes of this rule "development stage companies" shall mean those companies that devote substantially all of their efforts to acquiring or establishing a new business and in which either: 1) planned principal operations have not commenced or 2) there have been no significant revenues therefrom.
- (5) Selected requirements of this rule may be waived by the Utah Securities Division ("Division") where an applicant makes a specific request for a waiver and the Division finds that such requirement(s) is/are not necessary or appropriate for the protection of investors.
- (6) This rule applies to all registration statements filed on or after February 15, 1986.

B. NASAA Statements of Policy

All registration statements for oil and gas programs, church bonds, real estate investment trusts, publicly-offered cattle-feeding programs, real estate programs and equipment programs must satisfy the provisions of the appropriate statements of policy adopted by the North American Securities Administrators Association ("NASAA").

Offerings which are required under this paragraph B to satisfy, and do satisfy, the provisions of a NASAA statement of policy shall not be required to satisfy the provisions of paragraphs C and D of this R164-11-1.

C. Promoters' Investment in Development Stage Companies

An investment by promoters and shareholders in a development stage company shall be required as follows:

(1) Corporate Equity and Debt Offerings.

Prior to and during the effectiveness of a registration statement, where the registrant is the issuer, pertaining to an offering of securities which are corporate equity securities, which are securities convertible into corporate equity securities or which are corporate debt securities, the corporation shall have equity equal to at least the lesser of: 1) ten percent (10%) of the aggregate offering price of the securities which are registered or to be registered or 2) fifty thousand dollars (\$50,000). Equity shall be equal to the sum of stated capital, capital surplus which was contributed in cash and retained earnings. Retained deficits will not reduce the equity of the company for purposes of this subparagraph. In no event shall capital contributed in the form of services or any evidence of indebtedness qualify as any portion of equity in order to meet the requirements of this subparagraph.

NOTE: Tangible property may be considered to satisfy this requirement, in the discretion of the Division, only where the value of such property is ascertained and supported by the registrant, where the value substantially exceeds the necessary equity requirement and where clear title to the property is held by the issuer.

(2) Partnership and Trust Certificate Offerings.

Prior to the effectiveness of a registration statement relating to partnership units, the registrant shall meet one of the following requirements:

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- (a) The general partner(s), promoter(s), and/or manager(s) have paid, in cash, at least an amount equal to five percent (5%) of the aggregate offering price of the securities to be registered to the issuer for equity interests in the issuer; or
- (b) The general partner(s), promoter(s), and/or manager(s) have the ability to pay and commit themselves to pay, in cash, the lesser of: 1) five percent (5%) of the aggregate offering price of the securities to be registered or 2) fifty thousand dollars (\$50,000); or
- (c) The general partner(s), promoter(s), and/or manager(s) have an aggregate net tangible asset value exclusive of home, automobile, and home furnishings equal to ten percent (10%) of the aggregate offering price of the securities to be registered. Where a general partner, promoter or manager is also a general partner, promoter or manager of another partnership or trust for which this subparagraph was used to satisfy the equity requirements for a registered offering of that partnership or trust, the aggregate net tangible asset value will be reduced by the amount required to satisfy the equity requirements of the previous offering.
- D. Business Plan and Use of Proceeds for Development State Companies

In a development stage company the business plan and the use of offering proceeds must be disclosed with specificity in the offering prospectus.

Where eighty percent (80%) or more of the net offering proceeds (total offering proceeds less offering expenses and commissions) is not specifically allocated for the purchase, construction or development of identified properties or products, discharge of indebtedness, payment of overhead, etc., the registrant shall comply with the following provisions:

- (1) Eighty percent (80%) of the net offering proceeds shall be escrowed in a manner approved by the Division. The escrow shall continue until the registrant can specifically allocate the use of the proceeds, at which time the registrant shall amend or supplement the registration statement to disclose all material information concerning the proposed use of proceeds. Such disclosure shall be in the same form and quality as required in a registration statement.
- (2) At the time of the amendment or supplement to the registration statement, the investors in the offering must be given no less than twenty (20) days to ratify or rescind his/her investments. Investors who choose to rescind his/her investments shall receive a pro rata refund of all offering proceeds. However, should enough investors request a refund such that the net tangible asset value of the company after the refund would be less than seventy-five thousand dollars (\$75,000) the registrant shall make a pro rata refund of all unused offering proceeds to investors.
- (3) The registrant shall not issue stock, deliver stock certificates or allow secondary trading of the stock until the offering proceeds have been released to the registrant.

E. Employment of Agents by Issuers

An issuer shall not employ agents to sell securities which are the subject of the registration statement until: 1) such agent is registered with the Division as an agent of the issuer; and 2) the issuer has filed with the Division a surety bond in the amount of twenty-five thousand dollars (\$25,000) conditioned on the agents compliance with the Utah Uniform Securities Act and the rules of the Securities Division of the Utah Department of Commerce and covering the effective period of the issuer's registration statement.

R164-11-2. Hearings for Certain Exchanges of Securities.

(A) Authority and purpose.

- (1) The Division enacts this rule under authority granted by Sections 61-1-11.1 and 61-1-24.
 - (2) This rule sets forth the procedure and requirements to

be met when seeking a fairness hearing for certain exchanges of securities.

- (3) A finding of fairness under Section 61-1-11.1 does not constitute a registration or exemption except as provided by Paragraph (H).
 - (B) Definitions.
- (1) "Director" means the Director of the Division of Securities, Utah Department of Commerce.
- (2) "Division" means the Division of Securities, Utah Department of Commerce.
- (3) "Interested person" means any officer, director or security holder of either party involved in the transaction, or any other person as the Division may permit.
 - (C) Parties.
- The Division will only consider an application under Section 61-1-11.1 for a transaction where:
- (1) Either party to the transaction is a domestic business entity formed, organized or incorporated under the laws of Utah;
- (2) Either party to the transaction is a business entity whose headquarters or principal place of business is located in Utah; or
- (3) Thirty percent (30 %) or more of the persons to whom it is proposed to issue securities or to deliver other consideration in an exchange under Subsection 61-1-11.1(1) are persons who are Utah residents.
 - (D) Application Requirements.
- An application may be made to the Division under Subsections 61-1-11.1(1) and 61-1-11.1(5) by filing with the Division:
- (1) Division Form 11--Application for Hearing for Certain Exchanges of Securities;
- (2) NASAA Form U-2, Uniform Consent to Service of Process:
 - (3) A fee as specified in the Division's fee schedule; and
 - (4) Other documents as the Division may request.
 - (É) Notice.
- (1) At least twenty (20) calendar days prior to the hearing, the applicant must provide written notice of the hearing, as approved by the Division, to any person to whom it is proposed to issue securities or to deliver other consideration in an exchange under Subsection 61-1-11.1(1). Such notice shall be effective pursuant to Subsection 16-10a-103(5). Such notice period may be waived upon the demonstration of good cause by the applicant.
 - (2) The notice must contain the following information:
- (a) A brief statement of the facts that give rise to the hearing, including an outline of the terms and conditions of the proposed transaction:
- (b) A statement of the issues to be considered at the hearing, together with the relevant statutes and rules;
- (c) The time and place of the hearing as specified by the Division;
- (d) The procedures for participating in the hearing by telephone or affidavit as approved by the Division; and
 - (E) Any other information requested by the Division.
- (3) Prior to or at the hearing, the applicant must file an affidavit with the Division stating that a notice has been sent, in compliance with Subparagraphs (E)(1) and (E)(2), to all persons to whom it is proposed to issue securities or to deliver other consideration in an exchange under Subsection 61-1-11.1(1), including a description of how and when the notice was sent.
 - (F) Hearing.
- (1) Within a reasonable time after the receipt of an application meeting the requirements of Section 61-1-11.1 and this rule, the Division may schedule a hearing to be conducted under Subsection 61-1-11.1(2).
- (2) A hearing under Section 61-1-11.1 shall be conducted by a hearing officer designated by the Director.
 - (3) Any interested person may attend a hearing under

Section 61-1-11.1.

- (4) Any interested person may participate in the hearing by giving written notice to the Division at least two (2) days prior to the hearing, indicating such person's intention to appear and participate in the hearing. Interested persons may participate:
 - (a) In person;
 - (b) By telephone; or
 - (c) By affidavit.
- (5) The hearing shall be recorded electronically and transcribed by the Division. The transcription costs will be assessed to the Applicant. Upon request, the Division will hire a court reporter at the requester's expense.
 - (G) Findings and Order.

Within a reasonable time after completion of the hearing, the Director shall issue an order pursuant to Subsection 61-1-11.1(3).

(H) Exemptions.

The Issuer may request that the Division determine that the transaction is exempt from registration under Subsection 61-1-14(2)(s).

R164-11-7b. Fund Impound.

- A. Preliminary Notes
- (1) R164-11-7b applies only to public offerings which are registered by qualification pursuant to Section 10 of the Utah Uniform Securities Act (the "Act") and the rules thereunder.
- (2) This R164-11-7b and R164-10-2 both require certain documents to be filed and provide that failure to comply with these requirements is cause for denial, suspension or revocation of the effectiveness of a registration statement.
- (3) This rule R164-11-7b is a statement of what has been the position of the Utah Securities Division (the "Division") in the past under Rule A67-03-12 and applies to all registration statements which become effective on or after May 10, 1983.
 - B. Term of Impound
- (1) The applicant for registration by qualification under Section 10 of the Act and the rules thereunder may choose a term of not less than one month and not more than one year from the effective date of the registration statement.
- (2) The term of the impound shall be expressed by the number of months and shall not be expressed by the number of days.
 - C. Amount to be Impounded
 - (1) The amount to be impounded shall be the greater of:
- (a) Twenty-five percent of the aggregate offering price of the securities to be registered plus offering expenses; OR
- (b) The minimum amount required to sustain the business proposed by the registrant for one full year from the release of the impound; OR
- (c) The minimum amount proposed to be sold by the applicant pursuant to the registration statement.
 - D. Where Funds are to be Impounded

Funds may be impounded at any federal or state bank or savings institution.

- E. Conditions of Impound
- (1) The applicant shall file a completed FORM 11-7b with the Division as part of the registration statement.
- (2) The conditions of impound are stated on FORM 11-7b and are herein incorporated as requirements of this R164-11-7b.
 - F. Release of Impounded Funds
- (1) The impounded funds shall be released only by an ORDER OF THE DIVISION.
- (2) The impounded funds shall be released to the registrant where:
- (a) All registration requirements which, pursuant to the rules of the Division needed to be met by such date, have been met;
 - (b) The registrant requests the release in writing; and
 - (c) The Division receives written confirmation from the

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financial institution impounding the funds of the amount which has been deposited into the impound.

G. Certain Registrants

Where the registrant in a registration by qualification is a security holder who is not conducting a public offering for or on behalf of the issuer of the securities which are to be sold in the offering, no fund impound is required by this R164-11-7b; provided, however, that where an offering has a "minimum" required to be sold in order to consummate the transaction, a fund impound is required.

KEY: securities regulation January 5, 2004 Notice of Continuation November 4, 2002 61-1-11(7)(b)

R277. Education, Administration. R277-437. Student Enrollment Options. R277-437-1. Definitions.

- A. "Available school or program" means a school or program currently designated under this rule by a district as open to nonresident students.
- B. "Average daily membership threshold" means 90% of the maximum capacity of a school.
- C. "Core class" means a class specifically required as part of the Core Curriculum established by the Board under R277-700-11.
- D. "District of residence" means a student's school district of residence under Section 53A-2-201.
- E. "Instructional station" means a classroom, laboratory, shop, study hall, or physical education facility to which a local board of education has assigned a class, teacher or program during a given class period. For example, if two P.E. classes were assigned to meet in the gymnasium simultaneously, the gymnasium would represent two instructional stations.
- F. "Nonresident district" means a school district other than the district of residence of the student in question.
- G. "Nonresident student" means a student attending or seeking to attend a school other than the school of residence.
- H. "Projected average daily membership" means the current year enrollment of a school as of October 1, adjusted for projected growth for the coming school year.
- I. "Residual per student expenditure" means the expenditure based on the most recent State Superintendent's Annual Report according to the following formula:
 - (1) Take total expenditures before interfund transfer for:
 - (a) maintenance and operation;
 - (b) tort liability; and
 - (c) capital projects.
 - (2) Subtract from the sum of (1), above:
- (a) resident district's taxes collected under the Minimum School Program;
 - (b) state revenue;
 - (c) federal revenue; and
- (d) expenditures for site acquisition or new facility construction (new facility construction includes remodeling that increases building square footage or other major remodeling, if approved by the USOE Director of Finance).
- (3) Divide the remainder of (1) and (2) above by the total student membership of the district as reported in the most recent State Superintendent's Annual Report.
- J. "School capacity" or "maximum capacity" means the total number of students who could be served in a given school building if each of the building's instructional stations were to serve at least the following number of students:
- (1) kindergarten: 10 students per room, per session -typically two one-half day sessions per day;
 - (2) grades one through three: 15 students per room;
 - (3) grades four through six: 20 students per room;
- (4) junior high and middle school: 20 students per Core class:
- (5) junior high/senior high combinations: 20 students per Core class;
 - (6) senior high: 20 students per Core class;
- (7) instructional station capacity for laboratories, physical education facilities, shops, study halls, self-contained special education classrooms, facilities jointly financed by school districts and another community agency for joint use and similar rooms must be calculated individually. Capacity for self-contained special education classrooms shall be based upon students per class as defined by Board and federal special education standards are based upon the UTAH STATE PUBLIC EDUCATION STRATEGIC PLAN, January 1992, page 19; and Section 53A-17a-124.5)
 - K. "School of residence" means the school which a student

would normally attend in the student's district of residence.

- L. "Serious infraction of the law or school rules" means any behavior which could, under rules of the nonresident district in which enrollment is sought, subject a student to suspension for more than ten days or expulsion.
- M. "UHSAA" means the Utah High School Activities Association.
 - N. "USOE" means the Utah State Office of Education.

R277-437-2. Authority and Purpose.

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- A. This rule is authorized by Utah Constitution Article X, Section 3 which places general control and supervision of the public school system under the Board, by 53A-1-402(1)(b) which directs the Utah State Board of Education to establish rules and minimum standards for access to programs and by 53A-2-207 through 213 which directs the Board to develop rules for student enrollment options.
- B. The purpose of this rule is to provide: definitions relating to school choice; standards for transferring students; rules for participation in interscholastic competition; a form for students to use when applying for open enrollment; and an explanation for use of the form, "Application for Student to Attend School in Nonresident School or District," in seeking permission for a student to attend school in a school other than the school of residence.

R277-437-3. Local School Board and District Responsibilities.

- A. Prior to November 30 of each school year a local board shall announce policies describing procedures for students to follow in applying to attend schools other than their respective schools of residence, and designate which schools and programs will be available for open enrollment during the coming school year.
- (1) A local board shall designate each school which has a projected daily membership below the average daily membership threshold as available for open enrollment, and may designate schools as available even though projected daily membership exceeds threshold levels.
- (2) If construction, remodeling, or other circumstances beyond the control of the board do not reasonably permit the board to make sufficiently accurate enrollment projections for a given school to determine whether the school should be designated as available for open enrollment for the coming year, the board shall permit submission of enrollment applications for that school during the application period and notify applicants that approval will be delayed until additional information is available.
- (3) Whether applications are received for schools designated as open, or for schools for which the local board was unable to make a designation, the board must give applicants written notification of acceptance or rejection of their applications by March 1 (for new nonresident students) or March 15 (for current nonresident students).
- B. As required under Subsection 53A-2-210(2), a resident district shall pay to a nonresident district one-half of the resident district's residual per student expenditure for each resident student properly registered in the nonresident district.
- C. A district shall allow an enrolled nonresident student to remain enrolled in the district, subject to the conditions noted under Subsections 53A-2-207(6) and (7), provided:
- (1) if a nonresident student is to be excluded from continued enrollment in a school because current or projected resident student enrollment meets or exceeds maximum school capacities, and there is another school which the student could attend within the district which has not reached maximum enrollment, the nonresident student shall be given the opportunity to enroll in that school.
 - (2) nonresident students who must be relocated under

Subsection (1) due to increased enrollment of resident students, and siblings of nonresident students who are currently attending a school within the district, shall have priority in enrollment over other nonresident students who are seeking enrollment in the district for the first time.

- (3) a school district may designate the schools which students shall attend as they move from elementary school to middle school to high school. Attendance at a specific elementary, junior high or middle school does not guarantee attendance at a specific junior high or high school.
- D. Each local board shall establish a procedure to consider appeals of any denial of initial or continued enrollment of a nonresident student under Subsection 53A-2-209(1).
- E. A local board of education may limit open enrollment options when they negatively affect the capacity, programs, class size, grade levels or school buildings of the resident or the receiving school.

R277-437-4. Student Participation in Interscholastic Competition.

- A. A student in the ninth grade or above who transfers between schools shall be ineligible for varsity level interscholastic competition for one year after the first day of attendance following completion of transfer to the new school unless:
- (1) The transfer results from a change of residence as defined under Section 53A-2-201;
- (2) The transfer results from promotion to a grade not offered in the student's previous school, provided the receiving school is the one designated by the district to receive transfer students from the previous school;
- (3) The student is required to transfer by the local board of education;
- (4) The transfer occurs under a special group "block" permit established by one or more districts; or
- (5) The UHSAA Transfer Committee grants an exception based upon exceptional circumstances and undue hardship.
- B. A student's transfer between schools shall not extend eligibility for interscholastic competition beyond the eight consecutive semesters allowed under UHSAA by-laws.
- C. If a student is transferred pursuant to a judicial order, the student shall immediately become eligible for interscholastic competition in the court-designated resident district for a period not to exceed the eight consecutive semesters under UHSAA By-laws.
- D. A student is only eligible for interscholastic competition through the school of attendance; i.e., a student may not attend one school for academic classes and participate in interscholastic competition at a different school, except that a local board of education may allow ninth grade students to participate with the high school to which they would normally be assigned upon completion of the ninth grade.

R277-437-5. Transportation.

A school district may transport its students to schools in other districts under Subsection 53A-2-210(3)(b)(i).

KEY: public education, enrollment options*
January 5, 1999 Art X Sec 3
Notice of Continuation January 5, 2004 53A-1-401(1)(b)
53A-2-207 through 53A-2-213

R277. Education, Administration. R277-486. Professional Staff Cost Program. R277-486-1. Definitions.

- A. "Board" means the Utah State Board of Education.
- B. "Computer Aided Credentials of Teachers in Utah System (CACTUS)" means the electronic file maintained on all licensed Utah educators. The file includes information such as:
 - (1) personal directory information;
 - (2) educational background;
 - (3) endorsements;
 - (4) employment history;
 - (5) professional development information; and
- (6) a record of disciplinary action taken against the educator.
- C. "ESEA" means the Elementary and Secondary Education Act, also known as the No Child Left Behind Act, P.L. 107-110, Title I, Part A, Subpart 1, Sec. 1119, January 8, 2002.
 - D. "FTE" means full time equivalent.
- E. "Local Education Agency (LEA)" means any organizational unit of the public education system existing under state law as either a traditional school district or a charter school authorized under Section 53A-1a-502.
- F. "National Board certified educator" means an educator who has been certified by the National Board for Professional Teaching Standards (NBPTS) by successfully completing a three-year process that may include national content-area assessment, an extensive portfolio, and assessment of videotaped classroom teaching experience.
 - G. "USOE" means Utah State Office of Education.
- H. "Weighted Pupil Unit (WPU)" means the unit of measure that is computed in accordance with the Minimum School Program Act for the purpose of determining the costs of a program on a uniform basis for each school district.

R277-486-2. Authority and Purpose.

- A. This rule is authorized by Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board, by Section 53A-17a-107(2) which authorizes the Board to adopt a rule to require a certain percentage of a district's professional staff to be licensed in the area in which the teacher teaches in order for the district to receive full funding under the state statutory formula, and by Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.
- B. The purpose of this rule is to satisfy statutory percentages of licensed staff and support LEAs in recruiting and retaining highly educated and experienced educators for instructional, administrative and other types of professional employment in public schools.

R277-486-3. Eligibility to Receive WPUs for Professional Staff.

- A. LEAs shall receive WPUs in accordance with the formula provided in Section 53A-17a-107(1)(a):
- (1) only for those educators who hold at least a bachelors degree; and
- (2) only to the extent that such educators are qualified to work in the area to which they are assigned consistent with R277-520. For example, an educator who is employed full time but is appropriately qualified in only 75% of his assignments would count for only 0.75 FTEs in the calculation of WPUs.
- (3) In order to receive full (100%) funding, an LEA shall have an appropriately qualified educator in every assignment.
- B. An educator who is identified as qualified under R277-520 is not necessarily highly qualified for ESEA purposes.
- C. LEAs shall not receive WPUs for interns in their second or subsequent years nor for paraprofessionals in any assignment.

R277-486-4. Acceptable Experience.

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- A. Educator experience for purposes of this rule shall be measured in one-year increments.
- B. An educator shall be credited with one year of experience for every school year in which he is employed at least half-time (0.5 FTE) in an instructional or administrative position in any public school in the State of Utah or in any regionally accredited:
 - (1) public school outside of the State of Utah;
 - (2) private school; or
 - (3) institution of higher education.
- C. To obtain credit under Subsection B(1) through (3), the LEA which employs the educator shall submit to the USOE acceptable documentation verifying such experience, including documentation of the school's or institution's regional accreditation.
- D. Employment in a prekindergarten position shall not be acceptable for this purpose, unless the educator is employed in a special education position in an accredited school.
- E. Unpaid volunteer service, paid consulting, employment in non-instructional or non-administrative positions in a school setting, and time as a school intern shall not be acceptable experience under this rule.
- F. Documentation of an educator's experience in a private school or institution of higher education may be required by USOE staff to determine relevance of experience.

R277-486-5. Acceptable Training.

Acceptable training under this rule may include:

- A. Any degree at the bachelors level or above or credit beyond the current degree from a:
- (1) regionally accredited institution of higher education;
- (2) postsecondary degree-granting institution accredited by any of the national accrediting agencies recognized by the United States Department of Education.
- B. Any professional development activity consistent with R277-501 and approved in writing by the USOE.

R277-486-6. Mapping Degree Summary Data to Statutory Formula.

- A. To ensure consistency in applying data from CACTUS to the formula, the following mapping of the relevant two-digit CACTUS Degree Summary codes to the five columns of the Professional Staff Cost formula table in Section 53A-17a-107(1)(a) shall be used:
 - (1) 03 = Bachelor's Degree;
 - (2) 04 or 05 = Bachelors + 30 quarter hours;
 - (3) 06 = Master's Degree;
 - (4) 07 or 08 = Master's Degree + 45 quarter hours;
 - (5) 09 = Doctorate.
- B. A district shall be credited for an individual with National Board certification at the doctorate level.

R277-486-7. Data Sources.

- A. For LEAs that were in operation in the prior year, data shall be used from June 30 update of CACTUS as required by R277-484-3(c).
- B. For LEAs that were not in operation in the prior year, data shall be used from November 1 update of CACTUS as required by R277-484-3(I).

KEY: professional staff January 15, 2004

Art X Sec 3 53A-17a-107(3) 53A-1-401(3)

R277. Education, Administration. R277-502. Educator Licensing and Data Retention. R277-502-1. Definitions.

- A. "Accredited" means a teacher preparation program accredited by the National Council for Accreditation of Teacher Education (NCATE) or one of the major regional accrediting associations
 - B. "Board" means the Utah State Board of Education.
- C. "Letter of Authorization" means a designation given to an individual, such as an out-of-state candidate or individual pursuing an alternative license, who has not completed the requirements for a Level 1, 2, or 3 license and who is employed by a school district for a limited period of time until required documentation is complete.
- D. "Level 1 license" means a Utah professional educator license issued upon completion of an approved preparation program or an alternative preparation program, or pursuant to an agreement under the NASDTEC Interstate Contract, to candidates who have also met all ancillary requirements established by law or rule.
- E. "Level 2 license" means a Utah professional educator license issued after satisfaction of all requirements for a Level 1 license as well as any additional requirements established by law or rule relating to professional preparation or experience.
- F. "Level 3 license" means a Utah professional educator license issued to an educator who holds a current Utah Level 2 license and has also received, in the educator's field of practice, National Board certification or a doctorate from an accredited institution.
- G. "License areas of concentration" are obtained by completing an approved preparation program or an alternative preparation program in a specific area of educational studies to include the following: Early Childhood (K-3), Elementary (1-8), Middle (5-9), Secondary (6-12), Administrative/Supervisory, Applied Technology Education, School Counselor, School Psychologist, School Social Worker, Special Education (K-12), Preschool Special Education (Birth-Age 5), Communication Disorders, and may also bear endorsements relating to subjects or specific assignments.
- H. "License endorsement (endorsement)" means a specialty field or area earned through course work equivalent to at least an academic minor (with pedagogy) or through demonstrated competency; the endorsement shall be listed on the Professional Educator License indicating the specific qualification(s) of the holder.
- I. "Professional development plan" means a plan developed by an educator and approved by the educator's supervisor that includes locally or Board-approved education-related training or activities that enhance an educator's background. Professional development points are required for periodic educator license renewal.
- J. "Renewal" means reissuing or extending the length of a license consistent with R277-501.
- K. "State Approved Endorsement Program (SAEP)" means a professional development plan on which an educator is working to obtain an endorsement.

R277-502-2. Authority and Purpose.

- A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of the public school system under the Board, by Section 53A-6-104 which gives the Board power to issue licenses, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.
- B. This rule specifies the types of license levels and license areas of concentration available and procedures for obtaining a license, required for employment as a licensed educator in the public schools of Utah. All licensed educators employed in the Utah public schools shall be licensed consistent with this rule in

order for the district to receive full funding under Section 53A-17a-107(2).

R277-502-3. Program Approval.

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- A. The Board uses the approved program approach to educator preparation and licensing which includes:
- (1) the development of educator preparation programs by post-secondary institutions in accordance with established rules and procedures;
- (2) the official review and evaluation of each institutional program in accordance with standards adopted by the Board and the subsequent approval of a program if standards are met;
- (3) approval of applicants for licensing, whether students in post-secondary institutions, individuals with out-of-state licenses, or individuals in other circumstances, prior to their significant unsupervised access to students.
- (4) licensing by the Board of an applicant upon completion of an approved program;
- (5) the issuance, by the Board, of an educator license. The initial Level 1 license may be converted to a Level 2 or Level 3 license upon demonstration of competence during employment, satisfaction of requirements of R277-522, Entry Years Enhancements (EYE) for Quality Teaching Level 1 Utah Teachers, and any other federal requirements.
- B. The Board, or its designee, shall establish deadlines and uniform forms and procedures for all aspects of licensing.

R277-502-4. License Levels, Procedures, and Periods of Validity.

- A. An initial license, the Level 1 license, is issued to an individual who is recommended by a Board-approved educator preparation program or approved alternative preparation program, or an educator with a professional educator license from another state.
- (1) The recommendation indicates that the individual has satisfactorily completed the programs of study required for the preparation of educators and met licensing standards in the license areas of concentration for which the individual is recommended.
 - (2) The Level 1 license is issued for three years.
- (3) Employing school districts and educator preparation institutions shall cooperate in making special assistance available for educator Level 1 license holders. The resources of both may be used to assist those educators experiencing significant problems. The institution in closest proximity to the employing school district is the first choice for district involvement; however, the school district is encouraged to make a cooperative arrangement with the institution from which the educator graduated.
- (4) An educator shall satisfy requirements and criteria of R277-522, Entry Years Enhancements (EYE) for Quality Teaching Level 1 Utah Teachers.
- (5) An educator shall satisfy all federal requirements for an educator license prior to moving from Level 1 to Level 2.
- B. A Level 2 license may be issued by the Board to a Level 1 license holder upon the recommendation of the employing school district.

 (1) The recommendation shall be made following the
- (1) The recommendation shall be made following the completion of three years of successful, professional growth and educator experience and satisfaction of R277-522, Entry Years Enhancements (EYE) for Quality Teaching Level 1 Utah Teachers and before the Level 1 license expires.
- (2) A Level 2 license shall be issued for five years and shall be valid unless suspended or revoked for cause by the Board.
- (3) The Level 2 license may be renewed for successive five year periods consistent with R277-501, Educator Licensing Renewal.
 - (4) A Level 2 license holder shall satisfy all federal

requirements for an educator license holder prior to renewal after June 30, 2006 to remain interim highly qualified.

- C. A Level 3 license may be issued by the Board to a Level 2 license holder who has achieved National Board Professional Teaching Standards Certification or who holds a doctorate in the educator's field of practice.
- (1) It is valid for seven years unless suspended or revoked for cause by the Board.
- (2) The Level 3 license may be renewed for successive seven year periods consistent with R277-501.
- D. Licenses expire on June 30 of the year shown on the face of the license and may be renewed any time after January of that year. Responsibility for securing renewal of the license rests upon the holder.

R277-502-5. Professional Educator License Areas of Concentration and Approved Programs.

- A. Unless excepted under rules of the Board, to be employed in the public schools in a capacity covered by the following license areas of concentration, a person shall hold a valid license issued by the Board in the respective license areas of concentration:
 - (1) Early Childhood (K-3);
 - (2) Elementary (1-8);
 - (3) Middle (5-9);
 - (4) Secondary (6-12);
 - (5) Administrative/Supervisory;

 - (6) Applied Technology Education;
 - (7) School Counselor;
 - (8) School Psychologist;
 - (9) School Social Worker;
 - (10) Special Education (K-12);
 - (11) Preschool Special Education (Birth-Age 5)
 - (12) Communication Disorders.
- B. Licensed educators may be authorized by the Board for employment in the public schools under the following programs:
- (1) a license earned through a Board-approved postsecondary educator education program.
- (a) The individual seeking a license shall be approved by the post-secondary program personnel following completion of a USOE-approved license area of concentration program;
- (b) The program shall require university/college students to satisfy the requirements of Section 53A-3-410, criminal background check, prior to having significant unsupervised access to students. This may include review and approval by the Utah Professional Practices Advisory Commission (UPPAC), consistent with its rules and policies, prior to classroom experience.
- (2) alternative educator preparation consistent with R277-503.
 - (3) eminence, consistent with R277-520.
 - (4) applied technology, consistent with R277-518.
 - (5) out-of-state applicants under R277-502-7.
 - C. Under qualified educators:
- (1) Educators who are licensed but working out of their endorsement area(s) shall request and prepare a SAEP to complete the requirements of an endorsement with a USOE education specialist; or
- (2) Local boards may request from the Board a Letter of Authorization for educators employed by the local board who have completed requirements for licensing but are waiting documentation of that completion. An approved Letter of Authorization is valid for a limited period of time. Following the expiration of the Letter of Authorization, the educator who has still not been completely approved for licensing is considered under qualified.
- D. Licenses may be endorsed to indicate qualification in a subject or content area. An endorsement without a current license is not valid for employment purposes.

R277-502-6. School Counselor Levels of Licensure.

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There are three levels of licensure for a K-12 school counselor:

- A. School Counselor Professional Educator License Level 1 is a license issued:
- (1) upon completion of an accredited counselor education program; or
- (2) to persons applying for licensure under interstate agreements.
- (3) This license is issued to counselors who are beginning their professional careers who have completed an approved 600 hour field experience (400 hours if the applicant has completed two or more years of successful teaching experience as approved by USOE licensing).
- B. School Counselor Professional Educator License Level
- (1) a license issued after satisfaction of all requirements for a Level 1 license and 3 years of successful experience as a school counselor in an accredited school in Utah; and
 - (2) is valid for five years.
- C. Counseling Intern Temporary License is based on written recommendation from a USOE accredited program that a candidate:
 - (1) is currently enrolled in the program;
- (2) has completed 30 semester hours of course work, including successful completion of a practicum; and
- (3) has skills to work in a school as an intern with supervision from the school setting and from the counselor education program.
- (a) Letters from the accredited program recommending eligible candidates shall be submitted to USOE at the beginning of each school year.
- (b) The Counseling Intern Temporary License is valid for the current year only and is not renewable.

R277-502-7. Professional Educator License Reciprocity.

- A. Utah is a member of the Compact for Interstate Qualification of Educational Personnel under Section 53A-6-
- B. A Level 1 license may be issued to a graduate of an educator preparation program from an accredited institution of higher education in another state.
- (1) The institution conducting the teacher preparation program must be accredited by the National Council for Accreditation of Teacher Education (NCATE) or one of the major regional accrediting associations.
- (2) If the applicant has one or more years of previous educator experience, a Level 2 license may be issued upon the recommendation of the employing Utah school district after at least one year.

R277-502-8. Computer-Aided Credentials of Teachers in **Utah Schools (CACTUS).**

- A. CACTUS maintains public and protected and private information on licensed Utah educators.
- (1) Public information includes name, educational qualifications, degrees earned, and current assignment (if applicable).
- (2) Private or protected information includes such items as home address, date of birth, social security number, and any disciplinary action taken against an individual's license.
- B. A CACTUS file is opened on a licensed Utah educator when:
- (1) the individual's fingerprint cards are submitted to the USOE, or
- (2) the USOE receives an application for a license from an individual seeking licensing in Utah.
 - C. The data in CACTUS may only be changed as follows:
 - (1) Authorized USOE staff or authorized school district

staff may change demographic data.

(2) Authorized USOE staff may change licensing data such as endorsements, degrees, license areas of concentration.

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- (3) Authorized employing school district staff may update data on work experience for the current school year only.
- D. Licensed individuals may view personal data if registered with the Utah Education Network (UEN). An individual may not change or add data.
- E. Individuals currently employed by public, private or parochial schools under letters of authorization are included in CACTUS. Interns may be included on CACTUS.
 - F. Designated individuals have access to CACTUS data:
 - (1) A licensed individual may view his own file.
- (2) Designated USOE staff may view or change CACTUS files on a limited basis with specific authorization.
- (3) For employment or assignment purposes only, designated district or school staff members may access data on individuals employed by their own districts or data on licensed individuals who are not currently employed by public schools, charter schools, some private and parochial schools and ATCs.
- (4) Designated individuals may also view specific limited information on job applicants if the applicant has provided a school district with a Social Security Number.

R277-502-9. Professional Educator License Fees.

- A. The Board, or its designee, shall establish a fee schedule for the issuance and renewal of licenses and endorsements consistent with 53A-6-105. All endorsements to which the applicant is entitled may be issued or renewed with the same expiration date for one licensing fee. The renewal of endorsements at different times may require the payment of a renewal fee for each endorsement.
- B. A fee may be charged any time credit is submitted for license renewal.
- C. An endorsement may be added at any time, and unless the license is reprinted, there shall be no charge. If a new license is issued, a fee shall be charged.

KEY: professional competency, educator licensing January 15, 2004 Art X Sec 3 Notice of Continuation September 12, 2002 53A-6-104 53A-1-401(3)

R277. Education, Administration. R277-720. Child Nutrition Programs.

- **R277-720-1.** Definitions.
 - A. "Board" means the Utah State Board of Education.

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B. "USOE" means the Utah State Office of Education.

R277-720-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, by Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities, by Section 53A-1-402(1)(b) which directs the Board to make rules and minimum standards regarding access to programs, and by Section 53A-1-402(3) which authorizes the Board to administer funds made available through programs of the federal government.

B. The purpose of this rule is to specify the standards and procedures for child nutrition programs administered by the Board.

R277-720-3. Standards and Procedures for Child Nutrition.

- A. The Board adopts the following laws and regulations found at the Utah State Office of Education Child Nutrition Section and law libraries and hereby incorporates them by reference:
- (1) the Richard B. Russell National School Lunch Act, 42 USC 1751, et seq.;
- (2) the Child Nutrition Act of 1966, 42 USC 1771, et seq.;
- (3) the Emergency Food Assistance Act, 7 USC, 7501, et seq.
- B. The Board shall act in accordance with the following publications available from the USOE Child Nutrition Section:
- (1) Administrative Manual, NSLP/NSBP/SMP (3 vols), 1998;
- (2) Administrative Manual, CACFP (FDCH), (3 vols), 2000;
- (3) Administrative Manual, Centers, (3 vols), 2001;
 - (4) Code of Federal Regulations, Chapter 7; and
- (5) state plans and agreements which are required and submitted under applicable federal law.

R277-720-4. Programs.

The Board administers the following federal child nutrition programs:

- A. National School Lunch Program;
- B. School Breakfast Program;
- C. Special Milk Program;
- D. Child and Adult Care Food Program;
- E. Summer Food Service Program for Children;
- F. Food Distribution Program;
- G. Nutrition Education and Training Program; and
- H. At Risk After School Snack Program.

KEY: school lunch program, nutrition

January 15, 2004 Art X Sec 3 Notice of Continuation September 12, 2002 53A-1-401(3) 53A-1-402(1)(b) 53A-1-402(3)

R277. Education, Administration.

R277-724. Criteria for Sponsors Recruiting Day Care Facilities in the Child and Adult Care Food Program. R277-724-1. Definitions.

- A. "Child and Adult Care Food Program (CACFP)" means the section of the USOE that administers the initiation, maintenance, and expansion of non-profit food service programs for children in non-residential centers and homes which provide child care. The definition also includes the administration of food service programs for non-residential adult day care.
 - B. "Board" means the Utah State Board of Education.
- "Child care center" means any public or private nonprofit organization, or any proprietary title XX center, licensed or approved to provide nonresidential child care services to enrolled children, primarily of preschool age. Child care centers may participate in the CACFP as independent centers or under the auspices of a sponsoring organization.
- D. "Day care home" means an organized nonresidential child care program for children enrolled in a private home, licensed or approved as a family or group day care home and under the auspices of a sponsoring organization.
- E. "Facilities" means a sponsored center or a family day care home.
- F. "Institution" means an organization with whom the USOE has an agreement to accept final administrative and financial responsibility for CACFP operation.
- G. "Recruited facilities" means potential daycare centers or homes that a prospective sponsor seeks to enroll in CACFP participation.
- H. "Service area" means the geographic area from which a sponsoring organization draws its client facilities.
- I. "Sponsoring organization" means a public or nonprofit private organization which is entirely responsible for the administration of the food program in:
 - (1) one or more day care homes;
- (2) a child care center, outside-school-hours care center, or adult day care center which is a legally distinct entity from the sponsoring organization;
- (3) two or more child care centers, outside-school-hours care centers, or adult day care centers are part of the organization; or
- (4) any combination of child care centers, adult day care
- centers, day care homes, and outside-school-hours care centers.

 J. "State agency" means the state educational agency or any other State agency that has been designated by the Governor or other appropriate executive or by the legislative authority of the state, and has been approved by the Department to administer the Program within the state.
 - K. "USOE" means the Utah State Office of Education.

R277-724-2. Authority and Purpose.

- A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, by Section 53A-1-402(3) which authorizes the Board to administer and distribute funds made available through programs of the federal government and by Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.
- B. The purpose of this rule is to establish eligibility criteria for new sponsors to recruit participants for child care centers and day care homes in unserved areas.

R277-724-3. Criteria for Recruiting Facilities.

The following criteria shall be met before a sponsor is approved:

 A. The recruited facilities are not currently participating or were recently terminated for convenience by another sponsoring organization due to being outside the sponsoring organization's service area: and

- B. The recruited facilities have not been terminated for cause, have no unresolved serious deficiency pending with another sponsoring organization and do not owe a refund to another sponsoring organization; and
- The state agency certifies other sponsoring organizations are unable to accommodate the targeted facilities or the area(s) where it/they are located because:
- (1) other sponsoring organizations generate insufficient resources to properly train and monitor facilities; or
- supervising additional facilities would threaten currently participating sponsoring organization's viability, capability or accountability.

R277-724-4. New and Renewing Institution Performance Standards.

- A. The new or renewing institution shall ensure:
- (1) it is financially viable and program funds are spent and accounted for consistent with the requirements of federal law and regulations;
- (2) that management practices are in effect to ensure that the institution and participating facilities operate in accordance with federal law and regulations; and
- (3) it has internal controls and other management systems in effect to ensure fiscal accountability and to ensure that the CACFP operates in accordance with federal law and regulations.
- B. The USOE Child Nutrition Program Section shall regulate and ensure that these performance criteria are met consistent with federal law and regulations.

KEY: facilities, food programs January 15, 2004

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Art X Sec 3 53A-1-402(3) 53A-1-401(3)

R277. Education, Administration.

R277-735. Standards and Procedures for Corrections Education Programs Serving Inmates of the Utah Department of Corrections.

R277-735-1. Definitions.

- A. "Board" means the Utah State Board of Education.
- B. "Inmate" means a person who is in the custody of the Utah Department of Corrections. Inmates may be housed in various locations throughout the state of Utah.
- C. "Custody" means the status of being legally in the control of another adult person or a public agency.
- D. "Recidivism Reduction Service Program" means an inmate service program consisting of at least nine components (Inmate Assessment, Cognitive Problem Solving Skills, Basic Literacy Skills, Career Skills, Job Placement, Post-release Tracking and Support, Research and Evaluation, Family Involvement and Support, and Multi-agency Collaboration) collaboratively planned and implemented by a minimum of the following agencies: appropriate local boards of education, Department of Corrections, Department of Employment Security, Department of Human Services, Board of Pardons, State Office of Rehabilitation, State Board of Regents, and the Governor's Office.
- E. "Individual Development Plan" means a comprehensive inmate service plan developed collaboratively by state service agencies.
- F. "Individual Educational Plan" means a written individual inmate educational service plan which is a part of the Individual Development Plan.
 - G. "USOE" means the Utah State Office of Education.

R277-735-2. Authority and Purpose.

- A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and authority over public education in the Board, by Section 53A-1-403.5 which makes the Board directly responsible for the education of inmates in custody and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.
- B. The purpose of this rule is to specify operation standards and procedures for inmates in custody programs.

R277-735-3. Student Evaluation and Educational Plan.

- A. Each student meeting the definition of an inmate in custody shall be evaluated upon initial entry into custody of the Department of Corrections and as needed thereafter for the purposes of determining needed services to meet requirements for a reduction in the inmate recidivism rate.
- B. The institution receiving the student is responsible for obtaining the student's evaluation records, and, in cases where the records are not current, for conducting necessary evaluation as quickly as possible.
- C. Based upon the results of the student evaluation, an appropriate individual development plan and individual educational plan shall be prepared for each inmate in custody.
- (1) Each inmate educational plan shall be reviewed and made current at least once each year or immediately following transfer of a student from one institution to another whichever is sooner.
- (2) The plans shall be developed in collaboration with representatives of other appropriate service agencies working with the respective students.
- D. Selected student educational plans shall be part of a written inmate Recidivism Reduction Service Program.
- (1) The Recidivism Reduction Service Program shall specify the responsibilities of each of the agencies towards the students.
- (2) The Plan shall be signed by each agency's representative and the inmate.
 - E. Educational Programs

(1) The appropriate (or designated) educational agency shall provide an educational program for the student which conforms as closely as possible to the student's individual educational plan.

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- (2) Educational services shall be provided in the least restrictive environment appropriate for the student's behavior and educational performance.
- (3) Educational programs to which inmates in custody are assigned shall meet the standards adopted by the Board for that type program.
- (4) Compliance of service plans shall be monitored by the USOE in periodic review visits.
- (5) Éducational services shall be sufficiently coordinated with non-custody programs to enable inmates in custody to continue their education with minimal disruption following discharge from custody.
- (6) Custodial status alone does not qualify a student as being disabled under laws regulating education or educational programs for persons with disabilities.
 - F. Admission into Educational Programs

Inmates in custody shall be admitted to classes within resources available within ten school days following arrival at a new residential placement.

- G. When a student inmate is transferred to a new program, the sending program shall make all available school records current and forward them to the receiving program within one week following notification of release or transfer.
- H. When a student inmate is released from custody, educational records shall only be available through standard signed release procedures.

R277-735-4. Procedures for Providing Services.

- A(1) The Board may contract with local school districts, state post-secondary educational institutions, other state agencies, or private providers to provide educational services for inmates in custody.
- (2) The respective responsibilities of the Board, the local school districts, and other service providers for education shall be established by letters of agreement or contracts.
- (3) A district may sub-contract with local educational service providers for the provision of educational services.
- B. Inmates receiving educational services by or through a school district become students of that district for funding purposes.
 - C. Funding
- (1) State funds appropriated to the USOE for inmates in custody shall be allocated to districts on the basis of annual applications.
- (2) The funds distributed to a district shall be based upon criteria which include:
 - (a) the number of inmates in custody served in the district;
 - (b) the type of services provided to the inmates;
 - (c) the setting for providing services;
 - (d) the length of the program; and
 - (e) evidence of a reduced rate of inmate return to prison.
- D. Funds approved for inmates in custody projects can be expended only for the purposes described in the respective funding application.
- E. Unexpended funds may not be carried over from one fiscal year to the next, except by specific approval of the Board or its designee.
- F. Federal funds provided to the USOE for use by school districts under Title 1 of the Improving America's Schools Act of 1994, P.L. 103-382, Title I, Part D, Catalogue of Federal Domestic Assistance #84.013A, for the education of inmates in custody shall be allocated in accordance with Subsection R277-735-4C. These materials are available at the State Office of Education in the Deputy Superintendent's Office.
 - G. The Board, or its designee, shall adopt uniform pupil

and fiscal accounting procedures, forms, and deadlines for inmates in custody programs.

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H. Program Staff

(1) Education staff assigned to service inmates in custody shall be qualified and appropriate for their assignments.

(2) The teaching certificate and endorsement held by a staff member shall be important in evaluating the appropriateness of a teacher's assignment, but not controlling. For instance, elementary teachers may teach secondary age students who are functioning at an elementary level in certain subjects.

R277-735-5. Confidentiality.

- A. Transcripts and diplomas prepared for inmates in custody shall be issued in the name of the contracted educational agency which also provides service to non-custodial inmates and shall not bear reference to custodial status.
- B. School records which refer to custodial status, inmate court records, and related matters shall be kept separate from permanent school records and shall be destroyed or may be sealed upon order of a court of competent jurisdiction.
 - C. Access to Student Records
- (1) Staff which design and oversee individual student plans shall have access to all appropriate records relevant to the student's education.
- (2) Information obtained from records remains the property of the supplying agency and shall not be transferred or shared with other persons or agencies without the permission of the supplying agency, consistent with Section 63-2-206.
- (3) Access to and provision of student records or transcripts shall be consistent with state and federal law.

R277-735-6. Advisory Council.

Local educational agencies serving inmates in custody shall collaborate to establish a local interagency advisory council of all service groups which shall be responsible for the provision of services and programs to inmates in their service areas.

KEY: public education, custody*, inmates*
January 5, 1999

Notice of Continuation January 5, 2004

Art X Sec 3
53A-1-403.5
53A-1-401(3)

R280. Education, Rehabilitation. R280-201. USOR ADA Complaint Procedure.

R280-201-1. Definitions.

- A. "ADA" means the Americans with Disabilities Act, 42 U.S.C. 12201, which provides that no qualified individual with a disability, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by this or any such entity.
- B. "The ADA Coordinator" means the designee of the State Board of Education, who has responsibility for investigating and providing prompt and equitable resolution of complaints filed by qualified individuals with disabilities in accordance with the Americans with Disabilities Act, or provisions of this rule.
- C. "The ADA State Coordinating Committee" means that committee with representatives designated by the directors of the following agencies:
 - (1) Office of Planning and Budget;
 - (2) Department of Human Resource Management;
 - (3) Division of Risk Management;
 - (4) Division of Facilities Construction Management; and
 - (5) Office of the Attorney General.
- D. "Disability" means, with respect to an individual disability, a physical or mental impairment that substantially limits one or more of the major life activities of such an individual; a record of such an impairment; or being regarded as having such an impairment. The definition of "disability" specifically excludes: transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, other sexual behavior disorders, compulsive gambling, kleptomania, pyromania, and psychoactive substance use disorders resulting from current illegal use of drugs.
- E. "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.
- F. "Individual with a disability" (hereinafter individual) means a person who has a disability which limits one of his major life activities and who meets the essential eligibility requirement for the receipt of services or the participation in programs or activities provided by the USOR or the State Board of Education, or who would otherwise be an eligible applicant for vacant state positions, as well as those who are employees of the state.
- G. "Executive Director" means the Executive Director of the Utah State Office of Rehabilitation.
 - H. "USOR" means the Utah State Office of Rehabilitation.

R280-201-2. Authority and Purpose.

- A. This rule is authorized pursuant to 28 CFR 35.107, 1992 edition, which adopts, defines, and publishes complaint procedures providing for prompt and equitable resolution of complaints filed in accordance with Title II of the Americans with Disabilities Act, 28 CFR 35, 1992 edition.
 - B. The purposes of this rule are:
- (1) to establish a USOR procedure for filing complaints under the federal ADA law;
 - (2) provide an appeals procedure;
- (3) provide for appropriate classification of the records of complaints and appeals; and
- (4) to guarantee at this agency level that no qualified individual with a disability, by reason of such disability, shall be excluded from participation in or be denied the benefits of the services, programs, or activities of the USOR, or be subjected to discrimination by the USOR.

R280-201-3. Filing of Complaints.

A. The complaint shall be filed in a timely manner to

- assure prompt, effective assessment and consideration of the facts, but not later than 60 days from the date of the alleged act of discrimination. However, any complaint alleging an act of discrimination occurring between January 26, 1992 and the effective date of this rule may be filed within 60 days of the effective date of this rule.
- B. The complaint shall be filed with the USOR's ADA Coordinator in writing or in another format suitable to the individual.
 - C. Each complaint shall:

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- (1) include the individual's name and address;
- (2) include the nature and extent of the individual's disability;
- (3) describe the USOR's alleged discriminatory action in sufficient detail to inform the USOR of the nature and date of the alleged violation;
 - (4) describe the action and accommodation desired; and
- (5) be signed by the individual or by his legal representative.
- D. Complaints filed on behalf of classes or third parties shall describe or identify by name, if possible, the alleged victims of discrimination.

R280-201-4. Investigation of Complaint.

- A. The ADA coordinator shall conduct an investigation of each complaint received. The investigation shall be conducted to the extent necessary to assure all relevant facts are determined and documented. This may include gathering all information listed in Section 3(C) of this rule if it is not made available by the individual.
- B. When conducting the investigation, the coordinator may seek assistance from the USOR's legal, human resource and budget staff in determining what action, if any, shall be taken on the complaint. Before making any decision that would involve an expenditure of funds which is not absorbable within the USOR's budget and would require appropriation authority, facility modifications, or reclassification or reallocation in grade, the coordinator shall consult with the ADA State Coordinating Committee.

R280-201-5. Issuance of Decision.

- A. Within 30 working days after receiving the complaint, the ADA coordinator shall issue a decision outlining in writing or in another suitable format stating what action, if any, shall be taken on the complaint.
- B. If the coordinator is unable to reach a decision within the 30 working day period, he shall notify the individual with a disability in writing or by another suitable format why the decision is being delayed and what additional time is needed to reach a decision.

R280-201-6. Appeals.

- A. The individual may appeal the decision of the ADA coordinator by filing an appeal within 10 working days from the receipt of the decision.
- B. The appeal shall be filed in writing with the Executive Director.
- C. The filing of an appeal shall be considered as authorization by the individual to allow review of all information, including information classified as private or controlled, by the Executive Director or designee.
- D. The appeal shall describe in sufficient detail why the coordinator's decision is in error, is incomplete or ambiguous, is not supported by the evidence, or is otherwise improper.
- E. The Executive Director shall review the factual findings of the investigation and the individual's statement regarding the inappropriateness of the coordinator's decision and arrive at an independent conclusion and recommendation. Additional investigations may be conducted if necessary to clarify

questions of fact before arriving at an independent conclusion. Before making any decision that would involve the Executive Director to direct an expenditure of funds which is not absorbable and would require appropriation authority, facility modifications, or reclassification or reallocation in grade, he shall also consult with the State ADA Coordinating Committee.

- F. The decision shall be issued within ten working days after receiving the appeal and shall be in writing or in another suitable format to the individual.
- G. If the Executive Director is unable to reach a decision within the ten working day period, he shall notify the individual in writing or by another suitable format why the decision is being delayed and the additional time needed to reach a decision.

R280-201-7. Classification of Records.

The record of each complaint and appeal, and all written records produced or received as part of such actions, shall be classified as protected as defined under Section 63-2-304 until the ADA coordinator or Executive Director issues the decision at which time any portions of the record which may pertain to the individual's medical condition shall remain classified as private as defined under Section 63-2-302 or controlled as defined in Section 63-2-303. All other information gathered as part of the complaint record shall be classified as private information. Only the written decision of the coordinator or Executive Director shall be classified as public information.

R280-201-8. Relationship to Other Laws.

This rule does not prohibit or limit the use of remedies available to the individuals under the State Anti-Discrimination Complaint Procedures, Section 67-19-32; the Federal ADA Complaint Procedures (28 CFR Subpart F, beginning with Part 35.170, 1992 edition); or any other Utah state or federal law that provides equal or greater protection for the rights of individuals with disabilities.

KEY: complaints, disabled persons January 5, 1999 Notice of Continuation January 5, 2004

28 CFR 35 28 CFR 35.107 42 U.S.C. 12201 63-2-304 63-2-302 63-2-303 67-19-32

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R280. Education, Rehabilitation.

R280-202. USOR Procedures for Individuals with the Most Severe Disabilities.

R280-202-1. Definitions.

- A. "Individual with a disability" (hereinafter individual) means a person who has a disability which limits one or more of his major life activities and who meets the essential eligibility requirement for the receipt of services or the participation in programs or activities provided by the USOR or the State Board of Education.
- B. "Executive Director" means the Executive Director of the Utah State Office of Rehabilitation.
- C. "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing,
- hearing, speaking, breathing, learning, and working.

 D. "USOR" means the Utah State Office of Rehabilitation.
 E. "Board" means the Utah State Board of Education.
 - F. "Supplemental Security Income (SSI)" means payments
- to adults and children who are determined to be severely disabled or blind and whose assets and income are below the limits set by the Social Security Administration.
- G. "Social Security Disability Insurance (SSDI)" means payments to disabled workers under 65 and their families, or people who become disabled before age 22, or disabled widows or widowers 50 or over who are found to be eligible under Social Security Administration criteria.

R280-202-2. Authority and Purpose.

- A. This rule is authorized pursuant to PL 102-569, Title VI-C, October, 1992, which directs state agencies to define for themselves individuals with the most severe disabilities and Section 53A-24-103 which directs that the USOR shall be under the policy direction of the Board.
- B. The purpose of this rule is to define "persons with the most severe disabilities" for purposes of providing services and determining order of selection for services according to federal and state law.

R280-202-3. Eligibility Criteria.

In order to be classified as an individual with the most severe disabilities an individual shall meet one of the criteria under Subsection A below or the criteria under Subsection B below:

- A. The USOR shall make the determination using the following documentation:
- (1) Eligible for services from Division of Services for People with Disabilities, (DSPD); or
- (2) Determined severely and persistently mentally ill (SPMI) by the State Division of Mental Health or any one of the private, non-profit mental health programs certified by the State Division of Mental Health; or
- (3) Found to be permanently and totally disabled by the State Labor Commission; and
- (4) Individuals who are allowed SSI/SSDI blind or disabled may or may not be considered most severe. To be considered most severe there must be two or more functional limitations;
- (5) The individual will require multiple VR services over an extended period of time.
- B. If an appropriate determination has not been made by another agency, the individual must exhibit functional deficits in two or more of the following areas to be considered an individual with the most severe disabilities. Examples under the seven categories include:
 - (1) Mobility
- (a) Requires assistive devices (cane, crutches, prosthesis, walker, wheelchair) to be mobile.
 - (b) Is unable to climb one flight of stairs without pause.
 - (c) Is unable to walk 100 meters without pause.

- (d) Cannot leave a building independently in less than three minutes.
- (e) Other mobility deficits as defined or approved by the USOR.
 - (2) Communication

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- Expressive and receptive primary mode of (a) communication is unintelligible to non-family members.
- (b) Does not demonstrate understanding of simple requests or is unable to understand one-to-two step instructions.
- (c) Other communication deficits as defined or approved by the USOR.
- (3) Self-care: Is unable to perform normal activities of daily living without assistance.
- (4) Self direction: Is unable to provide informed consent for life issues without the assistance of a court-appointed legal representative or guardian; or has been declared legally incompetent.
 - (5) Learning ability and inter-personal deficits
- Valid psychological assessment of conceptual (a) intelligence reflects performance approximately two standard deviations or more below the mean observed in a population of persons of a comparable background; commonly defined as an IQ of 70 or below on a standardized measure of intelligence.
- (b) Disfigurement or deformity so pronounced as to cause social rejection.
- (c) Demonstrated behavior such that the individual is a danger to self and others without supervision.
- (d) Other learning or interpersonal deficits as defined or approved by the USOR.
 - (6) Capacity for Independence
- (a) Unable to perform tasks such as locate and use telephone.
- (b) Unable to access public transportation without assistance.
 - (c) Unable to understand money or change making.
 - (d) Unable to tell time.
- (e) Other deficits in independence as defined or approved by the USOR.
 - (7) Work skills and work tolerance
- (a) Unable to perform sustained work for more than four hours per day.
- (b) Unable to perform work outside sheltered environment.
- (c) Unable to perform work in an integrated setting without support;
- (d) Other work related deficits as defined or approved by the USOR; and
- The individual will require multiple vocational rehabilitation services over an extended period of time.
- C. When the determination of individuals with the most severe disabilities is made under Subsection B above, the counselor must document the functional deficits.

KEY: disabled persons, rehabilitation January 5, 1999

Notice of Continuation January 5, 2004

Pub. L. 102-569 53A-24-103

R317. Environmental Quality, Water Quality. R317-2. Standards of Quality for Waters of the State. R317-2-1A. Statement of Intent.

Whereas the pollution of the waters of this state constitute a menace to public health and welfare, creates public nuisances, is harmful to wildlife, fish and aquatic life, and impairs domestic, agricultural, industrial, recreational and other legitimate beneficial uses of water, and whereas such pollution is contrary to the best interests of the state and its policy for the conservation of the water resources of the state, it is hereby declared to be the public policy of this state to conserve the waters of the state and to protect, maintain and improve the quality thereof for public water supplies, for the propagation of wildlife, fish and aquatic life, and for domestic, agricultural, industrial, recreational and other legitimate beneficial uses; to provide that no waste be discharged into any waters of the state without first being given the degree of treatment necessary to protect the legitimate beneficial uses of such waters; to provide for the prevention, abatement and control of new or existing water pollution; to place first in priority those control measures directed toward elimination of pollution which creates hazards to the public health; to insure due consideration of financial problems imposed on water polluters through pursuit of these objectives; and to cooperate with other agencies of the state, agencies of other states and the federal government in carrying out these objectives.

R317-2-1B. Authority.

These standards are promulgated pursuant to Sections 19-5-104 and 19-5-110.

R317-2-2. Scope.

These standards shall apply to all waters of the state and shall be assigned to specific waters through the classification procedures prescribed by Sections 19-5-104(5) and 19-5-110 and R317-2-6.

R317-2-3. Antidegradation Policy.

3.1 Maintenance of Water Quality

Waters whose existing quality is better than the established standards for the designated uses will be maintained at high quality unless it is determined by the Board, after appropriate intergovernmental coordination and public participation in concert with the Utah continuing planning process, allowing lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located. However, existing instream water uses shall be maintained and protected. No water quality degradation is allowable which would interfere with or become injurious to existing instream water uses.

In those cases where potential water quality impairment associated with a thermal discharge is involved, the antidegradation policy and implementing method shall be consistent with Section 316 of the Federal Clean Water Act.

3.2 High Quality Waters - Category 1

Waters of high quality which have been determined by the Board to be of exceptional recreational or ecological significance or have been determined to be a State or National resource requiring protection, shall be maintained at existing high quality through designation, by the Board after public hearing, as High Quality Waters - Category 1. New point source discharges of wastewater, treated or otherwise, are prohibited in such segments after the effective date of designation. Protection of such segments from pathogens in diffuse, underground sources is covered in R317-5 and R317-7 and the Regulations for Individual Wastewater Disposal Systems (R317-501 through R317-515). Other diffuse sources (nonpoint sources) of wastes shall be controlled to the extent feasible through implementation of best management practices or regulatory programs.

Projects such as, but not limited to, construction of dams or roads will be considered where pollution will result only during the actual construction activity, and where best management practices will be employed to minimize pollution effects.

Waters of the state designated as High Quality Waters - Category 1 are listed in R317-2-12.1.

3.3 High Quality Waters - Category 2

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High Quality Waters - Category 2 are designated surface water segments which are treated as High Quality Waters - Category 1 except that a point source discharge may be permitted provided that the discharge does not degrade existing water quality. Waters of the state designated as High Quality Waters - Category 2 are listed in R317-2-12.2.

- 3.4 For all other waters of the state, point source discharges are allowed and degradation may occur, pursuant to the conditions and review procedures outlined below:
 - a. Activities Subject to Antidegradation Review (ADR)
- 1. For all State waters, antidegradation reviews will be conducted for proposed federally regulated activities, such as those under Clean Water Act Sections 401 (FERC and other Federal actions), 402 (UPDES permits), and 404 (Army Corps of Engineers permits). The Executive Secretary may conduct an ADR on other projects with the potential for major impact on the quality of waters of the state. The review will determine whether the proposed activity complies with the applicable antidegradation requirements for the particular receiving waters that may be affected.
- 2. For High Quality Category 1 and High Quality Category 2 waters, reviews shall be consistent with the requirement established in Sections 3.2 and 3.3, respectively.

For State waters that do not have a High Quality Category 1 or High Quality Category 2 designation, reviews shall be consistent with the procedures identified in Section 3.4 a.-3.4 b.

The antidegradation review consists of two parts. An antidegradation Level I review will be to determine if the proposed activity requires an antidegradation Level II review as described in Section 3.4 b. below. If so, further review will be required.

- b. An Anti-degradation Level II review is not required where any of the following conditions apply:
- 1. Water quality will not be lowered by the proposed activity (e.g., a UPDES permit is being renewed and the proposed effluent concentration value and pollutant loading is equal to or less than the existing effluent concentrations value and pollutant loading).
- 2. Discharge limits are established in an approved TMDL that is consistent with the current water quality standards for the receiving water (e.g., where TMDLs are established, changes in effluent limits that are consistent with the existing load allocation would not trigger an anti-degradation review), or
- 3. Water quality impacts will be temporary and related only to sediment or turbidity and fish spawning will not be impaired, or
- 4. The discharge is to a water quality limited water, and assimilative capacity is essentially allocated to existing discharges.
- 5. The water quality effects of the proposed activity are expected to be temporary and limited. As general guidance, CWA Section 402 general permits, CWA Section 404 nationwide and general permits, or activities of short duration, will be deemed to have a temporary and limited effect on water quality where there is a reasonable factual basis to support such a conclusion. The 404 nationwide permits decision will be made at the time of permit issuance, as part of the Division's water quality certification under DWA Section 401. Where it is determined that the category of activities will result in temporary and limited effects, subsequent individual activities authorized under such permits will not be subject to further

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antidegradation review. Factors to be considered in determining whether water quality effects will be temporary and limited may include the following:

- (a) Length of time during which water quality will be lowered.
- (b) Percent change in ambient concentrations of pollutants of concern
 - (c) Pollutants affected
- (d) Likelihood for long-term water quality benefits to the segment (e.g., dredging of contaminated sediments)
- (e) Potential for any residual long-term influences on existing uses.
- 6. The affected waters are classified as 3C, 3D (and not 3A or 3B), or 3E waters, or are classified only as Class 4.
- 7. The affected waters are considered to be poor quality fisheries as indicated by Utah Division of Wildlife Resource (UDWR) Classes IV, V, and VI with the exception of those waters which add a letter (P, R, N, B, X, or C) to the numerical rating and those which have a "unique rating".
- 8. The water body is listed on the current 303(d) list for the parameters of concern.
- 9. Existing water quality for the parameters of concern does not satisfy applicable numeric and narrative water quality criteria.
- 10. Water quality impacts are expected to be minor. For example: (a) for discharge permit renewals, if the increase in project loading over the prior permit is less than 20%; or (b) if the increase in pollutant loading to the stream is less than 20% over existing background.
- 11. The volume of the discharge is small as compared to the flow of the receiving stream. In general, this would be considered where the ratio of the average stream flow to the discharged flow is expected to be greater than 100:1, the ratio of the 7Q10 (7 day-10 year) low flow to the discharge flow is expected to be greater than 25:1, and where the increase in concentration of the pollutants in the stream at 7Q10 at low flow is expected to be less than 10%, or based upon other site specific criteria.

Both Level I and Level II reviews will be conducted on a parameter-by-parameter basis. A decision to move to a Level II review for one parameter may not require a Level II review for other parameters that will be affected by the proposed activity. An antidegradation review may be required by the Executive Secretary if the receiving water is a drinking water source, if the receiving water has a special value for recreation or fisheries, if an existing use may be impaired, or based on other site-specific factors as appropriate.

c. Anti-degradation Review Process

For all activities requiring a Level II review, the Division will notify affected agencies and the public with regards to the requested proposed activity and discussions with stakeholders may be held. In the case of Section 402 discharge permits, if it is determined that a discharge will be allowed, the Division of Water Quality will develop any needed UPDES permits for public notice following the normal permit issuance process.

The ADR will cover the following requirements or determinations:

1. Will all Statutory and regulatory requirements be met? The Executive Secretary will review to determine that there will be achieved all statutory and regulatory requirements for all new and existing point sources and all required cost-effective and reasonable best management practices for nonpoint source control in the area of the discharge. If point sources exist in the area that have not achieved all statutory and regulatory requirements, the Executive Secretary will consider whether schedules of compliance or other plans have been established when evaluating whether compliance has been assured. Generally, the "area of the discharge" will be determined based on the parameters of concern associated with the proposed

activity and the portion of the receiving water that would be affected.

2. Are there any reasonable less-degrading alternatives?

There will be an evaluation of whether there are any reasonable non-degrading or less degrading alternatives for the proposed activity. This question will be addressed by the Division based on information provided by the project proponent. Control alternatives for a proposed activity will be evaluated in an effort to avoid or minimize degradation of the receiving water. Alternatives to be considered, evaluated, and implemented to the extent feasible, could include pollutant trading, water conservation, water recycling and reuse, land application, total containment, etc.

For proposed UPDES permitted discharges, the following list of alternatives should be considered, evaluated and implemented to the extent feasible:

- (a) innovative or alternative treatment options
- (b) more effective treatment options or higher treatment levels
 - (c) connection to other wastewater treatment facilities
 - (d) process changes or product or raw material substitution
- (e) seasonal or controlled discharge options to minimize discharging during critical water quality periods
- (f) seasonal or controlled discharge options to minimize discharging during critical water quality periods
 - (g) pollutant trading
 - (h) water conservation
 - (i) water recycle and reuse
- (j) alternative discharge locations or alternative receiving waters
 - (k) land application
 - (1) total containment
- (m) improved operation and maintenance of existing treatment systems

(n) other appropriate alternatives

An option more costly than the cheapest alternative may have to be implemented if a substantial benefit to the stream can be realized. Alternatives would generally be considered feasible where costs are no more than 20% higher than the cost of the discharging alternative, and (for POTWs) where the projected per connection service fees are not greater than 1.4% of MAGHI (median adjusted gross household income), the current affordability criterion now being used by the Water Quality Board in the wastewater revolving loan program. Alternatives within these cost ranges should be carefully considered by the discharger. Where State financing is appropriate, a financial assistance package may be influenced by this evaluation, i.e., a less polluting alternative may receive a more favorable funding arrangement in order to make it a more financially attractive alternative.

It must also be recognized in relationship to evaluating options that would avoid or reduce discharges to the stream, that in some situations it may be more beneficial to leave the water in the stream for instream flow purposes than to remove the discharge to the stream.

3. Special Procedures for 404 Permits.

For 404 permitted activities, all appropriate alternatives to avoid and minimize degradation should be evaluated. Activities involving a discharge of dredged or fill materials that are considered to have more than minor adverse affects on the aquatic environment are regulated by individual CWA Section 404 permits. The decision-making process relative to the 404 permitting program is contained in the 404(b)(1) guidelines (40 CFR Part 230). Prior to issuing a permit under the 404(b)(1) guidelines, the Corps of Engineers:

- (a) makes a determination that the proposed activity discharges are unavoidable (i.e., necessary):
- (b) examines alternatives to the proposed activity and authorize only the least damaging practicable alternative; and

- (c) requires mitigation for all impacts associated with the activity. A 404(b)(1) finding document is produced as a result of this procedure and is the basis for the permit decision. Public participation is provided for in the process. Because the 404(b)(1) guidelines contains an alternatives analysis, the executive secretary will not require development of a separate alternatives analysis for the anti-degradation review. The division will use the analysis in the 404(b)(1) finding document in completing its anti-degradation review and 401 certification.
- 4. Does the proposed activity have economic and social importance?

Although it is recognized that any activity resulting in a discharge to surface waters will have positive and negative aspects, information must be submitted by the applicant that any discharge or increased discharge will be of economic or social importance in the area.

The factors addressed in such a demonstration may include, but are not limited to, the following:

- (a) employment (i.e., increasing, maintaining, or avoiding a reduction in employment);
 - (b) increased production;
 - (c) improved community tax base;
 - (d) housing;
- (e) correction of an environmental or public health problem; and
- (f) other information that may be necessary to determine the social and economic importance of the proposed surface water discharge.
- 5. The applicant may submit a proposal to mitigate any adverse environmental effects of the proposed activity (e.g., instream habitat improvement, bank stabilization). Such mitigation plans should describe the proposed mitigation measures and the costs of such mitigation. Mitigation plans will not have any effect on effluent limits or conditions included in a permit (except possibly where a previously completed mitigation project has resulted in an improvement in background water quality that affects a water quality-based limit). Such mitigation plans will be developed and implemented by the applicant as a means to further minimize the environmental effects of the proposed activity and to increase its socioeconomic importance. An effective mitigation plan may, in some cases, allow the Executive Secretary to authorize proposed activities that would otherwise not be authorized.
- 6. Will water quality standards be violated by the discharge?

Proposed activities that will affect the quality of waters of the state will be allowed only where the proposed activity will not violate water quality standards.

7. Will existing uses be maintained and protected?

Proposed activities can only be allowed if "existing uses" will be maintained and protected. No UPDES permit will be allowed which will permit numeric water quality standards to be exceeded in a receiving water outside the mixing zone. In the case of nonpoint pollution sources, the non-regulatory Section 319 program now in place will address these sources through application of best management practices to ensure that numeric water quality standards are not exceeded.

8. If a situation is found where there is an existing use which is a higher use (i.e., more stringent protection requirements) than that current designated use, the Division will apply the water quality standards and anti-degradation policy to protect the existing use. Narrative criteria may be used as a basis to protect existing uses for parameters where numeric criteria have not been adopted. Procedures to change the stream use designation to recognize the existing use as the designated use would be initiated.

d. Special Procedures for Drinking Water Sources

An Antidegradation Review may be required by the Executive Secretary for discharges to waters with a Class 1C

drinking water use assigned, irrespective of whether any of the conditions in Section 3.4 b. applies. Factors to be considered may include the volume of the discharge compared to the flow of the receiving stream, or where the pollutants discharged may have potentially adverse impact on the drinking water supply.

Depending upon the locations of the discharge and its proximity to downstream drinking water diversions, additional treatment or more stringent effluent limits or additional monitoring, beyond that which may otherwise be required to meet minimum technology standards or in stream water quality standards, may be required by the Executive Secretary in order to adequately protect public health and the environment. Such additional treatment may include additional disinfection, suspended solids removal to make the disinfection process more effective, removal of any specific contaminants for which drinking water maximum contaminant levels (MCLs) exists, and/or nutrient removal to reduce the organic content of raw water used as a source for domestic water systems.

Additional monitoring may include analyses for viruses, giardia, cryptosporidium, other pathogenic organisms, and/or any contaminant for which drinking water MCLs exist. Depending on the results of such monitoring, more stringent treatment may then be required.

The additional treatment/effluent limits/monitoring which may be required will be determined by the Executive Secretary after consultation with the Division of Drinking Water and the downstream drinking water users.

e. Public Notice

The public will be provided notice and an opportunity to comment on the conclusions of all completed antidegradation reviews. Where possible, public notice on the antidegradation review conclusions will be combined with the public notice on the proposed permitting action. In the case of UPDES permits, public notice will be provided through the normal permitting process, as all draft permits are public noticed for 30 days, and public comment solicited, before being issued as a final permit. The Statement of Basis for the draft UPDES permit will contain information on how the ADR was addressed including results of the Level I and Level II reviews. In the case of Section 404 permits from the Corps of Engineers, the Divison of Water Quality will develop any needed 401 Certifications and the public notice will be published in conjunction with the US Corps of Engineers public notice procedures. Other permits requiring a Level II review will receive a separate public notice according to the normal State public notice procedures.

R317-2-4. Colorado River Salinity Standards.

In addition to quality protection afforded by these regulations to waters of the Colorado River and its tributaries, such waters shall be protected also by requirements of "Proposed Water Quality Standards for Salinity including Numeric Criteria and Plan of Implementation for Salinity Control, Colorado River System, June 1975" and a supplement dated August 26, 1975, entitled "Supplement, including Modifications to Proposed Water Quality Standards for Salinity including Numeric Criteria and Plan of Implementation for Salinity Control, Colorado River System, June 1975", as approved by the seven Colorado River Basin States and the U.S. Environmental Protection Agency, as updated by the 1978 Revision and the 1981, 1984, 1987, 1990, 1993, 1996, 1999 and 2002 Reviews of the above documents.

R317-2-5. Mixing Zones.

A mixing zone is a limited portion of a body of water, contiguous to a discharge, where dilution is in progress but has not yet resulted in concentrations which will meet certain standards for all pollutants. At no time, however, shall concentrations within the mixing zone be allowed which are acutely lethal as determined by bioassay or other approved

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procedure. Mixing zones may be delineated for the purpose of guiding sample collection procedures and to determine permitted effluent limits. The size of the chronic mixing zone in rivers and streams shall not to exceed 2500 feet and the size of an acute mixing zone shall not exceed 50% of stream width nor have a residency time of greater than 15 minutes. Streams with a flow equal to or less than twice the flow of a point source discharge may be considered to be totally mixed. The size of the chronic mixing zone in lakes and reservoirs shall not exceed 200 feet and the size of an acute mixing zone shall not exceed 35 feet. Domestic wastewater effluents discharged to mixing zones shall meet effluent requirements specified in R317-1-3.

- 5.1 Individual Mixing Zones. Individual mixing zones may be further limited or disallowed in consideration of the following factors in the area affected by the discharge:
 - a. Bioaccumulation in fish tissues or wildlife,
- b. Biologically important areas such as fish spawning/nursery areas or segments with occurrences of federally listed threatened or endangered species,
- c. Potential human exposure to pollutants resulting from drinking water or recreational activities,
- d. Attraction of aquatic life to the effluent plume, where toxicity to the aquatic life is occurring.
 - e. Toxicity of the substance discharged,
- f. Zone of passage for migrating fish or other species (including access to tributaries), or
- g. Accumulative effects of multiple discharges and mixing zones.

R317-2-6. Use Designations.

The Board as required by Section 19-5-110, shall group the waters of the state into classes so as to protect against controllable pollution the beneficial uses designated within each class as set forth below. Surface waters of the state are hereby classified as shown in R317-2-13.

- 6.1 Class 1 -- Protected for use as a raw water source for domestic water systems.
 - a. Class 1A -- Reserved.
 - b. Class 1B -- Reserved.
- c. Class 1C -- Protected for domestic purposes with prior treatment by treatment processes as required by the Utah Division of Drinking Water
 - 6.2 Class 2 -- Protected for recreational use and aesthetics.
- a. Class 2A -- Protected for primary contact recreation such as swimming.
- b. Class 2B -- Protected for secondary contact recreation such as boating, wading, or similar uses.
 - 6.3 Class 3 -- Protected for use by aquatic wildlife.
- a. Class 3A -- Protected for cold water species of game fish and other cold water aquatic life, including the necessary aquatic organisms in their food chain.
- b. Class 3B -- Protected for warm water species of game fish and other warm water aquatic life, including the necessary aquatic organisms in their food chain.
- c. Class 3C -- Protected for nongame fish and other aquatic life, including the necessary aquatic organisms in their food chain
- d. Class 3D -- Protected for waterfowl, shore birds and other water-oriented wildlife not included in Classes 3A, 3B, or 3C, including the necessary aquatic organisms in their food chain.
- e. Class 3E -- Severely habitat-limited waters. Narrative standards will be applied to protect these waters for aquatic
- 6.4 Class 4 -- Protected for agricultural uses including irrigation of crops and stock watering.
- 6.5 Class 5 -- The Great Salt Lake. Protected for primary and secondary contact recreation, aquatic wildlife, and mineral extraction

R317-2-7. Water Quality Standards.

7.1 Application of Standards

The numeric criteria listed in R317-2-14 shall apply to each of the classes assigned to waters of the State as specified in R317-2-6. It shall be unlawful and a violation of these regulations for any person to discharge or place any wastes or other substances in such manner as may interfere with designated uses protected by assigned classes or to cause any of the applicable standards to be violated, except as provided in R317-1-3.1. The Board may allow site specific modifications based upon bioassay or other tests performed in accordance with standard procedures determined by the Board.

7.2 Narrative Standards

It shall be unlawful, and a violation of these regulations, for any person to discharge or place any waste or other substance in such a way as will be or may become offensive such as unnatural deposits, floating debris, oil, scum or other nuisances such as color, odor or taste; or cause conditions which produce undesirable aquatic life or which produce objectionable tastes in edible aquatic organisms; or result in concentrations or combinations of substances which produce undesirable physiological responses in desirable resident fish, or other desirable aquatic life, or undesirable human health effects, as determined by bioassay or other tests performed in accordance with standard procedures.

R317-2-8. Protection of Downstream Uses.

All actions to control waste discharges under these regulations shall be modified as necessary to protect downstream designated uses.

R317-2-9. Intermittent Waters.

Failure of a stream to meet water quality standards when stream flow is either unusually high or less than the 7-day, 10-year minimum flow shall not be cause for action against persons discharging wastes which meet both the requirements of R317-1 and the requirements of applicable permits.

R317-2-10. Laboratory and Field Analyses.

10.1 Laboratory Analyses

All laboratory examinations of samples collected to determine compliance with these regulations shall be performed in accordance with standard procedures as approved by the Utah Division of Water Quality by the Utah Office of State Health Laboratory or by a laboratory certified by the Utah Department of Health.

10.2 Field Analyses

All field analyses to determine compliance with these regulations shall be conducted in accordance with standard procedures specified by the Utah Division of Water Quality.

R317-2-11. Public Participation.

Public hearings will be held to review all proposed revisions of water quality standards, designations and classifications, and public meetings may be held for consideration of discharge requirements set to protect water uses under assigned classifications.

R317-2-12. High Quality Waters.

12.1 High Quality Waters - Category 1.

In addition to assigned use classes, the following surface waters of the State are hereby designated as High Quality Waters - Category 1:

a. All surface waters geographically located within the outer boundaries of U.S. National Forests whether on public or private lands with the following exceptions:

All High Quality Waters - Category 2 as listed in R317-2-12.2.

Weber River, a tributary to the Great Salt Lake, in the

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Weber River Drainage from Uintah to Mountain Green.

b. Other surface waters, which may include segments within U.S. National Forests as follows:

1. Colorado River Drainage

Calf Creek and tributaries, from confluence with Escalante River to headwaters.

Sand Creek and tributaries, from confluence with Escalante River to headwaters.

Mamie Creek and tributaries, from confluence with Escalante River to headwaters.

Deer Creek and tributaries, from confluence with Boulder Creek to headwaters (Garfield County).

Indian Creek and tributaries, through Newspaper Rock State Park to headwaters.

2. Green River Drainage

Price River (Lower Fish Creek from confluence with White River to Scofield Dam.

Range Creek and tributaries, from confluence with Green River to headwaters.

Strawberry River and tributaries, from confluence with Red Creek to headwaters.

Ashley Creek and tributaries, from Steinaker diversion to headwaters.

Jones Hole Creek and tributaries, from confluence with Green River to headwaters.

Green River, from state line to Flaming Gorge Dam.

Tollivers Creek, from confluence with Green River to headwaters.

Allen Creek, from confluence with Green River to headwaters.

3. Virgin River Drainage

North Fork Virgin River and tributaries, from confluence with East Fork Virgin River to headwaters.

East Fork Virgin River and tributaries from confluence with North Fork Virgin River to headwaters.

4. Kanab Creek Drainage

Kanab Creek and tributaries, from irrigation diversion at confluence with Reservoir Canyon to headwaters.

5. Bear River Drainage

Swan Creek and tributaries, from Bear Lake to headwaters. North Eden Creek, from Upper North Eden Reservoir to

Big Creek and tributaries, from Big Ditch diversion to headwaters.

 $Woodruff\ Creek\ and\ tributaries,\ from\ Woodruff\ diversion\ to\ headwaters.$

Weber River Drainage

Burch Creek and tributaries, from Harrison Boulevard in Ogden to headwaters.

Hardscrabble Creek and tributaries, from confluence with East Canyon Creek to headwaters.

Chalk Creek and tributaries, from U.S. Highway 189 to headwaters.

Weber River and tributaries, from U.S. Highway 189 near Oakley to headwaters.

7. Jordan River Drainage

City Creek and tributaries, from City Creek Water Treatment Plant to headwaters (Salt Lake County).

Emigration Creek and tributaries, from Hogle Zoo to headwaters (Salt Lake County).

Red Butte Creek and tributaries, from Foothill Boulevard in Salt Lake City to headwaters.

Parley's Creek and tributaries, from 13th East in Salt Lake City to headwaters.

Mill Creek and tributaries, from Wasatch Boulevard in Salt Lake City to headwaters.

Big Cottonwood Creek and tributaries, from Wasatch Boulevard in Salt Lake City to headwaters.

Little Willow Creek and tributaries, from diversion to

headwaters (Salt Lake County.)

Bell Canyon Creek and tributaries, from Lower Bells Canyon Reservoir to headwaters (Salt Lake County).

South Fork of Dry Creek and tributaries, from Draper Irrigation Company diversion to headwaters (Salt Lake County).

8. Provo River Drainage

Upper Falls drainage above Provo City diversion (Utah

Bridal Veil Falls drainage above Provo City diversion (Utah County).

Lost Creek and tributaries, above Provo City diversion (Utah County).

9. Sevier River Drainage

Chicken Creek and tributaries, from diversion at canyon mouth to headwaters.

Pigeon Creek and tributaries, from diversion to headwaters. East Fork of Sevier River and tributaries, from Kingston diversion to headwaters.

Parowan Creek and tributaries, from Parowan City to headwaters.

Summit Creek and tributaries, from Summit City to headwaters.

Braffits Creek and tributaries, from canyon mouth to headwaters.

Right Hand Creek and tributaries, from confluence with Coal Creek to headwaters.

Raft River Drainage

Clear Creek and tributaries, from state line to headwaters (Box Elder County).

Birch Creek (Box Elder County), from state line to headwaters.

Cotton Thomas Creek from confluence with South Junction Creek to headwaters.

11. Western Great Salt Lake Drainage

All streams on the south slope of the Raft River Mountains above 7000' mean sea level.

Donner Creek (Box Elder County), from irrigation diversion to Utah-Nevada state line.

Bettridge Creek (Box Elder County), from irrigation diversion to Utah-Nevada state line.

Clover Creek, from diversion to headwaters.

All surface waters on public land on the Deep Creek Mountains.

12. Farmington Bay Drainage

Holmes Creek and tributaries, from Highway US-89 to headwaters (Davis County).

Shepard Creek and tributaries, from Height Bench diversion to headwaters (Davis County).

Farmington Creek and tributaries, from Height Bench Canal diversion to headwaters (Davis County).

Steed Creek and tributaries, from Highway US-89 to headwaters (Davis County).

12.2 High Quality Waters - Category 2.

In addition to assigned use classes, the following surface waters of the State are hereby designated as High Quality Waters - Category 2:

a. Green River Drainage

Deer Creek, a tributary of Huntington Creek, from the forest boundary to 4800 feet upstream.

Electric Lake.

R317-2-13. Classification of Waters of the State (see R317-2-6).

13.1 Upper Colorado River Basin

a. Colorado River Drainage

TABLE

Paria River and tributaries, from state line to headwaters

					· / · · ·					
All tributaries to Lake Powell, except as listed below		2B 3B		4	LaSal Creek and tributaries, from state line to headwaters		2B 3	ЗА		4
Escalante River and tributaries, from Lake		25 05		•	Lion Canyon Creek and tributaries, from state line to			"		
Powell to confluence with Boulder Creek		2B 3	BC .	4	headwaters Little Dolores River and		2B :	3A		4
Escalante River and tributaries, from confluence		25	, 0	·	tributaries, from confluence with Colorado River to state line		2B		3C	4
with Boulder Creek, including Boulder Creek, to headwaters		2B 3A		4	Bitter Creek and tributaries, from confluence with Colorado		_			
Dirty Devil River and tributaries, from Lake					River to headwaters		2B		3C	4
Posell to Fremont River Deer Creek and tributaries,		2B	3C	4	b. Green River Drainage					
from confluence with Boulder Creek to headwaters		2B 3A		4	TABLE					
Fremont River and tributaries, from confluence					Green River and tributaries, from confluence with Colorado River to					
with Muddy Creek to Capitol Reef National Park, except as	10	00			state line except as listed below: Thompson Creek and tributaries	10	2B	3B		4
listed below Pleasant Creek and	1C	2B 3	BC .	4	from Interstate Highway 70 to headwaters		2B		3C	4
tributaries, from confluence with Fremont Rive to East					San Rafael River and tributaries, from confluence					
boundary of Capitol Reef National Park		2B 3	3C	4	with Green River to confluence with Ferron Creek		2B		3C	4
Pleasant Creek and tributaries, from East					Ferron Creek and tributaries, from confluence with San				00	
boundary of Capitol Reef National Park to headwaters	1C	2B 3A			Rafael River to Millsite Reservoir		2B		3C	4
Fremont River and tributaries, through Capitol					Ferron Creek and tributaries, from Millsite Reservoir to		20		50	7
Reef National Park to headwaters	1C	2B 3A		4	headwaters Huntington Creek and	1C	2B 3	3A		4
Muddy Creek and tributaries, from confluence with Fremont					tributaries, from confluence with Cottonwood Creek to					
River to Highway U-10 crossing, except as listed					Highway U-10 crossing Huntington Creek and		2B		3C	4
below Quitchupah Creek and		2B 3	3C	4	tributaries, from Highway U-10 crossing to headwaters	1C	2B 3	ЗΔ		4
Tributaries, from Highway U-10 crossing to headwaters		2B 3A		4	Cottonwood Creek and tributaries, from confluence	10		"		
Ivie Creek and tributaries, from Highway U-10 to					with Huntington Creek to Highway U-57 crossing		2B		3C	4
headwaters Muddy Creek and tributaries,		2B 3A		4	Cottonwood Creek and tributaries, from Highway		20		50	7
from Highway U-10 crossing to headwaters	1C	2B 3A		4	U-57 crossing to headwaters Cottonwood Canal, Emery	1C	2B 3	3A		4
San Juan River and Tributaries, from Lake					County Price River and tributaries,	1C	2B			3E 4
Powell to state line except As listed below:	1C	2B 3B		4	from confluence with Green River to Carbon Canal					
Johnson Creek and tributaries, from confluence					Diversion at Price City Golf Course Except as listed below		2B		3C	4
with Recapture Creek to headwaters	1C	2B 3A		4	Grassy Trail Creek and tributaries, from Grassy					
Verdure Creek and tributaries, from Highway US-191 crossing		0- 0-			Trail Creek Reservoir to headwaters	1C	2B 3	ЗΔ		4
to headwaters North Creek and tributaries,		2B 3A		4	Price River and tributaries, from Carbon Canal Diversion at Pric					
from confluence with Montezuma Creek to headwaters	1C	2B 3A		4	City Golf Course to Price City Wate Water Treatment Plant intake.		2B :	3Δ		4
South Creek and tributaries, from confluence with Montezuma	10	00.34			Price River and tributaries, from Price			571		
Creek to headwaters Spring Creek and tributaries,	1C	2B 3A		4	City Water Treatment Plant intake to headwaters	1C	2B 3	3A		4
from confluence with Vega Creek to headwaters		2B 3A		4	Range Creek and tributaries, from confluence with Green					
Montezuma Creek and tributaries, from U.S. Highway 191 to	10	20.24		4	River to Range Creek Ranch Range Creek and tributaries,		2B :	3A		4
headwaters Colorado River and tributaries, from Lake Powell to state line	1C	2B 3A		4	from Range Creek Ranch to headwaters	1C	2B 3	3A		4
except as listed below	1C	2B 3B		4	Rock Creek and tributaries, from confluence with Green					
Indian Creek and tributaries, through Newspaper Rock State Park to headwaters	1C	2B 3A		4	River to headwaters Nine Mile Creek and		2B :	3A		4
Kane Canyon Creek and tributaries, from confluence with		ZB JA		4	tributaries, from confluence with Green River to headwaters		2B 3	3A		4
Colorado River to headwaters Mill Creek and tributaries, from		2B	3C	4	Pariette Draw and tributaries, from confluence					
confluence with Colorado River to headwaters	1C	2B 3A		4	with Green River to headwaters Willow Creek and tributaries		2B	3В	30	D 4
Dolores River and tributaries, from confluence with Colorado	10	ZD JA		4	(Uintah County), from confluence with Green River					
River to state line Roc Creek and tributaries, from		2B	3C	4	to headwaters White River and tributaries,		2B 3	3A		4
confluence with Dolores River to headwaters		2B 3A		4	from confluence with Green River to state line, except					
псацианся з		LD JM		7	as listed below		2B	3B		4

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Bitter Creek and Tributaries					to headwaters	2B 3	۲Δ		
from White River to Headwaters	2B	3A		4	All Tributaries of Flaming Gorge	20 3	<i>'</i> '''		
Duchesne River and tributaries, from confluence					Reservoir from Utah-Wyoming state line to headwaters	2B 3	Δ		4
with Green River to Myton						20 0			
Water Treatment Plant intake, except as listed below	2B	-	ЗВ	4	13.2 Lower Colorado River Basin				
Uinta River and tributaries,	20	-	טט	7	W. , D. D ,				
From confluence with Duchesne	20	2	BB	4	a. Virgin River Drainage				
River to Highway US-40 crossing Uinta River and tributaries,	2B	3	ов	4	TABLE				
From Highway US-4- crossing	2.0	2.4							
to headwaters Power House Canal from	28	3A		4	Beaver Dam Wash and tributaries, from Motoqua to headwaters	2В	3В		4
Confluence with Uinta River				_	·		0.0		
to headwaters Whiterocks River and Canal,	2B	3A		4	Virgin River and tributaries from				
From Tridell Water					state line to Quail Creek				
Treatment Plant to Headwaters 1C	2R	ЗА		4	diversion	2B	3B		4
Duchesne River and	20	JA		7	Santa Clara River from				
tributaries, from Myton Water Treatment Plant intake					confluence with Virgin River	00	20		
to headwaters 1C	2B	ЗА		4	to Gunlock Reservoir 1C	2B	3B		4
Lake Fork River and					Santa Clara River and				
tributaries, from confluence with Duchesne River to					tributaries, from Gunlock Reservoir to headwaters	2B 3.	Α		4
headwaters 1C	2B	3A		4					
Lake Fork Canal from Dry Gulch Canal Diversion to					Leed's Creek, from confluence with Quail Creek to headwaters	2B 3/	А		4
Moon Lake 1C	2B			3E 4		_D 3/			7
Dry Gulch Canal, from Myton Water Treatment					Quail Creek from Quail Creek Reservoir to headwaters 1C	2B 3	ЗΔ		4
Plant to Lake Fork Canal 10	2B			3E 4		20 3	"1		7
Ashley Creek and tributaries, from confluence					Ash Creek and tributaries, from confluence with Virgin				
with Green River to					River to Ash Creek Reservoir	2B 3/	Α		4
Steinaker diversion Ashley Creek and tributaries,	2B	3	3B	4	Ash Crook and tributaries				
from Steinaker diversion to					Ash Creek and tributaries, From Ash Creek Reservoir				
headwaters 1C Big Brush Creek and	2B	3A		4	to headwaters	2B 3	Α		4
tributaries, from confluence					Virgin River and tributaries,				
with Green River to Tyzack (Red Fleet) Dam	2B	3	BB	4	from				
Big Brush Creek and	20		JU	7	the Quail Creek diversion to headwaters, except as listed				
tributaries, from Tyzack (Red Fleet) Dam to					below 1C	2B		3C	4
headwaters 10	2B	ЗА		4	North Fork Virgin River and				
Jones Hole Creek and					tributaries 1C	2B 3	Α		4
tributaries, from confluence with Green River to					East Fork Virgin River, from				
headwaters	2B	3A			town of Glendale to headwaters	2B 3	3A		4
Diamond Gulch Creek and tributaries, from confluence					Kolob Creek, from confluence				
with Green River to	2.0	2.4			with Virgin River to				
headwaters Pot Creek and tributaries,	28	3A		4	headwaters	2B 3	A		4
from Crouse Reservoir to	0-	2.							
headwaters Green River and tributaries, from	28	3A		4	b. Kanab Creek Drainage				
Utah-Colorado state line to Flaming Gorge D		24			- 				
except as listed below: Sears Creek and tributaries,	ZB	3A		4	TABLE				
Daggett County	2B	ЗА			Kanab Creek and tributaries,				
Tolivers Creek and tributaries, Daggett County	2R	3A			from state line to irrigation diversion at confluence with				
Red Creek and tributaries,					Reservoir Canyon	2B		3C	4
from confluence with Green River to state line	2B		3C	4	Kanab Creek and tributaries,				
Jackson Creek and					from irrigation diversion at				
tributaries, Daggett County Davenport Creek and	2B	3A			confluence with Reservoir Canyon to headwaters	2B 3	Α		4
tributaries, Daggett County	2B	3A				20 3			7
Goslin Creek and tributaries, Daggett County	2R	3A			Johnson Wash and tributaries, from state line to confluence				
Gorge Creek and tributaries,					with Skutumpah Canyon 2B	3C		4	
Daggett County Beaver Creek and tributaries,	2B	3A			Johnson Wash and tributaries, from confluence with				
Daggett County	2B	ЗА			Skutumpah Canyon to headwaters	2B 3	3A		4
O-Wi-Yu-Kuts Creek and tributaries, County	20	3A							
Tributaries to Flaming Gorge					13.3 Bear River Basin				
Reservoir, except as listed below	2B	3A		4	a. Bear River Drainage				
Birch Spring Draw and tributaries, from Flaming					a. Deal faver Diamage				
Gorge Reservoir to headwaters Spring Creek and tributaries,	2B		3C	4	TABLE				
from Flaming Gorge Reservoir					Bear River and tributaries, from				
					1100				

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Great Salt Lake to Utah-Idaho border, except as listed below:	2B 3B 3D	4	To headwaters		2B 3A	4
Willard Creek, from Willard Bay Reservoir to headwaters	2B 3A	4	Weber River and tributaries, from Slaterville diversion to Stoddard diversion, except as listed below		2B 3A	4
Perry Canyon Creek from U.S. Forest boundary to headwaters	2B 3A	4	Ogden River and tributaries, From confluence with Weber River To Pineview Dam, except as listed			
Box Elder Creek from confluence with Black Slough to Brigham City Reservoir (the Mayor's Pond)	2B 3C	4	Below Wheeler Creek from Confluence with Ogden		2B 3A	4
Box Elder Creek, from Brigham City Reservoir (the Mayor's Pond) to headwaters	2B 3A	4	River to headwaters All tributaries to Pineview Reservoir	1C 1C	2B 3A 2B 3A	4
Malad River and tributaries, from confluence with Bear River to state line	2B 3C		Strongs Canyon Creek and Tributaries, from U.S. National			
Little Bear River and tributaries, from Cutler Reservoir to headwaters	2B 3A 3D	4	Forest boundary to headwaters Burch Creek and tributaries, from Harrison Boulevard in Ogden to	10	2B 3A	4
Logan River and tributaries, from Cutler Reservoir to headwaters	2B 3A 3D	4	Headwaters Spring Creek and tributaries, From U.S. National Forest	10	2B 3A	
Blacksmith Fork and tributaries, from confluence with Logan River to headwaters	2B 3A	4	Boundary to headwaters Weber River and tributaries, from Stoddard diversion to	1C	2B 3A	4
Newton Creek and tributaries, from Cutler Reservoir to Newton Reservoir	2B 3A	4	headwaters 13.5 Utah Lake-Jordan River I	10 Basin	2B 3A	4
Clarkston Creek and tributaries,	25 511	•	a. Jordan River Drainage			
from Newton Reservoir to headwaters	2B 3A	4	TABLE Jordan River, from Farmington			
Birch Creek and tributaries, from confluence with Clarkston Creek to headwaters	2B 3A	4	Bay to North Temple Street, Salt Lake City Jordan River, from North Temple		2B 3B * 3D	4
Summit Creek and tributaries, from confluence with Bear River to headwaters	2B 3A	4	Street in Salt Lake City to confluence with Little Cottonwood Creek Surplus Canal from Great Salt		2B 3B *	4
Cub River and tributaries, from confluence with Bear River to state line, except as listed			Lake to the diversion from the Jordan River Jordan River from confluence with Little Cottonwood Creek to		2B 3B * 3D	4
below: High Creek and tributaries,	2B 3B	4	Narrows Diversion Jordan River, from Narrows Diversion to Utah Lake City Creek, from Memory Park	1C	2B 3A 2B 3B	4
from confluence with Cub River to headwaters	2B 3A	4	in Salt Lake City to City Creek Water Treatment Plant		2B 3A	
All tributaries to Bear Lake from Bear Lake to headwaters, except as listed below	2B 3A	4	City Creek, from City Creek Water Treatment Plant to headwaters Red Butte Creek and tributaries, from Red Butte Reservoir to	10	2B 3A	
Swan Springs tributary to Swan Creek	1C 2B 3A		headwaters Emigration Creek and tributaries, from Foothill Boulevard in Salt	1C	2B 3A	
Bear River and tributaries in Rich County	2B 3A	4	Lake City to headwaters Parley's Creek and tributaries, from 1300 East in Salt Lake City		2B 3A	
Bear River and tributaries, from Utah-Wyoming state line to headwaters (Summit County)	2B 3A	4	to Mountain Dell Reservoir to headwaters Parley's Creek and tributaries, from Mountain Dell Reservoir to	10	2B 3A	
Mill Creek and tributaries, from state line to headwaters (Summit County)	2B 3A	4	headwaters Mill Creek (Salt Lake County) from confluence with Jordan	10	2B 3A	
13.4 Weber River Basin a. Weber River Drainage			River to Interstate Highway 15 Mill Creek (Salt Lake County) and tributaries from Interstate Highway 15 to headwaters		2B 3C 2B 3A	4
TABLE			Big Cottonwood Creek and tributaries, from confluence with Jordan River to Big Cottonwood			
Willard Creek, from Willard Bay Reservoir to headwaters	2B 3A	4	Water Treatment Plant Big Cottonwood Creek and tributaries, from Big Cottonwood		2B 3A	4
Weber River, from Great Salt Lake to Slaterville diversion, except as listed below:	2B 3C 3D	4	Water Treatment Plant to headwaters Deaf Smith Canyon Creek and	1C	2B 3A	
Four Mile Creek from I-15			tributaries Little Cottonwood Creek and	1C	2B 3A	4

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tributaries, from confluence with Jordan River to Metropolitan			Right-of-way	2B 3B 4
Water Treatment Plant Little Cottonwood Creek and tributaries, from Metropolitan Water Treatment Plant to headwaters	2B 3A 1C 2B 3A	4	Tributary to Spring Creek (Utah County) which receives the Springville City WWTP effluent from confluence with Spring Creek to headwaters	2B 3D 4
Bell Canyon Creek and tributaries, from lower Bell's Canyon reservoir to headwaters Little Willow Creek and tributaries, from Draper	1C 2B 3A		Spring Creek and tributaries from 50 feet upstream from the east boundary of the Industrial Parkway Road right-of-way to the headwaters	2B 3A 4
Irrigation Company diversion to headwaters Big Willow Creek and tributaries, from Draper Irrigation Company diversion to headwaters	1C 2B 3A		Ironton Canal from Utah Lake (Provo Bay) to the east boundary of the Denver and Rio Grande Western Railroad right-of-way	2B 3C 4
South Fork of Dry Creek and tributaries, from Draper Irrigation Company diversion to headwaters All permanent streams on east	1C 2B 3A		Ironton Canal from the east boundary of the Denver and Rio Grande Western Railroad right-of-way to the point	
slope of Oquirrh Mountains (Coon, Barney's, Bingham, Butterfield, and Rose Creeks)	2B	3D 4	of diversion from Spring Creek Hobble Creek and tributaries,	2B 3A 4
Kersey Creek from confluence of C-7 Ditch to headwaters * Site specific criteria for oxygen. See Table 2.14.5.	2B	3D	from Utah Lake to headwaters Dry Creek and tributaries from Utah Lake (Provo Bay) to Highway-US 89	2B 3A 4
b. Provo River Drainage			Dry Creek and tributaries from	
TABLE			Highway-US 89 to headwaters	2B 3A 4
Provo River and tributaries, from Utah Lake to Murdock diversion Provo River and tributaries,	2B 3A	4	Spanish Fork River and tributaries, from Utah Lake to diversion at Moark Junction	2B 3B 3D 4
from Murdock Diversion to headwaters, except as listed below	1C 2B 3A	4	Spanish Fork River and tributaries, from diversion at Moark Junction to headwaters	2B 3A 4
Upper Falls drainage above Provo City diversion Bridal Veil Falls drainage above Provo City diversion	1C 2B 3A		Benjamin Slough and tributaries from Utah Lake to headwaters, except as listed	2B 3B 4
Lost Creek and tributaries above Provo City diversion	1C 2B 3A		below Beer Creek (Utah County) from 4850 West (in NE1/4NE1/4 sec.	2B 3B 4
c. Utah Lake Drainage			36, T.8 S., R.1 E.) to headwaters	2B 3C 4
TABLE			Salt Creek, from Nephi diversion to headwaters	2B 3A 4
Dry Creek and tributaries (above Alpine), from U.S. National Forest boundary to headwaters	2B 3A	4	Currant Creek, from mouth of Goshen Canyon to Mona Reservoir	2B 3A 4
American Fork Creek and tributaries, from diversion at			Burriston Creek, from Mona Reservoir to headwaters	2B 3A 4
mouth of American Fork Canyon to headwaters Spring Creek and tributaries,	2B 3A	4	Peteetneet Creek and tributaries, from irrigation diversion above Maple Dell to headwaters	2B 3A 4
from Utah Lake near Lehi to headwaters Lindon Hollow Creek and	2B 3A	4	Summit Creek and tributaries (above Santaquin), from U.S. National Forest boundary to	
tributaries, from Utah Lake to headwaters	2В	3B 4	headwaters All other permanent streams	2B 3A 4
Rock Canyon Creek and tributaries (East of Provo) from U.S. National Forest boundary to headwaters	1C 2B 3A	4	entering Utah Lake 13.6 Sevier River Basin a. Sevier River Drainage	2B 3B 4
Mill Race (except from Interstate Highway 15 to the Provo City WWTP			TABLE	
discharge) and tributaries from Utah Lake to headwaters Mill Race from Interstate Highway	2B	3B 4	Sevier River and tributaries from Sevier Lake to Gunnison Bend Reservoir to U.S.National Forest	
15 to the Provo City wastewater treatment plant discharge	2В	3B 4	boundary except as listed below	2B 3C 4
Spring Creek and tributaries from Utah Lake (Provo Bay) to 50 feet upstream from the east boundary			Beaver River and tributaries from Minersville City to headwaters	2B 3A 4
of the Industrial Parkway Road			Little Creek and tributaries, From irrigation diversion to	

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Headwaters	2B 3	ВА			4	Forest Service boundary to						
Pinto Creek and tributaries, From Newcastle Reservoir to Headwaters	2B 3	2 Δ			4	headwaters San Pitch River and tributaries, from Highway U-132 crossing to		2B 3A		4		
Coal Creek and tributaries	2B 3				4	headwaters		2B 3A		4		
Summit Creek and tributaries	2B 3				4	Tributaries to Sevier River from Gunnison Bend Reservoir to						
Parowan Creek and tributaries	2B 3				4	Annabelle Diversion from U.S. National Forest boundary to						
Tributaries to Sevier River from Sevier Lake to Gunnison Bend Reservoir from U.S. National Forest boundary to headwaters, including:	2B 3	BA			4	headwaters Sevier River and tributaries, from Annabella diversion to headwaters		2B 3A 2B 3A		4		
Pioneer Creek and tributaries,	0p. 1					Monroe Creek and tributaries, from diversion to headwaters		2B 3A		4		
Millard County Chalk Creek and tributaries, Millard County	2B 3				4	Little Creek and tributaries, from irrigation diversion to headwaters		2B 3A		4		
Meadow Creek and tributaries, Millard County	2B 3	ВА			4	Pinto Creek and tributaries, from Newcastle Reservoir to headwaters		2B 3A		4		
Corn Creek and tributaries, Millard County	2B 3	ЗΔ			4	Coal Creek and tributaries		2B 3A		4		
Sevier River and tributaries below	20 .	<i>J</i>			7	Summit Creek and tributaries		2B 3A		4		
U.S. National Forest boundary from Gunnison Bend Reservoir to						Parowan Creek and tributaries		2B 3A		4		
Annabella Diversion except except as listed below	2B	3	ВВ		4		1C	2B 3A		4		
Oak Creek and tributaries, Millard County	2B 3	ВА			4	13.7 Great Salt Lake Basin a. Western Great Salt Lake Drain	age					
Round Valley Creek and tributaries, Millard County	2B 3	RΔ			4	TABLE						
Judd Creek and tributaries, Juab County	2B 3				4	Grouse Creek and tributaries, Box Elder County		2B 3A		4		
Meadow Creek and tributaries, Juab County	2B 3	ЗА			4	Muddy Creek and tributaries, Box Elder County		2B 3A		4		
Cherry Creek and tributaries Juab County	2B 3	ВА			4	Dove Creek and tributaries, Box Elder County		2B 3A		4		
Tanner Creek and tributaries, Juab County	2B			3	E 4	Pine Creek and tributaries, Box Elder County		2B 3A		4		
Baker Hot Springs, Juab County	2B			3D	4	Rock Creek and tributaries, Box Elder County		2B 3A		4		
Chicken Creek and tributaries, Juab County	2B 3	ВА			4	Fisher Creek and tributaries, Box Elder County		2B 3A		4		
San Pitch River and tributaries, from confluence with Sevier River to Highway U-132 crossing except						Dunn Creek and tributaries, Box Elder County		2B 3A		4		
As listed below: Twelve Mile Creek (South Creek)	2B		3C	3D	4	Indian Creek and tributaries, Box Elder County		2B 3A		4		
and tributaries, from U.S. Forest Service boundary to headwaters	2B 3	ЗА			4	Tenmile Creek and tributaries, Box Elder County		2B 3A		4		
Six Mile Creek and tributaries, Sanpete County	2B 3	3A			4	Curlew (Deep) Creek, Box Elder County Blue Creek and tributaries, from		2B 3A		4		
Manti Creek (South Creek) and tributaries, from U.S. Forest Servi boundary to headwaters	ice 2B 3	8Δ			4	Great Salt Lake to Blue Creek Reservoir		2B	3D	4		
Ephraim Creek (Cottonwood Creek) and tributaries,	20 3	,,,			7	Blue Creek and tributaries, from Blue Creek Reservoir to headwaters		2B 3	В	4		
from Ü.S. Forest Service to headwaters	2B 3	ВА			4	All perennial streams on the east slope of the Pilot Mountain Range	1C	2B 3A		4		
Oak Creek and tributaries, from U.S. Forest Service boundary near Spring City to headwaters	2B 3	ВА			4	Donner Creek and tributaries, from irrigation diversion to Utah-Nevada state line		2B 3A		4		
Fountain Green Creek and tributaries, from U.S.						Bettridge Creek and tributaries, from irrigation diversion to Utah-Nevada state line		2B 3A		4		

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North Willow Creek and tributaries, Tooele County	2B 3A	4	tributaries, from Nevada state line to headwaters (Beaver and Iron Counties)		2B	3D	4
South Willow Creek and tributaries, Tooele County	2B 3A	4	Indian Creek and tributaries,		20	30	4
Hickman Creek and tributaries, Tooele County	2B 3A	4	Beaver County, from Indian Creek Reservoir to headwaters		2B 3A		4
Barlow Creek and tributaries, Tooele County	2B 3A	4	Shoal Creek and tributaries, Iron County		2B 3A		4
Clover Creek and tributaries, Tooele County	2B 3A	4	b. Farmington Bay Drainage				
Faust Creek and tributaries, Tooele County	2B 3A	4	Corbett Creek and tributaries, from Highway to headwaters		2B 3A		Л
Vernon Creek and tributaries, Tooele County	2B 3A	4	Kays Creek and tributaries, from Farmington Bay to U.S. National Forest boundary		2B 3A	3B	4
Ophir Creek and tributaries, Tooele County	2B 3A	4	North Fork Kays Creek and tributaries, from U.S. National Forest boundary to headwaters		2B 3A		4
Soldier Creek and Tributaries from the Drinking Water Treatment			Middle Fork Kays Creek and tributaries, from U.S. National Forest boundary to headwaters	1C	2B 3A		4
Facility Headwaters, Tooele County	1C 2B 3A	4	South Fork Kays Creek and tributaries, from U.S. National Forest boundary to headwaters	1C	2B 3A		4
Settlement Canyon Creek and tributaries, Tooele County	2B 3A	4	Snow Creek and tributaries Holmes Creek and tributaries, from Farmington Bay to U.S.	10	2B	3C	4
Middle Canyon Creek and tributaries, Tooele County	2B 3A	4	National Forest boundary Holmes Creek and tributaries,		2B	3B	4
Tank Wash and tributaries, Tooele County	2B 3A	4	from U.S. National Forest boundary to headwaters Baer Creek and tributaries,	10	2B 3A		4
Basin Creek and tributaries, Juab and Tooele Counties	2B 3A	4	from Farmington Bay to Interstate Highway 15 Baer Creek and tributaries,		2B	3C	4
Thomas Creek and tributaries, Juab County	2B 3A	4	from Interstate Highway 15 to Highway US-89 Baer Creek and tributaries, from		2B	3B	4
Indian Farm Creek and tributaries, Juab County	2B 3A	4	Highway US-89 to headwaters Shepard Creek and tributaries, from U.S. National Forest	10	2B 3A		4
Cottonwood Creek and tributaries, Juab County	2B 3A	4	boundary to headwaters Farmington Creek and tributaries, from Farmington Bay Waterfowl	1C	2B 3A		4
Red Cedar Creek and tributaries, Juab County	2B 3A	4	Management Area to U.S. National Forest boundary Farmington Creek and tributaries,		2B	3B	4
Granite Creek and tributaries, Juab County	2B 3A	4	from U.S. National Forest boundary to headwaters Rudd Creek and tributaries,	10	2B 3A		4
Trout Creek and tributaries, Juab County	2B 3A	4	from Davis aqueduct to headwaters Steed Creek and tributaries, from U.S. National Forest		2B 3A		4
Birch Creek and tributaries, Juab County	2B 3A	4	boundary to headwaters Davis Creek and tributaries, from Highway US-89 to headwaters	10	2B 3A 2B 3A		4
Deep Creek and tributaries, from Rock Spring Creek to			Lone Pine Creek and tributaries, from Highway US-89 to headwaters Ricks Creek and tributaries, from		2B 3A		4
headwaters, Juab and Tooele Counties	2B 3A	4	Highway I-15 to headwaters Barnard Creek and tributaries, from Highway US-89 to headwaters	1C	2B 3A 2B 3A		4
Cold Spring, Juab County	2B	3C 3D	Parrish Creek and tributaries, from Davis Aqueduct to headwaters		2B 3A		4
Cane Spring, Juab County Lake Creek, from Garrison	2В	3C 3D	Deuel Creek and tributaries, (Centery Canyon) from Davis Aqueduct to	/ille			
(Pruess) Réservoir to Nevada state line	2B 3A	4	headwaters Stone Creek and tributaries, from Farmington Bay Waterfowl		2B 3A		4
Snake Creek and tributaries, Millard County	2B 3	В 4	Management Area to U.S. National Forest boundary Stone Creek and tributaries,		2B 3A		4
Salt Marsh Spring Complex, Millard County	2B 3A		from U.S. National Forest boundary to headwaters Barton Creek and tributaries,	10	2B 3A		4
Twin Springs, Millard County		3B	from U.S. National Forest boundary to headwaters Mill Creek (Davis County) and		2B 3A		4
Tule Spring, Millard County Coyote Spring Complex, Millard	2B	3C 3D	tributaries, from confluence with State Canal to U.S. National Forest boundary		2B	3B	4
County Hamblin Valley Wash and	2B	3C 3D	Mill Creek (Davis County) and tributaries, from U.S. National Forest boundary to		20	5 0	7
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headwaters	1C 2B 3	A	4	Management Area, Box Elder C	ounty	3B	3 3D	
North Canyon Creek and tributaries, from U.S. National Forest boundary to headwaters	2B 3	Δ	4	Ogden Bay Waterfowl Manageme Area, Weber County	nt		3C 3D	
Howard Slough Hooper Slough	2B 2B 2B 2B	3C 3C 3C	4 4 4	Ouray National Wildlife Refu	ge,	25		
Willard Slough Willard Creek to Headwaters Chicken Creek to Headwaters	1C 2B 3 1C 2B 3	A	4 4 4	Uintah County Powell Slough Waterfowl		3B	5 JU	
Cold Water Creek to Headwaters One House Creek to Headwaters Garner Creek to Headwaters	1C 2B 3 1C 2B 3 1C 2B 3	A	4 4 4	Management Area, Utah County Public Shooting Grounds Wate			3C 3D	
13.8 Snake River Basin	10 20 3	•	7	Management Area, Box Elder C	ounty		3C 3D	
a. Raft River Drainage (Box	Elder County)		Salt Creek Waterfowl Managem Area, Box Elder County	ent		3C 3D	
TABLE	20. 2			Stewart Lake Waterfowl Manago Area, Uintah County	ement		3B 3D	
Raft River and tributaries Clear Creek and tributaries,	2B 3	A	4	Timpie Springs Waterfowl Management Area, Tooele Coun	tv		3B 3D	
from Utah-Idaho state line to headwaters	2B 3	A	4	13.12 Lakes and Reser	voirs (20 Acres	or Larger). All lak	ces
Onemile Creek and tributaries, from Utah-Idaho state line to headwaters	2B 3	A	4	not listed in 13.12 are assig of the stream with which th a. Beaver County	gned by default they are associated	o the cla d.	ssificati	on
George Creek and tributaries, from Utah-Idaho state line to					TABLE			
headwaters	2B 3	A	4	Anderson Meadow Reservoir		2B 3A		4
Johnson Creek and tributaries, from Utah-Idaho state line to				Manderfield Reservoir		2B 3A		4
headwaters	2B 3	A	4	LaBaron Reservoir		2B 3A		4
Birch Creek and tributaries, from state line to headwaters	2B 3	A	4	Kent's Lake	2B 3A		4	
Pole Creek and tributaries, from state line to headwaters	2B 3	Δ	4	Minersville Reservoir		2B 3A	3D	4
Goose Creek and tributaries	2B 3		4	Puffer Lake		2B 3A		
Hardesty Creek and tributaries,	25 0			Three Creeks Reservoir		2B 3A		4
from state line to headwaters	2B 3	А	4	b. Box Elder County				
Meadow Creek and tributaries, from state line to headwaters	2B 3	A	4	Cutlon December (including	TABLE			
13.9 All irrigation canals and ditches statewide,				Cutler Reservoir (including portion in Cache County)		2B 3B	3D	4
except as otherwise designated 13.10 All drainage canals and	2B	3	E 4	Etna Reservoir		2B 3A		4
ditches statewide, except as otherwise designated	2B	3	BE	Lynn Reservoir		2B 3A		4
13.11 National Wildlife Refu	ges and State			Mantua Reservoir		2B 3A		4
Waterfowl Management Area	S			Willard Bay Reservoir	1C 2A	2B 3B	3D	4
TABLE				c. Cache County				
Bear River National Wildlife Refuge, Box Elder County		3B 3D			TABLE			
Brown's Park Waterfowl Management	9	A 2D		Hyrum Reservoir Newton Reservoir	ZA	2B 3A ** 2B 3A		4
Area, Daggett County Clear Lake Waterfowl Management	3	A 3D		Porcupine Reservoir		2B 3A		4
Area, Millard County		3C 3D		Pelican Pond		2B 3B		4
Desert Lake Waterfowl Management Area, Emery County		3C 3D		Tony Grove Lake		2B 3A		4
Farmington Bay Waterfowl				d. Carbon County				
Management Area, Davis and Salt Lake Counties		3C 3D			TABLE			

Grassy Trail Creek Reservoir

e. Daggett County

Olsen Pond

Scofield Reservoir

3C 3D

3C 3D

3C 3D

1C 2B 3A

1C 2B 3A

2B 3B

4

4

Howard Slough Waterfowl Management Area, Weber County Locomotive Springs Waterfowl

Fish Springs National Wildlife Refuge, Juab County Harold Crane Waterfowl Management Area, Box Elder County

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TABLE	Hoover Lake	2B 3A	4

	TABLE			Hoover Lake		2B 3A	4	
Browne Reservoir		2B 3A	4	Island Lake	2B 3	3A	4	
Daggett Lake		2B 3A	4	Jean Lake		2B 3A	4	
Flaming Gorge Reservoir (Utah portion)	1C 2.	A 2B 3A	4	Jordan Lake		2B 3A	4	
Long Park Reservoir	10	2B 3A	4	Kidney Lake		2B 3A	4	
Sheep Creek Reservoir		2B 3A	4	Kidney Lake West		2B 3A	4	
Spirit Lake		2B 3A	4	Lily Lake		2B 3A	4	
Upper Potter Lake		2B 3A	4	Midview Reservoir (Lake Boreham)		2B 3B	4	
f. Davis County				Milk Reservoir		2B 3A	4	
	TABLE			Mirror Lake		2B 3A	4	
Farmington Ponds		2B 3A	4	Mohawk Lake		2B 3A	4	
Kaysville Highway Ponds		2B 3A	4	Moon Lake	1C	2A 2B 3.		
Holmes Creek Reservoir		2B 3B	4	North Star Lake		2B 3A	4	
g. Duchesne County				Palisade Lake		2B 3A	4	
	TABLE			Pine Island Lake		2B 3A	4	
Allred Lake		2B 3A	4	Pinto Lake		2B 3A	4	
Atwine Lake		2B 3A	4	Pole Creek Lake		2B 3A	4	
Atwood Lake		2B 3A	4	Potter's Lake		2B 3A	4	
Betsy Lake		2B 3A	4	Powell Lake		2B 3A	4	
Big Sandwash Reservoir	10	2B 3A	4	Pyramid Lake		2B 3A	4	
Bluebell Lake		2B 3A	4	Queant Lake		2B 3A	4	
Brown Duck Reservoir		2B 3A	4	Rainbow Lake		2B 3A	4	
Butterfly Lake		2B 3A	4	Red Creek Reservoir		2B 3A 2B 3A	4	
Cedarview Reservoir		2B 3A	4	Rudolph Lake			4	
Chain Lake #1		2B 3A	4	Scout Lake		2B 3A	4	
Chepeta Lake		2B 3A	4	Spider Lake		2B 3A 2B 3A	4	
Clements Reservoir		2B 3A	4	Spirit Lake Starvation Reservoir	1C 2A		4	
Cleveland Lake		2B 3A	4			2B 3A	4	
Cliff Lake		2B 3A	4	Superior Lake Swasey Hole Reservoir		2B 3A	4	
Continent Lake		2B 3A	4	Taylor Lake		2B 3A	4	
Crater Lake		2B 3A	4	Thompson Lake		2B 3A	4	
Crescent Lake		2B 3A	4	Timothy Reservoir #1		2B 3A	4	
Daynes Lake		2B 3A	4	Timothy Reservoir #6		2B 3A	4	
Dean Lake		2B 3A	4	Timothy Reservoir #7		2B 3A	4	
Doll Lake		2B 3A	4	Twin Pots Reservoir		2B 3A	4	
Drift Lake		2B 3A	4	Upper Stillwater Reservoir		2B 3A	4	
Elbow Lake		2B 3A	4	X - 24 Lake		2B 3A	4	
Farmer's Lake		2B 3A	4	h. Emery County		20 0/1		
Fern Lake		2B 3A	4	• •				
Fish Hatchery Lake		2B 3A	4	TABLE				
Five Point Reservoir		2B 3A	4	Cleveland Reservoir		2B 3A	4	
Fox Lake Reservoir		2B 3A	4	Electric Lake		2B 3A	4	
Governor's Lake		2B 3A	4	Huntington Reservoir		2B 3A	4	
Granddaddy Lake		2B 3A	4	Huntington North Reservoir	2A		4	
				Joe's Valley Reservoir	2A	2B 3A	4	

Millarite Reservoir	UAC (As of February 1, 2004)	Pri	nted: N	Лау 1, 2004	Page 60	
Second Lake	Millsite Reservoir	1C 2A 2B 3A	4	East Canyon Reservoir	1C 2A 2B 3A 4	
Part	i. Garfield County			Lost Creek Reservoir	1C 2B 3A 4	
Particulation	TABLE			o. Piute County		
Cyclore Lake		2B 3A	4	TAE	BLE	
Deer Lake		2B 3A	4	Barney Reservoir	2B 3A 4	
Control Cont		2B 3A	4		2B 3A 4	
Steen Creek Reservoir 25 3A 4 5 1 1 1 1 1 1 1 1 1	Jacob's Valley Reservoir	2B 3C 3	D 4	Manning Meadow Reservoir	2B 3A	
Note Reservoir 28 3	Lower Bowns Reservoir	2B 3A	4	4		
Panguitch Lake	North Creek Reservoir	2B 3A	4			
Price Cake Part	Panguitch Lake	2B 3A	4			
Pleasant Lake	Pine Lake	2B 3A	4	•	2B 3A 4	
Person Care Person Person Care Person P	Oak Creek Reservoir (Upper Bowns)	2B 3A	4	p. Rich County		
Purple Lake	Pleasant Lake	2B 3A	4	TAE	BLE	
Rati Lake	Posey Lake	2B 3A	4	Bear Lake (Utah portion)	2A 2B 3A 4	
Now Lake #3	Purple Lake	2B 3A	4	Birch Creek Reservoir	2B 3A 4	
No Lake 7	Raft Lake	2B 3A	4	Little Creek Reservoir	2B 3A 4	
Sepectacle Reservoir	Row Lake #3	2B 3A	4	Woodruff Creek Reservoir	2B 3A 4	
Tropic Reservoir	Row Lake #7	2B 3A	4	q. Salt Lake County		
Mest Deer Lake	Spectacle Reservoir	2B 3A	4	TAE	BLE	
Nide Hollow Reservoir 28 3A 4 Little Dell Reservoir 10 28 3A 28 3A 38 34 38	Tropic Reservoir	2B 3A	4	Decker Lake	2B 3B 3D 4	
Newcastle Reservoir 10 28 34	West Deer Lake	2B 3A	4	Lake Mary	1C 2B 3A	
Newcastle Reservoir 2B 3A 4 Blanding Reservoir #4 1C 2B 3A 4 A A A A A A A A	Wide Hollow Reservoir	2B 3A	4	Little Dell Reservoir	1C 2B 3A	
Newcastle Reservoir 2B 3A 4 TABLE Red Creek Reservoir 2B 3A 4 Blanding Reservoir #4 1C 2B 3A 4 Yankee Meadow Reservoir 2B 3A 4 Dark Canyon Lake 1C 2B 3A 4 K. Juab County Ken's Lake 2B 3A* 4 Chicken Creek Reservoir 2B 3C 3D 4 Lloyd's Lake 1C 2B 3A 4 Chicken Creek Reservoir 2B 3B 3B 4 Monticello Lake 2B 3A 4 Sevier Bridge (Yuba) Reservoir 2A 2B 3B 3B 4 Recapture Reservoir 2B 3A 4 I. Kane County S. Sampete County TABLE TABLE TABLE Navajo Lake 2B 3A 4 Duck Fork Reservoir 2B 3A 4 M. Millard County Fairview Lakes 1C 2B 3A 4 DMAD Reservoir 2B 3B 3B 4 Ferron Reservoir 2B 3A 4 Gunnison Reservoir (Pruess Lake) 2B 3B 3C 3D 4 Gunnison Reservoir 2B 3A 4 Gunnison Bend Reservoir (Pruess Lake) 2B 3B 3C 3D 4 Miller Flat Reservoir	j. Iron County			Mountain Dell Reservoir	1C 2B 3A	
Name Red Creek Reservoir 2B 3A 4 Blanding Reservoir #4 1C 2B 3A 4 4 4 4 4 4 4 4 4	TABLE			r. San Juan County		
Yankee Meadow Reservoir 2B 3A 4 Dark Canyon Lake 1C 2B 3A 4 A k. Juab County Ken's Lake 2B 3A** 4 A	Newcastle Reservoir	2B 3A	4	TAE	BLE	
K. Juab County Ken's Lake 2B 3A** 4 Chicken Creek Reservoir 2B 3C 3D 4 Chicken Creek Reservoir 2B 3A 4 Chicken Creek Reservoir Cab 3A 4 Chicken Creek Reservoir Cab 3A 4 Chock Fork Reservoir TABLE TABLE TABLE Fairview Lakes 1C 2B 3A 4 Cab 3A 4 Chower Gooseberry Reservoir 1C 2B 3A 4 Cap 3B 3A 4 <th colspa<="" td=""><td>Red Creek Reservoir</td><td>2B 3A</td><td>4</td><td>Blanding Reservoir #4</td><td>1C 2B 3A 4</td></th>	<td>Red Creek Reservoir</td> <td>2B 3A</td> <td>4</td> <td>Blanding Reservoir #4</td> <td>1C 2B 3A 4</td>	Red Creek Reservoir	2B 3A	4	Blanding Reservoir #4	1C 2B 3A 4
TABLE Lake Powell (Utah portion) 1C ZA ZB 3B 3B 4 Chicken Creek Reservoir 2B 3C 3D 4 Lloyd's Lake 1C 2B 3A 4 4 Mona Reservoir 2B 3B 3B 4 4 Monticello Lake 2B 3A 4 4 Sevier Bridge (Yuba) Reservoir 2B 3B 3B 4 4 Recapture Reservoir 2B 3B 3B 4 4 I. Kane County TABLE TABLE TABLE TABLE TABLE TABLE TABLE Fairview Lakes 1C 2B 3A 4 4 DMAD Reservoir 2B 3B 4 4 Gunnison Reservoir 1C 2B 3A 4 4 Fools Creek Reservoir 2B 3B 4 4 Gunnison Reservoir 1C 2B 3A 4 4 Garrison Reservoir (Pruess Lake) 2B 3B 4 4 Miller Flat Reservoir 2B 3B 4 4 Gunnison Bend Reservoir 2B 3B 3B 4 Miller Flat Reservoir 2B 3B 3B 4 4 Miller Flat Reservoir 2B 3B 3B 4 Miller Flat Reservoir 2B 3B	Yankee Meadow Reservoir	2B 3A	4	Dark Canyon Lake	1C 2B 3A 4	
Chicken Creek Reservoir 2B 3C 3D 4 Lloyd's Lake 1C 2B 3A 4 Mona Reservoir 2B 3B 4 Monticello Lake 2B 3A 4 Sevier Bridge (Yuba) Reservoir 2A 2B 3B 4 Recapture Reservoir 2B 3A 4 I. Kane County TABLE TAB	k. Juab County			Ken's Lake	2B 3A** 4	
Chicken Creek Reservoir 2B	TABLE			Lake Powell (Utah portion)	1C 2A 2B 3B 4	
Mona Reservoir 2B 3B 4 Monticello Lake 2B 3A 4 Sevier Bridge (Yuba) Reservoir 2A 2B 3B 4 Recapture Reservoir 2B 3A 4 I. Kane County TABLE TABLE TABLE TABLE TABLE TABLE Fairview Lakes 1C 2B 3A 4 DMAD Reservoir 2B 3B 4 Gunnison Reservoir 1C 2B 3A 4 Fools Creek Reservoir 2B 3B 4 Gunnison Reservoir 1C 2B 3A 4 Garrison Reservoir (Pruess Lake) 2B 3B 4 Miller Flat Reservoir 2B 3A 4 Gunnison Bend Reservoir 2B 3B 4 Miller Flat Reservoir 2B 3A 4 Miller Flat Reservoir 2B 3A 4 Ninemile Reservoir 2B 3A 4		2B 3C 3	D 4	Lloyd's Lake	1C 2B 3A 4	
Sevier Bridge (Yuba) Reservoir 2A 2B 3B 4 Recapture Reservoir 2B 3A Recapture Reserv				Monticello Lake	2B 3A 4	
Navajo Lake			4	Recapture Reservoir	2B 3A 4	
TABLE TABLE TABLE TABLE TABLE Ferron Reservoir 12 28 3A 4 DMAD Reservoir 12 28 3A 4 Erron Reservoir 12 28 3A 4 Countison Reservoir 12 28 3A 4 Island Lake 28 3A 4 Miller Flat Reservoir 28 3A 4 Miller Flat Reservoir 28 3A 4 Palisade Reservoir 28 3A 4 A palisade Reservoir 28 3A 4 Palisad				s. Sanpete County		
Navajo Lake 2B 3A 4 Duck Fork Reservoir 2B 3A 4 m. Millard County Fairview Lakes 1C 2B 3A 4 DMAD Reservoir 2B 3B 3B 4 4 Lower Gooseberry Reservoir 1C 2B 3A 4 Fools Creek Reservoir 2B 3B 3C 3D 4 4 Gunnison Reservoir 2B 3C 3D 4 1sland Lake 2B 3A 4 Gunnison Reservoir (Pruess Lake) 2B 3B 3B 4 4 Miller Flat Reservoir 2B 3A 4 Gunnison Bend Reservoir 2B 3B 3B 4 Miller Flat Reservoir 2B 3A 4 Morgan County Palisade Reservoir 2B 3A 3B 4 4	•			TAE	BLE	
m. Millard County Fairview Lakes 1C 2B 3A 4 Ferron Reservoir 2B 3A 4 DMAD Reservoir 2B 3B 3B 4 Lower Gooseberry Reservoir 1C 2B 3A 4 Fools Creek Reservoir 2B 3B 3C 3D 4 Gunnison Reservoir 2B 3C 3D 4 Island Lake 2B 3A 4 Garrison Reservoir (Pruess Lake) 2B 3B 4 Miller Flat Reservoir 2B 3A 4 Gunnison Bend Reservoir 2B 3B 3B 4 Miller Flat Reservoir 2B 3A 4 Ninemile Reservoir 2B 3A 4 Palisade Reservoir 2B 3A 4		20.24	4			
Ferron Reservoir 2B 3A 4		ZB 3A	4			
TABLE Lower Gooseberry Reservoir 1C 2B 3A 4 DMAD Reservoir 2B 3B 3C 3D 4 Gunnison Reservoir 2B 3C 3D 4 Island Lake 2B 3A 4 Garrison Reservoir (Pruess Lake) 2B 3B 4 Miller Flat Reservoir 2B 3A 4 Gunnison Bend Reservoir 2B 3A 4 Ninemile Reservoir 2B 3A 4 Palisade Reservoir 2A 2B 3A 4	m. Millard County					
DMAD Reservoir 2B 3B 4 Gunnison Reservoir 2B 3C 4 Fools Creek Reservoir 2B 3C 3D 4 Island Lake 2B 3A 4 Gunnison Reservoir (Pruess Lake) 2B 3B 4 Miller Flat Reservoir 2B 3A 4 Gunnison Bend Reservoir 2B 3B 4 Ninemile Reservoir 2B 3A 4 Nonemile Reservoir 2B 3A 4 4 A	TABLE					
Garrison Reservoir (Pruess Lake) 2B 3B 4 Miller Flat Reservoir 2B 3A 4 Gunnison Bend Reservoir 2B 3A 4 Ninemile Reservoir 2B 3A 4 Ninemile Reservoir 2B 3A 4 Palisade Reservoir 2B 3A 4 Palisade Reservoir 2B 3A 4	DMAD Reservoir	2B 3B	4	·	2B 3C 4	
Garrison Reservoir (Pruess Lake) 2B 3B 4 Miller Flat Reservoir 2B 3A 4 Gunnison Bend Reservoir 2B 3B 4 Ninemile Reservoir 2B 3A 4 Nonemile Reservoir 2B 3A 4		2B 3C 3	D 4			
Gunnison Bend Reservoir 2B 3B 4 n. Morgan County Palisade Reservoir 2B 3A 4 Palisade Reservoir 2A 2B 3A 4		2B 3B	4			
Palisade Reservoir ZA ZB 3A 4	Gunnison Bend Reservoir	2B 3B	4		2B 3A 4	
TABLE	n. Morgan County			Palisade Reservoir	2A 2B 3A 4	
	TABLE			Rolfson Reservoir	2B 3C 4	

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Twin Lakes	2B 3A	4	Lower Red Castle Lake	2B 3A	4
Willow Lake	2B 3A	4	Lyman Lake	2A 2B 3A	4
t. Sevier County			Marsh Lake	2B 3A	4
·	TABLE		Marshall Lake	2B 3A	4
Annabella Reservoir	2B 3A	4	McPheters Lake	2B 3A	4
Big Lake	2B 3A	4	Meadow Reservoir	2B 3A	4
Farnsworth Lake	2B 3A	4	Meeks Cabin Reservoir	2B 3A	4
Fish Lake	2B 3A	4	Notch Mountain Reservoir	2B 3A	4
Forsythe Reservoir	2B 3A	4	Red Castle Lake	2B 3A	4
Johnson Valley Reservoir	2B 3A	4	Rockport Reservoir	1C 2A 2B 3A	4
Koosharem Reservoir	2B 3A	4	Ryder Lake	2B 3A	4
Lost Creek Reservoir	2B 3A	4	Sand Reservoir	2B 3A	4
Redmond Lake	2B 3B	4	Scow Lake	2B 3A	4
Rex Reservoir	2B 3A	4	Smith Moorehouse Reservoir	1C 2B 3A	4
Salina Reservoir	2B 3A	4	Star Lake	2B 3A	4
Sheep Valley Reservoir	2B 3A	4	Stateline Reservoir	2B 3A	4
u. Summit County			Tamarack Lake	2B 3A	4
	TADIF		Trial Lake	1C 2B 3A	4
Abes Lake	TABLE 2B 3A	4	Upper Lyman Lake	2B 3A	4
Alexander Lake	2B 3A	4	Upper Red Castle	2B 3A	4
Amethyst Lake	2B 3A	4	Wall Lake Reservoir	2B 3A	4
Beaver Lake	2B 3A	4	Washington Reservoir	2B 3A	4
Beaver Meadow Reservoir	2B 3A	4	Whitney Reservoir	2B 3A	4
Big Elk Reservoir	2B 3A	4	v. Tooele County		
Blanchard Lake	2B 3A	4	TABLE		
Bridger Lake	2B 3A	4	Blue Lake	2В	3B 4
China Lake	2B 3A	4	Clear Lake	2B :	3B 4
Cliff Lake	2B 3A	4	Grantsville Reservoir	2B 3A	4
Clyde Lake	2B 3A	4	Horseshoe Lake	2B :	3B 4
Coffin Lake	2B 3A	4	Kanaka Lake	2B	3B 4
Cuberant Lake	2B 3A	4	Rush Lake	2B	3B
East Red Castle Lake	2B 3A	4	Settlement Canyon Reservoir	2B 3A	4
Echo Reservoir	1C 2A 2B 3A	4	Stansbury Lake	2B :	3B 4
Fish Lake	2B 3A	4	Vernon Reservoir	2B 3A	4
Fish Reservoir	2B 3A	4	w. Uintah County		
Haystack Reservoir #1	2B 3A	4	TABLE		
Henry's Fork Reservoir	2B 3A	4	Ashley Twin Lakes (Ashley Creek)	1C 2B 3A	4
Hoop Lake	2B 3A	4	Bottle Hollow Reservoir	2B 3A	4
Island Lake	2B 3A	4	Brough Reservoir	2B 3A	4
Island Reservoir	2B 3A	4	Calder Reservoir	2B 3A	4
Jesson Lake	2B 3A	4	Crouse Reservoir	2B 3A	4
Kamas Lake	2B 3A	4	East Park Reservoir	2B 3A	4
Lily Lake	2B 3A	4	Fish Lake	2B 3A	4
Lost Reservoir	2B 3A	4	Goose Lake #2	2B 3A	4

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Matt Warner Reservoir	2B 3A	4					
Oaks Park Reservoir	2B 3A	4	13.13 Great Sal ** For site speci		ture criter	ia See	Table 2 14
Paradise Park Reservoir	2B 3A	4	Footnote 3.	ne tempera	iture errier	ia sec	14010 2.14.
Pelican Lake	2B 3B	4	TABLE				
Red Fleet Reservoir	1C 2A 2B 3A	4	4 Box Elder, Davis, Salt Lake,				
Steinaker Reservoir	1C 2A 2B 3A	4	Tooele, and Weber Coun	:y			5
Towave Reservoir	2B 3A	4	13.14 Unclassif All waters not		classified	are n	resumntivel
Weaver Reservoir	2B 3A	4	classified as 2B, 3D.	pecifically	Classifica	are p	resumptive
Whiterocks Lake	2B 3A	4	R317-2-14. Numerio	Criteria.			
Workman Lake	2B 3A	4		TABLE 2.	14 1		
x. Utah County				IC CRITERIA ION, AND AG	FOR DOMEST		
TABLE				nestic	Recreatio		Agri-
Salem Pond	2A 3A	4		ource 1C	Aesthet		culture 4
Silver Flat Lake Reservoir	2B 3A	4	BACTERIOLOGICAL (30-DAY GEOMETRIC		C ZA ZB		·
Tibble Fork Resevoir	2B 3A	4	MEAN) (NO.)/100 M	.) (7)			
Utah Lake	2B 3B	3D 4	Max. Total Colifo Max. Fecal Colifo		1000 200	5000 200	
y. Wasatch County			PH YS I CAL				
TABLE			pH (RANGE)	6.5-9.0	6.5-9.0	6.5-9	0 6.5-9.0
Currant Creek Reservoir	1C 2B 3A	4	Turbidity Increas (NTU)	9	10	10	
Deer Creek Reservoir	1C 2A 2B 3A	4	METALS (DISSOLVE	O, MAXIMUM			
Jordanelle Reservoir	1C 2A 3A	4	MG/L) (2) Arsenic	0.01		0.1	
Mill Hollow Reservoir	2B 3A	4	Barium Cadmium	1.0 0.01			0.01
Strawberry Reservoir	1C 2B 3A	4	Chromium Copper	0.05			0.10 0.2
z. Washington County			Lead Mercury	0.05 0.002 0.05		0.05	0.1
TABLE			Selenium Silver	0.05		0.0	,
Baker Dam Reservoir	2B 3A	4	INORGANICS (MAXIMUM MG/L)				
Gunlock Reservoir	1C 2A 2B 3B	4	Boron				0.75
Ivins Reservoir	2B 3B	4	Fluoride (3) Nitrates as N	1.4-2.4 10			0.75
Kolob Reservoir	2B 3A	4	Total Dissolved Solids (4)	Irrigat	ion		1200
Lower Enterprise Reservoir	2B 3A	4	RADIOLOGICAL	Stock W			2000
Quail Creek Reservoir	1C 2A 2B 3B	4	(MAXIMUM pCi/L)				
Upper Enterprise Reservoir	2B 3A	4	Gross Alpha Radium 226, 228	15			15
aa. Wayne County			(Combined) Strontium 90	5 8			
TABLE			Tritium	20000			
Blind Lake	2B 3A	4	ORGANICS (MAXIMUM UG/L)				
Cook Lake	2B 3A	4	Chlorophenoxy				
Donkey Reservoir	2B 3A	4	Herbicides 2,4-D	100			
Fish Creek Reservoir	2B 3A	4	2,4,5-TP	10			
Mill Meadow Reservoir	2B 3A	4	Methoxychlor	100			
Raft Lake	2B 3A	4	POLLUTION INDICATORS (5)				
bb. Weber County			Gross Beta (pCi/L	50			50
TABLE	00.04		BOD (MG/L) Nitrate as N (MG/ Total hosphorus		5 4	5 4	5
Causey Reservoir	2B 3A	4	(MG/L)(6)		0.05	0.05	
	10 04 00 04++		FOOTNOTEC.				

1C 2A 2B 3A**

FOOTNOTES:

Pineview Reservoir

(1) Reserved (2) The dissolved metals method involves filtration of the sample in the field, acidification of the sample in the field, no digestion process in the laboratory, and analysis by atomic absorption or inductively coupled plasma (ICP) spectrophotometry. (3) Maximum concentration varies according to the daily maximum mean air temperature.

maximum mean air temperature.

TEMP (C)	MG/L
12.0 12.1-14.6 14.7-17.6 17.7-21.4 21.5-26.2	2.4 2.2 2.0 1.8 1.6
26 3-32 5	1 4

(4) Total dissolved solids (TDS) limits may be adjusted if such adjustment does not impair the designated beneficial use of the receiving water. The total dissolved solids (TDS) standards shall be at background where it can be shown that natural or un-alterable conditions prevent its attainment. In such cases rulemaking will be undertaken to modify the standard accordingly.

Site Specific Standards for Total Dissolved Solids (TDS) Onion Creek: Confluence with Colorado River to road crossing above Stinking Springs, 3000 mg/l.

- (5) Investigations should be conducted to develop more information where these pollution indicator levels are exceeded.
 (6) Total Phosphorus as P (mg/l) indicator for lakes and reservoirs shall be 0.025.
 (7) Exceedences of bacteriological numeric criteria from nonhuman nonpoint sources will generally be addressed through appropriate Federal, State, and Local nonpoint source programs.

TABLE 2.14.2 NUMERIC CRITERIA FOR AQUATIC WILDLIFE

Parameter	Aquatio 3A	wildlife 3B	3C	3D
PHYSICAL				
Total Dissolved	(4)	(4)		
Gases	(1)	(1)		
Minimum Dissolved Oxyg	en			
(MG/L) (2)			. .	F 0
30 Day Average	6.5	5.5	5.0	5.0
7 Day Average	9.5/5.0		2.0	2.0
1 Day Average	8.0/4.0		3.0	3.0
Max. Temperature(C)(3)	20	27	27	
Max. Temperature	2	4	4	
Change (C)(3)	6.5-9.0			6 5 0 0
pH (Range)	0.5-9.0	0.5-9.0	6.5-9.0	6.5-9.0
Turbidity Increase (NTU)	10	10	15	15
METALS (4)	10	10	15	15
(DISSOLVED,				
UG/L)(5)				
Aluminum				
4 Day Average (6)	87	87	87	87
	750	750	750	750
Arsenic (Trivalent)	,	, 55	,	,
4 Day Average	150	150	150	150
	340	340	340	340
Cadmium (7)				
4 Day Average	0.25	0.25	0.25	0.25
1 Hour Average	2.0	2.0	2.0	2.0
Chromium				
(Hexavalent)				
4 Day Average	11	11	11	11
1 Hour Average	16	16	16	16
Chromium				
(Trivalent) (7)				
4 Day Average	74	74	74	74
1 Hour Average	570	570	570	570
Copper (7)	•	0		
4 Day Average	9	9	9	9
1 Hour Average	13	13	13	13
Cyanide (Free)	E 2	F 2	E 2	
4 Day Average 1 Hour Average	5.2 22	5.2 22	5.2 22	22
Iron (Maximum)	1000	1000	1000	1000
Lead (7)	1000	1000	1000	1000
4 Day Average	2.5	2.5	2.5	2.5
1 Hour Average	65	65	65	65
Mercury	55	00	55	
4 Day Average	0.012	0.012	0.012	0.012
1 Hour Average	2.4	2.4	2.4	2.4
~				

	N: 1 1 /2)				
	Nickel (7) 4 Day Average	52	52	52	52
	1 Hour Average Selenium	470	470	470	470
	4 Day Avana	4.6	4.6	4.6	4.6
	1 Hour Average Silver	18.4	18.4	18.4	18.4
	1 Hour Average (7)	1.6	1.6	1.6	1.6
	Zinc (7) 4 Day Average	120	120	120	120
	1 Hour Average	120	120	120	120
	INORGANICS (MG/L) (4)				
	Total Ammonia as N (9)				
	30 Day Average 1 Hour Average	(9a) (9b)	(9a) (9b)	(9b)	(9b)
	Chlorine (Total	(30)	(30)	(30)	(55)
	Residual) 4 Day Average	0.011	0 011	0.011	
	l Hour Average	0.019	0.011 0.019	0.019	(7)
	Hydrogen Sulfide (13) (Undissociated,				
	Max. UG/L)	2.0	2.0	2.0	2.0
	Phenol (Maximum) RADIOLOGICAL	0.01	0.01	0.01	0.01
	(MAXIMUM pCi/L)				
	Gross Alpha (10) ORGANICS (UG/L) (4)	15	15	15	15
	Aldrin				
	1 Hour Average Chlordane	1.5	1.5	1.5	1.5
	4 Day Average	0.0043		0.0043	0.0043
	1 Hour Average 4,4' -DDT	1.2	1.2	1.2	1.2
	4 Day Average	0.0010	0.0010	0.0010	0.0010
	1 Hour Average 0.55 Dieldrin	0.55			
	4 Day Average	0.056	0.056	0.056	0.056
	1 Hour Average Alpha-Endosulfan	0.24	0.24	0.24	0.24
	4 Day Average	0.056 0.11	0.056 0.11	0.056	0.056
	1 Hour Average beta-Endosulfan		0.11	0.11	0.11
	4 Day Average	0.056	0.056	0.056	0.056
	1 Day Average Endrin	0.11	0.11	0.11	0.11
	4 Day Average 1 Hour Average	0.036	0.036 0.086	0.036 0.086	0.036
	Heptachlor	0.086	0.000	0.000	0.086
	4 Day Average 1 Hour Average	0.0038	0.0038 0.26	0.0038	0.0038
	Heptachlor epoxide				0.20
	4 Day Average 1 Hour Average 0.26		0.0038 0.26		0.0038
	Hexachlorocyclohexane	0.20	0.20	0.20	
	(Lindane) 4 Day Average	0.08	0.08	0.08	0.08
	1 Hour Average	1.0	1.0	1.0	1.0
	Methoxychlor (Maximum)	0.03	0.03	0.03	0.03
	Mirex (Maximum)	0.001	0.001	0.001	0.001
	Parathion 4 Day Average	0.013	0.013	0.013	0.013
	1 Hour Average		0.066		0.066
	PCB's 4 Day Average	0.014	0.014	0.014	0.014
	Pentachlorophenol (11) 4 Day Average	15	15	15	15
	1 Hour Average 19	19	19	19	
	Toxaphene 4 Day Average	0.0002	0.0002	0.0002	0.0002
	1 Hour Average	0.73	0.73	0.73	0.73
	POLLUTION INDICATORS (11)				
	Gross Beta (pCi/L)	50 5	50 5	50 5	50 5
	BOD (MG/L) Nitrate as N (MG/L)	4	4	4	J
	Total Phosphorus as P (MG/L) (12)		0.05	0.05	
	FOOTNOTES:			0.00	
	 Not to exceed 110% These limits are no 			wer water	·]evelc
٠,	_, incoc initios are no	. uppiice		watel	

(2) These limits are not applicable to lower water levels in deep impoundments. First number in column is for when early life stages are present, second number is for when all other life stages present.

(3) The temperature standard shall be at background where

it can be shown that natural or un-alterable conditions prevent its attainment. In such cases rulemaking will be

Site Specificen's Lake: (4) Where coll-hour average colle exceeded more average. (5) The distinction of the sample in the field, no digestatomic absorption plasma (ICP). (6) The critifollows: Where thardness is equal receiving water a (expressed as toil	dify the standard accord ic Standards for Tempera's From June 1 ³¹ - Septembe riteria are listed as 4-c oncentrations, these concoften than once every the field, acidification of ion process in the laboran spectrophotometry or interion for aluminum will he pH is equal to or greater than 50 1 after mixing, the 87 ug/tal recoverable) will not	ture' r 20th, 27 degrees C. day average and centrations should not hree years on the clives filtration of f the sample in the atory, and analysis by inductively coupled be implemented as ater than 7.0 and the opm as CaCO3 in the 1 chronic criterion t apply, and aluminum		7.5 7.6 7.7 7.8 7.9 3.0 3.1 3.2 3.3 3.4 3.5 3.6 3.7 3.8			13 11 9. 8. 6. 5. 4. 3. 2. 2. 1. 1.	.4 65 11 77 62 64 83 15 59 14 77 47 23			19.9 17.0 14.4 12.1 10.1 8.40 5.72 4.71 3.88 3.20 2.65 2.20 1.84 1.56 1.32		
aluminum criterio (7) Hardness Conversion factor dissolved metals	d based on compliance wit on (expressed as total re s dependent criteria. 10 rs for ratio of total re must also be applied.	ecoverable). 00 mg/l used. coverable metals to In waters with a			30 -DA'		AGE (CH AL AMMO				ION OF		
assume a hardness	than 400 mg/l as CaCO3, s of 400 mg/l as CaCO3. ns for hardness and conve	See Table 2.14.3 for	nН	0				rat ure	, C			28	30
(8) Reserve. (9) The fol' criteria concent: (9a) The thin introgen (in mg/ three years on tusing the follow. Fish Early Life S mg/l as N (Chr. * 1.45*10°.\beside 10 w. * 1.45*10°.\beside 10 w. titnee years on tusing the follow. Class 3A: mg/l as N (AcClass 3B, 3C, 3D mg/l as	d lowing equations are user rations: rty-day average concentral as N) does not exceed, he average, the chronic of ing equations. Stages are Present: onic) = ((0.0577/1+10 ^{7.608-p} onic) = (0.0577/1+10 ^{7.608-p} onic) = (0.0575/1+10 ^{7.608-p}	d to calculate Ammonia ation of total ammonia more than once every criterion calculated "") + (2.487/1+10 ^{PH-7.688})) -PH) + (2.487/1+10 ^{PH-7.688})) ion of total ammonia more than once every terion calculated "")) + (39.0/1+10 ^{PH7.204})) b) + (58.4/(1+10 ^{PH-7.204})) c within the 30-day hronic criterion. 30-day average total ault unless it is ecific basis, that it ife Stages are	pH 6.6 6.7 6.8 7.0 7.1 7.3 7.4 7.6 7.7 8.1 8.2 8.3 8.5 8.6 8.9 9.0	0 6.67 6.47 6.49 6.29 6.12 5.91 5.67 5.39 5.08 4.73 3.58 2.80 2.43 3.58 2.10 1.79 1.52 1.09 0.92 0.66 0.56 0.49	6.57 6.44 6.29 6.12 5.91 5.67 5.39 4.73 4.36 3.58 3.18 2.40 1.79 1.52 1.29 0.92 0.78 0.56	5.72 5.56 5.37 4.90 4.61 4.30 3.97 3.61 3.25 2.54 2.21 1.91 1.63 1.39 0.84 0.71 0.60 0.5	5.25 5.15 5.03 4.89 4.72 4.53 4.31 4.06 3.78 3.18 2.86 2.54 1.94 1.63 1.22 1.03 0.87 0.73 0.62 0.54	4.61 4.52 4.30 4.15 3.98 3.78 3.57 3.36 2.79 2.51 2.23 1.96 1.71 1.47 0.76 0.65 0.65 0.46	4.05 3.98 3.78 3.65 3.50 3.33 3.13 2.99 2.45 2.21 1.96 1.73 1.50 1.29 1.11 0.94 0.80 0.57 0.48 0.41 0.41	3.56 3.50 3.42 3.21 3.08 2.92 2.76 2.57 2.16 1.73 1.52 1.14 0.97 0.83 0.70 0.59 0.42 0.31	3.13 3.07 3.000 2.92 2.82 2.70 2.57 2.42 2.26 2.08 1.90 1.71 1.52 1.33 1.16 1.00 0.86 0.73 0.62 0.52 0.44 0.37	2.75 2.70 2.64 2.57 2.48 2.38 2.13 1.98 1.83 1.50 1.33 1.17 0.88 0.75 0.64 0.46 0.39 0.46 0.39 0.28	2.42 2.37 2.32 2.25 2.18 2.09 1.87 1.74 1.61 1.47 1.03 0.90 0.77 0.66 0.48 0.40 0.34 0.29 0.24
the year. At a r Present" criterion through the end on include the pre-	minimum, the "Fish Early on will apply from the bo of the early life stages hatch embryonic stage, tl	Life Stages are eginning of spawning . Early life stages he post-hatch free			30 -DA'		AGE (CH				ION OF		
species of fish e will consult with	ac fry stage, and the lame expected to occur at the h the Division of Wildli	site. The division fe Resources in making	рН		0-7	Fish E	arly L Tempe 9	ife St rature 10		bsent 12	13	14	16
regarding the wai of the "Early Li- to be appropriat. (10) Invest information wher (11) pH depo Table 2.14.4 for (12) Total I reservoirs shall (13) Formula	igation should be conducted these levels are exceet endent criteria. pH 7.8 equation. Phosphorus as P (mg/1) in be 0.025.	ds where application iterion is determined ted to develop more ded. used in table. See ndicator for lakes and	6.5 6.6 6.7 6.8 6.9 7.1 7.2 7.3 7.4 7.5 7.7	8 8 -	10.8 10.7 10.5 10.2 10.2 9.93 9.60 9.20 8.75 8.24 7.69 7.09	10.1 10.1 9.99 9.81 9.31 9.00 8.63 8.20 7.73 7.21 6.64 6.05	9.51 9.37 9.20 8.98 8.73 8.43 8.09 7.69 7.25 6.76 6.23 5.67	8.92 9.37 8.62 8.42 8.19 7.91 7.58 7.21 6.79 6.33 5.84 5.32	8.36 8.79 8.08 7.90 7.68 7.41 7.11 6.76 6.37 5.94 4.99	7.84 8.24 7.58 7.40 7.20 6.95 6.67 6.34 5.97 5.57 5.13	7.36 7.72 7.11 6.94 6.75 6.52 6.25 5.94 5.60 5.22 4.81	6.89 6.7.24 6.66 5.51 5.86 5.57 6.25 6.89 6.51 5.25 6.89 6.51 5.25 6.89 6.51 5.25 6.89 6.51 5.25 6.89 6.51 5.25 6.89 6.51 5.51 5.25 6.89 6.51 5.51 5.25 6.89 6.51 5.51 5.25 6.89 6.51 5.51 5.25 6.89 6.51 5.51 5.25 6.89 6.51 5.51 5.25 6.89 6.51 5.51 5.25 6.89 6.51 5.51 5.25 6.89 6.51 5.51 5.25 6.89 6.51 5.51 5.25 6.89 6.51 5.51 5.25 6.89 6.51 5.51 5.25 6.89 6.51 5.51 5.25 6.89 6.51 5.25 6.89 6.51 5.25 6.89 6.51 5.25 6.89 6.51 5.25 6.89 6.51 5.25 6.89 6.51 5.25 6.89 6.51 5.25 6.89 6.51 5.25 6.89 6.51 5.25 6.51 5.25 6.89 6.51 5.25 6.89 6.51 5.25 6.89 6.51 5.25 6.89 6.51 5.51 5.25 6.89 6.51 5.51 5.25 6.89 6.51 5.51 5.25 6.89 6.51 5.51 5.25 6.89 6.51 5.25 6.25 6.25 6.25 6.25 6.25 6.25 6.25	6.06 6.36 5.86 5.72 5.56 5.37 5.15 4.90 4.61 4.30 3.97 3.61 3.25
1-HC	TABLE DUR AVERAGE (ACUTE) CONCE TOTAL AMMONIA AS N (N		7.8 7.9 8.0 8.1		5.17 1.54 3.95	4.84 4.26 3.70	4.54 3.99 3.47	4.26 3.74 3.26	3.99 3.51	3.74 3.29 2.86	3.51 3.09 2.68	3.29 2 2.89 2 2.52 2	2.89 2.54 2.21 1.91
pH 6.5 6.6 6.7 6.8 6.9 7.0 7.1 7.2 7.3	Class 3A 32.6 31.3 29.8 28.1 26.2 24.1 22.0 19.7 17.5	Class 3B, 3C, 3D 48.8 46.8 44.8 42.0 39.1 36.1 32.8 29.5 26.2 23.0	8.23 8.4 8.5 8.6 8.7 8.9 9.0 pH 6.5 6.6	(2.91 2.47 2.09 1.77 1.49 1.26 1.07 0.917 0.790 18 5.33	2.73 2.32 1.96 1.66 1.40 1.18 1.01 0.860 0.740	2.56 2.18 1.84 1.55 1.31 1.11 0.944 0.806 .694 22 4.12	2.40 2.04 1.73 1.46 1.23 1.04 0.885 0.758 0.651 24 3.62	2.25 1 1.91 1.62 1.37 1.15 0.976 0	2.11 1.79 1.52 1.28 1.08 0.915 0.778 0.664 0.572 28 2.80	1.98 1.68 1.42 1.20 1.01 0.858 0.729 0.623	1.85 1.58	1.63 1.39 1.17 0.990 0.836 0.707 0.601 0.513

6.7 6.8 6.9	5.15 4.52 3.98 3.50 3.07 2.70 2.37 5.03 4.42 3.89 3.42 3.00 2.64 2.32 4.89 4.30 3.78 3.32 2.92 2.57 2.25	TABLE 2.14.4 EQUATIONS FOR PENTACHLOROPHENOL (pH DEPENDENT)			
7.0 7.1 7.2	4.72 4.15 3.65 3.21 2.82 2.48 2.18 4.53 3.98 3.50 3.08 2.70 2.38 2.09 4.41 3.78 3.33 2.92 2.57 2.26 1.99	4-Day Average (Chronic) Concentration (UG/L)		lour Average (Acute) centration (UG/L)	
7.3 7.4	4.06 3.57 3.13 2.76 2.42 2.13 1.87 3.78 3.32 2.92 2.57 2.26 1.98 1.74 3.49 3.06 2.69 2.37 2.08 1.83 1.61	e ^{(1.005(pH))-5.134}		.005(pH))-4.869	
7.5 7.6 7.7 7.8 7.9 8.0 8.1	3.49 3.06 2.69 2.37 2.08 1.83 1.61 3.18 2.79 2.45 2.16 1.90 1.67 1.47 2.86 2.51 2.21 1.94 1.71 1.50 1.32 2.54 2.23 1.96 1.73 1.52 1.33 1.17 2.24 1.96 1.73 1.52 1.33 1.17 1.03 0.94 1.71 1.50 1.32 1.16 1.02 0.897 0.68 1.47 1.29 1.14 1.00 0.879 0.733	SITE SPEC DISSOLVED OXYGEN FOR JORDA	ABLE 2.14.5 CIFIC CRITERIA NN RIVER AND S SECTION 2.13)	SURPLUS CANAL SEGMENTS	
8.12 8.3 8.4 8.5 8.6 8.7 8.8 8.9 9.0	0.43 1.26 1.11 0.073 0.855 0.752 0.661 0.22 1.07 0.941 0.827 0.727 0.639 0.562 0.30 0.966 0.796 0.700 0.615 0.541 0.475 0.870 0.765 0.672 0.591 0.520 0.457 0.401 0.735 0.646 0.568 0.499 0.439 0.396 0.339 0.622 0.547 0.480 0.422 0.371 0.326 0.287 0.528 0.464 0.408 0.359 0.315 0.277 0.244 0.451 0.397 0.349 0.349 0.360 0.269 0.237 0.208 0.389 0.342 0.300 0.264 0.232 0.204 0.179	DISSOLVED OXYGEN: May-July 7-day average 30-day average Instantaneous minimum August-April 30-day average Instantaneous minimum	5.5 mg/ 5.5 mg/ 4.5 mg/ 5.5 mg/ 4.0 mg/	(1 (1 (1	
	TABLE 2.14.3a				
	EQUATIONS TO CONVERT TOTAL RECOVERABLE METALS	LIST OF HUMAN HEA	ABLE 2.14.6 LTH CRITERIA	(CONSUMPTION)	
W	ITH HARDNESS (1) DEPENDENCE TO DISSOLVED METALS BY APPLICATION OF A CONVERSION FACTOR (CF).		Parameter	Water and Organism Organism Only	
Parameter	4-Day Average (Chronic) Concentration (UG/L)	(Cl Antimony	ug/L) ass 1C 5.6	(ug/L) Class 3A,3B,3C,3D 640	
CADMIUM	CF * e ^{[1.0166[in[hardness]] -3.924} CF = 1.136672 - (In hardness) (0.041838)	Arsenic Beryllium	A C	A C	
CHROMIUM		Cadmium Chromium III Chromium VI Copper	C C C 1,300	C C C	
COPPER	$CF * e^{(0.8545(1n(hardness))-1.702)}$ CF = 0.960	Lead Mercury Nickel	C A 610	C A 4,600	
LEAD	CF * $e^{(1.273\{\ln(\hbar ardness)\}-4.705)}$ CF = 1.46203 - (ln hardness)(0.145712)	Selenium Silver Thallium	A 1.7	4,200 6.3	
NICKEL	CF * e ^(0.8460[ln[hardness])*0.0584) CF = 0.997	Zinc Cyanide Asbestos	7,400 700 7 million	26,000 220,000	
SILVER	N/A	2,3,7,8-TCDD Dioxin	Fibers/L 5.0 E -9 B	5.1 E-9 B	
ZINC	$Cf * e^{\{0.8473\{1n\{hardness\}\}+0.884\}}$ $CF = 0.986$	Acrolein Acrylonitrile Benzene	190 0.051 B 2.2 B	290 0.25 B 51 B	
	TABLE 2.14.3b	Bromoform Carbon Tetrachloride	4.3 B 0.23 B	140 B 1.6 B	
W	EQUATIONS TO CONVERT TOTAL RECOVERABLE METALS ITH HARDNESS (1) DEPENDENCE TO DISSOLVED METALS BY APPLICATION OF A CONVERSION FACTOR (CF).	Chlorobenzene Chlorodibromomethane Chloroethane 2-Chloroethylvinyl Ether	680 0.40 B	21,000 13 B	
Parameter	1-Hour Average (Acute) Concentration (UG/L)	Chloroform Dichlorobromomethane 1,1-Dichloroethane	5.7 B 0.55 B	470 B 17 B	
CADMIUM	CF * e $(1.0166[\ln(hardness)] - 3.924]$ CF = 1.136672 - (ln hardness) (0.041838)	1,2-Dichloroethane 1,1-Dichloroethylene 1,2-Dichloropropane	0.38 B 0.057 B 0.50 B	37 B 3.2 B 15 B	
CHROMIUM	(III) CF * e ^{(0.8190[ln(hardness]) +3.7256)} CF = 0.316	1,3-Dichloropropene Ethylbenzene	10 3,100 47	1,700 29,000	
COPPER	CF * e ^{(0.9422(In(hardness))- 1.700)} CF = 0.960	Methyl Bromide Methyl Chloride Methylene Chloride 1,1,2,2-Tetrachloroethane	F 4.6 B 0.17 B	1,500 F 590 B 4.0 B	
LEAD	CF * e ^{(1.273(1n(hardness))-1.460)} CF = 1.46203 - (ln hardness)(0.145712)	Tetrachloroethylene Toluene 1,2 -Trans-Dichloroethylene	0.69 B 6,800 700	3.3 B 200,000 140,000	
NICKEL	CF * e ^{(0.8460[1n(hardness)]} *2.255 CF= 0.998	1,1,1-Trichloroethane 1,1,2-Trichloroethane Trichloroethylene	F 0.59 B 2.5 B	F 16 B 30 B	
SILVER	$CF * e^{(1.72(1n(hardness)) - 6.59}$ CF = 0.85	Vinyl Chloride 2-Chlorophenol 2,4-Dichlorophenol	2.0 B 81 77	530 B 150 290	
ZINC	$CF * e^{(0.8473(1n(hardness)) *0.884}$ CF = 0.978	2,4-Dimethylphenol 2-Methyl-4,6-Dinitrophenol 2,4-Dinitrophenol	380 13.0 69	850 280 5,300	
	NOTE: Hardness as mg/l CaCO ₃ .	2-Nitrophenol 4-Nitrophenol 3-Methyl-4-Chlorophenol			
(1)	παι απόσσ ασ πι ι θ/ ι τατος.	Penetachlorophenol Phenol	0.27 B 21,000	3.0 B 1,700,000	

2,4,6-Trichlorophenol Acenaphthene	1.4 B 670	2.4 B 990				
Acenaphthylene Anthracene Benzidine BenzoaAnthracene BenzoaPyrene BenzobFluoranthene	8,300 0.000086 B 0.0038 B 0.0038 B 0.0038 B	40,000 0.00020 B 0.018 B 0.018 B 0.018 B				
BenzoghiPerylene BenzokFluoranthene	0.0038 B	0.018 B				
Bis2-ChloroethoxyMethane Bis2-ChloroethylEther Bis2-ChloroisopropylEther Bis2-EthylbexylPhthalate	0.030 B 1,400 1.2 B	0.53 B 65,000 2.2 B				
4-Bromophenyl Phenyl Ether Butylbenzyl Phthalate 2-Chloronaphthalene 4-Chlorophenyl Phenyl Ether	1,500 1,000	1,900 1,600				
Chrysene Dibenzoa, hAnthracene 1,2-Dichlorobenzene 1,3-Dichlorobenzene 1,4-Dichlorobenzidine Diethyl Phthalate Dimethyl Phthalate Di-n-Butyl Phthalate 2,4-Dinitrotoluene 2,6-Dinitrotoluene	0.0038 B 0.0038 B 2,700 320 400 0.021 B 17,000 270,000 2,000 0.11 B	0.018 B 0.018 B 17,000 960 2,600 0.028 B 44,000 1,100,000 4,500 3.4 B				
Di-n-Octyl Phthalate 1,2-Diphenylhydrazine	0.036 B	0.20 B				
Fluoranthene Fluorene Hexachlorobenzene Hexachlorobutedine Hexachlorocyclopentadiene Ideno 1,2,3-cdPyrene Isophorone	130 140 1,100 0.00028 B 0.44 B 1.4 B 240 0.0038 B 35 B	5,300 0.00029 B 18 B 3.3 B 17,000 0.018 B 960 B				
Naphthalene Nitrobenzene N-Nitrosodimethylamine N-Nitrosodi-n-Propylamine N-Nitrosodiphenylamine	17 0.00069 B 0.005 B 3.3 B	690 3.0 B 0.51 B 6.0 B				
Phenanthrene Pyrene 1,2,4-Trichlorobenzene Aldrin alpha-BHC beta-BHC gamma-BHC (Lindane)	830 260 0.000049 B 0.0026 B 0.0091 B 0.019 B	4,000 940 0.000050 B 0.0049 B 0.017 B 0.063 B				
delta-BHC Chlordane 4,4-DDT 4,4-DDE 4,4-DDD Dieldrin alpha-Endosulfan beta-Endosulfan Endosulfan Sulfate Endrin Endrin Aldehyde Heptachlor Epoxide Polychlorinated Biphenyls	0.00080 B 0.00022 B 0.00022 B 0.00031 B 0.000052 B 62 62 62 0.76 0.29 0.000079 B 0.000064 B	0.00081 B 0.00022 B 0.00022 B 0.00031 B 0.000054 B 89 99 0.81 0.30 0.000079 B 0.000039 B				
PCB's Toxaphene	0.000064 B,D 0.00028 B	0.000064 B,D 0.00028 B				
Footnotes: A. See Table 2.14.2 B. Based on carcinogenicity of 10-6 risk. C. EPA has not calculated a human criterion for this contaminant. Hoever, permit authorities should address this contaminant in NPDES permit actions using the State's existing narrative criteria for toxics D. This standard applies to total PCBs.						

KEY: water pollution, water quality standards January 6, 2004 Notice of Continuation October 7, 2002

R382. Health, Children's Health Insurance Program. R382-10. Eligibility.

R382-10-1. Authority.

This rule sets forth the eligibility requirements for coverage under the Children's Health Insurance Program. It is authorized by Title 26, Chapter 40.

R382-10-2. Definitions.

- (1) The Department adopts the definitions found in Sections 2110(b) and (c) of the Social Security Act as enacted by Pub. L. No. 105-33 which are incorporated by reference in this rule.
- (2) The following additional definitions also apply:(a) "Applicant," means a child on whose behalf an application has been made for benefits under the Children's Health Insurance Program, but who is not an enrollee.
- (b) "Best estimate" means the Department's determination of a household's income for the upcoming eligibility period, based on past and current circumstances and anticipated future
- (c) "Children's Health Insurance Program" or "CHIP" means the program for benefits under the Utah Children's Health Insurance Act, Title 26, Chapter 40.
 (d) "Department" means the Utah State Department of
- (e) "Income averaging" means a process of using a history of past or current income and averaging it over a determined period of time that is representative of future income.
- (f) "Income anticipating" means a process of using current facts regarding rate of pay, number of working hours, and expected changes to anticipate future income.
- (g) "Income annualizing" means a process of determining the average annual income of a household, based on the past history of income and expected changes.
- (h) "Local office" means any Bureau of Eligibility Services office location, outreach location, or telephone location where an individual may apply for medical assistance.
- (i) "Renewal month" means the last month of the eligibility period for an enrollee.
- (i) "Verifications" means the proofs needed to decide if a child meets the eligibility criteria to be enrolled in the program. Verifications may include hard copy documents such as a birth certificate, computer match records such as Social Security benefits match records, and collateral contacts with third parties who have information needed to determine the eligibility of a child.

R382-10-3. Actions on Behalf of a Minor.

- (1) A parent or an adult who has assumed responsibility for the care or supervision of a child may apply for CHIP enrollment, provide information required by this rule, or otherwise act on behalf of a child in all respects under the statutes and rules governing the CHIP program.
- (a) The child, if 18 years old or an emancipated minor, the child's parent or legal guardian must indicate in writing to the Department who is authorized as the child's representative.
- (b) The executive director of the Department or his designee may designate an authorized representative if the child needs a representative but is unable to make a choice either in writing or orally in the presence of a witness.
- (2) Where the statutes or rules governing the CHIP program require a child to take an action, the parent or adult who has assumed responsibility for the care or supervision of the child is responsible to take the action on behalf of the child. If the parent or adult who has assumed responsibility for the care or supervision of the child fails to take an action, the failure is attributable as the child's failure to take the action.
- (3) Notice to the parent or adult who has assumed responsibility for the care or supervision of the child is notice to

the child.

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R382-10-4. Applicant and Enrollee Rights and Responsibilities.

- (1) A parent or an adult who has assumed responsibility for the care or supervision of a child may apply or reapply for Children's Health Insurance Program benefits on behalf of a child during an open enrollment period. An emancipated child or an 18 year old child may apply on his own behalf.
- (2) The applicant must provide the Department with verifications to establish the eligibility of the child, including information about the parents.
- (3) Anyone may look at the eligibility policy manuals located at any local office, except at outreach or telephone
- (4) The parent or other individual who arranged for medical services on behalf of the child shall repay the Department for services paid for by the Department under this program if the child is determined not to be eligible for CHIP.
- (5) The parent(s) or child, or other responsible person acting on behalf of a child must report certain changes to the local office within ten days of the day the change becomes known. Some examples of reportable changes include:
- (a) An enrollee begins to receive coverage under a group health plan or other health insurance coverage.
- (b) An enrollee begins to have access to coverage under a group health plan or other health insurance coverage.
 - (c) An enrollee leaves the household or dies.
 - (d) An enrollee or the household moves out of state.
 - (e) Change of address of an enrollee or the household.
- (f) An enrollee enters a public institution or an institution for mental diseases.
- (6) Applicants and enrollees have the right to be notified about actions the agency takes regarding their eligibility or continued eligibility, the reason the action was taken, and the right to request an agency conference or agency action.

R382-10-5. Verification and Information Exchange.

- (1) The applicant and enrollee upon renewal must provide verification of eligibility factors as requested by the Department.
- (2) The Department may release information concerning applicants and enrollees and their households to other state and federal agencies to determine eligibility for other public assistance programs.
- (3) The Department must release information to the Title IV-D agency and Social Security Administration to determine
- (4) The Department may verify information by exchanging information with other public agencies as described in 42 CFR 435.945, 435.948, 435.952, 435.955, and 435.960, 1997 edition.

R382-10-6. Citizenship and Alienage.

- (1) To be eligible to enroll in the program, a child must be a citizen of the United States or a qualified alien as defined in Pub. L. No. 104-193(401) through (403), (411), (412), (421) through (423), (431), and (435), and amended by Pub. L. No. 105-33(5302)(b) and (c), (5303), (5305)(b), (5306), (5562), (5563), and (5571).
- (2) Hmong or Highland Lao veterans who fought on behalf of the Armed Forces of the United States during the Vietnam conflict and who are lawfully admitted to the United States for permanent residence, and their family members who are also qualified aliens, may be eligible to enroll in the program regardless of their date of entry into the United States.
- (3) One adult household member must declare the citizenship or alien status of all applicants in the household. The applicant must provide verification of his citizenship or

- (4) A qualified alien, as defined in Pub. L. No. 104-193(431) and amended by Pub. L. No. 105-33(5302)(c)(3), (5562), and (5571), admitted into the United States prior to August 22, 1996, may enroll in the program.
- (5) A qualified alien, as defined in Pub. L. No. 104-193(431) and amended by Pub. L. No. 105-33(5302)(c)(3), (5562), and (5571), newly admitted into the United States on or after August 22, 1996, may enroll in the program after five years have passed from his date of entry into the United States.

R382-10-7. Utah Residence.

- (1) A child must be a Utah resident to be eligible to enroll in the program.
- (2) An American Indian child in a boarding school is a resident of the state where his parents reside. A child in a school for the deaf and blind is a resident of the state where his parents reside.
- (3) A child is a resident of the state if he is temporarily absent from Utah due to employment, schooling, vacation, medical treatment, or military service.
- (4) The child need not reside in a home with a permanent location or fixed address.

R382-10-8. Residents of Institutions.

- (1) Residents of institutions described in Section 2110(b)(2)(A) of the Social Security Act as enacted by Pub. L. No. 105-33 are not eligible for the program.
- (2) A child under the age of 18 is not a resident of an institution if he is living temporarily in the institution while arrangements are being made for other placement.
- (3) A child who resides in a temporary shelter for a limited period of time is not a resident of an institution.

R382-10-9. Social Security Numbers.

- (1) The Department may request applicants to provide the correct Social Security Number (SSN) or proof of application for a SSN for each household member at the time of application for the program.
- (2) A child may not be denied CHIP enrollment for failure to provide a SSN.

R382-10-10. Creditable Health Coverage.

- (1) To be eligible for enrollment in the program, a child must meet the requirements of Sections 2110(b)(1)(C) and (2)(B) of the Social Security Act as enacted by Pub. L. No. 105-33.
- (2) A child who is covered under a group health plan or other health insurance coverage including coverage under a parent's or legal guardian's employer, as defined by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), is not eligible for CHIP assistance.
- (3) A child who is covered under an absent parent's insurance coverage that does not provide coverage in the State of Utah is eligible for enrollment.
- (4) A child who is covered under a group health plan or other health coverage but has reached the lifetime maximum coverage under that plan is eligible for enrollment.
- (5) A child who has access to health insurance coverage through an employer where the cost to enroll the child in the plan is less than 5% of the household's gross annual income, is not eligible for CHIP assistance. The child is considered to have access to coverage even if the employer offers coverage only during an open enrollment period.
- (6) The Department shall deny eligibility if the applicant or a custodial parent has voluntarily terminated health insurance coverage in the 90 days prior to the application date for enrollment under CHIP.
- (a) An applicant or applicant's parent(s) who voluntarily terminates coverage under a COBRA plan or under the Health

- Insurance Pool (HIP), or who is involuntarily terminated from an employer's plan is eligible for CHIP without a 90 day waiting period.
- (b) An applicant who voluntarily terminates health insurance coverage purchased after the previous CHIP open enrollment period ended but before the beginning of the current open enrollment period and who met CHIP eligibility requirements at the time of purchase, is eligible for CHIP without a 90 day waiting period.
- (7) A child with creditable health coverage operated or financed by the Indian Health Services is not excluded from enrolling in the program.
- (8) An applicant must report at application and renewal whether any of the children in the household for whom enrollment is being requested has access to or is covered by a group health plan, other health insurance coverage, or a state employee's health benefits plan.
- (9) The Department shall deny an application or renewal if the enrollee fails to respond to questions about health insurance coverage for children the household seeks to enroll or renew in the program.

R382-10-11. Household Composition.

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- (1) The following individuals who reside together must be included in the household for purposes of determining the household size and whose income will be counted, whether or not the individual is eligible to enroll in the program:
- (a) A child who meets the CHIP age requirement and who does not have access to and is not covered by a group health plan or other health insurance;
- (b) Siblings, half-siblings, adopted siblings, and stepsiblings of the child who meets the CHIP age requirement if these individuals also meet the CHIP age requirement;
- (c) Parents and stepparents of any child who is included in the household size;
 - (d) Children of any child included in the household size;
- (e) The spouse of any child who is included in the household size; and
- (f) Unborn children of anyone included in the household
- (2) Any individual described in Subsection (1) of this Section who is temporarily absent solely by reason of employment, school, training, military service, or medical treatment, or who will return home to live within 30 days from the date of application, is part of the household.
- (3) A household member described in Subsection (1) of this Section who does not qualify to enroll in the CHIP program due to his alien status is included in the household size and his income is counted as household income.
- (4) If an individual is caring for a child of his or her former spouse, in a case in which a divorce has been finalized, the child may be included in the household if the child resides in the home.

R382-10-12. Age Requirement.

- (1) A child must be under 19 years of age to enroll in the program.
- (2) The month in which a child's 19th birthday occurs is the last month of eligibility for CHIP enrollment.

R382-10-13. Income Provisions.

To be eligible to enroll in the Children's Health Insurance Program, gross household income must be equal to or less than 200% of the federal non-farm poverty guideline for a household of equal size. All gross income, earned and unearned, received by the parents and step-parents of any child who is included in the household size, is counted toward household income, unless this section specifically describes a different treatment of the income.

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- (1) The Department does not count income that is defined in 20 CFR 416(K) Appendix, 1997 edition, which is adopted and incorporated by reference.
- (2) Any income in a trust that is available to, or is received by a household member, is countable income.
- (3) Payments received from the Family Employment Program, General Assistance, or refugee cash assistance or adoption support services as authorized under Title 35A, Chapter 3 is countable income.
- (4) Rental income is countable income. The following expenses can be deducted:
- (a) taxes and attorney fees needed to make the income available;
- (b) upkeep and repair costs necessary to maintain the current value of the property;
 - (c) utility costs only if they are paid by the owner; and
- (d) interest only on a loan or mortgage secured by the rental property.
- (5) Deposits to joint checking or savings accounts are countable income, even if the deposits are made by a non-household member. An applicant or enrollee who disputes household ownership of deposits to joint checking or savings accounts shall be given an opportunity to prove that the deposits do not represent income to the household. Funds that are successfully disputed are not countable income.
- (6) Cash contributions made by non-household members are counted as income unless the parties have a signed written agreement for repayment of the funds.
- (7) The interest earned from payments made under a sales contract or a loan agreement is countable income to the extent that these payments will continue to be received during the eligibility period.
- (8) In-kind income, which is goods or services provided to the individual from a non-household member and which is not in the form of cash, for which the individual performed a service or is provided as part of the individual's wages is counted as income. In-kind income for which the individual did not perform a service or did not work to receive is not counted as income.
- (9) SSI and State Supplemental Payments are countable income.
- (10) Death benefits are not countable income to the extent that the funds are spent on the deceased person's burial or last illness.
- (11) A bona fide loan that an individual must repay and that the individual has contracted in good faith without fraud or deceit, and genuinely endorsed in writing for repayment is not countable income.
- (12) Child Care Assistance under Title XX is not countable income.
- (13) Reimbursements of Medicare premiums received by an individual from Social Security Administration or the State Department of Health are not countable income.
- (14) Needs-based Veteran's pensions are not counted as income. If the income is not needs-based, only the portion of a Veteran's Administration check to which the individual is legally entitled is countable income.
- (15) Income of a child is excluded if the child is not the head of a household.
- (16) Educational income such as educational loans, grants, scholarships, and work-study programs are not countable income. The individual must verify enrollment in an educational program.
- (17) Reimbursements for expenses incurred by an individual are not countable income.
- (18) Any payments made to an individual because of his status as a victim of Nazi persecution as defined in Pub. L. No. 103-286 are not countable income, including payments made by the Federal Republic of Germany, Austrian Social Insurance

- payments, and Netherlands WUV payments.
- (19) Victim's Compensation payments as defined in Pub. L. No. 101-508 are not countable income.
- (20) Disaster relief funds received if a catastrophe has been declared a major disaster by the President of the United States as defined in Pub. L. No. 103-286 are not countable income.
- (21) Income of an alien's sponsor or the sponsor's spouse, is not countable income.

R382-10-14. Budgeting.

The following section describes methods that the Department will use to determine the household's countable monthly or annual income.

- (1) The gross income of all household members is counted in determining the eligibility of a child, unless the income is excluded under this rule. Only expenses that are required to make an income available to the individual are deducted from the gross income. No other deductions are allowed.
- (2) The Department shall determine monthly income by taking into account the months of pay where an individual receives a fifth paycheck when paid weekly, or a third paycheck when paid every other week. The Department shall multiply the weekly amount by 4.3 to obtain a monthly amount. The Department shall multiply income paid bi-weekly by 2.15 to obtain a monthly amount.
- (3) The Department shall determine a child's eligibility and cost-sharing requirements prospectively for the upcoming eligibility period at the time of application and at each renewal for continuing eligibility. The Department shall determine prospective eligibility by using the best estimate of the household's average monthly income that is expected to be received or made available to the household during the upcoming eligibility period. The Department shall prorate income that is received less often than monthly over the eligibility period to determine an average monthly income. The Department may request prior years' tax returns as well as current income information to determine a household's income.
- (4) Methods of determining the best estimate are income averaging, income anticipating, and income annualizing. The Department may use a combination of methods to obtain the most accurate best estimate. The best estimate may be a monthly amount that is expected to be received each month of the eligibility period, or an annual amount that is prorated over the eligibility period. Different methods may be used for different types of income received in the same household.
- (5) The Department shall determine farm and self-employment income by using the individual's recent tax return forms. If tax returns are not available, or are not reflective of the individual's current farm or self-employment income, the Department shall request income information from a recent time period during which the individual had farm or self-employment income. The Department shall deduct 40% of the gross income as a deduction for business expenses to determine the countable income of the individual. For individuals who have business expenses greater than 40%, the Department shall request expense information and deduct the expenses from the gross income. The Department shall deduct the same expenses from gross income that the Internal Revenue Service allows as self-employment expenses.
- (6) The Department may annualize income for any household and in particular for households that have self-employment income, receive income sporadically under contract or commission agreements, or receive income at irregular intervals throughout the year.

R382-10-15. Assets.

An asset test is not required for CHIP eligibility.

R382-10-16. Application and Renewal.

The application is the initial request from an applicant for CHIP enrollment for a child. The application process includes gathering information and verifications to determine the child's eligibility for enrollment in the program. Renewal is the process of gathering information and verifications on a periodic basis to determine continued eligibility of an enrollee.

- (1) The applicant must complete and sign a written application to become enrolled in the program.
- (2) The Department accepts any Department-approved application form for medical assistance programs offered by the state as an application for CHIP enrollment.
- (3) Individuals may apply for enrollment during open enrollment periods in person, through the mail, by fax, or online
- (4) A family who has a child enrolled in CHIP, may enroll a new child born to or adopted by a household member without waiting for the next open enrollment period.
- (5) The Department may interview applicants, the applicant's parents, and any adult who has assumed responsibility for the care or supervision of the child to assist in determining eligibility.
- (6) If eligibility for CHIP enrollment ends, the Department shall review the case for eligibility under any other medical assistance program without requiring a new application. The Department may request additional verification from the household if there is insufficient information to make a determination.

R382-10-17. Eligibility Decisions.

- (1) The Department must determine eligibility for CHIP within 30 days of the date of application. If a decision can not be made in 30 days because the applicant fails to take a required action and requests additional time to complete the application process, or if circumstances beyond the Department's control delay the eligibility decision, the Department shall document the reason for the delay in the case record. The Department must inform the applicant of the status of the application and the time frame for completing the application process.
- (2) The Department may not use the time standard as a waiting period before determining eligibility, or as a reason for denying eligibility because the Department has not determined eligibility within that time.
- (3) The Department shall complete a determination of eligibility or ineligibility for each application unless:
- (a) the applicant voluntarily withdrew the application and the Department sent a notice to the applicant to confirm the withdrawal;
 - (b) the applicant died; or
- (c) the applicant can not be located or has not responded to requests for information within the 30 day application period.
- (4) The Department must redetermine eligibility at least every 12 months.
- (5) At application and renewal, the Department must determine if any child applying for CHIP enrollment is eligible for coverage under Medicaid. A child who is eligible for Medicaid coverage is not eligible for CHIP. A child who must meet a spend-down to receive Medicaid and chooses not to meet the spenddown can be enrolled in CHIP.

R382-10-18. Effective Date of Enrollment and Renewal.

- (1) The effective date of CHIP enrollment is the date a completed and signed application is received by the Department. The Department may allow a grace enrollment period beginning no earlier than four days before the date a completed and signed application is received by the Department. The Department shall not pay for any services received before the effective enrollment date.
 - (2) For a family who has a child enrolled in CHIP and who

- adds a newborn or adopted child, the effective date of enrollment is the date of birth or adoption if the family requests the coverage within 30 days of the birth or adoption. If the request is made more than 30 days after the birth or adoption, enrollment in CHIP will be effective beginning the date of report, except as otherwise provided in R382-10-18 (1).
- (3) The effective date of enrollment for a renewal is the first day of the month after the renewal month, if the renewal process is completed by the end of the renewal month, or by the last day of the month immediately following the renewal month, and the child continues to be eligible.
- (4) If the renewal process is not completed by the end of the renewal month, the case will be closed unless the enrollee has good cause for not completing the renewal process on time. Good cause includes a medical emergency, death of an immediate family member, or natural disaster, or other similar occurrence.
- (5) The Department may require an interview with the parent, child, or adult who has assumed responsibility for the care or supervision of a child, or other authorized representative as part of the renewal process.

R382-10-19. Open Enrollment Period.

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- (1) The Department accepts applications for enrollment at times when sufficient funding is available to justify enrolling more individuals. The Department limits the number it enrolls according to the funds available for the program.
- (a) The Department shall notify the public of the open enrollment period 10 days in advance through a newspaper of general circulation.
- (b) During an open enrollment period, the Department accepts applications in person, through the mail or online. The Department sorts applications according to the date received. When an application is received through the mail, the date of receipt is the date of the postmark. When an application is submitted online, the date of receipt is the date of electronic transmission. If the applications received on a day exceed the number of openings available, the Department shall randomize all applications for that day and select the number needed to fill the openings.
- (c) The Department will not accept applications prior to the open enrollment date.

R382-10-20. Enrollment Period.

- (1) The enrollment period begins with either the date of application, or an earlier date as defined in R382-10-18, if the applicant is determined eligible for CHIP enrollment. Covered services the child received on or after the effective date of enrollment are payable by CHIP for a child who was eligible upon application.
- (2) A child eligible for CHIP enrollment receives 12 months of coverage unless the child turns 19 years of age before the end of the 12-month enrollment period, moves out of the state, becomes eligible for Medicaid, begins to be covered under a group health plan or other health insurance coverage, or enters a public institution. The month a child turns 19 years of age is the last month the child is eligible for CHIP.

R382-10-21. Termination and Notice.

- (1) The Department shall notify an applicant or enrollee in writing of the eligibility decision made on the application or at renewal.
- (2) The Department shall notify an enrollee in writing ten days before taking a proposed action adversely affecting the enrollee's eligibility.
- (3) Notices under this section shall provide the following information:
 - (a) the action to be taken;
 - (b) the reason for the action;

- (c) the regulations or policy that support the action;(d) the applicant's or enrollee's right to a hearing;
- (e) how an applicant or enrollee may request a hearing; and
- (f) the applicant's or enrollee's right to represent himself,
- or use legal counsel, a friend, relative, or other spokesperson.

 (4) The Department need not give ten-day notice of termination if:
 - (a) the child is deceased;
- (b) the child has moved out of state and is not expected to return;
 - (c) the child has entered a public institution; or
- (d) the child has enrolled in other health insurance coverage, in which case eligibility may cease immediately and without prior notice.

R382-10-22. Case Closure or Withdrawal.

The department shall terminate a child's enrollment upon enrollee request or upon discovery that the child is no longer eligible. An applicant may withdraw an application for CHIP benefits any time prior to approval of the application.

KEY: children's health benefits January 5, 2004

Notice of Continuation June 10, 2003

26-1-5

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26-40

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-50. Dental, Oral and Maxillofacial Surgeons. R414-50-1. Introduction and Authority.

- (1) The Medicaid Oral and Maxillofacial Surgery Program provides a scope of oral and maxillofacial surgery services to meet the basic needs of Medicaid clients. This includes services by both oral and maxillofacial surgeons and general dentists if surgery is performed by a general dentist in an emergency situation and an oral and maxillofacial surgeon is not available.
- (2) Oral and maxillofacial surgery services are authorized by 42 USC 1396d(a)(5), which is adopted and incorporated by reference.

R414-50-2. Definitions.

Definitions for this rule are found in R414-1-1. In addition:

- (1) "Oral and Maxillofacial Surgeons" means those individuals who have completed a post-graduate curriculum from an accredited institution of higher learning and are board-certified or board-eligible in oral and maxillofacial surgery.
- (2) "Oral and maxillofacial surgery" means that part of dental practice which deals with the diagnosis and surgical and adjunctive treatment of diseases, injuries, and defects of the oral and maxillofacial regions.

R414-50-3. Client Eligibility Requirements.

Oral and maxillofacial surgery service is available to categorically and medically needy clients who are ages 20 and younger or who are pregnant. Dental services to non-pregnant adults ages 21 and older are limited to emergency services only.

R414-50-4. Program Access Requirements.

Oral and maxillofacial surgery services are available only from an oral and maxillofacial surgeon who is a Medicaid provider. These services are available from a dentist provider if an oral and maxillofacial surgeon is unavailable.

R414-50-5. Service Coverage.

- (1) Emergency services are covered services. Emergency services provided by a dentist in areas where an oral and maxillofacial surgeon is unavailable are covered services.
- (2) Appropriate general anesthesia necessary for optimal management of the emergency is a covered service.
- (3) Hospitalization of patients for dental surgery may be a covered service if a patient's physician, at the time of the proposed hospitalization, verifies that the patient's general health status dictates that hospitalization is necessary for the health and welfare of the patient.
- (4) Treatment of temporomandibular joint fractures is a covered service. All other temporomandibular joint treatments are not covered services.
- (5) For procedures requiring prior approval, Medicaid shall deny payment if the services are rendered before prior approval is obtained. Exceptions may be made for emergency services, or for recipients who obtain retroactive eligibility. The provider must apply for approval as soon as is practicable after the service is provided.
- (6) Extraction of primary teeth at or near the time of exfoliation, as evidenced by mobility or loosening of the teeth, is not a covered service.

R414-50-6. Reimbursement.

(1) Fees for services for which the Department will pay dentists are established from the physician's fees for CPT codes as described in the State Plan, Attachment 4.19-B, Section D Physicians. Fee schedules were initially established after consultation with provider representatives. Adjustments to the schedule are made in accordance with appropriations and to

produce efficient and effective services.

(2) The Department pays the lower of the amount billed and the rate on the schedule. A provider shall not charge the Department a fee that exceeds the provider's usual and customary charges for the provider's private-pay patients.

KEY: Medicaid January 28, 2004

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Notice of Continuation December 20, 1999

26-1-4.1 26-1-5

26-18-3

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-51. Dental, Orthodontia.

R414-51-1. Introduction and Authority.

- (1) The Medicaid Orthodontia Program provides orthodontia services for Medicaid eligible children who have a handicapping malocclusion as a result of birth defects, accident, or abnormal growth patterns, and for Medicaid eligible adults who have a handicapping malocclusion as a result of a recent accident or disease, of such severity that they are unable to masticate, digest, or benefit from their diet.
- (2) Orthodontia services are authorized by 42 CFR 440.100(a), 440.225, 441.56(b)(2), 441.57, October, 1997 ed, which are adopted and incorporated by reference.

R414-51-2. Definitions.

In addition to the definitions in R414-1, the following definitions also applies to this rule:

- (1) "Adult" means an individual who is 21 years of age or older;
- (2) "Child" means an individual who is under 21 years of age;
- (3) "Salzmann's Index" means the "Handicapping Malocclusion Assessment Record" by J. A. Salzmann, used for assessment of handicapping malocclusion, as adopted by the Board of Directors of the American Association of Orthodontists and the Council on Dental Health of the American Dental Association. This index provides a universal numerical measurement of the total malocclusion.

R414-51-3. Client Eligibility Requirements.

Orthodontia services are available for Medicaid eligible recipients.

R414-51-4. Program Access Requirements.

- (1) Orthodontia services are available to children who meet the requirements of having a handicapping malocclusion identified in an Early and Periodic Screening, Diagnosis and Treatment (EPSDT) exam.
- (2) The Department shall determine the medical necessity for orthodontia services for each individual whether child or adult based upon:
- (a) the evaluation of the malocclusion using the Salzmann's Index from models of the teeth submitted by the dentist or orthodontist; and
- (b) evidence of medical necessity provided by the primary dentist, the orthodontist, or the physician.
- (3) The primary care physician, or the physician or dentist who completes the EPSDT screening examination, may contribute information pertaining to the medical necessity for services.
 - (4) Qualified Providers.

Dentists, oral and maxillofacial surgeons, and orthodontists may provide any part of the orthodontic services for which they are qualified.

R414-51-5. Service Coverage.

- (1) Medicaid considers a Salzmann's Index score of 30 or more a level of handicapping malocclusion for which orthodontia is a covered service.
 - (2) Service coverage includes:
 - (a) a wax bite and study models of the teeth;
- (b) removal of teeth, or other surgical procedures, if necessary to prepare for an orthodontic appliance;
 - (c) attachment of an orthodontic appliance;
 - (d) adjustments of an appliance;
 - (e) removal of an appliance;
- (3) Dental surgical procedures which are cosmetic only are not covered services even when proposed in conjunction with

orthodontia.

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R414-51-6. Limitations.

Orthodontia is not a Medicaid benefit for:

- (1) cosmetic or esthetic reasons;
- (2) treatment of any temporo-mandibular joint condition or dysfunction;
- (3) conditions in which radiographic evidence of bone loss has been documented;
- (4) an adult whose handicapping malocclusion resulted from an accident or disease occurring more than one year from the date of request for services.

R414-51-7. Reimbursement.

- (1) Fees for services for which the Department will pay optometrists are established from the physician's fees for CPT codes as described in the State Plan, Attachment 4.19-B, Section D Physicians. Fee schedules were initially established after consultation with provider representatives. Adjustments to the schedule are made in accordance with appropriations and to produce efficient and effective services.
- (2) The Department pays the lower of the amount billed and the rate on the schedule. A provider shall not charge the Department a fee that exceeds the provider's usual and customary charges for the provider's private-pay patients.
- (3) The Department shall pay dentists in rural areas 120 percent of the Medicaid established dental fee. The Department shall pay dentist in urban areas 120 percent of the Medicaid established dental fee who agree in writing to treat 100 Medicaid eligible patients per year.

KEY: Medicaid, dental, orthodontia January 28, 2004 Notice of Continuation May 30, 2003

26-1-5 26-18-3 R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-53. Eyeglasses Services.

R414-53-1. Authority and Purpose.

Eyeglasses are authorized by 42 CFR, 440.120(d), October 1992 edition. The Eyeglasses Program provides eyeglasses services to meet the basic vision care needs of Medicaid recipients.

R414-53-2. Definitions.

"Eyeglasses" means lenses, including frames, contact lenses, and other aids to vision that are prescribed by a physician skilled in diseases of the eye or by an optometrist.

R414-53-3. Client Eligibility Requirements.

Eyeglasses are available to Categorically and Medically Needy clients who are ages 20 and younger or who are pregnant. Definitions of Categorically and Medically Needy individuals are found in R414-1-2.

R414-53-4. Service Coverage.

- (1) Corrective lenses and frames may be provided based on medical need. Medical need includes a change in prescription or replacement as a result of normal lens or frame wear. Frames must be those in which lenses can be replaced readily without having to provide a new frame. Corrective lenses must be suitable for indoor and outdoor use, and for day and night use.
- (2) Single vision, bifocal, or trifocal lenses, with or without slab-off prism, in clear glass or plastic, may be provided.
- (3) Only the least expensive frame practicable for use, either plastic or metal, may be provided.
- (4) Replacements for existing lenses or frames may be provided if the prescribing physician or optometrist declares them to be medically necessary. Eyeglasses may not be replaced more often than every two years unless the prescribing physician or optometrist declares an earlier replacement to be medically necessary. Circumstances which would warrant providing new eyeglasses or contact lenses, are a diopter change of .75 or more, or disease or damage to the eye. Eyeglasses or contact lenses may not be replaced if they were damaged through client negligence or abuse.
- (5) Frames which have hearing aids placed in the earpieces may be provided by the audiologist or hearing aid provider. Lenses for these frames must be dispensed by the prescribing physician or optometrist.
- (6) The following may be provided if the prescribing physician or optometrist declares them to be medically necessary:
 - (a) Contact lenses;
 - (b) Soft contact lenses;
 - (c) Gas permeable contact lenses;
- (d) Tints for eyeglasses or contact lenses where diseases or conditions are present which render the client unusually lightsensitive;
 - (e) Low vision aids.
 - (7) The following are not provided:
- (a) Additional eyeglasses such as reading glasses, distance glasses, or a "spare";
- (b) Extended wear contact lenses or disposable contact lenses.

R414-53-5. Reimbursement.

- (1) The Department pays for lenses and standard frames on a fee-for-service basis, based on CPT codes as described in the State Plan, Attachment 4.19-B.
- (2) The Department pays the lower of the amount billed and the rate on the schedule. A provider shall not charge the Department a fee that exceeds the provider's usual and

customary charges for the provider's private-pay patients.

- (2) Fee schedules were initially established after consultation with provider representatives. Adjustments to the schedule are made in accordance with appropriations and to produce efficient and effective services.
- (3) The Department pays the lower of the amount billed and the rate on the schedule. A provider shall not charge the Department a fee that exceeds the provider's usual and customary charges for the provider's private-pay patients.

KEY: Medicaid, eyeglasses January 28, 2004

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26-1-5

26-18-3

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

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R414-54. Speech-Language Pathology Services. R414-54-1. Introduction and Authority.

- (1) The Speech-Language Pathology Program provides speech-language services to meet the basic speech-language pathology needs of Medicaid clients and is limited to recipients age 20 and younger and pregnant adults.
- (2) Speech-language pathology services are described in 42 CFR, subsection 440.110(c)(1)(2), October 1997 edition, which is adopted and incorporated by reference.

R414-54-2. Definitions.

- (1) The definitions in the Speech-language Pathology and Audiology Licensing Act, Title 58, Chapter 41, apply to this rule.
- (2) In addition, "Client", "Categorically Needy", and "Medically Needy" have the same meanings as defined in R414-

R414-54-3. Client Eligibility Requirements.

Speech-language pathology services are available to Categorically Needy and Medically Needy individuals clients who are ages 20 and younger or who are pregnant.

R414-54-4. Program Access Requirements.

A physician must refer clients to a speech-language pathologist before any service may be provided.

R414-54-5. Service Coverage.

- (1) Speech-language services for individuals or groups with speech or language disorders or dysphagia include: evaluative, diagnostic, screening, treatment, preventive, and corrective processes. Only speech-language pathologists, or speech-language pathology aides under supervision of speech-language pathologists, may provide these services.
- (2) All services must be related to a medical need. Treatments for social, educational, and developmental needs, while important to the individual, are not covered services.
- (3) Only speech-language pathologists may bill for reimbursable services.

R414-54-6. Reimbursement.

- (1) The Department pays for speech and language pathology services according to an established fees schedule, based on CPT codes as described in the State Plan, Attachment 4.19-B. Fee schedules were initially established after consultation with provider representatives. Adjustments to the schedule are made in accordance with appropriations and to produce efficient and effective services.
- (2) The Department pays the lower of the amount billed and the rate on the schedule. A provider shall not charge the Department a fee that exceeds the provider's usual and customary charges for the provider's private-pay patients.

KEY: Medicaid January 28, 2004 26-1-5 Notice of Continuation March 31, 1999 26-18-3 R432. Health, Health Systems Improvement, Licensing. R432-1. General Health Care Facility Rules.

R432-1-1. Legal Authority.

This rule is adopted pursuant to Title 26, Chapter 21.

R432-1-2. Purpose.

The purpose of this rule is to define the standard terms for all licensed health care facilities and agencies.

R432-1-3. Definitions.

- (1) Terms used in this rule are defined in Section 26-21-2. In addition:
- (2) "AWOL/Elopement" means absence without leave; an unauthorized departure from the facility.
 - (3) "Abortion" is defined in Section 76-7-301(1).
 - (4) "Abuse" is defined in 62A-3-301 as:
- (a) attempting to cause, or intentionally or knowingly causing physical harm, or intentionally placing another in fear of imminent physical harm;
- (b) physical injury caused by criminally negligent acts or omissions:
 - (c) unlawful detention or unreasonable confinement;
 - (d) gross lewdness:
 - (e) deprivation of life sustaining treatment, except:
- (i) as provided in Title 75, Chapter 2, Part 11, Personal Choice and Living Will Act; or
- (ii) when informed consent, as defined in Section 76-5-111, has been obtained.
- (5) "Act" means the Health Facility Licensure and Inspection Act, Title 26, Chapter 21.
- (6) "Active Treatment" means the habilitative program of care for ICF/MR patients described in 42 CFR Part 483 (1983) that addresses training in daily living, self-help, and social skills; activities; recreation; appropriate staffing level; special resident programs; program evaluation; nursing services;
- documented resident surveys and progress; and social services.

 (7) "Activities of Daily Living" ("ADL") means those personal functional activities required for an individual for continued well-being; including eating/nutrition, mobility, dressing, bathing, toileting, and behavior management. ADLs are divided into the following levels:
- (a) "Independent" means the resident can perform the ADL without help.
- (b) "Assistance" means the resident can perform some part of an activity, but cannot do it entirely alone.
- (c) "Dependent" means the resident cannot perform any part of an activity; it must be done entirely by someone else.
- (8) "Administering" means the direct application of a prescription drug or device, whether by injection, inhalation, ingestion, or by any other means, to the body of a human patient or research subject by another person.
- (9) "Affiliation" means a relationship, usually signified by a written agreement, between two organizations, under the terms of which one organization agrees to provide specified services and personnel to meet the needs of the other, usually on a scheduled basis.
- (10) "Aftercare" means post-institution services designed to help a patient maintain or improve on the gains made during inpatient treatment.
- (11) "Aide or Attendant" means a person employed to assist in activities of daily living and in the direct personal care of patients.
- (12) "ADAAG" means the Americans with Disability Act
- Accessibility Guidelines, 28 CFR 36, Appendix A, July 1993.
 (13) "Ambulatory" means a person who is capable of achieving mobility sufficient to exit his residence without assistance of another person.
- (14) "Annual Report" means a document containing annual statistical information from a licensed health facility or

agency.

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- (15) "Assessment" means a process of observing, testing and evaluating a patient in order to obtain information.
 - (16) "Bathing Facility" means a bathtub or shower.
- (17) "Bed Capacity" means the maximum number of beds which the facility is licensed to offer for patient care.
- (18) "Behavior Management" means a planned, systematic application of methods and findings of behavioral science with the intent of reducing observable negative behaviors.
- (19) "Birthing Room" means a room and environment designed, equipped and arranged to provide for the care of a woman and newborn and to accommodate her support person(s) during the process of vaginal birth.
- (20) "Certificate of Completion" means a document issued by the Utah Board of Education to a person who completes an approved course of study not leading to a diploma; to a person who passes a challenge exam for that same course of study; or to a person whose out-of-state credentials and certificate are acceptable to the Board.
- (21) "Certified" means a health facility or agency which holds a current license issued by the Department, and which also meets the standards established for participation in federally funded programs, such as Medicare.
- (22) "Certified Nurse Aide" means a nursing assistant who has completed a federally approved training program and proved competency through testing, thereby he is entitled to be employed in a licensed health care facility or agency.
- (23) "Certified Registered Nurse Anesthetist" means a registered nurse who is licensed by the Utah Department of Commerce under Title 58 Chapter 31b.
- (24) "Certified Nurse Midwife" means an individual licensed to practice by the Utah Department of Commerce under Title 58, Chapter 44a.
- "Certified Social Worker" means an individual (25)licensed by the Utah Department Commerce under Title 58, Chapter 60.
- (26) "Chronic Noncompliance" means a violation of the same licensing administrative rule which is documented in any three inspections within a four year period. Inspections may include complaint investigations, surveys, or follow-up inspections on plans of correction, or any combination of these inspections that is documented by the Department, an accrediting organization or a federal agency.
- (27) "Clinical Note" means a dated, written notation by a member of the health team which indicates contact with a patient and describes any of the following: signs and symptoms of dysfunction, treatment given or medication administered, the patient's reaction, changes in physical or emotional condition, or services provided.
- (28) "Clinical Staff" means the physicians and certified providers appointed by the governing authority to practice within the health facility or agency.
- "Consultant" means an individual who provides professional services either upon request or on the basis of a prearranged schedule, usually on a contract basis, who is neither a member of the employed staff of the facility or agency, nor whose services are provided within the terms of an affiliation agreement.
- (30) "Continuous Noncompliance" means three or more violations of a single licensing rule requirement occurring within a 12-month time period.
- (31) "Contract Services" means services purchased by a health facility or agency under a contract with an individual or a provider whose personnel are not salaried employees of the facility or agency.
- (32) "Control Station" means a central office or area for charting, drug preparation, and other patient-care tasks normally performed at a nursing station.
 - (33) "Critical Care Unit" means a special physical and

functional unit for the segregation, concentration and close or continuous nursing observation and care of patients who are critically, seriously, or acutely ill.

- (34) "Day Treatment" means training and habilitation services delivered outside the patient's place of residence which are intended to aid the vocational, pre-vocational, and self-sufficiency skill development of an ICF/MR patient. These services must meet active treatment requirements and must be coordinated and integrated with the active treatment program of the facility or agency.
- (35) "Dentist" means a person registered and currently licensed by the Utah Department of Commerce under Title 58, Chapter 69
 - (36) "Department" means the Utah Department of Health.
- (37) "Developmental Disability" means a severe, chronic disability that meets all of the following conditions:
- (a) Is attributable to: cerebral palsy, epilepsy, autism; or any other condition, other than mental illness, closely related to mental retardation which results in impairment of general intellectual functioning adaptive behavior, or requires treatment or services similar to those required for mentally retarded persons;
 - (b) Is manifested before the person reaches the age of 22;
 - (c) Is likely to continue indefinitely; and
- (d) Results in substantial functional limitations in three or more of the following areas of major activity:
 - (i) self-care;
 - (ii) understanding and use of language;
 - (iii) learning:
 - (iv) mobility;
 - (v) self-direction; or
 - (vi) capacity for independent living.
- (38) "Dietitian" means a person who is certified pursuant to Title 58, Chapter 49.
- (39) "Direct Services" means services provided by salaried employees of a health facility or agency, as opposed to services provided by contract.
- (40) "Direct Supervision" means the critical observation and guidance by a qualified person of another person's activities or course of action.
- (41) "Discharge" means the point at which the patient's involvement with a facility or agency program is terminated and the facility or agency program no longer maintains active responsibility for the care of the patient.
- (42) "Distinct Part" means a discrete, physically definable entity located within a structure constructed and equipped according to applicable codes which:
- (a) provides within the structure the necessary unique physical facilities, equipment, staff, and supplies to deliver all basic services that are offered to and needed for the diagnosis, therapy, and treatment of patients, and to comply with licensing standards;
- (b) provides or arranges for necessary administrative and non-unique, non-clinical, ancillary type services such as dietary, laundry, housekeeping, business office and medical records; and
- (c) protects the rights of patients including freedom from unwanted intrusion by visitors, guests, staff, and residents of adjacent licensed facilities and use occupancies.
- (43) "Documentation" means written supportive information, records, or references to verify information required by law or rule.
- (44) "Drug History" means identifying all of the drugs used by a patient, including prescribed and unprescribed drugs.
- (45) "Emergency" means any situation or event that threatens or poses a threat to the occupants of the facility or agency, or prohibits one or more occupants (staff, patient, or visitor) from receiving services normally offered by the facility or agency, or requires action not normally performed by the facility or agency staff.

- (46) "Emotional or psychological abuse" means deliberate conduct that is directed at a person through verbal or nonverbal means and that causes the individual to suffer emotional distress or to fear bodily injury, harm, or restraint.
- (47) "Environment" means the physical and emotional atmosphere including architectural design, furnishings, color, privacy, and safety, as well as other people.
- (48) "Executive Director" means the Executive Director of the Utah Department of Health.
- (49) "Freestanding" means existing independently or physically separated from another health care facility by fire walls and doors and administrated by separate staff with separate records.
- . (50) "Free-standing Urgent Care Center," as distinguished from a private physician's office or emergency room setting, means a facility which provides out-patient health care service (on an as-needed basis, without appointment) to the public for diagnosis and treatment of medical conditions which do not require hospitalization or emergency intervention for a life-threatening or potentially permanently disabling condition. Diagnostic and therapeutic services provided by a free-standing urgent care center include: a medical history physical examination, assessment of health status and treatment for a variety of medical conditions commonly offered in a physician's office.
- (51) "Governing Authority or Governing Body" means the board of trustees, owner, person or persons designated by the owner with ultimate authority and responsibility, both moral and legal, for the management, control, conduct and functioning of the health care facility or agency.
- (52) "Governmental Unit" means the state, or any county, municipality, or other political subdivision of any department, division, board or other agency of any of the foregoing.
- (53) "Guardian" means a person legally responsible for the care and management of a person who is considered by law to be incompetent to manage his own affairs.
- (54) "Habilitation" means techniques and treatment which actively build and develop new or alternative styles of independent functioning and promote new behavior which results in greater self-sufficiency and sense of well-being.
- (55) "Health Care Facility or Agency" means any facility or agency licensed under the authority of the Health Facility Committee and designated as such in Subsection 26-21-2(10).
- (56) "Health Services Supervisor" means a person with a professional medical license or certificate, such as a nurse, social worker, physical therapist, or psychologist, responsible for the development, supervision, and implementation of a written health care plan for each resident.
- (57) "Homemaker" means a person who cares for the environment in the home through performance of duties such as housekeeping, meal planning and preparation, laundry, shopping and errands.
- (58) "Hospitalization" means an inpatient stay of at least 24 hours, or an overnight stay or emergency care, except a stay at a freestanding ambulatory surgical center that meets the requirements of R432-500.
- (59) "ICD-9-CM" means the International Classification of Diseases, 9th revision, Clinical Modification, 1986.
- (60) "Imminent Danger" means a situation or condition which presents a substantial likelihood of death or serious physical or mental harm to a patient or resident in the facility or agency.
- (61) "Inpatient Program" means treatment provided in a suitably equipped setting that provides services to persons who require care that warrants 24-hour supervision.
- (62) "Intake" means the administrative and assessment process for admission to a program.
- (63) "Interdisciplinary Team" means a group of staff members composed of representatives from different

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professions, disciplines, or services.

- (64) "Involuntary Medication" means medication which is prescribed by the physician but not taken willingly by the patient, and is administered due to compelling medical reasons.
- (65) "Joint Commission" means the Joint Commission on Accreditation of Healthcare Organizations (JCAHO).
- (66) "Lavatory" means a plumbing fixture designed and equipped for handwashing purposes.
- "License" means the certificate issued by the Department of Health for the operation of the facility or agency. This document constitutes the authority to receive patients and residents and to perform the services included within the scope of the rule and as specified on the license.
- (68) "Licensed Practical Nurse (LPN)" means a person registered and licensed by the Utah Department of Commerce under Title 58, Chapter 31b.
- (69) "Licensed Practitioner" means a health professional whose license allows diagnosis, treatment, and prescribing practices within the scope of the license and established
- (70) "Licensee" means the person or organization who is granted a license to operate a health facility or agency and who has ultimate authority and responsibility for the operation, management, control, conduct, and functioning of the facility or agency.
- (71) "Licensing Agency" means the Bureau of Licensing of the Utah Department of Health.
- (72) "Licensure" means the process of obtaining official or legal permission to operate a health facility or agency.
- (73) "Living Unit" means the area or part of a facility where residents sleep and may include dining and other resident activity areas.
- (74) "Low Risk Maternal Mother" means a woman who is in good general health throughout pregnancy and birth and who meets the criteria for low risk birth services as developed by the clinical staff and approved by the governing board and licensing agency for a Birthing Center.
- (75) "Maladaptive (negative) Behavior" means behavior that is either self-injurious, or dangerous to others, or environmentally destructive, demonstrating a reduction in or lack of ability necessary to adjust to environmental demands.
- (76) "Medical Equipment and Supplies" means items used for therapeutic or diagnostic purposes essential for patient care, such as dressings, catheters, or syringes.
- (77) "Medical Staff" means, the organized body composed of all specified professional personnel, appointed by the governing body and granted privileges to practice in the facility
- (78) "Medication" means any drug, chemical compound, suspension, or preparation suitable for internal or external use by persons for the treatment or prevention of disease or injury.
- (79) "Mental Retardation" means significantly subaverage general intellectual functioning resulting in, or associated with, concurrent impairments in adaptive behavior and manifested during the developmental period. Significantly subaverage general intellectual functioning is operationally defined as a score of two or more standard deviations below the mean on a standardized general intelligence test. Developmental period is defined as the period between conception and the 18th birthday.
- (80) "Mental Disease" means any disease listed as a mental disorder in the ICD-9-CM excluding the codes for senility or organic brain syndrome (290 through 294.9 and 310 through 310.9), the codes for adjustment reaction (309); the codes for psychic factors associated with diseases classified elsewhere (316); and the codes for mental retardation (317 through 319). Codes 314 through 315.9 may also be excluded for individuals suffering impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons. Codes 309 and 316 are also excluded.

- (81) "Mobile" means a person who is able to take action for self-preservation under emergency conditions with the assistance of supportive equipment such as crutches, braces, walkers, or wheelchairs, but without the assistance, except for verbal instructions, from other persons.
 - (82) "Neglect" means the same as 62A-3-301(10).(83) "New Construction" means any of the following:
- (a) New medical or health care facilities licensed under these rules;
 - (b) Addition(s) to an existing building;
- (c) Alteration(s) or modification(s) (other than strictly repair and maintenance) costing more than \$3,000 or that affect the structure, electrical or mechanical system of a health care facility
- (84) "Non-Ambulatory" means unable to walk without assistance of other persons.
- (85) "Nursing Care" means assistance provided to sick or disabled individuals, by or under the direction of licensed nursing personnel, for their health care needs.
- (86) "Nursing Home" means any facility licensed by the Department as a nursing care facility that provides licensed nursing care and related services to residents who need continuous health care and supervision.
- (87) "Occupational Therapist" means a person currently licensed by the Utah Department of Commerce under Title 58, Chapter 42a.
- (88) "Oral Surgeon" means a person who has successfully completed a postgraduate program in oral surgery accredited by a nationally recognized accrediting body approved by the U.S. Office of Education and is licensed by the Utah Department of Commerce to practice dentistry.
- "PRN medication" means medication which is administered pro re nata. Pro re nata means as needed. The time of medication administration is determined by the resident's need.
- (90) "Parent Facility" means all free-standing health facilities under a single ownership licensed under Section 26-21-2 except home health agencies. The parent facility includes:
- (a) the main structure, wings, or detached buildings where a service within the scope of the facility's license is offered and any detached building used for storage, heating or cooling equipment located on the main grounds bounded by a city, county or a state street or road, or a property line; and
- (b) any structure located outside the main facility grounds connected to the main facility by a heating or cooling system or by a covered walkway where a service is provided within the scope of the parent facility's license.
- (91) "Patient" means a resident or person receiving care in a health care facility or agency. Patient, client or resident terms are interchangeable meaning a person who is receiving needed services.
- (92) "Patient Care Plan" means an integrated plan of care developed for the patient.
- "Pediatric Patients" means infants, children, (93)adolescents, and young adults up to the age of 18.
- (94)"Personal Care" means assistance provided to residents in activities of daily living.
- (95) "Personal Care Aide" means a person who assists patients or residents in the activities of daily living and emergency first aid; and who may be supervised by a licensed nurse.
- (96) "Personal Resource Funds" means monies received by a patient from a variety of sources which the patient may spend as needed or desired.
- "Personnel" means individual(s) in training or employed by the health care facility or agency.
- (98) "Pharmacist" means a person currently licensed by the Utah Department of Commerce to practice pharmacology pursuant to Title 58, Chapter 17a.

- (99) "Physical Therapist" means a person currently licensed by the Utah Department of Commerce to practice under Title 58, Chapter 24a.
- (100) "Physician" means a person who is licensed to practice medicine and surgery by the Utah Department of Commerce under Section 58-67-301, the Utah Medical Practice Act, or Section 58-68-301, Utah Osteopathic Medical Practice Act, or a physician in the employment of the government of the United States who is similarly qualified.
- (101) "Place of Residence" means the place a patient makes his home. This may be a house, an apartment, a relative's home, housing for the elderly, a retirement home, an assisted living facility, or a place other than a health care facility which provides continuous nursing care.
- (102) "Plan of Care or Plan of Treatment" are interchangeable terms which mean a written plan based on assessment data or physician orders that identifies the patient's needs, who shall provide needed services and how often, treatment goals, and anticipated outcomes.
- (103) "Podiatrist" means a person registered and licensed by the Utah Department of Commerce under Title 58, Chapter
- (104) "Policies and Procedures" means a set of rules adopted by the governing body to govern the health care facility or agency's operation.
- (105) "Practitioner" means a registered nurse, with advanced or specialized training, who is licensed by Utah Department of Commerce, Title 58, Chapter 31b.
 - (106) "Prognosis" means a statement given as:
 - (a) the likelihood of an individual achieving stated goals;
 - (b) the degree of independence likely to be achieved; or
 - (c) the length of time to achieve goals.
- (107) "Program" means a general term for an organized system of services designed to address the treatment needs of the patient.
- (108) "Protected Living Arrangement" means provision for food, shelter, sleeping accommodations, and supervision of activities of daily living for persons of any age who are unable to independently maintain these basic needs and functions.
 - (109) "Provider" means a supplier of goods or services.
- (110) "Public Agency" means an agency operated by a state or local government.
- (111) "Public Health Center" means a publicly owned facility for the provision of public health services, including related facilities such as laboratories, clinics, and administrative offices operated in connection with public health centers.
- 'Qualified Mental Retardation Professional (QMRP)" means a person who has specialized training or one year of experience in treating or working with the mentally retarded including any one of the following: psychologist with a master's degree from an accredited program; licensed physician; educator with a bachelor's degree in education from an accredited program; social worker with a bachelor's degree in social work from an accredited program or a field other than social work and at least three years of social work experience under the supervision of a qualified social worker; licensed physical or occupational therapist; licensed speech pathologist or audiologist; registered nurse; therapeutic recreation specialist who is a graduate of an accredited program and is licensed to perform recreational therapy under the provisions of Title 58, Chapter 40; Rehabilitation counselor who is certified by the Committee on Rehabilitation Counselor Certification.
- (113) "Quality of Care" means the provision of patient treatment, including medical or nursing care as well as restorative therapies.
- (114) "Quality of Life" means how a patient experiences the state of existing and functioning in the facility environment, and is related to the human and humane processes involved in normal human functioning, including rights and freedoms.

- (115) "Recovery," for birthing centers, means that period or duration of time starting at birth and ending with the discharge of a client from the birthing center, or the period of time between the birth and the time a mother leaves the premises of the birthing center.
- (116) "Recreational Therapist" means any person licensed to perform recreational therapy under the provisions of Title 58, Chapter 40.
- '(117) "Referred Outpatient" means a person who is receiving his medical diagnosis, treatment, or other health care services from one or more sources outside the hospital, but who receives from the hospital diagnostic tests or examinations ordered by health care practitioners, legally permitted to order such tests and examinations, and to whom the hospital reports findings and results.
- (118) "Refurbish" means to clean or otherwise change the appearance without making significant changes in the existing physical structure of a facility.
- (119) "Registered Nurse" means any person who is registered and licensed by the Utah Department of Commerce to practice as a registered nurse under Title 58, Chapter 31.
- (120) "Rehabilitation" means a program of care designed to restore a patient to a former capacity.
- (121) "Relative" means spouse, parent, stepparent, son, daughter, brother, sister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin or any such person denoted by the prefix "grand" or "great" or the spouse of any of the persons specified in this definition, even if the marriage has been terminated by death or dissolution.
- (122) "Remodel" means to reconstruct or to make significant changes in the existing physical structure of a facility.
- (123) "Representative" means a person employed by the Department.
- (124) "Request for Hearing" means any clear expression in writing by a provider requesting an opportunity to appeal a Department action following R432-30.
- (125) "Resident Living" means residential services provided by an ICF/MR facility.
- (126) "Responsible Person" means an individual, relative, or close friend designated in writing by the resident, or a court-appointed guardian or person with durable power of attorney, who assists the resident and assumes responsibility for the resident's well-being and for any care not provided by the facility or agency.
- (127) "Restrictive Procedures" means a class of procedures designed to reduce or eliminate maladaptive behaviors including:
 - (a) restricting an individual's movement;
- (b) restricting an individual's ability to obtain positive reinforcement; and
- (c) restricting an individual's ability to participate in programs.
- (128) "Safety Device" means a protective device used to offer protection from inadvertent acts (such as falling out of bed) as well as deliberate acts (such as removing a nasogastric tube).
- (129) "Seclusion" means a procedure that isolates the patient in a specific room or designated area to temporarily remove the patient from the therapeutic community and reduce external stimuli.
- (130) "Self Administration of Medication" means the act by which a resident independently removes an individual dose from a properly labeled container and takes that medication. The resident must know the medication type, dosage and frequency of administration.
- (131) "Service Delivery Area" means any area in the facility where a specific service or group of services is organized, performed or carried out. For example the dietary

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services area includes the kitchen; patient care services delivery area includes patient rooms, corridors, and adjacent areas.

- (132) "Service Pattern" means a continuum of medical and psychological needs expressed as a type and used in evaluation for appropriate placement and treatment purposes.
- (133) "Social Service Worker (SSW)" means a person currently licensed by the Utah Department of Commerce to function as a social service worker under Title 58, Chapter 60.
- (134) "Social Worker, Certified (CSW)" means a person currently licensed by the Utah Department of Commerce to practice social work under Title 58, Chapter 60.
- (135) "Specialty Hospital" means a hospital which provides specialized diagnostic, therapeutic, or rehabilitative services in the recognized specialty or specialties for which the hospital is licensed.
- (136) "Speech-Language Pathologist" means a person licensed by the Utah Department of Commerce to practice speech-language pathology pursuant to Title 58, Chapter 41.
- (137) "Substantial Noncompliance" means any occurrence of a Class I violation, or the occurrence of one or more Class II violations resulting in continuous noncompliance, or chronic noncompliance with one or more rule requirements in the administrative rules specific to the health care facility licensure category.
- (138) "Summary Report" means a compilation of pertinent facts from the clinical notes regarding a patient, usually submitted to the patient's physician as part of a plan of treatment.
- (139) "Supervision" means guidance of another person or persons by a qualified person to assure that a service, function, or activity is provided within the scope of a license, certificate, job description, or instructions.
- (140) "Support Person" means the individual(s) selected or chosen by a mother to provide emotional support and to assist her during the process of labor and childbirth.
- (141) "Surgeon General" means the surgeon general of the United States public health service.
- (142) "Therapist" means a professionally trained licensed or registered person (such as a physical therapist, occupational therapist, or speech therapist), who is skilled in applying treatment techniques and procedures under the general direction of a physician.
- (143) "Training and Habilitation Services" means services intended to improve or aid the intellectual, sensorimotor, and emotional development of a patient or resident.

R432-1-4. Identification Badges.

- (1) Health care facilities and agencies shall ensure that the following persons, shall wear an identification badge:
- (a) professional and non-professional employees who provide direct care to patients; and
 - (b) volunteers.
 - (2) The identification badge shall include the following:
- (a) the person's first or last name; however, the badge does not have to reveal the persons full name; and
- (b) the person's title or position, in terms generally understood by the public.

KEY: health facilities August 7, 2001

26-21-2

Notice of Continuation January 5, 2004

R432. Health, Health Systems Improvement, Licensing. R432-2. General Licensing Provisions.

R432-2-1. Legal Authority.

This rule is adopted pursuant to Title 26, Chapter 21.

R432-2-2. Purpose.

The purpose of this rule is to define the standards that health care facilities and agencies must follow in order to obtain a license. No person or governmental unit acting severally or jointly with any other person, or governmental unit shall establish, conduct, or maintain a health facility in this state without first obtaining a license from the Department. Section 26-21-8.

R432-2-3. Exempt Facilities.

The provisions of Section 26-21-7 apply for exempt facilities.

R432-2-4. Distinct Part.

Licensed health care facilities that wish to offer services outside the scope of their license or services regulated by another licensing rule, with the exception of federally recognized Swing Bed Units, shall submit for Department review a program narrative defining the levels of service to be offered and the specific patient population to be served. If the program is determined to require a license, the facility must meet the definition of a distinct part entity and all applicable codes and standards and obtain a separate license.

R432-2-5. Requirements for a Satellite Service Operation.

- (1) A "satellite operation" is a health care treatment service that:
- (a) is administered by a parent facility within the scope of the parent facility's current license,
 - (b) is in a location not contiguous with the parent facility,
- (c) does not qualify for licensing under Section 26-21-2, and
- (d) is approved by the Department for inclusion under the parent facility's license and identified as a remote service.
- (2) A licensed health care facility that wishes to offer a satellite operation shall submit for Department review a program narrative and one set of construction drawings. The program narrative shall define at least the following:
 - (a) location of the remote facility (street address);
 - (b) capacity of the remote facility;
 - (c) license category of the parent facility;
- (d) service to be provided at the remote facility (must be a service authorized under the parent facility license);
- (e) ancillary administrative and support services to be provided at the remote facility; and
- (f) Uniform Building Code occupancy classification of the remote facility physical structure.
- (3) Upon receipt of the satellite service program narrative and construction drawings, the Department shall make a determination of the applicable licensing requirements including the need for licensing the service. The Department shall verify at least the following items:
- (a) There is only a single health care treatment service provided at the remote site and that it falls within the scope of the parent facility license;
- (b) The remote facility physical structure complies with all construction codes appropriate for the service provided;
- (c) All necessary administrative and support services for the specified treatment service are available, on a continuous basis during the hours of operation, to insure the health, safety, and welfare of the clients.
- (4) If a facility qualifies as a single satellite service treatment center the Department shall issue a separate license identifying the facility as a "satellite service" of the licensed

- parent facility. This license shall be subject to all requirements set forth in R432-2 of the Health Facility Rules.
- (5) A parent facility that wishes to offer more than one health care service at the same remote site shall either obtain a satellite service license for each service offered as described above or obtain a license for the remote complex as a free-standing health care facility.
- (6) A satellite facility is not permitted within the confines of another licensed health care facility.

R432-2-6. Application.

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- (1) An applicant for a license shall file a Request for Agency Action/License Application with the Utah Department of Health on a form furnished by the Department.
- (2) Each applicant shall comply with all zoning, fire, safety, sanitation, building and licensing laws, regulations, ordinances, and codes of the city and county in which the facility or agency is located. The applicant shall obtain the following clearances and submit them as part of the completed application to the licensing agency:
- (a) A certificate of fire clearance from the State Fire Marshal or designated local fire authority certifying compliance with local and state fire codes is required with initial and renewal application, change of ownership, and at any time new construction or substantial remodeling has occurred.
- (b) A satisfactory Food Services Sanitation Clearance report by a local or state sanitarian is required for facilities providing food service at initial application and upon a change of ownership.
- (c) Certificate of Occupancy from the local building official at initial application, change of location and at the time of any new construction or substantial remodeling.
 - (3) The applicant shall submit the following:
- (a) a list of all officers, members of the boards of directors, trustees, stockholders, partners, or other persons who have a greater than 25 percent interest in the facility;
- (b) the name, address, percentage of stock, shares, partnership, or other equity interest of each person; and
- (c) a list, of all persons, of all health care facilities in the state or other states in which they are officers, directors, trustees, stockholders, partners, or in which they hold any interest:
- (4) The applicant shall provide the following written assurances on all individuals listed in R432-2-6(3):
 - (a) None of the persons has been convicted of a felony;
- (b) None of the persons has been found in violation of any local, state, or federal law which arises from or is otherwise related to the individual's relationship to a health care facility; and
- (c) None of the persons who has currently or within the five years prior to the date of application had previous interest in a licensed health care facility that has been any of the following:
 - (i) subject of a patient care receivership action;
- (ii) closed as a result of a settlement agreement resulting from a decertification action or a license revocation;
- (iii) involuntarily terminated from participation in either Medicaid or Medicare programs; or
- (iv) convicted of patient abuse, neglect or exploitation where the facts of the case prove that the licensee failed to provide adequate protection or services for the person to prevent such abuse
- (5) An applicant or licensee shall submit a feasibility study as part of its application for a license for a new facility or agency or for a new license for an increase in capacity at a health care facility or expansion of the areas served by an agency.
- (a) The feasibility study shall be a written narrative and provide at a minimum:

- (i) the purpose and proposed license category for the proposed newly licensed capacity;
 - (ii) a detailed description of the services to be offered;
- (iii) identification of the operating entity or management company;
- (iv) a listing of affiliated health care facilities and agencies in Utah and any other state:
- (v) identification of funding source(s) and an estimate of the total project capital cost;
- (vi) an estimate of total operating costs, revenues and utilization statistics for the twelve month period immediately following the licensing of the new capacity;
- (vii) identification of all components of the proposed newly licensed capacity which ensures that residents of the surrounding area will have access to the proposed facility or service:
- (viii) identification of the impact of the newly licensed capacity on existing health care providers; and
- (ix) a list of the type of personnel required to staff the newly licensed capacity and identification of the sources from which the facility or agency intends to recruit the required personnel.
- (b) The applicant or licensee shall submit the feasibility study no later than the time construction plans are submitted. If new construction is not anticipated, the applicant or licensee shall submit the study at least 60-days prior to beginning the new service. The applicant shall provide a statement with the feasibility study indicating whether it claims business confidentiality on any portion of the information submitted and, if it does claim business confidentiality, provide a statement meeting the requirements of Utah Code section 63-2-308.
- (c) The Department shall publish public notice, at the applicant's expense, in a newspaper in general circulation for the location where the newly licensed capacity will be located that the feasibility study has been completed. The Department shall accept public comment for 30 days from initial publication. The Department shall retain the feasibility study and make it available to the public.
- (d) The Department shall review the feasibility study, summarize the public comment, review demographics of the geographic area involved and prepare a written evaluation to the applicant regarding the viability of the proposed program.

R432-2-7. License Fee.

In accordance with Subsection 26-21-5(1)(c), the applicant shall submit a license fee with the completed application form. A current fee schedule is available from the Bureau of Health Facility Licensing upon request. Any late fees is assessed according to the fee schedule.

R432-2-8. Additional Information.

The Department may require additional information or review other documents to determine compliance with licensing rules. These include:

- (1) architectural plans and a description of the functional program.
- (2) policies and procedures manuals.(3) verification of individual licenses, registrations or certification required by the Utah Department of Commerce.
- (4) data reports including the submission of the annual report at the Departments request.
- (5) documentation that sufficient assets are available to provide services: staff, utilities, food supplies, and laundry for at least a two month period of time.

R432-2-9. Initial License Issuance or Denial.

(1) The Department shall render a decision on an initial license application within 60 days of receipt of a complete application packet or within six months of the date the first component of an application packet is received; provided, in either case, a minimum of 45 days is allowed for the initial policy and procedure manual review.

(2) Upon verification of compliance with licensing requirements the Department shall issue a provisional license.

- (3) The Department shall issue a written notice of agency decision under the procedures for adjudicative proceedings (R432-30) denying a license if the facility is not in compliance with the applicable laws, rules, or regulations. The notice shall state the reasons for denial.
- (4) An applicant who is denied licensing may reapply for initial licensing as a new applicant and shall be required to initiate a new request for agency action as described in R432-2-
- (5) The Department shall assess an administrative fee on all denied license applications. This fee shall be subtracted from any fees submitted as part of the application packet and a refund for the balance returned to the applicant.

R432-2-10. License Contents and Provisions.

- (1) The license shall document the following:
- (a) the name of the health facility,
- (b) licensee,

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- (c) type of facility,
- (d) approved capacity,
- (e) street address of the facility,
- (f) issue and expiration date of license,
- (g) variance information, and
- (h) license number.
- (2) The license is not assignable or transferable.
- (3) Each license is the property of the Department. The licensee shall return the license within five days following closure of a health care facility or upon the request of the
- (4) The licensee shall post the license on the licensed premises in a place readily visible and accessible to the public.

R432-2-11. Expiration and Renewal.

- (1) Each standard license shall expire at midnight, on the last day of the month, 12 months from the anniversary date of the date of the initial license unless the license is revoked or extended under subsection (2) or (4) by the Department.
- (2) If a facility is operating under a conditional license for a period extending beyond the expiration date of the current license, the Department shall establish a new expiration date.
- (3) The licensee shall submit a Request for Agency Action/License Application form, applicable fees, clearances, and the annual report for the previous calendar year (if required by the Department under R432-2-8) 15 days before the current license expires.
- (4) A license shall expire on the date specified on the license unless the licensee requests and is granted an extension from the Department.
- (5) The Department shall renew a standard license upon verification that the licensee and facility are in compliance with all applicable license rules.
- (6) Facilities no longer providing patient care or client services may not have their license renewed.

R432-2-12. New License Required.

- (1) A prospective licensee shall submit a Request for Agency Action/License Application, fees, and required documentation for a new license at least 30 days before any of the following proposed or anticipated changes occur:
 - (a) occupancy of a new or replacement facility.
 - (b) change of ownership.
- (2) Before the Department may issue a new license, the prospective licensee shall provide documentation that:
 - (a) all patient care records, personnel records, staffing

schedules, quality assurance committee minutes, in-service program records, and other documents required by applicable rules remain in the facility and have been transferred to the custody of the new licensee.

- (b) the existing policy and procedures manual or a new manual has been approved by the Department and adopted by the facility governing body before change of ownership occurs.
- (c) new contracts for professional or other services not provided directly by the facility have been secured.
 - (d) new transfer agreements have been drafted and signed.
- (e) written documentation exists of clear ownership or lease of the facility by the new owner.
- (3) Upon sale or other transfer of ownership, the licensee shall provide the new owner with a written accounting, prepared by an independent certified public accountant, of all patient funds being transferred, and obtain a written receipt for those funds from the new owner.
- (4) A prospective licensee is responsible for all uncorrected rule violations and deficiencies including any current plan of correction submitted by the previous licensee unless a revised plan of correction, approved by the Department, is submitted by the prospective licensee before the change of ownership becomes effective.
- (5) If a license is issued to the new owner the previous licensee shall return his license to the Department within five days of the new owners receipt of the license.
- (6) Upon verification that the facility is in compliance with all applicable licensing rules, the Department shall issue a new license effective the date compliance is determined as required by R432-2-9.

R432-2-13. Change in Licensing Status.

- (1) A licensee shall submit a Request for Agency Action/License Application to amend or modify the license status at least 30 days before any of the following proposed or anticipated changes:
 - (a) increase or decrease of licensed capacity.
 - (b) change in name of facility.
 - (c) change in license category.
 - (d) change of license classification.
 - (e) change in administrator.
- (2) An increase of licensed capacity may incur an additional license fee if the increase exceeds the maximum number of units in the fee category division of the existing license. This fee shall be the difference in license fee for the existing and proposed capacity according to the license fee schedule.
- (3) Upon verification that the licensee and facility are in compliance with all applicable licensing rules, the Department shall issue an amended or modified license effective the date that the Department determines that the licensee is in compliance.

R432-2-14. Facility Ceases Operation.

- (1) A licensee that voluntarily ceases operation shall complete the following:
- (a) notify the Department and the patients or their next of kin at least 30 days before the effective date of closure.
 - (b) make provision for the safe keeping of records.
- (c) return all patients' monies and valuables at the time of discharge.
- (d) The licensee must return the license to the Department within five days after the facility ceases operation.
- (2) If the Department revokes a facility's license or if it issues an emergency closure order, the licensee shall document for Department review the following:
 - (a) the location and date of discharge for all residents,
- (b) the date that notice was provided to all residents and responsible parties to ensure an orderly discharge and assistance

with placement; and

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(c) the date and time that the facility complied with the closure order.

R432-2-15. Provisional License.

- (1) A provisional license is an initial license issued to an applicant for a probationary period of six months.
- (a) In granting a provisional license, the Department shall determine that the facility has the potential to provide services and be in full compliance with licensing rules during the six month period.
- (b) A provisional license is nonrenewable. The Department may issue a provisional license for no longer than six months. It may issue no more than one provisional license to any health facility in any 12-month period.
- (2) If the licensee fails to meet terms and conditions of licensing before the expiration date of the provisional license, the license shall automatically expire.

R432-2-16. Conditional License.

- (1) A conditional license is a remedial license issued to a licensee if there is a determination of substandard quality of care, immediate jeopardy or a pattern of violations which would result in a ban on admissions at the facility or if the licensee is found to have:
- (a) a Class I violation or a Class II violation that remains uncorrected after the specified time for correction;
- (b) more than three cited repeat Class I or II violations from the previous year; or
- (c) fails to fully comply with administrative requirements for licensing.
- (2) A standard license is revoked by the issuance of a conditional license.
- (3) The Department may not issue a conditional license after the expiration of a provisional license.
- (4) In granting a conditional license, the Department shall be assured that the lack of full compliance does not harm the health, safety, and welfare of the patients.
- (5) The Department shall establish the period of time for the conditional license based on an assessment of the nature of the existing violations and facts available at the time of the decision.
- (6) The Department shall set conditions whereby the licensee must comply with an accepted plan of correction.
- (7) If the licensee fails to meet the conditions before the expiration date of the conditional license, the license shall automatically expire.

R432-2-17. Standard License.

- A standard license is a license issued to a licensee if:
- the licensee meets the conditions attached to a provisional or conditional license;
 - (2) the licensee corrects the identified rule violations; or
- (3) when the facility assures the Department that it complies with R432-2-11 to R432-2-12.

R432-2-18. Variances.

- A health facility may submit a request for agency action to obtain a variance from state rules at any time.
- (a) An applicant requesting a variance shall file a Request for Agency Action/Variance Application with the Utah Department of Health on forms furnished by the Department.
- (b) The Department may require additional information from the facility before acting on the request.
- (c) The Department shall act upon each request for variance in writing within 60 days of receipt of a completed request.
- (2) If the Department grants a variance, it shall amend the license in writing to indicate that the facility has been granted a

variance. The variance may be renewable or non-renewable. The licensee shall maintain a copy of the approved variance on file in the facility and make the copy available to all interested

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parties upon request.

(a) The Department shall file the request and variance with the license application.

- (b) The terms of a requested variance may be modified upon agreement between the Department and the facility.
- (c) The Department may impose conditions on the granting of a variance as it determines necessary to protect the health and safety of the residents or patients.
 - (d) The Department may limit the duration of any variance.
- (3) The Department shall issue a written notice of agency decision denying a variance upon determination that the variance is not justified.
- (4) The Department may revoke a variance if:(a) The variance adversely affects the health, safety, or welfare of the residents.
- (b) The facility fails to comply with the conditions of the variance as granted.
- (c) The licensee notifies the Department in writing that it wishes to relinquish the variance and be subject to the rule previously varied.
 - (d) There is a change in the statute, regulations or rules.

R432-2-19. Change In Ownership.

- (1) As used in this section, an "owner" is any person or entity:
- (a) ultimately responsible for operating a health care facility; or
- (b) legally responsible for decisions and liabilities in a business management sense or that bears the final responsibility for operating decisions made in the capacity of a governing
- (2) The owner of the health care facility does not need to own the real property or building where the facility operates.
 - (3) A property owner is also an owner of the facility if he:
- (a) retains the right or participates in the operation or business decisions of the enterprise;
- (b) has engaged the services of a management company to operate the facility; or
 - (c) takes over the operation of the facility.
- (4) A licensed provider whose ownership or controlling ownership interest has changed must submit a Request for Agency Action/License Application and fees to the department 30 days prior to the proposed change
- (5) Changes in ownership that require action under subsection (4) include any arrangement that:
- (a) transfers the business enterprise or assets to another person or firm, with or without the transfer of any real property rights;
- (b) removes, adds, or substitutes an owner or part owner;
 - (c) in the case of an incorporated owner:
- (i) is a merger with another corporation if the board of directors of the surviving corporation differs by 20 percent or more from the board of the original licensee; or
- (ii) creates a separate corporation, including a wholly owned subsidiary, if the board of directors of the separate corporation differs by 20 percent or more from the board of the original licensee.
- (6) A person or entity that contracts with an owner to manage the enterprise, subject to the owner's general approval of operating decisions it makes is not an owner, unless the parties have agreed that the managing entity is also an owner.
- A transfer between departments of government agencies for management of a government-owned health care facility is not a change of ownership under this section.

KEY: health care facilities	
December 30, 2002	26-21-9
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,	26-21-12
	26-21-13

R432. Health, Health Systems Improvement, Licensing. R432-3. General Health Care Facility Rules Inspection and Enforcement.

R432-3-1. Legal Authority.

This rule is adopted pursuant to Title 26, Chapter 21.

R432-3-2. Purpose.

This rule delineates the role and responsibility of the Department and the Bureau of Licensing in the enforcement of rules and regulations pertaining to health, safety, and welfare in all licensed and unlicensed health facilities and agencies regulated by Title 26, Chapter 21. These provisions provide guidelines and criteria to ensure that sanctions are applied consistently and appropriately.

R432-3-3. Deemed Status.

The Department may grant licensing deemed status to facilities and agencies accredited by the Joint Commission on Accreditation of Healthcare Organizations (Joint Commission), Accreditation Association for Ambulatory Health Care (AAAHC), Accreditation Commission for Health Care, or Community Health Accreditation Program in lieu of the annual licensing inspection by the Department upon completion of the following by the facility or agency:

- (1) As part of the annual license renewal process, the licensee shall identify on the Request for Agency Action/Application its desire to:
 - (a) initiate deemed status,
 - (b) continue deemed status, or
- (c) relinquish deemed status during the licensing year of application.
- (2) This request shall constitute written authorization for the Department to attend the accrediting agency exit conference.
- (3) Upon receipt from the accrediting agency, the facility shall submit copies of the following:
 - (a) accreditation certificate;
 - (b) Joint Commission Statement of Construction;
 - (c) survey reports and recommendations;
- (d) progress reports of all corrective actions underway or completed in response to accrediting body's action or Department recommendations.
- (4) Regardless of deemed status, the Department may assert regulatory responsibility and authority pursuant to applicable state and federal statutes to include:
 - (a) annual and follow up inspections,
 - (b) complaint investigation,
- (c) verification of the violations of state law, rule, or standard identified in a Department survey or, violations of state law, rule, or standard identified in the accrediting body's survey including:
- facilities or agencies granted a provisional or conditional accreditation by the Joint Commission until a full accreditation status is achieved,
- (ii) any facility or agency that does not have a current, valid accreditation certificate, or
- (iii) construction, expansion, or remodeling projects required to comply with standards for construction promulgated in the rules by the Health Facility Committee.
- (5) The Department may annually conduct validation inspections of facilities or agencies accredited for the purpose of determining compliance with state licensing requirements. If a validation survey discloses a failure to comply with the standards for licensing, the provisions relating to regular annual inspection shall apply.

R432-3-4. Statement of Findings.

(1) The Department or its designee shall inspect each facility or agency at least once during each year that a license has been granted, to determine compliance with standards and

the applicable rules and regulations.

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- (2) Whenever the Department has reason to believe that a health facility or agency is in violation of Title 26, Chapter 21 or any of the rules promulgated by the Health Facility Committee, the Department shall serve a written Statement of Findings to the licensee or his designee within the following timeframe.
- (a) Statements for Class I and III violations are served immediately.
- (b) Statements for Class II violations are served within ten working days.
- (3) Violations shall be classified as Class I, Class II, and Class III violations.
- (a) "Class I Violation" means any violation of a statute or rule relating to the operation or maintenance of a health facility or agency which presents imminent danger to patients or residents of the facility or agency or which presents a clear hazard to the public health.
- (b) "Class II Violation" means any violation of a statute or rule relating to the operation or maintenance of a health facility or agency which has a direct or immediate relationship to the health, safety, or security of patients or residents in a health facility or agency.
- (c) "Class III Violation" means establishing, conducting, managing, or operating a health care facility or agency regulated under Title 26, Chapter 21 and this rule without a license or with an expired license.
- (4) The Department may cite a facility or agency with one or more rule or statute violations. If the Department finds that there are no violations, a letter shall be sent to the facility acknowledging the inspection findings.
 - (5) The Statement of Findings shall include:
 - (a) the statute or rule violated;
 - (b) a description of the violation;
 - (c) the facts which constitute the violation; and
 - (d) the classification of the violation.

R432-3-5. Plan of Correction.

- (1) A health facility or agency shall submit within 14 calendar days of receipt of a Statement of Findings a Plan of Correction outlining the following:
 - (a) how the required corrections shall be accomplished;
- (b) who is the responsible person to monitor the correction is accomplished; and
 - (c) the date the facility or agency will correct the violation.
- (2) Within ten working days of receipt of the Plan of Correction, the Department shall make a determination as to the acceptability of the Plan of Correction.
- (3) If the Department rejects the Plan of Correction, the Department shall notify the facility or agency of the reasons for rejection and may request a revised Plan of Correction or issue a Notice of Agency Action directing a Plan of Correction and imposing a deadline for the correction. If the Department requests a revised Plan of Correction, the facility or agency shall submit the revised Plan of Correction within 14 days of receipt of the Department request.
- (4) If the facility or agency corrects the violation prior to submitting the Plan of Correction, the facility or agency shall submit a report of correction.
- (5) If violations remain uncorrected after the time specified for completion in the Plan of Correction or if the facility or agency fails to submit a Plan of Correction as specified, the Department shall notify the facility or agency.
- (6) Any person aggrieved by the agency action shall have the right to seek review under the provisions outlined in Rule R432-30, Adjudicative Proceedings.
- (7) If a licensed or unlicensed health facility or agency is served with a Statement of Findings citing a Class I violation, the facility or agency shall correct the situation, condition, or

practice constituting the Class I violation immediately, unless a fixed period of time is determined by the Department and is specified in the Plan of Correction.

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- (a) The Department shall conduct a follow-up inspection within 14 calendar days or within the agreed -upon correction period to determine correction of Class I violations.
- (b) If a health facility or agency fails to correct a Class I violation as outlined in the accepted Plan of Correction, the Department shall pursue sanctions or penalties through a formal adjudicative proceeding as outlined in Rule R432-30.
- (8) A facility or agency served with a Statement of Findings citing a Class II violation shall correct the violation within the time specified in the Plan of Correction or within a time-frame approved by the Department which does not exceed 60 days unless justification is provided in the accepted Plan of Correction.
- (9) The Department may issue a conditional license or impose sanctions to the license or initiate a formal adjudicative proceeding to close the facility or agency if a facility or agency is cited with a Class II violation and fails to take required corrective action as outlined in Rule R432-30.
- (10) The Department shall determine which sanction to impose by considering the following:
 - (a) the gravity of the violation;
- (b) the effort exhibited by the licensee to correct violations:
 - (c) previous facility or agency violations; and
 - (d) other relevant facts.
- (11) The Department shall serve a facility or agency with a Statement of Findings for a Class III violation. A facility of agency cited for a Class III violation must file a Request for Agency Action/License Application form and pay the required licensing fee within 14 days of the receipt of the Class III Statement of Findings.
- (a) The Statement of Findings may include the names of individuals residing in the facility who require services outside the scope of the proposed licensing category.
- (b) The facility shall arrange for all individuals to be relocated if the facility is unable to meet the individuals' needs within the scope of the proposed license category.
- (c) If the facility or facility fails to submit the Request for Agency Action/License Application as specified, the Department shall issue a written Notice of Agency Action ordering closure of the facility or agency.
- (d) If the Executive Director determines that the lives, health, safety or welfare of the patients or residents cannot be adequately assured pending a full formal adjudicative proceeding, he may order immediate closure of the facility or agency under an emergency adjudicative proceeding, as outlined in Rule R432-30.

R432-3-6. Sanction Action on License.

- (1) The Department may initiate an action against a health facility or agency pursuant to Section 26-21-11. That action may include the following sanctions:
- (a) denial or revocation of a license if the facility or agency fails to comply with the rules established by the Committee, or demonstrates conduct adverse to the public health, morals, welfare, and safety of the people of the state;
- (b) restriction or prohibition on admissions to a health facility or agency for:
 - (i) any Class I deficiency,
- (ii) Class II deficiencies that indicate a pattern of care and have resulted in the substandard quality of care of patients,
- (iii) repeat Class I or II deficiencies that demonstrate continuous noncompliance or chronic noncompliance with the rules, or
- (iv) permitting, aiding, or abetting the commission of any illegal act in the facility or agency;

- (c) distribution of a notice of public disclosure to at least one newspaper of general circulation or other media form stating the violation of licensing rules or illegal conduct permitted by the facility or agency and the Department action taken:
- (d) placement of Department employees or Departmentapproved individuals as monitors in the facility or agency until such time as corrective action is completed or the facility or agency is closed;
- (e) assessment of the cost incurred by the Department in placing the monitors to be reimbursed by the facility or agency; or
- (f) during the correction period, placement of a temporary manager to ensure the health and safety of the patients.
- (2) If the Department imposes a restriction or prohibition on admissions to a long-term care facility or agency, the Department shall send a written notice to the licensee.
- (a) The licensee shall post the copies of the notice on all public entry doors to the licensed long-term care facility or agency.
- (b) The Department shall impose the restriction or prohibition if:
- (i) the long-term care facility or agency has previously received a restriction or prohibition on admissions within the previous 24 month period; or
- (ii) the long-term care facility or agency has failed to meet the timeframes in the Plan of Correction which is the basis for the restriction or prohibition on admissions; or
- (iii) circumstances in the facility or agency indicate actual harm, a pattern of harm, or a serious and immediate threat to patients.
- (3) If telephone inquiries are made to a long-term care facility or agency with a restriction or prohibition on admissions, the facility or agency shall inform the caller, during the call, about the restriction or prohibition on admissions. If the facility or agency fails to inform the caller, the department may assess penalties as allowed by statute and shall require the facility or agency to post a written notice on all public entry doors.

R432-3-7. Immediate Closure of Facility.

- (1) The Department may order the immediate closure of any licensed or unlicensed health facility or agency when the health, safety, or welfare of the patients or residents cannot be assured pending a full formal adjudicative proceeding.
- (2) The provisions for an emergency adjudicative proceeding as provided in section 63-46b-20 shall be followed.
- (3) If the Department determines to close a facility or agency, it shall serve an order that the facility or agency is ordered closed as of a given date. The order shall:
 - (a) state the reasons the facility is ordered closed;
 - (b) cite the statute or rule violated; and
- (c) advise as to the commencement of a formal adjudicative proceeding in accordance with this rule.
- (4) The Department may maintain an action in the name of the state for injunction or other process against the health facility or agency which disobeys a closure order as provided in section 26-21-15.
- (5) The Department may assist in relocating patients or residents to another licensed facility or agency.
- (6) The Department may pursue other lesser sanctions in lieu of the closure order.
- (7) The Department may, in addition to emergency closure, seek criminal penalties.

R432-3-8. Mandatory License Revocation.

(1) The Department may revoke a license or refuse to renew a license for a health care facility that is in chronic noncompliance with one or more of the rule requirements identified as mandatory license revocation criteria in the rules specific to the facility or agency licensing category.

- (2) The Department may not revoke a license or refuse to renew a license for chronic noncompliance on the third or subsequent violation unless it has documented within 14 working days from receipt of the Statement of Findings two prior violations and given the licensee or facility administrator a written warning notice. The written notice shall include a statement that continued violation could result in revocation of the license.
- (3) If the Department revokes the license because of chronic noncompliance and the evidence supports the Department's finding of chronic noncompliance, no lesser sanction may be substituted, either by the Department or upon subsequent review by the Health Facility Committee or the courts.

R432-3-9. Medicare/Medicaid Certification.

- (1) The Department may accept survey and complaint investigation findings of the Bureau of Medicare/Medicaid Program Certification and Resident Assessment as its own in the conduct of the Bureau of Licensing responsibilities under state law.
- (2) The Bureau of Licensing may review all Statements of Findings and Plans of Correction, including surveys, follow up surveys, and complaint investigation actions, completed by the Bureau of Medicare/Medicaid Program Certification and Resident Assessment. The Statements of Findings and Plans of Correction may be reviewed for compliance with state rules to include:
- (a) assessment of chronic non-compliance history in accordance with Subsection R432-1-3(26);
- (b) assessment of continuous non-compliance history in accordance with Subsection R432-1-3(30).

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26-21-5 26-21-14 through 26-21-16

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R432. Health, Health Systems Improvement, Licensing. R432-4. General Construction.

R432-4-1. Legal Authority.

This rule is adopted pursuant to Title 26 Chapter 21 for General Hospitals; Specialty Hospitals; Ambulatory Surgical Facilities; Nursing Care Facilities; Inpatient Hospices; Birthing Centers; Abortion Clinics; and Small Health Care Facilities, Levels I, II and III.

R432-4-2. Purpose.

The purpose of this rule is to promote the health and welfare of individuals receiving services by establishing construction standards.

R432-4-3. General Design.

- (1) The licensee is responsible for assuring compliance with this section.
- (2) When testing and certification compliance can only be verified through written documentation, the licensee must maintain documentation in the facility for Department review.
- (3) Additional requirements for individual health care facility categories are included in the individual category construction rules sections of the Health Facility Licensure Rules, R432. If conflicts exist between R432-4 and individual category rules, the individual category rules govern.
- (4) If conflicts exist between applicable codes, the most restrictive code applies.
- (5) When other authorities having jurisdiction adopt more restrictive requirements than contained in these rules, the more restrictive requirements apply.
- (6) The licensee shall ensure the building complies with the functional requirements for the applicable licensure classification and shall ensure provisions are made for all facilities and equipment necessary to meet the care and safety needs of all clients served, when construction is completed.

R432-4-4. Site Location.

- (1) The site of the licensed health care facility shall be accessible to both community and service vehicles, including fire protection apparatus.
 - (2) Facilities shall ensure that public utilities are available.

R432-4-5. Site Design.

- (1) Paved roads shall be provided within the property for access to all entrances, service docks and for fire equipment access to all exterior walls.
- (2) Paved walkways shall be provided for pedestrian traffic.
- (3) Paved walkways shall be provided from every required exit to a dedicated public way.
- (4) Hospitals with an organized emergency service shall have well marked emergency access to facilitate entry from public roads or streets serving the site. Vehicular or pedestrian traffic shall not conflict with access to the emergency service area. The emergency entrance shall be covered to ensure protection for patients during transfer from automobile or ambulance.

R432-4-6. Parking.

- (1) Parking shall be provided in accordance with local zoning ordinances.
- (2) If local zoning ordinances do not exist, Section 3.2.B Parking, from Guidelines for Design and Construction of Hospital and Health Care Facilities 2001 Edition shall apply and is adopted and incorporated by reference.
- (3) The requirements of the Americans with Disabilities Act Accessibility Guidelines, (ADAAG) for handicapped parking access shall apply and parking spaces for the disabled shall be directly accessible to the facility without the need to go

behind parked cars.

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R432-4-7. Environmental Pollution Control.

Public Law 91-190, National Environment Policy Act, requires the site and project be developed to minimize any adverse environmental effects on the neighborhood and community. Environmental clearances and permits shall be obtained from local jurisdictions and the Utah Department of Environmental Quality.

R432-4-8. Standards Compliance.

- (1) The following standards are adopted and incorporated by reference:
- (a) Illuminating Engineering Society of North America, IESNA, publication RP-29-95, Lighting for Hospitals and Health Care Facilities, 1995 edition;
- (b) The following chapters of the National Fire Protection Association Life Safety Code, NFPA 101, 2000 edition:
 - (i) Chapter 18, New Health Care Occupancies;
 - (ii) Chapter 19, Existing Health Care Occupancies.
- (2) The following codes and standards apply to health care facilities. The licensee shall obtain clearance from the authority having jurisdiction and submit documentation to the Department verifying compliance with these codes and standards as they apply to the category of health care facility being constructed:
 - (a) Local zoning ordinances;
 - (b) International Building Code, 2000 edition;
- (c) Americans with Disabilities Act Accessibility Guidelines, (ADAAG) 28 CFR 36, Appendix A, (July 1993);
 - (d) International Mechanical Code, 2000 edition;
 - (e) International Plumbing Code, 2000 edition;
 - (f) International Fire Code, 2000 edition.
 - (g) R313. Environmental Health, Radiation Control, 1994;
- (h) R309. Environmental Health, Drinking Water and Sanitation, 1994;
- (i) R315. Environmental Health, Solid and Hazardous Waste, 1994;
 - (j) NFPA 70, National Electric Code, 1999 edition;
- (k) NFPA 99, Standards for Health Care Facilities, 1999 edition:
- (l) NFPA 110, Emergency and Standby Power Systems, 1988 edition;
- (m) American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE), Handbook of Fundamentals, 1997 edition.
- (3) The licensee shall obtain a Certificate of Occupancy from the local building official having jurisdiction.
- (4) The licensee shall obtain a Certificate of Fire Clearance from the Fire Marshal having jurisdiction.
- (5) The licensee must obtain clearance from the Department prior to utilization of newly constructed facilities and additions or remodels of existing facilities.

R432-4-9. New Construction, Additions and Remodeling.

- (1) New construction, additions and remodels to existing structures, shall comply with Department rules in effect on the date the schematic drawings are submitted to the Department.
- (2) If the remodeled area or addition in any building, wing, floor or service area of a building exceeds 50 percent of the total square foot area of the building, wing, floor or service area, then the entire building, wing, floor or service area shall be brought into compliance with adopted codes and rules governing new construction which are in effect on the date the schematic drawings are submitted to the Department.
- (3) During remodeling and new construction, the licensee must maintain the safety level which existed prior to the start of work.

R432-4-10. Existing Building Licensure.

- (1) Existing buildings, currently licensed, shall conform to Department construction rules in effect at the time of original facility licensure.
- (2) Existing buildings which are currently licensed, or which were previously licensed, but are changing classification; or for which the licensed has lapsed, shall comply with requirements for new construction.

R432-4-11. Building Refurbishing.

- (1) Paint, carpet, wall coverings, and other new materials installed as part of a refurbishing project shall comply with R432-4-8.
- (2) The licensee shall maintain documentation of compliance with codes, rules, and standards.

R432-4-12. Mixed Occupancies.

- (1) Health care occupancies must be separated from nonhealth care occupancies in accordance with requirements of the local jurisdiction.
- (2) If separation of occupancies is not practical, the most restrictive occupancy requirements apply to the building.

R432-4-13. Campus and Contract Facilities.

All housing, treatment, and diagnostic areas and facilities utilized by a patient admitted to a licensed health care facility shall be constructed in accordance with the requirements of R432-4 if:

- (1) the area will be used by one or more patients who are physically or mentally incapable of taking independent life saving action in an emergency;
- (2) the prescribed or administered treatment renders the patient incapable of taking independent life saving action in an emergency; or
- (3) the patient is incapable of taking independent life saving action in an emergency due to physical or chemical restraints.

R432-4-14. Plan Review.

- (1) Prior to submitting documents for plans review, the facility licensee or designee shall schedule a conference with Department representatives, the licensee's architect, and the licensee or his designee to outline the required plans review process.
- (2) The licensee shall submit the following for Department review:
 - (a) a functional program,
 - (b) schematic drawings,
 - (c) design development drawings,
 - (d) working drawings,
 - (e) specifications.
- (3) The Department may initiate review when all required documents and fees are received.
- (4) Working drawings and specifications for new construction, additions, or remodeling must have the seal of a Utah licensed architect affixed, in compliance with Section 58-3a-602.
- (5) The licensee shall pay a plans review and construction inspection fee assessed by the Department in accordance with the fee schedule approved by the Legislature.
- (6) Plans approval by the Department shall not relieve the licensee of responsibility for full compliance with R432-4.
- (7) Plan approval expires 12 months after the date of the Department's approval letter, or the latest plan review response letter, if construction has not commenced.
- (8) After a 12 month lapse, the licensee must resubmit plans and a new plan review fee to the Department and obtain a new letter of approval before work proceeds.
- (9) The Department may issue a license or modify a license only after the Department has determined the facility

complies with adopted construction rules and has obtained all clearances and certifications.

R432-4-15. Functional Program.

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The functional program required in R432-4-14(2)(a) must include the following:

- (1) the purpose and proposed license category of the facility;
- (2) services offered, including a detailed description of each service;
- (3) ancillary services required to support each function or program;
 - (4) departmental relationships;
- (5) services offered under contract by outside providers and the required in-house facilities to support these services;
- (6) services shared with other licensure categories or functions;
 - (7) a description of anticipated in-patient workloads;
 - (8) a description of anticipated out-patient workloads;
 - (9) physical and mental condition of intended patients;
 - (10) patient age range;
- (11) ambulatory condition of intended patients, such as non-ambulatory, mobile, or ambulatory;
 - (12) type and use of general or local anesthetics;
 - (13) use of physical or chemical restraints;
 - (14) special requirements which could affect the building;
- (15) area requirements for each service offered, stated in net square feet;
- (16) seclusion treatment rooms, if provided, including staff monitoring procedures;
- (17) exhaust systems, medical gases, laboratory hoods, filters on air conditioning systems, and other special mechanical requirements;
 - (18) special electrical requirements;
- (19) x-ray facilities, nurse call systems, communication systems, and other special systems;
- (20) a list of specialized equipment which could require special dedicated services or special structures.
- (21) a description of how essential core services will accommodate increased demand, if a building is designed for expansion;
- (22) inpatient services, treatment areas, or diagnostic facilities planned or anticipated to be housed in other buildings, the construction type of the other buildings, and provisions for protecting the patient during transport between buildings.
- (23) infection control risk assessment to determine the need for the number and types of isolation rooms over and above the minimum numbers required by the Guidelines.

R432-4-16. Drawings.

Drawings must show all equipment necessary for the operation of the facility.

- (1) Schematic drawings may be single line and shall contain the following information:
 - (a) list of applicable building codes;
- (b) location of the building on the site and access to the building for public, emergency, and service vehicles;
 - (c) site drainage;
- (d) any unusual site conditions, including easements which might affect the building or its appurtenances;
- (e) relationships of departments to each other, to support facilities, and to common facilities;
 - (f) relationships of rooms and areas within departments;
 - (g) number of inpatient beds;
- (h) total building area or area of additions or remodeled portions.
- (2) Design development drawings, drawn to scale, shall contain the following information:
 - (a) room sizes;

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- (b) type of construction, using International Building Code classifications:
- (c) site plan, showing relationship to streets and vehicle access:
 - (d) outline specification;
- (e) location of fire walls, corridor protection, fire hydrants, and other fire protection equipment;
 - (f) location and size of all public utilities;
- (g) types of mechanical, electrical and auxiliary systems; and
- (h) provisions for the installation of equipment which requires dedicated building services, special structure or which require a major function of space.
- (3) Working drawings shall include all previous submitted drawings and specifications.
- (a) The licensee shall provide one copy of completed working drawings and specifications to the Department.
- (b) Within 30 days after receipt of the required documentation and plan review fee, the Department will provide to the licensee and the project architect a written report of modifications required to comply with construction standards.
- (c) The licensee shall submit the revised plans for review and final Department approval.

R432-4-17. Construction Inspections.

- (1) The Department may conduct interim inspections during construction.
- (2) The licensee shall schedule with the Department a final construction inspection when the project is complete and all furnishings and equipment are in place, but prior to utilization.

R432-4-18. Construction Without Plans Approval.

- (1) If construction is commenced without prior Department plans approval, the Department may issue a license and approve occupancy only after as-built drawings have been approved by the Department and the Department has conducted a construction inspection.
- (2) The licensee must correct all noncompliant items and pay the full plans review fee and inspection fee in accordance with the established fee schedule prior to licensure and patient occupancy.

R432-4-19. Existing Buildings Without Plans.

- (1) If plans are not available for existing buildings, or for facilities requesting an initial license or license category change, the licensee may submit to the Department the following information:
 - (a) a functional program described in R432-4-15;
- (b) a report identifying modifications to the building required to bring it into compliance with construction rules for the requested licensure category.
- (2) The Department shall review the material submitted and within 30 days after receipt of the required material, furnish to the licensee a letter of approval or rejection. The Department may provide, at its option, a report of modifications required to comply with construction standards.
- (3) The licensee shall request and schedule a Department follow up inspection upon completion of the modifications.
- (4) Prior to a final Department inspection, the licensee must pay an inspection fee in accordance with the fee schedule approved by the Legislature.
- (5) The Department may issue a license when the building is in compliance with all licensing rules.

R432-4-20. Construction Phasing.

Projects involving remodeling or additions to existing buildings shall be scheduled and phased to minimize disruption to the occupants of facilities and to protect the occupants against construction traffic, dust, and dirt from the construction site. Guidelines for Design and Construction of Hospital and Health Care Facilities 2001 edition Section 5 is adopted and incorporated by reference.

R432-4-21. Outpatient Unit Features.

- (1) If a building entrance is used to reach outpatient services, the entrance must be at grade level, clearly marked, and located to minimize the need for outpatients to traverse other program areas. The outpatient surgery discharge location must provide protection from the weather by canopies that extend from the building to permit sheltered transfer to an automobile.
- (2) Lobbies of multi-occupancy buildings may be shared if the design prohibits unrelated traffic within or through units or suites of the licensed health care facility.

R432-4-22. Standards for Accessibility.

- (1) At least one drinking fountain, toilet, and handwashing facility shall be available on each floor for persons with disabilities.
- (2) Each room required to be accessible to persons utilizing wheelchairs shall comply with ADAAG.

R432-4-23. General Construction.

- (1) Guidelines for Design and Construction of Hospital and Health Care Facilities 2001 edition, Section 7 and Appendix A (Guidelines), and Sections 9.1, 9.2, 9.3, 9.4, and 9.9 for free-standing satellites or in-house outpatient programs, are adopted and incorporated by reference except as modified in this section. Swing beds must meet the requirements of Sections 7 and 8 of the Guidelines.
- (2) If a modification is cited for the Guidelines, the modification supersedes conflicting requirements of the Guidelines.
- (3) Yard equipment and supply storage areas shall be located so that equipment may be moved directly to the exterior without passing through building rooms or corridors.
- (4) Waste Processing Systems. Facilities shall provide sanitary storage and treatment areas for the disposal of all categories of waste, including hazardous and infectious wastes using techniques acceptable to the Utah Department of Environmental Quality, and the local health department having jurisdiction.
- (5) Windows, in rooms intended for 24-hour occupancy, shall open to the building exterior or to a court which is open to the sky.
 - (a) Windows shall be equipped with insect screens.(b) Operation of windows shall be restricted to a maximum
- opening of six inches to prevent escape or suicide.

 (c) Window opening shall be restricted regardless of the
- method of operation or the use of tools or keys.

 (6) Trash chutes, laundry chutes, dumb waiters, elevator shafts, and other similar systems shall not pump contaminated air into clean areas.
- (7) All public and patient toilet and bath areas must have grab bars. Grab bar sizes and configurations shall comply with ADAAG
- (8) Each patient handwashing fixture shall have a mirror. Patient toilet and bath rooms that are required to be accessible to persons utilizing wheel chairs shall have mirrors installed in accordance with ADAAG.
 - (9) Showers and tubs shall contain recessed soap dishes.
- (10) Cubicle curtains and draperies shall be affixed to permanently mounted tracks or rods. Portable curtains or visual barriers are not permitted.
- (11) Floors and bases of kitchens, toilet rooms, bath rooms, janitor's closets and soiled workrooms shall be homogenous and shall be coved. Other areas subject to frequent wet cleaning shall have coved bases that are sealed to the floor.

- (12) Acoustical treatment for sound control shall be provided in areas where sound control is needed, including corridors in patient areas, nurse stations, dayrooms, recreation rooms, dining areas, and waiting areas.
 - (13) Carpet.

Carpet in institutional occupancy patient areas, except public lobbies and offices, shall be treated to meet the following microbial resistance ratings as tested in accordance with test methods of the American Association of Textiles, Chemists, and Colorists (AATCC):

- (a) Rating: minimum 90% bacterial reduction, test method: AATCC 100.
- (b) Rating: maximum 20% fungal growth, test method: AATCC 174-99.
- (c) Rating: Exhibits no zone of inhibition, test method: AATCC 174-99.
- (d) Resilient backed carpet may be used in lieu of antimicrobial carpet.
- (e) Carpet and padding shall be stretched taut and be free of loose edges to prevent tripping.
 - (14) Signs shall be provided as follows:
 - (a) General and circulation direction signs in corridors;
 - (b) Identification on or by the side of each door; and
 - (c) Emergency evacuation directional signs.
 - (15) Elevators.
- Elevators intended for patient transport shall accommodate a gurney with attendant and have minimum inside cab dimensions of 5'8" wide by 8'5" deep and a minimum clear door width of 3'8".
- (16) All rooms and occupied areas in the facility shall have provisions for ventilation. Natural window ventilation may be used for ventilation of nonsensitive areas and patient rooms when weather conditions permit, but mechanical ventilation shall be provided during periods of temperature extremes.
- (a) Bottoms of ventilation openings shall be located at least three inches, above the floor.
- (b) Supply and return systems shall be in ducts. Common returns using corridors or attic spaces as plenums are prohibited.
- (17) In facilities other than general hospitals, specialty hospitals, and nursing care facilities, hot water recirculation is not required if the linear distance along the supply pipe from the water heater to the fixture does not exceed 50 feet.
- (18) Medical gas and air system outlets shall be provided as outlined in Table 7.5 of the Guidelines.
- (c) Bed pan washing devices may be deleted from inpatient toilet rooms where a soiled utility room is within the unit which includes bed pan washing capability.
- (19) Building sewers shall discharge into a community sewer system. If a system is not available, the facility shall treat its sewage in accordance with local requirements and Utah Department of Environmental Quality requirements.
- (20) Dishwashers, disposers and appliances shall be National Sanitation Foundation, NSF, approved and shall have the NSF seal affixed.
- (21) Electrical materials shall be listed as complying with standards of Underwriters Laboratories, Inc. or other equivalent nationally recognized standards.
- (a) Approaches to buildings and all spaces within the buildings occupied by people, machinery, or equipment shall have fixtures for lighting in accordance with at least mid range requirements shown in Tables 1A and 1B of the Guidelines in 29-95, Lighting for Health Facilities, by the Illuminating Engineering Society of North America.
- (b) Parking lots shall have fixtures for lighting to provide light levels as recommended in IESNA Lighting for Parking Facilities (RP-20-1998).
- (c) Receptacles and receptacle cover plates on the electrical emergency system shall be red.
 - (d) The activating device for nurse call stations shall be of

- a contrasting color to the adjacent floor and wall surfaces to make it easily visible in an emergency.
- (e) Fuel storage capacity of the emergency generator shall permit continuous operation of the facility for 48 hours.
- (f) Building electrical services connected to the emergency electrical source must comply with the specific rules for each licensure category.

R432-4-24. General Construction, Patient Service Facilities.

Guidelines for Design and Construction of Hospital and Health Care Facilities 2001 edition, Section 7 and Appendix A (Guidelines), are incorporated and adopted by reference and shall be met except as modified in this section. Where a modification is cited, the modification supersedes conflicting requirements of the Guidelines.

- (1) Hospitals must have at least one nursing unit of at least six beds containing patient rooms, patient care spaces, and service areas.
- (a) When more than one nursing unit shares spaces and service areas, as permitted in this rule, the service areas shall be contiguous to each nursing unit served.
- (b) Identifiable spaces shall be provided for each of the required services.
- (i) When used in this rule, "room or office" describes a specific, separate, enclosed space for the service.
- (ii) When "room or office" is not used, multiple services may be accommodated in one enclosed space.
- (c) Facility services shall be accessible from common areas without compromising patient privacy.
- (2) Patient room area is identified in each individual construction rule for the licensure category rule.
- (a) The closets in each patient room shall be a minimum of 22 inches deep by at least 22 inches wide and high enough to hang full length garments and to accommodate two storage shelves.
- (b) Pediatric units must have at least one tub room with a bathtub, toilet and sink convenient to the unit. The tub room may be omitted if all patient rooms contain a tub in the toilet room.
- (3) A "Continuing Care Nursery"must have one oxygen, one medical air and one vacuum per bassinet.
- (4) Appendix A7.2.A1 of the Guidelines, single patient room occupancy, applies to new construction only.
- (5) Provisions for an isolation room for infectious patients in Phase II recovery, as discussed in 7.7.C14 of the Guidelines, is deleted.
- (6) Postpartum rooms, in new construction, shall be single patient rooms.
 - (7) The facility must provide linen services as follows:
- (a) Processing laundry may be done within the facility, in a separate building on or off site, or in a commercial or shared laundry.
- (b) If laundry is processed by an outside commercial laundry, the following shall be provided:
- (i) a separate room for receiving and holding soiled linen until ready for transport;
- (ii) a central, clean linen storage and issuing room(s) to accommodate linen storage for four days operation or two normal deliveries, whichever is greater; and
- (iii) handwashing facilities in each area where unbagged, soiled linen is handled.
- (c) If the facility processes it's own laundry, within the facility or in a separate building, the following shall be provided:
- (i) a receiving, holding, and sorting room for control and distribution of soiled linen;
- (ii) a washing room with handwashing facilities and commercial equipment that can process a seven day accumulation of laundry within a regularly scheduled work

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week;

(iii) a drying room with dryers adequate for the quantity and type of laundry being processed; and

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- (iv) a clean linen storage room with space and shelving adequate to store one half of all linens and personal clothing being processed.
- (d) Soiled linen chutes shall discharge directly into the receiving room or in a room separated from the washing room, drying room and clean linen storage.
- (e) Prewash facilities may be provided in the receiving, holding and sorting rooms.
- (f) If laundry is processed by the facility, either a two or three room configuration may be used as follows;
- (i) A two room configuration shall consist of the following:
- (A) a room housing soiled linen receiving, sorting, holding, and prewash facilities; washers; and handwashing facilities; and
- (B) a room housing dryers; clean linen folding, sorting, and storage facilities; and handwashing facilities.
 - (ii) A three room configuration shall consist of:
- (A) a soiled linen receiving, sorting, holding room with prewash and handwashing facilities;
- (B) a combination washer and dryer room arranged so linen flows from the soiled receiving area to the washers, to the dryers, and then to clean storage; and
- (C) a clean storage room with folding, sorting, storage and handwashing facilities.
- (iii) Physical separation shall be maintained between rooms by means of self closing doors.
- (iv) Air movements shall be from the clean area to the soiled area. Air from the soiled area shall be exhausted directly to the outside.
- (g) Handwashing sinks shall be provided and located within the laundry areas to maintain the functional separation of the clean and soiled processes.
- (h) Rooms shall be arranged to prevent the transport of soiled laundry through clean areas and the transport of clean laundry through soiled areas.
- (i) Convenient access to employee lockers and lounges shall be provided.
 - (j) Storage for laundry supplies shall be provided.
- (k) A cart storage area for separate parking of clean and soiled linen carts shall be provided out of normal traffic paths.

R432-4-25. Excluded Sections of the Guidelines.

The Linen Services section 7.23 of the Guidelines does not apply.

R432-4-26. Penalties.

The Department may assess a civil money penalty of up to \$5,000 and deny approval for patient utilization of new or remodeled areas if a health care provider does not submit architectural drawings to the Bureau of Licensing. The Department may assess a civil money penalty of up to \$5,000 if the licensee fails to follow Department-approved architectural plans. The Department may assess a civil money penalty of up to \$500 per day for each day a new or renovated area is occupied prior to Bureau of licensing approval.

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Notice of Continuation January 5, 2004 26-21-16

R432. Health, Health Systems Improvement, Licensing. R432-5. Nursing Facility Construction.

R432-5-1. Legal Authority.

This rule is promulgated pursuant to Title 26, Chapter 21.

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R432-5-2. Purpose.

The purpose of this rule is to promote the health and welfare through the establishment and enforcement of construction standards. The intent is to provide residential like environments and encourage social interaction of residents.

R432-5-3. Definitions.

- (1) "Special Care Unit" means a physical area within a licensed facility designated for the housing and treatment of residents diagnosed with a specifically defined disease or medical condition.
- (2) "Room or Office" when used in this rule describes a specific, separate, enclosed space for the service. When room or office is not used, multiple services may be accommodated in one enclosed space.

R432-5-4. Description of Service.

- (1) A nursing unit shall consist of resident rooms, resident care spaces, and services spaces.
- (2) Each nursing unit shall contain at least four resident beds
- (3) Rooms and spaces composing a nursing unit shall be contiguous.
- (4) A nursing care facility operated in conjunction with a general hospital or other licensed health care facility shall comply with all provisions of this section. Dietary, storage, pharmacy, maintenance, laundry, housekeeping, medical records, and laboratory functions may be shared by two or more facilities.
- (5) Special care units shall comply with all provisions of R432-5.
- (6) Windows, in rooms intended for 24-hour occupancy, shall be operable.

R432-5-5. General Design Requirements.

- R432-4-1 through R432-4-23, and 24(3) apply with the following modifications.
- (1) Fixtures in all public and resident toilet and bathrooms shall comply with Americans with Disabilities Act Accessibility Guidelines, (ADAAG) 28 CFR 36, Appendix A, (July 1993). These rooms shall be wheelchair accessible with wheelchair turning space within the room.
- (2) Lavatories, counters, and door clearances within resident rooms shall be wheelchair accessible.

R432-5-6. General Construction Requirements.

- (1) Nursing facilities shall be constructed in accordance with the Guidelines for Design and Construction of Hospital and Health Care Facilities (Guidelines), Section 8 and Appendix A, 2001 edition which is adopted by reference.
- (2) Where a modification is cited, the modification supersedes conflicting requirements of the Guidelines.

R432-5-7. Nursing Unit.

- (1) When more than one nursing unit shares spaces and service areas, as permitted in this rule, the shared spaces and service areas shall be contiguous to each nursing unit served.
- (2) Facility service areas shall be accessible from common areas without compromising resident privacy.
- (3) Each nursing unit shall have a maximum number of 60 beds.
- (4) At least two single-bed rooms, each with private toilet room containing a toilet, lavatory, and bathing facility shall be provided for each nursing unit.

- (a) In addition to the lavatory in the toilet room, in new construction and remodeling, a lavatory or handwashing sink shall be provided in the resident room.
- (b) Ventilation shall be in accordance with Table 6 with all air exhausted to the outside.
- (5) Each room shall have a window in accordance with R432-4-23(5).
- (6) Each resident closet shall be a minimum of 22 inches deep by 36 inches wide with a shelf to store clothing and a clothes rod positioned to accommodate full length garments.
- (7) A nurse call system is not required in facilities which care for persons with mental retardation or developmental disabilities. With prior approval of the Department, a nursing facility may modify the system to alleviate hazards to residents.
- (8) Handwashing facilities shall be located near the nursing station and the drug distribution station.
- (9) A staff toilet room may also serve as a public toilet room if it is located in the nursing unit.
- (10) A clean workroom or clean holding room with a minimum area of 80 square feet shall provide for preparing resident care items.
- (a) The clean work room shall contain a counter, handwashing facilities and storage facilities.
- (b) The work counter and handwashing facilities may be omitted in rooms used only for storage and holding, as part of a larger system for distribution of clean and sterile supply materials.
- (11) If a medical cart is used it shall be under visual control of staff.
- (a) Double locked storage shall be provided for controlled drugs.
- (b) Provisions shall be made for receiving, assembling, and storage of drugs and other pharmacy products.
- (12) If a closed cart is used for clean linen storage, it shall be stored in a room with a self closing door. Storage in an alcove in a corridor is prohibited.
- (13) Ice intended for human consumption shall be dispensed by self dispensing ice makers. Bin type storage units are prohibited.
- (14) Gurney showers for residents may be provided at the option of the facility.
- (a) One bathtub and shower shall be provided on each nursing floor in addition to bath fixtures in resident toilet rooms.
- (b) At least one shower on each floor shall be at least four feet square without curbs designed for use by a resident using a wheelchair.
- (c) Each resident bathtub and shower shall be in a separate room or enclosure large enough to ensure privacy and to allow staff to assist with bathing, drying, and dressing.
- (15) At least one toilet room shall be provided on each floor containing a nursing unit to be used for resident toilet training.
- (a) The room shall contain a toilet and lavatory with wheelchair turning space within the room.
- (b) A toilet room with direct access from the bathing area shall be provided at each central bathing area if a toilet is not otherwise provided in the bathing area. The toilet training facility may serve this function if there is direct access from the bathing area.
- (c) Doors to toilet rooms shall have a minimum width of 34 inches to admit a wheelchair. The doors shall permit access from the outside in case of an emergency.
- (d) A handwashing fixture shall be provided in each toilet room.
- (16) An equipment storage room with a minimum area of 120 square feet for portable equipment shall be provided.

R432-5-8. Resident Support Areas.

(1) Occupational therapy service areas may be counted in

the calculation of support space.

- (2) Physical Therapy, personal care room, and public waiting lobbies shall not be included in the calculation of support space.
- (3) There shall be resident living areas equipped with tables, reading lamps, and comfortable chairs designed to be usable by all residents.
- (4) There shall be a general purpose room with a minimum area of 100 square feet equipped with a table and comfortable
- (5) A minimum area of ten square feet per bed shall be provided for outdoor recreation. This space shall be provided in addition to the setbacks on street frontages required by local zoning ordinances.
 - (6) Examination and Treatment rooms.
- (a) An examination and treatment room shall be provided except when all resident rooms are single bed rooms.
- (b) An examination and treatment room may be shared by multiple nursing units.
- (c) When provided, the room shall have a minimum floor area of 100 square feet, excluding space for vestibules, toilet, closets, and work counters, whether fixed or moveable.
- The room shall contain a lavatory equipped for handwashing, work counter, storage facilities, and a desk, counter, or shelf space for writing.
- (7) In addition to facility general storage areas, at least five square feet per bed shall be provided for resident storage.

R432-5-9. Rehabilitation Therapy.

- (1) A separate storage room for clean and soiled linen shall be provided contiguous to the rehabilitation therapy area.
- (2) Storage for rehabilitation therapy supplies and equipment shall be provided.

R432-5-10. General Services.

- (1) Linen services shall comply with R432-4-24(3).
- (2) There shall be one housekeeping room for each nursing unit.
- (3) Yard equipment and supply storage areas shall be located so that equipment may be moved directly to the exterior without passing through building rooms or corridors.

R432-5-11. Waste Storage and Disposal.

Facilities and equipment shall be provided for the sanitary storage and treatment or disposal of all categories of waste, including hazardous and infectious wastes if applicable, using techniques defined by the Utah Department of Environmental Quality, and the local health department having jurisdiction.

R432-5-12. Details and Finishes.

- (1) Grab bars shall be installed in all toilet rooms in accordance with the ADAAG.
- (2) Corridor and hallway handrails shall comply with ADAAG. The top of the rail shall be 34 inches above the floor, except for areas serving children and other special care areas.
- (3) Cubicle curtains and draperies shall be affixed to permanently mounted tracks or rods. Portable curtains or visual barriers are not permitted.
 - (4) Signs shall be provided as follows:
 - (a) general and circulation direction signs in corridors;
 - (b) identification at each door; and
 - (c) emergency directional signs;
 - (d) all signs in corridors shall comply with ADAAG.
- (5) Partitions, floor and ceiling construction in resident areas shall comply with the noise reduction criteria of Table 1 for sound control.

TABLE 1

Sound Transmission Limitations

in Long-Term Care Facilities

Airborne Sound Transmissions Transmissions Class (STC) (a)

Class (IIC) (b)	Partitions	Floors
(Residents') room to resident's room	35	40
Public space to (residents) room (b)	40	40
Service areas to	40	40
(residents') room (c)	45	45

(a) Sound transmissions (STC) shall be determined by tests in accordance with Standard E90 and ASTM Standard E413. Where partitions do not extend to the structure above, the designer shall consider sound transmissions through ceilings and composite STC

consider sound transmissions through ceilings and composite STC performance.

(b) Public space includes lobbies, dining rooms, recreation rooms, treatment rooms, and similar space.

(c) Service areas include kitchens, elevators, elevator machine rooms, laundry rooms, garages, maintenance rooms, boilers and mechanical equipment rooms and similar spaces of high noise. Mechanical equipment located on the same floor or above patient's rooms, offices, nurses' stations, and similarly occupied space shall be effectively isolated from the floor.

R432-5-13. Elevators.

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At least one elevator serving all levels shall accommodate a gurney with attendant and have minimum inside cab dimensions of 5'8" wide by 8'5" deep and a minimum clear door width of 3'8".

R432-5-14. Mechanical Standards.

- (1) Mechanical tests shall be conducted prior to final Department construction inspection.
- (2) Written test results shall be retained in facility maintenance files and available for Department review.
- (3) Air Conditioning, Heating, and Ventilating Systems shall include:
- (a) A heating system capable of maintaining a temperature of 80 degrees Fahrenheit in areas occupied by residents.
- (b) A cooling system capable of maintaining a temperature of 72 degrees Fahrenheit in areas occupied by residents.
- (c) Evaporative coolers may only be used in kitchen hood systems that provide 100% outside air.
- (d) Isolation rooms may be ventilated by reheat induction units in which only the primary air supplied from a central system passes through the reheat unit. No air shall be recirculated into the building system.
- (e) Supply and return systems must be within a duct. Common returns using corridor or attic spaces as return plenums are prohibited.
- (f) Filtration shall be provided when mechanically circulated outside air is used.
 - (g) Hoods.
- (i) All hoods over cooking ranges shall be equipped with grease filters, fire extinguishing systems, and heat activated fan
- (ii) Cleanout openings shall be provided every 20 feet in horizontal sections of duct systems serving the hoods.
- (h) Gravity exhaust may be used, where conditions permit, for boiler rooms, central storage, and other nonresident areas.
 - (4) Plumbing and other Piping Systems shall include:
- (a) Handwashing facilities that are arranged to provide sufficient clearance for single lever operating handles.
- (b) Dishwashers, disposal and appliances that are National Sanitation Foundation (NSF) approved and have the NSF seal affixed.
- (c) Kitchen grease traps that are located and arranged to permit access without the need to enter food preparation or storage areas.
- Hot water provided in patient tubs, showers, whirlpools, and handwashing facilities that is regulated by thermostatically controlled automatic mixing valves. These

valves may be installed on the recirculating system or on

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R432-5-15. Electric Standards.

individual inlets to appliances.

- (1) Operators shall maintain written certification to the Department verifying that systems and grounding comply with NFPA 99 and NFPA 70.
- (2) Approaches to buildings and all spaces within buildings occupied by people, machinery, or equipment shall have fixtures for lighting in accordance with the requirements of the Illuminating Engineering Society of North America (IESNA). Parking lots shall have fixtures for lighting to provide light levels as recommended in IES Recommended Practice RP-20-1998, Lighting for parking facilities by the Illuminating Engineering Society of North America.
- (3) Automatic emergency lighting shall be provided in accordance with NFPA 99 and NFPA 101.
- (4) Each examination and work table shall have access to a minimum of two duplex outlets.
- (5) Receptacles and receptacle cover plates on the emergency system shall be red.
- (6) An on-site emergency generator shall be provided in all nursing care facilities except small ICF/MR health care facilities of 16 beds or less.
- (a) In addition to requirements of NFPA 70, Section 517-40, the following equipment shall be connected to the critical branch of the essential electrical system.
- (i) heating equipment necessary to provide heated space sufficient to house all residents under emergency conditions,
- (ii) duplex convenience outlets in the emergency heated area at the ratio of one duplex outlet for each ten residents,
 - (iii) nurse call system,
 - (iv) one duplex receptacle in each resident bedroom.
- (b) Fuel storage shall permit continuous operation of the services required to be connected to the emergency generator for 48 hours.

R432-5-16. Exclusions to the Guidelines.

The following sections of the Guidelines do not apply:

- (1) Parking, Section 8.1.F.
- (2) Program of Functions, Section 8.1.G.
- (3) Clean workroom, Subsection 8.2.C.5.
- (4) Linen Services, section 8.11.
- (5) Clusters and Staffing Considerations, section A8.2.A. The cluster design concept has proven beneficial in numerous cases, but is optional. However, the Department encourages new construction projects to consider this concept.

R432-5-17. Penalties.

The Department may assess a civil money penalty of up to \$5,000 and deny approval for patient utilization of new or remodeled areas if a health care provider does not submit architectural drawings to the Bureau of Licensing. The Department may assess a civil money penalty of up to \$5,000 if the licensee fails to follow Department-approved architectural plans. The Department may assess a civil money penalty of up to \$500 per day for each day a new or renovated area is occupied prior to Bureau of Licensing approval.

KEY: health facilities January 15, 2003

26-21-5

Notice of Continuation January 5, 2004

26-21-16

R432. Health, Health Systems Improvement, Licensing. R432-6. Assisted Living Facility General Construction. R432-6-1. Legal Authority.

This rule is promulgated pursuant to Title 26, Chapter 21. Sections numbered less than R432-6-99 apply to all assisted living facilities. Sections in the R432-6-100 series apply to Type I assisted living facilities. Sections in the R432-6-200 series apply to Type II assisted living facilities.

R432-6-2. Purpose.

The purpose of this rule is to promote the health and welfare of individuals receiving assisted living services through the establishment and enforcement of construction standards.

R432-6-3. Definitions.

- (1) Assisted Living Facility Type I is a residential facility that provides assistance with activities of daily living and social care to two or more ambulatory residents who require protected living arrangements.
- (2) Assisted Living Facility Type II is a residential facility that provides coordinated supportive personal and health care services to two or more semi-independent residents.
 - (a) "Semi-independent means a person who is:
- (i) physically disabled but able to direct his or her own care; or
- (ii) cognitively impaired or physically disabled but able to evacuate from the facility, or to a zone or area of safety, with the physical assistance of one person.
 - (b) "Resident Living Unit" means:
- (i) a one bedroom unit which may also include a bathroom and additional living space; or
- (ii) a two bedroom unit which may also include a bathroom and additional living space.
- (c) "Additional Living Space" means a living room, dining area and kitchen, or a combination of these rooms or areas in a resident living unit.
- (3) "Room" or "office" means a specific, separate, fully enclosed space for the service. If "room" or "office" is not used, multiple services may be accommodated in one enclosed space.
- (4) Assisted Living Facilities Type I and Type II may be classified as either large, small or limited capacity.
- (a) A large assisted living facility houses 17 or more residents.
- (b) A small assisted living facility houses six to 16 residents.
- (c) A limited capacity assisted living facility houses up to five residents.

R432-6-4. General Requirements.

- (1) The licensee is responsible for assuring compliance with R432-6.
- (2) If testing and certification compliance can only be verified through written documentation, the documentation shall be maintained in the facility for Department inspection.
- (3) If conflicts exist between applicable codes or if other authorities having jurisdiction adopt more restrictive requirements than contained in these rules, the most restrictive requirement applies.
- (4) If the Department has concerns about compliance, the licensee is responsible to demonstrate compliance.

R432-6-5. Codes and Code Compliance.

- (1) The following codes and standards enforced by other agencies or jurisdictions apply to assisted living facilities. The licensee shall obtain documentation of compliance for the following codes and standards from the authority having jurisdiction and submit the documentation to the Department:
 - (a) Local zoning ordinances;
 - (b) International Building Code, 2000 edition;

(c) International Plumbing Code, 2000 edition;

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- (d) International Fire Code, 2000 edition; and
- (e) Americans with Disabilities Act Accessibility Guidelines, (ADAAG) 28 CFR 36, Appendix A (July 1993).
- (2) The licensee shall obtain a certificate of occupancy from the local building official having jurisdiction.
- (3) The licensee shall obtain a certificate of fire clearance from the Fire Marshal having jurisdiction.
- (4) The licensee shall submit a copy of the certificates to the Department prior to resident utilization of newly constructed facilities, additions or remodels of existing facilities.

R432-6-6. Application of Codes for New and Existing Buildings.

- (1) New construction, additions and remodels to existing buildings shall comply with Department rules in effect on the date the first drawings are received by the Department.
- (2) If the remodeled area or addition in any building, wing, floor or service area of a building exceeds 50 percent of the total square foot area of the building, wing, floor or service area, then the entire building, wing, floor or service area shall be brought into compliance with rules governing new construction which are in effect on the date the first drawings are submitted to the Department.
- (3) During remodeling, new construction or additions, the safety level which existed prior to the start of work shall be maintained.
- (4) Current licensed buildings shall conform to Department construction rules in effect at the time of initial facility licensure.
- (5) Buildings which are changing license classification shall comply with requirements for new construction.
- (6) Buildings undergoing refurbishing shall comply with the following:
- (a) All materials installed as part of a refurbishing project shall comply with flame spread ratings required by the fire marshal having jurisdiction.
- (b) The facility shall keep written documentation of compliance with codes and standards.

R432-6-7. Plans Review and Approval and Construction Inspection.

- (1) Health facilities shall obtain Department approval before occupying any newly constructed buildings or remodeled systems, or areas in existing buildings.
- (2) Prior to submitting documents for plans review, the facility architect and licensee must schedule a conference with Department representatives to outline the required plans review process.
- (3) The licensee shall submit the following for Department review:
 - (a) a functional program;
 - (b) schematic drawings;
 - (c) design development drawings; and
 - (d) working drawings, including specifications.
- (4) The Department shall initiate its review when it receives all required documents and fees.
- (5) Working drawings and specifications for new construction, additions, or remodeling shall have the seal of a Utah licensed architect affixed in compliance with Section 58-3a-602.
- (6) Plans approved by the Department do not relieve the licensee of responsibility for full compliance with R432-6.
- (7) Plan approval expires 12 months after the date of the Department's approval letter, or latest plan review response letter if construction has not commenced. After a 12 month lapse the licensee must resubmit plans to the Department with a new plan review paid. A new letter of approval must be obtained from the Department.

(8) The Department shall issue an initial license, renewal license, or modified license only after the Department has determined the facility conforms with applicable licensure construction rules and has obtained all required clearances and certifications.

R432-6-8. Functional Program.

- (1) The licensee must furnish to the Department a functional program which includes the following:
 - (a) the purpose and license category of the facility;
- (b) services offered, including a detailed description of each service;
- (c) ancillary services required to support each function or program;
- (d) services offered under contract by outside providers and the required in-house facilities to support these services;
- (e) services shared with other health care licensure categories or functions;
 - (f) physical and mental condition of intended residents;
- (g) ambulatory condition of intended residents, such as mobile or ambulatory;
- (h) special electrical requirements related to resident care;
 - (i) communication systems and other special systems.
- (2) The functional program must include a description of how essential core services will accommodate increased demand if the building is designed for later expansion.

R432-6-9. Drawings.

- (1) Drawings shall show all equipment necessary for the operation of the facility, such as kitchen equipment, laundry equipment, and similar equipment.
- (2) Schematic drawings, which may be single line, shall contain the following information:
 - (a) list of applicable building codes;
- (b) location of the building on the site and access to the building for public, emergency, and service vehicles;
- (c) site drainage and any natural drainage channels which traverse the site;
- (d) any unusual site conditions, including easements which might affect the building or its appurtenances;
 - (e) relationships of rooms and areas within departments;
 - (f) number of resident beds; and
- (g) total building area or area of additions or remodeled portions.
- (3) Design development drawings, drawn to scale, shall contain the following information:
 - (a) room dimensions and room square footage;
- (b) site plan, showing relationship to streets and vehicle access;
 - (c) location and size of public utilities; and
 - (d) types of mechanical, electrical and auxiliary systems.
- (4) Working drawings shall include all the drawings outlined above in R432-6-9(1) through (3).
- (a) The licensee shall provide one copy of completed working drawings and specifications which shows all equipment necessary for the operation of the facility such as kitchen, laundry, and other equipment.
- (b) The Bureau of Licensing will keep the final drawings for 12 months after final approval of the project. Drawings may then be returned to the owner upon request.
- (5) Within 30 days after receipt of required documentation and fee, the Department shall provide to the licensee and the project architect a written report of plans review outlining necessary modifications required to comply with Department rules.
- (6) If changes are necessary, the licensee shall submit revised plans for review and final approval.

R432-6-10. Construction Inspections.

- (1) The Department may conduct interim inspections.
- (2) Prior to resident utilization, the licensee shall schedule a final inspection with the Department when the project is complete and furnishings and equipment are in place.

R432-6-11. Construction Without Plans Approval.

- (1) If construction is commenced without prior Department plans approval, the Department may issue a license and authorize resident utilization only after it has approved asbuilt drawings and has conducted a construction inspection.
- (2) The licensee shall correct all non-compliant items and pay the full plans review fee and inspection fee.

R432-6-12. Buildings Without Plans.

- (1) If plans are not available for existing buildings involved in initial licensing or license category change, the licensee shall submit to the Department a functional program as defined in subsection R432-6-8, and a report identifying modifications to the building required to bring it into compliance with construction rules for the requested licensure category.
- (2) The Department shall review the functional program and furnish to the licensee a letter of approval or rejection within 30 days after receipt of the material. The Department may provide, at its option, a written report of modifications required to comply with construction standards.
- (3) The licensee shall request and schedule a Department inspection upon completion of the modifications.
- (4) Prior to a final Department inspection, the licensee shall pay the inspection fee.
- (5) The Department shall issue a license when the building is in compliance with all licensing rules.

R432-6-13. Construction Phasing.

Projects involving remodeling or additions to an occupied building shall be programmed and phased to minimize detrimental effects to and disruption of residents and employees of the facility by protecting against construction traffic, dust, and dirt from the construction site.

R432-6-14. Site Location.

- (1) The site shall be accessible to both visitor and service vehicles.
- (2) Facilities shall be located to ensure that public utilities are available.

R432-6-15. Site Design.

The site design shall include the following:

- (1) Surrounding land for outdoor activities;
- (2) Paved roads for access to service docks and entrances;
- (3) Fire equipment access as required by the fire marshal;
- (4) Paved walkways for pedestrian traffic and from every required exit to a dedicated public way.

R432-6-16. Parking.

- Parking requirements must comply with local zoning rdinances.
- (2) Parking spaces for persons with disabilities shall be as level as practical and conform to requirements for disabled parking access as required by ADAAG.
- (a) The extra width required for disabled parking may be used as part of a common walkway.
- (b) Parking spaces for the disabled shall be directly accessible to the facility without requiring the disabled to go behind parked cars.

R432-6-17. Elevators.

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All large multi-level assisted living facilities shall have an elevator which serves all levels. At least one elevator serving all levels shall accommodate a gurney with attendant and have minimum inside cab dimensions of 5'8" wide by 8'5" deep and a minimum clear door width of 3'8".

R432-6-18. Special Design Features.

- (1) Building entrances in large facilities shall be at grade level, clearly marked, and located to minimize the need for residents to traverse other program areas. A main facility entrance shall be designated and accessible to persons with disabilities.
- (2) Lobbies of multi-occupancy buildings may be shared if the design precludes unrelated traffic within or through units or suites of the licensed health care facility.
- (3) At least one building entrance shall be accessible to persons with physical disabilities. Entrances requiring ramps with a slope in excess of 1:20 shall have steps as well as ramps.
- (4) In Large facilities where all resident units do not have kitchens or toilet facilities, at least one drinking fountain or water cooler, toilet, and handwashing fixture on each floor shall be wheelchair accessible.
- (5) Each resident bedroom or sleeping room shall have a wardrobe, closet, or locker for each resident occupying the unit. The closet, wardrobe or locker shall have a shelf and a hanging rod, with minimum inside dimensions of 22 inches deep by 36 inches wide by 72 inches tall, suitable for hanging full-length garments.

R432-6-19. General Standards for Details.

- (1) Placement of drinking fountains, telephone booths, or vending machines shall not restrict corridor traffic or reduce required corridor width.
- (2) Doors and windows shall comply with the following requirements:
- (a) Rooms which contain bathtubs, showers, or water closets for resident use shall be equipped with doors and hardware which permit emergency access.
- (b) Doors, except those to spaces such as small closets not subject to occupancy, shall not swing into corridors in a manner which will obstruct traffic or reduce corridor width. Large walk-in type closets are occupiable spaces.
- (c) Windows which open to the exterior shall be equipped with insect screens.
- (d) Resident rooms and suites intended for 24-hour occupancy shall have operable windows which open to the exterior of the building or to a court open to the sky.
- (e) Doors, sidelights, borrowed lights, and windows glazed to within 18 inches of the floor shall be constructed of safety glass, wired glass, or plastic break-resistant material that creates no dangerous cutting edges when broken.
- (f) Safety glass, wired glass, or plastic break-resistant materials shall be used for wall openings in recreation rooms, exercise rooms, and other activity areas unless prohibited in the International Building Code.
- (g) Doors used for shower and bath enclosures shall be made of safety glass or plastic glazing materials.
- (3) Trash chutes, laundry chutes, dumbwaiters, elevator shafts, and other similar systems shall not allow movement of contaminated air into clean areas.
- (4) Thresholds and expansion joint covers shall be flush with the floor surface to facilitate use of wheelchairs and carts.
- (5) All lavatories must be equipped with hand drying facilities.
- (a) Lavatories that are expected to serve more than one resident shall have single use paper towel dispensing units or cloth towel dispensing units that are enclosed to protect towels from being soiled. Double occupancy units are not required to provide towel dispensing units if occupied by two related

persons.

(b) Lavatories shall be anchored to withstand an applied vertical load of not less than 250 pounds on the fixture front.

R432-6-20. General Standards for Finishes.

- Curtains and draperies shall be affixed to permanently mounted tracks or rods.
- (2) Floors and walls shall be designed and constructed as follows:
 - (a) Floor materials shall be easily cleanable;
- (b) Floors in areas used for food preparation or food assembly shall be water-resistant. Floor surfaces, including tile joints, shall be resistant to food acids.
- (c) In areas subject to frequent wet-cleaning, floor materials shall not be physically affected by germicidal cleaning solutions.
- (d) Floors in shower and bath areas, kitchens, and similar work areas subject to traffic while wet shall have non slip surfaces.
- (e) Floors and wall bases of kitchens, toilet rooms, bath rooms, janitors' closets, and other areas subject to frequent wet cleaning shall be homogeneous with coved bases and tightly sealed seams.
- (f) Wall finishes shall be washable and, in the immediate vicinity of plumbing fixtures, smooth and moisture-resistant.
- (g) Finish, trim, floor, and wall construction in dietary and food preparation areas shall be free of insect and rodent harboring spaces.
- (h) Floor and wall openings for pipes, ducts, conduits, and joints of structural elements shall be tightly sealed to resist passage of fire and smoke and minimize entry of pests.
- (i) Carpet and padding shall be stretched taut and be free of loose edges.
- (j) Carpet pile shall be sufficiently dense so as not to interfere with the operation of wheel chairs, walkers, wheeled carts, and other wheeled equipment.
- (k) Carpet and other floor coverings shall comply with provisions of ADAAG.
- (3) Ceiling finishes shall be designed and constructed as follows:
- (a) Finishes of all exposed ceilings and ceiling structures in resident rooms and staff work areas shall be readily cleanable with routine housekeeping equipment.
- (b) In large facilities, acoustical treatment for sound control shall be provided in areas where sound control is needed, including corridors in resident areas, dayrooms, recreation rooms, dining areas, and waiting areas.
- (c) Finished ceilings may be omitted in mechanical and equipment spaces, shops, general storage areas, and similar spaces unless required for fire resistive purposes.
 - (4) The following signs shall be provided:
- (a) general and circulation direction signs in corridors of large assisted living facilities;
- (b) emergency evacuation directional signs for all facilities; and
- (c) room identification signs on the corridor side of all corridor doors.

R432-6-21. Building Systems.

- (1) Facilities and equipment shall be provided for the sanitary storage and treatment or disposal of all categories of waste, including hazardous and infectious wastes if applicable, using techniques acceptable to the State Department of Environmental Quality, and the local health department having jurisdiction.
- (2) The following engineering service and equipment shall be provided for effective service and maintenance functions:
- (a) rooms for mechanical equipment or electrical equipment;

- (b) a storage room for building maintenance supplies;
- (c) yard equipment and supply storage areas located so that equipment may be moved directly to the exterior of the building without passing through building rooms or corridors;
- (d) central storage for supplies, equipment and miscellaneous storage in large and small facilities; and
- (e) in large facilities, a separate maintenance room or office.
- (3) In small and large facilities a housekeeping room shall be located on each floor of the assisted living facility. In large facilities this room shall have a floor receptor or service sink. All housekeeping rooms shall be mechanically exhausted.
- (4) Sound Control for large assisted living facilities must be designed and constructed to meet the noise reduction criteria as outlined in Table 1.

TABLE 1 Sound Transmission Limitations

	Airborne :	sound
	Transmissions Class	
	Partitions	Floors
Residents' room to residents' room	35	40
Public space to residents' room	40	40
Service areas to residents' room	45	45

- (a) Sound transmission class shall be determined by tests in accordance with methods set forth in ASTM Standard E 90 and ASTM Standard E 413. Where partitions do not extend to the structure above, sound transmission through ceilings and composite STC performance must be considered.
- (b) Public space includes lobbies, dining rooms, recreation rooms, treatment rooms, and similar space.
- (c) Service areas include kitchens, elevators, elevator machine rooms, laundries, garages, maintenance rooms, boilers and mechanical equipment rooms, and similar spaces of high noise. Mechanical equipment located on the same floor or above resident's rooms, offices, and similarly occupied space shall be effectively isolated from the floor.
- (d) Recreation rooms, exercise rooms, equipment rooms and similar spaces where impact noises may be generated may not be located directly over residents' rooms.

R432-6-22. Mechanical, Heating, Cooling and Ventilation Systems.

- (1) The HVAC system design shall prevent large temperature differentials, high velocity supply, excessive noise, and air stagnation.
- (2) Air supply and exhaust in rooms for which no minimum total air change rate is mandated by Table 2 may vary to zero in response to room load.
- (3) Mechanical ventilation shall be provided for interior spaces independent of thermostat-controlled demands.
- (a) Minimum total air change, room temperature, and temperature control shall comply with standards in Table 2.
- (b) To maintain asepsis and odor control, airflow supply and exhaust shall be controlled to ensure movement of air from clean to less clean areas.
- (c) Rooms containing heat-producing equipment shall be insulated and ventilated to prevent the floor surface above or the walls of adjacent occupied areas from exceeding a temperature of ten degrees Fahrenheit above ambient room temperature.
- (d) All rooms and occupiable areas in the facility shall have provisions for ventilation. Natural window ventilation may be used for ventilation of nonsensitive areas and resident rooms when weather conditions permit, but mechanical ventilation shall be provided during periods of temperature extremes.
- (e) The heating system shall be capable of maintaining temperatures of 80 degrees F. in areas occupied by residents.
- (f) The cooling system shall be capable of maintaining temperatures of 72 degrees F. in areas occupied by residents.

- (g) Equipment must be available to provide essential heating during a loss of normal heating capability. All emergency heating devices shall be approved by the local fire jurisdiction.
- (h) Fans serving exhaust systems shall be located at the discharge end and shall be readily serviceable. Exhaust fans may be on the inlet side if individually ducted directly to the outside.
- (i) Fresh air intakes shall be located at least 10 feet from exhaust outlets of ventilating systems, combustion equipment stacks, plumbing vents, or areas subject to vehicular exhaust or other noxious fumes.
- (j) All ventilation, air conditioning systems and air delivery equipment, including through wall units, shall be equipped with filters in accordance with Table 2.
- (k) Gravity exhaust may be used where conditions permit for boiler rooms, central storage, and other nonresident areas.
- (l) The ventilation system shall be air tested and balanced prior to the final Department construction inspection. The initial test results and air balancing report shall be maintained for Department review.

TABLE 2 Ventilation Requirements

AREA DESIGNATION	AIR MOVEMENT IN RELATION TO ADJACENT AREAS	MINIMUM AIR CHANGES OF OUTDOOR AIR PER HOUR TO ROOM	MINIMUM TOTAL AIR CHANGES PER HOUR	ALL AIR EXHAUSTED OUTSIDE
Bath and Shower Rooms	N	Optional	10	YES
Clean Linen Storage	Р	Optional	2	Optional
Dietary Day Storage	V	Optional	2	Optional
Food Preparation Center	Е	2	10	YES
Janitors' Closets	N	Optional	10	YES
Laundry	٧	2	10	YES
Corridor	E	Optional	2	Optional
Grooming Area	N	2	2	YES
Resident Room	E	Greater	2	Optional of one air change or minimum 20 CFM/ person
Soiled Linen Sorting and Storage	N	Optional	10	YES
Toilet	N	Optional	10	YES
Rooms Ware Washing	N	Optional	10	YES
Common	E	2	2	Optional
Areas				

as

E = Equal; N = Negative; P = Positive; V = Variable

- (m) The requirements of Table 2 do not apply to limited capacity facilities. Limited capacity facilities shall provide exhaust for kitchens and bathrooms.
- (n) If an existing building bathroom or toilet room is not exhausted to the outside, the licensee may submit a Request for Agency Action Variance to the Table 2 requirements at the time of initial licensing.
- (4) All areas for resident care, and those areas providing direct service or clean supplies shall provide at least one filter bed with a minimum of 30% efficiency.
- (5) All administrative, bulk storage, soiled holding, food preparation and laundries shall provide at least one filter bed with a minimum of 25% efficiency.

R432-6-23. Plumbing.

- (1) Showers and tubs shall have non-slip or slip-resistant surfaces.
- (2) Potable water supply systems shall comply with the following requirements:
- (a) Water supply systems shall be designed with sufficient pressure to operate all fixtures and equipment during maximum demand.
- (b) Each water service main, branch main, riser, and branch to a group of fixtures shall have a stop valve. A stop valve shall be provided for each fixture. Panels shall be provided for access to valves.
- (c) All fixtures used by residents shall be trimmed with valves with cross, tee or single lever handles.
- (3) Hot water systems shall meet the following requirements:
- (a) As a minimum, water-heating systems shall provide supply capacity at temperatures and amounts indicated in Table 3. Water temperature shall be measured at the point of use or inlet to equipment.

	TABLE 3 Hot Water Use		
	Resident Care Areas	Dietary	Laundry
Gallons per Hour per Bed Temperature Centigrade	3 43	2 49	2 71
Temperature Fahrenheit	110	120	160

- (b) Distribution systems that exceed 50 linear feet and that service resident care areas shall be under constant recirculation to provide continuous hot water to each outlet. The temperature of hot water for lavatories, showers and bathing shall not exceed 120 degrees Fahrenheit. Thermostatically controlled automatic mixing valves may be used to maintain hot water at these temperatures.
- (c) 180 degrees Fahrenheit rinse water must be provided at the dishwasher if an approved low temperature chemical rinse is not utilized.
- (d) 160 degrees Fahrenheit hot water must be available at the laundry equipment as needed.
- (4) Quantities indicated for design demand of hot water are for general reference minimums and shall not substitute for accepted engineering design procedures using actual number and types of fixtures to be installed.
- (5) Drainage system shall comply with the following requirements:
- (a) Building sewers shall discharge into community sewerage. Where such a system is not available, the facility shall treat its sewage in accordance with local requirements and State Department of Environmental Quality requirements.
- (b) Where overhead drain piping is exposed, special provisions shall be made to protect the space below from contamination from leakage, condensation, and dust particles. Approval of special provisions in food preparation, food service

- areas, and food storage areas shall be obtained from the local health department.
- (c) Kitchen grease trap locations shall comply with local health department rules.
- (6) Dishwashers, in sink garbage disposers, and other appliances shall be National Sanitation Foundation, NSF, approved and have the NSF seal affixed.

R432-6-24. Electrical.

- (1) In large assisted living facilities, panel boards serving normal lighting and appliance circuits shall be located on the same floor or on the same wing as the circuits served. Panels for emergency circuits, if provided, may serve the floors above and below for general resident areas and administration.
- (2) Corridors shall be illuminated at night in accordance with Table 4.
- (3) Light intensity shall be at or above the minimum footcandle in accordance with Table 4. Areas not shown in Table 4, including parking lots and approaches to the building, shall have fixtures to provide light levels as recommended in IES Recommended Practice RP-20-1998, Lighting for Parking Facilities by the Illuminating Engineering Society of North America, which is adopted and incorporated by reference.

TABLE 4
Assisted Living Facilities Lighting Standards

Physical Plant Area	Minimum Foot-candle
Corridors	
Day	15
Night	7.5
Exits	15
Stairways	15
Res. Room	
General	7.5
Reading/Mattress Level	30
Toilet area	30
Lounge	
General	7.5
Reading	30
Recreation	30
Dining	20
Dining and Recreation	30
Laundry	30

- (4) Each resident room shall have a duplex grounded receptacle on every wall. If a TV jack is included, there must be an extra outlet on the wall with the TV jack.
- (5) Duplex grounded receptacles for general use shall be installed no more than 50 feet apart in corridors, on either side, and within 25 feet of corridor ends.
- (6) A night light shall be provided in each resident bedroom and bathroom.

R432-6-25. Food Service.

- (1) Food service facilities and equipment shall comply with R392-100, the Utah Department of Health Food Service Sanitation Rules.
- (2) Food service space and equipment shall be provided as follows:
- (a) storage area for food supplies, including a cold storage area, for a seven-day supply of staple foods and a three-day supply of perishable foods;
 - (b) food preparation area;
 - (c) an area to serve and distribute resident meals;
- (d) an area for receiving, scraping, sorting, and washing soiled dishes and tableware;
- (e) a storage area for waste which is located next to an outside facility exit for direct pickup; and
 - (f) a space for meal planning.

R432-6-100. Type I Facilities.

The following sections in the 100 series apply to Type I

assisted living facilities.

R432-6-101. Occupancy Type.

- (1) Large assisted living facilities shall comply with I-1, International Building Code, requirements.
- (2) Small assisted living facilities shall comply with R-4, International Building Code, requirements.
- (3) Limited capacity assisted living facilities shall comply with R-3, International Building Code, requirements.

R432-6-102. Common Areas.

- (1) A common room or rooms shall be provided for dining, sitting, visiting, recreation, worship, and other activities.
- (a) Common rooms shall have sufficient space and separation to promote and facilitate the activity without interfering with concurrent activities or functions in the building.
- (i) In a small facility the common rooms shall be at least 28 square feet per bed, but no less than a total of 225 square feet
- (ii) In a large facility the common rooms shall be at least 30 square feet per bed. In a facility with 100 beds or more, the common rooms minimum square footage per bed may be reduced to 25.
- (b) Space shall be provided for necessary equipment and storage of recreational equipment and supplies.

R432-6-103. Resident Units.

- (1) Minimum room areas, exclusive of toilet rooms, closets, lockers, wardrobes, alcoves, and vestibules, shall be 100 square feet in single-bed rooms and 80 square feet per bed in multiple-bed rooms.
- (a) The areas noted above are minimums and do not prohibit larger rooms.
- (b) Resident units may not have more than two beds per unit
- (2) No room used for other purposes, such as a hall, corridor, unfinished attic, garage, storage area, shed, or similar detached building, may be used as a residents' sleeping room.
- (3) No bedroom may be used as a passageway to another room, bath, or toilet other than those serving the bedroom.
- (4) Bedrooms shall open directly into a corridor or common living area, but shall not open into a food preparation area.
- (5) Unless furnished by the resident, the licensee shall provide for each resident a bed, comfortable chair, a chest of drawers and a reading lamp.

R432-6-104. Toilet and Bathing Facilities.

- (1) Residents shall have privacy in toilet and bathrooms. Toilet and bathrooms shall be conveniently located.
- (2) Resident toilet, bathtub, shower rooms, and facilities designed for use by the disabled shall comply with ADAAG.
- (3) Grab bars shall be provided in all resident bathtubs and showers as required by ADAAG. At least one grab bar, which complies with ADAAG, shall be provided at the side of each resident toilet facility.
- (4) Bars, including those which are an integral part of soap dishes, towel bars, and other fixtures shall be anchored to sustain a concentrated load of 250 pounds.
- (5) There shall be one toilet and lavatory on each floor for each six occupants not otherwise served by toilet and lavatory in the resident rooms. A large type I assisted living facility shall have separate and additional toilet and bathing facilities for live-in family and staff.
- (6) There shall be at least one bathtub or shower for each 10 residents not otherwise served by bathing facilities in resident rooms. Separate and additional facilities shall be provided for live-in family and staff. In a multistory building,

there shall be at least one bathtub or shower which opens from the corridor on each floor that contains resident bedrooms not otherwise served.

- (7) Each central bathroom shall have a toilet and lavatory.
- (8) Toilet and bathing facilities shall not open directly into food preparation areas.
- (9) All toilet, shower, and tub facilities shall have impermeable walls and surfaces that can be easily cleaned and sanitized.
- (10) Showers and bathrooms shall contain recessed soap dishes.
- (11) Each lavatory fixture shall have a mirror, except in food preparation areas.

R432-6-105. Service Areas.

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There shall be adequate space and equipment for the following service or functions.

- (1) Large assisted living facilities must provide the following:
- (a) an administrator's office with equipment for keeping records and supplies;
- (b) an employee toilet room, lockers, and lounges, in addition to and separate from those required for the public;
 - (c) a public reception or information area; and
- (d) housekeeping closets each with a floor receptor or service sink.
- (2) The following required spaces apply to all type I assisted living facilities:
- (a) A secure area for administrative activities and storage for resident records;
- (b) a medication-storage area including a locked drug cabinet;
 - (c) a closet or compartment for the staff's personal effects;
 - (d) a clean linen storage area;
 - (e) a telephone for private use by residents or visitors;
- (f) at least one general use housekeeping closet accessible from a general corridor on each wing or each floor; and
- (g) storage space for housekeeping equipment and supplies with a mechanical exhaust system.

R432-6-106. Linen Services.

- (1) Each facility shall have space and equipment to store and process clean and soiled linen as required for resident care. Laundry may be done within the facility, in a separate building, on or off site, or in a commercial or shared laundry.
- (2) At least one washing machine, one clothes dryer, and ironing equipment in good working order shall be available for use by residents who wish to do their personal laundry.

R432-6-107. Signal System.

- (1) A signal system is required for the following facilities:
- (a) a large facility;
- (b) a facility with bedrooms on more than one floor; and
- (c) when staff are not continuously present on the same level as any resident.
 - (2) The signal system shall be designed to:
- (a) operate from each resident's living unit, and from each bathroom or toilet room;
- (b) transmit a visual or auditory signal or both to a centrally staffed location, or produce an auditory signal at the living unit loud enough to summon staff;
- (c) the signal system shall be designed to turn off only at the resident calling station; and
 - (d) identify the location of the resident summoning help.

R432-6-200. Type II Facilities.

The following sections in the 200 series apply to Type II assisted living facilities.

R432-6-201. Occupancy Type.

- (1) Large assisted living facilities shall comply with I-2 International Building Code requirements and shall have, at a minimum, 6 foot wide corridors. Area, height and story increases as permitted in the body of IBC paragraph 504.2 shall be permitted.
- (2) Small assisted living facilities shall comply with I-1, International Building Code, requirements and shall have, at a minimum, six-foot wide corridors.
- (3) Limited capacity assisted living facilities that house Type II assisted living residents shall comply with R-4, International Building Code requirements and shall either have an approved sprinkler system, or provide a staff to resident ratio of one to one on a 24-hour basis. Residents shall be housed on floors at grade level.

R432-6-202. Campus-Type Facilities.

- (1) If a campus-type facility has separate buildings, all of the buildings shall be located on the same site within 150 feet of each other
- (2) Resident living units shall be connected to bathing facilities and common areas by enclosed temperature controlled corridors.
- (3) Recreation and dining spaces that are also utilized by residents of other licensed health care facilities within the same campus may be counted in determining common area space as long as all applicable code and space requirements are met for all licensed facilities and the shared space is accessible without the need to pass through corridors or resident care areas of another licensed facility. The shared space may not account for more than fifty percent of the total common square footage required for any one licensed facility.

R432-6-203. Resident Units.

- (1) Facility services shall be accessible from common areas without compromising resident privacy.
- (2) Resident living units shall include room areas exclusive of space for toilet rooms, closets, lockers, wardrobes, alcoves, or vestibules as follows:
- (a) A single occupant unit without additional living space shall be a minimum of 120 square feet.
- (b) A double occupant unit without additional living space shall be a minimum of 200 square feet.
- (c) A single occupant bedroom in a unit with additional living space shall be a minimum of 100 square feet.
- (d) A double occupant bedroom in a unit with additional living space shall be a minimum of 160 square feet.
- (3) No space used for other purposes, such as a hall, corridor, unfinished attic, garage, storage area, shed, or similar detached building, may be used as a resident's bedroom.
- (4) Bedrooms may not be used as a passageway to another room, bath, or toilet other than those serving the bedroom.
- (5) Each resident living unit shall open directly into a corridor or common living area, but must not open into a food preparation area.
- (6) A maximum of two residents may occupy a resident living unit.
- (7) Unless furnished by the resident, the licensee shall provide for each resident a bed, comfortable chair, a chest of drawers and a reading lamp.

R432-6-204. Toilet and Bathing Facilities.

- If toilet and bathrooms are shared by more than one resident, the facility shall provide individual privacy.
- (2) A minimum of fifty percent of all toilet rooms, bathrooms and shower rooms shall be designed in compliance with ADAAG.
- (3) Public toilet rooms shall be accessible from a corridor, and shall comply with ADAAG.

- (4) If the living unit includes a private bathroom, the bathroom shall contain a toilet and a lavatory.
- (5) If resident living units do not have a private bathroom, the facility shall provide the following:
 - (a) a toilet and lavatory for every four residents;

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- (b) a bathtub or shower for every 10 residents designed to accommodate a resident in a wheelchair and space to allow staff to assist a resident in taking a shower; and
- (c) a bathroom with bathtub or shower, toilet and lavatory which open from a corridor on each floor of a multiple story facility.
- (6) If resident living units have private bathrooms that do not allow staff assistance, then each floor or level shall provide a bathroom equipped with a bathtub or shower, toilet, and lavatory which opens from a corridor that provides wheelchair clearances and allows for staff assistance in bathing.
- (7) Grab bars shall be provided in all resident bathtubs and showers as required by ADAAG. At least one grab bar, which complies with ADAAG, shall be provided at the side of each resident toilet facility not designed for accessibility.
- (8) Toilet and bathing facilities may not open directly into food preparation areas.
- (9) All toilet, shower, and tub facilities shall have impermeable walls and surfaces that may be easily cleaned and sanitized.
 - (10) Showers and tubs shall contain recessed soap dishes.
- (11) Each lavatory fixture shall have a mirror. Mirrors over lavatories located in food preparation areas are prohibited.
 - (12) All lavatories shall have hand drying facilities.
- (a) If lavatories are used by more than one individual, enclosed, single use paper towel dispensing units or cloth towel dispensing units or hot air drying units shall be provided.
- (b) Lavatories shall be anchored to withstand an applied vertical load of 250 pounds on the front of the fixture.
- (13) Bars, including those which are parts of soap dishes, towel bars, and other fixtures shall be anchored to a wall and withstand a concentrated load of 250 pounds.

R432-6-205. Common Areas.

- (1) The facility shall provide a common room or rooms for dining, sitting, visiting, recreation, worship, and other activities.
- (a) If concurrent activities are planned in a common room, the room shall be arranged to promote and facilitate the activities to minimize disruption through the use of physical barriers for separation.
- (b) Space shall be provided for storing recreational equipment and supplies.
- (2) The facility shall provide the following minimum space for recreational activities:
 - (a) in large facilities, 20 square feet per bed;
- (b) in small facilities, 20 square feet per bed, or a minimum of 160 square feet total area whichever is greater;
- (c) in a limited capacity facility, a minimum of 120 square feet.
- (3) If a facility adds 40 square feet per bed to a bedroom area square footage requirement, or adds 80 square feet of recreation space in a separate living room within the resident living unit, the square footage requirements for common recreational space may be reduced by 20 square feet per licensed bed in large and small facilities, not to exceed a reduction of 50 percent of the total common area square footage.
- (4) The facility shall provide the following space for dining activities:
- (a) in large and small facilities, a minimum of 15 square feet per licensed bed;
- (b) in limited capacity facilities, a minimum of 100 square feet.
- (5) If a kitchen and a minimum of 30 square feet of dining area space are provided in a resident unit in a large or small

facility, then the common dining area may be reduced by 15 disab

50 percent of the total required dining area.

(6) A separate private living room for family or informal gatherings shall be provided in a large facility as part of the common area space. The private living room shall be a minimum of 110 square feet. If all resident living units include additional living space, the facility is not required to provide a separate private living room.

square feet per licensed bed. The maximum reduction shall be

- (7) Corridors and public reception space may not be included in the calculation for required square footage for dining or recreation space.
- (8) The facility shall provide ten square feet per bed, or a minimum area of 100 square feet, whichever is greater, for outdoor recreation activities.

R432-6-206. Resident Support Areas.

A large facility shall provide a nourishment station which contains a work counter, a refrigerator, a sink, and cabinets for storage. The station may be located in a single purpose room, dining room, or in a kitchen if staff has 24-hour access to the area.

R432-6-207. Administrative and General Service Areas.

- (1) There shall be space and equipment for the administrative services as follows:
- (a) in large facilities, an administrative office of sufficient size to store records and equipment;
- (b) in small and limited capacity facilities, a designated area for administrative activities and record storage.
- (2) Storage shall be provided for securing staff belongings
- (a) In large facilities, a room shall be provided to serve as a staff lounge with staff lockers for storage. A staff toilet room shall also be provided.
- (b) In small and limited care facilities, a storage area shall be identified to store staff belongings.
- (3) A large facility shall provide a public reception or information area.
- (4) A telephone shall be provided for private use by residents and visitors.

R432-6-208. Special Design Features.

- (1) A signal system shall be provided to alert staff of a resident's need for help.
 - (2) The signal system shall be designed to:
- (a) operate from each resident's living unit and from each bath room or toilet room;
- (b) transmit a visual and auditory signal to a 24-hour staffed location, except a limited capacity facility signal system shall produce an auditory signal to summon staff;
- (c) identify the location of the resident summoning help;
 - (d) allow it to be turned off only at the source of the call.
- (3) Large and small facilities shall provide a thermostat control in each resident living unit. The Department shall grant a variance upon request from the licensee to this requirement for an existing building seeking initial licensure.
- (4) Plumbing shutoff valves shall be located on the main water supply line and at each fixture. In addition, large facilities shall provide an accessible shutoff valve on each primary hot and cold branch of the water line and shall provide a minimum of two hot and two cold water zones. The Department shall grant a variance upon request from the licensee to this requirement for an existing building seeking initial licensure.
- (5) Building entrances in large and small facilities shall be at grade level, clearly marked, and located to minimize the need for residents to traverse other program areas. A main facility entrance shall be designated and accessible to persons with

disabilities.

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(6) Special units intended to accommodate residents with Alzheimers or Dementia shall comply with Section 8.8 of the Guidelines for Design and Construction of Hospital and Health Care Facilities, 2001 edition, which is adopted and incorporated by reference.

R432-6-209. General Standards for Details.

- (1) Each resident living unit entry door shall be constructed as follows:
 - (a) be 36 inches wide;
- (b) open inward into the resident living unit or designed so that an outward swinging door does not restrict the corridor width:
- (c) be lockable, but operable from the inside by single-action lever; and
- (d) be individually keyed with the key under resident control.
 - (2) A master key shall be available for staff.
- (3) Door handles for all doors used by residents shall be of the lever type and shall meet ADAAG requirements. Building entrances and exit doors may have panic hardware.
- (4) Each door to toilet and bathing facilities shall comply with ADAAG and the following:
- (a) be equipped with hardware which permits emergency access from the outside; and
 - (b) open out or be double acting.
- (5) Handrails shall meet the requirements of ADAAG and be provided on both sides of all resident corridors.

R432-6-210. Linen Services.

- (1) Each facility shall have space and equipment to store and process clean and soiled linen as required for resident care. Laundry may be done within the facility, in a building on or offsite, or in a commercial or shared laundry.
- (2) If laundry is done off the site, the following shall be provided:
- (a) a room for receiving and holding soiled linen until ready for pickup or processing;
 - (b) a central, clean linen storage room(s); and
- (c) a lavatory in each area where unbagged, soiled linen is handled.
- (3) If a large or small facility processes its own laundry on-site, the following shall be provided:
- (a) a room for receiving, holding, and sorting soiled linens, with pre-wash clinical sink facilities and separate hand washing facilities;
 - (b) a laundry processing room with washer(s) and dryer(s);
- (c) rooms (a) and (b) above must be separated by a door with a self closing device installed;
 - (d) storage for laundry supplies;
- (e) arrangement of equipment that will permit an orderly workflow and minimize cross-traffic that might mix clean and soiled operations; and
 - (f) a central, clean linen storage room(s);
- (g) Facilities may provide holding rooms on each level for bagged, soiled linen.
- (4) If a limited capacity facility processes its own laundry on-site, the following shall be provided:
 - (a) a room to store and process both clean and soiled linen;
 - (b) a washer and dryer; and
 - (c) a utility sink in the laundry room.
- (5) Each facility shall provide a minimum of one washing machine, one clothes dryer, and ironing equipment in good working order for resident use.

R432-6-211 Penalties.

Any person who violates any provision of this rule may be subject to the penalties enumerated in 26-21-11 and R432-3-6

and be punished for violation of a class A misdemeanor as provided in 26-21-16.

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The Department may assess a civil money penalty of up to \$5,000 and deny approval for patient utilization of new or remodeled areas if a health care provider does not submit architectural drawings to the Bureau of Licensing. The Department may assess a civil money penalty of up to \$5,000 if the licensee fails to follow Department-approved architectural plans. The Department may assess a civil money penalty of up to \$500 per day for each day a new or renovated area is occupied prior to Bureau of Licensing approval.

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R432. Health, Health Systems Improvement, Licensing. R432-100. General Hospital Standards. R432-100-1. Legal Authority.

This rule is adopted pursuant to Title 26, Chapter 21.

R432-100-2. Purpose.

The purpose of this rule is to promote the public health and welfare through establishment and enforcement of the licensure standards. The rule sets standards for the construction and operation of a general hospital. The standards of patient care apply to inpatient, outpatient, and satellite services.

R432-100-3. Construction, Facilities, and Equipment Standards.

Hospitals shall be constructed and maintained in accordance with R432-4-1 through R432-4-24.

R432-100-4. Hospital Swing-Bed and Transitional Care Units.

Hospitals with designated swing bed units or transitional care units shall comply with this section.

- (1) In addition to R432-100, designated hospital swing beds shall comply with the following sections of R432-150, Nursing Care Facility Rules: 150-4, 150-5, 150-11 through 150-17, 150-20, 150-22, and 150-24.
- (2) Transitional Care Units shall be licensed as Nursing Care Facilities under a separate licensing category and shall conform to the requirements of R432-150, Nursing Care Facility Rules.

R432-100-5. Governing Body.

- Each licensed hospital shall have a governing body hereinafter called the board.
- (2) The board shall be legally responsible for the conduct of the hospital. The board is also responsible for the appointment of the medical staff.
- (3) The board shall be organized in accordance with the Articles of Incorporation or Bylaws.
 - (a) The Articles or Bylaws shall specify:
 - (i) the duties and responsibilities of the board;
 - (ii) the method for election or appointment to the board;
 - (iii) the size of the board;
 - (iv) the terms of office of the board;
- (v) the methods for removal of board members and officers;
- (vi) the duties and responsibilities of the officers and any standing committees;
- (vii) the numbers or percentages of members that constitute a quorum for board meetings;
- (viii) the board's functional organization, including any standing committees;
- (ix) to whom responsibility for operation and maintenance of the hospital, including evaluation of hospital practices, may be delegated;
- (x) the methods established by the board for holding such individuals responsible;
- (xi) the mechanism for formal approval of the organization, bylaws, rules of the medical staff and hospital departments; and
 - (xii) the frequency of meetings.
- (4) The board shall meet not less than quarterly, and shall keep written minutes of meetings and actions, and distribute copies to members of the board.
- (5) The board shall employ a competent executive officer or administrator and vest this person with authority and responsibility for carrying out board policies. The administrator's qualifications, responsibilities, authority, and accountability shall be defined in writing.
 - (6) The board, through its officers, committees, medical

and other staff, shall:

- (a) develop and implement a long range plan;
- (b) appoint members of the medical staff and delineate their clinical privileges;
- (c) approve organization, bylaws, and rules of medical staff and hospital departments; and
- (d) maintain a list of the scope and nature of all contracted services

R432-100-6. Administrator.

- (1) The administrator shall establish and maintain an organizational structure for the hospital indicating the authority and responsibility of various positions, departments, and services within the hospital.
- (2) The administrator shall designate in writing a person to act in the administrator's absence.
- (3) The administrator shall be the direct representative of the board in the management of the hospital.
- (4) The administrator shall function as liaison between the board, the medical staff, the nursing staff, and departments of the hospital.
- (5) The administrator shall advise the board in the formulation of hospital policies and procedures. The administrator shall review and revise policies and procedures to reflect current hospital practice.
- (6) The administrator is responsible to see that hospital policies and procedures are implemented and followed.
- (7) The administrator shall maintain a written record of all business transactions and patient services rendered in the hospital and submit reports as requested to the board.
- (8) Patient billing practices shall comply with the requirements of 26-21-20 UCA.
- (9) The administrator shall appoint a member of the staff to oversee compliance with the requirements of the Utah Anatomical Gift Act.

R432-100-7. Medical and Professional Staff.

- (1) Each hospital shall have an organized medical and professional staff that operates under bylaws approved by the board.
- (2) The medical and professional staff shall advise and be accountable to the board for the quality of medical care provided to patients.
- (3) The medical and professional staff must adopt bylaws and policies and procedures to establish and maintain a qualified medical and professional staff including current licensure, relevant training and experience, and competency to perform the privileges requested. The bylaws shall address:
 - (a) the appointment and re-appointment process;
 - (b) the necessary qualifications for membership;
 - (c) the delineation of privileges;
- (d) the participation and documentation of continuing education; and
 - (e) a fair hearing and appeals process.
- (4) The medical care of all persons admitted to the hospital shall be under the supervision and direction of a fully qualified physician who is licensed by the state.
- (5) An applicant for staff membership and privileges may not be denied solely on the ground that the applicant is a licensed podiatrist or licensed psychologist rather than licensed to practice medicine under the Utah Medical Practice Act or the Utah Osteopathic Medical Licensing Act.
- (6) Membership and privileges may not be denied on any ground that is otherwise prohibited by law.
- (7) Each applicant for medical and professional staff membership must be oriented to the bylaws and must agree in writing to abide by all conditions.
- (8) The medical and professional staff shall review each applicant and grant privileges based on the scope of their license

and abilities.

(9) The medical and professional staff shall review appointments and re-appointments to the medical and professional staff at least every two years.

R432-100-8. Personnel Management Service.

- (1) The personnel management system is organized to ensure personnel are competent to perform their respective duties, services, and functions.
- (2) There shall be written policies, procedures, and performance standards that include:
 - (a) job descriptions for each position or employee;
 - (b) periodic employee performance evaluations;
- (c) employee health screening, including Tuberculosis testing in accordance with R386-702, The Communicable Disease Rule;
- (d) policies to ensure that all employees receive unit specific training;
- (e) policies to ensure that all hospital direct care staff receive continued competency training in current patient care practices;
- (f) policies to ensure that all hospital direct care staff have current cardiopulmonary resuscitation certification; and
- (g) policies to ensure that OSHA regulations regarding Blood Borne Pathogens are implemented and followed.
- (3) All personnel shall be registered, certified or licensed as required by the Utah Department of Commerce within 45 days of employment.
- (4) A copy of the current certificate, license or registration shall be available for Department review.
- (5) All direct care and housekeeping staff shall receive annual documented inservice training in the requirements for reporting abuse, neglect, or exploitation of children or adults.
- (6) Volunteers may be utilized in the daily activities of the hospital, but shall not be included in the hospital staffing plan in lieu of hospital employees.
- (a) Volunteers shall be screened and supervised according to hospital policy.
- (b) Volunteers shall be familiar with hospital volunteer policies, including patient rights and hospital emergency procedures.
- (7) If the hospital participates in a professional graduate education program, there shall be policies and procedures specifying the patient care responsibilities and supervision of the graduate education program participants.

R432-100-9. Quality Improvement Plan.

- (1) The Board shall ensure that there is a well-defined quality improvement plan designed to improve patient care.
- (2) The plan shall be consistent with the delivery of patient care.
- (3) The plan shall be implemented and include a system for the collection of indicator data.
- (a) The plan shall include an incident reporting system to identify problems, concerns, and opportunities for improvement of patient care.
- (b) Incident reports shall be available for Department review.
- (c) A system shall be implemented for assessing identified problems, concerns, and opportunities for improvement.
- (4) The plan shall implement actions that are designed to eliminate identified problems and improve patient care.
- (5) Each hospital shall maintain a quality improvement committee. The quality improvement committee shall keep and make available for Department review written minutes documenting corrective actions and results.
- (6) The quality improvement committee shall report findings and concerns at least quarterly to the board, the medical staff, and the administrator.

(7) Infection reporting shall be integrated into the quality improvement plan, and shall be reported to the Department in accordance with R386-702 Communicable Diseases.

R432-100-10. Infection Control.

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Each hospital must implement a hospital-wide infection control program.

- (1) The infection control program shall include at least the following:
 - (a) definitions of nosocomial infections;
- (b) a system for reporting, evaluating, and investigating infections;
- (c) review and evaluation of aseptic, isolation, and sanitation techniques;
- (d) methods for isolation in relation to the medical condition involved;
 - (e) preventive, surveillance, and control procedures;
 - (f) laboratory services;
 - (g) an employee health program;
 - (h) orientation of all new employees; and
- (i) documented in-service education for all departments and services relative to infection control.
- (2) Infection control reporting data shall be incorporated into the hospital quality improvement process.
- (3) There shall be written infection control policies and procedures for each area of the hospital, including requirements dictated by the physical layout, personnel and equipment involved.
- (4) There shall be written policies for the selection, storage, handling, use, and disposition of disposable or reusable items. Single-use items may be reused according to hospital policy.
- (a) Reusable items shall have specific policies and procedures for each type of reuse item.
- (b) Reuse data shall be incorporated into the quality improvement process.
- (c) Reuse data shall be incorporated in the hospital infection control identification and reporting process.

R432-100-11. Patient Rights.

- (1) The facility shall inform each patient at the time of admission of patient rights and support the exercise of the patient's right to the following:
- (a) to access all medical records, and to purchase at a cost not to exceed the community standard, photocopies of his record;
- (b) to be fully informed of his medical health status in a language he can understand;
 - (c) to reasonable access to care;
 - (d) to refuse treatment;
- (e) to formulate an advanced directive in accordance with the Personal Choice and Living Will Act, UCA 75-2-1102;
 - (f) to uniform, considerate and respectful care;
- (g) to participate in decision making involved in managing his health care with his physician, or to have a designated representative involved;
- (h) to express complaints regarding the care received and to have those complaints resolved when possible;
- (i) to refuse to participate in experimental treatment or research;
- (j) to be examined and treated in surroundings designed to give visual and auditory privacy; and
- (k) to be free from mental and physical abuse, and to be free from chemical and (except in emergencies) physical restraints except as authorized in writing by a licensed practitioner for a specified and limited period of time or when necessary to protect the patient from injury to himself or others.
- (2) The hospital shall establish a policy and inform patients and legal representatives regarding the withholding of

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resuscitative services and the forgoing or withdrawing of life sustaining treatment and care at the end of life. This policy shall be consistent with state law.

R432-100-12. Nursing Care Services.

- (1) There shall be an organized nursing department that is integrated with other departments and services.
- (a) The chief nursing officer of the nursing department shall be a registered nurse with demonstrated ability in nursing practice and administration.
- (b) Nursing policies and procedures, nursing standards of patient care, and standards of nursing practice shall be approved by the chief nursing officer.
- (c) A registered nurse shall be designated and authorized to act in the chief nursing officer's absence.
- (d) Nursing tasks may be delegated pursuant to R156-31-603, Delegation of Nursing Tasks.
- (2) Qualified registered nurses shall be on duty at all times to give patients nursing care that requires the judgment and special skills of a registered nurse. The nursing department shall develop and maintain a system for determining staffing requirements for nursing care on the basis of demonstrated patient need, intervention priority for care, patient load, and acuity levels.
- (3) Nursing care shall be documented for each patient from admission through discharge.
- (a) A registered nurse shall be responsible to document each patient's nursing care and coordinate the provision of interdisciplinary care.
- (b) Nursing care documentation shall include the assessments of patient's needs, clinical diagnoses, intervention identified to meet the patient's needs, nursing care provided and the patients response, the outcome of the care provided, and the ability of the patient, family, or designated caregiver in managing the continued care after discharge.
- (c) Patients shall receive prior to discharge written instructions for any follow-up care or treatment.

R432-100-13. Critical Care Unit.

- (1) Hospitals that provide critical care units shall comply with the requirements of R432-100-13. Medical direction for the unit(s) shall be according to the scope of services provided as delineated in hospital policy and approved by the board.
- (2) Critical care unit nursing direction shall be provided by a designated, qualified registered nurse manager who has relevant education, training and experience in critical care. The supervising nurse shall coordinate the care provided by all nursing service personnel in the critical care unit. The registered nurse manager shall have administrative responsibility for the critical care unit, assuring that a registered nurse who has advanced life support certification is on duty and in the unit at all times.
- (3) Each critical care unit shall be designed and equipped to facilitate the safe and effective care of the patient population served. Equipment and supplies shall be available to the unit as determined by hospital policy in accordance with the needs of the patients.
- (4) An emergency cart must be readily available to the unit and contain appropriate drugs and equipment according to hospital policy. The cart, or the cart locking mechanism, must be checked every shift and after each use to assure that all items required for immediate patient care are in place in the cart and in usable condition.
- (5) The following support services shall be immediately available to the critical care unit on a 24-hour basis:
 - (a) blood bank or supply;
 - (b) clinical laboratory; and
 - (c) radiology services.
 - (6) If the hospital provides dialysis services, the dialysis

services shall comply with R432-650 End Stage Renal Disease Facility Rules, sections R432-650-8, Required Staffing; and R432-650-13, Water Quality.

R432-100-14. Surgical Services.

- (1) Surgical services provided by the hospital shall be integrated with other departments or services of the hospital. The relationship, objective, and scope of all surgical services shall be specified in writing.
- (a) Administrative direction of surgical services shall be provided by a person appointed and authorized by the administrator.
- (b) Medical direction of surgical services shall be provided by a member of the medical staff.
- (c) Qualified registered nurses shall supervise the provision of surgical nursing care.
- (d) The operating room suites shall be directed and supervised by a qualified registered nurse. The supervisor shall have authority and responsibility for:
- (i) assuring that the planned procedure is within the scope of privileges granted to the physician.
 - (ii) maintaining the operating room register; and
- (iii) other administrative functions, including serving on patient care committees.
- (e) The hospital shall establish a policy governing the use of obstetrical delivery and operating rooms to ensure that any patient with parturition imminent, or with an obstetrical emergency requiring immediate medical intervention to preserve the health and life of the mother or her infant, is given priority over other obstetrical and non-emergent surgical procedures.
- (f) Qualified surgical assistants shall be used as needed in operations in accordance with hospital by-laws.
- (g) Surgical technicians and licensed practical nurses may serve as scrub nurses under the direct supervision of a registered nurse, but may not function as circulation nurses in the operating rooms, unless the scrub nurse is a registered nurse.
- (h) Outpatient surgical patients shall not be routinely admitted to the hospital as inpatients. A systematic review process shall evaluate patients who require hospitalization after outpatient surgery.
- (2) A safe operating room environment shall be established, controlled and consistently monitored.
- (a) Surgical equipment including suction facilities and instruments in good repair shall be provided to assure safe and aseptic treatment of all surgical cases.
- (b) Traffic in and out of the operating room shall be controlled. There shall be no through traffic.
- (c) There shall be a scavenging system for evacuation of anesthetic waste gases.
- (d) The following equipment shall be available to the operating suite:
 - (i) a call-in system;
 - (ii) a cardiac monitor;
 - (iii) a ventilation support system;
 - (iv) a defibrillator;
 - (v) an aspirator; and
 - (vi) equipment for cardiopulmonary resuscitation.
- (3) The administration of anesthetics shall conform to the requirements of Anesthesia Services, R432-100-15.
- (4) Removal of surgical specimens shall conform with the requirements of Laboratory and Pathology Services, R432-100-22.

R432-100-15. Anesthesia Services.

- (1) There shall be facilities and equipment for the administration of anesthesia commensurate with the clinical and surgical procedures planned for the institution. Anesthesia care shall be available on a 24-hour basis.
 - (a) Administrative direction of anesthesia services shall be

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provided by a person appointed and authorized by the hospital administrator.

- (b) Medical direction of anesthesia services shall be provided by a member of the medical staff.
- (c) Anesthesia care shall be provided by anesthesiologists, other qualified physicians, dentists, oral surgeons, or Certified Registered Nurse Anesthetists who are members of the medical staff within the scope of their practice and license.
- (i) A qualified physician, dentist or oral surgeon shall have documented training that includes the equivalent of 40 days preceptorship with an anesthesiologist and shall be able to perform at least the following:
- (A) procedures commonly used to render the patient insensible to pain during the performance of surgical, obstetrical, and other pain producing clinical procedures;
- (B) life support functions during the administration of anesthesia, including induction and intubation procedures; and
- (C) provide pre-anesthesia and post-anesthesia management of the patient.
- (ii) The responsibilities and privileges of the person administering anesthesia shall be clearly defined by the medical staff.
- (iii) Both the patient and the operating surgeon shall be informed prior to surgery of who will be administering anesthesia.
- (iv) Medicaid certified hospitals shall comply with the requirements of 42 CFR 482.52(a), Subpart D, Anesthesia Services.
- (2) The use of flammable anesthetic agents for anesthesia or for the pre-operative preparation of the surgical field is prohibited.
- (3) The anesthetic equipment shall be inspected and tested by the person administering anesthesia before use in accordance with hospital policy.

R432-100-16. Emergency Care Service.

- (1) Each hospital shall evaluate and classify itself to indicate its capability in providing emergency care. Acute Hospitals and Critical Access Hospitals shall be classified as Type I, II or III. Type IV category may be used for Specialty Hospitals.
- (a) Type I offers comprehensive emergency care 24 hours a day in-house, with at least one physician experienced in emergency care on staff in the emergency care area. There shall be in-hospital support by members of the medical staff for at least medical, surgical, orthopedic, obstetric, pediatric, and anesthesia services. Specialty consultation shall be available within 30 minutes, or two-way voice communication is available for the initial consultation.
- (b) Type II offers emergency care 24 hours a day, with at least one physician experienced in emergency care on duty in the emergency care area, and with specialty consultation available within 30 minutes by members of the medical staff.
- (c) Type III offers emergency care 24 hours a day, with at least one physician available to the emergency care area within approximately 30 minutes through a medical staff call roster. Specialty consultation shall be available by request of the attending medical staff member by transfer to a type I or type II hospital where care can be provided.
- (d) Type IV offers emergency first aid treatment to patients, staff, and visitors; and to persons who may be unaware of, or unable to immediately reach services in other facilities.
- (2) The emergency service shall be organized and staffed by qualified individuals based on the defined capability of the hospital.
- (a) Administrative direction of emergency services shall be provided by an individual appointed and authorized by the hospital administrator.
 - (b) Medical direction of emergency services shall be

defined in writing and provided by one or more members of the medical staff. The medical staff shall provide back-up and oncall coverage for emergency services and as needed for emergency specialty services.

- (c) The evaluation and treatment of a patient who presents himself or is brought to the emergency care area shall be the responsibility of a licensed practitioner and shall include an appropriate medical screening examination, stabilizing treatment, and, if necessary for definitive treatment, an appropriate transfer to another medical facility that has agreed to accept the patient for care.
- (d) The priority by which persons seeking emergency care are seen by a physician may be determined by trained personnel using guidelines established by the emergency room director and approved by the medical staff.
- (e) Rosters designating medical staff members on duty or on call for primary coverage and specialty consultation shall be posted in the emergency care area.
- (f) A designated registered nurse who is qualified by relevant training, experience, and current competence in emergency care shall supervise the care provided by all nursing service personnel in the department.
- (i) The number of nursing service personnel shall be sufficient for the types and volume of patients served.
- (ii) Type I and II emergency departments shall have at least one registered nurse with Advanced Cardiac Life Support certification, and sufficient number of other nursing staff assigned and on duty within the emergency care area.
- (iii) The emergency nurse supervisor shall participate in internal committee activities concerned with the emergency service.
- (g) The emergency service shall be integrated with other departments in the hospital.
- (i) Clinical laboratory services with the capability of performing all routine studies and standard analyses of blood, urine, and other body fluids shall be available. A supply of blood shall be available at all times.
- (ii) Diagnostic radiology services shall be available at all times.
- (h) The duties and responsibilities of all personnel, including physicians and nurses, providing care within the emergency service area shall be defined in writing.
- (3) Each hospital shall define its scope of emergency services in writing and implement a plan for emergency care, based on community need and on the capability of the hospital.
- (a) Each hospital shall comply with federal anti-dumping regulations as defined in CFR 489.20 and 489.24.
- (b) The role of the emergency service in the hospital's disaster plans shall be defined.
- (c) Each hospital must have a communication system that permits instant contact with law enforcement agencies, rescue squads, ambulance services, and other emergency services within the community.
- (d) Emergency department policies and protocols shall address the care, security, and control of prisoners or people to be detained for police or protective custody.
- (e) Emergency department policies and protocols shall address the provision of care to an unemancipated minor not accompanied by parent or guardian, or to an unaccompanied unconscious patient.
- (f) Emergency department policies and procedures shall address the evaluation and handling of alleged or suspected child or adult abuse cases. Criteria shall be developed to alert emergency department and service personnel to possible child or adult abuse. The criteria shall address:
 - (i) suspected physical assault;
 - (ii) suspected rape or sexual molestation;
- (iii) suspected domestic abuse of elders, spouses, partners and children;

- (iv) the collection, retention, and safeguarding of specimens, photographs, and other evidentiary materials; and
- (v) visual and auditory privacy during examination and consultation of patients.
- (g) A list shall be available in the emergency department of private and public community agencies and resources that provide, arrange, evaluate and care for the victims of abuse.
- (h) Emergency department policies and procedures shall address the handling of hazardous materials and contaminated patients.
- (i) Emergency department policies and procedures shall address the reporting of persons dead-on-arrival to the proper authorities including the legal requirements for the collection and preservation of evidence.
- (4) The hospital shall in a timely manner make reasonable effort to contact the guardian, parents, or next of kin of any unaccompanied minor, or any unaccompanied unconscious patient admitted to the emergency department.

R432-100-17. Perinatal Services.

- Each hospital shall comply with the requirements of this section.
- (a) Administrative direction of perinatal services shall be provided by a person appointed and authorized by the hospital administrator.
- (b) Medical direction for perinatal services shall be provided by a qualified member of the medical staff.
- (c) Each hospital shall establish and implement security protocols for perinatal patients.
- (d) A qualified registered nurse shall be immediately available.
- (2) The perinatal department shall include facilities and equipment for labor and delivery, nursery, postpartum, and optional birthing rooms.
- (a) Perinatal areas shall be located and arranged to avoid non-related traffic to and from other areas.
- (b) The hospital shall isolate patients with infections or other communicable conditions. The use of maternity rooms for patients other than maternity patients shall be restricted according to hospital policy.
- (3) Each hospital shall have access to at least one surgical suite for operative delivery.
- (a) Equipment and supplies shall be maintained for the mother and newborn, including:
 - (i) furnishings suitable for labor, birth, and recovery;
 - (ii) oxygen with flow meters and masks or equivalent;
- (iii) mechanical suction and bulb suction immediately available;
 - (iv) resuscitation equipment;
- (v) emergency medications, intravenous fluids, and related supplies and equipment;
 - (vi) a device to assess fetal heart rate;
- (vii) equipment to monitor and maintain the optimum body temperature of the newborn;
 - (viii) a clock capable of showing seconds;
 - (ix) an adjustable examination light; and
- (x) a warming unit with temperature controls that comply with Underwriters' Laboratories requirements. The unit must be capable of administering oxygen and suctioning.
- (b) The hospital shall maintain a delivery room record keeping system for cross referencing information with other departments.
- (4) If birthing rooms are provided, they shall be equipped in accordance with 100-17(3(a).
- (5) Each hospital shall comply with the following provisions:
- (a) No attempt shall be made to delay the imminent, normal birth of a child.
 - (b) A prophylactic solution approved by the Department

- of Health shall be instilled in the eyes of the infant within three hours of birth in accordance with R386-702-9.
- (c) Metabolic screening shall be performed in accordance with State Health Laboratory rules developed pursuant to Section 26-10-6.
- (6) Each hospital shall designate its capability to provide nursery care in accordance with the following levels of nursery care as described in the Guidelines for Perinatal Care, Fourth Edition and The Guidelines for Construction and Equipment of Hospital and Medical Facilities, 1992 - 1993 Edition.
 - (a) Level I Basic: Full Term or Well Baby Nursery;
- (b) Level II Specialty: Continuous Care Nursery;
- (c) Level III Sub-specialty: Newborn Intensive Care Nursery.
- (7) The nursery area shall provide each infant with separate equipment and supplies for bathing, dressing, and handling.
- (a) There shall be equipment and supplies in or near the nursery that include:
 - (i) an individual bassinet for each infant;
 - (ii) accurate scales; and
 - (iii) a reliable wall thermometer.
- (b) Temperatures between 70-80 degrees F. shall be maintained in the nursery.
- (c) There shall be an individual thermometer, or one with disposable tips, for each infant.
- (d) A supply of medication shall be immediately available for emergencies.
- (e) The following equipment and supplies shall be available:
- (i) a covered soiled-diaper container with removable lining;
- (ii) a linen hamper with removable bag for soiled linen other than diapers;
- (iii) a warming unit with temperature controls that comply with Underwriters' Laboratories requirements;
- (iv) oxygen, oxygen equipment, and suction equipment;
 - (v) an oxygen concentration monitoring device.
- (f) Infant formula storage space shall be available that conforms to the manufacturer's recommendations.
- (g) Only single-use bottles shall be used for newborn feeding.
- (8) A suspect nursery or isolation area shall be available. Equipment and supplies shall be provided for the isolation area.
 - (a) Isolation facilities shall be used for any infant who:
 - (i) has a communicable disease;
- (ii) is delivered of an ill mother infected with a communicable disease;
 - (iii) is readmitted after discharge from a hospital; or
 - (iv) is delivered outside the hospital.
- (b) There shall be separate hand washing facilities for the isolation area.

R432-100-18. Pediatric Services.

- (1) If the hospital provides pediatric services, those services shall be under the direction of a member of the medical staff who is experienced in pediatrics and whose functions and scope of responsibility are defined by the medical staff.
- (a) A pediatrics qualified registered nurse must supervise nursing care and must supervise the documentation of the implementation of pediatric patient care on an interdisciplinary plan of care.
- (b) If the hospital provides a pediatric unit, it shall have an interdisciplinary committee responsible for policy development and review of practice within the unit. This committee must include representatives from administration, the medical and nursing staff, and rehabilitative support staff.
 - (c) Hospitals admitting pediatric patients shall have

written policies and procedures specifying the criteria for admission to the hospital and conditions requiring transfer when indicated. These policies and procedures shall be based upon the resources available at the hospital, specifically, in terms of personnel, space, equipment, and supplies.

- (d) The hospital shall assess all pediatric patients for maturity and development. Information obtained from the maturity and development assessment must be incorporated into the plan of care.
- (e) The hospital shall establish and implement security protocols for pediatric patients.
- (f) The hospital shall provide a safe area for diversional play activities.
- (2) Hospitals admitting pediatric patients shall have equipment and supplies in accordance with the hospital's scope of pediatric services.
- (3) The hospital shall have written guidelines for the placement or room assignment of pediatric patients according to patient acuity under usual, specific, or unusual conditions within the hospital. The guidelines shall address the use of cribs, bassinets, or beds; including the proper use of restraints, bed rails, and other safety devices.
- (a) The hospital shall place infant patients in beds where frequent observation is possible.
- (b) Pediatric patients other than infants shall be placed in beds to allow frequent observation according to each patient's assessed care needs.
- (4) Personnel working with pediatric patients shall have specific training and experience relating to the care of pediatric patients.
- (5) Orientation and inservice training for pediatric care staff shall include pediatric specific training on drugs and toxicology, intravenous therapy, pediatric emergency procedures, infant and child nutrition, the emotional needs and behavioral management of hospitalized children, child abuse and neglect, and other topics according to the needs of the pediatric patients.

R432-100-19. Respiratory Care Services.

- (1) Administrative direction of respiratory care services shall be provided by a person authorized by the hospital administrator.
- (2) The respiratory care service shall be under the medical direction of a member of the medical staff who has the responsibility and authority for the overall direction of respiratory care services.
- (a) When the scope of services warrants, respiratory care services shall be supervised by a technical director who is registered or certified by the National Board For Respiratory Therapy, Inc., or has the equivalent education, training, and experience.
- (b) The technical director shall inform physicians about the use and potential hazards in the use of any respiratory care equipment.
- (3) Respiratory care services shall be provided to patients in accordance with a written prescription of the responsible licensed practitioner which specifies the type, frequency, and duration of the treatment; and when appropriate, the type and dose of medication, the type of diluent, and the oxygen concentration.
- (a) The hospital must have equipment to perform any pulmonary function study or blood-gas analysis provided by the hospital.
- (b) Resuscitation, ventilatory, and oxygenation support equipment shall be available in accordance with the needs of the patient population served.

R432-100-20. Rehabilitation Therapy Services.

(1) If rehabilitation therapy services are provided by the

- hospital, the services may include physical therapy, speech therapy, and occupational therapy.
- (a) Rehabilitation therapy services shall be directed by a qualified, licensed provider who shall have clinical responsibility for the specific therapy service.
- (b) Patient services performed by support personnel, shall be commensurate with each person's documented training and experience.
- (c) Rehabilitation therapy services may be initiated by a member of the medical staff or by a licensed rehabilitation therapist.
- (i) A physician's written request for services must include reference to the diagnosis or problems for which treatment is planned, and any contraindications.
- (ii) The patient's physician shall retain responsibility for the specific medical problem or condition for which the referral was made.
- (2) Rehabilitation therapy services provided to the patient shall include evaluation of the patient, establishment of goals, development of a plan of treatment, regular and frequent assessment, maintenance of treatment and progress records, and periodic assessment of the quality and appropriateness of the care provided.

R432-100-21. Radiology Services.

- (1) Each hospital shall provide an organized radiology department offering services that are in accordance with the needs and size of the institution.
- (a) Administrative direction of radiology services shall be provided by a person appointed and authorized by the hospital administrator.
- (b) Medical direction of the department shall be provided by a member of the medical staff.
- (i) If a radiologist is not the medical director of the radiology services, the services of a radiologist shall be retained on a part-time basis.
- (ii) If a radiologist provides services on less than a fulltime basis, the time commitment shall allow the radiologist to complete the necessary functions to meet the radiological needs of the patients and the medical staff.
 - (c) The radiologist is responsible to:
- (i) maintain a quality control program that minimizes unnecessary duplication of radiographic studies and maximizes the quality of diagnostic information available;
- (ii) develop technique charts that include part, thickness, exposure factors, focal film distances and whether a grid or screen technique; and
- (iii) assure the availability of information regarding the purpose and yield of radiological procedures and the risks of radiation.
- (d) At least one licensed radiologic technologist shall be on duty or available when needed.
- (e) Diagnostic radiology services shall be performed only at the request of a member of the medical staff or other persons authorized by the hospital.
- (f) If radiation oncology services are provided, the following applies:
- (i) Physicians and staff who provide radiation oncology services have delineated privileges;
- (ii) The medical director of the radiation oncology services is a physician member of the medical staff who is qualified by education and experience in radiation oncology.
- (2) Radiologic patient records shall be integrated with the hospital patient record.
- (a) All requests for radiologic services shall contain the reasons for the examinations.
- (b) Authenticated reports of these examinations shall be filed in the patient's medical record as soon as possible. Radiological film shall be retained in accordance with hospital

policy.

- (c) If requested by the attending physician and if the quality of the radiograph permits, the radiology department may officially enter the interpretations of the radiologic examinations performed outside of the hospital in the patient's medical record.
- (d) Radiotherapy summaries shall be filed in the patient's medical record. A copy may be filed in the radiotherapy department. The radiotherapy summary shall be forwarded to the referring physician. Unless otherwise justified, the medical record of the patient receiving radiotherapy for treatment or palliation of a malignancy shall reflect the histologically substantiated diagnosis.

R432-100-22. Laboratory and Pathology Services.

- (1) Each hospital shall provide laboratory and pathology services that are in accordance with the needs and size of the institution.
- (a) Administrative direction of laboratory and pathology services shall be provided by a person appointed and authorized by the hospital administrator.
- (b) Medical direction of laboratory and pathology services shall be provided by a member of the medical staff.
- (2) Laboratory and pathology services shall comply with the requirements of the Clinical Laboratory Improvement Amendments of 1988 (CLIA). CLIA inspection reports shall be available for Department review.
- (3) Laboratories certified by a Health Care Financing Administration (HCFA) approved accrediting agency are determined to be in compliance with this section. Accrediting agency inspection reports shall be available for Department review.

R432-100-23. Blood Services.

- (1) Hospital blood services are defined as follows:
- (a) A "donor center" means a facility that procures, prepares, processes, stores and transports blood and blood components.
- (b) A "transfusion service" means a facility that stores, determines compatibility, transfuses blood and blood components, and monitors transfused patients for any ill effect.
- (c) A "blood bank" means a facility that combines the functions of a donor center and transfusion service within the same facility.
- (2) The hospital blood service shall establish and maintain an appropriate blood inventory in the hospital at all times, have immediate access to community blood services or other institutions, or have an up-to-date list of donors, equipment and trained personnel to draw and process blood.
- (a) Blood or blood components must be collected, stored, and handled in such manner that they retain potency and safety.
- (b) Blood or blood components must be properly processed, tested, and labeled.
- (3) If the hospital operates a donor center, transfusion service or a blood bank the donor center, transfusion service, or blood bank must be accredited.
- (a) Hospital blood banks and donor centers must be accredited by the Food and Drug Administration (FDA).
- (b) Hospital transfusion services must be certified by the Health Care Financing Administration to meet Clinical Laboratory Improvement Amendments of 1988 (CLIA), or any accrediting organization approved by the Health Care Financing Administration.
- (4) Results of the accrediting organization survey, or current CLIA certification must be available for Department review.

R432-100-24. Pharmacy Services.

(1) The pharmacy of a hospital currently accredited and conforming to the standards of JCAHO shall be determined to

be in compliance with these rules.

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- (a) If a hospital is not accredited by JCAHO, then the pharmacy of such hospital shall comply with rules in this section.
- (b) The pharmacy department and service shall be directed by a licensed pharmacist.
- (i) Competent personnel shall be employed in keeping with the size and activity of the department and service. If the hospital uses only a drug room and the size of the hospital does not warrant a full-time pharmacist, a consultant pharmacist may be employed.
- (ii) The pharmacist shall be responsible for developing, supervising, and coordinating all the activities of the pharmacy.
- (iii) Provision shall be made for access to emergency pharmaceutical services.
- (iv) The pharmacist shall be trained in the specific functions and scope of the hospital pharmacy.
- (2) Facilities shall be provided for the safe storage, preparation, safeguarding, and dispensing of drugs.
- (a) All floor-stocks shall be kept in secure areas in the patient care units.
- (b) Double-locked storage shall be provided for controlled substances. Electronically controlled storage of narcotics may be permitted if automated dispensing technology is utilized by the hospital.
- (c) Medications stored at room temperatures shall be maintained within 59 and 80 degrees F.
- (d) Refrigerated medications shall be maintained within 36 and 46 degrees F.
- (e) A current toxicology reference, and other references as needed for effective pharmacy operation and professional information shall be available.
- (3) Records shall be kept of the transactions of the pharmacy and medication storage unit and coordinated with other hospital records.
- (a) There shall be a recorded and signed floor-stock controlled substance count once per shift.
- (b) Hospitals that utilize automated dispensing technology must implement a system for accounting of controlled substances dispensed by the automated dispensing system.
- (c) The record shall list the name of the patient receiving the controlled substance, the date, type of substance, dosage, and signature of the person administering the substance.
- (4) Written policies and procedures that pertain to the intra-hospital drug distribution system and the safe administration of drugs shall be developed by the director of the pharmaceutical department or service in concert with the medical staff.
- (a) Drugs that are provided to floor units shall be administered in accordance with hospital policies and procedures.
- (b) The medical staff in conjunction with the pharmacist shall establish standard stop orders for all medications not specifically prescribed as to time or number of doses.
- (c) The pharmacist shall have full responsibility for dispensing of all drugs.
- (d) There shall be a policy stating who may have access to the pharmacy or drug room when the pharmacist is not available.
- (e) There shall be a documentation system for the accounting and replacement of drugs, including narcotics, to the emergency department.
- (f) Medication errors and adverse drug reactions shall be reported immediately in accordance with written procedures including notification of the practitioner who ordered the drug.

R432-100-25. Social Services.

(1) In a hospital with an organized social services department, a qualified social worker shall direct the provision

of social work services. If a hospital does not have a full or part-time qualified social worker, the administrator shall designate an employee to coordinate and assure the provision of social work services. The social worker, or designee shall be knowledgeable about community agencies, institutions, and other resources.

- (2) In a hospital without an organized social services department, the hospital shall obtain consultation from a qualified social worker to provide social work services.
- (3) The staff shall be oriented to help the patient make the best use of available inpatient, outpatient, extended care, home health, and hospice services.
- (4) Social Services shall be integrated with other departments and services of the hospital.

R432-100-26. Psychiatric Services.

- (1) If provided by the hospital, psychiatric services shall be integrated with other departments or services of the hospital according to the nature, extent, and scope of service provided.
- (a) If the hospital does not provide psychiatric services, the hospital must have procedures to transfer patients to a facility that can provide the necessary psychiatric services.
- (b) Administrative direction of psychiatric services shall be provided by a person appointed and authorized by the hospital administrator.
- (c) Medical direction of psychiatric services shall be defined in writing and provided by a qualified physician who is a member of the medical staff.
- (d) Psychiatric services shall comply with the following sections of R432-101, Specialty Hospitals, Psychiatric:
 - (i) R432-101-13 Patient Security;
 - (ii) R432-101-14 Special Treatment Procedures;
 - (iii) R432-101-17 Admission and Discharge;
 - (iv) R432-101-20 Inpatient Services;
- (v) R432-101-21 Adolescent or Child Treatment Programs;
 - (vi) R432-101-22 Residential Treatment Services;
- (vii) R432-101-23 Physical Restraints, Seclusion, and Behavior Management;
- (viii) R432-101-24 Involuntary Medication Administration; and
 - (ix) R432-101-34 Partial Hospitalization Services.
- (2) If outreach services are ordered by a physician as part of the plan of care or hospital discharge plan, the outreach services may be provided in a clinic, physician's office, or the patient's home.

R432-100-27. Substance Abuse Rehabilitation Services.

- (1) A hospital may provide inpatient or outpatient substance abuse rehabilitation services. A hospital that provides substance abuse rehabilitation services shall be staffed to meet the needs of the patients or clients.
- (a) Administrative direction shall be provided by an individual appointed and authorized by the hospital administrator.
- (b) Medical direction shall be defined in writing and provided by a qualified physician who is a member of the medical staff.
- (c) Nursing services shall be under the direction of a full-time registered nurse.
- (d) Substance abuse counseling shall be under the direction of a licensed mental health therapist.
- (e) A licensed substance abuse counselor may serve as the primary therapist under the direction of an individual licensed under the Mental Health Practice Act.
- (f) An interdisciplinary team including the physician, registered nurse, licensed mental health therapist, and substance abuse counselor shall be responsible for program and treatment services. The patient or client may be included as a member of

the interdisciplinary team.

- (2) Substance abuse rehabilitation services shall include at least the following:
- (a) Detoxification care shall be available for the systematic reduction or elimination of a toxic agent in the body by use of rest, fluids, medication, counseling, or nursing care.
- (b) Counseling shall be available in at least one of the following areas: individual, group, or family counseling. In addition, there shall be provisions for educational, employment, or other counseling as needed.
- (c) Treatment services shall be coordinated with other hospital and community services to assure continuity of care through discharge planning and aftercare referrals. Counselors may refer patients or clients to public or private agencies for substance abuse rehabilitation, and employment and educational counseling.
- (d) A comprehensive assessment shall be documented that includes at least a physical examination, a psychiatric and psychosocial assessment, and a social assessment.
- (3) The confidentiality of medical records of substance abuse patients and clients shall be maintained according to the federal guidelines in 42 CFR, Part 2, "Confidentiality of Alcohol and Drug Abuse Patient Records."
- (4) Residential treatment services may be provided under the direction of the medical director or his designee. Residential treatment services shall comply with R432-101-22.

R432-100-28. Outpatient Services.

- (1) Outpatient care services provided by the hospital shall be integrated with other departments or services of the hospital according to the nature, extent, and scope of services provided.
- (2) Outpatient care shall meet the same standards of care that apply to inpatient care.
- (3) Outpatient care includes hospital owned outpatient services, and hospital satellite services.

R432-100-29. Respite Services.

- (1) A remote-rural general acute hospital with a federal swing bed designation may provide respite services to provide intermittent, time-limited care to give primary caretakers relief from the demands of caring for an individual.
- (a) The hospital may provide respite care services and need comply only with the requirements of this section.
- (b) If, however, the hospital provides respite care to an individual for longer than 14 consecutive days, the hospital must admit the individual as an inpatient subject to the requirements of this rule applicable to non-respite inpatient admissions.
- (2) Respite services may be provided at an hourly rate or daily rate.
- (3) The hospital shall coordinate the delivery of respite services with the recipient of services, case manager, if one exists, and the family member or primary caretaker.
- (4) The hospital shall document the individual's response to the respite placement and coordinate with all provider agencies to ensure an uninterrupted service delivery program.
 - (5) The hospital must complete the following:
- (a) a Level 1 Pre-admission Screening upon the person's admission for respite services; and
- (b) a service agreement which will serve as the plan of care. The service agreement shall identify the prescribed medications, physician treatment orders, need for assistance for activities of daily living and diet orders.
- (6) The hospital shall have written policies and procedures available to staff regarding the respite care patients which include:
 - (a) medication administration;
- (b) notification of a responsible party in the case of an emergency;

- (d) behavior management interventions;

(c) service agreement and admission criteria;

- (e) philosophy of respite services;
- (f) post-service summary;
- (g) training and in-service requirement for employees; and
- (h) handling patient funds.
- (7) The facility shall provide a copy of the Resident Rights to the patient upon admission.
- (8) The facility shall maintain a record for each patient who receives respite services which includes:
 - (a) a service agreement;
- (b) demographic information and patient identification data:
 - (c) nursing notes;
 - (d) physician treatment orders;
- (e) records made by staff regarding daily care of the patient in service;
 - (f) accident and injury reports; and
 - (g) a post-service summary.
- (9) If a patient has an advanced directive, the facility shall file a copy of the directive in the record and inform staff.
- (10) Retention and storage of records shall comply with R432-100-33.
- (11) The hospital shall provide for confidentiality and release of information in accordance with R432-100-33.

R432-100-30. Pet Therapy.

- (1) If a hospital utilizes pet therapy, household pets such as dogs, cats, birds, fish, and hamsters may be permitted.
 - (a) Pets must be clean and disease free.
 - (b) The immediate environment of the pets must be clean.
 - (c) Small pets shall be kept in appropriate enclosures.
- (d) Pets that are not confined shall be kept under leash control or voice control.
- (e) Pets that are kept at the hospital, or are frequent visitors shall have current vaccinations, including rabies, as recommended by a licensed veterinarian.
- (f) Hospitals with birds shall have procedures in place which protect patients, staff, and visitors from psittacosis.
- (2) Hospitals that permit pets to remain overnight shall have policies and procedures for the care, housing and feeding of such pets; and for the proper storage of pet food and supplies.
- (3) Pets shall not be permitted in any area where their presence would create a significant health or safety hazard or nuisance to others.
- (4) Pets shall not be permitted in food preparation and storage areas.
- (5) Persons caring for pets shall not have patient care or food handling responsibilities.

R432-100-31. Dietary Service.

- (1) There shall be an organized dietary department under the supervision of a certified dietitian or a qualified individual who, by education or specialized training and experience, is knowledgeable in food service management. If the latter is head of the department, there must be a registered dietitian on a fulltime, regular part-time, or consulting basis.
- (a) Direction of the dietary service shall be provided by a person whose qualifications, authority, responsibilities and duties are approved by the administrator. The director shall have the administrative responsibility for the dietary service.
- (b) If the services of a certified dietitian are used on less than a full-time basis, the time commitment shall permit performance of all necessary functions to meet the dietary needs of the patients.
- (c) There shall be food service personnel to perform all necessary functions.
- (2) If dietetic services are provided by an outside provider, the outside provider shall comply with the standards of this

section.

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- (3) A current diet manual approved by the dietary department and the medical staff shall be available to dietary, medical, and nursing personnel.
- (a) The food and nutritional needs of patients shall be met in accordance with the physician's orders.
- (b) Regular menus and modifications for basic therapeutic diets shall be written at least one week in advance and posted in the kitchen.
- (c) The menus shall provide for a variety of foods served in adequate amounts at each meal.
- (d) At least three meals shall be served daily with not more than a 14-hour span between the evening meal and breakfast. If a substantial evening snack is offered, a 16-hour time span is permitted.
- (e) A source of non-neutral exchanged water shall be provided for use in preparation of no sodium meals, snacks, and beverages.
- (4) The dietary department shall comply with the Utah Department of Health Food Service Sanitation Rule R392-100.
- (a) The dietary facilities and equipment shall be in compliance with federal, state, and local sanitation and safety laws and rules.
- (b) Traffic of unauthorized individuals through food preparation areas shall be controlled.
- (5) Written reports of inspections by state or local health departments shall be on file at the hospital and available for Department review.
- (6) The dietitian or authorized designee is responsible for documenting nutritional information in the patient's medical record.
- (7) Diets shall be ordered by a member of the medical staff and transmitted in writing to the dietary department.

R432-100-32. Telemedicine Services.

If a hospital participates in telemedicine, it shall develop and implement policies governing the practice of telemedicine in accordance with the scope and practice of the hospital.

- (1) The policies shall address security, access and retention of telemetric data.
- (2) The policies shall define the privileging of physicians and allied health professionals who participate in telemedicine.

R432-100-33. Medical Records.

- (1) The hospital shall establish a medical records department or service that is responsible for the administration, custody and maintenance of medical records.
- (a) The administrative direction of the department shall be established by the hospital administrator and correspond to the organizational structure and policies of the hospital.
- (b) The medical records department shall retain the technical services of either a Registered Records Administrator (RRA) or an Accredited Records Technician (ART) through employment or consultation. If retained by consultation, visits shall be at least quarterly and documented through written reports to the hospital administrator.
- (2) The medical records department shall provide secure storage, controlled access, prompt retrieval, and equipment and facilities to review medical records.
- (a) Medical records shall be available for use or review by members of the medical and professional staff; authorized hospital personnel and agents; persons authorized by the patient through a consent form; and Department representatives to determine compliance with licensing rules.
- (b) Medical records may be stored in multiple locations providing the record is able to be retrieved or accessed in a reasonable time period.
- (c) If computer terminals are utilized for patient charting, the hospital shall have policies governing access and

identification codes, security, and information retention.

- (d) The hospital medical record shall be indexed according to diagnosis, procedure, demographic information and physician or licensed health practitioner. The indexes shall be current within six months following discharge of the patient.
- (e) Original medical records are the property of the hospital and shall not be removed from the control of the hospital or the hospital's agent as defined by policy except by court order or subpoena.
- (f) Medical records for persons who have received or requested admission to alcohol or drug programs shall comply with 42 CFR Part 2, "Confidentiality of Alcohol and Drug Abuse Patient Records."
- (3) All medical record entries shall be legible, complete, authenticated, and dated by the person responsible for ordering the service, providing or evaluating the service, or making the entry. Prepared transcriptions of dictated reports, evaluations and consultations must be reviewed by the author before authentication.
- (a) The authentication may include written signatures, computer key, or other methods approved by the governing body and medical staff to identify the name and discipline of the person making the entry.
- (b) Use of computer key or other methods to identify the author of a medical record entry is not assignable or to be delegated to another person.
- (c) There shall be a current list of persons approved to use these methods of authentication. Hospital policies shall include appropriate sanctions for the unauthorized or improper use of computer codes.
- (d) Verbal orders for the care and treatment of the patient shall be accepted and transcribed by qualified personnel and authenticated as stated in hospital policy.
- (4) Patient records shall be organized according to hospital policy.
- (a) Medical records shall be reviewed at least quarterly for completeness, accuracy, and adherence to hospital policy.
- (b) Records of discharged patients shall be collected, assembled, reviewed for completeness, and authenticated within 30 days of the patient's discharge.
- (c) Medical records shall be retained for at least seven years. Medical records of minors shall be kept until the age of eighteen plus four years, but in no case less than seven years.
- (d) Medical records may be destroyed after being retained the minimum length of time, according to hospital policy. Prior to destruction of the record, the following information shall be extracted and retained:
- (i) patient name, medical record number, next of kin, date of birth, admission and discharge date(s); and,
- (ii) the name of attending physician(s), admitting and discharge diagnoses, surgical procedures(s) and pathological and diagnostic findings.
- (e) If a hospital ceases operation, the hospital shall make provision for secure, safe storage and prompt retrieval of all medical records, patient indexes and discharges for the period specified in R432-100-33(4)(c). The hospital may arrange for storage of medical records with another hospital, or an approved medical record storage facility, or may return patient medical records to the attending physician if the physician is still in the community.
- (5) A complete medical record shall be established and maintained for each patient admitted to, or who receives hospital services. Emergency and outpatient records shall document the service rendered, and shall contain other pertinent information in accordance with hospital policy.
- (a) Each medical record shall contain patient identification and demographic information to include at least the patient's name, address, date of birth, sex, and next of kin.
 - (b) Each medical record shall contain initial or admitting

- medical history, physical and other examinations or evaluations. Recent histories and examinations may be substituted if updated to include changes that reflect the patient's current status.
- (c) Each medical record shall contain admitting, secondary and principal diagnoses.
- (d) Each medical record shall contain results of consultive evaluations and findings by persons involved in the care of the patient.
- (e) Each medical record shall contain documentation of complications, hospital acquired infections, and unfavorable reactions to medications, treatments, and anesthesia.
- (f) Each medical record shall contain properly executed informed consent documents for all procedures and treatments ordered for, and received by, the patient.
- (g) Each medical record shall document that the facility requested of each admitted person whether the person has initiated an advanced directive as defined in the Personal Choice and Living Will Act, UCA 75-2-1102.
- (h) Each medical record shall contain all practitioner orders, nursing notes, reports of treatment, medication records, laboratory and radiological reports, vital signs and other information that documents the patient condition and status.
- (i) Each medical record shall contain a discharge summary including outcome of hospitalization, disposition of case with an autopsy report when indicated, or provisions for follow-up.
- (j) Medical records of deceased patients shall contain a completed Inquiry of Anatomical Gift form or a modified hospital death form which has been approved by the Utah Department of Health as required by Section 26-28-6, UCA.
- (k) Medical records of surgical patients shall contain a preoperative history and physical examination; surgeon's diagnosis; an operative report describing a description of findings; an anesthesia report including dosage and duration of all anesthetic agents and all pertinent events during the induction, maintenance, and emergence from anesthesia; the technical procedures used; the specimen removed; the post-operative diagnosis; and the name of the primary surgeon and any assistants written or dictated by the surgeon within 24 hours after the operation.
- (l) Medical records of obstetrical patients shall contain a relevant family history, a pre-natal examination, the length of labor and type of delivery with related notes, the anesthesia or analgesia record, the Rh status and immune globulin administration when indicated, a serological test for syphilis, and a discharge summary for complicated deliveries or final progress note for uncomplicated deliveries.
- (m) Medical records of newborn infants shall contain the following documentation in addition to the requirements for obstetrical medical records:
- (i) Documentation must include a copy of the mother's delivery room record. In adoption cases where the identity of the mother is confidential, inclusion and access to the mother's delivery room record shall be according to hospital policy.
- (ii) Documentation must include the date and hour of birth, period of gestation, sex, reactions after birth, delivery room care, temperature, weight, time of first urination, and number, character, and consistency of stools.
- (iii) Documentation must include a record of the physical examination completed at birth and discharge, record of ophthalmic prophylaxis, and the identification number of the newborn screening kit, referred to in R398-1.
- (iv) If the infant is discharged to any person other than the infant's parents, the hospital shall record the authorization by the parents, state agency, or court authority. and
- (v) Documentation of the record and results of the newborn hearing screening according to Section 26-10-6, UCA and R398-2-6.
- (n) Emergency department patient medical records shall be integrated into the hospital medical record and include time and

means of arrival, emergency care given to the patient prior to arrival, history and physical findings, lab and x-ray reports, diagnosis, record of treatment, and disposition and discharge instructions.

- (o) Patient medical social services records shall include a medical-social or psycho-social study of referred inpatients and outpatients; the financial status of the patient, social therapy and rehabilitation of patients, environmental investigations for attending physicians, and cooperative activities with community agencies.
- (p) Medical records of patients receiving rehabilitation therapy shall include a written plan of care appropriate to the diagnosis and condition, a problem list, and short and long term goals.
- (6) The medical records department shall maintain records, reports and documentation of admissions, discharges, and the number of autopsies performed.
- (7) The medical records department shall maintain vital statistic registries for births, deaths, and the number of operations performed. The medical records department shall report vital statistics data in accordance with the Vital Statistics Act, Utah Health Code, (26-2, UCA).

R432-100-34. Central Supply Services.

- (1) The central supply service supervisor shall be qualified for the position by education, training, and experience.
- (2) The hospital shall provide space and equipment for the cleaning, disinfecting, packaging, sterilizing, storing, and distributing of medical and surgical patient care supplies.
- (a) A hospital central service area shall provide for the following:
- (i) A decontamination area which shall be separated by a barrier or divider to allow the receiving, cleaning, and disinfection functions to be performed separately from all other central service functions;
- (ii) A linen assembly or pack-making area which shall have ventilation to control lint. The linen assembly or pack-making area shall be separated from the general sterilization and processing area.
- (iii) The sterilization area shall contain hospital sterilizers with approved controls and safety features.
- (b) The accuracy of the sterilizers' performance shall be checked by a method that includes a permanent record of each run.
- (c) Sterilizers shall be tested by biological monitors at least weekly.
- (d) If gas sterilizers are used, they shall be inspected, maintained, and operated in accordance with the manufacturer's recommendations.
- (3) The storage area shall be separated into sterile and nonsterile areas. The storage area shall have temperature and humidity controls, and shall be free of excessive moisture and dust. Outside shipping cartons shall not be stored in this area.
- (4) During each shift that the central service area is staffed, counter tops and tables shall be wiped with a broad spectrum disinfectant.
- (5) All apparel worn in central supply shall be issued and laundered according to hospital policy.

R432-100-35. Laundry Service.

- (1) Direction of the laundry service shall be provided by a person whose qualifications, authority, responsibilities and duties are approved by the administrator.
- (2) Hospitals using commercial linen services shall require written assurance from the commercial service that standards in this subsection are maintained.
- (a) Clean linen shall be completely packaged and protected from contamination until received by the hospital.
 - (b) The use of a commercial linen service does not relieve

- the hospital from its quality improvement responsibilities.
- (3) Hospitals that maintain an in-house laundry service must have equipment, supplies and staff available to meet the needs of the patients.
- (a) Soiled linen shall be collected in a manner to minimize cross-contamination. Containers shall be properly closed as filled and before further transport.
 - (i) Soiled linen shall be sorted only in a sorting area.
- (ii) Handwashing is required after handling soiled linen and prior to handling clean items.
- (iii) Employees handling soiled linen shall wear protective clothing which must be removed before leaving the soiled work
- (iv) Soiled linen shall be transported separately from clean linen.
 - (b) The hospital shall maintain a supply of clean linen.
- (i) Clean linen shall be handled and stored in a manner to minimize contamination from surface contact or airborne deposition.
- (ii) Clean linen shall be stored in enclosed closet areas or carts.
 - (iii) Clean linen shall be covered during transport.
- (4) The hospital is responsible to launder employee scrubs that are worn in the following areas:
 - (a) surgical areas;
- (b) other areas as required by the Occupational Health and Safety Act.
- (5) If hospital employee scrubs are designated as uniforms that may be worn to and from work, policies and procedures shall be developed and implemented defining the scope and usage of scrubs as uniforms including hospital storage of employee scrubs, and provisions for hospital-provided scrubs in case of contamination.

R432-100-36. Housekeeping Services.

- (1) There shall be housekeeping services to maintain a clean, safe, sanitary, and healthful environment in the hospital.
- (2) If the hospital contracts for housekeeping services with an outside service, there shall be a signed and dated agreement that details the services provided.
- (3) The hospital shall provide safe, secure storage of cleaners and chemicals. Cleaners and chemicals stored in areas that may be accessible to patients shall be kept secure in accordance with hospital policy.
- (4) Storage and supplies in all areas of the hospital shall be stored at least four inches off the floor, and at least 18 inches below the lowest portion of the sprinkler system.
- (5) Personnel engaged in housekeeping or laundry services may not be engaged simultaneously in food service or patient care.
- (6) If personnel work in food or direct patient care services, hospital policy shall be established and followed to govern the transition from housekeeping services to patient care.

R432-100-37. Maintenance Services.

- (1) There shall be maintenance services to ensure that hospital equipment and grounds are maintained in a clean and sanitary condition and in good repair at all times for the safety and well-being of patients, staff, and visitors.
- (a) The administrator shall employ a person qualified by experience and training to be in charge of hospital maintenance.
- (b) If the hospital contracts for maintenance services, there shall be a signed and dated agreement that details the services provided.
- (c) A pest-control program shall be conducted to ensure the hospital is free from vermin and rodents.
- (d) Entrances, exits, steps, ramps, and outside walkways shall be maintained in a safe condition with regard to snow, ice and other hazards.

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- (2) All patient care equipment shall be tested, calibrated and maintained in accordance with the specifications from the manufacturer.
- (a) Testing frequency and calibration documentation shall be available for Department review.
- (b) Testing or calibration procedures conducted by an outside agency or service shall be documented and available for Department review.
- (3) Hot water at public and patient faucets shall be delivered between 105 to 120 degrees Fahrenheit.

R432-100-38. Emergency and Disaster Plan.

- (1) The hospital is responsible to assure the safety and well-being of patients. There must be provisions for the maintenance of a safe environment in the event of an emergency or disaster. An emergency or disaster may include utility interruption such as gas, water, sewer, fuel or electricity interruption, explosion, fire, earthquake, bomb threat, flood, windstorm, epidemic, bio-terrorism event or mass casualty incident.
- (2) The administrator or designee is responsible for the development of a plan, coordinated with state and local emergency or disaster offices, to respond to emergencies or disasters. This plan shall be in writing and list the coordinating authorities by agency name and title. The plan shall be distributed or made available to all hospital staff to assure prompt and efficient implementation.
- (a) The plan shall be reviewed and updated as necessary in coordination with local emergency or disaster management authorities. The plan shall be available for review by the Department.
- (b) The administrator or designee is in charge of operations during any significant emergency. If not on the premises, the administrator shall make every reasonable effort to get to the hospital to relieve subordinates and take charge of the situation.
- (c) The name of the person in charge and names and telephone numbers of emergency medical personnel, agencies and appropriate communication and emergency transport systems shall be readily available to all hospital staff.
- (3) The hospital's emergency response procedures shall address the following:
- (a) evacuation of occupants to a safe place within the hospital or to another location;
- (b) delivery of essential care and services to hospital occupants by alternate means regardless of setting;
- (c) delivery of essential care and services when additional persons are housed in the hospital during an emergency;
- (d) delivery of essential care and services to hospital occupants when staff is reduced by an emergency; and
- (e) maintenance of safe ambient air temperatures within the hospital.
- (4) The hospital shall have an emergency plan that is current and appropriate to the operation and construction of the hospital. The plan shall be approved by the board and the hospital administrator.
 - (a) The hospital's emergency plan shall delineate:
- (i) the person or persons with decision-making authority for fiscal, medical, and personnel management;
- (ii) on-hand personnel, equipment, and supplies and how to acquire additional help, supplies, and equipment after an emergency or disaster;
- (iii) assignment of personnel to specific tasks during an emergency;
- (iv) methods of communicating with local emergency agencies, authorities, and other appropriate individuals;
- (v) the telephone numbers of individuals to be notified in an emergency in order of priority;
 - (vi) methods of transporting and evacuating patients and

staff to other locations; and

- (vii) conversion of the hospital for emergency use.
- (b) Emergency telephone numbers shall be accessible to staff at each nurses station.
- (c) The hospital shall document emergency events and responses and record patients and staff evacuated from the hospital to another location. Any emergency involving patients shall be documented in the patient record.
- (d) Simulated disaster drills shall be held semiannually for all staff. One disaster drill shall address a bio-terrorism or communicable disease event.
- (e) Fire drills and fire drill documentation shall be in accordance with R710-4, State of Utah Fire Prevention Board.
- (5) There shall be a fire emergency evacuation plan written in consultation with qualified fire safety personnel. The evacuation plan shall be posted in prominent locations throughout the hospital.

R432-100-39. Penalties.

Any person who violates any provision of this rule may be subject to the penalties enumerated in 26-21-11 and R432-3-6 and be punished for violation of a class A misdemeanor as provided in 26-21-16.

KEY: health facilities January 9, 2004

Notice of Continuation October 16, 2002

26-21-5 26-21-2.1 26-21-20

R495. Human Services, Administration. R495-879. Parental Support for Children in Care. R495-879-1. Child Support Liability.

The Office of Recovery Services will establish and enforce child support obligations against parents whose children are in out-of-home placement programs, administered by the Department of Human Services or Department of Health. The department shall consider fees for outpatient and day services separate from child support payments. Establishment and enforcement of child support shall be pursuant to the Uniform Civil Liability for Support Act, Title 78, Chapter 45; Child Support Services Act, 62A-11-301 et seq.; Support and expenses of child in custody of an individual or institution, 78-3a-906;

R495-879-2. Support Guidelines.

Child support obligations shall be calculated in accordance with Child Support Guidelines, Sections 78-45-7.2 through 78-45-7.21.

R495-879-3. Criteria For Deviating From Guidelines.

The following criteria may be used to deviate from the guidelines when a prior order does not exist.

1. Deduction For a Disabled Child.

A deduction from gross income shall be allowed each year, equal to the federal tax exemption for dependents, for each year a child was cared for at home if that child's disability would ordinarily have qualified him for residential care.

2. Medical Payments.

A deduction from gross income shall be allowed for medical expenses equal to the IRS deduction allowed the previous year on the parents' 1040 tax return.

3. Children Over 18 Years Old.

Children up to 23 years of age shall be included on the Child Support Worksheet if the parents are claiming the child as an exemption on their income tax return. Parents must provide prior year's tax return and a statement that they will be claiming child on current year tax return.

4. Loss of child's Social Security Survivor Payments.

If the parent's income is below 133% of the poverty level, allow a direct credit against the child support amount from the child's social security survivor's benefit paid to the state.

5. Adoption Assistance.

The child is adopted, the parents continue to receive adoption assistance or have received adoption assistance, and the child is placed in the care or custody of the state for reasons other than neglect or abuse of the child by the parents.

6. Best Interest of the Child.

It is in the best interest of the child to deviate from the child support guidelines pursuant to Section 78-45-7.14.

R495-879-4. Establishing an Order.

ORS may modify and establish child support orders through the Child Support Services Act, 62A-11-301 et seq.; Administrative Procedures Act, Section 63-46b-1 et seq.; Jurisdiction - Determination of Custody questions by Juvenile Court, Subsection 78-3a-105(5)(a); and in accordance with R527-200.

R495-879-5. Good Cause Deferral and Waiver Request.

If collections interfere with family re-unification, a division may, using the Good Cause-Deferral/Waiver (form 602), request a deferral or waiver of arrears payments. The request may be applied to current support when an undue hardship is created by an unpreventable loss of income to the present family. A loss of income may include non payment of child support from the other parent for the children at home, loss of employment, or loss of monthly pension or annuity payments. The request shall be initiated by the responsible case worker and forwarded to his

or her supervisor, regional director, division director/superintendent, or designee for approval. The Good Cause Deferral and Waiver request may be denied or approved at any stage in the process. Once the waiver has been approved at all levels in the referring agency, the division director (or designee) shall send the waiver to the ORS director (or designee) for review and decision. If the requesting agency disagrees with the ORS director's (or designee's) decision, the request may be referred to the Executive Director of the Department of Human Services for a final decision. The requesting agency will notify the family of the final decision. The request shall not be approved when it proposes actions that are contrary to state or federal law.

R495-879-6. In-Kind Support.

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ORS may accept in-kind support after the support amount has been established, based on the parent's service to the program in which the child is placed. The service provided by a parent must be approved by the director of the division or the superintendent of the institution responsible for the child's care. The approval should be based on a monetary savings or an enhancement to a program. If geographical distances prohibit direct service, then the division director or superintendent may approve support services for in-kind support that do not directly offset costs to the agency, but support the overall mission of the agency. For example, a parent with a child receiving services at the Utah State Hospital (USH) may provide services to a local mental health center with the approval of the USH superintendent.

A memorandum of understanding shall be signed by the division/institution and the parent specifying the type, length, and dollar value of service. Verification of the service hours worked must be provided by the division/institution to ORS (using Form 603) within 10 days after the end of the month in which the service was performed. The verification shall include the dates the service was performed, the number of hours worked, and the total credit amount earned. The in-kind service allowed shall be applied prospectively up to the current support ordered amount. Unless approved by the director of the Department, in-kind support approved by one division/institution shall not be used to reduce child support owed to another division/institution. In-kind support shall not be approved when it proposes actions that are contrary to state or federal law.

R495-879-7. Extended Visitation During The Year.

A rebate shall be granted to a parent for support paid when a child's overnight visits equal 25% or more of the service period. The rebate will only be provided when the service period lasts six months or more. The rebate will be proportionate to the number of days at home compared to the number of days in care. One continuous 24-hour period equals one day.

R495-879-8. Child Support and Adoption Assistance.

ORS will establish and enforce child support obligations for parents who are currently receiving adoption assistance or who have received adoption assistance from this state or any other state or jurisdiction, for children who are in the custody of the state, in accordance with Sections 78-3a-906, 78-45-4.2, R495-879-1 and R527-550-1. If an order for support does not currently exist, the department will establish a monthly child support obligation prospectively on existing cases. When establishing a child support obligation, ORS will not include the adoption assistance amount paid to the family in determining the family's income, pursuant to Section 78-45-7.4.

KEY: child support, custody of children January 26, 2004

62A-1-111(16)

Notice of Continuation October 31, 2003
62A-4a-114
62A-5-109(1)
62A-7-124
62A-11-302
62A-15-607
63-46b-1
78-3a-105(5)(a)
78-3a-906
78-45-4.2
78-45-7.2 through 78-45-7.21

R527. Human Services, Recovery Services. R527-210. Guidelines for Setting Child Support Awards. R527-210-1. Reduction for Extended Parent-time.

1. If the support order does not specifically provide that the base child support award will be reduced for extended parent-time and the child is a recipient of financial public assistance, the Office of Recovery Services/Child Support Services (ORS/CSS) shall not reduce the support obligation.

R527-210-2. Accountability of Support Provided to Benefit Child.

At the time of issuing an administrative order for current support, ORS/CSS may include in the order, upon the petition of the obligor, a provision for the obligee to furnish an accounting of amounts provided for the child's benefit to the obligor. In order to be eligible, the obligor must be current on all child support; the obligor must not have a child support arrearage.

KEY: child support October 17, 2003 Notice of Continuation January 13, 2004

62A-11-304.2 78-45-7.11 78-45-7.20 78-45-7.21

R590. Insurance, Administration.

R590-102. Insurance Department Fee Payment Rule. R590-102-1. Authority.

This rule is adopted pursuant to Subsections 31A-3-103(2) and (4) which require the commissioner to publish the schedule of fees approved by the Legislature and to establish deadlines for payment of each of the various fees.

R590-102-2. Purpose and Scope.

- (1) The purpose of this rule is to publish the schedule of fees approved by the legislature, to establish fee deadlines, and to disclose this information to licensees and the public.
- (2) The rule applies to all persons engaged in the business of insurance in Utah, to all licensees, to applicants for licenses, registrations, certificates, or other similar filings and for services provided by the department for which a fee is required.

R590-102-3. Definitions.

For the purposes of this rule the following definitions will apply.

- (1) "Admitted insurers" include: fraternal, health, health maintenance organization, life, limited health plan, motor club, non-profit health service, property-casualty, and title insurers.
 - (2) "Agency" means:
- (a) a person, other than an individual, including a sole proprietorship by which a natural person does business under an assumed name; and
- (b) an insurance organization required to be licensed under Subsection 31A-23-212(3).
- (3) "Captive insurer" includes association captive, branch captive, industrial insured captive, pure captive, and sponsored captive.
- (4) "Deadline" means the date or time imposed by statute, order, or rule by which:
- (a) a payment must be received by the department without incurring penalties for late payment or non-payment; or
- (b) a filing must be received by the department without incurring penalties for late receipt or non-receipt.
- (5) "Fee" means an amount set by the legislature for licenses, registrations, certificates, and other filings and services provided by the Insurance Department.
- (6) "Full-line agency" includes producer, consultant, independent adjuster, managing general agent, public adjuster, reinsurance intermediary broker, and third party administrator.
- (7) "Full-line individual" includes a producer, consultant, independent adjuster, managing general agent, public adjuster, reinsurance intermediary broker, and third party administrator.
- (8) "Limited-line agency" includes bail bond and limited-line producer.
- (9) "Limited-line individual" includes bail bond agent, limited-lines producer and customer service representative.
- (10) "Other organizations" include: home warranty, joint underwriter, purchasing group, rate service organization, risk retention group, service contract provider, surplus line insurer, accredited reinsurer, and trustee reinsurer.
- (11) "Paper filing" means each item of a filing that must be manually entered into the department's database because it was submitted by some method such as paper facsimile, or email rather than submitted electronically when the department has mandated an electronic filing method.
 - (12) "Received by the department" means:
- (a) except as provided in Subsection R590-102-3(11)(b), the date delivered to and stamped received by the department, whether delivered in person or electronically; or
- (b) if delivered to the department by a delivery service, the delivery service's postmark date or pick-up date unless a statute, rule, or order related to a specific filing or payment provides otherwise.

R590-102-4. General Instructions.

- (1) Any fee payable to the department not included in Subsections R590-102-5 through 14, shall be due when service is requested, if applicable, otherwise by the due date on the invoice. A non-electronic payment fee will be added to the fee due the department when a payment that can be made electronically is done through a non-electronic method.
 - (2) Payment.

Printed: May 1, 2004

- (a) Checks shall be made payable to the Utah Insurance Department. A check that is dishonored in the process of the collection will not constitute payment of the fee for which it was issued and any action taken pursuant to the fee payment will be negated. Any late fees or penalties will apply until proper payment is made. Tender of a check to the department, that is subsequently dishonored, is a violation of this rule.
- (b) Cash payments. The department is not responsible for un-receipted cash that is lost or misdelivered.
 - (c) Electronic payments.
- (i) Credit Card. Credit cards may be used to pay any fee due to the department. Credit card payments that are dishonored will not constitute payment of the fee and any action taken based on the payment will be voided. Late fees and other penalties, resulting from the voided action, will apply until proper payment is made. A credit card payment that is dishonored is a violation of this rule.
- (ii) Automated clearinghouse (ACH). Payers or purchasers desiring to use this method must contact the department for the proper routing and transit information. Payments that are made in error to another agency or that are not deposited into the department's account will not constitute payment of the fee and any action taken based on the payment will be voided. Late fees and other penalties resulting from the voided action will apply until proper payment is made. An ACH payment that is dishonored is a violation of this rule.
- (3) Retaliation. The fees enumerated in this rule are not subject to retaliation in accordance with Section 31A-3-401 if other states or countries impose higher fees.
 - (4) Refunds.
 - (a) All fees in this rule are non-refundable.
 - (b) Overpayments of fees are refundable.
- (c) Requests for return of overpayments must be in writing.
 - (5) Implementation date.
- (a) All fees, except resident and non-resident individual and agency license renewal fees, are implemented November 1, 2003.
- (b) Resident and non-resident individual and agency license renewal fees are implemented December 1, 2003.
- (6) A non-electronic processing fee will be assessed for a particular service if the department has established an electronic process for that service. See Section 12 for non-electronic processing fees.

R590-102-5. Admitted Insurer Annual License and Annual Service Fees.

- (1) Annual license fees.
- (a) certificate of authority, initial license application due with license application: \$1,002;
- (b) certificate of authority renewal due by the due date on the invoice: \$302;
- (c) certificate of authority reinstatement due with application for reinstatement: \$1,002;
- (d) certificate of authority amendments due with request for amendment: \$252;
- (e) application for merger, acquisition, or change of control Form A, due with filing: \$2,002. Expenses incurred for consultant(s) services necessary to evaluate the Form A will be charged to the applicant and due when billed;
 - (f) redomestication filing due with filing: \$2,002; and

- (g) application for organizational permit for mutual insurer to solicit applications for qualifying insurance policies or subscriptions for mutual bonds or contribution notes due with application: \$1,002.
- (2) The annual initial or annual renewal license fee includes the following licensing services for which no additional fee is required:
- (a) filing annual statement and report of Utah business due annually on March 1;
- (b) filing holding company registration statement Form
- (c) filing application for material transactions between affiliated companies Form D;
- (d) application for: stock solicitation permit, public offering filing, but not an SEC filing; an SEC filing; private placement offering; and
- (e) application for individual license to solicit in accordance with the stock solicitation permit.
 - (3) Annual service fee:
- (a) Due annually by the due date on the invoice. The fee is based on the Utah premium as shown in the latest annual statement on file with the National Association of Insurance Commissioners (NAIC) and the department. Fee calculation example: the 2003 annual service fee calculation will use the Utah premium shown in the December 31, 2002 annual statement.
 - (i) \$0 premium volume: no service fee;
- (ii) more than \$zero but less than \$1 million in premium volume: \$700;
- (iii) \$1 million but less than \$3 million in premium volume: \$1,100;
- (iv) \$3 million but less than \$6 million in premium volume: \$1,550;
- (v) \$6 million but less than \$11 million in premium volume: \$2,100;
- (vi) \$11 million but less than \$15 million in premium
- volume: \$2,750; (vii) \$15 million but less than \$20 million in premium volume: \$3,500; and
 - (viii) \$20 million or more in premium volume: \$4,350.
- (b) The annual service fee includes the following services for which no additional fee is required:
- (i) filing of amendments to articles of incorporation, charter, or bylaws;
 - (ii) filing of power of attorney;
 - (iii) filing of registered agent;
 - (iv) affixing commissioner's seal and certifying any paper;
 - (v) filing of authorization to appoint and remove agents;
- (vi) filing of producer/agency appointment with an insurer initial;
- (vii) filing of producer/agency appointment with an insurer termination;
- (viii) filing of producer/agency appointment with an insurer biennial renewal;
 - (ix) report filing, all lines of insurance;
 - (x) rate filing, all lines of insurance;
 - (xi) form filing, all lines of insurance; and
 - (xii) workers' compensation loss cost schedule.
- (c) The annual service fee is for services that the department will provide for an admitted insurer during the year. The fee is paid in advance of providing the services.

R590-102-6. Surplus Lines Insurer, Accredited Reinsurer, Trusteed Reinsurer, Other Organizations Annual License and Annual Service Fees.

- (1) Annual license fee.
- (a) other organizations initial due with application: \$252;
 - (b) other organizations renewal due annually by the due

- date on the invoice: \$202;
- (c) other organization reinstatement due with application for reinstatement: \$252;
- (d) The annual other organizations initial or renewal fee includes the risk retention group annual statement filing due annually on May 1.
- (e) surplus line insurer, accredited reinsurer, and trusteed reinsurer.
- (i) surplus lines insurer, accredited reinsurer, and trusteed reinsurer initial due with application \$1,002.
- (ii) surplus lines insurer, accredited reinsurer, and trusteed reinsurer renewal due annually by the due date on the invoice: \$302:
- (iii) surplus lines insurer, accredited reinsurer, and trusteed reinsurer reinstatement due with application for reinstatement: \$1,002;
- (iv) The annual initial or renewal surplus line license fee includes the surplus lines annual statement filing for:
 - (A) U.S. companies due annually on May 1; and
- (B) foreign companies due within 60 days of the annual statement's filing with the insurance regulatory authority where the company is domiciled.
- (v) The annual initial or renewal accredited reinsurer and trusteed reinsurer license fee includes the annual statement filing due annually on March 1.
 - (2) Annual service fee:
- (a) Other organizations due annually by the due date on the invoice: \$200.
- (b) Surplus lines insurer, accredited reinsurer, and trusteed reinsurer due annually by the due date on the invoice: \$200
- (c) The annual service fee includes the following services for which no additional fee is required:
 - (i) filing of power of attorney;
 - (ii) filing of registered agent;
 - (iii) rate, form, report or service contract filing; and
 - (iv) any other services provided to the licensee.
- (d) The annual service fee is for services that the department will provide during the year. The fee is paid in advance of providing the services.

R590-102-7. Captive Insurer Fees.

- (1) Initial application due with license application: \$202.
- (2) Initial application review due by the due date on the invoice: actual costs incurred by the department to review the application.
 - (3) Annual license fees:
 - (a) initial due by the due date on the invoice: \$302;
- (b) renewal due by the due date on the invoice: \$302;
- (c) reinstatement due with application for reinstatement: \$302.
- (4) Annual service fee due by the due date on the invoice: \$200.

R590-102-8. Viatical Settlement Provider Fees.

- (1) Annual license fees:
- (a) initial due with application: \$1,002;
- (b) renewal due by the due date on the invoice: \$302; and
- (c) reinstatement due with reinstatement application: \$1,002.
- (2) Annual service fee due by the due date on the invoice: \$600.

R590-102-9. Individual Resident and Non-Resident Biennial License Fees.

- (1) Resident and non-resident full-line individual initial license or renewal fee for two-year period:
 - (a) initial license fee due with application: \$72:

- (b) express initial license fee due with application: \$72;
- (c) renewal license fee if renewed prior to renewal deadline due with renewal application: \$72;
- (d) renewal license fee if renewed 1 through 30 days after renewal deadline and prior to license lapse due with renewal application: \$142; and
- (e) lapsed license reinstatement fee if reinstated 31 days through 365 days after renewal deadline due with application for reinstatement: \$192.
- (2) Resident and non-resident limited-line individual initial or renewal license fee, for two-year period:
 - (a) initial license fee due with application: \$47;
- (b) renewal license fee if renewed prior to renewal deadline due with renewal application: \$47;
- (c) renewal license fee if renewed 1 through 30 days after renewal deadline and prior to license lapse due with renewal application: \$92; and
- (d) lapsed license reinstatement fee if reinstated 31 days through 365 days after renewal deadline due with application for reinstatement: \$142.
- (3) Fee for addition of producer classification or line of authority to individual producer license due with request for additional classification or line of authority: \$27.
- (4) The initial and renewal full-line producer and limitedline producer fee includes the following services for which no additional fee is required:
 - (a) issuance of letter of certification;
 - (b) issuance of letter of clearance;
 - (c) issuance of duplicate license;
 - (d) individual continuing education services; and
 - (e) other services provided to the licensee.
- (5) The initial and renewal individual license fee includes services the department will provide during the year. The fee is paid in advance of providing the services.

R590-102-10. Biennial Agency License Fees.

- (1) Resident and non-resident agency initial or renewal license per two-year license period for a full-line agency and for a limited-line agency:
 - (a) initial license fee due with application: \$77;
- (b) renewal license fee if renewed prior to renewal deadline due with renewal application: \$77;
- (c) renewal license fee if renewed 1 through 30 days after renewal deadline and prior to license lapse due with renewal application: \$152; and
- (d) lapsed license reinstatement fee if reinstated 31 days after renewal deadline due with application for reinstatement: \$202.
- (2) Fee for addition of producer classification or line of authority to agency license due with request for additional classification or line of authority: \$27.
 - (3) Bail bond agency per annual license period:
 - (a) initial license fee due with application: \$252;
- (b) renewal license fee if renewed prior to renewal deadline due with renewal application: \$252;
- (c) renewal license fee if renewed 1 through 30 days after renewal deadline and prior to license lapse due with renewal application: \$502; and
- (d) lapsed license reinstatement fee if reinstated 31 days after renewal deadline due with application for reinstatement: \$602.
 - (4) Health insurance purchasing alliance annual license:
- (a) initial license fee due with application: \$502;
 (b) renewal license fee if renewed prior to renewal deadline due with renewal application: \$502;
- (c) renewal license fee if renewed 1 through 30 days after renewal deadline and prior to license lapse due with renewal application: \$752; and
 - (d) lapsed license reinstatement fee if reinstated 31 days

- after renewal deadline due with application for reinstatement: \$802.
- (5) The initial and renewal agency license fee includes the following services for which no additional fee is required:
 - (a) issuance of letter of certification;
 - (b) issuance of letter of clearance;
 - (c) issuance of duplicate license;
- (d) filing of producer designation to agency license initial:
- (e) filing of producer designation to agency license -termination;
- (f) filing of producer designation to agency license biennial renewal;
 - (g) filing of amendment to agency license;
 - (h) filing of power of attorney; and
 - (i) any other services provided to the licensee.
- (6) The initial and renewal agency license fee includes services the department will provide during the year. The fee is paid in advance of providing the services.

R590-102-11. Continuing Education Fees.

- (1) Continuing education provider approval fees:
- (a) initial approval fee due with application: \$252;
- (b) renewal approval fee if renewed prior to renewal deadline due with renewal application: \$252;
- (c) renewal approval fee if renewed 1 through 60-days after renewal deadline and prior to approval lapse due with renewal application: \$302; and
- (d) Lapsed approval reinstatement fee if reinstated 61 days after renewal deadline due with application for reinstatement: \$352.
- (2) Continuing education course post-approval fee due with request for approval: \$5 per credit hour, minimum fee \$27.

R590-102-12. Non-electronic Processing Fees.

Non-electronic producer and agency appointment filing - initial or termination - due with each paper filing: \$5.

R590-102-13. Dedicated Fees.

The following are fees dedicated to specific uses:

- (1) annual fraud assessment fee due by the due date on the invoice;
- (2) annual title assessment fee due by the due date on the invoice;
- (3) relative value study book fee due when book purchased or by invoice due date: 12;
- (4) Utah insurance codebook fee due when book purchased or by invoice due date: \$27; and
- (5) mailing fee for books due if book is to be mailed to purchaser: \$3.

R590-102-14. Electronic Commerce Dedicated Fees.

- (1) E-commerce and internet technology services fee:
- (a) admitted insurer, captive insurer, and surplus lines insurer due with the annual initial, annual renewal, or reinstatement application: \$75;
- (b) other organization and viatical settlement provider due with the annual initial, annual renewal, or reinstatement application: \$50;
- (c) continuing education provider due with the annual initial, annual renewal, or reinstatement application: \$20;
- (d) agency due with the biennial initial, biennial renewal, or reinstatement application: \$10; and
- (e) individual due with the biennial initial, biennial renewal, or reinstatement application: \$5.
- (2) The e-commerce and internet technology services fees are authorized until July 1, 2006.
- (3) Database access fee due when the department's database is accessed to input or acquire data: \$3 per transaction.

(4) Non-electronic payment fee - added to fees due the department when a payment that can be made electronically is done through some other method: \$5 per payment.

R590-102-15. Other Fees.

- photocopy fee per page: \$.50.
 Complete annual statement copy fee per statement: \$42.
- (3) Fee for accepting service of legal process: \$12.(4) Fees for production of information lists regarding admitted insurers, other organizations, individuals, agencies, or other information that can be produced by list:
 - (a) printed list: \$1 per page;
 - (b) electronic list:
 - (i) 1 to 500 records: \$52; and
 - (ii) 501 or more records: \$.11 per record. (5) Returned check fee: \$20.

 - (6) Workers compensation loss cost multiplier schedule:

\$5.

(7) Title agency filing (rate, form, or report) - due with filing: \$25.

R590-102-16. Separability.

If any provision of this rule or its application to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of this provision to other persons or circumstances shall not be affected.

KEY: insurance January 8, 2004

31A-3-103

Notice of Continuation February 21, 2002

R590. Insurance, Administration.

R590-187. Assessment of Title Insurance Agencies and Title Insurers for Costs Related to Regulation of Title Insurance. R590-187-1. Authority.

This rule is promulgated by the commissioner pursuant to Subsections 31A-2-201(3) and 31A-23a-415(2)(d).

R590-187-2. Purpose.

The purpose of this rule is:

- (1) to establish the costs and expenses incurred by the department in administering, investigating and enforcing the provisions of Title 31A, Chapter 23a, Parts IV and V related to the marketing of title insurance;
- (2) to determine a filing date for each title insurance agency or insurer to report to the commissioner the number of counties in which a title insurance agency or a title insurer maintains offices;
- (3) to establish a deadline for the payment of the assessment; and
- (4) to determine the premium year used in calculating the assessment of title insurers.

R590-187-3. Scope.

This rule applies to all title insurers, and title insurance agencies.

R590-187-4. Definitions.

For the purpose of the rule the commissioner adopts the definitions as set forth in Section 31A-1-301, and the following:

- (1) "Office" means headquarters of an agency or company.
- (2) "Branch Office" means local or area office of the headquarters of an agency or company.

R590-187-5. Costs and Expenses.

(1) The amount of costs and expenses that will be covered by the assessment imposed by 31A-23a-415 for any fiscal year in which an assessment exists will consist of the salary and state paid benefits; travel expenses, including daily vehicle expenses; computer hardware and software expenses; e-commerce expenses and wireless communications expenses for a Market Conduct Examiner I as determined by the department's budget as approved by the Utah State Legislature and would include any salary increases or increases in benefits.

R590-187-6. Reporting of Counties.

- (1) A title insurance agency and title insurer shall deliver to the commissioner, a Branch Office Report within 30 days of the opening or closing of any office, of any change of address, or a change in branch manager.
- (2) Branch Office Report form, revised 6-3-03 is incorporated by reference and is available from the department, or from the department's web page. This form shall be utilized in reporting the office information required by this rule.

R590-187-7. Title Insurer Assessment.

The title insurance assessment shall be calculated using direct premiums written during the preceding calendar year. The direct premiums written shall be taken from the insurer's annual statements for that year.

R590-187-8. Assessment Payment Deadline.

- (1) Payment.
- (a) Checks shall be made payable to the Utah Insurance Department. A check that is dishonored in the process of the collection will not constitute payment of the fee for which it was issued and any action taken pursuant to the fee payment will be negated. Any late fees or penalties will apply until proper payment is made. Tender of a check to the department, that is subsequently dishonored, is a violation of this rule.

- (b) Cash payments. The department is not responsible for un-receipted cash that is lost or mis-delivered.
 - (c) Electronic payments.

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- (i) Credit Card. Credit cards may be used to pay any fee due to the department. Credit card payments that are dishonored will not constitute payment of the fee and any action taken based on the payment will be negated. Late fees and other penalties, resulting from the negated action, will apply until proper payment is made. A credit card payment that is dishonored is a violation of this rule.
- (ii) Automated clearinghouse (ACH). Payers or purchasers desiring to use this method must contact the department for the proper routing and transit information. Payments that are made in error to another agency or that are not deposited into the department's account will not constitute payment of the fee and any action taken based on the payment will be negated. Late fees and other penalties resulting from the negated action will apply until proper payment is made. An ACH payment that is dishonored is a violation of this rule.

R590-187-9. Enforcement Date.

The commissioner will begin enforcing the revised provisions of this rule 45 days from the rule's effective date.

R590-187-10. Severability.

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

KEY: title insurance January 8, 2004 31A-2-201 Notice of Continuation September 2, 2003 31A-23a-415

R602. Labor Commission, Adjudication.

R602-1. General Provisions.

R602-1-1. Time.

A. An Order is deemed issued on the date on the face of the Order which is the date the presiding officer signs the Order.

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- B. In computing any period of time prescribed or allowed by these rules or by applicable statute:
- 1. The day of the act, event, finding, or default, or the date an Order is issued, shall not be included;
- 2. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a state legal holiday, in which event the period runs until the end of the next
- 3. When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays, and state legal holidays shall be excluded in the computation;
 - 4. No additional time for mailing will be allowed.

R602-1-2. Witness Fees.

Each witness who shall appear before the Commission by its order shall receive from the Commission for his/her attendance fees and mileage as provided for witnesses by the Utah Rules of Civil Procedure. Otherwise, each party is required to subpoena witnesses at their own expense.

R602-1-3. Representatives at Adjudicative Proceedings.

- 1. Representatives who are not duly admitted and licensed to practice law in Utah shall not be allowed to appear on behalf of a party before the Adjudication Division.
- Individuals who are parties to an adjudicative proceeding before the Adjudication Division may appear pro se.
- 3. Corporations who are parties to an adjudicative proceeding before the Adjudication Division shall be represented by legal counsel who are duly admitted to practice law in Utah.

R602-1-4. Filing of Documents.

- 1. All documents filed with the administrative law judge shall be filed with all other parties to the adjudicative proceeding and shall provide verification of mailing to, or service on, all parties to whom copies of the documents are mailed or personally delivered.
 - 2. Parties shall not file courtesy copies with the Division.

KEY: witness fees, time, administrative procedures, filing deadlines

January 2, 2004 34A-1-302

Notice of Continuation September 5, 2002 63-46b-1 et seq.

R602. Labor Commission, Adjudication.

R602-2. Adjudication of Workers' Compensation and Occupational Disease Claims.

R602-2-1. Pleadings and Discovery.

- A. Definitions.
- "Commission" means the Labor Commission.
 "Division" means the Division of Adjudication within the Labor Commission.
- 3. "Application for Hearing" means the request for agency action regarding a workers' compensation claim.
- 4. "Supporting medical documentation" means a Summary of Medical Record or other medical report or treatment note completed by a physician that indicates the presence or absence of a medical causal connection between benefits sought and the alleged industrial injury.
- 5. "Authorization to Release Medical Records" is a form authorizing the injured workers' medical providers to provide medical records and other medical information to the commission or a party.
- "Supporting documents" means supporting medical documentation, list of medical providers, Authorization to Release Medical Records and, when applicable, an Appointment of Counsel Form.
- 7. "Petitioner" means the person or entity who has filed an Application for Hearing.
- 8. "Respondent" means the person or entity against whom the Application for Hearing was filed.
- 9. "Discovery motion" includes a motion to compel or a motion for protective order.
 - B. Application for Hearing.
- 1. Whenever a claim for compensation benefits is denied by an employer or insurance carrier, the burden rests with the injured worker, or medical provider, to initiate agency action by filing an Application for Hearing with the Division. Applications for hearing shall include an original, notarized Authorization to Release Medical Records.
- 2. An employer, insurance carrier, or any other party with standing under the Workers' Compensation Act may obtain a hearing before the Adjudication Division by filing a request for agency action with the Division.
- 3. All Applications for Hearing shall include any available supporting medical documentation of the claim where there is a dispute over medical issues. Applications for Hearing without supporting documentation and a properly completed Authorization to Release Medical Records may not be mailed to the employer or insurance carrier for answer until the appropriate documents have been provided. In addition to respondent's answer, a respondent may file a motion to dismiss the Application for Hearing where there is no supporting medical documentation filed to demonstrate medical causation when such is at issue between the parties.
- 4. When an Application for Hearing with appropriate supporting documentation is filed with the Division, the Division shall forthwith mail to the respondents a copy of the Application for Hearing, supporting documents and Notice of Formal Adjudication and Order for Answer.
- 5. In cases where the injured worker is represented by an attorney, a completed and signed Appointment of Counsel form shall be filed with the Application for Hearing or upon retention of the attorney.
 - C. Answer.
- 1. The respondent(s) shall have 30 days from the date of mailing of the Order for Answer, to file a written answer to the Application for Hearing.
- 2. The answer shall admit or deny liability for the claim and shall state the reasons liability is denied. The answer shall state all affirmative defenses with sufficient accuracy and detail that the petitioner and the Division may be fully informed of the nature and substance of the defenses asserted.

- 3. All answers shall include a summary of benefits which have been paid to date on the claim, designating such payments by category, i.e. medical expenses, temporary total disability, permanent partial disability, etc.
- 4. When liability is denied based upon medical issues, copies of all available medical reports sufficient to support the denial of liability shall be filed with the answer.
- 5. If the answer filed by the respondents fails to sufficiently explain the basis of the denial, fails to include available medical reports or records to support the denial, or contains affirmative defenses without sufficient factual detail to support the affirmative defense, the Division may strike the answer filed and order the respondent to file within 20 days, a new answer which conforms with the requirements of this rule.
- 6. All answers must state whether the respondent is willing to mediate the claim.
- 7. Petitioners are allowed to timely amend the Application for Hearing, and respondents are allowed to timely amend the answer, as newly discovered information becomes available that would warrant the amendment. The parties shall not amend their pleadings later than 45 days prior to the scheduled hearing without leave of the Administrative Law Judge.
- 8. Responses and answers to amended pleadings shall be filed within ten days of service of the amended pleading without further order of the Labor Commission.
 - D. Default.

- 1. If a respondent fails to file an answer as provided in Subsection C above, the Division may enter a default against the respondent.
- 2. If default is entered against a respondent, the Division may conduct any further proceedings necessary to take evidence and determine the issues raised by the Application for Hearing without the participation of the party in default pursuant to Section 63-46b-11(4), Utah Code.
- 3. A default of a respondent shall not be construed to deprive the Employer's Reinsurance Fund or Uninsured Employers' Fund of any appropriate defenses.
- 4. The defaulted party may file a motion to set aside the default under the procedures set forth in Section 63-46b-11(3), Utah Code. The Adjudication Division shall set aside defaults upon written and signed stipulation of all parties to the action.
 - E. Waiver of Hearing.
- 1. The parties may, with the approval of the administrative law judge, waive their right to a hearing and enter into a stipulated set of facts, which may be submitted to the administrative law judge. The administrative law judge may use the stipulated facts, medical records and evidence in the record to make a final determination of liability or refer the matter to a Medical Panel for consideration of the medical issues pursuant to R602-2-2.
- 2. Stipulated facts shall include sufficient facts to address all the issues raised in the Application for Hearing and answer.
- 3. In cases where Medical Panel review is required, the administrative law judge may forward the evidence in the record, including but not limited to, medical records, fact stipulations, radiographs and deposition transcripts, to a medical panel for assistance in resolving the medical issues.
 - F. Discovery.
- 1. Upon filing the answer, the respondent and the petitioner may commence discovery. Discovery allowed under this rule may include interrogatories, requests for production of documents, depositions, and medical examinations. Discovery shall not include requests for admissions. Appropriate discovery under this rule shall focus on matters relevant to the claims and defenses at issue in the case. All discovery requests are deemed continuing and shall be promptly supplemented by the responding party as information comes available.
- 2. Without leave of the administrative law judge, or written stipulation, any party may serve upon any other party

written interrogatories, not exceeding 25 in number, including all discrete subparts, to be answered by the party served. The frequency or extent of use of interrogatories, requests for production of documents, medical examinations and/or depositions shall be limited by the administrative law judge if it is determined that:

- a. The discovery sought is unreasonably cumulative or duplicative, or is obtainable from another source that is more convenient, less burdensome, or less expensive;
- b. The party seeking discovery has had ample opportunity by discovery in the action to obtain the discovery sought; or
- c. The discovery is unduly burdensome or expensive, taking into account the needs of the case, the amount in controversy, limitations on the parties' resources, and the importance of the issues at stake in the adjudication.
- 3. Upon reasonable notice, the respondent may require the petitioner to submit to a medical examination by a physician of the respondent's choice.
- 4. All parties may conduct depositions pursuant to the Utah Rules of Civil Procedure and Section 34A-1-308, Utah Code.
- 5. Requests for production of documents are allowed, but limited to matters relevant to the claims and defenses at issue in the case, and shall not include requests for documents provided with the petitioner's Application for Hearing, nor the respondents' answer.
- 6. Parties shall diligently pursue discovery so as not to delay the adjudication of the claim. If a hearing has been scheduled, discovery motions shall be filed no later than 45 days prior to the hearing unless leave of the administrative law judge is obtained.
- 7. Discovery motions shall contain copies of all relevant documents pertaining to the discovery at issue, such as mailing certificates and follow up requests for discovery. The responding party shall have 10 days from the date the discovery motion is mailed to file a response to the discovery motion.
- 8. Parties conducting discovery under this rule shall maintain mailing certificates and follow up letters regarding discovery to submit in the event Division intervention is necessary to complete discovery. Discovery documents shall not be filed with the Division at the time they are forwarded to opposing parties.
- 9. Any party who fails to obey an administrative law judge's discovery order shall be subject to the sanctions available under Rule 37, Utah Rules of Civil Procedure.
 - G. Subpoenas.
- 1. Commission subpoena forms shall be used in all discovery proceedings to compel the attendance of witnesses. All subpoenas shall be signed by the administrative law judge assigned to the case, or the duty judge where the assigned judge is not available. Subpoenas to compel the attendance of witnesses shall be served at least 14 days prior to the hearing consistent with Utah Rule of Civil Procedure 45. Witness fees and mileage shall be paid by the party which subpoenas the witness.
- 2. A subpoena to produce records shall be served on the holder of the record at least 14 days prior to the date specified in the subpoena as provided in Utah Rule of Civil Procedure 45. All fees associated with the production of documents shall be paid by the party which subpoenas the record.
 - H. Medical Records Exhibit.
- 1. The parties are expected to exchange medical records during the discovery period.
- 2. Petitioner shall submit all relevant medical records contained in his/her possession to the respondent for the preparation of a joint medical records exhibit at least twenty (20) working days prior to the scheduled hearing.
- 3. The respondent shall prepare a joint medical record exhibit containing all relevant medical records. The medical

- record exhibit shall include all relevant treatment records that tend to prove or disprove a fact in issue. Hospital nurses' notes, duplicate materials, and other non-relevant materials need not be included in the medical record exhibit.
- 4. The medical records shall be indexed, paginated, arranged by medical care provider in chronological order and bound.
- 5. The medical record exhibit prepared by the respondent shall be delivered to the Division and the petitioner or petitioner's counsel at least ten (10) working days prior to the hearing. Late-filed medical records may or may not be admitted at the discretion of the administrative law judge by stipulation or for good cause shown.
- 6. The administrative law judge may require the respondent to submit an additional copy of the joint medical record exhibit in cases referred to a medical panel.
- 7. The petitioner is responsible to obtain radiographs and diagnostic films for review by the medical panel. The administrative law judge shall issue subpoenas where necessary to obtain radiology films.
 - I. Hearing.
- 1. Notices of hearing shall be mailed to the addresses of record of the parties. The parties shall provide current addresses to the Division for receipt of notices or risk the entry of default and loss of the opportunity to participate at the hearing.
- 2. Judgment may be entered without a hearing after default is entered or upon stipulation and waiver of a hearing by the parties.
- 3. No later than 45 days prior to the scheduled hearing, all parties shall file a signed pretrial disclosure form that identifies: (1) fact witnesses the parties actually intend to call at the hearing; (2) expert witnesses the parties actually intend to call at the hearing; (3) language translator the parties intend to use at the hearing; (4) exhibits, including reports, the parties intend to offer in evidence at the hearing; (5) the specific benefits or relief claimed by the petitioner; (6) the specific defenses that the respondent actually intends to litigate; (7) whether, or not, a party anticipates that the case will take more than four hours of hearing time; (8) the job categories or titles the respondents claim the petitioner is capable of performing if the claim is for permanent total disability, and; (9) any other issues that the parties intend to ask the administrative law judge to adjudicate. The administrative law judge may exclude witnesses, exhibits, evidence, claims, or defenses as appropriate of any party who fails to timely file a signed pre-trial disclosure form as set forth above. The parties shall supplement the pre-trial disclosure form with information that newly becomes available after filing the original form. The pre-trial disclosure form does not replace other discovery allowed under these rules.
- 4. If the petitioner requires the services of language translation during the hearing, the petitioner has the obligation of providing a person who can translate between the petitioner's native language and English during the hearing. If the respondents are dissatisfied with the proposed translator identified by the petitioner, the respondents may provide a qualified translator for the hearing at the respondent's expense.
- 5. The petitioner shall appear at the hearing prepared to outline the benefits sought, such as the periods for which compensation and medical benefits are sought, the amounts of unpaid medical bills, and a permanent partial disability rating, if applicable. If mileage reimbursement for travel to receive medical care is sought, the petitioner shall bring documentation of mileage, including the dates, the medical provider seen and the total mileage.
- 6. The respondent shall appear at the hearing prepared to address the merits of the petitioner's claim and provide evidence to support any defenses timely raised.
- 7. Parties are expected to be prepared to present their evidence on the date the hearing is scheduled. Requests for

continuances may be granted or denied at the discretion of the administrative law judge for good cause shown. Lack of diligence in preparing for the hearing shall not constitute good cause for a continuance.

8. Subject to the continuing jurisdiction of the Labor Commission, the evidentiary record shall be deemed closed at the conclusion of the hearing, and no additional evidence will be accepted without leave of the administrative law judge.

J. Motions-Time to Respond.

Responses to all motions other than discovery motions shall be filed within ten (10) days from the date the motion was filed with the Division. Reply memoranda shall be filed within seven (7) days from the date a response was filed with the Division.

K. Notices.

- Orders and notices mailed by the Division to the last address of record provided by a party are deemed served on that party.
- party.

 2. Where an attorney appears on behalf of a party, notice of an action by the Division served on the attorney is considered notice to the party represented by the attorney.

L. Form of Decisions.

Decisions of the presiding officer in any adjudicative proceeding shall be issued in accordance with the provisions of Section 63-46b-5 or 63-46b-10, Utah Code.

M. Motions for Review.

- 1. Any party to an adjudicative proceeding may obtain review of an Order issued by an Administrative Law Judge by filing a written request for review with the Adjudication Division in accordance with the provisions of Section 63-46b-12 and Section 34A-1-303, Utah Code. Unless a request for review is properly filed, the Administrative Law Judge's Order is the final order of the Commission. If a request for review is filed, other parties to the adjudicative proceeding may file a response within 20 calendar days of the date the request for review was filed. Thereafter the Administrative Law Judge shall:
- a. Reopen the case and enter a Supplemental Order after holding such further hearing and receiving such further evidence as may be deemed necessary;
- b. Amend or modify the prior Order by a Supplemental Order; or
- Refer the entire case for review under Section 34A-2-801. Utah Code.
- If the Administrative Law Judge enters a Supplemental Order, as provided in this subsection, it shall be final unless a request for review of the same is filed.

N. Procedural Rules.

- In formal adjudicative proceedings, the Division shall generally follow the Utah Rules of Civil Procedure regarding discovery and the issuance of subpoenas, except as the Utah Rules of Civil Procedure are modified by the express provisions of Section 34A-2-802, Utah Code or as may be otherwise modified by these rules.
- O. Requests for Reconsideration and Petitions for Judicial Review.

A request for reconsideration of an Order on Motion for Review may be allowed and shall be governed by the provisions of Section 63-46b-13, Utah Code. Any petition for judicial review of final agency action shall be governed by the provisions of Section 63-46b-14, Utah Code.

R602-2-2. Guidelines for Utilization of Medical Panel.

Pursuant to Section 34A-2-601, the Commission adopts the following guidelines in determining the necessity of submitting a case to a medical panel:

A. A panel will be utilized by the Administrative Law Judge where one or more significant medical issues may be involved. Generally a significant medical issue must be shown by conflicting medical reports. Significant medical issues are

involved when there are:

- Conflicting medical opinions related to causation of the injury or disease;
- 2. Conflicting medical reports of permanent physical impairment which vary more than 5% of the whole person,
- 3. Conflicting medical opinions as to the temporary total cutoff date which vary more than 90 days;
- 4. Conflicting medical opinions related to a claim of permanent total disability, and/or
- 5. Medical expenses in controversy amounting to more than \$10,000.
- B. A hearing on objections to the panel report may be scheduled if there is a proffer of conflicting medical testimony showing a need to clarify the medical panel report. Where there is a proffer of new written conflicting medical evidence, the Administrative Law Judge may, in lieu of a hearing, re-submit the new evidence to the panel for consideration and clarification.
- C. The Administrative Law Judge may authorize an injured worker to be examined by another physician for the purpose of obtaining a further medical examination or evaluation pertaining to the medical issues involved, and to obtain a report addressing these medical issues in all cases where:
- 1. The treating physician has failed or refused to give an impairment rating, and/or
- 2. A substantial injustice may occur without such further evaluation.
- D. Any expenses of the study and report of a medical panel or medical consultant and of their appearance at a hearing, as well as any expenses for further medical examination or evaluation, as directed by the Administrative Law Judge, shall be paid from the Uninsured Employers' Fund, as directed by Section 34A-2-601.

R602-2-3. Compensation for Medical Testimony.

Compensation for medical panel examination, medical testimony, and preparation by medical panel members at hearings shall be \$87.50 per half hour and shall be \$100 per half hour for the medical panel chair.

R602-2-4. Attorney Fees.

Pursuant to Section 34A-1-309, the Commission adopts the following rule to regulate and fix reasonable fees for attorneys representing applicants before the Commission in all cases wherein such fees are awarded after January 1, 2002.

- A. The concept of a contingency fee is recognized. A retainer in advance of a Commission approved fee is not allowed. Benefits are only deemed generated within the meaning of this rule when they are paid as a result of legal services rendered after an Appointment of Counsel form is signed by the applicant. A copy of this form must be filed with the Commission by the claimant's attorney.
- B. By creating this rule, the commission does not intend that an applicant's attorney be paid a fee where the assistance the attorney renders involves only an incidental expenditure of time. For example, no attorney's fee shall be paid when compensation agreements are merely reviewed, simple documents are prepared, or an apparent dispute is quickly resolved as a result of oral or written communication.
- C. "Benefits" within the meaning of this rule shall be limited to weekly death or disability compensation and accrued interest thereon paid to or on behalf of an applicant pursuant to the terms of Title 34A, Utah Code Annotated.
- D. An attorney's fee deducted from the benefits generated shall be awarded for all legal services rendered through final Commission action with the following constraints:
- 1. 20% of weekly benefits generated for the first \$20,500, plus 15% of the weekly benefits generated in excess of \$20,500

but not exceeding \$41,000, plus 10% of the weekly benefits generated in excess of \$41,000.

- 2. In no case shall an attorney collect fees calculated on more than the first 312 weeks of any and all combinations of workers' compensation benefits.
- 3. Not withstanding the above, in no case shall the maximum fee exceed \$10,352.
- E. After either successfully prosecuting or defending an appeal following final Commission action, an increased attorney's fee shall be awarded amounting to:
- 1. 25% of the benefits in dispute before the Utah Court of Appeals, plus the amount awarded in part D of this rule, not to exceed \$15,130
- 2. 30% of the benefits in dispute before the Supreme Court, plus the amount awarded in part D of this rule, plus the amount awarded in part E.1 of this rule, not to exceed \$19,900.
- F. An attorney's fee shall be deducted from and paid out of the benefits generated and shall be paid directly to the applicant's attorney upon order of the Commission.
- G. If a controversy over an attorney's fee develops, the Commission shall have the discretion, pursuant to Section 34A1-309, and this rule, to award fees or otherwise resolve the dispute by Order delineating the Commission's findings along with the evidence and reasons supporting the decision.

R602-2-5. Settlement Agreements.

A. Statutory authority:

Section 34Å-2-420 requires the Commission to review all agreements for the settlement or commutation of claims for workers' compensation or occupational disease benefits and grants the Commission discretion to approve such agreements. The Commission's authority under Section 34A-2-420 applies to all claims arising under the Utah Workers' Compensation Act or Occupational Disease Act, regardless of the date of accident or occupational disease. This rule sets forth the requirements for Commission approval of such agreements.

B. General Considerations:

Settlement agreements may be appropriate in claims of disputed validity or when the parties' interests are served by payment of benefits in a manner different than otherwise prescribed by the workers' compensation laws. However, settlement agreements must also fulfill the underlying purposes of the workers' compensation laws. Once approved by the Commission, settlement agreements are permanently binding on the parties. The Commission will not approve any proposed settlement that is manifestly unjust.

- C. Procedure:
- 1. Parties interested in a present or potential workers' compensation claim, whether or not an application for hearing has been filed, may submit their settlement agreement to the Commission for review and approval. The Commission may delegate its authority to review and approve such agreements.
- 2. Each settlement agreement shall be in writing, executed by each party and such party's attorney, if any, and shall include a proposed order for Commission approval of the agreement.
- 3. Each settlement agreement shall set forth the nature of the claim being settled and what claims are in dispute, if any.
- 4. Each settlement agreement shall contain a statement that each party understands that the agreement is permanent, binding and constitutes full and final settlement of any right the claimant may otherwise have to future benefits, including medical benefits. The Commission may establish an approved form for complying with the foregoing disclosure requirement.
- 5. Attorneys' fees shall be allowed as provided by Rule R602-2-4. Each settlement agreement shall describe the amount to be paid to claimant's counsel as attorney's fees and costs, the manner in which such amounts are computed and the method of payment thereof.
 - 6. The settlement agreement may provide for payment of

benefits through insurance contract or by other third parties if the Commission determines a) such payment provisions are secure and b) such payment provisions do not relieve the parties of their underlying liability for payments required by the agreement.

- 7. Upon receipt of a proposed settlement agreement meeting the requirements of this rule, the Commission shall review such proposed agreement:
- a. As needed, the Commission may contact the parties and others to obtain further information about the proposed settlement;
- b. If the Commission determines that a proposed settlement agreement conforms with this rule, the Commission shall approve such agreement and notify the parties in writing.
- c. If the Commission determines that a proposed settlement agreement does not comply with this rule, the Commission shall notify the parties in writing of its reasons for rejecting the proposed agreement.
- d. The Commission shall retain a record of its action on all settlement agreements submitted to it for approval.

KEY: workers' compensation, administrative procedures, hearings, settlement

January 2, 2004 34A-1-301 et seq. Notice of Continuation September 5, 2002 63-46b-1 et seq.

R651. Natural Resources, Parks and Recreation. R651-611. Fee Schedule.

R651-611-1. Use Fees.

All fees required under this fee schedule are to be paid in advance of occupancy or use of facilities.

- A. Fees for services covering one or more months, for docks and dry storage, must be paid in advance for the season as determined by the Division.
- B. Fee permits and passes are not refundable or transferable. Duplicate annual permits and special fun tags will be issued only upon completion of an affidavit and payment of the required fee. Inappropriate use of fee permits and passes may result in confiscation by park authorities.
- C. Fees shall not be waived, reduced or refunded unless authorized by Division guideline; however, park or unit managers may determine and impose equitable fees for unique events or situations not covered in the current fee schedule. The director has the prerogative to waive or reduce fees.
- D. The Multiple Park Permit, Senior Multiple Park Permit, Special Fun Tag, Camping Permit and Daily Private Vehicle Permit are good for one (1) private vehicle with up to eight (8) occupants, with the exception of any special charges. Multiple Park Permits, Senior Multiple Park Permits, and Special Fun Tags, are not honored at This Is The Place State Park.
 - E. No charge for persons five years old and younger.
- F. With the exception of the Multiple Park Permit, Senior Multiple Park Permit, and Special Fun Tag, fees are applicable only to the specific park or facility where paid and will not be honored at other parks or facilities, unless otherwise stated in division guideline.
- G. The contract operator, with the approval of the Division Director, will set fees for This Is The Place State Park.
- H. A "senior" is defined as any resident of the State of Utah 62 years of age or older. Residency and proof of age are verified by presentation of a valid driver's license or a valid Utah identification card.

R651-611-2. Day Use Entrance Fees.

Permits the use of all day activity areas in a state park. These fees do not include overnight camping facilities or special use fees.

- A. Annual Permits
- 1. \$70.00 Multiple Park Permit (good for all parks)
- 2. \$35.00 Senior Multiple Park Permit (good for all parks)
- 3. Snow Canyon Specialty Permits
- a. \$15.00 Family Pedestrian Permit
- b. \$5.00 Commuter Permit
- 4. Duplicate Annual Permits may be purchased if originals are lost, destroyed, or stolen, upon payment of a \$10.00 fee and the submittal of a signed affidavit to the Division office. Only one duplicate is allowed.
- B. Special Fun Tag Available free to Utah residents, who are disabled, as defined by the Special Fun Tag permit affidavit.
- C. Daily Permit Allows access to a specific state park on the date of purchase.
- 1. \$9.00 (\$5.00 for seniors) per private motor vehicle or \$5.00 per person (\$3.00 for seniors), for pedestrians or bicycles at the following parks:

TABLE 1

Deer Creek Hailstone Willard Bay Jordanelle Utah Lake

2. \$7.00 (\$4.00 for seniors) per private motor vehicle or \$4.00 per person (\$2.00 for seniors) for pedestrians or bicycles at the following parks:

TABLE 2

Bear Lake - Marina B Dead Horse Point E Jordanelle - Rockcliff Q Rockport S

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Bear Lake - Rendezvous East Canyon Quail Creek Sand Hollow

3. \$2.00 per person (\$1.00 for seniors), or \$6.00 per family (up to eight (8) individuals (\$3.00 for seniors), at the following parks:

TABLE 3

Anasazi Camp Floyd Edge of the Cedars Great Salt Lake Fremont Iron Mission Territorial Utah Field House

- 4. \$5.00 (\$3.00 for seniors) per private motor vehicle or \$3.00 per person (\$2.00 for seniors), for pedestrians or bicycles at the parks not identified above, including the east side of Bear Lake.
 - 5. \$10.00 per OHV rider at the Jordan River OHV Center.
- 6. \$2.00 per person for commercial groups or vehicles with nine (9) or more occupants (\$15.00 per group at Great Salt Lake).
- D. Group Site Day Use Fee Advance reservation only. \$2.00 per person, age six (6) and over, for sites with basic facilities. Minimum \$50.00 fee established for each facility.
- E. Educational Groups No charge for group visits by Utah public or parochial schools with advance notice to park. When special arrangements or interpretive talks are provided, a fee of \$.50 per person may be charged at the park manager's discretion.
- F. Antelope Island Wildlife Management Program: A \$1.00 fee will be added to the entrance fee at Antelope Island. This additional fee will be used by the Division to fund the Wildlife Management Program on the Island.

R651-611-3. Camping Fees.

Permits overnight camping and day use for the day of arrival until 2:00 p.m. of the following day or each successive day. Camp sites must be vacated by 12:00 noon following the last camping night at Dead Horse Point. Camping is limited to 14 consecutive days at all campgrounds with the exception of Snow Canyon State Park, with a five (5) consecutive day limit.

A. Individual Sites -- One (1) vehicle with up to eight (8) occupants and any attached recreational equipment as one (1) independent camp unit. Fees for individual sites are based on the following schedule:

- 1. \$8.00 with pit or vault toilets; \$11.00 with flush toilets; \$14.00 with flush toilets and showers or electrical hookups; \$17.00 with flush toilets, showers and electrical hookups; \$20.00 with full hookups.
- 2. Primitive camping fees may be decreased at the park manager's discretion dependent upon the developed state of the facilities to be used by park visitors. Notification of the change must be made to the Division's financial manager and reservations manager before the reduced fee can be made effective.
- 3. Special Fun Tag holders may receive a \$2.00 discount for individual camping sites Monday through Thursday nights, excluding holidays.
- 4. One-half the campsite fee rounded up to the nearest dollar will be charged per vehicle at all parks and individual camping sites for all additional transportation vehicles that are separate and not attached to the primary vehicle, but are dependent upon that unit. No more than one additional vehicle is allowed at any individual campsite. This fee is not applicable at primitive campsites.
 - B. Group Sites (by advance reservation for groups)
- 1. \$2.00 per person, age six (6) and over at sites with vault toilets. Minimum \$50.00 fee for each facility.

2. \$3.00 per person, age six (6) and over at sites with flush toilets and/or pavilions. Minimum \$75.00 fee for each facility.

R651-611-4. Special Fees.

- A. Golf Course Fees
- 1. Palisade rental and green fees.
- a. Nine holes general public weekends and holidays -\$10.00
 - b. Nine holes weekdays (except holidays) \$9.00
 - c. Nine holes Jr/Sr weekdays (except holidays) \$8.00
 - d. 20 round card pass \$140.00
 - e. 20 round card pass (Jr only)- \$100.00
 - f. Promotional pass single person (any day) \$400.00
- g. Promotional pass single person (weekdays only) -\$275.00
 - h. Promotional pass couples (any day) \$650.00
 - i. Promotional pass family (any day) \$850.00
 - j. Companion fee walking, non -player \$4.00
 - k. Motorized cart (9 holes) \$8.00
 - 1. Motorized cart (9 holes single rider) \$4.00
 - m. Pull carts (9 holes) \$2.00
 - n. Club rental (9 holes) \$5.00
- o. School teams No fee for practice rounds with coach and team roster. Tournaments are \$3.00 per player.
 - p. Driving range small bucket \$2.50
- q. Driving range large bucket \$3.50 2. Wasatch Mountain and Soldier Hollow rental and green
 - a. Nine holes general public \$12.00
- b. Nine holes general public (weekends and holidays) -13.00

 - c. Nine holes Jr/Sr weekdays (except holidays) \$11.00 d. 20 round card pass - \$220.00 - no holidays or weekends
 - e. Companion fee walking, non-player \$4.00
- f. Motorized cart (9 holes mandatory on Mt. course) -\$12.00
 - g. Motorized cart (9 holes single rider \$6.00)
 - h. Pull carts (9 holes) \$2.25
 - Club rental (9 holes) \$6.00
- j. School teams No fee for practice rounds with coach and team roster (Wasatch County only).
 - Tournaments are \$3.00 per player.
 - k. Tournament fee (per player) \$5.00
 - Driving range small bucket \$2.50
 - m. Driving range large bucket \$5.00
 - n. Advance tee time booking surcharge \$15.00
 - Green River rental and green fees.
 - a. Nine holes general public \$9.00
 - b. Nine holes Jr/Sr weekdays (except holidays) \$8.00
 - c. Eighteen holes general public \$16.00
 - d. 20 round card pass \$140.00
 - e. Promotional pass single person (any day) \$350.00
 - f. Promotional pass personal golf cart \$350.00
- g. Promotional pass single person (Jr/Sr weekdays)
 - h. Promotional pass couple (any day) \$600.00
 - i. Promotional pass family (any day) \$750.00
 - Companion fee walking, non-player \$4.00
 - k. Motorized cart (9 holes) \$8.00
 - 1. Motorized cart (9 holes single rider) \$4.00
 - m. Pull carts (9 holes) \$2.25
 - n. Club rental (9 holes) \$5.00
- o. School teams No fee for practice rounds with coach and team roster. Tournaments are \$3.00 per player.
 - 4. Golf course hours are daylight to dark
- No private, motorized golf carts are allowed, except where authorized by existing contractual agreement.
- 6. Jr golfers are 17 years and under. Sr golfers are 62 and

- B. Boat Mooring and Dry Storage
- 1. Mooring Fees:
- a. Day Use \$5.00
- b. Overnight Boat Parking \$7.00 (until 8:00 a.m.)
- c. Overnight Boat Camping \$15.00 (until 2:00 p.m.)
- d. Monthly \$4.00/ft.
- e. Monthly with Utilities (Bear Lake) \$6.00/ft.
- f. Monthly with Utilities (Other Parks) \$5.00/ft.
- Monthly Off Season \$2.00/ft
- Monthly (Off Season with utilities) \$3.00/ft
- 2. Dry Storage Fees:
- Overnight (until 2:00 p.m.) \$5.00
- Monthly During Season \$75.00
- c. Monthly Off Season \$50.00
- d. Monthly (unsecured) \$25.00
- Meeting Rooms and Buildings
- 1. Day Use: 1-4 hours between 8:00 a.m. and 6:00 p.m.
- a. Up to 50 persons \$50.00
- b. 51 to 100 persons \$70.00
- c. 101 to 150 persons \$90.00
- d. Add 50% for after 6:00 p.m.
- e. Fees include day use fee
- 2. Overnight Use 2:00 p.m. until 2:00 p.m., up to 100 people. Minimum Fee \$250.00
 - - 3. Territorial Statehouse
 - a. Legislative Hall (per hour) \$30.00
 - b. School or Grounds (per hour) \$20.00
 - D. Roller Skating Fees:
 - 1. Adults \$2.00
 - Children 6 through 11 \$1.00
 - 3. Skate Rental \$1.00
 - 4. Ice Skate Sharpening
 - 5. Group Reservations
 - a. First Hour \$30.00
 - b. Every Hour Thereafter \$20.00
 - E. Other Miscellaneous Fees
 - 1. Canoe Rental (includes safety equipment).
 - a. Up to one (1) hour \$ 5.00
 - b. Up to four (4) hours \$10.00
 - c. All day to 6:00 p.m. \$20.00
 - 2. Paddle boat Rental (includes safety equipment).
 - a. Up to one (1) hour \$10.00
 - b. Up to four (4) hours \$20.00
 - All day to 6:00 p.m. \$30.00
 - 3. Cross Country Skiing Trails.
 - a. \$4.00 per person, twelve (12) and older. \$2.00 per person, six (6) through eleven (11).

 - 4. Pavilion 8:00 a.m. 10:00 p.m. (non -fee areas).
 - a. \$10.00 per day (single unit).
 - \$30.00 per day (group unit). Wagon Rental per day \$50.00

 - 6. Recreation Field (non-fee areas) \$25.00.
 - 7. Sports Equipment Rental \$10.00. 8. Life Jacket Rental - \$1.00
 - 9. Day Use Shower Fee \$2.00.
 - (where facilities can accommodate)
 - 10. Cleaning Deposit (where applicable) \$100.00
- 11. Application Fees Non -refundable PLUS Negotiated Costs.
 - a. Grazing Permit \$20.00
 - b. Easement \$ 200.00
 - c. Construction/Maintenance \$50.00
 - d. Special Use Permit \$50.00
 - e. Commercial Filming \$50.00
 - f. Waiting List \$10.00
 - 12. Assessment and Assignment Fees.
 - a. Duplicate Document \$10.00
 - b. Contract Assignment \$20.00
 - c. Returned checks \$20.00

- d. Staff time \$40.00/hour
- e. Equipment \$30.00/hour
- f. Vehicle \$20.00/hour
- g. Researcher \$5.00/hour
- h. Photo copy \$.10/each
- i. Fee collection \$10.00
- 13. Curation Fees.
- a. Annual curation agreement \$75.00
- b. Curation storage Edge of Cedars \$400.00/cubic foot.
- c. Curation storage other parks \$350.00/cubic foot
- d. All curation storage fees are one time only.
- 14. Snowmobile Parking Fee Monte Cristo Trail head.
- a. Day use (6:00 a.m. to 10:00 p.m.) \$5.00
- b. Overnight (10:00 p.m. to 10:00 p.m.) \$5.00
- c. Season Pass (Day use only) \$30.00
- d. Season Pass (Overnight) \$50.00

R651-611-5. Reservations.

- A. Camping Reservation Fees.
- 1. Individual Campsite \$7.00
- 2. Group site or building rental \$10.25
- 3. Fees identified in #1 and #2 above are to be charged for both initial reservations and for changes to existing reservations.
- B. All park facilities will be allocated on a first-come, first-serve basis
- C. Selected camp and group sites are reservable in advance by calling 322-3770, 1-800-322-3770 or on the Internet at: www.stateparks.utah.gov.
- D. Applications for reservation of skating rinks, meeting rooms, buildings, mooring docks, dry storage spaces and other sites not covered above, will be accepted by the respective park personnel beginning on the first business day of February for the next 12 months. Application forms and instructions are available at the park.
- E. All unreserved mooring docks, dry storage spaces and camp picnic sites are available on a first-come, first-serve basis.
- F. The park manager for any group reservation or special use permit may require a cleanup deposit.
- G. Golf course reservations for groups of 20 or more and tournaments will be accepted for the calendar year beginning the first Monday of March. Reservations for up to two starting times (8 persons) may be made for Saturday, Sunday and Monday, the preceding Monday; and for Tuesday through Friday, the preceding Saturday. Reservations will be taken by phone and in person during golf course hours.
- H. One party will reserve park facilities for more than fourteen (14) consecutive days in any 30-day period.

KEY: parks, fees January 6, 2004 Notice of Continuation August 7, 2001

63-11-17(2)

R653-2. Financial Assistance from the Board of Water Resources.

R653-2-1. Purpose.

The purpose of this rule is to provide the standards and procedures for providing technical and financial assistance to water users to achieve the highest beneficial use of water resources within the state.

R653-2-2. Description of Funding Program.

- (1)(a) The Board of Water Resources (Board) administers three revolving construction funds: the Revolving Construction Fund, the Cities Water Loan Fund, and the Conservation and Development Fund. Funding is available for projects that conserve, protect, or more efficiently use present water supplies, develop new water, or provide flood control. Project facilities may be constructed in another state if project water is to be used within the state of Utah.
- (b) The Board will fund projects based on the following prioritization system:
- (i) Projects which involve public health problems, safety problems, or emergencies.
- (ii) Municipal water projects that are required to meet an existing or impending need, and those water providers meeting the requirements of the Quality Growth Commission.
- (iii) Agricultural water projects that provide a significant economic benefit for the local area.
- (iv) Projects which will receive a large portion of their funding from other sources.
- (v) Projects not included in items 1-4, but which have been authorized by the Board, are funded on a first come first served basis.
- (2) The Board will not fund the following types of projects:
- (a) Projects that are, in the opinion of the Board, routine or regularly occurring system operation and maintenance.
- (b) Domestic water systems where less than 50% of the residents live in the project area year-round.
 - (c) Projects sponsored by developers.
 - (d) Projects sponsored by individuals or families.
- (3) General guidelines of each of the Board's funding programs are:
 - (a) Revolving Construction Fund (RCF)
- (i) In the RCF, the Board will accept applications from incorporated groups such as mutual irrigation and water companies.
- (ii) The RCF advances financial assistance to the following types of projects:
 - (A) Irrigation projects costing less than \$500,000.
- (B) Culinary projects costing less than \$500,000 that involve mutual irrigation and water companies.
 - (C) Dam Safety Studies
- (iii) The staff will recommend repayment terms in the feasibility report it will prepare. Interest will not be charged.
 - (b) Cities Water Loan Fund (CWLF)
- (i) Through the CWLF, the Board may finance the construction of municipal water facilities for political subdivisions of the state such as cities, towns, and districts.
- (ii) The staff will recommend repayment terms and interest rates in the feasibility report.
 - (c) Conservation and Development Fund (CDF)
- (i) Through the CDF, the Board may finance the construction of water projects sponsored by incorporated groups, political subdivisions of the state, the federal government, or Indian tribes.
- (ii) The staff will recommend repayment terms and interest rates in the feasibility report.

R653-2-3. Application Procedure.

- (1) Applicants shall submit a completed application form directly to the member of the Board residing in the river district in which the project is located. If the Board member determines the application meets general Board guidelines, the Board member will sign the application and forward it to the Division for action.
- (2) Additional information not specifically requested on the application form should also be furnished when such information would be helpful in appraising the merits of the project.
- (3) An application form can be obtained from the Division, a Board member, or the Division's website.

R653-2-4. Project Funding Process.

- (1) After the application for assistance has been completed by the sponsor/applicant, signed by the Board member, and forwarded to the Division, a three-step process will be followed to determine those projects which will be funded by the Board.
 - (2) The three steps of the funding process are:
 - (a) Approval for Staff Investigation
- (i) The Board member considers the proposed project to fall within the Board's general statutory authority.
- (ii) Division staff will prepare a feasibility report covering the general scope of the proposed project but focusing on technical, financial, legal, and environmental aspects, water needs and rights, and water users' support.
 - (b) Authorization
- (i) The feasibility report will be presented to the Board, which will consider the project for authorization on the basis of its merits and overall feasibility and the contribution the project will make to the general economy of the area and the state.
- (ii) As part of its decision-making process, the Board considers it important to discuss the merits of the project with the sponsor. Therefore, representatives of the project sponsor must attend the Board meeting when the project is considered for authorization.
- (iii) If the project is AUTHORIZED by the Board, a letter outlining the engineering and legal requirements for the project, and other conditions of the financial assistance will be sent to the sponsor. For example, some of the more common conditions of these projects are:
- (A) Preparation of a Water Management and Conservation Plan for the sponsor's service area.
- (B) Adoption of an ordinance prohibiting municipal irrigation of landscapes between the hours of 10:00 a.m. and 6:00 p.m.; the Division has prepared a Model Ordinance which is available for the sponsors of municipal projects.
- (C) Adoption of a progressive water rate schedule (municipal projects). Division staff will assist sponsors in establishing such schedules to fit local conditions and circumstances.
- (iv) The board's authorization will not exceed six years. When the board authorizes a project to be constructed in phases over several years, those phases not funded within six years of the committal of funds for the first phase will not be eligible for funding unless they are reauthorized by the board.
 - (c) Committal of Funds
- (i) After the sponsor has complied with the Board requirements and conditions, the project will be presented for final review. If the Board finds the project to be in order and ready for construction, and IF FUNDS ARE AVAILABLE, the Board will commit funds and direct its officers to enter into the necessary agreements to secure project financing.
- (ii) The project sponsor will not normally be required to attend the Board meeting at which funds are to be committed for the project. If the project scope or cost estimate has changed substantially, the sponsor may be asked to attend the meeting to discuss the changes with the Board.

- (1). Purpose.
- (a) Provide funding to assist dam owners in complying with the 1990 Dam Safety Act (Act), Utah Code Ann. Section 73-10-8.
 - (2) Description of Funding Program
- (a) The 1996 Legislature directed the Board of Water Resources (Board) to begin providing loans and grants to qualifying dam owners to assist them in meeting minimum standards required by the Act. The Board will use the State Engineer's "Dam Rehabilitation Priority Listing" for determining which dams to include on the Board's "Dam Safety Priority List" (List). The statute does not allow the State Engineer to require dam owners to upgrade a dam in conformance with minimum standards unless grant money is appropriated by the legislature for that purpose.
 - (3) Application Procedure
- (a) When the Board determines there is, or will be, money for compliance, the dam owners ranking highest on the List will be sent an application form. The Board will not provide grants to "for profit" corporations, companies, or partnerships. The application must be completed and submitted to the member of the Board residing in the river district in which the dam is located. The Board member will review the application and if found to be complete, will sign and forward it to the Division of Water Resources (Division).
 - (4) Project Approval Process
- (a) The Division will prepare a brief summary report on each application for presentation in a Board meeting. The applicant will then be assigned a project manager from the Division's staff who will meet with the applicant to gather information for a detailed Project Report (Report). The Report will cover general project and applicant information, technical summary, cost estimate, time schedule, and the applicant's financial status. The Report may consider reasonable alternatives based on economic and safety considerations to meet the minimum dam safety standards established by the State Engineer such as incremental damage assessment for determining spillway size, taking the dam out of service, or building a replacement dam to accomplish the purpose of the Act and continue to provide water storage for the applicant. The applicant will be notified when its Report will be presented to the Board and will be required to have a representative at the meeting in order to have the application considered.
 - (5) Financial Arrangements
- (a) The Board will grant at least 80% of the cost of meeting minimum standards of the Act. Based upon a finding by the Board of the applicant's financial ability, this grant may be increased but will not exceed 95%. The amount of the grant will be determined by the Board after the Report is presented. The Board may provide a loan to the applicant for all or part of the remaining cost of compliance with the Act that is not covered by the grant. Loans will generally be limited to 10 years and may include an interest charge. The grant amount and loan terms will be recommended by the Division in the Report.
- (b) Loans to dam owners to upgrade dams in conformance with the Act shall be secured by taking title to the water rights associated with the dam or the purchase of a bond.

Projects will require a development period to accomplish investigations, prepare construction drawings, and obtain permits and approvals. The legislature intended dams to be brought into compliance with modest financial impact to applicants. The Board will therefore advance from grant funds the cost of investigation, design, legal work, environmental compliance, and necessary permits (development cost) including, where applicable, replacement dam costs. The amount of grant money used for these purposes will be included in the total project cost.

(6) Engineering and Construction

- (a) Projects funded by the Board shall be designed according to appropriate technical standards. The design drawings shall be submitted to the Division for review and money will not be made available for construction until all required permits and approvals have been obtained. The project engineer shall coordinate the bidding of the project and direct the inspection of construction. Construction contracts shall be awarded in accordance with state law.
- (b) The applicant shall be required to pay costs incurred by the Division in the preparation of the Report, project management, engineering, and legal review. These costs will be included in the grant.

R653-2-6. Financial Arrangements.

(1) Project Cost Sharing

- (a) The Board desires to optimize available funding for the overall water development programs of the state and therefore requires sponsors to share in the cost of projects.
- (b) The sponsor's financial ability to cost share will be determined in the project investigation. On the basis of the investigation, the Division will recommend to the Board the portion of the project cost to be furnished by the sponsoring organization. The sponsor will generally be expected to provide 15%-25% of the project cost.
- (c) If additional funds become available to the sponsor after the project is authorized, and if project costs do not increase, the additional funds will be used to reduce the Board's financial participation.
 - (2) Alternate Financing
- (a) The Board will consider alternative project funding methods such as letters of credit, bond insurance, and various methods of interest buydown, instead of directly funding construction of project features.
- (b) The Board may provide financial assistance grants to applicants that apply only for bond insurance. Careful use of bond insurance grants can significantly reduce demands on the Board's financial resources, while at the same time promoting water development policies and encouraging use of private bond markets. When a project sponsor is approved for both a loan and bond insurance assistance on a project, the bond insurance premiums will be provided only as a loan. Only projects that meet the Board's general funding requirements will be considered for bond insurance.
 - (3) Repayment of Financial Assistance
- (a) The repayment period will generally be less than 25 years.
- (b) The minimum annual cost of water for municipal projects will be 1.17% of the region or project area's annual median adjusted gross income.
- (c) When annual payments are to be made with revenues from the sale or use of project water, the Board may allow the sponsor one year's use of the project before the first payment is due.
 - (4) Security Arrangements
- (a) Depending upon the type of organization sponsoring the project and the Board fund involved, financial assistance may be secured either by a purchase agreement or bond issue.
- (i) Projects financed through the Revolving Construction Fund must be secured by a purchase agreement.
- (ii) Projects financed through the Cities Water Loan Fund or the Conservation and Development Fund will be secured either by a purchase agreement or by the sale of a bond.
- (b) If project financing is secured by a purchase agreement, the following conditions apply:
- (i) The Board must take title to the project including water rights, easements, deeded land for project facilities, and other assets subject to security interest.
- (ii) An opinion from the sponsor's attorney must be submitted stating the sponsor has complied with its articles and

bylaws, state law, and the Board's contractual requirements.

- (iii) Title to the project shall be returned to the sponsor upon successful completion of the purchase agreement.
- (c) If project financing is secured by the sale of a bond, the following conditions apply:
- (i) The procedures for bond approval will be substantially the same as required by the Utah Municipal Bond Act.
- (ii) If the sponsor desires to issue a non-voted revenue bond, the sponsor will be required to:
- (A) Hold a public meeting to describe the project and its need, cost, and effect on water rates.
- (B) Give written notice describing the proposed project to all water users in the sponsor's service area. The notice shall include a solicitation of response to the proposed project. A copy of all written responses received by the sponsor shall be forwarded to the Division. If the area Board member determines there is substantial opposition to the project, the Board may require the sponsor to hold a bond election before funds will be made available.

R653-2-7. Project Engineering and Construction.

(1) Engineering

To expedite projects and facilitate the coordination of project development, sponsors are encouraged to select a design engineer prior to making application to the Board.

(2) Staff and Legal Costs

- (a) Costs incurred by the Division for investigation, administration, engineering, and construction inspection will be paid to the Board according to the terms set by the Board.
- (b) Costs incurred by the Division during project investigation will not become a charge to the sponsor if the project is found infeasible, denied by the Board, or if the sponsor withdraws the application.
- (c) Legal fees incurred in the review of a sponsor's bonding documents will be billed directly to the sponsor by the legal firm doing the review for the Board.

(3) Design Standards and Approval

- (a) All projects funded by the Board shall be designed according to appropriate technical standards and shall be stamped and signed by a Utah registered professional engineer responsible for the work.
- (b) Prior to soliciting construction bids, plans and specifications must be approved by the Division and all other state and federal agencies which have regulatory or funding involvement in the project.
 - (4) Project Bidding and Construction
- (a) The Board desires that all project construction be awarded to qualified contractors based on competitive bids. The Board may waive this requirement and allow a sponsor to act as its own contractor on small projects. However, in all cases the sponsor must comply with the laws governing its operation as well as the statutory requirements placed on the Board and Division.
- (b) The design engineer shall coordinate the project bidding process.
- (c) Construction inspection will be performed under the direction of the registered professional engineer having responsible charge of project construction.

R653-2-8. Qualifications to Guidelines.

The foregoing guideline statements are meant as a guide for the Board, staff, and sponsor to provide an orderly and effective procedure for preparing projects for construction. The Board reserves the right to consider each project on its own merits and may consider and authorize a project that does not meet all requirements of the guidelines.

KEY: water funding January 7, 2004

Notice of Continuation December 13, 2002

R653. Natural Resources, Water Resources. R653-5. Cloud Seeding. R653-5-1. Definitions.

Terms used in this rule are defined as follows:

- (1) "Act" or "Cloud Seeding Act" means the 1973 CLOUD SEEDING TO INCREASE PRECIPITATION ACT, Title 73, Chapter 15.
- (2) "Cloud Seeding" or "Weather Modification" means all acts undertaken to artificially distribute or create nuclei in cloud masses for the purposes of altering precipitation, cloud forms, or other meteorological parameters.
- (3) "Cloud Seeding Project" means a planned project to evaluate meteorological conditions, perform cloud seeding, and evaluate results.
- (4) "Board" means the Utah Board of Water Resources, which is the policy making body for the Utah Division of Water Resources.
- (5) "Director" means the Director of the Utah Division of Water Resources.
- (6) "Division" means the Director and staff of the Utah Division of Water Resources.
- (7) "License" means a certificate issued by the Utah Division of Water Resources certifying that the holder has met the minimum requirements in cloud seeding technology set forth by the State of Utah, and is qualified to apply for a permit for a cloud seeding project.
- (8) "Licensed Contractor" means a person or organization duly licensed for cloud seeding activities in the State of Utah.
- (9) "Permit" means a certification of project approval to conduct a specific cloud seeding project within the State under the conditions and within the limitations required and established under the provision of these Rules.
- (10) "Sponsor" means the responsible individual or organization that enters into an agreement with a licensed contractor to implement a cloud seeding project.

R653-5-2. General Provisions.

- (1) Authority: The State of Utah, through the Division, is the only entity, private or public, that may authorize, sponsor, or develop cloud seeding research, evaluation, or implementation projects to alter precipitation, cloud forms, or meteorological parameters within the State of Utah.
- (2) Ownership of Water: All water derived as a result of cloud seeding shall be considered as a part of Utah's basic water supply the same as all natural precipitation water supplies have been heretofore, and all statutory provisions that apply to water from natural precipitation shall also apply to water derived from cloud seeding.
- (3) Notice to State Engineer: The Director shall, by written communication, notify the Director of the Utah Division of Water Rights of cloud seeding permits within 45 days of issuance.
- (4) Consultation and Assistance: The Division may contract with the Utah Water Research Laboratory, or any other individual or organization, for consultation or assistance in developing cloud seeding projects or in furthering necessary research of cloud seeding or other factors that may be affected by cloud seeding activities.
- (5) State and County Cooperation: The Division shall encourage, cooperate, and work with individual counties, multicounty districts for planning and development, and groups of counties in the development of cloud seeding projects and issuance of permits.
- (6) Statewide or Area-wide Cloud Seeding Project: The Division reserves the right to develop statewide or area-wide cloud seeding programs where it may contract directly with licensed contractors to increase precipitation. The Division may also work with individual counties, multi-county districts for planning and development, organizations or groups of counties,

or private organizations, to develop Statewide or area-wide cloud seeding projects.

(7) Liability:

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- (a) Trespass The mere dissemination of materials and substances into the atmosphere or causing precipitation pursuant to an authorized cloud seeding project, shall not give rise to any presumption that use of the atmosphere or lands constitutes trespass or involves an actionable or enjoinable public or private nuisance.
- (b) Immunity Nothing in these Rules shall be construed to impose or accept any liability or responsibility on the part of the State of Utah or any of its agencies, or any State officials or State employees or cloud seeding authorities, for any weather modification activities of any person or licensed contractor as defined in these Rules as provided in Title 63, Chapter 30.
- (8) Suspension and Waiver of Rules The Division may suspend or waive any provision of this rule on a case-by-case basis and by a writen memo signed by the Director. A suspension or waiver may be granted, in whole or in part, upon a showing of good cause relating to conditions of compliance or application procedures; or when, in the discretion of the Director the particular facts or circumstances render suspension or waiver appropriate.

R653-5-3. Utah Board of Water Resources.

- (1) Review of License and Permit: The Board may review applications for Licenses and Permits and submit recommendations to the Director for his consideration for action on the applications.
- (2) Policy Recommendations: The Board may advise and make recommendations concerning legislation, policies, administration, research, and other matters related to cloud seeding and weather modification activities to the Director and technical staff of the Division.

R653-5-4. Weather Modification Advisory Committee.

- (1) Creation of Weather Modification Advisory Committee: An advisory committee may be created by the Director. Members of this committee shall be appointed by the Director, and serve for a period of time as determined by the Director.
 - (2) Duties of Weather Modification Advisory Committee:
- (a) Advise the Director and technical staff of the Division on applications for licenses and permits; and
- (b) Advise and make recommendations concerning legislation, policies, administration, research, and other matters related to cloud seeding and weather modification activities to the Director and technical staff of the Division.

R653-5-5. License and Permit Required.

- (1) License and Permit Required: It is unlawful for any person or organization, not specifically exempted by laws and this rule, to act or perform services as a weather modifier, without obtaining a license and permit as provided for in the Cloud Seeding Act and this rule.
- (2) To Whom License May Be Issued: Licenses to engage in activities for weather modification and control shall be issued to applicants who meet the requirements set out in the Act and Section R653-5-6. If the applicant is an organization, these requirements shall be met by the individual or individuals who are to be in control and in charge of the applicant's weather modification operations.
- (3) To Whom Permit May be Issued: A permit may be issued to a licensed contractor as prescribed in Section R653-5-
- (4) License and Permit Not Required: Individuals and organizations engaging in the following activities are exempt from the license and permit requirements of this rule:
 - (a) Research performed entirely within laboratory

facilities;

- (b) Cloud Seeding activities for the suppression of fog;
- (c) Fire fighting activities where water or chemical preparations are applied directly to fires, without intent to modify the weather;
- (d) Frost and fog protective measures provided through the application of water or heat by orchard heater, or similar devices, or by mixing of the lower layers of the atmosphere by helicopters or other type of aircraft where no chemicals are dispensed into the atmosphere, other than normal combustion by-products and engine exhaust; and
- (e) Inadvertent weather modification, namely emissions from industrial stacks.
- (5) Effective Period of License: Each license shall be issued for a period of one year. A licensee may renew an expired license in the manner prescribed by this rule.
- (6) Effective Period of Permit: Each permit shall be issued for a period as required by a proposed cloud seeding project, but not exceeding one year.

R653-5-6. Procedures for Acquisition and Renewal of License.

- (1) Application For License: In order to qualify for a cloud seeding license an applicant must:
- (a) Submit a properly completed application to the Division; and
- (b) Submit to the Division evidence of: i) the possession by the applicant of a baccalaureate or higher degree in meteorology or related physical science or engineering and at least five years experience in the field of meteorology, or ii) other training and experience as may be acceptable to the Division as indicative of sufficient competence in the field of meteorology to engage in cloud seeding activities.
- (2) Renewal of License: A licensee may qualify for a renewal of a license by submitting an application for renewal. If an organization has hired replacement personnel, the organization shall attach to its application for renewal a statement setting forth the names and qualifications of qualified personnel.

R653-5-7. Procedures for Acquisition of Permit.

- (1) Application for Permit: To qualify for a cloud seeding permit a licensee must:
- (a) Submit a properly completed application to the Division;
- (b) Submit proof of financial responsibility in order to give reasonable assurance of protection to the public in the event it should be established that damages were caused to third parties as a result of negligence in carrying out a cloud seeding project;
- (c) Submit a copy of the contract or proposed contract between the sponsor and licensed contractor relating to the project;
- (d) Submit the plan of operation for the project, including a map showing locations of all equipment to be used as well as equipment descriptions;
- (e) Receive preliminary approval of the project from the Director before proceeding with notices of intent described in R653-5-7(7) and (8) of this rule.
- (f) File with the Division a notice of intention for publication which sets forth the following:
 - (i) the name and address of the applicant;
- (ii) statement that a cloud seeding license has been issued by the Division;
- (iii) the nature and the objective of the intended operation, and the person or organization on whose behalf it is to be conducted;
- (iv) the specific area in which, and the approximate date and time during which the operation will be conducted;
 - (v) the specific area which is intended to be affected by the

operation;

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- (vi) the materials and methods to be used in conducting the operation; and
- (vii) a statement that persons interested in the permit application should contact the Division.
- (g) File with the Division, within 15 days from the last date of the publication of notice, proof that the applicant caused the notice of intention to be published at least once a week for three consecutive weeks in a newspaper having a general circulation within each county in which the operation is to be conducted and in which the affected area is located. Publication of notice shall not commence until the applicant has received approval of the form and substance of the notice of intention from the Director
- (2) Description of a Permit: A licensee shall comply with all the requirements set out in his permit. A permit shall include the following:
- (a) The effective period of the permit, which shall not exceed one year;
 - (b) The location of the operation;
 - (c) The methods which may be employed; and
 - (d) Other necessary terms, requirements, and conditions.
- (3) Authority to Amend a Permit: The Division may amend the terms of a permit after issuance if it determines that it is in the public interest.

R653-5-8. Revocation and Suspension of Licenses and Permits.

- (1) Automatic Suspension of a Permit: Any cloud seeding permit issued under the terms of this rule shall be suspended automatically if the licensee's cloud seeding license should expire, or in the case of an organization being the licensee, if the person listed on the application for the permit as being in control of, and in charge of, operations for the licensee should become incapacitated, leave the employment of the licensee, or for any other reason be unable to continue to be in control of, and in charge of, the operation in question; and a replacement approved by the Director, has not been obtained.
- (2) Reinstatement of Permit: A permit which is suspended, may be, at the discretion of the Director, reinstated following renewal of the expired license, or submission of an amended personnel statement nominating a person whose qualifications for controlling and being in charge of the operation are acceptable to the Director.
- (3) Director's Authority to Suspend or Revoke Licenses and Permits: The Director may suspend or revoke any existing license or permit for the following reasons:
- (a) If the licensee no longer possesses the qualifications necessary for the issuance of a license or permit;
- (b) If the licensee has violated any of the provisions of the Cloud Seeding Act;
- (c) If the licensee has violated any of the provisions of this rule; or
- (d) If the licensee has violated any provisions of the license or permit.

R653-5-9. Record Keeping and Reports.

(1) Information to be Recorded: Any individual or organization conducting weather modification operations in Utah shall keep and maintain a record of each operation conducted. For the purposes of this Section, the daily log required by Title 15, Chapter IX, Sub-Chapter A, Part 908, Section 908.8 (a), Code of Federal Regulations, November 1, 1972, as amended, and the supplemental information required by Sections 908.8 (b), (c), and (d) will be considered adequate, provided that each applicant for a weather modification permit submit with the application a list containing the name and post office address of each individual who will participate or assist in the operation, and promptly report any changes or additions

to this list to the Division.

- (2) Reports:
- (a) Each individual and organization conducting weather modification operations in Utah shall submit copies of the daily log and supplemental information for each month, to the Division by the last day of each succeeding month.
- (b) Information copies of all other reports required by Title 15, Chapter IX, Sub-Chapter A, Part 908, Sections 908.5, 908.6, and 908.7, Code of Federal Regulations, shall be submitted to the Division as soon as practicable, but in no case later than the deadlines set by the Federal Regulation.
- (c) Copies of all reports, publications, pamphlets, and evaluations made by either the licensed contractor or sponsor regarding a cloud seeding project must be submitted to the Division at the time these are made public.
- (d) In relation to any evaluations made for cloud seeding effectiveness, both the method of evaluation and the data used shall be submitted to the Division.

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R657. Natural Resources, Wildlife Resources.

R657-5. Taking Big Game.

R657-5-1. Purpose and Authority.

- (1) Under authority of Sections 23-14-18 and 23-14-19, the Wildlife Board has established this rule for taking deer, elk, pronghorn, moose, bison, bighorn sheep, and Rocky Mountain goat.
- (2) Specific dates, areas, methods of take, requirements, and other administrative details which may change annually are published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation and the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

R657-5-2. Definitions.

- (1) Terms used in this rule are defined in Section 23-13-2.
- (2) In addition:
- (a) "Antlerless deer" means a deer without antlers or with antlers five inches or shorter.
- (b) "Antlerless elk" means an elk without antlers or with antlers five inches or shorter.
- (c) "Antlerless moose" means a moose with antlers shorter than its ears.
- (d) "Arrow quiver" means a portable arrow case that completely encases all edges of the broadheads.
- (e) "Buck deer" means a deer with antlers longer than five inches.
- (f) "Buck pronghorn" means a pronghorn with horns longer than five inches.
- (g) "Bull elk" means an elk with antlers longer than five inches.
- (h) "Bull moose" means a moose with antlers longer than its ears.
 - (i) "Cow bison" means a female bison.
- (j) "Doe pronghorn" means a pronghorn without horns or with horns five inches or shorter.
- (k) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public as a matter of right for vehicular travel.
 - (l) "Hunter's choice" means either sex may be taken.
- (m) "Ram" means a male desert bighorn sheep or Rocky Mountain bighorn sheep.
- (n)(i) "Resident" for purposes of this rule means a person who:
- (A) has been domiciled in the state of Utah for six consecutive months immediately preceding the purchase of a license or permit; and
- (B) does not claim residency for hunting, fishing, or trapping in any other state or country.
- (ii) A Utah resident retains Utah residency if that person leaves this state:
- (A) to serve in the armed forces of the United States or for religious or educational purposes; and
 - (B) complies with Subsection (m)(i)(B).
- (iii)(A) A member of the armed forces of the United States and dependents are residents for the purposes of this chapter as of the date the member reports for duty under assigned orders in the state if the member:
 - (I) is not on temporary duty in this state; and
 - (II) complies with Subsection (m)(i)(B).
- (iv) A copy of the assignment orders must be presented to a wildlife division office to verify the member's qualification as a resident.
- (v) A nonresident attending an institution of higher learning in this state as a full-time student may qualify as a resident for purposes of this chapter if the student:
- (A) has been present in this state for 60 consecutive days immediately preceding the purchase of the license or permit; and

(B) complies with Subsection (m)(i)(B).

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- (vi) A Utah resident license or permit is invalid if a resident license for hunting, fishing, or trapping is purchased in any other state or country.
- (vii) An absentee landowner paying property tax on land in Utah does not qualify as a resident.
- (o) "Spike bull" means a bull elk which has at least one antler having no branching above the ears. Branched means a projection on an antler longer than one inch, measured from its base to its tip.

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

- (1) A person may engage in hunting protected wildlife or in the sale, trade, or barter of protected wildlife or their parts in accordance with Section 23-19-1 and the rules or proclamations of the Wildlife Board.
- (2) Any license, permit, or tag that is mutilated or otherwise made illegible is invalid and may not be used for taking or possessing big game.

R657-5-4. Age Requirements and Restrictions.

- (1)(a) A person 14 years of age or older may purchase a permit and tag to hunt big game. A person 13 years of age may purchase a permit and tag to hunt big game if that person's 14th birthday falls within the calendar year for which the permit and tag are issued.
- (2)(a) A person at least 14 years of age and under 16 years of age must be accompanied by his parent or legal guardian, or other responsible person 21 years of age or older and approved by his parent or guardian, while hunting big game with any weapon.
- (b) As used in this section, "accompanied" means at a distance within which visual and verbal communication are maintained for the purposes of advising and assisting.

R657-5-5. Duplicate License and Permit.

- (1) Whenever any unexpired license, permit, tag or certificate of registration is destroyed, lost or stolen, a person may obtain a duplicate from a division office, for five dollars or half of the price of the original license, or permit, whichever is less.
- (2) The division may waive the fee for a duplicate unexpired license, permit, tag or Certificate of Registration provided the person did not receive the original license, permit, tag or certificate of registration.

R657-5-6. Hunting Hours.

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

R657-5-7. Temporary Game Preserves.

- (1)(a) A person who does not have a valid permit to hunt on a temporary game preserve may not carry a firearm or archery equipment on any temporary game preserve while the respective hunts are in progress.
- (b) "Carry" means having a firearm on your person while hunting in the field.
- (2) As used in this section, "temporary game preserve" means all bull elk, buck pronghorn, moose, bison, bighorn sheep, Rocky Mountain goat, limited entry buck deer areas and cooperative wildlife management units, excluding incorporated areas, cities, towns and municipalities.
- (3) Weapon restrictions on temporary game preserves do not apply to:
- (a) a person licensed to hunt upland game or waterfowl provided the person complies with Rules R657-6 and R657-9 and the Upland Game Proclamation and Waterfowl Proclamation, respectively, and possessing only legal weapons to take upland game and waterfowl;

- (b) livestock owners protecting their livestock;
- (c) peace officers in the performance of their duties; or
- (d) a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code, provided the person is not utilizing the concealed firearm to hunt or take protected wildlife.

R657-5-8. Prohibited Weapons.

- (1) A person may not use any weapon or device to take big game other than those expressly permitted in this rule.
 - (2) A person may not use:
 - (a) a firearm capable of being fired fully automatic; or
- (b) any light enhancement device or aiming device that casts a beam of light.

R657-5-9. Rifles and Shotguns.

- (1) The following rifles and shotguns may be used to take big game:
- (a) any rifle firing centerfire cartridges and expanding bullets; and
- (b) a shotgun, 20 gauge or larger, firing only 00 or larger buckshot or slug ammunition.

R657-5-10. Handguns.

- (1) A handgun may be used to take deer and pronghorn, provided the handgun is a minimum of .24 caliber, fires a centerfire cartridge with an expanding bullet and develops 500 foot-pounds of energy at the muzzle.
- (2) A handgun may be used to take elk, moose, bison, bighorn sheep, and Rocky Mountain goat provided the handgun is a minimum of .24 caliber, fires a centerfire cartridge with an expanding bullet and develops 500 foot-pounds of energy at 100 yards.

R657-5-11. Muzzleloaders.

- (1) A muzzleloader may be used during any big game hunt, except an archery hunt, provided the muzzleloader:
 - (a) can be loaded only from the muzzle;
- (b) has open sights, peep sights, or a fixed non-magnifying 1x scope;
 - (c) has a single barrel;
 - (d) has a minimum barrel length of 18 inches;
 - (e) is capable of being fired only once without reloading;
- (f) powder and bullet, or powder, sabot and bullet are not bonded together as one unit for loading;
- (g) is loaded with black powder or black powder substitute, which must not contain nitrocellulose based somkeless powder.
- (2)(a) A lead or expanding bullet or projectile of at least 40 caliber must be used to hunt big game.
- (b) A 170 grain or heavier bullet, including sabots must be used for taking deer and pronghorn.
- (c) A 210 grain or heavier bullet must be used for taking elk, moose, bison, bighorn sheep, and Rocky Mountain goat, except sabot bullets used for taking these species must be a minimum of 240 grains.
- (3)(a) A person who has obtained a muzzleloader permit may not possess or be in control of any firearm other than a muzzleloading rifle or have a firearm other than a muzzleloading rifle in his camp or motor vehicle during a muzzleloader hunt.
 - (b) The provisions of Subsection (a) do not apply to:
- (i) a person licensed to hunt upland game or waterfowl provided the person complies with Rules R657-6 and R657-9 and the Upland Game Proclamation and Waterfowl Proclamation, respectively, and possessing only legal weapons to take upland game or waterfowl;
- (ii) a person licensed to hunt big game species during hunts that coincide with the muzzleloader hunt;
 - (iii) livestock owners protecting their livestock; or

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

R657-5-12. Archery Equipment.

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- (1) Archery equipment may be used during any big game hunt, except a muzzleloader hunt, provided:
- (a) the minimum bow pull is 40 pounds at the draw or the peak, whichever comes first; and
- (b) arrowheads used have two or more sharp cutting edges that cannot pass through a 7/8 inch ring;
- (c) expanding arrowheads cannot pass through a 7/8 inch ring when expanded; and
- (d) arrows must be a minimum of 20 inches in length from the tip of the arrowhead to the tip of the nock, and must weigh at least 300 grains.
- (2) The following equipment or devices may not be used to take big game:
 - (a) a crossbow, except as provided in Rule R657-12;
- (b) arrows with chemically treated or explosive arrowheads;
- (c) a mechanical device for holding the bow at any increment of draw;
- (d) a release aid that is not hand held or that supports the draw weight of the bow; or
- (e) a bow with an attached electronic range finding device or a magnifying aiming device.
- (3) Arrows carried in or on a vehicle where a person is riding must be in an arrow quiver or a closed case.
- (4)(a) A person who has obtained an archery permit may not possess or be in control of a firearm or have a firearm in his camp or motor vehicle during an archery hunt.
 - (b) The provisions of Subsection (a) do not apply to:
- (i) a person licensed to hunt upland game or waterfowl provided the person complies with Rules R657-6 and R657-9 and the Upland Game Proclamation and Waterfowl Proclamation, respectively, and possessing only legal weapons to take upland game or waterfowl;
- (ii) a person licensed to hunt big game species during hunts that coincide with the archery hunt;
 - (iii) livestock owners protecting their livestock; or
- (iv) a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code, provided the person is not utilizing the concealed firearm to hunt or take protected wildlife.

R657-5-13. Areas With Special Restrictions.

- (1)(a) Hunting of any wildlife is prohibited within the boundaries of all park areas, except those designated by the Division of Parks and Recreation in Rule R651-603-5.
- (b) Hunting with rifles and handguns in park areas designated open is prohibited within one mile of all park area facilities, including buildings, camp or picnic sites, overlooks, golf courses, boat ramps, and developed beaches.
- (c) Hunting with shotguns or archery equipment is prohibited within one-quarter mile of the areas provided in Subsection (b).
- (2) Hunting is closed within the boundaries of all national parks and monuments unless otherwise provided by the governing agency.
- (3) Hunters obtaining a Utah license, permit or tag to take big game are not authorized to hunt on tribal trust lands. Hunters must obtain tribal authorization to hunt on tribal trust lands.
- (4) Military installations, including Camp Williams, are closed to hunting and trespassing unless otherwise authorized.
 - (5) In Salt Lake County, a person may not:
 - (a) hunt big game within one-half mile of Silver Lake in

Big Cottonwood Canyon;

- (b) hunt big game or discharge a shotgun or archery equipment within 600 feet of a road, house, or any other building; or
- (c) discharge a rifle, handgun, shotgun firing slug ammunition, or muzzleloader within one mile of a cabin, house, or other building regularly occupied by people, except west of I-15 a muzzleloader may not be discharged within one-half mile of a cabin, house, or other building regularly occupied by people.
- (6) Hunting is closed within a designated portion of the town of Alta. Hunters may refer to the town of Alta for boundaries and other information.
- (7) Domesticated Elk Facilities and Domesticated Elk Hunting Parks, as defined in Section 4-39-102(2) and Rules R58-18 and R58-20, are closed to big game hunting. This restriction does not apply to the lawful harvest of domesticated elk as defined and allowed pursuant to Rule R58-20.
- (8) State waterfowl management areas are closed to taking big game, except as otherwise provided in the proclamation of the Wildlife Board for taking big game.
- (9) Hunters are restricted to using archery equipment, muzzleloaders or shotguns on the Matheson Wetlands.
- (10) A person may not discharge a firearm, except a shotgun or muzzleloader, from, upon, or across the Green River located near Jensen, Utah from the Highway 40 bridge upstream to the Dinosaur National Monument boundary.

R657-5-14. Spotlighting.

- (1) Except as provided in Section 23-13-17:
- (a) a person may not use or cast the rays of any spotlight, headlight, or other artificial light to locate protected wildlife while having in possession a firearm or other weapon or device that could be used to take or injure protected wildlife; and
- (b) the use of a spotlight or other artificial light in a field, woodland, or forest where protected wildlife are generally found is prima facie evidence of attempting to locate protected wildlife.
 - (2) The provisions of this section do not apply to:
- (a) the use of headlights or other artificial light in a usual manner where there is no attempt or intent to locate protected wildlife; or
- (b) a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code, provided the person is not utilizing the concealed firearm to hunt or take wildlife.

R657-5-15. Use of Vehicle or Aircraft.

- (1)(a) A person may not use an airplane or any other airborne vehicle or device, or any motorized terrestrial or aquatic vehicle, including snowmobiles and other recreational vehicles, except a vessel as provided in Subsection (c), to take protected wildlife.
- (b) A person may not take protected wildlife being chased, harmed, harassed, rallied, herded, flushed, pursued or moved by an aircraft or any other vehicle or conveyance listed in Subsection (a).
 - (c) Big game may be taken from a vessel provided:
 - (i) the motor of a motorboat has been completely shut off;
 - (ii) the sails of a sailboat have been furled; and
- (iii) the vessel's progress caused by the motor or sail has
- (2)(a) A person may not use any type of aircraft from 48 hours before any big game hunt begins through 48 hours after any big game hunting season ends to:
- (i) transport a hunter or hunting equipment into a hunting area:
 - (ii) transport a big game carcass; or
 - (iii) locate, or attempt to observe or locate any protected

wildlife.

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- (b) Flying slowly at low altitudes, hovering, circling or repeatedly flying over a forest, marsh, field, woodland or rangeland where protected wildlife is likely to be found may be used as evidence of violations of Subsections (1) and (2).
- (3) The provisions of this section do not apply to the operation of an aircraft in a usual manner, or landings and departures from improved airstrips, where there is no attempt or intent to locate protected wildlife.

R657-5-16. Party Hunting and Use of Dogs.

- (1) A person may not take big game for another person, except as provided in Section 23-19-1 and Rule R657-12.
- (2) Å person may not use the aid of a dog to take, chase, harm or harass big game.

R657-5-17. Big Game Contests.

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

- (1) is based on big game or their parts; and
- (2) offers cash or prizes totaling more than \$500.

R657-5-18. Tagging.

- (1) The carcass of any species of big game must be tagged in accordance with Section 23-20-30.
- (2) A person may not hunt or pursue big game after any of the notches have been removed from the tag or the tag has been detached from the permit.
- (3) The tag must remain with the largest portion of the meat until the animal is entirely consumed.

R657-5-19. Transporting Big Game Within Utah.

- (1) A person may transport big game within Utah only as follows:
- (a) the head or sex organs must remain attached to the largest portion of the carcass;
- (b) the antlers attached to the skull plate must be transported with the carcass of an elk taken in a spike bull unit; and
- (c) the person who harvested the big game animal must accompany the carcass and must possess a valid permit corresponding to the tag attached to the carcass, except as provided in Subsection (2).
- (2) A person who did not take the big game animal may transport it only after obtaining a shipping permit or disposal receipt from the division or a donation slip as provided in Section 23-20-9.

R657-5-20. Exporting Big Game From Utah.

- (1) A person may export big game or their parts from Utah only if:
- (a) the person who harvested the big game animal accompanies it and possesses a valid permit corresponding to the tag which must be attached to the largest portion of the carcass; or
- (b) the person exporting the big game animal or its parts, if it is not the person who harvested the animal, has obtained a shipping permit from the division.

R657-5-21. Purchasing or Selling Big Game or Their Parts.

- (1) A person may only purchase, sell, offer or possess for sale, barter, exchange or trade any big game or their parts as follows:
- (a) Antlers, heads and horns of legally taken big game may be purchased or sold only on the dates published in the proclamation of the Wildlife Board for taking big game;
- (b) Untanned hides of legally taken big game may be purchased or sold only on the dates published in the proclamation of the Wildlife Board for taking big game;
 - (c) Inedible byproducts, excluding hides, antlers and

horns, or legally possessed big game as provided in Subsection 23-20-3(1)(d), may be purchased or sold at any time;

- (d) tanned hides of legally taken big game may be purchased or sold at any time; and
- (e) shed antlers and horns may be purchased or sold at any time.
- (2)(a) Protected wildlife that is unlawfully taken and seized by the division may be sold at any time by the division or its agent.
- (b) A person may purchase protected wildlife, which is sold in accordance with Subsection (2)(a), at any time.
- (3) A person selling or purchasing antlers, heads, horns or untanned hides shall keep transaction records stating:
- (a) the name and address of the person who harvested the animal;
 - (b) the transaction date; and
- (c) the permit number of the person who harvested the animal.
- (4) Subsection (3) does not apply to scouting programs or other charitable organizations using untanned hides.

R657-5-22. Possession of Antlers and Horns.

- (1) A person may possess antlers or horns or parts of antlers or horns only from:
 - (a) lawfully harvested big game;
- (b) antlers or horns lawfully purchased as provided in Section R657-5-21; or
 - (c) shed antlers or horns.
 - (2) "Shed antler" means an antler which:
- (a) has been dropped naturally from a big game animal as part of its annual life cycle; and
- (b) has a rounded base commonly known as the antler button or burr attached which signifies a natural life cycle process.
- (3) "Shed horn" means the sheath from the horn of a pronghorn that has been dropped naturally as part of its annual life cycle. No other big game species shed their horns naturally.

R657-5-23. Poaching-Reported Reward Permits.

- (1) Any person who provides information leading to another person's arrest and successful prosecution for wanton destruction of a bull moose, desert bighorn ram, rocky mountain bighorn ram, rocky mountain goat, bison, bull elk, buck deer or buck pronghorn under Section 23-20-4 for any once-in-alifetime species or within any limited entry area may receive a permit from the division to hunt for the same species and on the same once-in-a-lifetime or limited entry area where the violation occurred, except as provided in Subsection (2).
- (2)(a) In the event that issuance of a poaching-reported reward permit would exceed 5% of the total number of limited entry or once-in-a-lifetime permits issued in the following year for the respective area, a permit shall not be issued for that respective area. As an alternative, the division may issue a permit as outlined in Subsections (b) or (c).
- (b) If the illegally taken animal is a bull moose, desert bighorn ram, rocky mountain bighorn ram, rocky mountain goat or bison, a permit for an alternative species and an alternative once-in-a-lifetime or limited entry area that has been allocated more than 20 permits may be issued.
- (c) If the illegally taken animal is a bull elk, buck deer or buck pronghorn, a permit for the same species on an alternative limited entry area that has been allocated more than 20 permits may be issued.
- (3)(a) The division may issue only one poaching-reported reward permit for any one animal illegally taken.
- (b) No more than one poaching-reported reward permit shall be issued to any one person per successful prosecution.
- (c) No more than one poaching-reported reward permit per species shall be issued to any one person in any one calendar

year.

- (4)(a) Poaching-reported reward permits may only be issued to the person who provides the most pertinent information leading to a successful prosecution. Permits are not transferrable.
- (b) If information is received from more than one person, the director of the division shall make a determination based on the facts of the case, as to which person provided the most pertinent information leading to the successful prosecution in the case.
- (c) The person providing the most pertinent information shall qualify for the poaching-reported reward permit.
- (5) Any person who receives a poaching-reported reward permit must be eligible to hunt and obtain big game permits as provided in all rules and regulations of the Wildlife Board and the Wildlife Resources Code.
- (6) For purposes of this section, "successful prosecution" means the screening, filing of charges and subsequent adjudication for the poaching incident.

R657-5-24. Application Process for Premium Limited Entry, Limited Entry, Cooperative Wildlife Management Unit and Once-In-A-Lifetime Permits, and Application Process for General Buck Deer, General Muzzleloader Elk, and Youth General Any Bull Elk Permits.

- (1)(a) Å person may obtain only one permit per species of big game, including premium limited entry, limited entry, cooperative wildlife management unit, once-in-a-lifetime, conservation, sportsman, landowner and general permits, except antlerless permits as provided in the Antlerless Addendum and permits as provided in Rule R657-42.
- (b) Hunting with a permit where payment has not been received for that permit constitutes a violation of hunting without a valid permit.
- (c) A person must notify the division of any change of mailing address, residency, telephone number, and physical description.
- (2) Applications are available from license agents, division offices, and through the division's Internet address.
- (3) A resident may apply in the big game drawing for the following permits:
 - (a) only one of the following:
- (i) buck deer premium limited entry, limited entry and cooperative wildlife management unit;
- (ii) bull elk limited entry and cooperative wildlife management unit; or
- (iii) buck pronghorn limited entry and cooperative wildlife management unit; and
- (b) only one once-in-a-lifetime permit, including once-in-a-lifetime cooperative wildlife management unit permits, except as provided in Section R657-5-64(2)(b).
- (4) A nonresident may apply in the big game drawing for the following permits:
 - (a) only one of the following:
 - (i) buck deer premium limited entry and limited entry; or
 - (ii) bull elk limited entry; or
 - (iii) buck pronghorn limited entry; and
 - (b) only one once-in-a-lifetime permit.
- (5) A resident or nonresident may apply in the big game drawing for:
 - (a)(i) a statewide general archery buck deer permit;
 - (ii) by region for general season buck deer; or
 - (iii) by region for general muzzleloader buck deer.
- (b) A youth may apply in the drawing as provided in Subsection (a), and for youth general any bull elk pursuant to Section R657-5-46.
- (6) A person may not submit more than one application per species as provided in Subsections (3) and (4), and Subsection (5) in the big game drawing.

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- (7)(a) Applications must be mailed by the date prescribed in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game. Applications filled out incorrectly or received later than the date prescribed in the Bucks, Bulls and Once-In-A-Lifetime Proclamation may be rejected.
- (b) If an error is found on an application, the applicant may be contacted for correction.
- (8)(a) Late applications, received by the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation, will not be considered in the drawing, but will be processed, for the purpose of entering data into the division's draw database to provide:
 - (i) future preprinted applications;
- (ii) notification by mail of late application and other draw opportunities; and
 - (iii) re-evaluation of division or third-party errors.
- (b) The \$5 handling fee will be used to process the late application. Any permit fees submitted with the application will be refunded
- (c) Late applications received after the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation shall not be processed and shall be returned to the applicant.
- (9) Any person who applies for a hunt that occurs on private land is responsible for obtaining written permission from the landowner to access the property. To avoid disappointment and wasting the permit and fee if access is not obtained, hunters should get permission before applying. The division does not guarantee access and does not have the names of landowners where hunts occur.
- (10) Only a resident may apply for or obtain a resident permit and only a nonresident may apply for or obtain a nonresident permit, except as provided in Subsections R657-5-77(4)
- (12) To apply for a resident permit, a person must establish residency at the time of purchase.
- (13) The posting date of the drawing shall be considered the purchase date of a permit.

R657-5-25. Fees for Premium Limited Entry, Limited Entry, Cooperative Wildlife Management Unit and Once-In-A-Lifetime Permits, and for General Buck Deer, General Muzzleloader Elk and Youth General Any Bull Elk Permits.

- (1) Each premium limited entry, limited entry, cooperative wildlife management unit and once-in-a-lifetime application must include:
 - (a) the highest permit fee of any permits applied for;
- (b) a \$5 nonrefundable handling fee for one of the following permits:
 - (i) buck deer;
 - (ii) bull elk; or
 - (iii) buck pronghorn; and
- (c) a \$5 nonrefundable handling fee for a once-in-a-lifetime permit; and
- (d) the \$5 nonrefundable handling fee, if applying only for a bonus point.
- (2) Each general buck deer and general muzzleloader elk application must include:
- (a) the permit fee, which includes the \$5 nonrefundable handling fee; or
- (b) the \$5 nonrefundable handling fee per species, if applying only for a preference point.

R657-5-26. Applying as a Group for Premium Limited Entry, Limited Entry, Cooperative Wildlife Management Unit and Once-In-A-Lifetime Permits, and for General Buck Deer, General Muzzleloader Elk and Youth General Any Bull Elk Permits.

(1)(a) Up to four people may apply together for premium

- limited entry, limited entry, and resident cooperative wildlife management unit deer, elk or pronghorn permits in the big game drawing and in the antlerless drawing.
- (b) Up to two youth may apply together for youth general any bull elk permits in the big game drawing.
- (c) Up to ten people may apply together for general deer permits in the big game drawing.
- (d) Youth applicants who wish to participate in the Youth General Buck Deer Drawing Process as provided in Subsection R657-5-27(3), must not apply as part of a group.
- (2)(a) Applicants must indicate the number of hunters in the group by filling in the appropriate box on each application form
- (b) If the appropriate box is not filled out with the number of hunters in the group, each hunter in that group shall be entered into the drawing as individual hunters, and not as a group.
- (3) Group applicants must submit their applications together in the same envelope.
 - (4) Residents and nonresidents may apply together.
- (5)(a) Group applications shall be processed as one single application.
- (b) Any bonus points used for a group application, shall be averaged and rounded down.
 - (6) When applying as a group:
- (a) if the group is successful in the drawing, then all applicants with valid applications in that group shall receive a permit;
- (b) if the group is rejected due to an error in fees and only one species is applied for, then the entire group is rejected;
- (c) if the group is rejected due to an error in fees and more than one species is applied for, the group will be kept in the drawing for any species with sufficient fees, using the draw order: or
- (d) if one or more members of the group are rejected due to an error other than fees, the members with valid applications will be kept in the drawing, unless the group indicates on the application that all members are to be rejected.
- (i) The applicant whose application is on the top of all the applications for that group, will be designated the group leader.
- (ii) If any group member has an error on their application that is not corrected during the correction process, the reject box on the group leader's application will determine whether the entire group is rejected.

R657-5-27. Premium Limited Entry, Limited Entry, Cooperative Wildlife Management Unit and Once-In-A-Lifetime and General Buck Deer, General Muzzleloader Elk and Youth General Any Bull Elk Drawings.

- (1)(a) Big game drawing results may be posted at the Lee Kay Center for Hunter Education, Cache Valley Hunter Education Center, division offices and on the division Internet address on the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game
- (b) Applicants shall be notified by mail of draw results by the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.
- (2) Permits for the big game drawing shall be drawn in the following order:
- (a) premium limited entry, limited entry and cooperative wildlife management unit buck deer;
- (b) limited entry and cooperative wildlife management unit bull elk;
- (c) limited entry and cooperative wildlife management unit buck pronghorn;
 - (d) once-in-a-lifetime;
 - (e) youth general buck deer;
 - (f) general buck deer; and

(g) youth general any bull elk.

- (3)(a) Fifteen percent of the general buck deer permits in each region are reserved for youth hunters.
- (b) For purposes of this section, "youth" means any person 18 years of age or younger on the opening day of the general archery buck deer season.
- (c) Youth hunters who wish to participate in the youth drawing must:
- (i) submit an application in accordance with Section R657-5-24; and
 - (ii) not apply as a group.
- (d) Youth applicants who apply for a general buck deer permit as provided in Subsection (c), will automatically be considered in the youth drawing based upon their birth date.
 - (e) Preference points shall be used when applying.
- (f) Any reserved permits remaining and any youth applicants who were not selected for reserved permits shall be returned to the general buck deer drawing.
- (4) Any person who draws one of the following permits is not eligible to draw a once-in-a-lifetime permit:
- (a) a premium limited entry, limited entry or cooperative wildlife management unit buck deer;
- (b) a limited entry, or cooperative wildlife management unit bull elk; or
- (c) a limited entry or cooperative wildlife management unit buck pronghorn.
- (4) If any permits listed in Subsection (2)(a) through (2)(d) remain after the big game drawing after all choices have been evaluated separately for residents and nonresidents, a second evaluation will be done allowing cross-over usage of remaining resident and nonresident permit quotas.

R657-5-28. Premium Limited Entry, Limited Entry, Cooperative Wildlife Management Unit and Once-In-A-Lifetime, and General Buck Deer, General Muzzleloader Elk and Youth General Any Bull Elk Application Refunds.

- (1) Unsuccessful applicants who applied in the big game drawing and who applied with a check or money order will receive a refund in May.
- (2)(a) Unsuccessful applicants, who applied with a credit or debit card, will not be charged for a permit.
- (b) Unsuccessful applicants, who applied as a group, will receive an equally distributed refund of money remaining after the successful applicants' permits are paid for.
- (c) If group members have other financial arrangements between themselves, group members should be prepared to reallocate each group member's individual refunds among themselves.
 - (3) The handling fees are nonrefundable.

R657-5-29. Permits Remaining After the Drawing.

(1) Permits remaining after the big game drawing are sold only by mail or on a first-come, first-served basis beginning and ending on the dates provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

R657-5-30. Waiting Periods for Deer.

- (1) A person who obtained a premium limited entry buck, limited entry buck or cooperative wildlife management unit buck deer permit through the big game drawing process during the preceding two years may not apply in the big game drawing for any of these permits during the current year.
- (2) A person who obtains a premium limited entry buck, limited entry buck or cooperative wildlife management unit buck deer permit through the big game drawing process, may not apply for any of these permits again for a period of two years.
 - (3) A waiting period does not apply to:

- (a) general archery, general season, general muzzleloader, antlerless deer, conservation, sportsman and poaching-reported reward deer permits; or
- (b) cooperative wildlife management unit or limited entry landowner buck deer permits obtained through the landowner.

R657-5-31. Waiting Periods for Elk.

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- (1) A person who obtained a limited entry or cooperative wildlife management unit bull elk permit through the big game drawing process during the preceding four years may not apply in the big game drawing for any of these permits during the current year.
- (2) A person who obtains a limited entry or cooperative wildlife management unit bull elk permit through the big game drawing, may not apply for any of these permits for a period of five years.
 - (3) A waiting period does not apply to:
- (a) general archery, general season, general muzzleloader, antlerless elk, cooperative wildlife management unit spike bull elk, conservation, sportsman and poaching-reported reward elk permits; or
- (b) cooperative wildlife management unit or limited entry landowner bull elk permits obtained through the landowner.

R657-5-32. Waiting Periods for Pronghorn.

- (1) A person who obtained a buck pronghorn permit through the big game drawing process in the preceding two years, may not apply in the big game drawing for a buck pronghorn permit during the current year.
- (2) A person who obtains a buck pronghorn or cooperative wildlife management unit buck pronghorn permit through the big game drawing, may not apply for any of these permits for a period of two years.
 - (3) A waiting period does not apply to:
- (a) doe pronghorn, pronghorn conservation, sportsman and poaching-reported reward permits; or
- (b) cooperative wildlife management unit or limited entry landowner buck pronghorn permits obtained through the landowner.

R657-5-33. Waiting Periods for Antlerless Moose.

- (1) A person who obtained an antlerless moose permit or a cooperative wildlife management unit antlerless moose permit through the antlerless drawing process during the preceding four years, may not apply for an antlerless moose permit during the current year.
- (2) A person who obtains an antlerless moose permit or a cooperative wildlife management unit antlerless moose permit through the antlerless drawing process in the current year, may not apply for an antlerless moose permit for a period of five years.
- (3) A waiting period does not apply to cooperative wildlife management unit antlerless moose permits obtained through the landowner.

R657-5-34. Waiting Periods for Once-In-A-Lifetime Species.

- (1) Any person who has obtained a permit for any bull moose, bison, Rocky Mountain bighorn sheep, desert bighorn sheep, or Rocky Mountain goat may not apply for a once-in-alifetime permit for the same species in the big game drawing or sportsman permit drawing.
- (2) A person who has been convicted of unlawfully taking a once-in-a-lifetime species may not apply for or obtain a permit for that species.

R657-5-35. Waiting Periods for Permits Obtained After the Drawing.

(1) Waiting periods provided in Sections R657-5-30 through R657-5-34 do not apply to the purchase of the

remaining permits sold over the counter.

(2) However, waiting periods are incurred as a result of purchasing remaining permits after the drawing. Therefore, if a remaining permit is purchased in the current year, waiting periods will be in effect when applying in the drawing in following years.

R657-5-36. Waiting Periods for Cooperative Wildlife Management Unit Permits and Landowner Permits.

- (1)(a) A waiting period or once-in-a-lifetime status does not apply to purchasing limited entry landowner or cooperative wildlife management unit permits obtained through a landowner, except as provided in Subsection (b).
- (b) Waiting periods are incurred for the purpose of applying in the big game drawing as a result of obtaining a cooperative wildlife management unit bull moose permit through a landowner.

R657-5-37. Bonus Point System and Preference Point System.

- (1) Bonus points are used to improve odds for drawing permits.
 - (2)(a) A bonus point is awarded for:
- (i) each valid unsuccessful application when applying for permits in the big game drawing; or
- (ii) each valid application when applying for bonus points in the big game drawing.
 - (b) Bonus points are awarded by species.
 - (c) Bonus points are awarded for:
- (i) premium limited entry, limited entry and cooperative wildlife management unit buck deer;
- (ii) limited entry and cooperative wildlife management unit bull elk;
- (iii) limited entry and cooperative wildlife management unit buck pronghorn; and
 - (iv) all once-in-a-lifetime species.
 - (3) A person may apply for a bonus point for:
 - (a) only one of the following species:
- (i) buck deer premium limited entry, limited entry and Cooperative Wildlife Management unit;
- (ii) bull elk limited entry and Cooperative Wildlife Management unit; or
- (iii) buck pronghorn limited entry and Cooperative Wildlife Management unit; and
- (b) only one once-in-a-lifetime, including once-in-a-lifetime Cooperative Wildlife Management unit.
- (4)(a) À person may not apply in the drawing for both a premium limited entry or limited entry bonus point and a premium limited entry or limited entry permit.
- (b) A person may not apply in the drawing for a once-in-alifetime bonus point and a once-in-a-lifetime permit.
- (c) A person may not apply for a bonus point if that person is ineligible to apply for a permit for the respective species.
- (d) A person may only apply for bonus points in the big game drawing.
- (e) Group applications will not be accepted when applying for bonus points.
- (5)(a) Fifty percent of the permits for each hunt unit and species will be reserved for applicants with bonus points.
- (b) Based on the applicant's first choice, the reserved permits will be designated by a random drawing number to eligible applicants with the greatest number of bonus points for each species.
- (c) If reserved permits remain, the reserved permits will be designated by a random number to eligible applicants with the next greatest number of bonus points for each species.
- (d) The procedure in Subsection (c) will continue until all reserved permits have been issued or no applications for that species remain.

- (e) Any reserved permits remaining and any applicants who were not selected for reserved permits will be returned to the big game drawing.
- (6)(a) Each applicant receives a random drawing number for:
 - (i) each species applied for; and

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- (ii) each bonus point for that species.
- (7) Bonus points are forfeited if a person obtains a permit through the drawing for that bonus point species as provided in Subsection (2)(c), including any permit obtained after the drawing.
 - (8) Bonus points are not forfeited if:
- (a) a person is successful in obtaining a conservation permit or sportsman permit;
- (b) a person obtains a landowner or a cooperative wildlife management unit permit from a landowner; or
 - (c) a person obtains a poaching-reported reward permit.
 - (9) Bonus points are not transferable.
- (10) Bonus points are averaged and rounded down when two or more applicants apply together on a group application.
- (11)(a) Bonus points are tracked using social security numbers or division-issued hunter identification numbers.
- (b) The Division shall retain paper copies of applications for three years prior to the current big game drawing for the purpose of researching bonus point records.
- (c) The Division shall retain electronic copies of applications from 1996 to the current big game drawing for the purpose of researching bonus point records.
- (d) Any requests for researching an applicant's bonus point records must be requested within the time frames provided in Subsection (b) and (c).
- (e) Any bonus points on the Division's records shall not be researched beyond the time frames provided in Subsection (b) and (c).
- (f) The Division may eliminate any bonus points earned that are obtained by fraud or misrepresentation.
- (12) Preference points are used in the big game drawing for general buck deer permits to ensure that applicants who are unsuccessful in the drawing for general buck deer permits, will have first preference in the next year's drawing.
 - (13) A preference point is awarded for:
- (a) each valid unsuccessful application when applying for a general buck deer permit; or
- (b) each valid application when applying only for a preference point in the big game drawing.
- (14)(a) A person may not apply in the drawing for both a general buck deer preference point and a general buck deer permit.
- (b) A person may not apply for a preference point if that person is ineligible to apply for a permit.
- (c) Preference points shall not be used when obtaining remaining permits after the big game drawing.
- (15) Preference points are forfeited if a person obtains a general buck deer permit through the drawing.
 - (16)(a) Preference points are not transferable.
- (b) Preference points shall only be applied to the big game drawing.
- (17) Preference points are averaged and rounded down when two or more applicants apply together on a group application.
- (18)(a) Preference points are tracked using social security numbers or division-issued hunter identification numbers.
- (b) The Division shall retain paper copies of applications for three years prior to the current big game drawing for the purpose of researching preference point records.
- (c) The Division shall retain electronic copies of applications from 2000 to the current big game drawing for the purpose of researching preference point records.
 - (d) Any requests for researching an applicant's preference

point records must be requested within the time frames provided in Subsection (b) and (c).

- (e) Any preference points on the Division's records shall not be researched beyond the time frames provided in Subsection (b) and (c).
- (f) The Division may eliminate any preference points earned that are obtained by fraud or misrepresentation.

R657-5-38. General Archery Buck Deer Hunt.

- (1) The dates of the general archery buck deer hunt are provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.
- (2) A person who has obtained a general archery buck deer permit, or any other permit which allows that person to hunt general archery buck deer may use archery equipment to take:
- (a) one buck deer statewide within a general hunt area, except premium limited entry deer, limited entry deer and cooperative wildlife management unit deer areas and specific hunt areas published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game; or
- (b) a deer of hunter's choice within the Wasatch Front or Uintah Basin extended archery area as provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.
- (3)(a) A person who obtains a general archery buck deer permit, or any other permit which allows that person to hunt general archery buck deer, may hunt within the Wasatch Front, Ogden or the Uintah Basin extended archery areas during the extended archery area seasons as provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game and as provided in Subsection (b).
- (b) A person must complete an extended archery ethics course annually to hunt the Wasatch Front, Ogden or Uintah Basin extended archery areas during the extended archery season.
- (c) A person must possess the extended archery ethics course certificate of completion while hunting.
- (4) A person who has obtained a general archery deer permit may not hunt during any other deer hunt or obtain any other deer permit, except antlerless deer.
- (5)(a) Any person 18 years of age or younger on the opening day of the general archery buck deer season, may hunt the statewide general archery, or by region the general season and general muzzleloader deer seasons, using the appropriate equipment as provided in Sections R657-5-8 through R657-5-12, respectively, for each respective season, provided that person obtains a general season or general muzzleloader deer permit for a specified region.
- (b) If a person 18 years of age or younger purchases a general archery buck deer permit, that person may only hunt during the statewide general archery deer season.
- (6) Hunter orange material must be worn if a centerfire rifle hunt is also in progress in the same area as provided in Section 23-20-31. Archers are cautioned to study rifle hunt tables and identify these areas described in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

R657-5-39. General Season Buck Deer Hunt.

- (1) The dates for the general season buck deer hunt are provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.
- (2) A person who has obtained a general season buck permit may use any legal weapon to take one buck deer within the hunt area specified on the permit, except premium limited entry deer, limited entry deer and cooperative wildlife management unit deer areas and specific hunt areas published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the

Wildlife Board for taking big game.

- (3) A person who has obtained a general season buck deer permit may not hunt during any other deer hunt or obtain any other deer permit, except:
 - (a) antlerless deer; and
- (b) any person 18 years of age or younger on the opening day of the general archery buck deer season, may hunt the general archery, general season and general muzzleloader deer seasons, using the appropriate equipment as provided in Sections R657-5-8 through R657-5-12, respectively, for each respective season.
- (i) If a person 18 years of age or younger purchases a general archery buck deer permit, that person may only hunt during the statewide general archery deer season.

R657-5-40. General Muzzleloader Buck Deer Hunt.

- (1) The dates for the general muzzleloader buck deer hunt are provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.
- (2) A person who has obtained a general muzzleloader buck permit may use a muzzleloader to take one buck deer within the general hunt area specified on the permit, except premium limited entry deer, limited entry deer and cooperative wildlife management unit deer areas and specific hunt areas published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.
- (3) A person who has obtained a general muzzleloader deer permit may not hunt during any other deer hunt or obtain any other deer permit, except:
 - (a) antlerless deer; and
- (b) any person 18 years of age or younger on the opening day of the general archery buck deer season, may hunt the general archery, general season and general muzzleloader deer seasons, using the appropriate equipment as provided in Sections R657-5-8 through R657-5-12, respectively, for each respective season.
- (i) If a person 18 years of age or younger purchases a general archery buck deer permit, that person may only hunt during the statewide general archery deer season.
- (4) Hunter orange material must be worn if a centerfire rifle hunt is also in progress in the same area as provided in Section 23-20-31. Muzzleloader hunters are cautioned to study the rifle hunt tables to identify these areas described in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

R657-5-41. Limited Entry Buck Deer Hunts.

- (1) To hunt in a premium limited entry or limited entry area, hunters must obtain the respective limited entry buck permit. Limited entry areas are not open to general archery buck, general season buck, or general muzzleloader buck hunting, except as specified in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.
- (2) A limited entry buck deer permit allows a person using the prescribed legal weapon, to take one buck deer within the area and season specified on the permit, except deer cooperative wildlife management units located within the limited entry unit.
- (3)(a) A person who has obtained a limited entry buck deer permit must report hunt information within 30 days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a buck deer.
- (b) Limited entry buck deer permit holders will receive information on reporting the hunt information with the permit.
- (c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-alifetime, premium limited entry, limited entry, or Cooperative Wildlife Management Unit permit or bonus points in the following year.

(4) A person who has obtained a limited entry buck permit may not hunt during any other deer hunt or obtain any other deer permit, except antlerless deer.

R657-5-42. Antlerless Deer Hunts.

- (1) To hunt an antlerless deer, a hunter must obtain an antlerless deer permit.
- (2)(a) An antlerless deer permit allows a person to take one antlerless deer, per antlerless deer tag, using any legal weapon within the area and season as specified on the permit and in the antlerless addendum.
- (b) A person may not hunt on any cooperative wildlife management units unless that person obtains an antlerless deer permit for a cooperative wildlife management unit as specified on the permit.
- (3) A person who has obtained an antlerless deer permit may not hunt during any other antlerless deer hunt or obtain any other antlerless deer permit.
- (4)(a) A person who obtains an antlerless deer permit and any of the permits listed in Subsection (b) may use the antlerless deer permit during the established season for the antlerless deer permit and during the established season for the permits listed in Subsection (b) provided:
 - (i) the permits are both valid for the same area;
- (ii) the appropriate archery equipment is used if hunting with an archery permit;
- (iii) the appropriate muzzleloader equipment is used if hunting with a muzzleloader permit.
 - (b)(i) General archery deer;
 - (ii) general muzzleloader deer;
 - (iii) limited entry archery deer; or
 - (iv) limited entry muzzleloader deer.

R657-5-43. General Archery Elk Hunt.

- (1) The dates of the general archery elk hunt are provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.
- (2)(a) A person who has obtained a general archery elk permit may use archery equipment to take:
- (i) one elk of hunter's choice on a general any bull elk unit, except on elk cooperative wildlife management units;
- (ii) an antlerless elk or spike bull elk on a general spike bull elk unit, except on elk cooperative wildlife management units and the Plateau, Fish Lake-Thousand Lakes;
- (iii) only a spike bull elk on the Plateau, Fish Lake-Thousand Lakes; or
- (iv) one elk of hunter's choice on the Wasatch Front or Uintah Basin extended archery areas as provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.
- (3)(a) A person who obtains a general archery elk permit may hunt within the Wasatch Front, Uintah Basin, Nebo-West Desert, and Sanpete Valley extended archery areas during the extended archery area seasons as provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game and as provided in Subsection (b).
- (b) A person must complete an extended archery ethics course annually to hunt the extended archery areas during the extended archery season.
- (c) A person must possess the extended archery ethics course certificate of completion while hunting.
- (4) A person who has obtained an archery elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsection R657-5-48(3).
- (5) Hunter orange material must be worn if a centerfire rifle hunt is also in progress in the same area as provided in Section 23-20-31. Archers are cautioned to study the rifle hunt tables to identify these areas described in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for

taking big game.

R657-5-44. General Season Bull Elk Hunt.

- (1) The dates for the general season bull elk hunt are provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game within general season elk units, except in the following areas:
 - (a) Salt Lake County south of I-80 and east of I-15; and
 - (b) elk cooperative wildlife management units.
- (2)(a) A person may purchase either a spike bull permit or an any bull permit.
- (b) A person who has obtained a general season spike bull elk permit may take a spike bull elk on a general season spike bull elk unit. Any bull units are closed to spike bull permittees.
- (c) A person who has obtained a general season any bull elk permit may take any bull elk, including a spike bull elk on a general season any bull elk unit. Spike bull units are closed to any bull permittees.
- (3) A person who has obtained a general season bull elk permit may use any legal weapon to take a spike bull or any bull elk as specified on the permit.
- (4) A person who has obtained a general season bull elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsection R657-5-48(3).

R657-5-45. General Muzzleloader Elk Hunt.

- (1) The dates of the general muzzleloader elk hunt are provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game within the general season elk units, except in the following closed areas:
 - (a) Salt Lake County south of I-80 and east of I-15; and
 - (b) elk cooperative wildlife management units.
- (2)(a) General muzzleloader elk hunters may purchase either a spike bull elk permit or an any bull elk permit.
- (b) A person who has obtained a general muzzleloader spike bull elk permit may take a spike bull elk on an any general spike bull elk unit. Any bull units are closed to spike bull muzzleloader permittees.
- (c) A person who has obtained a general muzzleloader any bull elk permit may take any bull elk on an any bull elk unit. Spike bull units are closed to any bull muzzleloader permittees.
- (3) A person who has obtained a general muzzleloader elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsection R657-5-48(3).

R657-5-46. Youth General Any Bull Elk Hunt.

- (1)(a) For purposes of this section "youth" means any person 18 years of age or younger on the opening day of the youth any bull elk season published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.
- (b) A youth may apply for or obtain a youth any bull elk permit.
- (c) A youth may only obtain a youth any bull elk permit once during their youth.
- (2) The youth any bull elk hunting season and areas are published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.
- (3)(a) A youth who has obtained a youth general any bull elk permit may take any bull elk, including a spike bull elk, on a general any bull elk unit. Spike bull elk units are closed to youth general any bull elk permittees.
- (b) A youth who has obtained a youth general any bull elk permit may use any legal weapon to take any bull elk as specified on the permit.
 - (4) A youth who has obtained a youth general any bull elk

permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Section R657-5-48(3).

(5) Preference points shall not be awarded or utilized when applying for, or in obtaining, youth general any bull elk permits.

R657-5-47. Limited Entry Bull Elk Hunt.

- To hunt in a limited entry bull elk area, a hunter must obtain a limited entry elk permit.
- (2) A limited entry bull elk permit allows a person, using the prescribed legal weapon, to take one bull elk within the area and season specified on the permit, except elk cooperative wildlife management units located within a limited entry unit. Spike bull elk restrictions do not apply to limited entry elk permittees.
- (3)(a) A person who has obtained a limited entry bull elk permit must report hunt information within 30 days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a bull elk.
- (b) Limited entry bull elk permit holders will receive information on reporting the hunt information with the permit.
- (c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or Cooperative Wildlife Management Unit permit or bonus points in the following year.
- (4) A person who has obtained a limited entry bull elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsections (4)(a) and R657-5-48(3).

R657-5-48. Antlerless Elk Hunts.

- (1) To hunt an antlerless elk, a hunter must obtain an antlerless elk permit.
- (2)(a) An antlerless elk permit allows a person to take one antlerless elk using any legal weapon within the area and season as specified on the permit and in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.
- (b) A person may not hunt on any cooperative wildlife management units unless that person obtains an antlerless elk permit for a cooperative wildlife management unit as specified on the permit.
- (3)(a) A person may obtain two elk permits each year, provided one or both of the elk permits is an antlerless elk permit.
- (b) For the purposes of obtaining two elk permits, a hunter's choice elk permit may not be considered an antlerless elk permit.
- (4)(a) A person who obtains an antlerless elk permit and any of the permits listed in Subsection (b) may use the antlerless elk permit during the established season for the antlerless elk permit and during the established season for the permits listed in Subsection (b) provided:
 - (i) the permits are both valid for the same area;
- (ii) the appropriate archery equipment is used if hunting with an archery permit;
- (iii) the appropriate muzzleloader equipment is used if hunting with a muzzleloader permit.
 - (b)(i) General archery deer;
 - (ii) general archery elk;
 - (iii) general muzzleloader deer;
 - (iv) general muzzleloader elk;
 - (v) limited entry archery deer;
 - (vi) limited entry archery elk;
 - (vii) limited entry muzzleloader deer; or
 - (viii) limited entry muzzleloader elk.

R657-5-49. Buck Pronghorn Hunts.

(1) To hunt buck pronghorn, a hunter must obtain a buck

pronghorn permit.

- (2) A person who has obtained a buck pronghorn permit may not obtain any other pronghorn permit or hunt during any other pronghorn hunt.
- (3)(a) A person who has obtained a limited entry buck pronghorn permit must report hunt information within 30 days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a buck pronghorn.
- (b) Limited entry buck pronghorn permit holders will receive information on reporting the hunt information with the permit.
- (c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or Cooperative Wildlife Management Unit permit or bonus points in the following year.
- (4) A buck pronghorn permit allows a person using any legal weapon to take one buck pronghorn within the area and season specified on the permit, except during the buck pronghorn archery hunt, only archery equipment may be used.

R657-5-50. Doe Pronghorn Hunts.

- (1) To hunt a doe pronghorn, a hunter must obtain a doe pronghorn permit.
- (2)(a) A doe pronghorn permit allows a person to take one doe pronghorn using any legal weapon within the area and season as specified on the permit and in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.
- (b) A person may not hunt on any cooperative wildlife management units unless that person obtains an antlerless moose permit for a cooperative wildlife management unit as specified on the permit.
- (3) A person who has obtained a doe pronghorn permit may not hunt during any other pronghorn hunt or obtain any other pronghorn permit.

R657-5-51. Antlerless Moose Hunts.

- (1) To hunt an antlerless moose, a hunter must obtain an antlerless moose permit.
- (2)(a) An antlerless moose permit allows a person to take one antlerless moose using any legal weapon within the area and season as specified on the permit and in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.
- (b) A person may not hunt on any cooperative wildlife management unit unless that person obtains an antlerless moose cooperative wildlife management unit as specified on the permit.
- (3) A person who has obtained an antlerless moose permit may not hunt during any other moose hunt or obtain any other moose permit.

R657-5-52. Bull Moose Hunts.

- (1) To hunt bull moose, a hunter must obtain a bull moose permit.
- (2) A person who has obtained a bull moose permit may not obtain any other moose permit or hunt during any other moose hunt.
- (3) A bull moose permit allows a person using any legal weapon to take one bull moose within the area and season specified on the permit, except in bull moose cooperative wildlife management units located within a limited entry unit.
- (4)(a) A person who has obtained a bull moose permit must report hunt information within 30 days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a bull moose.
- (b) Bull moose permit holders will receive information on reporting the hunt information with the permit.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or Cooperative Wildlife Management Unit permit or bonus points in the

R657-5-53. Bison Hunts.

following year.

- (1) To hunt bison, a hunter must obtain a bison permit.
- (2) A person who has obtained a bison permit may not obtain any other bison permit or hunt during any other bison bunt
- (3) The bison permit allows a person using any legal weapon to take a bison within the area and season as specified on the permit.
- (4)(a) An orientation course is required for bison hunters who draw a an Antelope Island bison permit. Hunters shall be notified of the orientation date, time and location.
- (b) The Antelope Island hunt is administered by the Division of Parks and Recreation.
- (5) An orientation course is required for bison hunters who draw Henry Mountain cow bison permits. Hunters will be notified of the orientation date, time and location.
- (6)(a) A person who has obtained a bison permit must report hunt information within 30 days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a bison.
- (b) Bison permit holders will receive information on reporting the hunt information with the permit.
- (c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or Cooperative Wildlife Management Unit permit or bonus points in the following year.

R657-5-54. Desert Bighorn and Rocky Mountain Bighorn Sheep Hunts.

- (1) To hunt desert bighorn sheep or Rocky Mountain bighorn sheep, a hunter must obtain the respective permit.
- (2) A person who has obtained a desert bighorn sheep or Rocky Mountain bighorn sheep permit may not obtain any other desert bighorn sheep or Rocky Mountain bighorn sheep permit or hunt during any other desert bighorn sheep or Rocky Mountain bighorn sheep hunt.
- (3) Desert bighorn sheep and Rocky Mountain big horn sheep permits are considered separate once-in-a-lifetime hunting opportunities.
- (4)(a) The desert bighorn sheep permit allows a person using any legal weapon to take one desert bighorn ram within the area and season specified on the permit.
- (b) The Rocky Mountain sheep permit allows a person using any legal weapon to take one Rocky Mountain bighorn ram within the area and season specified on the permit.
- (5) The permittee may attend a hunter orientation course. The division provides each permittee with the time and location of the course.
- (6) All bighorn sheep hunters are encouraged to have a spotting scope with a minimum of 15 power while hunting bighorn sheep. Any ram may be legally taken, however, permittees are encouraged to take a mature ram. The terrain inhabited by bighorn sheep is extremely rugged, making this hunt extremely strenuous.
- (7) Successful hunters must deliver the horns of the bighorn sheep to a division office within 72 hours of leaving the hunting area. A numbered seal will be permanently affixed to the horn indicating legal harvest.
- (8)(a) A person who has obtained a desert bighorn sheep or Rocky Mountain bighorn sheep permit must report hunt information within 30 days after the end of the hunting season, whether the permit holder was successful or unsuccessful in

harvesting a desert bighorn sheep or Rocky Mountain bighorn sheep.

- (b) Desert bighorn sheep or Rocky Mountain bighorn sheep permit holders will receive information on reporting the hunt information with the permit.
- (c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or Cooperative Wildlife Management Unit permit or bonus points in the following year.

R657-5-55. Rocky Mountain Goat Hunts.

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- (1) To hunt Rocky Mountain goat, a hunter must obtain a Rocky Mountain goat permit.
- (2) A person who has obtained a Rocky Mountain goat permit may not obtain any other Rocky Mountain goat permit or hunt during any other Rocky Mountain goat hunt.
- (3) Any goat may be legally taken on a hunter's choice permit, however, permittees are encouraged to take a mature goat. A mature goat is a goat older than two years of age, as determined by counting the annual rings on the horn.
- (4) The goat permit allows a person using any legal weapon to take one goat within the area and season specified on the permit.
- (5) All goat hunters are encouraged to have a spotting scope with a minimum of 15 power while hunting goats. The terrain inhabited by Rocky Mountain goat is extremely rugged making this hunt extremely strenuous. The goat's pelage may be higher quality later in the hunting season.
- (6) An orientation course is required for Rocky Mountain goat hunters who draw female only goat permits. Hunters will be notified of the orientation date, time and location.
- (7)(a) A person who has obtained a Rocky Mountain goat permit must report hunt information within 30 days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a Rocky Mountain goat.
- (b) Rocky Mountain goat permit holders will receive information on reporting the hunt information with the permit.
- (c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or Cooperative Wildlife Management Unit permit or bonus points in the following year.

R657-5-56. Depredation Hunter Pool Permits.

When deer, elk or pronghorn are causing damage, antlerless control hunts not listed in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game may be held as provided in Rule R657-44. These hunts occur on short notice, involve small areas, and are limited to only a few hunters.

R657-5-57. Antlerless Application - Deadlines.

- (1) Applications are available from license agents, division offices, and through the division's Internet address.
- (2) Residents may apply for, and draw the following permits, except as provided in Subsection (4):
 - (a) antlerless deer;
 - (b) antlerless elk;
 - (c) doe pronghorn; and
 - (d) antlerless moose.
- (3) Nonresidents may apply in the drawing for, and draw the following permits, except as provided in Subsection (4):
 - (a) antlerless deer;
 - (b) antlerless elk;
 - (c) doe pronghorn; and
- (d) antlerless moose, if permits are available during the current year.
 - (4) Any person who has obtained a pronghorn permit, or

- a moose permit may not apply for a doe pronghorn permit or antlerless moose permit, respectively, except as provided in Section R657-5-61.
- (5) A person may not submit more than one application in the initial drawing per each species as provided in Subsections (2) and (3).
- (6) Only a resident may apply for or obtain a resident permit and only a nonresident may apply for or obtain a nonresident permit, except as provided in Subsections R657-5-59(3) and R657-5-61(4).
- (7)(a) Applications must be mailed by the date prescribed in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game. Applications filled out incorrectly or received later than the date prescribed in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game may be rejected.
- (b) If an error is found on an application, the applicant may be contacted for correction.
- (8)(a) Late applications, received by the date published in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation, will not be considered in the drawing, but will be processed for the purpose of entering data into the division's draw data base to provide:
 - (i) future preprinted applications;
- (ii) notification by mail of late application and other draw opportunities; and
 - (iii) re-evaluation of division or third-party errors.
- (b) The \$5 handling fee will be used to process the late application. Any permit fees submitted with the application will be refunded.
- (c) Late applications received after the date published in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation shall not be processed and shall be returned to the applicant.
- (9) Any person who applies for a hunt that occurs on private land is responsible for obtaining written permission from the landowner to access the property. To avoid disappointment and wasting the permit and fee if access is not obtained, hunters should get written permission before applying. The division does not guarantee access and does not have the names of landowners where hunts occur.
- (10) To apply for a resident permit, a person must establish residency at the time of purchase.
- (11) The posting date of the drawing shall be considered the purchase date of a permit.

R657-5-58. Fees for Antlerless Applications.

Each application must include the permit fee and a nonrefundable handling fee for each species applied for, except when applying with a credit or debit card, the permit fees and handling fees must be paid pursuant to Rule R657-42-8(5).

R657-5-59. Antlerless Big Game Drawing.

- (1) The antlerless drawing results are posted at the Lee Kay Center, Cache Valley Hunter Education Center, division offices and on the division Internet address on the date published in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.
- (2) Permits are drawn in the order listed in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.
- (3) If permits remain after all choices have been evaluated separately for residents and nonresidents, a second evaluation will be done allowing cross-over usage of remaining resident and nonresident permit quotas.

R657-5-60. Antlerless Application Refunds.

- (1)(a) Unsuccessful applicants, who applied in the initial drawing and who applied with a check or money order will receive a refund in September.
- (b) Unsuccessful applicants, who applied for remaining permits and who applied with a check or money order will receive a refund in October.
- (2)(a) Unsuccessful applicants, who applied with a credit or debit card, will not be charged for a permit.
- (b) Unsuccessful applicants, who applied as a group, will receive an equally distributed refund of money remaining after the successful applicants' permits are paid for in accordance with Section R657-5-26(6).
 - (3) The handling fees are nonrefundable.

R657-5-61. Drawing for Remaining Antlerless Permits and Over-the-counter Permit Sales After the Antlerless Drawings.

- (1)(a) The list of remaining permits will be available by the date provided in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.
- (b) Remaining permits for hunts with season dates ending prior to the posting date of the remaining antlerless permit drawing, shall not be offered in the remaining drawing.
- (2) Residents and nonresidents may apply for, and draw any of the following remaining permits, except as provided in Subsection (3):
 - (a) antlerless deer;
 - (b) antlerless elk;
 - (c) doe pronghorn; and
 - (d) antlerless moose.
 - (3) Any person who has obtained:
- (a) an antlerless deer permit may not apply for an antlerless deer permit;
- (b) two elk permits may not apply for an antlerless elk permit;
- (c) a pronghorn permit may not apply for a doe pronghorn permit; or
- (d) a moose permit may not apply for an antlerless moose permit.
- (4) Residents and nonresidents may apply for any remaining permits.
- (5) The same application form used for the antlerless drawing must be used when applying for remaining permits. The handling fees are nonrefundable.
- (6) Applications for remaining permits must be mailed by the date prescribed in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game. Applications filled out incorrectly or received later than the date prescribed in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game may be rejected.
- (7) Applicants who apply for remaining permits will not be provided an opportunity to correct a rejected or invalid application on the drawing for remaining antlerless permits.
- (8) The drawing results for remaining antlerless permits will be posted at the Lee Kay Center, Cache Valley Hunter Education Center, division offices and on the division Internet address on the date published in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.
- (9) Permits remaining after both drawings will be sold over-the-counter, in person, or through the mail, on a first-come, first-served basis only at the Salt Lake Division office beginning on the date prescribed in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

R657-5-62. Application Withdrawal or Amendment.

- (1)(a) An applicant may withdraw their application for premium limited entry, limited entry, cooperative wildlife management unit and once-in-a-lifetime, and general buck deer and general muzzleloader elk permits from the big game drawing, or antlerless drawing by requesting such in writing by the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation or Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.
- (b) The applicant must send their notarized signature with a statement requesting that their application be withdrawn to the Salt Lake Division office.
 - (c) Handling fees will not be refunded.
- (2)(a) An applicant may amend their application for the premium limited entry, limited entry, cooperative wildlife management unit and once-in-a-lifetime, and general buck deer and general muzzleloader elk permits from the big game drawing, or antlerless drawing by requesting such in writing by the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation or Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.
- (b) The applicant must send their notarized signature with a statement requesting that their application be amended to the Salt Lake Division office.
- (c) The applicant must identify in their statement the requested amendment to their application.
 - (d) Handling fees will not be refunded.
- (e) An amendment may cause rejection if the amendment causes an error on the application.

R657-5-63. Special Hunts.

- (1)(a) In the event that wildlife management objectives are not being met for once-in-a-lifetime, premium limited entry, or limited entry species, the division may recommend that the Wildlife Board authorize a special hunt for a specific species.
- (b) The division will only utilize Subsection (1)(a) if the Bucks, Bulls and Once-In-A-Lifetime Proclamation and Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game has been published and the Bucks, Bulls and Once-In-A-Lifetime and Antlerless drawings have been completed.
- (2) The special hunt season dates, areas, number of permits, methods of take, requirements and other administrative details shall be provided in an addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation or Antlerless Addendum of the Wildlife Board for taking big game.
- (3) Permits will be allocated through a special drawing for the pertinent species.

R657-5-64. Special Hunt Application - Deadlines.

- (1) Applications are available from license agents and division offices.
 - (2)(a) Residents and nonresidents may apply.
- (b) Any person who was unsuccessful in the Bucks, Bulls and Once-In-A-Lifetime or Antlerless drawing may apply. However, any person who has obtained a permit may not apply, unless otherwise provided in this rule and the Bucks, Bulls and Once-In-A-Lifetime Proclamation or Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.
- (3)(a) Applications must be mailed by the date prescribed in the addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation or Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game. Applications filled out incorrectly or received later than the date prescribed in the addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation or Antlerless

- Addendum of the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game may be rejected. Late applications will be returned unopened.
- (b) If an error is found on an application, the applicant may be contacted for correction.
- (4) Bonus points will be used in the special hunt drawings to improve odds for drawing permits as provided in Section R657-5-37. However, bonus points will not be awarded for unsuccessful applications in the special hunt drawings.
- (5) Any person who obtains a special hunt permit is subject to all rules and regulations provided in this rule, the Bucks, Bulls and Once-In-A-Lifetime Proclamation and Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game, unless otherwise provided in Sections R657-5-63 through R657-5-68.

R657-5-65. Fees for Special Hunt Applications.

(1) Each application must include:

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- (a) the permit fee for the species applied for; and
- (b) a \$5 nonrefundable handling fee.
- (2)(a) Personal checks, money orders, cashier's checks and credit or debit cards are accepted from residents.
- (b) Money orders, cashier's checks and credit or debit cards are accepted from nonresidents. Personal checks are not accepted from nonresidents.
- (3)(a) Credit or debit cards must be valid at least 30 days after the drawing results are posted.
- (b) If applicants are applying as a group, all fees for all applicants in that group must be charged to one credit or debit card.
- (c) Handling fees are charged to the credit or debit card when the application is processed. Permit fees are charged after the drawing, if successful.
- (d) Payments to correct an invalid or refused credit or debit card must be made with a cashier's check or money order for the full amount of the application fees plus any permits requested.
- (4) An application is voidable if the check is returned unpaid from the bank or the credit or debit card is invalid or refused.

R657-5-66. Special Hunt Drawing.

- (1) The special hunt drawing results are posted at the Lee Kay Center, Cache Valley Hunter Education Center and division offices on the date published in the addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation or Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.
- (2) If permits remain after all choices have been evaluated separately for residents and nonresidents, a second evaluation will be done allowing cross-over usage of remaining resident and nonresident permit quotas.

R657-5-67. Special Hunt Application Refunds.

- (1) Unsuccessful applicants, who applied on the initial drawing and who applied with a check or money order will receive a refund within six weeks after posting of the drawing results.
- (2) Unsuccessful applicants, who applied with a credit or debit card, will not be charged for a permit.
 - (3) The handling fees are nonrefundable.

R657-5-68. Permits Remaining After the Special Hunt Drawing.

Permits remaining after the special hunt drawing may be sold by mail or on a first-come, first-served basis as provided in the addendum to the Bucks, Bulls and Once-In-A-Lifetime or

Antlerless Addendum of the Wildlife Board for taking big game. These permits may be purchased by either residents or nonresidents.

R657-5-69. Carcass Importation.

- (1) It is unlawful to import dead elk, mule deer, or whitetailed deer or their parts from the areas of any state, province, game management unit, equivalent wildlife management unit, or county, which has deer or elk diagnosed with Chronic Wasting Disease, except the following portions of the carcass:
- (a) meat that is cut and wrapped either commercially or privately;
- (b) quarters or other portion of meat with no part of the spinal column or head attached;
 - (c) meat that is boned out;
 - (d) hides with no heads attached;
- (e) skull plates with antlers attached that have been cleaned of all meat and tissue;
 - (f) antlers with no meat or tissue attached;
- (g) upper canine teeth, also known as buglers, whistlers, or ivories: or
 - (h) finished taxidermy heads.
- (2)(a) The affected states, provinces, game management units, equivalent wildlife management units, or counties, which have deer or elk diagnosed with Chronic Wasting Disease shall be available at division offices and through the division's Internet address.
- (b) Importation of harvested elk, mule deer or white-tailed deer or their parts from the affected areas are hereby restricted pursuant to Subsection (1).
- (3) Nonresidents of Utah transporting harvested elk, mule deer, or white-tailed deer from the affected areas are exempt if they:
- (a) do not leave any part of the harvested animal in Utah and do not stay more than 24 hours in the state of Utah;
 - (b) do not have their deer or elk processed in Utah; or
 - (c) do not leave any parts of the carcass in Utah.

R657-5-70. Chronic Wasting Disease - Infected Animals.

- (1) Any person who under the authority of a permit issued by the division legally takes a deer or elk that is later confirmed to be infected with Chronic Wasting Disease may:
 - (a) retain the entire carcass of the animal;
- (b) retain any parts of the carcass, including antlers, and surrender the remainder to the division for proper disposal; or
- (c) surrender all portions of the carcass in their actual or constructive possession, including antlers, to the division and receive a free new permit the following year for the same hunt.
- (2) The new permit issued pursuant to Subsection (1)(c) shall be for the same species, sex, weapon type, unit, region, and otherwise subject to all the restrictions and conditions imposed on the original permit, except season dates for the permit shall follow the proclamation of the Wildlife Board for taking big game published in the year the new permit is valid.
- (3) Notwithstanding other rules to the contrary, private landowners and landowner associations may refuse access to private property to persons possessing new permits issued under Subsection (1)(c).

KEY: wildlife, game laws, big game seasons January 21, 2004 Notice of Continuation November 30, 2000

23-14-18 23-14-19

23-16-5

23-16-6

R657-13. Taking Fish and Crayfish.

R657. Natural Resources, Wildlife Resources.

R657-13-1. Purpose and Authority.

- (1) Under authority of Sections 23-14-18 and 23-14-19 of the Utah Code, 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 23-13-2.
- (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.
- "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.
- (c) "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.
- (d) "Bag limit" means the maximum limit, in number or amount, of protected wildlife that one person may legally take during one day.
- (e) "Bait" means a digestible substance, including 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.
- (f) "Chumming" means dislodging or depositing in the water any substance not attached to a hook, line, or trap, which may attract fish.
- "Fishing contest" means any organized event or (g) gathering where anglers are awarded prizes, points or money for their catch.
- (h) "Float tube" means an inflatable floating device less than 48 inches in any dimension, capable of supporting one person.
- (i) "Gaff" means a spear or hook, with or without a handle, used for holding or lifting fish.
- (j) "Game fish" means Bonneville cisco; bluegill; bullhead; channel catfish; crappie; green sunfish; largemouth bass; northern pike; Sacramento perch; smallmouth bass; striped bass, trout (rainbow, albino, cutthroat, brown, golden, brook, lake/mackinaw, kokanee salmon, and grayling or any hybrid of the foregoing); tiger muskellunge; walleye; white bass; whitefish; wiper; and yellow perch.
- (k) "Handline" means a piece of line held in the hand and not attached to a pole used for taking fish or crayfish.
- (1) "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.
- (m) "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.
 - (n) "Length measurement" means the greatest length

- between the tip of the head or snout and the tip of the caudal (tail) fin when the fin rays are squeezed together. Measurement is taken in a straight line and not over the curve of the body.
- (o) "Motor" means an electric or internal combustion engine.
- (p) "Nongame fish" means species of fish not listed as game fish.
- (q) "Possession limit" means, for purposes of this rule only, one bag limit, including fish at home, in a cooler, camper, tent, freezer, or any other place of storage.
- (r) "Protected aquatic wildlife" means, for purposes of this rule only, all species of fish, crustaceans, or amphibians.
- (s) "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.
- (t) "Second pole" means fishing with one additional rod, pole, tipup, handline, or trollboard that has a single line with legal hooks, bait, or lures attached to it and is held in the hands of, or within sight of the person fishing.
- (u) "Setline" means a line anchored to a non-moving object and not attached to a fishing pole.
- (v) "Single hook" means a hook or multiple hooks having a common shank.
- (w) "Snagging" or "gaffing" means to take a fish in a manner that the fish does not take the hook voluntarily into its mouth.
- "Tributary" means a stream flowing into a larger (x) stream, lake, or reservoir.
- (y)(i) "Trout" means species of the family Salmonidae, including rainbow, albino, cutthroat, brown, golden, brook, tiger, lake (mackinaw), splake, kokanee salmon, and grayling or any hybrid of the foregoing.
 - (ii) "Trout" does not include whitefish or Bonneville cisco.
- (z) "Underwater Spearfishing" means, fishing by a person swimming or diving and using a mechanical device held in the hand which uses a rubberband, spring, or pneumatic power to propel a spear to take fish.

R657-13-3. Fishing License Requirements and Free Fishing

- (1) A license is not required on free fishing day, the second Saturday of June, annually. All other laws and rules apply.
- (2) A person 14 years of age or older shall purchase a fishing license before engaging in any regulated fishing activity pursuant to Section 23-19-18.
- (3) A person under 14 years of age may fish without a license and take a full bag and possession limit.

R657-13-4. Fishing Contests.

- (1)(a) A certificate of registration from the division is required for fishing contests:
 - (i) with 50 or more contestants; or
 - (ii) any fishing contest offering \$500 or more in prizes.
- (b)(i) Application for certificates of registration are available from division offices and must be submitted at least 60 days prior to the date of the fishing contest.
- (ii) The division may take public comment before issuing a certificate of registration if, in the opinion of the division, the proposed fishing contest has potential impacts to the public or substantially impacts a public fishery.
- (c) A certificate of registration may cover more than one fishing contest.
- (d) The division may deny issuing a certificate of registration or impose stipulations or conditions on the issuance of the certificate of registration in order to achieve a management objective, to adequately protect a fishery or to offset impacts on a fishery or heavy uses of other public

resources.

- (e) A report must be filed with the division within 30 days after the fishing contest is held. The information required shall be listed on the certificate of registration.
- (f)(i) Only one fishing contest may be held on a given water at any time. Each fishing contest is restricted to being held on only one water at a time.
- (ii) Fishing contests may not be held on a holiday weekend, state or federal holiday, or free fishing day, except as provided in Subsection (g).
- (g) A fishing contest may be held on free fishing day and a certificate of registration is not required if:
- (i) contestants are limited to persons 13 years of age or vounger; and
 - (ii) less than \$500 are offered in prizes.
- (2) Fishing contests conducted for cold water species of fish such as trout and salmon may not be conducted:
- (a) if the fishing contest offers \$500 or more in total prizes, except on Flaming Gorge Reservoir there is no limit to the amount that may be offered in prizes;
- (b) those waters where the Wildlife Board has imposed special harvest rules as provided in the annual proclamation of the Wildlife Board for taking fish and crayfish.
- (3) Contests for warm water species of fish shall be conducted as follows:
 - (a) all contests as provided in Subsection (1)(a) must be:
- (i) authorized by the division through the issuance of a certificate of registration; and
- (ii) carried out consistent with any requirements imposed by the division;
- (b) Fish brought in to be weighed or measured may not be released within 1/2 mile of a marina, boat ramp, or other weighin site and must be released back into suitable habitat for that species; and
- (c) If tournament rules allow larger or smaller fish to be entered in the contest than the size allowed for possession under the proclamation of the Wildlife Board for taking fish and crayfish, the fish must be weighed or measured immediately and released where they were caught.

R657-13-5. Interstate Waters.

- (1) Lake Powell and Flaming Gorge Reservoir:
- (a) The purchase of a reciprocal fishing stamp allows a person to fish across state boundaries of interstate waters.
- (b) Reciprocal fishing stamps are offered for Lake Powell and Flaming Gorge Reservoir.
- (c) Any person qualifying as an Arizona resident and having in their possession a valid Arizona resident fishing license and a Utah reciprocal fishing stamp for Lake Powell, is permitted to fish within the Utah boundaries of Lake Powell.
- (d) Any person possessing a valid Wyoming fishing license and a Utah reciprocal fishing stamp for Flaming Gorge is permitted to fish within the Utah waters of Flaming Gorge Reservoir.
- (e) Utah residents may obtain reciprocal fishing stamps by contacting the state of Arizona for Lake Powell, and the state of Wyoming for Flaming Gorge.
- (f) Nonresidents may obtain reciprocal fishing stamps from division offices and selected license agents.
 - (g) The reciprocal fishing stamp must be:
- (i) used in conjunction with a valid unexpired fishing or combination license from a reciprocating state;
- (ii) signed across the face by the holder as the holder's name appears on the valid unexpired fishing or combination license from the reciprocating state; and
- (iii) attached to the fishing or combination license from the reciprocating state.
- (h) Reciprocal fishing stamps are valid on a calendar year basis.

- (i) Anglers are subject to the laws and rules of the state in which they are fishing.
- (j) Only one bag limit may be taken and held in possession even if licensed in both states.
 - (2) Bear Lake

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- (a) The holder of a valid Utah or Idaho fishing or combination license may fish within both the Utah and Idaho boundaries of Bear Lake.
- (b) Only one bag limit may be taken and held in possession even if licensed in both states.

R657-13-6. Angling.

- (1) While angling, the angler shall be within sight (not to exceed 100 feet) of the equipment being used at all times, except setlines.
- (2) Angling with more than one line is unlawful, except while fishing for crayfish without the use of fish hooks and on selected waters with a valid second pole permit. A second pole permit is not required when fishing for crayfish with lines without hooks.
 - (3) No artificial lure may have more than three hooks.
- (4) No line may have attached to it more than two baited hooks, two artificial flies, or two artificial lures, except for a setline or while fishing at Flaming Gorge Reservoir.
- (5) When angling through the ice, the hole may not exceed 12 inches across at the widest point, except at Bear Lake, Flaming Gorge Reservoir, and Fish Lake where specific limitations apply.

R657-13-7. Fishing With a Second Pole.

- (1) A person may use a second pole to take fish only in the:
- (a) Bear River from the Idaho state line downstream, including Cutler Reservoir and the outlet canals;
- (b) Little Bear River below Valley View highway (SR-130);
 - (c) Malad River;
 - (d) Newton Reservoir;
 - (e) Hyrum Reservoir;
 - (f) Willard Bay Reservoir;
 - (g) Pine View Reservoir;
 - (h) Flaming Gorge Reservoir;
 - (i) Pelican Lake;
 - (j) Starvation Reservoir;
 - (k) Utah Lake;
 - (l) Yuba Reservoir;
 - (m) D.M.A.D.;
 - (n) Gunnison Bend;
 - (o) Lake Powell; and
 - (p) Gunlock Reservoir.
- (2)(a) A second pole permit may be obtained at license agents and any division office.
- (b) A second pole permit is required in addition to a valid Utah one day, seven day or season fishing license, or combination license.
- (c) A second pole permit is an annual permit, but may only be used in conjunction with an unexpired Utah one day, seven day or season fishing or combination license.
- (3) Anglers under 14 years of age must purchase a valid fishing or combination license and second pole permit in order to use a second pole.
- (4) A second pole permit shall only be used by the person to whom the second pole permit was issued.

R657-13-8. Setline Fishing.

(1) A person may use a setline to take fish only in the Bear River proper downstream from the Idaho state line, including Cutler Reservoir and outlet canals; Little Bear River below Valley View Highway (SR-30); Malad River; and Utah Lake.

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- (2)(a) Angling with one pole is permitted while setline fishing, except as provided in Subsection (b).
- (b) A person who obtains a second pole permit may fish with two poles while setline fishing.
- (3) No more than one setline per angler may be used and it may not contain more than 15 hooks.
- (4)(a) A setline permit may be obtained at any division office.
- (b) A setline permit is required in addition to a valid Utah one day, seven day or season fishing or combination license.
- (c) A setline permit is an annual permit, but may only be used in conjunction with an unexpired Utah one day, seven day or season fishing or combination license.
- (5) When fishing with a setline, the angler shall be within 100 yards of the surface or bank of the water being fished.
- (6) A setline shall have one end attached to a nonmoving object, not attached to a fishing pole, and shall have attached a legible tag with the name, address, and setline permit number of the angler.
- (7) Anglers under 14 years of age must purchase a valid Utah one day, seven day or season fishing or combination license and setline permit in order to use a setline.

R657-13-9. Underwater Spearfishing.

- (1) Underwater spearfishing is permitted from official sunrise to official sunset.
- (2) Use of artificial light is unlawful while underwater spearfishing.
- (3) Causey Reservoir, Deer Creek Reservoir, Fish Lake, Flaming Gorge Reservoir, Joe's Valley Reservoir, Ken's Lake, Lost Creek, Red Fleet Reservoir, Steinaker Reservoir, Starvation Reservoir, and Willard Bay Reservoir are open to taking game fish by means of underwater spearfishing from June 1 through September 30. These are the only waters open to underwater spearfishing for game fish.
- (4) The bag and possession limit is two game fish. No more than one fish greater than 20 inches may be taken, except at Flaming Gorge Reservoir only one lake trout (mackinaw) greater than 28 inches may be taken.
- (5) Nongame fish may be taken by underwater spearfishing only in the waters listed in Subsection (3) above and as provided in Section R657-13-14.

R657-13-10. Dipnetting.

- (1) Hand-held dipnets may be used to take Bonneville cisco only at Bear Lake.
 - (2) The opening of the dipnet may not exceed 18 inches.
- (3) When dipnetting through the ice, the size of the hole is unrestricted.

R657-13-11. Restrictions on Taking Fish and Crayfish.

- Artificial light is permitted, except when underwater spearfishing.
- (2) A person may not obstruct a waterway, use a chemical, explosive, electricity, poison, crossbow, firearm, pellet gun, or archery equipment, except as provided in Subsection R657-13-14(1)(c) to take fish or crayfish.
- (3) A person may not take protected aquatic wildlife by snagging or gaffing; however, a gaff may be used to land fish caught by lawful means, except at Flaming Gorge Reservoir and Fish Lake.
- (4) Chumming is prohibited, on all waters except Lake Powell where dead anchovies only may be used for taking striped bass.
- (5) The use of a float tube or a boat, with or without a motor, for fishing is unlawful on some waters. Boaters should be aware that other agencies may have additional restrictions on the use of float tubes, boats, or boats with motors on some waters

(6) Nongame fish and crayfish may be taken only as provided in Sections R657-13-14 and R657-13-15.

R657-13-12. Bait.

- (1)(a) Fishing is permitted with any bait, except corn, hominy, or live fish.
- (b) Possession or use of corn or hominy while fishing is unlawful.
- (2) Use or possession of any bait while fishing on waters designated artificial fly and lure only is unlawful.
- (3) Game fish or their parts may not be used, except for the following:
- (a) Dead Bonneville cisco may be used as bait only in Bear Lake.
- (b) Dead yellow perch may be used as bait only in: Deer Creek, Echo, Fish Lake, Gunnison, Hyrum, Johnson, Jordanelle, Newton, Pineview, Rockport, Starvation, Utah Lake and Willard Bay reservoirs.
- (c) Dead white bass may be used as bait only in Utah Lake.
- (d) Dead shad, from Lake Powell, may be used as bait only in Lake Powell. Dead shad must not be removed from the Glen Canyon National Recreation Area.
- (e) The eggs of any species of fish, except prohibited fish, may be used. However, eggs may not be taken or used from fish that are being released.
- (4) Use of live crayfish for bait is legal only on the water where the crayfish is captured. It is unlawful to transport live crayfish away from the water where captured.
- (5) Manufactured, human-made items that may not be digestible, that are chemically treated with food stuffs, chemical fish attractants, or feeding stimulants may not be used on waters where bait is prohibited.

R657-13-13. Prohibited Fish.

- (1) The following species of fish are classified as prohibited and may not be taken or held in possession:
 - (a) Bonytail (Gila elegans);
 - (b) Bluehead sucker (Catostomus discobolus);
 - (c) Colorado pikeminnow (Ptychocheilus lucius);
 - (d) Flannelmouth sucker (Catostomus latipinnis);
 - (e) Gizzard shad (Dorosoma cepedianum);
 - (f) Grass carp (Ctenopharyngodon idella);
 - (g) Humpback chub (Gila cypha);(h) June sucker (Chasmistes liorus);
 - (i) Least chub (Iotichthys phlegethontis);
 - (j) Leatherside chub (Gila copei);
 - (k) Razorback sucker (Xyrauchen texanus);
 - (1) Poundtail chub (Gila robusta):
 - (l) Roundtail chub (Gila robusta);
 - (m) Virgin River chub (Gila robusta seminuda);
 - (n) Virgin spinedace (Lepidomeda mollispinis); and
 - (o) Woundfin (Plagopterus argentissimus).
- (2) Any of these species taken while attempting to take other legal species shall be immediately released.

R657-13-14. Taking Nongame Fish.

- (1)(a) Except as provided in Subsections (b) and (c), a person possessing a valid Utah fishing or combination license may take nongame fish for personal, noncommercial purposes during the open fishing season set for the given body of water.
- (b) A person may not take any species of fish designated as prohibited in Section R657-13-13.
- (c) Nongame fish may not be taken in the following waters, except carp may be taken by angling, archery, spear, or underwater spearfishing:
 - (i) San Juan River;
 - (ii) Colorado River;
- (iii) Green River (from confluence with Colorado River upstream to Colorado state line in Dinosaur National

Monument);

- (iv) Green River (from Colorado state line in Brown's Park upstream to Flaming Gorge Dam, including Gorge Creek, a tributary entering the Green River at Little Hole);
 - (v) White River (Uintah County);
- (vi) Duchesne River (from Myton to confluence with Green River);
 - (vii) Virgin River (Main stem, North, and East Forks).
 - (viii) Ash Creek;
 - (ix) Beaver Dam Wash;
 - (x) Fort Pierce Wash;
 - (xi) La Verkin Creek;
- (xii) Santa Clara River (Pine Valley Reservoir downstream to the confluence with the Virgin River);
 - (xiii) Diamond Fork;
 - (xiv) Thistle Creek;
 - (xv) Main Canyon Creek (tributary to Wallsburg Creek);
- (xvi) South Fork of Provo River (below Deer Creek Dam); and
- (xvii) Snake Valley waters (west and north of US-6 and that part of US-6 and US-50 in Millard and Juab counties).
- (2) Nongame fish, except those species listed in Section R657-13-13, may be taken by spear or underwater spearfishing in the waters specified in Subsection R657-13-9(3), angling, traps, bow and arrow, liftnets, or seine.
 - (3) Seines shall not exceed 10 feet in length or width.
 - (4) Cast nets must not exceed 10 feet in diameter.
- (5) Lawfully taken nongame fish shall be either released or killed immediately upon removing them from the water, however, they may not be left or abandoned on the shoreline.

R657-13-15. Taking Crayfish.

- (1) A person possessing a valid Utah fishing or combination license may take crayfish for personal, noncommercial purposes during the open fishing season set for the given body of water.
- (2) Crayfish may be taken by hand or with a trap, pole, liftnet, handline, or seine, provided that:
- (a) game fish or their parts, or any substance unlawful for angling, is not used for bait;
 - (b) seines shall not exceed 10 feet in length or width;
- (c) no more than five lines are used, and no more than one line may have hooks attached (bait is tied to the line so that the crayfish grasps the bait with its claw); and
- (d) live crayfish are not transported from the body of water where taken.

R657-13-16. Possession and Transportation of Dead Fish and Crayfish.

- (1) Fish held in possession in the field or in transit shall be kept in such a manner that:
 - (a) the species of fish can be readily identified;
 - (b) the number of fish can be readily counted;
- (c) the size of the fish can be readily measured when the fish are taken from waters where size limits apply and the fish taken from those waters may not be filleted and the heads or tails may not be removed; and
- (d) fillets shall have attached sufficient skin to include the conspicuous markings so species may be identified.
- (2) A legal limit of game fish or crayfish may accompany the holder of a valid fishing or combination license within Utah or when leaving Utah.
- (3) A person may possess or transport a legal limit of game fish or crayfish for another person when accompanied by a donation letter.
- (4) A person may not take more than one bag limit in any one day or possess more than one bag limit of each species or species aggregate regardless of the number of days spent fishing.
 - (5) A person may possess or transport dead fish on a

receipt from a registered commercial fee fishing installation, a private pond owner, or a short-term fishing event. This receipt shall specify:

- (a) the number and species of fish;
- (b) date caught;

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- (c) the certificate of registration number of the installation, pond, or short-term fishing event; and
 - (d) the name, address, telephone number of the seller.

R657-13-17. Possession of Live Fish and Crayfish.

- (1) A person may not possess or transport live protected aquatic wildlife except as provided by the Wildlife Code or the rules and proclamation of the Wildlife Board.
- (2) For purposes of this rule, a person may not transport live fish or crayfish away from the water where taken.
- (3) This does not preclude the use of live fish stringers, live wells, or hold type cages as part of normal angling procedures while on the same water in which the fish or crayfish are taken.

R657-13-18. Release of Tagged or Marked Fish.

Without prior authorization from the division, a person may not:

- (1) tag, mark, or fin-clip fish for the purpose of offering a prize or reward as part of a contest;
- (2) introduce a tagged, marked, or fin-clipped fish into the water; or
 - (3) tag, mark, or fin-clip a fish and return it to the water.

R657-13-19. Season Dates and Bag and Possession Limits.

- All waters of state fish rearing and spawning facilities are closed to fishing.
- (2) State waterfowl management areas are closed to fishing except as specified in the proclamation of the Wildlife Board for taking fish and crayfish.
- (3) The season for taking fish and crayfish is January 1 through December 31, 24 hours each day. Exceptions are specified in the proclamation of the Wildlife Board for taking fish and crayfish.
- (4)(a) Bag and possession limits are specified in the proclamation of the Wildlife Board for taking fish and crayfish and apply statewide unless otherwise specified.
- (b)(i) A person may not fish in waters that have a specific bag or size limit while possessing fish in violation of that limit.
- (ii) Fish not meeting the size, bag, or species provisions on specified waters shall be returned to the water immediately.
- (c)(i) Trout, salmon and grayling that are not immediately released and are held in possession, dead or alive, are included in the person's bag and possession limit.
- (ii) Once a trout, salmon or grayling is held in or on a stringer, fish basket, livewell, or by any other device, a trout, salmon or grayling may not be released.
- (5) A person may not take more than one bag limit in any one day or have in possession more than one bag limit of each species or species aggregate regardless of the number of days spent on fishing.

R657-13-20. Variations to General Provisions.

Variations to season dates, times, bag and possession limits, methods of take, use of a float tube or a boat for fishing, and exceptions to closed areas are specified in the proclamation of the Wildlife Board for taking fish and crayfish.

R657-13-21. One-Day Fishing Stamps.

- (1)(a) A person may purchase a one-day fishing stamp to extend a one-day or seven-day fishing license provided the person has obtained a valid Utah one-day or seven-day fishing license.
 - (b) A person must present the one-day or seven-day

- fishing license to the Division or license agent upon purchasing a one-day fishing stamp.

 (2) A one-day fishing stamp will extend the one-day or seven-day fishing license within the current year for one additional day.
- (3) The effective date shall be indicated on the one-day fishing stamp.

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R657. Natural Resources, Wildlife Resources. R657-17. Lifetime Hunting and Fishing License. R657-17-1. Purpose and Authority.

- (1) Under authority of Section 23-19-17.5, this rule provides the requirements and procedures applicable to lifetime hunting and fishing licenses.
- (2) In addition to the provisions of this rule, a lifetime licensee is subject to:
- (a) the provisions set forth in Title 23, Wildlife Resources Code of Utah; and
- (b) the rules and proclamations of the Wildlife Board, including all requirements for special hunting and fishing permits and tags.
- (3) Unless specifically stated otherwise, lifetime licensees shall be subject to any amendment to this rule or any amendment to Section 23-19-17.5.

R657-17-2. Definitions.

Terms used in this rule are defined in Section 23-13-2 and Rule R657-5.

R657-17-3. Lifetime License Entitlement.

- (1) (a) A permanent lifetime license card shall be issued to lifetime licensees in lieu of an annual small game, and fishing license
- (b) The issuance of a permanent lifetime license card does not authorize a lifetime licensee to all hunting privileges. The lifetime licensee is subject to the requirements as provided in Subsection R657-17-1(2).
- (2) In addition to a lifetime license card, each lifetime licensee shall receive without charge, a permit and tag of his choice for one of the following general deer hunts:
 - (i) general archery buck deer;
 - (ii) general season buck deer; or
 - (iii) general muzzleloader buck deer.
- (3) Sales of lifetime hunting and fishing licenses may not be refunded, except as provided in Section 23-19-38.
- (4) Lifetime hunting and fishing licenses are not transferable.
- (5) Lifetime hunting and fishing licenses are no longer for sale as of March 1, 1994.
- (6)(a) Lifetime license holders may participate in the Dedicated Hunter Program.
- (b) Upon entering the Dedicated Hunter Program, the lifetime license holder agrees to forego any rights to receive a buck deer permit for the general archery, general season or general muzzleloader deer hunts as provided in Section 23-19-17.5 during enrollment in the Dedicated Hunter Program.

R657-17-4. General Deer Permits and Tags.

- (1)(a) The division shall, prior to the annual bucks, bulls and once-in-a-lifetime application period, send a Lifetime General Deer questionnaire to each lifetime licensee who is eligible to hunt big game.
- (b) The lifetime licensee shall correctly fill out the questionnaire indicating the lifetime licensee's choice of general deer permits as provided in Subsection R657-17-3(2) and the region in which the lifetime licensee chooses to hunt.
- (c) The questionnaire must be returned by mail to the Salt Lake division office and must be received by April 1 annually.
- (2)(a) Except as provided in Subsection (c) and Subsection (d), the division may not issue a permit to any lifetime licensee who was given reasonable notice of the deadline as provided in Subsection (1)(c) and fails to return a complete and accurate Lifetime General Deer questionnaire to the division.
- (b) The division shall make a good faith effort to notify any lifetime licensee who has made a material error in completing the questionnaire. However, if the division is unable to contact the lifetime licensee and correct the error, the

questionnaire shall be void and the lifetime licensee may not receive a permit, except as provided in Subsection (d).

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- (c) The director or his designee may issue a permit to a lifetime licensee who did not receive reasonable notice of the deadline as provided in Subsection (1)(c).
- (d) If a lifetime licensee fails to return a Lifetime General Deer questionnaire by the deadline as provided in Subsection (1)(c), the lifetime licensee may obtain an available general deer permit on the date these permits are made available over-the-counter to the general public.
- (e) As used in this section "reasonable notice" means that a Lifetime General Deer questionnaire was sent within a reasonable time before the deadline as provided in Subsection (1)(c) to the most recent address given to the division by the lifetime licensee.
- (3) Lifetime licensees must notify the division of any change of mailing address, residency, address, telephone number, physical description, or driver's license number.
- (4)(a) Lifetime licensees may apply for or obtain general deer preference points or permits through the big game general buck deer drawing as provided in Rule R657-5 and the proclamation of the Wildlife Board for taking big game, provided the lifetime licensee waives their choice of general deer permits as provided in Subsection R657-17-3(2) and the region in which the lifetime licensee chooses to hunt.
- (b) If a lifetime licensee applies for and does not obtain a general deer permit through the big game general buck deer drawing, the lifetime licensee may only obtain an available general deer permit on the date these permits are made available over-the-counter to the general public.

R657-17-5. Applying for Limited Entry Permits in the Bucks, Bulls and Once-In-A-Lifetime Drawing.

- (1) A lifetime licensee may apply for a limited entry permit offered through the bucks, bulls and once-in-a-lifetime drawing using a bucks, bulls and once-in-a-lifetime application published by the division.
- (2) Limited entry permit species and application procedures are provided in Rule R657-5 and the proclamation of the Wildlife Board for taking big game.
- (3)(a) If the lifetime licensee applies for and is successful in obtaining a premium limited entry, limited entry, or cooperative wildlife management unit buck deer permit in the bucks, bulls and once-in-a-lifetime drawing, a general deer permit will not be issued.
- (b) If the lifetime licensee does not draw a premium limited entry, limited entry, or cooperative wildlife management unit buck deer permit in the bucks, bulls and once-in-a-lifetime drawing, the general deer permit requested on the Lifetime General Deer Questionnaire shall be issued.
- (4) Applying for or obtaining an antlerless deer, antlerless elk, or doe pronghorn permit does not affect eligibility for obtaining a general buck deer permit.
- (5) All rules established by the Wildlife Board regarding the availability of big game permits in relation to obtaining general deer permits shall apply to lifetime licensees.

R657-17-6. Hunter Education Requirements -- Minimum Age for Hunting.

- (1) The division shall issue a lifetime licensee only those licenses, permits, and tags for which that person qualifies according to the hunter education requirements, age restrictions specified in this Section and Title 23, Wildlife Resources Code of Utah, and suspension orders of a division hearing officer.
- (2)(a) Lifetime licensees born after December 31, 1965, must be certified under Section 23-19-11 to engage in hunting.
- (b) Proof of hunter education must be provided to the division by the lifetime licensee.
 - (3) Age requirements to engage in hunting are as follows:

- (a) A lifetime licensee must be 12 years of age or older to hunt small game.
- (b) A lifetime licensee must be 14 years of age or older to hunt big game. A lifetime licensee 13 years of age may hunt big game if that person's 14th birthday falls within the calendar year.

R657-17-7. Change of Residency.

- (1) A lifetime hunting and fishing license shall remain valid if the licensee changes residency to another state or country.
- (2)(a) A lifetime licensee who no longer qualifies as a resident under Section 23-13-2 shall notify the division within 60 days of leaving the state.
- (b) The division shall issue the lifetime licensee a new lifetime hunting and fishing license with the change of address after the lifetime licensee surrenders the lifetime hunting and fishing license with the previous address.
- (3) A lifetime licensee who does not qualify as a resident shall purchase the required nonresident permits or tags required for hunting, except as provided in Subsection R657-17-3(2).

R657-17-8. Lost or Stolen Lifetime Hunting and Fishing License.

- (1) If a lifetime hunting and fishing license is lost or stolen, a duplicate may be obtained from any division office.
 - (2) The lifetime licensee shall:
- (a) present a valid driver's license, identification card, birth certificate, or other form of proper identification;
- (b) sign an affidavit stating the lifetime hunting and fishing license was lost or stolen; and
 - (c) pay a duplicate lifetime hunting and fishing license fee.

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23-19-11

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R657. Natural Resources, Wildlife Resources.

R657-38. Dedicated Hunter Program. R657-38-1. Purpose and Authority.

- (1) Under the authority of Section 23-14-18, 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 provides the opportunity for participants to:
- (a) increase the opportunity for recreational general deer hunting, while the division regulates harvest;
- (b) increase participation in wildlife management decisions;
- (c) increase participation in wildlife conservation projects that are beneficial to wildlife conservation and the division; and
- (d) attend wildlife conservation courses about hunter ethics and the division's wildlife conservation philosophies and strategies.

R657-38-2. Definitions.

- (1) Terms used in this rule are defined in Section 23-13-2.
- (2) In addition:
- (a) "Dedicated Hunter Permit" means a general buck deer permit issued to a dedicated hunter participant in the Dedicated Hunter Program, which authorizes the participant to hunt general archery, general season and general muzzleloader in the region specified on the permit.
- (b) "Hunt area" means an area prescribed by the Wildlife Board where general archery, general season or general muzzleloader deer hunting is open to permit holders for taking deer.
- (c) "Limited Entry Dedicated Hunter Permit" means a limited entry deer permit or limited entry elk permit, for use in an area selected by the Division, which shall be offered through the Dedicated Hunter Program Drawing.
- (d) "Participant" means a person who has remitted the appropriate fee and has been issued a certificate of registration for the Dedicated Hunter Program.
- (e) "Program" means the Dedicated Hunter Program, a program administered by the division as provided in this rule.
- (f) "Program harvest" means tagging a deer with a Dedicated Hunter Permit or Limited Entry Dedicated Hunter Deer Permit, or failing to return the Dedicated Hunter Permit or Limited Entry Dedicated Hunter Deer Permit with an attached, unused tag, while enrolled in the program.
- (g) "Program requirements" mean the Wildlife Conservation Course as provided in Section R657-38-5, the Wildlife Conservation Project as provided in Section R657-38-6, and the Regional Advisory Council meeting as provided in Section R657-38-7.
- (h) "Wildlife conservation course" means a course of instruction provided by the division on hunter ethics and wildlife conservation philosophies and strategies.
- (i) "Wildlife conservation project" means a project designed by the division, or any other individual or entity and pre-approved by the division, that provides wildlife habitat protection or enhancement on public or private lands, improves hunting or fishing access, or other conservation projects or activities that benefit wildlife or directly benefits the division.
- (j) "Wildlife conservation project manager" means an employee of the division, or person approved by the division, responsible for supervising a wildlife conservation project and maintaining and reporting records of service hours to the division.

R657-38-3. Certificate of Registration Required.

(1) A person may not participate in the program if that person has been convicted of or entered a plea in abeyance to any of the following classes of violations of Title 23, Wildlife Resources Code, or any rule or proclamation of the Wildlife Board, or is currently on wildlife license suspension:

(a) felony;

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- (b) Class A misdemeanor in the last five years; or
- (c) three or more Class B or Class C misdemeanors in the past five years.
- (2)(a) To participate in the program a person must obtain and sign a certificate of registration from the division.
- (b) No more than ten thousand certificates of registration for the program may be in effect at any given time.
- (c) Certificates of registration are issued on a first-come, first-served basis at division offices.
- (d) Each prospective participant must provide evidence of having completed a wildlife conservation course before the division may issue the certificate of registration for the program.
- (e) A certificate of registration to participate in the program shall only be issued January 1 through April 1 annually.
- (3) Each certificate of registration is valid for three consecutive general deer hunting seasons.
- (4)(a) Any person who is 14 years of age or older may obtain a certificate of registration. A person 13 years of age may obtain a certificate of registration if the date of that person's 14th birthday is before the end of the calendar year in which the certificate of registration is issued.
- (b) Any person who is 17 years of age or younger before the beginning date of the annual general archery deer hunt shall pay the youth participant fees.
- (c) Any person who is 18 years of age or older on or before the beginning date of the annual general archery deer hunt shall pay the adult participant fees.
- (5) A certificate of registration authorizes the participant an opportunity to receive annually a Dedicated Hunter Permit to hunt during the general archery, general season and general muzzleloader deer hunts. The Dedicated Hunter Permit may be used during the dates and within the hunt area boundaries established by the Wildlife Board.
- (6)(a) Except as provided in Subsections (b), and R657-38-8(7), a participant entering the program may take two deer within three years of enrollment, but only one deer in any one year
- (b) Participants entering or re-entering the Dedicated Hunter Program shall be subject to any changes subsequently made in this rule during the three-year term of enrollment.
- (c) The harvest of an antlerless deer using a Dedicated Hunter Permit, as authorized under specific hunt choice areas during the general archery deer hunt, shall be considered a program harvest.
- (7) The certificate of registration must be signed by the participant. The certificate of registration is not valid without the required signature.
- (8) The participant and holder of the certificate of registration must have a valid Dedicated Hunter Permit in possession while hunting. A participant is not required to have the Dedicated Hunter Certificate of Registration in possession while hunting.
- (9) The division may issue a duplicate Dedicated Hunter Certificate of Registration pursuant to Section 23-19-10.
- (10) Certificates of registration are not transferable and shall expire at the end of a participant's third general deer hunting season.
- (11)(a) Certificates of registration shall not be issued to any person who previously obtained a certificate of registration if that person failed to complete program requirements or provide fees until the prior program requirements are met or the fees are remitted.
- (b) A participant who failed to comply with program requirements or pay fees may not apply for, or obtain a Dedicated Hunter Certificate of Registration until prior program

requirements are met or the fees are remitted.

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- (12)(a) The program requirements set forth in Sections R657-38-5, R657-38-6, and R657-38-7 may be waived annually if the participant provides evidence of leaving the state for a minimum period of one year during the enrollment period for the Dedicated Hunter Certificate of Registration for religious or educational purposes.
- (b) If the participant requests that the annual requirements be waived in accordance with Subsection (a), and the request is granted, the participant shall not receive a Dedicated Hunter Permit for the year in which the program requirements were waived.
- (13)(a) A participant who is a member of the United States Armed Forces or public health or public safety organization and who is mobilized or deployed on order in the interest of national defense or emergency may request that the requirements set forth in Sections R657-38-5 and R657-38-7 be extended, and the requirement in Subsection R657-38-6 be satisfied as provided in Subsections (b) through (e).
- (b) The program requirement set forth in Section R657-38-5 may be extended to the second or third year of the program.
- (c) The program requirement set forth in Section R657-38-6 may be considered satisfied by a participant that is prevented from completing the requirement due to the mobilization or deployment.
- (d) The program requirement set forth in Section R657-38-7 may be:
- (i) extended to the third year in the program if the participant is currently in the second year of the program; and
- (ii) waived in the third year of the program if the participant remains mobilized or deployed and is unable to reasonably meet the requirement.
- (e) A participant must provide evidence of the mobilization or deployment.
- (14) A refund for the Dedicated Hunter Certificate of Registration may not be issued pursuant to Section 23-19-38, except as provided in Section 23-19-38.2.

R657-38-4. Dedicated Hunter Permits.

- (1) Participants may hunt during the general archery, general season and general muzzleloader deer hunts within the hunt area and during the season dates prescribed in the proclamation of the Wildlife Board for taking big game.
- (2)(a) Participants must designate a regional hunt choice upon joining the program.
- (b) The regional hunt choice shall remain in effect unless otherwise changed in writing by the participant by January 15 annually, or as modified or rescinded by the Wildlife Board.
- (3) Participants must notify the division of any change of mailing address in order to receive a Dedicated Hunter Permit by mail.
- (4)(a) Lifetime license holders may participate in the program.
- (b) Upon signing the certificate of registration, the lifetime license holder agrees to forego any rights to receive a buck deer permit for the general archery, general season or general muzzleloader deer hunts as provided in Section 23-19-17.5.
- (c) A refund or credit is not issued for the general archery, general season or general muzzleloader permit.
- (5)(a) A participant may exchange or surrender a Dedicated Hunter Permit in accordance with Rule R657-42.
- (b) A participant may not exchange or surrender a Dedicated Hunter Permit for any other buck deer permit once the Dedicated Hunter Permit is issued and the general archery deer hunt has begun.
- (6)(a) Dedicated hunter permits may be issued through the mail no sooner than June 1 of each year, and only upon evidence that all annual program requirements have been completed by the participant.

- (b)(i) Participants completing annual program requirements later than two weeks prior to the beginning of the general archery deer hunt must obtain their Dedicated Hunter Permit over-the-counter from any division office.
- (ii) Over-the-counter dedicated hunter permits shall not be issued sooner than two weeks prior to the beginning of the general archery deer hunt, and only upon evidence that all annual program requirements have been completed by the participant.
- (7)(a) The division may issue a duplicate Dedicated Hunter Permit pursuant to Section 23-19-10.
- (b) If a participant's unused permit and tag is destroyed, lost, or stolen a participant may complete an affidavit verifying the permit was destroyed, lost, or stolen in order to obtain a duplicate.
- (c) A duplicate permit shall not be issued after the closing date of the general season buck deer hunt, however, a participant may complete an affidavit and submit a copy of the affidavit for program reporting purposes as required in Section R657-38-9(3).

R657-38-5. Wildlife Conservation Course.

- (1)(a) The division shall provide an annual wildlife conservation course.
- (b) Prior to entering or re-entering the program, and obtaining a certificate of registration, a prospective participant must complete the wildlife conservation course within the current year in which the prospective participant is entering or re-entering the program.
- (2) The wildlife conservation course shall explain the program to give a prospective participant a reasonable understanding of the program as well as hunter ethics, the division's Regional Advisory Council and Wildlife Board processes, and wildlife conservation philosophies and strategies.
- (3) The wildlife conservation course is available through the division's Internet site, and a limited number of classroom courses are available, as scheduled by division offices.
- (4)(a) Evidence of completion of the wildlife conservation course shall be provided to the prospective participant upon completion of the wildlife conservation course.
- (b) Certificates of registration shall not be issued without verification of the prospective participant having completed the wildlife conservation course.
- (c) The division shall keep a record of all participants who complete the wildlife conservation course.

R657-38-6. Wildlife Conservation Projects.

- (1) Each participant in the program shall provide a total of 24 hours of service on a wildlife conservation project as provided in Subsections (a) and (b), or pay the approved fee for each hour not completed as provided in Subsection (c).
- (a) A participant must provide no fewer than eight hours of service during the first year of enrollment.
- (b) A participant must provide the remaining balance of service hours prior to receiving the second Dedicated Hunter Permit.
- (c) Residents may not substitute more than 16 of the 24 total required service hours. Nonresidents may substitute all of the 24 total required service hours.
- (d) The division may, upon request, approve a person who is physically unable to provide service by working on a wildlife conservation project to provide other forms of service.
- (e) Goods or services provided to the division for wildlife conservation projects by a participant may be, at the discretion of the wildlife conservation project manager, substituted for service hours based upon current market values for the goods or services, and using the approved hourly service buyout rate when applying the credit.
 - (2) Wildlife conservation projects shall be designed by the

division, or any other individual or entity and shall be preapproved by the division.

- (3)(a) Wildlife conservation projects may occur anytime during the year as determined by the division.
- (b) The division shall publicize the dates, times, locations and description of approved wildlife conservation projects and activities at division offices.
- (4)(a) Service hours completed in any given year may be carried over to the following years, however excess service hours shall not be carried over to any year outside of the three-year enrollment period.
- (b) Dedicated hunter permits issued to participants who fail to make the deadline, two weeks prior to the opening date of the general archery deer hunt annually, shall be issued only as an over-the-counter transaction at division offices.
- (5) A participant must request a receipt from the wildlife conservation project manager for service hours worked at the completion of the project, or upon showing evidence that the service hours worked are completed.
- (6)(a) If a participant fails to fulfill the annual wildlife conservation project service requirement in any year of participation, as required under Subsection (4), the participant shall not be issued a Dedicated Hunter Permit for that year.
- (b) The participant may obtain a Dedicated Hunter Permit for subsequent years upon completion of the wildlife conservation project program requirements due or payment of the fee in lieu thereof.
- (7) The wildlife conservation project manager shall keep a record of all participants who attend the wildlife conservation project and the number of hours worked.

R657-38-7. Regional Advisory Council.

- (1) Prior to obtaining a second permit in the program, a participant must attend one regional advisory council meeting.
- (2) A participant must request a receipt from the division for attending the regional advisory council meeting.
- (3) The division shall keep a record of all participants who attend and sign the roll at the regional advisory council meetings.

R657-38-8. Obtaining Other Permits.

- (1)(a) Participants may apply for or obtain premium limited entry, limited entry, cooperative wildlife management unit, limited entry landowner or conservation buck deer permits as provided in Rule R657-5 and the proclamation of the Wildlife Board for taking big game.
- (b) Participants may apply for or obtain a Dedicated Hunter Limited Entry Permit as provided under Section R657-38-10.
- (c) If the participant obtains a premium limited entry, limited entry, cooperative wildlife management unit, limited entry landowner, conservation, Dedicated Hunter Limited Entry buck deer permit, the Dedicated Hunter Permit becomes invalid and the participant must surrender the Dedicated Hunter Permit prior to the opening day of the general archery deer hunt. A refund may not be issued pursuant to Section 23-19-38.
- (d) If the participant obtains a limited entry archery, limited entry any weapon, limited entry muzzleloader, limited entry landowner or conservation buck deer permit, or a Dedicated Hunter Limited Entry Permit, the participant, upon completion of annual program requirements, may use the permit only in the prescribed area during the season dates listed on the permit.
- (e) Participants who obtain a cooperative wildlife management unit permit may hunt only within those areas identified on the permit and only during the dates determined by the cooperative wildlife management unit landowner or operator.
 - (2)(a) Participants may not apply for or obtain general

buck deer permits issued by the division through the big game drawing, license agents, over-the-counter sales, or the Internet during the three-year period of enrollment in the program.

- (b) In the initial sign-up year for the program, if the participant previously applied for a general buck deer permit through the big game drawing, a participant must withdraw that permit application prior to the application withdrawal date as published in the proclamation of the Wildlife Board for taking big game.
- (i) The general buck deer permit fee may be refunded by the division in May, but the handling fee shall not be refunded.
- (ii) If the participant fails to withdraw the general buck deer application and the permit is drawn, the general deer permit obtained through the drawing becomes invalid and must be surrendered prior to the beginning date of the general archery deer hunt. A refund may not be issued pursuant to Section 23-19-38.
- (3) Participants may not apply for or obtain general landowner buck deer permits as provided under Rule R657-43.
- (4) The division may exclude multiple season opportunities on specific units due to extenuating circumstances on that specific unit.
 - (5) The permit must be on the person while hunting.
- (6)(a) Obtaining a premium limited entry, limited entry, cooperative wildlife management unit, limited entry landowner or conservation buck deer permit does not authorize a participant to take an additional deer.
- (b) Any deer harvested by a participant using a premium limited entry, limited entry, cooperative wildlife management unit, limited entry landowner, or conservation buck deer permit shall be considered a program harvest.
- (7)(a) Participants may apply for or obtain antlerless deer permits as provided in Rule R657-5 and the Antlerless Addendum to the proclamation of the Wildlife Board for taking big game.
- (b) Antlerless permits do not count against the number of permits issued pursuant to this program.
- (c) Antierless harvest of a deer as provided in the Antierless Addendum to the proclamation of the Wildlife Board for taking big game shall not be considered a program harvest.

R657-38-9. Reporting Requirements.

- (1)(a) The division may contact participants to gather annual harvest information and hunting activity information.
- (b) Participants are expected to provide harvest information and hunting activity information if contacted by the division
- (2)(a) A participant may specify a change to their regional hunt choice for a Dedicated Hunter Permit by submitting a request in writing to the division by January 15 annually.
- (b) If a change is not specified pursuant to Subsection (a), the regional hunt choice selected initially or in the prior year shall be assigned.
- (3)(a) A participant must return the unused Dedicated Hunter Permit and attached tag, or an affidavit as provided in Section R657-38-4(7)(c), to a division office by January 15 annually.
- (b) The division shall credit any participant who fails to return the unused Dedicated Hunter Permit and attached tag, or an affidavit as provided in Section R657-38-4(7)(c), with a program harvest.

R657-38-10. Limited Entry Dedicated Hunter Program Drawing.

- (1) Any unfilled Dedicated Hunter Permit with an unused attached tag, returned to the Division by January 15 annually, may qualify the participant to be entered into the Dedicated Hunter Program Drawing provided:
 - (a) the participant is currently enrolled in the program; and

(b) the participant has returned the Dedicated Hunter Permit and unused, attached tag, or an affidavit as provided in

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- Section R657-38-4(7)(c).

 (2)(a) One limited entry deer permit and one limited entry elk permit shall be offered through the drawing for each 250 permits received by the Division in accordance with Subsection (1).
- (b) The eligible participants and limited entry permits shall be randomly drawn.
- (c) The successful participant must meet all program requirements for the current year in which the permit is valid before the issuance of the permit.
- (3) The drawing results may be posted at division offices and on the division Internet address on the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.
 - (4)(a) The successful participant shall be notified by mail.
- (b) The successful participant must submit the appropriate limited entry fee within ten business days of the date on the notification letter.
- (c) If the successful participant fails to submit the required limited entry permit fee, the permit may be issued to the next participant, who would have drawn the permit, in accordance with Rule R657-42.
- (5)(a) The Limited Entry Dedicated Hunter permit allows the recipient to take only the species for which the permit is issued.
- (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.
- (e) The recipient of a limited entry deer or elk permit is subject to all of the provisions of Title 23, Wildlife Resources Code, and the rules and proclamations of the Wildlife Board for taking and pursuing wildlife.
- (f) Bonus points shall not be awarded or utilized when applying for or obtaining Limited Entry Dedicated Hunter permits.
- (g) Any participant who obtains a Limited Entry Dedicated Hunter Permit is not subject to the waiting periods set forth in Rule R657-5 and the proclamation of the Wildlife Board for taking big game.

R657-38-11. Certificate of Registration Surrender.

- (1)(a) A participant who has obtained a Dedicated Hunter Certificate of Registration may surrender the certificate of registration to a division office provided the participant does not have two program harvests.
- (b) A participant who surrenders the Dedicated Hunter Certificate of Registration may not re-enter the program until the participant's initial certificate of registration has expired.
- (2) The division may not issue a refund except as provided in Section 23-19-38.

R657-38-12. Certificate of Registration Suspension.

- (1) A Dedicated Hunter Permit and tag may not be issued to any participant who:
 - (a) does not perform the program requirements; or
- (b) violates the terms of this rule or the Dedicated Hunter Certificate of Registration.
- (2) The division may revoke or suspend a certificate of registration as provided in Section 23-19-9.

KEY: wildlife, hunting, recreation, wildlife conservation January 21, 2004 23-14-18 Notice of Continuation November 30, 2000

R657. Natural Resources, Wildlife Resources. **R657-41.** Conservation and Sportsman Permits.

R657-41-1. Purpose and Authority.

- (1) Under the authority of Section 23-14-18 and 23-14-19, this rule provides the standards and procedures for issuing:
- (a) conservation permits to conservation organizations for sale at an auction, or for use as an aid to wildlife related fund raising activities; and
 - (b) sportsman permits.
- (2) The division and conservation organizations shall use all revenue derived from conservation permits under Subsections R657-41-5(4) and R657-41-5(5)(b) for the benefit of the species for which the permit is 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 23-13-2.
- (2) In addition:
- (a) "Area Conservation Permit" means a permit issued for a specific unit or hunt area for a specific species, and may include an extended season, or legal weapon choice, or both, beyond the general season.
- (i) Area Conservation permits issued for limited entry units are not valid on cooperative wildlife management units, and Area Conservation permits issued for general season hunt areas are not valid on cooperative wildlife management units or limited entry units.
- (b) "Conservation Organization" means a nonprofit chartered institution, foundation, or association founded for the purpose of promoting wildlife conservation and has established tax exempt status under Internal Revenue Code, Section 501C-3 as amended.
- (c) "Conservation Permit" means any harvest permit authorized by the Wildlife Board and issued by the division for purposes identified in Section R657-41-1(2).
- (d) "Sportsman Permit" means a permit which allows a permittee to hunt during the applicable season dates specified in Subsection (e), 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.
- (e) "Statewide Conservation Permit" means a permit which allows a permittee to hunt:
- (i) big game species on any open unit with archery equipment during the general archery season published in the big game proclamation for the unit beginning before September 1, and with any weapon from September 1 through December 31, except pronghorn and moose from September 1 through November 15;
 - (ii) turkey on any open unit from April 1 through May 31;
- (iii) any other small game species on any open unit during the season authorized by the Wildlife Board;
- (iv) bear on any open unit during the season authorized by the Wildlife Board for that unit;
- (v) 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; and
- (vi) Antelope Island is not an open unit for hunting any species of wildlife authorized by a conservation or sportsman permit.

R657-41-3. Method for Determining the Number of Conservation and Sportsman Permits.

- (1) The number of conservation permits authorized by the Wildlife Board shall be based on:
 - (a) the species population trend, size, and distribution to

protect the long-term health of the population;

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- (b) the hunting and viewing opportunity for the general public, both short and long term; and
- (c) the potential revenue that will support protection and enhancement of the species.
- (2) One statewide conservation permit may be authorized for each species for which limited permits are available, except that a second statewide conservation permit for a species may be authorized for a special event or fund raising activity.
- (3) A limited number of area conservation permits may be authorized, with a maximum of 5% of the permits or eight permits, whichever is less, for any unit or hunt area, unless a higher number is specifically authorized by the Wildlife Board.
- (4) The number of conservation and sportsman permits available for use during the following year will be determined by the Wildlife Board annually.
- (5) Area Conservation permits shall be deducted from the number of public drawing permits.
- (6) One sportsman permit may be authorized for each statewide conservation permit authorized.

R657-41-4. Obtaining Conservation Permits.

- (1) Statewide and area conservation permits may be awarded to eligible conservation organizations to market and sell, or to use as an aid in wildlife related fund raising activities.
- (2)(a) Conservation organizations may apply for conservation permits by sending an application to the division for each permit requested.
- (b) Only one application per conservation organization may be submitted. Multiple chapters of the same conservation organization may not apply individually.
- (3) The application must be submitted to the division by September 1 to be considered for the following year's conservation permits. 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 Internal Revenue Code, Section 501C-3 as amended;
- (d) the name of the president or other individual responsible for the administrative operations of the conservation organization;
- (e) the type of permit and species for which the permit is requested; and
- (f) any requested variances for an extended season or legal weapon choice for area conservation permits.
- (4)(a) Conservation organizations must further include in their applications the proposed bid amount for each permit. The proposed bid amount is the revenue the organization anticipates to be raised from a permit through auction or other lawful fund raising activity. The recommended minimum permit bid amount is listed in Table 1.
- (b) The basis for the bid amount must include the conservation organization's experience in similar activities, and details of the marketing plan.

TABLE 1
RECOMMENDED MINIMUM PERMIT BID AMOUNT

Species	Statewide	Area
Rocky Mountain Bighorn (Ram)	\$30,000	\$20,000
Desert Bighorn (Ram)	30.000	20,000
Buck Deer	10,000	2,000
Bull Elk	10,000	4,000
Bull Moose	10,000	3,000
Bison (Hunter's Choice) Rocky Mountain Goat (Hunter's Choice		5,000 3,000
Buck Pronghorn	2,000	1,000
Black Bear	2,000	1,000

Cougar 2,000 500 clo Turkey 350 250

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- (5) An application which is incomplete or completed incorrectly may be rejected.
- (6) The application of a conservation organization for conservation permits may be denied for:
- (a) failing to fully report on the preceding year's conservation permits;
- (b) violating any provision of this rule, Title 23 of the Utah Code, Title R657 of the Utah Administrative Code, a division proclamation, 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.
- (7) Conservation permits shall be awarded for one year, except as provided in Subsection (8).
- (8) Conservation organizations may apply for specific area conservation permits, which may be awarded for up to five consecutive years, provided the conservation organization meets the requirements provided in Subsection (a) for a multi-year permit.
- (a)(i) the conservation organization must submit a bid for each multi-year area conservation permit requested and submit a specific project proposal for which the funds will be utilized;
- (ii) the project must require more than one year of funding to complete;
- (iii) the conservation organization must show the increased benefit to the division by the conservation organization carrying out the project;
- (iv) the conservation organization must maintain each year a minimum performance standard, raising no less than 80% of the funds bid for each multi-year permit; and
- (v) the conservation organization must report annually on the funds raised and expended, and the project activities accomplished.
- (b) Conservation organizations failing to satisfy the performance standards in any given year during the multi-year period or reporting requirements shall lose the multi-year area conservation permit for the balance of the multi-year award period.
- (c) Conservation organizations must submit a separate bid for each multi-year area conservation permit.
- (d) Bids for multi-year area conservation permits shall be evaluated based on:
- (i) an average annual benefit when compared to annual bids for permits; and
 - (ii) the requirements as provided in Subsection (9).
- (e) Conservation organizations receiving multi-year permits shall handle permit revenue consistent with the requirements provided in Section R657-41-5(4) and (5).
- (9) The division shall recommend the conservation organization to receive each of the conservation permits based on:
- (a) first, the bid amount pledged to the species, adjusted by:
- (i) the performance of the organization over the previous two years in meeting proposed bids;
 - (ii) 90% of the bid amount;
- (iii) organizations maintaining a minimum two-year average performance of 70% to be eligible for consideration of permits. Performance of the organization is the proportion of the total revenue generated from permit sales, divided by 90% of the bid amount for all permits, calculated annually and averaged for the last two years.
- (b) second, if two or more conservation organizations are tied using the criteria in Subsection (a), the closeness of the organization's purpose to the species of the permit; and
- (c) third, if two or more conservation organizations are tied using the criteria in Subsection (a) and (b), the geographic

closeness of the organization to the location of the permit.

- (10)(a) Between the time the division recommends that a conservation permit be awarded to a conservation organization and the time the Wildlife Board approves that recommendation, a conservation organization may withdraw its application for any given permit or exchange its application with another conservation organization without penalty, provided the bid amount upon which the permit application was evaluated is not changed.
- (b) If a conservation organization withdraws it's bid and the bid is awarded to another organization at a lower amount, then the difference between the two bids will be subtracted from the organization making the higher bid for purposes of evaluating organization performance.
- (11) The Wildlife Board shall make the final assignment of conservation permits at a meeting prior to December 1 annually.
- (12) The Wildlife Board may authorize a conservation permit to a conservation organization, other than the conservation organization recommended by the division, after considering the:
 - (a) division recommendation;
 - (b) benefit to the species;
- (c) historical contribution of the organization to the conservation of wildlife in Utah;
- (d) previous performance of the conservation organization;
- (e) overall viability and integrity of the conservation permit program.
- (13) The total of all bids for permits awarded to any one organization shall not exceed \$20,000 the first year an organization receives permits.
- (14) The number of permits awarded to any one organization shall not increase by more than 100% from the previous year.
- (15) If the Wildlife Board authorizes a second statewide conservation permit for a species, the conservation organization receiving the permit must meet the high bid for that permit.
- (16) The division and conservation organization receiving the permits shall enter into a contract.
- (17)(a) The conservation organization receiving permits must insure that the permits are marketed and distributed by lawful means.
 - (b) The conservation organization must:
- (i) obtain the name of the proposed permit recipient at the event where the permit recipient is selected; and
- (ii) notify the division of the proposed permit recipient within 10 days of the recipient selection or the permit may be forfeited.
- (c) If a person is selected by a qualified organization to receive a conservation permit and is also successful in obtaining a permit for the same species in the same year through the Bucks, Bulls and Once-In-A-Lifetime Drawing, that person may designate another person to receive the conservation permit, provided the conservation permit has not been issued by the division to the first selected person.
- (d) If a person is selected by a qualified organization to receive a conservation permit, but is unable to use the permit, the conservation organization may designate another person to receive the permit provided:
- (i) the conservation organization selects the new recipient of the permit;
- (ii) the amount of money received by the division for the permit is not decreased;
- (iii) the conservation organization relinquishes to the division and otherwise uses all proceeds generated from the redesignated permit, pursuant to the requirements provided in Section R657-41-5;
 - (iv) the conservation organization and the initial

designated recipient of the permit, must sign an affidavit indicating the initial designated recipient is not profiting from

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transferring the right to the permit; and

(v) the permit has not been issued by the division to the first designated person.

(e) Except as otherwise provided under Subsection (c) and (d), a person designated by a conservation organization as a recipient of a conservation permit, may not sell or transfer the rights to that designation to any other person. This does not preclude a person from bidding or otherwise lawfully acquiring a permit from a conservation organization on behalf of another person who will be identified as the original designated recipient.

R657-41-5. Conservation Permit Funds and Reporting.

- (1) All permits must be marketed by September 1, annually.
- (2) Within 30 days of the last event, but no later than September 1 annually, the conservation organization must submit to the division:
 - (a) a final report on the distribution of permits;
 - (b) the funds due to the division; and
- (c) a report on the status of each project funded in whole or in part with retained conservation permit revenue.
- (3)(a) Permits shall not be issued until the 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 (5)(a).
- (4)(a) Conservation organizations shall remit to the division by September 1 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), excluding accrued interest, 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 September 1 of each year.
- (d) The permit revenue payable to the division under this subsection shall 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 September 1 deadline may result in criminal prosecution under Title 76, Chapter 6, Part 4 of the Utah Code, and may further disqualify the conservation organization from bidding on any future conservation permits.
- (5) A conservation organization may retain 70% of the revenue generated from sale of conservation permits as follows:
- (a) 10% of the revenue may be retained and used by the conservation organization for administrative expenses.
- (b) 60% of the revenue may be retained and used by the conservation organization only for eligible projects as provided in subsections (i) through (x).
- (i) "Retained revenue" means 60% of the revenue raised by a conservation organizations from the sale of conservation permits which the organization retains for eligible projects under this subsection, excluding interest earned thereon.
- (ii) Eligible projects include habitat improvement, habitat acquisition, transplants, and other projects providing a substantial benefit to species of wildlife for which conservation permits are issued.
- (iii) Retained revenue shall not be committed to or expended on any eligible project without first obtaining the division director's written concurrence.

- (iv) Retained revenue shall not be used on any project that does not provide a substantial and direct benefit to conservation permit species located in Utah.
- (v) Cash donations to the Wildlife Habitat Account created under Section 23-19-43, 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) Retained revenue shall not be used on any project that is inconsistent with Division policy, including feeding programs, depredation management, or predator control.
- (vii) Any revenue retained under this subsection must be placed in a federally insured account. All interest revenue earned thereon may be retained and used by the conservation organization for administrative expenses.
- (viii) Retained revenue shall 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.
- (ix) Retained revenue must be completely expended on or committed to approved eligible projects by September 1 two years following the year in which the relevant conservation permits are awarded to the conservation organization by the Wildlife Board. Failure to commit or expend the retained revenue by the September 1 deadline will disqualify the conservation organization from bidding on any future conservation permits until the unspent retained revenue is committed to an approved eligible project.
- (x) 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 preform annual audits on project expenditures and conservation permit accounts.

R657-41-6. 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) Rocky Mountain goat (hunter's choice)
 - (g) bull moose;
 - (h) buck pronghorn;
 - (i) black bear;
 - (j) cougar;
 - (k) sandhill crane; and
 - (l) wild turkey.
- (2) The following information is provided in the proclamation of the Wildlife Board for taking big game:
 - (a) hunt dates;
 - (b) open units or hunt areas;
 - (c) application procedures;
 - (d) fees; and
 - (e) deadlines.

R657-41-7. Using a Conservation or Sportsman Permit.

- (1)(a) A conservation or sportsman permit allows the recipient to take only the species for which the permit is issued.
- (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.

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- (2) The recipient of a conservation or sportsman permit is subject to all of the provisions of Title 23, Wildlife Resources Code, and the rules and proclamations of the Wildlife Board for taking and pursuing wildlife.
 - (3) Bonus points shall 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 has obtained a conservation or sportsman permit is subject to all waiting periods as provided in Rules R657-5, R657-6, R657-10 and R657-33.

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R657-42. Accepted Payment of Fees, Late Fees, Exchanges, Surrenders, Refunds and Reallocation of Licenses, Certificates of Registration and Permits. R657-42-1. Purpose and Authority.

- (1) Under the authority of Sections 23-19-1 and 23-19-38 the division may issue licenses, permits, tags and certificates of registration 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 licenses, certificates of registration and permits;
- (c) refund of licenses, certificates of registration and permits;
 - (d) reallocation of permits; and
 - (e) assessment of late fees.

R657-42-2. Definitions.

- (1) Terms used in this rule are defined in Section 23-13-2 and the applicable rules and proclamations of the Wildlife Board.
 - (2) In addition:
- (a) "Alternate drawing lists" means a list of persons who have not already drawn a permit and would have been the next person in line to draw a permit.
- (b) "Deployed or mobilized" means that a person provides military or emergency services in the interest of national defense or national emergency pursuant to the demand, request or order of their employer.

R657-42-3. Permit Exchanges.

- (1)(a) Any person who has obtained a general buck deer or a general bull elk permit may exchange that permit for any other available general permit if both permits are for the same species and sex.
- (b) A person must make general buck deer and general bull elk permit exchanges at any division office prior to the season opening date of the permit to be exchanged.
- (2) Any person who has obtained a cougar harvest objective unit permit may exchange that permit for any other available cougar harvest objective unit permit as provided in Rule R657-10.
- (3) Any person who has obtained a limited entry bear any weapon or limited entry bear archery permit may exchange that permit for a limited entry bear archery or limited entry bear any weapon permit, respectively.
- (4) The division may charge a handling fee for the exchange of a permit.

R657-42-4. Surrender of Licenses, Certificates of Registration and Permits.

- (1) Any person who has obtained a license, certificate of registration or permit and decides not to use it, may surrender the license, certificate of registration or permit to any division office.
- (2)(a) Any person who has obtained a license, certificate of registration or permit may surrender the license, certificate of registration or permit prior to the season opening date of the license, certificate of registration or permit for the purpose of:
- (i) waiving the waiting period normally assessed and reinstating the number of bonus points, including a bonus point for the current year as if a permit had not been drawn, if applicable; or
- (ii) purchasing a reallocated permit or any other permit available for which the person is eligible.
- (b) Preference points shall not be reinstated when surrendering the applicable permits.
 - (3) A Cooperative Wildlife Management Unit permit must

be surrendered before the following dates:

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- (a) the opening date for the respective general archery season for buck deer, bull elk or spike bull elk;
 - (b) September 1 for pronghorn and moose;
 - (c) August 15 for antlerless deer and elk;
- (d) prior to the applicable season date for small game and waterfowl; and
- (e) prior to the applicable season date of any variance approved by the Wildlife Board in accordance with Rules R657-21 and R657-37.
- (4) Dedicated hunter participants must surrender their permits prior to the general archery deer season.
- (5) The division may not issue a refund, except as provided in Section R657-42-5.

R657-42-5. Refunds of Licenses, Certificates of Registration and Permits.

- (1) The refund of a license, certificate of registration or permit shall be made in accordance with:
 - (a) Section 23-19-38 and Rule R657-50;
 - (b) Section 23-19-38.2 and Subsection (3); or
 - (c) Section 23-19-38 and Subsection (4).
- (2)(a) An application for a refund may be obtained from any division office.
- (b) All refunds must be processed through the Salt Lake Division office.
- (3) A person may receive a refund in accordance with Subsection (3) for a license, permit, or certificate of registration if that person was deployed or mobilized on or after September 11, 2001, in the interest of national defense or national emergency and is thereby completely precluded from participating in the hunting or fishing activity authorized by the license, permit or certificate of registration, provided:
- (a) the refund request is made to the division within one year of the end of the hunting or fishing season authorized by the license, permit or certificate of registration;
- (b) the person surrenders the license, permit or certificate of registration to the division, or signs an affidavit stating the license, permit or certificate of registration is no longer in the person's possession; and
- (c) the person verifies that the deployment or mobilization completely precluded them from participating in the activity authorized by the license, permit or certificate of registration, except as provided in Subsection (5); and
- (d) the person provides military orders, or a letter from an employment supervisor on official public health or public safety organization letterhead stating:
- (i) the branch of the United States Armed Forces, or name of the public health organization or public safety organization from which they were deployed or mobilized; and
- (ii) the nature and length of their duty while deployed or mobilized.
- (4) The division may issue a refund for a license, permit or certificate of registration if the person to whom it was issued dies prior to participating in the hunting or fishing activity authorized by the license, permit or certificate of registration, provided:
- (a) The person legally entitled to administer the decedent's estate provides the division with:
 - (i) picture identification;
- (ii) letters testamentary, letters of administration, or such other evidence establishing the person is legally entitled to administer the affairs of the decedent's estate;
- (iii) a photocopy of the decedent's certified death certificate; and
- (iv) the license, permit or certificate of registration for which a refund is requested.
- (5) The director may determine that a person deployed or mobilized, or a decedent did not have the opportunity to

participate in the activity authorized by the license, permit or

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certificate of registration.

(6) The division may reinstate a bonus point or preference point, whichever is applicable, and waive waiting periods, if applicable, when issuing a refund in accordance with Subsection

R657-42-6. Reallocation of Permits.

- (1)(a) The division may reallocate surrendered limited entry, once-in-a-lifetime and Cooperative Wildlife Management Unit permits.
- (b) The division shall not reallocate resident and nonresident big game general permits.
- (2) Permits shall be reallocated through the Salt Lake Division office.
- (3)(a) Any limited entry, once-in-a-lifetime or public Cooperative Wildlife Management Unit permit surrendered to the division shall be reallocated through the drawing process by contacting the next person listed on the alternate drawing list or as provided in Subsection (b).
- (b) A person who is denied a permit due to an error in issuing permits may be placed on the alternate drawing list to address the error, if applicable, in accordance with the Rule R657-50.
- (c) The alternate drawing lists are classified as private and therefore, protected under the Government Records Access Management Act.
- (d) The division shall make a reasonable effort to contact the next person on the alternate list by telephone or mail.
- (e) If the next person, who would have drawn the limited entry, once-in-a-lifetime or public Cooperative Wildlife Management Unit permit, does not accept the permit or the division is unable to contact that person, the reallocation process will continue until the division has reallocated the permit or the season closes for that permit.
- (4) If the next person, who would have drawn the limited entry, once-in-a-lifetime or public Cooperative Wildlife Management Unit permit has obtained a permit, that person may be required to surrender the previously obtained permit in accordance with Section R657-42-4(2) and any other applicable rules and proclamations of the Wildlife Board.
- (5) Any private Cooperative Wildlife Management Unit permit surrendered to the division will be reallocated by the landowner through a voucher, issued to the landowner by the division in accordance with Rule R657-37.
- (6)(a) The division may allocate additional general deer permits and limited entry permits, if it is consistent with the unit's biological objectives, to address errors in accordance with Rule R657-50.
- (b) The division shall not allocate additional Cooperative Wildlife Management Unit and Once-In-A-Lifetime permits.
- (c) The division may extend deadlines to address errors in accordance with Rule R657-50.

R657-42-7. Reallocated Permit Cost.

- (1) Any person who accepts the offered reallocated permit must pay the applicable permit fee.
- (2) The division may not issue a refund, except as provided in Section R657-42-5.

R657-42-8. Accepted Payment of Fees.

- Personal checks, business checks, money orders, cashier's checks, and credit or debit cards are accepted for payment of licenses, permits or certificates of registration.
- (2) Personal or business checks drawn on an out-of-state account are not accepted.
 - (3) Third-party checks are not accepted.
- (4) All payments must be made payable to the Utah Division of Wildlife Resources.

- (5)(a) Credit or debit cards must be valid at least 30 days after any drawing results are posted.
- (b) Checks, and credit or debit cards will not be accepted as combined payment on single or group applications.
- (c) If applicable, if applicants are applying as a group, all fees for all applicants in that group must be charged to one credit or debit card.
- (d) Handling fees and donations are charged to the credit or debit card when the application is processed.
- (e) Permit fees may be charged to the credit or debit card prior to the posting date of the drawings, if successful.
- (f) The division shall not be held responsible for bank charges incurred for the use of credit or debit cards.
- (6)(a) An application is voidable if the check is returned unpaid from the bank or the credit or debit card is invalid or refused.
- (b) The division charges a returned check collection fee for any check returned unpaid.
- (7)(a) A license or permit is voidable if the check is returned unpaid from the bank or the credit or debit card is invalid or refused.
- (b) The Division may make attempt to contact the successful applicant by phone or mail to collect payment prior to voiding the license or permit.
- (c) The Division shall reinstate the applicant's bonus points or preference points, whichever is applicable, and waive waiting periods, if applicable, when voiding a permit in accordance with Subsection (b).
- (d) A permit which is deemed void in accordance with Subsection (b) may be reissued by the Division to the next person listed on the alternate drawing list.
- (8)(a) A license or permit received by a person shall be deemed invalid if payment for that license or permit is not received, or a check is returned unpaid from the bank, or the credit or debit card is invalid or refused.
- (b) A person must notify the division of any change of credit or debit card numbers if the credit or debit card is invalid or refused.
- (9) Hunting with a permit where payment has not been received for that permit constitutes a violation of hunting without a valid permit.
- (10) The division may require a money order or cashier's check to correct payment for a license, permit, or certificate of registration.
- (11) Any person who fails to pay the required fee for any license, permit or certificate of registration, shall be ineligible to obtain any other license, permit, tag, or certificate of registration until the delinquent fees and associated collection costs are paid.

R657-42-9. Assessment of Late Fees.

- (1) Any wildlife application submitted under the Utah Administrative Code Rules provided in Subsection (a) through (e), within 30 days of the applicable application deadline established in such rules, in the proclamations of the Wildlife Board, or by the division may be processed only upon payment of a \$10.00 late fee.
- (a) R657-52, Commercial Harvesting of Brine Shrimp and Brine Shrimp Eggs;
- (b) R657-21, Cooperative Wildlife Management Units for Small Game;
 - (c) R657-22, Commercial Hunting Areas;
- (d) R657-37, Cooperative Wildlife Management Units for Big Game; or
 - (e) R657-43, Landowner Permits.

R657-42-10. Duplicate License, Permit or Certificate of Registration.

(1) Whenever any unexpired license, permit, tag or

certificate of registration is destroyed, lost or stolen, a person may obtain a duplicate from a division office, for five dollars or half of the price of the original license, or permit, 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.
- provided the person did not receive the original needs, permit, tag or certificate of registration.

 (3) To obtain the duplicate license, permit, tag or certificate of registration, the applicant must complete an affidavit testifying to such loss, destruction or theft pursuant to Section 23-19-10.

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23-19-1

23-19-38

R708. Public Safety, Driver License. R708-30. Motorcycle Rider Training Schools. R708-30-1. Purpose.

The purpose of this rule is to assist the Driver License Division in administering the Motorcycle Rider Education Program set forth in Title 53, Chapter 3, Part 9, the Motorcycle Rider Education Act.

R708-30-2. Authority.

This rule is authorized by Subsection 53-3-903(1)(b).

R708-30-3. Definitions.

- (1) "Agreement" means a written agreement between the Driver License Division, and a school, institution, or individual to provide motorcycle rider training courses for beginner and experienced riders and courses for instructors.
 - (2) "Division" means the Driver License Division.
- (3) "Practice riding" means that portion of instruction during which the student actually rides a motorcycle.
- (4) "Program coordinator" means the division representative appointed to oversee and direct the Motorcycle Rider Education Program.
- (5) "School" means an institution owned and operated by an individual, partnership or corporation, public or private, licensed to do business in the State of Utah, for the purpose of providing classroom and practical motorcycle rider training.

R708-30-4. Application.

- (1) An application for an original or renewal agreement shall be made on a form furnished by the division and shall include the following:
 - (a) name of the school;
 - (b) address of the school;
 - (c) names of all proposed instructors; and
 - (d) addresses of all instruction sites.
- (2) Upon receipt of the application, the division shall schedule an inspection of the school sites, equipment, instructional materials, course curriculum, class schedules, and shall determine eligibility of proposed instructors.
- (3) Once the application has been completed and approved, the division and the school may enter into an agreement allowing the school to conduct motorcycle rider training.

R708-30-5. Agreement.

- (1) Once the school has executed an agreement with the division to provide training for beginner and experienced motorcycle riders, the school may begin to conduct motorcycle rider training.
- (2) The agreement shall allow the school to provide training and instruction for motorcycle riders, but shall not allow the school to bind or obligate the division in any way to issue a motorcycle endorsement or license.
- (3) Upon execution of the agreement, the school and all approved instructors will be placed on a list provided to all driver license offices. A certificate of approval will be mailed to the school and will indicate the expiration date of the agreement.
- (4) The agreement shall expire on July 1 of each year. No later than three months prior to expiration of the agreement, the school may submit a renewal application to the division.

R708-30-6. Standards.

- (1) To be approved, a school shall meet the following standards:
- (a) make application to and enter into an agreement with the division;
- (b) maintain a place of business with at least one permanent occupied structure within the State;

- (c) ensure the place of business meets all requirements of State law and local ordinances;
 - (d) have at least one qualified and approved instructor;
- (e) provide helmets, motorcycles and range equipment for practice riding;
- (f) have emergency equipment readily available. The emergency equipment shall include an adequate fire extinguisher and a fully stocked, industrial-quality first-aid kit;
- (g) have written procedures for responding to accidents, including emergency telephone numbers, and a telephone within easy access during any range training;
- (h) furnish the division with written permission to use any facilities not owned or leased by the school. Specific days of use and intended use of the facilities must be indicated, e.g., days: Thursday, Saturday, Sunday, etc.; and uses: classroom instruction and operation of motorcycles on property;
- (i) request approval from the division for any proposed changes in instructor or administrative procedures;
- (j) make record of and report to the division within 48 hours any accident or injuries occurring during any instruction;
- (k) provide rider training at remote sites only upon approval and/or at the request of the division;
- (l) not engage the service of an employee of the division as an instructor, agent or employee of the school; and
- (m) maintain for five years, and present upon request of the division, verification that all instructors are certified, and attendance and completion records are accurate.

R708-30-7. Certificate of Approval.

Upon approval, the division will issue a certificate of approval to the school, each branch office, and/or mobile team. The certificate will be conspicuously displayed at all times in the school's permanent place of business and will be displayed during instruction at branch offices and mobile training sites.

R708-30-8. Inspections.

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- (1) The division may:
- (a) conduct random examinations, inspections, and audits without prior notice during normal business hours; and
- (b) conduct on-site inspections annually and at any other time deemed necessary by the division.
- (2) A person designated by the school shall accompany the division representative while performing on-site inspections. On-site inspections may include:
- (a) ensuring that all requirements specified in this rule are met:
 - (b) examining school records;
- (c) ensuring that practice riding procedures comply with criteria established by the Motorcycle Safety Foundation or another nationally recognized motorcycle safety instructor certifying body and the division; and
- (d) reviewing any other items the division may deem necessary to ensure that all requirements specified in the agreement are met.
- (3) Random checks may be made by any designated division representative to verify compliance with course instruction standards. Checks by the division may include:
- (a) having a division representative take a course administered by the school; and
- (b) having the division administer practical skills tests to a sample of riders who have completed the course of instruction presented by the school to determine if the results of the tests administered by the division are comparable to the results submitted by the school.

R708-30-9. Courses.

(1) Course curriculum will be conducted in accordance with this rule. The division may provide supplemental instruction as necessary. Such instruction may include

information on course content, practice riding, instructor and administrative procedures and/or changes.

- (2) Courses shall be conducted at locations approved by the division.
- (3) Courses shall be conducted using division approved content, forms, scoring procedures and equipment.
- (4) Courses conducted by mobile teams at remote sites and branches shall be held to the same standards as required at permanent locations.

R708-30-10. Certificate of Course Completion.

- (1) The school will provide a certificate of course completion to verify rider competency and successful completion of the prescribed course of instruction.
- (2) The certificate of course completion shall include the following:
 - (a) applicant's name;
 - (b) title of the course completed;
 - (c) date of course completion; and
 - (d) authorized signature from the school.
- (3) Upon completion of a beginner class from an approved school, the division may waive the practical skills portion of the application for motorcycle license or endorsement to a current driver license.
- (4) Riders must submit to the division the certificate of course completion of a beginner class within six months of the date of course completion to be eligible for waiver of the practical skills test.

R708-30-11. Insurance Coverage.

- (1) The division shall obtain through a commercial insurance agency the required insurance coverage for all schools involved in providing motorcycle rider training.
- (2) Each school shall submit to the division a list identifying all motorcycles used for instruction purposes.
- (3) Motorcycles used by the schools for instruction purposes shall be covered by insurance obtained by the division and will be used only in approved rider training courses and only on division approved ranges.

R708-30-12. Instructors.

- (1) Instructors approved by the division to conduct motorcycle rider training shall:
- (a) furnish proof of completed training and certification provided by the Motorcycle Safety Foundation or another nationally recognized motorcycle safety instruction certifying organization;
- (b) instruct only those classes which have been approved by the division;
- (c) instruct only those students who are at least 16 years of age and have completed an approved driver education course;
- (d) except as set forth in paragraph two of this section, have a valid Utah driver license with motorcycle endorsement;
 - (e) have a high school diploma or its equivalent;
 - (f) be at least 18 years of age;
- (g) have at least two years of recent motorcycle riding experience;
- (h) possess valid Red Cross standard first-aid and CPR cards, or their equivalent; and
 - (i) manifest safe riding habits whenever riding.
- (2) The requirement for a Utah drive license may be waived by the division if the instructor is assigned as active duty military to an installation in Utah.
- (3) Instructors are encouraged to wear all protective gear every time they ride. Protective gear includes helmet and eye protection, over-the-ankle footwear (not cloth, canvas, etc.), long non-flare denim pants or material of equivalent durability, long-sleeved shirt or jacket, and full-fingered gloves (preferably leather).

- (4) The division shall refuse approval or will revoke approval if the applicant/instructor:
 - (a) no longer meets the requirements of this section;
- (b) has had a driver license suspended or revoked during the preceding two years or within the preceding five years if the suspension or revocation was for an alcohol or drug related offense; or
- (c) fails to successfully complete an instructor course or required course updates, or fails to teach at least two rider training classes per year, one of which must be as the lead instructor. An exception to this requirement may be granted if written justification for not meeting the teaching requirements is submitted by the instructor and is approved/accepted by the division.

R708-30-13. Advertisement.

- (1) No school advertisement may:
- (a) indicate in any way that a program can issue or guarantee the issuance of a motorcycle license or endorsement;
- (b) imply that a program can in any way influence the division in the issuance of a motorcycle license or endorsement; or
- (c) imply that preferential or advantageous treatment from the division can be obtained.
- (2) No instructor, employee or agent of a school may be permitted to advertise or solicit business or cause business to be solicited in its behalf, or display or distribute any advertising material within 1500 feet of a location rented, leased, or owned by the division.

R708-30-14. Revocation.

- (1) In accordance with Subsection 63-46b-4(1), the division designates all adjudicative proceedings associated with this rule as informal adjudicative proceedings.
- (2) The division shall deny approval of an application for a school or an instructor if the applicant does not qualify for approval under provisions of this rule.
- (3) The division may deny approval or revoke approval of a school or instructor for any of the following reasons:
- (a) failure to comply with any provision of this rule or the school's agreement:
- (b) falsification of any records or information relating to the school's instruction program;
- (c) commission of any act which compromises the integrity of the school's instruction program or the instructor;
- (d) failure to notify the division within ten days of any change in instructor personnel or testing locations;
- (e) notification that an instructor's driver license is suspended, revoked, canceled or disqualified; or
 - (f) misstatements or misrepresentation on the application.
- (4) If the division determines that reasons for revocation exist because of failure to comply with any provision of this rule or the school's agreement, the division may postpone revocation and allow the school or instructor up to thirty (30) days to correct the deficiency.
- (5) A school or instructor who receives notice that the division intends to revoke their approval is entitled to a hearing. The hearing will be conducted by a person appointed by the division director.
- (a) The party requesting the hearing must file the request for hearing within ten days from the date notice of the division's intent to revoke is received.
- (b) The person conducting the hearing will issue a written decision that complies with Subsection 63-46b-5(1)(i) within ten days following the hearing.
- (6) The decision of the person conducting the hearing will be considered final agency action. A party wishing to contest the decision may:
 - (a) file a request for reconsideration with the division in

accordance with Section 63-46b-13; or

- (b) seek judicial review in accordance with Section 63-46b-14.
- (7) Reinstatement following revocation of approval may take place only after:
- (a) a new application for approval is filed;(b) the division is satisfied that the reason for revocation no longer exists; and
- (c) the division is satisfied that approval of the school or instructor is in the best interests of the public and will not jeopardize public safety.

KEY: motorcycle rider training schools May 18, 1999

53-3-903

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Notice of Continuation January 27, 2004

R710. Public Safety, Fire Marshal. R710-2. Rules Pursuant to the Utah Fireworks Act. **R710-2-1.** Adoption.

Pursuant to Title 53, Chapter 7, Section 204, Utah Code Annotated 1953, the Utah Fire Prevention Board adopts rules establishing minimum safety standards for retail storage, handling, and sale of class C common state approved explosives; minimum requirements for placement and discharge of display fireworks; and requirements for importer, wholesaler, display or special effects operator licenses.

There is further adopted as part of these rules the following codes which are incorporated by reference:

- 1.1 International Fire Code (IFC), 2003 edition, as published by the International Code Council, Inc. (ICC), except as amended by provisions listed in R710-2-9, et seq.
- National Fire Protection Association (NFPA), Standard 1123, Code for Fireworks Display, 2000 edition, as published by the National Fire Protection Association, except as amended by provisions listed in R710-2-9, et seq.
- National Fire Protection Association (NFPA), Standard 1126, Standard for the Use of Pyrotechnics Before a Proximate Audience, 2001 edition, as published by the National Fire Protection Association, except as amended by provisions listed in R710-2-9, et seq.
- 1.4 Copies of the above codes are on file in the Office of Administrative Rules and the State Fire Marshal's Office.

R710-2-2. Definitions.

- 2.1 "Authority having jurisdiction (AHJ)" means such county and municipal officers who are charged with the enforcement of state and municipal laws; consisting of all fire enforcement officials including designated staff from the Utah State Department of Public Safety.
 - 2.2 "ICC" means International Code Council, Inc. 2.3 "IFC" means International Fire Code.

 - 2.4 "NFPA" means National Fire Protection Association.
- 2.5 "Permanent structure" means a non-movable building, securely attached to a foundation, housing a business.
- 2.6 "Person" means an individual, company, partnership or corporation.
- 2.7 "Pre-packaged means that the product is wrapped in a clear plastic wrap or other equivalent material to prevent the fuse of the class C common state approved explosive from being accessible to the customer.
- 2.8 "Resale" means the act of reselling class B or C explosives to a new party.
 - 2.9 "SFM" means the State Fire Marshal.
- 2.10 "Tent" means a temporary structure, enclosure or shelter constructed of fabric or pliable material supported by any manner except by air or the contents it protects.
- 2.11 "Temporary Stands and Trailers" means a nonpermanent structure used exclusively for the sale of fireworks.
 - 2.12 "UCA" means Utah Code Annotated.

R710-2-3. General Requirements.

- 3.1 No person shall engage in any type of retail storage or sale of class C common state approved explosives, without first having obtained a license to sell fireworks from the authority having jurisdiction, if required.
- 3.2 If a municipality or county in which fireworks are offered for sale, requires a seller to obtain a license, it shall be available at the store or stand for presentation upon request to authorized public safety officials.
- 3.3 All fireworks retail sales locations shall be under the direct supervision of a responsible person who is 18 years of age or older. A salesperson shall remain at the sales location at all times unless suitable locking devices are provided to prevent the unauthorized access to the merchandise by others, or the merchandise is removed.

- 3.4 Class C common state approved explosives shall not be sold to any person under the age of 16 years, unless accompanied by an adult.
- 3.5 All retail sales locations shall be kept clear of dry grass or other combustible material for a distance of at least 25 feet in all directions.
- 3.6 Storage of class C common state approved explosives shall not be located in residences to include attached garages.
- 3.7 "No Smoking" signs shall be conspicuously posted at all sales and storage locations.
- 3.8 A sign, clearly visible to the general public, shall be posted at all fireworks sales locations, indicating the legal dates for discharge of fireworks.
- 3.9 All retail sales locations shall be equipped with an approved, portable fire extinguisher having a minimum 2A rating.

R710-2-4. Indoor Sales.

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- 4.1 Display of class C common state approved explosives inside of buildings shall be so located to ensure constant visual supervision.
- 4.2 In all retail sales locations in permanent structures, the area where class C common state approved explosives are displayed or stored shall be at least 50 feet from any flammable liquid or gas, or other highly combustible material.
- 4.3 In permanent structures, retail sales displays of Class C common state approved explosives shall not be placed in locations that would impede egress from the building.
- 4.4 Class C common state approved explosives shall only be stored, handled, displayed, and sold as packaged units, with unexposed fuses, within a permanent structure.

R710-2-5. Temporary Stands, Trailers and Tents.

- 5.1 Temporary stands, trailers and tents less than 200 square feet used for the retail sales of class C common state approved explosives shall be constructed in compliance with local rules, or if none, in accordance with nationally recognized practice. Tents having an area in excess of 200 square feet shall comply with IFC, Chapter 24.
- 5.2 The general public shall not be allowed to enter a temporary stand or trailer.
- 5.3 Each stand, trailer or tent less than 200 square feet shall have a minimum three foot wide unobstructed aisle, running the length of the stand, trailer or tent.
- 5.4 All tents where customers enter inside shall have a minimum three foot wide unobstructed aisle and two separate exits located a reasonable distance apart and so located that if one is blocked the other will be available.
- 5.5 The area used for sales of class C common state approved explosives in stands, trailers or tents shall be arranged to permit the customer to only touch or handle pre-packaged class C common state approved explosives. All non prepackaged class C common state approved explosives shall be displayed in a manner which prevents the fireworks from being handled by the customer without the direct intervention of the retailer who shall be able to maintain visual contact with the
- 5.6 Temporary stands, trailers or tents for the sale of class C common state approved explosives shall be located at least 50 feet from other stands, trailers, tents, LPG, flammable liquid or gas storage and dispensing units.
- 5.7 If the stand or trailer is used for the overnight storage of class C common state approved explosives, it shall be equipped with suitable locking devices to prevent unauthorized entry. Tents shall not be used for overnight storage of class C common state approved explosives unless on site security is
- 5.8 No person shall be allowed to sleep in any temporary stand, trailer or tent in which class C common state approved

explosives are stored or sold.

5.9 Stands, trailers or tents shall not be illuminated or heated by any device requiring an open flame or exposed heating elements. All heaters shall be approved by the authority having jurisdiction (AHJ).

5.10 All illumination shall be installed in accordance with the temporary wiring section of the National Electric Code and approved by the authority having jurisdiction (AHJ).

R710-2-6. List of Approved Class C Common State Approved Explosives.

- 6.1 The State Fire Marshal shall publish a list of approved class C common state approved explosives each year.
 - 6.2 The testing shall be conducted annually or as needed.

R710-2-7. Importer, Wholesaler, Display or Special Effects Operator Licenses.

- 7.1 Application for a importer, wholesaler, display or special effects operator license shall be made in writing on forms provided by the SFM.
- 7.2 Application for a license shall be signed by the applicant. If the application is made by a partnership, it shall be signed by all partners. If the application is made by a corporation or association, it shall be signed by a principal officer.
- 7.3 Original licenses shall be valid from the date of issuance through December 31st of the year in which issued. Licenses issued on or after October 1st, will be valid through December 31st of the following year.
- 7.4 Application for renewal of license shall be made before January 1st of each year. Application for renewal shall be made in writing on forms provided by the SFM.
- 7.5 The SFM may refuse to renew any license pursuant to Section 8 of these rules. The applicant, upon such refusal, shall also have those rights as are granted by Section 8 of these rules.
- 7.6 Every licensee shall notify the SFM, in writing, within thirty (30) days, of any change of his address or location.
- 7.7 No licensee shall conduct his licensed business under a name other than the name which appears on his license.
- 7.8 No license shall be issued to any person as licensee who is under eighteen (18) years of age.
- 7.9 The holder of any license shall submit such license for inspection upon request of the SFM, his duly authorized deputies, or any authorized enforcement official.
- 7.10 Every person who wishes to secure a display or special effects operator original license shall demonstrate proof of competence by:
- 7.10.1 Successfully passing a closed book written examination and obtaining a minimum grade of seventy percent
- 7.10.2 Submit written verification with the application of having completed a display or special effects operators safety class or demonstrate previous experience acceptable to the SFM.
- 7.10.3 Submit written verification with the application that the applicant has worked with a licensed display or special effects operator for at least three shows or demonstrate previous experience acceptable to the SFM.
- 7.11 The written examination stated in Section 7.10(a) shall be valid for five years from the date of the examination.
- 7.12 At the end of the five year period the licensed display or special effects operator shall take a re-examination. The reexamination shall be open book and sent to the license holder at least 60 days before the renewal date. The re-examination shall focus on the changes in the last 5 years to the adopted standards. The license holder is responsible to complete the re-examination and return it to the Division in time to renew and also comply with the requirements listed in Section 7.13.
- 7.13 After the issuance of the original license, and each year thereafter, the display or special effects operator shall

- complete a minimum of one fireworks performance annually or attend an operator safety class annually or work with another licensed display or special effects operator with a show annually to demonstrate proof of competence.
- 7.14 When the license has expired for more than one year, an application shall be made for an original license and the initial requirements shall be completed as required in Section 7.10 of these rules.
- 7.15 Every person who wishes to secure an importer, wholesaler, display or special effects operators license shall be at least 18 years of age.
- 7.16 Every licensed display or special effects operator shall complete the Pyrotechnician's After Action Report for Fireworks Display form within ten (10) working days after the conclusion of any display or special effects show and send it to the State Fire Marshal.

R710-2-8. Adjudicative Proceedings.

- 8.1 All adjudicative proceedings performed by the agency shall proceed informally as set forth herein and as authorized by UCA, Sections 63-46b-4 and 63-46b-5.
- 8.2 The issuance, renewal, or continued validity of a license may be denied, suspended or revoked, if the SFM, or his authorized deputies finds that the applicant, person employed for, the person having authority, or the person in question commits any of the following violations:
- 8.2.1 The person or applicant is not the real person in interest.
- 8.2.2 Material misrepresentation or false statement in the application.
 - 8.2.3 Refusal to allow inspection by the AHJ.
- 8.2.4 The person or applicant for a license does not possess the qualifications of skill or competence to conduct operations for which application is made, as evidenced by failure to pass the examination or demonstrate practical skills.
- 8.2.5 The person or applicant has been convicted of any of the following:
 - 8.2.5.1 a violation of the provisions of these rules;
 - 8.2.5.2 a crime of violence or theft; or
- 8.2.5.3 any crime that bears upon the person or applicant's ability to perform their functions and duties.
- 8.2.6 Failure to accurately complete the Pyrotechnician's After Action Report for Fireworks Display form.
- 8.3 A person may request a hearing on a decision made by the AHJ, by filing an appeal to the Board within 20 days after receiving final notice from the AHJ.
- 8.4 All adjudicative proceedings, other than criminal prosecution, taken by the AHJ to enforce the Utah Fire Prevention and Safety Act, and these rules, shall commence in accordance with UCA, Section 63-46b-3.
- 8.5 The Board shall act as the hearing authority, and shall convene as an appeals board after timely notice to all parties involved.
- 8.6 The Board shall direct the SFM to issue a signed order to the parties involved giving the decision of the Board within a reasonable time of the hearing pursuant to UCA, Section 63-46b-5(i).
- Reconsideration of the Board's decision may be 8.7 requested in writing within 20 days of the date of the decision pursuant to UCA, Section 63-46b-13.
- 8.8 Judicial review of all final Board actions resulting from informal adjudicative proceedings shall be conducted pursuant to UCA, Section 63-46b-15.

R710-2-9. Amendments and Additions.

9.1 The following are amendments and additions to the codes and standards adopted to regulate class C common state approved explosives, placement and discharge of display fireworks, and importer, wholesaler, display or special effects operator licenses, as adopted in Section 1 of these rules:

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- 9.2 UFC, Section 7802.3 is deleted, and amended to read as follows:
- 9.2.1 For the following periods of time: June 1 through July 31; December 1 through January 5; and 30 days before and up to 5 days after the Chinese New Year; class C common state approved explosives may be stored for retail sale as follows:
- 9.2.1.1 The retail seller shall notify the local fire authority to where the class C common state approved explosives are to be stored.
- 9.2.1.2 Class C common state approved explosives shall not be stored in residences to include attached garages.
- 9.2.1.3 The local fire authority shall approve the storage site of the class C common state approved explosives and may use the following guidelines for acceptable places of storage:
 - 9.2.1.3.1 In self storage units where the owner allows it.
- 9.2.1.3.2 In a temporary stand or trailer used for the retail sales of Class C common state approved explosives, which must be locked or secured when not open for business.
- 9.2.1.3.3 In a locked or secured truck, trailer, or other vehicle at an approved location.
- 9.2.1.3.4 In a locked or secured container, garage, shed, barn, or other building, which is detached from an inhabited building.
 - 9.2.1.3.5 Wholesalers warehouse.
 - 9.2.1.3.6 An approved Group M occupancy.
- 9.2.1.3.7 Any other structure or location approved by the authority having jurisdiction.
- 9.2.2 All other periods of time, except those stated in Section 9.2(1) of these rules, the storage, use, and handling of fireworks are prohibited, except as follows:
- 9.2.2.1 The storage and handling of fireworks are allowed as required in IFC, Chapter 33 and these rules.
- 9.2.2.2 The use of fireworks for display is allowed as set forth in IFC, Chapter 33 and these rules.

R710-2-10. Fire Department Displays.

- 10.1 As required in UCA 53-7-223(1) and as allowed for fire departments in UCA 53-7-202(9)(b), the fire department's involvement in the discharge of display fireworks is allowed only for the discharge of display fireworks in that fire departments community or communities it has a contract to protect.
- 10.2 Within 10 working days after the conclusion of a fireworks display, the fire chief or an assigned fire department member shall complete a Pyrotechnician's After Action Report and send it to the State Fire Marshal.
- 10.3 Any fire department member that will be involved in the discharge site as defined in NFPA 1123, shall complete a fireworks display safety class yearly to be allowed in the discharge area during the display.
- 10.4 Any fireworks purchased by a community or fire department outside of the State of Utah shall require the securing of an annual importers license as required in UCA 53-7-224.

KEY: fireworks January 2, 2004

53-7-204

Notice of Continuation June 11, 2002

R710. Public Safety, Fire Marshal.

R710-4. Buildings Under the Jurisdiction of the State Fire Prevention Board.

R710-4-1. Adoption of Fire Codes.

Pursuant to Title 53, Chapter 7, Section 204, of the Utah Code Annotated 1953, the Utah Fire Prevention Board adopts minimum rules for the prevention of fire and for the protection of life and property against fire and panic in any publicly owned building, including all public and private schools, colleges, and university buildings, and in any building or structure used or intended for use, as an asylum, hospital, mental hospital, sanitarium, home for the aged, assisted living facility, children's home or day care center, or any similar institutional type occupancy of any capacity; and in any place of assemblage where fifty (50) or more persons may gather together in a building, structure, tent, or room, for the purpose of amusement, entertainment, instruction, or education.

There is further adopted as part of these rules the following codes which are incorporated by reference:

- National Fire Protection Association (NFPA), Standard 101, Life Safety Code (LSC), 2003 edition, except as amended by provisions listed in R710-4-3, et seq. following chapters from NFPA, Standard 101 are the only chapters adopted: Chapter 18 - New Health Care Occupancies; Chapter 19 - Existing Health Care Occupancies; Chapter 20 -New Ambulatory Health Care Occupancies; Chapter 21 -Existing Ambulatory Health Care Occupancies; Chapter 22 -New Detention and Correctional Occupancies; Chapter 23 -Existing Detention and Correctional Occupancies; and other sections referenced within and pertaining to these chapters only. Wherever there is a section, figure or table in NFPA 101 that references "NFPA 5000 - Building Construction and Safety Code", that reference shall be replaced with the "International Building Code".
- National Fire Protection Association (NFPA), Standard 13, Installation of Sprinkler Systems, 2002 edition, except as amended by provisions listed in R710-4-3, et seq.
- National Fire Protection Association (NFPA), Standard 13R, Installation of Sprinkler Systems - Residential Occupancies up to and Including Four Stories in Height, 2002 edition, except as amended by provisions listed in R710-4-3, et
- National Fire Protection Association (NFPA), Standard 72, National Fire Alarm Code, 2002 edition, except as amended by provisions listed in R710-4-3, et seq.
- National Fire Protection Association (NFPA), Standard 70, National Electric Code (NEC), 2002 edition, as adopted by the Uniform Building Standards Act, Title 58, Chapter 56, Section 4, Utah Code Annotated 1953. Wherever there are sections or tables in the International Fire Code (IFC) that reference "ICC Electrical Standard", the reference to "ICC Electrical Standard" shall be replaced with "National Electric Code".
- 1.6 International Building Code (IBC), 2003 edition, as published by the International Code Council, Inc. (ICC), and as adopted under the authority of the Uniform Building Standards Act, Title 58, Chapter 56, Section 4, Utah Code Annotated 1953 and the Utah Administrative Code, R156-56-701.
- 1.7 International Fire Code (IFC), 2003 edition, as published by the International Code Council, Inc. (ICC), except as amended by provisions listed in R710-4-3, et seq.
- 1.8 International Mechanical Code (IMC), 2003 edition, as published by the International Code Council, Inc., and as adopted under the authority of the Uniform Building Standards Act, Title 58, Chapter 56, Section 4, Utah Code Annotated 1953 and the Utah Administrative Code, R156-56-701.
- 1.9 International Fuel Gas Code (IFGC), 2003 edition, as published by the International Code Council, and as adopted under the authority of the Uniform Building Standards Act, Title

- 58, Chapter 56, Section 4, Utah Code Annotated 1953 and the Utah Administrative Code, R156-56-701.
- 1.10 International Plumbing Code (IPC), 2003 edition, as published by the International Code Council, Inc., and as adopted under the authority of the Uniform Building Standards Act, Title 58, Chapter 56, Section 4, Utah Code Annotated 1953 and the Utah Administrative Code, R156-56-701.
- 1.11 Copies of the above codes are on file in the Office of Administrative Rules and the State Fire Marshal.

R710-4-2. Definitions.

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- 2.1 "Authority Having Jurisdiction (AHJ)" means the State Fire Marshal, his authorized deputies, or the local fire enforcement authority.
 - 2.2 "AWWA" means American Water Works Association.2.3 "Board" means Utah Fire Prevention Board.
- 2.4 "Bureau of Fire Prevention or Fire Prevention Bureau" means the AHJ.
- 2.5 "Fire Chief or Chief of the Department" means the AHJ.
 - 2.6 "Fire Department" means the AHJ.
 - 2.7 "Fire Marshal" means the AHJ.
- 2.8 "Fire Officer" means the State Fire Marshal, the state fire marshal's deputies, the fire chief or fire marshal of any county, city, or town fire department, the fire officer of any fire district or special service district organized for fire protection purposes is the AHJ.
 - 2.9 "IBC" means International Building Code.
 - 2.10 "ICC" means International Code Council, Inc.
 2.11 "IFC" means International Fire Code.
 2.12 "IFGC" means International Fuel Gas Code.

 - 2.13 "IMC" means International Mechanical Code.
 2.14 "IPC" means International Plumbing Code.
 2.15 "LSC" means Life Safety Code.

 - 2.16 "NEC" means National Electric Code.
 - 2.17 "NFPA" means National Fire Protection Association.
 - 2.18 "SFM" means State Fire Marshal.
- 2.19 "UCA" means Utah State Code Annotated 1953 as amended.

R710-4-3. Amendments and Additions.

- 3.1 Definitions
- 3.1.1 IFC, Chapter 2, Section 202, Educational Group E, Day care is amended as follows: On line three delete the word "five" and replace it with the word "four".
- 3.1.2 IFC, Chapter 2, Section 202, Institutional Group I-1 is amended to add the following:

On line nine add "type 1" in front of the words "assisted living facilities"

- 3.1.3 IFC, Chapter 2, Section 202, Institutional Group I-2 is amended as follows: On line three delete the word "five" and replace it with the word "three". On line eight after the words "detoxification facilities" delete the rest of the paragraph, and add the following: "ambulatory surgical centers with two or more operating rooms where care is less than 24 hours and type 2 assisted living facilities. Type 2 assisted living facilities with five or fewer persons shall be classified as a Group R-4. Type 2 assisted living facilities with at least six and not more than 16 residents shall be classified as a Group I-1 facility.
- 3.1.4 IFC, Chapter 2, Section 202, Institutional Group I-2, Child care facility is amended as follows: On line two delete the word "five" and replace it with the word "four".
- 3.1.5 IFC, Chapter 2, Section 202, Institutional Group I-4 day care facilities, Child care facility is amended as follows: On line three delete the word "five" and replace it with the word "four". Also on line two of the Exception delete the word "five" and replace it with the word "four".
 - 3.2 Fire Drills
 - 3.2.1 IFC, Chapter 4, Section 405.2, Table 405.2, is

amended to add the following footnotes:

- c. Secondary schools in Group E occupancies shall have a fire drill conducted at least every two months, to a total of four fire drills during the nine-month school year. The first fire drill shall be conducted within the first two weeks of the school year.
- d. A-3 occupancies in academic buildings of institutions of higher learning are required to have one fire drill per year, provided the following conditions are met:
- 1. The building has a fire alarm system in accordance with Section 907.2.
- 2. The rooms classified as assembly, shall have fire safety floor plans as required in Section 404.3.2(4) posted.
 - 3. The building is not classified a high-rise building.
- 4. The building does not contain hazardous materials over the allowable quantities by code.
 - 3.3 Door Closures
- 3.3.1 IFC, Chapter 7, Section 703.2. Add the following Exception. In Group E Occupancies, where the corridor serves an occupant load greater than 30 and the building does not have an automatic fire sprinkler system installed, the door closures may be of the friction hold-open type on classrooms doors with a rating of 20 minutes or less only.
- 3.4 Automatic Fire Sprinkler Systems and Commercial Cooking Operations
- 3.4.1 Inspection and Testing of Automatic Fire Sprinkler Systems

The owner or administrator of each building shall insure the inspection and testing of water based fire protection systems as required in IFC, Chapter 9, Section 901.6.

- 3.4.2 IFC, Chapter 9, Section 903.2.9 is amended to add the following: Exception: Group R-4 fire areas not more than 4500 gross square feet and not containing more than 16 residents, provided the building is equipped throughout with an approved fire alarm system that is interconnected and receives its primary power from the building wiring and a commercial power system.
- 3.4.3 IFC, Chapter 9, Section 903.6 is amended to add the following subsection: 903.6.2 Commercial cooking operation suppression. Automatic fire sprinkler systems protecting commercial kitchen exhaust hood and duct systems with appliances that generate appreciable depth of cooking oils shall be replaced with a UL300 listed system by May 1, 2004.
 - 3.4.4 Water Supply Analysis
- 3.4.4.1 For proposed construction in both sprinklered and unsprinklered occupancies, the owner or architect shall provide an engineer's water supply analysis evaluating the available water supply.
- 3.4.4.2 The owner or architect shall provide the water supply analysis during the preliminary design phase of the proposed construction.
- 3.4.4.3 The water analysis shall be representative of the supply that may be available at the time of a fire as required in NFPA, Standard 13, Appendix A-9-2.1.
 - 3.5 Alternative Automatic Fire-Extinguishing Systems
- 3.5.1 IFC, Chapter 9, Section 903.6 is amended to add the following subsection: 903.6.3 Dry chemical hood system suppression. Existing automatic fire-extinguishing systems using dry chemical that protect commercial kitchen exhaust hood and duct systems shall be removed and replaced with a UL300 listed system by January 1, 2006 or before that date when any of the following occurs: 1) Six year internal maintenance service; 2) Recharge; 3) Hydrostatic test date as indicated on the manufacturers date of the cylinders; or 4) Reconfiguring of the system piping.
- 3.5.2 IFC, Chapter 9, Section 903.6 is amended to add the following subsection: 903.6.4 Wet chemical hood system suppression. Existing wet chemical fire-extinguishing systems not UL300 listed and protecting commercial kitchen exhaust hood and duct systems shall be removed, replaced or upgraded

to a UL300 listed system by January 1, 2006 or before that date when any of the following occurs: 1) Six year internal maintenance service; 2) Recharge; 3) Hydrostatic test date as indicated on the manufacturers date of the cylinder; or 4) Reconfiguration of the system piping.

3.6 Fire Alarm Systems

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- 3.6.1 General Provisions
- 3.6.1.1 Fire alarm system construction documents submitted to the AHJ shall include those items required in IFC, Chapter 9, Section 907.1.1.
 - 3.6.2 Required Installations
- 3.6.2.1 Fire alarm systems shall be provided as required in IFC, Chapter 9, Section 907, and LSC Chapters as adopted, and in other rules promulgated by the Board.
- 3.6.2.2 Åll state-owned buildings, college and university buildings, other than institutional, with an occupant load of 100 or more, all schools with an occupant load of 50 or more, shall have an approved fire alarm system with the following features:
- 3.6.2.2.1 Products-of-combustion smoke detectors shall be installed throughout all corridors and spaces open to the corridor at the maximum prescribed spacing of thirty feet on center and no more than fifteen feet from the walls or as required in NFPA, Standard 72, Section 5.3.
- 3.6.2.2.2 In other than fully sprinklered buildings, automatic detectors shall be installed in each enclosed space, other than corridors, at maximum prescribed spacing as specified in NFPA, Standard 72, or by their listing.
- 3.6.2.2.3 Manual fire alarm boxes shall be provided as required. In public and private elementary and secondary schools, manual fire alarm boxes shall be provided in the boiler room, kitchen, and main administrative office of each building, and any other areas as determined by the AHJ.
- 3.6.2.2.4 The fire alarm system shall be connected to a proprietary panel, where provided within the complex.
 - 3.6.3 Main Panel
- 3.6.3.1 An approved key plan drawing and operating instructions shall be posted at the main fire alarm panel which displays the location of all alarm zones and if applicable, device addresses.
- 3.6.3.2 The main panel shall be located in a normally attended area such as the main office or lobby. Location of the Main Panel other than as stated above, shall require the review and authorization of the SFM. Where location as required above is not possible, an electronically supervised remote annunciator from the main panel shall be located in a supervised area of the building. The remote annunciator shall visually indicate system power status, alarms for each zone, and give both a visual and audible indication of trouble conditions in the system. All indicators on both the main panel and remote annunciator shall be adequately labeled.
 - 3.6.4 System Wiring
- 3.6.4.1 System Wiring shall be in accordance with the following:
- 3.6.4.1.1 The Initiating Device circuits (IDC) shall be Style D as defined in NFPA, Standard 72.
- 3.6.4.1.2 The Indicating Appliance circuits (IAC) shall be Style Z as defined in NFPA, Standard 72.
- 3.6.4.1.3 Signaling line circuits shall be Style 6 or 7 as defined in NFPA, Standard 72.
- 3.6.4.2 All junction boxes shall be adequately identified as part of the fire alarm system. Covers for the concealed boxes shall be painted red.
 - 3.6.5 System Devices
- All equipment and devices shall be listed and/or labeled by a nationally recognized testing laboratory for fire alarm use.
 - 3.6.6 Fan Shut Down
- 3.6.6.1 The fan shut down relay(s) in the air handling equipment shall be normally energized, and connected through and controlled by a normally closed contact in the fire alarm

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panel, or a normally closed contact of a remote relay under supervision by the main panel. The relays will transfer on alarm, and shall not restore until the panel is reset.

3.6.6.2 Duct detectors required by the IMC, shall be interconnected, and compatible with the fire alarm system.

3.6.7 Inspection and Testing

The owner or administrator of each building shall insure maintenance and testing of fire alarm systems as required in IFC, Chapter 9, Section 901.6. A written log, verifying these tests, shall be kept on file for inspection by the AHJ.

- 3.7 Retroactive Installation of Automatic Fire Alarm Systems
- 3.7.1 IFC, Chapter 9, Sections 907.3.1.1, 907.3.1.2, 907.3.1.3, 907.3.1.4 and 907.3.1.9 is deleted.
 - 3.8 Fireworks
- 3.8.1 IFC, Chapter 33, Section 3301.1.3, Exception 4 is amended to add the following sentence: Fireworks are permitted as allowed in UCA 53-7-220 and UCA 11-3-1.
 - 3.9 Flammable and Combustible Liquids
- 3.9.1 IFC, Chapter 34, Section 3406.1 is amended to add the following special operation: 8. Sites approved by the AHJ.
- 3.9.2 IFC, Chapter 34, Section 3406.2 is amended to add the following: On line two after the word "sites" add the words "and sites approved by the AHJ". On line five after the words "borrow pits" add the words "and sites approved by the AHJ".
 - 3.10 Health Care Facilities
- 3.10.1 LSC Chapters 18, 19, 20 and 21, Sections 18.1.2.4, 19.1.2.4, 20.1.2.2 and 21.1.2.2 (Exiting Through Adjoining Occupancies) exception is deleted.
- 3.10.2 LSC Chapter 19, Section 19.3.6.1, (Rooms Allowed open to Corridor) exceptions No. 1, No. 5, No. 6, and No. 8 are deleted.
 - 3.11 Time Out and Seclusion Rooms
- 3.11.1 Time Out and Seclusion Rooms are allowed in occupancies fully protected by an automatic fire sprinkler system and fire alarm system.
- 3.11.2 A vision panel shall be provided in the room door for observation purposes.
- 3.11.3 Time Out and Seclusion Room doors may be fitted with a lock which is not releasable from the inside provided the lock automatically releases by the operation of the fire alarm system or power outage.
- 3.11.4 Time Out and Seclusion Rooms shall be located where a responsible adult can maintain visual monitoring of the person and room.

R710-4-4. Repeal of Conflicting Board Actions.

All former Board actions, or parts thereof, conflicting or inconsistent with the provisions of this Board action or of the codes hereby adopted, are hereby repealed.

R710-4-5. Validity.

The Board hereby declares that should any section, paragraph, sentence, or word of this Board action, or of the codes hereby adopted, be declared, for any reason, to be invalid, it is the intent of the Board that it would have passed all other portions of this Board action, independent of the elimination here from of any such portion as may be declared invalid.

R710-4-6. Conflicts.

In the event where separate requirements pertain to the same situation in the same code, or between different codes as adopted, the more restrictive requirement shall govern, as determined by the AHJ, or his authorized representative.

R710-4-7. Adjudicative Proceedings.

7.1 All adjudicative proceedings performed by the agency shall proceed informally as set forth herein and as authorized by UCA, Sections 63-46b-4 and 63-46b-5.

- 7.2 A person may request a hearing on a decision made by the AHJ, by filing an appeal to the Board within 20 days after receiving final decision from the AHJ.
- 7.3 All adjudicative proceedings, other than criminal prosecution, taken by the AHJ to enforce the Utah Fire Prevention and Safety Act, and these rules, shall commence in accordance with UCA, Section 63-46b-3.
- 7.4 The Board shall act as the hearing authority, and shall convene as an appeals board after timely notice to all parties involved.
- 7.5 The Board shall direct the SFM to issue a signed order to the parties involved giving the decision of the Board within a reasonable time of the hearing pursuant to UCA, Section 63-46b-5(i).
- 7.6 Reconsideration of the Board's decision may be requested in writing within 20 days of the date of the decision pursuant to UCA, Section 63-46b-13.
- 7.7 Judicial review of all final Board actions resulting from informal adjudicative proceedings is available pursuant to UCA, Section 63-46b-15.

KEY: fire prevention, public buildings January 2, 2004 Notice of Continuation June 12, 2002

R710. Public Safety, Fire Marshal.

R710-6. Liquefied Petroleum Gas Rules.

R710-6-1. Adoption, Title, Purpose and Scope.

Pursuant to Title 53, Chapter 7, Section 305, Utah State Code Annotated 1953, the Liquefied Petroleum Gas (LPG) Board adopts minimum rules to provide regulation to those who distribute, transfer, dispense or install LP Gas and/or its appliances in the State of Utah.

There is adopted as part of these rules the following codes which are incorporated by reference:

- National Fire Protection Association (NFPA), 1.1 Standard 58, LP Gas Code, 2001 edition, except as amended by provisions listed in R710-6-8, et seq.
- National Fire Protection Association (NFPA), Standard 54, National Fuel Gas Code, 1999 edition, except as amended by provisions listed in R710-6-8, et seq.
- 1.3 National Fire Protection Association (NFPA), Standard 1192, Standard on Recreational Vehicles, 2002 Edition, except as amended by provisions listed in R710-6-8, et seq.
- 1.4 International Fire Code (IFC), Chapter 38, 2003 edition, as published by the International Code Council, Inc. (ICC), except as amended by provisions listed in R710-6-8, et
- 1.5 A copy of the above codes are on file with the Division of Administrative Rules, and the State Fire Marshal's Office. The definitions contained in the afore referenced codes shall also pertain to these rules.

1.6 Title.

These rules shall be known as "Rules Governing LPG Operations in the State of Utah" and may be cited as such, and will be hereinafter referred to as "these rules".

1.7 Validity.

If any article, section, subsection, sentence, clause, or phrase, of these rules is, for any reason, held to be unconstitutional, contrary to statute, or exceeding the authority of the LPG Board such decision shall not affect the validity of the remaining portion of these rules.

1.8 Conflicts.

In the event where separate requirements pertain to the same situation in the same code, or between different codes or standards as adopted, the more restrictive requirement shall govern, as determined by the enforcing authority.

R710-6-2. Definitions.

- 2.1 "Board" means the Liquefied Petroleum Gas Board.
- "Concern" means a person, firm, corporation, partnership, or association, licensed by the Board.
- 2.3 "Dispensing System" means equipment in which LP Gas is transferred from one container to another in liquid form.
- 2.4 "Division" means the Division of the State Fire Marshal.
- "Enforcing Authority" means the division, the 2.5 municipal or county fire department, other fire prevention agency acting within its respective fire prevention jurisdiction, or the building official of any city or county.
 - 2.6 "ICC" means International Code Council, Inc.2.7 "IFC" means International Fire Code.
- 2.8 "License" means a written document issued by the Division authorizing a concern to be engaged in an LPG business.
 - 2.9 "LPG" means Liquefied Petroleum Gas.
- 2.10 "LPG Certificate" means a written document issued by the Division to any person for the purpose of granting permission to such person to perform any act or acts for which authorization is required.
- "NFPA" means the National Fire Protection 2.11 Association.
- 2.12 "Possessory Rights" means the right to possess LPG, but excludes broker trading or selling.

- 2.13 "Public Place" means a highway, street, alley or other parcel of land, essentially unobstructed, which is deeded, dedicated or otherwise appropriated to the public for public use, and where the public exists, travels, traverses or is likely to frequent.
- 2.14 "Qualified Instructor" means a person holding a valid LPG certificate in the area in which he is instructing.
- 2.15 "UCA" means Utah State Code Annotated 1953 as amended.

R710-6-3. Licensing.

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- 3.1 Type of license.
- 3.1.1 Class I: A licensed dealer who is engaged in the business of installing gas appliances or systems for the use of LPG and who sells, fills, refills, delivers, or is permitted to deliver any LPG.
- 3.1.2 Class II: A business engaged in the sale, transportation, and exchange of cylinders, but not transporting or transferring gas in liquid.
- 3.1.3 Class III: A business not engaged in the sale of LPG, but engaged in the sale and installation of gas appliances, or LPG systems.
 - 3.1.4 Class IV: Those businesses listed below:
 - 3.1.4.1 Dispensers
- 3.1.4.2 Sale of containers greater than 96 pounds water capacity.
 - 3.1.4.3 Other LPG businesses not listed above.
 - 3.2 Signature on Application.

The application shall be signed by an authorized representative of the applicant. If the application is made by a partnership, it shall be signed by at least one partner. If the application is made by a corporation or association other than a partnership, it shall be signed by the principal officers, or authorized agents.

3.3 Issuance.

Following receipt of the properly completed application, an inspection, completion of all inspection requirements, and compliance with the provision of the statute and these rules, the Division shall issue a license.

- 3.4 Original, Valid Date.
- Original licenses shall be valid for one year from the date of application. Thereafter, each license shall be renewed annually and renewals thereof shall be valid for one year from issuance.
 - 3.5 Renewal.

Application for renewal shall be made on forms provided by the SFM.

- 3.6 Refusal to Renew.
- The Board may refuse to renew any license in the same manner, and for any reason, that they are authorized, pursuant to Article 5 of these rules to deny a license. The applicant shall, upon such refusal, have the same rights as are granted by Article 5 of this article to an applicant for a license which has been denied by the Board.
 - 3.7 Change of Address.
- Every licensee shall notify the Division, in writing, within thirty (30) days of any change of his address.
 - 3.8 Under Another Name.

No licensee shall conduct his licensed business under a name other than the name or names which appears on his license

- 3.9 List of Licensed Concerns.
- 3.9.1 The Division shall make available, upon request and without cost, to the Enforcing Authority, the name, address, and license number of each concern that is licensed pursuant to these rules.
- 3.9.2 Upon request, single copies of such list shall be furnished, without cost, to a licensed concern.
 - 3.10 Inspection.

The holder of any license shall submit such license for inspection upon request of the Division or the Enforcing Authority.

3.11 Notification and LPG Certificate.

Every licensed concern shall, within twenty (20) days of employment, and within twenty (20) days of termination of any employee, report to the Division, the name, address, and LPG certificate number, if any, of every person performing any act requiring an LPG certificate for such licensed concern.

3.12 Posting.

Every license issued pursuant to the provisions of these rules shall be posted in a conspicuous place on the premises of the licensed location.

3.13 Duplicate License.

A duplicate license may be issued by the Division to replace any previously issued license, which has been lost or destroyed, upon the submission of a written statement from the licensee to the Division. Such statement shall attest to the fact that the license has been lost or destroyed. If the original license is found it shall be surrendered to Division within 15 days.

3.14 Registration Number.

Every license shall be identified by a number, delineated as P-(number).

3.15 Accidents, Reporting.

Any accident where a licensee and LPG are involved must be reported to the Board in writing by the affected licensee within 3 days upon receipt of information of the accident. The report must contain any pertinent information such as the location, names of persons involved, cause, contributing factors, and the type of accident. If death or serious injury of person(s), or property damage of \$5000.00 or more results from the accident, the report must be made immediately by telephone and followed by a written report.

3.16 Board investigation of accidents.

At their discretion, the Board will investigate, or direct the Division to investigate, all serious accidents as defined in Subsection 3.15.

R710-6-4. LP Gas Certificates.

4.1 Application.

Application for an LPG certificate shall be made in writing to the Division. The application shall be signed by the applicant.

4.2 Examination.

Every person who performs any act or acts within the scope of a license issued under these rules, shall pass an initial examination in accordance with the provisions of this article.

- 4.3 Types of Initial Examinations:
- 4.3.1 Carburetion
- 4.3.2 Dispenser
- 4.3.3 HVAC/Plumber
- 4.3.4 Recreational Vehicle Service
- 4.3.5 Serviceman4.3.6 Transportation and Delivery
- 4.4 Initial Examinations.
- 4.4.1 The initial examination shall include an open book written test of the applicant's knowledge of the work to be performed by the applicant. The written examination questions shall be taken from the adopted statute, administrative rules, NFPA 54, and NFPA 58.
- 4.4.2 The initial examination shall also include a practical or actual demonstration of some selected aspects of the job to be performed by the applicant.
- 4.4.3 To successfully complete the written and practical initial examinations, the applicant must obtain a minimum grade of seventy percent (70%) in each portion of the examination taken. Each portion of the examination will be graded separately. Failure of any one portion of the examination will not delete the entire test.

- 4.4.4 Examinations may be given at various field locations as deemed necessary by the Division. Appointments for field examinations are required.
- 4.4.5 As required in Sections 4.2 and 4.3, those applicants that have successfully completed the requirements of the Certified Employee Training Program (CETP), as written by the National Propane Gas Association, and that corresponds to the work to be performed by the applicant, shall have the requirement for initial examination waived, after appropriate documentation is provided to the Division by the applicant.

4.5 Original and Renewal Date.

Original LPG certificates shall be valid for one year from the date of issuance. Thereafter, each LPG certificate shall be renewed annually and renewals thereof shall be valid from for one year from issuance.

4.6 Renewal Date.

Application for renewal shall be made on forms provided by the Division.

4.7 Re-examination.

Every holder of a valid LPG Certificate shall take a reexamination every five years from the date of original certificate issuance, to comply with the provisions of Section 4.3 of these rules as follows:

- 4.7.1 The re-examination to comply with the provisions of Section 4.3 of these rules shall consist of an open book examination, to be mailed to the certificate holder at least 60 days before the renewal date.
- 4.7.2 The open book re-examination will consist of questions that focus on changes in the last five years to NFPA 54, NFPA 58, the statute, or the adopted administrative rules. The re-examination may also consist of questions that focus on practices of concern as noted by the Board or Division.
- 4.7.3 The certificate holder is responsible to complete the re-examination and return it to the Division in sufficient time to
- 4.7.4 The certificate holder is responsible to return to the Division with the re-examination the correct renewal fees to complete that certificate renewal.

4.8 Refusal to Renew.

The Division may refuse to renew any LPG certificate in the same manner and for any reason that is authorized pursuant to Article 5.

4.9 Inspection.

The holder of a LPG certificate shall submit such certificate for inspection, upon request of the Division or the enforcing authority.

4.10 Type.

- 4.10.1 Every LPG certificate shall indicate the type of act or acts to be performed and for which the applicant has qualified.
- 4.10.2 Any person holding a valid LPG certificate shall not be authorized to perform any act unless he is a licensee or is employed by a licensed concern.
- 4.10.3 It is the responsibility of the LPG certificate holder to insure that the concern they are employed by is licensed under this act.

4.11 Change of Address.

Any change in home address of any holder of a valid LPG certificate shall be reported by the registered person to the Division within thirty (30) days of such change.

4.12 Duplicate.

A duplicate LPG certificate may be issued by the Division to replace any previously issued certificate which has been lost or destroyed upon the submission of a written statement to the Division from the certified person. Such statement shall attest to the certificate having been lost or destroyed. If the original is found, it shall be surrendered to the Division within 15 days.

4.13 Contents of Certificate of Registration.

Every LPG certificate issued shall contain the following

information:

- 4.13.1 The name and address of the applicant.
- 4.13.2 The physical description of applicant.
- 4.13.3 The signature of the LP Gas Board Chairman.
- 4.13.4 The date of issuance.
- 4.13.5 The expiration date.
- 4.13.6 Type of service the person is qualified to perform.
- 4.13.7 Have printed on the card the following: "This certificate is for identification only, and shall not be used for recommendation or advertising".
 - 4.14 Minimum Age.
- No LPG certificate shall be issued to any person who is under sixteen (16) years of age.
 - 4.15 Restrictive Use.
- 4.15.1 No LPG certificate shall constitute authorization for any person to enforce any provisions of these rules.
- 4.15.2 A LPG certificate may be used for identification purposes only as long as such certificate remains valid and while the holder is employed by a licensed concern.
- 4.15.3 Regardless of the acts for which the applicant has qualified, the performance of only those acts authorized under the licensed concern employing such applicant shall be permissible.
- 4.15.4 Regardless of the acts authorized to be performed by a licensed concern, only those acts for which the applicant for a LPG certificate has qualified shall be permissible by such applicant.
 - 4.16 Right to Contest.
- 4.16.1 Every person who takes an examination for a LPG certificate shall have the right to contest the validity of individual questions of such examination.
- 4.16.2 Every contention as to the validity of individual questions of an examination that cannot be reasonably resolved, shall be made in writing to the Division within 48 hours after taking said examination. Contentions shall state the reason for the objection.
- 4.16.3 The decision as to the action to be taken on the submitted contention shall be by the Board, and such decision shall be final.
- 4.16.4 The decision made by the Board, and the action taken, shall be reflected in all future examinations, but shall not affect the grades established in any past examination.
 - 4.17 Non-Transferable.
- LPG Certificates shall not be transferable to another individual. Individual LPG certificates shall be carried by the person to whom issued.
 - 4.18 New Employees.

New employees of a licensed concern may perform the various acts while under the direct supervision of persons holding a valid LPG certificate for a period not to exceed 45 days from the initial date of employment. By the end of such period, new employees shall have taken and passed the required examination. In the event the employee fails the examination, re-examination shall be taken within 30 days. The employee shall remain under the direct supervision of an employee holding a valid LPG certificate, until certified.

4.19 Certificate Identification.

Every LPG certificate shall be identified by a number, delineated as PE-(number). Such number shall not be transferred from one person to another.

R710-6-5. Adjudicative Proceedings.

- 5.1 All adjudicative proceedings performed by the agency shall proceed informally as set forth herein and as authorized by UCA, Sections 63-46b-4 and 63-46b-5.
- 5.2 The issuance, renewal, or continued validity of a license or LPG certificate may be denied, suspended or revoked by the Division, if the Division finds that the applicant, person employed for, or the person having authority and management

of a concern commits any of the following violations:

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- 5.2.1 The person or applicant is not the real person in interest.
- 5.2.2 The person or applicant provides material misrepresentation or false statement in the application, whether original or renewal.
- 5.2.3 The person or applicant refuses to allow inspection by the Division or enforcing authority on an annual basis to determine compliance with the provisions of these rules.
- 5.2.4 The person, applicant, or concern for a license does not have the proper or necessary facilities, including qualified personnel, to conduct the operations for which application is made
- 5.2.5 The person or applicant for a LPG certificate does not possess the qualifications of skill or competence to conduct the operations for which application is made. This can also be evidenced by failure to pass the examination and/or practical tests.
- 5.2.6 The person or applicant refuses to take the examination.
- 5.2.7 The person or applicant has been convicted of a violation of one or more federal, state or local laws.
- 5.2.8 The person or applicant has been convicted of a violation of the adopted rules or been found by a Board administrative proceeding to have violated the adopted rules.
- 5.2.9 Any offense of finding of unlawful conduct, or there is or may be, a threat to the public's health or safety if the person or applicant were granted a license or certificate of registration.
- 5.2.10 There are other factors upon which a reasonable and prudent person would rely to determine the suitability of the person or applicant to safely and competently distribute, transfer, dispense or install LP Gas and/or it's appliances.
- 5.2.11 The person or applicant does not complete the reexamination process by the person or applicants certificate or license expiration date.
- 5.2.12 The person or applicant fails to pay the license fee, certificate of registration fee, examination fee or other fees as required in Section 6 of these rules.
- 5.3 A person whose license or certificate of registration is suspended or revoked by the Division shall have an opportunity for a hearing before the LPG Board if requested by that person within 20 days after receiving notice.
- 5.4 All adjudicative proceedings, other than criminal prosecution, taken by the Enforcing Authority to enforce the Liquefied Petroleum Gas Section, Utah Fire Prevention and Safety Act, and these rules, shall commence in accordance with UCA, Section 63-46b-3.
- 5.5 The Board shall act as the hearing authority, and shall convene after timely notice to all parties involved. The Board shall be the final authority on the suspension or revocation of a license or certificate of registration.
- 5.6 The Board shall direct the Division to issue a signed order to the parties involved giving the decision of the Board within a reasonable time of the hearing pursuant to UCA, Section 63-46b-5(i).
- 5.7 Reconsideration of the Board's decision may be requested in writing within 20 days of the date of the decision pursuant to UCA, Section 63-46b-13.
- 5.8 After a period of three (3) years from the date of revocation, the Board may review the written application of a person whose license or certificate of registration has been revoked.
- 5.9 Judicial review of all final Board actions resulting from informal adjudicative proceedings is available pursuant to UCA, Section 63-46b-15.

R710-6-6. Fees.

- 6.1 Fee Schedule.
- 6.1.1 License and LPG Certificates (new and renewals):

- 6.1.1.1 License
- 6.1.1.1.1 Class I \$450.00
- 6.1.1.1.2 Class II \$450.00
- 6.1.1.1.3 Class III \$105.00
- 6.1.1.1.4 Class IV \$150.00
- 6.1.1.2 Branch office license \$337.50
- 6.1.1.3 LPG Certificate \$30.00
- 6.1.1.4 LPG Certificate (Dispenser--Class B) \$10.00
- 6.1.1.5 Duplicate \$30.00
- 6.1.2 Examinations:
- 6.1.2.1 Initial examination \$20.00
- 6.1.2.2 Re-examination \$20.00
- 6.1.2.3 Five year examination \$20.00
- 6.1.3 Plan Reviews:
- 6.1.3.1 More than 5000 water gallons of LPG \$90.00
- 6.1.3.2 5,000 water gallons or less of LPG \$45.00
- 6.1.4 Special Inspections.
- 6.1.4.1 Per hour of inspection \$30.00
- (charged in half hour increments with part half hours charged as full half hours).
 - 6.1.5 Re-inspection (3rd Inspection or more) \$250.00
 - 6.1.6 LP Gas Private Container Inspection \$150.00
 - 6.2 Payment of Fees.

The required fee shall accompany the application for license or LPG certificate or submission of plans for review.

- 6.3 Late Renewal Fees.
- 6.3.1 Any license or LPG certificate not renewed on or before one year from the original date of issuance will be subject to an additional fee equal to 10% of the required fee.
- 6.3.2 When an LPG certificate has expired for more than one year, an application shall be made for an original certificate as if the application was being taken for the first time. Examinations will be retaken with initial examination fees.

R710-6-7. Board Procedures.

- 7.1 The Board will review the Division and Enforcing Authorities activities since the last meeting, and review and act on license and permit applications, review financial transactions, consider recommendations of the Division, and all other matters brought to the Board.
- 7.2 The Board may be asked to serve as a review board for items under disagreement.
- 7.3 Board meetings shall be presided over and conducted by the chairman and in his absence the vice chairman.
- 7.4 Meetings of the Board shall be conducted in accordance with an agenda, which shall be submitted to the members by the Division, not less than twenty-one (21) days before the regularly scheduled Board meeting.
- 7.5 The chairman of the Board and Board members shall be entitled to vote on all issues considered by the Board. A Board member who declares a conflict of interest or where a conflict of interest has been determined, shall not vote on that particular issue.
- 7.6 Public notice of Board meetings shall be made by the Division as prescribed in UCA Section 52-4-6.
- 7.7 The Division shall provide the Board with a secretary, who shall prepare minutes and shall perform all secretarial duties necessary for the Board to fulfill its responsibility. The minutes of Board meetings shall be completed and sent to Board members at least twenty-one (21) days prior to the scheduled Board meeting.
- 7.8 The Board may be called upon to interpret codes adopted by the Board.
- 7.9 The Board Chairman may assign member(s) various assignments as required to aid in the promotion of safety, health and welfare in the use of LPG.

R710-6-8. Amendments and Additions.

The following amendments and additions are hereby

adopted by the Board:

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- 8.1 Åll LP Gas facilities that are located in a public place shall be inspected by a certified LP Gas serviceman every five (5) years for leaks in all buried piping as follows:
- 8.1.1 All buried piping shall be pressure tested and inspected for leaks as set forth in NFPA Standard 54, Sections 4.1.1 through 4.3.4.
- 8.1.2 If a leak is detected and repaired, the buried piping shall again be pressure tested for leaks.
- 8.1.3 The certified LP Gas serviceman shall keep a written record of the inspection and all corrections made to the buried piping located in a public place.
- 8.1.4 The inspection records shall be available to be inspected on a regular basis by the Division.
- 8.2 Whenever the Division is required to complete more than two inspections to receive compliance on an LP Gas System, container, apparatus, appliance, appurtenance, tank or tank trailer, or any pertinent equipment for the storage, transportation or dispensation of LP Gas, the Division shall charge to the owner for each additional inspection, the reinspection fee as stated in R710-6-6.1(e).
- 8.3 All LP Gas containers of more than 5000 water gallons shall be inspected at least biannually for compliance with the adopted statute and rules. The following containers are exempt from this requirement:
- 8.3.1 Those excluded from the act in UCA, Section 53-7-303.
 - 8.3.2 Containers under federal control.
- 8.3.3 Containers under the control of the U.S. Department of Transportation and used for transportation of LP Gas.
 - 8.3.4 Containers located at private residences.
- 8.4 Those using self-serve key or card services shall be trained in safe filling practices by the licensed dealer providing the services. A letter shall be sent to the Division by the licensed dealer stating that those using the self-serve key or card service have been trained.
 - 8.5 IFC Amendments:
- $8.5.1\,$ IFC, Section 3801.2 Permits. On line 2 after the word "105.7" add "and the adopted LPG rules".
- 8.5.2 IFC, Section 3803.1 General. After the word "Code" on line 2 insert ",NFPA 54.
- 8.5.3 IFC, Section 3809.12 Location of storage outside of buildings. On line three replace the number "20" with the number "10".
 - 8.6 NFPA, Standard 58 Amendments:
- 8.6.1 NFPA, Standard 58, Section 2-2.1.3 is amended to add the following section: (c) All new, used or existing containers of 5000 water gallons or less, installed in the State of Utah or relocated within the State of Utah shall meet the requirements listed in ASME, Boiler and Pressure Vessel Code, "Rules for the Construction of Unfired Pressure Vessels". All new, used or existing containers of more than 5000 water gallons, installed in the State of Utah or relocated within the State of Utah shall meet the requirements listed in ASME, Boiler and Pressure Vessel Code, "Rules for the Construction of Unfired Pressure Vessels", Section VIII, and shall either be registered by the National Board of Boiler and Pressure Vessel Inspectors or the Manufacturer's Data Report for Pressure Vessels, Form U-1A, be provided.
- 8.6.2 NFPA, Standard 58, Section 2-2.1.3 is amended to add the following section: (d) If an existing container is relocated within the State of Utah, and depending upon the container size, does not bear the required ASME construction code and/or National Board Stamping, the new owner may submit to the Division a request for "Special Classification Permit". Material specifications and calculations of the container shall be submitted to the Division by the new owner. Also, the new owner shall insure that a review of the proposed container be completed by a registered professional engineer

experienced in pressure vessel container design and construction, and the new owner submit that report to the Division. The Division will approve or disapprove the proposed container. Approval by the Division shall be obtained before the container is set or filled with LP Gas.

- 8.6.3 NFPA, Standard 58, Section 2-2.1.9 is deleted and rewritten as follows: Repair or alteration of containers shall comply with the latest edition of the National Board Inspection Code or the API Pressure Vessel Inspection Code as applicable. Repairs and alterations shall only be made by those holding a National Board "R" Certificate of Authorization commonly known as an R Stamp.
- 8.6.4 NFPA, Standard 58, Section 2-2.5.1 is amended to add the following: Skid mounted ASME horizontal containers greater than 2000 water gallons, with non-fireproofed steel mounted attached supports, resting on concrete, pavement, gravel or firm packed earth, may be mounted on the attached supports to a maximum of 12 inches from the top of the skid to the bottom of the container.
- $8.6.5\,$ NFPA Standard 58, Sections 2-4.3(3)(a) and (b) are deleted and amended to read as follows:

Type K copper tubing without joints below grade may be used in exterior LP Gas piping systems only.

8.6.6 NFPA, Standard 58, Section 3.2.4.2 is deleted and rewritten as follows: Guard posts or other approved means shall be provided for LP Gas containers, systems, bulk heads, connecting piping, valves and fittings, and dispensing cabinets that would be subject to vehicular damage. When guard posts are installed they shall be installed meeting the following listed requirements:

- 8.6.6.1 Constructed of steel not less than four inches in diameter and filled with concrete.
 - 8.6.6.2 Set with spacing not more than four feet apart.
- 8.6.6.3 Buried three feet in the ground in concrete not less than 15 inches in diameter.
- 8.6.6.4 Set with the tops of the posts not less than three feet above the ground.
- 8.6.7 NFPA, Standard 58, Section 5.4.1.1 is deleted and rewritten as follows: At least 10 feet from the doorway or opening frequented by the public.

R710-6-9. Penalties.

- 9.1 Civil penalties for violation of any rule or referenced code shall be as follows:
 - 9.1.1 Concern failure to license \$210.00 to \$900.00
- $9.1.2\,$ Person failure to obtain LPG Certificate \$30.00 to \$90.00
- 9.1.3 Failure of concern to obtain LPG Certificate for employees who dispense LPG \$210.00 to \$900.00
- 9.1.4 Concern doing business under improper class \$140.00 to \$600.00
 - 9.1.5 Failure to notify SFM of change of address \$60.00
- 9.1.6 Violation of the adopted Statute or Rules \$210.00 to \$900.00
 - 9.2 Rationale.
 - 9.2.1 Double the fee plus the cost of the license.
 - 9.2.2 Double the fee plus the cost of the certificate.
 - 9.2.3 Double the fee plus the cost of the license.
 - 9.2.4 Double the fee.
- 9.2.5 Based on two hours of inspection fee at \$30.00 per hour.
 - 9.2.6 Triple the fee.

KEY: liquefied petroleum gas January 15, 2004 Notice of Continuation July 5, 2001

53-7-305

R710. Public Safety, Fire Marshal.

R710-9. Rules Pursuant to the Utah Fire Prevention Law. R710-9-1. Title, Authority, and Adoption of Codes.

- 1.1 These rules shall be known as the "Rules Pursuant to the Utah Fire Prevention Law", and may be cited as such, and will be hereafter referred to as "these rules".
- 1.2 These rules are promulgated in accordance with Title 53, Chapter 7, Section 204, Utah Code Annotated 1953, as amended.
- 1.3 These rules are adopted by the Utah Fire Prevention Board to provide minimum rules for safeguarding life and property from the hazards of fire and explosion, for board meeting conduct, procedures to amend incorporated references, establish several board subcommittees, establish a Fire Service Education Administrator and Fire Education Program Coordinator, enforcement of the rules of the State Fire Marshal, establish rules for the Utah Fire and Rescue Academy, and deputizing Special Deputy State Fire Marshals.
- 1.4 There is adopted as part of these rules the following code which is incorporated by reference:
- 1.4.1 International Fire Code (IFC), 2003 edition, excluding appendices, as promulgated by the International Code Council, Inc., except as amended by provisions listed in R710-9-6, et seq.
- 1.5 There is further adopted as part of these rules the following codes which are also incorporated by reference and supercede the adopted standards listed in the International Fire Code, 2003 edition, Chapter 45, Referenced Standards, as
- 1.5.1 National Fire Protection Association (NFPA), NFPA 10, Standard for Portable Fire Extinguishers, 2002 edition, except as amended by provisions listed in R710-9-6, et seq.
- 1.5.2 National Fire Protection Association (NFPA), NFPA 13, Standard for Installation of Sprinkler Systems, 2002 edition, except as amended by provisions listed in R710-9-6, et seq.
- 1.5.3 National Fire Protection Association (NFPA), NFPA 13D, Standard for the Installation of Sprinkler Systems in One and Two Family Dwellings and Manufactured Homes, 2002 edition, except as amended by provisions listed in R710-9-6, et
- 1.5.4 National Fire Protection Association (NFPA), NFPA 13R, Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and including Four Stories in Height, 2002 edition, except as amended by provisions listed in R710-9-6, et seq.
- 1.5.5 National Fire Protection Association (NFPA), NFPA 70, National Electric Code, 2002 edition, as adopted by the Uniform Building Standards Act, Title 58. Chapter 56, Section 4, Utah Code Annotated 1953 and the Utah Administrative Code R156-56-701. Wherever there is a section, figure or table in the International Fire Code (IFC) that references "ICC Electrical Standard", that reference shall be replaced with "National Electric Code".
- 1.5.6 National Fire Protection Association (NFPA), NFPA 72, National Fire Alarm Code, 2002 edition, except as amended in provisions listed in R710-9-6, et seq.
- 1.5.7 National Fire Protection Association (NFPA), NFPA 101, Life Safety Code, 2003 edition, except as amended in provisions listed in R710-9-6, et seq. Wherever there is a section, figure or table in NFPA 101 that references "NFPA 5000 - Building Construction and Safety Code", that reference shall be replaced with the "International Building Code"
- 1.5.8 National Fire Protection Association (NFPA), NFPA 160, Standard for Flame Effects Before an Audience, 2001 edition, except as amended by provisions listed in R710-9-6, et
- 1.6 National Fire Protection Association (NFPA), NFPA 96, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, 2001 edition, except as

amended by provisions listed in R710-9-6, et seq.

1.7 National Fire Protection Association (NFPA), NFPA 1403, Standard on Live Fire Training Evolutions, 2002 edition, except as amended by provisions in R710-9-6, et seq.

R710-9-2. Definitions.

Printed: May 1, 2004

- 2.1 "Academy" means Utah Fire and Rescue Academy.
- 2.2 "Academy Director" means the Director of the Utah Fire and Rescue Academy.
- "Administrator" means Fire Service Education 2.3 Administrator.
 - 2.4 "Board" means Utah Fire Prevention Board.
- 2.5 "Certification Council" means Utah Fire Service Certification Council.
- 2.6 "Coordinator" means Fire Education Program Coordinator.
 - 2.7 "Division" means State Fire Marshal.
 - 2.8 "ICC" means International Code Council, Inc.
 - 2.9 "IFC" means International Fire Code.
- 2.10 "Institutional occupancy" means asylums, mental hospitals, hospitals, sanitariums, homes for the aged, residential health care facilities, children's homes or institutions, or any similar institutional occupancy.
 - 2.11 "LFA" means Local Fire Authority.
 - 2.12 "NFPA" means National Fire Protection Association.
- 2.13 "Place of assembly" means where $50\ or\ more\ people$ gather together in a building, structure, tent, or room for the purpose of amusement, entertainment, instruction, or education.
 - 2.14 "Plan" means Fire Academy Strategic Plan.
- 2.15 "SFM" means State Fire Marshal or authorized deputy.
- 2.16 "Standards Council" means Fire Service Standards
- and Training Council.
 2.17 "Sub-Committee" means Fire Prevention Board Budget Sub-Committee or Amendment Sub-Committee.
 - 2.18 "UCA" means Utah Code Annotated, 1953.

R710-9-3. Conduct of Board Members and Board Meetings.

- 3.1 Board meetings shall be presided over and conducted by the chairman and in his absence the vice chairman or the chairman's designee.
- 3.2 A quorum shall be required to approve any action of the Board.
- 3.3 The chairman of the Board and Board members shall be entitled to vote on all issues considered by the Board. A Board member who declares a conflict of interest or where a conflict of interest has been determined, shall not vote on that particular issue.
- 3.4 Meetings of the Board shall be conducted in accordance with an agenda, which shall be submitted to the members by the division, not less that 21 days before the regularly scheduled Board meetings.
- 3.5 Public notice of Board meetings shall be made by the Division as prescribed in UCA Section 52-4-6.
- 3.6 The division shall provide the Board with a secretary who shall prepare minutes and shall perform all secretarial duties necessary for the Board to fulfill its responsibility. The minutes of Board meetings shall be completed and sent to Board members at least 14 days prior to the scheduled Board meeting.
- 3.7 A Board members standing on the Board shall come under review after two unexcused absences in one year from regularly scheduled board meetings. The Board members name shall be submitted to the governors office for status review.

R710-9-4. Deputizing Persons to Act as Special Deputy State Fire Marshals.

4.1 Special deputy state fire marshals may be appointed by the SFM to positions of expertise within the regular scope of the Fire Marshal's Office.

- 4.2 Pursuant to Section 53-7-101 et seq., special deputy state fire marshals may also be appointed to assist the Fire Marshal's Office in establishing and maintaining minimum fire prevention standards in those occupancy classifications listed in the International Fire Code.
- 4.3 Special deputy state fire marshals shall be appointed after review by the State Fire Marshal in regard to their qualifications and the overall benefit to the Office of the State Fire Marshal.
- 4.4 Special deputy state fire marshals shall be appointed by completing an oath and shall be appointed for a specific period of time.
- 4.5 Special deputy state fire marshals shall have a picture identification card and shall carry that card when performing their assigned duties.

R710-9-5. Procedures to Amend the International Fire Code.

- 5.1 All requests for amendments to the IFC shall be submitted to the division on forms created by the division, for presentation to the Board at the next regularly scheduled Board meeting.
- 5.2 Requests for amendments received by the division less than 21 days prior to any regularly scheduled meeting of the Board may be delayed in presentation until the next regularly scheduled Board meeting.
- 5.3 Upon presentation of a proposed amendment, the Board shall do one of the following:
- 5.3.1 accept the proposed amendment as submitted or as modified by the Board;
 - 5.3.2 reject the proposed amendment;
- 5.3.3 submit the proposed amendment to the Board Amendment Subcommittee for further study; or
- 5.3.4 return the proposed amendment to the requesting agency, accompanied by Board comments, allowing the requesting agency to resubmit the proposed amendment with modifications.
- 5.4 The Board Amendment Subcommittee shall report its recommendation to the Board at the next regularly scheduled Board meeting.
- 5.5 The Board shall make a final decision on the proposed amendment at the next Board meeting following the original submission.
- 5.6 The Board may reconsider any request for amendment, reverse or modify any previous action by majority vote.
- 5.7 When approved by the Board, the requesting agency shall provide to the division within 45 days, the completed ordinance.
- 5.8 The division shall maintain a list of amendments to the IFC that have been granted by the Board.
- 5.9 The division shall make available to any person or agency copies of the approved amendments upon request, and may charge a reasonable fee for multiple copies in accordance with the provisions of UCA, 63-2-203.

R710-9-6. Amendments and Additions.

The following amendments and additions are hereby adopted by the Board for application statewide:

- 6.1 Administration
- 6.1.1 IFC, Chapter, 1, Section 102.4 is amended as follows: On line three after the words "Building Code." add the following sentence: "The design and construction of detached one- and two-family dwellings and multiple single-family dwellings (town houses) not more than three stories above grade plane in height with a separate means of egress and their accessory structures shall comply with the International Residential Code."
- 6.1.2 IFC, Chapter 1, Section 109.2 is amended as follows: On line three after the words "is in violation of this code," add

the following "or other pertinent laws or ordinances".

6.2 Definitions

6.2.1 IFC, Chapter 2, Section 202, Educational Group E, Day care is amended as follows: On line three delete the word "five" and replace it with the word "four".

6.2.2 IFC, Chapter 2, Section 202, Institutional Group I, Group I-1 is amended to add the following: Add "Type 1" in

front of the words "Assisted living facilities".

- 6.2.3 IFC, Chapter 2 Section 202, Institutional Group I, Group I-2 is amended as follows: On line three delete the word "five" and replace it with the word "three". After "Detoxification facilities" delete the rest of the paragraph, and add the following: "Ambulatory surgical centers with two or more operating rooms where care is less than 24 hours, Outpatient medical care facilities for ambulatory patients (accommodating more than five such patients in each tenant space) which may render the patient incapable of unassisted self-preservation, and Type 2 assisted living facilities. Type 2 assisted living facilities with at least six and not more than 16 residents shall be classified as a Group I-1 facility.
- 6.2.4 IFC, Chapter 2, Section 202, Institutional Group I, Group I-4, day care facilities, Child care facility is amended as follows: On line three delete the word "five" and replace it with the word "four". Also on line two of the Exception after Child care facility delete the word "five" and replace it with the word "four".
- 6.2.5 IFC, Chapter 2, Section 202 General Definitions, Occupancy Classification, Residential Group R-1 is amended to add the following: Exception: Boarding houses accommodating 10 persons or less shall be classified as Residential Group R-3.
- 6.2.6 IFC, Chapter 2, Section 202 General Definitions, Occupancy Classification, Residential Group R-2 is amended to add the following: Exception: Boarding houses accommodating 10 persons or less shall be classified as Residential Group R-3.
 - 6.3 General Precautions Against Fire
- 6.3.1 IFC, Chapter 3, Section 304.1.2 is amended to delete the following sentence: "Vegetation clearance requirements in urban-wildland interface areas shall be in accordance with the International Urban/Wildland Interface Code."
- 6.3.2 IFC, Chapter 3, Section 311.1.1 is amended as follows: On line ten delete the words "International Property Maintenance Code and the" from this section.
 - 6.4 Elevator Recall and Maintenance
- 6.4.1 IFC, Chapter 6, Section 607.3 is deleted and rewritten as follows: Firefighter service keys shall be kept in a "Supra Stor-a-key" elevator key box or similar box with corresponding key system that is adjacent to the elevator for immediate use by the fire department. The key box shall contain one key for each elevator and one key for lobby control.
 - 6.5 Building Services and Systems
- 6.5.1 IFC, Chapter 6, Section 610.1 is amended to add the following: On line three after the word "Code" add the words "and NFPA 96".
 - 6.6 Record Drawings
- 6.6.1 IFC, Chapter 9, Section 901.2.1 is amended to add the following: The code official has the authority to request record drawings ("as builts") to verify any modifications to the previously approved construction documents.

6.6.2 IFC, Chapter 9, Section 902.1 Definitions, RECORD DRAWINGS is deleted and rewritten as follows: Drawings ("as builts") that document all aspects of a fire protection system as installed.

- 6.7 Fire Protection Systems
- 6.7.1 Inspection and Testing of Automatic Fire Sprinkler Systems

The owner or administrator of each building shall insure the inspection and testing of water based fire protection systems as required in IFC, Chapter 9, Section 901.6.

- 6.7.2 IFC, Chapter 9, Section 903.2.7 Group R, is amended to add the following: Exception: Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) constructed in accordance with the International Residential Code for one- and two-family dwellings.
- 6.7.3 IFC, Chapter 9, Section 903.2.7 is amended to add the following: Exception: Group R-4 fire areas not more than 4500 gross square feet and not containing more than 16 residents, provided the building is equipped throughout with an approved fire alarm system that is interconnected and receives its primary power from the building wiring and a commercial power system.
- 6.7.4 IFC, Chapter 9, Section 903.6 is amended to add the following subsection: 903.6.2 Commercial cooking operation suppression. Automatic fire sprinkler systems protecting commercial kitchen exhaust hood and duct systems with appliances that generate appreciable depth of cooking oils shall be replaced with a UL300 listed system by May 1, 2004.
- 6.7.5 IFC, Chapter 9, Section 903.6 is amended to add the following subsection: 903.6.3 Dry chemical hood system suppression. Existing automatic fire-extinguishing systems using dry chemical that protect commercial kitchen exhaust hood and duct systems shall be removed and replaced with a UL300 listed system by January 1, 2006 or before that date when any of the following occurs: 1) Six year internal maintenance service; 2) Recharge; 3) Hydrostatic test date as indicated on the manufacturers date of the cylinders; or 4) Reconfiguration of the system piping.
- 6.7.6 IFC, Chapter 9, Section 903.6 is amended to add the following subsection: 903.6.4 Wet chemical hood system suppression. Existing wet chemical fire-extinguishing systems not UL300 listed and protecting commercial kitchen exhaust hood and duct systems shall be removed, replaced or upgraded to a UL300 listed system by January 1, 2006 or before that date when any of the following occurs: 1) Six year internal maintenance service; 2) Recharge; 3) Hydrostatic test date as indicated on the manufacturer date of the cylinder; or 4) Reconfiguration of the system piping.
- 6.7.7 IFC, Chapter 9, Section 903.6 is amended to add the following subsection: 903.6.5 Group A-2 occupancies. An automatic fire sprinkler system shall be provided throughout Group A-2 occupancies where indoor pyrotechnics are used.
 - 6.8 Backflow Protection
- 6.8.1 The potable water supply to automatic fire sprinkler systems and standpipe systems shall be protected against backflow in accordance with the International Plumbing Code as amended in the Utah Administrative Code, R156-56-707.
- 6.9 Retroactive Installations of Automatic Fire Alarm Systems in Existing Buildings
- 6.9.1 IFC, Chapter 9, Sections 907.3.1.1, 907.3.1.2, 907.3.1.3, 907.3.1.4, 907.3.1.5, 907.3.1.6, 907.3.1.7, and 907.3.1.8 are deleted.
 - 6.10 Smoke Alarms
- 6.10.1 IFC, Chapter 9, Section 907.3.2 is amended to add the following: On line three after the word "occupancies" add "and detached one- and two-family dwellings and multiple single-family dwellings (townhouses)".
- 6.10.2 IFC, Chapter 9, Section 907.3.2.3 is amended to add the following: On line one after the word "occupancies" add "and detached one- and two-family dwellings and multiple single-family dwellings (townhouses)".
 - 6.11 Means of Egress
- 6.11.1 IFC, Chapter 10, Section 1009.3 is amended as follows: On line six of Exception 5 delete "7.75" and replace it with "8". On line seven of Exception 5 delete "10" and replace it with "9".

- 6.11.2 IFC, Chapter 10, Section 1009.11, Exception 4 is deleted and replaced with the following: 4. In occupancies in Group R-3, as applicable in Section 101.2 and in occupancies in Group U, which are accessory to an occupancy in Group R-3, as applicable in Section 101.2, handrails shall be provided on at least one side of stairways consisting of four or more risers.
- 6.11.3 IFC, Chapter 10, Section 1009.11.3 is amended to add the following: Exception: Non-circular handrails serving an individual unit in a Group R-1, Group R-2 or Group R-3 occupancy shall be permitted to have a maximum cross sectional dimension of 3.25 inches (83 mm) measured 2 inches (51mm) down from the top of the crown. Such handrail is required to have an indention on both sides between 0.625 inch (16mm) and 1.5 inches (38mm) down from the top or crown of the cross section. The indentation shall be a minimum of 0.25 inch (6mm) deep on each side and shall be at least 0.5 (13mm) high. Edges within the handgrip shall have a minimum radius of 0.0625 inch (2mm). The handrail surface shall be smooth with no cusps so as to avoid catching clothing or skin.
- 6.11.4 IFC, Chapter 10, Section 1012.2 is amended to add the following exception: 3. For occupancies in Group R-3 and within individual dwelling units in occupancies in Group R-2, as applicable in Section 101.2, guards shall form a protective barrier not less than 36 inches (914mm).
- 6.11.5 IFC, Chapter 10, Section 1027.2 is amended to add the following: On line five after the word "fire" add the words "and building".
 - 6.12 Fireworks
- 6.12.1 IFC, Chapter 33, Section 3301.1.3 is amended to add the following Exception: 10. The use of fireworks for display and retail sales is allowed as set forth in UCA 53-7-220 and UCA 11-3-1.
 - 6.13 Flammable and Combustible Liquids
- 6.13.1 IFC, Chapter 34, Section 3404.4.3 is amended as follows: Delete 3403.6 on line three and replace it with 3403.4. 6.14 Liquefied Petroleum Gas
- 6.14.1 IFC, Chapter 38, Section 3809.12, is amended as follows: Delete 20 from line three and replace it with 10.

R710-9-7. Fire Advisory and Code Analysis Committee.

- 7.1 There is created by the Board a Fire Advisory and Code Analysis Committee whose duties are to provide direction to the Board in the matters of fire prevention and building codes.
- 7.2 The committee shall serve in an advisory position to the Board, members shall be appointed by the Board, shall serve for a term of three years, and shall consist of the following members:
 - 7.2.1 A member of the State Fire Marshal's Office.
- $7.2.2\,$ The Code Committee Chairman of the Fire Marshal's Association of Utah.
 - 7.2.3 A fire marshal from a local fire department.
- 7.2.4 A fire inspector or fire officer involved in fire prevention duties.
- 7.2.5 The Chief Elevator Inspector from the Utah Labor Commission.
 - 7.2.6 A member appointed at large.
- 7.3 This committee shall join together with the Uniform Building Code Commission Fire Protection Advisory Committee to form the Unified Code Analysis Council.
- 7.4 The Council shall meet as directed by the Board or as directed by the Building Codes Commission or as needed to review fire prevention and building code issues that require definitive and specific analysis.
- 7.5 The Council shall select one of it's members to act in the position of chair and another to act as vice chair. The chair and vice chair shall serve for one year terms on a calendar year basis. Elections for chair and vice chair shall occur at the meeting conducted in the last quarter of the calendar year.

7.6 The chair or vice chair of the council shall report to the Board or Building Codes Commission recommendations of the Council with regard to the review of fire and building codes.

R710-9-8. Fire Service Education Administrator and Fire Education Program Coordinator.

- 8.1 There is created by the Board a Fire Service Education Administrator for the State of Utah. This Administrator shall be the State Fire Marshal.
- 8.2 The Administrator shall oversee statewide fire service education of all personnel receiving training monies from the Fire Academy Support Account.
- 8.2.1 The Administrator shall oversee fire service education in fire suppression, fire prevention, fire administration, operations, hazardous materials, rescue, fire investigation, and public fire education in the State of Utah.
- 8.3 The Administrator shall dedicate sufficient time and efforts to ensure that those monies dedicated from the Fire Academy Support Account are expended in the best interests of all personnel receiving fire service education.
- 8.4 The Administrator shall ensure equitable monies are expended in fire service education to volunteer, career, and prospective fire service personnel.
- 8.5 The Administrator shall as directed by the Board, solicit the legislature for funding to ensure that fire service personnel receive sufficient monies to receive the education necessary to prevent loss of life or property.
- 8.6 The Administrator shall oversee the Fire Department Assistance Grant program by completing the following:
- 8.6.1 Insure that a broad based selection committee is impaneled each year.
- 8.6.2 Compile for presentation to the Board the proposed grants.
- 8.6.3 Receive the Board's approval before issuing the grants.
- 8.7 The Administrator shall if necessary, establish proposed changes to fire service education statewide, insuring personnel receive the most proficient and professional training available, insure completion of agreements and contracts, and insure that payments on agreements and contracts are completed expeditiously.
- 8.8 The Administrator shall report to the Board at each regularly scheduled Board meeting the current status of fire service education statewide. The Administrator shall present any proposed changes in fire service education to the Board, and receive direction and approval from the Board, before making those changes.
- 8.9 To assist the Administrator in statewide fire service education there is hereby created a Fire Education Program Coordinator.
- 8.10 The Coordinator shall conduct fire service education evaluations, budget reviews, performance audits, and oversee the effectiveness of fire service education statewide.
- 8.11 The Coordinator shall ensure that there is an established Utah Fire Service Strategic Training Plan for fire service education statewide. The Coordinator shall work with the Academy Director to update the Strategic Plan and keep it current to the needs of the fire service.
- 8.12 The Coordinator shall report findings of audits, budgetary reviews, training contracts or agreements, evaluation of training standards, and any other necessary items of interest with regard to fire service education to the Administrator.
- 8.13 The Coordinator shall ensure that contracts are established each year for training and education of fire personnel that meets the needs of those involved in fire service education statewide.
- 8.14 The Coordinator shall be the staff assistant to the Fire Service Standards and Training Council and shall present agenda items to the Council Chair that need resolution or

review. As the staff assistant to the Training Council, the coordinator shall ensure that appointed members attend, encourage that the decisions made further the interests of fire service education statewide, and ensure that the Board is kept informed of the Training Council's decisions.

R710-9-9. Enforcement of the Rules of the State Fire Marshal.

- 9.1 Fire and life safety plan reviews of new construction, additions, and remodels of state owned facilities shall be conducted by the SFM, or his authorized deputies. State owned facilities shall be inspected by the SFM, or his authorized deputies.
- 9.2 Fire and life safety plan reviews of new construction, additions, and remodels of public and private schools shall be completed by the SFM, or his authorized deputies, and the LFA.
- 9.3 Fire and life safety plan reviews of new construction, additions, and remodels of publicly owned buildings, privately owned colleges and universities, and institutional occupancies, with the exception of state owned buildings, shall be completed by the LFA. If not completed by the LFA, the SFM, or his authorized deputies shall complete the plan review.
- 9.4 The following listed occupancies shall be inspected by the LFA. If not completed by the LFA, the SFM, or his authorized deputies shall inspect.
- 9.4.1 Publicly owned buildings other than state owned buildings as referenced in 9.1 of this rule.
 - 9.4.2 Public and private schools.
 - 9.4.3 Privately owned colleges and universities.
- 9.4.4 Institutional occupancies as defined in Section 9-2 of this rule.
- 9.4.5 Places of assembly as defined in Section 9-2 of this rule.
- 9.5 The Board shall require prior to approval of a grant the following:
- 9.5.1 That the applying fire agency be actively participating in the statewide fire statistics reporting program.
- 9.5.2 The Board shall also require that the applying fire agency be actively working towards structural or wildland firefighter certification through the Utah Fire Service Certification System.

R710-9-10. Fire Service Standards and Training Council.

- 10.1 There is created by the Board, the Fire Service Standards and Training Council, whose duties are to provide direction to the Board and Academy in matters relating to fire service standards, training, and certification.
- 10.2 The Standards Council shall serve in an advisory position to the Board, members shall be appointed by the Board, shall serve four year terms, and shall consist of the following members:
- 10.2.1 Representative from the Utah State Fire Chiefs Association.
- 10.2.2 Representative from the Utah State Firemen's Association.
- 10.2.3 Representative from the Fire Marshal's Association of Utah.
- 10.2.4 Specialist in hazardous materials representing the Hazardous Materials Institute.
- 10.2.5 Fire/arson investigator representing the Utah Chapter of the International Association of Arson Investigators.
- 10.2.6 Specialist in wildland fire suppression and prevention from the Utah State Division of Forestry, Fire and State Lands.
- 10.2.7 Representative from the International Association of Firefighters.
- 10.2.8 Representative from the Utah Fire Service Certification Council.
 - 10.2.9 Representative from the fire service that is an

Advanced Life Support (ALS) provider to represent Emergency Medical Services.

- 10.2.10 Representative from the Utah Fire Training Officers Association.
- 10.3 The Standards Council shall meet quarterly and may hold other meetings as necessary for proper transaction of business. A majority of the Standards Council members shall be present to constitute a quorum.
- 10.4 The Standards Council shall select one of its members to act in the position of chair, and another member to act as vice chair. The chair and vice chair shall serve one year terms on a calendar year basis. Elections for chair and vice chair shall occur at the meeting conducted in the last quarter of the calendar year. If voted upon by the council, the vice chair will become the chair the next succeeding calendar year.
- 10.5 If a Standards Council member has two or more unexcused absences during a 12 month period, from regularly scheduled Standards Council meetings, it is considered grounds for dismissal pending review by the Board. The Coordinator shall submit the name of the Standards Council member to the Board for status review.
- 10.6 A member of the Standards Council may have a representative of their respective organization sit in proxy of that member, if submitted and approved by the Coordinator prior to the meeting.
- 10.7 The Chair or Vice Chair of the Standards Council shall report to the Board the activities of the Standards Council at regularly scheduled Board meetings. The Coordinator may report to the Board the activities of the Standards Council in the absence of the Chair or Vice Chair.
- 10.8 The Standards Council shall consider all subjects presented to them, subjects assigned to them by the Board, and shall report their recommendations to the Board at regularly scheduled Board meetings.
- 10.9 One-half of the members of the Standards Council shall be reappointed or replaced by the Board every two years.

R710-9-11. Fire Prevention Board Budget and Amendment Sub-Committees.

- 11.1 There is created two Fire Prevention Board Sub-Committees known as the Budget Subcommittee and the Amendment Subcommittee. The subcommittees membership shall be appointed from members of the Board.
- 11.2 Membership on the Sub-Committee shall be by appointment of the Board Chair or as volunteered by Board members. Membership on the Sub-Committee shall be limited to four Board members.
- 11.3 The Sub-Committee shall meet as necessary and shall vote and appoint a chair to represent the Sub-Committee at regularly scheduled Board meetings.

R710-9-12. Utah Fire Service Certification Council.

- 12.1 There is created by the Board, the Utah Fire Service Certification Council, whose duties are to oversee fire service certification in the State of Utah.
- 12.2 The Certification Council shall be made up of 12 members, appointed by the Academy Director, approved by the Board, and each member shall serve three year terms.
- 12.3 The Certification Council shall be made up of users of the certification system and comprise both paid and volunteer fire personnel, members with special expertise, and members from various geographical locations in the state.
- 12.4 The purpose of the Certification Council is to provide direction on all aspects of certification, and shall report the activities of the Certification Council to the Fire Service Standards and Training Council.
- 12.5 Functioning of the Certification Council with regard to certification, re-certification, testing, meeting procedures, examinations, suspension, denial, annulment, revocation,

appeals, and reciprocity, shall be conducted as specified in the Utah Fire Service Voluntary Certification Program, Policy and Procedures Manual.

12.6 A copy of the Utah Fire Service Voluntary Certification Program, Policy and Procedures Manual, shall be kept on file at the State Fire Marshal's Office and the Utah Fire and Rescue Academy.

R710-9-13. Utah Fire and Rescue Academy.

- 13.1 The fire service training school shall be known as the Utah Fire and Rescue Academy.
- 13.2 The Director of the Utah Fire and Rescue Academy shall report to the Administrator the activities of the Academy with regard to completion of the agreed academy contract.
- 13.3 The Academy Director may recommend to the Administrator or Coordinator new or expanded standards regarding fire suppression, fire prevention, public fire education, safety, certification, and any other items of necessary interest about the Academy.
- 13.4 The Academy shall receive approval from the Administrator, after being presented to the Standards and Training Council, any substantial changes in Academy training programs that vary from the agreed contract.
- 13.5 The Academy Director shall provide to the Coordinator by October 1st of each year, a numerical summary of those students attending the Academy in the following categories:
- 13.5.1 Those participating in the certification process and those who have received certification during the previous contract period.
- 13.5.2 Those working towards and those who have received an Associate in Fire Science in the previous contract period.
- 13.5.3 Those who have completed other Academy classes during the previous contract period.
- 13.6 The Academy Director shall provide to the Coordinator by October 1st of each year, a numerical comparison of the categories required in Section 13.5, comparing attendance in the previous contract period.
- 13.7 The Academy Director shall provide to the Coordinator by October 1st of each year, in accepted budgeting practices, a cost analysis of classes provided by the Academy, and the cost per student to the Academy to provide those classes.
- 13.8 The Academy Director shall provide to the Coordinator by October 1st of each year, a numerical summary of those students attending Academy courses in the following categories:
- 13.8.1 Non-fire service personnel enrolled in college courses.
- 13.8.2 Volunteer or career fire service personnel enrolled in college credit courses.
- 13.8.3 Volunteer or career fire service personnel enrolled in non-credit continuing education courses.
- 13.9 The Academy Director shall present to the Coordinator by January of each year, proposals to be incorporated in the Academy contract for the next fiscal year.

R710-9-14. Repeal of Conflicting Board Actions.

All former Board actions, or parts thereof, conflicting or inconsistent with the provisions of this Board action or of the codes hereby adopted, are hereby repealed.

R710-9-15. Validity.

The Utah Fire Prevention Board hereby declares that should any section, paragraph, sentence, or word of this Board action, or of the codes hereby adopted, be declared invalid, it is the intent of the Utah Fire Prevention Board that it would have passed all other portions of this action, independent of the

elimination of any portion as may be declared invalid.

R710-9-16. Adjudicative Proceedings.

- 16.1 All adjudicative proceedings performed by the agency shall proceed informally as set forth herein and as authorized by UCA, Sections 63-46b-4 and 63-46b-5.
- 16.2 If a city, county, or fire protection district refuses to establish a method of appeal regarding a portion of the IFC, the appealing party may petition the Board to act as the board of appeals.
- 16.3 A person may request a hearing on a decision made by the SFM, his authorized deputies, or the LFA, by filing an appeal to the Board within 20 days after receiving final decision.
- 16.4 All adjudicative proceedings, other than criminal prosecution, taken by the SFM, his authorized deputies, or the LFA, to enforce the Utah Fire Prevention and Safety Act and these rules, shall commence in accordance with UCA, Section 63-46b-3.
- 16.5 The Board shall act as the hearing authority, and shall convene as an appeals board after timely notice to all parties involved.
- 16.6 The Board shall direct the SFM to issue a signed order to the parties involved giving the decision of the Board within a reasonable time of the hearing pursuant to UCA, Section 63-46b-5(i).
- 16.7 Reconsideration of the Board's decision may be requested in writing within 20 days of the date of the decision pursuant to UCA, Section 63-46b-13.
- 16.8 Judicial review of all final Board actions resulting from informal adjudicative proceedings is available pursuant to UCA, Section 63-46b-15.

KEY: fire prevention, law January 2, 2004 Notice of Continuation June 12,2002

53-7-204

Printed: May 1, 2004

R722. Public Safety, Criminal Investigations and Technical Services, Criminal Identification.

Printed: May 1, 2004

R722-900. Review and Challenge of Criminal Record. R722-900-1. Purpose.

Subsection $5\overline{3}$ -10-108(8)(a) requires the Commissioner of Public Safety to establish procedures to allow an individual to review his criminal history record information. Subsection 53-10-108(8)(c) requires the Commissioner to establish procedures to allow an individual to challenge the completeness and accuracy of his criminal history record information as contained in the department's computerized criminal history files. The purpose of this rule is to establish those procedures.

R722-900-2. Authority.

This rule is authorized by Sections 53-10-108 and 63-46a-3.

R722-900-3. Review.

An individual may review the department's criminal history record information about him, by contacting the Bureau of Criminal Identification (BCI) and:

- (a) filling out an application provided by BCI;
- (b) providing a set of fingerprints;
- (c) providing a copy of a government issued photo i.d.;
- (d) filling out and signing a criminal history waiver form provided by BCI; and
 - (e) paying a \$10 processing fee.

R722-900-4. Application by Mail.

- (a) Individuals who are unable to apply in person may obtain an application from BCI, be fingerprinted at a local law enforcement agency, and then mail the completed application, fingerprints, signed waiver, and \$10 processing fee to BCI at Box 14280, Salt Lake City, Utah 84114-8280.
- (b) The local law enforcement agency verifies the identity of the individual by checking a government issued photo i.d. at the time of fingerprinting and signs the application form.

R722-900-5. Challenge.

- (a) An individual may challenge the completeness and accuracy of his criminal history record information by filling out a challenge form provided by BCI. The submittal of a challenge form will be handled as an informal adjudicative proceeding in accordance with Section 63-46(b)-5. If the department denies the challenge, no further hearing, review, or reconsideration shall be granted. The individual making the challenge will be required to prove to the satisfaction of BCI through the use of appropriate documentation that the department's criminal history record information is incomplete or inaccurate.
- (b) If BCI is satisfied that the individual has sufficiently documented that his criminal history record information is incomplete or inaccurate, BCI will amend the individual's files accordingly.
- (c) An individual who is dissatisfied with the decision made by BCI regarding the completeness or accuracy of the department's criminal history record information on him, may appeal the decision to district court in accordance with Section 63-46b-15.

KEY: criminal records December 15, 1998 53-10-108(8) Notice of Continuation January 15, 2004

R746. Public Service Commission, Administration. R746-200. Residential Utility Service Rules for Electric, Gas, Water, and Sewer Utilities. R746-200-1. General Provisions.

- A. Title -- These rules shall be known and may be cited as the Residential Utility Service Rules.
- B. Purpose -- The purpose of these Rules is to establish and enforce uniform residential utility service practices and procedures governing eligibility, deposits, account billing, termination, and deferred payment agreements.
 - C. Policy --
- 1. The policy of these rules is to assure the adequate provision of residential utility service, to restrict unreasonable termination of or refusal to provide residential utility service, to provide functional alternatives to termination or refusal to provide residential utility service, and to establish and enforce fair and equitable procedures governing eligibility, deposits, account billing, termination, and deferred payment agreements.
- 2. Nondiscrimination -- Residential utility service shall be provided to qualified persons without regard to employment, occupation, race, handicap, creed, sex, national origin, marital status, or number of dependents.
- D. Requirement of Good Faith -- Each agreement or obligation within these rules imposes an obligation of good faith, honesty, and fair dealings in its performance and enforcement.
- E. Customer Information -- When residential service is extended to an account holder, a public utility shall provide the consumer with a consumer information pamphlet approved by the Commission which clearly describes and summarizes the substance of these rules. The utility shall mail or deliver a copy of this pamphlet, or a summarized version approved by the Commission, to its residential customers annually in September or October. Copies of this pamphlet shall be prominently displayed in the business offices maintained by the utility and furnished to consumers upon request. The utility has a continuing obligation to inform its consumers of significant amendments to these rules. Each utility with over 10,000 customers receiving service shall print and make available upon request a Spanish edition of a consumer information pamphlet. The English edition of the pamphlet shall contain a prominent notice, written in Spanish and English, that the utility has a Spanish edition of its pamphlet and whether or not it has qualified personnel available to help Spanish-speaking customers. In this section, utilities with fewer than 10,000 users may use the pamphlets printed by the Division of Public Utilities for the distribution and availability requirements.
 - F. Scope --
- 1. These rules shall apply to gas, water, sewer, and electric utilities that are subject to the regulatory authority of the Commission. Except as provided in R746-200-6(G)(4), Notice of Proposed Termination, these rules do not apply to master metered apartment dwellings. Commercial, industrial, government accounts and special contracts are also excluded from the requirements of these rules.
- 2. Upon a showing that specified portions of these rules impose an undue hardship and provide limited benefit to its customers, a utility may petition the Commission for an exemption from specified portions of these rules.
- G. Customer's Statement of Rights and Responsibilities --When utility service is extended to an account holder, annually, and upon first notice of an impending service disconnection, a public utility shall provide a copy of the "Customer's Statement of Rights and Responsibilities" as approved by the Commission. The Statement of Rights and Responsibilities shall be a single page document. It shall be prominently displayed in each customer service center.

R746-200-2. General Definitions.

- A. "Account Holder" -- A person, corporation, partnership, or other entity which has agreed with a public utility to pay for receipt of residential utility service and to which the utility provides service.
- B. "Applicant" -- As used in these rules means a person, corporation, partnership, or other entity which applies to a public utility for residential utility service.
- C. "Budget Billing" -- Monthly residential payment plan under which the customer's estimated annual billing is divided into 12 monthly payments.
- D. "Deferred Payment Agreement" -- As used in these rules means an agreement to receive, or to continue to receive, residential utility service pursuant to Section R746-200-5 and to pay an outstanding debt or delinquent account owed to a public utility.
- E. "Residential Utility Service" -- Means gas, water, sewer, and electric service provided by a public utility to a residence.
- F. "Termination of Service" -- The terms "termination," "disconnection," and "shutoff" as used in these rules are synonymous and mean the stopping of service for whatever cause.
- G. "Load Limiter" -- Device which automatically interrupts electric service at a residence when the preset kW demand is exceeded. Service is restored when the customer decreases usage and then presses the reset button on the device.

R746-200-3. Deposits, Eligibility for Service, and Shared Meter or Appliance.

- A. Deposits and Guarantees --
- 1. Each utility shall submit security deposit policies and procedures to the Commission for its approval before the implementation and use of those policies and procedures. Each utility shall submit third-party guarantor policies and procedures to the Commission.
- 2. Each utility collecting security deposits shall pay interest thereon at a rate as established by the Commission. For electric cooperatives and electric service districts, interest rates shall be determined by the governing board of directors of the cooperative or district and filed with the Commission and shall be deemed approved by the Commission unless ten percent or more of the customers file a request for agency action requesting an investigation and hearing. The deposit paid, plus accrued interest, is eligible for return to the customer after the customer has paid the bill on time for 12 consecutive months.
- 3. A residential customer shall have the right to pay a security deposit in at least three equal monthly installments if the first installment is paid when the deposit is required.
 - B. Eligibility for Service --
- 1. Residential utility service is to be conditioned upon payment of deposits, where required, and of any outstanding debts for past utility service which are owed by the applicant to that public utility, subject to Subsections R746-200-3(B)(2), and R746-200-6(B)(2), Reasons for Termination. Service may be denied when unsafe conditions exist, when the applicant has furnished false information to get utility service, or when the customer has tampered with utility-owned equipment, such as meters and lines. An applicant is ineligible for service if at the time of application, the applicant is cohabiting with a delinquent account holder, whose utility service was previously disconnected for non-payment, and the applicant and delinquent account holder also cohabited while the delinquent account holder received the utility's service, whether the service was received at the applicants present address or another address.
- 2. When an applicant cannot pay an outstanding debt in full, residential utility service shall be provided upon execution of a written, deferred payment agreement as set forth in Section R746-200-5.
 - C. Shared Meter or Appliance In rental property where

one meter provides service to more than one unit or where appliances provide service to more than one unit or to other occupants at the premises, and this situation is known to the utility, the utility will recommend that service be in the property owner's name and the property owner be responsible for the service. However, a qualifying applicant will be allowed to put service in their own name provided the applicant acknowledges that the request for services is entered into willingly and he has knowledge of the account responsibility.

R746-200-4. Account Billing.

- A. Billing Cycle -- Each gas, electric, sewer and water utility shall use a billing cycle that has an interval between regular periodic billing statements of not greater than two months. This section applies to permanent continuous service customers, not to seasonal customers.
 - B. Estimated Billing --
- 1. A gas, electric, sewer or water public utility using an estimated billing procedure shall try to make an actual meter reading at least once in a two-month period and give a bill for the appropriate charge determined from that reading. When weather conditions prevent regular meter readings, or when customers are served on a seasonal tariff, the utility will make arrangements with the customer to get meter reads at acceptable intervals.
- 2. If a meter reader cannot gain access to a meter to make an actual reading, the public utility shall take appropriate additional measures in an effort to get an actual meter reading. These measures shall include, but are not limited to, scheduling of a meter reading at other than normal business hours, making an appointment for meter reading, or providing a prepaid postal card with a notice of instruction upon which an account holder may record a meter reading. If after two regular route visits, access has not been achieved, the utility will notify the customer that he must make arrangements to have the meter read as a condition of continuing service.
- 3. If, after compliance with Subsection R746-200-4(B)(2), a public utility cannot make an actual meter reading it may give an estimated bill for the current billing cycle in accordance with Subsection R746-200-6(B)(1)(f), Reasons for Termination.
- C. Periodic Billing Statement -- Except when a residential utility service account is considered uncollectible or when collection or termination procedures have been started, a public utility shall mail or deliver an accurate bill to the account holder for each billing cycle at the end of which there is an outstanding debit balance for current service, a statement which the account holder may keep, setting forth each of the following disclosures to the extent applicable:
- the outstanding balance in the account at the beginning of the current billing cycle using a term such as "previous balance";
- 2. the amount of charges debited to the account during the current billing cycle using a term such as "current service";
- the amount of payments made to the account during the current billing cycle using a term such as "payments";
- 4. the amount of credits other than payments to the account during the current billing cycle using a term such as "credits";
- 5. the amount of late payment charges debited to the account during the current billing cycle using a term such as "late charge";
- 6. the closing date of the current billing cycle and the outstanding balance in the account on that date using a term such as "amount due";
- 7. a listing of the statement due date by which payment of the new balance must be made to avoid assessment of a late charge;
- 8. a statement that a late charge, expressed as an annual percentage rate and a periodic rate, may be assessed against the account for late payment;

- 9. the following notice: "If you have any questions about this bill, please call the Company."
 - D. Late Charge --
- 1. Commencing not sooner than the end of the first billing cycle after the statement due date, a late charge of a periodic rate as established by the Commission may be assessed against an unpaid balance in excess of new charges debited to the account during the current billing cycle. The Commission may change the rate of interest.
- 2. No other charge, whether described as a finance charge, service charge, discount, net or gross charge may be applied to an account for failure to pay an outstanding bill by the statement due date. This section does not apply to reconnection charges or return check service charges.
- E. Statement Due Date -- An account holder shall have not less than 20 days from the date the current bill was prepared to pay the new balance, which date shall be the statement due date.
 - F. Disputed Bill --
- 1. In disputing a periodic billing statement, an account holder shall first try to resolve the issue by discussion with the public utility's collections personnel.
- 2. When an account holder has proceeded pursuant to Subsection R746-200-4(F)(1), the public utility's collections personnel shall investigate the disputed issue and shall try to resolve that issue by negotiation.
- 3. If the negotiation does not resolve the dispute, the account holder may obtain informal and formal review of the dispute as set forth in Section R746-200-7, Informal Review, and R746-200-8, Formal Review.
- 4. While an account holder is proceeding with either informal or formal review of a dispute, no termination of service shall be permitted if amounts not disputed are paid when due.
- G. Unpaid Bills Utilities transferring unpaid bills from inactive or past accounts to active or current accounts shall follow these limitations:
- 1. A utility company may only transfer bills between similar classes of service, such as residential to residential, not commercial to residential.
- Unpaid amounts for billing cycles older than four years before the time of transfer cannot be transferred to an active or current account.
- 3. The customer shall be provided with an explanation of the transferred amounts from earlier billing cycles and informed of the customer's ability to dispute the transferred amount.
- 4. The customer may dispute the transferred amount pursuant to R746-200-4(F).

R746-200-5. Deferred Payment Agreement.

- A. Deferred Payment Agreement -
- 1. An applicant or account holder who cannot pay a delinquent account balance on demand shall have the right to receive residential utility service under a deferred payment agreement subject to R746-200-5(B), Breach.
- 2. Gas and electric utilities shall have personnel available 24 hours each day to reconnect utility service, if, before reconnection, the account holder agrees to negotiate and execute a deferred payment agreement and to pay the first installment by visiting the utility's business office within 48 hours after service has been reconnected. A water utility shall have personnel available so that service can be restored before 6:00 p.m. on the next generally recognized business day.
- 3. The applicant or account holder shall have the right to set the amount of the equal monthly installment of a deferred payment agreement, if the full amount of the delinquent balance plus interest shall be paid within 12 months and if the account holder agrees to make an initial payment not less than the amount of the monthly installment. The account holder shall have the right to pre-pay the outstanding balance due under a deferred payment agreement at any time during the term of the

agreement. The account holder also has the option, when negotiating a deferred payment agreement, to include the amount of the current month's bill plus the reconnection charges in the total amount to be paid over the term of the deferred payment agreement.

- 4. If a utility has a budget billing or equal payment plan available, it shall offer the account holder the option of agreeing to pay the current bills for residential utility service plus the monthly installment necessary to liquidate the delinquent bill or of agreeing to pay a budget billing amount set by the utility plus the monthly deferred payment installment. When negotiating a deferred payment agreement with a utility that does not offer a budget billing plan, the account holder shall agree to pay the current bills for residential utility service plus the monthly installment necessary to liquidate the delinquent bill.
- 5. The terms of the deferred payment agreement shall be set forth in a written agreement, a copy of which shall be provided to the customer.
- 6. A deferred payment agreement may include a finance charge as established by the Commission. If a finance charge is assessed, the deferred payment agreement shall contain notice of the charge.
- B. Breach -- If an applicant or account holder breaches a condition or term of a deferred payment agreement, the public utility may treat that breach as a delinquent account and shall have the right to disconnect service pursuant to these rules, subject to the right of the customer to seek review of the alleged breach by the Commission, and the account holder shall not have the right to a renewal of the deferred payment agreement. Renewal of deferred payment agreements after the breach shall be at the utility's option.

R746-200-6. Termination of Service.

- A. Delinquent Account --
- A residential utility service bill which has remained unpaid beyond the statement due date is a delinquent account.
- 2. When an account is a delinquent account, a public utility, before termination of service, shall issue a written late notice to inform the account holder of the delinquent status. A late notice or reminder notice must include the following information:
- a. A statement that the account is a delinquent account and should be paid promptly;
- b. A statement that the account holder should communicate with the public utility's collection department, by calling the company, if he has a question concerning the account;
- c. A statement of the delinquent account balance, using a term such as "delinquent account balance."
- 3. When the account holder responds to a late notice or reminder notice the public utility's collections personnel shall investigate disputed issues and shall try to resolve the issues by negotiation. During this investigation and negotiation no other action shall be taken to disconnect the residential utility service if the account holder pays the undisputed portion of the account subject to the utility's right to terminate utility service pursuant to R746-200-6(F), Termination of Service Without Notice.
- 4. A copy of the "Statement of Customer Rights and Responsibilities" referred to in Subsection R746-200-1(G) of these rules shall be issued to the account holder with the first notice of impending service disconnection.
 - B. Reasons for Termination of Service --
- 1. Residential utility service may be terminated for the following reasons:
 - a. Nonpayment of a delinquent account;
 - b. Nonpayment of a deposit when required;
- c. Failure to comply with the terms of a deferred payment agreement or Commission order;
 - d. Unauthorized use of, or diversion of, residential utility

- service or tampering with wires, pipes, meters, or other equipment;
- e. Subterfuge or deliberately furnishing false information;
- f. Failure to provide access to meter during the regular route visit to the premises following proper notification and opportunity to make arrangements in accordance with R746-200-4(B), Estimated Billing, Subsection (2).
- 2. The following shall be insufficient grounds for termination of service:
- a. A delinquent account, accrued before a divorce or separate maintenance action in the courts, in the name of a former spouse, cannot be the basis for termination of the current account holder's service:
- b. Cohabitation of a current account holder with a delinquent account holder whose utility service was previously terminated for non-payment, unless the current and delinquent account holders also cohabited while the delinquent account holder received the utility's service, whether the service was received at the current account holder's present address or another address:
- c. When the delinquent account balance is less than \$25.00, unless no payment has been made for two months;
- d. Failure to pay an amount in bona fide dispute before the Commission:
- e. Payment delinquency for third party services billed by the regulated utility company, unless prior approval is obtained from the Commission.
- C. Restrictions upon Termination of Service During Serious Illness --
- 1. Residential gas, water, sewer and electric utility service may not be terminated and will be restored if terminated when the termination of service will cause or aggravate a serious illness or infirmity of a person living in the residence. Utility service will be restored or continue for one month or less as stated in Subsection R746-200-6(C)(2).
- 2. Upon receipt of a physician's statement, either on a form obtained from the utility or on the physician's letterhead stationery, identifying the health infirmity or potential health hazard, a public utility will continue or restore residential utility service for the period set forth in the physician's statement or one month, whichever is less; however, the person whose health is threatened or illness aggravated may petition the Commission for an extension of time.
- 3. During the period of continued service, the account holder is liable for the cost of residential utility service. No action to terminate the service may be undertaken, however, until the end of the period of continued service.
- D. Restrictions upon Termination of Service to Residences with Life-Supporting Equipment -- No public utility shall terminate service to a residence in which the account holder or a resident is known by the utility to be using an iron lung, respirator, dialysis machine, or other life-supporting equipment, without specific prior approval by the Commission. Account holders eligible for this protection can get it by filing a written notice with the utility. Thereupon, a public utility shall mark and identify applicable meter boxes when this equipment is used.
- E. Payments for HEAT, Home Energy Assistance Target, Program -- The Commission approves the provision of the Department of Human Service's standard contract with public utility suppliers in Utah that suppliers will not discontinue utility service to a low-income household for at least 30 days after receipt of utility payment from the state program on behalf of the low-income household.
- F. Termination of Service Without Notice -- Any provision contained in these rules notwithstanding, a public utility may terminate residential utility service without notice when, in its judgment, a clear emergency or serious health or

safety hazard exists for so long as the conditions exist, or when there is unauthorized use or diversion of residential utility service or tampering with wires, pipes, meters, or other equipment owned by the utility. The utility shall immediately try to notify the customer of the termination of service and the reasons therefor.

- G. Notice of Proposed Termination of Service --
- 1. At least 10 calendar days before a proposed termination of residential utility service, a public utility shall give written notice of disconnection for nonpayment to the account holder. The 10-day time period is computed from the date the bill is postmarked. The notice shall be given by first class mail or delivery to the premises and shall contain a summary of the following information:
- a. a Statement of Customer Rights and Responsibilities under existing state law and Commission rules;
- b. the Commission-approved policy on termination of service for that utility;
- c. the availability of deferred payment agreements and sources of possible financial assistance including but not limited to state and federal energy assistance programs;
- d. informal and formal procedures to dispute bills and to appeal adverse decisions, including the Commission's address and telephone number;
- e. specific steps, printed in a conspicuous fashion, that may be taken by the consumer to avoid termination of service;
- f. the date on which payment arrangements must be made to avoid termination of service; and
- g. subject to the provision of Subsection R746-200-1(E), Customer Information, a conspicuous statement, in Spanish, that the notice is a termination of service notice and that the utility has a Spanish edition of its customer information pamphlet and whether it has personnel available during regular business hours to communicate with Spanish-speaking customers.
- 2. At least 48 hours before termination of service is scheduled, the utility shall make good faith efforts to notify the account holder or an adult member of the household, by mail, by telephone or by a personal visit to the residence. If personal notification has not been made either directly by the utility or by the customer in response to a mailed notice, the utility shall leave a written termination of service notice at the residence. Personal notification, such as a visit to the residence or telephone conversation with the customer, is required only during the winter months, October 1 through March 31. Other months of the year, the mailed 48-hour notice can be the final notice before the termination of service.

If termination of service is not accomplished within 15 business days following the 48-hour notice, the utility company will follow the same procedures for another 48-hour notice.

- 3. A public utility shall send duplicate copies of 10-day termination of service notices to a third party designated by the account holder and shall make reasonable efforts to personally contact the third party designated by the account holder before termination of service occurs, if the third party resides within its service area. A utility shall inform its account holders of the third-party notification procedure at the time of application for service and at least once each year.
- 4. In rental property situations where the tenant is not the account holder and that fact is known to the utility, the utility shall post a notice of proposed termination of service on the premises in a conspicuous place and shall make reasonable efforts to give actual notice to the occupants by personal visits or other appropriate means at least five calendar days before the proposed termination of service. The posted notice shall contain the information listed in Subsection R746-200-6(G)(1). This notice provision applies to residential premises when the account holder has requested termination of service or the account holder has a delinquent bill. If nonpayment is the basis for the termination of service, the utility shall also advise the

tenants that they may continue to receive utility service for an additional 30 days by paying the charges due for the 30-day period just past.

- H. Termination of Service -- Upon expiration of the notice of proposed termination of service, the public utility may terminate residential utility service. Except for service diversion or for safety considerations, utility service shall not be disconnected between Thursday at 4:00 p.m. and Monday at 9:00 a.m. or on legal holidays recognized by Utah, or other times the utility's business offices are not open for business. Service may be disconnected only between the hours of 9:00 a.m. and 4:00 p.m.
 - I. Customer-Requested Termination of Service --
- 1. A customer shall advise a public utility at least three days in advance of the day on which he wants service disconnected to his residence. The public utility shall disconnect the service within four working days of the requested disconnect date. The customer shall not be liable for the services rendered to or at the address or location after the four days, unless access to the meter has been delayed by the customer.
- 2. A customer who is not an occupant at the residence for which termination of service is requested shall advise the public utility at least 10 days in advance of the day on which he wants service disconnected and sign an affidavit that he is not requesting termination of service as a means of evicting his tenants. Alternatively, the customer may sign an affidavit that there are no occupants at the residence for which termination of service is requested and thereupon the disconnection may occur within four days of the requested disconnection date.
- J. Restrictions Upon Termination of Service Practices -- A public utility shall not use termination of service practices other than those set forth in these rules. A utility shall have the right to use or pursue legal methods to ensure collections of obligations due it.
- K. Policy Statement Regarding Elderly and Handicapped -- The state recognizes that the elderly and handicapped may be seriously affected by termination of utility service. In addition, the risk of inappropriate termination of service may be greater for the elderly and handicapped due to communication barriers which may exist by reason of age or infirmity. Therefore, this section is specifically intended to prevent inappropriate terminations of service which may be hazardous to these individuals. In particular, Subsection R746-200-6(G), requiring adequate notice of impending terminations of service, including notification to third parties upon the request of the account holder, Subsection R746-200-6(C), restricting termination of service when the termination of service will cause or aggravate a serious illness or infirmity of a person living in the residence, and Subsection R746-200-6(D), restricting terminations of service to residences when life-supporting equipment is in use, are intended to meet the special needs of elderly and handicapped persons, as well as those of the public in general.
- L. Load Limiter as a Substitute for Termination of Service, Electric Utilities --
- 1. An electric utility may, but only with the customer's consent, install a load limiter as an alternative to terminating electric service for non-payment of a delinquent account or for failure to comply with the terms of a deferred payment agreement or Commission order. Conditions precedent to the termination of electric service must be met before the installation of a load limiter.
- 2. Disputes about the level of load limitation are subject to the informal review procedure of Subsection R746-200-7.
- 3. Electric utilities shall submit load limiter policies and procedures to the Commission for their review before the implementation and use of those policies.

R746-200-7. Informal Review.

A. A person who is unable to resolve a dispute with the utility concerning a matter subject to Public Service Commission jurisdiction may obtain informal review of the dispute by a designated employee within the Division of Public Utilities. This employee shall investigate the dispute, try to resolve it, and inform both the utility and the consumer of his findings within five business days from receipt of the informal review request. Upon receipt of a request for informal review, the Division employee shall, within one business day, notify the utility that an informal complaint has been filed. Absent unusual circumstances, the utility shall attempt to resolve the complaint within five business days. In no circumstances shall the utility fail to respond to the informal complaint within five business days. The response shall advise the complainant and the Division employee regarding the results of the utility's investigation and a proposed solution to the dispute or provide a timetable to complete any investigation and propose a solution. The utility shall make reasonable efforts to complete any investigation and resolve the dispute within 30 calendar days. A proposed solution may be that the utility request that the informal complaint be dismissed if, in good faith, it believes the complaint is without merit. The utility shall inform the Division employee of the utility's response to the complaint, the proposed solution and the complainant's acceptance or rejection of the proposed solution and shall keep the Division employee informed as to the progress made with respect to the resolution and final disposition of the informal complaint. If, after 30 calendar days from the receipt of a request for informal review, the Division employee has received no information that the complainant has accepted a proposed solution or otherwise completely resolved the complaint with the utility, the complaint shall be presumed to be unresolved.

Mediation — If the utility or the complainant determines that they cannot resolve the dispute by themselves, either of them may request that the Division attempt to mediate the dispute. When a mediation request is made, the Division employee shall inform the other party within five business days of the mediation request. The other party shall either accept or reject the mediation request within ten business days after the date of the mediation request, and so advise the mediationrequesting party and the Division employee. If mediation is accepted by both parties or the complaint continues to be unresolved 30 calendar days after receipt, the Division employee shall further investigate and evaluate the dispute, considering both the customer's complaint and the utility's response, their past efforts to resolve the dispute, and try to mediate a resolution between the complainant and the utility. Mediation efforts may continue for 30 days or until the Division employee informs the parties that the Division has determined that mediation is not likely to result in a mutually acceptable resolution, whichever is shorter.

C. Division Access to Information During Informal Review or Mediation — The utility and the complainant shall provide documents, data or other information requested by the Division, to evaluate the complaint, within five business days of the Division's request, if reasonably possible or as expeditiously as possible, if they cannot be provided within five business days.

D. Commission Review — If the utility has proposed that the complaint be dismissed from informal review for lack of merit and the Division concurs in the disposition, if either party has rejected mediation or if mediation efforts are unsuccessful and the Division has not been able to assist the parties in reaching a mutually accepted resolution of the informal dispute, or the dispute is otherwise unresolved between the parties, the Division in all cases shall inform the complainant of the right to petition the Commission for a review of the dispute, and shall make available to the complainant a standardized complaint form with instructions approved by the Commission. The Division itself may petition the Commission for review of a

dispute in any case which the Division determines appropriate. While a complainant is proceeding with an informal or a formal review or mediation by the Division or a Commission review of a dispute, no termination of service shall be permitted, if any amounts not disputed are paid when due, subject to the utility's right to terminate service pursuant to R746-200-6(F), Termination of Service Without Notice.

R746-200-8. Formal Agency Proceedings Based Upon Complaint Review.

The Commission, upon its own motion or upon the petition of any person, may initiate formal or investigative proceedings upon matters arising out of informal complaints.

R746-200-9. Penalties.

A. A residential account holder who claims that a regulated utility has violated a provision of these customer service rules, other Commission rules, company tariff, or other approved company practices may use the informal and formal grievance procedures. If considered appropriate, the Commission may assess a penalty pursuant to Section 54-7-25.

B. Fines collected shall be used to assist low income Utahns to meet their basic energy needs.

KEY: public utilities, rules, utility service shutoff
January 7, 2004

Notice of Continuation December 6, 2002

54-4-7
54-7-9
54-7-25

R746. Public Service Commission, Administration. R746-350. Application to Discontinue Telecommunications Service.

R746-350-1. Purpose and Authority.

- A. Authorization -- Section 54-4-1 provides that the Public Service Commission shall have the power to regulate utilities and to supervise their business operations. Section 54-3-1 requires that the terms and conditions of the provision of service be just and reasonable.
- B. Purpose -- This rule is intended to address situations where a telecommunications corporation has determined to stop providing Basic Telecommunications Service to subscribed customers in a Utah service area. The rule will provide subscribed customers an opportunity to migrate their service to an alternative service or a different provider prior to the Exiting Provider's discontinuance of the subscribed service. No telecommunications corporation may discontinue the provision of Basic Telecommunications Service to existing customers in a service area, or portions thereof, without first complying with this rule or receiving an exemption from the Commission.

R746-350-2. Definitions.

Terms -- The meaning of the terms used in this rule shall be consistent with their general usage in the telecommunications industry, Title 54 of the Utah Code or as defined below:

- A. "Basic Telecommunications Service" means the telecommunications services defined as Basic Telecommunications Service in Rule 746-360-2.C.
- B. "Commission" means the Public Service Commission of Utah.
 - C. "Division" means the Division of Public Utilities.
- D. "Exiting Provider" means a telecommunications corporation that seeks to stop or eliminate providing Basic Telecommunications Service to subscribed customers in a service area, or portion thereof, located in Utah. It does not include a telecommunications corporation that discontinues telecommunications service as a result of the customer's request or pursuant to the provisions of other rules or orders of the Commission. It does not include a temporary change in the provision of service that may arise from maintenance, repair or failure of a telecommunications corporation's equipment or facilities.
- E. "Intended Date of Discontinuance" means the date upon which an Exiting Provider intends to discontinue providing Basic Telecommunications Service pursuant to this rule.
- F. "Replacement Provider" means a telecommunications corporation that undertakes providing Basic Telecommunications Service to customers of the Exiting Provider after the Exiting Provider is permitted to discontinue service.

R746-350-3. Application and Notice.

- A. Application -- Unless subject to R746-350-4.F for exclusive facilities, an Exiting Provider shall file an application with the Commission and the notices identified hereafter not less than 50 days prior to the Intended Date of Discontinuance.
- B. Notices -- An Exiting Provider shall provide written notice to the following:
 - 1. the Division;
- subscribed customers that will be affected by the discontinuance of service;
- 3. telecommunications corporations providing the Exiting Provider with resold telecommunications services, essential facilities or services, or unbundled network elements (UNEs), if they are part of or used to provide Basic Telecommunications Service to the Exiting Provider's affected customers; and
- 4. the national number administrator, when applicable, authorizing the release of all unassigned telephone numbers unless the Exiting Provider establishes a need to retain the

telephone numbers.

R746-350-4. Application and Notice Contents.

- A. Application -- The application to the Commission required by R746-350-3.A must include:
- 1. applicant's name, complete mailing address, including street, city, state, and zip code, telephone number, e-mail address, and the names under which the applicant is providing telecommunications service in Utah;
- 2. name, mailing address, telephone number and e-mail address of a person or persons, designated by the Exiting Provider, to contact for questions about the application;
- 3. identification of the associated service territory, or portion thereof, proposed for discontinuance;
- 4. the Intended Date of Discontinuance, which shall not be sooner than 50 days after the date on which the Exiting Provider files the application with the Commission;
- 5. acknowledgment that by signing the application, the applicant and its successors understand and agree that:
- a. filing of the application does not, by itself, constitute authority to discontinue any service;
- b. discontinuance shall occur as ordered by the Commission; and
- c. the Exiting Provider shall assist in the porting of any assigned telephone numbers to a Replacement Provider.
- 6. an affidavit signed by an officer or principal of the Exiting Provider attesting under penalty of perjury that the contents of the application are true, accurate, and correct; and
 - 7. a copy of the notices required in this rule.
- B. Notice to the Division -- The notice to the Division required in R746-350-3.B.1 shall be a copy of the application submitted to the Commission.
- C. Notice to Customers -- The notice to customers required in R746-350-3.B.3 must, at a minimum, include:
- the Intended Date of Discontinuance on which Basic Telecommunications Service is planned to be discontinued; and
- 2. information on how to contact the Exiting Provider by telephone in order to obtain information such as how customers may receive a refund on any unused service or how to contact regulatory agencies to obtain information on possible replacement providers. The Exiting Provider shall continue to provide refund information, via a customer service number, for 60 days after the date of discontinuance of service;
- Ď. Notice to Other Companies -- The notice to other companies required in R746-350-3.B.3 must, at a minimum, include:
- 1. the Intended Date of Discontinuance of Basic Telecommunications Service; and
- telephone contact information to enable other companies to obtain additional information regarding the discontinuance of service.
- 3. Until chosen as the Replacement Provider, LECs may not use the information in the notices required in this subsection to initiate marketing efforts unless the information is first made available to other telecommunications corporations for their marketing efforts.
- E. Earlier Notice for Exclusive Facilities --Notwithstanding the requirements set forth in R746-350-3.A and R746-350-4.E, if an Exiting Provider has ownership or control of the only facilities readily available to provide Basic Telecommunications Service to customers so that another telecommunications corporation would either need to acquire control of those facilities or install its own facilities in order to serve the customers of the Exiting Provider, then the following shall be required:
- 1. The Exiting Provider shall provide notice to the Commission, the Division and to LECs identified in the Commission's list of certificated telecommunications companies at least 120 days prior to its Intended Date of Discontinuance.

The notice shall grant other LECs 40 days to respond indicating a LEC's interest in obtaining the facilities and their transfer.

- 2. The Exiting Provider shall file its application to discontinue service with the Commission at least 75 days prior to the intended date of discontinuance.
- 3. The Commission shall determine the timing of any further proceedings, including the timing of further notices.
- F. Notice to the National Number Administrator -- Unless the Exiting Provider has established a need to retain the telephone numbers, the notice required in R746-350-3.B.4 shall include identification of all telephone numbers assigned to customers, identification of all unassigned or administrative numbers available for reassignment to other providers and the date the unassigned telephone numbers will be available for reassignment.

R746-350-5. Commission Proceedings upon Application to Discontinue Service.

- A. Proceeding -- The Commission will act upon an Application to Discontinue Service within the time period ending on the Intended Date of Discontinuance. If an Exiting Provider fails to comply with this rule and customers have not had an adequate opportunity to obtain a replacement telecommunications service or locate a Replacement Provider, if one exists, the Exiting Provider may be required to continue to provide service until the earlier of: the date on which a Replacement Provider is able to provide service, or a date ordered by the Commission. The Commission may use the proceedings on an Exiting Provider's application to resolve disputes between the Exiting Provider and a possible Replacement Provider to facilitate the migration of the Exiting Provider's customers to alternative telecommunications services that may be available. The Commission may use the proceeding to address requirements of R746-349-5, Utah Code Section 54-8b-18, or any other requirements associated with a change in service providers.
- B. Liability -- Nothing in this rule, however, shall be construed as shielding the Exiting Provider from any legal liability to its customers or any other person or entity, whether the liability is grounded in contract, tort or otherwise, including any obligation for any interconnection payment required to maintain service to the Exiting Provider's customers.
- C. Rates or Terms -- Nothing in this rule shall require the Replacement Provider to provide any service at rates or on terms other than those published in the Replacement Provider's tariffs, price lists, or contract with the customer.
- D. Obligation -- Nothing in this rule obligates the Replacement Provider to undertake any obligation of the Exiting Provider. To the contrary, unless expressly agreed in writing or ordered by the Commission, it shall be presumed that the Replacement Provider has not undertaken any obligation of the Exiting Provider.

KEY: exiting provider, replacement provider, telecommunications, services
January 15, 2004 54-4-1

54-3-1

R746. Public Service Commission, Administration. R746-365. Intercarrier Service Quality. R746-365-1. General Provisions.

- A. Application and Authority -- This rule shall apply to telecommunications corporations that are obligated to interconnect facilities and equipment for the mutual exchange of telecommunications traffic pursuant to 54-8b-2.2.
- 1. This rule provides service guidelines to ensure that telecommunications corporations, individually and jointly, will engineer, design, equip and provision an efficient public telecommunications network with attendant operational support systems and joint network planning processes that will:
- a. prevent impairment of public telecommunication services attributable to the provisioning of essential facilities and services used to provide local exchange service, including unreasonable blocking of telecommunications traffic carried by or exchanged between the networks of multiple telecommunications corporations;
- b. ensure that each incumbent local exchange carrier timely provides essential interconnection facilities and services to other telecommunications corporations that is at least equal in quality to that provided by the incumbent local exchange carrier to itself or to any of its subsidiaries or affiliates, or to any other carrier with whom the incumbent local exchange carrier interconnects, or provides interconnection facilities and services or that otherwise is adequate, efficient, just and reasonable.
- 2. This rule defines guidelines relating to interconnection and the exchange of traffic that apply to all telecommunications carriers and further defines additional guidelines relating to interconnection and the exchange of traffic that apply only to incumbent local exchange carriers, as required by the federal Telecommunications Act of 1996, 47 U.S.C. Section 251.
- 3. This rule specifies network performance and service quality guidelines applicable to telecommunications corporations interconnecting pursuant to 54-8b-2.2 and upon which the Commission may rely in determining whether service is just, adequate, and reasonable.
- 4. This rule establishes specific network monitoring and reporting obligations for incumbent local exchange carriers.
- 5. Incumbent local exchange carriers with less than 50,000 access lines shall be exempt from this rule. If a carrier receives a bona fide request for interconnection made pursuant to the notice and exemption provisions of 47 U.S.C. Section 251 (f), in the event the Commission determines that the requirements of Section 251(f)(1)(B) are met and the Commission terminates the exemption, the Commission may also consider what service standards shall apply to the incumbent local exchange carrier and may promulgate rules to implement applicable standards.
- 6. The adoption of this rule by the Commission neither precludes subsequent amendment pursuant to applicable statutory procedures, nor the grant of a temporary exemption by the Commission as provided in R746-100-16, Deviation from Rules.

R746-365-2. Definitions.

- A. The meaning of terms used in these rules shall be consistent with their general usage in the telecommunications industry unless specifically defined in 54-8b-2, R746-348, or this rule. As used in this rule, unless context states otherwise,
- the following definitions shall apply:

 1. "Affiliate" -- means, with respect to any telecommunications corporation, a person that directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this subsection, the term "own" means to own an equity interest, or the equivalent, of more than ten percent.
- 2. "Blocking" -- means the occurrence of insufficient capacity between the end office or tandem of a telecommunications corporation and the end office or tandem of

another telecommunications corporation, and includes a call not completed because of insufficient capacity usually evidenced by a fast busy signal or message that circuits are busy.

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- 3. "Busy Hour" -- means the uninterrupted period of 60 minutes during the day when the traffic is at its maximum.
- 4. "Business Day" -- means any day other than Saturday, Sunday or other day on which commercial banks in Utah are authorized or required to close.
- 5. "CFR" -- means the Code of Federal Regulations.
 6. "Commission" -- means the Public Service Commission of Utah.
- "Competitive Local Exchange Carrier" (CLEC) --7. means an entity certificated to provide local exchange services that does not otherwise qualify as an incumbent local exchange
- "Delayed Service Order" -- means a written or electronic order for an essential interconnection service or facility that is not filled on or before the standard installation interval or the date specified in a FOC, whichever occurs first.

 9. "End User" -- means the person, firm, partnership,
- corporation, municipality, cooperative, organization, or governmental agency purchasing the telecommunications service for its own use, and not for resale.
- "FCC" -- means the Federal Communications 10. Commission.
- -- means the Federal "Federal Act" 11. Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (codified at 47 U.S.C. Section 151 et seq.).
- 12. "Firm Order Confirmation" (FOC) -- means notice provided by one telecommunications corporation to another in electronic or manual form of acceptance of a service order and the date that the service order will be completed.
- 13. "Incumbent Local Exchange Carrier" (ILEC) -- is defined as it is in R746-348, Interconnection.
- 14. "Interoffice Trunk Facilities" -- means the facilities, including transport, switching and cross-connect facilities, necessary for the transmission and routing of telephone exchange service between two end offices, or an end office and a tandem office.
- 15. "Local Exchange Carrier" -- means a telecommunications provider, authorized by the Commission. that provides local exchange service in a defined geographic service territory.
- 16. "Network Element" or "Network Facility" -- is defined as it is in R746-348-2. Interconnection.
- 17. "Order Completion Notification" (OCN) -- means notice provided by one telecommunications corporation to another in electronic or manual form that a service order has been completed.
- 18. "OSS Interface" -- means a system of communications links, computer hardware and software and associated equipment providing access into an ILEC's operational support systems for human-to-computer or computer-to-computer communication. This definition is conjunctive to the definition of "operational support" contained in R746-348-2, Interconnection.
- 19. "Service Order" -- means a written or electronic request for essential facilities or services made to effectuate 54-8b-2.2 and section 251 of the federal act.
- "Trouble Report" -- means an oral, written or electronic report received by a telecommunications corporation from an end user of public telecommunications service, or, an oral, written or electronic report received by one telecommunications corporation from another who purchases essential facilities or services from the former. In either case, a Trouble Report communicates improper functioning of facilities over which the providing telecommunications corporation A trouble report is used by exercises control. telecommunications corporations to monitor repair and

maintenance actions required for disposition of out-of-service or substandard service conditions.

- 21. "Wholesale Services" -- means essential services available to telecommunications corporations for the purpose of resale to end users.
- 22. "Wire Center" -- means a building that contains the necessary telecommunications facilities and functions to terminate, switch, route and interconnect local exchange, interoffice, and interexchange public telecommunication services.

R746-365-3. Network Guidelines Applicable to All Telecommunications Corporations.

- A. Engineering -- All telecommunications corporations shall construct network facilities in conformance with network design standards and specifications.
- B. Stricter Standards -- If an interconnection agreement is adopted pursuant to negotiation or arbitration under the Federal Act, the agreements may contain obligations and performance standards for network facilities and services that are stricter than the guidelines contained in this rule.

R746-365-4. Service Quality Guidelines.

- A. Service Quality Applicable to All Telecommunications Corporations --
- 1. Carrier Provisioning Intervals -- Each telecommunications corporation shall provide essential facilities and associated services in accordance with the following provisioning intervals and shall separately measure each provisioning interval for commonly used circuit or facility types. The provisioning interval is the elapsed time measured in hours from a telecommunications corporation's receipt of a service order to return of an OCN. The percentage of service orders completed on time will be determined by the number of orders completed within the installation interval or the committed due date specified in a FOC. The cumulative elapsed time for each circuit or facility type is divided by the total number of corresponding completed service orders for each circuit or facility type to derive measures of service order flow-through, as further enumerated in R746-365-5. A telecommunications corporation shall return a FOC within two business days of receipt of a service order from another telecommunications corporation.
- a. Interoffice Trunking Facilities -- Pursuant to forecasting requirements established in R746-365-6, forecasted trunk, routing and switching facilities shall be provisioned to any requesting local exchange carrier within 30 days of receipt of a service order, unless otherwise agreed to by the requesting carrier.
- (i) Service Orders Presented Under Approved Forecasts -- A telecommunications corporation shall complete all service orders for essential facilities and services requested by another telecommunications corporation that comport with four-month projections contained in a joint forecast developed pursuant to R746-365-6(C).
- b. Number Portability -- Telecommunications corporations shall provide either interim number portability or permanent number portability to a requesting carrier. The installation interval for interim number portability shall not exceed three business days following receipt of a service order. Permanent number portability shall be provided pursuant to Federal Communications Commission requirements.
 - 2. Trouble Reports --
- a. Receipt, Investigation and Recording -- Each telecommunications corporation shall provide for the receipt of trouble reports 24 hours a day, seven days a week. Each telecommunications corporation providing public telecommunications service shall investigate and respond to each trouble report. Each telecommunications corporation shall

maintain a record of trouble reports made by end users and other telecommunications corporations which complies with R746-365-5(B)(4).

- b. Emergency Out-of-Service -- Provisions shall be made to clear emergency out-of-service trouble at all hours, consistent with the public interest and the personal safety of a telecommunication corporations personnel. Emergency or alternative service shall be provided local law enforcement and public safety agencies during the period of any network interruption.
- c. Notice of Unusual Repairs and Planned Interruptions -If unusual repairs preclude prompt disposition of a reported
 trouble, telecommunications corporations shall notify all
 affected telecommunications corporations. If service must be
 interrupted for purposes of rearranging facilities or equipment,
 all affected telecommunications corporations shall be notified
 and the work shall be completed in the least disruptive manner
 in order to minimize public inconvenience.
- d. Repair Intervals -- Each telecommunications corporation shall seek to clear out-of-service trouble reports received from another telecommunications corporation within the following intervals, unless other repair intervals have been agreed to:

TABLE

DS - 3, OC - 3 and higher
DS - 1, Fractional DS - 1, Design DS - 0, and
Local Interconnection Trunks
Residential and Business Resale POTS

2 hours
4 hours
22 hours

The repair interval for clearing a trouble between telecommunications corporations is the elapsed time measured in hours and tenths of hours from the time a trouble report is received by a telecommunications corporation to the time the telecommunications corporation returns a valid trouble resolution notification. Elapsed time shall be measured by common circuit or facility types and trouble disposition and closure recorded in accordance with R365-5(B)(4).

- 3. Network Performance Levels -- Each telecommunications corporation shall engineer, furnish and install essential facilities and services designed to meet busy hour demand, and to prevent unreasonable blocking. The following minimum network performance standards apply to:
 - a. Interoffice Facilities --
- (i) Local and extended area service interoffice trunk facilities shall have a minimum engineering design standard of (P.01) grade of service.
- (ii) Intertandem facilities shall have a minimum engineering design standard of B.0025 (P.0025) grade of service.
- b. Outside Plant -- Each telecommunications corporation shall engineer, construct and maintain cable and wire between an end user network interface device and the serving wire center in conformance with current industry standards, as described in R746-365-3(B), and common engineering practices.
- B. Service Quality and Other Network Guidelines Applicable to ILECs --
 - 1. Operational Support Systems --
- a. OSS Interfaces -- Each ILEC shall undertake all commercially reasonable efforts to facilitate parity of access to operational support systems the incumbent local exchange carrier uses to store and retrieve information related to network engineering and administration.
- b. Testing of OSS Interfaces -- Each telecommunications corporation shall upon request jointly conduct with one or more telecommunications corporations testing of OSS interfaces used to obtain access to operational support systems. OSS Interface testing shall commence not more than 45 days after a request for testing is received by a telecommunications corporation. The telecommunications corporations shall determine the duration

of tests which shall be conducted among noncommercial end user accounts. No unreasonable limitation shall be imposed by an ILEC on another telecommunications corporation's ability to test intercarrier OSS Interfaces to ensure compatibility between ILEC and the other telecommunications corporation's operational support systems.

- 2. Network Provisioning Intervals -- Each ILEC shall provide essential facilities and services that comply with the following installation intervals:
- a. Network Elements -- Each ILEC shall provision essential network facilities and services in accordance with the following intervals and shall measure provisioning intervals for each of the following loop facilities and services as described in R746-365-5-(C)(3)(c).
- (i) Unbundled Loops -- Provisioning intervals for an unbundled loop will vary by circuit and facility type, the number of loops requested on a service order, availability of facilities and whether or not a dispatch of ILEC personnel must occur. The following essential facilities will be provisioned for telecommunications corporations within the specified intervals.

TABLE

Facility Type DSO or analog equivalent, dispatch, facilities available:	Quantity	Interval
	1 - 24 24 - n	5 days negotiated
DSO or voice grade equivalent,	24 - 11	negotrated
no dispatch:	1 - 24 24 - n	3 days
DS1 Facilities provisioned and available: ISDN Facilities provisioned and available: XDSL Facilities provisioned and available:		7-10 days 5 days
		7 days
		7 days
DS3 Facilities provisioned and available: OC3 Facilities provisioned		7 days
and available:		15 days
OC4 - Higher Facilities provisioned and available:		15 days or
		negotiated
		dua data

- b. Wholesale Services -- Installation intervals for wholesale services shall vary depending upon whether an existing end user service provided by an ILEC is transferred to another telecommunications corporation, or, is a new service installation.
- (i) An ILEC shall transfer wholesale services without changes for an existing end user served by the ILEC within one business day following receipt of a service order from the telecommunications corporation.
- (ii) An ILEC shall transfer wholesale service with changes for an existing end user served by the ILEC within three business days following receipt of a service order from the telecommunications corporation.
- (iii) An ILEC shall install new wholesale service to a new end user, if facilities are available, within three days following receipt of a service order from the telecommunications corporation.
- c. Collocation -- The following provisioning intervals and optional arrangements are common to both virtual and physical collocation:
- (i) Upon receipt by an ILEC of a request for collocation, the ILEC shall within 15 days notify the telecommunications corporation whether sufficient space exists. If the telecommunications corporation disputes an ILECs denial of a request for collocation, and the carriers cannot negotiate a mutually satisfactory resolution, the telecommunications corporation may petition the Commission pursuant to Section 54-8b-17 for an expedited hearing and resolution of the dispute. The burden shall be on the ILEC to demonstrate to the Commission that collocation is not practical due to space limitations or is technically infeasible.
- (ii) If collocation is available, the ILEC shall within 25 days following receipt of a request for collocation provide a

written quotation containing all non-recurring charges for construction of the telecommunications corporation's requested collocation arrangement.

(iii) The telecommunications corporation shall within 30 days following receipt of the ILEC's quotation, by written notice to the ILEC: 1) accept the quotation; 2) withdraw the request for collocation; or, 3) provide the ILEC an independent contractor quotation for construction of the requested collocation arrangement.

- (iv) If the telecommunication corporation accepts the quotation from the ILEC, collocation equipment shall be installed on the ILEC's premises in accordance with the following provisioning intervals: 1) For physical collocation arrangements, the ILEC shall within 45 days of the telecommunication corporation's acceptance of the ILEC's quotation complete construction of the collocation space necessary and sufficient for installation of the CLEC's collocated interconnection facilities. The ILEC shall grant the telecommunications corporation access to the collocation space to install network elements therein. 2) For virtual collocation arrangements, the ILEC shall within 45 days after delivery of the telecommunication corporation's collocation equipment complete provisioning of all network facilities ordered by the telecommunications corporation.
- (v) If the telecommunication corporation provides the ILEC an independent contractor quotation for construction associated with a collocation arrangement, the ILEC shall within 15 days of receipt of the quotation: 1) accept the proposal and grant to the independent contractor access to the ILEC's premises to complete construction of the collocation space and installation of the collocated interconnection facilities; 2) amend the ILEC's own quotation to perform on substantially similar terms, including, without limitation, price, the services specified in the independent contractor's quotation. If the telecommunication corporation accepts the ILEC's amended quotation, construction of the collocation space shall proceed as described in R746-365-4(B)(3)(c)(iv); or, $\vec{3}$) reject the proposal. If the ILEC refuses to accept an independent contractor quotation or amend its own quotation, the telecommunications corporation may petition the Commission for an expedited hearing and resolution of the dispute pursuant to R746-365-8(B).

R746-365-5. Monitoring and Reporting Requirements.

- A. Availability and Retention of Records --
- 1. Availability of Records -- Each telecommunications corporation shall make network engineering and administrative records available for inspection by the Commission or its designee during normal operating hours.
- 2. Retention of Records -- All information required by this rule shall be preserved for at least 36 months after the date of entry.
- 3. Information Maintained -- Each telecommunications corporation shall maintain records of its network engineering and administrative operations in sufficient detail to permit review of network performance, provisioning intervals and general service quality provided other telecommunications corporations.
- 4. Rights of Division of Public Utilities -- Upon request made by the Division of Public Utilities, a telecommunications corporation shall provide within seven business days copies of any information requested. The Division of Public Utilities may request frequent monitoring of network performance, provisioning intervals and general service quality if evidence exists that public telecommunications services are impaired.
- 5. Special Study -- When requested by the Division of Public Utilities (the Division), an ILEC may file a study with the Division of Public Utilities evidencing actual provisioning intervals for network facilities and services or actual repair

intervals for services provided to a telecommunications corporation, to an affiliate, or, aggregated for its ten largest customers. The Division shall investigate the source of the ILEC's operational support evidence and, at its discretion, petition the Commission pursuant to R746-100-16, Deviation from Rules. If the Commission grants consideration of a petition, intervenors may audit the ILEC's operational support evidence underlying the results of its study.

- B. Network Monitoring and Performance Reporting Obligations Applicable to All Telecommunications Corporations
- 1. Monitoring -- Each telecommunications corporation shall monitor the use of its network so as to:
 - a. issue the reports required by this section; and
- b. monitor the use of all trunk groups and other interconnection facilities and equipment on its own side of the point of interconnection between its network and the network of each interconnecting telecommunications corporation.
- 2. Call Blocking -- Each telecommunications corporation shall maintain a daily record, by wire center, of call blocking. The record shall indicate the percentage of calls blocked by trunk group utilized by each interconnecting telecommunications corporation. Each telecommunications corporation shall notify an interconnecting telecommunications corporation immediately if call blocking on any trunk group within in any wire center exceeds standard industry levels specified in R746-365-4(A)(2).
- 3. Delayed Service Orders -- Each telecommunications corporation shall maintain a record, by wire center, of each instance when it fails to supply essential facilities and services to an interconnecting telecommunications corporation in accordance with the provisioning intervals established in R746-365-4. The record shall provide the following data:
- a. the name and address of the telecommunications corporation;
 - b. the circuit or facility type requested in the service order;
 - c. the date and hour the service order was received;
 - d. the reason for the delay;
 - e. the number of days the order has been delayed;
- f. the expected order completion date for each service
- g. whether an initial service order was supplemented by the requesting telecommunications corporation and, if so, the date and time the supplement was approved by the providing carrier;
- h. a copy of the FOC provided the requesting telecommunications corporations.
- 4. Carrier Trouble Reports -- Each telecommunications corporations shall maintain a record, by wire center, of trouble reports received from another telecommunications corporations. The record shall:
- a. identify the telecommunications corporation experiencing trouble;
 - b. the affected services;
 - c. the time, date and nature of the report;
- d. the cause and action taken to clear the trouble and its recorded disposition;
 - e. the date and time of trouble clearance.
- C. Performance Monitoring and Reporting Obligations Applicable to ILECs --
- 1. Service Provisioning Reports -- Each ILEC will provide interconnecting telecommunications corporations performance monitoring reports detailing the ILEC's provisioning of:
 - a. services to the ILEC's retail customers in the aggregate;
- b. essential facilities and services provided to itself or any retail affiliate purchasing interconnection or access;
- c. essential facilities and services provided in the aggregate to other telecommunications corporations purchasing interconnection; and

- d. essential facilities and services provided to individual telecommunications corporations purchasing interconnection.
- 2. Service Response Description -- The ILEC shall develop a detailed narrative description of the procedures it employs in responding to calls from:
 - a. its retail customers;
- b. its affiliated customers purchasing essential facilities and services for interconnection or local exchange access;
 - c. interconnecting telecommunications corporations; and
- d. The service response description will be made available upon request to telecommunications corporations purchasing essential facilities and services for interconnection. The ILEC shall comply with the procedures outlined in its service response description.
- 3. Performance Monitoring Reports -- Performance monitoring reports shall include the following reports in addition to any additional reports the Commission may request:
- a. Pre-Ordering Data -- Pre-ordering data means network administration data that resides in an ILECs operational support systems that includes, but is not limited to: facility availability, service availability, customer service records, appointment scheduling, telephone number reservation, feature function availability, and street address validation.
- (i) Average OSS Response Interval for Pre-Ordering Data -- This report measures average response time per transaction for: customer service records; due date availability, address validation, feature function availability and telephone number selection and reservation. It shall be measured as: the Average Response Interval. The Average Response Interval will equal the quotient of the following formula: a dividend expressed as the sum total of the differences between minuends expressed in Query Response date and time and subtrahends expressed in Query Submission date and time, the sum total dividend being divided by a divisor expressed as the number of Queries submitted in the reporting period.
- (ii) OSS Interface Availability -- This report measures the percentage of time an OSS Interface is actually available for use compared to scheduled availability. It shall be measured as: the Percent System Availability. The Percent System Availability will equal the quotient of the following formula: the dividend expressed in the hours the OSS Interface functionality is actually available to CLECs during the report period divided by a divisor expressed in the number of hours the functionality was scheduled to be available during the reporting period, the quotient being expressed as a percentage.
 - b. Ordering --
- (i) Firm Order Confirmation Timeline -- This report measures the average interval from receipt of a service order to distribution of an order confirmation notice. It shall be measured as: measured as the Mean FOC Interval. The Mean FOC Interval will equal the quotient of the following formula: the dividend expressed as the sum total of the differences of minuends expressed as the date and time of Firm Order Confirmation (FOCs) and subtrahends expressed as the date and time of Order acknowledgment, the sum total dividend being divided by a divisor expressed in the number of Orders confirmed in the reporting period.
- (ii) Reject Timelines -- This report measures average response time from receipt of service order to distribution of rejection notice. It shall be measured as: the Mean Reject Interval. The Mean Reject Interval will equal the quotient of the following formula: a dividend expressed as the total sum of the difference of minuends expressed as the date and time of Order Rejection and subtrahends expressed as the date and time of Order Acknowledgment, the sum total dividend being divided by a divisor expressed in the number of Orders Rejected in the reporting period.
- (iii) Percentage Rejects -- This report measures the percentage of total service orders received and rejected by the

ILEC due to errors or omissions in the service order.

- (iv) Timeliness of Order Completion Notification -- This report measures average response time from the actual completion date to distribution of service order completion notification. It shall be measured as: the Completion Interval. The Completion Interval shall equal the quotient of the following formula: a dividend expressed as the sum total of the differences of minuends expressed as the date and time of Notice of Completion issued to the telecommunications corporations and subtrahends expressed as the date and time of Work Completion by the ILEC, the sum total dividend being divided by a divisor expressed as the number of Orders completed during the reporting period.
- (v) Delayed Order Interval -- This report measures uncompleted orders where the committed due date on a firm confirmation order has passed. It shall be measured as: the Mean Delayed Order Interval. The Mean Delayed Order Interval will equal the quotient of the following formula: a dividend expressed as the sum total of the differences of minuends expressed as the reporting period close date and subtrahends expressed as the Committed Order Due date, the sum total dividend being divided by a divisor expressed as the number of Orders Pending and Past the Committed Due Date.

c. Provisioning --

- (i) Average Completion Interval -- This report measures the average time from an ILECs receipt of service order to the completion date provided on an OCN. It shall be measured as: the Average Completion Interval. The Average Completion Interval will equal the quotient of the following formula: a dividend expressed as the sum total of the differences of minuends expressed as the OCN date and time and subtrahends expressed as the Service Orders Submission date and time, the sum total dividend being divided by a divisor expressed as the count of Orders completed in the reporting period.
- (ii) Percentage of Orders Completed On Time -- This report measures the percentage of total orders completed on or before the completion date provided on an OCN. It shall be measured as: the Percent Orders Completed on Time. The Percent Orders Completed on Time will equal the quotient of the following formula: a dividend expressed as the count of Orders Completed within ILEC Committed Due Date and a divisor expressed as the count of Orders Completed in the reporting period, the quotient being expressed as a percentage.
- (iii) Percentage Missed Installation Appointments -- This report measures the percentage of service orders where installation of service is not performed at a time in which the customer concurs. It excludes misses when the other telecommunications corporation or end user causes the missed appointment. It shall be measured as: the Percentage Missed Installation Appointments. The Percentage Missed Installation Appointments will equal the quotient of the following formula: a dividend expressed as the count of appointments missed and a divisor expressed as the count of Wholesale Orders completed in the reporting period, the quotient being expressed as a percentage.
- (iv) New Service Installation Trouble Within 30 Days -- This report measures the percentage of new service installations which prove defective within 30 days following completion of a service order. It shall be measured as: the Percentage New Service Installation Trouble within 30 days. The Percentage New service Installation Trouble within 30 days will equal the quotient of the following formula: a dividend expressed as the count of defective New Service Install in the past 30 days divided by a divisor expressed as the count of total New Service Installs in the past 30 days; the quotient being expressed as a percentage.

d. Maintenance --

(i) Trouble Report Rate -- This report measures the frequency of direct or referred trouble report incidents across a

- universe of facilities where the cause is determined to be in network facilities. It is measured as a percentile of lines or circuit types in service. It shall be measured as: the Trouble Report Rate. The Trouble Report Rate will equal the quotient of the following formula: a dividend expressed as the count of Initial and Repeated Trouble Reports in the reporting period divided by a dividend expressed as the number of Service Access Lines in service at the end of the reporting period; the quotient being expressed as a percentage. For purposes of R746-365-5C(1)(c) and (d), an ILEC shall exclude from its count of trouble reports queries made to the ILEC from another telecommunications corporation's end-user customers who are not served by the ILEC.
- (ii) Missed Repair Appointments -- This report measures the percentage of trouble reports not cleared by the committed date and time. It excludes misses where the telecommunications corporation or end user caused the missed appointment. It shall be measured as: the Percentage Missed Repair Appointments. The Percentage Missed Repair Appointments will equal the quotient of the following formula: a dividend expressed as the count of Repair Appointments Missed divided by a divisor expressed as the count of Total Appointments; the quotient being expressed as a percentage.
- (iii) Mean Time to Restore -- This report measures the restoral interval for resolution of maintenance and repair troubles. It measures the elapsed time from receipt of a trouble report to the time the reported trouble is cleared. It shall be measured as: the Mean Time to Restore. The Mean Time to Restore will equal the quotient of the following formula: a dividend expressed as the sum total of the differences of minuends expressed as the date and time of Ticket Closure and subtrahends expressed as the date and time of Ticket creation, the sum total dividend being divided by a divisor expressed as the count of Trouble Tickets Closed in the reporting period.
- (iv) Percentage Repeat Trouble Reports Within 30 Days—This report measures the percentage of trouble reports on a line or circuit that has had a previous trouble report in the preceding 30 days. It shall be measured as: the Repeat Trouble Rate. The Repeat Trouble Rate will equal the quotient of the following formula: a dividend expressed as the count of Service Access Lines generating more than one Trouble Report within a continuous 30 day period divided by a divisor expressed as the number of Trouble Reports in the report period; the quotient being expressed as a percentage.

e. Billing --

- (i) Timeliness of Daily Usage Feed -- This report measures the interval in hours between the recording of usage data and the transmission in proper format to a telecommunications corporation. It shall include usage originating at ILEC switches, resale and UNE switching, and not alternately billed messages received from other ILECs. It shall be measured as: the Mean Time to Provide Recorded Usage Records. The Mean Time to Provide Recorded Usage Records will equal the quotient of the following formula: a dividend expressed as the sum total of the differences of minuends expressed as the data set transmission time and subtrahends expressed as the time of message recording the sum total dividend being divided by a divisor expressed as the count of all messages transmitted in the reporting period; the quotient being expressed as a percentage.
- f. Specific Performance Monitoring Reports -- The Commission, the Division of Public Utilities or a telecommunications corporation may request from the ILEC a report on a specific basis rather than on an average basis with respect to any of the information described in the foregoing performance monitoring reports.
- 4. Identifiable Carrier-Specific Information -- An ILEC shall ensure that any carrier specific information contained in the performance monitoring reports is disclosed only to the individual carrier. The ILEC shall not use any information

specific to a carrier for any purpose other than the reporting requirements contained herein.

R746-365-6. Joint Planning and Forecasting.

- A. Planning -- A telecommunications corporation will meet with another telecommunications corporation, interconnecting or planning to interconnect within the next calendar quarter, to participate in joint forecasting and planning as necessary to accommodate the design and provisioning responsibilities of both telecommunications corporations. At a minimum, the telecommunications corporations will meet once every calendar quarter.
 - B. Forecasting --
- Forecasting is the joint responsibility of the telecommunications corporations. A forecast of interconnecting trunk group and other facilities and equipment required by the telecommunications corporations is required on a quarterly basis. The quarterly forecast shall project requirements for the following time intervals:
 - a. four months;
 - b. one year; and
 - c. three years.
- To the extent practical, the one-year and three-year forecasts will be supplemented with historical data from time to time as necessary to improve the accuracy of the forecasts.
- 2. The forecasts shall include, for tandem-switched traffic, the quantity of the tandem-switched traffic forecasted for each end office.
- 3. The use of Common Language Location Identifier (CLLI-MSG) shall be incorporated into the forecasts.
- 4. The forecasts shall include a description of major network projects anticipated for the following year that could affect the other party to the forecast. Major network projects include trunking or network rearrangements, shifts in anticipated traffic patterns, or other activities that are reflected by a significant increase or decrease in trunking demand for the succeeding forecasting period.
- 5. The forecasts, in narrative form, shall also describe anticipated network capacity limitations, including any trunk groups when usage exceeds 80 percent of the trunk group capacity, and the procedure for eliminating capacity problems before any trunk group experiences blocking in excess of the standards set forth in R746-365-5(B)(2).
- 6. The forecasts shall include the requirements of the telecommunications corporations for each of the following trunk groups:
 - a. intraLATA toll and switched access trunks;
 - b. EAS and local trunks:
 - c. directory assistance trunks;
 - d. 911 and E911 trunks;
 - e. operator service trunks;
- f. commercial mobile radio service and wireless traffic;
- g. meet point billing trunks.7. Unless otherwise agreed, forecasting information exchanged between interconnecting local exchange carriers, or disclosed by one interconnecting local exchange carrier to the other, shall be deemed confidential and proprietary.
 - C. Procedure for Forecasting --
- 1. At least 14 days before a scheduled joint planning and forecasting meeting, the telecommunications corporations shall exchange information necessary to prepare the forecast described in R746-365-6(B). At a minimum, the telecommunications corporation will provide the other with the following information.
- a. Existing Interconnection Locations -- For existing interconnection locations between the telecommunications corporations, each telecommunications corporation shall provide:

- (i) blocking reports, at the individual trunk group level, detailing blocking at each end office, including overflow volumes, and blocking between the telecommunications corporation's end offices and tandem switches;
- (ii) the existence of any network switching, capacity or other constraints.
- (iii) any network reconfiguration plans for the telecommunications corporation's network.
- b. New Markets -- They may request the following information concerning a specific market area in the other's Utah service territory into which they desire to expand their own network:
 - (i) The network design and office types in the market area.
 - (ii) The capabilities of the network in the market area.
- (iii) Any plans to reconfigure the network in the market
- c. Future need information -- The telecommunications corporation will provide the other with the following information:
- (i) The number of trunk lines requested and the projected century call second loads used to formulate such request.
- (ii) Whether internet providers will be served and the projected number of internet provider lines needed.
 - (iii) The projected busy hour(s) of the trunk groups.
- (iv) The expected century call seconds on busy hours how many century call seconds the last idle trunk line will carry.
- (v) The projected service dates for the requested trunking groups for the first quarter forecasted.
- (vi) The telecommunications corporation's forecast for direct trunk groups to any particular end office.
- (viii) Any ramp up time anticipated for the use of the requested trunk lines, and an estimate of when the trunk group will reach capacity limits.
- (x) Whether the telecommunications corporation requests usage and overflow data on the trunk groups which are directly connected to the other's end offices.
- 2. The telecommunications corporation shall prepare a joint forecast consistent with the requirements of R746-365-6(B) and shall submit the forecast to the other at least seven days before the scheduled joint planning meeting.
- 3. Prior to the scheduled joint planning meeting, the telecommunications corporation shall notify the other whether it accepts the four-month forecast, rejects the four-month forecast, or proposes specific modifications to the four-month forecast.
- a. If the telecommunications corporation rejects the four -month forecast or proposes modifications to the forecast, the telecommunications corporation shall submit a written statement to the other outlining the reasons why the forecast, as prepared by the other, is unacceptable. The statement shall be supported by written documentation to support the telecommunications corporation's position.
- b. At the joint planning meeting, the telecommunications corporations may agree on the terms of the four-month forecast, as initially presented, or with modifications agreed to by them. If no agreement is reached, the telecommunications corporations shall jointly outline all areas of disagreement.
- 4. If the telecommunications corporations cannot agree on the terms of the quarterly four-month forecast, either local exchange carrier may commence an expedited dispute resolution proceeding before the Commission, as provided in Section 54-8b-17. In that proceeding, the burden of persuasion shall be on an ILEC to demonstrate that a four-month quarterly forecast submitted by a CLEC is unreasonable.
- 5. To the extent the telecommunications corporations agree to the terms of a forecast, the terms shall be deemed approved for purposes of this section, and only those portions of a quarterly forecast actually in dispute shall be subject to the expedited dispute resolution proceeding.

- 6. If the telecommunications corporations agree on a fourmonth quarterly forecast, or, to the extent a forecast is approved by the Commission pursuant to the expedited dispute resolution proceeding, a telecommunications corporation shall be obligated to satisfy all service order requests made by the ordering telecommunications corporation that are consistent with the four-month projections contained in the approved forecast. Compliance with the terms of the forecast shall be based on the network provisioning interval standards set forth in R746-365-4(B)(2) as applicable.
- D. Capacity Beyond the Four-month Forecast -- If a telecommunications corporation desires to order trunk groups, equipment, or facilities beyond the four-month forecast, but consistent with the one-year and three-year forecast, the telecommunications corporation may order the additional quantity if it pays a capacity reservation charge to the other telecommunications corporation from whom it orders.
- E. Trunk Group Underutilization -- If a trunk group is under 60 percent of centum call seconds (ccs) capacity on a monthly average basis for each month of any three-month period, either telecommunications corporation may request to resize the trunk group, which resizing will not be unreasonably withheld. If the resizing occurs, the trunk group shall not be left with less than 25 percent excess capacity. In all cases the network performance levels and the network provisioning intervals as set forth in R746-365-4(A)(2) and R746-365-4(B)(3) shall be maintained. If the telecommunications corporations cannot agree to a resizing, either of them may file a petition with the Commission for an expedited dispute resolution proceeding as provided in Section 54-8b-17.
- F. Point of Contact -- Telecommunications corporations shall provide a specified point of contact for planning, forecasting and trunk servicing purposes. The specified point of contact shall have all authority necessary to fulfill the responsibilities as set forth in this section.

R746-365-7. Remedies.

- A. Commission Assessed Penalties -- The Commission may assess penalties, as provided in 54-7-25 and 54-8b-17, against any telecommunications corporation that unreasonably fails or refuses to comply with this rule, including, without limitation, the provisioning and forecasting provisions contained in this rule.
 - B. Carrier Charges and Offsets --
- 1. Failure to Comply with This Rule -- If a telecommunications corporation fails to meet the network guidelines, service quality guidelines, reporting and monitoring requirements, or other duties imposed on it by this rule, any affected telecommunications corporations may file a petition with the Commission to enforce the provisions of this rule. The proceeding may be brought on an expedited basis as provided in 54-8b-17.
- 2. Service Interruption -- A telecommunications corporation shall be entitled to a billing credit against amounts owed to an other telecommunications corporation for service interruption as follows:
- a. If the telecommunications corporation's service or facility from another telecommunications corporation is interrupted and remains out-of-service for more than four but less than eight continuous hours after being reported by the interrupted telecommunications corporation, or found to be out-of-service by the providing telecommunications corporation, whichever occurs first, appropriate adjustments shall be automatically made to the interrupted telecommunications corporation's bill. The adjustment shall be a billing credit equal to one tenth of the providing telecommunications corporation's monthly rate for the affected service.
- b. If the interrupted telecommunications corporation's service or facility from the providing telecommunications

- corporation is interrupted and remains out-of-service for more than eight but less than 24 continuous hours after being reported by the interrupted telecommunications corporation, or found to be out-of-service by the providing telecommunications corporation, whichever occurs first, appropriate adjustments shall be automatically made by the providing telecommunications corporation to the interrupted telecommunications corporation's bill. The adjustment shall be a billing credit equal to the providing telecommunications corporation's monthly rate for the affected service.
- c. If the interrupted telecommunications corporation's service or facility from the providing telecommunications corporation is interrupted and remains out-of-service for more than 24 continuous hours after being reported by the-of-service interrupted telecommunications corporation or found to be interrupted by the providing telecommunications corporation, whichever occurs first, appropriate adjustments shall be automatically made by the providing telecommunications corporation to the interrupted telecommunications corporation's bill. The adjustment shall be a billing credit equal to three times the providing telecommunications corporation's monthly rate for the affected service.

KEY: interconnection, public utilities, telecommunications June 1, 1999 54-8b-2 Notice of Continuation January 6, 2004

R805. Regents (Board of), University of Utah, Administration.

R805-1. Operating Regulations for Bicycles, Skateboards and Scooters.

R805-1-1. Purpose.

To set forth the regulations that govern the operation and use of bicycles, skateboards and scooters on the campus of, or on other property owned, operated or controlled by, the University of Utah.

R805-1-2. Definitions.

- A. Bicycle: every device propelled by human power upon which any person may ride having two tandem wheels either of which is more than 12 inches in diameter and also includes any device generally recognized as a bicycle, although equipped with more than one front or rear wheel.
- B. Skateboard: every non-motorized device consisting of two or more wheels affixed to a platform or footboard upon which a rider stands and which does not have steering capability similar to that of a bicycle and does not have brakes which operate on or upon the wheels of the skateboard. It also includes every device generally recognized as a skateboard.
- C. Scooter: every non-motorized device consisting of two or more wheels affixed to a platform or footboard upon which a rider stands and which has a handle or other mechanism at the front for holding or guiding the device. It also includes every device generally recognized as a scooter. It does not include such devices if they have steering capability similar to a bicycle and also have brakes that operate on or upon the wheels of the device. It does not include mopeds, whether operated with or without motor power. For the purpose of these regulations mopeds and motorcycles are considered motor vehicles.

R805-1-3. Policy.

A. Bicycles

- 1. Every person operating a bicycle shall exercise due care and reasonable caution to prevent injury to others, to himself, or to property.
- 2. Every person operating a bicycle shall yield the right of way to pedestrians at all times.
- 3. No person operating a bicycle shall exceed a reasonable and proper speed under the circumstances then and there existing and in no event shall any person operate a bicycle at a speed greater than 10 miles per hour upon any sidewalk or pedestrian pathway except as part of a university approved competition or function.
- 4. Bicycles shall not be ridden upon any stairway, wall bench, or other structure or facility or on or over shrubbery or flower beds. Bicycles shall not be ridden within any building.
- 5. Unless otherwise provided by regulations or traffic signs, bicycles may only be ridden upon roadways and sidewalks, except that where a bicycle path has been provided adjacent to a roadway or sidewalk, bicycle operators shall use such bicycle path.
- 6. No person riding a bicycle shall attach the same in any manner to any moving vehicle, except that this shall not prohibit the attaching to a bicycle of a bicycle trailer or semitrailer specifically designed for such attachment.
- 7. Bicycles shall not be ridden two or more abreast on any sidewalk or pedestrian walkway, except as part of a university approved competition or function.
- 8. No person shall ride a bicycle upon or along a sidewalk, pedestrian walkway, or across a roadway where the riding of bicycles is prohibited by official traffic control devices or signs, except as part of a university approved competition or function.
- 9. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped, except that adult rider may carry a child securely attached to his/her person in a backpack or sling or in a child carrier

securely attached to the bicycle.

- 10. No person riding a bicycle shall carry any package, bundle, or other article which prevents the operator from using at least one hand on the handle bars.
- 11. Every bicycle shall be equipped with such brakes, reflectors and other safety devices at such times as is required by State law for operating a bicycle on streets or highways.
- 12. Bicycles shall not be parked on or at handicap ramps, handicap entrances or other facilities designated for handicapped traffic or in such a manner as to impede the free and clear use of such facilities.
- 13. Bicycles shall not be parked in the public areas of any building, including but not limited to hallways, stairwells, and classrooms. Bicycles shall not be parked at or near any building entrance or exit in such a manner as to impede the free and clear use of such areas.
- 14. Bicycles shall not be parked at or attached to any fire hydrant, standpipe, building service equipment or other safety device.
- 15. State traffic laws pertaining to bicycles are in full force and effect on the campus of, or on other property owned, operated or controlled by, the University of Utah.

B. Skateboards and Scooters

- 1. Every person riding a skateboard or scooter shall exercise due care and reasonable caution to prevent injury to others, to himself, or to property.
- 2. Every person riding a skateboard or scooter shall yield the right of way to pedestrians at all times.
- 3. No person riding a skateboard or scooter shall exceed a reasonable and proper speed under the circumstances then and there existing and in no event shall any person riding a skateboard or scooter exceed a speed of 10 miles per hour upon any sidewalk or pedestrian pathway except as part of a university approved competition or function.
- 4. Skateboards and scooters shall not be ridden upon any stairway, wall, bench, or other structure or facility or on or over any landscaped area, including, but not limited to, grass areas, shrubbery, or flower beds. Skateboards and scooters shall not be ridden within any building.
- 5. Unless otherwise provided by regulations or traffic signs, skateboards and scooters may only be ridden upon pedestrian sidewalks. Skateboards and scooters shall not be ridden upon any sidewalk where there is a posted sign prohibiting such activity. Except as part of a university approved competition or function, skateboards and scooters shall not be ridden upon any parking lot.
- 6. Skateboard and scooter riders shall not engage in obstacle riding or other acts or maneuvers which endanger the rider or others.
- 7. The appropriate bodies may adopt policies concerning the riding of skateboards and scooters in university student apartment areas.
- 8. Operators of those devices which are excluded form the skateboard or scooter category in these regulations because they have steering capability similar to a bicycle and because they have brakes which operate on or upon the wheels of the device shall comply with the regulations herein for bicycles.
- 9. Any state laws pertaining to skateboards and scooters are in full force and effect on the campus of, or on other property owned, operated or controlled by, the University of Utah.

C. Sanctions

- 1. These regulations may be enforced against university students, university staff and university faculty by violation notices which may be processed and settled through the parking citation and appeals procedures and offices.
- 2. Payment of violation notice fees shall be within seven working days. After that additional fees or penalties may be invoked. It is the responsibility of the recipient of the violation

notices to promptly settle them.

3. Unsettled violation notice fees may be withheld from the paychecks of faculty and staff.

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- 4. Registration holds may be placed against delinquent student violators; student registration may be canceled in any instance where a student circumvents the system and registers without clearing delinquent violation notices; transcripts of credits may be withheld for students leaving the university with delinquent violation notices.
- Chronic or flagrant student violators may be referred to the Student Behavior Committee for appropriate disciplinary action.
- 6. Alternative violation notices may be issued to persons not affiliated as student, staff or faculty with the university and will be handled the same as alternative parking violation notices.
- 7. Violation notices for violations of these regulations may be appealed to the Parking Appeals Office under the same rules, including time limitations, as parking violation notices.
- 8. Adverse ruling of the Parking Appeals Officer may be appealed to the Campus Parking Citation Appeals Committee under the same rules, including time limitations, as parking violation notices.
- Bicycles, scooters or skateboards parked or placed in prohibited areas may be impounded, or otherwise secured. Bicycles, scooters or skateboards parked or placed in areas where they constitute a hazard to others may be removed and impounded.
- 10. In appropriate cases, including but not limited to chronic or flagrant violations of these regulations, university affiliated persons or non-university affiliated persons may be prohibited from bringing onto the campus bicycles, scooters or skateboards.
- 11. In appropriate cases, including but not limited to chronic or flagrant violations of these regulations, nonuniversity affiliated persons may be prohibited entry upon the campus.

KEY: bicycles, pedestrian, safety, speed limits 1989 53B-2-106 Notice of Continuation January 27, 2004 53B-3-101 76-8-701 et seq. R807. Regents (Board of), University of Utah, Museum of Natural History (Utah).

R807-1. Curation of Collections from State Lands. R807-1-1. Purpose.

(1) This rule ensures the adequate curation of all collections from lands owned or controlled by the state and its subdivisions through the selection and review of curation facilities and repositories.

R807-1-2. Authority.

(1) This rule is required by Title 53B, Chapter 17, and is enacted under the authority of Subsections 53B-17-603(2) and 53B-17-603(4)(a).

R807-1-3. Definitions.

- (1) The terms used in this rule are defined in Sections 9-8-302, 65A-1-1, 53B-17-603, and 63-73-1.
- (a) "Collection" means a specimen and the associated records documenting the specimen and its recovery.
- (b) "Critical paleontological resources" means vertebrate fossils and other exceptional fossils that are designated state paleontological landmarks as provided for in Section 63-73-16.
 - (c) "Curation facility" means:
 - (i) the museum;
- (ii) an accredited facility meeting federal curation standards; or;
 - (iii) an appropriate state park.
- (d) "Museum" means the Utah Museum of Natural History.
 - (e) "Repository" means:
- (i) a facility designated by the museum through memoranda of agreement; or
 - (ii) a place of reburial.
 - (f) "Specimen" means:
- (i) all man-made artifacts and remains of an archaeological or anthropological nature, found on or below the surface of the earth, excluding structural remains; and
- (ii) remains of a critical paleontological nature found on or below the surface of the earth.
 - (2) In addition:
- (a) "Appropriate permitting agency" means the Division of State History, the Geologic Survey, or the School and Institutional Trust Lands Administration as set forth in Sections 9-8-305 and 63-73-12,13.
- (b) "Arbitration board" means ultimate arbitration authority as set forth in Section 53B-17-12-13 603(4)(a)(vii).
 - (c) "Committee" means the curation advisory committee; (d) "State lands" means lands owned or controlled by the
- (d) "State lands" means lands owned or controlled by th state and its subdivisions, and includes lands

administered by the School and Institutional Trust Lands

R807-1-4. Clarification of 53B-17-603.

- (1) For the purposes of Section 53B-17-603 and this rule:
- (a) "Accredited" means current accreditation by the American Association of Museums or other nationally recognized accrediting institutions or agencies;
- (b) "Appropriate state park" means a state park designated by the Division of Parks and Recreation as meeting and being in compliance with federal curation standards;
- (c) "Federal curation policy" means: generally understood principles of federal and professional curation policy, and for archaeological collections, includes but is not limited to those as set forth in 36 CFR Part 79, 1996 ed., as amended and those federal rules implementing the Native American Grave Protection and Reburial Act (43 CFR Part 10, 1996 ed.);
- (d) "Meeting federal curation standards" means that a facility has been designated by a federal agency as a repository and is in compliance with Federal curation policy.

R807-1-5. Curation Advisory Committee.

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- (1) The Museum shall establish a curation advisory committee and shall select the members of the Committee.
- (2) The Committee shall be composed of at least eight members and shall include a representative from the Division of Parks and Recreation, the Division of Sovereign Lands and Forestry, the School and Institutional Trust Lands Administration, Division of Indian Affairs, Division of State History, Utah Geologic Survey, curation facilities, and may include representatives with interests in one or more of the following areas: education, research, cultural resource management, or curation.
- (3) The Committee shall serve in an advisory capacity to the Museum.
- (4) The Committee's responsibilities shall include advising the Museum on the following:
- (a) the development and annual review of procedures relating to the designation of repositories;
- (b) the designation of certain repositories or curation facilities, taking into consideration those factors listed in Section 53B-17-603(4)(a); and
- (c) other means by which the Museum can ensure the adequate curation of all collections from state lands.
- (5) The Committee shall meet with the Museum at least semiannually, as called by the Director of the Museum.

R807-1-6. Proof of Consultation.

- (1) The Museum may enter into a memorandum of agreement with permitting agencies that establishes a process for providing persons applying for either a survey or an excavation permit with proof of consultation as required by Section 9-8-305(1)(c)(vii) and Section 63-73-12(1)(6)(vi). That process will include:
- (a) The Museum maintaining a list of curation facilities and repositories in Utah. The list shall include:
 - (i) their geographic location;
- (ii) the types of collections they curate or desire to curate;
- (iii) for repositories, the types of collections they can adequately curate.
- (b) A procedure for the permit applicant receiving a copy of the list.
- (c) A procedure for the Museum receiving notification of the selected curation facility or repository and a copy of the permit application.
- (d) A procedure whereby critical vertebrate paleontological resources may be curated by the permittee when the permittee is a curation facility.
- (2) Collections obtained under an excavation permit shall be deposited by the permittee at the designated repository or curation facility no later than six months after the permittee provides the appropriate permitting agency with reports as required by law.
- (3) Collections obtained under a survey permit shall be deposited at the designated repository or curation facility within one calendar year of completion of field work.

R807-1-7. Curation Standards.

- (1) In order to be designated as an appropriate curation facility or repository for collections, a facility must provide evidence of its ability to continually provide adequate curation appropriate to the nature and content of the collection.
- (2) Adequate curation is presumed for all curation facilities.
- (3) Adequate curation for repositories means at a minimum:
- (a) possessing and maintaining complete and accurate collection records;
 - (b) possessing and maintaining requisite facilities which

have equipment and space in the physical plant dedicated solely to the proper storage, study, and conservation of collections;

- (c) possessing and maintaining the ability to keep collections under physically secure conditions within storage, laboratory, study, and exhibition areas;
- (d) requiring staff and any consultants who are responsible for managing and preserving collections to be trained in the curation of collections;
- (e) appropriately handling, storing, cleaning, conserving, and exhibiting collections to ensure the physical integrity of collections;
- (f) storing records of collections, including site forms, field notes, artifact inventory lists, computer disks and tapes, catalog forms, photographs, and a copy of the final report in a manner that will protect them from theft and fire;
- (g) conducting regular inspections and inventories of collections; and
- (h) developing and implementing procedures regarding the accessioning, loan, exhibition, and deaccessioning of specimens.

R807-1-8. Designation of Repositories.

- (1) Any facility, other than a place of reburial, seeking to be designated as a repository shall submit to the Museum:
- (a) a completed Facility Assessment Form, a copy of which may be obtained from the Museum; and
- (b) any other information relating to the facility's ability to provide adequate curation appropriate to the nature and content of collections requested by the Museum.
- (2) If the Museum determines that a facility is able to provide adequate curation, the Museum will enter into a memorandum of agreement that will designate that facility as a repository and ensure continued adequate curation at that facility. The memoranda of agreement shall include the following:
 - (a) reporting provisions;
 - (b) provisions for periodic review and monitoring; and
- (c) conditions triggering the revocation of collections from state lands.
- (3) Any facility denied repository status may appeal the Museum's decision within 30 days of the denial of status pursuant to the procedures set forth in R807-1-13 below.

R807-1-9. Selection of a Repository or Curation Facility.

- (1) A repository or curation facility seeking designation as a repository or curation facility shall notify the Museum of the nature of collections it wishes to curate by filing a request with the Museum. A request for designation shall include a discussion of the following as appropriate:
- (a) identification of any specific site or project of interest to the repository or curation facility;
- (b) repository or curation facility programs related to its proposed scientific and educational use of the requested collections; and
- (c) proximity of the repository or curation facility to the point of origin of the requested collections.
- (2) The Museum shall select a repository or curation facility for collections to be obtained from state lands under a survey permit, considering those factors listed in Section 53B-17-603(4)(a).
- (3) The Museum in consultation with the Committee shall select a repository or curation facility for collections to be obtained from state lands under an excavation permit, taking into consideration those factors listed in Section 53B-17-603(4)(a).
- (4) The Museum in consultation with the Committee shall designate a second repository or curation facility to curate collections if the repository or curation facility originally selected fails to provide adequate curation appropriate to the nature and content of the collection.

(5) Any curation facility or repository may appeal the selection of a repository or curation facility within 30 days after receiving notice of that selection through the procedures set forth in R805-1-13 below.

R807-1-10. Obligations of Repositories or Curation Facilities.

- (1) Repositories or curation facilities shall immediately notify the Museum of any loss of accreditation, any changes resulting in a failure to meet federal curation standards, or any breach of a memorandum of agreement entered into with the Museum.
- (2) If a repository or curation facility loses its accreditation, fails to meet federal curation standards, or breaches its memorandum of agreement, the Museum may require transfer of collections to another repository or curation facility.
- (3) The Museum shall periodically review repositories to assure they are providing adequate curation appropriate to the nature and content of the collection. The Museum's reviews may occur through an on-site visit or submission of written reports from the repository. The Museum shall give the repository 30 days notice of a proposed review.
- (4) Curation facilities with collections from state lands shall provide the Museum with copies of accreditation reports from the American Association of Museums or other nationally recognized accrediting institutions or agencies.
- (5) Repositories or curation facilities shall provide an inventory of collections received from state lands to the Museum within 90 days of receipt of the collection.
- (6) Repositories or curation facilities shall notify the Museum 30 days prior to undertaking any destructive analysis or exchange to allow the Museum opportunity to review and comment.
- (7) Other than appropriate exchanges of collections and destructive analysis, no other form of permanent removal of collections shall take place.
- (8) Repositories or curation facilities shall notify the Museum within 30 days of the accidental or any other loss or destruction of any specimen.
- (9) Repositories or curation facilities shall not take any actions that would adversely affect recognition of the following:
- (a) Collections obtained in exchange for collections found on school and institutional trust lands are owned by the respective trust and are subject to these rules;
- (b) Collections recovered from school and institutional trust lands are owned by the respective trust;
- (c) Any monies obtained by a curation facility or repository from sales of reproductions derived from collections found on state lands shall be given to the respective trust, except that the curation facility or repository may retain monies sufficient to recover the direct costs of preparation for sale and a reasonable fee for handling the sale. It is recognized that a curation facility or repository may contract with a third party to prepare and produce reproductions.
- (d) Collections recovered from school and institutional trust lands shall be available for exhibition as the beneficiaries of the respective trust may request, subject to Museum's curation responsibilities and the repository or curation facility's budgetary and exhibit priorities.

R807-1-11. Reporting.

- (1) The Museum shall annually submit to the Division of Sovereign Lands and Forestry and the School and Institutional Trust Lands Administration an inventory of collections received from their respective lands and placed in repositories or curation facilities.
- (2) The Museum shall annually submit to the Division of Sovereign Lands and Forestry and the School and Institutional

Lands Administration an inventory of specimens lost, destroyed, or exchanged from their collections.

(3) The Museum shall annually submit to the Division of State History a list of collections received and places in repositories or curation facilities.

R807-1-12. Designation of Adjudicative Proceedings as Informal.

(1) All appeals shall be conducted informally.

R807-1-13. Procedures of Informal Adjudicative Proceedings.

- (1) Any facility requesting an appeal of a Museum designation or selection shall include the following information in its request:
- (a) the names and addresses of all persons known to have a direct interest in the requested Museum action and to whom a copy of the request for Museum action is being sent;
- (b) the Museum's file number or other reference number, if known;
- (c) the date that the request for Museum action was mailed;
- (d) a statement of the legal authority and jurisdiction under which the Museum action is requested;
- (e) a statement of the relief or action sought from the Museum; and
- (f) a statement of the facts and reasons forming the basis for relief or Museum action.
- (2) The facility requesting an appeal shall send a copy of the request by mail to each person known to have a direct interest in the requested agency action.
- (3) The director of the Museum shall promptly review a request for relief and shall notify the facility in writing of:
 - (a) the decision;
 - (b) the reasons for the decision; and
- (c) a notice of the right to review by the arbitration board within 30 days.
- (4) Copies of the director's notification shall be sent to the facility making the request and to those parties who have previously expressed a direct interest in the request.
- (5) The facility may request a review within 30 days of the director's final decision by submitting a written request to the Museum. The Museum director shall then request that the arbitration board, as set forth in 53B-17-603 (4)(a)(vii), shall meet.
- (6) The arbitration board shall respond to the request within 30 days of notification.

KEY: curation, archeological resources, paleontological resources

June 3, 1999 53B-17-603(2)

Notice of Continuation January 26, 2004 53B-17-603(4)(a)

9-8-305(1)(c)

63-73-12(1)(6)

R884. Tax Commission, Property Tax. R884-24P. Property Tax.

R884-24P-5. Abatement or Deferral of Property Taxes of Indigent Persons Pursuant to Utah Code Ann. Sections 59-2-1107 through 59-2-1109 and 59-2-1202(5).

- A. "Household income" includes net rents, interest, retirement income, welfare, social security, and all other sources of cash income.
- B. Absence from the residence due to vacation, confinement to hospital, or other similar temporary situation shall not be deducted from the ten-month residency requirement of Section 59-2-1109(3)(a)(ii).
- C. Written notification shall be given to any applicant whose application for abatement or deferral is denied.

R884-24P-7. Assessment of Mining Properties Pursuant to Utah Code Ann. Section 59-2-201.

A. Definitions.

- 1. "Allowable costs" means those costs reasonably and necessarily incurred to own and operate a productive mining property and bring the minerals or finished product to the customary or implied point of sale.
- a) Allowable costs include: salaries and wages, payroll taxes, employee benefits, workers compensation insurance, parts and supplies, maintenance and repairs, equipment rental, tools, power, fuels, utilities, water, freight, engineering, drilling, sampling and assaying, accounting and legal, management, insurance, taxes (including severance, property, sales/use, and federal and state income taxes), exempt royalties, waste disposal, actual or accrued environmental cleanup, reclamation and remediation, changes in working capital (other than those caused by increases or decreases in product inventory or other nontaxable items), and other miscellaneous costs.
- b) For purposes of the discounted cash flow method, allowable costs shall include expected future capital expenditures in addition to those items outlined in A.1.a).
- c) For purposes of the capitalized net revenue method, allowable costs shall include straight- line depreciation of capital expenditures in addition to those items outlined in A.1.a).
- d) Allowable costs does not include interest, depletion, depreciation other than allowed in A.1.c), amortization, corporate overhead other than allowed in A.1.a), or any expenses not related to the ownership or operation of the mining property being valued.
- e) To determine applicable federal and state income taxes, straight line depreciation, cost depletion, and amortization shall be used.
- 2. "Asset value" means the value arrived at using generally accepted cost approaches to value.
- 3. "Capital expenditure" means the cost of acquiring property, plant, and equipment used in the productive mining property operation and includes:
 - a) purchase price of an asset and its components;
 - b) transportation costs;
 - c) installation charges and construction costs; and
 - d) sales tax.
- 4. "Constant or real dollar basis" means cash flows or net revenues used in the discounted cash flow or capitalized net revenue methods, respectively, prepared on a basis where inflation or deflation are adjusted back to the lien date. For this purpose, inflation or deflation shall be determined using the gross domestic product deflator produced by the Congressional Budget Office, or long-term inflation forecasts produced by reputable analysts, other similar sources, or any combination thereof.
- 5. "Discount rate" means the rate that reflects the current yield requirements of investors purchasing comparable properties in the mining industry, taking into account the

industry's current and projected market, financial, and economic conditions.

- 6. "Economic production" means the ability of the mining property to profitably produce and sell product, even if that ability is not being utilized.
- 7. "Exempt royalties" means royalties paid to this state or its political subdivisions, an agency of the federal government, or an Indian tribe
- 8. "Expected annual production" means the economic production from a mine for each future year as estimated by an analysis of the life-of-mine mining plan for the property.

9. "Fair market value" is as defined in Section 59-2-102.

- 10. "Federal and state income taxes" mean regular taxes based on income computed using the marginal federal and state income tax rates for each applicable year.
- 11. "Implied point of sale" means the point where the minerals or finished product change hands in the normal course of business.
- 12. "Net cash flow" for the discounted cash flow method means, for each future year, the expected product price multiplied by the expected annual production that is anticipated to be sold or self-consumed, plus related revenue cash flows, minus allowable costs.
- 13. "Net revenue" for the capitalized net revenue method means, for any of the immediately preceding five years, the actual receipts from the sale of minerals (or if self consumed, the value of the self-consumed minerals), plus actual related revenue cash flows, minus allowable costs.
- 14. "Non-operating mining property" means a mine that has not produced in the previous calendar year and is not currently capable of economic production, or land held under a mineral lease not reasonably necessary in the actual mining and extraction process in the current mine plan.

 15. "Productive mining property" means the property of a
- 15. "Productive mining property" means the property of a mine that is either actively producing or currently capable of having economic production. Productive mining property includes all taxable interests in real property, improvements and tangible personal property upon or appurtenant to a mine that are used for that mine in exploration, development, engineering, mining, crushing or concentrating, processing, smelting, refining, reducing, leaching, roasting, other processes used in the separation or extraction of the product from the ore or minerals and the processing thereof, loading for shipment, marketing and sales, environmental clean-up, reclamation and remediation, general and administrative operations, or transporting the finished product or minerals to the customary point of sale or to the implied point of sale in the case of self-consumed minerals.
- 16. "Product price" for each mineral means the price that is most representative of the price expected to be received for the mineral in future periods.
- a) Product price is determined using one or more of the following approaches:
- (1) an analysis of average actual sales prices per unit of production for the minerals sold by the taxpayer for up to five years preceding the lien date; or,
- (2) an analysis of the average posted prices for the minerals, if valid posted prices exist, for up to five calendar years preceding the lien date; or,
- (3) the average annual forecast prices for each of up to five years succeeding the lien date for the minerals sold by the taxpayer and one average forecast price for all years thereafter for those same minerals, obtained from reputable forecasters, mutually agreed upon between the Property Tax Division and the taxpayer.
- b) If self-consumed, the product price will be determined by one of the following two methods:
- (1) Representative unit sales price of like minerals. The representative unit sales price is determined from:

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- (a) actual sales of like mineral by the taxpayer;
- (b) actual sales of like mineral by other taxpayers; or(c) posted prices of like mineral; or
- (2) If a representative unit sales price of like minerals is unavailable, an imputed product price for the self-consumed minerals may be developed by dividing the total allowable costs by one minus the taxpayer's discount rate to adjust to a cost that includes profit, and dividing the resulting figure by the number of units mined.
- 17. "Related revenue cash flows" mean non-product related cash flows related to the ownership or operation of the mining property being valued. Examples of related revenue cash flows include royalties and proceeds from the sale of mining equipment.
- 18. "Self consumed minerals" means the minerals produced from the mining property that the mining entity consumes or utilizes for the manufacture or construction of other goods and services.
- 19. "Straight line depreciation" means depreciation computed using the straight line method applicable in calculating the regular federal tax. For this purpose, the applicable recovery period shall be seven years for depreciable tangible personal mining property and depreciable tangible personal property appurtenant to a mine, and 39 years for depreciable real mining property and depreciable real property appurtenant to a mine.
 - B. Valuation.
- 1. The discounted cash flow method is the preferred method of valuing productive mining properties. Under this method the taxable value of the mine shall be determined by:
- a) discounting the future net cash flows for the remaining life of the mine to their present value as of the lien date; and
- b) subtracting from that present value the fair market value, as of the lien date, of licensed vehicles and nontaxable items.
- 2. The mining company shall provide to the Property Tax Division an estimate of future cash flows for the remaining life of the mine. These future cash flows shall be prepared on a constant or real dollar basis and shall be based on factors including the life-of-mine mining plan for proven and probable reserves, existing plant in place, capital projects underway, capital projects approved by the mining company board of directors, and capital necessary for sustaining operations. All factors included in the future cash flows, or which should be included in the future cash flows, shall be subject to verification and review for reasonableness by the Property Tax Division.
- 3. If the taxpayer does not furnish the information necessary to determine a value using the discounted cash flow method, the Property Tax Division may use the capitalized net revenue method. This method is outlined as follows:
- a) Determine annual net revenue, both net losses and net gains, from the productive mining property for each of the immediate past five years, or years in operation, if less than five years. Each year's net revenue shall be adjusted to a constant or real dollar basis.
- b) Determine the average annual net revenue by summing the values obtained in B.3.a) and dividing by the number of operative years, five or less.
- c) Divide the average annual net revenue by the discount rate to determine the fair market value of the entire productive mining property.
- d) Subtract from the fair market value of the entire productive mining property the fair market value, as of the lien date, of licensed vehicles and nontaxable items, to determine the taxable value of the productive mining property.
- 4. The discount rate shall be determined by the Property Tax Division.
- a) The discount rate shall be determined using the weighted average cost of capital method, a survey of reputable mining industry analysts, any other accepted methodology, or

any combination thereof.

- b) If using the weighted average cost of capital method, the Property Tax Division shall include an after-tax cost of debt and of equity. The cost of debt will consider market yields. The cost of equity shall be determined by the capital asset pricing model, arbitrage pricing model, risk premium model, discounted cash flow model, a survey of reputable mining industry analysts, any other accepted methodology, or a combination thereof.
- 5. Where the discount rate is derived through the use of publicly available information of other companies, the Property Tax Division shall select companies that are comparable to the productive mining property. In making this selection and in determining the discount rate, the Property Tax Division shall consider criteria that includes size, profitability, risk, diversification, or growth opportunities.
- 6. A non-operating mine will be valued at fair market value consistent with other taxable property.
- 7. If, in the opinion of the Property Tax Division, these methods are not reasonable to determine the fair market value, the Property Tax Division may use other valuation methods to estimate the fair market value of a mining property.
- 8. The fair market value of a productive mining property may not be less than the fair market value of the land, improvements, and tangible personal property upon or appurtenant to the mining property. The mine value shall include all equipment, improvements and real estate upon or appurtenant to the mine. All other tangible property not appurtenant to the mining property will be separately valued at fair market value.
- 9. Where the fair market value of assets upon or appurtenant to the mining property is determined under the cost method, the Property Tax Division shall use the replacement cost new less depreciation approach. This approach shall consider the cost to acquire or build an asset with like utility at current prices using modern design and materials, adjusted for loss in value due to physical deterioration or obsolescence for technical, functional and economic factors.
- C. When the fair market value of a productive mining property in more than one tax area exceeds the asset value, the fair market value will be divided into two components and apportioned as follows:
- 1. Asset value that includes machinery and equipment, improvements, and land surface values will be apportioned to the tax areas where the assets are located.
- 2. The fair market value less the asset value will give an income increment of value. The income increment will be apportioned as follows:
- a) Divide the asset value by the fair market value to determine a quotient. Multiply the quotient by the income increment of value. This value will be apportioned to each tax area based on the percentage of the total asset value in that tax area.
- b) The remainder of the income increment will be apportioned to the tax areas based on the percentage of the known mineral reserves according to the mine plan.
- D. The provisions of this rule shall be implemented and become binding on taxpayers beginning January 1, 1998.

R884-24P-8. Security for Property Tax on Uranium and Vanadium Mines Pursuant to Utah Code Ann. Section 59-2-211.

A. The security deposit allowed by Section 59-2-211 shall be requested from the mine owners or operators by giving notice in the manner required by Section 59-2-211. A list of mine owners and operators who have made lump sum security deposits with the Tax Commission will be furnished annually by the Tax Commission to any person, mill, buying station, or other legal entity receiving uranium or vanadium ore mined, produced, or received from within Utah.

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- B. At the option of the mine owner or operator, within 30 days after receiving proper notice from the Tax Commission, or if the mine owner or operator has not complied with the request within the 30 day period, the Tax Commission may implement the following procedure:
- 1. Any person, mill, buying station, or other legal entity receiving uranium or vanadium ore mined, produced, or received from within Utah shall withhold 4 percent, or any higher amount set by the Tax Commission, of the gross proceeds due to the mine operator or owner.
- 2. All amounts withheld shall be remitted to the Tax Commission by the last day of April, July, October, and January for the immediately preceding calendar quarter, in the manner set forth by the Tax Commission.
- 3. Not later than the last day of February, owners or operators of uranium and vanadium mines who have not made lump sum security deposits with the Tax Commission shall be provided with a statement from the Tax Commission showing all security deposit amounts withheld from their gross proceeds during the previous calendar year.
- 4. The Tax Commission shall provide the county treasurers with a list of all uranium and vanadium mine owners and operators who have had security deposit amounts withheld. The county treasurers shall then advise the Tax Commission in writing of the amount of taxes due from each mine owner or operator on the Tax Commission's list.
- 5. Once all county treasurers have responded, the Tax Commission shall forward to each county treasurer the taxes due, or the pro rata portion thereof, to the extent taxes have been withheld and remitted to the Tax Commission.
- a. Any amount withheld in excess of the total taxes due to all counties shall be refunded to the appropriate mine owner or operator by the Tax Commission.
- b. If the amount withheld is not sufficient to pay the full amount of taxes due, the county treasurers shall collect the balance of taxes directly from the mine owner or operator.

R884-24P-10. Taxation of Underground Rights in Land That Contains Deposits of Oil or Gas Pursuant to Utah Code Ann. Sections 59-2-201 and 59-2-210.

- A. Definitions.
- 1. "Person" is as defined in Section 68-3-12.
- "Working interest owner" means the owner of an interest in oil, gas, or other hydrocarbon substances burdened with a share of the expenses of developing and operating the
- property.
 3. "Unit operator" means a person who operates all producing wells in a unit.
- 4. "Independent operator" means a person operating an oil or gas producing property not in a unit.
- 5. One person can, at the same time, be a unit operator, a working interest owner, and an independent operator and must comply with all requirements of this rule based upon the person's status in the respective situations.
- "Expected annual production" means the future economic production of an oil and gas property as estimated by the Property Tax Division using decline curve analysis. Expected annual production does not include production used on the same well, lease, or unit for the purpose of repressuring or pressure maintenance.
 - 7. "Product price" means:
- a) Oil: The weighted average posted price for the calendar year preceding January 1, specific for the field in which the well is operating as designated by the Division of Oil, Gas, and Mining. The weighted average posted price is determined by weighing each individual posted price based on the number of days it was posted during the year, adjusting for gravity, transportation, escalation, or deescalation.
 - b) Gas:

- (1) If sold under contract, the price shall be the stated price as of January 1, adjusted for escalation and deescalation.
- (2) If sold on the spot market or to a direct end-user, the price shall be the average price received for the 12-month period immediately preceding January 1, adjusted for escalation and deescalation.
- 8. "Future net revenue" means annual revenues less costs of the working interests and royalty interest.
- 9. "Revenue" means expected annual gross revenue, calculated by multiplying the product price by expected annual production for the remaining economic life of the property.
- 10. "Costs" means expected annual allowable costs applied against revenue of cost-bearing interests:
- a) Examples of allowable costs include management salaries; labor; payroll taxes and benefits; workers' compensation insurance; general insurance; taxes (excluding income and property taxes); supplies and tools; power; maintenance and repairs; office; accounting; engineering; treatment; legal fees; transportation; miscellaneous; capital expenditures; and the imputed cost of self consumed product.
- b) Interest, depreciation, or any expense not directly related to the unit will shall not be included as allowable costs.
- 11. "Production asset" means any asset located at the well site that is used to bring oil or gas products to a point of sale or transfer of ownership.
- B. The discount rate shall be determined by the Property Tax Division using methods such as the weighted cost of capital method.
- 1. The cost of debt shall consider market yields. The cost of equity shall be determined by the capital asset pricing model, risk premium model, discounted cash flow model, a combination thereof, or any other accepted methodology.
- 2. The discount rate shall reflect the current yield requirements of investors purchasing similar properties, taking into consideration income, income taxes, risk, expenses, inflation, and physical and locational characteristics.
- 3. The discount rate shall contain the same elements as the expected income stream.
 - C. Assessment Procedures.
- 1. Underground rights in lands containing deposits of oil or gas and the related tangible property shall be assessed by the Property Tax Division in the name of the unit operator, the independent operator, or other person as the facts may warrant.
- 2. The taxable value of underground oil and gas rights shall be determined by discounting future net revenues to their present value as of the lien date of the assessment year and then subtracting the value of applicable exempt federal, state, and Indian royalty interests.
- 3. The reasonable taxable value of productive underground oil and gas rights shall be determined by the methods described in C.2. of this rule or such other valuation method that the Tax Commission believes to be reasonably determinative of the property's fair market value.
- 4. The value of the production assets shall be considered in the value of the oil and gas reserves as determined in C.2. above. Any other tangible property shall be separately valued at fair market value by the Property Tax Division.
- 5. The minimum value of the property shall be the value of the production assets.
- D. Collection by Operator.The unit operator may request the Property Tax Division to separately list the value of the working interest, and the value of the royalty interest on the Assessment Record. When such a request is made, the unit operator is responsible to provide the Property Tax Division with the necessary information needed to compile this list. The unit operator may make a reasonable estimate of the ad valorem tax liability for a given period and may withhold funds from amounts due to royalty. Withheld funds shall be sufficient to ensure payment of

the ad valorem tax on each fractional interest according to the estimate made.

- a) If a unit operating agreement exists between the unit operator and the fractional working interest owners, the unit operator may withhold or collect the tax according to the terms of that agreement.
- b) In any case, the unit operator and the fractional interest owner may make agreements or arrangements for withholding or otherwise collecting this tax. This may be done whether or not that practice is consistent with the preceding paragraphs so long as all requirements of the law are met. When a fractional interest owner has had funds withheld to cover the estimated ad valorem tax liability and the operator fails to remit such taxes to the county when due, the fractional interest owner shall be indemnified from any further ad valorem tax liability to the extent of the withholding.
- c) The unit operator shall compare the amount withheld to the taxes actually due, and return any excess amount to the fractional interest owner within 60 days after the delinquent date of the tax. At the request of the fractional interest owner the excess may be retained by the unit operator and applied toward the fractional interest owner's tax liability for the subsequent year.
- 2. The penalty provided for in Section 59-2-210 is intended to ensure collection by the county of the entire tax due. Any unit operator who has paid this county imposed penalty, and thereafter collects from the fractional interest holders any part of their tax due, may retain those funds as reimbursement against the penalty paid.
- 3. Interest on delinquent taxes shall be assessed as set forth in Section 59-2-1331.
- 4. Each unit operator may be required to submit to the Property Tax Division a listing of all fractional interest owners and their interests upon specific request of the Property Tax Division. Working interest owners, upon request, shall be required to submit similar information to unit operators.

R884-24P-14. Valuation of Real Property Encumbered by Preservation Easements Pursuant to Utah Code Ann. Section 59-2-303.

- A. The assessor shall take into consideration any preservation easements attached to historically significant real property and structures when determining the property's value.
- B. After the preservation easement has been recorded with the county recorder, the property owner of record shall submit to the county assessor and the Tax Commission a notice of the preservation easement containing the following information:
 - 1. the property owner's name;
 - 2. the address of the property; and
 - 3. the serial number of the property.
- C. The county assessor shall review the property and incorporate any value change due to the preservation easement in the following year's assessment roll.

R884-24P-16. Assessment of Interlocal Cooperation Act Project Entity Properties Pursuant to Utah Code Ann. Section 11-13-25.

- A. Definitions:
- 1. "Utah fair market value" means the fair market value of that portion of the property of a project entity located within Utah upon which the fee in lieu of ad valorem property tax may be calculated.
- 2. "Fee" means the annual fee in lieu of ad valorem property tax payable by a project entity pursuant to Section 11-13-25.
- "Energy supplier" means an entity that purchases any capacity, service or other benefit of a project to provide electrical service.
 - 4. "Exempt energy supplier" means an energy supplier

whose tangible property is exempted by Article XIII, Sec. 2. of the Constitution of Utah from the payment of ad valorem property tax.

- 5. "Optimum operating capacity" means the capacity at which a project is capable of operating on a sustained basis taking into account its design, actual operating history, maintenance requirements, and similar information from comparable projects, if any. The determination of the projected and actual optimum operating capacities of a project shall recognize that projects are not normally operated on a sustained basis at 100 percent of their designed or actual capacities and that the optimum level for operating a project on a sustained basis may vary from project to project.

 6. "Property" means any electric generating facilities,
- 6. "Property" means any electric generating facilities, transmission facilities, distribution facilities, fuel facilities, fuel transportation facilities, water facilities, land, water or other existing facilities or tangible property owned by a project entity and required for the project which, if owned by an entity required to pay ad valorem property taxes, would be subject to assessment for ad valorem tax purposes.
- 7. "Sold," for the purpose of interpreting D, means the first sale of the capacity, service, or other benefit produced by the project without regard to any subsequent sale, resale, or lay-off of that capacity, service, or other benefit.
- 8. "Taxing jurisdiction" means a political subdivision of this state in which any portion of the project is located.
- 9. All definitions contained in the Interlocal Cooperation Act, Section 11-13-3, as in effect on December 31, 1989, apply to this rule.
- B. The Tax Commission shall determine the fair market value of the property of each project entity. Fair market value shall be based upon standard appraisal theory and shall be determined by correlating estimates derived from the income and cost approaches to value described below.
- 1. The income approach to value requires the imputation of an income stream and a capitalization rate. The income stream may be based on recognized indicators such as average income, weighted income, trended income, present value of future income streams, performance ratios, and discounted cash flows. The imputation of income stream and capitalization rate shall be derived from the data of other similarly situated companies. Similarity shall be based on factors such as location, fuel mix, customer mix, size and bond ratings. Estimates may also be imputed from industry data generally. Income data from similarly situated companies will be adjusted to reflect differences in governmental regulatory and tax policies.
- 2. The cost approach to value shall consist of the total of the property's net book value of the project's property. This total shall then be adjusted for obsolescence if any.
- 3. In addition to, and not in lieu of, any adjustments for obsolescence made pursuant to B.2., a phase-in adjustment shall be made to the assessed valuation of any new project or expansion of an existing project on which construction commenced by a project entity after January 1, 1989 as follows:
- a) During the period the new project or expansion is valued as construction work in process, its assessed valuation shall be multiplied by the percentage calculated by dividing its projected production as of the projected date of completion of construction by its projected optimum operating capacity as of that date.
- b) Once the new project or expansion ceases to be valued as construction work in progress, its assessed valuation shall be multiplied by the percentage calculated by dividing its actual production by its actual optimum operating capacity. After the new project or expansion has sustained actual production at its optimum operating capacity during any tax year, this percentage shall be deemed to be 100 percent for the remainder of its useful life.

- C. If portions of the property of the project entity are located in states in addition to Utah and those states do not apply a unit valuation approach to that property, the fair market value of the property allocable to Utah shall be determined by computing the cost approach to value on the basis of the net book value of the property located in Utah and imputing an estimated income stream based solely on the value of the Utah property as computed under the cost approach. The correlated
- D. Before fixing and apportioning the Utah fair market value of the property to the respective taxing jurisdictions in which the property, or a portion thereof is located, the Utah fair market value of the property shall be reduced by the percentage of the capacity, service, or other benefit sold by the project entity to exempt energy suppliers.

value so determined shall be the Utah fair market value of the

- E. For purposes of calculating the amount of the fee payable under Section 11-13-25(3), the percentage of the project that is used to produce the capacity, service or other benefit sold shall be deemed to be 100 percent, subject to adjustments provided by this rule, from the date the project is determined to be commercially operational.
- F. In computing its tax rate pursuant to the formula specified in Section 59-2-913(2), each taxing jurisdiction in which the project property is located shall add to the amount of its budgeted property tax revenues the amount of any credit due to the project entity that year under Section 11-13-25(3), and shall divide the result by the sum of the taxable value of all property taxed, including the value of the project property apportioned to the jurisdiction, and further adjusted pursuant to the requirements of Section 59-2-913.
- G. B.1. and B.2. are retroactive to the lien date of January 1, 1984. B.3. is effective as of the lien date of January 1, 1989. The remainder of this rule is retroactive to the lien date of January 1, 1988.

R884-24P-17. Reappraisal of Real Property by County Assessors Pursuant to Utah Constitution, Article XIII, Subsection 11, and Utah Code Ann. Sections 59-2-303, 59-2-302, and 59-2-704.

- A. The following standards shall be followed in sequence when performing a reappraisal of all classes of locally-assessed real property within a county.
 - 1. Conduct a preliminary survey and plan.
- a) Compile a list of properties to be appraised by property class.
 - b) Assemble a complete current set of ownership plats.
 - c) Estimate personnel and resource requirements.
 - d) Construct a control chart to outline the process.
- 2. Select a computer-assisted appraisal system and have the system approved by the Property Tax Division.
- 3. Obtain a copy of all probable transactions from the recorder's office for the three-year period ending on the effective date of reappraisal.
- 4. Perform a use valuation on agricultural parcels using the most recent set of aerial photographs covering the jurisdiction.
- a) Perform a field review of all agricultural land, dividing up the land by agricultural land class.
- b) Transfer data from the aerial photographs to the current ownership plats, and compute acreage by class on a per parcel basis
- c) Enter land class information and the calculated agricultural land use value on the appraisal form.
 - 5. Develop a land valuation guideline.
- 6. Perform an appraisal on improved sold properties considering the three approaches to value.
- 7. Develop depreciation schedules and time-location modifiers by comparing the appraised value with the sale price of sold properties.

- 8. Organize appraisal forms by proximity to each other and by geographical area. Insert sold property information into the appropriate batches.
 - 9. Collect data on all nonsold properties.

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- 10. Develop capitalization rates and gross rent multipliers.
- 11. Estimate the value of income-producing properties using the appropriate capitalization method.
- 12. Input the data into the automated system and generate preliminary values.
- 13. Review the preliminary figures and refine the estimate based on the applicable approaches to value.
- 14. Develop an outlier analysis program to identify and correct clerical or judgment errors.
- Perform an assessment/sales ratio study. Include any new sale information.
- 16. Make a final review based on the ratio study including an analysis of variations in ratios. Make appropriate adjustments.
- 17. Calculate the final values and place them on the assessment role.
 - 18. Develop and publish a sold properties catalog.
 - 19. Establish the local Board of Equalization procedure.
- 20. Prepare and file documentation of the reappraisal program with the local Board of Equalization and Property Tax Division.
- B. The Tax Commission shall provide procedural guidelines for implementing the above requirements.

R884-24P-19. Appraiser Designation Program Pursuant to Utah Code Ann. Sections 59-2-701 and 59-2-702.

- A. "State Licensed Appraiser", "State Certified General Appraiser," and "State Certified Residential Appraiser" are as defined in Section 61-2b-2.
- B. The ad valorem training and designation program consists of several courses and practica.
- 1. Certain courses must be sanctioned by either the International Association of Assessing Officers (IAAO) or the Western States Association of Tax Administrators (WSATA).
- 2. Most courses are one week in duration, with an examination held on the final day. The courses comprising the basic designation program are:
 - a) Course A Assessment Practice in Utah;
- b) Course B Fundamentals of Real Property Appraisal (IAAO 101);
 - c) Course C Mass Appraisal of Land;
 - d) Course D Building Analysis and Valuation;
 - e) Course E Income Approach to Valuation (IAAO 102);
- f) Course G Development and Use of Personal Property Schedules;
- g) Course H Appraisal of Public Utilities and Railroads (WSATA); and
- h) Course J Uniform Standards of Professional Appraisal Practice (USPAP).
- 3. The Tax Commission may allow equivalent appraisal education to be submitted in lieu of Course B, Course E, and Course J.
- C. Candidates must attend 90 percent of the classes in each course and pass the final examination for each course with a grade of 70 percent or more to be successful.
- D. There are four recognized ad valorem designations: Ad Valorem Residential Appraiser, Ad Valorem General Real Property Appraiser, Ad Valorem Personal Property Auditor/Appraiser, and Ad Valorem Centrally Assessed Valuation Analyst.
- 1. These designations are granted only to individuals working as appraisers, review appraisers, valuation auditors, or analysts/administrators providing oversight and direction to appraisers and auditors.
 - 2. An assessor, county employee, or state employee must

hold the appropriate designation to value property for ad valorem taxation purposes.

- E. Ad Valorem Residential Appraiser.
- 1. To qualify for this designation, an individual must:
- a) successfully complete Courses A, B, C, D, and J;
- b) successfully complete a comprehensive residential field practicum; and
- c) attain and maintain state licensed or state certified appraiser status.
- Upon designation, the appraiser may value residential, vacant, and agricultural property for ad valorem taxation purposes.
 - F. Ad Valorem General Real Property Appraiser.
- 1. In order to qualify for this designation, an individual must:
 - a) successfully complete Courses A, B, C, D, E, and J;
- b) successfully complete a comprehensive field practicum including residential and commercial properties; and
- c) attain and maintain state licensed or state certified appraiser status.
- 2. Upon designation, the appraiser may value all types of locally assessed real property for ad valorem taxation purposes.
 - G. Ad Valorem Personal Property Auditor/Appraiser.
- 1. To qualify for this designation, an individual must successfully complete:
 - a) Courses A, B, G, and J; and
 - b) a comprehensive auditing practicum.
- Upon designation, the auditor/appraiser may value locally assessed personal property for ad valorem taxation purposes.
 - H. Ad Valorem Centrally Assessed Valuation Analyst.
- 1. In order to qualify for this designation, an individual must:
 - a) successfully complete Courses A, B, E, H, and J;
- b) successfully complete a comprehensive valuation practicum; and
- c) attain and maintain state licensed or state certified appraiser status.
- Upon designation, the analyst may value centrally assessed property for ad valorem taxation purposes.
- I. If a candidate fails to receive a passing grade on a final examination, one re-examination is allowed. If the re-examination is not successful, the individual must retake the failed course. The cost to retake the failed course will not be borne by the Tax Commission.
- J. A practicum involves the appraisal or audit of selected properties. The candidate's supervisor must formally request that the Property Tax Division administer a practicum.
- 1. Emphasis is placed on those types of properties the candidate will most likely encounter on the job.
- 2. The practicum will be administered by a designated appraiser assigned from the Property Tax Division.
- K. An appraiser trainee referred to in Section 59-2-701 shall be designated an ad valorem associate if the appraiser trainee:
- 1. has completed all Tax Commission appraiser education and practicum requirements for designation under E., F., and H.; and
- 2. has not completed the requirements for licensure or certification under Title 71, Chapter 2b, Real Estate Appraiser Licensing and Certification.
- L. An individual holding a specified designation can qualify for other designations by meeting the additional requirements outlined above.
- M. Maintaining designated status requires completion of 28 hours of Tax Commission approved classroom work every two years.
- N. Upon termination of employment from any Utah assessment jurisdiction, or if the individual no longer works

- primarily as an appraiser, review appraiser, valuation auditor, or analyst/administrator in appraisal matters, designation is automatically revoked.
- 1. Ad valorem designation status may be reinstated if the individual secures employment in any Utah assessment jurisdiction within four years from the prior termination.
- 2. If more than four years elapse between termination and rehire, and
- a) the individual has been employed in a closely allied field, then the individual may challenge the course examinations. Upon successfully challenging all required course examinations, the prior designation status will be reinstated; or
- b) if the individual has not been employed in real estate valuation or a closely allied field, the individual must retake all required courses and pass the final examinations with a score of 70 percent or more.
- O. All appraisal work performed by Tax Commission designated appraisers shall meet the standards set forth in section 61-2b-27.
- P. If appropriate Tax Commission designations are not held by assessor's office personnel, the appraisal work must be contracted out to qualified private appraisers. An assessor's office may elect to contract out appraisal work to qualified private appraisers even if personnel with the appropriate designation are available in the office. If appraisal work is contracted out, the following requirements must be met.
- 1. The private sector appraisers contracting the work must hold the State Certified Residential Appraiser or State Certified General Appraiser license issued by the Division of Real Estate of the Utah Department of Commerce. Only State Certified General Appraisers may appraise nonresidential properties.
- 2. All appraisal work shall meet the standards set forth in Section 61-2b-27.
- Q. The completion and delivery of the assessment roll required under Section 59-2-311 is an administrative function of the elected assessor.
- 1. There are no specific licensure, certification, or educational requirements related to this function.
- 2. An elected assessor may complete and deliver the assessment roll as long as the valuations and appraisals included in the assessment roll were completed by persons having the required designations.

R884-24P-20. Construction Work in Progress Pursuant to Utah Constitution Art. XIII, Section 2 and Utah Code Ann. Sections 59-2-201 and 59-2-301.

- A. For purposes of this rule:
- 1. Construction work in progress means improvements as defined in Section 59-2-102, and personal property as defined in Section 59-2-102, not functionally complete as defined in A.6.
- 2. Project means any undertaking involving construction, expansion or modernization.
 - 3. "Construction" means:
 - a) creation of a new facility;
 - b) acquisition of personal property; or
- c) any alteration to the real property of an existing facility other than normal repairs or maintenance.
- Expansion means an increase in production or capacity as a result of the project.
- 5. Modernization means a change or contrast in character or quality resulting from the introduction of improved techniques, methods or products.
- 6. Functionally complete means capable of providing economic benefit to the owner through fulfillment of the purpose for which it was constructed. In the case of a cost-regulated utility, a project shall be deemed to be functionally complete when the operating property associated with the

project has been capitalized on the books and is part of the rate base of that utility.

- 7. Allocable preconstruction costs means expenditures associated with the planning and preparation for the construction of a project. To be classified as an allocable preconstruction cost, an expenditure must be capitalized.
- 8. Cost regulated utility means a power company, oil and gas pipeline company, gas distribution company or telecommunication company whose earnings are determined by a rate of return applied to rate base. Rate of return and rate base are set and approved by a state or federal regulatory commission.
- 9. Residential means single-family residences and duplex apartments.
- 10. Unit method of appraisal means valuation of the various physical components of an integrated enterprise as a single going concern. The unit method may employ one or more of the following approaches to value: the income approach, the cost approach, and the stock and debt approach.
- B. All construction work in progress shall be valued at "full cash value" as described in this rule.
 - C. Discount Rates

For purposes of this rule, discount rates used in valuing all projects shall be determined by the Tax Commission, and shall be consistent with market, financial and economic conditions.

- D. Appraisal of Allocable Preconstruction Costs.
- 1. If requested by the taxpayer, preconstruction costs associated with properties, other than residential properties, may be allocated to the value of the project in relation to the relative amount of total expenditures made on the project by the lien date. Allocation will be allowed only if the following conditions are satisfied by January 30 of the tax year for which the request is sought:
- a) a detailed list of preconstruction cost data is supplied to the responsible agency;
- b) the percent of completion of the project and the preconstruction cost data are certified by the taxpayer as to their accuracy.
- 2. The preconstruction costs allocated pursuant to D.1. of this rule shall be discounted using the appropriate rate determined in C. The discounted allocated value shall either be added to the values of properties other than residential properties determined under E.1. or shall be added to the values determined under the various approaches used in the unit method of valuation determined under F.
- The preconstruction costs allocated under D. are subject to audit for four years. If adjustments are necessary after examination of the records, those adjustments will be classified as property escaping assessment.
- E. Appraisal of Properties not Valued under the Unit Method.
- 1. The full cash value, projected upon completion, of all properties valued under this section, with the exception of residential properties, shall be reduced by the value of the allocable preconstruction costs determined D. This reduced full cash value shall be referred to as the "adjusted full cash value."
- 2. On or before January 1 of each tax year, each county assessor and the Tax Commission shall determine, for projects not valued by the unit method and which fall under their respective areas of appraisal responsibility, the following:
- a) The full cash value of the project expected upon completion.
- b) The expected date of functional completion of the project currently under construction.
- (1) The expected date of functional completion shall be determined by the county assessor for locally assessed properties and by the Tax Commission for centrally-assessed properties.
 - c) The percent of the project completed as of the lien date.
 - (1) Determination of percent of completion for residential

properties shall be based on the following percentage of completion:

- (a) 10 Excavation-foundation
- (b) 30 Rough lumber, rough labor
- (c) 50 Roofing, rough plumbing, rough electrical, heating
- (d) 65 Insulation, drywall, exterior finish
- (e) 75 Finish lumber, finish labor, painting
- (f) 90 Cabinets, cabinet tops, tile, finish plumbing, finish electrical
- (g) 100 Floor covering, appliances, exterior concrete, misc.
- (2) In the case of all other projects under construction and valued under this section the percent of completion shall be determined by the county assessor for locally assessed properties and by the Tax Commission for centrally-assessed properties.
- 3. Upon determination of the adjusted full cash value for nonresidential projects under construction or the full cash value expected upon completion of residential projects under construction, the expected date of completion, and the percent of the project completed, the assessor shall do the following:
- a) multiply the percent of the residential project completed by the total full cash value of the residential project expected upon completion; or in the case of nonresidential projects,
- b) multiply the percent of the nonresidential project completed by the adjusted full cash value of the nonresidential project:
- c) adjust the resulting product of E.3.a) or E.3.b) for the expected time of completion using the discount rate determined under C.
- F. Appraisal of Properties Valued Under the Unit Method of Appraisal.
- 1. No adjustments under this rule shall be made to the income indicator of value for a project under construction that is owned by a cost-regulated utility when the project is allowed in rate base.
- 2. The full cash value of a project under construction as of January 1 of the tax year, shall be determined by adjusting the cost and income approaches as follows:
- a) Adjustments to reflect the time value of money in appraising construction work in progress valued under the cost and income approaches shall be made for each approach as follows:
- (1) Each company shall report the expected completion dates and costs of the projects. A project expected to be completed during the tax year for which the valuation is being determined shall be considered completed on January 1 or July 1, whichever is closest to the expected completion date. The Tax Commission shall determine the expected completion date for any project whose completion is scheduled during a tax year subsequent to the tax year for which the valuation is being made
- (2) If requested by the company, the value of allocable preconstruction costs determined in D. shall then be subtracted from the total cost of each project. The resulting sum shall be referred to as the adjusted cost value of the project.
- (3) The adjusted cost value for each of the future years prior to functional completion shall be discounted to reflect the present value of the project under construction. The discount rate shall be determined under C.
- (4) The discounted adjusted cost value shall then be added to the values determined under the income approach and cost approach.
- b) No adjustment will be made to reflect the time value of money for a project valued under the stock and debt approach to value.
 - G. This rule shall take effect for the tax year 1985.

R884-24P-24. Form for Notice of Property Valuation and

Tax Changes Pursuant to Utah Code Ann. Sections 59-2-918 through 59-2-924.

- A. The county auditor must notify all real property owners of property valuation and tax changes on the Notice of Property Valuation and Tax Changes form.
- 1. If a county desires to use a modified version of the Notice of Property Valuation and Tax Changes, a copy of the proposed modification must be submitted for approval to the Property Tax Division of the Tax Commission no later than March 1.
- a) Within 15 days of receipt, the Property Tax Division will issue a written decision, including justifications, on the use of the modified Notice of Property Valuation and Tax changes.
- b) If a county is not satisfied with the decision, it may petition for a hearing before the Tax Commission as provided in R861-1A-22.
- The Notice of Property Valuation and Tax Changes, however modified, must contain the same information as the unmodified version. A property description may be included at the option of the county.
- B. The Notice of Property Valuation and Tax Changes must be completed by the county auditor in its entirety, except in the following circumstances:
 - 1. New property is created by a new legal description; or
- 2. The status of the improvements on the property has changed.
- 3. In instances where partial completion is allowed, the term nonapplicable will be entered in the appropriate sections of the Notice of Property Valuation and Tax Changes.
- 4. If the county auditor determines that conditions other than those outlined in this section merit deletion, the auditor may enter the term "nonapplicable" in appropriate sections of the Notice of Property Valuation and Tax Changes only after receiving approval from the Property Tax Division in the manner described in A.
- C. Real estate assessed under the Farmland Assessment Act of 1969 must be reported at full market value, with the value based upon Farmland Assessment Act rates shown parenthetically.
- D. All completion dates specified for the disclosure of property tax information must be strictly observed.
- 1. Requests for deviation from the statutory completion dates must be submitted in writing on or before June 1, and receive the approval of the Property Tax Division in the manner described in A.
- E. If the proposed rate exceeds the certified rate, jurisdictions in which the fiscal year is the calendar year are required to hold public hearings even if budget hearings have already been held for that fiscal year.
- F. If the cost of public notice required under Sections 59-2-918 and 59-2-919 is greater than one percent of the property tax revenues to be received, an entity may combine its advertisement with other entities, or use direct mail notification.
- G. Calculation of the amount and percentage increase in property tax revenues required by Sections 59-2-918 and 59-2-919, shall be computed by comparing property taxes levied for the current year with property taxes collected the prior year, without adjusting for revenues attributable to new growth.
- H. If a taxing district has not completed the tax rate setting process as prescribed in Sections 59-2-919 and 59-2-920 by August 17, the county auditor must seek approval from the Tax Commission to use the certified rate in calculating taxes levied.
- I. The value of property subject to the uniform fee under Section 59-2-405 is excluded from taxable value for purposes of calculating new growth, the certified tax rate, and the proposed tax rate.
- J. The value and taxes of property subject to the uniform fee under Section 59-2-405, as well as tax increment distributions and related taxable values of redevelopment

- agencies, are excluded when calculating the percentage of property taxes collected as provided in Section 59-2-913.
- K. The following formulas and definitions shall be used in determining new growth:
 - 1. Actual new growth shall be computed as follows:
- a) the taxable value for the current year adjusted for redevelopment minus year-end taxable value for the previous year adjusted for redevelopment; then
- b) plus or minus changes in value as a result of factoring; then
- c) plus or minus changes in value as a result of reappraisal;
 then
- d) plus or minus any change in value resulting from a legislative mandate or court order.
- 2. Net annexation value is the taxable value for the current year adjusted for redevelopment of all properties annexed into an entity during the previous calendar year minus the taxable value for the previous year adjusted for redevelopment for all properties annexed out of the entity during the previous calendar year.
 - 3. New growth is equal to zero for an entity with:
 - a) an actual new growth value less than zero; and
 - b) a net annexation value greater than or equal to zero.
 - 4. New growth is equal to actual new growth for:
- a) an entity with an actual new growth value greater than or equal to zero; or
 - b) an entity with:

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- i) an actual new growth value less than zero; and
- ii) the actual new growth value is greater than or equal to the net annexation value.
- 5. New growth is equal to the net annexation value for an entity with:
 - a) a net annexation value less than zero; and
- b) the actual new growth value is less than the net annexation value.
- 6. Adjusted new growth equals new growth multiplied by the mean collection rate for the previous five years.
- L. The following definitions and formulas shall be used in determining the certified tax rate:
- 1. Current year adjusted taxable value equals the taxable value for the current year adjusted for redevelopment.
- 2. The following amounts shall be subtracted from the value determined under L.1.:
- a) the taxing entity's estimated equalization adjustments in the current year; and
- b) the taxing entity's adjustments for estimated collection
- 3. "Estimated equalization adjustments in the current year" means adjustments made to locally and centrally assessed property to reflect the most current three-year average percentage net change in value for locally and centrally assessed property from the value reported on Report 697, Report of the Sum of Taxable Values by the County Assessor, to the value reported on Report 233-B, List of Final Values by Entity/By Property Type.
- 4. The certified tax rate shall be computed by dividing last year's taxes budgeted by the difference between:
 - a) the current year adjusted taxable value; and
 - b) adjusted new growth.
- 5. Entities required to set levies for more than one fund must compute an aggregate certified rate. The aggregate certified rate is the sum of the certified rates for individual funds for which separate levies are required by law. The aggregate certified rate computation applies where:
- a) the valuation bases for the funds are contained within identical geographic boundaries; and
- b) the funds are under the levy and budget setting authority of the same governmental entity.
 - 6. Exceptions to L.5. are the county assessing and

collecting levy, as described in Section 59-2-906.1(3), and the additional levies for property valuation and reappraisal, as described in Section 59-2-906.3.

- a) These levies may not be included as part of a county's aggregate certified rate. Instead, they must be segregated into a separate aggregate certified rate.
- b) The separate aggregate certified rate representing these levies is subject to the proposed tax increase requirements of Sections 59-2-918 and 59-2-919.
- M. For purposes of determining the certified tax rate of a municipality incorporated on or after July 1, 1996, the levy imposed for municipal-type services or general county purposes shall be the certified tax rate for municipal-type services or general county purposes, as applicable.
- N. No new entity, including a new city, may have a certified tax rate or levy a tax for any particular year unless that entity existed on the first day of that calendar year.

R884-24P-27. Standards for Assessment Level and Uniformity of Performance Pursuant to Utah Code Ann. Sections 59-2-704 and 59-2-704.5.

A. Definitions.

- 1. "Coefficient of dispersion (COD)" means the average deviation of a group of assessment ratios taken around the median and expressed as a percent of that measure.
- 2. "Coefficient of variation (COV)" means the standard deviation expressed as a percentage of the mean.
- 3. "Division" means the Property Tax Division of the State Tax Commission.
- 4. "Nonparametric" means data samples that are not normally distributed.
- 5. "Parametric" means data samples that are normally distributed.
- "Urban counties" means counties classified as first or second class counties pursuant to Section 17-50-501.
- B. The Tax Commission adopts the following standards of assessment performance.
- 1. For assessment level in each property class, subclass, and geographical area in each county, the measure of central tendency shall meet one of the following measures.
- a) The measure of central tendency shall be within 10 percent of the legal level of assessment.
- b) The 95 percent confidence interval of the measure of central tendency shall contain the legal level of assessment.
- 2. For uniformity of the property being appraised under the cyclical appraisal plan for the current year, the measure of dispersion shall be within the following limits.
 - a) In urban counties:
- (1) a COD of 15 percent or less for primary residential and commercial property, and 20 percent or less for vacant land and secondary residential property; and
- (2) a COV of 19 percent or less for primary residential and commercial property, and 25 percent or less for vacant land and secondary residential property.
 - b) In rural counties:
- (1) a COD of 20 percent or less for primary residential and commercial property, and 25 percent or less for vacant land and secondary residential property; and
- (2) a COV of 25 percent or less for primary residential and commercial property, and 31 percent or less for vacant land and secondary residential property.
 - 3. Statistical measures.
- a) The measure of central tendency shall be the mean for parametric samples and the median for nonparametric samples.
- b) The measure of dispersion shall be the COV for parametric samples and the COD for nonparametric samples.
- c) To achieve statistical accuracy in determining assessment level under B.1. and uniformity under B.2. for any property class, subclass, or geographical area, the minimum

sample size shall consist of 10 or more ratios.

- C. Each year the Division shall conduct and publish an assessment-to-sale ratio study to determine if each county complies with the standards in B.
- 1. To meet the minimum sample size, the study period may be extended.
 - 2. A smaller sample size may be used if:
- a) that sample size is at least 10 percent of the class or subclass population; or
- b) both the Division and the county agree that the sample may produce statistics that imply corrective action appropriate to the class or subclass of property.
- 3. If the Division, after consultation with the counties, determines that the sample size does not produce reliable statistical data, an alternate performance evaluation may be conducted, which may result in corrective action. The alternate performance evaluation shall include review and analysis of the following:
- a) the county's procedures for collection and use of market data, including sales, income, rental, expense, vacancy rates, and capitalization rates:
- b) the county-wide land, residential, and commercial valuation guidelines and their associated procedures for maintaining current market values;
- c) the accuracy and uniformity of the county's individual property data through a field audit of randomly selected properties; and
- d) the county's level of personnel training, ratio of appraisers to parcels, level of funding, and other workload and resource considerations.
- 4. All input to the sample used to measure performance shall be completed by March 31 of each study year.
- 5. The Division shall conduct a preliminary annual assessment-to-sale ratio study by April 30 of the study year, allowing counties to apply adjustments to their tax roll prior to the May 22 deadline.
- 6. The Division shall complete the final study immediately following the closing of the tax roll on May 22.
- D. The Division shall order corrective action if the results of the final study do not meet the standards set forth in B.
- 1. Assessment level adjustments, or factor orders, shall be calculated by dividing the legal level of assessment by one of the following:
- a) the measure of central tendency, if the uniformity of the ratios meets the standards outlined in B.2.; or
- b) the 95 percent confidence interval limit nearest the legal level of assessment, if the uniformity of the ratios does not meet the standards outlined in B.2.
- 2. Uniformity adjustments, or reappraisal orders, shall only apply to the property being appraised under the cyclical appraisal plan for the current year. A reappraisal order shall be issued if the property fails to meet the standards outlined in B.2. Prior to implementation of reappraisal orders, counties shall submit a preliminary report to the Division that includes the following:
- a) an evaluation of why the standards of uniformity outlined in B.2. were not met; and
- b) a plan for completion of the reappraisal that is approved by the Division.
- 3. A corrective action order may contain language requiring a county to create, modify, or follow its cyclical appraisal plan.
- 4. All corrective action orders shall be issued by June 10 of the study year.
- E. The Tax Commission adopts the following procedures to insure compliance and facilitate implementation of ordered corrective action.
- 1. Prior to the filing of an appeal, the Division shall retain authority to correct errors and, with agreement of the affected

county, issue amended orders or stipulate with the affected county to any appropriate alternative action without Tax Commission approval. Any stipulation by the Division subsequent to an appeal is subject to Tax Commission approval.

- A county receiving a corrective action order resulting from this rule may file and appeal with the Tax Commission pursuant to Tax Commission rule R861-1A-11.
- 3. A corrective action order will become the final Tax Commission order if the county does not appeal in a timely manner, or does not prevail in the appeals process.
- 4. The Division may assist local jurisdictions to ensure implementation of any corrective action orders by the following
- a) Factor orders shall be implemented in the current study year prior to the mailing of valuation notices.
- b) Other corrective action, including reappraisal orders, shall be implemented prior to May 22 of the year following the study year. The preliminary report referred to in D.2. shall be completed by November 30 of the current study year.
- The Division shall complete audits to determine compliance with corrective action orders as soon after the deadlines set forth in E.4. as practical. The Division shall review the results of the compliance audit with the county and make any necessary adjustments to the compliance audit within 15 days of initiating the audit. These adjustments shall be limited to the analysis performed during the compliance audit and may not include review of the data used to arrive at the underlying factor order. After any adjustments, the compliance audit will then be given to the Tax Commission for any necessary action.
- 6. The county shall be informed of any adjustment required as a result of the compliance audit.

R884-24P-28. Reporting Requirements For Leased or Rented Personal Property, Pursuant to Utah Code Ann. Section 59-2-306.

- A. The procedure set forth herein is required in reporting heavy equipment leased or rented during the tax year.
- 1. On forms or diskette provided by the Tax Commission, the owner of leased or rented heavy equipment shall file semiannual reports with the Tax Commission for the periods January 1 through June 30, and July 1 through December 31 of each year. The reports shall contain the following information:
 - a) a description of the leased or rented equipment;
 - b) the year of manufacture and acquistion cost;
- c) a listing, by month, of the counties where the equipment has situs; and
 - d) any other information required.
- 2. For purposes of this rule, situs is established when leased or rented equipment is kept in an area for thirty days. Once situs is established, any portion of thirty days during which that equipment stays in that area shall be counted as a full month of situs. In no case may situs exceed twelve months for any year.
- 3. The completed report shall be submitted to the Property Tax Division of the Tax Commission within thirty days after each reporting period.
 - a) Noncompliance will require accelerated reporting.

R884-24P-29. Taxable Household Furnishings Pursuant to Utah Code Ann. Section 59-2-1113.

- A. Household furnishings, furniture, and equipment are subject to property taxation if:
- 1. the owner of the abode commonly receives legal consideration for its use, whether in the form of rent, exchange, or lease payments; or
- 2. the abode is held out as available for the rent, lease, or use by others.

R884-24P-32. Leasehold Improvements Pursuant to Utah Code Ann. Section 59-2-303.

- A. The value of leasehold improvements shall be included in the value of the underlying real property and assessed to the owner of the underlying real property.
- B. The combined valuation of leasehold improvements and underlying real property required in A. shall satisfy the requirements of Section 59-2-103(1).
- C. The provisions of this rule shall not apply if the underlying real property is owned by an entity exempt from tax under Section 59-2-1101.
- D. The provisions of this rule shall be implemented and become binding on taxpayers beginning January 1, 2000.

R884-24P-33. 2004 Personal Property Valuation Guides and Schedules Pursuant to Utah Code Ann. Section 59-2-301.

- A. Definitions.
- 1. "Acquisition cost" means all costs required to put an item into service, including purchase price, freight and shipping costs; installation, engineering, erection or assembly costs; and excise and sales taxes.
- a) Indirect costs such as debugging, licensing fees and permits, insurance or security are not included in the acquisition cost.
- b) Acquisition cost may correspond to the cost new for
- new property, or cost used for used property.

 2. "Actual cost" includes the value of components necessary to complete the vehicle, such as tanks, mixers, special containers, passenger compartments, special axles, installation, engineering, erection, or assembly costs.
- a) Actual cost does not include sales or excise taxes, maintenance contracts, registration and license fees, dealer charges, tire tax, freight, or shipping costs.
- 3. "Cost new" means the actual cost of the property when purchased new.
- a) Except as otherwise provided in this rule, the Tax Commission and assessors shall rely on the following sources to determine cost new:
 - (1) documented actual cost of the new or used vehicle; or (2) recognized publications that provide a method for
- approximating cost new for new or used vehicles.
- b) For the following property purchased used, the taxing authority may determine cost new by dividing the property's actual cost by the percent good factor for that class:
 - (1) class 6 heavy and medium duty trucks;
 - (2) class 9 off-highway vehicles;
 - (3) class 11 street motorcycles;
 - (4) class 13 heavy equipment;
 - (5) class 14 motor homes;
 - (6) class 17 boats;
 - (7) class 18 travel trailers/truck campers;
 - (8) class 21 commercial and utility trailers;
- (9) class 23 aircraft subject to the aircraft uniform fee and not listed in the aircraft bluebook price digest; and
 - (10) class 26 personal watercraft.
- 4. "Percent good" means an estimate of value, expressed as a percentage, based on a property's acquisition cost or cost new, adjusted for depreciation and appreciation of all kinds.
- The percent good factor is applied against the acquisition cost or the cost new to derive taxable value for the property.
- b) Percent good schedules are derived from an analysis of the Internal Revenue Service Class Life, the Marshall and Swift Cost index, other data sources or research, and vehicle valuation guides such as NADA.
- B. Each year the Property Tax Division shall update and publish percent good schedules for use in computing personal property valuation.
 - 1. Proposed schedules shall be transmitted to county

assessors and interested parties for comment before adoption.

- 2. A public comment period will be scheduled each year and a public hearing will be scheduled if requested by ten or more interested parties or at the discretion of the Commission.
- 3. County assessors may deviate from the schedules when warranted by specific conditions affecting an item of personal property. When a deviation will affect an entire class or type of personal property, a written report, substantiating the changes with verifiable data, must be presented to the Commission. Alternative schedules may not be used without prior written approval of the Commission.
- 4. A party may request a deviation from the value established by the schedule for a specific item of property if the use of the schedule does not result in the fair market value for the property at the retail level of trade on the lien date, including any relevant installation and assemblage value.
- C. Other taxable personal property that is not included in the listed classes includes:
- 1. Supplies on hand as of January 1 at 12:00 noon, including office supplies, shipping supplies, maintenance supplies, replacement parts, lubricating oils, fuel and consumable items not held for sale in the ordinary course of business. Supplies are assessed at total cost, including freight-
- 2. Equipment leased or rented from inventory is subject to ad valorem tax. Refer to the appropriate property class schedule to determine taxable value.
- 3. Property held for rent or lease is taxable, and is not exempt as inventory. For entities primarily engaged in rent-toown, inventory on hand at January 1 is exempt and property out on rent-to-own contracts is taxable.
- D. Personal property valuation schedules may not be appealed to, or amended by, county boards of equalization.
- E. All taxable personal property is classified by expected economic life as follows:
- 1. Class 1 Short Life Property. Property in this class has a typical life of more than one year and less than four years. It is fungible in that it is difficult to determine the age of an item retired from service.
 - a) Examples of property in the class include:
 - (1) barricades/warning signs;
 - (2) library materials;
 - (3) patterns, jigs and dies;
 - (4) pots, pans, and utensils;
 - (5) canned computer software;
 - (6) hotel linen;
 - (7) wood and pallets;
 - (8) video tapes, compact discs, and DVDs; and
 - (9) uniforms.
- b) With the exception of video tapes, compact discs, and DVDs, taxable value is calculated by applying the percent good factor against the acquisition cost of the property.
- c) A licensee of canned computer software shall use one of the following substitutes for acquisition cost of canned computer software if no acquisition cost for the canned computer software is stated:
 - (1) retail price of the canned computer software;
- (2) if a retail price is unavailable, and the license is a nonrenewable single year license agreement, the total sum of expected payments during that 12-month period; or
- (3) if the licensing agreement is a renewable agreement or is a multiple year agreement, the present value of all expected licensing fees paid pursuant to the agreement.
- d) Video tapes, compact discs, and DVDs are valued at \$15.00 per tape or disc for the first year and \$3.00 per tape or disc thereafter.

2. Class 2 - Computer Integrated Machinery.

a) Machinery shall be classified as computer integrated machinery if all of the following conditions are met:

- (1) The equipment is sold as a single unit. If the invoice breaks out the computer separately from the machine, the computer must be valued as Class 12 property and the machine as Class 8 property.
- (2) The machine cannot operate without the computer and the computer cannot perform functions outside the machine.
- (3) The machine can perform multiple functions and is controlled by a programmable central processing unit.
- (4) The total cost of the machine and computer combined is depreciated as a unit for income tax purposes.
- (5) The capabilities of the machine cannot be expanded by substituting a more complex computer for the original.
 - b) Examples of property in this class include:
 - (1) CNC mills;
 - (2) CNC lathes;
 - (3) MRI equipment;
 - (4) CAT scanners; and
 - (5) mammography units.
- c) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 2

Year of	Percent Good
Acquisition	of Acquisition Cost
03 02 01 00 99 98 97	85% 71% 59% 51% 43% 34% 25% nd prior 16%

- 3. Class 3 Short Life Trade Fixtures. Property in this class generally consists of electronic types of equipment and includes property subject to rapid functional and economic obsolescence or severe wear and tear.
 - a) Examples of property in this class include:
 - (1) office machines;
 - (2) alarm systems;
 - (3) shopping carts;
 - (4) ATM machines;
 - (5) small equipment rentals;
 - (6) rent-to-own merchandise;
 - (7) telephone equipment and systems;
 - (8) music systems;
 - (9) vending machines;
 - (10) video game machines; and
 - (11) cash registers and point of sale equipment.
- b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 3

Year of	Percent Good
Acquisition	of Acquisition Cost
03	82%
02	66%
01	50%
00 99 and pric	34%

4. Class 5 - Long Life Trade Fixtures. Class 5 property is subject to functional obsolescence in the form of style changes.

TABLE 1

Year of

Percent Good

- Printed: May 1, 2004
- a) Examples of property in this class include:
- (1) furniture:
- (2) bars and sinks:
- (3) booths, tables and chairs:
- (4) beauty and barber shop fixtures;
- (5) cabinets and shelves;
- (6) displays, cases and racks;
- (7) office furniture;
- (8) theater seats;
- (9) water slides; and
- (10) signs, mechanical and electrical.
- b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

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Year of Acquisition	Percent Good of Acquisition Cost
03	88%
02	80%
01	70%
00	61%
99	51%
98	41%
97	31%
96	21%
95 and n	rior 11%

- 5. Class 6 Heavy and Medium Duty Trucks.
- a) Examples of property in this class include:
- (1) heavy duty trucks;
- (2) medium duty trucks;
- (3) crane trucks;
- (4) concrete pump trucks; and
- (5) trucks with well-boring rigs.
- b) Taxable value is calculated by applying the percent good factor against the cost new.
 - c) Cost new of vehicles in this class is defined as follows:
- (1) the documented actual cost of the vehicle for new vehicles; or
 - (2) 75 percent of the manufacturer's suggested retail price.
- d) For state assessed vehicles, cost new shall include the value of attached equipment.
- e) The 2004 percent good applies to 2004 models purchased in 2003.
- f) Trucks weighing two tons or more have a residual taxable value of \$1,750.

TABLE 6

Model	Year	•		cent Cost	
04 03 02 01 00 99 98 97 96 95 94 93 92	and	prior		90% 65% 60% 55% 50% 46% 41% 36% 31% 26% 21% 16% 11% 6%	

- 6. Class 7 Medical and Dental Equipment. Class 7 property is subject to a high degree of technological development by the health industry.
 - a) Examples of property in this class include:
 - (1) medical and dental equipment and instruments;
 - (2) exam tables and chairs;
 - (3) high-tech hospital equipment;
 - (4) microscopes; and

- (5) optical equipment.
- b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 7

Year of	Percent Good
Acquisition	of Acquisition Cost
03	90%
02	83%
01	75%
00	68%
99	50%
98	51%
97	43%
96	35%
95	27%
	19%

- 7. Class 8 Machinery and Equipment. Property in this class is subject to considerable functional and economic obsolescence created by competition as technologically advanced and more efficient equipment becomes available.
 - a) Examples of property in this class include:
 - (1) manufacturing machinery;
 - (2) amusement rides;
 - (3) bakery equipment;
 - (4) distillery equipment;
 - (5) refrigeration equipment;
 - (6) laundry and dry cleaning equipment;
 - (7) machine shop equipment;
 - (8) processing equipment;
 - (9) auto service and repair equipment;
 - (10) mining equipment;
 - (11) ski lift machinery;
 - (12) printing equipment;
 - (13) bottling or cannery equipment; and
 - (14) packaging equipment.
- b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 8

Year of Acquisition	Percent Good of Acquisition Cost
03	90%
02	83%
01	75%
00	68%
99	60%
98	51%
97	43%
96	35%
95	27%
94	19%
93 and	prior 10%

- 8. Class 9 Off-Highway Vehicles.
- a) Examples of property in this class include:
- (1) dirt and trail motorcycles;
- (2) all terrain vehicles;
- (3) golf carts; and
- (4) snowmobiles.b) Taxable value is calculated by applying the percent good factor against the cost new.
- c) The 2004 percent good applies to 2004 models purchased in 2003.
- d) Off-Highway Vehicles have a residual taxable value of \$500.

TABLE 9

Percent Good of Cost New Model Year

04			90%
03			66%
02			62%
01			58%
00			54%
99			50%
98			46%
97			41%
96			37%
95			33%
94			29%
93			25%
92			21%
91	and	prior	17%

- 9. Class 10 Railroad Cars. The Class 10 schedule was developed to value the property of railroad car companies. Functional and economic obsolescence is recognized in the developing technology of the shipping industry. Heavy wear and tear is also a factor in valuing this class of property.
- a) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 10

Year of	Percent Good
Acquisition	of Acquisition Cost
03	91%
02	86%
01	80%
00	74%
99	68%
98	62%
97	56%
96	49%
95	43%
94	37%
93	31%
92	23%
91	16%
90 and prio	r 8%

- 10. Class 11 Street Motorcycles.
- a) Examples of property in this class include:
- (1) street motorcycles;
- (2) scooters;
- (3) mopeds; and
- (4) low-speed electric vehicles.
- b) Taxable value is calculated by applying the percent good factor against the cost new.
- c) The 2004 percent good applies to 2004 models purchased in 2003.
- d) Street motorcycles have a residual taxable value of \$500.

TABLE 11

Model Year		Percent Good of Cost New
nouch rear		01 0050 11011
04		90%
03		67%
02		65%
01		62%
00		60%
99		57%
98		54%
97		52%
96		49%
95		46%
94		44%
93		41%
92		39%
91		36%
90		33%
89		31%
88		28%
	prior	25%

- 11. Class 12 Computer Hardware.
- a) Examples of property in this class include:

- (1) data processing equipment;
- (2) personal computers;
- (3) main frame computers;
- (4) computer equipment peripherals;
- (5) cad/cam systems; and
- (6) copiers.
- b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 12

Year of	Percent Good
Acquisition	of Acquisition Cost
. 03	· 70%
02	57%
01	36%
00	23%
99	14%
98 and prior	9%

- 12. Class 13 Heavy Equipment.
- a) Examples of property in this class include:
- (1) construction equipment;
- (2) excavation equipment;
- (3) loaders; (4) batch plants;
- (5) snow cats; and
- (6) pavement sweepers.b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.
 c) 2004 model equipment purchased in 2003 is valued at
- 100 percent of acquisition cost.

TABLE 13

Year of Acquisition	Percent Good of Acquisition Cost
03 02 01 00 99 98 97 96 95 94 93 92 91	54% 51% 48% 45% 42% 39% 36% 33% 30% 27% 24% 21% 17%
90 and prior	14-9

- 13. Class 14 Motor Homes.
- a) Taxable value is calculated by applying the percent good against the cost new.
- b) The 2004 percent good applies to 2004 models purchased in 2003.
 - c) Motor homes have a residual taxable value of \$1,000.

TABLE 14

Model Year	Percent Good of Cost New	
04	90%	
03	69%	
02	66%	
01	62%	
00	59%	
99	56%	
98	53%	
97	50%	
96	47%	
95	44%	
94	41%	
93	37%	
92	34%	
91	31%	
90	28%	
89	25%	

- 14. Class 15 Semiconductor Manufacturing Equipment. Class 15 applies only to equipment used in the production of semiconductor products. Equipment used in the semiconductor manufacturing industry is subject to significant economic and functional obsolescence due to rapidly changing technology and economic conditions.
 - a) Examples of property in this class include:
 - (1) crystal growing equipment;
 - (2) die assembly equipment;
 - (3) wire bonding equipment;
 - (4) encapsulation equipment;
 - (5) semiconductor test equipment;
 - (6) clean room equipment;
- (7) chemical and gas systems related to semiconductor manufacturing;
 - (8) deionized water systems;
 - (9) electrical systems; and
- (10) photo mask and wafer manufacturing dedicated to semiconductor production.
- b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

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Year of Acquisition	Percent Good of Acquisition Cost
03	47%
02	34%
01	24%
00	15%
99 and prior	6%

- 15. Class 16 Long-Life Property. Class 16 property has a long physical life with little obsolescence.
 - a) Examples of property in this class include:
 - (1) billboards;
 - (2) sign towers;
 - (3) radio towers;
 - (4) ski lift and tram towers;
 - (5) non-farm grain elevators; and
 - (6) bulk storage tanks.
- b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 16

Year of Acquisition	Percent Good of Acquisition Cost
03 02 01 00 99 98 97 96 95 94 93 92 91 90 89 88 87 86	93% 89% 85% 81% 77% 72% 68% 60% 56% 52% 47% 41% 36% 31% 26% 20%
85 and prio	

- 16. Class 17 Boats.
- a) Examples of property in this class include:
- (1) boats; and
- (2) outboard boat motors.
- b) Taxable value is calculated by applying the percent good factor against the cost new of the property.

- c) The Tax Commission and assessors shall rely on the following sources to determine cost new for property in this class:
 - (1) the following publications or valuation methods:

- (a) the manufacturer's suggested retail price listed in the ABOS Marine Blue Book;
- (b) for property not listed in the ABOS Marine Blue Book but listed in the NADA Marine Appraisal Guide, the NADA average value for the property divided by the percent good factor; or
- (c) for property not listed in the ABOS Marine Blue Book or the NADA Appraisal Guide:
- i) the manufacturer's suggested retail price for comparable property; or
- ii) the cost new established for that property by a documented valuation source; or
- (2) the documented actual cost of new or used property in this class
- d) The 2004 percent good applies to 2004 models purchased in 2003.
 - e) Boats have a residual taxable value of \$500.

TABLE 17

Model Year	Percent Good of Cost New
04 03 02 01 00 99 98 97 96 95 94 93 92 91 90 89 88 87	90% 66% 66% 63% 61% 59% 57% 55% 53% 46% 44% 42% 40% 37% 35% 31%
85 84 and prior	29% 27%

- 17. Class 18 Travel Trailers/Truck Campers.
- a) Examples of property in this class include:
- (1) travel trailers;
- (2) truck campers; and
- (3) tent trailers.
- b) Taxable value is calculated by applying the percent good factor against the cost new.
- c) The 2004 percent good applies to 2004 models purchased in 2003.
- d) Trailers and truck campers have a residual taxable value of \$500.

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	1710	LL 10
Model Year	Percent of Cost	
04 03 02 01 00 99 98 97 96 95 94	90% 68% 65% 62% 58% 55% 52% 49% 45% 42% 39% 36% 36%	

91			29%
90			26%
89			23%
88	and	nrior	20%

- 18. Class 20 Petroleum and Natural Gas Exploration and Production Equipment. Class 20 property is subject to significant functional and economic obsolescence due to the volatile nature of the petroleum industry.
 - a) Examples of property in this class include:
 - (1) oil and gas exploration equipment;
 - (2) distillation equipment;
 - (3) wellhead assemblies;
 - (4) holding and storage facilities;
 - (5) drill rigs;
 - (6) reinjection equipment;
 - (7) metering devices;
 - (8) cracking equipment;
 - (9) well-site generators, transformers, and power lines;
 - (10) equipment sheds;
 - (11) pumps;
 - (12) radio telemetry units; and
 - (13) support and control equipment.
- b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 20

Year of Acquisition	Percent Good of Acquisition Cost
03	92%
02	86%
01	7 9%
00	7 4%
99	67%
98	60%
97	53%
96	46%
95	40%
94	33%
93	25%
92	17%
91 and prior	8%

- 19. Class 21 Commercial and Utility Trailers.
- a) Examples of property in this class include:
- (1) commercial trailers;
- (2) utility trailers;
- (3) cargo utility trailers;
- (4) boat trailers;
- (5) converter gears;
- (6) horse and stock trailers; and
- (7) all trailers not included in Class 18.
- b) Taxable value is calculated by applying the percent good factor against the cost new of the property. For state assessed vehicles, cost new shall include the value of attached
- c) The 2004 percent good applies to 2004 models purchased in 2003.
- d) Commercial and utility trailers have a residual taxable value of \$500.

TABLE 21

Model Year	Percent Good of Cost New
04 03 02 01 00 99 98 97 96	95% 7 1% 67% 63% 59% 55% 51% 47% 43% 39%

- 94 93 92 91 90 31% 27% 23% 19% 89 15% 88 and prior 11%
- 20. Class 22 Passenger Cars, Light Trucks/Utility Vehicles, and Vans.
- a) Class 22 vehicles fall within four subcategories: domestic passenger cars, foreign passenger cars, light trucks, including utility vehicles, and vans.
- b) Because Section 59-2-405.1 subjects Class 22 property to an age-based uniform fee, a percent good schedule is not necessary for this class.
- 21. Class 23 Aircraft Subject to the Aircraft Uniform Fee and Not Listed in the Aircraft Bluebook Price Digest.
 - a) Examples of property in this class include:
 - (1) kit-built aircraft;
 - (2) experimental aircraft;

 - (3) gliders;(4) hot air balloons; and
 - (5) any other aircraft requiring FAA registration.
- b) Aircraft subject to the aircraft uniform fee, but not listed in the Aircraft Bluebook Price Digest, are valued by applying the percent good factor against the acquisition cost of the aircraft.
- c) Aircraft requiring Federal Aviation Agency registration and kept in Utah must be registered with the Motor Vehicle Division of the Tax Commission.

TABLE 23

Year of Acquisition	Percent Good of Acquisition Cost
03	75%
02	7 1%
01	67%
00	63%
99	59%
98	55%
97	51%
96	47%
95	43%
94	39%
93	35%
92 and prior	

- 22. Class 24 Leasehold Improvements.
- a) This class includes leasehold improvements to real property installed by a tenant. The Class 24 schedule is to be used only with leasehold improvements that are assessed to the lessee of the real property pursuant to Tax Commission rule R884-24P-32. Leasehold improvements include:
 - (1) walls and partitions;
 - (2) plumbing and roughed-in fixtures;
 - (3) floor coverings other than carpet;
 - (4) store fronts;
 - (5) decoration;
 - (6) wiring;
 - (7) suspended or acoustical ceilings;
 - (8) heating and cooling systems; and
 - (9) iron or millwork trim.
- b) Taxable value is calculated by applying the percent good factor against the cost of acquisition, including
- c) The Class 3 schedule is used to value short life leasehold improvements.

TABLE 24

Year of Percent of Installation Cost Installation

03		94%
02		88%
01		82%
00		77%
99		7 1%
98		65%
97		59%
96		54%
95		48%
94		42%
93		36%
92 and	prior	30%

- 23. Class 25 Aircraft Parts Manufacturing Tools and Dies. Property in this class is generally subject to rapid physical, functional, and economic obsolescence due to rapid technological and economic shifts in the airline parts manufacturing industry. Heavy wear and tear is also a factor in valuing this class of property.

 a) Examples of property in this class include:

 - (1) aircraft parts manufacturing jigs and dies;
 - (2) aircraft parts manufacturing molds;
 - (3) aircraft parts manufacturing patterns;
 - (4) aircraft parts manufacturing taps and gauges;
 - (5) aircraft parts manufacturing test equipment; and
 - (6) aircraft parts manufacturing fixtures.
- b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 25

Year of Acquisition	Percent Good of Acquisition Cost
03	82%
02	67%
01	51%
00	35%
99	18%
98 and prior	4%

- 24. Class 26 Personal Watercraft.
- a) Examples of property in this class include:
- (1) motorized personal watercraft; and
- (2) jet skis.
- b) Taxable value is calculated by applying the percent good factor against the cost new.
- c) The 2004 percent good applies to 2004 models purchased in 2003.
- d) Personal watercraft have a residual taxable value of

TABLE 26

Model Year		ercent f Cost	
04		90%	
03		62%	
02		59%	
01		55%	
00		52%	
99		48%	
98		45%	
97		41%	
96		38%	
95		34%	
94		31%	
93		27%	
92		23%	
	prior	20%	

- 25. Class 27 Electrical Power Generating Equipment and
 - a) Examples of property in this class include:
 - (1) electrical power generators; and
 - (2) control equipment.
- b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

	TABLE 27
Year of Acquisition	Percent Good of Acquisition Cost
03 02 01 00 99 98 97 96 95 94 93 92 91 90 88 87 86 85 84 83 82 81 80 79 78 77 76 75 74 73 72 71 70 69 and prio	97% 95% 92% 90% 87% 84% 82% 79% 77% 74% 71% 69% 66% 66% 66% 61% 58% 55% 51% 48% 40% 38% 32% 40% 38% 32% 27% 25% 19% 17% 14% 12%
TO 1001	C.1. 1 1 1

F. The provisions of this rule shall be implemented and become binding on taxpayers beginning January 1, 2004.

R884-24P-34. Use of Sales or Appraisal Information Gathered in Conjunction With Assessment/Sales Ratio

- Studies Pursuant to Utah Code Ann. Section 59-2-704.

 A. Market data gathered for purposes of an assessment/sales ratio study may be used for valuation purposes only as part of a systematic reappraisal program whereby all similar properties are given equitable and uniform treatment.
- B. Sales or appraisal data gathered in conjunction with a ratio study shall not be used for an isolated reappraisal of the sold or appraised properties.
- C. Information derived from ratio studies regarding the values assigned to real property and personal property shall not be used to establish the apportionment between real and personal property in future assessments.

R884-24P-35. Annual Statement for Certain Exempt Uses of Property Pursuant to Utah Code Ann. Section 59-2-1102.

- A. The purpose of this rule is to provide guidance to property owners required to file an annual statement under Section 59-2-1102 in order to claim a property tax exemption under Section 59-2-1101 (2)(d) or (e).
- B. The annual statement filed pursuant to Section 59-2-1102 shall contain the following information for the specific property for which an exemption is sought:
 - 1. the owner of record of the property;
 - 2. the property parcel, account, or serial number;
 - 3. the location of the property;
- 4. the tax year in which the exemption was originally granted:
- 5. a description of any change in the use of the real or personal property since January 1 of the prior year;
- 6. the name and address of any person or organization conducting a business for profit on the property;
 - 7. the name and address of any organization that uses the

real or personal property and pays a fee for that use that is greater than the cost of maintenance and utilities associated with the property;

- 8. a description of any personal property leased by the owner of record for which an exemption is claimed;
- the name and address of the lessor of property described in B.8.:
- 10. the signature of the owner of record or the owner's authorized representative; and
 - 11. any other information the county may require.
 - C. The annual statement shall be filed:
- 1. with the county legislative body in the county in which the property is located;
 - 2. on or before March 1; and
 - 3. using:
- a) Tax Commission form PT-21, Annual Statement for Continued Property Tax Exemption; or
 - b) a form that contains the information required under B.

R884-24P-36. Contents of Real Property Tax Notice Pursuant to Utah Code Ann. Section 59-2-1317.

- A. In addition to the information required by Section 59-2-1317, the tax notice for real property shall specify the following:
 - 1. the property identification number;
- the appraised value of the property and, if applicable, any adjustment for residential exemptions expressed in terms of taxable value:
- 3. if applicable, tax relief for taxpayers eligible for blind, veteran, or poor abatement or the circuit breaker, which shall be shown as credits to total taxes levied; and
- 4. itemized tax rate information for each taxing entity and total tax rate.

R884-24P-37. Separate Values of Land and Improvements Pursuant to Utah Code Ann. Sections 59-2-301 and 59-2-305.

- A. The county assessor shall maintain an appraisal record of all real property subject to assessment by the county. The record shall include the following information:
 - 1. owner of the property;
 - 2. property identification number;
 - 3. description and location of the property; and
 - 4. full market value of the property.
- B. Real property appraisal records shall show separately the value of the land and the value of any improvements.

R884-24P-38. Nonoperating Railroad Properties Pursuant to Utah Code Ann. Section 59-2-201(4).

- A. Definitions.
- 1. "Railroad right of way" (RR-ROW) means a strip of land upon which a railroad company constructs the road bed.
- a. RR-ROW within incorporated towns and cities shall consist of 50 feet on each side of the main line main track, branch line main track or main spur track. Variations to the 50-foot standard shall be approved on an individual basis.
- b. RR-ROW outside incorporated towns and cities shall consist of the actual right-of-way owned if not in excess of 100 feet on each side of the center line of the main line main track, branch line main track, or main spur track. In cases where unusual conditions exist, such as mountain cuts, fills, etc., and more than 100 feet on either side of the main track is required for ROW and where small parcels of land are otherwise required for ROW purposes, the necessary additional area shall be reported as RR-ROW.
- B. Assessment of nonoperating railroad properties. Railroad property formerly assessed by the unitary method which has been determined to be nonoperating, and which is not necessary to the conduct of the business, shall be assessed separately by the local county assessor. For purposes of this rule:

- C. Assessment procedures.
- 1. Properties charged to nonoperating accounts are reviewed by the Property Tax Division, and if taxable, are assessed and placed on the local county assessment rolls separately from the operating properties.
- 2. RR-ROW is considered as operating and as necessary to the conduct and contributing to the income of the business. Any revenue derived from leasing of property within the RR-ROW is considered as railroad operating revenues.
- 3. Real property outside of the RR-ROW which is necessary to the conduct of the railroad operation is considered as part of the unitary value. Some examples are: company homes occupied by superintendents and other employees on 24-hour call, storage facilities for railroad operations, communication facilities, and spur tracks outside of RR-ROW.
- 4. Abandoned RR-ROW is considered as nonoperating and shall be reported as such by the railroad companies.
- 5. Real property outside of the RR-ROW which is not necessary to the conduct of the railroad operations is classified as nonoperating and therefore assessed by the local county assessor. Some examples are: land leased to service station operations, grocery stores, apartments, residences, and agricultural uses.
- 6. RR-ROW obtained by government grant or act of Congress is deemed operating property.
- D. Notice of Determination. It is the responsibility of the Property Tax Division to provide a notice of determination to the owner of the railroad property and the assessor of the county where the railroad property is located immediately after such determination of operating or nonoperating status has been made. If there is no appeal to the notice of determination, the Property Tax Division shall notify the assessor of the county where the property is located so the property may be placed on the roll for local assessment.
- E. Appeals. Any interested party who wishes to contest the determination of operating or nonoperating property may do so by filing a request for agency action within ten days of the notice of determination of operating or nonoperating properties. Request for agency action may be made pursuant to Utah Code Ann. Title 63, Chapter 46b.

R884-24P-40. Exemption of Parsonages, Rectories, Monasteries, Homes and Residences Pursuant to Utah Code Annotated 59-2-1101(d) and Article XIII, Section 2 of the Utah Constitution.

- A. Parsonages, rectories, monasteries, homes and residences if used exclusively for religious purposes, are exempt from property taxes if they meet all of the following requirements:
- 1. The land and building are owned by a religious organization which has qualified with the Internal Revenue Service as a Section 501(c)(3) organization and which organization continues to meet the requirements of that section.
- 2. The building is occupied only by persons whose full time efforts are devoted to the religious organization and the immediate families of such persons.
- 3. The religious organization, and not the individuals who occupy the premises, pay all payments, utilities, insurance, repairs, and all other costs and expenses related to the care and maintenance of the premises and facilities.
- B. The exemption for one person and the family of such person is limited to the real estate that is reasonable for the residence of the family and which remains actively devoted exclusively to the religious purposes. The exemption for more than one person, such as a monastery, is limited to that amount of real estate actually devoted exclusively to religious purposes.
- C. Vacant land which is not actively used by the religious organization, is not deemed to be devoted exclusively to religious purposes, and is therefore not exempt from property

taxes

- 1. Vacant land which is held for future development or utilization by the religious organization is not deemed to be devoted exclusively to religious purposes and therefore not tax exempt.
- 2. Vacant land is tax exempt after construction commences or a building permit is issued for construction of a structure or other improvements used exclusively for religious purposes.

R884-24P-41. Adjustment or Deferral of Property Taxes Pursuant to Utah Code Ann. Section 59-2-1347.

- A. Requested adjustments to taxes for past years may not be made under Utah Code Ann. Section 59-2-1347 if the requested adjustment is based only on property valuation.
- B. Utah Code Ann. Section 59-2-1347 applies only to taxes levied but unpaid and may not serve as the basis for refunding taxes already paid.
- C. Utah Code Ann. Section 59-2-1347 may only be applied to taxes levied for the five most recent tax years except where taxes levied remain unpaid as a result of administrative action or litigation.

R884-24P-42. Farmland Assessment Audits and Personal Property Audits Pursuant to Utah Code Ann. Subsection 59-2-508(2), and Section 59-2-705.

- A. The Tax Commission is responsible for auditing the administration of the Farmland Assessment Act to verify proper listing and classification of all properties assessed under the act. The Tax Commission also conducts routine audits of personal property accounts.
- 1. If an audit reveals an incorrect assignment of property, or an increase or decrease in value, the county assessor shall correct the assessment on the assessment roll and the tax roll.
- A revised assessment notice or tax notice or both shall be mailed to the taxpayer for the current year and any previous years affected.
- 3. The appropriate tax rate for each year shall be applied when computing taxes due for previous years.
- B. Assessors shall not alter results of an audit without first submitting the changes to the Tax commission for review and approval.
- C. The Tax Commission shall review assessor compliance with this rule. Noncompliance may result in an order for corrective action.

R884-24P-44. Farm Machinery and Equipment Exemption Pursuant to Utah Code Ann. Sections 59-2-102 and 59-2-101.

- A. The use of the machinery and equipment, whether by the claimant or a lessee, shall determine the exemption.
- 1. For purposes of this rule, the term owner includes a purchaser under an installment purchase contract or capitalized lease where ownership passes to the purchaser at the end of the contract without the exercise of an option on behalf of the purchaser or seller.
- B. Farm machinery and equipment is used primarily for agricultural purposes if it is used primarily for the production or harvesting of agricultural products.
- C. The following machinery and equipment is used primarily for the production or harvesting of agricultural products:
- 1. Machinery and equipment used on the farm for storage, cooling, or freezing of fruits or vegetables;
- Except as provided in C.3., machinery and equipment used in fruit or vegetable growing operations if the machinery and equipment does not physically alter the fruit or vegetables; and
- 3. Machinery and equipment that physically alters the form of fruits or vegetables if the operations performed by the

machinery or equipment are reasonable and necessary in the preparation of the fruit or vegetables for wholesale marketing.

D. Machinery and equipment used for processing of agricultural products are not exempt.

R884-24P-47. Uniform Tax on Aircraft Pursuant to Utah Code Ann. Sections 59-2-404, 59-2-1005, 59-2-1302, and 59-2-1303

- A. Registration of aircraft requires payment of a uniform tax in lieu of ad valorem personal property tax. This tax shall be collected by the county assessor at the time of registration at the rate prescribed in Section 59-2-404.
- B. The average wholesale market value of the aircraft is the arithmetic mean of the average low wholesale book value and the average high wholesale book value. This average price will be used as the basis for the initial assessment. These amounts are obtained from the fall edition of the Aircraft Bluebook Price Digest in the year preceding the year of registration for all aircraft listed in that publication.
- 1. The average wholesale market value of aircraft subject to registration but not shown in the Aircraft Bluebook Price Digest will be assessed according to the annual depreciation schedule for aircraft valuation set forth in Tax Commission rule R884-24P-33, "Personal Property Valuation Guides and Schedules."
- 2. Instructions for interpretation of codes are found inside the Aircraft Bluebook Price Digest.
- a) Average low wholesale values are found under the heading "Average equipped per base avg change/invtry."
- b) Average high wholesale values are found under the heading "change mktbl."
- c) Aircraft values not in accordance with "average" may be adjusted by the assessor following the instructions in the Bluebook. Factors that have the greatest impact on value include: high engine time, air worthiness directives not complied with, status of annual inspection, crash damage, paint condition, and interior condition.
- C. The uniform tax is due each year the aircraft is registered in Utah. If the aircraft is sold within the same registration period, no additional uniform tax shall be due. However, the purchaser shall pay any delinquent tax as a condition precedent to registration.
- D. If an aircraft is purchased or moved to Utah during the year and newly registered in Utah, the uniform tax shall be prorated based on the number of months remaining in the registration period.
- 1. Any portion of a month shall be counted as a full month. For example, if registration is required during July, 50 percent of the uniform tax shall be paid as a condition of registration.
- 2. If the aircraft is moved to Utah during the year, and property tax was paid to another state prior to moving the aircraft into Utah, any property tax paid shall be allowed as a credit against the prorated uniform tax due in Utah.
- a) This credit may not be refunded if the other state property tax exceeds the uniform tax due in Utah for the comparable year.
- b) Proof of payment shall be submitted before credit is allowed.
- E. The uniform tax collected by county assessors shall be distributed to the taxing districts of the county in which the aircraft is located as shown on the registration application. If the aircraft is registered in a county other than the county of the aircraft location, the tax collected shall be forwarded to the appropriate county within five working days.
- F. The Tax Commission shall supply registration forms and numbered decals to the county assessors. Forms to assess the uniform tax shall be prepared by the counties each year. The Tax Commission shall maintain an owners' data base and supply

the counties with a list of registrations by county after the first year and shall also supply registration renewal forms preprinted with the prior year's registration information.

- G. The aircraft owner or person or entity in possession thereof shall immediately provide access to any aircraft hangar or other storage area or facility upon request by the assessor or the assessor's designee in order to permit the determination of the status of registration of the aircraft, and the performance of any other act in furtherance of the assessor's duties.
- H. The provisions applicable to securing or collecting personal property taxes set forth in Sections 59-2-1302 and 59-2-1303 shall apply to the collection of delinquent uniform taxes.
- I. If the aircraft owner and the county assessor cannot reach agreement concerning the aircraft valuation, the valuation may be appealed to the county board of equalization under Section 59-2-1005.

R884-24P-49. Calculating the Utah Apportioned Value of a Rail Car Fleet Pursuant to Utah Code Ann. Section 59-2-201.

- A. Definitions
- 1. "Average market value per rail car" means the fleet rail car market value divided by the number of rail cars in the fleet.
 - 2. "Fleet rail car market value" means the sum of:
 - a)(1) the yearly acquisition costs of the fleet's rail cars;
- (2) multiplied by the appropriate percent good factors contained in Class 10 of R884-24P- 33, Personal Property Valuation Guides and Schedules; and
 - b) the sum of betterments by year.
- (1) Except as provided in A.2.b)(2), the sum of betterments by year shall be depreciated on a 14-year straight line method.
- (2) Notwithstanding the provisions of A.2.b)(1), betterments shall have a residual value of two percent.
- 3. "In-service rail cars" means the number of rail cars in the fleet, adjusted for out-of- service rail cars.
 - 4. a) "Out-of-service rail cars" means rail cars:
- (1) out-of-service for a period of more than ten consecutive hours; or
 - (2) in storage.
- Rail cars cease to be out-of-service once repaired or removed from storage.
- c) Out-of-service rail cars do not include rail cars idled for less than ten consecutive hours due to light repairs or routine maintenance.
- 5. "System car miles" means both loaded and empty miles accumulated in the U.S., Canada, and Mexico during the prior calendar year by all rail cars in the fleet.
- 6. "Utah car miles" mean both loaded and empty miles accumulated within Utah during the prior calendar year by all rail cars in the fleet.
- 7. "Utah percent of system factor" means the Utah car miles divided by the system car miles.
- B. The provisions of this rule apply only to private rail car companies.
- C. To receive an adjustment for out-of-service rail cars, the rail car company must report the number of out-of-service days to the commission for each of the company's rail car fleets.
 - D. The out-of-service adjustment is calculated as follows.
- 1. Divide the out-of-service days by 365 to obtain the out-of-service rail car equivalent.
- 2. Subtract the out-of-service rail car equivalent calculated in D.1. from the number of rail cars in the fleet.
- E. The taxable value for each rail car fleet apportioned to Utah, for which the Utah percent of system factor is more than 50 percent, shall be determined by multiplying the Utah percent of system factor by the fleet rail car market value.
- F. The taxable value for each rail car company apportioned to Utah, for which the Utah percent of system factor is less than or equal to 50 percent, shall be determined in the following

manner.

- 1. Calculate the number of fleet rail cars allocated to Utah under the Utah percent of system factor. The steps for this calculation are as follows.
- a) Multiply the Utah percent of system factor by the inservice rail cars in the fleet.
 - b) Multiply the product obtained in F.1.a) by 50 percent.
- 2. Calculate the number of fleet rail cars allocated to Utah under the time speed factor. The steps for this calculation are as follows
- a) Divide the fleet's Utah car miles by the average rail car miles traveled in Utah per year. The Commission has determined that the average rail car miles traveled in Utah per year shall equal 200,000 miles.
- b) Multiply the quotient obtained in F.2.a) by the percent of in-service rail cars in the fleet.
 - c) Multiply the product obtained in F.2.b) by 50 percent.
- 3. Add the number of fleet rail cars allocated to Utah under the Utah percent of system factor, calculated in F.1.b), and the number of fleet rail cars allocated to Utah under the time speed factor, calculated in F.2.c), and multiply that sum by the average market value per rail car.

R884-24P-50. Apportioning the Utah Proportion of Commercial Aircraft Valuations Pursuant to Utah Code Ann. Section 59-2-201.

- A. Definitions.
- 1. "Commercial air carrier" means any air charter service, air contract service or airline as defined by Section 59-2-102.
- 2. "Ground time" means the time period beginning at the time an aircraft lands and ending at the time an aircraft takes off.
- B. The commission shall apportion to a tax area the assessment of the mobile flight equipment owned by a commercial air carrier in the proportion that the ground time in the tax area bears to the total ground time in the state.
- C. The provisions of this rule shall be implemented and become binding on taxpayers beginning with the 1999 calendar year.

R884-24P-52. Criteria for Determining Primary Residence Pursuant to Utah Code Ann. Sections 59-2-102, 59-2-103, and 59-2-103.5.

- A. "Household" is as defined in Section 59-2-1202.
- B. "Primary residence" means the location where domicile has been established.
- C. Except as provided in D. and F.3., the residential exemption provided under Section 59-2- 103 is limited to one primary residence per household.
- D. An owner of multiple properties may receive the residential exemption on all properties for which the property is the primary residence of the tenant.
- E. Factors or objective evidence determinative of domicile include:
- 1. whether or not the individual voted in the place he claims to be domiciled;
- 2. the length of any continuous residency in the location claimed as domicile;
- 3. the nature and quality of the living accommodations that an individual has in the location claimed as domicile as opposed to any other location;
 - 4. the presence of family members in a given location;
- 5. the place of residency of the individual's spouse or the state of any divorce of the individual and his spouse;
- the physical location of the individual's place of business or sources of income;
- 7. the use of local bank facilities or foreign bank institutions;
 - 8. the location of registration of vehicles, boats, and RVs;
 - 9. membership in clubs, churches, and other social

organizations;

- 10. the addresses used by the individual on such things as:
- a) telephone listings;
- b) mail:
- c) state and federal tax returns;
- d) listings in official government publications or other correspondence;
 - e) driver's license;
 - f) voter registration; and
 - g) tax rolls;
- 11. location of public schools attended by the individual or the individual's dependents;
 - 12. the nature and payment of taxes in other states;
 - 13. declarations of the individual:
 - a) communicated to third parties;
 - b) contained in deeds;
 - c) contained in insurance policies;
 - d) contained in wills;
 - e) contained in letters;
 - f) contained in registers;
 - g) contained in mortgages; and h) contained in leases.
- 14. the exercise of civil or political rights in a given location;
- 15. any failure to obtain permits and licenses normally required of a resident;
 - 16. the purchase of a burial plot in a particular location;
- 17. the acquisition of a new residence in a different location.
 - F. Administration of the Residential Exemption.
- 1. Except as provided in F.2., F.4., and F.5., the first one acre of land per residential unit shall receive the residential exemption.
- 2. If a parcel has high density multiple residential units, such as an apartment complex or a mobile home park, the amount of land, up to the first one acre per residential unit, eligible to receive the residential exemption shall be determined by the use of the land. Land actively used for residential purposes qualifies for the exemption.
- 3. If the county assessor determines that a property under construction will qualify as a primary residence upon completion, the property shall qualify for the residential exemption while under construction.
- A property assessed under the Farmland Assessment Act shall receive the residential exemption only for the homesite.
- 5. A property with multiple uses, such as residential and commercial, shall receive the residential exemption only for the percentage of the property that is used as a primary residence.
- 6. If the county assessor determines that an unoccupied property will qualify as a primary residence when it is occupied, the property shall qualify for the residential exemption while unoccupied.
- 7.a) An application for the residential exemption required by an ordinance enacted under Section 59-2-103.5 shall contain the following information for the specific property for which the exemption is requested:
 - (1) the owner of record of the property;
 - (2) the property parcel number;
 - (3) the location of the property;
- (4) the basis of the owner's knowledge of the use of the property;
 - (5) a description of the use of the property;
- (6) evidence of the domicile of the inhabitants of the property; and
- (7) the signature of all owners of the property certifying that the property is residential property.
 - b) The application under F.7.a) shall be:
 - (1) on a form provided by the county; or
 - (2) in a writing that contains all of the information listed

in F.7.a).

R884-24P-53. 2004 Valuation Guides for Valuation of Land Subject to the Farmland Assessment Act Pursuant to Utah Code Ann. Section 59-2-515.

- A. Each year the Property Tax Division shall update and publish schedules to determine the taxable value for land subject to the Farmland Assessment Act on a per acre basis.
- 1. The schedules shall be based on the productivity of the various types of agricultural land as determined through crop budgets and net rents.
- Proposed schedules shall be transmitted by the Property Tax Division to county assessors for comment before adoption.
 - 3. County assessors may not deviate from the schedules.
- 4. Not all types of agricultural land exist in every county. If no taxable value is shown for a particular county in one of the tables, that classification of agricultural land does not exist in that county.
- B. All property defined as farmland pursuant to Section 59-2- 501 shall be assessed on a per acre basis as follows:
- 1. Irrigated farmland shall be assessed under the following classifications.
- a) Irrigated I. The following counties shall assess Irrigated I property based upon the per acre values listed below:

		TABLE 1 Irrigated I	
1) 2) 3) 4) 5) 6) 7) 8)	Box Elder Cache Carbon Davis Emery Iron Kane Millard Salt Lake Utah		830 680 550 815 530 805 475 790 705 740
11)	Washington		665
121	Wahan		775

b) Irrigated II. The following counties shall assess Irrigated II property based upon the per acre values listed below:

		TABLE 2 Irrigated II
1) 2) 3) 4) 5) 6) 7) 8) 9) 10) 11) 12) 13) 14) 15) 16) 17)	Box Elder Cache Carbon Davis Duchesne Emery Grand Iron Juab Kane Millard Salt Lake Sanpete Sevier Summit Tooele Utah Wasatch	730 580 450 715 495 430 410 705 430 375 690 605 540 575 470 440 640 510
20)	Weber	675

c) Irrigated III. The following counties shall assess Irrigated III property based upon the per acre values listed below:

		TABLE 3 Irrigated III
1)	Beaver	565
2)	Box Elder	580
3)	Cache	430
4)	Carbon	300
5)	Davis	565

6) 7) 8) 9) 10) 11) 12) 13) 14) 15) 16) 17) 18) 19) 20) 21)	Duchesne Emery Garfield Grand Iron Juab Kane Millard Morgan Piute Rich Salt Lake San Juan Sampete Sevier Summit Topele	345 280 210 260 555 280 225 540 380 355 210 455 185 390 425 320 290
20)	Sevier	425
22)	Tooele	290
23)	Uintah	370
24)	Utah	490
25)	Wasatch	360
26)	Washington	415
27)	Wayne	365
28)	Weber	525

d) Irrigated IV. The following counties shall assess Irrigated IV property based upon the per acre values listed

TABLE 4 Irrigated IV

1) 2) 3) 4) 5) 6) 7) 8) 9) 110) 111) 12) 13) 14) 15) 16) 17) 18) 20) 21) 22) 22) 22) 22) 22) 22) 22	Beaver Box Elder Cache Carbon Daggett Davis Duchesne Emery Garfield Grand Iron Juab Kane Millard Morgan Piute Rich Salt Lake San Juan Sanpete Sevier Summit Tooele Uintah Utah Wasatch Washington Wayne Weber	465 480 330 200 230 465 245 180 110 160 455 180 255 110 355 85 290 325 220 190 270 390 260 315 265 425
	Wayne	

2. Fruit orchards shall be assessed per acre based upon the following schedule:

TABLE 5 Fruit Orchards

1) 2) 3) 4) 5) 6) 7) 8) 9) 11) 12) 13) 14) 15)	Beaver Box Elder Cache Carbon Davis Duchesne Emery Garfield Grand Iron Juab Kane Millard Morgan Piute Sant Lake	600 650 600 640 600 600 600 600 600 600 600 60
17) 18)	San Juan Sanpete	600 600
19) 20)	Sevier Summit	600 600

21)	Tooele	600
22)	Uintah	600
23)	Utah	630
24)	Wasatch	600
25)	Washington	760
26)	Wayne	600
27)	Weber	640

3. Meadow IV property shall be assessed per acre based upon the following schedule:

		Meadow I
1) 2) 3) 4) 5) 6) 7) 10) 11) 11) 11) 12) 13) 14) 15) 16) 17) 18) 19) 20) 21) 22) 22) 22) 22) 22) 22) 22) 22) 23)	Beaver Box Elder Cache Carbon Daggett Davis Duchesne Emery Garfield Grand Iron Juab Kane Millard Morgan Piute Rich Salt Lake Sanpete Savier Summit Tooele Uintah Utah Wasatch Washington Wayne Weber	230 240 255 130 170 260 160 125 95 125 225 140 100 175 160 110 225 185 200 195 175 180 230 210 215

- 4. Dry land shall be classified as one of the following two categories and shall be assessed on a per acre basis as follows:

 a) Dry III. The following counties shall assess Dry III
- property based upon the per acre values listed below:

		TABLE : Dry II:
1) 2) 3) 4) 5) 6) 7) 10) 11) 12) 13) 14) 15) 16) 17) 18) 19) 20) 21) 22) 23)	Beaver Box Elder Cache Carbon Davis Duchesne Garfield Grand Iron Juab Kane Millard Morgan Rich Salt Lake San Juan Sanpete Summit Tooele Uintah Utah Washington	40 70 65 40 40 40 40 40 45 50 45 40 40 40 40 40 40 40 40 40 40 40 40 40

b) Dry IV. The following counties shall assess Dry IV property based upon the per acre values listed below:

		TABLE 8 Dry IV
1) 2)	Beaver Box Elder	5 35
3)	Cache	30
4)	Carbon	5
5)	Davis	15

Duchesne Garfield Grand	5 5 5
	5
	5
	5
Millard	10
Morgan	15
Rich	10
Salt Lake	5
San Juan	5
Sanpete	5
Summit	5
Tooele	5
Uintah	5
Utah	5
Washington	5
Weber	10
	Garfield Grand Iron Juab Kane Millard Morgan Rich Salt Lake San Juan Sanpete Summit Tooele Uintah Washington

- 5. Grazing land shall be classified as one of the following four categories and shall be assessed on a per acre basis as follows:
- a) Graze 1. The following counties shall assess Graze I property based upon the per acre values listed below:

		TABLE 9 GR I
1) 2) 3) 4) 5) 6) 7) 8) 9) 111) 12) 13) 14) 15) 16) 17) 18) 20) 221) 223) 24) 25) 26) 27) 28) 29)	Beaver Box Elder Cache Carbon Daggett Davis Duchesne Emery Garfield Grand Iron Juab Kane Millard Morgan Piute Rich Salt Lake San Juan Sanpete Sevier Summit Tooele Untah Utah Wasatch Washington Wayne Weber	57 56 61 56 65 60 64 56 57 67 57 62 71 70 52 54 65 65 62 60 52 72 50 51 50 63 61

b) Graze II. The following counties shall assess Graze II property based upon the per acre values listed below:

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TABLE 10 GR II

1) Beaver 16
2) Box Elder 16
3) Cache 17
4) Carbon 16
5) Daggett 18
6) Davis 17
7) Duchesne 18
8) Emery 16
9) Garfield 16
10) Grand 19
11) Iron 16
12) Juab 18
13) Kane 20
14) Millard 20
15) Morgan 15
16) Piute 15
17) Rich 18
18) Salt Lake 18
19) San Juan 16
20) Sanpete 17
21) Sevier 17
22) Summit 15
23) Tooele
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    24)
    Uintah
    17

    25)
    Utah
    14

    26)
    Wasatch
    14

    27)
    Washington
    16

    28)
    Wayne
    18

    29)
    Weber
    17
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c) Graze III. The following counties shall assess Graze III property based upon the per acre values below:

		TABLE 11 GR III
1) 2) 3) 4) 5) 6) 7) 8) 9) 10) 11) 12) 13) 14) 15) 16) 17) 18) 19) 20) 21) 22) 23) 24) 25) 26) 27) 28)	Beaver Box Elder Cache Carbon Daggett Davis Duchesne Emery Garfield Grand Iron Juab Kane Millard Morgan Piute Rich Salt Lake San Juan Sanpete Sevier Sevier Summit Tooele Uintah Wasatch Washington Wayne Weber	10 10 10 11 10 12 11 12 10 11 12 10 11 13 13 10 10 11 11 11 11 11 11 11 11 11 12 12 12 12

d) Graze IV. The following counties shall assess Graze IV property based upon the per acre values listed below:

TABLE 12

		GR IV
1) 2) 3) 4) 5) 6) 7) 10) 11) 12) 13) 14) 15) 16) 17) 18) 19) 20) 22) 23) 22) 22) 22) 22) 22) 22) 22) 22	Beaver Box Elder Cache Carbon Daggett Davis Duchesne Emery Garfield Grand Iron Juab Kane Millard Morgan Piute Rich Salt Lake San Juan Sanpete Sevier Summit Tooele Uintah Utah Wasatch Washington Wayne	555555556556655555555555555555555555555

6. Land classified as nonproductive shall be assessed as follows on a per acre basis:

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TABLE 13
Nonproductive Land
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a) Nonproductive Land 1) All Counties 5

- A. "Collusive bidding" means any agreement or understanding reached by two or more parties that in any way alters the bids the parties would otherwise offer absent the agreement or understanding.
- B. Each county shall establish a written ordinance for real property tax sale procedures.
- C. The written ordinance required under B. shall be displayed in a public place and shall be available to all interested parties.
- D. The tax sale ordinance shall address, as a minimum, the following issues:
 - 1. bidder registration procedures;
 - 2. redemption rights and procedures;
 - 3. prohibition of collusive bidding;
- conflict of interest prohibitions and disclosure requirements;
 - 5. criteria for accepting or rejecting bids;
 - 6. sale ratification procedures;
 - 7. criteria for granting bidder preference;
 - 8. procedures for recording tax deeds;
 - 9. payments methods and procedures;
 - 10. procedures for contesting bids and sales;
 - 11. criteria for striking properties to the county;
- 12. procedures for disclosing properties withdrawn from the sale for reasons other than redemption; and
- 13. disclaimers by the county with respect to sale procedures and actions.

R884-24P-56. Assessment, Collection, and Apportionment of Property Tax on Commercial Transportation Property Pursuant to Utah Code Ann. Sections 41-1a-301 and 59-2-801

- A. For purposes of Section 59-2-801, the previous year's statewide rate shall be calculated as follows:
- 1. Each county's overall tax rate is multiplied by the county's percent of total lane miles of principal routes.
- 2. The values obtained in A.1. for each county are summed to arrive at the statewide rate.
- B. The assessment of vehicles apportioned under Section 41-1a-301 shall be apportioned at the same percentage ratio that has been filed with the Motor Vehicle Division of the State Tax Commission for determining the proration of registration fees.
- C. For purposes of Section 59-2-801(2), principal route means lane miles of interstate highways and clover leafs, U.S. highways, and state highways extending through each county as determined by the Commission from current state Geographic Information System databases.

R884-24P-57. Judgment Levies Pursuant to Utah Code Ann. Sections 59-2-918.5, 59-2-924, 59-2-1328, and 59-2-1330.

- A. Definitions.
- 1. "Issued" means the date on which the judgment is signed.
- 2. "One percent of the total ad valorem property taxes collected by the taxing entity in the previous fiscal year" includes any revenues collected by a judgment levy imposed in the prior year.
- B. A taxing entity's share of a judgment or order shall include the taxing entity's share of any interest that must be paid with the judgment or order.
- C. The judgment levy public hearing required by Section 59- 2-918.5 shall be held as follows:
- 1. For taxing entities operating under a July 1 through June 30 fiscal year, the public hearing shall be held at least 10 days after the Notice of Property Valuation and Tax Changes is mailed.

- 2. For taxing entities operating under a January 1 through December 31 fiscal year:
- a) for judgments issued from the prior June 1 through December 15, the public hearing shall be held at the same time as the hearing at which the annual budget is adopted;
- b) for judgments issued from the prior December 16 through May 31, the public hearing shall be held at least 10 days after the Notice of Property Valuation and Tax Changes is mailed.
- 3. If the taxing entity is required to hold a hearing under Section 59-2-919, the judgment levy hearing required by C.1. and C.2.b) shall be held at the same time as the hearing required under Section 59-2-919.
- D. If the Section 59-2-918.5 advertisement is combined with the Section 59-2-918 or 59-2-919 advertisement, the combined advertisement shall aggregate the general tax increase and judgment levy information.
- E. In the case of taxing entities operating under a January 1 through December 31 fiscal year, the advertisement for judgments issued from the previous December 16 through May 31 shall include any judgments issued from the previous June 1 through December 15 that the taxing entity advertised and budgeted for at its December budget hearing.
- F. All taxing entities imposing a judgment levy shall file with the Tax Commission a signed statement certifying that all judgments for which the judgment levy is imposed have met the statutory requirements for imposition of a judgment levy.
- 1. The signed statement shall contain the following information for each judgment included in the judgment levy:
 - a) the name of the taxpayer awarded the judgment;
 - b) the appeal number of the judgment; and
 - c) the taxing entity's pro rata share of the judgment.
- 2. Along with the signed statement, the taxing entity must provide the Tax Commission the following:
- a) a copy of all judgment levy newspaper advertisements required;
- b) the dates all required judgment levy advertisements were published in the newspaper;
- c) a copy of the final resolution imposing the judgment levy;
- d) a copy of the Notice of Property Valuation and Tax Changes, if required; and
 - e) any other information required by the Tax Commission.
- G. The provisions of House Bill 268, Truth in Taxation Judgment Levy (1999 General Session), do not apply to judgments issued prior to January 1, 1999.

R884-24P-58. One-Time Decrease in Certified Rate Based on Estimated County Option Sales Tax Pursuant to Utah Code Ann. Section 59-2-924.

- A. The estimated sales tax revenue to be distributed to a county under Section 59-12-1102 shall be determined based on the following formula:
- 1. sharedown of the commission's sales tax econometric model based on historic patterns, weighted 40 percent;
 - 2. time series models, weighted 40 percent; and
- 3. growth rate of actual taxable sales occurring from January 1 through March 31 of the year a tax is initially imposed under Title 59, Chapter 12, Part 11, County Option Sales and Use Tax, weighted 20 percent.

R884-24P-59. One-Time Decrease in Certified Rate Based on Estimated Additional Resort Communities Sales Tax Pursuant to Utah Code Ann. Section 59-2-924.

- A. The estimated additional resort communities sales tax revenue to be distributed to a municipality under Section 59-12-402 shall be determined based on the following formula:
- 1. time series model, econometric model, or simple average, based upon the availability of and variation in the data,

weighted 75 percent; and

2. growth rate of actual taxable sales occurring from January 1 through March 31 of the year a tax is initially imposed under Section 59-12-402, weighted 25 percent.

R884-24P-60. Age-Based Uniform Fee on Tangible Personal Property Required to be Registered with the State Pursuant to Utah Code Ann. Section 59-2-405.1.

- A. For purposes of Section 59-2-405.1, "motor vehicle" is as defined in Section 41-1a-102, except that motor vehicle does not include motorcycles as defined in Section 41-1a-102.
- B. The uniform fee established in Section 59-2-405.1 is levied against motor vehicles and state-assessed commercial vehicles classified under Class 22 Passenger Cars, Light Trucks/Utility Vehicles, and Vans, in Tax Commission rule R884-24P-33.
- C. Personal property subject to the uniform fee imposed in Section 59-2-405 is not subject to the Section 59-2-405.1 uniform fee.
- D. The following classes of personal property are not subject to the Section 59-2-405.1 uniform fee, but remain subject to the ad valorem property tax:
 - 1. vintage vehicles;
- state-assessed commercial vehicles not classified under Class 22 - Passenger Cars, Light Trucks/Utility Vehicles, and Vans;
- 3. any personal property that is neither required to be registered nor exempt from the ad valorem property tax;
 - 4. mobile and manufactured homes;
- 5. machinery or equipment that can function only when attached to or used in conjunction with motor vehicles or state-assessed commercial vehicles.
- E. The age of a motor vehicle or state-assessed commercial vehicle, for purposes of Section 59-2-405.1, shall be determined by subtracting the vehicle model year from the current calendar year.
- F. The only Section 59-2-405.1 uniform fee due upon registration or renewal of registration is the uniform fee calculated based on the age of the vehicle under E. on the first day of the registration period for which the registrant:
- 1. in the case of an original registration, registers the vehicle; or
- 2. in the case of a renewal of registration, renews the registration of the vehicle in accordance with Section 41-1a-216.
- G. Centrally assessed taxpayers shall use the following formula to determine the value of locally assessed motor vehicles that may be deducted from the allocated unit valuation:
- 1. Divide the system value by the book value to determine the market to book ratio.
- 2. Multiply the market to book ratio by the book value of motor vehicles registered in Utah and subject to Section 59-2-405.1 to determine the value of motor vehicles that may be subtracted from the allocated unit value.
- H. The motor vehicle of a nonresident member of the armed forces stationed in Utah may be registered in Utah without payment of the Section 59-2-405.1 uniform fee.
- I. A motor vehicle belonging to a Utah resident member of the armed forces stationed in another state is not subject to the Section 59-2-405.1 uniform fee at the time of registration or renewal of registration as long as the motor vehicle is kept in the other state.
- J. The situs of a motor vehicle or state-assessed commercial vehicle subject to the Section 59-2-405.1 uniform fee is determined in accordance with Section 59-2-104. Situs of purchased motor vehicles or state-assessed commercial vehicles shall be the tax area of the purchaser's domicile, unless the motor vehicle or state-assessed commercial vehicle will be kept in a tax area other than the tax area of the purchaser's domicile for more than six months of the year.

- 1. If an assessor discovers a motor vehicle or state-assessed commercial vehicle that is kept in the assessor's county but registered in another, the assessor may submit an affidavit along with evidence that the vehicle is kept in that county to the assessor of the county in which the vehicle is registered. Upon agreement, the assessor of the county of registration shall forward the fee collected to the county of situs within 30 working days.
- 2. If the owner of a motor vehicle or state-assessed commercial vehicle registered in Utah is domiciled outside of Utah, the taxable situs of the vehicle is presumed to be the county in which the uniform fee was paid, unless an assessor's affidavit establishes otherwise.
- 3. The Tax Commission shall, on an annual basis, provide each county assessor information indicating all motor vehicles and state-assessed commercial vehicles subject to state registration and their corresponding taxable situs.
- 4. Section 59-2-405.1 uniform fees received by a county that require distribution to a purchaser's domicile outside of that county shall be deposited into an account established by the Commission, pursuant to procedures prescribed by the Commission.
- 5. Section 59-2-405.1 uniform fees received by the Commission pursuant to J.4. shall be distributed to the appropriate county at least monthly.
- K. The blind exemption provided in Section 59-2-1106 is applicable to the Section 59-2-405.1 uniform fee.
- L. The veteran's exemption provided in Section 59-2-1104 is applicable to the Section 59-2-405.1 uniform fee.
- M. The value of motor vehicles and state-assessed commercial vehicles to be considered part of the tax base for purposes of determining debt limitations pursuant to Article XIII, Section 14 of the Utah Constitution, shall be determined by dividing the Section 59-2-405.1 uniform fee collected by 015
- N. The provisions of this rule shall be implemented and become binding on taxpayers beginning January 1, 1999.

R884-24P-61. 1.5 Percent Uniform Fee on Tangible Personal Property Required to be Registered with the State Pursuant to Utah Code Ann. Section 59-2-405.

- A. Definitions.
- 1. For purposes of Section 59-2-405, "motor vehicle" is as defined in Section 41-1a-102, except that motor vehicle does not include motorcycles as defined in Section 41-1a-102.
- 2. "Recreational vehicle" means a vehicular unit other than a mobile home, primarily designed as a temporary dwelling for travel, recreational, or vacation use, which is either self-propelled or pulled by another vehicle.
- a) Recreational vehicle includes a travel trailer, a camping trailer, a motor home, and a fifth wheel trailer.
- Recreational vehicle does not include a van unless specifically designed or modified for use as a temporary dwelling.
- B. The uniform fee established in Section 59-2-405 is levied against the following types of personal property, unless specifically excluded by Section 59-2-405:
- 1. motor vehicles that are not classified under Class 22 Passenger Cars, Light Trucks/Utility Vehicles, and Vans, in Tax Commission rule R884-24P-33;
 - 2. watercraft required to be registered with the state;
- 3. recreational vehicles required to be registered with the state; and
- all other tangible personal property required to be registered with the state before it is used on a public highway, on a public waterway, on public land, or in the air.
- C. The following classes of personal property are not subject to the Section 59-2-405 uniform fee, but remain subject to the ad valorem property tax:

- vintage vehicles;
 state-assessed commercial vehicles not classified under
 Passenger Cars, Light Trucks/Utility Vehicles, and
- Vans;
 3. any personal property that is neither required to be registered nor exempt from the ad valorem property tax;
- 4. machinery or equipment that can function only when attached to or used in conjunction with motor vehicles.
- D. The fair market value of tangible personal property subject to the Section 59-2-405 uniform fee is based on depreciated cost new as established in Tax Commission rule R884-24P-33, "Personal Property Valuation Guides and Schedules," published annually by the Tax Commission.
- E. Centrally assessed taxpayers shall use the following formula to determine the value of locally assessed personal property that may be deducted from the allocated unit valuation:
- 1. Divide the system value by the book value to determine the market to book ratio.
- 2. Multiply the market to book ratio by the book value of personal property registered in Utah and subject to Section 59-2-405 to determine the value of personal property that may be subtracted from the allocated unit value.
- F. If a property's valuation is appealed to the county board of equalization under Section 59-2-1005, the property shall become subject to a total revaluation. All adjustments are made on the basis of their effect on the property's average retail value as of the January 1 lien date and according to Tax Commission rule R884-24P-33.
- G. The county assessor may change the fair market value of any individual item of personal property in his jurisdiction for any of the following reasons:
- 1. The manufacturer's suggested retail price ("MSRP") or the cost new was not included on the state printout, computer tape, or registration card;
- 2. The MSRP or cost new listed on the state records was inaccurate; or
- 3. In the assessor's judgment, an MSRP or cost new adjustment made as a result of a property owner's informal request will continue year to year on a percentage basis.
- H. If the personal property is of a type subject to annual registration, the Section 59-2-405 uniform fee is due at the time the registration is due. If the personal property is not registered during the year, the owner remains liable for payment of the Section 59-2-405 uniform fee to the county assessor.
- 1. No additional uniform fee may be levied upon personal property transferred during a calendar year if the Section 59-2-405 uniform fee has been paid for that calendar year.
- 2. If the personal property is of a type registered for periods in excess of one year, the Section 59-2-405 uniform fee shall be due annually.
- 3. The personal property of a nonresident member of the armed forces stationed in Utah may be registered in Utah without payment of the Section 59-2-405 uniform fee.
- 4. Personal property belonging to a Utah resident member of the armed forces stationed in another state is not subject to the Section 59-2-405 uniform fee as long as the personal property is kept in another state.
- 5. Noncommercial trailers weighing 750 pounds or less are not subject to the Section 59-2-405 uniform fee or ad valorem property tax but may be registered at the request of the owner.
- I. If the personal property is of a type subject to annual registration, registration of that personal property may not be completed unless the Section 59-2-405 uniform fee has been paid, even if the taxpayer is appealing the uniform fee valuation. Delinquent fees may be assessed in accordance with Sections 59-2-217 and 59-2-309 as a condition precedent to registration.
- J. The situs of personal property subject to the Section 59-2-405 uniform fee is determined in accordance with Section 59-2-104. Situs of purchased personal property shall be the tax

- area of the purchaser's domicile, unless the personal property will be kept in a tax area other than the tax area of the purchaser's domicile for more than six months of the year.
- 1. If an assessor discovers personal property that is kept in the assessor's county but registered in another, the assessor may submit an affidavit along with evidence that the property is kept in that county to the assessor of the county in which the personal property is registered. Upon agreement, the assessor of the county of registration shall forward the fee collected to the county of situs within 30 working days.
- 2. If the owner of personal property registered in Utah is domiciled outside of Utah, the taxable situs of the property is presumed to be the county in which the uniform fee was paid, unless an assessor's affidavit establishes otherwise.
- 3. The Tax Commission shall, on an annual basis, provide each county assessor information indicating all personal property subject to state registration and its corresponding taxable situs.
- 4. Section 59-2-405 uniform fees received by a county that require distribution to a purchaser's domicile outside of that county shall be deposited into an account established by the Commission, pursuant to procedures prescribed by the Commission.
- 5. Section 59-2-405 uniform fees received by the Commission pursuant to J.4. shall be distributed to the appropriate county at least monthly.
- K. The blind exemption provided in Section 59-2-1106 is applicable to the Section 59-2-405 uniform fee.
- L. The veteran's exemption provided in Section 59-2-1104 is applicable to the Section 59-2-405 uniform fee.
- M. The provisions of this rule shall be implemented and become binding on taxpayers beginning January 1, 1999.

R884-24P-62. Valuation of State Assessed Unitary Properties Pursuant to Utah Code Ann. Section 59-2-201.

- A. Purpose. The purpose of this rule is to:
- 1. specify consistent mass appraisal methodologies to be used by the Property Tax Division (Division) in the valuation of tangible property assessable by the Commission; and
- 2. identify preferred valuation methodologies to be considered by any party making an appraisal of an individual unitary property.
 - B. Definitions:
- 1. "Cost regulated utility" means any public utility assessable by the Commission whose allowed revenues are determined by a rate of return applied to a rate base set by a state or federal regulatory commission.
- 2. "Fair market value" means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. Fair market value reflects the value of property at its highest and best use subject to regulatory constraints.
- use, subject to regulatory constraints.
 3. "Rate base" means the aggregate account balances reported as such by the cost regulated utility to the applicable state or federal regulatory commission.
- 4. "Unitary property" means operating property that is assessed by the Commission pursuant to Section 59-2-201(1)(a) through (c).
 - a) Unitary properties include:
- (1) all property that operates as a unit across county lines, if the values must be apportioned among more than one county or state; and
- (2) all property of public utilities as defined in Section 59-2-102.
- b) These properties, some of which may be cost regulated utilities, are defined under one of the following categories.
- (1) "Telecommunication properties" include the operating property of local exchange carriers, local access providers, long

distance carriers, cellular telephone or personal communication service (PCS) providers and pagers, and other similar properties.

- (2) "Energy properties" include the operating property of natural gas pipelines, natural gas distribution companies, liquid petroleum products pipelines, and electric corporations, including electric generation, transmission, and distribution companies, and other similar entities.
- (3) "Transportation properties" include the operating property of all airlines, air charter services, air contract services, including major and small passenger carriers and major and small air freighters, long haul and short line railroads, and other similar properties.
- C. All tangible operating property owned, leased, or used by unitary companies is subject to assessment and taxation according to its fair market value as of January 1, and as provided in Utah Constitution Article XIII, Section 2. Intangible property as defined under Section 59-2-102 is not subject to assessment and taxation.
- D. General Valuation Principles. Unitary properties shall be assessed at fair market value based on generally accepted appraisal theory as provided under this rule.
- 1. The assemblage or enhanced value attributable to the tangible property should be included in the assessed value. See Beaver County v. WilTel, Inc., 995 P.2d 602 (Utah 2000). The value attributable to intangible property must, when possible, be identified and removed from value when using any valuation method and before that value is used in the reconciliation process.
- 2. The preferred methods to determine fair market value are the cost approach and a yield capitalization income indicator as set forth in E.
- a) Other generally accepted appraisal methods may also be used when it can be demonstrated that such methods are necessary to more accurately estimate fair market value.
- b) Direct capitalization and the stock and debt method typically capture the value of intangible property at higher levels than other methods. To the extent intangible property cannot be identified and removed, relatively less weight shall be given to such methods in the reconciliation process, as set forth in E.4.
- c) Preferred valuation methods as set forth in this rule are, unless otherwise stated, rebuttable presumptions, established for purposes of consistency in mass appraisal. Any party challenging a preferred valuation method must demonstrate, by a preponderance of evidence, that the proposed alternative establishes a more accurate estimate of fair market value.
- 3. Non-operating Property. Property that is not necessary to the operation of unitary properties and is assessed by a local county assessor, and property separately assessed by the Division, such as registered motor vehicles, shall be removed from the correlated unit value or from the state allocated value.
 - E. Appraisal Methodologies.
- 1. Cost Approach. Cost is relevant to value under the principle of substitution, which states that no prudent investor would pay more for a property than the cost to construct a substitute property of equal desirability and utility without undue delay. A cost indicator may be developed under one or more of the following methods: replacement cost new less depreciation (RCNLD), reproduction cost less depreciation (reproduction cost), and historic cost less depreciation (HCLD).
- a) "Depreciation" is the loss in value from any cause. Different professions recognize two distinct definitions or types of depreciation.
- (1) Accounting. Depreciation, often called "book" or "accumulated" depreciation, is calculated according to generally accepted accounting principles or regulatory guidelines. It is the amount of capital investment written off on a firm's accounting records in order to allocate the original or historic cost of an asset over its life. Book depreciation is typically applied to historic cost to derive HCLD.

- (2) Appraisal. Depreciation, sometimes referred to as "accrued" depreciation, is the difference between the market value of an improvement and its cost new. Depreciation is typically applied to replacement or reproduction cost, but should be applied to historic cost if market conditions so indicate. There are three types of depreciation:
- (a) Physical deterioration results from regular use and normal aging, which includes wear and tear, decay, and the impact of the elements.
- (b) Functional obsolescence is caused by internal property characteristics or flaws in the structure, design, or materials that diminish the utility of an improvement.
- (c) External, or economic, obsolescence is an impairment of an improvement due to negative influences from outside the boundaries of the property, and is generally incurable. These influences usually cannot be controlled by the property owner or user.
- b) Replacement cost is the estimated cost to construct, at current prices, a property with utility equivalent to that being appraised, using modern materials, current technology and current standards, design, and layout. The use of replacement cost instead of reproduction cost eliminates the need to estimate some forms of functional obsolescence.
- c) Reproduction cost is the estimated cost to construct, at current prices, an exact duplicate or replica of the property being assessed, using the same materials, construction standards, design, layout and quality of workmanship, and embodying any functional obsolescence.
- d) Historic cost is the original construction or acquisition cost as recorded on a firm's accounting records. Depending upon the industry, it may be appropriate to trend HCLD to current costs. Only trending indexes commonly recognized by the specific industry may be used to adjust HCLD.
- e) RCNLD may be impractical to implement; therefore the preferred cost indicator of value in a mass appraisal environment for unitary property is HCLD. A party may challenge the use of HCLD by proposing a different cost indicator that establishes a more accurate cost estimate of value.
- 2. Income Capitalization Approach. Under the principle of anticipation, benefits from income in the future may be capitalized into an estimate of present value.
- a) Yield Capitalization. The yield capitalization formula is CF/(k-g), where "CF" is a single year's normalized cash flow, "k" is the nominal, risk adjusted discount or yield rate, and "g" is the expected growth rate of the cash flow.
- (1) Cash flow is restricted to the operating property in existence on the lien date, together with any replacements intended to maintain, but not expand or modify, existing capacity or function. Cash flow is calculated as net operating income (NOI) plus non-cash charges (e.g., depreciation and deferred income taxes), less capital expenditures and additions to working capital necessary to achieve the expected growth "g". Information necessary for the Division to calculate the cash flow shall be summarized and submitted to the Division by March 1 on a form provided by the Division.
 - (a) NOI is defined as net income plus interest.
- (b) Capital expenditures should include only those necessary to replace or maintain existing plant and should not include any expenditure intended primarily for expansion or productivity and capacity enhancements.
- (c) Cash flow is to be projected for the year immediately following the lien date, and may be estimated by reviewing historic cash flows, forecasting future cash flows, or a combination of both.
- i) If cash flows for a subsidiary company are not available or are not allocated on the parent company's cash flow statements, a method of allocating total cash flows must be developed based on sales, fixed assets, or other reasonable criteria. The subsidiary's total is divided by the parent's total to

derive the allocation percentage to estimate the subsidiary's cash flow.

- ii) If the subject company does not provide the Commission with its most recent cash flow statements by March 1 of the assessment year, the Division may estimate cash flow using the best information available.
- (2) The discount rate (k) shall be based upon a weighted average cost of capital (WACC) considering current market debt rates and equity yields. WACC should reflect a typical capital structure for comparable companies within the industry.
- (a) The cost of debt should reflect the current market rate (yield to maturity) of debt with the same credit rating as the subject company.
- (b) The cost of equity is estimated using standard methods such as the capital asset pricing model (CAPM), the Risk Premium and Dividend Growth models, or other recognized models.
- i) The CAPM is the preferred method to estimate the cost of equity. More than one method may be used to correlate a cost of equity, but only if the CAPM method is weighted at least 50% in the correlation.
- ii) The CAPM formula is $k(e) = R(f) + (Beta \ x \ Risk Premium)$, where k(e) is the cost of equity and R(f) is the risk free rate.
- a. The risk free rate shall be the current market rate on 20-year Treasury bonds.
- b. The beta should reflect an average or value-weighted average of comparable companies and should be drawn consistently from Value Line or an equivalent source. The beta of the specific assessed property should also be considered.
- c. The risk premium shall be the arithmetic average of the spread between the return on stocks and the income return on long term bonds for the entire historical period contained in the Ibbotson Yearbook published immediately following the lien date
- (3) The growth rate "g" is the expected future growth of the cash flow attributable to assets in place on the lien date, and any future replacement assets.
- (a) If insufficient information is available to the Division, either from public sources or from the taxpayer, to determine a rate, "g" will be the expected inflationary rate in the Gross Domestic Product Price Deflator obtained in Value Line. The growth rate and the methodology used to produce it shall be disclosed in a capitalization rate study published by the Commission by February 15 of the assessment year.
- b) A discounted cash flow (DCF) method is impractical to implement in a mass appraisal environment, but may be used to value individual properties.
- c) Direct Capitalization is an income technique that converts an estimate of a single year's income expectancy into an indication of value in one direct step, either by dividing the normalized income estimate by a capitalization rate or by multiplying the normalized income estimate by an income factor.
- 3. Market or Sales Comparison Approach. The market value of property is directly related to the prices of comparable, competitive properties. The market approach is estimated by comparing the subject property to similar properties that have recently sold.
- a) Sales of comparable property must, to the extent possible, be adjusted for elements of comparison, including market conditions, financing, location, physical characteristics, and economic characteristics. When considering the sales of stock, business enterprises, or other properties that include intangible assets, adjustments must be made for those intangibles.
- b) Because sales of unitary properties are infrequent, a stock and debt indicator may be viewed as a surrogate for the market approach. The stock and debt method is based on the

- accounting principle which holds that the market value of assets equal the market value of liabilities plus shareholder's equity.
- 4. Reconciliation. When reconciling value indicators into a final estimate of value, the appraiser shall take into consideration the availability, quantity, and quality of data, as well as the strength and weaknesses of each value indicator. Weighting percentages used to correlate the value approaches will generally vary by industry, and may vary by company if evidence exists to support a different weighting. The Division must disclose in writing the weighting percentages used in the reconciliation for the final assessment. Any departure from the prior year's weighting must be explained in writing.
- F. Property Specific Considerations. Because of unique characteristics of properties and industries, modifications or alternatives to the general value indicators may be required for specific industries.
 - 1. Cost Regulated Utilities.
- a) HCLD is the preferred cost indicator of value for cost regulated utilities because it represents an approximation of the basis upon which the investor can earn a return. HCLD is calculated by taking the historic cost less depreciation as reflected in the utility's net plant accounts, and then:
 - (1) subtracting intangible property;
- (2) subtracting any items not included in the utility's rate base (e.g., deferred income taxes and, if appropriate, acquisition adjustments); and
- (3) adding any taxable items not included in the utility's net plant account or rate base.
- b) Deferred Income Taxes, also referred to as DFIT, is an accounting entry that reflects the difference between the use of accelerated depreciation for income tax purposes and the use of straight-line depreciation for financial statements. For traditional rate base regulated companies, regulators generally exclude deferred income taxes from rate base, recognizing it as ratepayer contributed capital. Where rate base is reduced by deferred income taxes for rate base regulated companies, they shall be removed from HCLD.
- c) Items excluded from rate base under F.1.a)(2) or b) should not be subtracted from HCLD to the extent it can be shown that regulators would likely permit the rate base of a potential purchaser to include a premium over existing rate base.
 - 2. Railroads.
- a. The cost indicator should generally be given little or no weight because there is no observable relationship between cost and fair market value.

R884-24P-63. Performance Standards and Training Requirements Pursuant to Utah Code Ann. Section 59-2-406.

- A. The party contracting to perform services shall develop a written customer service performance plan within 60 days after the contract for performance of services is signed.
 - 1. The customer service performance plan shall address:
- a) procedures the contracting party will follow to minimize the time a customer waits in line; and
- b) the manner in which the contracting party will promote alternative methods of registration.
- 2. The party contracting to perform services shall provide a copy of its customer service performance plan to the party for whom it provides services.
- 3. The party for whom the services are provided may, no more often than semiannually, audit the contracting party's performance based on its customer service performance plan, and may report the results of the audit to the county commission or the state tax commissioners, as applicable.
- B. Each county office contracting to perform services shall conduct initial training of its new employees.
- C. The Tax Commission shall provide regularly scheduled training for all county offices contracting to perform motor vehicle functions.

Ann. Sections 59-2-1104 and 59-2-1106.

A. For purposes of Sections 59-2-1104 and 59-2-1106, taxable value of vehicles subject to the Section 59-2-405.1 uniform fee shall be calculated by dividing the Section 59-2-405.1 uniform fee the vehicle is subject to by .015.

R884-24P-65. Assessment of Transitory Personal Property Pursuant to Utah Code Ann. Section 59-2-402.

- A. "Transitory personal property" means tangible personal property that is used or operated primarily at a location other than a fixed place of business of the property owner or lessee.
- B. Transitory personal property in the state on January 1 shall be assessed at 100 percent of fair market value.
- C. Transitory personal property that is not in the state on January 1 is subject to a proportional assessment when it has been in the state for 90 consecutive days in a calendar year.
- 1. The determination of whether transitory personal property has been in the state for 90 consecutive days shall include the days the property is outside the state if, within 10 days of its removal from the state, the property is:
 - a) brought back into the state; or
- b) substituted with transitory personal property that performs the same function.
- D. Once transitory personal property satisfies the conditions under C., tax shall be proportionally assessed for the period:
- 1. beginning on the first day of the month in which the property was brought into Utah; and
- 2. for the number of months remaining in the calendar year.
- E. An owner of taxable transitory personal property who removes the property from the state prior to December and who qualifies for a refund of taxes assessed and paid, shall receive a refund based on the number of months remaining in the calendar year at the time the property is removed from the state and for which the tax has been paid.
- 1. The refund provisions of this subsection apply to transitory personal property taxes assessed under B. and C.
- 2. For purposes of determining the refund under this subsection, any portion of a month remaining shall be counted as a full month.
- F. If tax has been paid for transitory personal property and that property is subsequently moved to another county in Utah:
- 1. No additional assessment may be imposed by any county to which the property is subsequently moved; and
- No portion of the assessed tax may be transferred to the subsequent county.

R884-24P-66. Appeal to County Board of Equalization Pursuant to Utah Code Ann. Section 59-2-1004.

- A.1. "Factual error" means an error that is:
- a) objectively verifiable without the exercise of discretion, opinion, or judgment, and
 - b) demonstrated by clear and convincing evidence.
 - 2. Factual error includes:
- a) a mistake in the description of the size, use, or ownership of a property;
- b) a clerical or typographical error in reporting or entering the data used to establish valuation or equalization;
- c) an error in the classification of a property that is eligible for a property tax exemption under:
 - (1) Section 59-2-103; or
 - (2) Title 59, Chapter 2, Part 11;
- d) valuation of a property that is not in existence on the lien date; and
 - e) a valuation of a property assessed more than once, or by

the wrong assessing authority.

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- B. Except as provided in D., a county board of equalization shall accept an application to appeal the valuation or equalization of a property owner's real property that is filed after the time period prescribed by Section 59-2-1004(2)(a) if any of the following conditions apply:
- 1. During the period prescribed by Section 59-2-1004(2)(a), the property owner was incapable of filing an appeal as a result of a medical emergency to the property owner or an immediate family member of the property owner, and no coowner of the property was capable of filing an appeal.
- 2. During the period prescribed by Section 59-2-1004(2)(a), the property owner or an immediate family member of the property owner died, and no co-owner of the property was capable of filing an appeal.
- 3. The county did not comply with the notification requirements of Section 59-2-919(4).
- 4. A factual error is discovered in the county records pertaining to the subject property.
- 5. The property owner was unable to file an appeal within the time period prescribed by Section 59-2-1004(2)(a) because of extraordinary and unanticipated circumstances that occurred during the period prescribed by Section 59-2-1004(2)(a), and no co-owner of the property was capable of filing an appeal.
- C. Appeals accepted under B.4. shall be limited to correction of the factual error and any resulting changes to the property's valuation.
- D. The provisions of B. apply only to appeals filed for a tax year for which the treasurer has not made a final annual settlement under Section 59-2-1365.
- E. The provisions of this rule apply only to appeals to the county board of equalization. For information regarding appeals of county board of equalization decisions to the Commission, please see Section 59-2-1006 and R861-1A-9.

R884-24P-67. Information Required for Valuation of Low-Income Housing Pursuant to Utah Code Ann. Sections 59-2-102 and 59-2-301.3.

- A. The purpose of this rule is to provide an annual reporting mechanism to assist county assessors in gathering data necessary for accurate valuation of low-income housing projects.
- B. The Utah Housing Corporation shall provide the following information that it has obtained from the owner of a low-income housing project to the commission:
- 1. for each low-income housing project in the state that is eligible for a low-income housing tax credit:
- a) the Utah Housing Corporation project identification number;
 - b) the project name;
 - c) the project address;
 - d) the city in which the project is located;
 - e) the county in which the project is located;
- f) the building identification number assigned by the Internal Revenue Service for each building included in the project;
- g) the building address for each building included in the project;
 - h) the total apartment units included in the project;
- i) the total apartment units in the project that are eligible for low-income housing tax credits;
- j) the period of time for which the project is subject to rent restrictions under an agreement described in B.2.;
 - k) whether the project is:
 - (1) the rehabilitation of an existing building; or
 - (2) new construction;
 - 1) the date on which the project was placed in service;
- m) the total square feet of the buildings included in the project;

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- n) the maximum annual federal low-income housing tax credits for which the project is eligible;
- o) the maximum annual state low-income housing tax credits for which the project is eligible; and
 - p) for each apartment unit included in the project:
 - (1) the number of bedrooms in the apartment unit;
 - (2) the size of the apartment unit in square feet; and
- (3) any rent limitation to which the apartment unit is subject; and
- 2. a recorded copy of the agreement entered into by the Utah Housing Corporation and the property owner for the low-income housing project; and
- 3. construction cost certifications for the project received from the low-income housing project owner.
- C. The Utah Housing Corporation shall provide the commission the information under B. by January 31 of the year following the year in which a project is placed into service.
- D. 1. Except as provided in D.2., by April 30 of each year, the owner of a low-income housing project shall provide the county assessor of the county in which the project is located the following project information for the prior year:
 - a) operating statement;
 - b) rent rolls; and
 - c) federal and commercial financing terms and agreements.
- 2. Notwithstanding D.1., the information a low-income project housing owner shall provide by April 30, 2004 to a county assessor shall include a 3-year history of the information required under D.1.
- E. A county assessor shall assess and list the property described in this rule using the best information obtainable if the property owner fails to provide the information required under D

KEY: taxation, personal property, property tax, appraisals **December 18, 2003** Art. XIII, Sec 2 Notice of Continuation April 5, 2002 9-2-201 11-13-25 41-1a-202 41-1a-301 59-1-210 59-2-102 59-2-103 59-2-103.5 59-2-104 59-2-201 59-2-210 59-2-211 59-2-301 59-2-301.3 59-2-302 59-2-303 59-2-305 59-2-306 59-2-401 59-2-402 59-2-404 59-2-405 59-2-405.1 59-2-406 59-2-508 59-2-515 59-2-701 59-2-702 59-2-703 59-2-704 59-2-704.5 59-2-705 59-2-801 59-2-918 through 59-2-924

59-2-1002 59-2-1004 59-2-1005 59-2-1006 59-2-1101 59-2-1102 59-2-1104 59-2-1106 59-2-1107 through 59-2-1109 59-2-1113 59-2-1202 59-2-1202(5) 59-2-1302 59-2-1303 59-2-1317 59-2-1328 59-2-1330 59-2-1347 59-2-1351

R907. Transportation, Administration.

R907-64. Longitudinal and Wireless Access to Interstate Highway Rights-of-Way for Installation of Telecommunications Facilities.
R907-64-1. Purpose.

The purpose of this rule is to implement a program for facilitating longitudinal access and wireless access to interstate highway rights-of-way to provide for the installation, operation and maintenance of wireline and wireless telecommunications facilities in the rights-of-way. This rule recognizes the importance of quality of infrastructure of the Interstate System and that the safety and convenience of users of the Interstate System must be preserved to the greatest extent possible. Compatible with this principle, the rule also permits the use of the rights-of-way of the Interstate System for telecommunications facilities that support Federal and State laws that encourage competition in telecommunications services and the deployment of advanced telecommunications The Department shall, through designated technologies. personnel, facilitate such installations and maintenance of such facilities, which comply with the criteria established by this rule.

R907-64-2. Authority.

Subsection 72-7-108(2)(a) states that, except as provided in Subsection (4), the Department may allow a Telecommunication Facility Provider longitudinal access to the right-of-way of a highway on the Interstate System for the installation, operation, and maintenance of Telecommunication Facility.

R907-64-3. Definitions.

- (1) "Department" means the Department of Transportation.
- (2) "Clear Zone" means the total roadside border area, starting at the edge of the traveled way, available for safe use by errant vehicles. The width of the clear zone is dependent upon the traffic volumes, speeds and the roadway geometry.
- (3) "Interstate System" means any existing or future highway included as a part of the national system on interstate and defense highways, as provided in the Federal Aid Highway Act of 1956 and any supplemental or amendatory acts, and which primarily consist of Interstate Highways I-15, I-215, I-70, I-80, and I-84.
- (4) "Longitudinal access" means access to or use of any part of a right-of-way of a highway on the Interstate System that extends generally parallel to the right-of-way for a total of 30 or more linear meters.
- (5) "Permit" means a document issued by the Department of Transportation to a Telecommunications Facility Provider which specifies the requirements and conditions under which longitudinal or wireless access to highway right-of-way of the Interstate System shall be allowed.
- (6) "Right-of-way" means real property or an interest in real property, usually in a strip, acquired for or devoted to a highway.
- (7) "Telecommunication Facility" means any telecommunication cable, line, fiber, wire, conduit, innerduct, access manhole, handhole, tower, pedestal, pole, box, transmitting equipment, receiving equipment, power equipment or other equipment, system and device used to transmit, receive, produce or distribute via wireless, wireline, electronic, or optical signal for communication purposes.
- (8) "Telecommunications Facility Provider" means any owner or operator of a Telecommunication Facility.
- (9) "Utility" includes telephone, wireline and wireless, gas, electricity, cable television, water, and sewer transmission lines, drainage and irrigation systems, and other similar utilities located in, on, along, across, over, through, or under any highway of the State Highway System.
 - (10) "Wireless access" means access to and use of any part

of a right-of-way or rights-of-way on, any highway of the Interstate System for the purpose of constructing, installing, maintaining, using and operating Telecommunication Facilities for wireless telecommunications.

R907-64-4. Access Policy.

- (1) Telecommunication facility accommodations on the Interstate System shall comply with the federal utilities accommodations policies set forth in 23 CFR 645 (1997): "It is in the public interest for utility facilities to be accommodated on the right-of-way when such use and occupancy of the highway right-of-way do not adversely affect highway or traffic safety, or otherwise impair the highway or its aesthetic quality, and do not conflict with the provisions of Federal, State or local laws or regulations."
- (2) The Department also acknowledges that recent Federal and State Legislation, primarily the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 70 (Feb. 8, 1996) and Utah Code Section 54-8b-1, encourage competition in the provision of telecommunications services, and the development and deployment of advanced telecommunication technologies, infrastructure, and networks. These legislative initiatives in turn have increased demand for rights-of-way, including highway rights-of-way, for the installation of Telecommunication Facilities necessary to support increased competition and deployment of an advanced telecommunication infrastructure.
- (3) The Department also recognizes that longitudinal access and wireless access for Telecommunication Facilities may be provided without compromising highway integrity, safety, normal highway operation or maintenance activities, while contributing to the deployment and efficient operation of intelligent transportation systems.
- (4) Therefore, effective on or after August 17, 1999, the Department may allow longitudinal access and wireless access on highways of the Interstate System for placement, construction, installation, maintenance, repair, use, operation, replacement and removal of Telecommunication Facilities, as authorized by Utah Code Section 72-7-108 and subject to compliance with this rule. This rule applies only to longitudinal access and wireless access for Telecommunication Facilities on rights-of-way within the Interstate System and does not alter the existing policy concerning other Utilities on interstate rights-of-way, or for accommodating Utilities on other facilities under the jurisdiction of the Department.

R907-64-5. Limitations and Conditions.

- (1) Longitudinal and wireless access of Telecommunication Facilities shall be permitted only as approved by the Executive Director or designee in accordance with the criteria and procedures set forth in this rule.
- (2) Occupancy by longitudinal access or wireless access shall comply with, and produce no significant compromise of, the following factors:
 - (a) highway safety requirements of federal and state law;
- (b) written policy and agreements adopted by the Department;
- (c) safe use of highways in the Interstate System by the traveling public;
- (d) prudent use and management of the Interstate System and its rights-of-way;
 - (e) highway design;
 - (f) highway construction;
 - (g) highway operational and/or technical capacity;
 - (h) highway maintenance or stability;
 - (i) future expansion of the Interstate System;
 - (j) physical environmental features; and
- (k) physical capacity of the right-of-way to accommodate longitudinal access.
 - (3) In the interest of safety and preservation of the

highway facility and pavement structure, the placement, installation, maintenance, repair, use, operation, replacement and removal of Telecommunications Facilities with longitudinal access or wireless access to the Right-of-way of the Interstate System shall be accommodated only when in compliance with the "MANUAL FOR ACCOMMODATION OF UTILITIES AND THE CONTROL AND PROTECTION OF STATE HIGHWAY RIGHTS OF WAY," as adopted by rule (Rule 930-6), and with 23 CFR 645 (1997), Subpart B, "Accommodation of Utilities."

- (a) The location of all Telecommunication Facilities, whether above ground or below ground installations, including towers, pedestals, poles and boxes, within the highway right-ofway of the Interstate System shall be as set forth in the permit and/or the negotiated agreement between the Telecommunications Facility Provider and the Department. Telecommunications Facilities shall avoid: (a) use of through traffic roadways, lanes and ramps for construction, inspection, testing or maintenance activities; (b) placement of facilities within the median strip; (c) placement of facilities in a nonuniform alignment; (d) placement of facilities in places other than at or adjacent to the Right-of-way line and beyond the recovery or clear zone area; or (e) placement of facilities within the clear zone of through-traffic roadways, lanes or ramps. The Executive Director or designee is authorized to grant variances from the Manual and guidelines on a case-by-case basis. Variances will not be granted if, in the opinion of the Executive Director or designee, they create unacceptable risks of significant compromise of any factor listed in Subsection R907-64-5(2) of this rule.
- (4) The Department may consider financial and technical qualifications of telecommunication facility providers, and specify insurance requirements for contractors authorized to enter Interstate System rights-of-way to construct, install, inspect, test, maintain or repair Telecommunication Facilities with longitudinal access or wireless access. During each period that the Department authorizes longitudinal access or wireless access for construction and installation, the Department may require approved Telecommunication Facility Providers to install Telecommunication Facilities into the same general location on the Interstate System; coordinate their planning and work; install in a joint trench; and equitably share costs.
- (5) The Department shall manage and administer access to rights-of-way of the Interstate System in compliance with 47 U.S.C. 253 (1999).

R907-64-6. Compensation.

- (1) The Department shall require compensation from a Telecommunication Facility Provider under the provisions of Section 72-7-108 for longitudinal access or other use within the Right-of-way of the Interstate System consistent with the rate schedule adopted by the Department through rulemaking.
- (2) Until the rate schedule has been formally adopted pursuant to Title 63, Chapter 46a, Utah Administrative Rulemaking Act, all agreements are subject to modification to comply with the rate schedule.

R907-64-7. Permits and Agreements.

(1) In accordance with 23 CFR 645 (1997), subpart B, "Accommodations of Utilities," the Utah Code Section 72-6-116 "Regulation of Utilities-Relocation of Utilities," and Rule R930-6, which is described in the Department's "Manual for Accommodation of Utilities and the Control and Protection of State Highway Rights of Way," a Telecommunication Facility Provider shall be required to complete and sign an agreement with the Department prior to obtaining a permit for construction or installation of Telecommunication Facilities in the Right-of-way. Based on the statements of interest, if any, received by the Department in response to its advertisements of intent to

- consider opening highway segments in the Interstate System for construction and installation of Telecommunication Facilities, as provided for in Subsections R907-64-8(3) and (4) of this rule, the Department shall determine within 30 days of the deadline for the receipt of such statements of interest, whether to open such segments for such use. If the Department decides to open such segments of the Interstate System for construction and installation of Telecommunication Facilities, it shall notify each Telecommunication Facility Provider which filed a statement of interest of such decision in writing and direct them to file with the Office of the Deputy Director an application, as modified by the Department from time to time, for a permit for longitudinal access or wireless access on rights-of-way in the Interstate System. The Department shall also specify the deadline for the filing of such permit applications.
- (2) The Department will review each permit application within 30 working days following receipt thereof, in accordance with the criteria set forth in this rule. The review process will begin only when the Telecommunication Facility Provider(s) submits a complete permit application, including all documentation, as required in the "Manual for Accommodation of Utilities and the Control and Protection of State Highway Rights-of-Way," Rule R930-6. No later than the end of the 30 working day review period, the Department will either: (a) issue to the Telecommunications Facility Provider a written notice that the permit application is accepted for the negotiation of an agreement for the construction and installation of Telecommunication Facilities in the right-of-way segment, or (b) issue to the Telecommunication Facility Provider a written denial of the permit application, together with the specific reasons why the permit application was not approved, based on the criteria set forth in this rule. If the Telecommunication Facility Provider's permit application has been accepted for negotiation of an agreement, the Department shall commence such negotiations not later than five working days after the date of such notice of acceptance and shall proceed in a diligent manner to favorably conclude such negotiations, to execute the Department's standard form agreement with negotiated modifications necessary to accommodate the unique needs of each project, and to issue a permit for the construction and installation of Telecommunication Facilities in the right-of-way segment.
- (3) Each agreement and permit shall comply with the contracting requirements listed or incorporated herein and authorize longitudinal access or wireless access only for the shorter of: (a) the time period requested by the Telecommunications Facility Provider, or (b) 30 years. Telecommunication Facility Providers shall be given every reasonable opportunity to renew any and all agreements and permits following the expiration of the term, provided that new mutually acceptable agreements are entered into between the Department and the Telecommunication Facility Providers.
- (4) No permit shall be issued prior to an agreement having been reached between the Department and Telecommunication Facility Providers. Failure of the parties to reach agreement shall cause longitudinal access to be denied and no permit shall be issued.

R907-64-8. Limited, Periodic Opportunities for Installation for Longitudinal Access.

(1) In order to minimize adverse impacts to rights-of-way and related highway facilities and pavement structures within the Interstate System and to avoid significant compromise of the safe, efficient and convenient use of the Interstate System for the traveling pubic, advertising for longitudinal access for constructing and installing Telecommunication Facilities in any particular segment of such Rights-of-Way shall be limited in frequency to once every 18 months, except that the Executive Director or designee may permit construction and installation of

Telecommunications Facilities with longitudinal access more frequently than once every 18 months, based on factors in Section 64-5(2) of this rule.

- (2) the 18 month period shall begin on the date of the Department's formal notice of intent to open access to any highway segment in the Interstate System which has been noticed.
- (3) When exercising the discretion to permit construction and installation of Telecommunications Facilities with longitudinal access to the Interstate System, the Executive Director or his or her designee shall consider all factors relevant
- blictor of his of her designed shart consider an factor selevant to the Department's policy with respect to utility accommodations as expressed in this rule, including the safe, effective, efficient use of highways in the Interstate System by the traveling public, impacts on the Interstate System's operational capacity, and prudent economic management of the Interstate System. The Department may perform capacity surveys of the Interstate System rights-of-way to assure that longitudinal access is feasible prior to opening any segment of the Interstate System to longitudinal access for new or additional Telecommunication Facilities.
- (4) The Department will advertise intent to consider opening highway segments in the Interstate System to provide opportunities for constructing and installing Telecommunications Facilities for longitudinal access and wireless access, by one or more of the following means; provided, however, that Telecommunication Facility Providers who have been granted a certificate of convenience and necessity by the Public Service Commission of Utah shall be given actual notice by mail:
- (a) Publication of the intent notice for not less than five consecutive days in a newspaper of national circulation;
- (b) Publication of the intent notice for not less than five consecutive days in a newspaper of statewide circulation;
- (c) Publication of notices of the intent in the calendar or other regular publications of the Department and/or those of other state agencies or Departments; or
- (d) Press or news releases from the Department to newspapers, magazines, periodicals, or telecommunications industry publications.
- (5) Advertisements and notices of intent to consider opening highway segments for constructing and installing Telecommunications Facilities in Interstate System highway rights-of-way whether for longitudinal access or wireless access, shall contain all of the following:
- (a) A description of the segment or segments of the Interstate System for which longitudinal access for the installation and construction of Telecommunications Facilities are proposed;
- (b) A deadline that is not less than 30 days from the first date of publication or release of an advertisement or notice of intent to consider opening, as described above in Subsection (3), for the filing of statements of interest with the office of the Deputy Director by Telecommunications Facility Providers regarding their interest in installing and constructing Telecommunications Facilities in one or more specified highway segments of the Interstate System; and
- (c) The required contents of the statements of interest, to be filed in response to the advertisements or notices, shall include the identity of the interested party, the financial and technical qualifications of the interested party, and any other information specified by the Department in the advertisement or notice.
- (6) Statements of interest received by the Department shall be processed in accordance with the requirements set forth herein. Based on its review of the statements of interest received, the Department will notify those Telecommunication Providers who submitted statements of interest of its intent to open one or more of the highway segments advertised within 30

days. This notice will include instructions to initiate the permitting process as specified in "Manual for Accommodation of Utilities and the Control and Protection of State Highway Rights-of-Way," (Rule R930-6).

(7) The Department may enter into negotiations with one or more of the interested parties filing Statements of Interest toward the execution of an agreement or agreements and permits required under Section R907-64-7 above. After executing an agreement and permit, each telecommunications facility provider shall file them with the office of the Deputy Director.

R907-64-9. Removal and Relocation.

Pursuant to Subsection 72-7-108(c)(v), the Department shall require the removal and/or relocation of Telecommunication Facilities located on the Interstate System when highway changes are required to provide for the free and safe flow of traffic at the Telecommunication Facility Provider's expense. If prudent management of the interstate highway rights-of-way demand, The Department may require removal and/or relocation of such Telecommunication Facilities upon expiration or earlier termination of the permit or other agreements at the Telecommunication Facility Provider's expense, in accordance with applicable law.

KEY: right-of-way, interstate highway system August 17, 1999 72-1-201 Notice of Continuation January 5, 2004 72-6-116

R907. Transportation, Administration.

R907-65. Compensation Schedule for Longitudinal Access to Interstate Highway Rights-of-Way for Installation of Telecommunications Facilities.

R907-65-1. Purpose.

The purpose of this rule is to implement a compensation schedule for longitudinal access to the rights-of-way of the interstate system for installation and operation of telecommunications facilities. This Rule establishes the methodology and schedules for charging compensation in accordance with Subsection 72-7-108(3)(b). Subsection 72-7-108(3)(b) requires that the compensation be:

fair and reasonable;

competitively neutral;

nondiscriminatory;

open to public inspection;

established to promote access by multiple telecommunication facility providers;

established for zones of the state, with zones determined based upon factors that include population density, distance, numbers of telecommunication subscribers, and the impact upon private right-of-way users;

established to encourage the deployment of digital infrastructure within the state.

R907-65-2. Authority.

Subsection 72-7-108(3)(c) states that the department shall establish a schedule of rates of compensation for longitudinal access granted under that section, and shall do so beginning October 1, 1999, and in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

R907-65-3. Background.

The department has conducted an analysis of right-of-way values for the interstate system using current market data on (1) Utah real property values differentiated by location (northern Utah (Salt Lake City/surrounding counties), central Utah (Provo/surrounding counties), and southern Utah (Cedar City/St. George/surrounding counties), population density (urban, rural) and land use (residential, commercial, industrial, agriculture) and (2) appraisal values from department land acquisitions. These data were applied to fifteen right-of-way segments of the interstate system that the department defined based on various factors, including but not limited to location, similarity of land use, population density and number of telecommunications subscribers. Segment land values were then calculated based on the relevant "across-the-fence" property values and the following core assumptions:

Land needed for longitudinal installations of telecommunications facilities, including a buffer zone, will generally be 6 feet in width.

Values for preassembled right-of-way for longitudinal access are 200% of values for non-assembled right-of-way.

Values for underground use of right-of-way for longitudinal access are 50% of values for ground level and aboveground use.

Upper and lower bound real property values establish a valuation range for each segment. Point estimates of segment land values are calculated at the 30th percentile within this range.

Segment land values (reported in \$/ft²) are converted to \$/mile using the following formula:

Segment land value (\$\forall mile) = Segment land value (\$\forall ft^2) x 5,280 ft/mile x easement width (6 ft).

The fifteen segments were then grouped into five zones based on similarities in segment attributes and values. For example, the rural segments of I-15, I-70 and I-84 were grouped to create zone 1, while the urban segment of I-15 traversing Salt Lake City was grouped with I-215 to create zone 5. Similar

groupings make up zones 2, 3 and 4. Through this process, the department defined five zones with a weighted average land value for each zone.

The department then determined annual lease valuation, as a rate of return on the land values for each zone, using current market data. The department determined that a 10% annual rate of return on investment represents a fair and reasonable compensation rate in current market conditions.

The department also received and considered recommendations on rates of compensation from the Utility in Highway Rights-of-Way Task Force pursuant to Section 6(2)(a) of S. B. 150.

R907-65-4. Definitions.

The definitions of terms in R907-64-3 apply to the same terms used in this Rule. This Rule uses the following additional defined terms:

- (1) "Land value" means the fair market value of land within the right-of-way of the interstate system as determined by the department under the core assumptions set forth in R907-65-3 and established for compensation purposes under R907-65-6.
- (2) "Rate of return" means the annual rate of return on investment, using land value, as determined by the department and established for compensation purposes under R907-65-7.
- (3) "Zone" means a group of right-of-way segments of the interstate system as determined by the department and established for compensation purposes under R907-65-5.

R907-65-5. Compensation Zones.

- (1) Five zones of the State are established for purposes of determining land values and compensation rates for longitudinal access to the right-of-way of the interstate system.
 - (2) The five zones are:
- Zone 1 Segments traversing primarily rural, agricultural areas with low population density. The two primary segments in this zone are located south of Provo, extending to Arizona along I-15 and to Colorado along I-70. This zone also includes shorter segments of I-80 and I-84 bounded by the Wyoming and Nevada State lines respectively. Approximately 90% of this zone borders agricultural land.
- Zone 2 Segments traversing primarily sub-rural areas with low population density. Segments in this zone are located in the north-central, north-eastern and north-western regions of the State. Land usage is primarily agricultural (approximately 75%), with light pockets of industrial, commercial, and residential land usage.
- Zone 3 Segments traversing sub-rural/suburban land around the State's metropolitan areas with medium population density. Segments in this zone are located outside the Salt Lake City metropolitan area. Land usage is mixed; while agriculture still makes up the largest proportion of land usage, about one-third of the land is residential, and slightly less than one-third is commercial and industrial.
- Zone 4 Segments traversing suburban/urban areas with medium/high population density. Segments in this zone run on a north-south route on I-15 through the Salt Lake City metropolitan area. Land usage in this zone is mixed, with the greatest proportion categorized as industrial, followed by residential, then commercial, and small pockets of agricultural usage.
- Zone 5 Segments traversing the densely populated urban areas. Segments in this zone are located in and around Salt Lake City. Nearly half is categorized as residential, and the rest is split between industrial and commercial usage, with very small pockets of agricultural usage.
- (3) The existing right-of-way of the interstate system is placed into the five zones as set forth in Table 1. Whenever new right-of-way is added to the interstate system, the department shall modify Table 1 to classify the new right-of-

way into the applicable zone or zones and publish the modified Table 1.

(4) At least once every five years the department shall conduct an analysis to determine changes, if any, in the boundaries of zones based on demographic and market data, including but not limited to data on similarity of surrounding land uses, population density, distances and number of telecommunications subscribers. The department shall publish a modification to Table 1 whenever zone boundaries are changed.

TABLE 1 Compensation Zones

Zone/Segment	Reference Post (from to)	Mileage
Zone 1 I-15: Payson South Int. to Arizona I-84: Tremonton to Idaho I-80: Wyoming to Silver Creek Int. I-70: Entire Route	43 0	575 252 43 50 230
Zone 2 I-15: Idaho to Weber-Box Elder Co. Line	404 354	212 50
I-15: Springville Int. to Payson South Int. I-84: Echo to SR-89 I-84: SR-89 to I-15 I-80: Magna Int. to Nevada	263 252 120 88 88 81 112 0	11 32 7 112
Zone 3 I-15: Weber-Box Elder Co. Line to		50
Parish Lane Int. I-80: Silver Creek Int. to Mouth	354 323	31
of Parley's Canyon	148 129	19
Zone 4 I-15: Parish Lane Int. to Salt		60
I-15: Parish Lane Int. to Sait Lake-Utah Co. Line I-15: Salt Lake-Utah Co. Line to Springville Int.	323 288	35
	288 263	25
Zone 5		47
I-80: Mouth of Parley's Canyon to Magna Int. I-215: Entire Route	129 112 0 30	17 30

R907-65-6. Land Values.

- (1) Land values for longitudinal access for telecommunications facilities are established, by zone, as set forth in Table 2. Whenever new right-of-way is added to the interstate system and a zone or zones are established for such new right-of-way under R907-65-5(3), the land value for such zone or zones set forth in Table 2 shall apply to such new right-of-way
- (2) At least once every five years, the department shall conduct a market analysis to determine the fair and reasonable values of the right-of-way of the interstate system for longitudinal access for telecommunications facilities. The department shall determine this value for each zone. The department shall publish a modification to Table 2 whenever the department completes a market analysis and determines that values of the right-of-way have changed.
- (3) In determining land values, the department shall disregard any circumstance in which the department's interstate right-of-way is the only viable alternative for installing and operating telecommunications facilities between relevant geographic markets. The department shall adjust such values to those which would exist if another viable alternative existed for installing and operating comparable telecommunications facilities such that the department would not possess monopolistic market power in the subject location.

TABLE 2
Land Values (\$/mile)

Zone	Miles in Zone	Weighted Average Land Value
Zone 1 Zone 2 Zone 3 Zone 4 Zone 5	575 212 50 60 47	\$8,000 \$22,000 \$48,000 \$80,000 \$124,000

R907-65-7. Rate of Return.

- (1) An annual rate of return on land value of 10% is established for purposes of determining annual compensation rates for longitudinal access to the right-of-way of the interstate system.
- (2) At least once every five years the department shall conduct an analysis to determine changes, if any, in the rate of return based on market data. The department shall publish a modification to the rate of return whenever the department completes a market analysis and determines that market rate of return has changed.

R907-65-8. Base Compensation Schedule.

- (1) The department shall charge compensation for longitudinal access for telecommunications facilities so that the department receives, on an annual basis, the rate of return on the value of land in each zone established under this Rule which is utilized for overhead, surface or underground installations of telecommunications facilities, subject to adjustment under R907-65-10 and potential discount under R907-65-11.
- (2) The compensation charged shall be set forth in the agreement between the department and the telecommunications facility provider pursuant to R907-64.
- (3) The annual compensation to be paid by each telecommunications facility provider which enters into an agreement with the department for longitudinal access shall be determined under the following formulas:

Land values by zone are translated into annual compensation rates (\$/mile) using the following formula:

Annual compensation rate per zone (\$/mile) = zonal land value (\$/mile)(from Table 2) x rate of return (currently 10%)

Total annual compensation shall then be calculated as follows:

Total annual compensation per zone = annual compensation rate per zone (\$\frac{\\$}{\}mile\}) x # of miles accessed.

For telecommunications facility providers seeking a route that accesses multiple zones, the above calculations shall be made for each zone then summed to calculate total annual compensation for the requested access route.

R907-65-9. Compensation for Use of Department Conduit.

- (1) The land values set forth in Table 2 (and therefore the annual base compensation amounts) do not include the value of any spare conduit which the department owns. The department is authorized to offer use of and access to its spare conduit to telecommunications facility providers, provided the department determines the spare conduit is not and will not be needed for highway purposes and the department receives additional compensation for the use of and access to the spare conduit.
- (2) Such additional compensation shall be fair and reasonable to the department and the telecommunications facility provider and shall be charged in a competitively neutral and nondiscriminatory manner to all similarly situated telecommunications facility providers. The department shall establish the amount of compensation for use of and access to the department's spare conduit by zone.
- (3) Such additional compensation shall be subject to adjustment annually in the same manner as provided in R907-65-10.
- (4) At least once every five years the department shall conduct an analysis to determine changes, if any, in the value of its spare conduit. Whenever the department completes a market analysis and determines that value of its spare conduit has

changed, the department shall apply its new values to each agreement thereafter executed by the department.

R907-65-10. Adjustments to Base Compensation Schedule for Annual Payments.

- (1) The base compensation schedule for each calendar year after a year in which the department determines land values under R907-65-6 shall be adjusted effective January 1 of each such calendar year (each an "adjustment date"). The adjustment shall be calculated by multiplying the base compensation amount for the immediately preceding calendar year by a fraction. The numerator of the fraction shall be the "All Items, Consumer Price Index for All Urban Consumers (CPI-U) for the West (1982-84=100)," reported by the U.S. Department of Labor, Bureau of Labor and Statistics (BLS), published for the month of September immediately preceding the adjustment date in question. The denominator of the fraction shall be such index published for the next preceding month of September. The adjustment may result in an increase or decrease in the base compensation schedule.
- (2) If the methodology for determining the index is changed by the issuer of the index, the department shall convert the index in accordance with the conversion factor published by the issuer of the index. If the index is discontinued or changed so that it is not practical to obtain a continuous measurement of price changes, the department shall replace the index with a comparable governmental index and apply the index chosen to all agreements which require annual adjustment to the base compensation.
- (3) Except as provided in R907-65-11, each agreement for longitudinal access to the right-of-way of the interstate system with telecommunications facilities providers shall require that the rates of compensation during the first calendar year of the term of the agreement equal the base compensation schedule determined for that calendar year under this Rule (prorated if the term begins after January 1), taking into account any adjustments under R907-65-10(1).
- (4) Except as provided in R907-65-11, each agreement for longitudinal access to the right-of-way of the interstate system with telecommunications facilities providers shall require an adjustment in the annual base compensation effective January 1 of each subsequent calendar year of the term (prorated for the last year of the term if it ends before December 31). The adjustment shall be calculated by multiplying the base compensation amount for the immediately preceding calendar year (annualized for partial calendar years during the term) by the fraction described in R907-65-10(1).
- (5) It is the intent of this Rule that revisions to the base compensation schedule resulting from re-analysis of market conditions by the department pursuant to R907-65-5(4), R907-65-6(3), R907-65-7(2) and R907-65-9(4) shall apply only to agreements executed after the department completes and issues its revisions, and shall not apply to agreements executed prior to the revision. It also is the intent of this Rule that annual adjustments to the base compensation schedule due to inflation or deflation pursuant to R907-65-10(1) shall apply to every agreement under which annual compensation payments are required.

R907-65-11. Compensation Prior to Construction of Telecommunications Facilities.

(1) The department may charge compensation for the period of time between execution of the agreement and completion of construction at rates which are discounted from the full annual compensation rates determined under R907-65-8, R907-65-9 and R907-65-10 including no compensation prior to commencement of construction. The department also may agree to the phasing of projects into clearly identified phases, with the compensation schedule structured based on the construction

commencement and/or completion dates for each phase.

(2) If the department elects to discount compensation rates, it shall do so in a competitively neutral and nondiscriminatory manner for all similarly situated telecommunication facility providers.

R907-65-12. Lump Sum Monetary Compensation.

- (1) The department is authorized to enter into agreements for longitudinal access to the right-of-way of the interstate system with telecommunications facility providers which offer, in lieu of annual compensation, one or more lump sum payments of monetary compensation. The agreement shall set forth the lump sum payment or payments due.
- (2) Lump sum payments shall be calculated to be equivalent, on a present value basis, to annual compensation payments which would be required under R907-65-8, R907-65-9, R-907-65-10 and R907-65-11 over the same time period as that covered by each lump sum payment.
- (3) For purposes of determining lump sum monetary compensation for longitudinal access to the right-of-way of the interstate system, the department shall use a discount rate equal to the yield (in percent per annum) on Moody's seasoned Aaa Corporate Bonds, as reported by the Federal Reserve Board through the Federal Reserve Statistical Release. The yield on Moody's Aaa Corporate Bonds reported for the first full month immediately prior to the date an agreement for lump sum monetary compensation is executed by the department shall be the discount rate applied for purposes of determining the amount of such lump sum monetary compensation.
- (4) Each telecommunications facility provider which is to pay monetary compensation shall have the right to choose whether to pay it in one lump sum determined according to this Rule R907-65-12 or to pay it in annual installments. Unless the department otherwise agrees in writing, this choice shall be made before the agreement is signed, and the agreement shall set forth the choice made.

R907-65-13. In-Kind Compensation.

- (1) The department is authorized to enter into agreements for longitudinal access to the right-of-way of the interstate system with telecommunications facility providers which offer, in lieu of or in addition to monetary compensation, in-kind compensation. In-kind compensation may include, without limitation, delivery to the department for its own uses and purposes of conduit, innerduct, dark fiber, access points, telecommunications equipment, telecommunications services, bandwidth and other telecommunications facilities. The agreement shall set forth the in-kind compensation.
- (2) The department shall determine the present value of the in-kind compensation according to the methods set forth in R907-65-12. The department shall prepare an analysis setting forth its valuation at or before the time it executes the agreement. The valuation analysis need not be included in the agreement.
- (3) The department shall value the in-kind compensation as follows:
- (a) Facilities for Department Use Only. Electronic equipment, conduit, fiber and other telecommunications hardware and software contributed to the department shall be valued on a present value basis at the estimated, reasonable cost to the telecommunications facility provider of procuring and installing the same.
- (b) Joint Trenching. The present value of the estimated, reasonable cost to the telecommunications facility provider of joint trenching for placing conduit, fiber and other facilities of both the provider (and its customers) and the department shall be proportionately allocated to the department as a component of the present value of the in-kind compensation. The proportion allocated to the department shall equal the total

estimated, reasonable cost of the trenching work multiplied by a fraction. The numerator of the fraction shall equal the amount of conduit and innerduct space to be contributed to the department under the agreement. The denominator of the fraction shall equal the total amount of conduit space the telecommunications facility provider is authorized to install under the agreement. Single duct conduit space shall be measured using the planned diameter of the conduit. Multi-duct conduit space shall be measured by summing the planned diameters of each innerduct in the conduit.

- (c) Other Jointly Used Facilities. The present value of the estimated, reasonable cost to the telecommunications facility provider of providing any other telecommunications facility which is shared jointly by the provider and the department shall be proportionately allocated to the department as a component of the present value of the in-kind compensation. The department shall determine the proportion to be allocated to the department based on the percentage of use or benefit to which each party will be entitled under the agreement.
- (d) Warranties; Maintenance and Operating Covenants. The department shall determine the present value of equipment warranties, warranties of conduit, fiber or other components, software warranties, maintenance covenants and operating covenants based on the reasonable, estimated cost of purchasing such warranties, maintenance and operating contracts from manufacturers or other third parties (if not already included in the cost to purchase the equipment, conduit, fiber, other components or software).
- (e) Summation of In-Kind Values. The total present value of the in-kind compensation shall be the sum of the present values determined under subsections (a) through (d) above.
- (4) The department shall require annual or lump sum monetary compensation (determined according to the methods set forth in R907-65-12), in addition to the in-kind compensation, if the present value of the in-kind compensation is less than the present value of the annual monetary compensation the department would require over the term of the agreement under R907-65-8, R907-65-9, R907-65-10 and R907-65-11. The amount of the annual or lump sum monetary compensation shall be the difference in such present values.
- (5) The department may accept in-kind compensation with a present value in excess of the present value of annual monetary compensation payments which would be required under R907-65-8, R907-65-9, R907-65-10 and R907-65-11 if the telecommunications facility provider consents in writing and gives a written waiver and release of all claims and protections arising under federal or Utah law by reason of such excess value. The waiver and release shall be in form approved by the director.
- (6) Before entering into an in-kind compensation agreement, the department shall obtain from the telecommunications facility provider its valuations of the in-kind compensation. The telecommunications facility provider may provide the department information on its costs in order to assist the department in determining in-kind compensation value. The department shall reasonably consider such valuation and cost information in making its determination, but is not bound by the valuation or cost information submitted.

R907-65-14. Multiple Providers in Same Trench.

(1) If the department enters into an agreement with two or more telecommunications facility providers, or with a consortium or other entity whose members, partners, venturers or other participants are two or more telecommunications facility providers, or if the department requires two or more telecommunications facility providers to share a single trench, then the agreement(s) shall require that the telecommunications facility providers share the burden of the compensation owing to the department under the agreement(s) on a fair, reasonable

and equitable basis, taking into consideration the proportionate uses and benefits to be derived by each telecommunications facility provider from the trench, conduits and other telecommunications facilities to be installed under the agreement(s).

(2) The foregoing does not limit the right of the department to require all the participating telecommunications facility providers to bear joint and several liability for the obligations owing to the department under the agreement(s).

(3) Any agreement which requires sharing of the burden of compensation owing to the department shall provide the department the right to review and audit the books, records and contracts of or among the participating telecommunications facility providers to determine compliance or lack of compliance with R907-65-14(1).

KEY: right-of-way, interstate highway system November 16, 1999 72-7-108 Notice of Continuation January 5, 2004 R907. Transportation, Administration.

R907-67. Suspension of Contractors from Work on Department Projects -- Reasons.

R907-67-1. Suspension of Contractors from Work on Department Projects -- Reasons.

The department may suspend a contractor, which, for purposes of this rule includes Consultants and owners, directors, managers, officers or fiscal agents of the Contractor or Consultant), from performing any work on projects that it administers if, by substantial evidence, it concludes that one of the following factors is present.

- (1) The Contractor has been convicted of or entered a plea of guilty or nolo contendere to a crime that is related to a bid or contract-related crime in any court in the United States;
- (2) The Contractor has publicly admitted to conduct constituting a crime that is related to a bid or contract;
- (3) The Contractor has falsified information or submitted deceptive or fraudulent statements in connection with prequalification, bidding, or performance of a contract;
- (4) The Contractor has violated federal or state antitrust laws:
- (5) The Contractor has demonstrated willful wrongdoing that reflects a lack of integrity in bidding or performing a public project;
- (6) The Contractor, including a joint venture, stockholder of more than five (5) percent of the available stock, or any immediate relatives of the aforementioned has been debarred or suspended or is affiliated with any debarred or suspended person in any state or by the federal government;
- (7) The deputy director concludes that the Contractor has acted in collusion with others to perform work on a project that supposedly satisfied disadvantaged business enterprise (DBE) goals or requirements through other than bona fide disadvantaged business enterprises in any combination of individuals, firms, or corporations;
 - (8) The Contractor has defaulted under previous contracts;
- (9) The Contractor has performed previous or current work in an unsatisfactory manner, as determined solely by the Project Manager. Among the items that can be the subject of unsatisfactory performance are the following, though there may be others that are similar in importance and require a determination of unsatisfactory performance:
 - (a) noncompliance with the contract;
 - (b) failure to complete work on time;
- (c) instances of substantial corrective work being needed before acceptance of the work;
- (d) instances of completed work that requires acceptance at reduced pay;
- (e) production of non-specification work or materials, and when applicable, required price reductions or corrective work;
- (f) failure to provide adequate safety measures and appropriate traffic control that endangered the safety of the work force or the public.
- (10) The Contractor has questionable moral integrity as determined by the department, the United States Attorney General, the Utah Attorney General, or any other state;
- (11) Failure to reimburse the state for monies owned on any previously awarded contract including those where the prospective bidder is a party to a joint venture and the joint venture has failed to reimburse the state for monies owed.
- (12) The deputy director reasonably believes and finds that the public health, welfare, or safety require suspension.

R907-67-2. Procedures for Suspension.

If the Engineer for Construction believes a Contractor should be suspended, he or she will follow the procedures listed in R907-1-2, Commencement by Department - Notice of Agency Action - Procedures. The proceeding shall be handled as an informal administrative proceeding unless the deputy

director's designee grants a request for conversion to a formal proceeding. The Notice of Agency Action shall also set forth the amount of time being sought as a suspension period.

R907-67-3. Status Pending Suspension.

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Provided that the contract between the Contractor and the department provide for immediate suspension in case of debarment, suspension begins on the date the Notice of Agency Action is served upon the Contractor. Once suspended, the Contractor is prohibited from working either as a contractor for the department or as a subcontractor for someone who is a contractor for the department. The suspension lasts for the amount of time given in the Notice of Agency Action.

R907-67-4. Length of Debarment.

- (1) A person found to have committed an act listed in R907-67-1 shall be debarred for a term of not less than six months nor more than three years.
- (2) To determine the specific period of time, the department will evaluate the following:
 - (a) degree of culpability;
 - (b) restitution to the state;
- (c) cooperation in the investigation of bidding or contract-related crimes;
- (d) disassociation with those involved in the crimes and active cooperation in prosecuting others who are involved in the crimes.
- (3) Suspension does not absolve the Contractor of his or her responsibility to perform existing contracts, even if the Contractor needs to find other companies, firms, or individuals who can perform in his or her place.
- (4) The department also retains the right to declare a suspended Contractor in default on any existing contract if allowed by the contract.

R907-67-5. Right to Appeal.

The Contractor may appeal the suspension under the provisions of Utah Admin. Code R907-1.

KEY: highways, transportation, contractors, suspension January 5, 2004 72-1-201

R909. Transportation, Motor Carrier. R909-3. Standards for Utah School Buses. R909-3-1. Scope and Objectives.

- (1) This document sets forth requirements for the design, construction, and operation of all school buses utilized, whether owned or leased by any school district, or privately owned and operated under contract with any school district. Local school districts and private schools have the responsibility for developing the specifications for and the procurement of school buses used in their pupil transportation programs and shall insure that their vehicles meet or exceed the standards contained herein. School districts are encouraged to specify requirements in excess of the standards whenever such action will enhance their transportation programs. Any additions of school bus equipment or alterations in the bus construction and operations not provided for in the Standards for Utah School Buses and Operations, 1994 Edition are prohibited without prior approval as outlined in Part H entitled "Exemption from or Modification of Requirements".
- (2) Standards for Utah School Buses and Operations, 1994 Edition replaces the 1987 Standards for Utah School Buses and Operations. These standards will be effective August 31, 1994. All school buses ordered after the effective date and all school bus operators shall meet these standards. This document is intended to provide standards that meet or exceed Federal Motor Vehicle Safety Standards now in effect. Federal standards and Utah Motor Vehicle laws shall govern instances not specifically covered in these standards.
- (3) Pupil transportation vehicles ordered before January 1, 1994 shall meet or exceed the Standards for Utah School Buses and Operations applicable at the time of order placement.

R909-3-2. Authority.

- (1) These standards are issued under authority of Title 41 of the Utah Code Annotated which deals with the Utah State Department of Transportation. This statute, at 41-6-115, states "...The Department of Transportation by and with the advice of the State Board of Education and the Department of Public Safety shall adopt and enforce regulations not inconsistent with this chapter to govern the design and operation of all school buses when owned and operated by any school district or privately owned and operated under contract with any school district in this state, and such regulations shall by reference be made a part of any such contract with a school district. Every school district, its officers and employees, and every person employed under contract by a school district shall be subject to said regulations."
- (2) Regulations contained herein are applicable to public schools and all operations under the jurisdiction of the State Board of Education. For standards or regulations applicable to private schools, refer to the Utah Code or regulations adopted by the Department of Transportation through Utah's Rule Making Act and published as a separate document.

R909-3-3. Responsibilities of Suppliers.

- (1) School bus chassis and/or body dealers, distributors, and manufacturers must comply with the Standards for Utah School Buses and Operations, 1994 Edition. The bidder agrees to certify that the vehicle meets or exceeds all federal and state standards upon delivery of the vehicle.
- (2) Certification: All manufacturers of school bus chassis, bodies, or complete buses desiring to supply such equipment for use in the State of Utah, shall provide the Pupil Transportation Specialist, Utah State Office of Education, and the Division of Safety, Utah Department of Transportation, with a certification that their products, identified by specific model numbers, meet or exceed all requirements of the Federal Motor Vehicle Safety Standards and the Standards for Utah School Buses and Operations, 1994 Edition. This certification must be

- accomplished before any equipment is supplied in the state and not later than February 1 of each succeeding calendar year. Manufacturers shall also provide such test data or other information necessary to substantiate their claim of compliance. Required supporting data are listed below:
- (a) Supporting data for certification of school bus chassis shall include at least the following information, but may be supplemented with additional information if offered by the supplier or if requested by the purchaser:
 - (i) Manufacturer's gross vehicle weight rating.
- (ii) Chassis weight, overall dimensions, and location of the center of gravity.
- (iii) Engine performance curves (horse power torque vs. speed in revolutions per minute).
- (iv) Power and gradient curves (with representative bus bodies).
 - (v) Exhaust system noise level.
 - (vi) Engine emission levels.
 - (vii) Axle capacities.

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- (viii) Spring capacities.
- (ix) Brake system parameters or stopping distance vs. speed (with representative bus bodies).
 - (x) Horn noise level.
- (xi) Temperature and quantity of hot water available for use in heating system.
- (xii) Alternator output at the normal operating speed of the engine and at the engine manufacturer's recommended idle speed.
- (xiii) Supporting data for certification of school bus bodies shall include, but not be limited to:
- (A) Body dimensions, weights, and location of the center of gravity.
- (B) Data from crash-worthiness tests conducted in accordance with Appendix 1. (Manufacturers will attach certification plate signifying vehicle compliance with Colorado Rack Test.)
- (C) Data to verify compliance with the passenger seat cushion retention requirements as contained in FMVSS.
- (D) Data to verify compliance with the passenger seat attachment strength requirements as contained in FMVSS.
- (b) All certifications and supporting data shall be sent to the Pupil Transportation Specialist, Utah State Office of Education, 250 East 500 South, Salt Lake City, Utah 84111, and Safety Regulations Administrator, U.D.O.T., Office of Motor Carriers, 4501 South 2700 West, Salt Lake City, Utah 84119.
- (c) A list of the certified bus manufacturers will be provided to the districts by March 1st each year.
- (3) Delivery Requirements: The school bus manufacturer shall provide the following materials for the purchaser of a new school bus at the time the purchaser takes possession of the bus:
- (a) Line set tickets for each individual unit of the bus, and a separate set of tickets for buses manufactured in two parts.
- (b) A copy of the pre-delivery service performed and verified by a checkout form for each individual unit.
- (c) Warranty book and statement of warranty for each individual unit. All warranties shall commence on the day that the purchaser takes possession of the completed bus.
- (d) Service manual for each individual unit or group of identical units.
- (e) Parts manual for each individual unit or group of identical units.
- (4) Inspection and acceptance testing of new school buses: Not more than 30 days following delivery of any new school bus to a Utah school district, it shall be inspected by the Safety Inspection Office of the Utah Highway Patrol. Prior to any new school bus being placed into service, it shall be inspected and tested by a certified mechanic to verify conformance with these standards.
 - (a) Tests that will be conducted during the acceptance

inspection of a school bus shall include, at a minimum:

(i) Inventory of required safety features including district specifications.

(ii) Functions tests of all lamps and signals, emergency braking system, horn, and other operating systems.

- (b) Failure to satisfy all requirements of the standards shall result in either the bus being given a provisional approval until the manufacturer brings the vehicle up to standards, an exemption from the subject requirement requested (See Part H), or the vehicle will be deadlined pending compliance. A provisional approval shall not be for more than 90 consecutive days. Failure to bring the bus up to standards or apply for an exemption during the provisional period shall result in the bus being deadlined.
- (5) Body-On-Chassis Type School Bus: In case a school district elects to contract with one of two or more manufacturers who then subcontracts with the other manufacturers, it shall be the responsibility of the end supplier, as prime contractor, to assure that the completed bus satisfies both the chassis and body
- (6) Notice of Noncompliance: Dealers, distributors, or manufacturers who supply school transportation vehicles in the State of Utah that do not comply with the Standards for Utah School Buses and Operations, 1994 Edition shall be notified of noncompliance and a general notice will be sent to all school districts and school transportation supervisors within the state advising that equipment supplied by the specified dealer, distributor, or manufacturer is not in compliance with Utah standards.
- (7) If a dealer, distributor, or manufacturer has been notified of noncompliance in accordance with paragraph 3.06 and replaces or modifies the equipment to make it comply with the Utah Standards, a notice of compliance will be issued within 30 days after proof of compliance.
- (8) School bus manufacturers shall be given at least 90 days notification of any changes in the Standards for Utah School Buses and Operations, 1994 Edition.

R909-3-4. Definitions.

- (1) School bus designations used in this document are taken from the Ninth National Minimum Standards Conference on School Transportation (1980). It should be noted vehicles with a capacity for less than ten passengers cannot be certified as school buses under federal regulations.
- (2) School Bus means every motor vehicle designed to carry more than ten persons and is used to transport school children to or from school or in connection with related activities. This definition does not include vehicles that only carry school children along with other passengers as part of the operation of a common carrier under the jurisdiction of the Utah Department of Transportation or Public Service Commission or those vehicles in informal or intermittent arrangements such as sharing of actual gasoline expense or participation in a car pool for the transportation of children to or from school or other school activity. Nor does this definition include "tour" type buses, whether owned, leased, or chartered by a school district solely for the purpose of transporting school children to and from non-academic events.
- (3) TYPE A A Type "A" school bus is a conversion or body constructed upon a van-type compact truck or a frontsection vehicle, with a gross weight rating of 10,000 pounds or less, designed for carrying more than ten persons.
- (4) TYPE B A Type "B" school bus is a conversion or body constructed and installed upon a van or front-section vehicle chassis, or stripped chassis, with a vehicle weight rating of more than 10,000 pounds, designed for carrying more than ten persons. Part of the engine is beneath and/or behind the windshield and beside the driver's seat. The entrance door is behind the front wheels.

- (5) TYPE C A Type "C" school bus is a body installed upon a flat back cowl chassis with a gross vehicle weight rating of more than 10,000 pounds, designed for carrying more than ten persons. All of the engine is in front of the windshield and the entrance door is behind the front wheels.
- (6) TYPE D A Type "D" school bus is a body installed upon a chassis, with the engine mounted in the front, midships, or rear, with a gross vehicle weight rating of more than 10,000 pounds, designed for carrying more than ten persons. The engine may be behind the windshield and beside the driver's seat; it may be at the rear of the bus, behind the rear wheels, or midships between the front and rear axles. The entrance door is ahead of the front wheels.
- (7) Multipurpose Passenger Vehicle (MP) means every motor vehicle with ten or less passenger positions (including the driver) and cannot be certified as a bus. (In determining passenger capacity, wheelchair positions are counted as passenger positions.) Although a school entity may use such a vehicle as station wagon, full-sized sedan, small van of nonschool bus capacity, etc., to transport pupils to and from school or related events, the vehicle shall not be identified as a school bus (including color) and shall not stop or control traffic on the traveled portion of the roadway to load or unload passengers.

R909-3-5. Chassis Requirements.

- (1) Air Cleaner
- (a) The engine intake air system shall be furnished and properly installed by the chassis manufacturer to meet engine manufacturers' specifications.
- (b) The intake air system for diesel engines may have an air cleaner restriction indicator properly installed by the chassis manufacturer to meet engine specifications.
 - (2) Axles
- (a) Weight distribution of fully loaded bus on level surface shall not exceed the manufacturer's front gross axle weight rating and rear gross axle weight rating.

 (b) The front and rear ends, including suspension
- assemblies, shall have a gross axle weight rating at ground, at least equal to that portion of the load as would be imposed by the chassis manufacturer's maximum gross vehicle weight
- (c) Two-speed rear axles are permissible, but if used, provisions shall be made to assure that the parking and emergency brake systems operate directly upon the rear axles or wheels and not upon the driveshaft.
 - (3) Block Heater
- (a) Buses furnished with diesel engines must have an engine block heater, 110 volt minimum 700 watt with 400 CID or less engine and minimum 1000 watt for engines over 400 CID. They shall also be furnished with an ether/propane quick starting aid that is thermostatically controlled and pre-shot measurement type. (Exception: Diesel engines that are equipped with glow plug or air intake starting systems.)
 - (4) Brake Systems
- (a) All buses larger than 49 passenger capacity (including driver) or furnished with a two-speed axle must be equipped with air brakes. Automatic slack adjusters shall be required on all air-brake equipped buses following adoption of this edition of the Standards.
- (b) If the bus is equipped with a two-speed rear axle, the parking brake system shall operate directly upon the rear axle or wheels such that the parking brake system will not be disconnected from the wheels when the rear axle is in the neutral position. (Drive shaft brakes do not meet this requirement.)
 - (c) Vacuum Assist Systems:
- (i) A gauge giving the value of the vacuum in the reservoir, in inches of mercury, shall be located in clear view of

- (ii) An audible and visual signal shall be provided to warn the driver in case the vacuum in the reservoir is eight inches of mercury or less.
 - (d) Air Brake Systems:
- (i) The compressor used in an air brake system shall be a minimum of 12 cubic feet and be driven by the engine.
- (ii) Reservoir(s) shall be a minimum combined capacity of 3,750 cubic inches, except Type D buses for which the capacity shall be 4,500 cubic inches.
- (A). There shall be a manually operated or an automatic condensation drain valve in each reservoir. If an automatic valve(s) is used it must be heated to prevent freezing.
- (B). There shall be a safety valve installed in the first reservoir, which shall be set to release pressure should the reservoir pressure exceed 150 psi.
- (iii) All tubing and hoses used in the air brake systems shall conform to applicable SAE standards and shall be installed so as to be protected against excessive heat and to accommodate the normal vibrations and motions of the vehicle without damage.
- (iv) The low pressure warning signal shall be both audible and visual.
- (v) Buses using air or vacuum in the operation of the brake system shall be equipped with warning signals, readily audible and visible to the driver, that will give a continuous warning when the air pressure available in the system for braking is 60 pounds per square inch (psi) or less or the vacuum in the system available for braking is eight (8) inches of mercury or less. An illuminated gauge shall be provided that will indicate to the driver the air pressure in pounds per square inch or the vacuum available for the operation of the brakes as shown in inches of mercury. Type A buses: Manufacturers' standards.
- (A). Vacuum-assist brake systems shall have a reservoir used exclusively for brakes that shall be adequate to ensure against loss in vacuum at full stroke application if not more than 30 percent with the engine not running. Brake system on gaspowered buses shall include suitable and convenient connections for the installation of a separate vacuum reservoir.
- (B). Any brake system dry reservoir shall be so safeguarded by a check valve or equivalent device, that in the event of failure or leakage in its connection to the source of compressed air or vacuum, the stored dry air or vacuum shall not be depleted by the leakage or failure.
- (vi) Buses using a hydraulic-assist brake system shall be equipped with warning signals, readily audible and visible to the driver, that will provide continuous warning in the event of a loss of fluid flow from primary source or loss of electric source powering the back-up system. Type A buses: Manufacturers' standards.
- (vii) The brake lines and booster-assist lines shall be protected from excessive heat and vibration and shall be installed in a manner that prevents chafing.
- (viii) Air Dryer (optional): If required, shall be compatible with the air compressor. The expello valve of the air dryer shall be heated to prevent freezing.
- (iv) Anti-lock braking systems, meeting manufacturers' standards, are approved optional equipment.
- (e) Parking Brake System: The school bus shall at all times be equipped with a parking brake system adequate to hold the vehicle or combination on any grade on which it is operated under any condition of loading on a surface free from ice and snow.
- (f) All brake systems should be designed to permit visual inspection of brake lining wear without removal of any chassis components.
 - (5) Cooling System
- (a) The engine cooling system radiator shall be of sufficient capacity to cool the engine at all speeds in all gears. It shall be of heavy duty type with increased capacity for high

- altitude operation. A coolant recovery or surge tank system is required on all type A, B, C, and D buses.
- (b) The cooling system fan shall be of heavy duty design and shall include a fan clutch.
- (c) The cooling system shall be equipped with a heavy duty truck type water pump.
- (d) Permanent ethylene-glycol base antifreeze shall be provided by the chassis manufacturer to protect the cooling system to at least 40 degrees below zero Fahrenheit.
- (e) When a chassis is equipped with an automatic transmission, a heavy duty cooling system with increased capacity in the radiator, fan, transmission cooler, and other necessary components to provide for the additional cooling required by the automatic transmission shall be furnished.
- (f) Shutters (optional): Radiator shutters, when required, shall be air, hydraulic, or vacuum operated and shall be of the shutter-stat temperature control type. A petcock shall be furnished at the air or vacuum supply to shut off supply from air or vacuum source.
 - (6) Bumper, Front
 - (a) Energy-absorbing bumpers are not permitted.
- (b) Front bumper shall be furnished by chassis manufacturer as part of the chassis on type A, B, and C buses. When type D chassis are supplied to a body company by a chassis manufacturer, the body company shall supply the front bumper as part of the body installation.
- (c) The front bumper shall be heavy-duty channel steel of one-piece construction at least 3/16-inch thick and not less than an 8-inch face after forming. (Exception: Type A vehicle at least 1/8-inch thick.)
- (d) The front bumper shall be of wrap-around design extended to offer maximum protection of fender lines without permitting snagging or hooking.
- (e) The front bumper shall be attached to the frame and extend forward of grille, head lamps, fender, or hood.
- (f) The front bumper shall permit the bus to be lifted by a vertical force applied to the bottom of the bumper without damaging either the bumper or its mountings.
 - (7) Clutch
- (a) School bus chassis using manual transmission shall be equipped with a heavy-duty single-disc truck clutch with a diameter not less than the minimum dimensions given below, or a dual disc unit of similar capacity:

TABLE

10	to 30 passenger bus	11-inch	diameter
	to 42 passenger bus		diameter
43	passenger or larger	bus 13-inch	diameter

- (b) Clutch torque capacity shall be equal to or greater than the engine torque output.
 - (8) Color
- (a) Chassis and front bumper shall be black. Hood, cowl, and fenders shall be in National School Bus Yellow. Wheels shall be the color used by manufacturers.
 - (9) Drive Shaft
- (a) Drive shaft shall be protected by a metal guard or guards around circumference of the drive shaft to reduce the possibility of it whipping through the floor or dropping to the ground if broken.
 - (10) Electrical System
- (a) All buses shall be equipped with at least a 12-volt electrical system.
- (b) Battery: A storage battery shall be provided which is of sufficient capacity to take care of starting the engine, lighting, signal devices, heating, and other electrical equipment and shall be compatible with the size alternator supplied with the chassis. Minimum capacities are specified below:

TABLE I

Bus Type

Cold Cranking
Amperes at 0 degrees F.

Types A and B - gas
Types C and D - gas
Types A, B, C, D - diesel

Cold Cranking
Amperes at 0 degrees F.

1,000 Amperes.

- (c) Storage battery shall have minimum cold cranking capacity rating equal to the cranking current required for 30 seconds at 0 degrees Fahrenheit (-17.8c) and a minimum reserve capacity rating of 120 minutes at 25 amps. Higher capacities may be required depending upon optional equipment and local environmental conditions.
- (d) Since all batteries in Type B, C, and D buses are to be located in a sliding tray, the battery shall be temporarily mounted on the chassis frame by the chassis manufacturer.
 - (e) Generator or Alternator.
- (i) Generating Unit: All school buses shall be equipped with an engine driven alternator with rectifier capable of producing the minimum current specified, and capable of producing 30 percent of its maximum rated output at the normal engine idle speed.
- (ii) The generating or alternating unit shall be driven by a dual or serpentine belt system directly from the crankshaft or a positive-driven accessory shaft of the engine. (Exception: Type A and B buses rated 14,500 lb. GVW or less.)
- (iii) Type A bus shall have a minimum 65 ampere hour alternator; type B bus rated over 15,000 lb. GVW shall be equipped with a heavy duty truck or bus type alternator meeting SAE J 180, having minimum output rating of 100 amperes; type B buses rated at 14,500 GVW or less shall have an alternator rated at 80 amperes; type C bus alternators shall have a rating of 120 amperes; type D bus alternators shall have a rating of 160 amperes
- (iv) Type B, C, and D buses rated at 15,000 lb GVW or more, shall have a generator or alternator with a minimum charging rate of 30 amperes at manufacturer's recommended engine idle speed (12 volt system), and shall be ventilated and voltage controlled and, if necessary, current controlled.
- (v) Type A, B, C, and D buses equipped with an electrical power lift shall have a minimum 100 ampere hour alternator.
- (vi) A direct-drive generator or alternator is permissible in lieu of belt drive. Belt drive shall be capable of handling the rated capacity of the generator or alternator with no detrimental effect on other driven components.
- (f) Regulator. The regulator(s) shall be of a fully solid-state design.
 - (g) Wiring.
- (i) The engine and frame shall be electrically interconnected by a bonding strap of adequate size to assure proper functioning of the electrical system.
- (ii) All wiring shall conform to current applicable recommended practices of the Society of Automotive Engineers.
- (iii) All wiring shall use a standard color and number coding. Each chassis shall be delivered with a wiring diagram that coincides with the wiring of the chassis.
- (iv) Chassis manufacturer shall install a readily accessible terminal strip or plug on the body side of the cowl, or at an accessible location in the engine compartment of vehicles designed without a cowl, that shall contain the following terminals for the body connections:
 - (A) Main 100 amp body circuit.
 - (B) Tail lamps.
 - (C) Right turn signal.
 - (D) Left turn signal.
 - (E) Stop lamps.
 - (F) Back up lamps.
- (G) Instrument panel lights (rheostat controlled by headlamp switch).

- (v) Circuits.
- (A) An appropriate identifying diagram (color and number coded) for electrical circuits shall be provided to the body manufacturer for distribution to the end user.
 - (vi) Engine Fire Extinguishers.
- (A) Manufacturer may provide an automatic fire extinguisher system in the engine compartment on gasoline-powered lift buses.
 - (11) Exhaust System
- (a) Exhaust pipe, muffler, and tailpipe shall be outside bus body compartment and attached to chassis.
- (b) Tailpipe shall be constructed of a corrosion-resistant tubing material at least equal in strength and durability to 16-gauge steel.
- (c) Tailpipe may (a) extend beyond rear axle and extend beyond outer shell but not beyond the bumper, and be mounted outside of chassis frame rail at end point, or (b) extend to the left side of the bus, behind the driver's compartment outboard of chassis center line and extend to but not beyond the perimeter of the body. Type A bus is manufacturer's standard. On Type C and D buses, no exhaust pipe shall exit beneath an emergency door or fuel fill.
- (d) Exhaust system on gasoline-powered chassis shall be properly insulated from fuel tank connections by a securely attached metal shield at any point where it is twelve inches or less from tank or tank connections.
- (e) Muffler shall be constructed of corrosion-resistant material.
 - (12) Fenders, Front, Type C Vehicles
- (a) Total spread of outer edges of front fenders, measured at fender line, shall exceed total spread of front tires when front wheels are in straight ahead position.
- (b) Front fenders shall be properly braced and free from any body attachments. Front fenders and hood must be tiltaway type to allow maximum access to engine compartment.
 - (13) Frame and Passenger Load
- (a) Gross vehicle weight (GVW) is the sum of the average chassis weight, the average body weight, the driver's weight, and total seated pupil weight. For purposes of calculation, the driver's weight is 150 pounds, and the pupil weight is 120 pounds per pupil.
- (b) Gross Vehicle Weight (GVW) shall not exceed the chassis manufacturer's gross vehicle weight rating (GVWR) for the chassis.
- (c) Gross Vehicle Weight (GVW) shall not exceed 185 pounds per published net horse-power of the engine at the manufacturer's recommended maximum revolutions per minute.
- (d) Manufacturers' gross vehicle weight ratings shall be furnished in duplicate (unless more are requested) by manufacturers to the state agency having pupil transportation jurisdiction. The State agency shall, in turn, transmit such ratings to other state agencies responsible for development or enforcement of state standards for school buses.
- (e) Chassis GVW Rating: The GVW used in design of the chassis and its frame shall be the minimum GVW calculated in Subsection 16.01 above or the next larger standard GVW rating supplied by the manufacturer.
- (f) Any secondary manufacturer that modifies the original chassis frame shall guarantee workmanship and materials used in such modification.
- (g) Any frame modification shall not be for the purpose of extending the wheelbase.
- (h) Holes in top or bottom flanges or side units of frame, and welding to frame shall not be permitted except as provided or accepted by chassis manufacturer.
 - (i) Frame Construction:
- (i) Frame shall be designed to correspond with or exceed standard performance criteria for heavy-duty trucks of same general load specifications used for severe service.

- (ii) When frame side members are used, they shall be of one-piece construction; provided that if there is a necessity to extend frame side members, such extension shall be designed and furnished by chassis or body manufacturer with a guarantee and installation shall be made by either body or chassis manufacturer and guaranteed by company making the installation. Extensions of frame lengths are permissible only when such alterations are behind rear hanger of rear springs and shall not be for purpose of extending wheelbase. All such extensions shall be of sufficient material, quality, and strength to provide the same support and durability of manufacturer's standard frame side members.
 - (iii) Chassis frame will extend to rear body cross member.
- (iv) Welding to frame side rails which is necessary by design to strengthen, modify, or alter basic vehicle configuration shall be performed and guaranteed by the body or chassis manufacturer making the modification.
 - (14) Fuel Tank
- (a) Fuel tank or tanks of minimum 30-gallon capacity with a 25-gallon actual draw shall be provided by the chassis manufacturer for Types A, B, and C buses. Type C buses with a passenger capacity of 36 or greater shall be supplied with a 60-gallon fuel tank. All Type D buses shall be provided with a minimum 60-gallon fuel tank. The tank(s) shall be filled and vented to the outside of the body, the location of which shall be so that accidental fuel spillage will not drip or drain on any part of the exhaust system.
- (b) No portion of the fuel system that is located to the rear of the engine compartment, except the filler tube, shall extend above the top of the chassis frame rail. Fuel lines shall be mounted to obtain maximum possible protection by the chassis frame
- (c) Fuel filter with replaceable element shall be installed between fuel tank and engine.
- (d) If a tank size other than 30-gallon is supplied, location of front of tank and filler spout must remain as specified by SBMI Design Objectives, and the draw capacity shall be 83% of the tank capacity. January 1985 edition.
- (e) The fuel tank on vehicles constructed with a power lift unit may be mounted on left chassis rail or behind rear wheels.
- (f) Auxiliary tank may be added. Installation of alternative fuel tanks shall comply with all applicable fire codes.
- (g) Fuel tank(s) may be mounted on left or right sides of frame, either to the rear of the rear axle, front of the rear axle between the wheelbase, or between the frame rails. All installations must meet FMVSS 301.
 - (15) Governor
- (a) An engine governor is permissible. When it is desired to limit road speed, a road speed governor should be installed.
- (b) When engine is remotely located from driver, a governor shall be installed to limit engine speed to maximum revolutions per minute recommended by engine manufacturer, or a tachometer shall be installed so engine speed may be known to driver.
 - (16) Heating System
- (a) The chassis engine shall have plugged openings for the purpose of supplying hot water for the bus heating system. The opening shall be suitable for attaching 3/4-inch pipe thread/hose connector.
- (b) The engine shall be capable of supplying water having a temperature of at least 170 degrees Fahrenheit at a flow rate of 50 pounds per minute at the return end of 30 feet of one inch inside diameter automotive hot water heater hose.
 - (17) Horn
- (a) Bus shall be equipped with dual horns of standard make with each horn capable of producing complex sound in bands of audio frequencies between 250 and 2,000 cycles per second and tested per Society of Automotive Engineers Standard J-377.

- (b) Air Horn (Optional): Air horn, if required, shall be dual-horn type under the control of the driver. The control may be pull-cable type, hand-operated dash-mounted switch, or foot operated. Air horn shall be mounted to the roof of the bus body or the chassis frame where it is protected from mud and other corrosives.
 - (18) Lamps and Signals
- (a) The chassis manufacturer shall equip the front of a conventional, body-on-chassis bus with headlamps, turn signals, and side marker lamps (Types A and C).
- (b) The bus shall be equipped with at least two dual beam headlamps of the sealed beam type, with at least one headlamp on each side of the bus. The headlamps shall be located at a height of not more than 54 inches or less than 24 inches when measured vertically from the center of the lamp to the level ground on which the unloaded bus stands.
- (c) The bus shall be equipped with a manually-operated dimmer switch for use by the driver in selecting either the high or low beam of the headlights.
- (d) Fog lights or driving lights are optional. If required, they shall have an operating switch that is independent of the headlight switch.
 - (19) Instruments and Instrument Panel
- (a) Chassis shall be equipped with the following instruments and gauges. Lights in lieu of gauges are not acceptable except as noted. Optional instruments and gauges are identified as such.
 - (i) Speedometer.
- (ii) Odometer which will give accrued mileage to seven digits including tenths of miles.
 - (iii) Voltmeter
- (A) Voltmeter with graduated scale compatible with the electrical system (Type A, B, C, and D buses).
- (B) Ammeter with graduated charge and discharge with ammeter and its wiring compatible with generating capacities is permitted in lieu of voltmeter.
 - (iv) Oil-pressure gauge.
 - (v) Water temperature gauge.
 - (vi) Fuel gauge.
 - (vii) High beam headlight indicator.
- (viii) Brake indicator gauge (vacuum or air) 2-inch diameter.
- (ix) Light indicator in lieu of gauge permitted on vehicle equipped with hydraulic-over-hydraulic brake system.
 - (x) Glow-plug indicator light where appropriate.
 - (xi) Tachometer (optional).
- (xii) A self-cancelling directional signal switch shall be provided by the chassis manufacturer. It shall have a hazard warning switch in combination with the directional signal switch
 - (xiii) Turn-signal indicator lights.
- (xiv) Service-hour meter is optional on diesel engine-equipped buses.
- (xv) Engine warning system for low oil pressure and/or high engine temperature is optional.
 - (xvi) Tachograph or on-board computer are optional.
- (b) All instruments shall be easily accessible for maintenance and repair.
- (c) Above instruments and gauges shall be full-faced and shall be mounted on the instrument panel in such a manner that each is clearly visible to the driver while in normal seated position. Instruments and gauges may be mounted individually or in "cluster" fashion. In addition, they may be independently removable or may be constructed as a solid state combined panel in which case the entire panel is removable.
- (d) Instrument panel shall have lamps of sufficient candlepower to illuminate all instruments, gauges, and shift selector indicator for automatic transmission.
 - (20) Oil Filter

- (a) Oil filter of replaceable element type shall be provided and shall be connected by flexible oil lines if it is not of built-in or engine-mounted design. Oil filter shall have capacity of at least one quart.
 - (21) Openings
- (a) All openings in floorboard or firewall between chassis and passenger compartment, such as for gearshift and parking brake lever, shall be sealed unless they are to be altered by the bus body manufacturer. All openings between chassis and passenger compartment made due to alterations by the bus body manufacturer will be sealed by the bus body manufacturer.
 - (22) Retarder, Driveline, or Exhaust Brakes
- (a) Driveline retarders or exhaust brakes, if used, shall maintain the speed of the fully loaded school bus at 19.0 mph or 30 km/hr on a 5 per cent grade for 3.5 miles or 6 kilometers.
 - (23) Shock Absorbers
- (a) Bus shall be equipped with front and rear double-action heavy-duty shock absorbers compatible with manufacturers' rated axle capacities at each wheel location.
- (a) Capacity of springs or suspension assemblies shall be commensurate with chassis manufacturers' gross vehicle weight ratings.
- (b) If rear leaf springs are used, they shall be either air or progressive type. Front or rear springs may be parabolic.
- (c) Springs or suspension assemblies shall be of ample resiliency under all load conditions and of adequate strength to sustain the loaded bus without evidence of overload.
- (d) Springs or suspension assemblies shall be designed to carry their share of the GVW.
- (e) If leaf-type springs are used, the front of the main leaf eye shall be protected by a second leaf wrapper eye (front and/or rear springs).
 - (25) Steering Gear
- (a) Steering gear shall be approved by chassis manufacturer and designed to assure safe and accurate performance when vehicle is operated with maximum load and at maximum speed. All buses shall be equipped with heavyduty, truck-type integral gear hydraulic power steering that shall assure safe and accurate performance when the fully loaded vehicle is operated at maximum speed. Hydraulic power steering is required and shall be of the integral type with integral valves.
- If external adjustments are required, steering (b) mechanism must be accessible to accomplish same.
- (c) No changes shall be made in steering apparatus that are not approved by chassis manufacturer.
- (d) There shall be clearance of at least two inches between steering wheel and cowl, instrument panel, windshield, or any other surface.
- (e) The steering mechanism shall provide for easy adjustment for lost motion.
- (f) The steering system shall be designed to provide means for lubrication of all wear-points, if wear-points are not permanently lubricated.
 - (26) Tires and Wheels
- (a) Tires and wheels of proper size and tires with load rating commensurate with chassis manufacturers' gross vehicle weight ratings shall be provided.
- (b) Dual rear wheels and tires shall be provided on all school buses.
- (c) All tires on any given vehicle shall be of same size and load rating. The load range of all tires shall meet or exceed the gross axle weight rating as required by FMVSS 120.
- (d) If vehicle is equipped with a spare tire, the wheel and tire shall be of the same size and load rating as those mounted on the vehicle.
- (e) If a tire carrier is required, it shall be suitably mounted in accessible location outside the passenger compartment.

- (f) All wheels on any given vehicle shall be of same size and load rating capacity. Wheels shall be steel disc type; cast or spoke wheels are not permitted.
 - (27) Tow Hooks
- (a) Two front and two rear heavy duty frame mounted tow hooks shall be furnished on all buses Types B, C, and D. Tow hooks must be attached so as not to project beyond the front or rear bumpers. The front tow hooks shall be furnished by the chassis manufacturer, and the rear tow hooks furnished by the body manufacturer on Type C buses. Front and rear tow hooks shall be furnished by the body manufacturer on Types B and D buses. The installation shall be according to manufacturers' specifications.
 - (28) Transmission
- (a) The input torque capacity of the transmission shall be at least ten percent greater than the maximum net torque developed by the engine.
- (b) The transmission shall be equipped with an automatic back-up light switch for the operation of the back-up light mounted on the rear of the school bus body. The switch will be wired to the back-up light by the body manufacturer. This switch is to be activated by moving the gear shift lever into the "reverse" position. (c) Manual Transmission:
- (i) Manual transmission shall be of heavy-duty type. For buses with a capacity of 30 or more passengers, transmission shall have four speeds forward and one in reverse. For buses with a capacity of over 30 passengers, transmissions shall have five speeds forward and one in reverse.
- (ii) Manual transmissions shall be synchromesh or constant-mesh in all gears except first and reverse.
- (d) Automatic transmission shall provide for not less than three forward speeds and one reverse speed. The shift selector, if applicable, shall provide a detent between each gear position when the gear selector quadrant and shift selector are not steering column mounted. (Exception: Type A and B buses.)
 - (29) Turning Radius
- (a) Chassis with a wheel base of 264 inches or less shall have a right and left turning radius of not more than 42.5 feet.
- (b) Chassis with a wheelbase of 265 inches or more shall have a right and left turning radius of not more than 44.5 feet.
 - (30) Undercoating
- (a) Chassis manufacturer or its agent shall coat undersides of steel or metallic front fenders with rust-proofing compound for which compound manufacturers have certified to chassis builder that compound meets or exceeds all performance and qualitative requirements of paragraph 3.4 of Federal Specification TT-C-520B using modified test.
 - (31) Weight Distribution
- (a) Weight distribution of fully-loaded bus on level surface shall not exceed the manufacturer's front gross axle rating and rear gross axle rating.

R909-3-6. Body Requirements.

- (1) Aisle
- (a) Minimum clearance of all aisles including aisle to emergency door(s) shall be 12 inches.
- (b) Seat backs shall be slanted sufficiently to give aisle clearance of 15 inches at tops of seat backs.
 - (2) Backup Warning Alarm (Optional)
- (a) An automatic audible alarm may be installed behind the rear axle and shall comply with the Society of Automotive Engineers published Backup Alarm Standards (SAE 994b) specifying 97+-4dsB(A) for rubber tired vehicles.
 - (3) Battery
 - (a) Battery is to be furnished by chassis manufacturer.
- (b) The body manufacturer shall supply a compartment to securely attach battery on slide-out or swing-out tray in a closed, vented compartment in the body skirt, whereby battery may be

exposed for convenient servicing. Battery compartment door or cover shall be hinged at front or top and secured by adequate and conveniently operated latch or other type fastener. (Exception: Type A.)

- (4) Bumper (Front)
- (a) See Chassis Standard, R909-3-5(6).
- (5) Bumper (Rear)
- (a) Bumper shall be of pressed steel channel or equivalent material at least 3/16-inch thick and nine inches wide (high), and of sufficient strength to permit pushing by another vehicle of the same GVW rating without permanent distortion. (Exception: Type A bus, minimum 3/16 inch x 8 inch.)
- (b) Bumper shall be wrapped around back corners of bus. It shall extend forward at least 12 inches, measured from rearmost point of body at floor line.
- (c) Bumper shall be attached to chassis frame in such a manner that it may be easily removed, shall be so braced as to develop full strength of bumper section from rear or side impact, and shall be designed to discourage hitching of rides.
- (d) Bumper shall extend at least one inch beyond rear-most part of body surface measured at floor line.
- (e) The bumper provided by the chassis manufacturer may be used on Type A buses.
 - (6) Ceiling
- (a) See "Insulation" and "Interior," Body Standards, R909-3-6(18) and (19).
 - (7) Chains
 - (a) See "Wheelhousing," Body Standards, R909-3-6(79).
 - (8) Color
- (a) The school bus body shall be painted a uniform National School Bus Yellow. The roof may be painted white.
- (b) The color known as National School Bus Yellow was designated as such by the 1939 National Conference on School Bus Standards. The National Bureau of Standards of the U.S. Department of Commerce assisted in developing this color and its colorimetric specifications, as follows:

TABLE II

Colorimetric Specifications National School Bus Yellow

C.I.E.			_	Daylight		
Chromaticity			R	Reflectance		
Coordinates				Y(%)		
Х	У		max	std	min	
.521	.1 .45	49	-	41.	40.	
Dominant				Excitation		
Wavelength				Purity		
in millicrons				P (%)		
max	std	min	max	std	min	
584.5	583.5	582.5	_	93.7	89	

(c) At the 1980 Conference, the colors in use were reviewed. A color standard was selected, slightly different from the above, and specific tolerances were chosen. These tolerances will insure a continuity of appearance from bus to bus, and within the same bus when different elements are finished or refinished at different times. Specification for the Standard Color, with light and dark tolerances (Upper and Lower Reflectance), are shown below in tabular form.

TABLE III

Specifications for Standard Color

For So	urce C				
CIE Chromaticity			Reflectance		
Coordinates		Reflectance	Tolerances		
Χ	у	Y (%)	Upper	Lower	
.5089	. 4408	40.14%	41.77%	38.45%	

(d) The body exterior paint trim, bumper, lamp hoods,

emergency door arrow, and lettering shall be black.

(9) Construction

- (a) Construction shall be of prime commercial quality steel or other metal or material with strength at least equivalent to all-steel and corrosion resistance at least equivalent to all-steel as certified by bus body manufacturer (See Section 54, Metal Treatment). Types B, C, and D buses shall meet joint strength standards. Type A buses shall meet joint strength standards for the passenger compartment only as specified in FMVSS-221.
- (b) Construction shall provide a reasonably dustproof and watertight product.
- (c) A certification plate shall be affixed to the inside of each body in the same area as the body serial number. This certification plate shall contain the following or similar wording: "(manufacturer's name) does hereby certify that (body serial number) has been constructed with standard and/or optional equipment that meets the Colorado Racking Load Test in accordance with Utah State School Bus Standards in effect at time of manufacture."
 - (10) Defrosters
- (a) Defrosting and defogging equipment shall direct a sufficient flow of heated air onto the windshield, the window to the left of the driver, and the glass in the viewing area directly to the right of the driver to eliminate frost, fog, and snow. The defroster unit shall have a separate blower motor in addition to the heater motors. Defrosting and defogging equipment for Type A vehicles shall direct a sufficient flow of heated air onto the windshield to eliminate frost, fog, and snow.
- (b) The defrosting system shall conform to Society of Automotive Engineers Standards J-381 and J-382.
- (c) The defroster and defogging system shall be capable of furnishing heated outside ambient air except that the part of the system furnishing additional air to the windshield, entrance door and step-well may be of the recirculating air type.
- (d) Auxiliary fans are not to be considered as a defrosting and defogging system.
 - (e) Portable heaters may not be used.
 - (11) Doors
 - (a) Service Door:
- (i) The service door shall be either manual or power-operated under the control of driver and shall be designed to afford easy release and prevent accidental opening. When hand lever is used, no part shall come together so as to shear or crush fingers, and shall have a heavy duty chrome control handle with lubricated bushings or bearings.
- (ii) The service door shall be located on right side of bus opposite driver and within direct view of driver.
- (iii) The service door shall have minimum horizontal opening of 24 inches and minimum vertical opening of 68 inches.
- (iv) The service door shall be of split type, sedan type, or jack-knife type. (Split-type door includes any sectioned door which divides and opens inward or outward.) If one section of split-type door opens inward and the other opens outward, front section shall open outward.
- (v) Lower as well as upper panels shall be of approved safety glass. Bottom of lower glass panel shall not be more than 10 inches from the top surface of the bottom step when bus is unloaded. Top of upper glass panel shall not be more than six inches from top of door.
- (vi) Vertical closing edges on the entrance door(s) shall be equipped with flexible material to protect childrens' fingers from injury.
- (vii) All doors shall be equipped with padding at the top edge of each door opening. Pad shall be at least three inches wide and one inch thick and extend the full width of the door opening.
- (viii) Optional skid plates to protect door step wells may be installed.

- (b) Emergency Doors.
- (i) Emergency door shall be hinged on the right side if the door is in the rear center of the bus and on the front side if the door is on the left side of the bus. It shall open outward and shall be labeled inside and outside to indicate how it is to be opened.
- (ii) Upper portion of emergency door shall be equipped with approved safety glass, exposed area of which shall be not less than 400 square inches. The lower portion of the rear center emergency door shall be equipped with a minimum of 350 square inches of approved safety glass.

(iii) There shall be no steps leading to emergency door.

- (iv) The words "EMERGENCY DOOR", both inside and outside in letters at least two inches high, shall be placed at top of or directly above the emergency door or on the door in the metal panel above the top glass.
- (v) The emergency door shall be equipped with padding at the top edge of each door opening. Pad shall be at least three inches wide and one inch thick and extend the full width of the
- (vi) The side emergency door, if installed, must meet the requirements set forth in FMVSS 217, S 5.4.2.1, (b), regardless of its use with any other combination of emergency exits.
- (vii) All emergency doors, exit windows, and push-out type windows shall be furnished with an audible buzzer to indicate to the driver that the exit is open. Side exit door must be furnished with a three-point bar lock.

(viii) Emergency Exit(s).

- (A) Each school bus shall be equipped with either (1) an emergency door located in the center of the rear end or (2) if the engine or a storage compartment is located in the rear, a left side emergency door in the rear half of the bus and an emergency window in the rear end. Double side emergency exits are permitted.
- (I) The passage to the emergency door shall be kept clear of obstructions and there shall be no steps leading to the emergency door.
- (II) A left side emergency door shall be equipped with safety glass in the upper portion. The lower portion shall be at least the same gauge metal as used in the body.
- (III) A positive, mechanical device shall be used that holds the door open and prevents it from closing during emergencies and evacuation drills.
- (IV) A rear emergency window (used in conjunction with a left-hand emergency door) shall be at least 16 inches high and 54 inches wide on buses 80 inches or more in total width and at least 16 inches high and 48 inches wide on buses less than 80 inches in total width.
- (V) A rear emergency window shall be hinged from the top, and designed to prevent accidental reclosing in an emergency. A header pad that lines the upper length of the window opening shall be furnished.
- (VI) Paneling of sufficient strength to support the weight of an occupant shall cover the space between the top of the rear davenport seat and the inside lower ledge of the rear emergency window.
- (VII) Emergency doors shall be designed to be opened from either the inside or outside of the bus and shall be equipped with a fastening device which may be quickly released but is designed to offer protection against accidental release. Control from the driver's seat is not permitted. Provisions for opening from the outside shall consist of a nondetachable device designed to prevent hitching-to, but to permit opening when necessary. There shall be no exterior body projections that could injure pupils exiting through the emergency window or door other than the proper opening controls.
- (VIII) If the latch handle on the outside of the emergency door is not located on the outer edge of the door, a door pull shall be affixed in the extreme left-hand location at the bottom

to prevent hitching-on. The emergency pull shall be constructed of heavy metal and shall be free from any sharp edges likely to cause injury.

- (IX) Emergency doors shall be equipped with a slide-bar, cam-operated lock. Slide bar shall have minimum stroke of one inch. The door lock shall be equipped with an interior handle that extends approximately to the center of the emergency door. The handle shall lift up to release the lock. The latch handle shall be protected by a metal guard of adequate width to prevent the handle from being actuated by a child falling against the door, but shall have sufficient clearance above the latch handle to permit easy grasp of the handle. The handle shall be of sufficient length to permit a small child to open the door.
- (X) Emergency door lock shall be equipped with suitable electric plunger-switch connected with a buzzer located in the driver's compartment. Switch shall be enclosed in a metal case, and wires leading from switch shall be concealed in the bus body. Switch shall be so installed that the plunger contacts the outer edge of slide bar in such a manner that any movement of slide bar will immediately close circuit on the switch and activate the buzzer.
- (XI) Rear emergency windows shall be equipped with a latch or latches on the inside designed for quick release, but offering protection against accidental release. Windows shall also be equipped with a latching mechanism that can be actuated from the outside. The outside release shall be nondetachable and be designed to prevent hitching-to.
- (XII) The window latch shall be equipped to activate the electric buzzer when the latch is released.
- (XIII) Emergency doors, hatches, or windows shall be installed, constructed, and identified as prescribed in FMVSS 217. Roof hatches are optional and must be equivalent in quality to the Transpec Triple Value model. Push-out windows are optional.
- (XIV) There shall be a head bumper pad installed on the inside of the top of the emergency doors. This pad shall be approximately three inches in width and one inch thick and shall extend across the entire top of the door opening.

(12) Fire Extinguishers

- (a) The bus shall be equipped with at least one pressurized, dry chemical type fire extinguisher complete with hose, approved by Underwriters Laboratories. Extinguisher must be mounted in a bracket located in the driver's compartment and must be readily accessible to the driver and passengers. A pressure gauge shall be mounted on the extinguisher so as to be easily read without moving the extinguisher from its mounted position.
- (b) The fire extinguisher shall be rated at 3A40BC or greater. The operating mechanism shall be sealed with a type of seal that will not interfere with the use of the fire extinguisher.

(13) First Aid and Body Fluid Clean-up Kits

- (a) The bus shall have a first-aid kit in a removable, moisture and dustproof metal container mounted in an accessible place within driver's compartment. This place shall be marked to indicate its location.
 - (i) Minimum contents are as follows:
 - (A) 2 1" x 2-1/2 yards adhesive tape rolls
 - (B) 24 sterile gauze pads 3" x 3"
 - (C) 100 3/4" x 3" adhesive bandages
 - (D) 8 2" bandage compress
 - (E) 10 3" bandage compress
 - (F) 2 3" x 6 yards sterile gauze roller bandages
- (G) 2 nonsterile triangular bandages approximately 40" x 36" x 54" with 2 safety pins
 - (H) 3 sterile gauze pads 36" x 36"
 - (I) 3 sterile eye pads
 - (J) 1 blunt-end scissors
 - (K) 1 pair latex gloves
 - (L) 1 mouth-to-mouth airway

- (b) In addition to the first aid kit, all buses shall have a body fluid clean-up kit in a metal container properly labeled and mounted.
 - (i) Minimum contents are:
 - (A) Full sized polyethylene apron
 - (B) Surgical face mask
 - (C) Protective goggles
 - (D) 1 pair latex gloves
 - (E) Absorption matter (4 ounces.)
 - (F) 2 biohazard disposal bags (at least one red in color)
- (G) Antibacterial disenfectant in crystal, liquid or powder form (2 ounces), or in towlette form.
 - (H) 2 large paper towels
 - (I) Clean-up spatula, plastic or cardboard
- (c) Plastic clean-up kit containers purchased prior to the adoption of this edition of the Standards are acceptable. Containers purchased following adoption of this edition must be metal.
 - (14) Floor
- (a) Floor in underseat area, including tops of wheelhousings, driver's compartment, and toeboard, shall be covered with smooth rubber floor covering or equivalent having minimum overall thickness of .125 inch.
- (b) Floor covering in aisle shall be of aisle-type rubber or equivalent, wear-resistant, and ribbed. Minimum overall thickness shall be .187 inch measured from tops of ribs. Floor covering in driver's compartment may be ribbed.
- (c) Floor covering must be permanently bonded to floor and must not crack when subjected to sudden changes in temperature. Bonding or adhesive material shall be waterproof and shall be of type recommended by manufacturer of floor-covering material. All seams must be sealed with waterproof sealer and covered with a metal strip.
- (d) Metal cove moldings shall be furnished along all floor to sidewall areas, and rear floor to sidewall areas including corners.
 - (15) Heaters
 - (a) Heaters shall be of hot-water type.
- (b) If only one heater is used, it shall be of fresh air or combination fresh air and recirculating type.
- (c) If more than one heater is used, additional heaters may be of recirculating air type.
- (d) The heating system shall be capable of maintaining throughout the bus a temperature of not less than 40 degrees Fahrenheit at the average minimum January temperature as established by the U.S. Department of Commerce, Weather Bureau, for the area in which the vehicle is to be operated.
- (e) All heaters installed by body manufacturers shall bear a name plate that shall indicate the heater rating in accordance with SBMI Code 001. Said plate, to be affixed by the heater manufacturer, shall constitute certification that the heater performance is as specified in the SBMI Code cited above.
- (f) Heater hoses shall be adequately supported to guard against excessive wear due to vibration. The hoses shall not dangle or rub against the chassis or sharp edges and shall not interfere with or restrict the operation of any engine function. Heater hose shall conform to SAE J20c. Heater lines on the interior of bus shall be shielded to prevent scalding of the driver or passengers.
- (g) Each hot water system installed by a body manufacturer shall include a shutoff valve installed in the pressure and return lines at or near the engine in an accessible location.
- (h) There shall be a water flow regulating valve installed in the pressure line for convenient operation by the driver.
- (i) Accessible bleeder valves shall be installed in an appropriate place in the return lines of body company-installed heaters to remove air from the heater lines.
 - (j) Heater motors, cores, and fans must be readily

- accessible for service. Access panels shall be provided as needed.
- (k) The body company shall furnish permanent type ethylene-glycol base antifreeze that will provide for protection to the cooling and heating system to at least 40 degrees below zero Fahrenheit.
- (l) An auxiliary heater booster water pump shall be furnished by the body company on all Type C and D buses. It shall be driven by a 12-volt electric motor and have a minimum flow capacity of 12 gallons per minute with three feet at head measurement.
- (m) Auxiliary fuel-fired heaters are optional. If used, they must conform to FMVSS 301, Standards for Fuel System Integrity.
 - (16) Identification
- (a) The body shall bear the words "SCHOOL BUS" in black letters at least eight inches high, one inch line width, both front and rear of body. The lettering shall be located between the warning signal lamps as high as possible without impairment of its visibility. Lettering shall conform to "Series B" of Standard Alphabets for highway signs. There shall be no other lettering on the front or rear of the bus except for the emergency door identification.
- (b) The name of the school district, independent school, or transportation company shall be placed on each side of the bus body. The name shall be in black letters, approximately six inches in height and proportionately spaced to achieve a balanced appearance.
- (c) On bodies of school buses leased to a school board by private owners, the name of the owner followed by the word "OWNER" shall be in black letters, approximately six inches in height and proportionately spaced to achieve a balanced appearance.
- (d) The manufacturer's rated pupil seating capacity shall be shown in two-inch letters, either painted on or in decal form, on the inside upper portion of the entrance door or inside the body above the right hand windshield.
- (e) The numbering of individual buses for identification purposes is permissible. Numerals shall be black and six inches in height. The location of the numbers shall be:
- (i) Right side--at district identification belt line aft service door
 - (ii) Rear of the vehicle--curb side below tail light.
 - (iii) Driver panel--belt line on the left side.
 - (iv) One additional position that is optional with district.
- (f) Lettering and numbering as described above are the only permissible permanent markings. Bumper stickers, decals, or commercial markings are not permitted.
 - (17) Inside Height
- (a) Inside body height shall be 72 inches or more, measured metal to metal, at any point on longitudinal center line from front vertical bow to rear vertical bow.
 - (18) Insulation
- (a) Ceiling and walls shall be insulated with proper material to deaden sound and to reduce vibration to a minimum.
- (b) Thermal insulation is required and shall be of fireresistant material approved by Underwriters Laboratories, Inc. The material shall be fiberglass batt type or equal with a minimum thickness of 1.5 inches. It shall be installed in the entire roof area, entire body sides, front and rear bulkheads, and rear area walls.
- (c) Floor insulation is optional. If required, it must be five-ply at least one-half inch thick and/or it shall equal or exceed properties of exterior-type softwood plywood, CD grade as specified in standard issued by U.S. Department of Commerce.
 - (19) Interior
- (a) Interior of bus shall be free of all unnecessary projections likely to cause injury. This standard requires inner

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lining on ceilings and walls. If ceiling is constructed so as to contain lapped joints, forward panel shall be lapped by rear panel and exposed edges shall be beaded, hemmed, flanged, or otherwise treated to eliminate sharp edges.

- (b) The driver's area forward of the foremost padded barriers will permit the mounting of required safety equipment and vehicle operating equipment.
- (c) Every school bus shall be constructed so that the noise level taken at the ear of the occupant nearest to the primary vehicle noise source shall not exceed 85 dB(A).
- (d) Interior side panels from the passenger side window line to the seat mounting ledge shall be mar-resist, aluminized steel, textured panels, stainless steel, or equal non-painted surface to minimize vandalism.
 - (e) Perforated acoustic interior ceiling panels are optional.
 - (20) Lamps and Signals
- (a) Interior lamps shall be provided that adequately illuminate aisle and stepwell. Stepwell light shall be connected to the automatic door control switch for its operation.
- (b) Body instrument panel lights shall be controlled by an independent rheostat switch or may be in combination with headlight rheostat switch.
 - (c) School Bus Alternately Flashing Signal Lamps.
- (i) Definition: School bus red signal lamps are alternately flashing lamps mounted horizontally both front and rear, intended to identify a vehicle as a school bus and to inform others that such vehicle is stopped to take on or discharge school children.
- (ii) School bus amber signal lamps are alternately flashing lamps mounted horizontally both front and rear, intended to identify a vehicle as a school bus and to inform others that such vehicle is about to stop to take on or discharge school children.
- (A) Bus shall be equipped with two red lamps at rear of vehicle and two red lamps at front of vehicle.
- (B) In addition to four red lamps described in A above, four amber lamps shall be installed as follows: One amber lamp shall be located near each red signal lamp, at same level, but closer to vertical centerline of bus. Red and amber signal lamps shall be wired so that amber lamps are activated manually, and red lamps are automatically activated (with amber lamps being automatically cancelled) when bus service door is opened.
- (C) A master switch is required for the warning light system.
- (D) The amber warning signal lamps shall be activated manually by a switch mounted on the driver control panel. The red warning signal lamps shall be automatically activated and the operation of the amber lamps cancelled when the bus door is opened. The red warning lamps shall be automatically activated any time the door is opened, irrespective of whether the amber warning lamps were activated immediately preceding the door opening.
- (E) The alternately flashing warning signal lamp system shall include an amber and red pilot indicator lamps located within the easy view of the driver that will indicate when the amber or red flashing lamps are operating.
- (F) The area around the lens of each alternately flashing signal lamp and extending outward approximately three inches shall be painted black. Where there is no flat vertical area of body immediately surrounding the entire lens of lamps, a circular or square band of black approximately three inches wide, immediately below and to both sides of lens, shall be painted on body or roof area to fit the shape of hoods/visors and roofcap. Individual hood/visor is required for each light and shall be painted totally black.
- (G) A single visor/hood for each set of dual lamps or an individual visor/hood for each lamp shall be provided. The visor/hoods shall fit the shape of the lights and roofcaps, be a minimum depth of 5 inches, and be painted black.
 - (H) All flashers for alternately flashing red and amber

- signal lamps shall be enclosed in the body in a readily accessible location.
- (I) A monitor light for the front and rear lamps of the school bus is optional. If used, the monitor shall be mounted in full view of the driver. If the full circuit current passes through the monitor, each circuit shall be protected by a fuse or circuit breaker protecting against any short circuit or intermittent current
 - (d) Turn Signals.
- (i) Bus body shall be equipped with two rear amber arrowtype turn signal lamps, each with a face of at least 38 square inches, and meet specifications of the Society of Automotive Engineers.
- (ii) The bus body shall be equipped with two amber arrow turn signal lamps, each with a face of at least 38 square inches on the front of the bus body. These are required on Type B and D buses. They are also required on Type C buses in addition to fender mounted chassis directional lamps. Type A buses shall be manufacturers' standards.
- (iii) Two side directional signal lights of 32 candlepower shall be located in the beltline near the front of the bus body. (Exception: Type A)
- (iv) Two one-half inch directional pilot lights shall be provided that indicate to the driver that either the left or right directional flashers or the hazard warning flashers are activated. These pilots shall be green in color and bright enough that they can be seen in operation in bright sunlight. They shall be located on the dash or bulkhead above the driver.
- (v) All directional signal lamps must be connected to the chassis hazard warning switch to cause simultaneous flashing of turn signal lamps when needed as vehicular traffic hazard warning.
- (vi) Turn signal lamps are to be placed as wide apart as practical and in plain sight of traffic approaching from front or rear.
 - (e) Stop and Tail Lights.
- (i) The bus shall be equipped with four combination stop and tail lamps mounted on the rear of the body. Two shall be a minimum diameter of seven inches and the other two shall be a minimum of four inches in diameter. The lens color shall be red. The light emitted from the lamps shall be plainly visible for the distance of 500 feet to the rear. The tail lights will be operated by the headlamp switch and the brake lights by the brake light switch. No lettering is permitted on these lamps except for manufacturers' markings.
- (ii) The bottoms of the four-inch diameter stop/tail lights shall emit white light downward to illuminate the rear license plate and bus identification number from a distance of not less than 60 feet in periods of darkness.
- (iii) Stop lights and tail lights shall be placed as wide apart as practical and in plain sight of traffic approaching from the rear.
 - (f) Back Up Lights.
- (i) Two four-inch diameter back up lights shall be provided and shall be of sufficient intensity to inform vehicle operators and pedestrians that the school bus is in reverse. The back up lights shall be automatically illuminated when the ignition switch is "on" and the reverse gear is engaged. The chassis manufacturer shall provide the switch for operation of back up lights.
 - (g) Clearance Marker Lights.
- (i) The bus body shall be equipped with clearance lights on each corner of the bus body, mounted as high as possible on the permanent structure of the bus in such a manner as to indicate the extreme width of the body, and a cluster of three identification lights on the top roof edge of both front and rear ends of the body located at the body's highest point. Side marker lights shall be installed midway between the front and rear clearance lights.

- (ii) The lights on the front and sides shall be amber and the rear lights shall be red.
 - (h) Reflex Reflectors.
- (i) The bus body shall be equipped with four side-mounted and two rear-mounted reflex reflectors. Light lenses do not suffice as reflectors.
- (ii) Reflectors shall be mounted at a height of not less than 15 inches nor more than 60 inches above the ground.
- (iii) The front side reflectors shall be amber. The right front side reflector shall be located immediately aft of the door, and the other front side reflector shall be located at a similar position on the left side.
- (iv) The rear reflectors (side and rear) shall be red. The two on the sides (one on each side) shall be located as far to the rear as possible, and the two on the rear as far apart as practical.
- (v) All buses shall be equipped with two additional amber reflectors which shall be located at or near the midpoint between the front and rear side reflectors.
- (vi) Lights and reflectors at or below the bottom window line shall have rounded protective shields or shall be finished in such a manner that sharp edges do not protrude or snag clothing.
 - (i) Warning Device.
- (i) Each school bus shall contain at least three reflectorized triangle road warning devices that comply with FMVSS 125, mounted in an accessible place in the driver's compartment in a container. The mounting location in Type A vehicles is optional.
 - (21) Metal Treatment
- (a) All metal 12 gauge and thinner used in construction of bus body shall be zinc or aluminum coated or treated by equivalent process before bus is constructed. Included are such items as structural members, inside and outside panels, door panels, and floor sills. Excluded are such items as door handles, grab handles, interior decorative parts, and other interior plated parts.
- (b) All metal parts that will be painted shall be (in addition to above requirements) chemically cleaned, etched, zinc/phosphate coated, and zinc/chromate or epoxy primed or conditioned by equivalent process.
- (c) In providing for these requirements, particular attention shall be given lapped surfaces, welded connections of structural members, cut edges, punched or drilled hole areas in sheet metal, closed or box sections, unvented or undrained areas, and surfaces subjected to abrasion during vehicle operation.
- (d) As evidence that above requirements have been met, samples of materials and sections used in construction of bus body, when subjected to 1000-hour salt spray test as provided for in latest revision of ASTM designation; 8-117 "Standard Method of Salt Spray (Fog) Testing," shall not lose more than ten percent of material by weight.
 - (22) Mirrors
- (a) Interior Mirror: Interior mirror shall be either clear view laminated glass or clear view glass bonded to a backing that retains the glass in the event of breakage. Mirror shall have rounded corners and protected edges. Type A and Type B cutaway buses shall have a minimum of a 6 inch x 16 inch mirror and Type B, C, and D buses shall have a minimum of a 6 inch x 30 inch mirror.
- (b) Exterior Mirrors: Each bus shall have a minimum of one exterior left side and one exterior right side rearview mirror that comply with FMVSS 111. Type A vehicles may be manufacturer's standard. All exterior rearview mirrors must be adjustable to allow any driver to have visibility aft of the rear wheels at ground level.
- (c) Indirect Visibility: Each bus shall have a mirror system that will provide an unobstructed field of view of the area around the bus and that conforms with FMVSS 111 as amended December 2, 1993.
 - (23) Bus Body Mounting

- (a) Chassis frame shall support rear body cross member. Bus body shall be attached to chassis frame at each main floor sill, except where chassis components interfere, in such manner as to prevent shifting or separation of body from chassis under severe operating conditions.
- (b) Insulating material shall be placed at all contact points between body and chassis frame on Type B, C, and D buses, and shall be so attached to chassis frame or body that it will not move under severe operating conditions.
 - (24) Mud flaps
- (a) All buses shall be provided with mud flaps or mud shields at all front and rear wheel positions to prevent mud, slush, and gravel from being thrown onto the lower sections of the bus and service entrance area. Mud flaps must be heavy duty construction.
 - (25) Rubber fenders
- (a) Cove-style rubber fenders shall be furnished on Type D buses on both the front and rear wheelhousing rims to prevent mud, slush, and water from being thrown onto the sides of the bus. Cove-style rubber fenders shall be furnished on the rear wheelhousing rims on Type C buses. Rubber fenders are not required on Type A and B buses.
 - (26) Overall Length and Width
- (a) Overall length of bus shall not exceed forty feet. Overall width of bus shall not exceed 102 inches excluding accessories.
 - (27) Rub Rails
- (a) Both sides of the vehicle shall have four rubrails. They shall be located at the window line, seat line, floor line, and bottom of the body skirt.
- (b) The window-line rubrail shall extend from the rear of the service door opening along the right side of the body, extending around the right rear corner to the emergency door, and on the left side from the point of beginning of the passenger compartment along the left side extending around the left rear corner to the emergency door.
- (c) The seat-line rubrail shall cover the same longitudinal area as the window line rubrail.
- (d) The floor-line rubrail shall cover the same longitudinal area as the window-line rubrail except at wheelhousings, extending around the radii of the right and left rear corners as far as possible.
- (e) The skirt-line rubrail shall cover the same longitudinal area as the window-line rubrail, except that it shall terminate at the rear corners of the vehicle.
- (f) The window-line, seat-line, and floor-line rubrails shall be attached to the outside of the body at each body post and to all other vertical structural members.
- (g) The skirt-line rubrail shall be attached to the outside of the body panels and other structural members behind the body panels.
- (h) All rubrails shall be four inches or more in width in their finished form and shall be of 16 gauge steel or suitable material of equivalent strength. They shall be constructed in corrugated or ribbed fashion.
 - (i) Pressed-in or snap-on rub rails are not acceptable.
- (j) Exception: Rub rails will not extend around rear corners of buses using rear center luggage compartment or Type D buses with rear engine, and must accommodate side emergency doors.
 - (28) Seat Belt for Driver
- (a) A Type 2 lap belt/shoulder harness restraint system shall be provided for the driver. The assembly shall be equipped with an emergency locking retractor (ELR) for the continuous-belt system. The lap portion of the belt shall be guided or anchored where practical to prevent the driver from sliding sideways under it.
 - (29) Driver's Seat
 - (a) The driver's seat must be a high-back, six (6) way

adjustable without the use of tools. It shall adjust forward and backward, be mounted to adjust upward and downward, with a tiltback that allows the back to tilt forward and rearward. (Exception: Type A and Type B Cutaway chassis manufacturers' standards.)

- (b) Air-ride and lumbar-support are approved optional features.
 - (30) Seats and Crash Barriers
 - (a) All seats shall have minimum depth of 15 inches.
- (b) In determining seating capacity of bus, allowable average rump width shall be:
 - (i) 13 inches where 3-3 seating plan is used.
 - (ii) 15 inches where 3-2 seating plan is used.
- (c) Seat, seat back cushion, and crash barrier shall be covered with a material having 42-ounce finished weight, 54 inches width and finished vinyl coating of 1.06 broken twill, or other material with equal tensile strength, tear strength, seam strength, adhesion strength, resistance to abrasion, resistance to cold and flex separation.
- (d) Each seat leg shall be secured to the floor by a minimum of two bolts, washers and nuts or flange-headed bolts.
- (e) All seat frames shall be fastened to the seat rail with two bolts, washers and nuts or flange-headed bolts.
 - (f) Type A buses shall have crash barriers.
 - (31) Steering Wheel
- (a) 18" or 20" steering wheel as specified in the 1994 purchase specification guidelines on file with the Utah State Board of Education.
 - (32) Steps
- (a) The first step at service door shall be not less than 12 inches and not more than 16 inches from ground, based on standard chassis specifications.
- (b) Service door entrance may be equipped with two-step or three-step stepwell. Risers in each case shall be approximately equal. When plywood floor is used on steel, differential may be increased by thickness of plywood used. Risers shall not exceed 10 inches.
- (i) When three-step stepwell is specified, the first step at service door shall be approximately ten to fourteen inches from the ground when bus is empty, based on standard chassis specifications.
- (ii) Type D vehicles shall have a three-step stepwell with the first step at service door twelve to sixteen inches from the ground.
- (c) Steps shall be enclosed to prevent accumulation of ice and snow.
 - (d) Steps shall not protrude beyond side body line.
 - (e) Heated rubber steps are optional.
 - (33) Grab Handle
- (a) A grab handle approximately 20 inches in length shall be provided in an unobstructed location inside doorway on both left and right sides. Base of grab handle attaching it to the bus body shall be designed in such a manner that clothing, draw strings, straps, or buttons cannot catch or hang up at the joint.
 - (34) Step Treads
- (a) All steps, including floor line platform area, shall be covered with 3/16-inch rubber floor covering or other materials equal in wear resistance and abrasion resistance to top grade rubber.
- (b) Metal back of tread, minimum 24-gauge cold rolled steel, shall be permanently bonded to ribbed rubber; grooved design shall be such that said grooves run at a 90-degree angle to long dimension of step tread.
- (c) 3/16-inch ribbed step tread shall have a 1.5 inch white nosing as integral piece without any joint.
- (d) Rubber portion of step treads shall have the following characteristics:
- (i) Special compounding for good abrasion resistance and high coefficient of friction.

- (ii) Flexibility so that it can be bent around a .5 inch mandrel at 130 degrees F. and at 20 degrees F. without breaking, cracking, or crazing.
 - (iii) Show a durometer hardness of 85 to 95.
 - (35) Stirrup Steps
- (a) The shall be at least one folding stirrup step or recessed foothold and suitably located handles on each side of the front of the body for easy accessibility for cleaning the windshield and lamps except when windshield and lamps are easily accessible from the ground. Steps are permitted in or on the front bumper in lieu of the stirrup steps, if the windshield and lamps are easily accessible for cleaning from that position. (Exception: Type A and Type B cutaway.)
 - (36) Stop Signal Arm
- (a) Stop signal arm shall meet the applicable requirements of FMVSS 131. The arm shall be of an octagonal shape with white letters and border on a red background, and shall be of a reflective material meeting U.S. Department of Transportation FHWA FP-85 Type 2A or Type 3A. Flashing strobe lights on stop arm shall be connected to the red alternately flashing signal lamp circuits. The stop signal shall be vacuum, electric, or air operated. Arm shall be automatically operated when red warning lights are activated.
- (b) The stop signal arm shall be mounted outside the bus body near the driver on the left side immediately below the driver's window. One stop signal arm per bus is permitted.
 - (37) Storage Compartment (Optional)
- (a) If tools, tire chains and/or tow chains are carried on the bus, a container of adequate strength and capacity may be provided. Such storage container may be located either inside or outside the passenger compartment. If located inside, it shall have a cover (seat cushion may not serve this purpose) capable of being securely latched and be fastened to the floor convenient to either the service or emergency door. Storage racks may not be installed inside the passenger compartment of the bus.
 - (38) Sun Shield
- (a) An interior adjustable transparent sun shield not less than 6 inches x 30 inches for Type B, C, and D vehicles, and not less than 6 inches x 16 inches for Type A vehicles with a finished, padded edge shall be installed in a position convenient for use by driver. It shall be fully adjustable. Type A and Type B cutaway shall be manufacturers' standards.
 - (39) Tailpipe
- (a) Exhaust pipe, muffler and tailpipe shall be outside bus body compartment and attached to chassis.
- (b) Tailpipe shall be constructed of a corrosion-resistant tubing material at least equal in strength and durability to 16-gauge steel.
- (c) Tailpipe may (1) extend beyond rear axle and extend at least five inches beyond chassis frame and be mounted outside of chassis frame rail at end point, or (2) extend to, but not beyond the body limits on the left side of the bus, behind the driver's compartment, outboard of chassis center line and shall terminate from chassis centerline as follows:

Type A buses Manufacturers' standards
Type B buses 42.5 inches
Type C and D buses 48.5 inches.

- (i) Exception: The exhaust system on vehicles designed for the transportation of disabled pupils shall be routed to the left of the right frame rail to allow for the installation of a lift on the right side of the vehicle.
- (d) Exhaust system on gasoline-powered buses shall be properly insulated from fuel tank connections by a securely attached metal shield at any point where it is 12 inches or less from fuel tank or tank connections.
- (e) Muffler shall be constructed of corrosion-resistant material

- (a) When used, sanders shall:
- (i) Be of hopper cartridge-valve type.
- (ii) Have metal hopper with all interior surfaces treated to prevent condensation.
 - (iii) Be of at least 100-pound (grit) capacity.

(40) Traction Assisting Devices (Optional)

- (iv) Have cover on filler opening of hopper that screws into place, sealing unit airtight. Filling to be accomplished from outside the bus body.
- (v) Have discharge tubes extending under fender to front of each rear wheel.
- (vi) Have no-clogging discharge tubes with slush-proof, non-freezing rubber nozzles.
- (vii) Be operated by electric switch with pilot light mounted on instrument panel.
 - (viii) Be exclusively driver-controlled.
- (ix) Have gauge to indicate hoppers need refilling when they are down to one-quarter full.
 - (b) Automatic traction chains may be installed.
 - (41) Tow Hooks
- (a) Two front and two rear heavy-duty frame mounted tow hooks shall be furnished on all buses Type B, C, and D. Tow hooks must project beyond the front or rear bumpers. The front tow hooks shall be furnished by the chassis manufacturer, and the rear tow hooks furnished by the body manufacturer on Type C buses. Front and rear tow hooks shall be furnished by the body manufacturer on Type B and D buses.
 - (42) Undercoating
- (a) Entire underside of bus body, including floor sections, cross member, and below floor line side panels, shall be coated with rust-proofing compound for which compound manufacturer has issued notarized certification of compliance to bus body builder that compound meets or exceeds all performance and qualitative requirements of Department of the Army Coating Compounds TT-C-520b, Paragraph 3.4 (1973), using modified test procedures* (*Test panels are to be prepared in accordance with paragraph 4 6.12 of TT-C-520b with modified procedure requiring that tests be made on a 48-hour air cured film at thickness recommended by compound manufacturer) for the following requirements:
- (i) Salt spray resistance--pass test modified to five percent salt and 1,000 hours.
 - (ii) Abrasion resistance--pass.
 - (iii) Fire resistance--pass.
- (b) Undercoating compound shall be applied with suitable airless or conventional spray equipment to recommended film thickness and shall show no evidence of voids in cured film.
 - (42) Ventilation
 - (a) Auxiliary Fans (Optional)
- (i) Auxiliary fans shall be placed in locations where they can be adjusted to their maximum effectiveness.
- (ii) These fans shall be approximately six inches in diameter and two-speed.
- (iii) The blades of the fans shall be covered with a protective cage. Each of these fans shall be controlled by a separate switch.
- (b) Body shall be equipped with suitable, controlled ventilating system of sufficient capacity to maintain proper quantity of air under operating conditions without opening of windows except in extremely warm weather.
- (c) Static-type, non-closable exhaust ventilation shall be installed in low-pressure area of roof.
 - (d) Power Roof Vent Fans (Optional)
- (i) If power roof vent fans are required they shall be twospeed electric type with a switch for each fan that is supplied. The roof fan ventilation opening shall be provided with an iristype closing mechanism to provide for shutting off the air flow in inclement weather.
 - (43) Wheelhousing

- (a) The wheelhousing opening shall allow for easy tire removal and service.
- (b) The inside height of the wheelhousing above the floor line shall not exceed 12 inches. All wheelhousings shall be rubber covered.
- (c) The wheelhousing shall provide clearance for installation and use of tire chains on dual power-driving wheels.
- (d) No part of a raised wheelhousing shall extend into the emergency door opening.
 - (44) Windows

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- (a) Glass Quality and Dimensions
- (i) The windshield shall be large enough to permit the driver to see the road clearly and shall be slanted or "swept back" to reduce glare. It shall be mounted between front corner posts that provide a minimal obstruction to the driver's view.
- (ii) The glass used in the windshield shall be AS-1 standard. Side windows and all doors shall be at least AS-2 standard, and rear windows shall be at least AS-3 standard. All windows shall be mounted so the monogram is visible.
- (iii) windshield glass shall be tinted or shaded with a horizontal gradient band gradually decreasing in light transmission to 35 percent or less at the top of the windshield.
- (iv) The edges of all glass mounted in a fixed position shall be held in place by a rubber gasket of such type that broken glass can be easily removed and replaced.
- (v) For ventilation purposes, the driver's window shall be adjustable and shall be equipped with a positive latch that is lockable from the inside. The driver's window shall be of a sliding type.
- (A) Exception: Type A and Type B cutaway-manufacturers' standards.
- (vi) The side window latches shall be easy to operate and capable of holding the sash securely in place in all positions.
- (vii) The side windows shall be equipped with sash locks of such construction that spring tension shall push the latch into place and hold it securely in place.
- (b) Each full side window shall provide unobstructed emergency opening not less than nine inches nor more than 12 inches high and 22 inches wide, obtained by lowering window. Side windows, except driver's window, may be tinted.
 - (c) Push-out type, split-sash windows may be used.
 - (46) Windshield Washers
 - (a) A windshield washer system shall be provided.
 - (47) Windshield Wipers
- (a) A windshield wiping system, two-speed or more, shall be provided.
- (b) The wipers shall be operated by one or more air or electric motors of sufficient power to operate wipers. If one motor is used the wiper shall work in tandem to give full sweep of windshield. If more than one motor is used, each motor shall have a separate switch.
 - (48) Wiring
- (a) All wiring shall conform to current standards of the Society of Automotive Engineers.
 - (b) Circuits
- (i) Wiring shall be arranged in circuits as required with each circuit protected by a fuse or circuit breaker. A system of color and number coding shall be used.
- (ii) Wiring shall be arranged in at least six regular circuits, as follows:
 - (A) Head, tail, stop (brake), and instrument panel lamps.
- (B) Clearance and step-well lamps (step-well lamp shall be actuated when service door is opened).
 - (C) Dome lamp.
 - (D) Ignition and emergency door signal.
 - (E) Turn signal lamps.
 - (F) Alternately flashing signal lamps.
- (iii) Any of the above combination circuits may be subdivided into additional independent circuits.

- (iv) Whenever heaters and defrosters are used, at least one additional circuit shall be installed.
- (v) The bus body electrical system shall be equipped with a continuous duty solenoid switch operated by the ignition switch that cuts off the electrical power to most body circuits such as heaters, dome lights, etc. when the ignition switch is turned to the "off" position.
- (vi) Whenever possible, all other electrical functions (such as sanders and electric-type windshield wipers) shall be provided with independent and properly protected circuits.
- (vii) Each body circuit shall be coded by number or letter and color on a diagram of circuits and shall be attached to the body in readily accessible location.
- (c) The entire electrical system of the body shall be designed for the same voltage as the chassis on which the body is mounted.
- (d) All wiring shall have an amperage capacity equal to or exceeding the designed load. All wiring splices are to be done at accessible locations and noted as splices on wiring diagram.
- (e) A body wiring diagram of easily readable size shall be furnished with each bus body or affixed in an area convenient to the electrical accessory control panel.
- (f) Body power wire shall be attached to a special terminal on the chassis.
- (g) All wires passing through metal openings shall be protected by a grommet or loom.
- (h) Wires not enclosed within body shall be fastened securely at intervals of not more than 18 inches. All joints shall be soldered or joined by equally effective connectors.
 - (i) A main battery power disconnect switch is optional.

R909-3-7. Vehicles for Transporting Disabled Students.

- (1) General Requirements
- (a) The specifications in this section are intended to be supplementary to specifications in the chassis and body sections. In general, buses used for transporting disabled students should meet the requirements of all preceding sections plus those listed in this section. Since it is recognized by the entire industry that the field of transportation for students with disabilities is characterized by special needs for individual cases and by a rapidly changing technology for meeting these needs, a flexible, common-sense approach to the adoption and enforcement of specifications for these vehicles is prudent.
- (b) School buses are defined as vehicles designed to carry more than ten persons. Vehicles with ten passenger positions (including the driver) cannot be certified as buses. For this reason, the classification "Multipurpose Passenger Vehicle" (MPV) must be used by manufacturers for these vehicles in lieu of the classification "school bus." In determining passenger capacity, wheelchair positions are counted as passenger positions.
- (c) The following standards address modifications as they pertain to school buses that, with standard seating arrangements prior to modification, would accommodate more than ten persons. If by addition of a power lift, wheelchair positions, or other modifications, the capacity is reduced such that vehicles become MPVs, the intent of these standards is that these vehicles are required to meet the same standards required prior to such modifications and such MPVs are included in all references to school buses and school bus requirements.
- (d) School buses designed for transporting children with special transportation needs shall comply with state Standards applicable to school buses and to Federal Motor Vehicle Safety Standards (FMVSS) for their Gross Vehicle Weight Rating (GVWR) category.
- (e) Any school bus that is used for the transportation of children who are confined to a wheelchair and/or other mobile positioning device or who require life support equipment that prohibits their use of the regular service entrance, shall be

equipped with a power lift unless a ramp is needed for unusual circumstances related to passenger needs.

- (2) Aisles
- (a) All school buses equipped with a power lift shall have aisles leading to the emergency door(s) from wheelchair area of sufficient width (minimum 30 inches) to permit passage of maximum size wheelchair.
 - (3) Communications
- (a) All school buses should be equipped with an electronic two-way voice communication system.
 - (4) Fastening Devices
- (a) Occupant securement systems must comply with the requirements of FMVSS 222.
- (b) The following information shall be provided with each vehicle equipped with a securement system:
 - (i) Detailed installation instructions and parts list.
- (ii) Detailed instructions and a diagram showing the proper placement and positioning of the system, including correct belt angles.
 - (5) Glass
- (a) Tinted glass up to 30 percent light transmission may be installed wherever AS-3 glass is permitted.
 - (6) Heaters
- (a) Additional heater(s) may be installed in the rear portion of the bus on or behind wheel wells.
 - (7) Power lift
- (a) Lifting mechanism shall be able to lift minimum pay load of 800 pounds. A clear opening and platform to accommodate a 30-inch wide wheelchair shall be provided.
- (b) When the platform is in the fully up position, it shall be locked in position mechanically to prevent the lift platform from falling while in operation due to a power failure.
- (c) Controls shall be provided that enable the operator to activate the lift mechanism from either inside or outside of the bus. There shall be a means of preventing the lift platform from falling while in operation due to a power failure.
- (d) Power lifts shall be so equipped that they may be manually raised in the event of power failure of the power lift mechanism.
- (e) Lift travel shall allow the lift platform to rest securely on the ground.
- (f) All edges of the platform shall be designed to restrain wheelchair and operator's feet from being entangled during the raising and lowering process.
- (g) Platform shall be fitted on both sides and rear with full width shields that extend above the floor line of the lift platform.
- (h) A restraining device shall be affixed to the outer edge (curb end) of the platform that will prohibit the wheelchair from rolling off the platform when the lift is in any position other than fully lowered to ground level.
- (i) A self-adjusting, skid resistant plate shall be installed on the outer edge of the platform to minimize the incline from the lift platform to the ground level. This plate, if so designed, may also suffice as the restraining device described in Subsection 91.08 above. The lift platform must be skid resistant.
- (j) A circuit breaker or fuse shall be installed between power source and lift motor if electrical power is used.
- (k) The lift mechanism shall be equipped with adjustable limit switches or by-pass valves to prevent excessive pressure from building in the hydraulic system when the platform reaches the full up position or full down position.
 - (8) Ramps
- (a) When a power system is not adequate to load and unload students having special and unique needs, a ramp device may be installed.
- (b) If a ramp is used, it shall be of sufficient strength and rigidity to support the special device, occupant, and

attendant(s). It shall be equipped with a protective flange on each longitudinal side to keep the special device on the ramp.

- (c) Floor of ramp shall be of non-skid construction.
- (d) Ramp shall be of such weight that an average-sized female driver or attendant can lift it, and designed in such a way (including lifting handles or slots) that the driver or attendant can put it in place and return it to its storage place without undue stress.
 - (9) Regular Service Entrance
- (a) In Type C and D buses, there shall be three step risers of equal height in the entrance well. The first step at the service door shall be not less than 10 inches and not more than 14 inches from the ground, based on standard chassis specifications. Service door of Type D buses shall be 12 to 16 inches from the ground.
- (b) Step risers shall not exceed a height of 10 inches. When plywood is used on a steel floor or step, the riser height may be increased by the thickness of the plywood.
- (c) On power lift-equipped vehicles, step shall be the full width of the stepwell, excluding the thickness of the doors in open position.
- (d) Steps shall be enclosed to prevent accumulation of ice or snow.
 - (e) Steps shall not protrude beyond side body line.
- (f) As an option, an additional fold-out step may be provided to reduce the distance from the first step to the ground.
 - (10) Restraining Devices
- (a) Seat frames may be equipped with attachments or devices to which belts, restraining harnesses, or other devices may be attached. Optional seats with built-in anchors may be used
 - (11) Seating Arrangements
- (a) Flexibility in seat spacing to accommodate special devices shall be permitted due to constantly changing passenger requirements and shall be consistent with the student Individualized Education Plan (IEP).
 - (12) Special Lights
- (a) Lights shall be placed inside the bus to sufficiently illuminate lift area and shall be activated from the lift door area. In addition an exterior light shall be provided in the skirt area to illuminate the outside area around the lift.
 - (13) Special Service Entrance
- (a) Bus bodies may have a special service entrance constructed in the body to accommodate a wheelchair lift for the loading and unloading of passengers. If such an entrance is constructed in the bus body, it must conform to the placement restrictions set forth in FMVSS 217.
- (b) The opening, to accommodate the special service entrance, shall be at any convenient point on the right (curb side) of the bus and far enough to the rear to prevent the door(s), when open, from obstructing the right front regular service door (excluding a regular front service door lift).
- (c) The opening may extend below the floor through the bottom of the body skirt. If such an opening is used, reinforcements shall be installed at the front and rear of the floor opening to support the floor and provide the same strength as other floor openings.
- (d) The opening, with doors open, shall be of sufficient width to allow the passage of wheelchairs. The minimum clear opening through the door and the lift mechanism shall be 30 inches in width.
- (e) A drip molding shall be installed above the opening to effectively divert water from the entrance.
- (f) The entrance shall be of sufficient width and depth to accommodate various mechanical lifts and related accessories as well as the lifting platform.
- (g) Door posts and headers at the entrance shall be reinforced sufficiently to provide support and strength equivalent to the areas of the side of the bus not used for service

doors.

- (14) Special Service Entrance Doors
- (a) A single door may be used if the width of the door opening does not exceed 42 inches. Three point bar lock is required.
- (b) Two doors shall be used if a single door opening would have to exceed 42 inches.
 - (c) All doors shall open outwardly.
- (d) All doors shall have positive fastening devices to hold doors in the open position.
- (e) All doors shall be weather sealed. Double-door configurations shall be so constructed that a flange on the forward door overlaps the edge of the rear door when the doors are closed.
- (f) If optional power doors are installed, the design shall permit release of the doors for opening and closing by the attendant from the platform inside the bus.
- (g) When manually operated dual doors are installed, the rear door shall have at least one point fastening device connecting it to the header. The forward mounted door shall have at least three point fastening devices. One shall be to the header, one to the floor line of the body, and the other shall be into the rear door. These locking devices shall afford maximum safety when the doors are in the closed position. The door and hinge mechanism shall be of a strength that will provide for the same type of use as that of a standard entrance door.
- (h) Lift door materials, panels, and structural strength shall be equivalent to the conventional service and emergency doors. Color, rub rails, paneling, lettering, and other exterior features shall match adjacent sections of the body.
- (i) Each door shall have windows set in rubber compatible within one-inch of the lower line of adjacent sash.
- (j) Door(s) shall be equipped with a device that will activate a flashing one-inch light located in the driver's compartment when door(s) is not securely closed and ignition is in "on" position.
- (k) Special service entrance doors shall be equipped with padding at the top edge of the door opening. Pad shall be at least three inches wide and one inch thick and extend the full width of the door opening.
- (l) A switch shall be installed to prevent the lifting mechanism from operating when the lift platform door is closed.
- (m) Optional portable student support equipment or special accessories shall be secured at the mounting location to withstand a pulling force of five times the weight of the item or shall be retained in an enclosed, latched compartment. Such special items include:
- (i) Belt cutter for use in emergencies. Belt cutter should be designed to eliminate the possibility of the operator or others getting cut during its use. It should be stored in a safe place such as in the first aid kit.
 - (ii) Crutches, walkers, canes and similar devices.
- (iii) Medical support equipment such as oxygen tanks and ventilators.

R909-3-8. School Buses Equipped to Operate on Compressed Natural Gas.

- (1) General Requirements.
- (a) All compressed natural gas (CNG) installations shall meet all applicable federal and state laws, standards, and requirements, National Fire Protection Association (NFPA) standards, American Society of Mechanical Engineers (ASME) and American Society for Testing and Materials (ASTM) codes and industry safety requirements. In addition, CNG installations shall meet the requirements set forth in R714-400, "Compressed and Liquefied Gas Fuel Systems."
- (b) All CNG installations shall be made in compliance with the standards contained in NFPA Pamphlet No. 52.
 - (c) All devices used in the CNG system that may be

subjected to container pressure shall be designed for the working pressure within a design safety factor of at least 4 and shall be plainly marked as such.

- (d) A certified mechanic shall inspect all fittings and attachments at least quarterly for leaks, wear, tightness, or undue stress
 - (e) CNG Tanks.
- (i) All tanks shall be fabricated of steel, aluminum, or composite materials and be certified in accordance with U.S. Department of Transportation (DOT), Canadian Transport Commission (CTC), or ASME regulations to a service pressure of not less than 3,000 psi and a test burst pressure minimum of 5,000 psi and plainly marked with the words "CNG ONLY," and equipped with a DOT, CTC or ASME certified springload pressure relief valve plainly marked for discharge psi setting and discharge cfm capacity.
- (ii) All tanks shall be directly secured to the main frame in such a manner as to prevent jarring loose, slipping or rotating, withstanding a static force of eight times the weight of a fully pressurized tank with a maximum displacement of .5 inch.
 - (f) CNG Fuel Lines and Installation
- (i) Fuel lines shall be permanently secured at intervals of not more than two feet and shall be placed in such a manner as to minimize the possibility of damage due to vibration, strains, or wear.
- (ii) Fuel lines passing through structural members shall be protected by rubber grommets or bulkhead fittings and follow the main frame channel wherever possible.
- (iii) All fuel lines shall be approved stainless steel with a maximum working pressure of 3,000 psi, a minimum burst pressure of four times the working pressure, and shall be labeled as to the working pressure and CNG service.
- (iv) An approved lock-off or solenoid valve, with filter, shall be provided in the fuel line at a point ahead of the inlet of the natural gas converter, designed to prevent the flow of fuel to the converter when the engine is not running. This may be accomplished by (a) an approved mechanical lock-off controlled by either the engine vacuum or oil pressure, or (b) an approved electric solenoid controlled by either a vacuum or oil pressure switch
 - (g) CNG Valves, Appurtenances, and Connections
- (i) All container valves, appurtenances and connections shall be protected to prevent damage due to accidental contact with stationary or loose objects, mud or ice and, to the extent possible, from damage due to vehicular accidents.
- (ii) Relief valve discharge shall be directed so that any gas released will not impinge on the vehicle and so that the possibility of impingement on adjacent vehicles or persons is minimized. The vent hose shall be attached in such a manner that ice hanging on it will not detach it from its mounting.
- (iii) Outlets shall be protected by caps, covers, or other means to keep water or dirt from collecting in the lines, thus restricting the flow of natural gas.
- (iv) Each line and its connectors shall withstand the pressure caused by the discharge of vapor from a safety device in fully open position.
 - (h) Fuel Injection
- (i) Gas mixers, fuel injectors and pressure regulators for CNG shall meet minimum design standards set forth in NFPA Pamphlet No. 52.
 - (i) Fueling CNG vehicles
- (i) Fueling shall be done by personnel who have been trained and certified by the fuel supplier.
 - (ii) No passenger shall be on board during fueling.
 - (iii) Engine must be shut off during fueling.
- (iv) No source of ignition shall be permitted within 10 feet of the vehicle being fueled.
- (v) Filling level shall not exceed 125 percent of working pressure.

(vi) Instructions shall be conspicuously posted at the fueling site.

R909-3-9. Requirements for Used School Buses.

- (1) General Requirements.
- (a) This part of the Standards for Utah School Buses and Operations, 1994 Edition sets forth the requirements for used school buses to be used in Utah whether purchased or leased by the school district or private school. The modifications necessary to make a used bus comply with this section of the Standards can be made either by the seller or the buyer. The ultimate responsibility for assuring that a used bus complies with all federal and state standards before the bus is placed in service is the responsibility of the using district or school.
 - (b) Used school buses shall:
- (i) comply with the version of the Standards for Utah School Buses and Operations in effect at the time of purchase of the bus, and
- (ii) comply with the applicable sections of current state standards. This requirement shall be satisfied irrespective of whether the bus had previously been used in the State of Utah.
- (c) If required, glass used in used school buses shall be replaced to make it comply with current state standards.

R909-3-10. New School Bus Requirements.

- (1) Procurement and Inspection.
- (a) New school bus procurement is outlined below:
- (i) Procurement policies and vehicle specifications need to be established by local school districts and private schools.
- (ii) Prepare procurement specifications. Mail one copy to State Office of Education, Pupil Transportation Specialist. Specification for bid shall include all applicable FMVSS and Utah standards.
- (iii) Request for bids and specifications sent to qualified suppliers of school buses.
 - (iv) Bids received, evaluated, and selection made.
 - (v) District issues purchase order.
 - (vi) Successful bidder provides school bus or buses.
- (vii) Before any new school bus is placed into service in a school district, it shall first be inspected and tested to verify compliance with the Standards for Utah School Buses and Operations, 1994 Edition.
- (viii) Inspection shall be conducted by the Safety Inspection Office of the Utah Highway Patrol. On or before delivery of a new bus, the school district or private school shall notify the Safety Inspection Office and request a new vehicle inspection. Such inspection shall be carried out within 30 days of delivery.
- (ix) Acceptance testing is conducted by local agency or with assistance from the Utah Department of Transportation and the Pupil Transportation Specialist, Utah State Office of Education, to insure that the school bus complies with all standards and specifications.
 - (b) The acceptance test shall include but not be limited to:
- (i) An inventory of required safety features and equipment specified will be compared with the line ticket as issued by the manufacturer.
- (ii) Functional tests of all lamps and signals, emergency braking system, horn and other operating systems.
 - (iii) Power tests.
 - (iv) Braking test.

R909-3-11. Exemption From or Modification of Requirements.

- (1) General Requirements
- (a) It is anticipated that to achieve the stated objectives of these standards, i.e., provide maximum safety consistent with the economic use of pupil transportation funds and available school bus technology, quality, reliability, conformity, and

serviceability, it shall be necessary to allow exemption from the requirements and periodically modify the requirements. This part of the Standards sets forth the procedures for obtaining exemptions and modifying the provisions of the Standards for Utah School Buses and Operations, 1994 Edition.

- (b) An exemption from the requirements of the Standards may be initiated by a manufacturer or supplier of pupil transportation equipment or a local school district. The request shall be written, should include sufficient supporting data to justify the request for an exemption, and should be submitted to the Pupil Transportation Specialist, Utah State Office of Education.
- (c) All requests for exemptions from the requirements of the Standards shall be reviewed by a committee consisting of at least one representative of the Utah State Department of Transportation, one representative of the Utah State Department of Public Safety, and such consultants as deemed appropriate. If necessary, the committee may require that the request be presented in person.
- (d) All requests for exemption from the requirements of the Standards, together with the recommendations of the review committee, shall be submitted to the State Office of Education for its action and transmittal to the Utah Department of Transportation. Final authority for determining the disposition of a request is vested with the Utah Department of Transportation.
 - (e) Modification Procedures.
- (i) An intent to modify the Standards shall be distributed to certified suppliers and other interested parties at least thirty (30) days prior to consideration of the modification by the Utah State Office of Education and the Utah Department of Transportation.
- (ii) After approval of the proposed modification by the Utah State Office of Education and the Utah Department of Transportation, the modification shall become effective 90 days following distribution.

R909-3-12. Appendix 1.

- (1) Colorado Racking Load Test
- (a) A Racking Load Test (University of Colorado, Boulder, 1972) shall be performed to assure adequate shear stiffness and strength of the bus body. The racking load shall be applied along a line connecting the most distant points on a transverse cross section of the bus interior.
- (b) The maximum jack load for the two-frame assembly is determined by the following formula:

TABLE V

Thus for a DF = 1.5, a GVW = 22,000 lbf and N-11, the dynamic vehicle weight is DVW = 33,000 lbf, the 10ad/frame is P = 3000 lbf and the maximum jack load is j = 6000lbf.

(c) When a complete bus body is rack loaded, the total load DVW must be distributed uniformly along the bus body. This may be accomplished by mounting a series of hydraulic jacks along the length of the bus interior. Seats may be removed to facilitate jack mounting although removal is not recommended when upper seat frames are normally attached to the body structure. The rack load will be considered to be uniformly distributed when the variation in the hydraulic jack readings is less than 10%. At maximum load the sum of all jack readings shall equal DVW.

R909-3-13. Appendix 2.

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- (1) Power Test
- (a) Performance Requirements: The bus shall be so powered and geared that the completed bus shall be capable of surmounting a 3.7 percent grade at a speed of twenty miles per hour with a full passenger load on a continuous pull.
 - (b) Recommended Procedure:
 - (i) Measure the weight of the vehicle. Wt = lbs.
- (ii) Determine the time in seconds it takes to accelerate the bus from 15 to 25 mph on a level roadway. (T = seconds).
- (iii) Perform the following calculations (Where n = maximum number of passengers):
 - (A) $Wt_2 = Wt \dots + 300 =$
 - (B) $Wt_2 = Wt \dots + 150 + 120n =$
 - (C) $a = 0.455/T \times Wt_1/Wt_2$
- (iv) If the "a" from step three is greater than or equal to 0.037, the bus is adequate. If it is less than .037, the bus is not adequate.

R909-3-14. Appendix 3.

- (1) Braking Test
- (a) Performance Requirement: The service braking system shall be designed and constructed such that by the application of a single control unit, the bus will achieve a deceleration of 14 feet per second from a speed of 20 mph with a pedal effort of not more than 75 pounds.
 - (b) Recommended Procedure:
- (i) Determine the time it takes to stop the bus from 20 mph
 (where T = seconds
 (ii) If "T" is less than or equal to 2.5 seconds, the bus is
- (ii) If "T" is less than or equal to 2.5 seconds, the bus is adequate. If it is greater than 2.5 seconds, the bus is not adequate.
- (iii) Contact Pupil Transportation Specialist, State Office of Education, for use of a decelerometer instrument to measure braking efficiency.

KEY: school buses, safety

41-6-115

Notice of Continuation January 5, 2004

R912. Transportation, Motor Carrier, Ports of Entry. R912-14. Changes in Utah's Oversize/Overweight Permit Program - Semitrailer Exceeding 48 Feet Length. R912-14-1. Purpose.

Semi-trailers exceeding 48 feet, and up to 53 feet in length will no longer require oversize permits when operating on or within one mile of routes designated by the Utah Department of Transportation.

R912-14-2. Authority.

Section 72-7-402.

R912-14-3. Provisions.

- 1. Designated routes include: All State and US Highways.
- 2. Vehicles operating more than one mile from the routes listed above will require an oversize permit. These permits will be available on a single trip, semi-annual or annual basis.
- 3. The following restrictions will continue to apply to trailers exceeding 48 feet in length on all highways in Utah.
- a. A Maximum 41 kingpin setting, measured from the kingpin to the center of a tandem axle, or to the center of the center axle on a tridem group.
 - b. Dual tires are required on all trailer axles.
 - c. Rear under ride protection is required.
- d. The maximum gross vehicle weight will be determinedby Bridge Table B Extended, Section 72-7-404.4. Trailers exceeding 53 feet will require a single trip
- 4. Trailers exceeding 53 feet will require a single trip permit. Trailers exceeding 57 feet will require a special approval prior to entering the state. All of the restrictions in the preceding paragraphs apply also to these trailers.

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