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Nancy L. Lancaster, Editor
Kenneth A. Hansen, Director
Kimberly K. Hood, Executive Director

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

Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Division of Administrative Rules, 4120 State Office Building, Salt Lake City, Utah 84114-1201, telephone 801-538-3764, FAX 801-359-0759. Additional rulemaking information, and electronic versions of all administrative rule publications are available at: <http://www.rules.utah.gov/>

The information in this *Bulletin* is summarized in the *Utah State Digest (Digest)*. The *Digest* is available by E-mail or over the Internet. Visit <http://www.rules.utah.gov/publicat/digest.htm> for additional information.

Division of Administrative Rules, Salt Lake City 84114

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NOTICES OF PROPOSED RULES

A state agency may file a **PROPOSED RULE** when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between February 02, 2011, 12:00 a.m., and February 15, 2011, 11:59 p.m. are included in this, the March 01, 2011 issue of the *Utah State Bulletin*.

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

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 Rules being repealed are completely struck out.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

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least March 31, 2011. The agency may accept comment beyond this date and will indicate the last day the agency will accept comment in the **RULE ANALYSIS**. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency hold a hearing on a specific **PROPOSED RULE**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through June 29, 2011, the agency may notify the Division of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Division of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE OF A CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses and the agency must start the process over.

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

PROPOSED RULES are governed by Section 63G-3-301; Rule R15-2; and Sections R15-4-3, R15-4-4, R15-4-5, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page

Agriculture and Food, Plant Industry
R68-7
Utah Pesticide Control Act

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 34430

FILED: 02/14/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to update the rule to be in compliance with current conditions and have clearer rules especially for fumigation and termite pesticide application.

SUMMARY OF THE RULE OR CHANGE: This amendment: 1) clarifies commercial pesticide applicator business requirements; 2) clarifies how many times a person may attempt to take a pesticide exam; 3) adds more detail to the record requirements for pesticide applicators; 4) adds new language requiring restricted use pesticide dealers to submit electronic records on an annual basis; 5) adds more detail to the record requirements for which restricted use pesticide dealers are required to keep; 6) adds requirements for new responsibilities of pesticide businesses and pesticide applicators; 7) adds more detail for minimum standards for termite applicators; 8) adds more detail for minimum standards for fumigation applications; 9) adds more detail for transportation, storage, and handling requirements; 10) adds unlawful acts to coincide with changes made on the above mentioned items; and 11) adds reference to penalty matrix for enforcement action.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 4-14-6

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There are no anticipated cost to the state budget because the state is already doing the work with existing staff and budget.

◆ **LOCAL GOVERNMENTS:** Local governments are not affected by the rule change because the regulation is done by state government and local government does not enforce this pesticide rule.

◆ **SMALL BUSINESSES:** There will be a minimal cost to pesticide applicator companies for putting license information on their vehicles, upgrading storage facilities if necessary, and time spent for dealers to submit electronic records. They will be required to keep more detailed and accurate records of applications and training that is conducted. The increased cost would be associated to the record keeping.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There will be a minimal cost to pesticide applicators. They will be required to keep more detailed and accurate records of applications and training that is conducted. The increase cost would be associated to the record keeping.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be a minimal cost to pesticide applicator companies for putting license information on their vehicles, upgrading storage facilities if necessary, and time spent for dealers to submit electronic records.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule is being updated to be in line with current conditions and recommendations from EPA as it relates to fumitoxin issues. There will be minimal fiscal impact to the regulated business, but this is necessary to provide adequate consumer protection to the public when dealing with restricted use pesticides.

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

AGRICULTURE AND FOOD
 PLANT INDUSTRY
 350 N REDWOOD RD
 SALT LAKE CITY, UT 84116-3034

or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Clair Allen by phone at 801-538-7180, by FAX at 801-538-7189, or by Internet E-mail at clairallen@utah.gov
 ◆ Clark Burgess by phone at 801-538-9929, by FAX at 801-538-7126, or by Internet E-mail at cburgess@utah.gov
 ◆ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
 ◆ Kyle Stephens by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at kylestephens@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/31/2011

THIS RULE MAY BECOME EFFECTIVE ON: 04/07/2011

AUTHORIZED BY: Leonard Blackham, Commissioner

R68. Agriculture and Food, Plant Industry.

R68-7. Utah Pesticide Control [Aet]Rule.

R68-7-1. Authority.

Promulgated under authority of Section 4-14-6.

R68-7-2. Registration of Products.

All pesticide products distributed in Utah shall be officially registered annually with the Utah Department of Agriculture and Food.

(1) Application for registration shall be made to the [d]Department on forms prescribed and provided by them and shall include the following information:

(a) The name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicant.

(b) The name of the pesticide.

(c) A complete copy of the label which will appear on the pesticide.

(2) The [d]Department may require submission of the complete formula of any pesticide if it is deemed necessary for administration of the Utah Pesticide Control Act. If it appears to the [d]Department that the composition of the product is such as to warrant the proposed claims for it, and if the product and its labeling and any other information which may be required to be submitted comply with the requirements of the act, the product shall be registered.

(3) The registrant is responsible for the accuracy and completeness of all information submitted concerning application for registration of a pesticide.

(4) Once a pesticide is registered under the Act, no further registration is required: Provided that,

(a) the product remains in the manufacturer's or registrant's original container; and

(b) the claims made for it, the directions for its use, and other labeling information do not differ in substance from the representations made in connection with the registration.

(5) Whenever the name of a pesticide product is changed or there are changes in the product ingredients, a new registration shall be required. Other labeling changes shall not require re-registration, but the registrant shall submit copies of all changes to the [d]Department as soon as they are effective.

(6) Whenever a registered pesticide product is to be discontinued for any reason, except when suspended or canceled by the U.S. Environmental Protection Agency (EPA), the Utah Department of Agriculture and Food requires said product to be registered for two years from date of the notice of discontinuation. When a product is found in commercial trade after the discontinuation period, the [d]Department will require that the registrant register said product as outlined in Chapter 14, Utah Pesticide Control Act, 4-14-3(1).

(7) The [d]Department may exempt any pesticide that is determined either (1) to be adequately regulated by another federal agency, or (2) be of a character which is unnecessary to subject to Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

(8) A registrant who desires to register a pesticide to meet special local needs pursuant to Section 24(c) of FIFRA shall comply with Section 4-14-3 of the Utah Pesticide Control Act.

(9) No registration is required for a pesticide distributed in Utah pursuant to an experimental use permit issued by the EPA or under Section 4-14-5 of the Utah Pesticide Control Act.

(10) A registration fee determined by the [d]Department, pursuant to Subsection 4-2-2(2), shall be paid annually for each product, regardless of the number of products registered per applicant.

(11) Each registration is renewed for a period of one year upon payment of the annual renewal fee determined by the [d]Department, pursuant to Subsection 4-2-2(2). It shall be paid on or before June 30 of each year. If the renewal of a pesticide

registration is not received prior to July 1 of that year, an additional fee determined by the [d]Department pursuant to Subsection 4-2-2(2), shall be assessed and added to the original registration fee and shall be paid by the applicant before the registration renewal for that pesticide shall be issued.

R68-7-3. Product Labeling.

(A) Each container of pesticide distributed in Utah shall bear a label showing the information set forth in Section 4-14-4.

(B) All pesticide labels shall contain statements, words, graphic material, and any other information required by the EPA.

R68-7-4. Classification of Pesticides.

The commissioner shall classify all pesticide products registered in Utah for "restricted[-]use" or "general[-]use" according to standards consistent with Section 3 of FIFRA. The commissioner shall consider all pesticides and uses classified as restricted by the EPA to be restricted in the State of Utah. [He]The commissioner may also restrict the use of additional pesticides if [he finds]it is found that the characteristics of such pesticides require that their uses be restricted to prevent damage to property other than the property to which they are directly applied or to persons, animals, crops or vegetation other than the pests which they are intended to destroy. Individuals not appropriately certified are prohibited from using restricted-use pesticides, with the exception of those competent individuals working under the direct supervision of a certified private applicator.

R68-7-5. Classification of Pesticide Applicators.

Pesticide applicators shall be classified as commercial, non-commercial, or private applicators according to the following criteria:

(1) Commercial Applicator - any person who uses any pesticide for hire or compensation.

(2) Non-commercial Applicator - any person working as an individual or an employee of a firm, entity or government agency who uses or demonstrates the use of any restricted-use pesticide and who does not qualify as a private applicator, nor require a commercial applicator's license.

(3) Private Applicator - any person or his/her employer who uses or supervises the use of any restricted-use pesticide for the purpose of producing any agricultural commodity on property owned or rented by [him or his]the employer or (if applied without compensation other than trading of services between producers of agricultural commodities) on the property of another person.

R68-7-6. Categorization of Pesticide Applicators.

Commercial and Non-commercial applicators shall be categorized in one or more of the categories defined below, based on the application site and the type of work they perform.

(1) Agricultural Pest Control.

(a) Plant. This category includes applicators using pesticides to control pests in the production of agricultural crops including, but not limited to, field crops, vegetables, fruits, pasture, rangelands, and non-crop agricultural lands.

(b) Animal. This category includes applicators using pesticides on animals including, but not limited to, beef and dairy cattle, swine, sheep, horses, goats, poultry, and to places on or in which animals inhabit. Doctors of veterinary medicine or their

employees engaged in the business of applying pesticides for hire, publicly representing themselves as pesticide applicators or engaged in large-scale use of pesticides, are included in this category.

(2) Forest Pest Control. This category includes applicators using pesticides in forests, forest nurseries, and forest seed-producing areas.

(3) Ornamental and Turf Pest Control. This category includes applicators using pesticides to control ornamental and turf pests in the maintenance and production of ornamental trees, shrubs, flowers and turf. This includes controlling pests on [~~home foundations,~~]sidewalks, driveways, and other similar locations.

(4) Seed Treatment. This category includes applicators using pesticides on seeds.

(5) Aquatic Pest Control.

(a) Surface Water: This category includes applicators applying pesticides to standing or running water, excluding applicators engaged in public health-related activities included in R68-7-6(8).

(b) Sewer Root Control: This category includes applicators using pesticides to control roots in sewers or in related systems.

(6) Right-of-Way Pest Control. This category includes applicators using pesticides in the maintenance of public roads, electric power lines, pipelines, railway rights-of-way, or other similar areas.

(7) Structural and Health-related Pest Control. This category excludes any fumigation pesticide application and is limited to applicators using pesticides in, on, or around food handling establishments; human dwellings; institutions, such as schools and hospitals; industrial establishments, including warehouses, storage units and any other structures and immediately adjacent areas, public or private; to control household pests, fabric pests, and stored-product pests and to protect stored, processed and manufactured products. This category includes vertebrate pest control in and [~~around~~]immediately adjacent to buildings. "Immediately adjacent to a structure" means not further than three (3) feet from the structure. If the labeling for the structural pesticide permits structural use on structural pests and calls for application beyond three feet the application can be made, but cannot exceed the maximum distance prescribed by the label. [~~and allows for applications up to three feet from the structure.~~]

(8) Public Health Pest Control. This category includes applicators applying the use of pesticides for the management and control of pests having medical and public-health importance. [~~This category includes mosquitoes, ticks, bedbugs, louse, and fleas.~~]

(9) Regulatory Pest Control.

(a) This category is limited to state and federal employees or persons under their direct supervision, who apply pesticides in a mechanical ejection device, or other methods to control regulated pests.

(b) This category is limited to state and federal employees or persons under their direct supervision, who apply pesticides in a protective collar, or other methods to control regulated pests.

(10) Demonstration, Consultation and Research Pest Control. This category includes individuals who demonstrate or provide instruction to the public in the proper use, techniques, benefits and methods of applying restricted-use pesticides. This category includes, but is not limited to agricultural compliance

specialists, extension personnel, commercial representatives, consultants and advisors, and persons conducting field research with restricted-use pesticides. In addition, they shall meet the specific standards that may be applicable to their particular activity.

(11) Aerial Application Pest Control. This category includes applicators applying pesticides by aircraft. Aerial applicators are required to be certified in the Aerial-Application Pest-Control Category and any other categories of intended application.

(12) Vertebrate Animal Pest Control. This category includes applicators applying pesticides in the control of vertebrate pests outdoors, such as rodents, birds, bats, predators or domestic animals.

(13) Fumigation/Stored-Commodities Pest Control. This category includes applicators using fumigants to control pests in, on, or around soils, structures, railroad cars, stored grains, manufactured products, grain elevators, flour mills, and similar areas and items.

(14) Wood-Preservation Pest Control. This category includes applicators who apply wood-preservative pesticides to wood products, such as fence posts, electrical poles, railroad ties, or any other form of wood products.

(15) Wood-Destroying Organisms Pest Control. This category includes applicators using pesticides to control termites, carpenter ants, wood-boring or tunneling insects, bees, wasps, wood-decaying fungi and any other pests destroying wood products.

R68-7-7. Standards of Competence for Certification of Applicators.

Applicators must be at least 16 years of age and [~~show~~] demonstrate competence in the use and handling of pesticides according to the hazards involved in their particular classification by passing the tests and becoming certified as outlined in R68-7-8. Upon their becoming certified, the department will issue a license which will qualify an applicator to purchase and apply pesticides in the appropriate classification. Standards for certification of applicators as classified in R68-7-4 have been established by the EPA and such standards shall be a minimum for certification of applicators in the State of Utah.

(1) Commercial and Non-Commercial Applicators.

Commercial and non-commercial applicators shall demonstrate practical knowledge by written examination(s) of the principles and practices of pest control and safe use, storage and transportation of pesticides, to include the general standards applicable to all categories and the standards specifically identified for each category or subcategory designated by the applicant, as set forth in 40 CFR, Section 171.4 and the EPA approved Utah State Plan for certification of pesticide applicators. In addition, applicators applying pesticides by aircraft shall be examined on the additional standards specifically identified for this method of application as set forth herein.

(a) Exemptions. The standards for commercial and non-commercial applicators do not apply to the following persons for purposes of these rules:

(i) Persons conducting laboratory-type research involving pesticides; and

(ii) Doctors of medicine and doctors of veterinary medicine applying pesticides or drugs or medication during the

course of their normal practice and who do not publicly represent themselves as pesticide applicators.

(2) Aerial Application. Additional Standards.

Applicators shall demonstrate by examination practical knowledge of pest control in a wide variety of environments. These may include, but are not limited to, agricultural properties, rangelands, forestlands, and marshlands. Applicators must have the knowledge of the significance of drift and of the potential for non-target injury and the environmental contamination. Applicators shall demonstrate competency as required by the general standards for all categories of certified commercial and non-commercial applicators. They shall comply with all standards set forth by the Federal Aviation Administration (FAA) and submit proof of current registration by that agency as a requirement for licensing as an aerial applicator.

~~[(3)](3) Subterranean Termite Pre-Construction Treatment Applications. Minimum Standards. Full treatment: Effective preconstruction treatment for subterranean termite prevention requires the establishment of complete vertical and horizontal barriers between the structure and the termite colonies in the soil.~~

~~(a) For Horizontal Chemical Barriers: Applications shall be made using a low pressure spray after grading is complete and prior to the pouring of the footing and the main slab to provide thorough and continuous coverage of the area being treated. Application rates, unless label requires elevated rates, must be at least 1 gallon per 10 square feet.~~

~~(b) For Vertical Chemical Barriers: Establish vertical barriers in areas such as around the base of foundations, plumbing lines, backfilled soil against foundation walls and other areas which may warrant more than a horizontal barrier. Application rates, unless labeling requires elevated rates, are to be treated at a rate of 4 gallons per 10 linear feet to soil backfill areas next to walls, piers, pipes, and under other "crucial areas" such as slab expansion joints.~~

~~(c) Partial Treatments: Defined as anything less than a full treatment. Partial Pre-Construction treatments are not acceptable.~~

[(4)](3) Private Applicators. Private applicators shall ~~show~~demonstrate practical knowledge of the principles and practices of pest control and the safe use of pesticides, to include the standards for certification of private applicators as set forth in 40 CFR Section 171.5. In addition, private applicators applying restricted-use pesticides by aircraft shall show practical knowledge of the additional standards specifically identified for that method of application in R68-7-6(11) of these rules.

~~[(5)](4) Supervision of Non-Certified Applicators by Certified Private Applicators.~~

(a) A certified private applicator that functions in a supervisory role shall be responsible for the actions of any non-certified applicators under his/her instruction and control.

(b) A certified private applicator shall provide written or oral instruction for the application of a restricted-use pesticide applied by a non-certified applicator under his/her supervision when the certified applicator is not required to be physically present. If an applicator cannot read, instructions shall be given in a language understood by the applicator. The instructions shall include procedures for contacting the certified applicator in the event he/she is needed.

~~[(6)](5) The certified applicator shall be physically present to supervise the application of a restricted-use pesticide by a~~

non-certified applicator if such presence is required by the label of the pesticide being applied.

R68-7-8. Certification Procedures.

(A) Commercial Applicators.

(1) License Required. No person shall apply, advertise for, solicit, or hold oneself out as willing to engage in the business of applying any pesticide for hire or compensation to the lands of another at any time without becoming certified and obtaining a commercial applicator's license and a pesticide ~~applicator~~ business license as described in 4-14-13 issued by the department, or working for a company which has already attained such business license.

(2) The pesticide applicator business license fee will be determined by the number of commercial pesticide applicators employed by the business. The fee ranges are 1-4 commercial pesticide applicators, ~~[2-5]~~5-9 commercial pesticide applicators and 10 or more commercial pesticide applicators.

(a) Application for such licenses shall be made in writing on an approved form obtained from the [d]Department and shall include such information as prescribed by the [d]Department. Each individual performing the physical act of applying pesticides for hire or compensation must be licensed as a commercial applicator. An applicator and business license fee determined by the [d]Department, pursuant to Subsection 4-2-2(2), shall be assessed at the time of certification and recertification.

(b) A commercial pesticide applicator operating under more than one business identity or name from a single business location shall be licensed separately for each business identity or name.

(c) A commercial pesticide applicator with a single business identity or name but operating from more than one business location shall be licensed at each separate business location.

(d) If the name selected by an applicant for a license to act, operate, or do business or advertise as a commercial or noncommercial applicator in the State of Utah is the same or so near the same as that of another licensee already doing business in the state as to cause confusion in the minds of the people or is likely to deceive the public, the Department may require the applicant to apply for a license under a different name that is distinguishable from the names of existing licensees. Any determination made pursuant to this rule shall be at the sole discretion of the Department.

(e) Each business location licensed shall have a minimum of one certified applicator at that location who is certified in each licensed category for which applications are made.

(f) A franchised business shall have a separate license and a separate certified applicator at each business location.

(3) Written Examination. An applicant for a commercial pesticide license shall demonstrate competency and knowledge of pesticide applications by passing the appropriate written examinations. Examination and educational-material fees determined by the ~~[d]~~Department, pursuant to Subsection 4-2-2(2), shall be assessed at the time of certification and recertification. Any person applying to become certified or recertified must demonstrate the ability to: (a) read and understand three or more sets of pesticide label directions from pesticide containers randomly chosen by division personnel, and (b) demonstrate competency and knowledge

of mixing and applying pesticides in a safe way. All applicants for a commercial applicator license must pass the general examination and the examination(s) pertaining to the category(s) for which they desire to be licensed. Certification examinations shall be conducted by representatives of the commissioner by appointment. A score of 70 or above is required to pass any written examination. A score of less than 70 on the general standards or category examinations shall result in denial of certification of that test. A person must pass the general and at least one category examination before becoming certified. An applicant scoring less than 65% on any examination must wait three days before retesting on that examination. A person scoring from 65% to 69% may retake the test again the same day, schedule permitting. After paying the certification fee a person may attempt to pass any of the required exams up to three times. If any exam is not passed within three attempts, a person must wait fourteen (14) calendar days and pay a retest fee for each exam failed and he/she will be allowed up to two additional attempts to pass an exam. If any exam is again not passed, a person must wait another fourteen (14) calendar days and again pay a retest fee for each exam failed and he/she will again be allowed up to two additional attempts to pass an exam. If all required exams are not passed after seven attempts, a person must again pay the certification fee and the testing process will begin again; the original certification fee and any retesting fees will not be refunded.

(4) License Issuance. If the [d]Department finds the applicant qualified to apply pesticides in the classifications applied for and for which the prescribed fee(s) have been paid, the [d]Department shall issue a commercial applicator's license. The license shall expire December 31 of each year unless it has been revoked or suspended [prior] by the commissioner for cause, which may include any of the unlawful acts given in R68-7-11. If an application for a commercial license is denied the applicant shall be informed of the reason. The applicator is required to have their license in their immediate possession at all times when making a pesticide application. If the applicator requests a duplicate license from the Department of Agriculture and Food, a fee determined by the [d]Department pursuant to Subsection 4-2-2(2), must be paid before a replacement license will be issued. A pesticide applicator business license shall be required for each pesticide business location with applicators working in the state.

(5) Any new applicator or applicator business license licensing after November 1 will be licensed for the remainder of that year and the following calendar year.

(6) License Renewal, Recertification.

(a) A license will be renewed without examination if the renewal notice is received by the Utah Department of Agriculture and Food [of] prior to January 1 of any year.

(b) If the renewal notice is received after January 1 but before March 1, individuals will be required to pay the late fee, and no re-examination will be required.

(c) If the renewal notice is received after March 1, individuals will be required to recertify according to the original pesticide-applicator certification procedures.

Each license shall expire on December 31 of the year of its issuance. Commercial applicators may voluntarily pay a triennial license fee in lieu of the annual license fee. Commercial applicators must recertify every three years, and be subject to re-examination at any time. Information that may be required to insure a continuing level of competence and ability to use pesticides safely and properly

due to changing technology, and to satisfy certification requirements as described herein, or meet any other requirements specified by the commissioner shall be added to this rule as often as necessary.

(d) Recertification options:

(i) Complete the original certification process of taking the required general and category test(s) and passing each required test with a score of 70% or above or;

(ii) Attend approved recertification courses and pass the required category examinations with a score of 70% or above or;

(iii) Participate in approved continuing education courses and accumulate 24 credits during the valid three years of certification.

(7) Records Maintained. Commercial applicators shall keep and maintain records of each pesticide application. These records must be recorded within 24 hours after the pesticide application is made. These application records must include the following information:

(a) Name and address of property owner;

(b) Location of treatment site, if different from (a);

(c) The month, day and year when the pesticide was applied;

(d) Brand name of pesticide, EPA registration number, rate of formulation (undiluted pesticide product as sold by the manufacturer) applied per unit area and total amount of diluted pesticide used;

(e) Purpose of application (target site and pest to be treated);

(f) The name, business address and license number of the certified applicator who applied the pesticide.

Such records shall be kept for a period of two years from the date of application of the pesticide and shall be available for inspection by the commissioner's designee at reasonable times. The commissioner's designee shall, upon request, be furnished a copy of such records by the commercial applicator.

(8) Exemption.

The provisions of this section relating to pesticide licenses and requirements for their issuance do not apply to [a-]private pesticide applicators [person-]using pesticides in the production of any agricultural commodity and applying pesticides for his/her neighbors provided he/she operates and maintains pesticide application equipment for his/her own use, is not engaged in the business of applying pesticides for hire or compensation in any form other than trading of services between producers of agricultural commodities, does not publicly represent himself/herself as a pesticide applicator, and operates his/her pesticide application equipment only in the vicinity of his/her owned or rented property [for the accommodation of his neighbors]; provided, however, that when he/she [such persons use]applies a restricted-use pesticide, [they]he/she shall comply with the certification requirements specified herein.

(B) Non-Commercial Applicators.

(1) License Required. No non-commercial applicator shall use or demonstrate the use of any restricted-use pesticide without becoming certified and obtaining a non-commercial applicator's license issued by the [d]Department. Application for such license shall be made in writing on an approved form obtained from the [d]Department and shall include such information as prescribed by the [d]Department. Each individual performing the physical act of applying restricted-use pesticides must be licensed.

(2) Written Examination. An applicant for a non-commercial pesticide license shall demonstrate to the [d]Department competency and knowledge of pesticides and their applications by passing the appropriate written examinations. Examination and educational-material fees determined by the [d]Department pursuant to Subsection 4-2-2(2), shall be assessed at the time an individual takes the general and category tests. All applicants for a non-commercial applicator license must successfully pass a general examination based upon standards applicable to all categories. After passing the general examination, applicants must pass the examination(s) pertaining to the category(s) for which they desire to be licensed. Certification examinations shall be conducted by representatives of the commissioner by appointment. A score of 70 percent or above is required for passing any written examination. A score of less than 70 percent on the general or category examinations shall result in denial of certification in that category. A person must pass the general and at least one category examination before becoming certified. An applicator scoring less than 65 percent on any examination must wait three days before retesting on that examination. A person scoring from 65% to 69% may retake the test again the same day, schedule permitting. Any person applying to become certified or recertified must demonstrate the ability to: (a) read and understand three or more sets of pesticide label directions from pesticide containers randomly chosen by division personnel, and (b) demonstrate competency and knowledge of mixing and applying pesticides in a safe way. After paying the certification fee a person may attempt to pass any of the required exams up to three times. If any exam is not passed within three attempts, a person must wait fourteen (14) calendar days and pay a retest fee for each exam failed and he or she will be allowed up to two additional attempts to pass an exam. If any exam is again not passed, a person must wait another fourteen (14) calendar days and again pay a retest fee for each exam failed and he/she will again be allowed up to two additional attempts to pass an exam. If all required exams are not passed after seven attempts, a person must again pay the certification fee and the testing process will begin again. The original certification fee and any retesting fees will not be refunded.

(3) License Issuance. If the [d]Department finds the applicant qualified to apply pesticides in the classification(s) applied for, the [d]Department shall issue a non-commercial applicator's license limited to such activities and classifications applied for. ~~—A prescribed examination and educational material fees shall be required.~~ The applicator is required to have his/her license in his/her immediate possession at all times when making a pesticide application.

If the applicator requests a duplicate license from the Department of Agriculture and Food, a fee as determined by the [d]Department pursuant to Subsection 4-2-2(2), must be paid before a replacement license will be issued. The license shall expire December 31, three calendar years after the issuance of the certification, unless it has been suspended or revoked by the commissioner for cause, which may include any of the unlawful acts given in R68-7-11. If an application for a non-commercial license is denied the applicant shall be informed of the reason.

(4) Any new applicator licensing after November 1 will be licensed for the remainder of that year and the following calendar year.

(5) License ~~[Renewal]~~Recertification. Non-commercial applicators must recertify every three years, and be subject to re-examination at any time. Information may be required to insure a continuing level of competence and ability to use pesticides safely and properly due to changing technology, and to satisfy certification requirements as described herein, or any other requirements specified by the commissioner shall be added to this rule as often as necessary.

Recertification options are:

(a) Complete the original certification process of taking the required general and category test(s) and passing each required test with a score of 70% or above or;

(b) Attend approved recertification courses and pass the required category test(s) with a score of 70% or above or;

(c) Participate in approved continuing education courses and accumulate 24 credits during the valid three years of certification.

(6) Records Maintained. Non-commercial applicators shall keep and maintain records of each application of any restricted-use pesticide. These application records must be recorded within 24 hours after the pesticide application is made. These records must include the following information:

(a) Name and address of property owner;

(b) Location of treatment site, if different from (a);

(c) The month, day and year when the pesticide was applied;

(d) Brand name of pesticide, EPA registration number, rate of formulation (undiluted pesticide concentrate product as sold by the manufacturer) applied per unit area, and total amount of diluted pesticide used;

(e) Purpose of application (target site and pest to be treated);

(f) The name, address, and license number of the certified applicator who applied the pesticide.

Such records shall be kept for a period of two years from the date of application of the pesticide and shall be available for inspection by the commissioner's designee at reasonable times. The commissioner's designee shall, upon request, be furnished a copy of such records by the non-commercial applicator.

(7) Exemption. The provisions of this section shall not apply to persons conducting laboratory research involving restricted-use pesticides as drugs or medication during the course of their normal practice. Non-Commercial applicators engaged in public-health related activities are exempt from recording the name and address of property owners, but are required to document a detailed description of treatment areas by using such means as GPS coordinates or other locality descriptions for record keeping purposes.

(C) Private Applicators.

(1) License Required. No private applicator shall purchase, use or supervise the use of any restricted-use pesticide without a private applicator's license issued by the [d]Department. Issuance of such license shall be conditioned upon the applicator's complying with the certification requirements determined by the [d]Department as necessary to prevent unreasonable adverse effects on the environment, including injury to the applicator or other persons. Application for a license shall be made in writing on a designated form obtained from the [d]Department.

(2) Certification Methods. Any person applying to become licensed must demonstrate the ability to: (a) read and understand three or more sets of pesticide label directions from pesticide containers randomly chosen by division personnel, and (b) demonstrate competency and knowledge of mixing and applying pesticides in a safe way. All first-time Private Applicators must successfully pass a written test. A score of 70 percent or above is required for passing any written test. A score of less than 70 percent will result in the denial of certification. An applicator scoring less than 65% on any examination must wait three days before retesting on that examination. A person scoring from 65% to 69% may retake the test again the same day, schedule permitting.

(3) Emergency-Use Permit. A single restricted-use pesticide may be purchased and used by a non-certified person on a one-time-only basis if an emergency control situation is shown to exist. Before purchasing the product, the applicant shall participate in a discussion concerning safe use of the specific product with a representative of the Utah Department of Agriculture and Food. Following an adequate discussion of same, the Department of Agriculture and Food may issue the applicant a permit to purchase and use the product on a specific site on a one-time-only basis. The applicant shall be required to become certified before being authorized to further purchase and use restricted-use pesticides.

(4) License Issuance. If the [d]Department finds the applicant qualified to apply pesticides, the applicant shall be issued a private applicator's license. Examination and educational-material fees determined by the [d]Department pursuant to Subsection 4-2-2(2), shall be assessed at the time of certification and recertification. The license issued by the commissioner shall expire on December 31, three calendar years after issuance, unless the license has been revoked or suspended by the commissioner. If an application for a private license is denied, the applicant shall be informed of the reason. If the applicator requests a duplicate license from the Department of Agriculture and Food, a fee determined by the [d]Department pursuant to Subsection 4-2-2(2), must be paid before a replacement license will be issued.

(5) Any new applicator licensing after November 1 will be licensed for the remainder of that year and the following calendar year.

(6) License Renewal, Recertification. A person applying to recertify must demonstrate the ability to: (a) read and understand three or more sets of pesticide label directions from pesticide containers randomly chosen by division personnel, and (b) demonstrate the mixing and application of pesticides in a safe way. All certified private applicators must recertify every three years, or more frequently if determined necessary by the [d]Department, by satisfying any of the following procedures or any other requirements specified by the [d]Department.

(a) Completion of a recertification course approved by the Utah Department of Agriculture and Food and passing a written test with a score of 70% or above or;

(b) Complete the original certification process of taking the required written test(s). A score of 70 percent or above is required to pass or;

(c) Accumulate ~~nine~~six credits of approved continuing education during the valid three years of certification.

(d) Records Maintained. Private applicators must keep and maintain records according to United States Department of Agriculture (USDA) requirements.

(D) Employees of Federal Agencies. Federal Government Employees wishing to be certified in Utah shall be required to qualify as non-commercial applicators by passing the appropriate examinations, unless such requirement is waived upon presentation of adequate evidence of certification in the appropriate categories from another state with comparable certification requirements. In the event a federal agency develops an applicator certification plan which meets the Utah certification standards, employees of that agency who become certified under that plan may qualify for certification in the State of Utah.

(E) Certification of Out-of-State Applicants.

When a pesticide applicator is certified under an approved state plan of another state and desires to apply pesticides in Utah, he/she shall make application to the [d]Department and shall include, along with the proper fee and any other details required by the Act or these rules, a true copy of his/her credentials as proof of certification in the person's state of residence and a letter from that state's department of agriculture stating that he/she has not been convicted of a violation of any pesticide law and is currently licensed as a pesticide applicator in that state. The [d]Department may upon review of the credentials, issue a Utah certification to the applicator in accordance with the use situations for which the applicator is certified in another state without requiring determination of competency; provided that the state having certified the applicator will similarly certify holders of Utah licenses or certificates and has entered into a reciprocal agreement with the State of Utah. Out-of-state pesticide applicators who operate in Utah will be subject to all Utah laws and rules.

R68-7-9. Dealer Licensing.

(A) In order to facilitate rules of the distribution and sale of restricted-use pesticides, it is necessary to license dealers who dispense such materials.

(1) License Required.

It shall be unlawful for any person to act in the capacity of a restricted-use pesticide dealer, or advertise as, or presume to act as such a dealer at any time without first having obtained an annual license from the [d]Department. A license shall be required for each location or outlet located within this state from which such pesticides are distributed; provided, that any manufacturer, registrant or distributor who has no pesticide dealer outlet licensed within this state and who distributes a restricted-use pesticide directly into ~~this state~~Utah shall obtain a pesticide dealer's license for his/her principal out-of-state location or outlet; provided further, that any manufacturer, registrant or distributor who sells only through or to a pesticide dealer is not required to obtain a pesticide dealer's license.

(2) License Issuance. Application for a pesticide dealer's license shall be on a form prescribed by the [d]Department and shall be accompanied by a license fee determined by the [d]Department pursuant to subsection 4-2-2(2). If the [d]Department finds the applicant qualified to sell or distribute restricted-use pesticides and the applicant has paid the prescribed license fee, the [d]Department shall issue a restricted-use pesticides dealer's license. Pesticide dealers may voluntarily pay a triennial license fee in lieu of the annual license fee. This license shall expire December 31 of each year, unless it has been previously revoked or suspended by the commissioner for causes which may include any of the unlawful acts included in R68-7-11.

(3) License Renewal. License-renewal fees are payable annually before January 1. Pesticide dealers may voluntarily pay a triennial license fee in lieu of the annual license fee. If the renewal of a pesticide dealer's license is not received prior to January 1 of any one year, an additional fee determined by the ~~[d]~~Department pursuant to Subsection 4-2-2(2), shall be assessed and added to the original license fee and shall be paid by the applicant before the license renewal shall be issued.

(4) Records Maintained. Each dealer outlet licensed to sell restricted-use pesticides ~~[shall be]~~is required by the ~~[d]~~Department to maintain a restricted-use pesticide sales register by entering all restricted-use pesticide sales into the register at the time of sale. ~~[A]The restricted-use pesticide sales register must be available in an electronic format approved by the Department. The electronic register form, [provided by the department,] shall include the following information:~~

- ~~_____ (a) The name and address of the purchaser.~~
- ~~_____ (b) Brand name of restricted-use pesticide purchased.~~
- ~~_____ (c) EPA registration number of restricted-use pesticide purchased.~~
- ~~_____ (d) Month, day and year of purchase.~~
- ~~_____ (e) Quantity purchased.~~
- ~~_____ (f) Signature and license number of the purchaser, expiration date of license, or signature of purchaser's agent (uncertified person) if letter of authorization is on file. Letter of authorization must include names of agents, signature and license number of purchaser.](a) The Corporate or Company Name.~~
- ~~_____ (b) The name of the branch store that made the sale.~~
- ~~_____ (c) The store's complete Restricted-Use Pesticide dealer license number, including the prefix.~~
- ~~_____ (d) The complete sale date including the month, day and year.~~
- ~~_____ (e) The first and last name of the salesperson that made the sale.~~
- ~~_____ (f) The first and last name of the buyer.~~
- ~~_____ (g) The buyer's complete Pesticide Applicator License number, including the prefix.~~
- ~~_____ (h) If the buyer was authorized by letter, the authorization letter must be kept on file.~~
- ~~_____ (i) If the buyer used a temporary permit, a copy of the permit must be kept on file.~~
- ~~_____ (j) The buyer's complete street address, city, state and zip code.~~
- ~~_____ (k) The brand name of the product sold, its EPA Registration Number and the quantity sold.~~
- ~~_____ (l) The product container size and its unit of measure (i.e. gallons, liters, etc.).~~

Such records shall be kept for a period of two years from the date of restricted-use pesticide sale and shall be available for inspection by the commissioner's designee at reasonable times. The commissioner's designee, upon request, shall be furnished a copy of such records by the restricted-use pesticide dealer.

(5) Submission of Electronic records. On June 1 of each year, Dealers are required to submit their Restricted-Use Pesticide sales records for the period starting the previous July 1 through June 30 of the current year. The due date for submission is July 31 of the current year.

~~[(5)](6) Exemption. Provisions of this section shall not apply to: (a) a licensed pesticide applicator who sells restricted-use~~

pesticides only as an integral part of his/her pesticide application service when such pesticides are dispensed only through equipment used for such pesticide application (b) Federal, state, county, or municipal agency which provides restricted-use pesticides only for its own programs shall be exempt from the license fee but must meet all other requirements of a pesticide dealer.

~~[(6)](7) Responsible for Acts of Employees. Each pesticide dealer shall be responsible for the acts of each person employed by him/her in the solicitation and sale of restricted-use pesticides and all claims and recommendations for use of restricted-use pesticides. A dealer's license shall be subject to denial, suspension or revocation for any violation of the Pesticide Control Act or rules promulgated thereunder, whether committed by the dealer or by the dealer's officer, agent, or employee.~~

R68-7-10. Responsibilities of Business and Applicator.

- ~~_____ (A) Business Licensee Duties and Responsibilities~~
- ~~_____ (1) A business licensee shall ensure that a qualifying party (licensed applicator) of the business licensee receives the training that the applicator requires to comply fully with the Utah Pesticide statutes and rules and label and labeling directions.~~
- ~~_____ (B) Responsibility for business and employee(s)~~
- ~~_____ (1) A business licensee, qualifying party and/or applicator may be held responsible for the acts or omissions of another person who is employed by the business licensee. It is the business' responsibility to properly train, equip, and prepare the other person(s) and maintain records of proper training and equipping.~~
- ~~_____ (2) Failure to fully respond to requests by the commissioners designated agent, in a stated time, for information relating to training and equipping will be evidence for a failure to properly train or equip. The supervising licensee has the burden of proof by a preponderance of the evidence that the business licensee, qualifying party or applicator has fulfilled the required duties as prescribed by this chapter, rules adopted pursuant to this chapter or a written order of the commissioner.~~
- ~~_____ (C) Use of business name and license number.~~
- ~~_____ (1) A business licensee must prominently display the license issued by the Department at the primary business office and each branch office.~~
- ~~_____ (2) A business licensee shall prominently display the business name and license number, as recorded on the license issued by the Department, on:~~
- ~~_____ (a) Customer proposals or contracts for pest management services;~~
- ~~_____ (b) Service records and service notifications;~~
- ~~_____ (c) Advertisements; and~~
- ~~_____ (d) Service vehicles and trailers used in providing pest management services. The business licensee shall ensure that the business name and license number is displayed on a service vehicle or trailer used in providing pest management services conforms to the following:~~
- ~~_____ (i) Is affixed to the service vehicle or trailer used in providing pest management services within 30 days after the Department issues the license or issues a business license change or after the service vehicle or trailer is acquired, whichever is sooner.~~
- ~~_____ (ii) Is in a color that contrasts with the color of the service vehicle and trailer;~~
- ~~_____ (iii) Is prominently displayed on both sides of the service vehicle or trailer;~~

_____ (iv) Uses at least two-inch letters for the principal words in the business name and at least one and one-half inch letters for other words in the business name; and

_____ (v) Uses at least two-inch numbers for the license number.

_____ (vi) Letters and numbers must be weatherproof.

_____ (3) A business licensee that always uses a service vehicle and trailer together is required to mark only the service vehicle or trailer as described in subsection (2)(g). A business licensee that uses a vehicle only for sales, solicitations, or solely for inspections and does not carry a pesticide, and does not otherwise use the vehicle to provide a pest management service, is not required to mark the vehicle as described in subsection (2)(g).

_____ (4) When complying with subsection (2), a business licensee may use a slogan, trade name, or trade mark in addition to the business name and license number. When complying with subsection (2), a business licensee may use a word or phrase to indicate its former licensed business name if it had a previously licensed business name.

_____ (D) Customer Notification.

_____ (1) Prior to the time of each application of a restricted-use pesticide with a Danger/Danger-Poison signal word, the licensed commercial applicator or an employee of the licensed pesticide business shall provide the customer with a written statement containing the following information:

_____ (a) Business name and telephone number of the licensed business.

_____ (b) Name and license number of the licensed applicator who made the application

_____ (c) Date and time of application.

_____ (d) Type of pesticide application service and brand name of pesticide(s) applied.

_____ (e) Instructions to the customer to contact the business telephone number if more specific information is desired regarding the pesticide product applied.

_____ (2) The written statement required in subsection (1) shall be provided to the customer by any of the following means:

_____ (a) Leave at the residence.

_____ (b) In the case of a multiunit residence leave with the property manager or his/her authorized representative, or

_____ (c) Mail to the property manager or his/her authorized representative if management is located at a location other than the pesticide application site, within seven (7) days prior to the date of the pesticide application.

R68-7-11. Termiticide Record Keeping. Additional Standards.

_____ (A) In addition to the recordkeeping requirements contained in R68-7-8, the applicator will keep as records a diagram/graph of the structure treated that includes dimensions of the structure, including depth to footer.

_____ (B) For post construction treatments the diagram/graph will also illustrate the area(s) where termites and/or termite activity was found.

_____ (C) All records of applications for every individual structure must be kept together.

R68-7-12. Minimum Standards for Fumigant Applications.

_____ (A) Application of fumigant products require strict adherence to the label and when required by the label, a verified and

written Fumigation Management Plan (FMP) must be prepared in advance of treatment. A FMP must detail the information prescribed by the label. State standards for fumigation treatments of any space that can be occupied by a person, or non-target species, require the following:

_____ (1) Persons present at the time of releasing the fumigant and during the initial ventilation.

_____ (a) There shall be at least two persons, one of whom must be a certified applicator in the fumigation category, present at the time of the releasing of the fumigant and during the initial ventilation. During the interim, the premises shall be adequately safeguarded against entry by any person(s).

_____ (2) Notification of local fire department and/or first responders.

_____ (a) Prior to fumigation of any building or enclosed space, other than a fumigating vault, the certified applicator shall notify and provide the local fire department with the address of the fumigation job, time of gas release, kind of gas to be used, and beginning time of the aeration of the premises.

_____ (3) Premises sealed.

_____ (a) Premises to be fumigated shall be sealed in a manner that confines the fumigant to the space intended to be fumigated.

_____ (4) Inspection of premises prior to releasing fumigant

_____ (a) Immediately before releasing the fumigant, the fumigator shall conduct a thorough inspection of the premises to verify that no person(s) or non-target animals remain, and that effective precautions have been taken to safeguard occupants of neighboring buildings as set forth below.

_____ (5) Fumigation of apartments within a multiple unit apartment building.

_____ (a) Fumigation of apartments within a multiple unit apartment building may be fumigated only after proper sealing of the area being fumigated and after all apartments are vacated.

_____ (b) All the adjacent units shall be properly ventilated during the entire exposure period.

_____ (6) Notification of all dwellings or places of business within 100 feet of building being fumigated.

_____ (a) All dwellings or places of business within 100 feet of the building being fumigated must be notified in writing in advance of the fumigation.

_____ (b) All premises within 10 feet must be vacated during the fumigation and aeration periods.

_____ (7) Warning signs.

_____ (a) Warning signs shall be posted conspicuously at all entrances of the premise to be fumigated and at the entrances of all adjacent multiple units and structures within 10 feet and kept there during the entire fumigation and ventilation period. Signs shall be a minimum size of 8 1/2 inches by 11 inches and color to be conspicuous and bearing the word "poison" and display the skull and cross-bones, the name of the fumigant used, and the name, address and telephone number of the fumigator.

_____ (b) Before the fumigant is released, all entrances leading directly to the fumigated space shall be closed, sealed, and locked except exits to be used by fumigating crew. These exits shall be closed, sealed, and locked promptly after the fumigant has been released.

_____ (8) Masks worn.

_____ (a) All members of the fumigating crew must be equipped with a serviceable mask of a type approved by the U.S. Mines,

Safety and Health Administration with correct canister for the type of gas used.

(b) Masks shall be worn while in the enclosed space during and after release of the gas, and until initial ventilation is completed.

(9) Re-entering fumigated premises

(a) No one other than the fumigator shall be permitted to re-enter the fumigated premises until the fumigator has ascertained by personal inspection, with gas mask and with a chemical appropriate test, that the premises are safe for occupancy.

(b) Aeration must be conducted according to the product labeling and re-entry allowed according to levels specified on the label.

(10) Exceptions

(a) The subparts 1 through 9 may not apply to fumigants used to control insects or other pests outside of buildings, or for spot fumigations, or restrictive treatments inside a building, such as grain bins.

(i) Strict adherence to the label instructions must be adhered to during these applications.

(ii) During the ventilation period of a spot or restrictive fumigation, the premises shall not be occupied by anyone except the fumigator.

(iii) A warning gas is recommended where the fumigant is comparatively odorless.

(B) Fumigation of Burrowing Rodents require strict adherence to the label as well as a Fumigation Management Plan (FMP) that must contain the following information.

(1) Purpose of the application, indicate the exact pest to be controlled and the type of burrow system to be treated.

(2) Pesticide used. State the name of the pesticide, the EPA registration number, and dosage used.

(3) Property treated information. Record the property or facilities name and address. Verify the manager's name, and contact information.

(4) Licensed applicator information. Record licensed applicator's name, company, license number, phone numbers.

(5) Emergency Information. Note the phone number for the nearest hospital, fire department, police department, poison control center and the registrant of the fumigant.

(6) Instructions to personnel. Verify by signatures that all personnel has been instructed to:

(a) Report any accident or incident related to exposure, provide a telephone number for emergency response reporting.

(b) Report to proper authorities any theft of fumigant and/or equipment related to fumigation.

(7) Follow label directions. Monitoring, Notification, Sealing, Application Procedures, Fumigation Period, and Use Restrictions are to be followed per label instructions.

(8) Burrowing Rodent Fumigation Record Keeping. Additional Standards.

(a) In addition to the recordkeeping requirements contained in R68-7-8, the applicator will keep as part of the record a diagram/graph (to scale) of the property treated that includes dimensions of the property, any structure present, and mark each burrow treated on the diagram or graph.

R68-7-[40]13. Transportation, Storage, Handling, Using and Disposal of Pesticides and Pesticide Containers.

All pesticide applying entities shall provide a secure pesticide and device storage area that complies with all federal, state, and local laws. The storage area may include an area on a service vehicle.

(1) No person shall transport, store, or dispose of any pesticide or pesticide containers in such a manner as to cause injury to humans, other nontarget species, or the environment [vegetation, crops, livestock, wildlife or beneficial insects or to pollute any waterway in a manner harmful to any wildlife therein].

(2) Pesticide containers shall be secured during transport by use of side or end racks, bracing, chocks, tie downs, or other means to prevent their sliding, falling, tipping, rolling, or falling off the vehicle with normal vehicle acceleration, deceleration, or change in direction.

(3) Portable tanks shall be secured to prevent their sliding, falling, tipping, or rolling with normal vehicle acceleration, deceleration, or change in direction. Stacking or wedging against ends, sidewalls, or doors of van bodies shall not be relied upon for securement.

(4) Pesticides in leaking, broken, corroded, or otherwise damaged containers shall not be displayed, offered for sale, or transported and shall be handled or disposed of in a manner that would injure humans, other nontarget species, or the environment. Pesticides with obscured, illegible or damaged labels shall not be displayed, offered for sale, or sold.

(5) No person shall distribute or sell any pesticide unless it is in the registrant's or manufacturer's unopened, original container and the registered pesticide label is affixed to the container

(6) No person shall transport, handle, store, load, apply, or dispose of any pesticide, pesticide container, apparatus, or rinsate in such a manner as to pollute water supplies or waterways, or cause damage or injury to land, humans, desirable plants and animals, or wildlife. Provided that a pesticide labeled for aquatic use and used as directed shall not be considered a violation of this subsection. Disposing of pesticides at disposal sites approved by the appropriate agency complies with the requirements of this subsection. Toxicity, volatility, and mobility of pesticides shall be considered in complying with this subsection.

(7) No person shall pollute streams, lakes, or other water supplies during pesticide loading, mixing, and application. Adequate, functioning devices and procedures to prevent back siphoning shall be used.

(8) No pesticides shall be applied by aircraft or air blast sprayers to property abutting and/or adjacent to occupied schools in session, hospitals, nursing homes or other similar establishments, under conditions that may result in contamination of these establishments or their premises.

(9) No person shall apply pesticides if weather conditions are such that physical drift or volatilization may cause damage to adjacent land, injure humans, other nontarget species, or the environment.

(10) Requirements for unattended pesticides and their containers:

(a) Generally accepted good housekeeping practices shall be maintained for all pesticides and their containers.

(b) The provisions of (d) and (e) of this subsection and subsection (11) of this section shall not apply to empty pesticide containers when adequately decontaminated (e.g., appropriate triple rinsing or other label approved cleaning techniques).

(c) For the purposes of (d) and (e) of this subsection and subsection (11) of this section, pesticides and their containers at the loading area shall not be considered unattended during the spraying operation if the operator maintains either visual control or repeatedly returns at closely spaced intervals as to ensure safe monitoring of the pesticides and containers.

(d) Pesticides labeled with the signal word "danger/poison" and their containers shall be stored in a way which, when unattended, shall be so constructed and locked to prevent children, unauthorized persons, livestock, or other animals from gaining entry.

(e) Pesticides labeled with the signal word "danger" when not accompanied by the signal word "poison," pesticides labeled with the signal word "warning" and pesticides labeled with the signal word "caution" and their containers shall be stored in secured storage out of the reach of children in an enclosure as described in (d) of this subsection: Provided that metal containers, twenty-eight gallons and larger, with tight screw-type bungs and/or secured or locked valves shall be considered secured storage.

(11) Requirements for posting of storage area for pesticides and their containers labeled with the signal words "danger/poison":

(a) For purposes of this subsection, warning signs shall show the skull and crossbones symbol and the words: "Danger/Poison (Pesticide or Chemical) Storage Area/Keep Out" in at least two inch letters.

(b) Warning signs shall be posted:

(i) On enclosures specified in subsection (6)(d) of this section;

(ii) At each entrance or exit from a storage area and on each exterior wall, so that a sign is visible from any direction;

(iii) If the pesticide storage area is contained in a larger, multipurpose structure, warning signs shall be clearly visible on each entrance of the storage area.

(12) In accordance with State of Utah Agricultural Code, the Utah Department of Agriculture and Food hereby adopts the applicable portions of 40 CFR Part 152 Subpart A Section 152.3 and Part 165, Subparts A through E.

R68-7-~~11~~14. Unlawful Acts.

Any person who has committed any of the following acts is in violation of the Utah Pesticide Control Act or rules promulgated thereunder and is subject to penalties provided for in Sections 4-2-2 through 4-2-15:

(1) Made false, fictitious, or fraudulent claims, written or spoken misrepresenting the use, effect of pesticides, certification of applicator, or methods to be utilized;

(2) Applied known ineffective or improper pesticides;

(3) Operated in a faulty, careless or negligent manner;

(4) Neglected or, after notice, refused to comply with the provisions of the Act, these rules or of any lawful order of the department;

(5) Refused or neglected to keep and maintain records required by these rules, or to make reports when and as required;

(6) Made false or fraudulent records, invoices or reports;

(7) Engaged in the business of, advertised for, or held self out as applying a pesticide for hire or compensation on the lands of another without having a valid commercial applicator's license;

(8) Purchased, Used, or supervised the use of, a pesticide which is restricted to use by "certified applicators" without having qualified as a certified applicator or designated as a certified private applicators agent;

(9) Used fraud or misrepresentation in making application for, or renewal of, a registration, license, permit or certification;

(10) Refused or neglected to comply with any limitations or restrictions on or in a duly issued license or permit;

(11) Used or caused to be used any pesticide in a manner inconsistent with its labeling or rules of the department if those rules further restrict the uses provided on the labeling;

(12) Aided or abetted a licensed or an unlicensed person to evade the provisions of the Act; conspired with such a licensed or an unlicensed person to evade the provisions of the Act; or allowed one's license or permit to be used by another person;

(13) Impersonated any federal, state, county, or other government official;

(14) Distributed any pesticide labeled for restricted use to any person unless such person or his/her agent has a valid license, or permit to use, supervise the use, or distribute restricted-use pesticide;

(15) Applied pesticides onto any land without the consent of the owner or person in possession thereof; except, for governmental agencies which must abate a public health problem.

(16) For an applicator to apply a termiticide at less than label rate [~~or inconsistent with rules of the department if those rules further restrict the uses provided on the labeling~~].

(17) For an employer of a commercial or non-commercial applicator to allow an employee to apply pesticide(s) before that individual has successfully completed the prescribed pesticide certification procedures.

(18) For a pesticide applicator not to have his/her current license in his/her immediate possession at all times when making a pesticide application.

(19) To allow an application of pesticide to run off, or drift from the target area to cause plant, animal, human or property damage.

(20) Refused or neglected to register a pesticide applicator business with the Utah Department of Agriculture and Food or follow the rules set forth in section R68-7-10 for licensing of a commercial business.

(21) To handle or apply any registered pesticide for which the person does not have an appropriate, complete, or legible label at hand.

(22) Refused or neglected to comply with the Federal Container and Containment regulations.

(23) Failure to perform fumigation applications according to the standards required by this rule.

(24) Failed to display business license numbers in accordance with this rule.

(25) Refused or neglected to notify the customer of the application of a restricted-use pesticide and the information detailed in R68-7-10.

(26) Failure of a qualifying party of the business licensee to train or prepare the applicator to comply fully with the Utah Pesticide statutes and rules and label and labeling directions.

(27) Failure to timely and fully respond to requests by the commissioners designated agent for information relating to training and equipping of applicators.

(28) Transported, stored, handled, used, or disposed of a pesticide or pesticides container inconsistent with rules specified in section R68-7-13.

R68-7-15. Penalty Matrix.

In the disposition of administrative cases, the Department shall use a penalty matrix to determine appropriate penalties. The Department shall calculate penalties based on the level of violation and the adverse effect(s) or potential adverse effects at the time of the incident(s) giving rise to the violation. The median penalty shall be assessed unless a proportionate adjustment is warranted and/or there are aggravating or mitigating factors present.

(1) The Department may consider circumstances enhancing or reducing the penalty based on the seriousness of the violation. Aggravating and mitigating factors include, but are not limited to, the following:

(a) The number of separate alleged violations contained within a single notice of intent.

(b) The magnitude of the harm, or potential harm, including quantity and/or degree, to humans, nontarget species, property, or the environment caused by the violation(s).

(c) The similarity of the current alleged violation to violations committed by the pesticide applicator and/or business during previous years.

(d) The extent to which the alleged violation is part of a pattern of the same or substantially similar conduct.

(2) The Department will annually review past violation trends and update the penalty matrix based on compliance history.

(a) A copy of the penalty matrix will be made available from the Department upon request.

KEY: inspections, pesticides

Date of Enactment or Last Substantive Amendment: [January 4, 2010]2011

Notice of Continuation: March 16, 2006

Authorizing, and Implemented or Interpreted Law: 4-14-6

**Commerce, Real Estate
R162-2c**

**Utah Residential Mortgage Practices
and Licensing Rules**

**NOTICE OF PROPOSED RULE
(Amendment)**

**DAR FILE NO.: 34431
FILED: 02/14/2011**

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment: 1) clarifies the roles of principal lending manager and branch lending manager; and 2) moves from statute and into rule the specific factors that disqualify an applicant from licensure.

SUMMARY OF THE RULE OR CHANGE: In Subsection R162-2c-201(5), language is added to clarify: 1) that a principal lending manager may not simultaneously serve as a branch lending manager; and 2) that an individual may not serve as the branch lending manager for more than one branch at any given time. In Subsection R162-2c-202, language is added that, to date, has been included in statute (Section 61-2c-203). H.B. 91 (2011 Legislative Session) proposes to remove this language so that it may be incorporated into rule, where the division will have more flexibility to make changes as needed to comply with the Nationwide Mortgage Licensing System and the Department of Housing and Urban Development efforts to standardize mortgage licensing and enforcement across the country.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 61-2c-103(3)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** The proposed amendments do not create a new program or requirement that the state will be required to implement or enforce. Therefore, no fiscal impact to the state budget is anticipated.

♦ **LOCAL GOVERNMENTS:** Local governments are not subject to Division licensing requirements. Therefore, they are not affected by these amendments, and no fiscal impact to local governments is anticipated.

♦ **SMALL BUSINESSES:** Small businesses that operate branch offices will be required to assign a unique individual to act as the branch lending manager for each branch office. Complying with this requirement might require some small businesses to arrange for a mortgage loan originator to license as a principal lending manager. A small business that chooses to bear these costs on behalf of the loan originator will pay fees for prelicensing education, testing, and application. The Division's position is that these costs are justified because having qualified on-site supervision of branch office activities provides valuable protections for the public.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** A mortgage loan originator who is required by his or her employer to obtain the principal lending manager license in order to serve as a branch lending manager will, if the employer does not cover the costs, pay fees for prelicensing education, testing, and application. The Division's position is that these costs are justified because having qualified on-site supervision of branch office activities provides valuable protections for the public. However, a person so affected is not required to complete additional continuing education in order to renew the principal lending manager license in the

same year it is obtained. Therefore, the costs of obtaining the new license will be offset, at least to a degree.

COMPLIANCE COSTS FOR AFFECTED PERSONS: An affected person who is required to obtain the principal lending manager license in order to serve as a branch lending manager will, if the employer does not cover the costs, pay fees for prelicensing education, testing, and application.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing adds the standards that each branch office must have its own branch lending manager, and a principal lending manager may not simultaneously serve as a branch lending manager. There is a potential additional cost to businesses that must obtain a branch lending manager to meet this requirement, but such costs are expected to be outweighed by the benefit of having a branch lending manager supervisor on site. No other fiscal impact to businesses is anticipated.

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

COMMERCE
REAL ESTATE
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Jennie Jonsson by phone at 801-530-6706, by FAX at 801-526-4387, or by Internet E-mail at jjonsson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/31/2011

THIS RULE MAY BECOME EFFECTIVE ON: 04/07/2011

AUTHORIZED BY: Deanna Sabey, Director

R162. Commerce, Real Estate.

R162-2c. Utah Residential Mortgage Practices and Licensing Rules.

R162-2c-201. Licensing and Registration Procedures.

(1) Mortgage loan originator.

(a) To obtain a Utah license to practice as a mortgage loan originator, an individual who is not currently and validly licensed in any state shall:

- (i) evidence good moral character pursuant to R162-2c-202(1);
- (ii) evidence competency to transact the business of residential mortgage loans pursuant to R162-2c-202(2);
- (iii) obtain a unique identifier through the nationwide database;

(iv) successfully complete, within the 12-month period prior to the date of application, 40 hours of Utah-specific pre-licensing education as approved by the division;

(v)(A) successfully complete 20 hours of pre-licensing education as approved by the nationwide database according to the nationwide database outline for national course curriculum; or

(B) if the individual previously passed the 20-hour national course, obtained a license, and thereafter allowed the license to expire, successfully complete continuing education:

(I) approved by the nationwide database; and

(II) in the number of hours that would have been required to renew the expired license in the year in which the individual allowed the license to expire;

(vi) take and pass the examinations that meet the requirements of Section 61-2c-204.1(4) and that:

(A) are approved and administered through the nationwide database; and

(B) consist of a national component and a Utah-specific state component;

(vii) request licensure as a mortgage loan originator through the nationwide database;

(viii) authorize a criminal background check and submit fingerprints through the nationwide database;

(ix) provide to the division all relevant information regarding "yes" answers to disclosure questions found within the application submitted on the MU4 form;

(x) complete, sign, and submit to the division a social security verification form as provided by the division; and

(xi) pay all fees through the nationwide database as required by the division and by the nationwide database.

(b) To obtain a Utah license to practice as a mortgage loan originator, an individual who is currently and validly licensed in another state shall:

(i) evidence good moral character pursuant to R162-2c-202(1);

(ii) evidence competency to transact the business of residential mortgage loans pursuant to R162-2c-202(2);

(iii)(A) successfully complete, within the 12-month period prior to the date of application, 40 hours of Utah-specific mortgage loan originator prelicensing education; and

(B) take and pass the Utah-specific state examination component;

(iv) provide to the division all relevant information regarding "yes" answers to disclosure questions found within the application submitted on the MU4 form;

(v) request licensure as a mortgage loan originator through the nationwide database;

(vi) authorize a criminal background check through the nationwide database;

(vii) complete, sign, and submit to the division a social security verification form as provided by the division; and

(viii) pay all fees through the nationwide database as required by the division and by the nationwide database.

(2) Principal lending manager. To obtain a Utah license to practice as a PLM, an individual shall:

(a) qualify as a mortgage loan originator through the nationwide database;

(b) evidence good moral character pursuant to R162-2c-202(1);

(c) evidence competency to transact the business of residential mortgage loans pursuant to R162-2c-202(2);

(d) obtain approval from the division to take the Utah-specific PLM precicensing education by evidencing that the applicant has, within the five years preceding the date of application, had three years of full-time active experience as a mortgage loan originator;

(e) within the 12-month period preceding the date of application, successfully complete 40 hours of Utah-specific PLM precicensing education as certified by the division;

(f)(i) if currently licensed in Utah as a mortgage loan originator, take and pass a principal lending manager examination as approved by the commission; or

(ii) if not currently licensed in Utah as a mortgage loan originator, take and pass:

(A) the Utah-specific state examination component; and

(B) a principal lending manager examination as approved by the commission;

(g) provide to the division all relevant information regarding "yes" answers to disclosure questions found within the application submitted on the MU4 form;

(h) register in the nationwide database by selecting the "principal lending manager" license type and completing the associated MU4 form;

(i) complete, sign, and submit to the division a social security verification form as provided by the division; and

(j) pay all fees through the nationwide database as required by the division and by the nationwide database.

(3) Associate lending manager. To obtain a Utah license to practice as an ALM, an individual shall:

(a) comply with this Subsection (2)(a) through (g);

(b) register in the nationwide database by selecting the "associate lending manager" license type and completing the associated MU4 form; and

(c) pay all fees through the nationwide database as required by the division and by the nationwide database.

(4) Mortgage entity.

(a) To obtain a Utah license to operate as a mortgage entity, a person shall:

(i) establish that all control persons meet the requirements for moral character pursuant to R162-2c-202(1);

(ii) establish that all control persons meet the requirements for competency pursuant to R162-2c-202(2);

(iii) register any other trade name with the Division of Corporations and Commercial Code;

(iv) register the entity in the nationwide database by:

(A) submitting an MU1 form that includes:

(I) all required identifying information;

(II) the name of the PLM who will serve as the entity's qualifying individual;

(III) the name of any individuals who may serve as control persons;

(IV) the entity's registered agent; and

(V) any other trade name under which the entity will operate; and

(B) creating a sponsorship through the nationwide database that identifies the mortgage loan originator(s) sponsored by the entity;

(v) register any branch office operating from a different location than the entity;

(vi) pay all fees through the nationwide database as required by the division and by the nationwide database;

(vii) provide to the division proof that any assumed business name or other trade name is registered with the Division of Corporations and Commercial Code;

(viii) provide to the division all court documents related to any criminal proceeding not disclosed through a previous application or renewal and involving any control person;

(ix) provide to the division complete documentation of any action taken by a regulatory agency against:

(A) the entity itself; or

(B) any control person; and

(C) not disclosed through a previous application or renewal; and

(x) provide to the division a notarized letter on company letterhead, signed by the owner or president of the entity, authorizing the PLM to use the entity's name.

(b) Restrictions on entity name. No license may be issued by the division to an entity that proposes to operate under a name that closely resembles the name of another entity licensee, or that the division determines might otherwise be confusing or misleading.

(5) Branch office.

(a) To register a branch office with the division, a person shall:

(i) obtain a Utah entity license for the entity under which the branch office will be registered;

(ii) submit to the nationwide database an MU3 form that includes:

(A) all required identifying information; and

(B) ~~[if registering on or after November 1, 2010,]~~ the name of the ALM who will serve as the branch lending manager;

(iii) create a sponsorship through the nationwide database that identifies the mortgage loan originator(s) who will work from the branch office; and

(iv) pay all fees through the nationwide database as required by the division and by the nationwide database.

(b) A person who registers another trade name and operates under that trade name from an address that is different from the address of the entity shall register the other trade name as a branch office pursuant to this Subsection (5).

(c)(i) A PLM may not simultaneously serve as a BLM.

(ii) An individual may not serve as the BLM for more than one branch at any given time.

(6) Licenses not transferable.

(a) A licensee shall not transfer the licensee's license to any other person.

(b) A licensee shall not allow any other person to work under the licensee's license.

(c) If a change in corporate structure of a licensed entity creates a separate and unique legal entity, that entity shall obtain a unique license, and shall not operate under any existing license.

- (7) Expiration of test results.
- (a) Scores for the mortgage loan originator licensing examination shall be valid for five years.
- (b) Scores for the PLM exam shall be valid for 90 days.
- (8) Incomplete PLM or ALM application.
- (a) The division may grant a 30-day extension of the 90-day application window upon a finding that:
- (i) an applicant has made a good faith attempt to submit a completed application; but
- (ii) requires more time to provide missing documents or to obtain additional information.
- (b) If the applicant does not supply the required documents or information within the 30-day extension, the division may deny the application as incomplete.
- (9) Nonrefundable fees. All fees are nonrefundable, regardless of whether an application is granted or denied.
- (10) Other trade names.
- (a) The division shall not approve a license for any person operating under an assumed business name that poses a reasonable likelihood of misleading the public into thinking that the person is:
- (i) endorsed by the division, the state government, or the federal government;
- (ii) an agency of the state or federal government; or
- (iii) not engaged in the business of residential mortgage loans.
- (b) A mortgage entity that operates under another trade name shall register the other trade name by including it on the MU1 form and obtaining the required registration.

R162-2c-202. Qualifications for Licensure.

- (1) Character. Individual applicants and control persons shall evidence good moral character, honesty, integrity, and truthfulness.
- (a) An applicant [~~shall be denied a license for~~]may not have:
- (i) [~~criminal history as outlined in Section 61-2e-203(1)(a)-(f);~~]been convicted of, pled guilty to, pled no contest to, pled guilty in a similar manner to, or resolved by diversion or its equivalent:
- (A) a felony involving an act of fraud, dishonesty, a breach of trust, or money laundering;
- (B) any felony in the seven years preceding the day on which an application is submitted to the division;
- (C) in the five years preceding the day on which an application is submitted to the division:
- (I) a misdemeanor involving moral turpitude; or
- (II) a crime in another jurisdiction that is the equivalent of a misdemeanor involving moral turpitude;
- [(ii)](D) in the three years preceding the day on which an application is submitted to the division, any misdemeanor involving: [~~fraud, misrepresentation, theft, or dishonesty that resulted in:~~
- (A) a conviction occurring within three years of the date of application;
- (B) a plea agreement occurring within three years of the date of application; or
- (C) a jail or prison release date falling within three years of the date of application.]

- (I) fraud;
- (II) misrepresentation;
- (III) theft; or
- (IV) dishonesty;
- (ii) had a license as a mortgage loan originator revoked by a government regulatory body at any time, unless the revocation is subsequently vacated or converted;
- (iii) had a professional license or registration, whether issued by a Utah regulatory body or by another jurisdiction, suspended, surrendered, canceled, or denied in the five years preceding the date the individual applies for licensure if the suspension, surrender, cancellation, or denial is based on misconduct in a professional capacity that relates to:
- (A) moral character;
- (B) honesty;
- (C) integrity;
- (D) truthfulness; or
- (E) the competency to transact the business of residential mortgage loans;
- (iv) in the five years preceding the day on which an application is submitted to the division, been the subject of a bar by the:
- (A) Securities and Exchange Commission;
- (B) New York Stock Exchange; or
- (C) National Association of Securities Dealers;
- (v) had a permanent injunction entered against the individual:
- (A) by a court or administrative agency; and
- (B) on the basis of:
- (I) conduct or a practice involving the business of residential mortgage loans; or
- (II) conduct involving fraud, misrepresentation, or deceit.
- (b) An applicant may be denied a license or issued a restricted license for incidents in the applicant's past other than those specified in this Subsection (1)(a) that reflect negatively on the applicant's moral character, honesty, integrity, and truthfulness. In evaluating an applicant for these qualities, the division and commission may consider any evidence, including the following:
- (i) criminal convictions or plea agreements [~~entered more than three years prior to the date of application~~], with particular consideration given to convictions or plea agreements relative to charges that involve moral turpitude;
- (ii) the circumstances that led to any criminal conviction or plea agreement under consideration;
- (iii) past acts related to honesty or moral character, with particular consideration given to any such acts involving the business of residential mortgage loans;
- (iv) dishonest conduct that would be grounds under Utah law for sanctioning an existing licensee;
- (v) civil judgments in lawsuits brought on grounds of fraud, misrepresentation, or deceit;
- (vi) court findings of fraudulent or deceitful activity;
- (vii) evidence of non-compliance with court orders or conditions of sentencing;
- (viii) evidence of non-compliance with:
- (A) terms of a diversion agreement still subject to prosecution;
- (B) a probation agreement; or
- (C) a plea in abeyance; or

(ix) failure to pay taxes or child support obligations.

(2) Competency. Individual applicants and control persons shall evidence competency to transact the business of residential mortgage loans. In evaluating an applicant for competency, the division and commission may consider any evidence that reflects negatively on an applicant's competency, including:

(a) civil judgments, with particular consideration given to any such judgments involving the business of residential mortgage loans;

(b) failure to satisfy a civil judgment that has not been discharged in bankruptcy;

(c) failure of any previous mortgage loan business in which the individual was engaged, as well as the circumstances surrounding that failure;

(d) evidence as to the applicant's business management and employment practices, including the payment of employees, independent contractors, and third parties;

(e) the extent and quality of the applicant's training and education in mortgage lending;

(f) the extent and quality of the applicant's training and education in business management;

(g) the extent of the applicant's knowledge of the Utah Residential Mortgage Practices Act;

(h) evidence of disregard for licensing laws;

(i) evidence of drug or alcohol dependency;

(j) sanctions placed on professional licenses; and

(k) investigations conducted by regulatory agencies relative to professional licenses.

(3) Financial responsibility. Individual applicants shall evidence financial responsibility. To evaluate an applicant for financial responsibility, the division shall:

(a) access the credit information available through the NMLS of:

(i) an applicant for initial licensure, beginning October 18, 2010; and

(ii) a licensee who requests renewal during the 2010 renewal period, unless the licensee's credit report was reviewed in issuing the initial license; and

(b) give particular consideration to:

(i) outstanding civil judgments;

(ii) outstanding tax liens;

(iii) foreclosures;

(iv) multiple social security numbers attached to the individual's name;

(v) child support arrearages; and

(vi) bankruptcies.

(4) Age. An applicant shall be at least 18 years of age.

(5) Minimum education. An applicant shall have a high school diploma, GED, or equivalent education as approved by the commission.

KEY: residential mortgage, loan origination, licensing, enforcement

Date of Enactment or Last Substantive Amendment: [January 8, 2011]

Authorizing, and Implemented or Interpreted Law: 61-2c-103(3); 61-2c-402(4)(a)

Education, Administration R277-709 Education Programs Serving Youth in Custody

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 34429

FILED: 02/14/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide for changes to the composition of the Coordinating Council for Youth in Custody as recommended in a performance audit conducted by the Utah State Board of Education and the Utah Coordinating Council for Youth in Custody. The changes also reflect accurate titles of existing divisions. The changes will ensure greater compliance with existing statutory language, Section 53A-1-403.

SUMMARY OF THE RULE OR CHANGE: The amendments include updating Section R277-709-6, Coordinating Council, and Section R277-709-7, Advisory Councils, to reflect recommended changes to composition and titles, and making minor terminology changes throughout the rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There are no anticipated costs or savings to the state budget. The amendments only provide recommended changes to the composition and titles of the Coordinating Council and Advisory Council which do not result in any costs or savings to the state.

♦ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings to local government. The amendments only provide recommended changes to the composition and titles of the Coordinating Council and Advisory Council which do not result in any costs or savings to school districts or schools.

♦ **SMALL BUSINESSES:** There are no anticipated costs or changes to small businesses. The amendments only provide recommended changes to the composition and titles of the Coordinating Council and Advisory Council which do not result in any costs or savings to small businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings to persons other than small businesses, businesses, or local government entities. The amendments only provide recommended changes to the composition and titles of the Coordinating Council and Advisory Council which do not result in any costs or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The amendments only provide recommended changes to the composition and titles of the Coordinating Council and Advisory Council which do not result in any costs or savings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/31/2011

THIS RULE MAY BECOME EFFECTIVE ON: 04/07/2011

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

R277. Education, Administration.

R277-709. Education Programs Serving Youth in Custody.

R277-709-1. Definitions.

A. "Board" means the Utah State Board of Education.

B. "Custody" means the status of being legally subject to the control of another person or a public agency.

C. "LEA" means local education agency, including local school boards/ public school districts and schools, and charter schools.

[C]D. "USOE" means the Utah State Office of Education.

[D]E. "Youth in Custody" means a person defined under Section 53A-1-403(1) who does not have a high school diploma or a GED certificate.

R277-709-2. 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, Section 53A-1-403(1) which makes the Board directly responsible for the education of youth 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, procedures, and distribution of funds for youth in custody programs.

R277-709-3. Student Evaluation, Education Plans, and [School District]LEA Programs.

A. Each student meeting the definition of youth in custody shall be evaluated at least every three years to determine the level and scope of the student's educational performance and the student's learning abilities. The evaluation shall include vision and auditory tests and shall specify known in-school and extra-school factors which may affect the student's school performance. The program receiving the student is responsible for obtaining the student's evaluation records, and, in cases where the records are not current, for conducting the evaluation as quickly as possible so that unnecessary delay in developing a student's education program is avoided.

B. Based upon the results of the student evaluation, an appropriate student education plan shall be prepared for each youth in custody. The plan shall be reviewed and updated at least once each year or immediately following transfer of a student from one program to another, whichever is sooner. The plan is developed in cooperation with appropriate representatives of other service agencies working with a student. The plan shall specify the responsibilities of each of the agencies towards the student and is signed by each agency's representative.

C. [School district]LEA Youth in Custody Programs

(1) The [school district]LEA shall provide an education program for the student which conforms as closely as possible to the student's education plan. Educational services shall be provided in the least restrictive environment appropriate for the student's behavior and educational performance. Youth in custody who do not require special services or supervision beyond that which would be available to them were they not in custody shall be considered part of the district's regular enrollment and treated accordingly.

(2) Youth in custody shall not be assigned to, or remain in, restrictive or non-mainstream programs simply because of their custodial status, [their]past behavior that does not put others at risk, or the inappropriate behavior of other students.

(3) Education programs to which youth in custody are assigned shall meet the standards which are adopted by the Board for that type program. Compliance shall be monitored by the Utah State Office of Education in periodic review visits.

(4) Credit earned in youth in custody programs that are accredited shall be accepted at face value in Utah's public schools.

(5) Educational services shall be sufficiently coordinated with non-custody programs to enable youth in custody to continue their education with minimal disruption following discharge from custody.

D. Youth in custody shall be admitted to classes within five school days following arrival at a new residential placement. If evaluation and student education plan development are delayed beyond that period, the student shall be enrolled temporarily based upon the best information available. The temporary schedule may be modified to meet the student's needs after the evaluation and planning process has been completed.

E. When a student is released from custody or transferred to a new program, the sending program shall bring all available school records up to date and forward them to the receiving program within one week following notification of release or transfer.

R277-709-4. Operation Procedures.

A(1) the Board shall contract with ~~[school districts]~~LEAs to provide educational services for youth in custody. The respective responsibilities of the Board, ~~[the school district]~~LEAs, and other local service providers for education shall be established in the contract. An ~~[school district]~~LEA may subcontract with local non-district educational service providers for the provision of educational services;

(2) the Board may contract with entities other than ~~[school districts]~~LEAs only if the Board determines that the ~~[school district]~~LEA is unable to provide~~(d)~~ adequate education services.

B. Youth in custody receiving education services by or through an ~~[school district]~~LEA are students of that ~~[district]~~LEA.

C. State funds appropriated for youth in custody are allocated on the basis of annual applications made by ~~[school districts]~~LEAs.

D. The share of funds distributed to an ~~[district]~~LEA is based upon criteria which include the number of youth in custody served in the district, the type of program required for the youth, the setting for providing services, and the length of the program.

E. Funds approved for youth in custody projects may be expended solely for the purposes described in the respective funding application. Unexpended funds may not be carried over from one fiscal year to the next, except following specific approval of the Board or a designee.

F. The USOE may retain no more than five percent of the annual youth in custody appropriation for program administration. No more than one percent of the appropriation may be directed to the following specific purposes and services:

- (1) educator professional development;
- (2) electronic educational services specific to a student's or ~~[school]~~LEA's needs;
- (3) youth in custody data collection at the ~~[school-district]~~LEA and state level;
- (4) site visits to youth in custody schools by youth in custody personnel; and
- (5) program evaluation at the state level.

G. Four percent of administrative funds allowed under R277-709-4F may be withheld by the USOE to be directed to students attending youth in custody programs for short periods of time or to new or beginning youth in custody programs.

H. Federal funds are available under the Elementary and Secondary Education Act, 34 C.F.R., Chapter II, Part 200, Title I, Subpart D, for the education of youth who are neglected, delinquent, or at risk of dropping out.

I. The youth in custody program is separate from and not conducted under the state's education program for students with disabilities. Custodial status alone does not qualify a student as a student with a disability under laws regulating education for students with disabilities.

J. The Board, or its designee, shall adopt uniform pupil and fiscal accounting procedures, forms, and deadlines for the youth in custody program.

K. Education staff assigned to youth in custody shall be qualified and appropriate for their assignments. The teaching license and endorsement held by a teacher shall be important in evaluating the appropriateness of a teacher's assignment but not controlling. Elementary teachers may teach secondary-age students who are functioning at an elementary level in the subjects in

question. Teachers shall not be required to hold special education licenses, although such licenses are encouraged.

R277-709-5. Confidentiality.

A. Transcripts and diplomas prepared for youth in custody shall be issued in the name of an existing ~~[district-or-school]~~LEA which also serves non-custodial youth and shall not bear references to custodial status.

B. School records which refer to custodial status, juvenile court records, and related matters shall be kept separate from permanent school records, but are nonetheless student records if retained by the ~~[school/district]~~LEA.

C. Members of the interagency team which design and oversee student education plans shall have access, through team member representatives of the participating agencies, to relevant records of the various agencies. The records and information obtained from the records remain 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.

D. All information maintained in permanent form on a student from whatever source derived or received, is a student record under the Family Educational Rights and Privacy Act, 34 C.F.R., Part 99.

R277-709-6. Coordinating Council.

A. The Department of Human Services and the Board shall appoint a coordinating council to plan, coordinate, and recommend budget, policy, and program guidelines for the education and treatment of persons in the custody of the Division of ~~[Youth Corrections]~~Juvenile Justice Services and the Division of Child and Family Services. The Council shall operate under the guidelines developed and approved by the Department of Human Services and the Board.

B. Council membership shall include a representative of the following:

- (1) ~~[Office of Licensing under]~~Department of Human Services;
- (2) ~~[State]~~Division of ~~[Youth Corrections]~~Juvenile Justice Services;
- ~~_____ (3) multipurpose facilities under Division of Youth Corrections;~~
- ~~_____ (4) urban detention facilities under Division of Youth Corrections;~~
- ~~_____ (5) observation/diagnostic facilities under Division of Youth Corrections;~~
- ~~_____ (6) long term secure facilities under Division of Youth Corrections;~~
- ~~_____ (7) case management under Division of Youth Corrections;~~
- _____ (8) ~~[State]~~Division of Child and Family Services;
- ~~_____ (9) Regional Division of Child and Family Services;~~
- _____ (10) Utah State Office of Education.
- ~~_____ (11) [Utah school districts Youth in Custody directors]LEAs;~~
- ~~_____ (12) [district]juvenile courts;~~
- ~~_____ (13) community-based private providers;~~
- ~~_____ (14) foster parents;~~
- ~~_____ (15) a Native American tribe; and~~
- ~~_____ (16) Guardian ad Litem's Office.~~

R277-709-7. Advisory Councils.

A. Each ~~[school-district]~~LEA serving youth in custody shall establish a local interagency advisory council which shall be responsible for advising member agencies concerning coordination of youth in custody programs. Members of the council shall include, if applicable to the ~~[district]~~LEA, the following:

- (1) a representative of the Division of Child and Family Services;
 - (2) a representative of the Division of ~~[Youth-Corrections]~~Juvenile Justice Services;
 - (3) directors of agencies located in a district such as detention centers, secure lockup facilities and observation and assessment units;
 - (4) a representative of community-based alternative programs for custodial juveniles~~[such as Heritage Group Home and Odyssey House]~~; and
 - (5) a representative of the ~~[school-district]~~LEA.
- B. The council shall adopt by-laws for its operation.
- C. Local interagency advisory councils shall meet at least quarterly.

KEY: students, education, juvenile courts

Date of Enactment or Last Substantive Amendment: ~~[May 16, 2006]~~2011

Notice of Continuation: January 8, 2008

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-403(1); 53A-1-401(3)

Environmental Quality, Air Quality R307-214 National Emission Standards for Hazardous Air Pollutants

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 34428
FILED: 02/10/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Rule R307-214, National Emission Standards for Hazardous Air Pollutants (NESHAPs), must be updated periodically to reflect changes to the NESHAPs as published in Title 40 of the Code of Federal Regulations (40 CFR) Parts 61 and 63. This action incorporates changes that were made to 40 CFR Parts 61 and 63 incorporated by reference in Rule R307-214, including the five new NESHAPs contained in 40 CFR Part 63 for Source Categories, promulgated from 07/01/2009 through 07/01/2010.

SUMMARY OF THE RULE OR CHANGE: The version of the CFR for environmental regulations has been updated to

07/01/2010; therefore it is necessary to update Rule R307-214. The changes to the incorporated section of the CFR are summarized below according to the rule section that incorporates them. Section R307-214-1: Federal Register / Vol. 74, No. 206 / Tuesday, October 27, 2009 / Page 55144. Action added a table identifying delegations for Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, and South Carolina. Federal Register / Vol. 74, No. 241 / Thursday, December 17, 2009 / Page 66923. Action added a table identifying delegations for Delaware, District of Columbia, Maryland, City of Philadelphia, Commonwealth of Pennsylvania, Virginia, and West Virginia. Federal Register / Vol. 75, No. 71 / Wednesday, April 14, 2010 / Page 19258. Action updated Address for delegated state: Louisiana. Subsection R307-214-2(1): Federal Register / Vol. 74, No. 207 / Wednesday, October 28, 2009 / Page 55683. Action incorporates by reference material available from the Texas Commission on Environmental Quality (TCEQ) Library. Federal Register / Vol. 74, No. 224 / Monday, November 23, 2009 / Page 61043. Action incorporated by reference State and Local Requirements for Massachusetts Department of Environmental Protection. Federal Register / Vol. 75, No. 117 / Friday, June 18, 2010 / Page 34653. Action incorporated by reference Rhode Island Department of Environmental Management regulations at Air Pollution Control Regulation No. 36, Control of Emissions from Organic Solvent Cleaning, effective April 8, 1996. Federal Register / Vol. 75, No. 41 / Wednesday, March 3, 2010 / Page 9674. Action revises specifications in Section 63.6590, What parts of my plant does this subpart cover? Federal Register / Vol. 75, No. 125 / Wednesday, June 30, 2010 / Page 37733. Action revised specifications in Section 63.6590, What parts of my plant does this subpart cover? Federal Register / Vol. 75, No. 41 / Wednesday, March 3, 2010 / Page 9675. Action revised specification outlined in Section 63.6595, When do I have to comply with this subpart? Federal Register / Vol. 75, No. 41 / Wednesday, March 3, 2010 / Page 9675. Action added an introductory paragraph to Section 63.6600, What emission limitations and operating limitations must I meet if I own or operate a stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions, and revises other paragraphs in this section. Federal Register / Vol. 75, No. 41 / Wednesday, March 3, 2010 / Page 9675. Action revised specification of compliance with the numerical emission limitations established in this subpart is based on the results of testing the average of three 1-hour runs using the testing requirements and procedures in 63.6620, and Table 4 to this subpart. Federal Register / Vol. 75, No. 41 / Wednesday, March 3, 2010 / Page 9675. Action added Section 63.6602, What emission limitations must I meet if I own or operate an existing stationary CI RICE with a site rating of equal to or less than 500 brake HP located at a major source of HAP emissions? Federal Register / Vol. 75, No. 41 / Wednesday, March 3, 2010 / Page 9675. Action added Section 63.6603, What emission limitations and operating limitations must I meet if I own or operate an existing stationary CI RICE located at an area source of HAP emissions? Federal Register / Vol. 75, No. 41 / Wednesday, March 3, 2010 / Page 9675. Action added Section 63.6604,

What fuel requirements must I meet if I own or operate an existing stationary CI RICE? Federal Register / Vol. 75, No. 41 / Wednesday, March 3, 2010 / Page 9675. Action revised general requirements for complying with the subpart. Federal Register / Vol. 75, No. 41 / Wednesday, March 3, 2010 / Page 9676. Action added Section 63.6612, By what date must I conduct the initial performance tests or other initial compliance demonstrations if I own or operate an existing stationary RICE with a site rating of less than or equal to 500 brake HP located at a major source of HAP emissions or an existing stationary RICE located at an area source of HAP emissions? Federal Register / Vol. 75, No. 41 / Wednesday, March 3, 2010 / Page 9676. Action revised requirements of performance testing. Federal Register / Vol. 75, No. 41 / Wednesday, March 3, 2010 / Page 9676. Action revised Section 63.6625, What are my monitoring, installation, collection, operation, and maintenance requirements? Federal Register / Vol. 75, No. 41 / Wednesday, March 3, 2010 / Page 9676. Action revised requirements specified in Section 63.6640, How do I demonstrate continuous compliance with the emission limitations and operating limitations? Federal Register / Vol. 75, No. 41 / Wednesday, March 3, 2010 / Page 9677. Action revises Section 63.6645, What notifications must I submit and when? Federal Register / Vol. 75, No. 41 / Wednesday, March 3, 2010 / Page 9677. Action revised Section 63.6650, What reports must I submit and when? Federal Register / Vol. 75, No. 41 / Wednesday, March 3, 2010 / Page 9678. Action revised Section 63.6655, What records must I keep? Federal Register / Vol. 75, No. 41 / Wednesday, March 3, 2010 / Page 9678. Action revised Section 63.6660, In what form and how long must I keep my records? Federal Register / Vol. 75, No. 41 / Wednesday, March 3, 2010 / Page 9678. Action revises Section 63.6665, What parts of the General Provisions apply to me? Federal Register / Vol. 75, No. 41 / Wednesday, March 3, 2010 / Page 9679. Action revised Section 63.6675, What definitions apply to this subpart? Black start engine; Diesel fuel; Emergency stationary RICE; Residential / commercial / institutional emergency stationary RICE. Subsection R307-214-2(18): Federal Register / Vol. 74, No. 207 / Wednesday, October 28, 2009 / Page 55683. Action revised, Section 63.640, specifications relating to applicability and designation of affected sources. Federal Register / Vol. 74, No. 207 / Wednesday, October 28, 2009 / Page 55685. Action added definitions for "cooling tower", and "heat exchange system" and revise the definition of "continuous record" to Section 63.641. Federal Register / Vol. 74, No. 207 / Wednesday, October 28, 2009 / Page 55685. Action revised general standards affecting compliance requirements in Section 63.642. Federal Register / Vol. 74, No. 207 / Wednesday, October 28, 2009 / Page 55685. Action revised request approval to monitor parameters not listed in Section 63.644. Federal Register / Vol. 74, No. 207 / Wednesday, October 28, 2009 / Page 55685. Action revised test method and procedures where recalculated TOC emissions exceed 33 kilograms in Section 63.645. Federal Register / Vol. 74, No. 207 / Wednesday, October 28, 2009 / Page 55685. Action revised the determination of stored liquid weight percent total organic HAP for purposes of group determination in Section

63.646. Federal Register / Vol. 75, No. 125 / Wednesday, June 30, 2010 / Page 37731. Action revised storage vessel provisions in Section 63.646. Federal Register / Vol. 74, No. 207 / Wednesday, October 28, 2009 / Page 55685. Action revises gasoline loading rack provisions in Section 63.650. Federal Register / Vol. 74, No. 207 / Wednesday, October 28, 2009 / Page 55685. Action revised marine tank vessel loading operation provisions in Section 63.651. Federal Register / Vol. 74, No. 207 / Wednesday, October 28, 2009 / Page 55686. Action revises emissions averaging provisions in Section 63.652. Federal Register / Vol. 74, No. 207 / Wednesday, October 28, 2009 / Page 55686. Action revised monitoring, recordkeeping, and implementation plans for emission in Section 63.653. Federal Register / Vol. 74, No. 207 / Wednesday, October 28, 2009 / Page 55686. Action redesignated Sections 63.654 and 63.655 as Sections 63.655 and 63.656, and adds Section 63.654, Heat exchange systems. Federal Register / Vol. 75, No. 125 / Wednesday, June 30, 2010 / Page 37731. Action amended introductory test of Section 63.654 Heat exchange systems. Federal Register / Vol. 74, No. 207 / Wednesday, October 28, 2009 / Page 55687. Action amended newly designated Section 63.655, Reporting and recordkeeping requirements. Federal Register / Vol. 75, No. 125 / Wednesday, June 30, 2010 / Page 37731. Action revised Section 63.655, Reporting and recordkeeping requirements, by replacing references to Section 63.122 in Section 63.123 of subpart G of this part with Section 63.655(e). Federal Register / Vol. 74, No. 207 / Wednesday, October 28, 2009 / Page 55688. Action revised newly redesignated Section 63.656, Implementation and enforcement affecting approval of alternatives, to the requirements in Section 63.640, 63.642(g) through (l), 63.643, 63.646 through 63.652, and 63.654. Federal Register / Vol. 75, No. 125 / Wednesday, June 30, 2010 / Page 37731. Action revised the appendix to Subpart CC of Part 63 column headings of Table 4. Subsection R307-214-2(77): Federal Register / Vol. 75, No. 41 / Wednesday, March 3, 2010 / Page 9679. Action revised emission limitations for existing, new, and reconstructed spark ignition, 4SRB Stationary RICE >500 HP Located at a Major Source of HAP Emissions located in Table 1a of Subpart ZZZZ. Federal Register / Vol. 75, No. 41 / Wednesday, March 3, 2010 / Page 9680. Action revised emission limitations for existing, new, and reconstructed spark ignition, 4SRB Stationary RICE >500 HP Located at a Major Source of HAP Emissions in Table 2b of Subpart ZZZZ. Federal Register / Vol. 75, No. 41 / Wednesday, March 3, 2010 / Page 9681. Action revised compliance requirements for existing compression ignition Stationary RICE in Tables 2c and 2d of Subpart ZZZZ. Federal Register / Vol. 75, No. 41 / Wednesday, March 3, 2010 / Page 9682. Action revised performance test requirements listed in Table 3 of Subpart ZZZZ. Federal Register / Vol. 75, No. 41 / Wednesday, March 3, 2010 / Page 9684. Action revised initial compliance with emissions limitations and operating limitations in Table 5 of Subpart ZZZZ. Federal Register / Vol. 75, No. 41 / Wednesday, March 3, 2010 / Page 9685. Action revised continuous compliance with emissions limitations and operating limitations in Table 6 of Subpart ZZZZ. Federal Register / Vol.

75, No. 41 / Wednesday, March 3, 2010 / Page 9687. Action revised reporting requirements in Table 7 of Subpart ZZZZ. Federal Register / Vol. 75, No. 41 / Wednesday, March 3, 2010 / Page 9688. Action revised applicability of general provisions in Table 8 of Subpart ZZZZ. R307-214-2(114): Federal Register / Vol. 74, No. 208 / Thursday, October 29, 2009 / Page 56041. Action added a new subpart: Subpart VVVVVV, National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources. Subsection R307-214-2(119): Federal Register / Vol. 74, No. 174 / Thursday, September 10, 2009 / Page 46495. Action revised qualifying conditions governing when one is subject to Subpart ZZZZZZ. Federal Register / Vol. 74, No. 174 / Thursday, September 10, 2009 / Page 46495. Action redesignated paragraph citations in Section 63.11553. Subsection R307-214-2(120): Federal Register / Vol. 74, No. 230 / Wednesday, December 2, 2009 / Page 63260. Action added a subpart: Subpart AAAAAAA, Standards for Hazardous Air Pollutants for Area Sources: Asphalt Processing and Asphalt Roofing Manufacturing. Federal Register / Vol. 75, No. 52 / Thursday, March 18, 2010 / Page 12989. Action amended authority citation for Subpart AAAAAAA. R307-214-2(121): Federal Register / Vol. 74, No. 249 / Wednesday, December 30, 2009 / Page 69208. Action added new subpart: Subpart BBBBBBB, National Emission Standards for Hazardous Air Pollutants for Area Sources: Chemical Preparations Industry. Subsection R307-214-2(122): Federal Register / Vol. 74, No. 231 / Thursday, December 3, 2009 / Page 63525. Action added new subpart: Subpart CCCCCC, National Emission Standards for Hazardous Air Pollutants for Area Sources: Paints and Allied Products Manufacturing. Federal Register / Vol. 75, No. 43 / Friday, March 5, 2010 / Page 10186. Action revised the date effecting one being subject to Subpart CCCCCC. Federal Register / Vol. 75, No. 43 / Friday, March 5, 2010 / Page 10186. Action revised standards for new and existing manufacturing facilities in Section 63.11601. Federal Register / Vol. 75, No. 43 / Friday, March 5, 2010 / Page 10186. Action revised introductory text and certain compliance requirements in Section 63.11602. Federal Register / Vol. 75, No. 43 / Friday, March 5, 2010 / Page 10186. Action revises notification, reporting, and recordkeeping requirements in Section 63.11603. Federal Register / Vol. 75, No. 106 / Thursday, June 3, 2010 / Page 31320. Action revised definition of "material containing HAP" in Section 63.11607. Subsection R307-214-2(123): Federal Register / Vol. 75, No. 2 / Tuesday, January 5, 2010 / Page 546. Action added a new subpart: Subpart DDDDDDD, National Emission Standards for Hazardous Air Pollutants for Area Sources: Prepared Feeds Manufacturing. Additionally, some renumbering is being proposed in order to incorporate the new subparts.

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

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Updates 40 CFR, published by Government Printing Office, July 1, 2010

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: No cost or savings is anticipated for state budget as this amendment does not create any new requirements.
- ◆ LOCAL GOVERNMENTS: No cost or savings is anticipated for local government as this amendment does not create any new requirements.
- ◆ SMALL BUSINESSES: No cost or savings is anticipated for small businesses as this amendment does not create any new requirements.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: No cost or savings is anticipated for persons other than small businesses, businesses, or local government entities as this amendment does not create any new requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No cost or savings is anticipated for affected persons as this amendment does not create any new requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No cost or savings is anticipated for businesses as this amendment does not create any new requirements.

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

ENVIRONMENTAL QUALITY
AIR QUALITY
ROOM FOURTH FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Kimberly Kreykes by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at kkreykes@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/31/2011

THIS RULE MAY BECOME EFFECTIVE ON: 05/04/2011

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

R307. Environmental Quality, Air Quality.

R307-214. National Emission Standards for Hazardous Air Pollutants.

R307-214-1. Pollutants Subject to Part 61.

The provisions of Title 40 of the Code of Federal Regulations (40 CFR) Part 61, National Emission Standards for Hazardous Air Pollutants, effective as of July 1, 2010^[09], are incorporated into these rules by reference. For pollutant emission standards delegated to the State, references in 40 CFR Part 61 to "the Administrator" shall refer to the Executive Secretary.

R307-214-2. Sources Subject to Part 63.

The provisions listed below of 40 CFR Part 63, National Emission Standards for Hazardous Air Pollutants for Source Categories, effective as of July 1, 2010^[09], are incorporated into these rules by reference. References in 40 CFR Part 63 to "the Administrator" shall refer to the executive secretary, unless by federal law the authority is specific to the Administrator and cannot be delegated.

- (1) 40 CFR Part 63, Subpart A, General Provisions.
- (2) 40 CFR Part 63, Subpart B, Requirements for Control Technology Determinations for Major Sources in Accordance with 42 U.S.C. 7412(g) and (j).
- (3) 40 CFR Part 63, Subpart F, National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry.
- (4) 40 CFR Part 63, Subpart G, National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater.
- (5) 40 CFR Part 63, Subpart H, National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks.
- (6) 40 CFR Part 63, Subpart I, National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.
- (7) 40 CFR Part 63, Subpart J, National Emission Standards for Polyvinyl Chloride and Copolymers Production.
- (8) 40 CFR Part 63, Subpart L, National Emission Standards for Coke Oven Batteries.
- (9) 40 CFR Part 63, Subpart M, National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities.
- (10) 40 CFR Part 63, Subpart N, National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.
- (11) 40 CFR Part 63, Subpart O, National Emission Standards for Hazardous Air Pollutants for Ethylene Oxide Commercial Sterilization and Fumigation Operations.
- (12) 40 CFR Part 63, Subpart Q, National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers.
- (13) 40 CFR Part 63, Subpart R, National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations).
- (14) 40 CFR Part 63, Subpart T, National Emission Standards for Halogenated Solvent Cleaning.
- (15) 40 CFR Part 63, Subpart U, National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins.
- (16) 40 CFR Part 63, Subpart AA, National Emission Standards for Hazardous Air Pollutants for Phosphoric Acid Manufacturing.
- (17) 40 CFR Part 63, Subpart BB, National Emission Standards for Hazardous Air Pollutants for Phosphate Fertilizer Production.
- (18) 40 CFR Part 63, Subpart CC, National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries.
- (19) 40 CFR Part 63, Subpart DD, National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations.
- (20) 40 CFR Part 63, Subpart EE, National Emission Standards for Magnetic Tape Manufacturing Operations.
- (21) 40 CFR Part 63, Subpart GG, National Emission Standards for Aerospace Manufacturing and Rework Facilities.
- (22) 40 CFR Part 63, Subpart HH, National Emission Standards for Hazardous Air Pollutants for Oil and Natural Gas Production.
- (23) 40 CFR Part 63, Subpart JJ, National Emission Standards for Wood Furniture Manufacturing Operations.
- (24) 40 CFR Part 63, Subpart KK, National Emission Standards for the Printing and Publishing Industry.
- (25) 40 CFR Part 63, Subpart MM, National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semicheical Pulp Mills.
- (26) 40 CFR Part 63, Subpart OO, National Emission Standards for Tanks - Level 1.
- (27) 40 CFR Part 63, Subpart PP, National Emission Standards for Containers.
- (28) 40 CFR Part 63, Subpart QQ, National Emission Standards for Surface Impoundments.
- (29) 40 CFR Part 63, Subpart RR, National Emission Standards for Individual Drain Systems.
- (30) 40 CFR Part 63, Subpart SS, National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process (Generic MACT).
- (31) 40 CFR Part 63, Subpart TT, National Emission Standards for Equipment Leaks- Control Level 1 (Generic MACT).
- (32) 40 CFR Part 63, Subpart UU, National Emission Standards for Equipment Leaks-Control Level 2 Standards (Generic MACT).
- (33) 40 CFR Part 63, Subpart VV, National Emission Standards for Oil-Water Separators and Organic-Water Separators.
- (34) 40 CFR Part 63, Subpart WW, National Emission Standards for Storage Vessels (Tanks)-Control Level 2 (Generic MACT).
- (35) 40 CFR Part 63, Subpart XX, National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations.
- (36) 40 CFR Part 63, Subpart YY, National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic MACT.
- (37) 40 CFR Part 63, Subpart CCC, National Emission Standards for Hazardous Air Pollutants for Steel Pickling-HCl Process Facilities and Hydrochloric Acid Regeneration Plants.
- (38) 40 CFR Part 63, Subpart DDD, National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production.
- (39) 40 CFR Part 63, Subpart EEE, National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors.
- (40) 40 CFR Part 63, Subpart GGG, National Emission Standards for Hazardous Air Pollutants for Pharmaceuticals Production.

- (41) 40 CFR Part 63, Subpart HHH, National Emission Standards for Hazardous Air Pollutants for Natural Gas Transmission and Storage.
- (42) 40 CFR Part 63, Subpart III, National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production.
- (43) 40 CFR Part 63, Subpart JJJ, National Emission Standards for Hazardous Air Pollutants for Group IV Polymers and Resins.
- (44) 40 CFR Part 63, Subpart LLL, National Emission Standards for Hazardous Air Pollutants for Portland Cement Manufacturing Industry.
- (45) 40 CFR Part 63, Subpart MMM, National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production.
- (46) 40 CFR Part 63, Subpart NNN, National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing.
- (47) 40 CFR Part 63, Subpart OOO, National Emission Standards for Hazardous Air Pollutants for Amino/Phenolic Resins Production (Resin III).
- (48) 40 CFR Part 63, Subpart PPP, National Emission Standards for Hazardous Air Pollutants for Polyether Polyols Production.
- (49) 40 CFR Part 63, Subpart QQQ, National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelters.
- (50) 40 CFR Part 63, Subpart RRR, National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production.
- (51) 40 CFR Part 63, Subpart TTT, National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting.
- (52) 40 CFR Part 63, Subpart UUU, National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units.
- (53) 40 CFR Part 63, Subpart VVV, National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works.
- (54) 40 CFR Part 63, Subpart AAAA, National Emission Standards for Hazardous Air Pollutants for Municipal Solid Waste Landfills.
- (55) 40 CFR Part 63, Subpart CCCC, National Emission Standards for Manufacturing of Nutritional Yeast.
- (56) 40 CFR Part 63, Subpart DDDD, National Emission Standards for Hazardous Air Pollutants for Plywood and Composite Wood Products.
- (57) 40 CFR Part 63, Subpart EEEE, National Emission Standards for Hazardous Air Pollutants for Organic Liquids Distribution (non-gasoline).
- (58) 40 CFR Part 63, Subpart FFFF, National Emission Standards for Hazardous Air Pollutants for Miscellaneous Organic Chemical Manufacturing.
- (59) 40 CFR Part 63, Subpart GGGG, National Emission Standards for Vegetable Oil Production; Solvent Extraction.
- (60) 40 CFR Part 63, Subpart HHHH, National Emission Standards for Wet-Formed Fiberglass Mat Production.
- (61) 40 CFR Part 63, Subpart IIII, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Automobiles and Light-Duty Trucks.
- (62) 40 CFR Part 63, Subpart JJJJ, National Emission Standards for Hazardous Air Pollutants for Paper and Other Web Surface Coating Operations.
- (63) 40 CFR Part 63, Subpart KKKK, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Metal Cans.
- (64) 40 CFR Part 63, Subpart MMMM, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products.
- (65) 40 CFR Part 63, Subpart NNNN, National Emission Standards for Large Appliances Surface Coating Operations.
- (66) 40 CFR Part 63, Subpart OOOO, National Emission Standards for Hazardous Air Pollutants for Fabric Printing, Coating and Dyeing Surface Coating Operations.
- (67) 40 CFR Part 63, Subpart PPPP, National Emissions Standards for Hazardous Air Pollutants for Surface Coating of Plastic Parts and Products.
- (68) 40 CFR Part 63, Subpart QQQQ, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Wood Building Products.
- (69) 40 CFR Part 63, Subpart RRRR, National Emission Standards for Hazardous Air Pollutants for Metal Furniture Surface Coating Operations.
- (70) 40 CFR Part 63, Subpart SSSS, National Emission Standards for Metal Coil Surface Coating Operations.
- (71) 40 CFR Part 63, Subpart TTTT, National Emission Standards for Leather Tanning and Finishing Operations.
- (72) 40 CFR Part 63, Subpart UUUU, National Emission Standards for Cellulose Product Manufacturing.
- (73) 40 CFR Part 63, Subpart VVVV, National Emission Standards for Boat Manufacturing.
- (74) 40 CFR Part 63, Subpart WWWW, National Emissions Standards for Hazardous Air Pollutants for Reinforced Plastic Composites Production.
- (75) 40 CFR Part 63, Subpart XXXX, National Emission Standards for Tire Manufacturing.
- (76) 40 CFR Part 63, Subpart YYYY, National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines.
- (77) 40 CFR Part 63, Subpart ZZZZ, National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines.
- (78) 40 CFR Part 63, Subpart AAAAA, National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants.
- (79) 40 CFR Part 63, Subpart BBBB, National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing.
- (80) 40 CFR Part 63, Subpart CCCCC, National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks.
- (81) 40 CFR Part 63, Subpart DDDDD, National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters.

(82) 40 CFR Part 63, Subpart EEEEE, National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries.

(83) 40 CFR Part 63, Subpart FFFFF, National Emission Standards for Hazardous Air Pollutants for Integrated Iron and Steel Manufacturing.

(84) 40 CFR Part 63, Subpart GGGGG, National Emission Standards for Hazardous Air Pollutants for Site Remediation.

(85) 40 CFR Part 63, Subpart HHHHH, National Emission Standards for Hazardous Air Pollutants for Miscellaneous Coating Manufacturing.

(86) 40 CFR Part 63, Subpart IIIII, National Emission Standards for Hazardous Air Pollutants for Mercury Emissions from Mercury Cell Chlor-Alkali Plants.

(87) 40 CFR Part 63, Subpart JJJJJ, National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing.

(88) 40 CFR Part 63, Subpart KKKKK, National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing.

(89) 40 CFR Part 63, Subpart LLLLL, National Emission Standards for Hazardous Air Pollutants for Asphalt Processing and Asphalt Roofing Manufacturing.

(90) 40 CFR Part 63, Subpart MMMMM, National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Fabrication Operations.

(91) 40 CFR Part 63, Subpart NNNNN, National Emission Standards for Hazardous Air Pollutants for Hydrochloric Acid Production.

(92) 40 CFR Part 63, Subpart PTTTT, National Emission Standards for Hazardous Air Pollutants for Engine Test Cells/Stands.

(93) 40 CFR Part 63, Subpart QQQQQ, National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities.

(94) 40 CFR Part 63, Subpart RRRRR, National Emission Standards for Hazardous Air Pollutants for Taconite Iron Ore Processing.

(95) 40 CFR Part 63, Subpart SSSSS, National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing.

(96) 40 CFR Part 63, Subpart TTTTT, National Emission Standards for Hazardous Air Pollutants for Primary Magnesium Refining.

(97) 40 CFR Part 63, Subpart WWWW, National Emission Standards for Hospital Ethylene Oxide Sterilizers.

(98) 40 CFR Part 63, Subpart YYYYY, National Emission Standards for Hazardous Air Pollutants for Area Sources: Electric Arc Furnace Steelmaking Facilities.

(99) 40 CFR Part 63, Subpart ZZZZZ, National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries Area Sources.

(100) 40 CFR Part 63 Subpart BBBBBB National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities

(101) 40 CFR Part 63 Subpart CCCCC National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities.

(102) 40 CFR Part 63, Subpart DDDDD, National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production Area Sources.

(103) 40 CFR Part 63, Subpart EEEEE, National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting Area Sources.

(104) 40 CFR Part 63, Subpart FFFFF, National Emission Standards for Hazardous Air Pollutants for Secondary Copper Smelting Area Sources.

(105) 40 CFR Part 63, Subpart GGGGG, National Emission Standards for Hazardous Air Pollutants for Primary Nonferrous Metals Area Sources--Zinc, Cadmium, and Beryllium.

(106) 40 CFR Part 63, Subpart LLLLLL, National Emission Standards for Hazardous Air Pollutants for Acrylic and Modacrylic Fibers Production Area Sources.

(107) 40 CFR Part 63, Subpart MMMMM, National Emission Standards for Hazardous Air Pollutants for Carbon Black Production Area Sources.

(108) 40 CFR Part 63, Subpart NNNNN, National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources: Chromium Compounds.

(109) 40 CFR Part 63, Subpart OOOOO, National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production and Fabrication Area Sources.

(110) 40 CFR Part 63, Subpart PTTTT, National Emission Standards for Hazardous Air Pollutants for Lead Acid Battery Manufacturing Area Sources.

(111) 40 CFR Part 63, Subpart QQQQQ, National Emission Standards for Hazardous Air Pollutants for Wood Preserving Area Sources.

(112) 40 CFR Part 63, Subpart RRRRR, National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing Area Sources.

(113) 40 CFR Part 63, Subpart SSSSS, National Emission Standards for Hazardous Air Pollutants for Glass Manufacturing Area Sources.

(114) 40 CFR Part 63, Subpart VVVVV, National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources.

(115) 40 CFR Part 63, Subpart TTTTT, National Emission Standards for Hazardous Air Pollutants for Secondary Nonferrous Metals Processing Area Sources.

(116[5]) 40 CFR Part 63, Subpart WWWW, National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Plating and Polishing Operations.

(117[6]) 40 CFR Part 63, Subpart XXXXX, National Emission Standards for Hazardous Air Pollutants Area Source Standards for Nine Metal Fabrication and Finishing Source Categories.

(118[7]) 40 CFR Part 63, Subpart YYYYY, National Emission Standards for Hazardous Air Pollutants for Area Sources: Ferroalloys Production Facilities.

(119[8]) 40 CFR Part 63, Subpart ZZZZZ, National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Aluminum, Copper, and Other Nonferrous Foundries.

(120) 40 CFR Part 63, Subpart AAAAAAA, National Emission Standards for Hazardous Air Pollutants for Area Sources: Asphalt Processing and Asphalt Roofing Manufacturing.

(121) 40 CFR Part 63, Subpart BBBBbbb, National Emission Standards for Hazardous Air Pollutants for Area Sources: Chemical Preparations Industry.

(122) 40 CFR Part 63, Subpart CCCCCC, National Emission Standards for Hazardous Air Pollutants for Area Sources: Paints and Allied Products Manufacturing.

(123) 40 CFR Part 63, Subpart DDDDDDD, National Emission Standards for Hazardous Air Pollutants for Area Sources: Prepared Feeds Manufacturing.

KEY: air pollution, hazardous air pollutant, MACT

Date of Enactment or Last Substantive Amendment: ~~2011 June 3, 2010~~

Notice of Continuation: January 11, 2008

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

Environmental Quality, Water Quality R317-1-7 TMDLs

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 34437

FILED: 02/15/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to incorporate by reference the completed and recently approved East Canyon Creek and Reservoir Total Maximum Daily Load (TMDL) water quality study and determination into the rule.

SUMMARY OF THE RULE OR CHANGE: This section incorporates by reference the completed and approved East Canyon Reservoir, East Canyon Creek TMDL into the rule. This TMDL document has gone through an individual public review process, has been approved by the EPA and has been adopted by the Water Quality Board.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-5-104

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Adds East Canyon Reservoir and East Canyon Creek TMDL, published by Utah Division of Water Quality, 09/01/2000

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There are no anticipated impacts to the state budget. The proposed amendments will be addressed using existing resources.

◆ **LOCAL GOVERNMENTS:** No cost impacts to local governments are anticipated. No direct costs to local governments are mandated by the approved TMDL. However, capital construction costs or costs associated with changes in management strategies to address point and nonpoint sources of pollution may or may not be required in the future depending on a number of factors that cannot be determined at this time. Implementation projects and strategies will be made available for discussion and comment in a continuing public planning process associated with each TMDL.

◆ **SMALL BUSINESSES:** No cost impacts to small businesses are anticipated. No reductions in water quality pollutants are specifically mandated for businesses in the TMDL. However, capital construction costs or costs associated with changes in management strategies to address point and nonpoint sources of pollution may or may not be required in the future depending on a number of factors that cannot be determined at this time. Implementation projects and strategies will be made available for discussion and comment in a continuing public planning process associated with each TMDL.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No cost impacts to other persons are anticipated. No reductions in water quality pollutants are specifically mandated for other persons in the TMDL. However, capital construction costs or costs associated with changes in management strategies to address point and nonpoint sources of pollution may or may not be required in the future depending on a number of factors that cannot be determined at this time. Implementation projects and strategies will be made available for discussion and comment in a continuing public planning process associated with each TMDL.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No direct compliance costs are anticipated for affected persons. No additional compliance requirements were implemented for point sources of pollutants as a result of the approved TMDL. Strategies and management options for reducing nonpoint sources of pollutants are identified, but are not specifically mandated by the approved TMDL. Capital construction costs or costs associated with changes in management strategies to address point and nonpoint sources of pollution may or may not be required in the future depending on a number of factors that cannot be determined at this time. Implementation projects and strategies will be made available for discussion and comment in a continuing public planning process associated with each TMDL.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impacts to businesses are anticipated as a result of

the approved TMDL. No additional compliance requirements were implemented for point sources of pollutants as a result of the approved TMDL. Strategies and management options for reducing nonpoint sources of pollutants are identified, but are not specifically mandated by the approved TMDL. Capital construction costs or costs associated with changes in management strategies to address point and nonpoint sources of pollution may or may not be required in the future depending on a number of factors that cannot be determined at this time. Implementation projects and strategies will be made available for discussion and comment in a continuing public planning process associated with each TMDL.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ENVIRONMENTAL QUALITY
 WATER QUALITY
 ROOM DEQ, THIRD FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Dave Wham by phone at 801-536-4337, by FAX at 801-536-4301, or by Internet E-mail at dwham@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/31/2011

THIS RULE MAY BECOME EFFECTIVE ON: 04/07/2011

AUTHORIZED BY: Walter Baker, Director

R317. Environmental Quality, Water Quality.
R317-1. Definitions and General Requirements.
R317-1-7. TMDLs.

The following TMDLs are approved by the Board and hereby incorporated by reference into these rules:

- 7.1 Middle Bear River -- February 23, 2010
- 7.2 Chalk Creek -- December 23, 1997
- 7.3 Otter Creek -- December 23, 1997
- 7.4 Little Bear River -- May 23, 2000
- 7.5 Mantua Reservoir -- May 23, 2000
- 7.6 East Canyon Creek -- ~~September 14, 2010~~ September 14, 2000
- 7.7 East Canyon Reservoir -- ~~September 14, 2010~~ September 1, 2000
- 7.8 Kents Lake -- September 1, 2000
- 7.9 LaBaron Reservoir -- September 1, 2000
- 7.10 Minersville Reservoir -- September 1, 2000
- 7.11 Puffer Lake -- September 1, 2000
- 7.12 Scofield Reservoir -- September 1, 2000
- 7.13 Onion Creek (near Moab) -- July 25, 2002
- 7.14 Cottonwood Wash -- September 9, 2002
- 7.15 Deer Creek Reservoir -- September 9, 2002
- 7.16 Hyrum Reservoir -- September 9, 2002
- 7.17 Little Cottonwood Creek -- September 9, 2002

- 7.18 Lower Bear River -- September 9, 2002
- 7.19 Malad River -- September 9, 2002
- 7.20 Mill Creek (near Moab) -- September 9, 2002
- 7.21 Spring Creek -- September 9, 2002
- 7.22 Forsyth Reservoir -- September 27, 2002
- 7.23 Johnson Valley Reservoir -- September 27, 2002
- 7.24 Lower Fremont River -- September 27, 2002
- 7.25 Mill Meadow Reservoir -- September 27, 2002
- 7.26 UM Creek -- September 27, 2002
- 7.27 Upper Fremont River -- September 27, 2002
- 7.28 Deep Creek -- October 9, 2002
- 7.29 Uinta River -- October 9, 2002
- 7.30 Pineview Reservoir -- December 9, 2002
- 7.31 Browne Lake -- February 19, 2003
- 7.32 San Pitch River -- November 18, 2003
- 7.33 Newton Creek -- June 24, 2004
- 7.34 Panguitch Lake -- June 24, 2004
- 7.35 West Colorado -- August 4, 2004
- 7.36 Silver Creek -- August 4, 2004
- 7.37 Upper Sevier River -- August 4, 2004
- 7.38 Lower and Middle Sevier River -- August 17, 2004
- 7.39 Lower Colorado River -- September 20, 2004
- 7.40 Upper Bear River -- August 4, 2006
- 7.41 Echo Creek -- August 4, 2006
- 7.42 Soldier Creek -- August 4, 2006
- 7.43 East Fork Sevier River -- August 4, 2006
- 7.44 Koosharem Reservoir -- August 4, 2006
- 7.45 Lower Box Creek Reservoir -- August 4, 2006
- 7.46 Otter Creek Reservoir -- August 4, 2006
- 7.47 Thistle Creek -- July 9, 2007
- 7.48 Strawberry Reservoir -- July 9, 2007
- 7.49 Matt Warner Reservoir -- July 9, 2007
- 7.50 Calder Reservoir -- July 9, 2007
- 7.51 Lower Duchesne River -- July 9, 2007
- 7.52 Lake Fork River -- July 9, 2007
- 7.53 Brough Reservoir -- August 22, 2008
- 7.54 Steinaker Reservoir -- August 22, 2008
- 7.55 Red Fleet Reservoir -- August 22, 2008
- 7.56 Newcastle Reservoir -- August 22, 2008
- 7.57 Cutler Reservoir -- February 23, 2010

KEY: water pollution, waste disposal, industrial waste, effluent standards

Date of Enactment or Last Substantive Amendment:
~~November 19, 2010~~ **2011**

Notice of Continuation: October 2, 2007

Authorizing, and Implemented or Interpreted Law: 19-5

**Human Resource Management,
 Administration
 R477-4-12
 Career Mobility Programs**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 34443

FILED: 02/15/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: A subsection is removed that deals with the salary action portion of career mobility assignments. Salary information is found in Rule R477-6, Compensation. (DAR NOTE: The proposed amendment to Rule R477-6 is found under DAR No. 34442 in this issue, March 1, 2011, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: Subsection R477-4-12(3)(c) is deleted.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63G-2-3 and Section 67-19-18 and Section 67-19-6

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: These changes are administrative and do not impact state budgets.
- ◆ LOCAL GOVERNMENTS: This rule only affects the executive branch of state government.
- ◆ SMALL BUSINESSES: This rule only affects the executive branch of state government.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This rule only affects the executive branch of state government.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule only affects the executive branch of state government.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Rules published by the Department of Human Resource Management (DHRM) have no direct effect on businesses or any entity outside state government. DHRM has authority to write rules only to the extent allowed by the Utah Personnel Management Act, Title 67, Chapter 19. This act limits the provisions of career service and these rules to employees of the executive branch of state government. The only possible impact may be a very slight, indirect effect if an agency passes costs or savings on to business through fees. However, it is anticipated that the minimal costs associated with these changes will be absorbed by agency budgets and will have no effect on business.

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

HUMAN RESOURCE MANAGEMENT
ADMINISTRATION
ROOM 2120 STATE OFFICE BLDG
450 N MAIN ST

SALT LAKE CITY, UT 84114-1201

or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ J.J. Acker by phone at 801-537-9096, by FAX at 801-538-3081, or by Internet E-mail at jacker@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/31/2011

THIS RULE MAY BECOME EFFECTIVE ON: 04/07/2011

AUTHORIZED BY: Jeff Herring, Executive Director

R477. Human Resource Management, Administration.**R477-4. Filling Positions.****R477-4-12. Career Mobility Programs.**

Employees and agencies are encouraged to promote career mobility programs.

(1) A career mobility is a temporary assignment of an employee to a different position for purposes of professional growth or fulfillment of specific organizational needs. Career mobility assignments may be to any salary range.

(2) Agencies may provide career mobility assignments inside or outside state government in any position for which the employee qualifies.

(3) An eligible employee or agency may initiate a career mobility.

(a) Career mobility assignments may be made without going through the competitive process but shall remain temporary.

(b) Career mobility assignments shall only become permanent if:

(i) the position was originally filled through a competitive recruitment process; or

(ii) a competitive recruitment process is used at the time the agency determines a need for the assignment to become permanent.

~~[(c) Agencies may offer an employee on a career mobility assignment a salary increase or salary decrease in any amount in increments of 1/2%, provided the new salary is within the new salary range.]~~

(4) Agencies shall develop and use written career mobility contract agreements between the employee and the supervisor to outline all program provisions and requirements. The career mobility shall be both voluntary and mutually acceptable.

(5) A participating employee shall retain all rights, privileges, entitlements, tenure and benefits from the previous position while on career mobility.

(a) If a reduction in force affects a position vacated by a participating employee, the participating employee shall be treated the same as other RIF employees.

(b) If a career mobility assignment does not become permanent at its conclusion, the employee shall return to the previous position or a similar position and shall receive, at a minimum, the same salary rate and the same or higher salary range that the employee would have received without the career mobility assignment.

(6) An employee who has not attained career service status prior to the career mobility program cannot permanently fill a career service position until the employee obtains career service status through a competitive process.

KEY: employment, fair employment practices, hiring practices
Date of Enactment or Last Substantive Amendment: [August 9, 2010]2011
Notice of Continuation: June 9, 2007
Authorizing, and Implemented or Interpreted Law: 67-19-6

**Human Resource Management,
 Administration
 R477-6
 Compensation**

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 34442
 FILED: 02/15/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The amendments remove requirement of increases and decreases to be administered in half-percent increments. Language is added to allow increases and decreases to be administered with a minimum of half-percent or to the range minimum or maximum. These requirements, having been in place since 07/01/2010, created complex variances and inequities in calculations. Salary action for career mobility assignments are moved from Section R477-4-12 and are more appropriately placed under compensation. (DAR NOTE: The proposed amendment to Section R477-4-12 is under DAR No. 34443 in this issue, March 1, 2011, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: The language that requires pay increases and decreases in 1/2% increments is changed to reflect a 1/2% minimum or the range min or max pay rate as a minimum. These changes are made to Subsections R477-6-1(c), subsections throughout Section R477-6-4, and Subsection R477-6-7(1)(a). Subsection R477-6-4(11) is added to define the salary actions of a career mobility assignment.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63F-1-106 and Section 67-19-12 and Section 67-19-12.5 and Section 67-19-6 and Subsection 67-19-15.1(4)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** These changes are administrative and do not directly impact state budgets.
- ◆ **LOCAL GOVERNMENTS:** This rule only affects the executive branch of state government.
- ◆ **SMALL BUSINESSES:** This rule only affects the executive branch of state government.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule only affects the executive branch of state government.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule only affects the executive branch of state government.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Rules published by the Department of Human Resource Management (DHRM) have no direct effect on businesses or any entity outside state government. DHRM has authority to write rules only to the extent allowed by the Utah Personnel Management Act, Title 67, Chapter 19. This act limits the provisions of career service and these rules to employees of the executive branch of state government. The only possible impact may be a very slight, indirect effect if an agency passes costs or savings on to business through fees. However, it is anticipated that the minimal costs associated with these changes will be absorbed by agency budgets and will have no effect on business.

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

HUMAN RESOURCE MANAGEMENT
 ADMINISTRATION
 ROOM 2120 STATE OFFICE BLDG
 450 N MAIN ST
 SALT LAKE CITY, UT 84114-1201
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ J.J. Acker by phone at 801-537-9096, by FAX at 801-538-3081, or by Internet E-mail at jacker@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/31/2011

THIS RULE MAY BECOME EFFECTIVE ON: 04/07/2011

AUTHORIZED BY: Jeff Herring, Executive Director

**R477. Human Resource Management, Administration.
 R477-6. Compensation.
 R477-6-1. Pay Plans.**

(1) With approval of the Governor, the Executive Director, DHRM, shall develop and adopt pay plans for each position in classified service. Positions exempt from classified service are identified in Subsection R477-3-1(1).

(a) The General Pay Plan shall include salary ranges with established minimum and maximum rates.

(b) A salary range includes every pay rate from minimum to maximum.

(c) Pay rate increases and decreases within salary ranges shall be ~~[in increments of]~~ at least 1/2%, or to the range minimum rate with a decrease or maximum rate with an increase, except for legislatively approved salary adjustments and longevity.

R477-6-4. Salary.

(1) Merit increases. The following conditions apply if merit pay increases are authorized and funded by the legislature:

(a) Employees, classified in position schedule B, shall be eligible for the merit increase if the following conditions are met:

(i) Employee may not be in longevity.

(ii) Employee may not be paid at the maximum of their salary range.

(iii) Employee has received a minimum rating of successful on their most recent performance evaluation, which shall have been within the previous twelve months.

(iv) Employee has been in a paid status by the state for at least six months at the beginning of the new fiscal year.

(b) Employees designated as schedule AA, AQ, AU, IN, and TL are not eligible for merit increases.

(c) All other position schedules will be reviewed by DHRM in consultation with the Governor's Office to determine if they are eligible for merit increases.

(2) Promotions.

(a) An employee promoted to a position with a salary range maximum exceeding the employee's current salary range maximum shall receive a salary increase[
~~—(i)—] of at least 5% [~~— and~~
~~—(ii)—] any increase above 5% shall be in increments of 1/2% or up to the salary range maximum.]~~~~

(b) An employee may not be placed higher than the maximum or lower than the minimum in the new salary range. Placement of an employee in longevity shall be consistent with Subsection R477-6-4(4).

(c) An employee who remains in longevity status after a promotion shall retain the same salary.

(d) To be eligible for a promotion, an employee shall meet the requirements and skills specified in the job description and position specific criteria as determined by the agency for the position unless the promotion is to a career service exempt position.

(3) Reclassifications.

(a) At agency management's discretion, an employee reclassified to a position with a salary range maximum exceeding the employee's current salary range maximum may receive a pay rate increase ~~[in increments of]~~ at least 1/2% or ~~[up to]~~ the salary range maximum rate.

(b) An employee may not be placed higher than the maximum or lower than the minimum in the new salary range. Placement of an employee in longevity shall be consistent with Subsection R477-6-4(4).

(c) An employee who remains in longevity status after a reclassification shall retain the same salary.

(d) An employee whose position is reclassified to a position with a lower salary range shall retain the current salary.

The employee shall be placed in longevity at the employee's current salary if the salary exceeds the maximum of the new salary range.

(4) Longevity.

(a) An employee shall receive a longevity increase of 2.75% when:

(i) the employee has been in state service for eight years or more. The employee may accrue years of service in more than one agency and such service is not required to be continuous; and

(ii) the employee has been at the maximum of the current salary range for at least one year and received a performance appraisal rating of successful or higher within the 12-month period preceding the longevity increase.

(b) An employee in longevity shall be eligible for the same across the board pay plan adjustments authorized for all other employee pay plans.

(c) An employee in longevity shall only be eligible for an additional 2.75% increase every three years. To be eligible, an employee shall receive a performance appraisal rating of successful or higher within the 12-month period preceding the longevity increase.

(d) An employee in longevity who is reclassified to a position with a lower salary range shall retain the current actual wage.

(e) An employee in longevity who is promoted or reclassified to a position with a higher salary range shall only receive a salary increase if the current actual wage is less than the salary range maximum of the new position. The salary increase shall be ~~[in increments of]~~ at least 1/2% or ~~[up to]~~ the range maximum rate of the new position.

(f) Employees in Schedules AB, IN, or TL are not eligible for the longevity program.

(5) Administrative Adjustment.

(a) An employee whose position has been allocated by DHRM from one job to another job or salary range for administrative purposes, may not receive an adjustment in the current actual wage.

(b) Implementation of new job descriptions as an administrative adjustment shall not result in an increase in the current actual wage unless the employee is below the minimum of the new range.

(c) An employee whose position is changed by administrative adjustment to a position with a lower salary range shall retain the current salary. The employee shall be placed in longevity at the employee's current salary if the salary exceeds the maximum of the new salary range.

(6) Reassignment.

An employee's current actual wage may not be lowered except when provided in federal or state law. Wage rate decreases shall be ~~[made in 1/2% increments]~~ at least 1/2% or ~~[not less than]~~ the minimum rate in the salary range.

(7) Transfer.

Management may decrease the current actual wage of an employee who transfers to another position. Wage rate decreases shall be ~~[made in 1/2% increments]~~ at least 1/2% or ~~[not less than]~~ the minimum rate in the salary range.

(8) Demotion.

An employee demoted consistent with Section R477-11-2 shall receive a reduction in the current actual wage ~~[in 1/2%~~

~~increments~~ of at least 1/2%, or ~~[not less than]~~ the minimum rate of the new position's salary range as determined by the agency head or designee. The agency head or designee may move an employee to a position with a lower salary range concurrent with the reduction in the current actual wage.

(9) Administrative Salary Increase.

The agency head authorizes and approves administrative salary increases under the following parameters:

(a) An employee shall receive an increase ~~[in 1/2% increments]~~ of at least 1/2% or ~~[up to]~~ the maximum rate of the salary range.

(i) The Executive Director, DHRM, may authorize limited exceptions to this subsection when administrative salary increases are requested for equity purposes.

(b) Administrative salary increases shall only be granted when the agency has sufficient funding within their annualized base budgets for the fiscal year in which the adjustment is given.

(c) Justifications for Administrative Salary Increases shall be:

(i) in writing;

(ii) approved by the agency head or designee;

(iii) supported by unique situations or considerations in the agency.

(d) The agency head or designee shall answer any challenge or grievance resulting from an administrative salary increase.

(e) Administrative salary increases may be given during the probationary period. Wage rate increases shall be ~~[made in]~~ at least 1/2% increments or the maximum rate of the salary range. These increases alone do not constitute successful completion of probation or the granting of career service status.

(f) An employee at the salary range maximum or in longevity may not be granted administrative salary increases.

(10) Administrative Salary Decrease.

The agency head authorizes and approves administrative salary decreases for nondisciplinary reasons according to the following:

(a) The final salary may not be less than the minimum of the salary range.

(b) Wage rate decreases shall be ~~[made in]~~ at least 1/2% increments or the minimum rate of the salary range.

(c) Justification for administrative salary decreases shall be:

(i) in writing;

(ii) approved by the agency head; and

(iii) supported by issues such as previous written agreements between the agency and the employee to include career mobility, reasonable accommodation, or other unique situations or considerations in the agency.

~~[(d)]~~ The agency head or designee shall answer any challenge or grievance resulting from an administrative salary decrease.

(11) Career Mobility

(a) Agencies may offer an employee on a career mobility assignment a salary increase or salary decrease by any amount within the new salary range.

(b) If a career mobility assignment does not become permanent at its conclusion, the employee shall return to the previous position or a similar position and shall receive, at a

minimum, the same salary rate and the same or higher salary range that the employee would have received without the career mobility assignment.

R477-6-7. Employee Converting from Career Service to Schedule AC, AD, AR, or AS.

(1) A career service employee in a position meeting the criteria for career service exempt schedule AC, AD, AR, or AS shall have 60 days from the date of offer to elect to convert from career service to career service exempt. As an incentive to convert, an employee shall be provided the following:

(a) an administrative salary increase of at least 1/2% or [up to] the maximum rate of the current salary range ~~[in 1/2% increments]~~. An employee at the maximum of the current salary range or in longevity shall receive, in lieu of the salary adjustment, a one time bonus, as determined by the agency head or designee, not to exceed limits in Subsection R477-6-5(1)(b);

(b) state paid term life insurance coverage if determined eligible by the Group Insurance Office to participate in the Term Life Program, Public Employees Health Plan:

(i) Salaries less than \$50,000 shall receive \$125,000 of term life insurance;

(ii) Salaries between \$50,000 and \$60,000 shall receive \$150,000 of term life insurance;

(iii) Salaries more than \$60,000 shall receive \$200,000 of term life insurance.

(2) An employee electing to convert to career service exempt after the 60 day election period may not be eligible for the salary increase, but shall be entitled to apply for the insurance coverage through the Group Insurance Office.

(3) An employee electing not to convert to career service exemption shall retain career service status even though the position shall be designated as schedule AC, AD, AR or AS. When these career service employees vacate these positions, subsequent appointments shall be career service exempt.

(4) An agency head may reorganize so that a current career service exempt position no longer meets the criteria for exemption. In this case, the employee shall be designated as career service if he had previously earned career service. However, the employee may not be eligible for the severance package or the life insurance. In this situation, the agency and employee shall make arrangements through the Group Insurance Office to discontinue the coverage.

(5) A career service exempt employee without prior career service status shall remain exempt. When the employee leaves the position, subsequent appointments shall be consistent with R477-4.

(6) Agencies shall communicate to all impacted and future eligible employees the conditions and limitations of this incentive program.

KEY: salaries, employee benefit plans, insurance, personnel management

Date of Enactment or Last Substantive Amendment: ~~[July 1, 2010]~~ 2011

Notice of Continuation: June 9, 2007

Authorizing, and Implemented or Interpreted Law: 63F-1-106; 67-19-6; 67-19-12; 67-19-12.5; 67-19-15.1(4)

**Insurance, Title and Escrow
Commission
R592-3
Filing a Schedule of Minimum Charges
for Escrow Services**

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 34448

FILED: 02/15/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule, along with Rule R592-4, Standards for Minimum Charges for Escrow Services, is being repealed and the two are combined as one new rule in Rule R592-15, Submission of a Schedule of Minimum Charges for Escrow Services. (DAR NOTE: The proposed repeal of Rule R592-4 is under DAR No. 34449 and the proposed new Rule R592-15 is under DAR No. 34447 in this issue, March 1, 2011, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: This rule is being repealed in its entirety. It will be combined with Rule R592-4 to create the new Rule R592-15.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-2-404

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This rule will have no fiscal impact on the department or the state budget since the provisions of this rule are being included in Rule R592-15.

◆ **LOCAL GOVERNMENTS:** This rule will have no fiscal impact on local governments. Its requirements deal solely with the relationship between the department and its licensees.

◆ **SMALL BUSINESSES:** The repeal of this rule will have no fiscal impact on small businesses since the rule is being made a part of the new Rule R592-15. New provisions are already being followed by the department and members of the title industry.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The repeal of this rule will have no fiscal impact on businesses, the public or local governments since the rule is being made a part of the new Rule R592-15. New provisions of the rule are already being followed by the department and members of the title industry.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The repeal of this rule will have no fiscal impact on businesses, the public or local governments since the rule is being made

a part of the new Rule R592-15. New provisions of the rule are already being followed by the department and members of the title industry.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The repeal of this rule will have no fiscal impact on businesses since it is being made a part of Rule R592-15. The change from the repeal of this rule and the implementation of Rule R592-15 will be seamless.

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

INSURANCE
TITLE AND ESCROW COMMISSION
ROOM 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Jilene Whitby by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/31/2011

THIS RULE MAY BECOME EFFECTIVE ON: 04/07/2011

AUTHORIZED BY: Jilene Whitby, Information Specialist

R592. Insurance, Title and Escrow Commission.

~~[R592-3. Filing a Schedule of Minimum Charges for Escrow Services.~~

~~**R592-3-1. Authority.**~~

~~_____ This rule is promulgated by the Title and Escrow Commission pursuant to Section 31A-2-404.~~

~~**R592-3-2. Purpose and Scope.**~~

~~_____ (1) The purpose of this rule is to set forth the procedures for filing a Schedule of Minimum Charges for Escrow Services pursuant to Section 31A-19a-209.~~

~~_____ (2) This rule applies to all title insurers, agencies and producers providing escrow services in Utah.~~

~~**R592-3-3. Required Documents.**~~

~~_____ (1) The department requires that the documents described in this rule shall be used for all filings. Actual copies may be used or you may adapt them to your word processing system. If adapted, the content, size, font, and format must be similar.~~

~~_____ (2) The following filing documents are available on the department's web site, <http://www.insurance.utah.gov/RF-Flgs.html>.~~

~~_____ (a) "Schedule of Minimum Charges for Escrow Services;"~~

~~_____ (b) "Transmittal Document for Title Agency or Title Producer."~~

R592-3-4. Definitions.

In addition to the definitions of Sections 31A-1-301, 31A-2-402, and 31A-19a-102, the following definitions shall apply for the purpose of this rule:

- (1) "Certification" means that a filing being submitted is in compliance with the Utah Insurance Code.
- (2) "File and Use" means a filing can be used, sold, or offered for sale after it has been filed with the department.
- (3) "File Before Use" means a filing can be used, sold, or offered for sale after it has been filed with the department and a stated period of time has elapsed from the date filed.
- (4) "Filer" means a person or entity who submits a filing.
- (5) "Order to Prohibit Use" means an order issued by the commissioner that forbids the use of a filing.
- (6) "Rejected" means a filing is:
 - (a) not submitted in accordance with Utah laws and rules;
 - (b) returned to the filer by the department with the reasons for rejection; and
 - (c) not considered filed with the department.

R592-3-5. General Filing Information.

- (1) Each filing submitted must be accurate, consistent, complete, and contain all required documents in order for the filing to be processed in a timely and efficient manner. The commissioner may request any additional information deemed necessary.
- (2) Insurers and filers are responsible for assuring compliance with Utah laws and rules. Filings not in compliance with Utah laws and rules are subject to regulatory action under Section 31A-2-308.
- (3) Charges, supplementary information, and forms applying to a specific program or product may be submitted as one filing.
- (4) A filing that does not comply with this rule will be rejected as incomplete and returned to the filer. A rejected filing is not considered filed with the department.
- (5) Prior filings will not be researched to determine the purpose of the current filing.
- (6) The department does not review or proofread every filing.
 - (a) A filing may be reviewed:
 - (i) when submitted;
 - (ii) as a result of a complaint;
 - (iii) during a regulatory examination or investigation; or
 - (iv) at any other time the department deems necessary.
 - (b) If a filing is reviewed and is not in compliance with Utah laws and rules, an ORDER TO PROHIBIT USE will be issued to the filer. The commissioner may require the filer to disclose deficiencies in forms or rating practices to affected consumers.
- (7) Filing correction:
 - (a) No filing transmittal is required when clerical or typographical corrections are made to a filing previously filed if the corrected filing is submitted within 30 days of the date "Filed" with the department. The filer will need to reference the original filing.
 - (b) A new filing is required if the clerical or typographical corrections are made more than 30 days after the filed date of the original filing. The filer will need to reference the original filing.

(8) Filing withdrawal. A filer must notify the department when the filer withdraws a previously filed form, charge, or supplementary information.

R592-3-6. Filing Requirements.

- (1) Only an individual who is authorized to act on behalf of the insurer, agency or producer can submit a filing.
- (2) A complete filing consists of the following documents submitted in the following order:
 - (a) Utah Transmittal Document for Title Agency or Title Producer; and
 - (b) Schedule of Minimum Charges for Eserow Services;
 - (3) Description of Filing. The filer must:
 - (a) indicate whether the filing is new, amending or replacing a previous filing, or contains charges that have been previously filed and are included for informational purposes;
 - (b) describe the filing and the purpose of the filing in detail in the Filing Description section of the transmittal; and
 - (c) if the filing is amending or replacing a previous filing:
 - (i) provide a detailed description of the changes; and
 - (ii) highlight the changed provisions.
 - (4) Transmittal Document for Title Agency or Title Producer. The entire transmittal form must be properly completed.
 - (5) Schedule of Minimum Charges for Eserow Services:
 - (a) An initial Schedule of Minimum Charges for Eserow Services filing is a file and use filing.
 - (b) A revised Schedule of Minimum Charges for Eserow Services filing is a use and file filing and is effective:
 - (i) thirty calendar days after the revised Schedule of Minimum Charges for Eserow Services is filed; or
 - (ii) a date specified by the filer that is later than 30 calendar days after the revised Schedule of Minimum Charges for Eserow Services is filed.
 - (6) Return Notification Materials.
 - (a) Return notification materials are limited to:
 - (i) a copy of the transmittal; and
 - (ii) a self-addressed, stamped envelope.
 - (b) Notice of filing will not be provided unless return notification materials are submitted.
 - (c) Any extra information will be discarded.
 - (7) Certification.
 - (a) The filer must certify that a filing has been properly completed AND is in compliance with Utah laws and rules.
 - (b) A filing will be rejected if the certification is missing or incomplete.
 - (c) A certification that is inaccurate may subject the filer to administrative action.

R592-3-7. Correspondence, Inquiries, and Responses.

- (1) Correspondence. When corresponding with the department, provide sufficient information to identify the original filing:
 - (a) type of filing;
 - (b) date of filing;
 - (c) date of prior correspondence; and
 - (d) a copy of the original transmittal.
- (2) Status Checks. A filer can request the status of its filing by telephone, or email 60 days after the date of submission.

- ~~(3) A Response to an Order must include:~~
- ~~(a) a response cover letter identifying the changes made;~~
- ~~(b) a copy of the prohibition letter;~~
- ~~(c) a copy of the revised documents; and~~
- ~~(d) return notification materials, which consist of a copy of the response cover letter and a self-addressed stamped envelope.~~
- ~~(4) Rejected Filings.~~
- ~~(a) A filing that is rejected is NOT considered filed.~~
- ~~(b) If resubmitted it is treated as a new filing. If a filing has been previously rejected, include a copy of the rejection form returned to the filer with the original filing.~~

R592-3-8. Penalties.

~~A person found, after a hearing or other regulatory process, to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.~~

R592-3-9. Enforcement Date.

~~The commissioner will begin enforcing this rule 90 days from the rule's effective date.~~

R592-3-10. Severability.

~~If any provision of this rule or the application of it to any person or circumstance is for any reason held to be invalid, the remaining provisions to other persons or circumstances shall not be affected.~~

KEY: title escrow filings

~~Date of Enactment or Last Substantive Amendment: July 19, 2006~~

~~Authorizing, and Implemented or Interpreted Law: 31A-2-404]~~

Insurance, Title and Escrow
Commission
R592-4
Standards for Minimum Charges for
Escrow Services

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 34449

FILED: 02/15/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule, along with Rule R592-3, Filing a Schedule of Minimum Charges for Escrow Services, is being repealed and the two are combined as one new rule in Rule R592-15, Submission of a Schedule of Minimum Charges for Escrow Services. (DAR NOTE: The proposed repeal of Rule R592-3 is under DAR No. 34448 and the proposed new Rule

R592-15 is under DAR No. 34447 in this issue, March 1, 2011, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: This rule is being repealed in its entirety. It will be combined with Rule R592-3 to create the new Rule R592-15.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-2-404

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: This rule will have no fiscal impact on the department or the state budget since the provisions of this rule are being included in Rule R592-15.

◆ LOCAL GOVERNMENTS: This rule will have no fiscal impact on local governments. Its requirements deal solely with the relationship between the department and its licensees.

◆ SMALL BUSINESSES: The repeal of this rule will have no fiscal impact on small businesses since the rule is being made a part of the new Rule R592-15. New provisions are already being followed by the department and members of the title industry.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The repeal of this rule will have no fiscal impact on businesses, the public, or local governments since the rule is being made a part of the new Rule R592-15. New provisions of the rule are already being followed by the department and members of the title industry.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The repeal of this rule will have no fiscal impact on businesses, the public, or local governments since the rule is being made a part of the new Rule R592-15. New provisions of the rule are already being followed by the department and members of the title industry.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The repeal of this rule will have no fiscal impact on businesses since it is being made a part of Rule R592-15. The change from the repeal of this rule and the implementation of Rule R592-15 will be seamless.

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

INSURANCE
TITLE AND ESCROW COMMISSION
ROOM 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Jilene Whitby by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/31/2011

THIS RULE MAY BECOME EFFECTIVE ON: 04/07/2011

AUTHORIZED BY: Jilene Whitby, Information Specialist

R592. Insurance, Title and Escrow Commission.

~~**[R592-4. Standards for Minimum Charges for Escrow Services.**~~

~~**R592-4-1. Authority.**~~

~~This rule is promulgated by the Title and Escrow Commission pursuant to Section 31A-2-404.~~

~~**R592-4-2. Purpose and Scope.**~~

~~(1) The purpose of this rule is to set forth standards for minimum charges for escrow services on the Schedule of Minimum Charges for Escrow Services.~~

~~(2) This rule applies to all title insurers, agencies and producers providing escrow services in Utah.~~

~~**R592-4-3. Definitions.**~~

~~In addition to the definitions of Sections 31A-1-301, 31A-2-402 and 31A-19a-102, the following definitions shall apply for the purposes of this rule:~~

~~(1) "Additional escrow work" means escrow settlement services that are rendered in excess of the escrow settlement services not specifically shown in the minimum escrow charges listed in the Schedule of Minimum Charges for Escrow Services.~~

~~(2) "Charge" means a dollar amount charged for a service rendered by a title insurer, title agency, or title producer.~~

~~(3) "Document Preparation" means the preparation or compilation of documents in connection with escrow services.~~

~~(4) "Escrow charge" means a dollar amount charged for an escrow service shown in the Schedule of Minimum Charges for Escrow Services.~~

~~(5) "Schedule of Minimum Charges for Escrow Services" means the standardized form submitted with a title escrow charge filing.~~

~~(6) "Escrow Services" means those services to settle real estate transactions.~~

~~(7) "Long-term Escrow" means For Benefit Of (FBO) accounts that are for the purpose of payment collection and administration of seller-financed transactions.~~

~~(8) "Mini Escrow" means an escrow settlement service done by a title agency to clear a title, obtain payoffs and record-necessary closing documents for a lender that performs his or her own closing service.~~

~~(9) "Other Settlement Services" means additional services not specifically listed in the Schedule of Minimum Charges for Escrow Services.~~

~~**R592-4-4. Schedule of Minimum Charges for Escrow Services.**~~

~~(1) The Schedule of Minimum Charges for Escrow Services must be used when submitting:~~

~~(a) an initial Schedule of Minimum Charges for Escrow Services filing; or~~

~~(b) changes to a previously submitted Schedule of Minimum Charges for Escrow Services filing.~~

~~(2) All blank fields of the Schedule of Minimum Charges for Escrow Services must be completed.~~

~~(3) If a filer does not perform a service, the blank field must show "N/A" or "Not Applicable."~~

~~**R592-4-5. Charges.**~~

~~(1) Escrow service charges:~~

~~(a) Escrow charge:~~

~~(i) In accordance with 31A-19a-209(3), no escrow charge may be filed or used that would cause the agency or producer to operate at less than the cost of doing the business of escrow.~~

~~(ii) Only minimum escrow charges shown in the Schedule of Minimum Charges for Escrow Services must be filed.~~

~~(b) Other settlement services charge:~~

~~(i) An Other Settlement Service charge will be used for services not specifically shown in the Schedule of Minimum Charges for Escrow Services.~~

~~(ii) An Other Settlement Service charge must be filed as a per hour charge.~~

~~(c) Document preparation charge. Only document charges shown in the Schedule of Minimum Charges for Escrow Services must be filed.~~

~~(2) Other services which are not specifically listed on the Schedule of Minimum Charges for Escrow Services may be rendered provided a justifiable charge is made.~~

~~**R592-4-6. Penalties.**~~

~~A person found, after a hearing or other regulatory process, to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.~~

~~**R592-4-7. Enforcement Date.**~~

~~The commissioner will begin enforcing this rule 90 days from the rule's effective date.~~

~~**R592-4-8. Severability.**~~

~~If any provision of this rule or the application of it to any person or circumstance is for any reason held to be invalid, the remaining provisions to other persons or circumstances shall not be affected.~~

~~**KEY: title escrow charges**~~

~~**Date of Enactment or Last Substantive Amendment: July 19, 2006**~~

~~**Authorizing, and Implemented or Interpreted Law: 31A-2-204]**~~

**Insurance, Title and Escrow
Commission
R592-15**

**Submission of a Schedule of Minimum
Charges for Escrow Services**

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 34447

FILED: 02/15/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the rule is to combine Rule R592-3, Submission of a Title Schedule of Filing, and Rule R592-4, Standards for Charges for the Title Escrow Settlement Services and Title Fees, and to update procedures already taking place and as written in the department's other filing rules. (DAR NOTE: The proposed repeal of Rule R592-3 is under DAR No. 34448 and the proposed repeal of Rule R592-4 is under DAR No. 34449 in this issue, March 1, 2011, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: This rule combines two rules, Rule R592-3, Submission of a Title Schedule of Filing, and Rule R592-4, Standards for Charges for the Title Escrow Settlement Services and Title Fees. In addition it updates the language in the rule to follow that of other filing rules, and to update procedures already taking place and as written in other department filing rules. The rule clarifies standards, adds language regarding filing objection letters, and provides language to certify that a filing being made to the department by the title industry has been properly completed and is in compliance with Utah laws and rules. All is currently being done.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-19a-209

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The rule will have no fiscal impact on the department or the state budget. The rule sets forth filing procedures already taking place. No additional filing or work will be required of department personnel.
- ◆ **LOCAL GOVERNMENTS:** This rule will have no fiscal impact on local governments since it relates solely with the way title insurers, agencies, and producers file their Minimum Charges for Escrow Services with the department.
- ◆ **SMALL BUSINESSES:** This rule updates the title filing procedure rule to follow language in other department rules and to follow what the department is already requiring of the title producers, agencies, and insurers. It will have no fiscal impact on small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule updates and clarifies procedures followed by the title industry when filing forms and policies with the department. These procedures are already being followed by the department and the industry. As a result, this new rule will create no additional or reduced cost to the title industry or its consumers, other businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule updates and clarifies procedures followed by the title industry when filing forms and policies with the department. These procedures are already being followed by the department and the industry. As a result, this new rule will create no additional or reduced cost to the title industry or its consumers, other businesses, or local government entities.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule is the combination of two rules currently in effect. It clarifies and updates the procedures required to submit filings with the department.

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

INSURANCE
TITLE AND ESCROW COMMISSION
ROOM 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Jilene Whitby by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/31/2011

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

◆ 03/14/2011 09:00 AM, Senate (East) Building, 420 N State Street, Copper Room, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 04/07/2011

AUTHORIZED BY: Jilene Whitby, Information Specialist

R592.15 Insurance, Title and Escrow Commission.

R592-15. Submission of a Schedule of Minimum Charges for Escrow Services.

R592-15-1. Authority.

This rule is promulgated by the Title and Escrow Commission pursuant to Section 31A-2-404 which requires the Commission to make rules related to title insurance.

R592-15-2. Purpose and Scope.

(1) The purpose of this rule is to establish the procedures for filing a Schedule of Minimum Charges for Escrow Services pursuant to Section 31A-19a-209.

(2) This rule applies to all title insurers, agencies and producers providing escrow services in Utah.

R592-15-3. Required Documents.

(1) The department requires that the documents described in this section shall be used for all filings, and are available on the department's web site, <http://www.insurance.utah.gov>.

(a) "Transmittal Document for Title Agency or Title Producer"; and

(b) "Schedule of Minimum Charges for Escrow Services."

R592-15-4. Definitions.

In addition to the definitions of Sections 31A-1-301, 31A-2-402 and 31A-19a-102, the following definitions shall apply for the purpose of this rule.

(1) "Additional escrow services" means escrow settlement services that are rendered in excess of the escrow settlement services not specifically shown in the minimum escrow charges listed in the Schedule of Minimum Charges for Escrow Services.

(2) "Certification" means a statement that the filing being submitted is in compliance with Utah laws and rules.

(3) "Charge" means a dollar amount charged for a service rendered by a title insurer, title agency, or title producer.

(4) "Document preparation" means the preparation or compilation of documents in connection with escrow services.

(5) "Electronic filing" means:

(a) a filing submitted via the internet by a title insurer using the System for Electronic Rate and Forms Filings (SERFF); or

(b) a filing submitted via an email system by a title insurance agency or an individual title insurance producer not designated to a title insurance agency.

(6) "Escrow charge" means a dollar amount charged for an escrow service shown in the Schedule of Minimum Charges for Escrow services.

(7) "Escrow services" means those services related to settlements of real estate transactions.

(8) "File and use" means a filing can be used, sold, or offered for sale after it has been filed with the department.

(9) "File before use" means a filing can be used, sold, or offered for sale after it has been filed with the department, and a stated period of time has elapsed from the date filed.

(10) "Filer" means a person or entity who submits a filing.

(11) "Filing Objection Letter" means a letter issued by the commissioner when a review has determined the filing fails to comply with Utah law and rules. The Filing Objection Letter may, in addition to requiring correction of non-compliant items, request clarification or additional information pertaining to the filing.

(12) "Letter of Authorization" means a letter signed by an officer of the licensee on whose behalf the filing is submitted and which designates filing authority to the filer.

(13) "Long-term escrow" means a "For Benefit Of" (FBO) account that is for the purpose of payment collection and administration of seller-financed transactions, as described by an escrow agreement.

(14) "Mini escrow" means an escrow settlement service conducted by a title agency to clear a title, obtain payoffs and record necessary closing documents for a lender that performs his or her own closing service.

(15) "Minimum escrow fee" means the minimum amount that must be charged for escrow settlement services that are rendered.

(16) "Order to Prohibit Use" means an order issued by the commissioner that prohibits the use of a filing.

(17) "Other settlement services" means additional services not specifically listed in the Schedule of Minimum Charges for Escrow Services.

(18) "Rejected" means a filing is:

(a) not submitted in accordance with Utah laws and rules;

(b) returned to the filer by the department, with the reasons for rejection; and

(c) not considered filed with the department.

R592-15-5. General Filing Information.

(1) Each filing submitted must be accurate, consistent, complete, and contain all required documents in order for the filing to be processed in a timely and efficient manner. The commissioner may request any additional information deemed necessary.

(2) Licensees are responsible for assuring compliance with Utah laws and rules. Filings not in compliance with Utah laws and rules are subject to regulatory action under Section 31A-2-308.

(3) A filing that does not comply with this rule will be rejected as incomplete and returned to the filer. A rejected filing:

(a) is not considered filed with the department;

(b) must be submitted as a new filing; and

(c) will be charged a new filing fee.

(4) Prior filings will not be researched to determine the purpose of the current filing.

(5) The department does not review or proofread every filing.

(a) A filing may be reviewed:

(i) when submitted;

(ii) as a result of a complaint;

(iii) during a regulatory examination or investigation; or

(iv) at any other time the department deems necessary.

(b) If a filing is reviewed and is not in compliance with Utah laws and rules, a Filing Objection Letter or an Order to Prohibit Use will be issued to the filer. The commissioner may require the licensee to disclose deficiencies in rating practices to affected consumers.

(6)(a) Filing corrections are considered informational.

(b) Filing corrections must be submitted within 15 days of the date the original filing was submitted to the department. The filer must reference the original filing.

(c) A new filing is required if a filing correction is made more than 15 days after the date of the original filing was submitted to the department. The filer must reference the original filing.

(7) If responding to a Filing Objection Letter or an Order to Prohibit Use, refer to R592-15-9.

(8) A filer must notify the department when withdrawing a previously filed rate.

R592-15-6. Filing Requirements.

(1) Only an individual who is authorized to act on behalf of the insurer, agency or producer can submit a filing.

(2)(a) An initial Schedule of Minimum Charges for Escrow Services filing is a file and use filing and is effective the day the initial schedule is filed.

(b) A revised Schedule of Minimum Charges for Escrow Services filing is a file before use filing and is effective:

(i) 30 calendar days after the revised Schedule of Minimum Charges for Escrow Services is filed; or

(ii) a date specified by the filer that is later than 30 calendar days after the revised Schedule of Minimum Charges for Escrow Services is filed.

(3) All filings must be submitted as an electronic filing via:

(a) email; or

(b) SERFF.

(4) Email Filing: A complete email filing consists of the following:

(a) an email with a title showing the name of the filer and stating that it is an escrow rate filing;

(b) Utah Transmittal Document for Title Agency or Title Producer, completed and containing the following items in the following order:

(i) completed filing description, contained in Section 9 of the transmittal document, with the following information presented in the order shown.

(A) Certification.

(I) The filer must certify that a filing has been properly completed AND is in compliance with Utah laws and rules.

(II) The following statement must be included in the filing description: "BY SUBMITTING THIS FILING I CERTIFY THAT THE ATTACHED FILING HAS BEEN COMPLETED IN ACCORDANCE WITH UTAH ADMINISTRATIVE RULE R592-15 AND IS IN COMPLIANCE WITH APPLICABLE UTAH LAWS AND RULES".

(III) A filing will be rejected if the certification is false, missing, or incomplete.

(IV) a certification that is false may subject the licensee to administrative action.

(B) Indicate if the filing is:

(I) new;

(II) replacing or modifying a previous submission, with changes described;

(III) previously rejected, with reasons for rejection and previous filing's submission date; or

(IV) previously objected to or prohibited, with reasons for resubmission.

(c) Schedule of Minimum Charges for Escrow Services, completed as follows:

(i) all blank fields must be completed;

(ii) if a listed service is not performed by a licensee, the field must show "N/A" or "Not Applicable"; and

(iii) The Schedule of Minimum Charges for Escrow Services shall not be altered.

(d) Letter of Authorization.

(i) When the filer is not the licensee, a Letter of Authorization from the licensee must be attached.

(ii) The licensee remains responsible for making sure that the filing is in compliance with Utah laws and rules.

(e) As required by subsection 31A-19a-203(1)(e)(i), the rate filing fee must be received by the department within 5 days of the electronic submission or the filing will be rejected.

(5) SERFF Filing. A complete SERFF filing consists of the following:

(a) The completed description section on the general information tab, presented in the order shown below.

(i) Certification.

(A) The filer must certify that a filing has been properly completed AND is in compliance with Utah laws and rules.

(B) The following statement must be included in the filing description: "BY SUBMITTING THIS FILING I CERTIFY THAT THE ATTACHED FILING HAS BEEN COMPLETED IN ACCORDANCE WITH UTAH ADMINISTRATIVE RULE R592-15 AND IS IN COMPLIANCE WITH APPLICABLE UTAH LAWS AND RULES".

(C) A filing will be rejected if the certification is false, missing, or incomplete.

(D) A certification that is false may subject the licensee to administrative action.

(ii) Indicate if the filing is:

(A) new;

(B) replacing or modifying a previous submission, with changes described;

(C) previously rejected, with reasons for rejection, and previous filing's submission date; or

(D) previously objected to or prohibited, with reasons for resubmission.

(b) Schedule of Minimum Charges for Escrow Services completed as follows, and attached to the rate/rule schedule tab:

(i) all blank fields must be completed;

(ii) if a listed service is not performed by a licensee, the field must show "N/A" or "Not Applicable"; and

(iii) The Schedule of Minimum Charges for Escrow Services shall not be altered.

(c) Letter of Authorization.

(i) When the filer is not the licensee, a Letter of Authorization from the licensee must be attached.

(ii) The licensee remains responsible for making sure that the filing is in compliance with Utah laws and rules.

(d) As required by subsection 31A-19a-203(1)(e)(i), the rate filing fee must be received by the department within 5 days of the electronic submission or the filing will be rejected.

R592-15-7. Charges.

(1) Escrow Service Charges.

(a) In accordance with subsection 31A-19a-209(3), no charge may be filed or used that would cause the agency or producer to operate at less than the cost of doing the business of escrow.

(b) Only minimum escrow charges shown in the Schedule of Minimum Charges for Escrow Services must be filed.

- (2) Other Settlement Services Charges.
(a) other settlement services charges will be used for services not specifically shown in the Schedule of Minimum Charges for Escrow Services.
(b) other settlement service charge must be filed as a per hour charge.
(3) Document Preparation Charge.
Only document charges shown in the Schedule of Minimum Charges for Escrow Services must be filed.
(4) Other services which are not specifically listed on the Schedule of Minimum Charges for Escrow services may be rendered provided a justifiable charge is made.

R592-15-8. Correspondence and Status Checks.

- (1) When corresponding with the department, provide the following information to identify the original filing:
(a) type of filing;
(b) date of filing; and
(c) submission method; SERFF or email.
(2) A filer can request the status of its filing 60 days after the date of submission.

R592-15-9. Responses.

- (1) A response to a Filing Objection Letter must include:
(a) a cover letter identifying the changes made; and
(b) revised documents with all changes highlighted.
(2)(a) An Order to Prohibit Use becomes final 15 days after the date of the Order.
(b) Use of the filing must be discontinued not later than the date specified in the Order.
(c) To contest an Order to Prohibit Use, the commissioner must receive a written request for a hearing no later than 15 days after the date of the Order.
(d) Once the Order to Prohibit Use has been issued, a new filing is required if the company chooses to make the requested changes addressed in the original Filing Objection Letter. The new filing must reference the previously prohibited filing.

R592-15-10. Penalties.

A person found to be in violation of this rule shall be subject to penalties under Section 31A-2-308.

R592-15-11. Enforcement Date.

The commissioner will begin enforcing this rule 15 days from the effective date of this rule.

R592-15-12. Severability.

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

KEY: title escrow filings

Date of Enactment or Last Substantive Amendment: 2011
Authorizing, and Implemented or Interpreted Law: 31A-2-404

Natural Resources, Parks and Recreation **R651-401-2** Display of OHV Registration Numbers

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 34416

FILED: 02/10/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The law authorizing this was repealed.

SUMMARY OF THE RULE OR CHANGE: In 2006, S.B. 119 repealed the requirement that the Motor Vehicle Division assign an off-highway vehicle registration number to each registered off-highway vehicle. It also repealed the requirement that an owner of an off-highway vehicle affix and display the off-highway vehicle registration number assigned by the Motor Vehicle Division. It also repealed the requirement that the Board of Parks and Recreation make rules for the display of an off-highway vehicle registration number and make technical changes. The bill was signed by the Governor on 03/15/2006, and went into effect on 07/01/2006. Removing these requirements from the administrative rule was an oversight by the Division of Utah State Parks and Recreation. It is now being amended to read as changed by S.B. 119 (2006). (DAR NOTE: S.B. 119 (2006) is found at Chapter 160, Laws of Utah 2006, and was effective 07/01/2006.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 41-22-3

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. The cost was for individual owners of OHVs in purchasing the stickers.
- ◆ **LOCAL GOVERNMENTS:** There is no cost or savings to local government. The cost was for individual owners of OHVs in purchasing the stickers.
- ◆ **SMALL BUSINESSES:** There is no cost or savings to small business. The cost was for individual owners of OHVs in the purchase of the stickers.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is a savings to OHV users because they do not have to purchase the stickers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no compliance costs for affected persons because this removes the requirements.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/31/2011

THIS RULE MAY BECOME EFFECTIVE ON: 04/07/2011

AUTHORIZED BY: Fred Hayes, Acting Operations Deputy Director

R651. Natural Resources, Parks and Recreation.

R651-401. Off-Highway Vehicle and Registration Stickers.

~~[R651-401-2. Display of OHV Registration Numbers.~~

~~(1) The owner of an off-highway vehicle shall display the registration number assigned under 41-22-3.1 as follows: (a) on snowmobiles, the number shall be displayed on the left side of the hood, tunnel or pan; (b) on motorcycles, the number shall be displayed on the left fork, or on the left body plastic; and c) on all-terrain type I and type II vehicles, the number shall be displayed on the rear of the vehicle. (d) In all instances, the number shall be displayed in such a location as to be plainly visible from a distance of fifty feet during daylight.~~

~~(2) Letters and digits used in displaying the number assigned under 41-22-3.1 shall meet the following minimum standards: (a) The assigned number shall be displayed in upper case block letters and digits. Scripted or stylized lettering shall not be allowed. (b) Individual letters and digits shall be a minimum of one-inch high, and shall be of a color that contrasts with the color of the surface to which they are affixed.~~

[KEY: off-highway vehicles

Date of Enactment or Last Substantive Amendment: [January 15, 2005]2011

Notice of Continuation: April 18, 2006

Authorizing, and Implemented or Interpreted Law: 41-22-3(4)

Natural Resources, Parks and
Recreation
R651-601-15
Special Use Permit

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 34446

FILED: 02/15/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Currently in rule there are references to Special Events and it is inferred that the Special Use Permit is used only for those Special Events when there are several other instances where a Special Use Permit could and should be used.

SUMMARY OF THE RULE OR CHANGE: The change is this rule will allow park managers and region managers the needed flexibility to issue permission through the Special Use Permit for additional purposes. This will also fill in the current gap between Special Events contracts and Concession contracts that is not in this rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 41-22-40 and Section 79-4-203 and Section 79-4-304 and Section 79-4-601

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There will be \$6,000 total financial gain as follows: \$1,000 savings due to the reduced cost of contracting with guides, outfitters, and provisioners. This rule will allow guides, outfitters, and provisioners to offer services under a Special Use Permit for a period of up to three years instead of one year at a time, and all contracting will be conducted at the park and region management level, decentralizing this process, and saving costs. There will be \$5,000 increased revenue, fees from operations of temporary concessions, thus using concession assets at times when they would otherwise lay idle. These will generate from 5% to 10% fees on gross receipts of such operations. This temporary concession operation is meant to fill gaps between concession contracts, at times when a concession contract may be terminated abruptly or new assets are completed, and the concession contracting process has not had full time and opportunity to enter into a new concession contract.

♦ **LOCAL GOVERNMENTS:** There are no fees associated with this change for local governments because the gain would not be significant.

♦ **SMALL BUSINESSES:** There will be \$1,000 saved. The guides, outfitters, and provisioners are small business persons who prefer to contract in this new manner instead of their prior options, which were: a Special Use Permit for only one year, or a formal Concession Contract.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Persons other than small businesses are not affected by this rule change because it deals with those using Special Use Permits.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance costs are seen in the reduced cost to small business.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change will encourage business.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/31/2011

THIS RULE MAY BECOME EFFECTIVE ON: 04/07/2011

AUTHORIZED BY: Mary Tullius, Director

R651. Natural Resources, Parks and Recreation.

R651-601. Definitions as Used in These Rules.

R651-601-15. Special Use Permit.

"Special Use Permit" means [~~a temporary authorization or concession, not to exceed one year, for the purpose of conducting commercial activity;~~ written permission given to an individual, partnership, corporation, or other recognized organization for the purpose of conducting the following: 1) special events whether commercial or non-commercial; 2) certain limited concession activities; and 3) commercial services as guides, provisioners, and/or outfitters.

KEY: parks, off-highway vehicles

Date of Enactment or Last Substantive Amendment: [~~August 22, 2006~~ **2011**]

Notice of Continuation: July 7, 2008

Authorizing, and Implemented or Interpreted Law: 41-22-10; 79-4-203; 79-4-304; 79-4-601

Natural Resources, Water Rights **R655-4** Water Well Drillers

NOTICE OF PROPOSED RULE

(Repeal and Reenact)

DAR FILE NO.: 34413

FILED: 02/08/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division of Water Rights needs to amend the administrative rule for Water Wells (Rule R655-4) in order to conform to changes made in the Water Rights Law, Title 73, Chapter 3, by H.B. 226 (Well Driller's License – Pump Installation) during the 2010 legislative session that became effective on 05/11/2010. The Water Well Amendments in H.B. 226 gave the state engineer the authority to license and regulate pump installers and pump installation and repair work on water wells. In conjunction with the required changes to the rule needed to conform with the statute, other changes have also been proposed for the purpose of rule clarification and reorganization to eliminate confusion or to make them more succinct, equitable, and protective of groundwater resources. (DAR NOTE: H.B. 226 (2010) is found at Chapter 124, Laws of Utah 2010, and was effective 05/11/2010.)

SUMMARY OF THE RULE OR CHANGE: There are no deletions from the previous rule only improvements and modifications. The revisions pertain not only to the statute changes related to pump installer licensing and the regulation of pump installation and repair but also to other parts of the administrative rule for Water Wells that require modification and clarification. The following is a summary of proposed changes: 1) modification to the scope of the rule to include pump installation and repair; 2) requirements and process for pump installer licensing; 3) creation of rules and regulations for pump installation and repair; 4) inclusion of pump installation work in the infraction, penalty, and adjudicative process; 5) clarify definition between open-loop and closed-loop heat exchange wells; 6) clarify the process for application and permitting of non-production wells; 7) update the standards for closed-loop heat exchange wells; 8) clarify licensing reciprocity policy; 9) incorporate legal reciprocity policy; 10) update and clarify select constructions standards such as casing and joint standards, flowing wells, gravel feed options, drilling fluids and lost circulation materials (LCMs),

pitless adapter standards, packers and plugs, screens, and casing vents; and 11) separate disciplinary procedures into three sections including infractions, penalties, and adjudicative proceedings.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 73-3-25

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: There will be no budgetary changes required as a result of this rule revision. The changes can be implemented using existing staff and resources. Other rule changes simply provide clarification and will not increase staff efforts or costs. The proposed repeal and reenactment will result in minimal costs to reprint the rule once the changes are made effective. The penalties collected will create a small fund to be used for improving well driller education and infraction investigation and enforcement.

◆ LOCAL GOVERNMENTS: There is no impact to local government because they are not involved in the regulation of water well drillers.

◆ SMALL BUSINESSES: Some small businesses (fewer than 20) who perform regulated pump installation and repair work will need to obtain a license at a minimal fee as determined by the Legislature and subsequently follow the rules and regulations for this type of work in order to better protect groundwater resources.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Persons who perform regulated pump installation and repair work will need to obtain a license at a minimal fee as determined by the Legislature and subsequently follow the rules and regulations for this type of work in order to better protect groundwater resources.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Approximately 20 to 40 individuals will need to come into compliance with this rule by obtaining a pump installer's license. The cost of each license will be approximately \$350 as determined by the Legislature. In addition, licensed pump installers may also need to register some of their employers to become pump rig operators to work on site in their absence. It is anticipated that approximately 30 to 50 individuals will need to obtain a pump rig operators registration at a cost of approximately \$100 each.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact. Fees dictated by statute not by rule.

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

NATURAL RESOURCES
WATER RIGHTS
ROOM 220
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Marianne Burbidge by phone at 801-538-7370, by FAX at 801-538-7467, or by Internet E-mail at marianneburbidge@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/31/2011

THIS RULE MAY BECOME EFFECTIVE ON: 04/07/2011

AUTHORIZED BY: Michael Styler, Executive Director

R655. Natural Resources, Water Rights.

~~[R655-4. Water Well Drillers.~~

~~R655-4-1. Purpose, Scope, and Exclusions.~~

~~1.1 Purpose.~~

~~These rules are promulgated pursuant to Section 73-3-25. The purpose of these rules is to assist in the orderly development of underground water; insure that minimum construction standards are followed in the drilling, construction, deepening, repairing, renovating, cleaning, development, and abandonment of water wells and other regulated wells; prevent pollution of aquifers within the state; prevent wasting of water from flowing wells; obtain accurate records of well construction operations; and insure compliance with the state engineer's authority for appropriating water.~~

~~All administrative procedures involving applications, approvals, hearings, notices, revocations, orders and their judicial review, and all other administrative procedures required or allowed by these rules are governed by R655-6 "Administrative Procedures for Informal Proceedings Before the Division of Water Rights".~~

~~1.2 Scope.~~

~~The drilling, construction, deepening, repair, renovation, replacement, cleaning, development, or abandonment of the following types of wells is regulated by these administrative rules and the work must be permitted by the Utah Division of Water Rights and completed by a licensed well driller. These rules apply to both vertical, angle and horizontal wells if they fall within the criteria listed below. The rules contained herein pertain only to work on the well itself. These rules do not regulate the incidental work around the well such as pump and motor installation and repair; plumbing, electrical, and excavation work up to the well; and the building of well enclosures unless these activities directly impact or change the construction of the well itself. The process for an applicant to obtain approval to drill, construct, deepen, repair, renovate, clean, develop, abandon, or replace the wells listed below in 1.2.1, 1.2.2, 1.2.3, and 1.2.4 is outlined in Section R655-4-7 of these rules:~~

~~1.2.1 Cathodic protection wells which are completed to a depth greater than 30 feet.~~

~~1.2.2 Heating or cooling exchange wells which are greater than 30 feet in depth and which encounter formations containing groundwater. If a separate well or borehole is required for re-injection purposes, it must also comply with these administrative rules.~~

~~1.2.3 Monitor, piezometer, and test wells designed for the purpose of testing and monitoring water quality and quantity which are completed to a depth greater than 30 feet.~~

1.2.4 Other wells (eased or open) which are completed to a depth greater than 30 feet that can potentially interfere with established aquifers such as wells to monitor mass movement (inclinometers), facilitate horizontal utility placement, monitor man-made structures, house instrumentation to monitor structural performance, or dissipate hydraulic pressures (dewatering wells).

1.2.5 Private water production wells which are completed to a depth greater than 30 feet.

1.2.6 Public water system supply wells.

1.2.7 Recharge and recovery wells which are drilled under the provisions of Title 73, Chapter 3b "Groundwater Recharge and Recovery Act" Utah Code Annotated.

1.3 Exclusions.

The drilling, construction, deepening, repair, renovation, replacement, cleaning, development, or abandonment of the following types of wells or boreholes are excluded from regulation under these administrative rules:

1.3.1 Any wells described in Section 1.2 that are constructed to a final depth of 30 feet or less. However, diversion and beneficial use of groundwater from wells at a depth of 30 feet or less shall require approval through the appropriation procedures and policies of the state engineer and Title 73, Chapter 3 of the Utah Code Annotated.

1.3.2 Geothermal wells. Although not regulated under the Administrative Rules for Water Well Drillers, geothermal wells are subject to Section 73-22-1 "Utah Geothermal Resource Conservation Act" Utah Code Annotated and the rules promulgated by the state engineer including Section R655-1, Wells Used for the Discovery and Production of Geothermal Energy in the State of Utah.

1.3.3 Temporary exploratory wells drilled to obtain information on the subsurface strata on which an embankment or foundation is to be placed or an area proposed to be used as a potential source of material for construction.

1.3.4 Wells or boreholes drilled or constructed into non-water bearing zones or which are 30 feet or less in depth for the purpose of utilizing heat from the surrounding earth.

1.3.5 Geotechnical borings drilled to obtain lithologic data which are not installed for the purpose of utilizing or monitoring groundwater, and which are properly sealed immediately after drilling and testing.

1.3.6 Oil, gas, and mineral exploration/production wells. These wells are subject to rules promulgated under the Division of Oil, Gas, and Mining of the Utah Department of Natural Resources.

R655-4-2. Definitions.

ABANDONED WELL - any well which is not in use and has been sealed or plugged with approved sealing materials so that it is rendered unproductive and will prevent contamination of groundwater. A properly abandoned well will not produce water nor serve as a channel for movement of water from the well or between water bearing zones.

AMERICAN NATIONAL STANDARDS INSTITUTE (ANSI) - a nationally recognized testing laboratory that certifies building products and adopts standards including those for steel and plastic (PVC) casing utilized in the well drilling industry. ANSI standards are often adopted for use by ASTM and AWWA. Current information on standards can be obtained from: ANSI, 1430 Broadway, New York, NY 10018.

AMERICAN SOCIETY FOR TESTING AND MATERIALS (ASTM) - an independent organization concerned with the development of standards on characteristics and performance of materials, products and systems including those utilized in the well drilling industry. Information may be obtained from: ASTM, 1916 Race Street, Philadelphia, PA 19013.

AMERICAN WATER WORKS ASSOCIATION (AWWA) - an international association which publishes standards intended to represent a consensus of the water supply industry that the product or procedure described in the standard will provide satisfactory service or results. Information may be obtained from: AWWA, 6666 West Quincy Avenue, Denver CO 80235.

ANNULAR SPACE - the space between the outer well casing and the borehole or the space between two sets of casing.

AQUIFER - a porous underground formation yielding withdrawable water suitable for beneficial use.

ARTESIAN AQUIFER - a water-bearing formation which contains underground water under sufficient pressure to rise above the zone of saturation.

ARTESIAN WELL - a well where the water level rises appreciably above the zone of saturation.

BENTONITE - a highly plastic, highly absorbent, colloidal swelling clay composed largely of mineral sodium montmorillonite. Bentonite is commercially available in powdered, granular, tablet, pellet, or chip form which is hydrated with potable water and used for a variety of purposes including the stabilization of borehole walls during drilling, the control of potential or existing high fluid pressures encountered during drilling below a water table, well abandonment, and to provide a seal in the annular space between the well casing and borehole wall.

BENTONITE GROUT - a mixture of bentonite and potable water specifically designed to seal and plug wells and boreholes mixed at manufacturer's specifications to a grout consistency which can be pumped through a pipe directly into the annular space of a well or used for abandonment. Its primary purpose is to seal the borehole or well in order to prevent the subsurface migration or communication of fluids.

CASH BOND - A type of well driller bond in the form of a certificate of deposit (CD) submitted and assigned to the State Engineer by a licensed driller to satisfy the required bonding requirements.

CASING - a tubular retaining and sealing structure that is installed in the borehole to maintain the well opening.

CATHODIC PROTECTION WELL - a well constructed for the purpose of installing deep anodes to minimize or prevent electrolytic corrosive action of metallic structures installed below ground surface, such as pipelines, transmission lines, well casings, storage tanks, or pilings.

CONFINING UNIT - a geological layer either of unconsolidated material, usually clay or hardpan, or bedrock, usually shale, through which virtually no water moves.

CONSOLIDATED FORMATION - bedrock consisting of sedimentary, igneous, or metamorphic rock (e.g., shale, sandstone, limestone, quartzite, conglomerate, basalt, granite, tuff, etc.).

DEWATERING WELL - a water extraction well constructed for the purpose of lowering the water table elevation, either temporarily or permanently, around a man-made structure or construction activity.

~~DISINFECTION~~ - or disinfecting is the use of chlorine or other disinfecting agent or process approved by the state engineer, in sufficient concentration and contact time adequate to inactivate or eradicate bacteria such as coliform or other organisms.

~~DRAWDOWN~~ - the difference in elevation between the static water level and the pumping water level in a well.

~~DRILL RIG~~ - any power-driven percussion, rotary, boring, coring, digging, jetting, or augering machine used in the construction of a well or borehole.

~~EMERGENCY SITUATION~~ - any situation where immediate action is required to protect life or property. Emergency status would also extend to any situation where life is not immediately threatened but action is needed immediately and it is not possible to contact the state engineer for approval. For example, it would be considered an emergency if a domestic well needed immediate repair over a weekend when the state engineer's offices are closed.

~~GRAVEL PACKED WELL~~ - a well in which filter material such as sand and/or gravel is placed in the annular space between the well intakes (screen or perforated casing) and the borehole wall to increase the effective diameter of the well and to prevent fine-grained sediments from entering the well.

~~GROUNDWATER~~ - subsurface water in a zone of saturation.

~~GROUT~~ - a fluid mixture of Portland cement or bentonite with water of a consistency that can be forced through a pipe and placed as required. Upon approval, various additives such as sand, bentonite, and hydrated lime may be included in the mixture to meet different requirements.

~~HYDRAULIC FRACTURING~~ - the process whereby water or other fluid is pumped with sand under high pressure into a well to fracture and clean-out the rock surrounding the well bore thus increasing the flow to the well.

~~MONITOR WELL~~ - a well, as defined under "well" in this section, that is constructed for the purpose of determining water levels, monitoring chemical, bacteriological, radiological, or other physical properties of ground water or vadose zone water.

~~NATIONAL SANITATION FOUNDATION (NSF)~~ - a voluntary third party consensus standards and testing entity established under agreement with the U. S. Environmental Protection Agency (EPA) to develop testing and adopt standards and certification programs for all direct and indirect drinking water additives and products.

~~Information may be obtained from: NSF, 3475 Plymouth Road, P O Box 1468, Ann Arbor, Michigan 48106.~~

~~NEAT CEMENT GROUT~~ - cement conforming to the ASTM Standard C150 (standard specification of Portland cement), with no more than six gallons of water per 94 pound sack (one cubic foot) of cement of sufficient weight density of not less than 15 lbs/gallon.

~~OPERATOR~~ - a drill rig operator is an individual who works under the direct supervision of a licensed Utah Water Well Driller and who can be left in responsible charge to construct water wells using equipment that is under the direct control of the licensee.

~~PIEZOMETER~~ - a tube or pipe, open at the bottom in groundwater, and sealed along its length, used to measure hydraulic head or water level in a geologic unit.

~~PITLESS ADAPTER OR UNIT~~ - an assembly of parts designed for attachment to a well casing which allows buried pump discharge from the well and allows access to the interior of the well casing for installation or removal of the pump or pump appurtenances, while preventing contaminants from entering the well. Such devices protect the water and distribution lines from temperature extremes, permit extension of the casing above ground as required in Subsection R655-4-9.3.2 and allow access to the well, pump or system components within the well without exterior excavation or disruption of surrounding earth or surface seal.

~~POLLUTION~~ - the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water that renders the water harmful, detrimental, or injurious to humans, animals, vegetation, or property, or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any or reasonable purpose.

~~POTABLE WATER~~ - water supplied for human consumption, sanitary use, or for the preparation of food or pharmaceutical products which is free from biological, chemical, physical, and radiological impurities.

~~PRESSURE GROUTING~~ - a process by which grout is confined within the drillhole or casing by the use of retaining plugs or packers and by which sufficient pressure is applied to drive the grout slurry into the annular space or zone to be grouted.

~~PRIVATE WATER PRODUCTION WELL~~ - a privately owned well constructed to supply water for any purpose which has been approved by the state engineer (such as irrigation, stockwater, domestic, commercial, industrial, etc.).

~~PROBATION~~ - A disciplinary action that may be taken by the state engineer that entails greater review and regulation of well drilling activities but which does not prohibit a well driller from engaging in the well drilling business or operating well drilling equipment.

~~PROVISIONAL WELL~~ - authorization granted by the state engineer to drill under a pending, unapproved water right, change or exchange application; or for the purpose of determining characteristics of an aquifer, or the existence of a useable groundwater source. Water from a provisional well cannot be put to beneficial use until the application has been approved.

~~PUBLIC WATER SYSTEM SUPPLY WELL~~ - a well, either publicly or privately owned, providing water for human consumption and other domestic uses which has at least 15 service connections or regularly serves an average of at least 25 individuals daily for at least 60 days out of the year. Public Water System Supply Wells are also regulated by the Division of Drinking Water in the Utah Department of Environmental Quality (Section R309 of the Utah Administrative Code).

~~PUMPING WATER LEVEL~~ - the water level in a well after a period of pumping at a given rate.

~~REVOCATION~~ - A disciplinary action that may be taken by the state engineer that rescinds the well driller's Utah Water Well Driller's License

~~SAND~~ - a material having a prevalent grain size ranging from 2 millimeters to 0.06 millimeters.

~~SAND CEMENT GROUT~~ - a grout consisting of equal parts of cement conforming to ASTM standard C150 and sand/aggregate with no more than six (6) gallons of water per 94 pound sack (one cubic foot) of cement.

~~STANDARD DIMENSION RATIO (SDR) – the ratio of average outside pipe diameter to minimum pipe wall thickness.~~

~~STATE ENGINEER – the director of the Utah Division of Water Rights or any employee of the Division of Water Rights designated by the state engineer to act in administering these rules.~~

~~STATIC LEVEL – stabilized water level in a non-pumped well beyond the area of influence of any pumping well.~~

~~SURETY BOND – an indemnity agreement in a sum certain and payable to the state engineer, executed by the licensee as principal and which is supported by the guarantee of a corporation authorized to transact business as a surety in the State of Utah.~~

~~SUSPENSION – A disciplinary action that may be taken by the state engineer that prohibits the well driller from engaging in the well drilling business or operating well drilling equipment as a registered operator for a definite period of time and /or until certain conditions are met.~~

~~TEST WELL – authorization granted by the state engineer to drill under a Non-production well approval for the purpose of determining characteristics of an aquifer, or the existence of a useable groundwater source. Water from a Test Well cannot be put to beneficial use.~~

~~TREMIE PIPE – a device that carries materials such as seal material, gravel pack, or formation stabilizer to a designated depth in a drill hole or annular space.~~

~~UNCONSOLIDATED FORMATION – loose, soft, incoherent rock material composed of sedimentary, igneous, or metamorphic rock which includes sand, gravel, and mixtures of sand and gravel. These formations are widely distributed and can possess good water storage and transmissivity characteristics.~~

~~UNHYDRATED BENTONITE – dry bentonite consisting primarily of granules, tablets, pellets, or chips that may be placed in a well or borehole in the dry state and hydrated in place by either formation water or by the addition of potable water into the well or borehole containing the dry bentonite. Unhydrated bentonite can be used for sealing and abandonment of wells.~~

~~VADOSE ZONE – the zone containing water under less than atmospheric pressure, including soil water, intermediate vadose water and capillary water. The zone extends from land surface to the zone of saturation or water table.~~

~~WATERTIGHT – a condition that does not allow the entrance, passage, or flow of water under normal operating conditions.~~

~~WELL – a horizontal or vertical excavation or opening into the ground made by digging, boring, drilling, jetting, augering, or driving or any other artificial method and left cased or open for utilizing or monitoring underground waters.~~

~~WELL DRILLER – any person who is licensed by the state engineer to construct water wells for compensation or otherwise. The licensed driller has total responsibility for the construction work in progress at the well drilling site.~~

~~WELL DRILLER BOND – A financial guarantee to the state engineer, in the form of a surety bond or cash bond, by which a licensed driller binds himself to pay the penal sum of \$5,000 to the state engineer in the event of significant noncompliance with the Administrative Rules for Water Well Drillers.~~

~~WELL DRILLING – the act of drilling, constructing, deepening, replacing, repairing, renovating, cleaning, developing, or abandoning a well.~~

R655-4-3. Licenses and Registrations.

~~3.1 General.~~

~~3.1.1 Section 73-3-25 of the Utah Code requires every person that constructs a well in the state to obtain a license from the state engineer. Licenses and registrations are not transferable.~~

~~3.1.2 Any person found to be drilling a well without a valid well driller's license or operator's registration will be ordered to cease drilling by the state engineer. The order may be made verbally but must also be followed by a written order. The order may be posted at an unattended well drilling site. A person found drilling without a license will be subject to the state engineer's enforcement powers under Section 73-2-25 of the Utah Code (Related rules: Section R655-14 UAC) and subject to criminal prosecution under Section 73-3-26 of the Utah Code annotated, 1953.~~

~~3.2 Well Driller's License.~~

~~An applicant must meet the following requirements to become licensed as a Utah Water Well Driller:~~

~~3.2.1 Applicants must be 21 years of age or older.~~

~~3.2.2 Complete and submit the application form provided by the state engineer.~~

~~3.2.3 Pay the application fee approved by the state legislature.~~

~~3.2.4 Provide documentation of experience according to the following standards:~~

~~3.2.4.1 Water well drillers shall provide documentation of at least two (2) years of full time prior water well drilling experience with a licensed driller in good standing OR documentation of sixteen (16) wells constructed by the applicant under the supervision of a licensed well driller in good standing.~~

~~3.2.4.2 Monitor well drillers shall provide documentation of at least two (2) years of full time prior monitor well drilling experience with a licensed driller in good standing OR documentation of thirty two (32) wells constructed by the applicant under the supervision of a licensed well driller in good standing.~~

~~3.2.4.3 Heating/cooling exchange and other non-production well drillers must provide documentation of at least six (6) months of full time prior well drilling experience with a licensed driller in good standing AND documentation of sixteen (16) well drilling projects constructed by the applicant under the supervision of a licensed well driller in good standing.~~

~~3.2.4.4 A copy of the well log for each well constructed must be provided. The documentation must also show the applicant's experience with each type of drilling rig to be listed on the license. Acceptable documentation will include registration with the Division of Water Rights, letters from licensed well drillers (Utah or other states), or a water well drilling license granted by another state, etc.~~

~~3.2.4.5 Successful completion of classroom study in geology, well drilling, map reading, and other related subjects may be substituted for up to, but not exceeding, twenty five percent of the required drilling experience, and for up to, but not exceeding, twenty five percent of the required drilled wells or well drilling projects. The state engineer will determine the number of months of drilling experience and the number of drilled wells that will be credited for the classroom study.~~

~~3.2.5 File a well driller bond in the sum of \$5,000 with the Division of Water Rights payable to the state engineer. The well~~

driller bond must be filed under the conditions and criteria described in Section 4-3-6.

3.2.6 Obtain a score of at least 70% on each of the written licensing examinations required and administered by the state engineer. The required examinations test the applicant's knowledge of:

- a. The Administrative Rules for Water Well Drillers and Utah water law as it pertains to underground water;
- b. The minimum construction standards established by the state engineer for water well construction;
- c. Geologic formations and proper names used in describing underground material types;
- d. Reading maps and locating points from descriptions based on section, township, and range;
- e. Groundwater geology and the occurrence and movement of groundwater;
- f. The proper operating procedures and construction methods associated with the various types of water well drilling rigs. (A separate test is required for each type of water well drilling rig to be listed on the license).

3.2.7 Demonstrate proficiency in resolving problem situations that might be encountered during the construction of a water well by passing an oral examination administered by the state engineer.

3.3 Drill Rig Operator's Registration.

An applicant must meet the following requirements to become registered as a drill rig operator:

- 3.3.1 Applicants must be 18 years of age or older.
- 3.3.2 Complete and submit the application form provided by the state engineer.
- 3.3.3 Pay the application fee approved by the state legislature.

3.3.4 Provide documentation of at least six (6) months of prior water well drilling experience with a licensed driller in good standing. The documentation must show the applicant's experience with each type of drilling rig to be listed on the registration. Acceptable documentation will include letters from licensed well drillers or registration as an operator in another state.

3.3.5 Obtain a score of at least 70% on a written examination of the minimum construction standards established by the state engineer for water well construction. The test will be provided to the licensed well driller by the state engineer. The licensed well driller will administer the test to the prospective operator and return it to the state engineer for scoring.

3.4 Conditional, Restricted, or Limited Licenses.

The state engineer may issue a restricted, conditional, or limited license to an applicant based on prior drilling experience.

3.5 Refusal to Issue a License or Registration.

The state engineer may, upon investigation and after a hearing, refuse to issue a license or a registration to an applicant if it appears the applicant has not had sufficient training or experience to qualify as a competent well driller or operator.

3.6 Falsified Applications.

The state engineer may, upon investigation and after a hearing, revoke a license or a registration in accordance with Section 5.6 if it is determined that the original application contained false or misleading information.

3.7 Well Driller Bond.

3.7.1 General

3.7.1.1. In order to become licensed and to continue licensure, a well driller must file a well driller bond in the form of a surety bond or cash bond, approved by the state engineer, in the sum of five thousand dollars (\$5,000) with the Division of Water Rights, on a form provided by the Division, which is conditioned upon proper compliance with the law and these rules and which is effective for the licensing period in which the license is to be issued. The bond shall stipulate the obligee as the "Office of the State Engineer". The well driller bond is penal in nature and is designed to ensure compliance by the licensed well driller to protect the groundwater resource, the environment, and public health and safety. The bond may only be exacted by the state engineer for the purposes of investigating, repairing, or abandoning wells in accordance with applicable rules and standards. No other person or entity may initiate a claim against the well driller bond. Lack of a current and valid well driller bond shall be deemed sufficient grounds for denial of a driller's license. The well driller bond may consist of a surety bond or a cash bond as described below.

3.7.2 Surety Bonds.

3.7.2.1. The licensed well driller and a surety company or corporation authorized to do business in the State of Utah as surety shall bind themselves and their successors and assigns jointly and severally to the state engineer for the use and benefit of the public in full penal sum of five thousand dollars (\$5,000). The surety bond shall specifically cover the licensee's compliance with the Administrative Rules for Water Well Drillers found in R655-4 of the Utah Administrative Code. Forfeiture of the surety bond shall be predicated upon a failure to drill, construct, repair, renovate, deepen, clean, develop, or abandon a regulated well in accordance with these rules (R655-4 UAC). The bond shall be made payable to the 'Utah State Engineer' upon forfeiture. The surety bond must be effective and exactable in the State of Utah.

3.7.2.2. The bond and any subsequent renewal certificate shall specifically identify the licensed individual covered by that bond. The licensee shall notify the state engineer of any change in the amount or status of the bond. The licensee shall notify the state engineer of any cancellation or change at least thirty (30) days prior to the effective date of such cancellation or change. Prior to the expiration of the 30-days notice of cancellation, the licensee shall deliver to the state engineer a replacement surety bond or transfer to a cash bond. If such a bond is not delivered, all activities covered by the license and bond shall cease at the expiration of the 30-day period. Termination shall not relieve the licensee or surety of any liability for incidences that occurred during the time the bond was in force.

3.7.2.3. Before the bond is forfeited by the licensed driller and exacted by the state engineer, the licensed driller shall have the option of resolving the noncompliance to standard either by personally doing the work or by paying to have another licensed driller do the work. If the driller chooses not to resolve the problem that resulted in noncompliance, the entire bond amount of five thousand dollars (\$5,000) shall be forfeited by the surety and expended by the state engineer to investigate, repair or abandon the well(s) in accordance with the standards in R655-4 UAC. Any excess there from shall be retained by the state engineer and expended for the purpose of investigating, repairing, or abandoning wells in accordance with applicable rules and standards. All claims initiated by the state engineer against the surety bond will be made in writing.

~~3.7.2.4. The bond of a surety company that has failed, refused or unduly delayed to pay, in full, on a forfeited bond is not approvable.~~

~~3.7.3 Cash Bonds.~~

~~3.7.3.1. The requirements for the well driller bond may alternatively be satisfied by a cash bond in the form of a certificate of deposit (CD) for the amount of five thousand dollars (\$5,000) issued by a federally insured bank or credit union with an office(s) in the State of Utah. The cash bond must be in the form of a CD. Savings accounts, checking accounts, letters of credit, etc., are not acceptable cash bonds. The CD shall specifically identify the licensed individual covered by that fund. The CD shall be automatically renewable and fully assignable to the state engineer. CD shall state on its face that it is automatically renewable.~~

~~3.7.3.2. The cash bond shall specifically cover the licensee's compliance with well drilling rules found in R655-4 of the Utah Administrative Code. The CD shall be made payable or assigned to the state engineer and placed in the possession of the state engineer. If assigned, the state engineer shall require the bank or credit union issuing the CD to waive all rights of setoff or liens against those CD. The CD, if a negotiable instrument, shall be placed in the state engineer's possession. If the CD is not a negotiable instrument, the CD and a withdrawal receipt, endorsed by the licensee, shall be placed in the state engineer's possession.~~

~~3.7.3.3. The licensee shall submit CDs in such a manner which will allow the state engineer to liquidate the CD prior to maturity, upon forfeiture, for the full amount without penalty to the state engineer. Any interest accruing on a CD shall be for the benefit of the licensee.~~

~~3.7.3.4. The period of liability for a cash bond is five (years) after the expiration, suspension, or revocation of the license. The cash bond will be held by the state engineer until the five year period is over, then it will be relinquished to the licensed driller. In the event that a cash bond is replaced by a surety bond, the period of liability, during which time the cash bond will be held by the state engineer, shall be five (5) years from the date the new surety bond becomes effective.~~

~~3.7.4 Exacting a Well Driller Bond.~~

~~3.7.4.1. If the state engineer determines, following an investigation and a hearing in accordance with the process defined in Section 4-5, that the licensee has failed to comply with the Administrative Rules for Water Well Drillers and refused to remedy the noncompliance, the state engineer may suspend or revoke a well driller's license and fully exact the well driller bond and deposit the money as a non-lapsing dedicated credit.~~

~~3.7.4.2. The state engineer may expend the funds derived from the bond to investigate or correct any deficiencies which could adversely affect the public interest resulting from non-compliance with the Administrative Rules by any well driller.~~

~~3.7.4.3. The state engineer shall send written notification by certified mail, return receipt requested, to the licensee and the surety on the bond, if applicable, informing them of the determination to exact the well driller bond. The state engineer's decision regarding the noncompliance will be attached to the notification which will provide facts and justification for bond exaction. In the case of a surety bond exaction, the surety company will then forfeit the total bond amount to the state engineer. In the case of a cash bond, the state engineer will cash out the CD. The exacted well driller bond funds may then be used by the state~~

~~engineer to cover the costs of well investigation, repair, and/or abandonment.~~

~~**R655-4-4. Administrative Requirements and General Procedures.**~~

~~4.1 Authorization to Drill.~~

~~The well driller shall make certain that a valid authorization or approval to drill exists before engaging in regulated well drilling activity. Authorization to drill shall consist of a valid 'start card' based on any of the approvals listed below. Items 4.1.1 through 4.1.12 allow the applicant to contract with a well driller to drill, construct, deepen, replace, repair, renovate, clean, develop, or abandon exactly one well at each location listed on the start card or approval form. The drilling of multiple borings/wells at an approved location/point of diversion is not allowed without authorization from the state engineer's office. Most start cards list the date when the authorization to drill expires. If the expiration date has passed, the start card and authorization to engage in regulated drilling activity is no longer valid. If there is no expiration date on the start card, the driller must contact the state engineer's office to determine if the authorization to drill is still valid. When the work is completed, the permission to drill is terminated.~~

~~4.1.1 An approved application to appropriate.~~

~~4.1.2 A provisional well approval letter.~~

~~An approved provisional well letter grants authority to drill but allows only enough water to be diverted to determine the characteristics of an aquifer or the existence of a useable groundwater source.~~

~~4.1.3 An approved permanent change application.~~

~~4.1.4 An approved exchange application.~~

~~4.1.5 An approved temporary change application.~~

~~4.1.6 An approved application to renovate or deepen an existing well.~~

~~4.1.7 An approved application to replace an existing well.~~

~~4.1.8 An approved monitor well letter.~~

~~An approved monitor well letter grants authority to drill but allows only enough water to be diverted to monitor groundwater.~~

~~4.1.9 An approved heat exchange well letter.~~

~~4.1.10 An approved cathodic protection well letter.~~

~~4.1.11 An approved non-production well construction application.~~

~~4.1.12 Any letter or document from the state engineer directing or authorizing a well to be drilled or work to be done on a well.~~

~~4.2 Start Cards.~~

~~4.2.1 Prior to commencing any work (other than abandonment, see 4.2.4) on any well governed by these administrative rules, the driller must notify the state engineer of that intention by transmitting the information on the "Start Card" to the state engineer by telephone, by facsimile (FAX), by hand delivery, or by e-mail. A completed original Start Card must be sent to the state engineer by the driller after it has been telephoned or E-mailed.~~

~~4.2.2 A specific Start Card is printed for each well drilling approval and is furnished by the state engineer to the applicant or the well owner. The start card is preprinted with the water right or non-production well number, owner name/address,~~

and the approved location of the well. The state engineer marks the approved well drilling activity on the card. The driller must put the following information on the card:

- _____ a. The date on which work on the well will commence;
- _____ b. The projected completion date of the work;
- _____ c. The well driller's license number;
- _____ d. The well driller's signature.

_____ 4.2.3 When a single authorization is given to drill wells at more than one point of diversion, a start card shall be submitted for each location to be drilled.

_____ 4.2.4 Following the submittal of a start card, if the actual start date of the drilling activity is postponed beyond the date identified on the start card, the licensed driller must notify the state engineer of the new start date.

_____ 4.2.5 A start card is not required to abandon a well. However, prior to commencing well abandonment work, the driller is required to notify the state engineer by telephone, by facsimile, or by e-mail of the proposed abandonment work. The notice must include the location of the well. The notice should also include the water right or non-production well number associated with the well and the well owner if that information is available.

_____ 4.3 General Requirements During Construction:

_____ 4.3.1 The well driller shall have the required penal bond continually in effect during the term of the well driller's license.

_____ 4.3.2 The well driller's license number or the well driller's company name exactly as shown on the well drilling license must be prominently displayed on each well drilling rig operated under the well driller's license. If the well driller's company name is changed the well driller must immediately inform the state engineer of the change in writing.

_____ 4.3.3 A licensed well driller or a registered operator must be at the well site whenever the following aspects of well construction are in process: advancing the borehole, setting casing and screen, placing a filter pack, constructing a surface seal, or similar activities involved in well deepening, renovation, repair, cleaning, developing, or abandoning. All registered operators working under a well driller's license must be employees of the well driller and must use equipment either owned by or leased by the licensed well driller.

_____ 4.3.4 A registered operator who is left in responsible charge of advancing the borehole, setting casing and screen, placing a filter pack, constructing a surface seal, or similar activities involved in well deepening, renovation, repair, cleaning, developing, or abandoning must have a working knowledge of the minimum construction standards and the proper operation of the drilling rig. The licensed well driller is responsible to ensure that a registered operator is adequately trained to meet these requirements.

_____ 4.3.5 State engineer provisions for issuing cease and desist orders (Red Tags)

_____ 4.3.5.1 Construction Standards: The state engineer or staff of the Division of Water Rights may order that regulated work on a well cease if a field inspection reveals that the construction does not meet the minimum construction standards to the extent that the public interest might be adversely affected.

_____ 4.3.5.2 Licensed Drilling Method: A cease work order may also be issued if the well driller is not licensed for the drilling method being used for the well construction.

_____ 4.3.5.3 Incompetent Registered Operator: If, during a field inspection by the staff of the Division of Water Rights, it is

determined that a registered operator in responsible charge does not meet these requirements, a state engineer's red tag (see Section 4.3.5) will be placed on the drilling rig and the drilling operation will be ordered to shut down. The order to cease work will remain effective until a qualified person is available to perform the work.

_____ 4.3.5.4 No licensed driller or registered operator on site: If, during a field inspection by the staff of the Division of Water Rights, it is determined that neither a licensed driller or registered operator are on site when regulated drilling activity is occurring, the state engineer may order regulated well drilling work to cease.

_____ 4.3.5.5 General: The state engineer's order will be in the form of a red tag which will be attached to the drilling rig. A letter from the state engineer will be sent to the licensed driller to explain the sections of the administrative rules which were violated. The letter will also explain the requirements that must be met before the order can be lifted.

_____ 4.3.6 When required by the state engineer, the well driller or registered operator shall take lithologic samples at the specified intervals and submit them in the bags provided by the state engineer.

_____ 4.3.7 A copy of the current Administrative Rules for Water Well Drillers should be available at each well construction site for review by the construction personnel. Licensed well drillers and registered operators must have proof of licensure or registration with them on site during regulated drilling activity.

_____ 4.3.8 Prior to starting construction of a new well, the licensed driller shall investigate and become familiar with the drilling conditions, geology of potential aquifers and overlying materials, anticipated water quality problems, and known contaminated water bearing zones that may be encountered in the area of the proposed drilling activity.

_____ 4.4 Removing Drill Rig From Well Site:

_____ 4.4.1 A well driller shall not remove his drill rig from a well site unless the well drilling activity is properly completed or abandoned in accordance with the construction standards in Sections 9 thru 12.

_____ 4.4.2 For the purposes of these rules, the regulated work on a well will be considered completed when the well driller removes his drilling rig from the well site.

_____ 4.4.3 The well driller may request a variance from the state engineer to remove a drill rig from a well prior to completion or abandonment. This request must be in written form to the state engineer. The written request must provide justification for leaving the well incomplete or un-abandoned and indicate how the well will be temporarily abandoned as provided in Section R655-4-12 and must give the date when the well driller plans to continue work to either complete the well or permanently abandon it.

_____ 4.5 Official Well Driller's Report (Well Log):

_____ 4.5.1 Within 30 days of the completion of regulated work on any well, the driller shall file an official well driller's report (well log) with the state engineer. The blank well log form will be mailed to the licensed well driller upon receipt of the information on the Start Card as described in Subsection 4.2.

_____ 4.5.2 The water right number or non-production well number, owner name/address, and the approved location of the well will be preprinted on the blank well log provided to the well driller. The driller is required to verify this information and make any necessary changes on the well log prior to submittal. The state engineer will mark the approved activity (e.g., new, replace, repair,

deepen) on the well log. The driller must provide the following information on the well log:

- a. The start and completion date of work on the well;
- b. The nature of use for the well (e.g., domestic, irrigation, stock watering, commercial, municipal, provisional, monitor, cathodic protection, heat pump, etc.);
- c. The borehole diameter, depth interval, drilling method and drilling fluids utilized to drill the well;
- d. The lithologic log of the well based on strata samples taken from the borehole as drilling progresses;
- e. Static water level information to include date of measurement, static level, measurement method, reference point, artesian flow and pressure, and water temperature;
- f. The size, type, description, joint type, and depth intervals of casing, screen, and perforations;
- g. A description of the filter pack, surface and interval seal material, and packers used in the well along with necessary related information such as the depth interval, quantity, and mix ratio;
- h. A description of the finished wellhead configuration;
- i. The date and method of well development;
- j. The date, method, yield, drawdown, and elapsed time of a well yield test;
- k. A description of pumping equipment (if available);
- l. Other comments pertinent to the well activity completed;
- m. The well driller's statement to include the driller name, license number, signature, and date.

4.5.3 Accuracy and completeness of the submitted well log are required. Of particular importance is the lithologic section which should accurately reflect the geologic strata penetrated during the drilling process. Sample identification must be logged in the field as the borehole advances and the information transferred to the well log form for submission to the state engineer.

4.5.4 An amended well log shall be submitted by the licensed driller if it becomes known that the original report contained inaccurate or incorrect information, or if the original report requires supplemental data or information. Any amended well log must be accompanied by a written statement, signed and dated by the licensed well driller, attesting to the circumstances and the reasons for submitting the amended well log.

4.6 Official Well Abandonment Reports (Abandonment Logs):

4.6.1 Whenever a well driller is contracted to replace an existing well under state engineer's approval, it shall be the responsibility of the well driller to inform the well owner that it is required by law to permanently abandon the old well in accordance with the provisions of Section R655-4-12.

4.6.2 Within 30 days of the completion of abandonment work on any well, the driller shall file an abandonment log with the state engineer. The blank abandonment log will be mailed to the licensed well driller upon notice to the state engineer of commencement of abandonment work as described in Subsection R655-4-4(4.2.4):

4.6.3 The water right number or non-production well number, owner name/address, and the well location (if available) will be preprinted on the blank abandonment log provided to the well driller. The driller is required to verify this information and make any necessary changes on the abandonment log prior to

submitting the log. The driller must provide the following information on the abandonment log:

- a. Existing well construction information;
- b. Date of abandonment;
- c. Reason for abandonment;
- d. A description of the abandonment method;
- e. A description of the abandonment materials including depth intervals, material type, quantity, and mix ratio;
- f. Replacement well information (if applicable);
- g. The well driller's statement to include the driller name, license number, signature, and date.

4.6.4 When a well is replaced and the well owner will not allow the driller to abandon the existing well, the driller must briefly explain the situation on the abandonment form and submit the form to the state engineer within 30 days of completion of the replacement well.

4.7 Incomplete or Incorrectly Completed Reports:

An incomplete well/abandonment log or a well/abandonment log that has not been completed correctly will be returned to the licensed well driller to be completed or corrected. The well log will not be considered filed with the state engineer until it is complete and correct.

4.8 Extensions of Time:

The well driller may request an extension of time for filing the well log if there are circumstances which prevent the driller from obtaining the necessary information before the expiration of the 30 days. The extension request must be submitted in writing before the end of the 30-day period.

4.9 Late Well Logs - Lapsed License

All outstanding well logs or abandonment logs shall be properly submitted to the state engineer prior to the lapsing of a license. A person with a lapsed license who has failed to submit all well/abandonment logs within 90 days of lapsing will be subject to the state engineer's enforcement powers under Section 73-2-25 of the Utah Code (Related rules: Section R655-14 UAC)

R655-4-5. Well Driller Disciplinary Procedures.

5.1 Well driller disciplinary procedures will be conducted informally and are governed by Sections 63G-4-202 (Designation of Adjudicative Proceedings as Informal) and 63G-4-203 (Procedures for Informal Adjudicative Proceedings) of the Utah Code and by Section R655-6 (Administrative Procedures for Informal Proceedings Before the Division of Water Rights) of the Utah Administrative Code.

5.2 List of Infractions and Points:

Licensed well drillers who commit the infractions listed below in Table 1 shall have assessed against their well drilling record the number of points assigned to the infraction.

TABLE 1

Level I Infractions of Administrative Requirements

	Points
Well log submitted late	10
Well abandonment report submitted late	10
Well driller license or well driller name not clearly posted on well drilling rig	10

Failing to notify the state engineer	
— of a change in the well	
— driller's company name	10
Failure to properly notify the	
— state engineer before the	
— proposed start date shown	
— on the start card	20
Failure to notify the state engineer	
— of a change of start date	50
Constructing a replacement well	
— further than 150 ft from the	
— original well without the	
— authorization of an approved	
— change application	50
Failure to drill at the state engineer	
— approved location as identified	
— on the start card	50
Removing the well drilling rig from	
— the well site before completing the	
— well or temporarily or permanently	
— abandoning the well	50

TABLE 2

Level II Infractions of Administrative Requirements

	Points
Employing an operator who is not	
— registered with the state	75
Contracting out work to an	
— unlicensed driller (using the	
— unlicensed driller's rig) without	
— prior written approval from the state	75
Performing any well drilling activity without	
— valid authorization (except in	
— emergency situations)	100
Intentionally making a material	
— misstatement of fact in an official	
— well driller's report or amended	
— official well driller's report	
— (well log)	100

TABLE 3

Level III Infractions of Construction Standards / Conditions

	Points
Approvals	
Using a method of drilling not listed	
— on the well driller's license	30
Failing to comply with any conditions	
— included on the well approval such as	
— minimum or maximum depths, specified	
— locations of perforations, etc.	50
Performing any well construction	
— activity in violation of a red tag	
— cease work order	100
Casing	
Failure to extend well casing at least	
— 18" above ground	30
Failure to install a protective casing	
— around a PVC well at the surface	50
Using improper casing joints	100
Using or attempting to use sub-standard	
— well casing	100
Surface Seals	
Using improper products or procedures	
— to install a surface seal	100
Failure to seal off artesian flow on	
— the outside of casing	100
Failure to install surface seal to	
— adequate depth based on formation type	100

Failure to install interval seals to	
— eliminate aquifer commingling	
— or cross contamination	100
Well Abandonment	
Using improper procedures to abandon	
— a well	100
Using improper products to abandon a	
— well	100
Construction Fluids	
Using water of unacceptable quality	
— in the well drilling operation	40
Using an unacceptable mud pit	40
Failure to use treated or disinfected	
— water for drilling processes	40
Using improper circulation materials	
— or drilling chemicals	100
Filter Packs	
Failure to disinfect filter pack	40
Failure to install filter pack properly	75
Well Completion	
Failure to make well accessible to	
— water level or pressure head measurements	30
Failure to install casing annular seals,	
— cap, and valving, and to control	
— artesian flow	30
Failure to disinfect a well upon	
— completion of well drilling activity	40
Failure to install a pitless adapter	
— according to standard	75
Failure to develop and test a well	
— according to standard	75
General	
Failure to securely cover an	
— unattended well during construction	30
Failure to engage in well drilling	
— activity in accordance with accepted	
— industry practices	100

5.3 When Points Are Assessed:

Points will be assessed against a driller's record upon verification by the state engineer that an infraction has occurred. Points will be assessed at the time the state engineer becomes aware of the infraction regardless of when the infraction occurred.

5.4 Appeal of Infractions:

Well drillers may appeal each infraction in writing within 30 days of written notification by the state engineer.

5.5 Warning Letter:

When the number of points assessed against the well driller's record equals seventy-five (75) points, a warning letter will be sent to the well driller. The letter will notify the driller that if he continues to violate the administrative requirements or minimum construction standards contained in the Administrative Rules for Water Well Drillers, a hearing will be held to determine if his license should be suspended or revoked or the bond exacted. The letter will also describe the options available to the driller to delete points from the record as described in Subsection R655-4-5.7. A copy of the driller's infraction record will be included with the letter. In the event numerous points are assessed against the well drillers record so that the total surpasses seventy-five (75) and one hundred (100) points at the same time, no warning letter will be sent.

5.6 Well Driller Hearings:

5.6.1 When the number of points assessed against the well driller's record equals 100, a Notice of Agency Action (NAA)

will be sent to the well driller. The NAA will set forth the alleged facts, provide an opportunity for a response from the well driller, and provide notice of the hearing scheduled to consider the issues. The hearing will be scheduled at least 10 days from the date the NAA is mailed. The NAA will indicate the date, time, and place of the hearing.

5.6.2 A NAA may also be sent and a hearing may also be convened as a result of a complaint filed by a well owner regardless of the total number of points shown on the well driller's record.

5.6.3 A NAA may be sent and a hearing may be convened if there is evidence that a license or registration application submitted to the state engineer contains intentionally false or misleading information.

5.6.4 The purpose of the hearing will be to determine if disciplinary action is necessary regarding the water well driller's Utah Water Well License. The hearing will be recorded. At the hearing, testimony will be taken under oath regarding the alleged facts included in the NAA. Those providing testimony may include the water well driller, the well owner, Division of Water Rights staff, and others as deemed necessary. Evidence that is pertinent to the alleged facts may also be presented at the hearing. After considering the testimony and the evidence presented at the hearing, the State Engineer may determine either that there is no cause for action against the well driller's license or that disciplinary action is necessary.

5.7 Administrative Penalties.

Administrative penalties ordered against a licensed driller by the state engineer following a hearing can include probation, administrative fines, license suspension, and license revocation. Administrative penalties are ordered based on the severity of the infraction (Level I, II, III from Table 1 of Section 5.1) as well as the recurrence of an infraction.

5.7.1 Level I Administrative Penalties: Level I administrative penalties will be levied against Level I administrative infractions (see Table 1 of Section 5.1). The Level I administrative penalty structure is as follows:

5.7.1.1 At the first conviction of Level I infractions, the disciplinary action for the infractions shall be probation.

5.7.1.2 Second conviction shall result in probation and a fine at a rate of \$2.50 per infraction point.

5.7.1.3 Third conviction shall result in probation and an elevated fine at a rate of \$5.00 per infraction point.

5.7.1.4 Fourth conviction shall result in an elevated fine at a rate of \$10.00 per infraction point and possible suspension.

5.7.1.5 Continued and repeated convictions beyond the fourth conviction may result in an elevated fine at a rate of \$10.00 per infraction point and possible suspension or revocation.

5.7.1.6 Fines for late well logs and abandonment logs shall be calculated separately and added to fines calculated for other infractions. For late well log infractions, the points associated with each infraction will be multiplied by a factor based on the lateness of the well log. The infraction point multipliers are as follows:

TABLE 4

Tardiness of the log	Infraction Point Multiplier
1-2 weeks	0.50
2-4 weeks	1.00
1-3 months	1.50
3-6 months	2.00
6-9 months	2.50

9-12 months	3.00
Over 12 months	4.00

5.7.2 Level II Administrative Penalties: Level II administrative penalties will be levied against Level II administrative infractions (see Table 2 of Section 5.1). The Level II administrative penalty structure is as follows:

5.7.2.1 At the first conviction of Level II infractions, the disciplinary action shall result in probation and a fine at a rate of \$2.50 per infraction point.

5.7.2.2 Second conviction shall result in probation and an elevated fine at a rate of \$5.00 per infraction point.

5.7.2.3 Third conviction shall result in possible suspension and an elevated fine at a rate of \$10.00 per infraction point.

5.7.2.4 Continued and repeated convictions beyond the fourth conviction may result in an elevated fine at a rate of \$10.00 per infraction point and possible suspension or revocation.

5.7.3 Level III Administrative Penalties: Level III administrative penalties will be levied against Level III construction infractions (see Table 3 of Section 5.1). The Level III administrative penalty structure is as follows:

5.7.3.1 At the first conviction of Level III infractions, the disciplinary action shall result in probation and a fine at a rate of \$5.00 per infraction point.

5.7.3.2 Second conviction shall result in possible suspension and an elevated fine at a rate of \$10.00 per infraction point.

5.7.3.3 Third conviction may result in an elevated fine at a rate of \$10.00 per infraction point and possible suspension or revocation.

5.7.4 Administrative Penalties - General

5.7.4.1 Penalties will only be imposed as a result of a well driller hearing.

5.7.4.2 Failure to pay a fine within 30 days from the date it is assessed will result in the suspension of the well driller license until the fine is paid.

5.7.4.3 Fines shall be deposited as a dedicated credit. The state engineer shall expend the money retained from fines for expenses related to well drilling activity inspection, well drilling enforcement, and well driller education.

5.7.5 Probation: As described above in Sections 5.7.1, 5.7.2, and 5.7.3, probation will generally be the disciplinary action imposed in situations where the facts established through testimony and evidence describe first time infractions of the administrative rules that are limited in number and less serious in their impact on the well owner and on the health of the aquifer. The probation period will generally last until the number of infraction points on the well driller's record is reduced below 70 through any of the options described in Subsection 4-5-8.

5.7.6 Suspension: Suspension will generally be the disciplinary action imposed in situations where the facts established through testimony and evidence describe repeated convictions of the administrative rules, or infractions that a pose serious threat to the health of the aquifer, or a well driller's apparent disregard for the administrative rules or the state's efforts to regulate water well drilling. Depending upon the number and severity of the rule infractions as described above in Sections 5.7.1, 5.7.2, and 5.7.3, the state engineer may elect to suspend a well driller license for a certain period of time and/or until certain conditions have been met

by the well driller. In establishing the length of the suspension, the state engineer will generally follow the guideline that three infraction points is the equivalent of one day of suspension. A well driller whose license has been suspended will be prohibited from engaging in regulated well drilling activity. License suspension may also result in the exaction of the Well Driller Bond as set forth in Subsection 4-3-7.4. A well driller whose license has been suspended is allowed to work as a registered operator under the direct, continuous supervision of a licensed well driller. If the suspension period extends beyond the expiration date of the water well driller license, the water well driller may not apply to renew the license until the suspension period has run and any conditions have been met. Once the suspension period has run and once all conditions have been met by the well driller, the suspension will be lifted and the driller will be notified that he/she may again engage in the well drilling business. The well driller will then be placed on probation until the number of infraction points on the well driller's record is reduced below 70 through any of the options described in Subsection 4-5-8.

5.7.7 Revocation: Revocation will generally be the disciplinary action imposed in situations where the facts established through testimony and evidence describe repeated convictions of the administrative rules for which the well driller's Utah Water Well License has previously been suspended. Revocation will also be the disciplinary action taken if after a hearing the facts establish that a driller knowingly provided false or misleading information on a driller license application. A well driller whose license has been revoked will be prohibited from engaging in regulated well drilling activity. License revocation may also result in the exaction of the Well Driller Bond as set forth in Subsection 4-3-7.4. A well driller whose license has been revoked is allowed to work as a registered operator under the direct, continuous supervision of a licensed well driller. A well driller whose water well license has been revoked may not make application for a new water well license for a period of two years from the date of revocation. After the revocation period has run, a well driller may make application for a new license as provided in Section R655-4-3. However, the well drilling experience required must be based on new experience obtained since the license was revoked.

5.8 Deleting Point from the Driller Record.

Points assessed against a well driller's record will remain on the record unless deleted through any of the following options:

5.8.1 Points will be deleted three years after the date when the infraction is noted by the state engineer and the points are assessed against the driller's record.

5.8.2 One half the points on the record will be deleted if the well driller is free of infractions for an entire year.

5.8.3 Thirty (30) points will be deleted for obtaining six (6) hours of approved continuing education credits in addition to the credits required to renew the water well driller's license. A driller may exercise this option only once each year.

5.8.4 Twenty (20) points will be deleted for taking and passing (with a minimum score of 70%) the test covering the administrative requirements and the minimum construction standards. A driller may exercise this option only every other year.

5.9 Lack of Knowledge Not an Excuse.

Lack of knowledge of the law or the administrative requirements and minimum construction standards related to well drilling shall not constitute an excuse for violation thereof.

R655-4-6. Renewal of Well Driller's License and Operator's Registration.

6.1 Well Driller's Licenses.

6.1.1 Water well driller licenses shall expire and be renewed according to the following provisions:

a. The licenses of well drillers whose last name begins with A thru L shall expire at 12 midnight on June 30 of odd numbered years.

b. The licenses of well drillers whose last name begins with M thru Z shall expire at 12 midnight on June 30 of even numbered years.

c. Drillers who meet the renewal requirements set forth in Subsection R655-4-6(6.1.2) on or before the expiration deadlines set forth in Subsection R655-4-6(6.1.1) shall be authorized to operate as a licensed well driller until the new license is issued.

d. Drillers must renew their licenses within 24 months of the license expiration date. Drillers failing to renew within 24 months of the license expiration date must re-apply for a well driller's license, meet all the application requirements of Subsection R655-4-3(3.2), and provide documentation of 12 hours of continuing education according to the requirements of R655-4-6(6.2) obtained within the previous 24 months.

6.1.2 Applications to renew a well driller's license must include the following items:

a. Payment of the license renewal fee determined and approved by the legislature;

b. Written application to the state engineer;

c. Documentation of continuing well driller bond coverage in the amount of five thousand dollars (\$5,000) penal bond for the next licensing period calendar year. The form and conditions of well driller bond shall be as set forth in Section 4-3. Allowable documentation can include bond continuation certificates and CD statements;

d. Proper submission of all start cards, official well driller reports (well logs), and well abandonment reports for the current licensing period;

e. Documentation of compliance with the continuing education requirements described in Section 6.2.1. Acceptable documentation of attendance at approved courses must include the following information: the name of the course, the date it was conducted, the number of approved credits, the name and signature of the instructor and the driller's name; for example, certificates of completion, transcripts, attendance rosters, diplomas, etc. (Note: drillers are advised that the state engineer will not keep track of the continuing education courses each driller attends during the year. Drillers are responsible to acquire and then submit documentation with the renewal application.)

6.1.3 License renewal applications that do not meet the requirements of Subsection R655-5-6(6.1.2) by June 30 of the expiration year or which are received after June 30 of the expiration year, will be assessed an additional administrative late fee determined and approved by the legislature.

6.1.4 The state engineer may renew a license on a restricted, conditional, or limited basis according to the driller's performance and compliance with established rules and construction standards. The state engineer may refuse to renew a license to a well driller if it appears that there has been a violation of these rules or a failure to comply with Section 73-3-25 of the Utah Code.

~~6.2 Continuing Education:~~

~~6.2.1 During each license period, licensed well drillers are required to earn at least twelve (12) continuing education credits by attending training sessions sponsored or sanctioned by the state engineer. Drillers who do not renew their licenses, but who intend to renew within the following 24 month period allowed in Section 6.1.1, are also required to earn twelve (12) continuing education credits.~~

~~6.2.2 The state engineer shall establish a committee consisting of the state engineer or a representative, no more than four licensed well drillers, a ground water scientist, and a manufacturer/supplier of well drilling products. The committee will develop criteria for the training courses, approve the courses which can offer continuing education credits, and assign the number of credits to each course. The committee will make recommendations to the state engineer concerning appeals from training course sponsors and well drillers related to earning continuing education credit.~~

~~6.2.3 The committee established in Section 6.2.2 shall assign the number of continuing education credits to each proposed training session based on the instructor's qualifications, a written outline of the subjects to be covered, and written objectives for the session. Well drillers wishing continuing education credit for other training sessions shall provide the committee with all information it needs to assign continuing education requirements.~~

~~6.2.4 Licensed drillers must complete a State Engineer-sponsored "Administrative Rules for Well Drillers" review course or other approved rules review once every four (4) years.~~

~~6.2.5 CE credits cannot be carried over from one licensing period to another.~~

~~6.3 Drill Rig Operator's Registration:~~

~~6.3.1 All operator's registrations shall expire at the same time as the license of the well driller by whom they are employed. Operators who meet the renewal requirements set forth in Subsection R655-4-6(6.3.2) on or before 12 midnight June 30 of the expiration year shall be authorized to act as a registered operator until the new registration is issued. Operators must renew their registrations within 24 months of the registration expiration date. Operators failing to renew within 24 months of the registration expiration date must re-apply for an operator's registration and meet all the application requirements of Subsection R655-4-3(3.3).~~

~~6.3.2 Applications to renew an operator's registration must include the following items:~~

~~a. Payment of the registration renewal fee determined and approved by the legislature;~~

~~b. Written application to the state engineer.~~

~~6.3.3 Registration renewal applications that do not meet the requirements of Subsection R655-4-6(6.3.2) by the June 30 expiration date or that are received after the June 30 expiration date will be assessed an additional administrative late fee determined and approved by the legislature.~~

R655-4-7. The Approval Process for Non-Production Wells:

~~7.1 General:~~

~~Regulated non-production wells such as cathodic protection wells, heating or cooling exchange wells, and monitor wells drilled and constructed to a depth greater than 30 feet below natural ground surface require approval from the state engineer.~~

~~7.2 Approval to Construct or Replace:~~

~~Approval to construct or replace non-production wells is issued by the state engineer's regional offices following review of written requests from the owner or applicant, federal or state agency or engineering representative. The requests for approval shall be made on forms provided by the state engineer entitled "Request for Non-Production Well Construction". The following information must be included on the form:~~

~~a. General location or common description of the project.~~

~~b. Specific course and distance locations from established government surveyed outside section corners or quarter corners.~~

~~c. Total anticipated number of wells to be installed.~~

~~d. Diameters, approximate depths and materials used in the wells.~~

~~e. Projected start and completion dates.~~

~~f. Name and license number of the driller contracted to install the wells.~~

~~There is no fee required to request approval to drill a non-production wells. Upon written approval by the state engineer, the project will be assigned an approved non-production well number which will be referenced on all start cards and official well driller's reports.~~

R655-4-8. General Requirements:

~~8.1 Standards:~~

~~8.1.1 In some locations, the compliance with the following minimum standards will not result in a well being free from pollution or from being a source of subsurface leakage, waste, or contamination of the groundwater resource. Since it is impractical to attempt to prepare standards for every conceivable situation, the well driller shall judge when to construct wells under more stringent standards when such precautions are necessary to protect the groundwater supply and those using the well in question. Other state and local regulations pertaining to well drilling and construction, groundwater protection, and water quality regulations may exist that are either more stringent than these rules or that specifically apply to a given situation. It is the well driller's responsibility to understand and apply other regulations as applicable.~~

~~8.2 Well Site Locations:~~

~~8.2.1 Well site locations are described by course and distance from outside section corners or quarter corners (based on a Section/Township/Range Cadastral System) and by the Universal Transverse Mercator (UTM) coordinate system on all state engineer authorizations to drill (Start Cards). However, the licensee should also be familiar with local zoning ordinances, or county boards of health requirements which may limit or restrict the actual well location and construction in relationship to property/structure boundaries and existing or proposed concentrated sources of pollution or contamination such as septic tanks, drain fields, sewer lines, stock corrals, feed lots, etc. The licensee should also be familiar with the Utah Underground Facilities Act (Title 54, Chapter 8a of the Utah Code Annotated 1953 as amended) which requires subsurface excavators (including well drilling) to notify operators of underground utilities prior to any subsurface excavation. Information on this requirement can be found by calling (800)662-4111.~~

8.2.2 Regulated wells shall be drilled at the approved location as defined on the valid start card. The driller shall check the drilling location to see if it matches the state-approved location listed on the Driller's Start Card.

8.3 Unusual Conditions:

8.3.1 If unusual conditions occur at a well site and compliance with these rules and standards will not result in a satisfactory well or protection to the groundwater supply, a licensed water well driller shall request that special standards be prescribed for a particular well. The request for special standards shall be in writing and shall set forth the location of the well, the name of the owner, the unusual conditions existing at the well site, the reasons that compliance with the rules and minimum standards will not result in a satisfactory well, and the proposed standards that the licensed water well driller believes will be more adequate for this particular well. If the state engineer finds that the proposed changes are in the best interest of the public, he will approve the proposed changes by assigning special standards for the particular well under consideration.

R655-4-9. Well Drilling and Construction Requirements.

9.0 General:

9.0.1 Figures 1 through 5 are used to illustrate typical well construction standards, and can be viewed in the State of Utah Water Well Handbook available at the Division of Water Rights, 1594 West North Temple, Salt Lake City, Utah. Figure 1 illustrates the typical construction of a drilled well with driven casing such as a well drilled using the cable tool method or air rotary with a drill-through casing driver. Figure 2 illustrates the typical construction of a well drilled with an oversized borehole and/or gravel packed without the use of surface casing. Figure 3 illustrates the typical construction of a well drilled with an oversized borehole and/or gravel packed with the use of surface casing. Figure 4 illustrates the typical construction of a well drilled with an oversized borehole and/or gravel packed completed in stratified formations in which poor formation material or poor quality water is encountered. Figure 5 illustrates the typical construction of a well completed with PVC or nonmetallic casing.

9.1 Approved Products, Materials, and Procedures:

9.1.1 Any product, material or procedure designed for use in the drilling, construction, cleaning, renovation, development or abandonment of water or monitor wells, which has received certification and approval for its intended use by the National Sanitation Foundation (NSF) under ANSI/NSF Standard 60 or 61, the American Society for Testing Materials (ASTM), the American Water Works Association (AWWA) or the American National Standards Institute (ANSI) may be utilized. Other products, materials or procedures may also be utilized for their intended purpose upon manufacturers certification that they meet or exceed the standards or certifications referred to in this section and upon state engineer approval.

9.2 Well Casing - General

9.2.1 Drillers Responsibility. It shall be the sole responsibility of the well driller to determine the suitability of any type of well casing for the particular well being constructed, in accordance with these minimum requirements:

9.2.2 Casing Stiek-up. The well casing shall extend a minimum of 18 inches above finished ground level and the natural ground surface should slope away from the casing. A secure

sanitary, weatherproof seal or a completely welded cap shall be placed on the top of the well casing to prevent contamination of the well. If a vent is placed in the cap, it shall be properly screened to prevent access to the well by debris, insects, or other animals.

9.2.3 Steel Casing. All steel casing installed in Utah shall be in new or like-new condition, being free from pits or breaks, clean with all potentially dangerous chemicals or coatings removed, and shall meet the minimum specifications listed in Table 5 of these rules. In order to utilize steel well casing that does not fall within the categories specified in Table 5, the driller shall receive written approval from the state engineer. All steel casing installed in Utah shall meet or exceed the minimum ASTM, ANSI, or AWWA standards for steel pipe as described in Subsection 9.1 unless otherwise approved by the state engineer. Applicable standards (most recent revisions) may include:

- ANSI/AWWA A100 - AWWA Standard for Water Wells.
- ANSI/ASTM A53 - Standard Specifications for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated, Welded and Seamless.
- ANSI/ASTM A139 - Standard Specification for Electric-Fusion (Arc) Welded Steel Pipe (NPS 4 and over).
- ANSI/AWWA C200 - Standard for Steel Water Pipe 6 in. and Larger.
- API Spec. 5L - Specification for Liner Pipe.
- ASTM A106 - Standard Specification for Seamless Carbon Steel Pipe for High Temperature Service
- ASTM A778 - Standard Specifications for Welded, Unannealed Austenitic Stainless Steel Tubular Products.
- ASTM A252 - Standard Specification for Welded and Seamless Steel Pipe Piles.
- ASTM A312 - Standard Specification for Seamless, Welded, and Heavily Cold Worked Austenitic Stainless Steel Pipes

TABLE 5
MINIMUM WALL THICKNESS FOR STEEL WELL CASING

Depth	0	200	300	400	600	800	1000	1500
Nominal Casing Diameter	200	300	400	600	800	1000	1500	2000
	(ft)	(ft)	(ft)	(ft)	(ft)	(ft)	(ft)	(ft)
2	.154	.154	.154	.154	.154	.154		
3	.216	.216	.216	.216	.216	.216		
4	.237	.237	.237	.237	.237	.237	.237	.237
5	.250	.250	.250	.250	.250	.250	.250	.250
6	.250	.250	.250	.250	.250	.250	.250	.250
8	.250	.250	.250	.250	.250	.250	.250	.250
10	.250	.250	.250	.250	.250	.250	.312	.312
12	.250	.250	.250	.250	.250	.250	.312	.312
14	.250	.250	.250	.250	.312	.312	.312	.312
16	.250	.250	.312	.312	.312	.312	.375	.375
18	.250	.312	.312	.312	.375	.375	.375	.438
20	.250	.312	.312	.312	.375	.375	.375	.438
22	.312	.312	.312	.375	.375	.375	.375	.438
24	.312	.312	.375	.375	.375	.438		
30	.312	.375	.375	.438	.438	.500		

Note: Minimum wall thickness is in inches.

9.2.4 Plastic and Other Non-metallic Casing.

9.2.4.1 Materials. PVC, SR, ABS, or other types of non-metallic well casing and screen may be installed in Utah upon obtaining permission of the well owner. Plastic well casing and screen shall be manufactured and installed to conform with The American National Standards Institute (ANSI) or the American Society for Testing and Materials (ASTM) Standard F 480-95,

which are incorporated by reference to these rules. Casing and screen meeting this standard is normally marked "WELL CASING" and with the ANSI/ASTM designation "F 480-95, SDR-17 (or 13.5, 21, etc.)". All plastic casing and screen for use in potable water supplies shall be manufactured to be acceptable to the American National Standards Institute/National Sanitation Foundation (NSF) standard 61. Other types of plastic casings and screens may be installed upon manufacturers certification that such casing meets or exceeds the above described ASTM/SDR specification or ANSI/NSF approval and upon state engineer approval.

9.2.4.2 Minimum Wall Thickness and Depth Requirements. PVC well casing and screen with an outside diameter equal to or less than four and one half (4.5) inches shall meet the minimum wall thickness required under ASTM Standard F480-95 SDR 21 or a Schedule 40 designation. PVC well casing and screen with an outside diameter greater than four and one half (4.5) inches shall meet the minimum wall thickness required under ASTM Standard F480-95 SDR 17 or a Schedule 80 designation. Additionally, caution should be used whenever other than factory slots or perforations are added to PVC well casing. The installation of hand cut slots or perforations significantly reduces the collapse strength tolerances of unaltered casings. The depth at which plastic casing and screen is placed in a well shall conform to the minimum requirements and restrictions as outlined in ASTM Standard F-480-95.

9.2.4.3 Fiberglass Casing. Fiberglass reinforced plastic well casings and screens may be installed in wells upon obtaining permission of the well owner. All fiberglass casing or screens installed in wells for use in potable water supplies shall be manufactured to be acceptable by ANSI/NSF Standard 61 and upon state engineer approval.

9.2.4.4 Driving Non-metallic Casing. Non-metallic casing shall not be driven or dropped and may only be installed in an oversized borehole.

9.2.4.5 Protective Casing. If plastic or other non-metallic casing is utilized, the driller shall install a protective steel casing which complies with the provisions of Subsection 9.2.3 or an equivalent protective covering approved by the state engineer over and around the well casing at ground surface to a depth of at least two and one half (2.5) feet. If a pitless adapter is installed on the well, the bottom of the protective cover shall be placed above the pitless adapter/well connection. If the pitless adapter is placed in the protective casing, the protective casing shall extend below the pitless entrance in the well casing and be sealed both on the outside of the protective casing and between the protective casing and well casing. The protective cover shall be sealed in the borehole in accordance with the requirements of Subsection 9.4. The annular space between the protective cover and non-metallic casing shall also be sealed with acceptable materials in accordance with Subsection 9.4. A sanitary, weather-tight seal or a completely welded cap shall be placed on top of the protective cover, thus enclosing the well itself. If the sanitary seal is vented, screens shall be placed in the vent to prevent debris, insects, and other animals from entering the well. This protective casing requirement does not apply to monitor wells. Figure 5 depicts this requirement.

9.3 Casing Joints.

9.3.1 General. All well casing joints shall be made water tight. In instances in which a reduction in casing diameter is made, there shall be enough overlap of the casings to prevent

misalignment and to insure the making of an adequate seal in the annular space between casings to prevent the movement of unstable sediment or formation material into the well, in addition to preventing the degradation of the water supply by the migration of inferior quality water through the annular space between the two casings.

9.3.2 Steel Casing. All steel casing shall be screw-coupled or welded. If the joints are welded, the weld shall be at least as thick as the wall thickness of the casing and shall consist of at least two beads for the full circumference of the joint. Spot welding of joints is prohibited.

9.3.3 Plastic Casing. All plastic well casing shall be mechanically screw-coupled, chemically welded, cam-locked or lug-coupled to provide water-tight joints as per ANSI/ASTM F480-95. Metal screws driven into casing joints shall not be long enough to penetrate the inside surface of the casing. Metal screws should be used only when surrounding air temperatures are below 50 degrees Fahrenheit (F) which retards the normal setting of the cement.

9.4 Surface Seals and Interval Seals.

9.4.1 General. Before the drill rig is removed from the drill site of a well, a surface seal shall be installed. Well casings shall be sealed to prevent the possible downward movement of contaminated surface waters in the annular space around the well casing. The seal shall also prevent the upward movement of artesian waters within the annular space around the well casing. Depending upon hydrogeologic conditions around the well, interval seals may need to be installed to prevent the movement of groundwater either upward or downward around the well from zones that have been cased out of the well due to poor water quality or other reasons. The following surface and interval seal requirements apply equally to rotary drilled, cable tool drilled, bored, jetted, augered, and driven wells unless otherwise specified.

9.4.2 Seal Material.

9.4.2.1 General. The seal material shall consist of neat cement grout, sand-cement grout, unhydrated bentonite, or bentonite grout as defined in Section R655-4-2. Use of sealing materials other than those listed above must be approved by the state engineer. Bentonite drilling fluid (drilling mud), dry drilling bentonite, or drill cuttings are not an acceptable sealing material. In no case shall drilling fluid (mud), drill cuttings, drill chips, or puddling clay be used, or allowed to fill, partially fill, or fall into the required sealing interval of a well during construction of the well. All hydrated sealing materials (neat cement grout, sand-cement grout, bentonite grout) shall be placed by tremie pipe, pumping, or pressure from the bottom of the seal interval upwards in one continuous operation when placed below a depth of 30 feet or when placed below static groundwater level. Portland Cement grouts must be allowed to cure a minimum of 72 hours for Type I-II cement or 36 hours for Type III cement before well drilling, construction, or testing may be resumed. The volume of annular space in the seal interval shall be calculated by the driller to determine the estimated volume of seal material required to seal the annular space. The driller shall place at least the volume of material equal to the volume of annular space, thus ensuring that a continuous seal is placed. The driller shall maintain the well casing centered in the borehole during seal placement using centralizers or other means to ensure that the seal is placed radially and vertically continuous.

9.4.2.2 Bentonite Grout. Bentonite used to prepare grout for sealing shall have the ability to gel; not separate into water and solid materials after it gels; have a hydraulic conductivity or permeability value of $10E-7$ centimeters per second or less; contain at least 20 percent solids by weight of bentonite, and have a fluid weight of 9.5 pounds per gallon or greater and be specifically designed for the purpose of sealing. Bentonite or polymer drilling fluid (mud) does not meet the definition of a grout with respect to density, gel strength, and solids content and shall not be used for sealing purposes. At no time shall bentonite grout contain materials that are toxic, polluting, develop odor or color changes, or serve as a micro-bacterial nutrient. All bentonite grout shall be prepared and installed according to the manufacturer's instructions and these rules. All additives must be certified by a recognized certification authority such as NSF and approved by the state engineer.

9.4.2.3 Unhydrated Bentonite. Unhydrated bentonite (e.g., granular, tabular, pelletized, or chip bentonite) may be used in the construction of well seals above a depth of 50 feet. Unhydrated bentonite can be placed below a depth of 50 feet when placed inside the annulus of two casings, when placed using a tremie pipe, or by using a placement method approved by the state engineer. The bentonite material shall be specifically designed for well sealing and be within industry tolerances. All unhydrated bentonite used for sealing must be free of organic polymers and other contamination. Placement of bentonite shall conform to the manufacturer's specifications and instructions and result in a seal free of voids or bridges. Granular or powdered bentonite shall not be placed under water by gravity feeding from the surface. When placing unhydrated bentonite, a sounding or tamping tool shall be run in the sealing interval during pouring to measure fill-up rate, verify a continuous seal placement, and to break up possible bridges or cake formation.

9.4.3 Seal and Unperforated Casing Placement.

9.4.3.1 General Seal Requirements. Figure 1 illustrates the construction of a surface seal for a typical well. The surface seal must be placed in an annular space that has a minimum diameter of four (4) inches larger than the nominal size of the permanent well casing (This amounts to a 2-inch annulus). The surface seal must extend from land surface to a minimum depth of 30 feet. The completed surface seal must fully surround the permanent well casing, must be evenly distributed, free of voids, and extend to undisturbed or recompacted soil. In unconsolidated formations such as gravels, sands, or other unstable conditions when the use of drilling fluid or other means of keeping the borehole open are not employed, either a temporary surface casing with a minimum depth of 30 feet and a minimum nominal diameter of four (4) inches greater than the outermost permanent casing shall be utilized to ensure proper seal placement or the well driller shall notify the state engineer's office that the seal will be placed in a potentially unstable open borehole without a temporary surface casing by telephone or FAX in conjunction with the start card submittal in order to provide an opportunity for the state engineer's office to inspect the placement of the seal. If a temporary surface casing is utilized, the surface casing shall be removed in conjunction with the placement of the seal. Alternatively, conductor casing may be sealed permanently in place to a depth of 30 feet with a minimum 2-inch annular seal between the surface casing and borehole wall. If the temporary surface casing is to be removed, the surface casing shall be withdrawn as sealing material is placed

between the outer-most permanent well casing and borehole wall. The sealing material shall be kept at a sufficient height above the bottom of the temporary surface casing as it is withdrawn to prevent caving of the borehole wall. If the temporary conductor casing is driven in place without a 2-inch annular seal between the surface casing and borehole wall, the surface casing may be left in place in the borehole only if it is impossible to remove because of unforeseen conditions and not because of inadequate drilling equipment, or if the removal will seriously jeopardize the integrity of the well and the integrity of subsurface barriers to pollutants or contaminant movement. The temporary surface casing can only be left in place without a sufficient 2-inch annular seal as describe above with the approval of the state engineer on a case by case basis. If the surface casing is left in place, it shall be perforated to allow seal material to penetrate through the casing and into the formation and annular space between the surface casing and borehole wall. Unhydrated bentonite shall not be used to construct the surface seal when the surface casing is left in place. Grout seal materials must be used to construct the surface seal when the surface casing is left in place. The grout must be placed with sufficient pressure to force the grout through the surface casing perforations and into the annular space between the surface casing and borehole wall and into the formation. Surface seals and unperforated casing shall be installed in wells located in unconsolidated formation such as sand and gravel with minor clay or confining units; unconsolidated formation consisting of stratified layers of materials such as sand, gravel, and clay or other confining units; and consolidated formations according to the following procedures:

9.4.3.2 Unconsolidated Formation without Significant Confining Units. This includes wells that penetrate an aquifer overlain by unconsolidated formations such as sand and gravel without significant clay beds (at least six feet thick) or other confining formations. The surface seal must be placed in a 2-inch annular space to a minimum depth of 30 feet. Permanent unperforated casing shall extend at least to a depth of 30 feet and also extend below the lowest anticipated pumping level. Additional casing placed in the open borehole below the required depths noted above shall meet the casing requirements of Subsection 9.2 unless the casing is installed as a liner inside a larger diameter approved casing.

9.4.3.3 Unconsolidated Formation with Significant Confining Units. This includes wells that penetrate an aquifer overlain by clay or other confining formations that are at least six (6) feet thick. The surface seal must be placed in a 2-inch annular space to a minimum depth of 30 feet and at least five (5) feet into the confining unit above the water bearing formation. Unperforated casing shall extend from ground surface to at least 30 feet and to the bottom of the confining unit overlying the water bearing formation. If necessary to complete the well, a smaller diameter casing, liner, or well screen may be installed below the unperforated casing. The annular space between the two casings shall be sealed with grout, bentonite, or a mechanical packer. Additional casing placed in the open borehole below the required depths noted above shall meet the casing requirements of Subsection 9.2 unless the casing is installed as a liner inside a larger diameter approved casing.

9.4.3.4 Consolidated Formation. This includes drilled wells that penetrate an aquifer, either within or overlain by a consolidated formation. The surface seal must be placed in a 2-inch

annular space to a minimum depth of 30 feet and at least five (5) feet into competent consolidated formation. Unperforated permanent casing shall be installed to extend to a depth of at least 30 feet and the lower part of the casing shall be driven and sealed at least five (5) feet into the consolidated formation. If necessary to complete the well, a smaller diameter casing, liner, or well screen may be installed below the unperforated casing. The annular space between the two casings shall be sealed with grout, bentonite, or a mechanical packer. Additional casing placed in the open borehole below the required depths noted above shall meet the casing requirements of Subsection 9.2 unless the casing is installed as a liner inside a larger diameter approved casing.

9.4.3.5 Sealing Artesian Wells. Unperforated well casing shall extend into the confining stratum overlying the artesian zone, and shall be adequately sealed into the confining stratum to prevent both surface and subsurface leakage from the artesian zone. If leaks occur around the well casing or adjacent to the well, the well shall be completed with the seals, packers, or casing necessary to eliminate the leakage. The driller shall not move the drilling rig from the well site until leakage is completely stopped, unless authority for temporary removal of the drilling rig is granted by the state engineer, or when loss of life or property is imminent. If the well flows naturally at land surface due to artesian pressure, the well shall be equipped with a control valve so that the flow can be completely stopped. The control valve must be available for inspection by the state engineer at all times.

9.4.4 Interval Seals. Formations containing undesirable materials (e.g., fine sand and silt that can damage pumping equipment and result in turbid water), contaminated groundwater, or poor quality groundwater must be sealed off so that the unfavorable formation cannot contribute to the performance and quality of the well. These zones must also be sealed to eliminate the potential of cross contamination or commingling between two aquifers of differing quality. Figure 4 illustrates this situation. Unless approved by the state engineer, construction of wells that cause the commingling or cross connection of otherwise separate aquifers is not allowed.

9.4.5 Other Sealing Methods. In wells where the above-described methods of well sealing do not apply, special sealing procedures can be approved by the state engineer upon written request by the licensed well driller.

9.5 Special Requirements for Oversized and Gravel-Packed Wells. This section applies to wells in which casing is installed in an open borehole without driving or drilling in the casing and an annular space is left between the borehole wall and well casing (e.g., mud rotary wells, flooded reverse circulation wells, air rotary wells in open bedrock).

9.5.1 Oversized Borehole. The diameter of the borehole shall be at least four (4) inches larger than the outside diameter of the well casing to be installed to allow for proper placement of the gravel pack and/or formation stabilizer and adequate clearance for grouting and surface seal installations. In order to accept a smaller diameter casing in any oversized borehole penetrating unconsolidated or stratified formations, the annular space must be sealed in accordance with Subsection 9.4. In order to minimize the risk of: 1) borehole caving or collapse; 2) casing failure or collapse; or 3) axial distortion of the casing, it is recommended that the entire annular space in an oversized borehole between the casing and borehole wall be filled with formation stabilizer such as approved

seal material, gravel pack, filter material or other state engineer-approved materials. Well casing placed in an oversized borehole should be suspended at the ground surface until all formation stabilizer material is placed in order to reduce axial distortion of the casing if it is allowed to rest on the bottom of an open oversized borehole. In order to accept a smaller diameter casing, the annular space in an oversized borehole penetrating unconsolidated formations (with no confining layer) must be sealed in accordance with Subsection 9.4 to a depth of at least 30 feet or from static water level to ground surface, whichever is deeper. The annular space in an oversized borehole penetrating stratified or consolidated formations must be sealed in accordance with Subsection 9.4 to a depth of at least 30 feet or five (5) feet into an impervious strata (e.g., clay) or competent consolidated formation overlying the water producing zones back to ground surface, whichever is deeper. Especially in the case of an oversized borehole, the requirements of Subsection 9.4.4 regarding interval sealing must be followed.

9.5.2 Gravel Pack or Filter Material. The gravel pack or filter material shall consist of clean, well-rounded, chemically stable grains that are smooth and uniform. The filter material should not contain more than 2% by weight of thin, flat, or elongated pieces and should not contain organic impurities or contaminants of any kind. In order to assure that no contamination is introduced into the well via the gravel pack, the gravel pack must be washed with a minimum 100 ppm solution of chlorinated water or dry hypochlorite mixed with the gravel pack at the surface before it is introduced into the well (see Table 6 of these rules for required amount of chlorine material).

9.5.3 Placement of Filter Material. All filter material shall be placed using a method that through common usage has been shown to minimize a) bridging of the material between the borehole and the casing, and b) excessive segregation of the material after it has been introduced into the annulus and before it settles into place. It is not acceptable to place filter material by pouring from the ground surface unless proper sounding devices are utilized to measure dynamic filter depth, evaluate pour rate, and minimize bridging and formation of voids.

9.5.4 No Surface Casing Used. If no permanent conductor casing is installed, neat cement grout, sand cement grout, bentonite grout, or unhydrated bentonite seal shall be installed in accordance with Subsection 9.4. Figure 2 of these rules illustrates the construction of a typical well of this type.

9.5.5 Permanent Conductor Casing Used. If permanent conductor casing is installed, it shall be unperforated and installed and sealed in accordance with Subsection 9.4 as depicted in Figure 3 of these rules. After the gravel pack has been installed between the conductor casing and the well casing, the annular space between the two casings shall be sealed by either welding a water-tight steel cap between the two casings at land surface or filling the annular space between the two casings with neat cement grout, sand cement grout, bentonite grout, or unhydrated bentonite from at least 50 feet to the surface and in accordance with Subsection 9.4. If a hole will be created in the permanent conductor casing in order to install a pitless adapter into the well casing, the annular space between the conductor casing and well casing shall be sealed to at least a depth of thirty (30) feet with neat cement grout, sand cement grout, bentonite grout, or unhydrated bentonite. A waterproof cap or weld ring sealing the two casings at the surface by itself without the annular seal between the two casings is unacceptable when a pitless

adapter is installed in this fashion. Moreover in this case, the annular space between the surface casing and well casing must be at least 2 inches in order to facilitate seal placement.

9.5.6 Gravel Feed Pipe. If a gravel feed pipe, used to add gravel to the gravel pack after well completion, is installed, the diameter of the borehole in the sealing interval must be at least four (4) inches in diameter greater than the permanent casing plus the diameter of the gravel feed pipe. The gravel feed pipe must be completely surrounded by the seal. The gravel feed pipe must extend at least 18 inches above ground and must be sealed at the top with a watertight cap or plug (see Figure 2).

9.6 Protection of the Aquifer.

9.6.1 Drilling Fluids and LCMs. The well driller shall take due care to protect the producing aquifer from clogging or contamination. Organic substances shall not be introduced into the well or borehole during drilling or construction. Every effort shall be made to remove all substances and materials introduced into the aquifer or aquifers during well construction. "Substances and materials" shall mean all drilling fluids, filter cake, and any other inorganic substances added to the drilling fluid that may seal or clog the aquifer. The introduction of lost circulation materials (LCM's) during the drilling process shall be limited to those products which will not present a potential medium for bacterial growth or contamination. Only LCM's which are non-organic, which can be safely broken down and removed from the borehole, may be utilized. This is especially important in the construction of wells designed to be used as a public water system supply.

9.6.2 Containment of Drilling Fluid. Drilling or circulating fluid introduced into the drilling process shall be contained in a manner to prevent surface or subsurface contamination and to prevent degradation of natural or man-made water courses or impoundments. Rules regarding the discharges to waters of the state are promulgated under R317-8-2 of the Utah Administrative Code and regulated by the Utah Division of Water Quality (Tel. 801-536-6146). Pollution of waters of the state is a violation of the Utah Water Quality Act, Utah Code Annotated Title 19, Chapter 5.

9.6.3 Mineralized, Contaminated or Polluted Water. Whenever a water bearing stratum that contains nonpotable mineralized, contaminated or polluted water is encountered, the stratum shall be adequately sealed off so that contamination or comingling of the overlying or underlying groundwater zones will not occur (see Figure 4).

9.6.4 Drilling Equipment. All tools, drilling equipment, and materials used to drill a well shall be free of contaminants prior to beginning well construction. Contaminants include lubricants, fuel, bacteria, etc. that will reduce the well efficiency, and any other item(s) that will be harmful to public health and/or the resource or reduce the life of the water well. It is recommended that excess lubricants placed on drilling equipment be wiped clean prior to insertion into the borehole.

9.6.5 Well Disinfection and Chlorination of Water. No contaminated or untreated water shall be placed in a well during construction. Water should be obtained from a chlorinated municipal system. Where this is not possible, the water must be treated to give 100 parts per million free chlorine residual. Upon completion of a well or work on a well, the driller shall disinfect the well using accepted disinfection procedures to give 100 parts per million free chlorine residual equally distributed in the well water

from static level to the bottom of the well. A chlorine solution designated for potable water use prepared with either calcium hypochlorite (powdered, granular, or tablet form) or sodium hypochlorite in liquid form shall be used for water well disinfection. Off-the-shelf chlorine compounds intended for home laundry use, pool or fountain use should not be used if they contain additives such as antifungal agents, silica ("Ultra" brands), scents, etc. Table 6 provides the amount of chlorine compound required per 100 gallons of water or 100 feet linear casing volume of water to mix a 100 parts per million solution. Disinfection situations not depicted in Table 6 must be approved by the state engineer. Additional recommendations and guidelines for water well system disinfection are available from the state engineer upon request.

TABLE 6
AMOUNT OF CHLORINE COMPOUND FOR EACH 100 FEET OF WATER
STANDING IN WELL (100 ppm solution)

Well Diameter (inches)	Ca-HyCLT* (25% HOCL) (ounces)	Ca-HyCLT (65% HOCL) (ounces)	Na-HyCLT** (12-trade %) (fluid ounces)	Liquid CL*** (100% Cl2) (lbs)
2	1.00	0.50	3.5	0.03
4	3.50	1.50	7.0	0.06
6	8.00	3.00	16.0	0.12
8	14.50	5.50	28.0	0.22
10	22.50	8.50	45.0	0.34
12	32.50	12.00	64.0	0.50
14	44.50	16.50	88.0	0.70
16	58.00	26.00	112	0.88
20	90.50	33.00	179	1.36
For every 100 gal. of water add:	5.50	2.00	11.5	0.09

NOTES: *Calcium Hypochlorite (solid)
**Sodium Hypochlorite (liquid)
***Liquid Chlorine

9.7 Special Requirements.

9.7.1 Explosives. Explosives used in well construction shall not be detonated within the section of casing designed or expected to serve as the surface seal of the completed well, whether or not the surface seal has been placed. If explosives are used in the construction of a well, their use shall be reported on the official well log. In no case shall explosives, other than explosive shot perforators specifically designed to perforate steel casing, be detonated inside the well casing or liner pipe.

9.7.2 Access Port. Every well shall be equipped with a usable access port so that the position of the water level, or pressure head, in the well can be measured at all times.

9.7.3 Completion or Abandonment. A licensed driller shall not remove his drill rig from a well site unless the well is completed or abandoned. Completion of a well shall include all surface seals, gravel packs or curbs required. Dry boreholes, or otherwise unsuccessful attempts at completing a well, shall be properly abandoned in accordance with Section R655-4-12. Upon completion, all wells shall be equipped with a watertight, tamper-resistant casing cap or sanitary seal.

9.7.4 Surface Security. If it becomes necessary for the driller to temporarily discontinue the drilling operation before completion of the well or otherwise leave the well or borehole unattended, the well and/or borehole must be covered securely to prevent contaminants from entering the casing or borehole and

rendered secure against entry by children, vandals, domestic animals, and wildlife.

9.7.5 Pitless Adapters. Pitless adapters or units are acceptable to use with steel well casing as long as they are installed in accordance with manufacturers recommendations and specifications. The pitless adaptor, including the cap or cover, easing extension, and other attachments, must be so designed and constructed to be water tight and to prevent contamination of the potable water supply from external sources. Pitless adapters or units are not recommended to be mounted on PVC well casing. If a pitless adapter is to be used with PVC casing, it should be designed for use with PVC casing, and the driller should ensure that the weight of the pump and column do not exceed the strength of the PVC well casing.

9.7.6 Hydraulic Fracturing. The hydraulic fracturing pressure shall be transmitted through a drill string and shall not be transmitted to the well casing. Hydraulic fracturing intervals shall be at least 20 feet below the bottom of the permanent casing of a well. All hydraulic fracturing equipment shall be thoroughly disinfected with a 100 part per million chlorine solution prior to insertion into the well. The driller shall include the appropriate hydraulic fracturing information on the well log including methods, materials, maximum pressures, location of packers, and initial/final yields.

9.7.7 Static Water Level, Well Development, and Well Yield. To fulfill the requirements of Subsection R655-4-4.5.2, new wells designed to produce water shall be developed to remove drill cuttings, drilling mud, or other materials introduced into the well during construction and to restore the natural groundwater flow to the well to the extent possible. After a water production well is developed, a test should be performed to determine the rate at which groundwater can be reliably produced from the well. Following development and testing, the static water level in the well should also be measured. Static water level, well development information, and well yield information shall be noted on the official submittal of the Well Log by the well driller.

R655-4-10. Special Wells.

10.1 Construction Standards for Special Wells.

10.1.1 General. The construction standards outlined in Section R655-4-9 are meant to serve as minimum acceptable construction standards. Certain types of wells such as cathodic protection wells, heating or cooling exchange wells, recharge and recovery wells, and public supply wells require special construction standards that are addressed in this section or in rules promulgated by other regulating agencies. At a minimum, when constructing special wells as listed above, the well shall be constructed by a licensed well driller, and the minimum construction standards of Section R655-4-9 shall be followed in addition to the following special standards.

10.1.2 Public Water Supply Wells. Public water supply wells are subject to the minimum construction standards outlined in Section R655-4-9 in addition to the requirements established by the Department of Environmental Quality, Division of Drinking Water under Rules R309-515 and R309-600. Plans and specifications for a public supply well must be reviewed and approved by the Division of Drinking Water before the well is drilled. These plans and specifications shall include the procedures, practices, and materials used to drill, construct, seal, develop, clean, disinfect, and

test the public supply well. A Preliminary Evaluation Report describing the potential vulnerability and protection strategies of the new well to contamination must also be submitted and approved prior to drilling. A representative of the Division of Drinking Water must be present at the time the surface grout seal is placed in all public supply wells, so that the placement of the seal can be certified. In order to assure that a representative will be available, and to avoid down-time waiting for a representative, notice should be given several days in advance of the projected surface grout seal placement. When the time and date for the surface grout seal installation are confirmed a definite appointment should be made with the representative of the Division of Drinking Water to witness the grout seal placement by calling (801) 536-4200. The licensed driller shall have available a copy of the start card relating to the well and provide that information to the inspecting representative at the time of the surface grout seal installation and inspection.

10.1.3 Cathodic Protection Well Construction. Cathodic protection wells shall be constructed in accordance with the casing, joint, surface seal, and other applicable requirements outlined in Section R655-4-9. Any annular space existing between the base of the annular surface seal and the top of the anode and conductive fill interval shall be filled with appropriate fill or sealing material. Fill material shall consist of washed granular material such as sand, pea gravel, or sealing material. Fill material shall not be subject to decomposition or consolidation and shall be free of pollutants and contaminants. Fill material shall not be toxic or contain drill cuttings or drilling mud. Additional sealing material shall be placed below the minimum depth of the annular surface seal, as needed, to prevent the cross-connection and commingling of separate aquifers and water bearing zones. Vent pipes, anode access tubing, and any other tubular materials (i.e., the outermost casing) that pass through the interval to be filled and sealed are considered casing for the purposes of these standards and shall meet the requirements of Subsections R655-4-9.2 and 9.3. Cathodic protection well casing shall be at least 2 inches in internal diameter to facilitate eventual well abandonment. Figure 6 illustrates the construction of a typical cathodic protection well.

10.1.4 Heating/Cooling Exchange Wells. Wells or boreholes utilized for heat exchange or thermal heating, which are greater than 30 feet in depth and encounter formations containing groundwater, must be drilled by a licensed driller and the owner or applicant must have an approved application for that specific purpose as outlined in Section R655-4-7. Wells or boreholes installed for heat or thermal exchange process must comply with the minimum construction standards of Section R655-4-9. For closed-loop systems where groundwater is not removed in the process, non-production well approval must be obtained from the state engineer. Closed-loop system wells must be sealed from the bottom of the well/boring to ground surface using acceptable materials and placement methods described in Section 9.4. Sand may be added to the seal mix to enhance thermal conductivity as long as the seal mix meets permeability and gel strength standards outlined in Section 9.4. For open-loop systems where groundwater is removed, processed, and re-injected, a non-consumptive use water right approval must be obtained from the state engineer. Open-loop system wells shall be constructed in accordance with the requirements found in Section 9. If a separate well or borehole is required for re-injection purposes, it must also comply with these standards and the groundwater must be injected into the same water

bearing zones as from which it is initially withdrawn. The quality and quantity of groundwater shall not be diminished or degraded upon re-injection. The rules herein pertain only to the heating and cooling exchange well constructed to a depth greater than 30 feet and are not intended to regulate the incidental work that may occur up to the well such as plumbing, electrical, piping, trenching, and backfilling activities.

10.1.5 Recharge and Recovery Wells. Any well drilled under the provisions of Title 73, Chapter 3b (Groundwater Recharge and Recovery Act) shall be constructed in a manner consistent with these rules and shall be drilled by a currently licensed driller. Special rules regarding the injection of water into the ground are also promulgated under the jurisdiction of the Utah Department of Environmental Quality, Division of Water Quality (Rule R317-7 "Underground Injection Control Program" of the Utah Administrative Code) and must be followed in conjunction with the Water Well Drilling rules.

R655-4-11. Deepening, Rehabilitation, and Renovation of Wells.

11.1 Sealing of Casing.

11.1.1 If in the repair of a drilled well, the old casing is withdrawn, the well shall be recased and resealed in accordance with the rules provided in Subsection R655-4-9(9.4).

11.2 Inner Casing.

11.2.1 If an inner casing is installed to prevent leakage of undesirable water into a well, the space between the two well casings shall be completely sealed using packers, casing wedging, pressure grouting, etc., to prevent the movement of water between the casings.

11.3 Outer Casing.

11.3.1 If the "over drive" method is used to eliminate leakage around an existing well, the casing driven over the well shall meet the minimum specifications listed in Subsection R655-4-9(9.4).

11.4 Artesian Wells.

11.4.1 If upon deepening an existing well, an artesian zone is encountered, the well shall be cased and completed as provided in Subsection R655-4-9(9.4).

11.5 Drilling in a Dug Well.

11.5.1 A drilled well may be constructed through an existing dug well provided that:

11.5.1.1 Unperforated Casing Requirements. An unperforated section of well casing extends from a depth of at least ten (10) feet below the bottom of the dug well and at least 20 feet below land surface to above the maximum static water level in the dug well.

11.5.1.2 Seal Required. A two foot thick seal of neat cement grout, sand cement grout, or bentonite grout is placed in the bottom of the dug well so as to prevent the direct movement of water from the dug well into the drilled well.

11.5.1.3 Test of Seal. The drilled well shall be pumped or bailed to determine whether the seal described in Subsection R655-4-11(11.5.1.2) is adequate to prevent movement of water from the dug well into the drilled well. If the seal leaks, additional sealing and testing shall be performed until a water tight seal is obtained.

11.6 Well Rehabilitation and Cleaning.

11.6.1 Tools used to rehabilitate or clean a well shall be cleaned, disinfected, and free of contamination prior to placement in a well.

11.6.2 The driller shall use rehabilitation and cleaning tools properly so as not to permanently damage the well or aquifer. If the surface seal is damaged or destroyed in the process of rehabilitation or cleaning, the driller shall repair the surface seal to the standards set forth in Subsection R655-4-9(9.4).

11.6.3 Debris, sediment, and other materials displaced inside the well and surrounding aquifer as a result of rehabilitation or cleaning shall be completely removed by pumping, bailing, well development, or other approved methods.

11.6.4 Detergents, chlorine, acids, or other chemicals placed in wells for the purpose of increasing or restoring yield, shall be specifically designed for that purpose and used according to the manufacturer's recommendations.

11.6.5 Any renovation, rehabilitation, cleaning, or other work on a well that requires alteration of the well itself shall be conducted by a licensed well driller.

11.6.6 Following completion of deepening, renovation, rehabilitation, cleaning, or other work on a well, the well shall be properly disinfected in accordance with Subsection R655-4-9(9.6.5).

R655-4-12. Abandonment of Wells.

12.1 Temporary Abandonment.

12.1.1 When any well is temporarily removed from service, the top of the well shall be sealed with a tamper resistant, water-tight cap or seal. If a well is in the process of being drilled and is temporarily abandoned, the well shall be sealed with a tamper resistant, water-tight cap or seal and a surface seal installed in accordance with Subsection R655-4-9(9.4). The well may be temporarily abandoned during construction for a maximum of 90 days. After the 90 day period, the temporarily abandoned well shall be completed as a well that meets the standards of Section 9 or permanently abandoned in accordance with the following requirements, and an official well abandonment report (abandonment log) must be submitted in compliance with Section R655-4-4.

12.2 Permanent Abandonment.

12.2.1 The rules of this section apply to the abandonment of the type of wells listed in Subsection R655-4-1(1.2) including private water wells, public supply wells, monitor wells, cathodic protection wells, and heating or cooling exchange wells. A licensed driller shall notify the state engineer prior to commencing abandonment work and submit a complete and accurate abandonment log following abandonment work in accordance with Section R655-4-4 of these rules. Prior to commencing abandonment work, the driller shall obtain a copy of the well log of the well proposed to be abandoned from the well owner or the state engineer, if available, in order to determine the proper abandonment procedure. Any well that is to be permanently abandoned shall be completely filled in a manner to prevent vertical movement of water within the borehole as well as preventing the annular space surrounding the well casing from becoming a conduit for possible contamination of the groundwater supply. A well driller who wishes to abandon a well in a manner that does not comply with the provisions set forth in this section must request approval from the state engineer.

12.3 License Required.

12.3.1 Well abandonment shall be accomplished under the direct supervision of a currently licensed water well driller who

shall be responsible for verification of the procedures and materials used:

12.4 Acceptable Materials:

12.4.1 Neat cement grout, sand cement grout, unhydrated bentonite, or bentonite grout shall be used to abandon wells and boreholes. Other sealing materials or additives, such as fly ash, may be used in the preparation of grout upon approval of the state engineer. Drilling mud or drill cuttings shall not be used as any part of a sealing materials for well abandonment. The liquid phase of the abandonment fluid shall be water from a potable municipal system or disinfected in accordance with Subsection R655-4-9(9.6.5).

12.5 Placement of Materials:

12.5.1 Neat cement and sand cement grout shall be introduced at the bottom of the well or required sealing interval and placed progressively upward to the top of the well. The sealing material shall be placed by the use of a grout pipe, tremie line, dump bailer or equivalent in order to avoid freefall, bridging, or dilution of the sealing materials or separation of aggregates from sealants. Sealing material shall not be installed by freefall (gravity) unless the interval to be sealed is dry and no deeper than 30 feet below ground surface. If the well to be abandoned is a flowing artesian well, the well may be pressure grouted from the surface. The well should be capped immediately after placement of seal materials to allow the seal material to set up and not flow out of the well.

12.5.2 Bentonite based abandonment products shall be mixed and placed according to manufacturer's recommended procedures and result in a seal free of voids or bridges. Granular or powered bentonite shall not be placed under water. When placing unhydrated bentonite, a sounding or tamping tool shall be run in the sealing interval during pouring to measure fill-up rate, verify a continuous seal placement, and to break up possible bridges or cake formation.

12.5.3 The uppermost ten (10) feet of the abandoned well casing or borehole shall consist of neat cement grout or sand cement grout.

12.5.4 Abandonment materials placed opposite any non-water bearing intervals or zones shall be at least as impervious as the formation or strata prior to penetration during the drilling process:

12.5.5 Prior to well or borehole abandonment, all pump equipment, piping, and other debris shall be removed to the extent possible. The well shall also be sounded immediately before it is plugged to make sure that no obstructions exist that will interfere with the filling and sealing. If the well contains lubricating oil that has leaked from a turbine shaft pump, it shall be removed from the well prior to abandonment and disposed of in accordance with applicable state and federal regulations:

12.5.6 Verification shall be made that the volume of sealing and fill material placed in a well during abandonment operations equals or exceeds the volume of the well or borehole to be filled and sealed:

12.6 Termination of Casing:

12.6.1 The casings of wells to be abandoned shall be severed a minimum of two feet below either the natural ground surface adjacent to the well or at the collar of the hole, whichever is the lower elevation. A minimum of two (2) feet of compacted

native material shall be placed above the abandoned well upon completion:

12.7 Abandonment of Artesian Wells:

12.7.1 A neat cement grout, sand cement grout, or concrete plug shall be placed in the confining stratum overlying the artesian zone so as to prevent subsurface leakage from the artesian zone. The remainder of the well shall be filled with sand cement grout, neat cement grout, bentonite abandonment products, or bentonite grout. The uppermost ten (10) feet of the well shall be abandoned as required in Subsection R655-4-12(12.5.3):

12.8 Abandonment of Drilled and Jetted Wells:

12.8.1 A neat cement grout or sand cement grout plug shall be placed opposite all perforations, screens or openings in the well casing. The remainder of the well shall be filled with cement grout, neat cement, bentonite abandonment products, concrete, or bentonite slurry. The uppermost ten feet of the well shall be abandoned as required in Subsection R655-4-12(12.5.3):

12.9 Abandonment of Gravel Packed Wells:

12.9.1 All gravel packed wells shall be pressure grouted throughout the perforated or screened section of the well. The remainder of the well shall be filled with sand cement grout, neat cement grout, bentonite abandonment products, or bentonite grout. The uppermost ten feet of the well shall be abandoned as required in Subsection R655-4-12(12.5.3):

12.10 Removal of Casing:

12.10.1 It is recommended that the well casing be removed during well abandonment, and when doing so, the abandonment materials shall be placed from the bottom of the well or borehole progressively upward as the casing is removed. The well shall be sealed with sand cement grout, neat cement grout, bentonite abandonment products, or bentonite grout. In the case of gravel packed wells, the entire gravel section shall be pressure grouted. The uppermost ten feet of the well shall be abandoned as required in Subsection R655-4-12(12.5.3):

12.11 Replacement Wells:

12.11.1 Wells which are to be removed from operation and replaced by the drilling of a new well under an approved replacement application, shall be abandoned in a manner consistent with the provisions of Section R655-4-12 before the rig is removed from the site of the newly constructed replacement well, unless written authorization to remove the rig without abandonment is provided by the state engineer. Also refer to the requirements provided in Subsection R655-4-4(4.4):

12.12 Abandonment of Cathodic Protection Wells:

12.12.1 The general requirements for permanent well abandonment in accordance with Section R655-4-12 shall be followed for the abandonment of cathodic protection wells:

12.12.2 A cathodic protection well shall be investigated before it is destroyed to determine its condition, details of its construction and whether conditions exist that will interfere with filling and sealing:

12.12.3 Casing, cables, anodes, granular backfill, conductive backfill, and sealing material shall be removed as needed, by re-drilling, if necessary, to the point needed to allow proper placement of abandonment material. Casing that cannot be removed shall be adequately perforated or punctured at specific intervals to allow pressure injection of sealing materials into granular backfill and all other voids that require sealing:

R655-4-13. Monitor Well Construction Standards.**13.1 Scope.**

13.1.1 Certain construction standards that apply to water wells also apply to monitor wells. Therefore, these monitoring well standards refer frequently to the water well standard sections of the rules. Standards that apply only to monitor wells, or that require emphasis, are discussed in this section. Figure 7 illustrates a schematic of an acceptable monitor well with an above-ground surface completion. Figure 8 illustrates a schematic of an acceptable monitor well with a flush-mount surface completion. Figures 7 and 8 can be viewed in the publication, State of Utah Administrative Rules for Water Well Drillers, dated January 1, 2001, available at the Division of Water Rights, 1594 West North Temple, Salt Lake City, Utah.

13.1.2 These standards are not intended as a complete manual for monitoring well construction, alteration, maintenance, and abandonment. These standards serve only as minimum statewide guidelines towards ensuring that monitor wells do not constitute a significant pathway for the movement of poor quality water, pollutants, or contaminants. These standards provide no assurance that a monitor well will perform a desired function. Ultimate responsibility for the design and performance of a monitoring well rests with the well owner and/or the owner's contractor, and/or technical representative(s). Most monitor well projects are the result of compliance with the Environmental Protection Agency (EPA), Federal Regulations such as the Resource Conservation and Recovery Act (RCRA), Comprehensive Environmental Response, Compensation and Liability Act (CERCLA or "Superfund"), or specific State Solid and Hazardous Waste requirements. The contracts governing their installation are tightly written containing specific requirements as to site location, materials used, sampling procedures and overall objectives. Therefore specific construction requirements for monitor well installation shall be governed by applicable contracts and regulations providing they meet or exceed state requirements and specifications. Guidelines and recommended practices dealing with the installation of monitor wells may be obtained from the state engineer upon request. Additional recommended information may be obtained from the Environmental Protection Agency (EPA), Resource Conservation and Recovery Act (RCRA), Groundwater Monitoring Enforcement and Compliance Document available from EPA's regional office in Denver, Colorado and from the Handbook of Groundwater Monitoring Wells, available from the National Groundwater Association in Dublin, Ohio.

13.2 Installation and Construction.

13.2.1 **Materials and Equipment Contaminant-Free.** All material used in the installation of monitor wells shall be contaminant-free when placed in the ground. Drilling equipment shall be clean and contaminant free in accordance with Subsection R655-4-9(9.6.4). During construction contaminated water should not be allowed to enter contaminant-free geologic formations or water-bearing zones.

13.2.2 **Borehole Integrity.** Some minor cross-contamination may occur during the drilling process, but the integrity of the borehole and individual formations must then be safeguarded from permanent cross connection.

13.2.3 **Casing and Screen.** The well casing should be perforated or screened and filter packed with sand or gravel where

necessary to provide adequate sample collection at depths where appropriate aquifer flow zones exist. The casing and screen selected shall not affect or interfere with the chemical, physical, radiological, or biological constituents of interest. Screens in the same well shall not be placed across separate water-bearing zones in order to minimize interconnection, aquifer commingling, and cross contamination. Screens in a nested well can be placed in separate water-bearing zones as long as the intervals between the water-bearing zones are appropriately sealed and aquifer cross connection and commingling does not occur. Monitor well casing and screen shall conform to ASTM standards, or consist of at least 304 or 316 stainless steel, PTFE (Teflon), or Schedule 40 PVC casing.

13.2.4 **Gravel/Filter Pack.** If installed, the gravel or filter pack should generally extend two (2) feet to ten (10) feet above screened or perforated areas to prevent the migration of the sealing material from entering the zones being sampled. Gravel or filter pack material shall meet the requirements of Subsection R655-4-9(9.5.2). Gravel/filter pack for monitoring wells does not require disinfection. Drill cutting should not be placed into the open borehole annulus. The well driller shall ensure that a bridge or voids do not occur in the annular space during the placement of the gravel pack by means of a sounding device or other mechanism.

13.2.5 **Annular Seal.** All monitor wells constructed shall have a continuous surface seal, which seals the annular space between the borehole and the permanent casing, in accordance with the provisions in Section R655-4-9. The surface seal depth requirements of Section R655-4-9 do not apply to monitor wells. The surface seal may be more or less than 50 feet depending on the screen/perforation and/or gravel pack interval. Seals shall also be constructed to prevent interconnection and commingling of separate aquifers penetrated by the well, prevent migration of surface water and contaminations into the well and aquifers, and shall provide casing stability. The seal shall have a minimum diameter of four inches larger than the nominal size of the permanent casing, and shall extend from land surface to the top of the filter pack. After the permanent casing and filter pack (optional) has been set in final position, a layer of bentonite or fine sand (e.g., mortar sand) shall be placed on top of the filter pack to maintain separation between the seal material and the screened interval in order to insure that the seal placement will not interfere with the filter pack. The remaining annular space shall be filled to land surface in a continuous operation with unhydrated bentonite, neat cement grout, sand-cement grout, or bentonite grout. Only potable water should be used to hydrate any grout or slurry mixture. The completed annular space shall fully surround the permanent casing, be evenly distributed, free of voids, and extend from the permanent casing to undisturbed or recompacted soil. All sealing materials and placement methods shall conform to the standards in Section R655-4-2 and Subsection R655-4-9(9.4). The well driller shall ensure that a bridge or voids do not occur in the annular space during the placement of the seal.

13.2.6 **Cuttings, Decon Water, Development Water, and Other IDW.** Drill cuttings, decontamination (Decon) water, monitor well development water, and other investigation derived waste (IDW) shall be managed and disposed of in accordance with applicable state and federal environmental regulations. It is the responsibility of the driller to know and understand such requirements.

13.3 **Minimum Surface Protection Requirements.**

~~13.3.1 If a well is cased with metal and completed above ground surface, a locking water resistant cap shall be installed on the top of the well.~~

~~13.3.2 If the well is not cased with metal and completed above ground surface, a protective metal casing shall be installed over and around the well. The protective casing shall be cemented at least two feet into the ground around the nonmetallic casing. A water tight cap shall be installed in the top of the well casing. A locking cap shall be installed on the top of the protective casing.~~

~~13.3.3 Monitor wells completed above ground and potentially accessible to vehicular damage shall be protected in the following manner. At least three metal posts, at least three inches in diameter, shall be cemented in place around the casing. Each post shall extend at least three feet above and two feet below ground surface. A concrete pad may be installed to add protection to the surface completion. If installed, the concrete pad shall be at least four (4) inches thick and shall slope to drain away from the well casing. The base shall extend at least two (2) feet laterally in all directions from the outside of the well boring. When a concrete pad is used, the well seal may be part of the concrete pad.~~

~~13.3.4 If the well is completed below land surface, a water tight cap with a lock shall be attached to the top of the well casing. A metal monument or equivalent shall be installed over and around the well. The monument shall serve as a protective cover and be installed level with the land surface and be equipped with a waterproof seal to prevent inflow of any water or contaminants. Drains will be provided, when feasible, to keep water out of the well and below the well cap. The monument and cover must be designed to withstand the maximum expected load.~~

~~13.4 Abandonment.~~

~~13.4.1 Abandonment of monitor wells shall be completed in compliance with the provisions of Section R655-4-12. The provisions of Section R655-4-12 are not required for the permanent abandonment of monitor wells completed at a depth of 30 feet below natural ground surface.~~

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~~R655-4. Water Wells.~~

~~R655-4-1. Purpose, Scope, and Exclusions.~~

~~1.1 Purpose.~~

~~Under Subsection 73-2-1(4)(b), the State Engineer, as the Director of the Utah Division of Water Rights, is required to make rules regarding well construction and related regulated activities and the licensing of water well drillers and pump installers.~~

~~These rules are promulgated pursuant to Section 73-3-25. The purpose of these rules is to assist in the orderly development of underground water; insure that minimum construction standards are followed in the drilling, construction, deepening, repairing, renovating, cleaning, development, pump installation/repair, and abandonment of water wells and other regulated wells; prevent pollution of aquifers within the state; prevent wasting of water from flowing wells; obtain accurate records of well construction operations; and insure compliance with the state engineer's authority for appropriating water.~~

These rules also establish administrative procedures for applications, approvals, hearings, notices, revocations, orders and their judicial review, and all other administrative procedures required or allowed by these rules. These rules shall be liberally construed to permit the Division to effectuate the purposes of Utah law.

1.2 Scope.

The drilling, construction, deepening, repair, renovation, replacement, cleaning, development, or abandonment of the following types of wells are regulated by these administrative rules and the work must be permitted by the Utah Division of Water Rights and completed by a licensed well driller. Moreover, the installation and repair of pumps in the following types of wells is regulated by these administrative rules and the work must be completed by a licensed well driller or a licensed pump installer. A person conducting pump installation and repair work on their own well on their own property is exempt from these rules and is not required to have a pump installer's license. These rules apply to both vertical, angle and horizontal wells if they fall within the criteria listed below. The rules contained herein pertain only to work on or within the well itself. These rules do not regulate the incidental work beyond the well such as plumbing, electrical, and excavation work up to the well; and the building of well enclosures unless these activities directly impact or change the construction of the well itself. The process for an applicant to obtain approval to drill, construct, deepen, repair, renovate, clean, develop, abandon, or replace the wells listed below in 1.2.1, 1.2.2, 1.2.3, and 1.2.4 is outlined in Section R655-4-9 of these rules.

1.2.1 Cathodic protection wells which are completed to a depth greater than 30 feet.

1.2.2 Closed-loop and open-loop Heating and/or cooling exchange wells which are greater than 30 feet in depth and which encounter formations containing groundwater. If a separate well or borehole is required for re-injection purposes, it must also comply with these administrative rules.

1.2.3 Monitor, piezometer, and test wells designed for the purpose of testing and monitoring water level, pressure, quality and/or quantity which are completed to a depth greater than 30 feet.

1.2.4 Other wells (cased or open) which are completed to a depth greater than 30 feet that can potentially interfere with established aquifers such as wells to monitor mass movement (inclinometers), facilitate horizontal utility placement, monitor man-made structures, house instrumentation to monitor structural performance, or dissipate hydraulic pressures (dewatering wells).

1.2.5 Private water production wells which are completed to a depth greater than 30 feet.

1.2.6 Public water system supply wells.

1.2.7 Recharge and recovery wells which are drilled under the provisions of Title 73, Chapter 3b "Groundwater Recharge and Recovery Act" Utah Code Annotated.

1.3 Exclusions.

The drilling, construction, deepening, repair, renovation, replacement, cleaning, development, pump installation/repair, or abandonment of the following types of wells or boreholes are excluded from regulation under these administrative rules:

1.3.1 Any wells described in Section 1.2 that are constructed to a final depth of 30 feet or less. However, diversion and beneficial use of groundwater from wells at a depth of 30 feet

or less shall require approval through the appropriation procedures and policies of the state engineer and Title 73, Chapter 3 of the Utah Code Annotated.

1.3.2 Geothermal wells. Although not regulated under the Administrative Rules for Water Wells, geothermal wells are subject to Section 73-22-1 "Utah Geothermal Resource Conservation Act" Utah Code Annotated and the rules promulgated by the state engineer including Section R655-1, Wells Used for the Discovery and Production of Geothermal Energy in the State of Utah.

1.3.3 Temporary exploratory wells drilled to obtain information on the subsurface strata on which an embankment or foundation is to be placed or an area proposed to be used as a potential source of material for construction.

1.3.4 Wells or boreholes drilled or constructed into non-water bearing zones or which are 30 feet or less in depth for the purpose of utilizing heat from the surrounding earth.

1.3.5 Geotechnical borings drilled to obtain lithologic data which are not installed for the purpose of utilizing or monitoring groundwater, and which are properly sealed immediately after drilling and testing.

1.3.6 Oil, gas, and mineral exploration/production wells. These wells are subject to rules promulgated under the Division of Oil, Gas, and Mining of the Utah Department of Natural Resources.

R655-4-2. Definitions.

ABANDONED WELL - any well which is not in use and has been sealed or plugged with approved sealing materials so that it is rendered unproductive and shall prevent contamination of groundwater. A properly abandoned well will not produce water nor serve as a channel for movement of water from the well or between water bearing zones.

ADDRESS - the current residential or business address of a well driller as recorded in the Division's files.

ADJUDICATIVE PROCEEDING - means, for the purposes of this rule, an administrative action or proceeding commenced by the Division in conjunction with an Infraction Notice; or an administrative action or proceeding commenced in response to a well driller's appeal or a Cease and Desist Order or an appeal of a restriction or denial of a license renewal application.

AMERICAN NATIONAL STANDARDS INSTITUTE (ANSI) - a nationally recognized testing laboratory that certifies building products and adopts standards including those for steel and plastic (PVC) casing utilized in the well drilling industry. ANSI standards are often adopted for use by ASTM and AWWA. Current information on standards can be obtained from: ANSI, 1430 Broadway, New York, NY 10018 (ANSI.org).

AMERICAN SOCIETY FOR TESTING AND MATERIALS (ASTM) - an independent organization concerned with the development of standards on characteristics and performance of materials, products and systems including those utilized in the well drilling industry. Information may be obtained from: ASTM, 1916 Race Street, Philadelphia, PA 19013 (ASTM.org).

AMERICAN WATER WORKS ASSOCIATION (AWWA) - an international association which publishes standards intended to represent a consensus of the water supply industry that the product or procedure described in the standard shall provide satisfactory service or results. Information may be obtained from:

AWWA, 6666 West Quincy Avenue, Denver CO 80235 (AWWA.org).

ANNULAR SPACE - the space between the outer well casing and the borehole or the space between two sets of casing.

AQUIFER - a porous underground formation yielding withdrawable water suitable for beneficial use.

ARTESIAN AQUIFER - a water-bearing formation which contains underground water under sufficient pressure to rise above the zone of saturation.

ARTESIAN WELL - a well where the water level rises appreciably above the zone of saturation.

BACKFLOW PREVENTER - means a safety device, assembly, or construction practice used to prevent water pollution or contamination by preventing flow of a mixture of water and/or chemicals from the distribution piping into a water well or in the opposite direction of that intended. This includes but is not limited to check valves, foot valves, curb stops, or air gaps

BENTONITE - a highly plastic, highly absorbent, colloidal swelling clay composed largely of mineral sodium montmorillonite. Bentonite is commercially available in powdered, granular, tablet, pellet, or chip form which is hydrated with potable water and used for a variety of purposes including the stabilization of borehole walls during drilling, the control of potential or existing high fluid pressures encountered during drilling below a water table, well abandonment, and to provide a seal in the annular space between the well casing and borehole wall.

BENTONITE GROUT - a mixture of bentonite and potable water specifically designed to seal and plug wells and boreholes mixed at manufacturer's specifications to a grout consistency which can be pumped through a pipe directly into the annular space of a well or used for abandonment. Its primary purpose is to seal the borehole or well in order to prevent the subsurface migration or communication of fluids.

CASH BOND - A type of well driller bond in the form of a certificate of deposit (CD) submitted and assigned to the State Engineer by a licensed driller to satisfy the required bonding requirements.

CASING - a tubular retaining and sealing structure that is installed in the borehole to maintain the well opening.

CATHODIC PROTECTION WELL - a well constructed for the purpose of installing deep anodes to minimize or prevent electrolytic corrosive action of metallic structures installed below ground surface, such as pipelines, transmission lines, well casings, storage tanks, or pilings.

CEASE AND DESIST ORDER - means an order issued by the State Engineer comprised of a red tag placed on a well rig at the well drilling location and a letter to the driller requiring that all well drilling activity at the well drilling location cease until such time as the order is lifted.

CLOSED-LOOP HEATING/COOLING EXCHANGE WELL - means the subsystem of a geothermal heat pump system that consists of the drilled vertical borehole into the Earth that is equipped with a heat exchange media conveyance tube (loop tube), and is grouted from the bottom of the vertical borehole to the Earth's surface at the drilling site. Construction of a geothermal heat pump loop well includes, in continuous order, drilling of the vertical borehole, placement of the loop tube to the bottom of the vertical borehole with the grout tremie, and grouting of the vertical borehole from the bottom of the vertical borehole to the Earth's surface at the

drill site. Closed loop systems circulate a heat transfer fluid (such as water or a mixture of water and food grade/non-toxic anti-freeze) to exchange heat with the subsurface geological environment.

CONDUCTOR CASING - means the temporary or permanent casing used in the upper portion of the well bore to prevent collapse of the formation during the construction of the well or to conduct the gravel pack to the perforated or screened areas in the casing.

CONFINING UNIT - a geological layer either of unconsolidated material, usually clay or hardpan, or bedrock, usually shale, through which virtually no water moves.

CONSOLIDATED FORMATION - bedrock consisting of sedimentary, igneous, or metamorphic rock (e.g., shale, sandstone, limestone, quartzite, conglomerate, basalt, granite, tuff, etc.).

DEFAULT ORDER - means an order issued by the Presiding Officer after a well driller fails to attend a hearing in a well driller adjudicative proceeding. A Default Order constitutes a Final Judgment and Order.

DEWATERING WELL - a water extraction well constructed for the purpose of lowering the water table elevation, either temporarily or permanently, around a man-made structure or construction activity.

DISINFECTION - or disinfecting is the use of chlorine or other disinfecting agent or process approved by the state engineer, in sufficient concentration and contact time adequate to inactivate or eradicate bacteria such as coliform or other organisms.

DIVISION - means the Division of Water Rights. The terms Division and State Engineer may be used interchangeably in this rule.

DRAWDOWN - the difference in elevation between the static water level and the pumping water level in a well.

DRILL RIG - any power-driven percussion, rotary, boring, coring, digging, jetting, or augering machine used in the construction of a well or borehole.

EMERGENCY SITUATION - any situation where immediate action is required to protect life or property. Emergency status would also extend to any situation where life is not immediately threatened but action is needed immediately and it is not possible to contact the state engineer for approval. For example, it would be considered an emergency if a domestic well needed immediate repair over a weekend when the state engineer's offices are closed.

FILES - means information maintained in the Division's public records, which may include both paper and electronic information.

FINAL JUDGMENT AND ORDER - means a final decision issued by the Presiding Officer on the whole or a part of a well driller adjudicative proceeding. This definition includes "Default Orders."

GRAVEL PACKED WELL - a well in which filter material such as sand and/or gravel is placed in the annular space, between the well intakes (screen or perforated casing) and the borehole wall to increase the effective diameter of the well and to prevent fine-grained sediments from entering the well.

GROUNDWATER - subsurface water in a zone of saturation.

GROUT - a fluid mixture of Portland cement or bentonite with water of a consistency that can be forced through a pipe and placed as required. Upon approval, various additives such as sand,

bentonite, and hydrated lime may be included in the mixture to meet different requirements.

HEATING/COOLING EXCHANGE SYSTEM - also known as GeoExchange, ground-source heat pump, geothermal heat pump, and ground-coupled heat pump; a heat pump that uses the Earth itself as a heat source (heating) and heat sink (cooling). It is coupled to the ground by means of a closed loop heat exchanger installed vertically underground or by physically pumping water from a well with an open loop systems and utilizing the thermal properties of the water to heat or cool.

HYDRAULIC FRACTURING - the process whereby water or other fluid is pumped with sand under high pressure into a well to fracture and clean-out the rock surrounding the well bore thus increasing the flow to the well.

INFRACTION NOTICE - means a notice issued by the Division to the well driller informing him of his alleged act or acts violating the Administrative Rules for Water Drillers and the infraction points that have been assessed against him.

ISSUED - means a document executed by an authorized delegate of the State Engineer (in the case of an Infraction Notice) or by the Presiding Officer (in the case of a Hearing Notice, Final Judgment and Order or other order related to a well driller adjudicative proceeding) and deposited in the mail.

LICENSE - means the express grant of permission or authority by the State Engineer to carry on the activity of well drilling.

LICENSED PUMP INSTALLER - means a qualified individual who has obtained a license from the Division and who is engaged in the installation, removal, alteration, or repair of pumps and pumping equipment for compensation.

LOG - means an official document or report that describes where, when, and how a regulated well was drilled, constructed, deepened, repaired, renovated, cleaned, developed, tested, equipped with pumping equipment, and/or abandoned. A Log shall be submitted to the Division by a licensee on forms provided by the Division including a Well Driller's Report, Well Abandonment Report, or Pump Installer's Report.

MONITOR WELL - a well, as defined under "well" in this section, that is constructed for the purpose of determining water levels, monitoring chemical, bacteriological, radiological, or other physical properties of ground water or vadose zone water.

NATIONAL SANITATION FOUNDATION (NSF) - a voluntary third party consensus standards and testing entity established under agreement with the U. S. Environmental Protection Agency (EPA) to develop testing and adopt standards and certification programs for all direct and indirect drinking water additives and products. Information may be obtained from: NSF, 3475 Plymouth Road, P O Box 1468, Ann Arbor, Michigan 48106 (NSF.org).

NEAT CEMENT GROUT - cement conforming to the ASTM Standard C150 (standard specification of Portland cement), with no more than six gallons of water per 94 pound sack (one cubic foot) of cement of sufficient weight density of not less than 15 lbs/gallon.

NOMINAL SIZE - means the manufactured commercial designation of the diameter of a casing. An example would be casing with an outside diameter of 12 3/4 inches which may be nominally 12-inch casing by manufactured commercial designation.

OPEN-LOOP HEATING/COOLING EXCHANGE WELL - means a well system in which groundwater is extracted from a typical water production well and pumped through an above ground heat exchanger inside the heat pump system. Heat is either extracted or added by the primary refrigerant loop (primary loop refrigerant does not come into contact with the pumped water), and then the water is returned to the same aquifer by injection through the original extraction well or through a separate injection well.

OPERATOR - a drill rig operator or pump rig operator is an individual who works under the direct supervision of a licensed Utah Water Well Driller or Pump Installer and who can be left in responsible charge of regulated well drilling or pump installation/repair activity using equipment that is under the direct control of the licensee.

PARTY means the State Engineer, an authorized delegate of the State Engineer, the well driller, the pump installer, or the affected well owner.

PIEZOMETER - a tube or pipe, open at the bottom in groundwater, and sealed along its length, used to measure hydraulic head or water level in a geologic unit.

PITLESS ADAPTER - a commercially manufactured device designed for attachment to a well casing which allows buried pump discharge from the well and allows access to the interior of the well casing for installation or removal of the pump or pump appurtenances, while preventing contaminants from entering the well. Such devices protect the water and distribution lines from temperature extremes, permit extension of the casing above ground as required in Subsection R655-4-11.3.2 and allow access to the well, pump or system components within the well without exterior excavation or disruption of surrounding earth or surface seal.

PITLESS UNIT - a factory-assembled device with cap which extends the upper end of a well casing to above grade and is constructed as to allow for buried pump discharge from the well and allows access to the interior of the well casing for installation or removal of the pump or pump appurtenances, while preventing contaminants from entering the well. Such devices protect the water and distribution lines from temperature extremes, permit extension of the casing above ground as required in Subsection R655-4-11.3.2 and allow access to the well, pump or system components within the well without exterior excavation or disruption of surrounding earth or surface seal.

POLLUTION - the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water that renders the water harmful, detrimental, or injurious to humans, animals, vegetation, or property, or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any or reasonable purpose.

POTABLE WATER - water supplied for human consumption, sanitary use, or for the preparation of food or pharmaceutical products which is free from biological, chemical, physical, and radiological impurities.

PRESIDING OFFICER - means an authorized delegate of the State Engineer who conducts a well driller adjudicative proceeding.

PRESSURE GROUTING - a process by which grout is confined within the drillhole or casing by the use of retaining plugs or packers and by which sufficient pressure is applied to drive the grout slurry into the annular space or zone to be grouted.

PRIVATE WATER PRODUCTION WELL - a privately owned well constructed to supply water for any purpose which has been approved by the state engineer (such as irrigation, stockwater, domestic, commercial, industrial, etc.).

PROBATION - A disciplinary action that may be taken by the state engineer that entails greater review and regulation of well drilling activities but which does not prohibit a well driller from engaging in the well drilling business or operating well drilling equipment.

PROVISIONAL WELL - authorization granted by the state engineer to drill under a pending, unapproved water right, change or exchange application, or for the purpose of determining characteristics of an aquifer, or the existence of a useable groundwater source. Water from a provisional well cannot be put to beneficial use until the application has been approved.

PUBLIC WATER SYSTEM SUPPLY WELL - a well, either publicly or privately owned, providing water for human consumption and other domestic uses which has at least 15 service connections or regularly serves an average of at least 25 individuals daily for at least 60 days out of the year. Public Water System Supply Wells are also regulated by the Division of Drinking Water in the Utah Department of Environmental Quality (Section R309 of the Utah Administrative Code).

PUMP/PUMPING EQUIPMENT - means any equipment or materials utilized or intended for use in withdrawing or obtaining groundwater for any use.

PUMP INSTALLATION/REPAIR - means the procedure employed in the placement and preparation for operation of pumps and pumping equipment at the water well location, including all construction or repair involved in making entrance to the water well, which involves the breaking of the well seal.

PUMPING WATER LEVEL - the water level in a well after a period of pumping at a given rate.

RECORD - means the official collection of all written and electronic materials produced in a well driller adjudicative proceeding, including but not limited to Infraction Notices, pleadings, motions, exhibits, orders and testimony produced during the adjudicative proceedings, as well as the files of the Division as defined herein.

RED TAG - is a component of a "CEASE AND DESIST ORDER" in the form of a red colored tag placed on a well at a well drilling location

REGISTRATION - means the express grant of permission or authority by the State Engineer to carry on the activity of well drilling or pump installation under the supervision of a licensed well driller or pump installer.

REPAIRING, RENOVATING, & DEEPENING - means the deepening, hydrofracturing, re-casing, perforating, re-perforating, installation of packers or seals, and any other material change in the design or construction of a well. Material changes include but are not limited to casing installation or modification including casing extensions, installation or modification of liner pipe, reaming or under reaming of the borehole, pitless unit installation or re-sealing.

REVOCATION - A disciplinary action that may be taken by the state engineer that rescinds the well driller's Utah Water Well Driller's License

SAND - a material having a prevalent grain size ranging from 2 millimeters to 0.06 millimeters.

SAND CEMENT GROUT - a grout consisting of equal parts of cement conforming to ASTM standard C150 and sand/aggregate with no more than six (6) gallons of water per 94 pound sack (one cubic foot) of cement.

STANDARD DIMENSION RATIO (SDR) - the ratio of average outside pipe diameter to minimum pipe wall thickness.

STATE ENGINEER - the director of the Utah Division of Water Rights or any employee of the Division of Water Rights designated by the state engineer to act in administering these rules. The terms Division and State Engineer may be used interchangeably in this rule.

STATIC LEVEL - stabilized water level in a non-pumped well beyond the area of influence of any pumping well.

SURETY BOND - an indemnity agreement in a sum certain and payable to the state engineer, executed by the licensee as principal and which is supported by the guarantee of a corporation authorized to transact business as a surety in the State of Utah.

SUSPENSION - A disciplinary action that may be taken by the state engineer that prohibits the well driller from engaging in the well drilling business or operating well drilling equipment as a registered operator for a definite period of time and /or until certain conditions are met.

TEST WELL - authorization granted by the state engineer to drill under a Non-production well approval for the purpose of determining characteristics of an aquifer, or the existence of a useable groundwater source. Water from a Test Well cannot be put to beneficial use.

TREMIE PIPE - a device that carries materials such as seal material, gravel pack, or formation stabilizer to a designated depth in a drill hole or annular space.

UNCONSOLIDATED FORMATION - loose, soft, incoherent rock material composed of sedimentary, igneous, or metamorphic rock which includes sand, gravel, and mixtures of sand and gravel. These formations are widely distributed and can possess good water storage and transmissivity characteristics.

UNHYDRATED BENTONITE - dry bentonite consisting primarily of granules, tablets, pellets, or chips that may be placed in a well or borehole in the dry state and hydrated in place by either formation water or by the addition of potable water into the well or borehole containing the dry bentonite. Unhydrated bentonite can be used for sealing and abandonment of wells.

VADOSE ZONE - the zone containing water under less than atmospheric pressure, including soil water, intermediate vadose water and capillary water. The zone extends from land surface to the zone of saturation or water table.

WATERTIGHT - a condition that does not allow the entrance, passage, or flow of water under normal operating conditions.

WELL - a horizontal or vertical excavation or opening into the ground made by digging, boring, drilling, jetting, augering, or driving or any other artificial method and left cased or open for utilizing or monitoring underground waters.

WELL DRILLER - any person who is licensed by the state engineer to construct water wells for compensation or otherwise. The licensed driller has total responsibility for the construction work in progress at the well drilling site.

WELL DRILLER BOND - A financial guarantee to the state engineer, in the form of a surety bond or cash bond, by which a licensed driller binds himself to pay the penal sum of \$5,000 to the state engineer in the event of significant noncompliance with the Administrative Rules for Water Wells.

WELL DRILLING - the act of drilling, constructing, deepening, replacing, repairing, renovating, cleaning, developing, or abandoning a well.

R655-4-3. Licenses and Registrations.

3.1 General.

3.1.1 Section 73-3-25 of the Utah Code requires every person that drills, constructs, deepens, repairs, renovates, cleans, develops, installs/repairs pumps, and abandons a regulated well in the state to obtain a license from the state engineer. Licenses and registrations are not transferable. Applicants for well driller or pump installer licensure must meet all requirements in this subsection, and applicants cannot obtain a Utah license through reciprocity or comity with a similar license from other States or organizations.

3.1.2 Any person found to be performing regulated well activity without a valid license (well driller's license or pump installer's license, as applicable) or operator's registration will be ordered to cease and desist by the state engineer. The order may be made verbally but must also be followed by a written order. The order may be posted at an unattended well drilling site. A person found performing regulated well activities without a license will be subject to the state engineer's enforcement powers under Section 73-2-25 of the Utah Code (Related rules: Section R655-14 UAC) and subject to criminal prosecution under Section 73-3-26 of the Utah Code annotated, 1953.

3.2 Well Driller's License.

A Utah Well Driller's License allows an individual to perform regulated well activity including drilling, construction, deepening, repairing, renovating, cleaning, development, pump installation/repair, and abandonment of water wells and other regulated wells. An applicant must meet the following requirements to become licensed as a Utah Water Well Driller:

3.2.1 Applicants must be 21 years of age or older and be a citizen of the United States, or be lawfully entitled to remain and work in the United States in accordance with Section 63G-11-104, UCA (Applicants must file a Division Lawful Presence Affidavit with the license application);

3.2.2 Complete and submit the application form provided by the state engineer.

3.2.3 Pay the application fee approved by the state legislature.

3.2.4 Provide documentation of experience according to the following standards:

3.2.4.1 Water well drillers shall provide documentation of at least two (2) years of full time prior water well drilling experience with a licensed driller in good standing OR documentation of sixteen (16) wells constructed by the applicant under the supervision of a licensed well driller in good standing.

3.2.4.2 Monitor well drillers shall provide documentation of at least two (2) years of full time prior monitor well drilling experience with a licensed driller in good standing OR documentation of thirty two (32) wells constructed by the applicant under the supervision of a licensed well driller in good standing.

3.2.4.3 Heating/cooling exchange and other non-production well drillers must provide documentation of at least six (6) months of full time prior well drilling experience with a licensed driller in good standing AND documentation of sixteen (16) well drilling projects constructed by the applicant under the supervision of a licensed well driller in good standing.

3.2.4.4 A copy of the well log for each well constructed must be provided. The documentation must also show the applicant's experience with each type of drilling rig to be listed on the license. Acceptable documentation will include registration with the Division of Water Rights, letters from licensed well drillers (Utah or other states), or a water well drilling license granted by another state, etc.

3.2.4.5 Successful completion of classroom study in geology, well drilling, map reading, and other related subjects may be substituted for up to, but not exceeding, twenty five percent of the required drilling experience, and for up to, but not exceeding, twenty five percent of the required drilled wells or well drilling projects. The state engineer will determine the number of months of drilling experience and the number of drilled wells that will be credited for the classroom study.

3.2.4.6 A limited or restricted license can be obtained in subcategories of activity including well cleaning, well renovation, well abandonment, and well development/testing. Testing requirements for these license subcategories will be reduced or limited in accordance with the level of activity.

3.2.5 File a well driller bond in the sum of \$5,000 with the Division of Water Rights payable to the state engineer. The well driller bond must be filed under the conditions and criteria described in Section 4-3-9.

3.2.6 Obtain a score of at least 70% on each of the written licensing examinations required and administered by the state engineer. The required examinations test the applicant's knowledge of:

a. The Administrative Rules for Water Wells and Utah water law as it pertains to underground water;

b. The minimum construction standards established by the state engineer for water well construction;

c. Geologic formations and proper names used in describing underground material types;

d. Reading maps and locating points from descriptions based on section, township, and range;

e. Groundwater geology and the occurrence and movement of groundwater;

f. The proper operating procedures and construction methods associated with the various types of water well drilling rigs. (A separate test is required for each type of water well drilling rig to be listed on the license).

3.2.7 Demonstrate proficiency in resolving problem situations that might be encountered during the construction of a water well by passing an oral examination administered by the state engineer.

3.3 Drill Rig Operator's Registration.

An applicant must meet the following requirements to become registered as a drill rig operator:

3.3.1 Applicants must be 18 years of age or older and be a citizen of the United States, or be lawfully entitled to remain and work in the United States in accordance with Section 63G-11-104

UCA (Applicants must file a Division Lawful Presence Affidavit with the operator application).

3.3.2 Complete and submit the application form provided by the state engineer.

3.3.3 Pay the application fee approved by the state legislature.

3.3.4 Provide documentation of at least six (6) months of prior water well drilling experience with a licensed driller in good standing. The documentation must show the applicant's experience with each type of drilling rig to be listed on the registration. Acceptable documentation will include letters from licensed well drillers or registration as an operator in another state.

3.3.5 Obtain a score of at least 70% on a written examination of the minimum construction standards established by the state engineer for water well construction. The test will be provided to the licensed well driller by the state engineer. The licensed well driller will administer the test to the prospective operator and return it to the state engineer for scoring.

3.4 Pump Installer's License.

A Utah Pump Installer's License allows an individual to perform regulated pump activity including pump removal, installation, and repair of water wells and other regulated wells. An individual can perform pump installation and repair work on their own well on their own property without obtaining a Pump Installer's License. An applicant must meet the following requirements to become licensed as a Utah Pump Installer:

3.4.1 Applicants must be 21 years of age or older and be a citizen of the United States, or be lawfully entitled to remain and work in the United States in accordance with Section 63G-11-104 UCA (Applicants must file a Division Lawful Presence Affidavit with the license application).

3.4.2 Complete and submit the application form provided by the state engineer.

3.4.3 Pay the application fee approved by the state legislature.

3.4.4 Provide documentation of experience of at least two (2) years of full time prior water well pump installation and repair experience with a driller or pump installer in good standing

3.4.4.4 The documentation must show the applicant's experience with each type of pump rig to be listed on the license. Acceptable documentation will include registration with the Division of Water Rights, reference letters from licensed well drillers/pump installers (Utah or other states), or a license granted by another state, etc.

3.4.4.5 Successful completion of classroom study in pump installation/repair and other related subjects may be substituted for up to, but not exceeding, twenty five percent of the required pump experience. The state engineer will determine the number of months of drilling experience that will be credited for the classroom study.

3.4.5 File a pump installer bond in the sum of \$5,000 with the Division of Water Rights payable to the state engineer. The well driller bond must be filed under the conditions and criteria described in Section 4-3-9.

3.4.6 Obtain a score of at least 70% on each of the written licensing examinations required and administered by the state engineer. The required examinations test the applicant's knowledge of:

a. The Administrative Rules for Water Wells and Utah water law as it pertains to underground water;

b. The minimum construction standards established by the state engineer pertaining to pump installation and repair;

c. Groundwater protection procedures and standards applicable to pump installation and repair work on wells;

d. The proper operating procedures and methods associated with pump installation and repair.

3.4.7 Demonstrate proficiency in resolving problem situations that might be encountered during pump installation and repair of a water well by passing an oral examination administered by the state engineer.

3.5 Pump Rig Operator's Registration.

An applicant must meet the following requirements to become registered as a pump rig operator:

3.5.1 Applicants must be 18 years of age or older and be a citizen of the United States, or be lawfully entitled to remain and work in the United States in accordance with Section 63G-11-104 UCA (Applicants must file a Division Lawful Presence Affidavit with the license application).

3.5.2 Complete and submit the application form provided by the state engineer.

3.5.3 Pay the application fee approved by the state legislature.

3.5.4 Provide documentation of at least six (6) months of prior pump installation and repair experience with a licensed driller or pump installer in good standing. Acceptable documentation will include letters from licensed well drillers or registration as an operator in another state.

3.5.5 Obtain a score of at least 70% on a written examination of the minimum construction standards established by the state engineer for pump installation and repair. The test will be provided to the licensed pump installer/well driller by the state engineer. The licensed pump installer/well driller will administer the test to the prospective operator and return it to the state engineer for scoring.

3.6 Conditional, Restricted, or Limited Licenses.

The state engineer may issue a restricted, conditional, or limited license to an applicant based on prior drilling experience.

3.7 Refusal to Issue a License or Registration.

The state engineer may, upon investigation and after a hearing, refuse to issue a license or a registration to an applicant if it appears the applicant has not had sufficient training or experience to qualify as a competent well driller, pump installer, or operator.

3.8 Falsified Applications.

The state engineer may, upon investigation and after a hearing, revoke a license or a registration in accordance with Section 5.6 if it is determined that the original application contained false or misleading information.

3.9 Well Driller/Pump Installer Bond.

3.9.1 General

3.9.1.1. In order to become licensed and to continue licensure, well drillers and pump installers must file a bond in the form of a surety bond or cash bond, approved by the state engineer, in the sum of five thousand dollars (\$5,000) with the Division of Water Rights, on a form provided by the Division, which is conditioned upon proper compliance with the law and these rules and which is effective for the licensing period in which the license is to be issued. The bond shall stipulate the obligee as the "Office

of the State Engineer". The well driller bond is penal in nature and is designed to ensure compliance by the licensed well driller or pump installer to protect the groundwater resource, the environment, and public health and safety. The bond may only be exacted by the state engineer for the purposes of investigating, repairing, or abandoning wells in accordance with applicable rules and standards. No other person or entity may initiate a claim against the well driller bond. Lack of a current and valid well driller bond shall be deemed sufficient grounds for denial of a driller's/pump installer's license. The well driller bond may consist of a surety bond or a cash bond as described below.

3.9.2 Surety Bonds.

3.9.2.1. The licensee and a surety company or corporation authorized to do business in the State of Utah as surety shall bind themselves and their successors and assigns jointly and severally to the state engineer for the use and benefit of the public in full penal sum of five thousand dollars (\$5,000). The surety bond shall specifically cover the licensee's compliance with the Administrative Rules for Water Wells found in R655-4 of the Utah Administrative Code. Forfeiture of the surety bond shall be predicated upon a failure to drill, construct, repair, renovate, deepen, clean, develop, perform pump work, or abandon a regulated well in accordance with these rules (R655-4 UAC). The bond shall be made payable to the 'Utah State Engineer' upon forfeiture. The surety bond must be effective and exactable in the State of Utah.

3.9.2.2. The bond and any subsequent renewal certificate shall specifically identify the licensed individual covered by that bond. The licensee shall notify the state engineer of any change in the amount or status of the bond. The licensee shall notify the state engineer of any cancellation or change at least thirty (30) days prior to the effective date of such cancellation or change. Prior to the expiration of the 30-days notice of cancellation, the licensee shall deliver to the state engineer a replacement surety bond or transfer to a cash bond. If such a bond is not delivered, all activities covered by the license and bond shall cease at the expiration of the 30 day period. Termination shall not relieve the licensee or surety of any liability for incidences that occurred during the time the bond was in force.

3.9.2.3. Before the bond is forfeited by the licensee and exacted by the state engineer, the licensee shall have the option of resolving the noncompliance to standard either by personally doing the work or by paying to have another licensed driller do the work. If the driller chooses not to resolve the problem that resulted in noncompliance, the entire bond amount of five thousand dollars (\$5,000) shall be forfeited by the surety and expended by the state engineer to investigate, repair or abandon the well(s) in accordance with the standards in R655-4 UAC. Any excess there from shall be retained by the state engineer and expended for the purpose of investigating, repairing, or abandoning wells in accordance with applicable rules and standards. All claims initiated by the state engineer against the surety bond will be made in writing.

3.9.2.4. The bond of a surety company that has failed, refused or unduly delayed to pay, in full, on a forfeited bond is not approvable.

3.9.3 Cash Bonds.

3.9.3.1. The requirements for the well driller bond may alternatively be satisfied by a cash bond in the form of a certificate of deposit (CD) for the amount of five thousand dollars (\$5,000) issued by a federally insured bank or credit union with an office(s)

in the State of Utah. The cash bond must be in the form of a CD. Savings accounts, checking accounts, letters of credit, etc., are not acceptable cash bonds. The CD shall specifically identify the licensed individual covered by that fund. The CD shall be automatically renewable and fully assignable to the state engineer. CD shall state on its face that it is automatically renewable.

3.9.3.2. The cash bond shall specifically cover the licensee's compliance with well drilling rules found in R655-4 of the Utah Administrative Code. The CD shall be made payable or assigned to the state engineer and placed in the possession of the state engineer. If assigned, the state engineer shall require the bank or credit union issuing the CD to waive all rights of setoff or liens against those CD. The CD, if a negotiable instrument, shall be placed in the state engineer's possession. If the CD is not a negotiable instrument, the CD and a withdrawal receipt, endorsed by the licensee, shall be placed in the state engineer's possession.

3.9.3.3. The licensee shall submit CDs in such a manner which will allow the state engineer to liquidate the CD prior to maturity, upon forfeiture, for the full amount without penalty to the state engineer. Any interest accruing on a CD shall be for the benefit of the licensee.

3.9.3.4. The period of liability for a cash bond is five (years) after the expiration, suspension, or revocation of the license. The cash bond will be held by the state engineer until the five year period is over, then it will be relinquished to the licensed driller. In the event that a cash bond is replaced by a surety bond, the period of liability, during which time the cash bond will be held by the state engineer, shall be five (5) years from the date the new surety bond becomes effective.

3.9.4 Exacting a Well Driller Bond.

3.9.4.1. If the state engineer determines, following an investigation and a hearing in accordance with the process defined in Sections 4-5, 4-6, and 4-7, that the licensee has failed to comply with the Administrative Rules for Water Wells and refused to remedy the noncompliance, the state engineer may suspend or revoke a license and fully exact the well driller bond and deposit the money as a non-lapsing dedicated credit.

3.9.4.2. The state engineer may expend the funds derived from the bond to investigate or correct any deficiencies which could adversely affect the public interest resulting from non-compliance with the Administrative Rules by any well driller.

3.9.4.3. The state engineer shall send written notification by certified mail, return receipt requested, to the licensee and the surety on the bond, if applicable, informing them of the determination to exact the well driller bond. The state engineer's decision regarding the noncompliance will be attached to the notification which will provide facts and justification for bond exaction. In the case of a surety bond exaction, the surety company will then forfeit the total bond amount to the state engineer. In the case of a cash bond, the state engineer will cash out the CD. The exacted well driller bond funds may then be used by the state engineer to cover the costs of well investigation, repair, and/or abandonment.

R655-4-4. Administrative Requirements and General Procedures.

4.1 Authorization to Drill.

The well driller shall make certain that a valid authorization or approval to drill exists before engaging in regulated

well drilling activity. Authorization to drill shall consist of a valid 'start card' based on any of the approvals listed below. Items 4.1.1 through 4.1.12 allow the applicant to contract with a well driller to drill, construct, deepen, replace, repair, renovate, clean, develop, or abandon exactly one well at each location listed on the start card or approval form. The drilling of multiple borings/wells at an approved location/point of diversion is not allowed without authorization from the state engineer's office. Most start cards list the date when the authorization to drill expires. If the expiration date has passed, the start card and authorization to engage in regulated drilling activity is no longer valid. If there is no expiration date on the start card, the driller must contact the state engineer's office to determine if the authorization to drill is still valid. When the work is completed, the permission to drill is terminated. Preauthorization or pre-approval of pump installation/repair work is not required.

4.1.1 An approved application to appropriate.

4.1.2 A provisional well approval letter.

An approved provisional well letter grants authority to drill but allows only enough water to be diverted to determine the characteristics of an aquifer or the existence of a useable groundwater source.

4.1.3 An approved permanent change application.

4.1.4 An approved exchange application.

4.1.5 An approved temporary change application.

4.1.6 An approved application to renovate or deepen an existing well.

4.1.7 An approved application to replace an existing well.

4.1.8 An approved monitor well letter.

An approved monitor well letter grants authority to drill but allows only enough water to be diverted to monitor groundwater.

4.1.9 An approved heat exchange well letter.

4.1.10 An approved cathodic protection well letter.

4.1.11 An approved non-production well construction application.

4.1.12 Any letter or document from the state engineer directing or authorizing a well to be drilled or work to be done on a well.

4.2 Start Cards.

4.2.1 Prior to commencing work to drill, construct, deepen, replace, repair, renovate, clean, or develop any well governed by these administrative rules, the driller must notify the state engineer of that intention by transmitting the information on the "Start Card" to the state engineer by telephone, by facsimile (FAX), by hand delivery, or by e-mail. A completed original Start Card must be sent to the state engineer by the driller after it has been telephoned or E-mailed. A copy of the Start Card should be kept at the drill site at all times regulated activity is being conducted.

4.2.2 A specific Start Card is printed for each well drilling approval and is furnished by the state engineer to the applicant or the well owner. The start card is preprinted with the water right or non-production well number, owner name/address, and the approved location of the well. The state engineer marks the approved well drilling activity on the card. The driller must put the following information on the card:

a. The date on which work on the well will commence;

b. The projected completion date of the work;

c. The well driller's license number;

d. The well driller's signature.

4.2.3 When a single authorization is given to drill wells at more than one point of diversion, a start card shall be submitted for each location to be drilled.

4.2.4 Following the submittal of a start card, if the actual start date of the drilling activity is postponed beyond the date identified on the start card, the licensed driller must notify the state engineer of the new start date.

4.2.5 A start card is not required to abandon a well. However, prior to commencing well abandonment work, the driller is required to notify the state engineer by telephone, by facsimile, or by e-mail of the proposed abandonment work. The notice must include the location of the well. The notice should also include the water right or non-production well number associated with the well and the well owner if that information is available.

4.2.6 A start card or pre-notification is not required to perform pump installation and repair work on a well.

4.3 General Requirements During Construction.

4.3.1 The well driller or pump installer shall have the required penal bond continually in effect during the term of the license.

4.3.2 The well driller's/pump installer's license number or company name exactly as shown on the license must be prominently displayed on each well drilling/pump rig operated under the license. If the company name is changed the licensee must immediately inform the state engineer of the change in writing.

4.3.3 A licensed well driller or a registered drill rig operator must be at the well site whenever the following aspects of well construction are in process: advancing the borehole, setting casing and screen, placing a filter pack, constructing a surface seal, or similar activities involved in well deepening, renovation, repair, cleaning, developing, or abandoning. All registered drill rig operators working under a well driller's license must be employees of the well driller and must use equipment either owned by or leased by the licensed well driller.

4.3.3.1 A licensed pump installer/well driller or a registered drill rig or pump rig operator must be at the well site whenever the following aspects of pump work are in process: pump removal, pump installation, modification to the well head including capping, sealing, and pitless adapter/unit installation, or similar activities on and within the well involving pump installation/repair. All registered pump rig operators working under a pump installer's/well driller's license must be employees of the pump installer/well driller and must use equipment either owned by or leased by the licensed pump installer/well driller.

4.3.3.2 A registered drill rig operator who is left in responsible charge of advancing the borehole, setting casing and screen, placing a filter pack, constructing a surface seal, or similar activities involved in well deepening, renovation, repair, cleaning, developing, or abandoning must have a working knowledge of the minimum construction standards and the proper operation of the drilling rig. The licensed well driller is responsible to ensure that a registered operator is adequately trained to meet these requirements.

4.3.3.3 A registered drill rig or pump rig operator who is left in responsible charge of pump installation or repair must have a working knowledge of the minimum construction standards and the proper operation of the pump rig. The licensed well driller or pump

installer is responsible to ensure that a registered operator is adequately trained to meet these requirements.

4.3.4 State engineer provisions for issuing cease and desist orders (Red Tags)

4.3.4.1 Construction Standards: The state engineer or staff of the Division of Water Rights may order that regulated work on a well cease if a field inspection reveals that the construction does not meet the minimum construction standards to the extent that the public interest might be adversely affected.

4.3.4.2 Licensed Drilling Method: A cease work order may also be issued if the well driller is not licensed for the drilling method being used for the well construction.

4.3.4.3 Incompetent Registered Operator: If, during a field inspection by the staff of the Division of Water Rights, it is determined that a registered operator in responsible charge does not meet these requirements, a state engineer's red tag (see Section 4.3.4) shall be placed on the drilling rig or pump rig and the drilling/pump operation shall be ordered to shut down. The order to cease work shall remain effective until a qualified person is available to perform the work.

4.3.4.4 No licensee or registered operator on site: If, during a field inspection by the staff of the Division of Water Rights, it is determined that neither a licensee or registered operator are one site when regulated well activity is occurring, the state engineer may order regulated well work to cease.

4.3.4.5 General: The state engineer's order shall be in the form of a red tag which shall be attached to the drilling/pump rig. A letter from the state engineer shall be sent to the licensee to explain the sections of the administrative rules which were violated. The letter shall also explain the requirements that must be met before the order can be lifted.

4.3.4.6 A licensee may appeal a Cease and Desist order by:

4.3.4.6.1 submitting to the Division a written statement clearly and concisely stating the specific disputed facts, the supporting facts, and the relief sought; or

4.3.4.6.2 requesting a hearing on the issue according to the provisions of R655-4-7.

4.3.4.7 A Cease and Desist Order shall remain in force during the pendency of the appeal.

4.3.5 When required by the state engineer, the well driller or registered operator shall take lithologic samples at the specified intervals and submit them in the bags provided by the state engineer.

4.3.6 A copy of the current Administrative Rules for Water Wells should be available at each well construction site for review by the construction personnel. Licensed well drillers/pump installers and registered operators must have proof of licensure or registration with them on site during regulated well activity.

4.3.7 Prior to starting construction of a new well, the licensed driller shall investigate and become familiar with the drilling conditions, geology of potential aquifers and overlying materials, anticipated water quality problems, and know contaminated water bearing zones that may be encountered in the area of the proposed drilling activity.

4.4 Removing Drill Rig From Well Site.

4.4.1 A well driller shall not remove his drill rig from a well site unless the well drilling activity is properly completed or

abandoned in accordance with the construction standards in Sections 9 thru 12.

4.4.2 For the purposes of these rules, the regulated work on a well will be considered completed when the well driller removes his drilling rig from the well site.

4.4.3 The well driller may request a variance from the state engineer to remove a drill rig from a well prior to completion or abandonment. This request must be in written form to the state engineer. The written request must provide justification for leaving the well incomplete or un-abandoned and indicate how the well will be temporarily abandoned as provided in Section R655-4-14 and must give the date when the well driller plans to continue work to either complete the well or permanently abandon it.

4.5 Official Well Driller's Report (Well Log).

4.5.1 Within 30 days of the completion of regulated work on any well, the driller shall file an official well driller's report (well log) with the state engineer. The blank well log form will be mailed to the licensed well driller upon receipt of the information on the Start Card as described in Subsection 4.2.

4.5.2 The water right number or non-production well number, owner name/address, and the approved location of the well will be preprinted on the blank well log provided to the well driller. The driller is required to verify this information and make any necessary changes on the well log prior to submittal. The state engineer will mark the approved activity (e.g., new, replace, repair, deepen) on the well log. The driller must provide the following information on the well log:

- a. The start and completion date of work on the well;
- b. The nature of use for the well (e.g., domestic, irrigation, stock watering, commercial, municipal, provisional, monitor, cathodic protection, heat pump, etc.);
- c. The borehole diameter, depth interval, drilling method and drilling fluids utilized to drill the well;
- d. The lithologic log of the well based on strata samples taken from the borehole as drilling progresses;
- e. Static water level information to include date of measurement, static level, measurement method, reference point, artesian flow and pressure, and water temperature;
- f. The size, type, description, joint type, and depth intervals of casing, screen, and perforations;
- g. A description of the filter pack, surface and interval seal material, and packers used in the well along with necessary related information such as the depth interval, quantity, and mix ratio;
- h. A description of the finished wellhead configuration;
- i. The date and method of well development;
- j. The date, method, yield, drawdown, and elapsed time of a well yield test;
- k. A description of pumping equipment (if available);
- l. Other comments pertinent to the well activity completed;
- m. The well driller's statement to include the driller name, license number, signature, and date.

4.5.3 Accuracy and completeness of the submitted well log are required. Of particular importance is the lithologic section which should accurately reflect the geologic strata penetrated during the drilling process. Sample identification must be logged in the field as the borehole advances and the information transferred to the well log form for submission to the state engineer.

4.5.4 An amended well log shall be submitted by the licensed driller if it becomes known that the original report contained inaccurate or incorrect information, or if the original report requires supplemental data or information. Any amended well log must be accompanied by a written statement, signed and dated by the licensed well driller, attesting to the circumstances and the reasons for submitting the amended well log.

4.6 Official Well Abandonment Reports (Abandonment Logs).

4.6.1 Whenever a well driller is contracted to replace an existing well under state engineer's approval, it shall be the responsibility of the well driller to inform the well owner that it is required by law to permanently abandon the old well in accordance with the provisions of Section R655-4-12.

4.6.2 Within 30 days of the completion of abandonment work on any well, the driller shall file an abandonment log with the state engineer. The blank abandonment log will be mailed to the licensed well driller upon notice to the state engineer of commencement of abandonment work as described in Subsection R655-4-4(4.2.4).

4.6.3 The water right number or non-production well number, owner name/address, and the well location (if available) will be preprinted on the blank abandonment log provided to the well driller. The driller is required to verify this information and make any necessary changes on the abandonment log prior to submitting the log. The driller must provide the following information on the abandonment log:

- a. Existing well construction information;
- b. Date of abandonment;
- c. Reason for abandonment;
- d. A description of the abandonment method;
- e. A description of the abandonment materials including depth intervals, material type, quantity, and mix ratio;
- f. Replacement well information (if applicable);
- g. The well driller's statement to include the driller name, license number, signature, and date.

4.6.4 When a well is replaced and the well owner will not allow the driller to abandon the existing well, the driller must briefly explain the situation on the abandonment form and submit the form to the state engineer within 30 days of completion of the replacement well.

4.7 Official Pump Installation Report (Pump Log).

4.7.1 Soon after the completion of regulated pump work on any well, the licensee shall file an official pump installation report (pump log) with the state engineer. Blank pump log forms will be available to the licensee at any Division office, requested by mail, or downloaded from the Division's website (www.waterrights.utah.gov).

4.7.2 Pertinent information to be included on the pump log by the licensee shall consist of:

- a. The water right number or non-production well number;
- b. the well owner name and address;
- c. The approved point of diversion or location of the well;
- d. The start and completion date of work on the well;
- e. The nature of use for the well (e.g., domestic, irrigation, stock watering, commercial, municipal, provisional, monitor, cathodic protection, heat pump, etc.);

f. Pertinent well details including casing diameters/depths, total well depth, well intake depth intervals, wellhead configuration including pitless adapter/unit configuration if applicable;

g. A detailed description of pump-related work performed on or in the well including pump setting depth, pump type, pumping rate, valving, drop piping, jointing, capping, testing, sealing, disinfection, and pitless adapter/unit installation;

h. Static water level information to include date of measurement, static level, measurement method, reference point, artesian flow and pressure, and water temperature;

i. A description of the finished wellhead configuration;

j. The date, method, yield, drawdown, and elapsed time of a well yield test;

k. Other comments pertinent to the well activity completed;

m. The pump installer's statement to include the licensee name, license number, signature, and date.

4.8 Incomplete or Incorrectly Completed Reports.

An incomplete log or a log that has not been completed correctly will be returned to the licensee to be completed or corrected. The log will not be considered filed with the state engineer until it is complete and correct.

4.8 Extensions of Time.

The well driller may request an extension of time for filing the well log if there are circumstances which prevent the driller from obtaining the necessary information before the expiration of the 30 days. The extension request must be submitted in writing before the end of the 30-day period.

4.9 Late Well Logs - Lapsed License

All outstanding well logs or abandonment logs shall be properly submitted to the state engineer prior to the lapsing of a license. A person with a lapsed license who has failed to submit all well/abandonment logs within 90 days of lapsing will be subject to the state engineer's enforcement powers under Section 73-2-25 of the Utah Code (Related rules: Section R655-14 UAC)

R655-4-5. Administrative Rule Infractions.

5.1 List of Infractions and Points.

Licensed well drillers who commit the infractions listed below in Table 1 shall have assessed against their well drilling record the number of points assigned to the infraction.

TABLE 1

Level I Infractions of Administrative Requirements

	Points
Well log submitted late	10
Failure to submit a Pump Log	10
Well abandonment report submitted late	10
License number or company name not clearly posted on well drilling/pump rig	10
Failing to notify the state engineer of a change in the well licensee's company name	10
Failure to properly notify the state engineer before the proposed start date shown on the start card	20
Failure to notify the state engineer of a change of start date	50

Constructing a replacement well further than 150 ft from the original well without the authorization of an approved change application	50
Failure to drill at the state engineer approved location as identified on the start card	50
Removing the well drilling rig from the well site before completing the well or temporarily or permanently abandoning the well	50

TABLE 2

Level II Infractions of Administrative Requirements

	Points
Employing an operator who is not registered with the state	75
Contracting out work to an unlicensed driller (using the unlicensed driller's rig) without prior written approval from the state	75
Performing any well drilling activity without valid authorization (except in emergency situations)	100
Intentionally making a material misstatement of fact in an official well driller's report/pump log or amended official well driller's report (well log)	100

TABLE 3

Level III Infractions of Construction Standards / Conditions

	Points
Approvals	
Using a method of drilling not listed on the well driller's license	30
Failing to comply with any conditions included on the well approval such as minimum or maximum depths, specified locations of perforations, etc.	50
Performing any well construction activity in violation of a red tag cease work order	100
Casing	
Failure to extend well casing at least 18" above ground	30
Failure to install a protective casing around a PVC well at the surface	50
Using improper casing joints	100
Using or attempting to use sub-standard well casing	100
Surface Seals	
Using improper products or procedures to install a surface seal	100
Failure to seal off artesian flow on the outside of casing	100
Failure to install surface seal to adequate depth based on formation type	100
Failure to install interval seals to eliminate aquifer commingling or cross contamination	100
Well Abandonment	
Using improper procedures to abandon a well	100
Using improper products to abandon a well	100

Construction Fluids

Using water of unacceptable quality
in the well drilling operation 40

Using an unacceptable mud pit 40

Failure to use treated or disinfected
water for drilling processes 40

Using improper circulation materials
or drilling chemicals 100

Filter/Gravel Packs and Formation Stabilizers

Failure to disinfect filter pack 40

Failure to install filter pack properly 75

Failure to install formation stabilizer
according to standard 75

Well Completion

Failure to make well accessible to
water level or pressure head measurements 30

Failure to install casing annular seals,
cap, and valving, and to control
artesian flow 30

Failure to disinfect a well upon
completion of well drilling activity 40

Failure to install sanitary well capping
according to standard 75

Failure to install a pitless adapter/unit
according to standard 75

Failure to develop and test a well
according to standard 75

Failure to hydrofracture a well
according to standard 75

Failure to install packers/plugs
according to standard 75

Failure to install well intakes(screens,
perforations, open bottom) according to standard 75

Failure install non-production wells
according to standard 100

Pump Installation and Repair

Failure to extend well casing at least
18" above ground 30

Failure to make well accessible to
water level or pressure head measurements 30

Failure to install casing annular seals,
cap, and valving, and to control
artesian flow 30

Failure to disinfect a well upon
completion of pump activity 40

Failure to install a protective casing
around a PVC well at the surface 50

Failure to maintain surface
completion and security standards 75

Failure to install or maintain
Backflow protection 75

Failure to develop and test a well
according to standard 75

Failure to install sanitary well capping
according to standard 75

Failure to install a pitless adapter/unit
according to standard 75

Failure to prevent contamination from entering a well
through placement, products, tools, and materials 100

Failure to repair a well's surface seal 100

General

Failure to securely cover an
unattended well during construction 30

Failure to engage in well drilling
activity in accordance with accepted
industry practices 100

TABLE 4
Level IV Infractions of Application Requirements

	POINTS
Submitting an initial license or registration application that contains false or misleading information	100

5.2 When Points Are Assessed.

Points will be assessed against a driller's record upon verification by the state engineer that an infraction has occurred. Points will be assessed at the time the state engineer becomes aware of the infraction regardless of when the infraction occurred.

5.3 Infraction Notice

When infraction points are assessed against a well driller's record, the State Engineer shall issue an infraction notice to the well driller. The notice shall include an explanation of the administrative rule(s) violated, the date the alleged violations were discovered and the approximate date of occurrence, the number of points assessed for each infraction, the total number of points on the well driller's record, an explanation of the adjudicative process to appeal a cease and desist order and or infraction notice, and an explanation of how to delete points from the driller record, and any other information deemed pertinent by the state engineer.

5.4 Appeal of Infractions.

5.4.1 If the infraction points do not require a hearing, a well driller may appeal an infraction within 30 days of the date the Infraction Notice was issued. The appeal shall be made in writing to the state engineer and shall state clearly and concisely the disputed facts, the supporting facts, and the relief sought.

5.4.2 A well driller may request reconsideration of a denied appeal by requesting a hearing before the Presiding Officer within 20 days of the denial. If the Presiding Officer does not respond within 20 days after the request is submitted, then it is deemed denied.

5.5 Warning Letter.

5.5 Deleting Points from the Driller Record.

Points assessed against a well driller's record shall remain on the record unless deleted through any of the following options:

5.5.1 Points shall be deleted three years after the date when the infraction is noted by the state engineer and the points are assessed against the driller's record.

5.5.2 One half the points on the record shall be deleted if the well driller is free of infractions for an entire year.

5.5.3 Thirty (30) points shall be deleted for obtaining six (6) hours of approved continuing education credits in addition to the credits required to renew the water well driller's license. A driller may exercise this option only once each year.

5.5.4 Twenty (20) points shall be deleted for taking and passing (with a minimum score of 70%) the test covering the administrative requirements and the minimum construction standards. A driller may exercise this option only every other year.

5.6 Well Driller Hearings.

When the number of infraction points assessed against the well driller's record equals or exceeds 100, the state engineer shall submit a request to the Presiding Officer for a hearing. The requested purpose of the hearing shall be to determine if administrative penalties should be levied against the water well.

driller including fines and probation, suspension, or revocation of the water well driller's.

5.7 Lack of Knowledge Not an Excuse.

Lack of knowledge of the law or the administrative requirements and minimum construction standards related to well drilling shall not constitute an excuse for violation thereof.

R655-4-6. Administrative Penalties.

Administrative penalties ordered against a licensed driller by the Presiding Officer following a hearing can include probation, administrative fines, license suspension, and license revocation. Administrative penalties are ordered based on the severity of the infraction (Level I, II, III from Tables 1-3 of Section 5.1) as well as the recurrence of an infraction. The maximum administrative fine per infraction shall be capped at \$1000.

6.1 Level I Administrative Penalties: Level I administrative penalties shall be levied against Level I administrative infractions (see Table 1 of Section 5.1). The Level I administrative penalty structure is as follows:

6.1.1 At the first conviction of Level I infractions, the disciplinary action for the infractions shall be probation.

6.1.2 Second conviction shall result in probation and a fine at a rate of \$2.50 per infraction point.

6.1.3 Third conviction shall result in probation and an elevated fine at a rate of \$5.00 per infraction point.

6.1.4 Fourth conviction shall result in an elevated fine at a rate of \$10.00 per infraction point and possible suspension.

6.1.5 Continued and repeated convictions beyond the fourth conviction may result in an elevated fine at a rate of \$10.00 per infraction point and possible suspension or revocation.

6.1.6 Fines for late well logs and abandonment logs shall be calculated separately and added to fines calculated for other infractions. For late well log infractions, the points associated with each infraction shall be multiplied by a factor based on the lateness of the well log. The infraction point multipliers are as follows in Table 5:

TABLE 5

<u>Tardiness of the log</u>	<u>Infraction Point Multiplier</u>
<u>1-2 weeks</u>	<u>0.50</u>
<u>2-4 weeks</u>	<u>1.00</u>
<u>1-3 months</u>	<u>1.50</u>
<u>3-6 months</u>	<u>2.00</u>
<u>6-9 months</u>	<u>2.50</u>
<u>9-12 months</u>	<u>3.00</u>
<u>Over 12 months</u>	<u>4.00</u>

6.2 Level II Administrative Penalties: Level II administrative penalties shall be levied against Level II administrative infractions (see Table 2 of Section 5.1). The Level II administrative penalty structure is as follows:

6.2.1 At the first conviction of Level II infractions, the disciplinary action shall result in probation and a fine at a rate of \$2.50 per infraction point.

6.2.2 Second conviction shall result in probation and an elevated fine at a rate of \$5.00 per infraction point.

6.2.3 Third conviction shall result in possible suspension and an elevated fine at a rate of \$10.00 per infraction point.

6.2.4 Continued and repeated convictions beyond the fourth conviction may result in an elevated fine at a rate of \$10.00 per infraction point and possible suspension or revocation.

6.3 Level III Administrative Penalties: Level III administrative penalties shall be levied against Level III construction infractions (see Table 3 of Section 5.1). The Level III administrative penalty structure is as follows:

6.3.1 At the first conviction of Level III infractions, the disciplinary action shall result in probation and a fine at a rate of \$5.00 per infraction point.

6.3.2 Second conviction shall result in possible suspension and an elevated fine at a rate of \$10.00 per infraction point.

6.3.3 Third conviction may result in an elevated fine at a rate of \$10.00 per infraction point and possible suspension or revocation.

6.3.4 Level VI Administrative Penalties: The Level VI administrative penalty shall be levied against a Level IV application requirement infraction (see Table 4 of Section 5.1). The Level IV administrative penalty is revocation of the license at first conviction.

6.4 Administrative Penalties - General

6.4.1 Penalties shall only be imposed as a result of a well driller hearing.

6.4.2 Failure to pay a fine within 30 days from the date it is assessed shall result in the suspension of the well driller license until the fine is paid.

6.4.3 Fines shall be deposited as a dedicated credit. The state engineer shall expend the money retained from fines for expenses related to well drilling activity inspection, well drilling enforcement, and well driller education.

6.5 Probation: As described above in Sections 6.1, 6.2, and 6.3, probation shall generally be the disciplinary action imposed in situations where the facts established through testimony and evidence describe first time infractions of the administrative rules that are limited in number and less serious in their impact on the well owner and on the health of the aquifer. The probation period shall generally last until the number of infraction points on the well driller's record is reduced below 70 through any of the options described in Subsection 4-5.5.

6.6 Suspension: Suspension shall generally be the disciplinary action imposed in situations where the facts established through testimony and evidence describe repeated convictions of the administrative rules, or infractions that pose a serious threat to the health of the aquifer, or a well driller's apparent disregard for the administrative rules or the state's efforts to regulate water well drilling. Depending upon the number and severity of the rule infractions as described above in Sections 6.1, 6.2, and 6.3, the state engineer may elect to suspend a well driller license for a certain period of time and/or until certain conditions have been met by the well driller. In establishing the length of the suspension, the state engineer shall generally follow the guideline that three infraction points is the equivalent of one day of suspension. A well driller whose license has been suspended shall be prohibited from engaging in regulated well drilling activity. License suspension may also result in the exaction of the Well Driller Bond as set forth in Subsection 4-3.9.4. A well driller whose license has been

suspended is allowed to work as a registered operator under the direct, continuous supervision of a licensed well driller. If the suspension period extends beyond the expiration date of the water well driller license, the water well driller may not apply to renew the license until the suspension period has run and any conditions have been met. Once the suspension period has run and once all conditions have been met by the well driller, the suspension shall be lifted and the driller shall be notified that he/she may again engage in the well drilling business. The well driller shall then be placed on probation until the number of infraction points on the well driller's record is reduced below 70 through any of the options described in Subsection 4-5.5.

6.7 Revocation: Revocation shall generally be the disciplinary action imposed in situations where the facts established through testimony and evidence describe repeated convictions of the administrative rules for which the well driller's Utah Water Well License has previously been suspended. Revocation shall also be the disciplinary action taken if after a hearing the facts establish that a driller knowingly provided false or misleading information on a driller license application. A well driller whose license has been revoked shall be prohibited from engaging in regulated well drilling activity. License revocation may also result in the exaction of the Well Driller Bond as set forth in Subsection 4-3.9.4. A well driller whose license has been revoked is allowed to work as a registered operator under the direct, continuous supervision of a licensed well driller. A well driller whose water well license has been revoked may not make application for a new water well license for a period of two years from the date of revocation. After the revocation period has run, a well driller may make application for a new license as provided in Section R655-4-3. However, the well drilling experience required must be based on new experience obtained since the license was revoked.

R655-4-7. Adjudicative Proceedings.

7.1 Designation of Presiding Officers.

The following persons may be designated Presiding Officers in well driller adjudicative proceedings: Assistant State Engineers; Deputy State Engineers; or other qualified persons designated by the State Engineer.

7.2 Disqualification of Presiding Officers.

7.2.1 A Presiding Officer shall disqualify himself from performing the functions of the Presiding Officer regarding any matter in which he, his spouse, or a person within the third degree of relationship to either of them or the spouse of such person:

7.2.1.1 Is a party to the proceeding, or an officer, director, or trustee of a party;

7.2.1.2 Has acted as an attorney in the proceeding or served as an attorney for, or otherwise represented, a party concerning the matter in controversy;

7.2.1.3 Knows that he has a financial interest, either individually or as a fiduciary, in the subject matter in controversy or in a party to the proceeding;

7.2.1.4 Knows that he has any other interest that could be substantially affected by the outcome of the proceeding; or

7.2.1.5 Is likely to be a material witness in the proceeding.

7.2.2 A Presiding Officer is also subject to disqualification under principles of due process and administrative law.

7.2.3 These requirements are in addition to any requirements under the Utah Public Officers' and Employees' Ethics Act, Section 67-16-1 et seq.

7.2.4 A motion for disqualification shall be made first to the Presiding Officer. If the Presiding Officer is appointed, any determination of the Presiding Officer upon a motion for disqualification may be appealed to the State Engineer.

7.3 Informal Proceedings

7.3.1 All adjudicative proceedings initiated under this rule are classified as informal adjudicative proceedings.

7.3.1 The procedures for informal adjudicative proceedings initiated under this rule are set forth in this rule.

7.4 Service of Notice and Orders.

7.4.1 Hearing Notices and Final Judgment and Orders shall be served upon the well driller at the well driller's address using certified mail or methods described in Rule 5 of the Utah Rules of Civil Procedure.

7.4.2 Infraction notices, notices of approval or denial of licensing or registration or license or registration renewal, and other routine correspondence related to the Division's Well Drilling Program shall be sent to the well driller at the well driller's address by regular U.S. Mail.

7.5 Computation of Time.

7.5.1 Computation of any time period referred to in these rules shall begin with the first day following the act that initiates the running of the time period. The last day of the time period computed is included unless it is a Saturday, Sunday, or legal holiday or any other day on which the Division is closed, in which event the period shall run until the end of the business hours of the following business day.

7.5.2 The Presiding Officer, for good cause shown, may extend any time limit contained in these rules, unless precluded by statute. All requests for extensions of time shall be made by motion.

7.6 Request for Hearing

7.6.1 A hearing before a Presiding Officer is permitted in a well drilling adjudicative proceeding if:

7.6.1.1 The proceeding was commenced by an Infraction Notice; or

7.6.1.2 The proceeding was commenced by a well driller request raising a genuine issue regarding

7.6.1.2.1 The denial of a license or registration renewal application; or

7.6.1.2.2 The issuance of a cease and desist order (red tag)

7.6.2 Regardless of any other provision of the general laws to the contrary, all requests for a hearing shall be in writing and shall be filed with the Division to the attention of the Presiding Officer.

7.6.3 The request for a hearing shall state clearly and concisely the disputed facts, the supporting facts, the relief sought, and any additional information required by applicable statutes and rules.

7.6.4 The Presiding Officer shall give all parties at least ten (10) days notice of the date, time and place for the hearing. The Presiding Officer may grant requests for continuances for good cause shown.

7.6.5 Any party may, by motion, request that a hearing be held at some place other than that designated by the Presiding Officer, due to disability or infirmity of any party or witness, or where justice and equity would be best served.

7.6.6 A well driller at any time may withdraw the well driller's request for a hearing. The withdrawal shall be filed with the Division to the attention of the Presiding Officer, in writing, signed by the well driller or an authorized representative, and is deemed final upon the date filed.

7.7 Filings Generally.

7.7.1 Papers filed with the Division shall state the title of the proceeding and the name of the well driller on whose behalf the filing is made.

7.7.2 Papers filed with the Division shall be signed and dated by the well driller on whose behalf the filing is made or by the well driller's authorized representative. The signature constitutes certification that the well driller:

7.7.2.1 Read the document;

7.7.2.2 Knows the content thereof;

7.7.2.3 To the best of the well driller's knowledge, represents that the statements therein are true;

7.7.2.4 Does not interpose the papers for delay; and

7.7.2.5 If the well driller's signature does not appear on the paper, authorized a representative with full power and authority to sign the paper.

7.7.3 All papers, except those submittals and documents that are kept in a larger format during the ordinary course of business, shall be submitted on an 8.5 x 11-inch paper. All papers shall be legibly hand printed or typewritten.

7.7.4 The Division may provide forms to be used by the parties.

7.7.5 The original of all papers shall be filed with the Division with such number of additional copies as the Division may reasonably require.

7.7.6 Simultaneously with the filing of any and all papers with the Division, the party filing such papers shall send a copy to all other parties, or their authorized representative to the proceedings, by hand delivery, or U.S. Mail, postage prepaid, properly addressed.

7.8 Motions.

7.8.1 A party may submit a request to the Presiding Officer for any order or action not inconsistent with Utah law or these rules. Such a request shall be called a motion. The types of motions made shall be those that are allowed under these Rules and the Utah Rules of Civil Procedure.

7.8.2 Motions may be made in writing at any time before or after the commencement of a hearing, or they may be made orally during a hearing. Each motion shall set forth the grounds for the desired order or action and, if submitted in writing, state whether oral argument is requested. A written supporting memorandum, specifying the legal basis and support of the party's position shall accompany all motions.

7.8.3 The Presiding Officer may, upon the Presiding Officer's own initiative or upon the motion of any party, order any party to file a response or other pleading, and further permit either party to amend its pleadings in a manner just to all parties.

7.9 Conduct of Hearings.

7.9.1 All parties, authorized representatives, witnesses and other persons present at the hearing shall conduct themselves in a manner consistent with the standards and decorum commonly observed in Utah courts. Where such decorum is not observed, the Presiding Officer may take appropriate action including adjournment, if necessary.

7.9.2 The Presiding Officer shall conduct the hearing, make all decisions regarding admission or exclusion of evidence or any other procedural matters, and have an oath or affirmation administered to all witnesses.

7.10 Rules of Evidence in Hearings.

7.10.1 Discovery is prohibited, but the Division may issue subpoenas or other orders to compel production of necessary evidence.

7.10.2 A party may call witnesses and present oral, documentary, and other evidence.

7.10.3 A party may comment on the issues and conduct cross-examination of any witness as may be required for a full and true disclosure of all facts relevant to any issue designated for hearing, and as may affect the disposition of any interest which permits the person participating to be a party.

7.10.4 A witness' testimony shall be under oath or affirmation.

7.10.5 Any evidence may be presented by affidavit rather than by oral testimony, subject to the right of any party to call and examine or cross-examine the affiant.

7.10.6 Relevant evidence shall be admitted.

7.10.7 The Presiding Officer's decision may not be based solely on hearsay.

7.10.8 Official notice may be taken of all facts of which judicial notice may be taken in Utah courts.

7.10.9 All parties shall have access to public information contained in the Division's files and to all materials and information gathered in the investigation, to the extent permitted by law.

7.10.10 No evidence shall be admitted after completion of a hearing or after a case is submitted on the record, unless otherwise ordered by the Presiding Officer.

7.10.11 Intervention is prohibited.

7.10.12 A well driller appearing before the Presiding Officer for the purpose of a hearing may be represented by a licensed attorney. The Water Well Drilling Specialist shall present evidence before a Presiding Officer supporting the State Engineer's claim. At the State Engineer's discretion, other Division staff or a representative from the office of the Attorney General may also present supporting evidence.

7.11 Transcript of Hearing.

7.11.1 Testimony and argument at the hearing shall be recorded electronically. The Division shall make copies of electronic recordings available to any party, upon written request. The fee charged for this service shall be equal to the actual costs of providing the copy. The Division is not responsible to supply any party with a transcript of a hearing.

7.11.2 If any party shall cause to be produced a transcript of a hearing, a copy of said transcript shall be filed with the Division and provided to all other parties. By order of the Presiding Officer and with the consent of all parties, such written transcript may be deemed an official transcript.

7.11.3 Corrections to an official transcript may be made only to conform it to the evidence presented at the hearing. Transcript corrections, agreed to by opposing parties, may be incorporated into the record, if and when approved by the Presiding Officer, at any time during the hearing, or after the close of the adjudicative proceeding. The Presiding Officer may call for the submission of proposed corrections and may determine the

disposition thereof at appropriate times during the course of the proceeding.

7.12 Procedures and Standards for Orders

7.12.1 If the well driller attends the hearing, the Presiding Officer shall issue a Final Judgment and Order.

7.12.2 The Presiding Officer may issue a Default Order if, after proper notice, the well driller fails to attend a hearing scheduled by the Presiding Officer.

7.12.3 Within a reasonable time after the close of a well driller adjudicative proceeding, the Presiding Officer shall issue a written and signed Final Judgment and Order, including but not limited to:

7.12.3.1 A statement of law and jurisdiction;

7.12.3.2 A statement of facts;

7.12.3.3 An identification of the confirmed infraction(s);

7.12.3.4 An order setting forth actions required of the well driller;

7.12.3.5 A notice of the option to request reconsideration and the right to petition for judicial review;

7.12.3.6 The time limits for requesting reconsideration or filing a petition for judicial review; and

7.12.3.7 Other information the Presiding Officer deems necessary or appropriate.

7.12.4 The Presiding Officer's Final Judgment and Order shall be based on the record, as defined in this rule.

7.12.5 A copy of the Presiding Officer's Final Judgment and Order shall be promptly mailed to each of the parties.

7.12.6 A well driller who fails to attend a hearing waives any right to request reconsideration of the Final Judgment and Order per Section R655-4-13, but may petition for judicial review per Section R655-4-16.

7.13 Reconsideration.

7.13.1 Within 14 days after the Presiding Officer issues a Final Judgment and Order, any party may file a written request for reconsideration stating the specific grounds upon which relief is requested.

7.13.2 Unless otherwise provided by statute, the filing of a request for reconsideration is not a prerequisite for seeking judicial review of the order.

7.13.3 The request for reconsideration shall be filed with the Division to the attention of the Presiding Officer and one copy shall be mailed to each party by the party filing the request.

7.13.4 The Presiding Officer may issue a written order granting or denying the request for reconsideration. It is not required that the written order explain the grounds for the Presiding Officer's decision.

7.13.5 If the Presiding Officer does not issue an order granting a request for reconsideration within 14 days after the date it is filed with the Division, the request shall be considered denied.

7.14 Amending Administrative Orders.

7.14.1 On the motion of any party or of the Presiding Officer, the Presiding Officer may amend a Final Judgment and Order for reasonable cause shown, including but not limited to a clerical mistake made in the preparation of the order.

7.14.2 A motion by any party to amend an order shall be made in a reasonable time and, if to amend a Final Judgment and Order, not more than three (3) months after the Final Judgment and Order was issued.

7.14.3 The Presiding Officer shall notify the parties of the receipt and consideration of a motion to amend an order by issuing a notice. The notice shall include a copy of the motion.

7.14.4 Any party opposing a motion to amend an order may submit information within the time period to be established by the Presiding Officer's notice of the motion.

7.14.5 After considering a motion to amend an order and any relevant information received from the parties, the Presiding Officer shall advise the parties of his determination. If the Presiding Officer determines that the order shall be amended, the Presiding Officer shall issue the amended order to all parties.

7.15 Setting Aside a Final Judgment and Order.

7.15.1 On the motion of any party or on a motion by the Presiding Officer, the Presiding Officer may set aside a Final Judgment and Order on any reasonable grounds, including but not limited to the following:

7.15.1.1 The well driller was not properly served with an Infraction Notice;

7.15.1.2 A rule or policy was not followed when the Final Judgment and Order was issued;

7.15.1.3 Mistake, inadvertence, excusable neglect;

7.15.1.4 Newly discovered evidence which by due diligence could not have been discovered before the Presiding officer issued the Final Judgment and Order; or

7.15.1.5 Fraud, misrepresentation or other misconduct of an adverse party;

7.15.2 A motion to set aside a final order shall be made in a reasonable time and not more than three (3) months after the Final Judgment and Order was issued.

7.15.3 The Presiding Officer shall notify the parties of the receipt and consideration of a motion to set aside a final order by issuing a notice to all parties, including therewith a copy of the motion.

7.15.4 Any party opposing a motion to set aside a final order may submit information within the time period to be established by the Presiding Officer's notice of the motion.

7.15.4 After consideration of the motion to set aside an order and any information received from the parties, the Presiding Officer shall issue an order granting or denying the motion, and provide a copy of the order to all parties.

7.16 Judicial Review.

7.16.1 Pursuant to Section 73-3-14, a Final Judgment and Order may be reviewed by trial de novo by the district court:

7.16.1.1 In Salt Lake County; or

7.16.1.2 In the county where the violation occurred.

7.16.2 A well driller shall file a petition for judicial review of a Final Judgment and Order within 20 days from the day on which the order was issued, or if a request for reconsideration has been filed and denied, within 20 days of the date of denial of the request for reconsideration.

7.16.3 The Presiding Officer may grant a stay of an order or other temporary remedy during the pendency of the judicial review on the Presiding Officer's own motion, or upon the motion of a party. The procedures for notice, for consideration of motions, and for issuing a determination shall be as set forth herein for a motion to set aside a Final Judgment and Order.

R655-4-8. License and Operator Registration Renewal.

8.1 Well Driller and Pump Installer Licenses. The Division will mail to each licensed well driller and pump installer a notice (packet) to renew his/her license approximately 30 days before the expiration of the license. Failure to receive the notice does not relieve a licensee of his obligation to file application and pay the fee for renewal in a timely manner. A well driller shall notify the Division of any change in his mailing address within 30 days after the change.

8.1.1 Well driller licenses and Pump Installer licenses shall expire and be renewed according to the following provisions:

a. The licenses of well drillers and pump installers whose last name begins with A thru L shall expire at 12 midnight on June 30 of odd numbered years.

b. The licenses of well drillers and pump installers whose last name begins with M thru Z shall expire at 12 midnight on June 30 of even numbered years.

c. Drillers and pump installers who meet the renewal requirements set forth in Subsection R655-4-8(8.1.2) on or before the expiration deadlines set forth in Subsection R655-4-8(8.1.1) shall be authorized to operate as a licensed well driller or pump installer until the new license is issued.

d. Licensees must renew their licenses within 24 months of the license expiration date. Licensees failing to renew within 24 months of the license expiration date must re-apply for a license, meet all the application requirements of Subsections R655-4-3(3.2) or R655-4-3(3.4), and provide documentation of 12 hours of continuing education according to the requirements of R655-4-8(8.2) obtained within the previous 24 months.

8.1.2 Applications to renew a license must include the following items:

a. Payment of the license renewal fee determined and approved by the legislature;

b. Written application to the state engineer;

c. Documentation of continuing well driller bond coverage in the amount of five thousand dollars (\$5,000) penal bond for the next licensing period. The form and conditions of the well driller bond shall be as set forth in Section R655-4.3.9. Allowable documentation can include bond continuation certificates and CD statements;

d. As applicable to the type of license, proper submission of all start cards, official well driller reports (well logs), pump installer reports (pump logs), and well abandonment reports for the current licensing period;

e. Documentation of compliance with the continuing education requirements described in Section 8.2. Acceptable documentation of attendance at approved courses must include the following information: the name of the course, the date it was conducted, the number of approved credits, the name and signature of the instructor and the licensee's name; for example, certificates of completion, transcripts, attendance rosters, diplomas, etc. (Note: licensees are advised that the state engineer will not keep track of the continuing education courses each licensee attends during the year. Licensees are responsible to acquire and then submit documentation with the renewal application.)

8.1.3 License renewal applications that do not meet the requirements of Subsection R655-5-8(8.1.2) by June 30 of the expiration year or which are received after June 30 of the expiration

year, will be assessed an additional administrative late fee determined and approved by the legislature.

8.1.4 Restricted, conditioned, limited, or denied renewal applications

8.1.4.1 The state engineer may renew a license on a restricted, conditional, or limited basis if the licensee's performance and compliance with established rules and construction standards indicates the scope of the licensee's permitted activities should be reduced or that the licensee requires strict supervision during a probationary period.

8.1.4.2 The restricted, conditional, or limited license shall state the restrictions, conditions, or limitations placed on the licensee's regulated activity; whether the restrictions, conditions, or limitations are permanent or time-limited; and the requirements, if any, which must be met for the license to be re-issued without restrictions, conditions, or limitations.

8.1.4.3 The state engineer may deny an application to renew a license if there has been a violation of these rules or UTAH CODE ANNOTATED Section 73-3-25 that casts doubt on the competency of the licensee or his willingness to comply with the well drilling administrative requirements or construction standards.

8.1.4.4 Within 30 days of a license renewal application being denied or a license being renewed on a restricted, conditioned, or limited basis, a licensee may appeal the action by requesting a hearing according to the provisions of R655-4-7.

8.1.4.5 The restrictions, conditions, or limitations on a license or the denial of a license shall remain effective during the pendency of the well driller/pump installer adjudicative proceeding.

8.2 Continuing Education.

8.2.1 During each license period, licensed well drillers and pump installers are required to earn at least twelve (12) continuing education credits by attending training sessions sponsored or sanctioned by the state engineer. Drillers and pump installers who do not renew their licenses, but who intend to renew within the following 24 month period allowed in Section 8.1.1, are also required to earn twelve (12) continuing education credits.

8.2.2 The state engineer shall establish a committee consisting of the state engineer or a representative, no more than four licensed well drillers/pump installers, a ground water scientist, and a manufacturer/supplier of well drilling/pump products. The committee will develop criteria for the training courses, approve the courses which can offer continuing education credits, and assign the number of credits to each course. The committee will make recommendations to the state engineer concerning appeals from training course sponsors and licensees related to earning continuing education credit.

8.2.3 The committee established in Section 8.2.2 shall assign the number of continuing education credits to each proposed training session based on the instructor's qualifications, a written outline of the subjects to be covered, and written objectives for the session. Licensees wishing continuing education credit for other training sessions shall provide the committee with all information it needs to assign continuing education requirements.

8.2.4 Licensed drillers must complete a State Engineer-sponsored "Administrative Rules for Well Drillers and Pump Installers" review course or other approved rules review once every four (4) years.

8.2.5 CE credits cannot be carried over from one licensing period to another.

8.3 Operator's Registration.

8.3.1 Drill Rig and Pump Rig operator registrations shall expire at the same time as the license of the well driller or pump installer by whom they are employed. Operators who meet the renewal requirements set forth in Subsection R655-4-8(8.3.2) on or before 12 midnight June 30 of the expiration year shall be authorized to act as a registered operator until the new registration is issued. Operators must renew their registrations within 24 months of the registration expiration date. Operators failing to renew within 24 months of the registration expiration date must re-apply for an operator's registration and meet all the application requirements of Subsections R655-4-3(3.3) and R655-4-3(3.5).

6.3.2 Applications to renew an operator's registration must include the following items:

a. Payment of the registration renewal fee determined and approved by the legislature;

b. Written application to the state engineer.

6.3.3 Registration renewal applications that do not meet the requirements of Subsection R655-4-8(8.3.2) by the June 30 expiration date or that are received after the June 30 expiration date will be assessed an additional administrative late fee determined and approved by the legislature.

R655-4-9. The Approval Process for Non-Production Wells.

9.1 General.

Regulated non-production wells such as cathodic protection wells, closed-loop heating/cooling exchange wells, monitor/piezometer/test wells, and other wells meeting the criteria in R655-4-1(1.2.4) drilled and constructed to a depth greater than 30 feet below natural ground surface require approval from the state engineer.

9.2 Approval to Construct or Replace.

Approval to construct or replace non-production wells is issued by the state engineer's main office and regional offices following review of written requests from the owner/applicant or their appointed representative. The appointed representative shall not include the licensed driller designated on the application. The requests for approval shall be made on forms provided by the state engineer entitled "Request for Non-Production Well Construction". The following information must be included on the form:

a. General location or common description of the project.

b. Specific course and distance locations from established government surveyed outside section corners or quarter corners.

c. Total anticipated number of wells to be installed.

d. Diameters, approximate depths and materials used in the wells.

e. Projected start and completion dates.

f. Name and license number of the driller contracted to install the wells.

g. A detailed explanation of the purpose and technical aspects of the drilling project. This can also include reviews and approvals (e.g., building permits) done by local jurisdictions of the project. This additional documentation may expedite the Division's processing of the non-production well application.

h. Signature of the well owner or authorized representative attesting to the accuracy and truthfulness of the

information on the application. The licensed driller cannot be the signatory on the non-production well application.

9.2.1 There is no fee required to request approval to drill a non-production well. Using available information and sources, the Division will evaluate the potential for the non-production well to become a contamination source or otherwise negatively impact the groundwater resource prior to approval. This evaluation can take up to 14 days to conduct. The Division shall list application information on its website to allow the public and local jurisdictions to review the project prior to approval. The well permit application shall be returned without review to the applicant if the Division determines that the application is incomplete, contains inaccurate information, lacks sufficient information or is illegible. The Division shall deny the issuance of a well permit if the site where the well is to be drilled is designated by the Division as an area where wells may not be constructed, including but not limited to contaminated or protected aquifers, areas where drilling and construction of wells can impact other water rights, and other areas where environmental remediation may be adversely affected by the construction and/or operation of wells. Upon written approval by the state engineer, the project will be assigned an approved non-production well number which will be referenced on all start cards and official well driller's reports.

R655-4-10. General Requirements.

10.1 Standards.

10.1.1 In some locations, the compliance with the following minimum standards will not result in a well being free from pollution or from being a source of subsurface leakage, waste, or contamination of the groundwater resource. Since it is impractical to attempt to prepare standards for every conceivable situation, the well driller or pump installer shall judge when to construct or otherwise perform work on wells under more stringent standards when such precautions are necessary to protect the groundwater supply and those using the well in question. Other state and local regulations pertaining to well drilling and construction, groundwater protection, isolation distances (set backs) from potential contamination sources and/or other structures/boundaries, and water quality/testing regulations may exist that are either more stringent than these rules or that specifically apply to a given situation. It is the licensee's responsibility to understand and apply other federal, state, and local regulations as applicable.

10.2 Well Site Locations.

10.2.1 Well site locations are described by course and distance from outside section corners or quarter corners (based on a Section/Township/Range Cadastral System) and by the Universal Transverse Mercator (UTM) coordinate system on all state engineer authorizations to drill (Start Cards). However, the licensee should also be familiar with local zoning ordinances, or county boards of health requirements which may limit or restrict the actual well location and construction in relationship to property/structure boundaries and existing or proposed concentrated sources of pollution or contamination such as septic tanks, drain fields, sewer lines, stock corrals, feed lots, etc. The licensee should also be familiar with the Utah Underground Facilities Act (Title 54, Chapter 8a of the Utah Code Annotated 1953 as amended) which requires subsurface excavators (including well drilling) to notify operators of

underground utilities prior to any subsurface excavation. Information on this requirement can be found by calling Blue Stakes Utility Notification Center at (800)662-4111.

10.2.2 Regulated wells shall be drilled at the approved location as defined on the valid start card. The driller shall check the drilling location to see if it matches the state-approved location listed on the Driller's Start Card.

10.3 Unusual Conditions.

10.3.1 If unusual conditions occur at a well site and compliance with these rules and standards will not result in a satisfactory well or protection to the groundwater supply, a licensed water well driller or pump installer shall request that special standards be prescribed for a particular well (variance request). The request for special standards shall be in writing and shall set forth the location of the well, the name of the owner, the unusual conditions existing at the well site, the reasons and justification that compliance with the rules and minimum standards will not result in a satisfactory well, and the proposed standards that the licensee believes will be more adequate for this particular well. If the state engineer finds that the proposed changes are in the best interest of the public, the state engineer will approve the proposed changes by assigning special standards for the particular well under consideration. At the Division's discretion, the licensee applying for the variance may be required to provide additional technical information justifying the variance. The variance request will be evaluated, and a response will be given within fourteen days. In a public health emergency or other exceptional circumstance, verbal notification for a variance may be given. An emergency usually consists of a well failure resulting in a dry well or an unusable well. Driller convenience does not constitute an emergency.

665-4-11. Well Drilling and Construction Requirements.

11.0 General.

11.0.1 Figures 1 through 5 are used to illustrate typical well construction standards, and can be viewed in the State of Utah Water Well Handbook available at the Division of Water Rights, 1594 West North Temple, Salt Lake City, Utah. Figure 1 illustrates the typical construction of a drilled well with driven casing such as a well drilled using the cable tool method or air rotary with a drill-through casing driver. Figure 2 illustrates the typical construction of a well drilled with an oversized borehole and/or gravel packed without the use of surface casing. Figure 3 illustrates the typical construction of a well drilled with an oversized borehole and/or gravel packed with the use of surface casing. Figure 4 illustrates the typical construction of a well drilled with an oversized borehole and/or gravel packed completed in stratified formations in which poor formation material or poor quality water is encountered. Figure 5 illustrates the typical construction of a well completed with PVC or nonmetallic casing.

11.1 Approved Products, Materials, and Procedures.

11.1.1 Any product, material or procedure designed for use in the drilling, construction, cleaning, renovation, development pump installation/repair, or abandonment of water production or non-production wells, which has received certification and approval for its intended use by the National Sanitation Foundation (NSF) under ANSI/NSF Standard 60 or 61, the American Society for Testing Materials (ASTM), the American Water Works Association (AWWA) or the American National Standards Institute (ANSI) may be utilized. Other products, materials or procedures may also be

utilized for their intended purpose upon manufacturers certification that they meet or exceed the standards or certifications referred to in this section and upon state engineer approval.

11.2 Well Casing - General

11.2.1 Drillers Responsibility. It shall be the sole responsibility of the well driller to determine the suitability of any type of well casing for the particular well being constructed, in accordance with these minimum requirements.

11.2.2 Casing Stick-up. The well casing shall extend a minimum of 18 inches above finished ground (land) level and the natural ground surface should slope away from the casing. A secure sanitary weatherproof seal or a completely welded cap shall be placed on the top of the well casing to prevent contamination of the well. If a vent is placed in the cap, it shall be properly screened to prevent access to the well by debris, insects, or other animals.

11.2.3 Steel Casing. All steel casing installed in Utah shall be in new or like-new condition, being free from pits or breaks, clean with all potentially dangerous chemicals or coatings removed, and shall meet the minimum specifications listed in Table 6 of these rules. In order to utilize steel well casing that does not fall within the categories specified in Table 6, the driller shall receive written approval from the state engineer. All steel casing installed in Utah shall meet or exceed the minimum ASTM, ANSI, or AWWA standards for steel pipe as described in Subsection 11.1 unless otherwise approved by the state engineer. Applicable standards (most recent revisions) may include:

ANSI/AWWA A100-AWWA Standard for Water Wells.

ANSI/ASTM A53-Standard Specifications for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated, Welded and Seamless.

ANSI/ASTM A139-Standard Specification for Electric-Fusion (Arc)-Welded Steel Pipe (NPS 4 and over).

ANSI/AWWA C200-Standard for Steel Water Pipe-6 in. and Larger.

ASTM A589-89-Standard Specification for Seamless and Welded Carbon Steel Water-Well Pipe.

API Spec.5L and 5LS-Specification for Liner Pipe.

ASTM A106-Standard Specification for Seamless Carbon Steel Pipe for High Temperature Service

ASTM A778-Standard Specifications for Welded, Unannealed Austenitic Stainless Steel Tubular Products.

ASTM A252-Standard Specification for Welded and Seamless Steel Pipe Piles.

ASTM A312-Standard Specification for Seamless, Welded, and Heavily Cold Worked Austenitic Stainless Steel Pipes

ASTM A409- Standard Specification for Welded Large Diameter Austenitic Steel Pipe for Corrosive or High-Temperature Service

TABLE 6
MINIMUM WALL THICKNESS FOR STEEL WELL CASING

Depth	Minimum Wall Thickness (ft)							
	0 to 200	200 to 300	300 to 400	400 to 600	600 to 800	800 to 1000	1000 to 1500	1500 to 2000
Nominal Casing Diameter	200	300	400	600	800	1000	1500	2000
2	.154	.154	.154	.154	.154	.154		
3	.216	.216	.216	.216	.216	.216		
4	.237	.237	.237	.237	.237	.237	.237	.237
5	.250	.250	.250	.250	.250	.250	.250	.250
6	.250	.250	.250	.250	.250	.250	.250	.250
8	.250	.250	.250	.250	.250	.250	.250	.250

10	.250	.250	.250	.250	.250	.250	.312	.312
12	.250	.250	.250	.250	.250	.250	.312	.312
14	.250	.250	.250	.250	.312	.312	.312	.312
16	.250	.250	.312	.312	.312	.312	.375	.375
18	.250	.312	.312	.312	.375	.375	.375	.438
20	.250	.312	.312	.312	.375	.375	.375	.438
22	.312	.312	.312	.375	.375	.375	.375	.438
24	.312	.312	.375	.375	.375	.438		
30	.312	.375	.375	.438	.438	.500		

Note: Minimum wall thickness is in inches.

11.2.4 Plastic and Other Non-metallic Casing.

11.2.4.1 Materials. PVC, SR, ABS, or other types of non-metallic well casing and screen may be installed in Utah upon obtaining permission of the well owner. Plastic well casing and screen shall be manufactured and installed to conform with The American National Standards Institute (ANSI) or the American Society for Testing and Materials (ASTM) Standard F 480-95, which are incorporated by reference to these rules. Casing and screen meeting this standard is normally marked "WELL CASING" and with the ANSI/ASTM designation "F 480-95, SDR-17 (or 13.5, 21, etc.)". All plastic casing and screen for use in potable water supplies shall be manufactured to be acceptable to the American National Standards Institute/National Sanitation Foundation (NSF) standard 61. Other types of plastic casings and screens may be installed upon manufacturers certification that such casing meets or exceeds the above described ASTM/SDR specification or ANSI/NSF approval and upon state engineer approval.

11.2.4.2 Minimum Wall Thickness and Depth Requirements. PVC well casing and screen with a nominal diameter equal to or less than four (4) inches shall meet the minimum wall thickness required under ASTM Standard F480-95 SDR 21 or a Schedule 40 designation. PVC well casing and screen with a nominal diameter greater than four (4) inches shall meet the minimum wall thickness required under ASTM Standard F480-95 SDR 17 or a Schedule 80 designation. Additionally, caution should be used whenever other than factory slots or perforations are added to PVC well casing. The installation of hand cut slots or perforations significantly reduces the collapse strength tolerances of unaltered casings. The depth at which plastic casing and screen is placed in a well shall conform to the minimum requirements and restrictions as outlined in ASTM Standard F-480-95 and to PVC casing manufacturer recommendations.

11.2.4.3 Fiberglass Casing. Fiberglass reinforced plastic well casings and screens may be installed in wells upon obtaining permission of the well owner. All fiberglass casing or screens installed in wells for use in potable water supplies shall be manufactured to be acceptable by ANSI/NSF Standard 61 and upon state engineer approval.

11.2.4.4 Driving Non-metallic Casing. Non-metallic casing shall not be driven, jacked, or dropped and may only be installed in an oversized borehole.

11.2.4.5 Protective Casing. If plastic or other non-metallic casing is utilized, the driller shall install a protective steel casing which complies with the provisions of Subsection 11.2.3 or an equivalent protective covering approved by the state engineer over and around the well casing at ground surface to a depth of at least two and one half (2.5) feet. If a pitless adapter is installed on the well, the bottom of the protective cover shall be placed above the pitless adapter/well connection. If the pitless adapter is placed in the protective casing, the protective casing shall extend below the

pitless entrance in the well casing and be sealed both on the outside of the protective casing and between the protective casing and well casing. The protective cover shall be sealed in the borehole in accordance with the requirements of Subsection 11.4. The annular space between the protective cover and non-metallic casing shall also be sealed with acceptable materials in accordance with Subsection 11.4. A sanitary, weather-tight seal or a completely welded cap shall be placed on top of the protective cover, thus enclosing the well itself. If the sanitary seal is vented, screens shall be placed in the vent to prevent debris insects, and other animals from entering the well. This protective casing requirement does not apply to monitor wells. Figure 5 depicts this requirement.

11.3 Casing Joints.

11.3.1 General. All well casing joints shall be made water tight. In instances in which a reduction in casing diameter is made, there shall be enough overlap of the casings to prevent misalignment and to insure the making of an adequate seal in the annular space between casings to prevent the movement of unstable sediment or formation material into the well, in addition to preventing the degradation of the water supply by the migration of inferior quality water through the annular space between the two casings.

11.3.2 Steel Casing. All steel casing shall be screw-coupled or welded. If the joints are welded, the weld shall meet American Welding Society standards and be at least as thick as the wall thickness of the casing and shall consist of at least two beads for the full circumference of the joint. Spot welding of joints is prohibited.

11.3.3 Plastic Casing. All plastic well casing shall be mechanically screw coupled, chemically welded, cam-locked or lug coupled to provide water tight joints as per ANSI/ASTM F480-95. Metal screws driven into casing joints shall not be long enough to penetrate the inside surface of the casing. Metal screws should be used only when surrounding air temperatures are below 50 degrees Fahrenheit (F) which retards the normal setting of the cement. Solvent-welded joints shall not impart taste, odors, toxic substances, or bacterial contamination to the water in the well.

11.4 Surface Seals and Interval Seals.

11.4.1 General. Before the drill rig is removed from the drill site of a well, a surface seal shall be installed. Well casings shall be sealed to prevent the possible downward movement of contaminated surface waters in the annular space around the well casing. The seal shall also prevent the upward movement of artesian waters within the annular space around the well casing. Depending upon hydrogeologic conditions around the well, interval seals may need to be installed to prevent the movement of groundwater either upward or downward around the well from zones that have been cased out of the well due to poor water quality or other reasons. The following surface and interval seal requirements apply equally to rotary drilled, cable tool drilled, bored, jetted, augered, and driven wells unless otherwise specified.

11.4.2 Seal Material.

11.4.2.1 General. The seal material shall consist of neat cement grout, sand cement grout, unhydrated bentonite, or bentonite grout as defined in Section R655-4-2. Use of sealing materials other than those listed above must be approved by the state engineer. Bentonite drilling fluid (drilling mud), dry drilling bentonite, or drill cuttings are not an acceptable sealing material. In no case shall drilling fluid (mud), drill cuttings, drill chips, or

puddling clay be used, or allowed to fill, partially fill, or fall into the required sealing interval of a well during construction of the well. All hydrated sealing materials (neat cement grout, sand cement grout, bentonite grout) shall be placed by tremie pipe, pumping, or pressure from the bottom of the seal interval upwards in one continuous operation when placed below a depth of 30 feet or when placed below static groundwater level. Portland Cement grouts must be allowed to cure a minimum of 72 hours for Type I-II cement or 36 hours for Type III cement before well drilling, construction, or testing may be resumed. The volume of annular space in the seal interval shall be calculated by the driller to determine the estimated volume of seal material required to seal the annular space. The driller shall place at least the volume of material equal to the volume of annular space, thus ensuring that a continuous seal is placed. The driller shall maintain the well casing centered in the borehole during seal placement using centralizers or other means to ensure that the seal is placed radially and vertically continuous.

11.4.2.2 Bentonite Grout. Bentonite used to prepare grout for sealing shall have the ability to gel; not separate into water and solid materials after it gels; have a hydraulic conductivity or permeability value of $10E-7$ centimeters per second or less; contain at least 20 percent solids by weight of bentonite, and have a fluid weight of 9.5 pounds per gallon or greater and be specifically designed for the purpose of sealing. Bentonite or polymer drilling fluid (mud) does not meet the definition of a grout with respect to density, gel strength, and solids content and shall not be used for sealing purposes. At no time shall bentonite grout contain materials that are toxic, polluting, develop odor or color changes, or serve as a micro-bacterial nutrient. All bentonite grout shall be prepared and installed according to the manufacturer's instructions and these rules. All additives must be certified by a recognized certification authority such as NSF and approved by the state engineer.

11.4.2.3 Unhydrated Bentonite. Unhydrated bentonite (e.g., granular, tabular, pelletized, or chip bentonite) may be used in the construction of well seals above a depth of 50 feet. Unhydrated bentonite can be placed below a depth of 50 feet when placed inside the annulus of two casings, when placed using a tremie pipe, or by using a placement method approved by the state engineer. The bentonite material shall be specifically designed for well sealing and be within industry tolerances. All unhydrated bentonite used for sealing must be free of organic polymers and other contamination. Placement of bentonite shall conform to the manufacturer's specifications and instructions and result in a seal free of voids or bridges. Granular or powdered bentonite shall not be placed under water by gravity feeding from the surface. When placing unhydrated bentonite, a sounding or tamping tool shall be run in the sealing interval during pouring to measure fill-up rate, verify a continuous seal placement, and to break up possible bridges or cake formation.

11.4.3 Seal and Unperforated Casing Placement.

11.4.3.1 General Seal Requirements. Figure 1 illustrates the construction of a surface seal for a typical well. The surface seal must be placed in an annular space that has a minimum diameter of four (4) inches larger than the nominal size of the permanent well casing (This amounts to a 2-inch annulus). The surface seal must extend from land surface to a minimum depth of 30 feet. The completed surface seal must fully surround the permanent well casing, must be evenly distributed, free of voids,

and extend to undisturbed or recompacted soil. In unconsolidated formations such as gravels, sands, or other unstable conditions when the use of drilling fluid or other means of keeping the borehole open are not employed, either a temporary surface casing with a minimum depth of 30 feet and a minimum nominal diameter of four (4) inches greater than the outermost permanent casing shall be utilized to ensure proper seal placement or the well driller shall notify the state engineer's office that the seal will be placed in a potentially unstable open borehole without a temporary surface casing by telephone or FAX in conjunction with the start card submittal in order to provide an opportunity for the state engineer's office to inspect the placement of the seal. If a temporary surface casing is utilized, the surface casing shall be removed in conjunction with the placement of the seal. Alternatively, conductor casing may be sealed permanently in place to a depth of 30 feet with a minimum 2-inch annular seal between the surface casing and borehole wall. If the temporary surface casing is to be removed, the surface casing shall be withdrawn as sealing material is placed between the outer-most permanent well casing and borehole wall. The sealing material shall be kept at a sufficient height above the bottom of the temporary surface casing as it is withdrawn to prevent caving of the borehole wall. If the temporary conductor casing is driven in place without a 2-inch annular seal between the surface casing and borehole wall, the surface casing may be left in place in the borehole only if it is impossible to remove because of unforeseen conditions and not because of inadequate drilling equipment, or if the removal will seriously jeopardize the integrity of the well and the integrity of subsurface barriers to pollutants or contaminant movement. The temporary surface casing can only be left in place without a sufficient 2-inch annular seal as described, above with the approval of the state engineer on a case by case basis. If the surface casing is left in place, it shall be perforated to allow seal material to penetrate through the casing and into the formation and annular space between the surface casing and borehole wall. Unhydrated bentonite shall not be used to construct the surface seal when the surface casing is left in place. Grout seal materials must be used to construct the surface seal when the surface casing is left in place. The grout must be placed with sufficient pressure to force the grout through the surface casing perforations and into the annular space between the surface casing and borehole wall and into the formation. Surface seals and unperforated casing shall be installed in wells located in unconsolidated formation such as sand and gravel with minor clay or confining units; unconsolidated formation consisting of stratified layers of materials such as sand, gravel, and clay or other confining units; and consolidated formations according to the following procedures.

11.4.3.2 Unconsolidated Formation without Significant Confining Units. This includes wells that penetrate an aquifer overlain by unconsolidated formations such as sand and gravel without significant clay beds (at least six feet thick) or other confining formations. The surface seal must be placed in a 2-inch annular space to a minimum depth of 30 feet. Permanent unperforated casing shall extend at least to a depth of 30 feet and also extend below the lowest anticipated pumping level. Additional casing placed in the open borehole below the required depths noted above shall meet the casing requirements of Subsection 9.2 unless the casing is installed as a liner inside a larger diameter approved casing.

11.4.3.3 Unconsolidated Formation with Significant Confining Units. This includes wells that penetrate an aquifer overlain by clay or other confining formations that are at least six (6) feet thick. The surface seal must be placed in a 2-inch annular space to a minimum depth of 30 feet and at least five (5) feet into the confining unit above the water bearing formation. Unperforated casing shall extend from ground surface to at least 30 feet and to the bottom of the confining unit overlying the water bearing formation. If necessary to complete the well, a smaller diameter casing, liner, or well screen may be installed below the unperforated casing. The annular space between the two casings shall be sealed with grout, bentonite, or a mechanical packer. Additional casing placed in the open borehole below the required depths noted above shall meet the casing requirements of Subsection 11.2 unless the casing is installed as a liner inside a larger diameter approved casing.

11.4.3.4 Consolidated Formation. This includes drilled wells that penetrate an aquifer, either within or overlain by a consolidated formation. The surface seal must be placed in a 2-inch annular space to a minimum depth of 30 feet and at least five (5) feet into competent consolidated formation. Unperforated permanent casing shall be installed to extend to a depth of at least 30 feet and the lower part of the casing shall be driven and sealed at least five (5) feet into the consolidated formation. If necessary to complete the well, a smaller diameter casing, liner, or well screen may be installed below the unperforated casing. The annular space between the two casings shall be sealed with grout, bentonite, or a mechanical packer. Additional casing placed in the open borehole below the required depths noted above shall meet the casing requirements of Subsection 11.2 unless the casing is installed as a liner inside a larger diameter approved casing.

11.4.3.5 Sealing Artesian Wells. Unperforated well casing shall extend into the confining stratum overlying the artesian zone, and shall be adequately sealed into the confining stratum to prevent both surface and subsurface leakage from the artesian zone. If leaks occur around the well casing or adjacent to the well, the well shall be completed with the seals, packers, or casing necessary to eliminate the leakage. The driller shall not move the drilling rig from the well site until leakage is completely stopped, unless authority for temporary removal of the drilling rig is granted by the state engineer, or when loss of life or property is imminent. If the well flows naturally at land surface due to artesian pressure, the well shall be equipped with a control valve so that the flow can be completely stopped. The control valve must be available for inspection by the state engineer at all times. All flowing artesian water supply wells shall be tested for artesian shut-in pressure in pounds per square inch and rate of flow in cubic feet per second, or gallons per minute, under free discharge conditions. This data shall be reported on the well log.

11.4.4 Interval Seals. Formations containing undesirable materials (e.g., fine sand and silt that can damage pumping equipment and result in turbid water), contaminated groundwater, or poor quality groundwater must be sealed off so that the unfavorable formation cannot contribute to the performance and quality of the well. These zones must also be sealed to eliminate the potential of cross contamination or commingling between two aquifers of differing quality. Figure 4 illustrates this situation. Unless approved by the state engineer, construction of wells that cause the commingling or cross connection of otherwise separate aquifers is not allowed.

11.4.5 Other Sealing Methods. In wells where the above-described methods of well sealing do not apply, special sealing procedures can be approved by the state engineer upon written request by the licensed well driller.

11.5 Special Requirements for Oversized and Gravel Packed Wells. This section applies to wells in which casing is installed in an open borehole without driving or drilling in the casing and an annular space is left between the borehole wall and well casing (e.g., mud rotary wells, flooded reverse circulation wells, air rotary wells in open bedrock).

11.5.1 Oversized Borehole. The diameter of the borehole shall be at least four (4) inches larger than the outside diameter of the well casing to be installed to allow for proper placement of the gravel pack and/or formation stabilizer and adequate clearance for grouting and surface seal installations. In order to accept a smaller diameter casing in any oversized borehole penetrating unconsolidated or stratified formations, the annular space must be sealed in accordance with Subsection 11.4. In order to minimize the risk of: 1) borehole caving or collapse; 2) casing failure or collapse; or 3) axial distortion of the casing, it is recommended that the entire annular space in an oversized borehole between the casing and borehole wall be filled with formation stabilizer such as approved seal material, gravel pack, filter material or other state engineer-approved materials. Well casing placed in an oversized borehole should be suspended at the ground surface until all formation stabilizer material is placed in order to reduce axial distortion of the casing if it is allowed to rest on the bottom of an open oversized borehole. In order to accept a smaller diameter casing, the annular space in an oversized borehole penetrating unconsolidated formations (with no confining layer) must be sealed in accordance with Subsection 11.4 to a depth of at least 30 feet or from static water level to ground surface, whichever is deeper. The annular space in an oversized borehole penetrating stratified or consolidated formations must be sealed in accordance with Subsection 11.4 to a depth of at least 30 feet or five (5) feet into an impervious strata (e.g., clay) or competent consolidated formation overlying the water producing zones back to ground surface, whichever is deeper. Especially in the case of an oversized borehole, the requirements of Subsection 11.4.4 regarding interval sealing must be followed.

11.5.2 Gravel Pack or Filter Material. The gravel pack or filter material shall consist of clean, well-rounded, chemically stable grains that are smooth and uniform. The filter material should not contain more than 2% by weight of thin, flat, or elongated pieces and should not contain organic impurities or contaminants of any kind. In order to assure that no contamination is introduced into the well via the gravel pack, the gravel pack must be washed with a minimum 100 ppm solution of chlorinated water or dry hypochlorite mixed with the gravel pack at the surface before it is introduced into the well (see Table 7 of these rules for required amount of chlorine material).

11.5.3 Placement of Filter Material. All filter material shall be placed using a method that through common usage has been shown to minimize a) bridging of the material between the borehole and the casing, and b) excessive segregation of the material after it has been introduced into the annulus and before it settles into place. It is not acceptable to place filter material by pouring from the ground surface unless proper sounding devices are utilized to measure dynamic filter depth, evaluate pour rate, and minimize bridging and formation of voids.

11.5.4 No Surface Casing Used. If no permanent conductor casing is installed, neat cement grout, sand cement grout, bentonite grout, or unhydrated bentonite seal shall be installed in accordance with Subsection 11.4. Figure 2 of these rules illustrates the construction of a typical well of this type.

11.5.5 Permanent Conductor Casing Used. If permanent conductor casing is installed, it shall be unperforated and installed and sealed in accordance with Subsection 11.4 as depicted in Figure 3 of these rules. After the gravel pack has been installed between the conductor casing and the well casing, the annular space between the two casings shall be sealed by either welding a water-tight steel cap between the two casings at land surface or filling the annular space between the two casings with neat cement grout, sand cement grout, bentonite grout, or unhydrated bentonite from at least 50 feet to the surface and in accordance with Subsection 11.4. If a hole will be created in the permanent conductor casing in order to install a pitless adapter into the well casing, the annular space between the conductor casing and well casing shall be sealed to at least a depth of thirty (30) feet with neat cement grout, sand cement grout, bentonite grout, or unhydrated bentonite. A waterproof cap or weld ring sealing the two casings at the surface by itself without the annular seal between the two casings is unacceptable when a pitless adapter is installed in this fashion. Moreover in this case, the annular space between the surface casing and well casing must be at least 2 inches in order to facilitate seal placement.

11.5.6 Gravel Feed Pipe. If a gravel feed pipe, used to add gravel to the gravel pack after well completion, is installed, the diameter of the borehole in the sealing interval must be at least four (4) inches in diameter greater than the permanent casing plus the diameter of the gravel feed pipe. The gravel feed pipe must be completely surrounded by the seal. The gravel feed pipe must extend at least 18 inches above ground and must be sealed at the top with a watertight cap or plug (see Figure 2).

11.5.7 Other Gravel Feed Options. If a permanent surface casing is installed in the construction of a filter pack well, a watertight, welded, steel plate (ring) at least 3/16 of an inch in thickness shall be installed between the inner production casing and the outer surface casing at the wellhead. A watertight fill port with threaded cap may be installed for the purpose of placing additional filter pack material in the well.

11.6 Protection of the Aquifer.

11.6.1 Drilling Fluids and LCMs. The well driller shall take due care to protect the producing aquifer from clogging or contamination. Organic substances shall not be introduced into the well or borehole during drilling or construction. Every effort shall be made to remove all substances and materials introduced into the aquifer or aquifers during well construction. "Substances and materials" shall mean all bentonite- and polymer-based drilling fluids, filter cake, and any other inorganic substances added to the drilling fluid that may seal or clog the aquifer. The introduction of lost circulation materials (LCM's) during the drilling process shall be limited to those products which will not present a potential medium for bacterial growth or contamination. Only LCM's which are non-organic, which can be safely broken down and removed from the borehole, may be utilized. This includes, but is not limited to, paper/wood products, brans, hulls, grains, starches, hays/straws,

and proteins. This is especially important in the construction of wells designed to be used as a public water system supply. All polymers and additives used in any well shall be certified by NSF/ANSI approval standards for use in potable water supply wells, or equivalent standards as approved by the Division. The product shall be clearly labeled as meeting these standards. Polymers and additives must be designed and manufactured to meet industry standards to be nondegrading and must not act as a medium which will promote growth of microorganisms.

11.6.2 Containment of Drilling Fluid. Drilling or circulating fluid introduced into the drilling process shall be contained in a manner to prevent surface or subsurface contamination and to prevent degradation of natural or man-made water courses or impoundments. Rules regarding the discharges to waters of the state are promulgated under R317-8-2 of the Utah Administrative Code and regulated by the Utah Division of Water Quality (Tel. 801-536-6146). Pollution of waters of the state is a violation of the Utah Water Quality Act, Utah Code Annotated Title 19, Chapter 5.

11.6.3 Mineralized, Contaminated or Polluted Water. Whenever a water bearing stratum that contains nonpotable mineralized, contaminated or polluted water is encountered, the stratum shall be adequately sealed off so that contamination or commingling of the overlying or underlying groundwater zones will not occur (see Figure 4).

11.6.4 Down-hole Equipment. All tools, drilling equipment, and materials used to drill, repair, renovate, clean, or install a pump in a well shall be free of contaminants prior to beginning well construction or other in-well activity. Contaminants include lubricants, fuel, bacteria, etc. that will reduce the well efficiency, and any other item(s) that will be harmful to public health and/or the resource or reduce the life of the water well. It is recommended that excess lubricants placed on drilling equipment be wiped clean prior to insertion into the borehole.

11.6.5 Well Disinfection and Chlorination of Water. No contaminated or untreated water shall be placed in a well during construction. Water should be obtained from a chlorinated municipal system. Where this is not possible, the water must be treated to give 100 parts per million free chlorine residual. Upon completion of a well or work on a well, the driller or pump installer shall disinfect the well using accepted disinfection procedures to give 100 parts per million free chlorine residual equally distributed in the well water from static level to the bottom of the well. A chlorine solution designated for potable water use prepared with either calcium hypochlorite (powdered, granular, or tablet form) or sodium hypochlorite in liquid form shall be used for water well disinfection. Off-the-shelf chlorine compounds intended for home laundry use, pool or fountain use should not be used if they contain additives such as antifungal agents, silica ("Ultra" brands), scents, etc. Table 7 provides the amount of chlorine compound required per 100 gallons of water or 100 feet linear casing volume of water to mix a 100 parts per million solution. Disinfection situations not depicted in Table 7 must be approved by the state engineer. Additional recommendations and guidelines for water well system disinfection are available from the state engineer upon request.

TABLE 7
AMOUNT OF CHLORINE COMPOUND FOR EACH 100 FEET OF WATER
STANDING IN WELL (100 ppm solution)

Well Diameter (inches)	Ca-HyCLT* (25% HOCL) (ounces)	Ca-HyCLT (65% HOCL) (ounces)	Na-HyCLT** (12-trade %) (fluid ounces)	Liquid Cl*** (100% Cl2) (lbs)
2	1.00	0.50	3.5	0.03
4	3.50	1.50	7.0	0.06
6	8.00	3.00	16.0	0.12
8	14.50	5.50	28.0	0.22
10	22.50	8.50	45.0	0.34
12	32.50	12.00	64.0	0.50
14	44.50	16.50	88.0	0.70
16	58.00	26.00	112	0.88
20	90.50	33.00	179	1.36
For every 100 gal. of water add:	5.50	2.00	11.5	0.09

NOTES: *Calcium Hypochlorite (solid)
**Sodium Hypochlorite (liquid)
***Liquid Chlorine

11.7 Special Requirements.

11.7.1 Explosives. Explosives used in well construction shall not be detonated within the section of casing designed or expected to serve as the surface seal of the completed well, whether or not the surface seal has been placed. If explosives are used in the construction of a well, their use shall be reported on the official well log. In no case shall explosives, other than explosive shot perforators specifically designed to perforate steel casing, be detonated inside the well casing or liner pipe.

11.7.2 Access Port. Every well shall be equipped with a usable access port so that the position of the water level, or pressure head, in the well can be measured at all times.

11.7.3 Completion or Abandonment. A licensed driller shall not remove his drill rig from a well site unless the well is completed or abandoned. Completion of a well shall include all surface seals, gravel packs or curbs required. Dry boreholes, or otherwise unsuccessful attempts at completing a well, shall be properly abandoned in accordance with Section R655-4-14. Upon completion, all wells shall be equipped with a watertight, tamper-resistant casing cap or sanitary seal.

11.7.4 Surface Security. If it becomes necessary for the driller to temporarily discontinue the drilling operation before completion of the well or otherwise leave the well or borehole unattended, the well and/or borehole must be covered securely to prevent contaminants from entering the casing or borehole and rendered secure against entry by children, vandals, domestic animals, and wildlife.

11.7.5 Pitless Adapters/Units. Pitless adapters or units are acceptable to use with steel well casing as long as they are installed in accordance with manufacturers recommendations and specifications as well as meet the Water Systems Council Pitless Adapter Standard (PAS-97) which are incorporated herein by reference and are available from Water Systems Council, 13 Bentley Dr., Sterling, VA 20165, phone 703-430-6045, fax 703-430-6185 (watersystemscouncil.org). The pitless adaptor, including the cap or cover, casing extension, and other attachments, must be so designed and constructed to be secure, water tight, and to prevent contamination of the potable water supply from external sources.

Pitless wellhead configurations shall have suitable access to the interior of the well in order to measure water level and for well disinfection purposes. Pitless configurations shall be of watertight construction throughout and be constructed of materials at least equivalent to and having wall thickness and strength compatible to the casing. Pitless adapters or units are not recommended to be mounted on PVC well casing. If a pitless adapter is to be used with PVC casing, it should be designed for use with PVC casing, and the driller should ensure that the weight of the pump and column do not exceed the strength of the PVC well casing. A cement grout seal shall not be allowed within the pitless unit or pitless adaptor sealing interval. The pitless adapter or unit sealing interval shall be sealed with unhydrated bentonite. The pitless adapter or unit, including the cap or cover, pitless case and other attachments, shall be designed and constructed to be watertight to prevent the entrance of contaminants into the well from surface or near-surface sources.

11.7.6 Hydraulic Fracturing. The hydraulic fracturing pressure shall be transmitted through a drill string and shall not be transmitted to the well casing. Hydraulic fracturing intervals shall be at least 20 feet below the bottom of the permanent casing of a well. All hydraulic fracturing equipment shall be thoroughly disinfected with a 100 part per million chlorine solution prior to insertion into the well. The driller shall include the appropriate hydraulic fracturing information on the well log including methods, materials, maximum pressures, location of packers, and initial/final yields. In no case shall hydrofracturing allow commingling of waters within the well bore. Clean sand or other material (propping agents) approved by the Division may be injected into the well to hold the fractures open when pressure is removed.

11.7.7 Static Water Level, Well Development, and Well Yield. To fulfill the requirements of Subsection R655-4-4.5.2, new wells designed to produce water shall be developed to remove drill cuttings, drilling mud, or other materials introduced into the well during construction and to restore the natural groundwater flow to the well to the extent possible. After a water production well is developed, a test should be performed to determine the rate at which groundwater can be reliably produced from the well. Following development and testing, the static water level in the well should also be measured. Static water level, well development information, and well yield information shall be noted on the official submittal of the Well Log by the well driller.

11.7.8 Packers. Packers shall be of a material that will not impart taste, odor, toxic substances or bacterial contamination to the water in the well.

11.7.9 Screens. Screens must be constructed of corrosion-resistant material and sufficiently strong to withstand stresses encountered during and after installation. Screen slot openings, screen length, and screen diameter should be sized and designed to provide sufficient open area consistent with strength requirements to transmit sand-free water from the well. Screens should be installed so that exposure above pumping level will not occur.

11.7.10 Openings in the Casing. There shall be no opening in the casing wall between the top of the casing and the bottom of the required casing seal except for pitless adapters, measurement access ports, and other approved openings installed in conformance with these standards. In no case shall holes be cut in the casing wall for the purpose of lifting or lowering casing into the

well bore unless such holes are properly welded closed and watertight prior to placement into the well bore.

11.7.11 Casing vents. If a well requires venting, it must terminate in a down-turned position at least 18-inches above ground (land) level, at or above the top of the casing or pitless unit and be covered with a 24 mesh corrosion-resistant screen.

R655-4-12. Special Wells.

12.1 Construction Standards for Special Wells.

12.1.1 General. The construction standards outlined in Section R655-4-11 are meant to serve as minimum acceptable construction standards. Certain types of wells such as cathodic protection wells, closed-loop heating or cooling exchange wells, recharge and recovery wells, and public supply wells require special construction standards that are addressed in this section or in rules promulgated by other regulating agencies. At a minimum, when constructing special wells as listed above, the well shall be constructed by a licensed well driller, and the minimum construction standards of Section R655-4-11 shall be followed in addition to the following special standards.

12.1.2 Public Water Supply Wells. Public water supply wells are subject to the minimum construction standards outlined in Section R655-4-11 in addition to the requirements established by the Department of Environmental Quality, Division of Drinking Water under Rules R309-515 and R309-600. Plans and specifications for a public supply well must be reviewed and approved by the Division of Drinking Water before the well is drilled. These plans and specifications shall include the procedures, practices, and materials used to drill, construct, seal, develop, clean, disinfect, and test the public supply well. A Preliminary Evaluation Report describing the potential vulnerability and protection strategies of the new well to contamination must also be submitted and approved prior to drilling. A representative of the Division of Drinking Water must be present at the time the surface grout seal is placed in all public supply wells, so that the placement of the seal can be certified. In order to assure that a representative will be available, and to avoid down-time waiting for a representative, notice should be given several days in advance of the projected surface grout seal placement. When the time and date for the surface grout seal installation are confirmed a definite appointment should be made with the representative of the Division of Drinking Water to witness the grout seal placement by calling (801) 536-4200. The licensed driller shall have available a copy of the start card relating to the well and provide that information to the inspecting representative at the time of the surface grout seal installation and inspection.

12.1.3 Cathodic Protection Well Construction. Cathodic protection wells shall be constructed in accordance with the casing, joint, surface seal, and other applicable requirements outlined in Section R655-4-9. Any annular space existing between the base of the annular surface seal and the top of the anode and conductive fill interval shall be filled with appropriate fill or sealing material. Fill material shall consist of washed granular material such as sand, pea gravel, or sealing material. Fill material shall not be subject to decomposition or consolidation and shall be free of pollutants and contaminants. Fill material shall not be toxic or contain drill cuttings or drilling mud. Additional sealing material shall be placed below the minimum depth of the annular surface seal, as needed, to prevent the cross-connection and commingling of separate aquifers

and water bearing zones. Vent pipes, anode access tubing, and any other tubular materials (i.e., the outermost casing) that pass through the interval to be filled and sealed are considered casing for the purposes of these standards and shall meet the requirements of Subsections R655-4-11.2 and 11.3. Cathodic protection well casing shall be at least 2 inches in internal diameter to facilitate eventual well abandonment. Figure 6 illustrates the construction of a typical cathodic protection well.

12.1.4 Closed-loop Heating/Cooling Exchange Wells. Wells or boreholes utilized for heat exchange or thermal heating in a closed-loop fashion, which are greater than 30 feet in depth and encounter formations containing groundwater, must be drilled by a licensed driller and the owner or applicant must have an approved application for that specific purpose as outlined in Section R655-4-9. Wells or boreholes installed for heat or thermal exchange process must comply with the minimum construction standards of Section R655-4-11.

12.1.4.1 For open-loop systems where groundwater is removed, processed, and re-injected, a non-consumptive use water right approval must be obtained from the state engineer. Approval to re-inject water underground is also required from the Utah Division of Water Quality. Open-loop system wells shall be constructed in accordance with the requirements found in Section 11. If a separate well or borehole is required for re-injection purposes, it must also comply with these standards and the groundwater must be injected into the same water bearing zones as from which it is initially withdrawn. The quality and quantity of groundwater shall not be diminished or degraded upon re-injection.

12.1.4.2 Closed-loop heat exchange wells must also comply with the guidelines set forth in the National Ground Water Association Guidelines for Construction of Vertical Boreholes for Closed Loop Heat Pump Systems (guidelines are copyrighted and available from the National Ground Water Association at 601 Dempsey Rd, Westerville, OH 43081-8978, Phone 614-898-7791, Fax 614.898-7786, website www.ngwa.org, email customerservice@ngwa.org) or standards set forth in the Design and Installation Standards for Closed-Loop/Geothermal Heat Pump Systems (standards are copyrighted and available from the International Ground Source Heat Pump Association (374 Cordell South, Oklahoma State University, Stillwater, OK 74078-8018, www.igshpa.okstate.edu). These guidelines and standards may be viewed during normal business hours at the Division's main office at 1594 West North Temple, SLC, UT 84116). For closed-loop systems where groundwater is not removed in the process, non-production well approval must be obtained from the state engineer. Specific requirements for closed-loop wells include:

a. The location of closed loop heat pump wells must comply with applicable ordinances, regulations, or other enforceable instruments of local governments to ensure adequate protection of public water systems from encroachments or any impairment of the groundwater resource.

b. Closed-loop system wells must be sealed from the bottom of the well/boring to ground surface using acceptable materials and placement methods described in Section 11.4. Sand may be added to the seal mix to enhance thermal conductivity as long as the seal mix meets permeability and gel strength standards outlined in Section 11.4.

c. Borehole Diameter: The borehole diameter of a closed loop heat pump well must be of sufficient size to allow placement

of the pipe and placement of a tremie to emplace the grout. In general, for loop piping with a nominal diameter of ¾ to 1 inch, the borehole diameter shall be at least 4.75 inches. For loop piping with a nominal diameter of 1.25 inches, the borehole diameter shall be at least 5.25 inches. For loop piping with a nominal diameter of 1.5 to 2.0 inches, the borehole diameter shall be at least 6.0 inches.

d. Grouting of Vertical Ground Water Heat Pump Wells: Grouting the annulus of a heat pump well shall be completed within 24 hours from the time the borehole is drilled and loaded with the U-bend assembly and within at least 6 hours from the time the drill rig moves off the borehole. Full-length grout placement is required on all vertical closed loop heat pump boreholes.

e. Placement of Grout Material: Full-length grout material must be placed by tremie from the bottom of the borehole to the top. The tremie pipe must not be left in the borehole. The grout must fill the entire borehole. Grout must not be allowed to free-fall.

f. Pipe: Pipe material, joining methods, and installation must meet the guidelines and standards referenced in the National Ground Water Association Guidelines for Construction of Vertical Boreholes for Closed Loop Heat Pump Systems, (guidelines are copyrighted and available from the National Ground Water Association at 601 Dempsey Rd, Westerville, OH 43081-8978, Phone 614-898-7791, Fax 614.898-7786, email customerservice@ngwa.org) and in the Design and Installation Standards for Closed-Loop/Geothermal Heat Pump Systems (standards are copyrighted and available from the International Ground Source Heat Pump Association (374 Cordell South, Oklahoma State University, Stillwater, OK 74078-8018, www.igshpa.okstate.edu). Guidelines and standards may be viewed during normal business hours at the Division's main office at 1594 West North Temple, SLC, UT 84116). U-bend connections shall be factory jointed and piping shall not have any fusion joints below a depth of 30 feet.

g. Pressure Testing: Loop piping shall be pressure tested prior to installation into the borehole. Loop piping failing this initial pressure testing shall not be installed. The installed system must be pressure tested at a minimum of 2 times the system operating pressure to ensure the integrity of the system. If a pressure loss is detected, the cause must be properly repaired or material replaced or properly plugged. The system shall be pressure tested again following any repairs. Pressure testing procedures shall follow the guidelines and standards in the National Ground Water Association Guidelines for Construction of Vertical Boreholes for Closed Loop Heat Pump Systems, (guidelines are copyrighted and available from the National Ground Water Association at 601 Dempsey Rd, Westerville, OH 43081-8978, Phone 614-898-7791, Fax 614.898-7786, email customerservice@ngwa.org) and in the Design and Installation Standards for Closed-Loop/Geothermal Heat Pump Systems (standards are copyrighted and available from the International Ground Source Heat Pump Association (374 Cordell South, Oklahoma State University, Stillwater, OK 74078-8018, www.igshpa.okstate.edu). Guidelines and standards may be viewed during normal business hours at the Division's main office at 1594 West North Temple, SLC, UT 84116).

h. Heat transfer fluid, additives, and inhibitors. The heat transfer fluids, additives, and inhibitors used inside the closed-loop assembly must be nontoxic, safe to install, provide corrosion protection, not promote bacterial growth, and not produce an

unacceptable risk to the environment in the event of a system leak. Water used in the heat transfer fluid mix must be from a treated potable source or be disinfected in accordance with these rules. Use and placement of fluids, additives, and inhibitors shall be in accordance with the guidelines and standards in the National Ground Water Association Guidelines for Construction of Vertical Boreholes for Closed Loop Heat Pump Systems, (guidelines are copyrighted and available from the National Ground Water Association at 601 Dempsey Rd, Westerville, OH 43081-8978, Phone 614-898-7791, Fax 614.898-7786, email customerservice@ngwa.org) and in the Design and Installation Standards for Closed-Loop/Geothermal Heat Pump Systems (standards are copyrighted and available from the International Ground Source Heat Pump Association (374 Cordell South, Oklahoma State University, Stillwater, OK 74078-8018, www.igshpa.okstate.edu). Guidelines and standards may be viewed during normal business hours at the Division's main office at 1594 West North Temple, SLC, UT 84116).

i. Abandonment: When closed-loop heat exchange wells are required to be permanently abandoned (decommissioned and sealed), the most recent version of the Permanent Loop Pipe Decommissioning standards of the Closed-Loop/Geothermal Heat Pump Systems Design and Installation Standards shall be followed. These standards are published by the International Ground Source Heat Pump Association (374 Cordell South, Oklahoma State University, Stillwater, OK 74078-8018, www.igshpa.okstate.edu).

12.1.4.3 The rules herein pertain only to the heating and cooling exchange well constructed to a depth greater than 30 feet and are not intended to regulate the incidental work that may occur up to the well such as plumbing, electrical, piping, trenching, and backfilling activities.

12.1.5 Recharge and Recovery Wells. Any well drilled under the provisions of Title 73, Chapter 3b (Groundwater Recharge and Recovery Act) shall be constructed in a manner consistent with these rules and shall be drilled by a currently licensed driller. Special rules regarding the injection of water into the ground are also promulgated under the jurisdiction of the Utah Department of Environmental Quality, Division of Water Quality (Rule R317-7 "Underground Injection Control Program" of the Utah Administrative Code) and must be followed in conjunction with the Water Well Drilling rules.

R655-4-13. Deepening, Rehabilitation, and Renovation of Wells.

13.1 Sealing of Casing.

13.1.1 If in the repair of a drilled well, the old casing is withdrawn, the well shall be recased and resealed in accordance with the rules provided in Subsection R655-4-11(11.4).

13.2 Inner Casing.

13.2.1 If an inner casing is installed to prevent leakage of undesirable water into a well, the space between the two well casings shall be completely sealed using packers, casing swedging, pressure grouting, etc., to prevent the movement of water between the casings.

13.3 Outer Casing.

13.3.1 If the "over-drive" method is used to eliminate leakage around an existing well, the casing driven over the well shall meet the minimum specifications listed in Subsection R655-4-11(11.4).

13.4 Artesian Wells.

13.4.1 If upon deepening an existing well, an artesian zone is encountered, the well shall be cased and completed as provided in Subsection R655-4-11(11.4).

13.5 Drilling in a Dug Well.

13.5.1 A drilled well may be constructed through an existing dug well provided that:

13.5.1.1 Unperforated Casing Requirements. An unperforated section of well casing extends from a depth of at least ten (10) feet below the bottom of the dug well and at least 20 feet below land surface to above the maximum static water level in the dug well.

13.5.1.2 Seal Required. A two foot thick seal of neat cement grout, sand cement grout, or bentonite grout is placed in the bottom of the dug well so as to prevent the direct movement of water from the dug well into the drilled well.

13.5.1.3 Test of Seal. The drilled well shall be pumped or bailed to determine whether the seal described in Subsection R655-4-13(13.5.1.2) is adequate to prevent movement of water from the dug well into the drilled well. If the seal leaks, additional sealing and testing shall be performed until a water tight seal is obtained.

13.6 Well Rehabilitation and Cleaning.

13.6.1 Tools used to rehabilitate or clean a well shall be cleaned, disinfected, and free of contamination prior to placement in a well.

13.6.2 The driller shall use rehabilitation and cleaning tools properly so as not to permanently damage the well or aquifer. If the surface seal is damaged or destroyed in the process of rehabilitation or cleaning, the driller shall repair the surface seal to the standards set forth in Subsection R655-4-11(11.4).

13.6.3 Debris, sediment, and other materials displaced inside the well and surrounding aquifer as a result of rehabilitation or cleaning shall be completely removed by pumping, bailing, well development, or other approved methods.

13.6.4 Detergents, chlorine, acids, or other chemicals placed in wells for the purpose of increasing or restoring yield, shall be specifically designed for that purpose and used according to the manufacturer's recommendations.

13.6.5 Any renovation, rehabilitation, cleaning, or other work on a well that requires alteration of the well itself shall be conducted by a licensed well driller.

13.6.6 Following completion of deepening, renovation, rehabilitation, cleaning, or other work on a well, the well shall be properly disinfected in accordance with Subsection R655-4-11(11.6.5).

R655-4-14. Abandonment of Wells.14.1 Temporary Abandonment.

14.1.1 When any well is temporarily removed from service, the top of the well shall be sealed with a tamper resistant, water-tight cap or seal. If a well is in the process of being drilled and is temporarily abandoned, the well shall be sealed with a tamper resistant, water-tight cap or seal and a surface seal installed in accordance with Subsection R655-4-11(11.4). The well may be temporarily abandoned during construction for a maximum of 90 days. After the 90 day period, the temporarily abandoned well shall be completed as a well that meets the standards of Section 11 or permanently abandoned in accordance with the following requirements, and an official well abandonment report

(abandonment log) must be submitted in compliance with Section R655-4-4.

14.2 Permanent Abandonment.

14.2.1 The rules of this section apply to the abandonment of the type of wells listed in Subsection R655-4-1(1.2) including private water wells, public supply wells, monitor wells, cathodic protection wells, and heating or cooling exchange wells. A licensed driller shall notify the state engineer prior to commencing abandonment work and submit a complete and accurate abandonment log following abandonment work in accordance with Section R655-4-4 of these rules. Prior to commencing abandonment work, the driller shall obtain a copy of the well log of the well proposed to be abandoned from the well owner or the state engineer, if available, in order to determine the proper abandonment procedure. Any well that is to be permanently abandoned shall be completely filled in a manner to prevent vertical movement of water within the borehole as well as preventing the annular space surrounding the well casing from becoming a conduit for possible contamination of the groundwater supply. A well driller who wishes to abandon a well in a manner that does not comply with the provisions set forth in this section must request approval from the state engineer.

14.3 License Required.

14.3.1 Well abandonment shall be accomplished under the direct supervision of a currently licensed water well driller who shall be responsible for verification of the procedures and materials used.

14.4 Acceptable Materials.

14.4.1 Neat cement grout, sand cement grout, unhydrated bentonite, or bentonite grout shall be used to abandon wells and boreholes. Other sealing materials or additives, such as fly ash, may be used in the preparation of grout upon approval of the state engineer. Drilling mud or drill cuttings shall not be used as any part of a sealing materials for well abandonment. The liquid phase of the abandonment fluid shall be water from a potable municipal system or disinfected in accordance with Subsection R655-4-11(11.6.5).

14.5 Placement of Materials.

14.5.1 Neat cement and sand cement grout shall be introduced at the bottom of the well or required sealing interval and placed progressively upward to the top of the well. The sealing material shall be placed by the use of a grout pipe, tremie line, dump bailer or equivalent in order to avoid freefall, bridging, or dilution of the sealing materials or separation of aggregates from sealants. Sealing material shall not be installed by freefall (gravity) unless the interval to be sealed is dry and no deeper than 30 feet below ground surface. If the well to be abandoned is a flowing artesian well, the well may be pressure grouted from the surface. The well should be capped immediately after placement of seal materials to allow the seal material to set up and not flow out of the well.

14.5.2 Bentonite-based abandonment products shall be mixed and placed according to manufacturer's recommended procedures and result in a seal free of voids or bridges. Granular or powered bentonite shall not be placed under water. When placing unhydrated bentonite, a sounding or tamping tool shall be run in the sealing interval during pouring to measure fill-up rate, verify a continuous seal placement, and to break up possible bridges or cake formation.

14.5.3 The uppermost ten (10) feet of the abandoned well casing or borehole shall consist of neat cement grout or sand cement grout.

14.5.4 Abandonment materials placed opposite any non-water bearing intervals or zones shall be at least as impervious as the formation or strata prior to penetration during the drilling process.

14.5.5 Prior to well or borehole abandonment, all pump equipment, piping, and other debris shall be removed to the extent possible. The well shall also be sounded immediately before it is plugged to make sure that no obstructions exist that will interfere with the filling and sealing. If the well contains lubricating oil that has leaked from a turbine shaft pump, it shall be removed from the well prior to abandonment and disposed of in accordance with applicable state and federal regulations.

14.5.6 Verification shall be made that the volume of sealing and fill material placed in a well during abandonment operations equals or exceeds the volume of the well or borehole to be filled and sealed.

14.6 Termination of Casing.

14.6.1 The casings of wells to be abandoned shall be severed a minimum of two feet below either the natural ground surface adjacent to the well or at the collar of the hole, whichever is the lower elevation. A minimum of two (2) feet of compacted native material shall be placed above the abandoned well upon completion.

14.7 Abandonment of Artesian Wells.

14.7.1 A neat cement grout, sand-cement grout, or concrete plug shall be placed in the confining stratum overlying the artesian zone so as to prevent subsurface leakage from the artesian zone. The remainder of the well shall be filled with sand-cement grout, neat cement grout, bentonite abandonment products, or bentonite grout. The uppermost ten (10) feet of the well shall be abandoned as required in Subsection R655-4-14(14.5.3).

14.8 Abandonment of Drilled and Jetted Wells.

14.8.1 A neat cement grout or sand cement grout plug shall be placed opposite all perforations, screens or openings in the well casing. The remainder of the well shall be filled with cement grout, neat cement, bentonite abandonment products, concrete, or bentonite slurry. The uppermost ten feet of the well shall be abandoned as required in Subsection R655-4-14(14.5.3).

14.9 Abandonment of Gravel Packed Wells.

14.9.1 All gravel packed wells shall be pressure grouted throughout the perforated or screened section of the well. The remainder of the well shall be filled with sand cement grout, neat cement grout, bentonite abandonment products, or bentonite grout. The uppermost ten feet of the well shall be abandoned as required in Subsection R655-4-14(14.5.3).

14.10 Removal of Casing.

14.10.1 It is recommended that the well casing be removed during well abandonment, and when doing so, the abandonment materials shall be placed from the bottom of the well or borehole progressively upward as the casing is removed. The well shall be sealed with sand cement grout, neat cement grout, bentonite abandonment products, or bentonite grout. In the case of gravel packed wells, the entire gravel section shall be pressure grouted. The uppermost ten feet of the well shall be abandoned as required in Subsection R655-4-14(14.5.3).

14.11 Replacement Wells.

14.11.1 Wells which are to be removed from operation and replaced by the drilling of a new well under an approved replacement application, shall be abandoned in a manner consistent with the provisions of Section R655-4-14 before the rig is removed from the site of the newly constructed replacement well, unless written authorization to remove the rig without abandonment is provided by the state engineer. Also refer to the requirements provided in Subsection R655-4-4(4.4).

14.12 Abandonment of Cathodic Protection Wells.

14.12.1 The general requirements for permanent well abandonment in accordance with Section R655-4-14 shall be followed for the abandonment of cathodic protection wells.

14.12.2 A cathodic protection well shall be investigated before it is destroyed to determine its condition, details of its construction and whether conditions exist that will interfere with filling and sealing.

14.12.3 Casing, cables, anodes, granular backfill, conductive backfill, and sealing material shall be removed as needed, by re-drilling, if necessary, to the point needed to allow proper placement of abandonment material. Casing that cannot be removed shall be adequately perforated or punctured at specific intervals to allow pressure injection of sealing materials into granular backfill and all other voids that require sealing.

R655-4-15. Monitor Well Construction Standards.

15.1 Scope.

15.1.1 Certain construction standards that apply to water wells also apply to monitor wells. Therefore, these monitoring well standards refer frequently to the water well standard sections of the rules. Standards that apply only to monitor wells, or that require emphasis, are discussed in this section. Figure 7 illustrates a schematic of an acceptable monitor well with an above-ground surface completion. Figure 8 illustrates a schematic of an acceptable monitor well with a flush-mount surface completion. Figures 7 and 8 can be viewed in the publication, State of Utah Administrative Rules for Water Wells, most recent edition, available at the Division of Water Rights, 1594 West North Temple, Salt Lake City, Utah.

15.1.2 These standards are not intended as a complete manual for monitoring well construction, alteration, maintenance, and abandonment. These standards serve only as minimum statewide guidelines towards ensuring that monitor wells do not constitute a significant pathway for the movement of poor quality water, pollutants, or contaminants. These standards provide no assurance that a monitor well will perform a desired function. Ultimate responsibility for the design and performance of a monitoring well rests with the well owner and/or the owner's contractor, and/or technical representative(s). Most monitor well projects are the result of compliance with the Environmental Protection Agency (EPA), Federal Regulations such as the Resource Conservation and Recovery Act (RCRA), Comprehensive Environmental Response, Compensation and Liability Act (CERCLA or "Superfund"), or specific State Solid and Hazardous Waste requirements. The contracts governing their installation are tightly written containing specific requirements as to site location, materials used, sampling procedures and overall objectives. Therefore specific construction requirements for monitor well installation shall be governed by applicable contracts and regulations providing they meet or exceed state requirements and

specifications. Guidelines and recommended practices dealing with the installation of monitor wells may be obtained from the state engineer upon request. Additional recommended information may be obtained from the Environmental Protection Agency (EPA), Resource Conservation and Recovery Act (RCRA), Groundwater Monitoring Enforcement and Compliance Document available from EPA's regional office in Denver, Colorado and from the Handbook of Suggested Practices for the Design and Installation of Groundwater Monitoring Wells, available from the National Groundwater Association in Dublin, Ohio.

15.2 Installation and Construction.

15.2.1 Materials and Equipment Contaminant-Free. All material used in the installation of monitor wells shall be contaminant-free when placed in the ground. Drilling equipment shall be clean and contaminant free in accordance with Subsection R655-4-11(11.6.4). During construction contaminated water should not be allowed to enter contaminant-free geologic formations or water bearing zones.

15.2.2 Borehole Integrity. Some minor cross-contamination may occur during the drilling process, but the integrity of the borehole and individual formations must then be safeguarded from permanent cross connection.

15.2.3 Casing and Screen. The well casing should be perforated or screened and filter packed with sand or gravel where necessary to provide adequate sample collection at depths where appropriate aquifer flow zones exist. The casing and screen selected shall not affect or interfere with the chemical, physical, radiological, or biological constituents of interest. Screens in the same well shall not be placed across separate water bearing zones in order to minimize interconnection, aquifer commingling, and cross contamination. Screens in a nested well can be placed in separate water bearing zones as long as the intervals between the water bearing zones are appropriately sealed and aquifer cross connection and commingling does not occur. Monitor well casing and screen shall conform to ASTM standards, or consist of at least 304 or 316 stainless steel, PTFE (Teflon), or Schedule 40 PVC casing.

15.2.4 Gravel/Filter Pack. If installed, the gravel or filter pack should generally extend two (2) feet to ten (10) feet above screened or perforated areas to prevent the migration of the sealing material from entering the zones being sampled. Gravel or filter pack material shall meet the requirements of Subsection R655-4-11(11.5.2). Gravel/filter pack for monitoring wells does not require disinfection. Drill cutting should not be placed into the open borehole annulus. The well driller shall ensure that a bridge or voids do not occur in the annular space during the placement of the gravel pack by means of a sounding device or other mechanism.

15.2.5 Annular Seal. All monitor wells constructed shall have a continuous surface seal, which seals the annular space between the borehole and the permanent casing, in accordance with the provisions in Section R655-4-11. The surface seal depth requirements of Section R655-4-11 do not apply to monitor wells. The surface seal may be more or less than 50 feet depending on the screen/perforation and/or gravel pack interval. Seals shall also be constructed to prevent interconnection and commingling of separate aquifers penetrated by the well, prevent migration of surface water and contaminations into the well and aquifers, and shall provide casing stability. The seal shall have a minimum diameter of four inches larger than the nominal size of the permanent casing, and shall extend from land surface to the top of the filter pack. After the

permanent casing and filter pack (optional) has been set in final position, a layer of bentonite or fine sand (e.g., mortar sand) shall be placed on top of the filter pack to maintain separation between the seal material and the screened interval in order to insure that the seal placement will not interfere with the filter pack. The remaining annular space shall be filled to land surface in a continuous operation with unhydrated bentonite, neat cement grout, sand-cement grout, or bentonite grout. Only potable water should be used to hydrate any grout or slurry mixture. The completed annular space shall fully surround the permanent casing, be evenly distributed, free of voids, and extend from the permanent casing to undisturbed or recompacted soil. All sealing materials and placement methods shall conform to the standards in Section R655-4-2 and Subsection R655-4-11(11.4). The well driller shall ensure that a bridge or voids do not occur in the annular space during the placement of the seal.

15.2.6 Cuttings, Decon Water, Development Water, and Other IDW. Drill cuttings, decontamination (Decon) water, monitor well development water, and other investigation derived waste (IDW) shall be managed and disposed of in accordance with applicable state and federal environmental regulations. It is the responsibility of the driller to know and understand such requirements.

15.3 Minimum Surface Protection Requirements.

15.3.1 If a well is cased with metal and completed above ground surface, a locking water resistant cap shall be installed on the top of the well.

15.3.2 If the well is not cased with metal and completed above ground surface, a protective metal casing shall be installed over and around the well. The protective casing shall be cemented at least two feet into the ground around the nonmetallic casing. A water tight cap shall be installed in the top of the well casing. A locking cap shall be installed on the top of the protective casing.

15.3.3 Monitor wells completed above ground and potentially accessible to vehicular damage shall be protected in the following manner. At least three metal posts, at least three inches in diameter, shall be cemented in place around the casing. Each post shall extend at least three feet above and two feet below ground surface. A concrete pad may be installed to add protection to the surface completion. If installed, the concrete pad shall be at least four (4) inches thick and shall slope to drain away from the well casing. The base shall extend at least two (2) feet laterally in all directions from the outside of the well boring. When a concrete pad is used, the well seal may be part of the concrete pad.

15.3.4 If the well is completed below land surface, a water tight cap with a lock shall be attached to the top of the well casing. A metal monument or equivalent shall be installed over and around the well. The monument shall serve as a protective cover and be installed level with the land surface and be equipped with a waterproof seal to prevent inflow of any water or contaminants. Drains will be provided, when feasible, to keep water out of the well and below the well cap. The monument and cover must be designed to withstand the maximum expected load.

15.4 Abandonment.

15.4.1 Abandonment of monitor wells shall be completed in compliance with the provisions of Section R655-4-14. The provisions of Section R655-4-14 are not required for the permanent abandonment of monitor wells completed at a depth of 30 feet below natural ground surface.

R655-4-16. Pump Installation and Repair.

16.1 Pump installation practices. All pump installations shall be completed in such a manner as to prevent waste and contamination of groundwater by pollution material entering the well from pumping equipment, casing connectors, fittings, piping, sanitary seals or caps.

16.2 Surface Seal. If in the process of pump installation or repair, the well's surface seal is disturbed or damaged, it shall be repaired and resealed in accordance with the standards provided in Subsection R655-4-11(11.4).

16.3 Tools, Equipment, and Materials. Down-hole tools and equipment used in performance of pump installation and repair shall be cleaned, disinfected, and free of contamination prior to placement in a well. All tools, drilling equipment, and materials used to drill a well shall be free of contaminants prior to beginning pump-related work. Contaminants include lubricants, fuel, bacteria, etc. that will reduce the well efficiency, and any other item(s) that will be harmful to public health and/or the resource or reduce the life of the water well. It is recommended that excess lubricants placed on equipment be wiped clean prior to insertion into the well. Thread Compounds, Sealants, and Lubricants must not exceed the maximum contaminant levels for chemicals, taste, and odor. The licensee shall use pump-related tools and equipment properly so as not to permanently damage the well or aquifer.

16.4 Disinfection. Following completion of pump installation and repair work on a well, the well, pump, and in-well discharge piping shall be properly disinfected in accordance with Subsection R655-4-11(11.6.5).

16.5. Product, material, and Process Standards. Any product, material or procedure designed for use related to pump installation and repair of water production or non-production wells, which has received certification and approval for its intended use by the National Sanitation Foundation (NSF) under ANSI/NSF Standard 60 or 61, the American Society for Testing Materials (ASTM), the American Water Works Association (AWWA) or the American National Standards Institute (ANSI) may be utilized. Other products, materials or procedures may also be utilized for their intended purpose upon manufacturers certification that they meet or exceed the standards or certifications referred to in this section and upon state engineer approval. Organic substances shall not be introduced into the well or borehole during pump installation and repair work.

16.6 Surface Completions. Pump installers shall leave the well surface completion upon completion of pump installation/repair work in accordance with the standards in Subsection R655-4-11 as it pertains to casing stick up, steel/PVC casing extensions, sanitary capping and venting, and protective casings. Upon completion, all wells shall be equipped with a watertight, tamper-resistant casing cap or sanitary seal.

16.7 Flowing Artesian Wells. In accordance with Subsection R655-4-11(11.4.3.5, artesian wells that flow naturally at the surface, the well shall be equipped with a control valve so that the flow can be completely stopped. The control valve must be available for inspection by the state engineer at all times.

16.8 Seals Between Casings. If the well is constructed of multiple casing strings at or near the ground surface and if a pitless adapter/unit is installed, the standards of Subsection R655-4-11(11.5.5) shall be employed to ensure proper sealing between casings is maintained.

16.9 Water Level and Flow Measurement. Following pump installation and repair work, the well shall be left in such a manner to allow for access to water level measurements in accordance with R655-4-11(11.7.2). After pump installation and repair work is completed on a well, the static water level should be measured after which a test should be performed to determine the rate at which groundwater can be reliably produced from the well. Pumping water level should be measured and recorded during this test. Static water level and well testing information shall be noted on the official submittal of the Pump Log by the pump installer or well driller.

16.10 Surface Security. If it becomes necessary for the pump installer to temporarily discontinue operation on a well before completion or otherwise leave the well unattended, the well must be covered securely to prevent contaminants from entering the casing and rendered secure against entry by children, vandals, domestic animals, and wildlife.

16.11 Above-grade connections. An above-grade connection into the top or side of a well casing shall be at least eighteen inches (18") above the land surface and shall be constructed so as to exclude dirt or other foreign matter by at least one of the following methods, as may be applicable:

(A) Threaded connection;

(B) Welded connection;

(C) Expansion sealer;

(D) Bolted flanges with rubber gaskets;

(E) Overlapping well cap; or

(F) If a water well pump is mounted or sealed on a concrete pedestal, the casing shall extend at least to the top of the pedestal and at least eighteen inches (18") above the land surface.

16.12 Pitless Connections. Pitless adapters and units shall be installed in accordance with the standards set forth in Subsection R655-4-11(11.7.5). Pitless adapters shall be installed below the frost line. A below-ground connection shall not be submerged in water at the time of installation. Holes cut in the casing through which the pitless adapters are installed must be sized and constructed so as to guarantee a watertight seal with the pitless adapter in place.

16.13 Backflow Protection. When a check valve or foot valve is not a part of the pump, a check valve or back-siphon prevention device shall be installed on the pump discharge line within the well or beyond the well to eliminate the opportunity for contaminated water to backflush into the well. Such device must be designed to direct or isolate the water flow to prevent water in the distribution line from running back down the well during removal or repair to the pump and pumping equipment. When a flow meter is installed on a well the meter must be located downstream from the backflow preventer and be placed in accordance with manufacturer spacing specifications.

16.14 Hand Pumps. Hand pumps shall be of the force type equipped with a packing gland around the pump rod, a delivery spout which is closed and downward directed, and a one-piece bell-type base which is part of the pump stand or is attached to the pump column in a watertight manner. The bell base of the pump shall be bolted with a gasket to a flange which is securely attached to the casing or pipe sleeve.

16.15 Pumping Water Level. In a screened or perforated well, the well pump setting and suction inlet shall be located so that

the pumping level of the water cannot be drawn below the top of the screen.

16.16 Pump and Column/Drop Pipe Removal. During any repair or installation of a water well pump, the licensed installer shall make a reasonable effort to maintain the integrity of ground water and to prevent contamination by elevating the pump column and fittings, or by other means suitable under the circumstances.

KEY: water wells, pump installer, well drillers license

Date of Enactment or Last Substantive Amendment: 2011

Notice of Continuation: October 13, 2009

Authorizing, and Implemented or Interpreted Law: 73-3

Regents (Board of), Administration
R765-608
Utah Engineering and Computer
Science Loan Forgiveness Program

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 34441

FILED: 02/15/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes to this program by the state legislature require this amendment to the rule. The 2009 Utah State Legislature General Session passed a bill (S.B. 105) which changed the Engineering and Computer Science Loan Forgiveness Program to a scholarship program. All references within the rule to loan forgiveness were affected. (DAR NOTE: S.B. 105 (2009) is found at Chapter 210, Laws of Utah 2009, and was effective 05/12/2009.)

SUMMARY OF THE RULE OR CHANGE: Change is needed to the title and content of this rule to eliminate references to loan forgiveness and to reflect scholarship information for Utah higher education students majoring in engineering, computer science, and related technology degree programs at Utah System of Higher Education campuses.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53B-6-105.7

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** This rule change is required to conform with established state budgets and as such does not present additional cost or savings to state budgets.

♦ **LOCAL GOVERNMENTS:** There is no affect to local governments or their budgets as a result of these rule changes because this rule only applies to a scholarship program for college and university students. No services nor

involvement by local government is required, nor will it be requested. Local governments will not be solicited for funds to provide the possible scholarship awards to potential recipients. There will be no direct savings to local government budgets either as the recipients of any scholarship monies will be using that money to pay for tuition at a public institution. Therefore, there will be no costs nor savings for any local government entity.

♦ **SMALL BUSINESSES:** There is no affect nor connection to any small business as a result of this rule and these proposed changes. Since this rule pertains to a state-sponsored scholarship program no small businesses will asked to donate to any scholarship fund. Thus, there will be no costs to small businesses. There will be no direct savings to small business budgets either as the recipients of any scholarship monies will be using that money to pay for tuition at a public institution. It is possible that a future recipient of this scholarship could be hired by a Utah small business and become a valued asset to that company. Such possibilities could then prove very beneficial to the bottom line budget of a small business and not a disadvantage (cost) to the business. However, this rule change does not directly affect those issues.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The result of the changes to this rule may provide funds to individuals for up-front tuition payments eliminating possible needs to borrow money for tuition for such individuals. Funds are disbursed by the separate institutions to qualifying students.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The people affected by this rule will not have any compliance costs because there is no charge to apply for the engineering and computer science scholarship. Instead of any cost to affected persons there is a benefit of a reduction in tuition expenses at the associated public college or university where the scholarship will be utilized. This rule requires no associated costs for compliance due to the nature of tuition scholarships and those individuals who receive them and those who do not. Scholarships are a gift and benefit.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule enables the intent of Section 53B-6-105.7 to provide incentive for individuals who receive training in the fields of engineering, computer science, and related technologies to remain in Utah after graduation from a degree program and utilize their education to advance the intellectual and economic welfare of the state. The fiscal impact to potential employers of such graduates and related businesses would thus be positive.

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

REGENTS (BOARD OF)

ADMINISTRATION

BOARD OF REGENTS BUILDING, THE GATEWAY
60 SOUTH 400 WEST

SALT LAKE CITY, UT 84101-1284
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Ronell Crossley by phone at 801-321-7291, by FAX at 801-321-7299, or by Internet E-mail at rcrossley@utahsbr.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/31/2011

THIS RULE MAY BECOME EFFECTIVE ON: 04/08/2011

AUTHORIZED BY: William Sederburg, Commissioner

R765. Regents (Board of), Administration.

R765-608. Utah Engineering and Computer Science [~~Loan Forgiveness~~]Scholarship Program.

R765-608-1. Purpose.

To provide [~~Utah Higher Education Assistance Authority ("UHEAA")~~]policy and procedures for [~~implementing~~]administering the Utah Engineering and Computer Science [~~Loan Forgiveness~~]Program ("~~UECLP~~UECSP" or "program"); UCA 53B-6, Section 105.7, enacted in S.B. 61 by the 2001 General Session of the Utah Legislature].

R765-608-2. References.

2.1. Utah Code. Title 53B, [~~Utah System of Higher Education,~~]Chapter 6, Section 105.7[~~]~~, Initiative student scholarship program.

2.2. State Board of Regents Policy [R610]R601, Board of Directors of the Utah Higher Education Assistance Authority.

2.3. State Board of Regents Policy R608, Utah Engineering and Computer Science Scholarship Program.

R765-608-3. Effective Date.

These policies and procedures are effective September 1, 2001.

R765-608-4. Definitions.

4.1. Eligible Student - A student who is enrolled on at least a half-time basis in a Qualifying Institution in a Qualifying Program, in good standing, and maintaining satisfactory academic progress as defined by the institution.

4.2. Qualifying Institution - A college or university of the Utah System of Higher Education (USHE) which offers one or more Qualifying Programs.

4.3. Qualifying Program - An accredited engineering, computer science, or related technology degree program. Related technology degree programs shall be limited to those certified by the Commissioner of Higher Education, in accordance with such criteria as may be established pursuant to UCA 53B-6-105.

4.4. Recipient - A person who declares intent to complete a qualifying program and who receives a scholarship award.

4.5. Technology Initiative Advisory Board - or the Advisory Board is the committee whose members are appointed by the heads of all three branches of government; the majority of members are appointed by the governor.

4.6. USHE - the Utah System of Higher Education, which includes the University of Utah, Utah State University, Weber State University, Utah Valley University, Southern Utah University, Dixie State College, Snow College, College of Eastern Utah, Salt Lake Community College.

R765-608-[4]5. Policy.

[4]5.1. Program Description - [~~UECLP~~UECSP is a [~~student loan forgiveness~~]program authorized as part of the higher education Engineering and Computer Science Initiative established with an effective date of July 1, 2001. UCA 53B-6-105.7 provides for establishment of the program "to recruit and train engineering, computer science, and related technology students to assist in providing for and advancing the intellectual and economic welfare of the state," and authorizes the State Board of Regents to provide by rule for the overall administration of the program[~~], consistent with the general student loan provisions in Title 53B and policy guidelines contained in the Section~~].

[4]5.2. Program Administration - [~~The Board of Regents has delegated to the UHEAA Board of Directors the authority to govern UECLP on behalf of the Board of Regents. The program is administered by the Associate Commissioner for Student Financial Aid as Executive Director of UHEAA, reporting to the Commissioner of Higher Education.~~]Staff to the Regents will administer the program including funding distribution. The Technology Initiative Advisory Board assists and makes recommendations to the State Board of Regents.

[4]5.3. Program Design - [~~The program utilizes UHEAA-guaranteed Federal Family Education Loan Program (FFELP) Stafford Student Loans and Federal Perkins Student Loans as the vehicle for providing UECLP loan forgiveness. A students enrolled at a Qualifying Institution in a Qualifying Program applies to UHEAA, with an endorsement from the dean of the school or college in which enrolled, for a Certificate for Student Loan Forgiveness which guarantees that upon completion of the requirements for loan forgiveness the Recipient will receive a direct credit for reduction of the outstanding principal balance(s) of the Recipient's outstanding Stafford or Perkins Student Loan(s). The student applies for and receives the Stafford and/or Perkins Student Loans through regular application and award procedures. Upon completion of the Qualifying Program, and Qualifying Employment, the Recipient submits an Application for Student Loan Forgiveness to UHEAA, UHEAA verifies the Recipient's qualification and the loan forgiveness amount for which the Recipient qualifies, and promptly processes the payment of outstanding principal on the Recipient's student loan(s). If the remaining principal balance on the Recipient's student loans is less than the forgiveness amount for which the Recipient qualifies, UHEAA will pay any amount above the outstanding balance directly to the Recipient, up to the amount of Stafford or Perkins Student Loan principal actually borrowed by the Recipient while enrolled in the Qualifying Program. The loan forgiveness amount for which the Recipient qualifies will include the amount of Tuition and Fees, as defined in section 4.4.9, which is applicable to the academic year for which the Application for Student Loan Forgiveness is submitted, plus the portion of the Recipient's loan interest accrued or paid which is applicable to the principal amount to be paid on the Recipient's behalf.]The Technology Initiative Advisory Board shall make recommendations by June 1 of each~~

year to the State Board of Regents on the allocation and distribution of monies from the program fund. These funds are to be used for degree programs in the areas of engineering, computer science, and related technology programs. The distribution of these funds to the institutions is based on a formula which shall be developed by the Technology Initiative Advisory Board based on several components:

5.3.1 the number of graduates from the previous year,

5.3.2 the number and level of degrees offered, and

5.3.3 the program length of the degree offered at each institution.

5.4 Recipients' Post-Graduation Employment. It is the intent of the program that recipients of the UECSP funding will work in the state of Utah, in a field requiring the use of their degree, after graduating from a qualifying program.

5.5 Cancellation Policy. A scholarship may be cancelled at any time by the institution of attendance, if the student fails to make reasonable progress towards obtaining the degree or there appears to be a reasonable certainty that the student does not intend to work in the state upon graduation.

[4.4. Definitions—

4.4.1. Qualifying Institution— A college or university of the Utah System of Higher Education (USHE) which offers one or more Qualifying Programs.

4.4.2. Qualifying Program— An accredited engineering, computer science, or related technology baccalaureate degree program.

4.4.2.1. Related technology baccalaureate degree programs shall be limited to those certified by the Commissioner of Higher Education, in accordance with such criteria as may be established pursuant to UCA 53B-6-105.7.

4.4.3. Eligible Student— A student who is enrolled on at least a half-time basis in a Qualifying Institution in a Qualifying Program, in good standing, and maintaining satisfactory academic progress as defined by the institution.

4.4.4. Recipient— A person who applies for and receives a UECLP Certificate for Student Loan Forgiveness from UHEAA.

4.4.5. Certificate for Student Loan Forgiveness— A certificate issued by UHEAA to an Eligible Student, which guarantees forgiveness of student loan principal plus related loan interest paid by the Recipient, up to the amount of Tuition and Fees paid for a specified number of years of enrollment in a Qualifying Program for up to a specified number of years of Qualifying Employment.

4.4.6. Stafford Student Loan— A FFELP Stafford student loan, either subsidized or unsubsidized, guaranteed by UHEAA.

4.4.6.1. A subsidized Stafford Student Loan is certified by the student's institution on the basis of financial need, and qualifies for payment of interest by the U.S. Secretary of Education on the student's behalf while the student is enrolled at least half-time and during a six-month grace period after the student graduates or ceases to be enrolled at least half-time.

4.4.6.2. An unsubsidized Stafford Student Loan is certified by the student's institution either as needed in addition to the full subsidized loan amount, or for a student who does not qualify on the basis of financial need. The recipient of an unsubsidized Stafford Student Loan is responsible for payment of interest accruing from the date of disbursement of the loan, but may choose to have the interest deferred until the loan enters repayment (at the end of the grace period), at which time the interest is

capitalized and added to the outstanding principal. The interest on an unsubsidized Stafford Student Loan is at the same favorable rates as determined annually according to statute for a subsidized Stafford Student Loan.

4.4.6.3. A student is required to file a Free Application for Federal Student Aid (FAFSA) to establish eligibility for either a subsidized or an unsubsidized Stafford Student Loan, but is entitled without limitation to receive the loan, up to statutorily specified loan amounts, if eligible.

4.4.7. Perkins Student Loan— A Federal Perkins student loan awarded by the student's institution. Availability of Perkins Student Loans is limited, based on available funds, but a Perkins Student Loan may carry a more favorable interest rate than a Stafford Student Loan. Interest is not charged on a Perkins Student Loan while the borrower is enrolled at least half time and during the applicable grace period thereafter. A student is required to file a FAFSA to establish eligibility for a Perkins Student Loan, but might not receive the loan even if eligible, due to limited availability.

4.4.8. Year of Qualifying Employment— Full-time employment within Utah, for a full 12-month period, in a position requiring the baccalaureate degree, in engineering or in the field of computer science or in a related technology field. Provided, however, that, if a Recipient's Qualifying Employment is as a public school teacher or USHE faculty member, the annual school year or academic year contract length shall qualify as a Year of Qualifying Employment.

4.4.8.1. For purposes of this definition, employment in the fields of engineering or computer science or in a related technology field must reasonably be demonstrated to utilize skills and knowledge required for an applicable Qualifying Program.

4.4.9. Tuition and Fees— Tuition and general fees applicable to the Qualifying Program, for the institution in which the recipient is enrolled, for a full-time equivalent (FTE) student, as defined in annual tuition and fee schedules approved by the State Board of Regents.

4.5. Application for a Certificate for Student Loan Forgiveness— An Eligible Student may apply for a Certificate for Student Loan Forgiveness at any time during an academic year in which enrolled in a Qualifying Program. The application may be for the year in which currently enrolled and subsequent years, except that it may not include years prior to the academic year during which the application is submitted and the total number of years covered by the application may not exceed five.

4.5.1 The application shall include a declaration of intent to complete the Qualified Program in which enrolled, or an equivalent Qualifying Program, and to work within Utah in Qualifying Employment for a period of four years after graduation.

4.6. Application for Student Loan Forgiveness— A Recipient may apply for forgiveness of the amount of one year of Tuition and Fees paid, as a reduction in outstanding loan principal or as a direct payment as provided for in 4.3, after each completed Year of Qualifying Employment covered by the Certificate for Loan Forgiveness, subject to the following limitation:

4.6.1. The Certificate for Student Loan Forgiveness shall provide that its guarantee, and the Recipient's eligibility to submit an Application for Student Loan Forgiveness, shall expire at the end of the 72nd month (six years) after the Recipient's date of graduation with the baccalaureate degree. Provided, however, that a period of full-time enrollment in a graduate degree program related

to the Recipient's Qualifying Program shall not be counted as part of the 72 months following the Recipient's graduation with the baccalaureate degree.

~~4.7. Eligibility for UHEAA Borrower Benefits — Regardless of whether or not the Recipient qualifies for and receives forgiveness of any part of the principal on a Stafford Student Loan, the Recipient will remain eligible for all forbearances, deferments, and other statutory privileges under the FFELP, and also shall remain eligible for all applicable principal reductions and interest rate reductions under UHEAA's borrower benefit programs. A Recipient who does qualify for and receive forgiveness of principal on a Stafford Student Loan under UECLP also shall remain eligible for all applicable principal reductions and interest rate reductions under UHEAA's borrower benefit programs.~~

~~4.8 Limited Availability and Allocation Principles — Funding for UECLP is dependent on annual legislative appropriations, and the ability to underwrite Certificates for Student Loan Forgiveness is limited. The Program Administrator shall establish an application and award calendar annually after the amount available for new awards is determined. Selection criteria established as part of the annual calendar shall include an initial tentative allocation by Qualifying Institutions proportionate to the number of engineering and computer science baccalaureate degrees awarded by each institution in the most recent academic year for which information is available, except that a minimum amount of \$10,000 or five percent of the amount available, whichever is the lesser, shall be established for each Qualifying Institution. The President of each Qualifying Institution electing to participate in the program shall designate an individual to administer the program for the institution, and an alternate to administer the program in the absence of the designated administrator. Each institution shall establish criteria for the selection of nominees each academic year, in priority order from persons submitting an Application for Certificate for Student Loan forgiveness, and provision for an independent internal appeal of adverse decisions by the institution's program administrator. The institution's program administrator shall submit a copy of its selection criteria and appeal procedure for acceptance by UHEAA. Selection of Recipients from applicants certified by a Qualifying Institution shall take into account the priority order of nominations from the institution, the institution's allocation for awards from available funds, and reasonable actuarial projections regarding the percentage of recipients of certificates who will qualify for and receive the payments of principal and interest guaranteed by certificates awarded.]~~

R765-608-6. Funds.

6.1. Distribution of Funds. Scholarship funds will be distributed annually to the institutions for disbursement to the awarded students.

6.2. Reporting of Funds. Institutions will report annually on the performance of the funds at the fiscal year's end. These reporting measures may include, but are not limited to the following:

6.2.1. the number of awards given,

6.2.2. the amount of the award,

6.2.3. the recipients' completion of course work,

6.2.4. the recipients' anticipated graduation date, and

6.2.5. the program in which the recipient is enrolled.

KEY: higher education, [~~student loans~~]scholarships

Date of Enactment or Last Substantive Amendment: [~~August 15, 2002~~]2011

Notice of Continuation: July 13, 2006

Authorizing, and Implemented or Interpreted Law: 53B-6

**Workforce Services, Employment
Development
R986-100-122
Advance Notice of Department Action**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 34444

FILED: 02/15/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to allow for electronic notices.

SUMMARY OF THE RULE OR CHANGE: The Department will now allow public assistance clients to receive notice of Department decisions electronically. The client will need to "opt in" to the electronic notice system and retrieve notices from a web site which is secure and can only be accessed by the client. This will save time and money and improve communications between the Department and our clients.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-1-104 and Section 35A-1-303 and Subsection 35A-1-104(4)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** This applies primarily to federally-funded programs so there are no costs or savings to the state budget. There may be a small savings to the state budget seen by fewer postage costs.

♦ **LOCAL GOVERNMENTS:** This is a federally-funded program so there are no costs or savings to the local government.

♦ **SMALL BUSINESSES:** There will be no costs to small businesses to comply with these changes because this is a federally-funded program.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There will be no costs to any other persons or entities to comply with these changes because there are no costs or fees associated with these proposed changes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with these changes for any persons because this is a federally-funded program and there are no fees or costs associated with these proposed changes.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no compliance costs associated with this change. There are no fees associated with this change. There will be no cost to anyone to comply with these changes. There will be no fiscal impact on any business.

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

WORKFORCE SERVICES
EMPLOYMENT DEVELOPMENT
140 E 300 S
SALT LAKE CITY, UT 84111-2333
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Suzan Pixton by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/31/2011

THIS RULE MAY BECOME EFFECTIVE ON: 04/07/2011

AUTHORIZED BY: Kristen Cox, Executive Director

R986. Workforce Services, Employment Development.

R986-100. Employment Support Programs.

R986-100-122. Advance Notice of Department Action.

(1) Except as provided in (2) below, clients will be notified in writing when a decision concerning eligibility, amount of assistance payment or action on the part of the Department which affects the client's eligibility or amount of assistance has been made. Notice will be sent prior to the effective date of any action to reduce or terminate assistance payments. The Department will send advance notice of its intent to collect overpayments or to disqualify a household member.

(2) Except for overpayments, advance notice is not required when:

- (a) the client requests in writing that the case be closed;
- (b) the client has been admitted to an institution under governmental administrative supervision;
- (c) the client has been placed in skilled nursing care, intermediate care, or long-term hospitalization;
- (d) the client's whereabouts are unknown and mail sent to the client has been returned by the post office with no forwarding address;
- (e) it has been determined the client is receiving public assistance in another state;
- (f) a child in the household has been removed from the home by court order or by voluntary relinquishment;

(g) a special allowance provided for a specific period is ended and the client was informed in writing at the time the allowance began that it would terminate at the end of the specified period;

(h) a household member has been disqualified for an IPV in accordance with 7 CFR 273.16, or the benefits of the remaining household members are reduced or terminated to reflect the disqualification of that household member;

(i) the Department has received factual information confirming the death of a client or payee if there is no other relative able to serve as a new payee;

(j) the client's certification period has expired;

(k) the action to terminate assistance is based on the expiration of the time limits imposed by the program;

(l) the client has provided information to the Department, or the Department has information obtained from another reliable source, that the client is not eligible or that payment should be reduced or terminated;

(m) the Department determines that the client willfully withheld information or;

(n) when payment of financial assistance is made after performance under R986-200-215 and R986-400-454 no advance notice is needed when performance requirements are not met.

(3) For food stamp recipients and recipients of assistance under R986-300, no action will be taken until ten days after notice was sent unless one of the exceptions in (2)(a) through (k) above apply.

(4) Notice is complete if sent to the client's last known address. If notice is sent to the client's last known address and the notice is returned by the post office or electronically with no forwarding address, the notice will be considered to have been properly served. If a client elects to receive correspondence electronically, notice is complete when sent to the client's last known email address and/or posted to the client's Department sponsored web page.

KEY: employment support procedures

Date of Enactment or Last Substantive Amendment: ~~June 14, 2007~~ **2011**

Notice of Continuation: September 8, 2010

Authorizing, and Implemented or Interpreted Law: 35A-3-101 et seq.; 35A-3-301 et seq.; 35A-3-401 et seq.

**Workforce Services, Unemployment
Insurance
R994-508
Appeal Procedures**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 34444

FILED: 02/15/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to clarify the procedure for requesting an in-person hearing.

SUMMARY OF THE RULE OR CHANGE: The vast majority of our hearings are conducted telephonically. The division will grant in-person hearings if necessary to ensure due process. This rule is intended to clarify the grounds under which an in-person hearing will be held. The Department limits in-person hearings for security and fairness reasons.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-1-104 and Subsection 35A-1-104(4) and Subsection 35A-4-502(1)(b)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** This is a federally-funded program so there are no costs or savings to the state budget.
- ◆ **LOCAL GOVERNMENTS:** This is a federally-funded program so there are no costs of savings to local government.
- ◆ **SMALL BUSINESSES:** There are no costs or savings to any small business as there are no fees associated with this program and it is federally funded.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no costs or savings to any other persons as there are no fees associated with this program and it is federally funded.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no costs or savings to any affected persons as there are no fees associated with this program and it is federally funded. These changes will not impact any employer's contribution rate.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no compliance costs associated with this change. There are no fees associated with this change. There will be no cost to anyone to comply with these changes. There will be no fiscal impact on any business. These changes will have no impact on any employers contribution tax rate.

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

WORKFORCE SERVICES
UNEMPLOYMENT INSURANCE
140 E 300 S
SALT LAKE CITY, UT 84111-2333
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Suzan Pixton by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/31/2011

THIS RULE MAY BECOME EFFECTIVE ON: 04/07/2011

AUTHORIZED BY: Kristen Cox, Executive Director

R994. Workforce Services, Unemployment Insurance.**R994-508. Appeal Procedures.****R994-508-106. Notice of the Hearing.**

(1) All interested parties will be notified by mail, at least seven days prior to the hearing, of:

- (a) the time and place of the hearing;
- (b) the right to be represented at the hearing;
- ~~(c) the right to request an in-person hearing;~~
- (~~d~~c) the legal issues to be considered at the hearing;
- (~~e~~d) the procedure for submitting written documents;
- (~~f~~e) the consequences of not participating;
- (~~g~~f) the procedures and limitations for requesting a continuance or rescheduling; and
- (~~h~~g) the procedure for requesting an interpreter for the hearing, if necessary.

(2) When a new issue arises during the hearing, advance written notice may be waived by the parties after a full explanation by the ALJ of the issues and potential consequences.

(3) It is the responsibility of a party to notify and make arrangements for the participation of the party's representative and/or witnesses, if any.

(4) If a party has designated a person or professional organization as its agent, notice will be sent to the agent which will satisfy the requirement to give notice to the party.

R994-508-110. Telephone Hearings.

(1) Hearings are [~~usually~~] scheduled as telephonic hearings. Every party wishing to participate in the telephone hearing must call the Appeals Unit before the hearing and provide a telephone number where the party can be reached at the time of the hearing. If the party that filed the appeal fails to call in advance as required by the notice of hearing, the appeal will be dismissed and an order of default will be issued.

(2) If a party [~~prefers~~] requires an in-person hearing, the party must contact [~~the~~]an ALJ [~~assigned to hear the case~~] and request that the hearing be scheduled as an in-person hearing. The request should be made sufficiently in advance of the hearing so that all other parties may be given notice of the change in hearing type and the opportunity to appear in person also. Requests will only be granted if the party can show that an in-person hearing is necessary to accommodate a special need or if the ALJ deems an in-person hearing is necessary to ensure an orderly and fair hearing which meets due process requirements. If the ALJ grants the request, all parties will be informed that the hearing will be conducted in person. Even if the hearing is scheduled as an in-person hearing, a party may elect to participate by telephone. In-person hearings are held in the office of the Appeals Unit unless the

ALJ determines that another location is more appropriate. The Department is not responsible for any travel costs incurred by attending an in-person hearing.

(3) The Appeals Unit will permit collect calls from parties and their witnesses participating in telephone hearings; however, professional representatives not at the physical location of their client must pay their own telephone charges.

KEY: unemployment compensation, appellate procedures
Date of Enactment or Last Substantive Amendment: [~~February 15, 2008~~2011]

Notice of Continuation: June 10, 2008

Authorizing, and Implemented or Interpreted Law: 35A-4-508(2); 35A-4-508(5); 35A-4-508(6); 35A-4-406; 35A-4-103

End of the Notices of Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

After an agency has published a **PROPOSED RULE** in the *Utah State Bulletin*, it may receive public comment that requires the **PROPOSED RULE** to be altered before it goes into effect. A **CHANGE IN PROPOSED RULE** allows an agency to respond to comments it receives.

As with a **PROPOSED RULE**, a **CHANGE IN PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **CHANGE IN PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

While the law does not designate a comment period for a **CHANGE IN PROPOSED RULE**, it does provide for a 30-day waiting period. An agency may accept additional comments during this period, and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for **CHANGES IN PROPOSED RULES** published in this issue of the *Utah State Bulletin* ends March 31, 2011.

Following the **RULE ANALYSIS**, the text of the **CHANGE IN PROPOSED RULE** is usually printed. The text shows only those changes made since the **PROPOSED RULE** was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (e.g., example). Deletions made to the rule appear struck out with brackets surrounding them (e.g., [~~example~~]). A row of dots in the text between paragraphs (.) indicates that unaffected text, either whole sections or subsections, was removed to conserve space. If a **CHANGE IN PROPOSED RULE** is too long to print, the Division of Administrative Rules will include only the **RULE ANALYSIS**. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

From the end of the 30-day waiting period through June 29, 2011, an agency may notify the Division of Administrative Rules that it wants to make the **CHANGE IN PROPOSED RULE** effective. When an agency submits a **NOTICE OF EFFECTIVE DATE** for a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** as amended by the **CHANGE IN PROPOSED RULE** becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of the **CHANGE IN PROPOSED RULE**. If the agency designates a public comment period, the effective date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date. Alternatively, the agency may file another **CHANGE IN PROPOSED RULE** in response to additional comments received. If the Division of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or another **CHANGE IN PROPOSED RULE** by the end of the 120-day period after publication, the **CHANGE IN PROPOSED RULE** filing, along with its associated **PROPOSED RULE**, lapses and the agency must start the process over.

CHANGES IN PROPOSED RULES are governed by Section 63G-3-303; Rule R15-2; and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

The Changes in Proposed Rules Begin on the Following Page

**Environmental Quality, Radiation
Control
R313-25-8
Technical Analyses**

NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 34240

FILED: 02/15/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change in proposed rule is to further clarify when a site-specific performance assessment is required to be submitted to the Executive Secretary for approval regarding radioactive waste receipt and disposal based on the incorporation of comments received during the public comment period and approval of the proposed changes during the February 2011 Radiation Control Board meeting.

SUMMARY OF THE RULE OR CHANGE: Subsection R313-25-8(1)(a) adds language that clarifies when a performance assessment would be required by stating the waste was not part of the development of the limits on Class A waste and not included in the Draft Environmental Impact Statement prepared by the U.S. Nuclear Regulatory Commission for the development of Federal Rule 10 CFR 61. "Licensing Requirements for Land Disposal of Radioactive Waste." Item 1a of the proposed rule becomes item 1(b), and item 1(b) becomes item 1(c). In addition, item 1(d) is added to include a condition for waste that would result in an unanalyzed condition not considered in Rule R313-25 "License Requirements for Land Disposal of Radioactive Waste - General Provisions." Additionally, the words "the development of 10 CFR 61.55" was removed from 1(d). And lastly, the phrase "and changing lake levels" was removed from Subsection R313-25-8(4)(a). (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the December 1, 2010, issue of the Utah State Bulletin, on page 48. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-3-104(4)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The State of Utah receives fees from licensees that dispose of radioactive waste under Section 19-3-106. Currently, EnergySolutions, LLC is the

only radioactive waste disposal facility that accepts and disposes of radioactive waste. If this rule is promulgated, certain wastes may not be accepted at the facility until it has completed a site-specific performance assessment and it is approved by the Executive Secretary. The financial impacts on waste fees received by the State of Utah are difficult to specify because the impact depends on the following information that is not known at this time: when a site-specific performance assessment will be submitted and when it will be approved; when the rule takes effect it may cause waste receipts to be delayed; or whether there are competitors for the waste such that EnergySolutions could lose receipts altogether.

◆ **LOCAL GOVERNMENTS:** Tooele County collects impact fees from waste facilities, including EnergySolutions. Tooele County's budget is therefore likely to be affected. Because of the reasons described above, the specific impact cannot be known at this time. However, the proposed change will not impact wastes that are currently approved for disposal and for which disposal fees are paid.

◆ **SMALL BUSINESSES:** No small business in Utah will be directly impacted. This amendment changes a rule that is specific to companies or licensees that dispose of radioactive waste. As a result of this narrow scope, there should be no direct impact on small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The Board is not aware of any direct impact on other entities. This amendment changes a rule that is specific to companies or licensees that dispose of radioactive waste. As a result of this narrow scope, there should be no direct impact on other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: A radioactive waste disposal facility may have to incur the cost of preparing a site-specific performance assessment under this rule, and may also bear the cost of the Division of Radiation Control's review of that performance assessment. The cost of a performance assessment is likely to be over \$1,000,000 initially, however, the licensee has initiated a performance assessment prior to this rule change and therefore, depending on the waste stream, may only have to modify a previous performance assessment and therefore, costs could be substantially lower.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: If the rule is promulgated, one Utah business - EnergySolutions, LLC - may be unable to accept certain wastes until it has submitted a site-specific performance assessment and the performance assessment has been approved. The impact of this rule is hard to ascertain, because the Division of Radiation Control does not know when EnergySolutions will submit a performance assessment and when it will be approved, when EnergySolutions would otherwise have received certain wastes that would require them to prepare and submit a performance assessment, and whether or not future waste shipments will require a site-

specific performance assessment prior to receipt. However, if a performance assessment is required, EnergySolutions will bear the cost of carrying out, preparing, and submitting the performance assessment which could be substantial.

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

ENVIRONMENTAL QUALITY
RADIATION CONTROL
ROOM THIRD FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Rusty Lundberg by phone at 801-536-4257, by FAX at 801-533-4097, or by Internet E-mail at rlundberg@utah.gov

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

THIS RULE MAY BECOME EFFECTIVE ON: 03/31/2011

AUTHORIZED BY: Rusty Lundberg, Director

R313. Environmental Quality, Radiation Control.

R313-25. License Requirements for Land Disposal of Radioactive Waste - General Provisions.

R313-25-8. Technical Analyses.

(1) The licensee or applicant shall conduct a site-specific performance assessment and receive Executive Secretary approval prior to accepting any radioactive waste if:

(a) ~~the waste was not considered in the development of the limits on Class A waste and not included in the analyses of the Draft Environmental Impact Statement on 10 CFR Part 61 "Licensing Requirements for Land Disposal of Radioactive Waste," NUREG-0782, U.S. Nuclear Regulatory Commission, September 1981, or~~

(b) ~~the waste is likely to result in greater than 10 percent of the dose limits in R313-25-19 during the time period at which peak dose would occur, or~~

(~~b~~)~~c~~ the waste will result in greater than 10 percent of the total site source term over the operational life of the facility, or

(~~e~~)~~d~~ the disposal of the waste would result in an unanalyzed condition not considered in [~~the development of 10 CFR 61.55~~]R313-25.

(2) A licensee that has a previously-approved site-specific performance assessment that addressed a radioactive waste for which a site-specific performance assessment would otherwise be required under R313-28-8(1) shall notify the Executive Secretary of the applicability of the previously-approved site-specific performance assessment at least 60 days prior to the anticipated acceptance of the radioactive waste.

(3) The licensee shall not accept radioactive waste until the Executive Secretary has approved the information submitted pursuant to R313-25-8(1) or (2).

(4) The licensee or applicant shall also include in the specific technical information the following analyses needed to demonstrate that the performance objectives of R313-25 will be met:

(a) Analyses demonstrating that the general population will be protected from releases of radioactivity shall consider the pathways of air, soil, ground water, surface water, plant uptake, and exhumation by burrowing animals~~[-, and changing lake levels]~~. The analyses shall clearly identify and differentiate between the roles performed by the natural disposal site characteristics and design features in isolating and segregating the wastes. The analyses shall clearly demonstrate a reasonable assurance that the exposures to humans from the release of radioactivity will not exceed the limits set forth in R313-25-19.

(b) Analyses of the protection of inadvertent intruders shall demonstrate a reasonable assurance that the waste classification and segregation requirements will be met and that adequate barriers to inadvertent intrusion will be provided.

(c) Analysis of the protection of individuals during operations shall include assessments of expected exposures due to routine operations and likely accidents during handling, storage, and disposal of waste. The analysis shall provide reasonable assurance that exposures will be controlled to meet the requirements of R313-15.

(d) Analyses of the long-term stability of the disposal site shall be based upon analyses of active natural processes including erosion, mass wasting, slope failure, settlement of wastes and backfill, infiltration through covers over disposal areas and adjacent soils, surface drainage of the disposal site, and the effects of changing lake levels. The analyses shall provide reasonable assurance that there will not be a need for ongoing active maintenance of the disposal site following closure.

(5)(a) Notwithstanding R313-25-8(1), any facility that proposes to land dispose of significant quantities of concentrated depleted uranium (more than one metric ton in total accumulation) after June 1, 2010, shall submit for the Executive Secretary's review and approval a performance assessment that demonstrates that the performance standards specified in 10 CFR Part 61 and corresponding provisions of Utah rules will be met for the total quantities of concentrated depleted uranium and other wastes, including wastes already disposed of and the quantities of concentrated depleted uranium the facility now proposes to dispose. Any such performance assessment shall be revised as needed to reflect ongoing guidance and rulemaking from NRC. For purposes of this performance assessment, the compliance period shall be a minimum of 10,000 years. Additional simulations shall be performed for the period where peak dose occurs and the results shall be analyzed qualitatively.

(b) No facility may dispose of significant quantities of concentrated depleted uranium prior to the approval by the Executive Secretary of the performance assessment required in R313-25-8(5)(a).

(c) For purposes of this R313-25-8(5) only, "concentrated depleted uranium" means waste with depleted uranium concentrations greater than 5 percent by weight.

KEY: radiation, radioactive waste disposal, depleted uranium
Date of Enactment or Last Substantive Amendment: [~~October~~
~~13, 2010~~2011

Authorizing, and Implemented or Interpreted Law: 19-3-104;
19-3-108

Notice of Continuation: October 5, 2006

End of the Notices of Changes in Proposed Rules Section

NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a **120-DAY (EMERGENCY) RULE** when it finds that the regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

As with a **PROPOSED RULE**, a **120-DAY RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **120-DAY RULE** including the name of a contact person, justification for filing a **120-DAY RULE**, anticipated cost impact of the rule, and legal cross-references. A row of dots in the text (.) indicates that unaffected text was removed to conserve space.

A **120-DAY RULE** is effective at the moment the Division of Administrative Rules receives the filing, or on a later date designated by the agency. A **120-DAY RULE** is effective for 120 days or until it is superseded by a permanent rule.

Because **120-DAY RULES** are effective immediately, the law does not require a public comment period. However, when an agency files a **120-DAY RULE**, it usually files a **PROPOSED RULE** at the same time, to make the requirements permanent. Comments may be made on the **PROPOSED RULE**. Emergency or **120-DAY RULES** are governed by Section 63G-3-304; and Section R15-4-8.

Transportation, Preconstruction **R930-5-13** Notice of Intended Action

NOTICE OF 120-DAY (EMERGENCY) RULE
DAR FILE NO.: 34415
FILED: 02/09/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for this filing is to bring the rule into compliance with Section 72-6-114 which authorizes a highway authority to temporarily close or restrict travel on a highway under their jurisdiction due to construction, maintenance work, or emergency without providing notice and hearing.

SUMMARY OF THE RULE OR CHANGE: The change adds the word "permanent" to distinguish permanent railroad crossing closures and additions that require notice and hearing, from temporary closures due to highway construction, maintenance work, or emergency that are authorized by Section 72-6-114 and which do not require notice and hearing. (DAR NOTE: A corresponding proposed amendment to Section R930-5-13 will be published in the March 15, 2011, issue of the Bulletin under DAR No. 34452.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 41-6a-1205 and Section 54-4-14 and Section 54-4-15 and Section 72-1-201 and Section 72-6-114

EMERGENCY RULE REASON AND JUSTIFICATION:

REGULAR RULEMAKING PROCEDURES WOULD cause an imminent peril to the public health, safety, or welfare; and place the agency in violation of federal or state law.

JUSTIFICATION: Based on the Public Service Commission interpretation of the rule, the Utah Department of Transportation (UDOT) is unable to restrict travel at railroad crossings under this rule without first giving public notice and holding a hearing. The inability to immediately restrict travel at a railroad crossing in the event of an emergency, creates imminent peril to the public health, safety, or welfare. The change will bring the rule into compliance with Section 72-6-114 which authorizes highway authorities to restrict travel due to construction, maintenance work, or emergency without providing notice and hearing.

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There are no anticipated costs or savings to the state budget because the change only adds a distinction between temporary travel restrictions due to construction, maintenance, or emergency, and permanent restrictions that require notice and hearing.

◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings to local government because the change only adds a distinction between temporary travel restrictions due to construction, maintenance, or emergency, and permanent restrictions that require notice and hearing.

◆ **SMALL BUSINESSES:** There are no anticipated costs or savings to businesses because the change only adds a distinction between temporary travel restrictions due to construction, maintenance, or emergency, and permanent restrictions that require notice and hearing.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no anticipated costs or savings to persons other than small businesses, businesses, or local government because the change only adds a distinction between temporary travel restrictions due to construction, maintenance, or emergency, and permanent restrictions that require notice and hearing.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated compliance costs for affected persons because the change only adds a distinction between temporary travel restrictions due to construction, maintenance, or emergency, and permanent restrictions that require notice and hearing.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated fiscal impacts on businesses because the change only adds a distinction between temporary travel restrictions due to construction, maintenance, or emergency, and permanent restrictions that require notice and hearing.

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

TRANSPORTATION
PRECONSTRUCTION
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY, UT 84119-5998
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Linda Barrow by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at lindabarrow@utah.gov

EFFECTIVE: 02/09/2011

AUTHORIZED BY: John Njord, Executive Director

R930. Transportation, Preconstruction.

R930-5. Establishment and Regulation of At-Grade Railroad Crossings.

R930-5-13. Notice of Intended Action.

(1) Public notification of a public hearing opportunity is required, in conformance with Section R930-2, when the Department is considering a proposal to permanently close a Crossing, add a track at a Crossing, or construct a new Crossing. It is the responsibility of the Highway Authority, Railroad, or Company requesting the proposed action, in consultation with the Department, to carry out the requirements of this section unless otherwise agreed to by the Department.

(2) In instances where the action proposed by the Department does not substantially affect the public, the Department may waive the requirement to notice a public hearing opportunity, provided the affected Diagnostic Team members concur in writing.

KEY: railroad, crossing, transportation, safety

Date of Enactment or Last Substantive Amendment: February 9, 2011

Notice of Continuation: November 29, 2006

Authorizing, and Implemented or Interpreted Law: 41-6a-1205; 54-4-14; 54-4-15; 72-1-201

End of the Notices of 120-Day (Emergency) Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to remove obsolete rules from the Utah Administrative Code. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **NOTICE**. By filing a Notice, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. **NOTICES** are effective upon filing.

NOTICES are governed by Section 63G-3-305.

Agriculture and Food, Plant Industry **R68-4**

Standardization, Marketing, and Phyosanitary Inspection of Fresh Fruits, Vegetables, and Other Plant and Plant Products

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 34414
FILED: 02/08/2011

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 4-2-2 and Subsection 4-2-2(1)(h) direct the Department to establish operational standards for any establishment that manufactures, processes, produces, distributes, stores, sells, or offers for sale any agricultural product, a responsibility that can only be accomplished through rule.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received either supporting or opposing this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule needs to be continued because it defines acceptable practices in the fruit and vegetable

packing industry. It also identifies the requirements for being able to sell and market products that are free from pests and other serious defects. This rule enables producers to be competitive in the marketplace.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Clair Allen by phone at 801-538-7180, by FAX at 801-538-7189, or by Internet E-mail at clairallen@utah.gov
♦ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
♦ Kyle Stephens by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at kylestephens@utah.gov

AUTHORIZED BY: Leonard Blackham, Commissioner

EFFECTIVE: 02/08/2011

Agriculture and Food, Plant Industry **R68-18**

Quarantine Pertaining to Karnal Bunt

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 34412
FILED: 02/08/2011

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 4-2-2(1)(k)(ii) directs the Department to establish and enforce "quarantines", an action that can only be accomplished by this rule.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received in support or against this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Karnal bunt is still a national issue in grain commodities. Utah is free from Karnal bunt and is able to export small grains for international and foreign markets. Without this rule, the Division of Plant Industry would not be able to enforce any areas that maybe infested with the disease and marketing options would be limited. This rule needs to be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 AGRICULTURE AND FOOD
 PLANT INDUSTRY
 350 N REDWOOD RD
 SALT LAKE CITY, UT 84116-3034
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Clair Allen by phone at 801-538-7180, by FAX at 801-538-7189, or by Internet E-mail at clairallen@utah.gov
 ♦ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
 ♦ Kyle Stephens by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at kylestephens@utah.gov

AUTHORIZED BY: Leonard Blackham, Commissioner

EFFECTIVE: 02/08/2011

Natural Resources, Parks and
 Recreation
R651-213
 Dealer Numbers and Registrations

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 34417
 FILED: 02/10/2011

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Statute authorizes the State Parks Board to make rules relating to Boat Dealers in Subsection 73-18-7(17)(a): "The board may designate the suffix to assigned numbers, and by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for... (b) the issuance and display of dealer numbers and registrations...."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments in support or opposition of this rule have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Statute requires motorboats and sailboats to be registered while on the waters on the state. This rule provides that boat dealers can obtain dealer registrations for temporary use on vessels in their inventory that they are demonstrating to customers. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 NATURAL RESOURCES
 PARKS AND RECREATION
 ROOM 116
 1594 W NORTH TEMPLE
 SALT LAKE CITY, UT 84116-3154
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

AUTHORIZED BY: Fred Hayes, Acting Operations Deputy Director

EFFECTIVE: 02/10/2011

**Natural Resources, Parks and
Recreation
R651-214
Temporary Registration**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 34418
FILED: 02/10/2011

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Statute authorizes the State Parks Board to make rules relating to Boat Dealers in Subsection 73-18-7(17)(a): "The board may designate the suffix to assigned numbers, and by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for... (c) the issuance and display of temporary registrations."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments in support or opposition of this rule have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Statute requires motorboats and sailboats to be registered while on the waters on the state. This rule provides that new boat owners can legally operate their boats with a temporary registration issued by the dealer, from the time they purchase a vessel until they receive the permanent registration documents from the Division of Motor Vehicle. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

AUTHORIZED BY: Fred Hayes, Acting Operations Deputy Director

EFFECTIVE: 02/10/2011

**Natural Resources, Parks and
Recreation
R651-216**

**Navigation Lights - Note: Figures 1
through 7 mentioned below are on file
with the Utah Division of Parks and
Recreation**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 34419
FILED: 02/10/2011

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Statute authorizes the State Parks Board to make rules relating to boating safety equipment in Subsection 73-18-8(6): "The board may: (a) require additional safety equipment by rule; and (b) adopt rules conforming with the requirements of this section which govern specifications for and the use of safety equipment."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments in support or opposition of this rule have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Statute requires vessels to display navigational lights while on the waters on the state after sunset. This rule is needed to detail the approved lights for each type of vessel. The lights are the standard US Coast Guard approved lights for all boats nationwide. Therefore, this rule should be continued.

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

NATURAL RESOURCES
PARKS AND RECREATION
ROOM 116

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

AUTHORIZED BY: Fred Hayes, Acting Operations Deputy Director

EFFECTIVE: 02/10/2011

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 NATURAL RESOURCES
 PARKS AND RECREATION
 ROOM 116
 1594 W NORTH TEMPLE
 SALT LAKE CITY, UT 84116-3154
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

AUTHORIZED BY: Fred Hayes, Acting Operations Deputy Director

EFFECTIVE: 02/10/2011

Natural Resources, Parks and Recreation
R651-217
 Fire Extinguishers

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
 DAR FILE NO.: 34420
 FILED: 02/10/2011

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Statute authorizes the State Parks Board to make rules relating to boating safety equipment in Subsection 73-18-8(6): "The board may: (a) require additional safety equipment by rule; and (b) adopt rules conforming with the requirements of this section which govern specifications for and the use of safety equipment."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments in support or opposition of this rule have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Statute requires vessels to have fire extinguishing equipment on board while on the waters on the state. This rule is needed to detail the approved fire extinguishers for each type of vessel. The fire extinguisher requirements are consistent with US Coast Guard approved fire extinguishers for boats nationwide. Therefore, this rule should be continued.

Natural Resources, Parks and Recreation
R651-218
 Carburetor Backfire Flame Control

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
 DAR FILE NO.: 34421
 FILED: 02/10/2011

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Statute authorizes the State Parks Board to make rules relating to boating safety equipment in Subsection 73-18-8(6): "The board may: (a) require additional safety equipment by rule; and (b) adopt rules conforming with the requirements of this section which govern specifications for and the use of safety equipment."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments in support or opposition of this rule have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Statute requires certain motorboats to be equipped with a backfire flame control device while on the waters on the state. This rule is needed to detail the

approved methods of backfire flame control. These requirements are consistent with US Coast Guard approved backfire flame control devices for boats nationwide. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: Fred Hayes, Acting Operations Deputy Director

EFFECTIVE: 02/10/2011

Natural Resources, Parks and
Recreation
R651-219
Additional Safety Equipment

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 34422
FILED: 02/10/2011

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Statute authorizes the State Parks Board to make rules relating to boating safety equipment in Subsection 73-18-8(6): "The board may: (a) require additional safety equipment by rule; and (b) adopt rules conforming with the requirements of this section which govern specifications for and the use of safety equipment."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments in support or opposition of this rule have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Types and sizes of vessels vary greatly and new styles of vessels are coming onto our waters each year. There is a necessity to be flexible with types of vessels that do not fit into standard categories. This rule provides for additional safety equipment needed and some exceptions to required equipment for non-standard vessels. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: Fred Hayes, Acting Operations Deputy Director

EFFECTIVE: 02/10/2011

Natural Resources, Parks and
Recreation
R651-220
Registration and Numbering
Exemptions

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 34423
FILED: 02/10/2011

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Statute authorizes the State Parks Board to exempt certain vessels from registration in Subsection 73-18-9(5): "Registration under this chapter is not required for any of the following: a motorboat or sailboat belonging to a class of vessels which is exempted from registration by the board after the board finds...."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments in support or opposition of this rule have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: There are certain types of vessels which are impractical to require to register. This rule is necessary to exempt those unique vessels determined by the board not to be required to register. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
PARKS AND RECREATION
ROOM 116
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

AUTHORIZED BY: Fred Hayes, Acting Operations Deputy Director

EFFECTIVE: 02/10/2011

**Natural Resources, Parks and Recreation
R651-221**

Boat Liveries - Boat Rental Companies

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 34424
FILED: 02/10/2011

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Statute authorizes the State Parks Board to regulate and set fees for boat liveries in Subsections 73-18-4(1)(d) and (2)(a): "The board may

promulgate rules... (d) regulating vessel operators who carry passengers for hire, boat liveries, and outfitting companies... (2) (a) The board may set fees in accordance with Section 63J-1-504 for... (B) boat liveries."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments in support or opposition of this rule have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule sets criteria for liveries to provide proper documentation, safety equipment, and registration. Registration and fees paid help the division fund efforts to provide livery companies with boating safety educational materials for distribution to their customers. Traditionally, rental boats are involved in a disproportionately high percentage of boat accidents. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
PARKS AND RECREATION
ROOM 116
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

AUTHORIZED BY: Fred Hayes, Acting Operations Deputy Director

EFFECTIVE: 02/10/2011

**Natural Resources, Parks and Recreation
R651-226**

Regattas and Races

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 34425
FILED: 02/10/2011

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Statute authorizes the State Parks Board to authorize marine events in Section 73-18-16: "The division may authorize the holding of regattas, motorboat or other boat races, marine parades, tournaments, or exhibitions on any waters of this state. The board may adopt rules concerning the safety of vessels and persons, either as observers or participants."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments in support or opposition of this rule have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is important for the division to be aware of any marine events taking place to ensure the safety of the recourses, participants, and spectators. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 NATURAL RESOURCES
 PARKS AND RECREATION
 ROOM 116
 1594 W NORTH TEMPLE
 SALT LAKE CITY, UT 84116-3154
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

AUTHORIZED BY: Fred Hayes, Acting Operations Deputy Director

EFFECTIVE: 02/10/2011

Natural Resources, Parks and Recreation
R651-801
 Swimming Prohibited

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 34426
 FILED: 02/10/2011

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Statute authorizes the State Parks Board to regulate water safety on the boating waters of the state in Section 73-18b-1: "The Board of Parks and Recreation may make rules necessary to promote safety in swimming, scuba diving, and related activities on any waters where public boating is permitted."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments in support or opposition of this rule have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is important for public safety that individuals do not swim in areas that are hazardous or frequented by boating traffic. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 NATURAL RESOURCES
 PARKS AND RECREATION
 ROOM 116
 1594 W NORTH TEMPLE
 SALT LAKE CITY, UT 84116-3154
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

AUTHORIZED BY: Fred Hayes, Acting Operations Deputy Director

EFFECTIVE: 02/10/2011

Natural Resources, Parks and Recreation
R651-802
 Scuba Diving

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 34427
 FILED: 02/10/2011

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Statute authorizes the State Parks Board to regulate water safety on the boating waters of the state in Section 73-18b-1: "The Board of Parks and Recreation may make rules necessary to promote safety in swimming, scuba diving, and related activities on any waters where public boating is permitted."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments in support or opposition of this rule have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is important for public safety that scuba divers be certified and highly visible, and that boaters are directed away from scuba diving activities. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 NATURAL RESOURCES
 PARKS AND RECREATION
 ROOM 116
 1594 W NORTH TEMPLE
 SALT LAKE CITY, UT 84116-3154
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

AUTHORIZED BY: Fred Hayes, Acting Operations Deputy Director

EFFECTIVE: 02/10/2011

Natural Resources; Forestry, Fire and State Lands
R652-2
 Sovereign Land Management Objectives

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 34433
 FILED: 02/14/2011

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 65A-1-2 and 65A-10-1 authorize the Division of Forestry, Fire and State Lands to prescribe the general land management objectives to Sovereign Lands.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule defines the Sovereign Land Management objectives and declares and recognizes the Utah state lands that are considered Sovereign Land. Further, the rule outlines regulation and management of the Sovereign Lands for any proposed use. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 NATURAL RESOURCES
 FORESTRY, FIRE AND STATE LANDS
 1594 W NORTH TEMPLE
 SUITE 3520
 SALT LAKE CITY, UT 84116-3154
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Jamie Barnes by phone at 801-538-5421, by FAX at 801-533-4111, or by Internet E-mail at jamiebarnes@utah.gov

AUTHORIZED BY: Richard Buehler, Director

EFFECTIVE: 02/14/2011

Natural Resources; Forestry, Fire and State Lands

R652-8

Adjudicative Proceedings

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 34432

FILED: 02/14/2011

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 63G-4-102(5), and Sections 63G-4-202 and 63G-4-203 authorize the Division of Forestry, Fire and State Lands to designate adjudicative proceedings as informal and provide procedures for informal adjudicative proceedings.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule outlines agency adjudication. Agency adjudications include actions related to leases, permits, easements, sales contracts and other agreements, and contracts under the authority of the agency. The rule gives initial designation of all adjudicative proceedings as informal, and defines procedure for informal adjudicative proceedings. This rule also defines hearings and hearing requests, along with presiding officers or designees, as they relate to adjudicative proceedings. Therefore, this rule should be continued.

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

NATURAL RESOURCES
FORESTRY, FIRE AND STATE LANDS
1594 W NORTH TEMPLE
SUITE 3520
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Jamie Barnes by phone at 801-538-5421, by FAX at 801-533-4111, or by Internet E-mail at jamiebarnes@utah.gov

AUTHORIZED BY: Richard Buehler, Director

EFFECTIVE: 02/14/2011

Natural Resources; Forestry, Fire and State Lands

R652-9

Consistency Review

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 34434

FILED: 02/14/2011

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 63G-3-201 directs state agencies to engage in rulemaking whenever agency action applies to a class of persons, provides or prohibits a benefit, and requires or prohibits an action. Subsection 65A-1-4(6) states, "An aggrieved party to a final action by the director may appeal that action to the executive director of the Department of Natural Resources within 20 days after the action"; this process can only be accomplished by rule. This rule establishes the procedure that an aggrieved party may take to implement a consistency review of statutes, rules, and division policy.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes the procedure through which any party aggrieved by division action directly determining the rights, obligations, or legal interests of specific persons may petition the executive director of the Department of Natural Resources to review the action for consistency with statues, rules, and division policy. Therefore, this rule should be continued.

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

NATURAL RESOURCES
 FORESTRY, FIRE AND STATE LANDS
 1594 W NORTH TEMPLE
 SUITE 3520
 SALT LAKE CITY, UT 84116-3154
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Jamie Barnes by phone at 801-538-5421, by FAX at 801-533-4111, or by Internet E-mail at jamiebarnes@utah.gov

AUTHORIZED BY: Richard Buehler, Director

EFFECTIVE: 02/14/2011

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule outlines right of entry on Sovereign Lands. This rule outlines the requirement of an application, application procedure, the fee for right of entry, term of agreement, and specific document requirement for a right of entry. This rule is necessary to facilitate and perform right of entry permits. Therefore, this rule should be continued.

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

NATURAL RESOURCES
 FORESTRY, FIRE AND STATE LANDS
 1594 W NORTH TEMPLE
 SUITE 3520
 SALT LAKE CITY, UT 84116-3154
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Jamie Barnes by phone at 801-538-5421, by FAX at 801-533-4111, or by Internet E-mail at jamiebarnes@utah.gov

AUTHORIZED BY: Richard Buehler, Director

EFFECTIVE: 02/14/2011

Natural Resources; Forestry, Fire and State Lands
R652-41
Rights of Entry

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
 DAR FILE NO.: 34435
 FILED: 02/14/2011

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 65A-7-1 authorizes the Division of Forestry, Fire and State Lands to establish criteria by rule for the sale, exchange, lease or other disposition or conveyance of sovereign lands including procedures for determining fair market value of those lands.

Natural Resources; Forestry, Fire and State Lands
R652-80
Land Exchanges

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
 DAR FILE NO.: 34436
 FILED: 02/14/2011

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 65A-7-1 authorizes the Division of Forestry, Fire and State Lands to specify application procedures and review criteria for the exchange of sovereign lands.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule outlines the criteria for exchange of Sovereign lands for land or other assets; it sets forth the application requirements and the competitive offering rights with regard to land exchanges; outlines rights with regard to existing improvements on said land; and outlines mineral estates and leases, existing rights on acquired lands, and existing leases and permits, all with regard to land exchanges. Therefore, this rule should be continued.

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

NATURAL RESOURCES
FORESTRY, FIRE AND STATE LANDS
1594 W NORTH TEMPLE
SUITE 3520
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Jamie Barnes by phone at 801-538-5421, by FAX at 801-533-4111, or by Internet E-mail at jamiebarnes@utah.gov

AUTHORIZED BY: Richard Buehler, Director

EFFECTIVE: 02/14/2011

Technology Services, Administration **R895-1** Access to Records

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 34438
FILED: 02/15/2011

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under authority of Sections 63G-2-204 and 63A-12-104, and Title 63G, Chapter 3, this rule

provides procedures for access and denial of access to government records. Subsection 63G-2-204(d) authorizes a governmental entity to make a rule specifying where and to whom requests for access shall be directed. Subsection 63A-12-104(2) authorizes a governmental entity that includes divisions, boards, departments, committees, commissions, or other subparts that fall within the definition of a governmental entity under this chapter, may, by rule, specify at which level the requirements specified in this chapter shall be undertaken. Title 63G, Chapter 3, authorizes agencies rulemaking authority.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received during and since the last five-year review of the rule from interested persons supporting or opposing the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: As stated in Section 63A-12-104, the agency may by rule specify at which level the requirements shall be undertaken. It is imperative for the agency to be able to specify by rule the process for obtaining records, as the agency has access to, but does not own, many non-department records. Therefore, this rule should be continued.

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

TECHNOLOGY SERVICES
ADMINISTRATION
ROOM 6000 STATE OFFICE BUILDING
450 N STATE ST
SALT LAKE CITY, UT 84114
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Stephanie Weiss by phone at 801-538-3284, by FAX at 801-538-3622, or by Internet E-mail at stweiss@utah.gov

AUTHORIZED BY: J Stephen Fletcher, CIO and Executive Director

EFFECTIVE: 02/15/2011

Technology Services, Administration **R895-2** Americans With Disabilities Act (ADA) Complaint Procedure

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 34439
FILED: 02/15/2011

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is promulgated pursuant to Sections 63G-3-201 and 63F-1-206. The Department of Technology Services hereby adopts and defines a complaint procedure to provide for prompt and equitable resolution of complaints filed in accordance with Title II of the Americans With Disabilities Act, pursuant to 28 CFR 35.107, 1992 edition. Section 63G-3-201 directs agencies to write rules when their actions affect material benefits and regulate actions of a class of persons. Establishing a complaint procedure for disabled persons can only be done by rule.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were received during and since the last five-year review of the rule from interested persons supporting or opposing the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: There is a need for the Department of Technology Services to continue the rule that adopts and defines a complaint procedure to provide for prompt and equitable resolution of complaints filed in accordance with Title II of the Americans With Disabilities Act, pursuant to 28 CFR 35.107, 1992 edition. Therefore, this rule should be continued.

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

TECHNOLOGY SERVICES
ADMINISTRATION
ROOM 6000 STATE OFFICE BUILDING
450 N STATE ST
SALT LAKE CITY, UT 84114
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Stephanie Weiss by phone at 801-538-3284, by FAX at 801-538-3622, or by Internet E-mail at stweiss@utah.gov

AUTHORIZED BY: J Stephen Fletcher, CIO and Executive Director

EFFECTIVE: 02/15/2011

Technology Services, Administration
R895-11
Technology Services Adjudicative
Proceedings

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 34440
FILED: 02/15/2011

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: It is enacted under the authority of Section 63F-1-206. Section 63G-4-202 authorizes the agency to designate categories of adjudicative proceedings to be conducted informally. Additionally, Section 63G-4-203 requires an agency that enacts a rule designating one or more categories of adjudicative proceedings as informal adjudicative proceedings, the agency shall, by rule, prescribe procedures for informal adjudicative proceedings. This rule defines the procedures for informal adjudicative proceedings.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received during and since the last five-year review of the rule from interested persons supporting or opposing the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Any adjudicative proceedings initiated according to the Utah Administrative Procedures Act, Section 63G-4-202, which fall under the jurisdiction of the Department of Technology Services are designated as informal proceedings. Section 63G-4-203 requires an agency that enacts a rule designating one or more categories of adjudicative proceedings as informal adjudicative proceedings, the agency shall, by rule, prescribe procedures for informal adjudicative proceedings. This rule defines the procedures for informal adjudicative proceedings, as required by Utah Code. Therefore, this rule should be continued.

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

TECHNOLOGY SERVICES
ADMINISTRATION
ROOM 6000 STATE OFFICE BUILDING

450 N STATE ST
SALT LAKE CITY, UT 84114
or at the Division of Administrative Rules.

AUTHORIZED BY: J Stephen Fletcher, CIO and Executive
Director

EFFECTIVE: 02/15/2011

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Stephanie Weiss by phone at 801-538-3284, by FAX at
801-538-3622, or by Internet E-mail at stweiss@utah.gov

End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their rules effective and enforceable after publication in the Utah State Bulletin. In the case of Proposed Rules or Changes in Proposed Rules with a designated comment period, the law permits an agency to file a notice of effective date any time after the close of comment plus seven days. In the case of Changes in Proposed Rules with no designated comment period, the law permits an agency to file a notice of effective date on any date including or after the thirtieth day after the rule's publication date. If an agency fails to file a Notice of Effective Date within 120 days from the publication of a Proposed Rule or a related Change in Proposed Rule the rule lapses and the agency must start the rulemaking process over.

Notices of Effective Date are governed by Subsection 63G-3-301(12), 63G-3-303, and Sections R15-4-5a and 5b.

Abbreviations

AMD = Amendment

CPR = Change in Proposed Rule

NEW = New Rule

R&R = Repeal & Reenact

REP = Repeal

Commerce

Consumer Protection

No. 34100 (AMD): R152-11-9. Direct Solicitations

Published: 10/15/2010

Effective: 02/07/2011

Occupational and Professional Licensing

No. 34310 (AMD): R156-60a. Social Worker Licensing Act Rule

Published: 01/01/2011

Effective: 02/10/2011

No. 34283 (AMD): R156-69. Dentist and Dental Hygienist Practice Act Rule

Published: 01/01/2011

Effective: 02/07/2011

Environmental Quality

Environmental Response and Remediation

No. 34270 (AMD): R311-200. Underground Storage Tanks:

Definitions

Published: 12/15/2010

Effective: 02/14/2011

No. 34271 (AMD): R311-201. Underground Storage Tanks: Certification Programs and UST Operator Training

Published: 12/15/2010

Effective: 02/14/2011

No. 34272 (AMD): R311-203. Underground Storage Tanks: Technical Standards

Published: 12/15/2010

Effective: 02/14/2011

No. 34275 (AMD): R311-205. Underground Storage Tanks: Site Assessment Protocol

Published: 12/15/2010

Effective: 02/14/2011

No. 34273 (AMD): R311-206. Underground Storage Tanks: Financial Assurance Mechanisms

Published: 12/15/2010

Effective: 02/14/2011

No. 34274 (AMD): R311-207. Accessing the Petroleum Storage Tank Trust Fund for Leaking Petroleum Storage Tanks

Published: 12/15/2010

Effective: 02/14/2011

No. 34269 (AMD): R311-212. Administration of the Petroleum Storage Tank Loan Fund

Published: 12/15/2010

Effective: 02/14/2011

Health

Epidemiology and Laboratory Services, Environmental Services

No. 34144 (AMD): R392-200. Design, Construction, Operation, Sanitation, and Safety of Schools

Published: 11/01/2010

Effective: 02/16/2011

Human Services

Administration

No. 34288 (AMD): R495-879. Parental Support for Children in Care

Published: 01/01/2011

Effective: 02/07/2011

NOTICES OF RULE EFFECTIVE DATES

Insurance

Administration

No. 34312 (AMD): R590-148-24. Premium Rate Schedule Increases

Published: 01/01/2011

Effective: 02/08/2011

No. 34259 (AMD): R590-186. Bail Bond Surety Business

Published: 12/15/2010

Effective: 02/10/2011

Natural Resources

Forestry, Fire and State Lands

No. 34313 (AMD): R652-140. Utah Forest Practices Act

Published: 01/01/2011

Effective: 02/07/2011

Wildlife Resources

No. 34299 (AMD): R657-44. Big Game Depredation

Published: 01/01/2011

Effective: 02/07/2011

No. 34303 (AMD): R657-55. Wildlife Convention Permits

Published: 01/01/2011

Effective: 02/07/2011

Public Safety

Highway Patrol

No. 34285 (NEW): R714-160. Equipment Standards for Passenger Vehicle and Light Truck Safety Inspections

Published: 01/01/2011

Effective: 02/09/2011

No. 34286 (NEW): R714-161. Equipment Standards for Motorcycle and ATV Safety Inspections

Published: 01/01/2011

Effective: 02/09/2011

No. 34287 (NEW): R714-162. Equipment Standards for Heavy Truck, Trailer and Bus Safety Inspections

Published: 01/01/2011

Effective: 02/08/2011

End of the Notices of Rule Effective Dates Section

**RULES INDEX
BY AGENCY (CODE NUMBER)
AND
BY KEYWORD (SUBJECT)**

The Rules Index is a cumulative index that reflects all effective changes to Utah's administrative rules. The current Index lists changes made effective from January 2, 2011 through February 15, 2011. The Rules Index is published in the Utah State Bulletin and in the annual Utah Administrative Rules Index of Changes. Nonsubstantive changes, while not published in the Bulletin, do become part of the Utah Administrative Code (Code) and are included in this Index, as well as 120-Day (Emergency) rules that do not become part of the Code. The rules are indexed by Agency (Code Number) and Keyword (Subject).

Questions regarding the index and the information it contains should be addressed to Nancy Lancaster (801-538-3218), Mike Broschinsky (801-538-3003), or Kenneth A. Hansen (801-538-3777).

A copy of the Rules Index is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.utah.gov/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ADMINISTRATIVE SERVICES					
<u>Fleet Operations</u>					
R27-3	Vehicle Use Standards	34256	AMD	01/25/2011	2010-24/6
R27-4-11	Capital Credit or Reservation of Vehicle Allocation for Surrendered Vehicles	34257	AMD	01/25/2011	2010-24/7
AGRICULTURE AND FOOD					
<u>Plant Industry</u>					
R68-4	Standardization, Marketing, and Phytosanitary Inspection of Fresh Fruits, Vegetables, and Other Plant and Plant Products	34414	5YR	02/08/2011	Not Printed
R68-8	Utah Seed Law	34345	5YR	01/05/2011	2011-3/55
R68-18	Quarantine Pertaining to Karnal Bunt	34412	5YR	02/08/2011	Not Printed
<u>Regulatory Services</u>					
R70-410	Grading and Inspection of Shell Eggs with Standard Grade and Weight Classes	34378	5YR	01/24/2011	2011-4/35
COMMERCE					
<u>Consumer Protection</u>					
R152-11-9	Direct Solicitations	34100	AMD	02/07/2011	2010-20/4
<u>Occupational and Professional Licensing</u>					
R156-3a	Architect Licensing Act Rule	34396	5YR	01/31/2011	2011-4/35
R156-46b	Division Utah Administrative Procedures Act Rule	34397	5YR	01/31/2011	2011-4/36
R156-50	Private Probation Provider Licensing Act Rules	34282	NSC	01/06/2011	Not Printed
R156-60a	Social Worker Licensing Act Rule	34310	AMD	02/10/2011	2011-1/6
R156-60d	Substance Abuse Counselor Act Rule	34395	5YR	01/31/2011	2011-4/37
R156-63a-302f	Qualifications for Licensure - Good Moral Character - Disqualifying Convictions	34360	NSC	01/26/2011	Not Printed
R156-69	Dentist and Dental Hygienist Practice Act Rule	34283	AMD	02/07/2011	2011-1/8
R156-78B	Prelitigation Panel Review Rule	34215	AMD	01/10/2011	2010-23/4
R156-83-306	Drugs Approved for Online Prescribing, Dispensing, and Facilitation	34237	AMD	01/10/2011	2010-23/14
<u>Real Estate</u>					
R162-2a	Utah Housing Opportunity Restricted Account	34223	NEW	01/08/2011	2010-23/15
R162-2c-201	Licensing and Registration Procedures	34225	AMD	01/08/2011	2010-23/16
R162-2c-203	Utah-Specific Education Certification	34226	AMD	01/08/2011	2010-23/19
R162-2c-204	License Renewal	34227	AMD	01/08/2011	2010-23/23
R162-12	Utah Housing Opportunity Restricted Account	34224	REP	01/08/2011	2010-23/25

COMMUNITY AND CULTURE

Housing and Community Development

R199-8	Permanent Community Impact Fund Board Review and Approval of Applications for Funding Assistance	34135	AMD	01/13/2011	2010-21/5
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EDUCATION

Administration

R277-419	Pupil Accounting	34230	AMD	01/10/2011	2010-23/26
R277-733	Adult Education Programs	34231	AMD	01/10/2011	2010-23/31
R277-800-5	USDB or Student's District of Residence/Charter School as Designated LEA	34359	NSC	01/27/2011	Not Printed

ENVIRONMENTAL QUALITY

Drinking Water

R309-100-4	General	34112	AMD	02/03/2011	2010-20/51
R309-215-16	Groundwater Rule	34375	NSC	02/14/2011	Not Printed

Environmental Response and Remediation

R311-200	Underground Storage Tanks: Definitions	34270	AMD	02/14/2011	2010-24/19
R311-201	Underground Storage Tanks: Certification Programs and UST Operator Training	34271	AMD	02/14/2011	2010-24/23
R311-203	Underground Storage Tanks: Technical Standards	34272	AMD	02/14/2011	2010-24/27
R311-205	Underground Storage Tanks: Site Assessment Protocol	34275	AMD	02/14/2011	2010-24/30
R311-206	Underground Storage Tanks: Financial Assurance Mechanisms	34273	AMD	02/14/2011	2010-24/33
R311-207	Accessing the Petroleum Storage Tank Trust Fund for Leaking Petroleum Storage Tanks	34274	AMD	02/14/2011	2010-24/35
R311-212	Administration of the Petroleum Storage Tank Loan Fund	34269	AMD	02/14/2011	2010-24/38

FINANCIAL INSTITUTIONS

Administration

R331-26	Ownership of Real Estate Other Than Property Used for Institution Business or Held as an Investment by Depository Institutions Subject to the Jurisdiction of the Department of Financial Institutions	34207	NEW	02/01/2011	2010-22/61
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Banks

R333-11	Ownership by State-Chartered Banks of Real Estate Other Than Property Used for Bank Business or Held as an Investment	34206	REP	02/01/2011	2010-22/63
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Industrial Loan Corporations

R339-6	Rule Clarifying Industrial Loan Corporation Investments	34205	AMD	02/01/2011	2010-22/65
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GOVERNOR

Economic Development, Pete Suazo Utah Athletic Commission

R359-1-506	Drug Tests	34278	AMD	01/31/2011	2010-24/42
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HEALTH

Health Care Financing, Coverage and Reimbursement Policy

R414-1	Utah Medicaid Program	34228	AMD	01/19/2011	2010-23/49
R414-303-11	Prenatal and Newborn Medicaid	34229	AMD	01/27/2011	2010-23/52

RULES INDEX

Health Systems Improvement, Emergency Medical Services

R426-7	Emergency Medical Services Prehospital Data System Rules	34358	5YR	01/12/2011	2011-3/55
R426-8	Emergency Medical Services Per Capita Grants Program Rules	34346	5YR	01/05/2011	2011-3/56

HUMAN SERVICES

Administration

R495-879	Parental Support for Children in Care	34288	AMD	02/07/2011	2011-1/25
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Administration, Administrative Services, Licensing

R501-21	Outpatient Treatment Programs	34212	AMD	01/24/2011	2010-22/81
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Aging and Adult Services

R510-401	Utah Caregiver Support Program (UCSP)	34390	5YR	01/26/2011	2011-4/37
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Child and Family Services

R512-1-6	Out-of-Home Care Services	34344	NSC	01/26/2011	Not Printed
R512-11	Accommodation of Moral and Religious Beliefs and Culture	34368	5YR	01/18/2011	2011-4/38
R512-203	Child Protective Services, Significant Risk Assessments	34369	5YR	01/18/2011	2011-4/38

INSURANCE

Administration

R590-93	Replacement of Life Insurance and Annuities	34026	AMD	01/10/2011	2010-18/59
R590-93	Replacement of Life Insurance and Annuities	34026	CPR	01/10/2011	2010-22/116
R590-133	Variable Contracts	34175	AMD	01/10/2011	2010-22/98
R590-148-24	Premium Rate Schedule Increases	34312	AMD	02/08/2011	2011-1/27
R590-152	Health Discount Programs and Value Added Benefit Rule	34236	AMD	01/20/2011	2010-23/57
R590-167-4	Establishment of Classes of Business	34169	AMD	01/10/2011	2010-22/100
R590-186	Bail Bond Surety Business	34259	AMD	02/10/2011	2010-24/47
R590-259	Dependent Coverage to Age 26	34276	NEW	01/25/2011	2010-24/51

LABOR COMMISSION

Industrial Accidents

R612-12-2	Designation as Informal Proceedings	34294	NSC	01/06/2011	Not Printed
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Occupational Safety and Health

R614-1-4	Incorporation of Federal Standards	34260	AMD	01/27/2011	2010-24/54
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MONEY MANAGEMENT COUNCIL

Administration

R628-11	Maximum Amount of Uninsured Public Funds Allowed to Be Held by Any Qualified Depository	34208	AMD	01/12/2011	2010-22/102
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NATURAL RESOURCES

Forestry, Fire and State Lands

R652-2	Sovereign Land Management Objectives	34433	5YR	02/14/2011	Not Printed
R652-8	Adjudicative Proceedings	34432	5YR	02/14/2011	Not Printed
R652-9	Consistency Review	34434	5YR	02/14/2011	Not Printed
R652-41	Rights of Entry	34435	5YR	02/14/2011	Not Printed
R652-80	Land Exchanges	34436	5YR	02/14/2011	Not Printed
R652-123	Exemptions to Wildland Fire Suppression Fund	34376	5YR	01/24/2011	2011-4/45
R652-140	Utah Forest Practices Act	34313	AMD	02/07/2011	2011-1/30

Parks and Recreation

R651-201	Definitions	34382	5YR	01/26/2011	2011-4/39
R651-202	Boating Advisory Council	34383	5YR	01/26/2011	2011-4/39
R651-203	Waterway Marking System	34384	5YR	01/26/2011	2011-4/40
R651-204	Regulating Waterway Markers	34385	5YR	01/26/2011	2011-4/40

R651-205	Zoned Waters	34386	5YR	01/26/2011	2011-4/41
R651-206	Carrying Passengers for Hire	34353	5YR	01/11/2011	2011-3/57
R651-207	Registration Fee	34388	5YR	01/26/2011	2011-4/42
R651-208	Backing Plates	34389	5YR	01/26/2011	2011-4/42
R651-210	Change of Address	34391	5YR	01/26/2011	2011-4/43
R651-211	Assigned Numbers	34392	5YR	01/26/2011	2011-4/43
R651-212	Display of Yearly Registration Decals and Month of Expiration Decals	34393	5YR	01/26/2011	2011-4/44
R651-213	Dealer Numbers and Registrations	34417	5YR	02/10/2011	Not Printed
R651-214	Temporary Registration	34418	5YR	02/10/2011	Not Printed
R651-215	Personal Flotation Devices	34355	5YR	01/11/2011	2011-3/57
R651-216	Navigation Lights - Note: Figures 1 through 7 mentioned below are on file with the Utah Division of Parks and Recreation	34419	5YR	02/10/2011	Not Printed
R651-217	Fire Extinguishers	34420	5YR	02/10/2011	Not Printed
R651-218	Carburetor Backfire Flame Control	34421	5YR	02/10/2011	Not Printed
R651-219	Additional Safety Equipment	34422	5YR	02/10/2011	Not Printed
R651-220	Registration and Numbering Exemptions	34423	5YR	02/10/2011	Not Printed
R651-221	Boat Liveries - Boat Rental Companies	34424	5YR	02/10/2011	Not Printed
R651-222	Muffling Requirements	34356	5YR	01/11/2011	2011-3/58
R651-224	Towed Devices	34357	5YR	01/11/2011	2011-3/59
R651-226	Regattas and Races	34425	5YR	02/10/2011	Not Printed
R651-611	Fee Schedule	34377	5YR	01/24/2011	2011-4/44
R651-801	Swimming Prohibited	34426	5YR	02/10/2011	Not Printed
R651-802	Scuba Diving	34427	5YR	02/10/2011	Not Printed
<u>Wildlife Resources</u>					
R657-13	Taking Fish and Crayfish	34167	AMD	01/04/2011	2010-22/103
R657-44	Big Game Depredation	34299	AMD	02/07/2011	2011-1/32
R657-55	Wildlife Convention Permits	34303	AMD	02/07/2011	2011-1/35
R657-58	Fishing Contests and Clinics	34168	AMD	01/04/2011	2010-22/105
PUBLIC SAFETY					
<u>Criminal Investigations and Technical Services, Criminal Identification</u>					
R722-300-3	Definitions	34222	AMD	01/07/2011	2010-23/61
<u>Driver License</u>					
R708-16	Pedestrian Vehicle Rule	34398	5YR	01/31/2011	2011-4/46
R708-18	Regulatory and Administrative Fees	34399	5YR	01/31/2011	2011-4/46
R708-19	Automobile No-Fault Self-Insurance	34400	5YR	01/31/2011	2011-4/47
R708-20	Motor Vehicle Accident Prevention Course Standards	34401	5YR	01/31/2011	2011-4/47
R708-33	Electric Assisted Bicycle Headgear	34402	5YR	01/31/2011	2011-4/48
R708-38	Anatomical Gift	34403	5YR	01/31/2011	2011-4/48
R708-38	Anatomical Gift	34404	NSC	02/14/2011	Not Printed
R708-42	Driver Address Record	34371	5YR	01/20/2011	2011-4/49
R708-43	YES or NO Notification	34372	5YR	01/20/2011	2011-4/49
R708-44	Citation Monitoring Service	34374	5YR	01/20/2011	2011-4/50
R708-44	Citation Monitoring Service	34373	NSC	02/14/2011	Not Printed
<u>Fire Marshal</u>					
R710-2	Rules Pursuant to the Utah Fireworks Act	34247	AMD	01/21/2011	2010-24/57
R710-9	Rules Pursuant to the Utah Fire Prevention Law	34242	AMD	01/09/2011	2010-23/58
<u>Highway Patrol</u>					
R714-160	Equipment Standards for Passenger Vehicle and Light Truck Safety Inspections	34285	NEW	02/09/2011	2011-1/37
R714-161	Equipment Standards for Motorcycle and ATV Safety Inspections	34286	NEW	02/09/2011	2011-1/53
R714-162	Equipment Standards for Heavy Truck, Trailer and Bus Safety Inspections	34287	NEW	02/08/2011	2011-1/59
R714-600	Performance Standards for Tow-Truck Motor Carriers	34255	R&R	01/24/2011	2010-24/61

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PUBLIC SERVICE COMMISSION

Administration

R746-360-8	Calculation of Fund Distributions in Rate-of-Return Incumbent Telephone Corporation Territories	34176	AMD	01/19/2011	2010-22/109
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SCHOOL AND INSTITUTIONAL TRUST LANDS

Administration

R850-10	Expedited Rulemaking	34289	NSC	01/06/2011	Not Printed
R850-60	Cultural Resources	34261	AMD	01/24/2011	2010-24/64
R850-60-100	Authorities	34328	NSC	01/18/2011	Not Printed

TAX COMMISSION

Auditing

R865-19S-78	Charges for Labor and Repair Under an Extended Warranty Agreement Pursuant to Utah Code Ann. Sections 59-12-103 and 59-12-104	34268	AMD	01/27/2011	2010-24/68
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TECHNOLOGY SERVICES

Administration

R895-1	Access to Records	34438	5YR	02/15/2011	Not Printed
R895-2	Americans With Disabilities Act (ADA) Complaint Procedure	34439	5YR	02/15/2011	Not Printed
R895-11	Technology Services Adjudicative Proceedings	34440	5YR	02/15/2011	Not Printed

TRANSPORTATION

Operations, Traffic and Safety

R920-50	Ropeway Operation Safety Rules	34241	AMD	01/10/2011	2010-23/63
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Preconstruction

R930-5-13	Notice of Intended Action	34415	EMR	02/09/2011	Not Printed
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WORKFORCE SERVICES

Employment Development

R986-200-246	Transitional Cash Assistance	34239	AMD	01/13/2011	2010-23/70
R986-600	Workforce Investment Act	34277	AMD	01/26/2011	2010-24/69

RULES INDEX - BY KEYWORD (SUBJECT)

ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
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KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>access to information</u> Technology Services, Administration	34438	R895-1	5YR	02/15/2011	Not Printed
<u>accident prevention</u> Public Safety, Driver License	34401	R708-20	5YR	01/31/2011	2011-4/47

<u>adjudicative proceedings</u>						
Natural Resources, Forestry, Fire and State Lands	34432	R652-8	5YR	02/14/2011	Not Printed	
<u>administrative procedures</u>						
Commerce, Occupational and Professional Licensing	34397	R156-46b	5YR	01/31/2011	2011-4/36	
Environmental Quality, Drinking Water	34112	R309-100-4	AMD	02/03/2011	2010-20/51	
Labor Commission, Industrial Accidents	34294	R612-12-2	NSC	01/06/2011	Not Printed	
Natural Resources, Forestry, Fire and State Lands	34432	R652-8	5YR	02/14/2011	Not Printed	
	34434	R652-9	5YR	02/14/2011	Not Printed	
	34435	R652-41	5YR	02/14/2011	Not Printed	
	34436	R652-80	5YR	02/14/2011	Not Printed	
	34376	R652-123	5YR	01/24/2011	2011-4/45	
School and Institutional Trust Lands, Administration	34289	R850-10	NSC	01/06/2011	Not Printed	
<u>adult education</u>						
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Public Safety, Driver License	34398	R708-16	5YR	01/31/2011	2011-4/46	
<u>tramway permits</u>						
Transportation, Operations, Traffic and Safety	34241	R920-50	AMD	01/10/2011	2010-23/63	
<u>tramways</u>						
Transportation, Operations, Traffic and Safety	34241	R920-50	AMD	01/10/2011	2010-23/63	

<u>transportation</u>						
Transportation, Preconstruction	34415	R930-5-13	EMR	02/09/2011	Not Printed	
<u>transportation safety</u>						
Transportation, Operations, Traffic and Safety	34241	R920-50	AMD	01/10/2011	2010-23/63	
<u>underground storage tanks</u>						
Environmental Quality, Environmental Response and Remediation	34270	R311-200	AMD	02/14/2011	2010-24/19	
	34271	R311-201	AMD	02/14/2011	2010-24/23	
	34272	R311-203	AMD	02/14/2011	2010-24/27	
	34275	R311-205	AMD	02/14/2011	2010-24/30	
	34273	R311-206	AMD	02/14/2011	2010-24/33	
	34274	R311-207	AMD	02/14/2011	2010-24/35	
	34269	R311-212	AMD	02/14/2011	2010-24/38	
<u>universal service</u>						
Public Service Commission, Administration	34176	R746-360-8	AMD	01/19/2011	2010-22/109	
<u>Utah Housing Opportunity Restricted Account</u>						
Commerce, Real Estate	34223	R162-2a	NEW	01/08/2011	2010-23/15	
	34224	R162-12	REP	01/08/2011	2010-23/25	
<u>vehicle replacement</u>						
Administrative Services, Fleet Operations	34257	R27-4-11	AMD	01/25/2011	2010-24/7	
<u>water safety rules</u>						
Natural Resources, Parks and Recreation	34426	R651-801	5YR	02/10/2011	Not Printed	
	34427	R651-802	5YR	02/10/2011	Not Printed	
<u>waterskiing</u>						
Natural Resources, Parks and Recreation	34357	R651-224	5YR	01/11/2011	2011-3/59	
<u>white-collar contests</u>						
Governor, Economic Development, Pete Suazo Utah Athletic Commission	34278	R359-1-506	AMD	01/31/2011	2010-24/42	
<u>wildlife</u>						
Natural Resources, Wildlife Resources	34167	R657-13	AMD	01/04/2011	2010-22/103	
	34299	R657-44	AMD	02/07/2011	2011-1/32	
	34303	R657-55	AMD	02/07/2011	2011-1/35	
	34168	R657-58	AMD	01/04/2011	2010-22/105	
<u>wildlife law</u>						
Natural Resources, Wildlife Resources	34167	R657-13	AMD	01/04/2011	2010-22/103	
	34168	R657-58	AMD	01/04/2011	2010-22/105	
<u>wildlife permits</u>						
Natural Resources, Wildlife Resources	34303	R657-55	AMD	02/07/2011	2011-1/35	
<u>workers' compensation</u>						
Labor Commission, Industrial Accidents	34294	R612-12-2	NSC	01/06/2011	Not Printed	
<u>Workforce Investment Act</u>						
Workforce Services, Employment Development	34277	R986-600	AMD	01/26/2011	2010-24/69	