

# UTAH STATE BULLETIN

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

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

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

Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Office of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-538-3003. Additional rulemaking information and electronic versions of all administrative rule publications are available at <https://rules.utah.gov/>.

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

Office of Administrative Rules, Salt Lake City 84114

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# SPECIAL NOTICES

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## Health Health Care Financing, Coverage and Reimbursement Policy

### Notice for August 2017 Medicaid Rate Changes

Effective August 1, 2017, Utah Medicaid will adjust its rates consistent with approved methodologies. Rate adjustments include new codes priced consistent with approved Medicaid methodologies as well as potential adjustments to existing codes. All rate changes are posted to the web and can be viewed at: <http://health.utah.gov/medicaid/stplan/lookup/CoverageLookup.php>

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## Health Health Care Financing, Coverage and Reimbursement Policy

### Peer Support Services

The Division of Medicaid and Health Financing (DMHF) will amend Attachment 4.19-B of the Medicaid State Plan to remove the reimbursement page for peer support services because reimbursement for these services already falls under the category of rehabilitative mental health.

This State Plan Amendment (SPA 17-0021-UT) does not affect total annual expenditures for the Medicaid program.

The SPA is pending approval from the Centers for Medicare and Medicaid Services and the proposed effective date is August 1, 2017.

*A copy of this change may be obtained from Craig Devashrayee (801-538-6641), or by writing the Technical Writing Unit, Utah Department of Health, PO Box 143102, Salt Lake City, UT 84114-3102. Comments are welcome at the same address. Copies of the change are also available at local county health department offices.*

**End of the Special Notices Section**





# EXECUTIVE DOCUMENTS

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Under authority granted by the Utah Constitution and various federal and state statutes, the Governor periodically issues **EXECUTIVE DOCUMENTS**, which can be categorized as either Executive Orders, Proclamations, and Declarations. Executive Orders set policy for the executive branch; create boards and commissions; provide for the transfer of authority; or otherwise interpret, implement, or give administrative effect to a provision of the Constitution, state law or executive policy. Proclamations call special or extraordinary legislative sessions; designate classes of cities; publish states-of-emergency; promulgate other official formal public announcements or functions; or publicly avow or cause certain matters of state government to be made generally known. Declarations designate special days, weeks or other time periods; call attention to or recognize people, groups, organizations, functions, or similar actions having a public purpose; or invoke specific legislative purposes (such as the declaration of an agricultural disaster).

The Governor's Office staff files **EXECUTIVE DOCUMENTS** that have legal effect with the Office of Administrative Rules for publication and distribution.

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## Calling the Sixty-Second Legislature Into the Second Extraordinary Session, Utah Proclamation No. 2017-2E

### PROCLAMATION

**WHEREAS**, since the close of the 2017 General Session of the 62nd Legislature of the State of Utah, certain matters have arisen which require immediate legislative attention; and

**WHEREAS**, Article VII, Section 6 of the Constitution of the State of Utah provides that the Governor may, by proclamation, convene the Senate into Extraordinary Session; and

**NOW, THEREFORE**, I, Gary R. Herbert, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and Laws of the State of Utah, do by this Proclamation call the Senate of the 62nd Legislature of the State of Utah into the Second Extraordinary Session at the Utah State Capitol in Salt Lake City, Utah, on the 21st day of June 2017, at 4:00 p.m., for the following purpose:

For the Senate to consent to appointments made by the Governor to positions within state government of the State of Utah since the close of the 2017 General Session of the Legislature of the State of Utah.

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the Utah State Capitol in Salt Lake City, Utah, this 19th day of June 2017.

(State Seal)

**Gary R. Herbert**  
Governor

ATTEST:

**Spencer J. Cox**  
Lieutenant Governor

2017/02/E

**Wildland Fire Management, Utah Exec. Order No. 2017-6**

**EXECUTIVE ORDER**

Wildland Fire Management

**WHEREAS**, the danger from wildland fires is high throughout the State of Utah;

**WHEREAS**, Winter and Spring precipitation in Utah contributed to high fuel loads of wildland vegetation; and

**WHEREAS**, there is currently a Red Flag Warning throughout the State of Utah; and

**WHEREAS**, the Utah State Forester, has issued a Fire Restriction Order for Davis, Morgan, Salt Lake, Tooele, and Utah Counties; and

**WHEREAS**, there are several fires burning throughout the State; and

**WHEREAS**, some of the areas are extremely remote and inaccessible and the situation has the potential to greatly worsen;

**WHEREAS**, immediate action is required to suppress fires and mitigate post burn flash floods to protect public safety, property, natural resources and the environment should these dangerous conditions escalate to active wildfires;

**WHEREAS**, these conditions create the potential for a disaster emergency within the scope of the Disaster Response and Recovery Act of 1981;

**NOW THEREFORE**, I, Gary R. Herbert, Governor of the State of Utah by virtue of the power vested in me by the Constitution and the Laws of the State of Utah, do hereby order that:

It is found, determined and declared that a "State of Emergency" exists Statewide due to the threat to public safety, property, critical infrastructure, natural resources and the environment. This State of Emergency is declared and effective for the month of July 2017, and requires the aid, assistance and relief available pursuant to the provisions of state statutes, and the State Emergency Operations Plan, which is hereby activated.

**IN TESTIMONY, WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah this 1st day of July 2017.

(State Seal)

**Gary R. Herbert**  
Governor

Attest:

**Spencer J. Cox**  
Lieutenant Governor

2017/006/EO

**End of the Executive Documents Section**

## NOTICES OF PROPOSED RULES

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A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between June 16, 2017, 12:00 a.m., and June 30, 2017, 11:59 p.m. are included in this, the July 15, 2017, issue of the *Utah State Bulletin*.

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

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

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least August 14, 2017. The agency may accept comment beyond this date and will indicate the last day the agency will accept comment in the **RULE ANALYSIS**. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency hold a hearing on a specific **PROPOSED RULE**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through November 12, 2017, the agency may notify the Office of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE OF A CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

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

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

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

**Auditor, Administration**  
**R123-5**  
**Audit Requirements for Audits of**  
**Political Subdivisions and Nonprofit**  
**Organizations**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 41844

FILED: 06/22/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** During the five-year review process, the auditors office found language that needed to be updated and made to match current practice. This amendment will make a few technical changes but also remove audit guide specifications and expand the definition of "political subdivisions" to include special service districts and municipalities.

**SUMMARY OF THE RULE OR CHANGE:** This amendment will make a few technical changes but will also remove audit guide specifications and clarify the definition of "political subdivisions" to include special service districts and municipalities.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 51-2a-201

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** This amendment will cause a negligible increase to the state budget because the state auditor's office will now review budgets and financial statements of governmental nonprofit organizations.

♦ **LOCAL GOVERNMENTS:** This amendment will affect local governments (governmental nonprofits) who were not previously required to adopt budgets and have compliance audits performed. The office is unable to anticipate the cost to governmental nonprofits because it is unknown how many entities will be affected by the change, and there is not a system to track these entities at this time.

♦ **SMALL BUSINESSES:** This will not affect small business because the changes only affect local government and governmental nonprofit corporations.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This will not affect other persons because the changes only affect local government and governmental nonprofit corporations.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Costs for affected persons may include the cost of a state compliance audit and costs associated with adopting a

budget, including notification of and holding a public hearing. The office is unable to anticipate the cost to affected persons because it is unknown how many entities will be affected by the change, and there is not a system to track these entities at this time.

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

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

AUDITOR  
 ADMINISTRATION  
 ROOM E310 EAST BUILDING  
 420 N STATE ST  
 SALT LAKE CITY, UT 84114-2310  
 or at the Office of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

♦ Phalin Flowers by phone at 801-538-1361, or by Internet E-mail at pflowers@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/14/2017**

**THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2017**

**AUTHORIZED BY:** Phalin Flowers, Administrative Assistant

**R123. Auditor, Administration.**

**R123-5. Audit Requirements for Audits of Political Subdivisions and Governmental Nonprofit [Organizations] Corporations.**

**R123-5-1. Authority.**

1. As required by Section 51-2a-301, this rule provides the guidelines, qualifications criteria, and procurement procedures for audits required to be made by Section 51-2a-201.

**R123-5-2. Definitions.**

1. "Auditor" means a certified public accountant licensed to conduct audits in the state and includes any certified public accounting firm as defined by Section 58-26a-102.

2. "Political subdivision" means all [cities] municipalities, counties, school districts, local and special service districts, interlocal organizations, and any other entity established by a local governmental unit that receives tax exempt status for bonding or taxing purposes.

3. "Governmental n[on]profit [organization] corporation" means any governmental nonprofit corporation [created under Chapter 16-6a] as that term is defined by Section 11-13a-102.

**R123-5-3. Audit Standards and Requirements.**

1. The audits of all entities required to have an audit made by Section 51-2a-201 shall be performed in accordance with Government Auditing Standards most recently published and issued by the Comptroller General of the United States.

2. The State Auditor shall adopt and maintain a ~~[legal-]~~ compliance audit guide containing those fiscal laws and compliance requirements for state funds distributed to, and expended by, political subdivisions and governmental non[—]profit [organizations]corporations. This ~~[legal-]~~compliance audit guide may specify:

~~[—]a. which grants and programs shall be considered major grants, and the compliance requirements which must be tested by the auditor;~~

~~[b.]~~a. the general compliance requirements applicable to all political subdivisions and governmental nonprofit corporations, and the audit requirements applicable to general compliance requirements,

~~[c.]~~b. the format for the auditor's statement expressing positive assurance with state fiscal laws identified by the State Auditor, and

~~[d.]~~c. those items related to internal controls and other financial issues which shall be included in the auditor's letter to management that must be filed with the ~~[audited financial statements]~~Independent Auditor's Report in accordance with the State Compliance Audit Guide.

3. The audits of all entities required to have an audit made by Section 51-2a-201 shall be performed in accordance with the ~~[legal-]~~compliance audit guide maintained by the State Auditor.

**R123-5-4. Audit Procurement.**

The decision to retain an entity's auditor rests with the governing body of the entity. However, the auditor performing the audit must meet the peer review and continuing education requirements of Government Auditing Standards issued by the Comptroller General of the United States. If the governing body rebids the audit of its financial statements, it shall comply with the following audit procurement requirements:

a. Proposals will be obtained from any interested and qualified certified public accountant licensed to perform audits in the state, which may include the auditor currently performing the entity's audit. Notice may be given to potential auditors either through invitation or by notice published in a newspaper of general circulation. To promote competition it is recommended that at least three auditors be invited to participate in bidding for the audit.

b. The entity shall distribute a "request for proposal" to all auditors who meet the qualification criteria set by the procuring organization interested in bidding for the audit. As a minimum, the request for proposal shall contain the following:

- (i) the name and address of the entity requesting the audit and its designated contact person,
- (ii) the entity to be audited, the scope of services to be provided, and specific reports, etc. to be delivered,
- (iii) the period to be audited,
- (iv) the format in which the proposals should be prepared,
- (v) the date and time proposals are due, and
- (vi) the criteria to be used in evaluating the bid.

c. The entity may select the auditor or audit firm that the governing body desires to perform its audit and may reject any bid.

**R123-5-5. Responsibility for Audit Quality.**

1. The governing body of each political subdivision or governmental nonprofit corporation is responsible to ensure that the political subdivision or governmental nonprofit corporation obtains a quality audit of its financial records.

2. The governing body may appoint an audit committee with the responsibility of making recommendations to the governing body for selection of an auditor, ensuring that the auditor meets qualification requirements, and ensuring that the auditor complies with professional standards.

3. If the governing body appoints a separate audit committee, then the governing body shall review the recommendations of the audit committee and make the selection of the auditor.

4. The audit committee will report its assessment of the auditor's compliance with professional standards to the governing body.

5. The auditor shall report the results of the audit to the governing body.

6. The governing body shall respond to the specific recommendations included in the auditor's letter to management. This response shall be remitted with the audited financial statements to the state auditor.

**KEY:** auditing, governmental non[—]profit [organizations]corporations  
**Date of Enactment or Last Substantive Amendment:** ~~[1990]~~2017

**Notice of Continuation:** July 18, 2012

**Authorizing, and Implemented or Interpreted Law:** 51-2a-201

Commerce, Occupational and  
 Professional Licensing  
**R156-22**  
 Professional Engineers and  
 Professional Land Surveyors Licensing  
 Act Rule

**NOTICE OF PROPOSED RULE**  
 (Amendment)  
 DAR FILE NO.: 41843  
 FILED: 06/22/2017

**RULE ANALYSIS**  
 PURPOSE OF THE RULE OR REASON FOR THE CHANGE: S.B. 184, passed during the 2017 General Session, granted the Division of Occupational and Professional Licensing rulemaking authority to define unprofessional conduct under the Professional Engineers and Professional Land Surveyors Licensing Act, with

corresponding fine authority. Additionally, the Professional Engineers and Professional Land Surveyors Licensing Board recommended deleting a superfluous experience requirement and clarifying certain continuing education requirements. The proposed amendments will implement these changes, and also make nonsubstantive technical changes throughout the rule to eliminate surplus language and reorganize and renumber the rule for clarity.

**SUMMARY OF THE RULE OR CHANGE:** Nonsubstantive formatting changes are made throughout almost all sections of this rule to eliminate surplus language and to reorganize and renumber the rule for clarity. In particular, as described below, these changes break up lengthy sections that describe requirements for all three professions (professional engineer, professional structural engineer, and professional surveyor). These lengthy sections have been divided into shorter, more readable sections that address each profession separately. In Section R156-22-302b, technical changes are made for better comprehension and consistent formatting; in particular, this long section is trimmed to include only professional engineer and professional structural engineer education requirements. The new Section R156-22-302c amendments only make formatting changes. This new section, formerly part of Section R156-22-302b, separates the education requirements for professional land surveyors. In Section R156-22-302d, the proposed substantive change to this renumbered section removes the requirement that each applicant for licensure is to provide, in addition to a supervisor's verification, another verification from a person who has personal knowledge of the applicant's knowledge, ability, and competence to practice. The Professional Engineers and Professional Land Surveyors Licensing Board has deemed this extra verification requirement unnecessary and onerous. The new Section R156-22-302e amendments only make formatting changes. This new section, formerly part of Section R156-22-302c, separately itemizes the experience requirements specific to a professional engineer. The new Section R156-22-302f amendments only make formatting changes. This new section, formerly part of Section R156-22-302c, separately itemizes the experience requirements specific to a professional structural engineer. The new Section R156-22-302g amendments only make formatting changes. This new section, formerly part of Section R156-22-302c, separately itemizes the experience requirements specific to a professional land surveyor. In the new Section R156-22-302h, the substantive change to this renumbered section codifies the existing process an applicant for licensure as a professional engineer must follow to be permitted to sit for the required exams. In particular, the language clarifies that the applicant is to register directly with NCEES. In the new Section R156-22-302i, this new section formerly part of Section R156-22-302d, is a formatting change that separately itemizes the exam requirements for a professional structural engineer. The proposed substantive change to this section codifies the existing process an applicant for licensure as a professional structural engineer

must follow to be permitted to sit for the required exams; in particular, the language clarifies that the applicant is to register directly with NCEES. In the new Section R156-22-302j, this new section formerly part of Section R156-22-302d, is a formatting change that separately itemizes the exam requirements for a professional land surveyor. Additional formatting changes to this section include the removal of language regarding licensure by endorsement; this language has been moved to the sections corresponding to each profession. The proposed substantive change to this section codifies the existing process an applicant for licensure as a professional land surveyor must follow to be permitted to sit for the required exams; in particular, the language clarifies that the applicant is to register directly with NCEES. In Section R156-22-304, the proposed substantive amendment to this section clarifies that a 50-minute block of professional education constitutes a qualified continuing professional education "hour". In Section R156-22-305, the proposed amendments make a small formatting change for better comprehension. In Section R156-22-502, the proposed amendments incorporate by reference the "Rules of Professional Conduct", as published in the NCEES Model Rules, revised August 2016, and then delete duplicate language that is no longer required. The net effect of these amendments is to conform Utah's standards of professional conduct to nationwide industry standards, including incorporation of the following three standards of professional conduct found in the NCEES Model Rules that were not previously contained within this section: 1) Licensee's Obligation to the Public; 2) Licensee's Obligation to Employer and Clients; and 3) Licensee's Obligation to Other Licensees. In Section R156-22-503, the proposed amendments incorporate fines as a result of S.B. 184 (2017) and discussions of the Professional Engineer and Professional Land Surveyor Licensing Board. Specifically, these amendments increase the fines for violation of Subsection 58-1-501(1)(a) (practicing without a license) from \$800 to \$1,000 for a first offense and from \$1,600 to \$2,000 for a second offense. Additionally, the fines for violations of Subsections 58-22-501(3), 58-22-501(4), and 58-22-501(5) are all increased from \$800 for a first offense to \$1,000 and from \$1,600 to \$2,000 for a second offense. These proposed amendments also add fines for certain unprofessional conduct violations under Sections 58-1-501, 58-22-501, and 58-22-502.5. No change is made to fines for third or ongoing offenses. In Section R156-22-601, the proposed amendments make a small formatting change for better comprehension.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 58-22-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

**MATERIALS INCORPORATED BY REFERENCE:**

- ◆ Adds Rules of Professional Conduct as published in the NCEES Model Rules, published by National Council of Examiners for Engineering and Surveying (NCEES), August 2016

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** The Division will incur minimal costs of approximately \$75 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget. Also the impacts of enforcing the new statute were previously included within the fiscal note.

◆ **LOCAL GOVERNMENTS:** The primary costs of this rule are as a result of S.B. 184 (2017). The primary cost savings are a result of discussion by the Professional Engineer and Professional Licensing Board. The proposed changes to the experience verification requirements of Section R156-22-302d may result in a small cost savings to local governments that hire professional engineers, professional structural engineers, or professional land surveyors. Representatives from these professions and Division staff have estimated that this simplification of the licensure application process could shorten the time period for an individual to obtain a license by as much as seven days, potentially allowing a licensed professional to earn an additional \$1,496 in wages that would otherwise be sacrificed; correspondingly, this could allow a local government to more quickly hire a licensed professional. However, the exact amount of time savings and resultant cost savings is impossible to measure because it will vary significantly from individual to individual, as well as from local government to local government. The proposed changes to Sections R156-22-302h, R156-22-302i, and R156-22-302j describing the required exam registration process will have no fiscal impact on local government because this is only a codification of existing practice. The proposed substantive change to Section R156-22-304 will have no fiscal impact on local government because it merely clarifies that a 50-minute block of professional education constitutes a qualified continuing professional education "hour". As more fully described in its analysis for small businesses below, the Division has determined that the total cost to licensees from the proposed fine changes to Sections R156-22-502 and R156-22-503 will never impact the overwhelming majority of licensees working for local government. Therefore, after conducting a thorough analysis, the Division has determined that the scope of these proposed amendments is so narrow that it will not result in a measurable direct or indirect impact on local government. All of the other proposed amendments should have no fiscal impact on local government as they are only nonsubstantive formatting changes, or they only add clarification to practices that should already be taking place in the industry.

◆ **SMALL BUSINESSES:** The primary costs of this rule are as a result of S.B. 184 (2017). The primary cost savings are a result of discussion by the Professional Engineer and Professional Licensing Board. The proposed changes to the experience verification requirements of Section R156-22-302d may result in some cost savings to small business. Representatives from the professions and Division staff have estimated that this simplification of the licensure application process could shorten the time period for an individual to obtain a license by as much as seven days, allowing a

licensed professional to potentially earn an additional \$1,496 in wages that would otherwise be lost; correspondingly, this could allow the individual licensee to begin working sooner to generate revenue for a small business. However, the exact amount of time savings and resultant cost savings is impossible to measure because it will vary significantly from individual to individual, as well as from business to business. The proposed changes to Sections R156-22-302h, R156-22-302i, and R156-22-302j describing the required exam registration process will have no fiscal impact on small business because this is only a codification of existing practice. As explained above, the proposed substantive change to Section R156-22-304 will have no fiscal impact on small business because it merely clarifies that a 50-minute block of professional education constitutes a qualified continuing professional education "hour" in lieu of the previously required 60-minute block hour. Although this change will not affect the cost of approximately \$15 to \$30 per hour for qualified continuing professional education, engineers and land surveyors, as a result of the 10-minute reduction, could experience a combined time savings per year of 25,480 hours for all licensees. The proposed substantive changes to Sections R156-22-502 and R156-22-503 incorporate by reference the NCEES Model Rules of Professional Conduct, and include fines for unprofessional conduct. After conducting a thorough analysis, the Division has determined that the scope of these proposed amendments is so narrow that they will not affect the vast majority of small businesses in Utah and will not result in a measurable fiscal impact to small business. To begin, many small businesses in Utah have individual owners and/or employees licensed under Chapter 22 as professional engineers, professional structural engineers, or professional land surveyors. There are 927 small businesses under NAICS 541330 (Engineering Services), 14 small businesses under NAICS 541360 (Geophysical Surveying and Mapping Services), and 61 small businesses under NAICS 541370 (Other Surveying and Mapping - except Geophysical-Services). Therefore, even though no businesses or entities are licensed under Chapter 22, there are approximately 1,002 small businesses in Utah who could be secondarily affected if any of their licensed owners and/or employees become subject to these new fines. Stated differently, a small business whose employee is fined for misconduct under Chapter 22 could be affected if the business agrees to pay that fine, while a small business whose owner is fined for misconduct ultimately might end up paying the fine indirectly on behalf of the owner. Nevertheless, even given these numbers, any potential secondary impact on small business resulting from these new fines will be negligible. First, input obtained from a number of small businesses in these professions shows that, with respect to licensed employees who are not also owners, fines assessed against the licensee will almost certainly remain due and payable solely by the licensee. The consensus is that businesses in this industry refuse to pay their employees' individual fines and will continue to refuse to do so. Second, with respect to fines

assessed against individual business owners, a 16-year analysis conducted by the Division reviewing the disciplinary history of all Chapter 22 professions, shows that even though these professions have a large number of licensees, only eight licensees on average are likely to be fined each year. Currently, 7,470 individuals hold a Utah professional engineer license, 2,031 individuals hold a Utah professional structural engineer license, and 691 individuals hold a Utah professional land surveyor license. In turn, over the last 16 years the Division has issued a yearly average of 8.25 "letters of concern" to licensees in response to conduct which would now be subject to potential fines under these rules. As evidenced by a 16-year Disciplinary History Review performed by the Division, only 0.0007% (zero.seven ten thousandths percent) of Chapter 22 licensees are likely to be impacted by these amendments. Further, the individual impact of a fine on any one licensee will itself be relatively low. It is anticipated that the average fine, for a first time offense, will incur a cost of \$800. In comparison, these professions in the Upper Mountain region (Idaho, Montana, Utah, and Wyoming) earn a median annual salary of \$81,220 for a professional engineer, \$82,398 for a professional structural engineer, and \$60,880 for a professional land surveyor. Furthermore, based on the Division's historical review, a licensee who is sanctioned for misconduct is extremely unlikely to be fined again in succeeding years. Significantly, the Division's impact analysis is supported by that of the fiscal note attached to S.B. 184 (2017). The fiscal note estimated that after these amendments, approximately eight licensees a year would receive an \$800 citation, for total costs of \$6,400 annually. See <https://le.utah.gov/~2017/bills/static/SB0184.html> for Fiscal Note S.B. 184 1st Sub. (Green). Finally, and perhaps most importantly, the impact of an estimated \$800 fine, that will potentially apply to 8 out of 10,192 licensees per year, cannot and should not be scaled to all 1,002 small businesses with licensees in these Chapter 22 professions. The nature of the misconduct proposed to be codified in the amended rule is such that the impact of the corresponding fines will never be uniformly felt across the industry. These fines will never impact the overwhelming majority of small businesses whose owners and employees meet the normal standards of their profession and will never be assessed a fine. In short, after conducting a thorough analysis, the Division has determined that scope of these proposed amendments is so narrow that it will not affect the vast majority of small business, and will not result in a measurable fiscal impact to small business. All of the other proposed amendments should have no fiscal impact on small business because they are only nonsubstantive formatting changes, or because they only add clarification to practices that should already be taking place in the industry.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The primary costs of this rule are as a result of S.B. 184 (2017). The primary cost savings are a result of discussion by the Professional Engineer and Professional Licensing Board. The proposed substantive change to the language of

renumbered Section R156-22-302d removes the requirement that an applicant is to provide, in addition to a supervisor's verification, another verification from a person who has personal knowledge of the applicant. Representatives from the professions and Division staff have estimated that it takes each applicant seeking licensure under this chapter (as a professional engineer, professional structural engineer, or professional land surveyor) an average of approximately five to six hours to find and contact someone for a reference, review that reference, and then submit it to the Division; however, there can also be a time lapse of days if not weeks for an applicant to actually receive his or her requested reference back. Therefore, it is estimated that this simplification of the licensure application process could shorten the time period for an individual to obtain a license by as much as seven days. Accordingly, this change will result in some savings to all applicants seeking licensure under this chapter because they will no longer be required to expend the time and effort required to provide this additional verification. Notably, the Professional Engineers and Professional Land Surveyors Licensing Board has deemed this extra verification requirement unnecessary and onerous and of no real use in screening candidates for licensure. Further, the time savings to an applicant in obtaining his or her license will allow the individual to begin working that much sooner, with a corresponding increase in job opportunities and income. It is estimated that a licensed professional will potentially earn an additional \$1,496 in wages that would otherwise be lost. The exact amount of time savings and resulting cost savings is impossible to measure because it will vary significantly from individual to individual. The proposed changes to Sections R156-22-302h, R156-22-302i, and R156-22-302j describing the required exam registration process will have no fiscal impact on other persons because this is only a codification of existing practice. As previously described, the proposed substantive change to Section R156-22-304 will have no fiscal impact on other persons because it merely clarifies that a 50-minute block of professional education constitutes a qualified continuing professional education "hour". As described above, the proposed substantive changes to Sections R156-22-502 and R156-22-503, which incorporate by reference the NCEES Model Rules of Professional Conduct and include fines for certain unlawful conduct or unprofessional conduct, will likely impact approximately eight individual licensees per year. The Division has estimated that these 8 licensees will each receive a fine of approximately \$800, for total licensee costs of \$6,400 per year. In addition to individual licensees, there are approximately 31 medium or large businesses in Utah whose licensed individual owners and/or employees could be potentially subject to these fines, 30 such businesses under NAICS 541330 (Engineering Services), and 1 such business under NAICS 541360 (Geophysical Surveying and Mapping Services). As described in its analysis for small businesses, the Division has determined that the total cost to licensees and to medium or large businesses from these proposed amendments will never impact the overwhelming majority of licensees who



meet the normal standards of their profession and will never be assessed a fine. Therefore, after conducting a thorough analysis, the Division has determined that the scope of these proposed amendments is so narrow that it will not result in a measurable direct or indirect impact on these other persons. Finally, all of the other proposed amendments should have no fiscal impact on other persons because they are only nonsubstantive formatting changes, or because they add clarification to practices that should already be taking place in the industry.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The proposed substantive changes to Sections R156-22-502 and R156-22-503, which incorporate by reference the NCEES Model Rules of Professional Conduct and add fines for certain unlawful conduct or unprofessional conduct, will impact an individual licensee whose conduct is unprofessional or unlawful conduct under Title 58 or any rule adopted thereunder. Again, it is estimated that a licensee whose conduct is found to be unprofessional could potentially receive an average \$800 fine. The Division estimates that the other proposed amendments will not impose any compliance costs on persons affected by this rule.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** Extensive nonsubstantive formatting changes have been made throughout almost all sections of this rule to eliminate surplus language, and to reorganize and renumber the rule for clarity. The nonsubstantive amendments will have no fiscal impact on small business. Substantive amendments to Section R156-22-302d remove the requirement that each applicant for licensure is to provide, in addition to a supervisor's verification, another verification from a person who has personal knowledge of the applicant's knowledge, ability and competence to practice. This amendment will result in a cost savings to all applicants in the time savings resulting from not having to secure such alternate verification. The substantive changes to Sections R156-22-302h, R156-22-302i, and R156-22-302j clarify that an applicant for licensure is to register directly with NCEES. As this is the present practice, no fiscal impact to small business is contemplated by reason of these amendments. The substantive amendment to Section R156-22-304 defines a continuing professional education "hour" as 50 minutes of instruction. This amendment would result in a savings of time for all licensees pursuing continuing professional education. The amendments to Section R156-22-502 incorporate by reference the Rules of Professional Conduct as published by the NCEES Model Rules in this section which defines "unprofessional conduct" and deletes language that would now be duplicative. The net effect of these amendments is to conform Utah's standards of professional conduct to nationwide industry standards. These amendments will have no fiscal impact on small business. The substantive amendments to Section R156-22-503 make small increases in the fine schedule for certain first-time and second-time

offenses. At present, these fine changes would affect an average of only eight licensees a year and would have no effect on compliant licensees.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Steve Duncombe by phone at 801-530-6235, by FAX at 801-530-6511, or by Internet E-mail at sduncombe@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/14/2017

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 07/19/2017 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2017

AUTHORIZED BY: Mark Steinagel, Director

**R156. Commerce, Occupational and Professional Licensing.**  
**R156-22. Professional Engineers and Professional Land Surveyors Licensing Act Rule.**  
**R156-22-302b. Qualifications for Licensure -- Education Requirements for Professional Engineer and Professional Structural Engineer.**

~~[(1) Education requirements -- Professional Engineer and Professional Structural Engineer.~~

~~\_\_\_\_\_] In accordance with Subsections 58-22-302(1)(d) and 58-22-302(2)(d), the engineering program criteria is established as [one of the following] follows:~~

~~[(a)1] The bachelors degree [or post graduate engineering program] shall be earned from an engineering program accredited by EAC/ABET or the Canadian Engineering Accrediting Board (CEAB).~~

~~[(b)2] The post-[-]graduate [engineering-] degree [when not accredited by EAC/ABET or CEAB,] shall be earned;~~

~~(a) from an engineering program accredited by EAC/ABET or the Canadian Engineering Accreditation Board (CEAB); or~~

~~(b) from an institution which offers a bachelors or masters degree in an engineering program accredited by EAC/ABET or CEAB in the same specific engineering discipline as the earned post-[-]graduate degree; and~~

~~(c)~~ the applicant ~~[is responsible to]~~ shall demonstrate that the combined engineering-~~[–]~~related coursework taken ~~[(both undergraduate and post graduate) included coursework that]~~ meets or exceeds the engineering-~~[–]~~related coursework required for ~~[the]an~~ EAC/ABET-~~[–]accreditation]~~ accredited ~~[for the–]~~ bachelor degree program.

~~(e)3~~ If the degree was earned in a foreign country, the engineering curriculum shall be determined by the NCEES Credentials Evaluations to fulfill the required curricular content of the NCEES Engineering Education Standard.~~[–]Deficiencies in course work reflected in the credential evaluation may be satisfied by completing the deficiencies in course work at a recognized college or university approved by the Division in collaboration with the Board.]~~

~~(a)~~ Engineering course~~[–]~~work deficiencies must be completed at an EAC/ABET-~~[–]~~approved program; and

~~(b)~~ all other coursework deficiencies may be satisfied at a recognized college or university approved by the Division in collaboration with the Board.

~~(d)4~~ A TAC/ABET accredited degree is not acceptable to meet the qualifications for licensure as a professional engineer or a professional structural engineer.

**R156-22-302c. Qualifications for Licensure -- Education Requirements for Professional Land Surveyor.**

~~(2) Education requirements -- Professional Land Surveyor.~~

~~]~~In accordance with Subsection 58-22-302(3)(d), an applicant ~~[applying–]~~for licensure as a professional land surveyor shall verify completion of one of the following land surveying programs affiliated with an institution that is recognized by the Council for Higher Education Accreditation (CHEA), and approved by the Division in collaboration with the Board:

~~(a)1~~ an associates in applied science degree in land surveying or geomatics;

~~(b)2~~ a bachelors, masters or doctorate degree in land surveying or geomatics;

~~(e)3~~ an equivalent land surveying program that includes completion of a bachelors, masters or doctorate degree in a field related to land surveying or geomatics comprised of a minimum of 30 semester hours or 42 quarter hours of course~~[–]~~work in land surveying or geomatics which shall include completion of the following courses:

~~(i)a~~ ~~[successful completion of–]~~a minimum of one course in each of the following content areas:

~~(A)i~~ boundary law;

~~(B)ii~~ writing legal descriptions;

~~(C)iii~~ photogrammetry;

~~(D)iv~~ public land survey system;

~~(E)v~~ studies in land records or land record systems; and

~~(F)vi~~ surveying field techniques; and

~~(ii)b~~ ~~[completion of–]~~the remainder ~~[of the 30 semester hours or 42 quarter hours]~~shall be from any or all of the following content areas:

~~(A)i~~ algebra, calculus, geometry, statistics, trigonometry, not to exceed six semester hours or eight quarter hours;

~~(B)ii~~ control systems;

~~(C)iii~~ drafting, not to exceed six semester hours or eight quarter hours;

~~(D)iv~~ geodesy;

~~(E)v~~ geographic information systems;

~~(F)vi~~ global positioning systems;

~~(G)vii~~ land development; and

~~(H)viii~~ survey instrumentation; or

~~(d)4~~ an equivalent land surveying program that includes completion of a bachelors, masters or doctorate degree in a field related to land surveying or geomatics that does not include some of the course~~[–]~~work specified in ~~[(e)(i) or (ii), or both,]~~Subsection (3) as part of the degree program, provided that the deficient requirements ~~[specified in (e)(i) or (ii), or both,–]~~have been completed post~~[–]~~degree; and

~~(e)5~~ if the degree was earned in a foreign country, the land surveying curriculum shall be determined by the NCEES Credential Evaluations to fulfill the required curricular content of the NCEES Education Standard~~[–]D~~; deficiencies in course~~[–]~~work ~~[reflected in the credential evaluation–]~~may be satisfied by ~~[completing the deficiencies in course work–]~~completion at a recognized college or university approved by the Division in collaboration with the Board.

**R156-22-302[e]d. Qualifications for Licensure -- Experience Requirements for All Applicants.**

~~(1) General Requirements. These general requirements apply to all applicants under this chapter and are in addition to the specific license requirements in Subsections (2), (3) and (4). In accordance with Subsection 58-22-302, the following general experience requirements are established for all applicants under this chapter, and are in addition to the specific experience requirements for each profession described in Sections R156-22-302e, R156-22-302f and R156-22-302g.~~

~~(a)1~~ 2,000 hours of work experience constitutes one year (12 months) of work experience.

~~(b)2~~ No more than 2,000 hours of work experience can be claimed in any 12 month period.

~~(e)3~~ Experience shall be progressive on projects that are of increasing quality and requiring greater responsibility.

~~(d)4~~ Only experience of an engineering, structural engineering or surveying nature, as appropriate for the specific license, is acceptable.

~~(e)5~~ Experience is not acceptable if it is obtained in violation of applicable statutes or rules.

~~(f)6~~ Unless otherwise provided in ~~[this Subsection (1) (e)]~~Section 7, experience shall be gained under the direct supervision of a person licensed in the profession for which the license application is submitted. Supervision of an intern by another intern is not permitted.

~~(g)7~~ Experience is also acceptable when obtained in a work setting where licensure is not required or is exempted from licensure ~~[requirements]~~in accordance with Section 58-22-305, including experience obtained in the armed services if:

~~(i)a~~ the experience is performed under the supervision of qualified persons and the applicant provides verifications of the credentials of the supervisor; and

~~(ii)b~~ the experience gained is equivalent to work performed by an intern obtaining experience under a licensed

supervisor in a licensed or civilian setting, and the applicant provides verification of the nature of the experience.

~~(h)8~~ ~~[Proof of supervision. The]Each~~ supervisor shall provide to the applicant the certificate of qualifying experience ~~[in a sealed envelope]~~ with the supervisor's seal ~~[-stamped across the seal flap of the envelope]~~, which the applicant shall submit with the application for licensure.

~~(i)9~~ ~~[In the event]~~If the supervisor is unavailable or refuses to provide a certification of qualifying experience, the applicant shall submit:

~~(a)~~ a complete explanation of why the supervisor is unavailable; and

~~(b)~~ ~~[submit]~~verification of the experience by alternative means acceptable to the Board, which shall demonstrate that the work was profession-related~~[-work]~~, competently performed, and sufficient accumulated experience for the applicant to be granted a license without jeopardy to the public health, safety, or welfare. ~~[~~

~~(i)~~ In addition to the supervisor's documentation, the applicant shall submit:

~~(i)~~ at least one verification from a person licensed in the profession who has personal knowledge of the applicant's knowledge, ability and competence to practice in the profession applied for; or

~~(ii)10~~ ~~[if a person]~~If the supervisor verifying the applicant's credentials is not licensed in the profession, the supervisor shall provide~~[-~~

~~(A)~~ at least one verification from the unlicensed person; and

~~(B)~~ a written explanation as to why the supervisor is ~~[unlicensed person is best]~~ qualified to verify the applicant's knowledge, ability and competence to practice in the profession applied for.

~~(k)11~~ Supervisor duties~~[Duties]~~ and responsibilities shall include the following:~~[of a supervisor. The duties and responsibilities of a licensee under Subsection (1)(f) or other qualified person under Subsection (1)(g) include the following.]~~

~~(i)a~~ A person may not serve as a supervisor for more than one firm.

~~(ii)b~~ A person who renders occasional, part time or consulting services to or for a firm may not serve as a supervisor.

~~(iii)c~~ The supervisor shall be in responsible charge of the projects assigned, and ~~[is-]~~professionally responsible for the acts and practices of the supervisee.

~~(iv)d~~ The supervision shall be conducted in a setting in which the supervisor is independent from control by the supervisee and in which the ability of the supervisor to supervise and direct the practice of the supervisee is not compromised.

~~(v)e~~ The supervisor shall be available for advice, consultation, and direction consistent with the standards and ethics of the profession.

~~(vi)f~~ The supervisor shall provide periodic review of the work assigned to the supervisee.

~~(vii)g~~ The supervisor shall monitor the performance of the supervisee for compliance with laws, standards and ethics applicable to the profession.

~~(viii)h~~ The supervisor shall provide supervision only to a supervisee who is an employee of a licensed professional or alternatively in a setting wherein both the supervisor and the

supervisee are engaged in a work setting in which the work is exempt from licensure requirements.

~~(ix)~~ The supervisor shall submit appropriate documentation to the Division with respect to all work completed by the supervisee during the period of supervised experience, including the supervisor's evaluation of the supervisee's competence to practice in the profession.

~~(x)~~ The supervisor shall ~~[assure]~~ensure that each supervisee has obtained the degree which is a prerequisite to ~~[the intern beginning to obtain]~~obtaining the qualifying experience.

#### **R156-22-302e. Qualifications for Licensure -- Experience Requirements - Specific to Professional Engineer.**

~~(2) Experience Requirements -- Professional Engineer.~~

~~(a)~~ In accordance with Subsection 58-22-302(1)(e), ~~[an]~~each applicant for licensure as a professional engineer shall submit verification of qualifying experience ~~[in accordance with the following]~~as follows:

~~(i)1~~ The experience shall be:

~~(a)~~ obtained after meeting the education requirement~~[-];~~

~~(ii)b~~ ~~[The experience shall be-]~~supervised by one or more licensed professional engineers~~[-];~~

~~(iii)c~~ ~~[The experience shall be-]~~certified by the licensed professional engineer who provided the supervision; ~~and[-]~~

~~(iv)d~~ ~~[The experience shall-]~~include a minimum of four years of full-time or substantially equivalent part-time experience in professional engineering, except as provided in Subsection ~~(b)2~~.

~~(b)2~~ Credit toward meeting the experience requirement may be granted as follows:

~~(i)a~~ A maximum of three years ~~[of qualifying experience may be granted-]~~for teaching advanced engineering subjects in a college or university offering an engineering curriculum accredited by EAC/ABET.

~~(ii)b~~ A maximum of three years ~~[of qualifying experience may be granted-]~~for conducting research in a college or university offering an engineering curriculum accredited by EAC/ABET, provided the research is:

~~(i)~~ under the supervision of a licensed professional;

~~(ii)~~ ~~[and is-]~~directly related to the practice of engineering; and

~~(iii)~~ ~~[-, as long as such research-]~~has not been credited towards the education requirements, ~~[-. Therefore research which is included] such~~ as part of ~~[the-]~~classwork, thesis or dissertation, or similar work ~~[is not acceptable as additional work experience].~~

~~(iii)c~~ A maximum of one year ~~[of qualifying experience may be granted-]~~for completing a masters degree in engineering provided that both the earned bachelors and masters degree in engineering meet the program criteria set forth in S~~[ubs]~~ection R156-22-302b~~(+)~~.

~~(iv)d~~ A maximum of two years ~~[of qualifying experience may be granted-]~~for completing a doctorate degree in engineering provided that both the earned bachelors or masters degree and doctorate degree in engineering meet the program criteria set forth in S~~[ubs]~~ection R156-22-302b~~(+)~~.

~~(e)3~~ The performance or supervision of construction work as a contractor, foreman or superintendent is not qualifying experience for licensure as a professional engineer.

(~~d~~) Experience shall demonstrate ~~[should include demonstration of]~~ knowledge, application, and practical solutions using engineering mathematics, physical and applied science, properties of materials, and the fundamental principles of engineering design.

**R156-22-302f. Qualifications for Licensure -- Experience Requirements -- Specific to Professional Structural Engineer.**

~~(3) Experience Requirements -- Professional Structural Engineer.~~

~~(a)~~ In accordance with Subsection 58-22-302(2)(e), each applicant for licensure as a professional structural engineer shall submit verification of qualifying experience ~~[in accordance with the following]~~ as follows:

(~~i~~)1 The experience shall be:

~~(a)~~ obtained after meeting the education requirement~~[-];~~

~~(ii)b~~ ~~[The experience shall be]~~ supervised by one or more licensed professional structural engineers~~[-];~~

~~(iii)c~~ ~~[The experience shall be]~~ certified by the licensed professional structural engineer who provided the supervision~~[-];~~ and

~~(iv)d~~ ~~[The experience shall]~~ include a minimum of three years of full-time or equivalent part-time experience in professional structural engineering.

(~~b~~)2 Professional structural engineering experience shall include responsible charge of structural design in one or more of the following areas:

(~~i~~)a structural design of any building or structure two stories and more, or 45 feet in height, located in a region of moderate or high seismic risk, designed in accordance with current codes adopted pursuant to Section 58-56-4;

(~~ii~~)b structural design for a major seismic retrofit/rehabilitation of an existing building or structure located in a region of moderate or high seismic risk; or

(~~iii~~)c structural design of any other structure of comparable structural complexity.

(~~e~~)3 Professional structural engineering experience shall include structural design in all of the following areas:

(~~i~~)a use of three of the following four materials as they relate to the design, rehabilitation or investigation of buildings or structures:

(~~A~~)i steel;

(~~B~~)ii concrete;

(~~C~~)iii wood; or

(~~D~~)iv masonry;

(~~ii~~)b selection of framing systems including the consideration of alternatives and the selection of an appropriate system for the interaction of structural components to support vertical and lateral loads;

(~~iii~~)c selection of foundation systems including the consideration of alternatives and the selection of an appropriate type of foundation system to support the structure;

(~~iv~~)d design and detailing for the transfer of forces between stories in multi-story buildings or structures;

(~~v~~)e application of lateral design in the design of the buildings or structures, in addition to any wind design requirements; and

(~~vi~~)f application of the local, state, and federal code requirements as they relate to design loads, materials, and detailing.

**R156-22-302g. Qualifications for Licensure -- Experience Requirements -- Specific to Professional Land Surveyor.**

~~(4) Experience Requirements -- Professional Land Surveyor.~~

~~(a)~~ In accordance with Subsection 58-22-302(3)(d), each applicant for licensure as a professional land surveyor shall submit verification of qualifying experience ~~as follows~~ ~~[in accordance with the following]~~:

(~~i~~)1 The experience may be obtained before, during, or after completing the education requirement.

(~~ii~~)2 The experience shall be supervised by one or more licensed professional land surveyors, and~~[-~~

~~(iii)~~ The experience shall be certified by the supervisor~~[licensed professional land surveyor who provided the supervision]~~.

(~~iv~~)3 The experience shall include experience in professional land surveying in the following content areas:

(~~A~~)a experience specific to field surveying with actual "hands on" surveying, including all of the following:

(~~I~~)i operation of various instrumentation;

(~~H~~)ii review and understanding of plan and plat data;

(~~HH~~)iii public land survey systems;

(~~IV~~)iv calculations;

(~~V~~)v traverse;

(~~VI~~)vi staking procedures;

(~~VH~~)vii field notes and manipulation of various forms of data encountered in horizontal and vertical studies; and

(~~B~~)b experience specific to office surveying, including all of the following:

(~~I~~)i drafting (~~[includes]~~ ~~[including]~~ computer plots and layout);

(~~H~~)ii reduction of notes and field survey data;

(~~HH~~)iii research of public records;

(~~IV~~)iv preparation and evaluation of legal descriptions;

and

(~~V~~)v preparation of survey~~[-]~~related drawings, plats, and record of survey maps.

(~~v~~)c The amount of qualifying experience shall be ~~as follows~~ ~~[in accordance with one of the following]~~:

(~~A~~)1 Each applicant ~~[having graduated and received]~~ with an associates degree in land surveying or geomatics shall complete a minimum of six years of experience as follows:

(~~H~~)a three years ~~[of experience]~~ that complies with Subsection ~~[(4)(a)(iv)(A)](3)(a)~~; and

(~~H~~)b three years ~~[of experience]~~ that complies with Subsection ~~[(4)(a)(iv)(B)](3)(b)~~.

(~~B~~)2 Each applicant ~~[having graduated and received]~~ with a bachelors degree in land surveying or geomatics shall complete a minimum of four years of ~~[qualifying]~~ experience as follows:

(~~H~~)a two years ~~[of qualifying experience]~~ that complies with Subsection ~~[(4)(a)(iv)(A)](3)(a)~~; and

(~~H~~)b two years ~~[of qualifying experience]~~ that complies with Subsection ~~[(4)(a)(iv)(B)](3)(b)~~.

(~~C~~)3 Each applicant ~~[having graduated and received]~~ with a masters degree in land surveying or geomatics shall complete a minimum of three years of ~~[qualifying]~~ experience as follows:

~~(H)a~~ one and a half years ~~[of qualifying experience]~~ that complies with Subsection ~~[(4)(a)(iv)(A)](3)(a)~~; and

~~(H)b~~ one and a half years ~~[of qualifying experience]~~ that complies with Subsection ~~[(4)(a)(iv)(B)](3)(b)~~.

~~(D)4~~ Each applicant ~~[having graduated and received]~~ with a doctorate degree in land surveying or geomatics shall complete a minimum of two years of ~~[qualifying]~~ experience as follows:

~~(H)a~~ one year ~~[of qualifying experience]~~ that complies with Subsection ~~[(4)(a)(iv)(A)](3)(a)~~; and

~~(H)b~~ one year ~~[of qualifying experience]~~ that complies with Subsection ~~[(4)(a)(iv)(B)](3)(b)~~.

**R156-22-302[d]h. Qualifications for Licensure -- Examination Requirements for Professional Engineer.**

~~(1) Examination Requirements -- Professional Engineer.~~

~~(a)~~ In accordance with Subsection 58-22-302(1)(f), the examination requirements for licensure as a professional engineer are defined, clarified, or established as the following:

~~(i)1~~ the NCEES FE examination with a passing score as established by the NCEES except that an applicant who has completed one of the following is not required to pass the FE examination:

~~(A)a~~ a Ph.D. or doctorate degree in engineering from an institution that offers EAC/ABET undergraduate programs in the Ph.D. field of engineering; or

~~(B)b~~ ~~(A)a~~ Ph.D. or doctorate degree in engineering from a foreign institution if the engineering curriculum is determined by the NCEES Credentials Evaluations, ~~formerly known as the Center for Professional Engineering Education Services (CPEES),~~ to fulfill the required curricular content of the NCEES Engineering Education Standard.

~~(ii)2~~ the NCEES PE examination with a passing score as established by the NCEES; or

~~(iii)3~~ the NCEES SE examination with a passing score as established by the NCEES.

~~(b)4~~ If an applicant ~~for reinstatement of licensure as a professional engineer passed~~ ~~[was approved by the Division of Occupational and Professional Licensing to take]~~ the examinations required for licensure as an engineer under prior Utah statutes and rules, ~~[and did take and pass all examinations required under such prior rules,]~~ the prior examinations will be acceptable to qualify for reinstatement of licensure rather than the examinations specified under Subsection R156-22-302[d]h(1)(~~a~~).

~~(e)5~~ Prior to ~~[submitting an application for pre-approval]~~ registering directly with NCEES to sit for the NCEES PE examination, an applicant shall:

~~(a)~~ ~~[successfully]~~ complete the education requirements set forth in Subsection R156-22-302b(~~4~~); and

~~(b)~~ provide verification to NCEES of passing the NCEES FE examination.

~~(d)6~~ The admission criteria to sit for the NCEES FE examination is set forth in Section 58-22-306.

~~(7)~~ In accordance with Subsection 58-22-302(4)(d)(ii), an applicant for licensure as a professional engineer by endorsement shall comply with the examination requirements in Subsection R156-22-302h, except that the Board may waive one or more of the following:

~~(a)~~ the NCEES FE examination, for an applicant who:

~~(i)~~ is a principal for five of the last seven years preceding the date of the license application; and

~~(ii)~~ was not required to pass the NCEES FE examination for initial licensure from the recognized jurisdiction the applicant was originally licensed;

~~(b)~~ the NCEES PE examination for an applicant who:

~~(i)~~ has been a principal for five of the last seven years preceding the date of the license application;

~~(ii)~~ has been licensed for ten years preceding the date of the license application; and

~~(iii)~~ was not required to pass the NCEES PE examination for initial licensure from the recognized jurisdiction the applicant was originally licensed.

**R156-22-302i. Qualifications for Licensure -- Examination Requirements for Professional Structural Engineer.**

~~(2) Examination Requirements -- Professional Structural Engineer.~~

~~(a)~~ In accordance with Subsection 58-22-302(2)(f), the examination requirements for licensure as a professional structural engineer are defined, clarified, or established as the following:

~~(i)1~~ the NCEES FE examination with a passing score as established by the NCEES; and one of the following:

~~(ii)a~~ ~~(A)~~ the NCEES SE examination with a passing score as established by the NCEES;

~~(B)b~~ the NCEES Structural I and Structural II Examinations with a passing score as established by the NCEES;

~~(C)c~~ an equivalent 16-hour state written examination with a passing score; or

~~(D)d~~ the NCEES Structural II exam and an equivalent 8-hour state written examination with a passing score.

~~(b)2~~ Prior to ~~[submitting an application for pre-approval]~~ registering directly with NCEES to sit for the NCEES SE examination, an applicant shall:

~~(a)~~ complete two out of the three years of the experience requirements set forth in Subsection R156-22-302[e(3)]f; and

~~(b)~~ provide verification to NCEES of passing the NCEES FE examination.

~~(3)~~ An applicant for licensure as a professional structural engineer by endorsement shall comply with the examination requirements in Subsection R156-22-302i, except that the Board may waive the NCEES FE examination for an applicant who:

~~(a)~~ has been a principal for five of the last seven years preceding the date of the license application; and

~~(b)~~ was not required to pass the NCEES FE examination for initial licensure from the recognized jurisdiction the applicant was originally licensed.

**R156-22-302j. Qualifications for Licensure -- Examination Requirements for Professional Land Surveyor.**

~~(3) Examination Requirements -- Professional Land Surveyor.~~

~~(a)~~ In accordance with Subsection 58-22-302(3)(e), the examination requirements for licensure as a professional land surveyor are defined, clarified, or established as the following:

~~(i)1~~ the NCEES FS examination with a passing score as established by the NCEES;

(ii) the NCEES PS examination with a passing score as established by the NCEES; and

(iii) the Utah ~~Local Practice~~ Professional Land Surveyor Examination, with a passing score of at least 75%.

(4) An applicant who fails the Utah ~~Local Practice~~ Professional Land Surveyor Examination may retake the examination [as follows]:

(A)a no sooner than 30 days following any failure, up to three failures; and

(B)b no sooner than six months following any failure thereafter.

(b)5 Prior to ~~submitting an application for pre-approval~~ registering directly with NCEES to sit for the NCEES PS examination, an applicant shall:

(a) complete the education requirement set forth in Section R156-22-302**(b)(2)**; and

(b) provide verification to NCEES of passing the NCEES FS examination.

(6) An applicant for licensure as a professional land surveyor by endorsement shall comply with the examination requirements in Section R156-22-302j, except that the Board may waive either the NCEES FS examination or the NCEES PS examination, or both, for an applicant who:

(a) has been a principal for five of the last seven years preceding the date of the license application; and

(b) was not required to pass the NCEES FS examination or the NCEES PS examination for initial licensure from the recognized jurisdiction the applicant was originally licensed.

~~(4) Examination Requirements for Licensure by Endorsement.~~

~~In accordance with Subsection 58-22-302(4)(d)(ii), the examination requirements for licensure by endorsement are established as follows:~~

~~(a) Professional Engineer: An applicant for licensure as a professional engineer by endorsement shall comply with the examination requirements in Subsection R156-22-302d(1) except that the Board may waive one or more of the following examinations under the following conditions:~~

~~(i) the NCEES FE examination for an applicant who is a principal for five of the last seven years preceding the date of the license application and who was not required to pass the NCEES FE examination for initial licensure from the recognized jurisdiction the applicant was originally licensed;~~

~~(ii) the NCEES PE examination for an applicant who is a principal for five of the last seven years preceding the date of the license application, who has been licensed for 10 years preceding the date of the license application, and who was not required to pass the NCEES PE examination for initial licensure from the recognized jurisdiction the applicant was originally licensed.~~

~~(b) Professional Structural Engineer: An applicant for licensure as a professional structural engineer by endorsement shall comply with the examination requirements in Subsection R156-22-302d(2) except that the Board may waive the NCEES FE examination for an applicant who is a principal for five of the last seven years preceding the date of the license application and who was not required to pass the NCEES FE examination for initial licensure from the recognized jurisdiction the applicant was originally licensed.~~

~~(c) Professional Land Surveyor: An applicant for licensure as a professional land surveyor by endorsement shall comply with the examination requirements in Subsection R156-22-302d(3) except that the Board may waive either the NCEES FS examination or the NCEES PS examination or both to an applicant who is a principal for five of the last seven years preceding the date of the license application and who was not required to pass the NCEES FS examination or the NCEES PS examination for initial licensure from the recognized jurisdiction the applicant was originally licensed.~~

#### **R156-22-304. Continuing Education for Professional Engineers, Professional Structural Engineers, and Professional Land Surveyors.**

In accordance with Subsection 58-22-303(2) and Section 58-22-304, the qualifying continuing professional education standards for professional engineers, professional structural engineers and professional land surveyors are established as follows:

(1) During each two-[-]year period ending on March 31 of each odd numbered year, a licensed professional engineer, professional structural engineer, and professional land surveyor shall complete ~~not fewer than~~ at least 30 hours of qualified professional education directly related to the ethics, business and technical content aimed at maintaining, improving, or expanding the skills and knowledge relevant to the licensee's professional practice.

(2) The required ~~number of~~ hours of professional education for an individual who first becomes licensed during the two-[-]year period shall be decreased in a pro-rata amount equal to any part of that two year period preceding the date on which that individual first became licensed.

(3) Qualified continuing professional education under this section shall:

(a) have an identifiable clear statement of purpose and defined objective for the educational program directly related to the licensee's professional practice ~~of a professional engineer, professional structural engineer, or professional land surveyor~~;

(b) be relevant to the licensee's professional practice;

(c) be presented in a competent, well organized and sequential manner consistent with the stated purpose and objective of the program;

(d) be prepared and presented by individuals who are qualified by education, training and experience; and

(e) have ~~associated with it~~ a competent method of registration of individuals who actually completed the ~~professional~~ education program, with records of ~~and records of that~~ registration and completion ~~are~~ available for review.

(4) Credit for qualified continuing professional education shall be recognized ~~in accordance with the following~~ as follows:

(a) unlimited hours ~~shall be recognized~~ for each hour of professional education completed in blocks of time of not less than ~~one hour~~ 50 minutes, in formally established classroom courses, seminars, or conferences;

(b) a maximum of 15 hours ~~per two year period may be recognized~~ for teaching in a college or university or for teaching qualified continuing professional education courses in the field of professional engineering, professional structural engineering or professional land surveying, provided it is the first time the material has been taught during the preceding 12 months;

(c) a maximum of five hours ~~[per two year period may be recognized]~~ for preparation of papers, articles, or books directly related to the practice of professional engineering, professional structural engineering, or professional land surveying and submitted for publication; and

(d) a maximum of ten hours ~~[per two year period may be recognized at the rate of one hour for each hour served]~~ for service on committees or in leadership roles in any state, national or international organization for the development and improvement of the profession of professional engineering, professional structural engineering, or professional land surveying but no more than five of the ten hours may be obtained from such activity in any one organization;

(e) unlimited hours ~~[may be recognized]~~ for continuing education ~~[that is]~~ provided via Internet or through home study courses provided the course verifies registration and participation in the course by means of a test which demonstrates that the participant has learned the material ~~[presented]~~.

(5) A licensee shall ~~[be responsible for]~~ maintain ~~[ing]~~ records of completed qualified continuing professional education for a period of four years after close of the two ~~[-]~~ year period to which the records pertain. It is the responsibility of the licensee to maintain information with respect to qualified continuing professional education to demonstrate it meets the requirements ~~[under]~~ of this section.

(6) If a licensee exceeds the 30 hours of qualified continuing professional education during the two ~~[-]~~ year period, the licensee may carry forward a maximum of 15 hours ~~[of qualified continuing professional education]~~ into the next two ~~[-]~~ year period.

(7) Any licensee who fails to timely complete the continuing education required by this rule shall be required to complete double the number of hours missed to be eligible for renewal or reinstatement of licensure.

(8) Any applicant for reinstatement who was not in compliance with the continuing education requirement at the time of the expiration of licensure shall be required to complete 30 hours of continuing education ~~[complying with this rule]~~ within two years prior to the date of application for reinstatement of licensure.

(9) The Division may waive continuing education in accordance with Section R156-1-308d.

#### **R156-22-305. Inactive Status.**

(1) The requirements for inactive licensure specified in Subsection R156-1-305(3) shall also include certification that the professional engineer, professional structural engineer or professional land surveyor licensee shall not engage in the profession for which the license was issued while the license is on inactive status, except to identify the individual as an inactive licensee.

(2) A license shall be active and in good standing ~~[-]~~ prior to being placed on inactive status ~~[-]~~ shall be active and in good standing ~~[-]~~.

(3) Inactive status licensees are not required to fulfill the continuing education requirement.

(4) In addition to the requirements in Subsection R156-1-305(6) to reactivate an inactive license, a licensee shall provide documentation that the licensee, within two years of the license being reactivated, completed 30 hours of continuing education.

(5) Prior to a license being reactivated, a licensee shall meet the requirements for license renewal.

#### **R156-22-502. Unprofessional Conduct.**

"Unprofessional conduct" includes:

(1) submitting an incomplete final plan, specification, report or set of construction plans to:

(a) a client, when the licensee represents, or could reasonably expect the client to consider the plan, specification, report or set of construction plans to be complete and final; or

(b) to a building official for the purpose of obtaining a building permit;

(2) failing as a principal to exercise responsible charge;

(3) failing as a supervisor to exercise supervision of an employee, subordinate, associate or drafter; ~~[-or]~~

(4) ~~[failing, in the performance of services for clients, employers, and customers to be cognizant that the first and foremost responsibility is to the public welfare]~~ receiving gratuities from material, product, or services suppliers for specifying or endorsing their goods or services;

(5) ~~[failing to hold paramount the duty to safeguard life, health, property and public welfare by approving and sealing only those design documents and surveys that conform to accepted engineering and surveying standards; failing to fully disclose and obtain consent in writing of the principal employer and all interested parties prior to accepting or engaging in supplemental professional engineering, structural engineering, or land surveying services; and]~~

(6) failing to conform to the accepted and recognized standards and ethics of the profession, including those established in the "Rules of Professional Conduct", as published in the NCEES Model Rules, revised August 2016, which is hereby incorporated by reference. ~~[failing to notify an employer, client, or other such authority as may be appropriate when the licensee's professional judgment is overruled under circumstances where the life, health, property, or welfare of the public is endangered.]~~

~~-----~~ (7) ~~failing to be objective and truthful, or failing to include all relevant and pertinent information, in professional reports, statements, or testimony;~~

~~-----~~ (8) ~~expressing a professional opinion publicly when it is not founded upon an adequate knowledge of the facts and a competent evaluation of the subject matter;~~

~~-----~~ (9) ~~issuing statements, criticisms, or arguments on technical matters in circumstances where such statements, arguments or criticisms, are inspired or paid for by interested parties, unless the licensee explicitly identifies the interested parties on whose behalf the licensee is speaking and reveals any interest the licensee has in the matters;~~

~~-----~~ (10) ~~permitting the use of the licensee's name or the licensee's firm name by, or associating in business ventures with, any person or firm that is engaging in fraudulent or dishonest business or professional practices;~~

~~-----~~ (11) ~~having knowledge of possible violations of any of these rules of professional conduct, and failing to provide the Division with the information and assistance necessary to make a final determination of such violation;~~

~~-----~~ (12) ~~accepting and undertaking assignments when not qualified by education, experience and training, or that exceed the~~

licensee's competency and ability in the specific technical fields of engineering or surveying involved;

~~(13) affixing a signature or seal to any plans or documents dealing with subject matter in which the licensee lacks competence, or to any such plan or document not prepared under the licensee's responsible charge;~~

~~(14) failing to ensure, when accepting assignments for coordination of an entire project, that each design segment is signed and sealed by the licensee responsible for preparation of that design segment;~~

~~(15) revealing facts, data or information obtained in a professional capacity without the prior consent of the client or employer, except as authorized or required by law;~~

~~(16) soliciting or accepting gratuities, directly or indirectly, from contractors, their agents, or other parties in connection with work for employers or clients;~~

~~(17) failing to make full prior disclosures to employers or clients of potential conflicts of interest or other circumstances that could influence or appear to influence the licensee's judgment or the quality of the licensee's service;~~

~~(18) accepting compensation, financial or otherwise, from more than one party for services pertaining to the same project, unless the circumstances are fully disclosed and agreed to by all interested parties;~~

~~(19) soliciting or accepting a professional contract from a government body with respect to which a principle or officer of the licensee's organization serves as a member;~~

~~(20) if serving as a member, advisor, or employee of a government body or department while also serving as the principal or employee of a private concern, participating in decisions with respect to professional services offered or provided by the private concern to the governmental body with respect to which the licensee services;~~

~~(21) falsifying or permitting representation or exaggeration of the academic or professional qualifications, the degree of responsibility in prior assignments, or the complexity of prior assignments, of the licensee or the licensee's associates;~~

~~(22) misrepresenting pertinent facts concerning employers, employees, associates, joint ventures, or past accomplishments, in presentations incident to the solicitation of employment or business;~~

~~(23) offering, giving, soliciting, or receiving, either directly or indirectly, any commission, gift, or other valuable consideration in order to secure work, or making any political contribution with the intent to influence the award of a contract by public authority;~~

~~(24) attempting to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice, or employment of other licensees, or indiscriminately criticizing another licensee's work;~~

~~(25) receiving gratuities from material, product, or services suppliers for specifying or endorsing their goods or services; and~~

~~(26) failing to fully disclose and obtain consent in writing of the principal employer and all interested parties prior to accepting or engaging in supplemental professional engineering, structural engineering, or land surveying services.]~~

**R156-22-503. Administrative Penalties.**

(1) In accordance with Subsection 58-22-503, the following fine schedule shall apply to citations issued under Title 58, Chapters 1 and 22:

TABLE  
FINE SCHEDULE

Violation	First Offense	Second Offense
58-1-501(1)(a)	<del>800.00</del> 1,000.00	<del>1,600.00</del> 2,000.00
58-1-501(1)(b)	\$1,000.00	\$2,000.00
58-1-501(1)(c)	\$1,000.00	\$2,000.00
58-1-501(1)(d)	\$1,000.00	\$2,000.00
58-1-501(1)(e)	\$1,000.00	\$2,000.00
58-1-501(2)(a)	\$1,000.00	\$2,000.00
58-1-501(2)(b)	\$1,000.00	\$2,000.00
58-1-501(2)(c)	\$ 800.00	\$1,600.00
58-1-501(2)(d)	\$ 250.00	\$ 500.00
58-1-501(2)(e)	\$ 800.00	\$1,600.00
58-1-501(2)(f)	\$ 800.00	\$1,600.00
58-1-501(2)(g)	\$1,000.00	\$2,000.00
58-1-501(2)(h)	\$1,000.00	\$2,000.00
58-1-501(2)(i)	\$1,000.00	\$2,000.00
58-1-501(2)(j)	\$1,000.00	\$2,000.00
58-1-501(2)(k)	\$1,000.00	\$2,000.00
58-1-501(2)(l)	\$1,000.00	\$2,000.00
58-1-501(2)(o)	\$1,000.00	\$2,000.00
58-22-501(1)	\$ 800.00	\$1,600.00
58-22-501(2)	\$ 800.00	\$1,600.00
58-22-501(3)	\$ 800.00	\$1,600.00
58-22-501(4)	\$ 800.00	\$1,600.00
58-22-501(5)	\$ 800.00	\$1,600.00
58-22-502.5	\$1,000.00	\$2,000.00

(2) Citations shall not be issued for third offenses, except in extraordinary circumstances approved by the investigative supervisor. If a citation is issued for a third offense, the fine is double the second offense amount, with a maximum amount not to exceed the maximum fine allowed under Subsection 58-22-503(1)(i).

(3) If multiple offenses are cited on the same citation, the fine shall be determined by evaluating the most serious offense.

(4) An investigative supervisor may authorize a deviation from the fine schedule based upon the aggravating or mitigating circumstances.

(5) In all cases the presiding officer shall have the discretion, after a review of the aggravating and mitigating circumstances, to increase or decrease the fine amount based upon the evidence reviewed.

**R156-22-601. Seal Requirements.**

(1) In accordance with Section 58-22-601, all final plans, specifications, reports, maps, sketches, surveys, drawings, documents and plats prepared by the licensee or prepared under the supervision of the licensee, shall be sealed in accordance with the following:

(a) Each seal shall be a circular seal, 1-1/2 inches minimum diameter.

(b) Each seal shall include the licensee's name, license number, "State of Utah", and, as appropriate, "Professional Engineer", "Professional Structural Engineer", or "Professional Land Surveyor" [as appropriate].



(c) Each seal shall be signed and dated with the signature and date appearing across the face of each seal imprint.

(d) Each original set of final plans, specifications, reports, maps, sketches, surveys, drawings, documents and plats, as a minimum, shall have the original seal imprint, original signature and date placed on the cover or title sheet.

(e) A seal may be a wet stamp, embossed, or electronically produced.

(f) Electronically generated signatures are acceptable.

(g) It is the responsibility of the licensee to provide adequate security when documents with electronic seals and electronic signatures are submitted. Sheets subsequent to the cover of specifications are not required to be sealed, signed and dated.

(h) Copies of the original set of plans, specifications, reports, maps, sketches, surveys, drawings, documents and plats which contain the original seal, original signature and date is permitted, if the seal, signature and date is clearly recognizable.

(2) A person who qualifies for and uses the title of professional engineer intern is not permitted to use a seal.

**KEY: professional land surveyors, professional engineers, professional structural engineers**

**Date of Enactment or Last Substantive Amendment: [~~October 22, 2015~~2017]**

**Notice of Continuation: May 30, 2017**

**Authorizing, and Implemented or Interpreted Law: 58-22-101; 58-1-106(1)(a); 58-1-202(1)(a)**

**Human Services, Child and Family Services**

**R512-205**

**Child Protective Services, Investigation of Domestic Violence Related Child Abuse**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 41842

FILED: 06/21/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is being revised in response to H.B. 17 from the 2017 General Session.

**SUMMARY OF THE RULE OR CHANGE:** This rule is being revised in accordance with H.B. 17 (2017) by adding language to the definition of serious physical abuse.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 62A-4a-102 and Section 62A-4a-105 and Section 76-5-109.1

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** There will be no increase in cost or savings to the state budget because these proposed changes do not increase workload that would require additional staff or other costs.

◆ **LOCAL GOVERNMENTS:** Local governments have no responsibility for services offered by Child and Family Services and are therefore not affected by this rule and will have no fiscal impact.

◆ **SMALL BUSINESSES:** Small businesses have no responsibility for services offered by Child and Family Services and are therefore not affected by this rule and will have no fiscal impact.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no expected fiscal impact for persons other than small businesses, businesses, or local government entities because funding requests for services offered by Child and Family Services come out of already-existing budgets.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs for affected persons associated with implementing the changes to this rule because these changes are not fiscal in nature.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** After conducting a thorough analysis, it was determined that this proposed rule revision will not result in a fiscal impact to businesses because the revisions to this rule are to definitions only.

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

HUMAN SERVICES

CHILD AND FAMILY SERVICES

195 N 1950 W

SALT LAKE CITY, UT 84116

or at the Office of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Carol Miller by phone at 801-557-1772, by FAX at 801-538-3993, or by Internet E-mail at carolmiller@utah.gov

◆ Julene Robbins by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhonesrobbins@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/14/2017**

**THIS RULE MAY BECOME EFFECTIVE ON: 08/24/2017**

**AUTHORIZED BY: Brent Platt, Director**

**R512. Human Services, Child and Family Services.****R512-205. Child Protective Services, Investigation of Domestic Violence Related Child Abuse.****R512-205-1. Purpose and Authority.**

(1) The purpose of this rule is to establish criteria for investigation of an allegation of Domestic Violence Related Child Abuse and the basis upon which a supported finding will be made.

(2) This rule is authorized by Section 62A-4a-102.

**R512-205-2. Definitions.**

(1) "Cohabitant" has the same meaning as in Section 78B-7-102.

(2) "Dangerous weapon" has the same meaning as in Section 76-1-601.

(3) "Child and Family Services" means the Department of Human Services, Division of Child and Family Services.

(4) "Domestic violence" has the same meaning as in Section 77-36-1.

(5) "Domestic Violence Related Child Abuse" means domestic violence between cohabitants in the presence of a child. It may be an isolated incident or a pattern of conduct.

(6) "In the presence of a child" has the same meaning as in Section 76-5-109.1.

(7) "Serious bodily injury" has the same meaning as in Section 76-1-601.

(8) "Substantial bodily injury" has the same meaning as in Section 76-1-601.

**R512-205-3. Administrative Findings.**

(1) The commission of acts of domestic violence in the presence of a child is child abuse, because it results in non-accidental harm or threatened harm to the child. Such abuse is subject to the reporting statute (Section 62A-4a-403).

(2) Research establishes that exposure to domestic violence causes emotional or developmental harm or threatened harm to children, which may later be manifested in behavioral problems, increased risk of drug or alcohol abuse, increased risk of becoming perpetrators or victims of abuse, or in emotional disorders such as post-traumatic stress disorder.

(3) Exposure to domestic violence may also threaten a child with physical harm.

(4) Awaiting the manifestation of emotional or developmental harm does not protect children from such harm, and early intervention is required to mitigate and prevent further harm.

(5) Accordingly, establishing the commission of an act of domestic violence in the presence of a child shall be sufficient to establish Domestic Violence Related Child Abuse, without any further evidence of harm.

(6) The primary responsibility to investigate allegations of Domestic Violence Related Child Abuse as defined in Section 76-5-109.1 lies with law enforcement, and Child and Family Services has no responsibility to investigate domestic violence in the presence of a child as described in that section, except as provided in this rule (see Section 62A-4a-105(6)).

**R512-205-4. Investigation.**

(1) An allegation of Domestic Violence Related Child Abuse, that meets all other requirements for acceptance, shall be

accepted by Child and Family Services for investigation if it is alleged that a child was physically present or saw or heard an incident of domestic violence and:

(a) The alleged perpetrator used or threatened to use a dangerous weapon; or

(b) The alleged perpetrator threatened to cause substantial or serious bodily injury; or

(c) The alleged perpetrator committed a sexual assault, strangulation impeded the breathing or the circulation of blood by application of pressure to the neck, throat, or chest, or by the obstruction of the nose or mouth, which produced or was likely to produce a loss of consciousness, or other assault likely to result in substantial or serious bodily injury; or

(d) The alleged victim sustained substantial or serious bodily injury; or

(e) There is a pattern of two or more CPS investigations of Domestic Violence Related Child Abuse within the previous two years; or

(f) Another allegation of abuse, neglect, or dependency is being accepted or is in the process of being investigated.

(2) If during an open, non-CPS case, a referral is received for Domestic Violence Related Child Abuse which does not meet the criteria for acceptance under subparagraph (1) above, the information will be sent to the ongoing caseworker for assessment.

**R512-205-5. Investigation Findings.**

(1) Upon completion of an investigation of Domestic Violence Related Child Abuse, a supported finding may be based upon the definitions of this rule.

**KEY: child abuse, domestic violence**

**Date of Enactment or Last Substantive Amendment:** ~~November 1, 2011~~ **2017**

**Notice of Continuation:** January 25, 2016

**Authorizing, and Implemented or Interpreted Law:** 62A-4a-102; 62A-4a-105; 76-5-109.1

Insurance, Administration  
**R590-274**  
 Submission and Required Disclosures  
 of Public Adjuster Contracts

**NOTICE OF PROPOSED RULE**

(New Rule)

DAR FILE NO.: 41867

FILED: 06/30/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule provides guidance to public adjusters on the process of filing contracts, and provides details regarding the required consumer disclosures that must be contained in the consumer contract.

**SUMMARY OF THE RULE OR CHANGE:** This rule supports Title 31A, Chapter 26, Part 4, which requires public adjusters to file the contracts that they use when entering into an agreement with a consumer. The rule outlines in detail the disclosures that must be made to ensure that the consumer understands their rights and what a public adjuster can and cannot do in regards to the public adjuster's conduct, and compensation. It also provides guidance to augment the new requirements a public adjuster must follow to prevent conflicts or potential conflicts of interest.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 31A-26-401 and Section 31A-26-403

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** There are currently 44 Utah public adjusters. It is anticipated that those entities will file 1 to 2 contracts each, or approximately 300 contracts. It is further anticipated that it will take a rate and form analyst approximately 10 minutes to review each contract. The hourly rate, including benefits, for a rate and form analyst is approximately \$30/hour (\$0.50/minute). Therefore, it is anticipated the fiscal impact for the form review/filing requirement will be \$300 (60 forms x 10 minutes each at \$0.50/minute). As for the impact of need to do rules and provide guidance, the Department estimates it will take a total of approximately 50 hours of the time of the deputy commissioner, director of P&C, rate and form analyst, and PIO at a blended rate of \$43.46/hour, including benefits, for a total impact of \$2,174.

◆ **LOCAL GOVERNMENTS:** There will be no impact on local government because this rule governs the relationship between public adjusters and the department.

◆ **SMALL BUSINESSES:** There may be an impact on 44 Utah public adjusters that will need to comply with the requirements and retain records. The cost of creating the contract could range from \$0 if the adjuster creates it, up to several hundred dollars if they hire counsel. The department cannot know the cost of hiring counsel because it would depend on the individual counselor selected and the rate they agree upon with the adjuster. The Department is ameliorating any negative impact by allowing adjusters to file electronically with the department at no cost.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This bill affects only the 44 Utah public adjusters. There will be no cost or savings to any other persons.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There is no compliance cost to the 44 Utah public adjusters to file contracts with the department. There could be printing and drafting costs; however, those costs are most likely already incurred in the normal course of business.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There may be an impact on 44 Utah public adjusters that will need to comply with the requirements and retain records. The cost of creating the contract could range from \$0 if the

adjuster creates it, up to several hundred dollars if they hire counsel. The department cannot know the cost of hiring counsel because it would depend on the individual counselor selected and the rate they agree upon with the adjuster. A contract will only need to be created once, so there will be no ongoing annual cost. The Department is ameliorating any negative impact by allowing adjusters to file electronically with the department at no cost. The filing cost for one year is \$0.

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

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

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at [sgooch@utah.gov](mailto:sgooch@utah.gov)

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/14/2017**

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

◆ 08/03/2017 10:00 AM, Utah Insurance Department, 450 N. State St., Rm. 3112, Salt Lake City, UT

**THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2017**

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

**R590. Insurance, Administration.**

**R590-274. Submission and Required Disclosures of Public Adjuster Contracts.**

**R590-274-1. Authority.**

This rule is promulgated by the commissioner pursuant to Sections 31A-26-401 and 31A-26-403.

**R590-274-2. Purpose and Scope.**

(1) The purpose of this rule is to:  
(a) Set forth procedures on how public adjusters must submit required form filings to the commissioner pursuant to Section 31A-26-401; and  
(b) provide notice requirements, information and disclosures that must be included in the adjuster contracts.

(2) This rule applies to resident and nonresident public adjusters.

**R590-274-3. Definitions.**

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

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

(2) "Electronic Filing" means a filing submitted via an email system.

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

(4) "Filer" means a person who submits a filing.

(5) "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.

(6) "Form" for the purposes of this rule form shall also include contracts.

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

(8) "Rejected" means a filing is:

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

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

(c) not considered filed with the department.

(9) "Utah Filed Date" means the date provided to a filer by the Utah Insurance Department that indicates a filing has been accepted.

#### **R590-274-4. 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) The filer is responsible for assuring that a filing is in compliance with Utah laws and rules. A filing not in compliance with Utah laws and rules is subject to regulatory action under Section 31A-2-308.

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

(a) is not considered filed with the department and may not be used;

(b) will not be reopened for purposes of resubmission, a new filing is required.

(4) A prior filing will not be researched to determine the purpose of the current filing. The submitted filing must be complete.

(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 commissioner 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 forms to affected consumers.

(6) Filing correction:

(a) If the filing is in a review status corrections can be made at any time.

(b) If the filing has been closed a new filing is required. The filer must reference the original filing in the filing description.

(7) Response to a Filing Objection Letter. When responding to a Filing Objection letter a filer must:

(a) provide an explanation identifying all changes made;

(b) include an underline and strikeout version for each revised document;

(c) a final version of revised documents that incorporates all changes.

(8) Response to an Order to Prohibit Use.

(a) An Order to Prohibit Use becomes final 15 days after the date of the order.

(b) Use of the filing must be discontinued no 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) A new filing is required if the licensee chooses to make the requested changes addressed in the Filing Objection Letter. The new filing must reference the previously prohibited filing.

(9) Filing withdrawal. A filer must notify the department when withdrawing a previously filed form.

#### **R590-274-5. Filing Requirements.**

(1) All filings must be submitted as an electronic filing via email at pcfirms@utah.gov.

(2) A complete filing consists of the following:

(a) the title of the email must display the company name only;

(b) the filer must certify that a filing has been properly completed and is in compliance with Utah laws and rules;

(i) To certify the following statement must be included in the email: "BY SUBMITTING THIS FILING I CERTIFY THAT THE ATTACHED FILING HAS BEEN COMPLETED IN ACCORDANCE WITH UTAH ADMINISTRATIVE RULE R590-274 AND IS IN COMPLIANCE WITH APPLICABLE UTAH LAWS AND RULES"

(ii) A filing will be rejected if the certification is false, missing, or incomplete.

(iii) A certification that is false may subject the licensee to administrative action.

(c) provide a description of the filing including:

(i) the intent of the filing; and

(ii) the purpose of each document within the filing.

(d) indicate if the filing:

(i) is new;

(ii) is replacing or modifying a previous submission; if so, describe the changes made, if previously rejected the reasons for rejection, and previous filing's Utah Filed Date; and

(e) identify if any of the provisions are unusual, controversial, have been previously objected to, or prohibited, and explain why the provision is included in the filing.

(3) Forms being submitted for filing:

(a) must be in PDF format;

(b) are considered "File And Use" filings;

(c) each form must be identified by a unique form number. The form number may not be a variable; and

(d) must be in final printed form. A draft may not be submitted.

**R590-274-6. Contract Requirements.**

- (1) The contract must contain the following:
- (a) the name of the company that employs the public adjuster;
  - (b) the mailing and physical address of the public adjuster's principal place of business;
  - (c) the public adjuster's telephone and fax number;
  - (d) the license number of the public adjuster and the Employer;
  - (e) the public adjuster's email address;
  - (f) the public adjuster's website, if applicable;
  - (g) the date and time the contract was signed and, if applicable, the service of process address for nonresident public adjusters;
  - (h) a general description of services the public adjuster will provide under the contract;
  - (i) a description of the claim, property damage, location, and event;
  - (j) if based on an hourly rate, a provision that the public adjuster will provide an invoice for services that includes a detailed listing of service provided and separate costs payable to the public adjuster as part of any commission based on the claim settlement, including expenses, direct costs, and any other accrued costs; and
  - (k) all terms or conditions that apply to the contract.
- (2) The contract may not contain any terms or conditions that have the effect of limiting or nullifying any requirements of the law.
- (3) A signed copy of the contract must be provided to the insured at the time of signing.

**R590-274-7. Required Disclosures.**

- (1) The following separate disclosures are required in no smaller than 12 point boldface type to be located on the signature page of the contract:
- (a) "WE REPRESENT THE INSURED ONLY";
  - (b) "THIS CONTRACT MAY BE RESCINDED IN WRITING WITHIN 10 DAYS OF ENTERING INTO THE CONTRACT"; and
  - (c) "YOU ARE ENTERING INTO A CONTRACT OF SERVICE. YOU ARE BEING CHARGED A FEE FOR THIS SERVICE. YOU DO NOT HAVE TO ENTER INTO THIS CONTRACT TO MAKE A CLAIM FOR LOSS OR DAMAGE ON A POLICY OF INSURANCE".
- (2) A contract must contain the following statements in substantially the following form:
- (a) A public adjuster may not participate directly or indirectly in the reconstruction, repair, or restoration of damaged property, or engage in any other activities that may reasonably be construed as presenting a conflict of interest, including soliciting or accepting any remuneration from, or having a financial interest in, any salvage firm, construction firm, repair firm, or other firm that obtains business in connection with any claim the public insurance adjuster has a contract or agreement to adjust.
  - (b) A public adjuster may not act on behalf of an attorney by having you sign an attorney representation agreement.
  - (c) A public adjuster cannot require you to sign a power of attorney.
  - (d) A public adjuster cannot require you to refuse to work with your insurer.

(e) Your insurance policy requires you to cooperate with your insurer to settle your claim

(f) IMPORTANT NOTICE: You may contact the Utah Insurance Department to verify that the public adjuster is licensed to do business in Utah, what your rights are as a consumer, or for information about filing a complaint, by calling 801-538-3035 or toll free at 800-439-3805, or by visiting the department's website at [www.insurance.utah.gov](http://www.insurance.utah.gov).

(g) A public adjuster may not enter into a contract with an insured and collect compensation as provided in the contract without actually performing the service customarily provided by a licensed public adjuster for the insured.

(3)(a) A public adjuster contract must contain the following compensation disclosures in a clear and prominent statement:

(i) if an hourly rate, the contract must state the hourly rate and how it will be applied to hours of service provided by the public adjuster to calculate the amount payable;

(ii) if a flat fee, the contract must state the amount that will be payable to the public adjuster;

(iii) if a percentage, the contract must state the exact percentage that will be applied to the settlement of the claim to calculate the amount payable to the public insurance adjuster; or

(iv) if another method of calculation is chosen, the contract must include a detailed explanation of how the amount payable will be determined based on service provided by the public adjuster.

(b) A public adjuster may not receive compensation in return for referring the insured to a particular attorney, appraiser, umpire, construction company, contractor, repair firm or salvage company.

(c) A public adjuster may not receive compensation for a claim if the insurer commits in writing to pay or pays the policy limits within 72 hours of the loss report.

(d) Except for direct payment of compensation by the insured, all drafts or checks must include the insured as a payee and require their written signature and endorsement. Public adjusters may not sign or endorse any payment draft or check on behalf of the insured.

(e) A public adjuster may not enter into a contract with an insured and collect compensation as provided in the contract without actually performing the service customarily provided by a licensed public adjuster for the insured.

**R590-274-8. Penalties.**

A person found to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

**R590-274-9. Enforcement Date.**

The commissioner will begin enforcing the revised provisions of this rule 15 days from the effective date of this rule.

**R590-274-10. 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: insurance, public adjusters****Date of Enactment or Last Substantive Amendment: 2017****Authorizing, Implemented, or Interpreted Law: 31A-26-401; 31A-26-403**

Money Management Council,  
Administration  
**R628-4**  
Bonding of Public Treasurers

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 41866

FILED: 06/29/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This change is being made to address a statute amendment in Section 51-7-15 that allows public treasurers to procure crime or theft insurance in place of a surety bond. The change was made by H.B. 268 in the 2017 General Session.

**SUMMARY OF THE RULE OR CHANGE:** The rule has been changed to give public treasurers the ability to procure either a surety bond or crime insurance through either a Utah-licensed insurer or with an inter-local agency created under Section 11-13-101. The crime insurance must be purchased through an insurer that is licensed in the State of Utah and has the same rating as a surety provider, "A" or better by AM Best Rating Agency. The inter-local public mutual must maintain a restricted account in the PTIF equal to 50% of the per occurrence limit of coverage.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 51-7-15

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** If a state entity that participates in risk management opts to drop their surety bond and rely on crime insurance coverage provided through risk management, there could be the savings of the cost of the surety. That savings would vary by the size of each entity.

◆ **LOCAL GOVERNMENTS:** Public treasurers may now procure crime insurance in place of a surety bond. There could be savings to the treasurer in that they do not have to purchase the additional surety as some public treasurers may already have crime insurance in place. Any savings would vary by entity as the amount is based on the budgeted gross revenue of each entity.

◆ **SMALL BUSINESSES:** There would be no additional cost or savings to a small business because this rule change simply gives public treasurers the ability to procure a surety bond or crime insurance, which will only affect the state and local governments.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There would be no additional cost or savings to a small business because this rule change simply gives public treasurers the ability to procure a surety bond or crime insurance, which will only affect the state and local governments.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Public treasurers are already procuring a surety bond, so there are no additional costs to comply with the changes to this rule.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to business as the change provides more options to public treasurers when procuring either a surety bond or crime insurance.

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

MONEY MANAGEMENT COUNCIL  
ADMINISTRATION  
ROOM 180  
UTAH STATE CAPITOL COMPLEX  
350 N STATE ST  
SALT LAKE CITY, UT 84114  
or at the Office of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Ann Pedroza by phone at 801-538-1883, by FAX at 801-538-1465, or by Internet E-mail at apedroza@utah.gov  
◆ Marina Scott by phone at 801-535-6565, or by Internet E-mail at marina.scott@slcgov.com

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/14/2017**

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2017

AUTHORIZED BY: Marina Scott, Chair

**R628. Money Management Council, Administration.****R628-4. Bonding of Public Treasurers.****R628-4-1. Authority.**

This rule is issued pursuant to Section 51-7-15.

**R628-4-2. Fidelity Bond or Crime Insurance.**

A. Every public treasurer shall secure a fidelity bond or crime insurance in the amount shown in R628-4-4. Bonds must be issued by a corporate surety licensed to do business in the state of Utah and having a current A.M. Best Rating of "A" or better.

1. Crime insurance must be issued by:

a) an insurer licensed to do business in the state of Utah and having a current A.M. Best Rating of "A" or better; or

b) an interlocal agency created under Section 11-13-101 operating as a joint self-insurance fund. A joint self-insurance fund providing crime coverage under this section must maintain a restricted account in the PTIF equal to 50% of the per occurrence limit of coverage.

B. Bonds should be effective as of the date the treasurer assumes the duties of the office or is sworn in.

**R628-4-3. Budgeted Gross Revenue.**

The basis used shall be the budgeted gross revenue for the previous accounting year. Budgeted gross revenue includes all funds collected or handled by the public treasurer. For purposes of this rule, taxes, fees, service charges, interest, proceeds from sale of assets, and borrowing proceeds are examples of revenue categories which are considered.

**R628-4-4. Amount of Bond or Crime Insurance.**

TABLE

Budget	Percent for Bond
\$ 0 to \$ 10,000	n/a but not less than \$ 0
10,001 to 100,000	9% but not less than 5,000
100,001 to 500,000	8% but not less than 9,000
500,001 to 1,000,000	7% but not less than 40,000
1,000,001 to 5,000,000	6% but not less than 70,000
5,000,001 to 10,000,000	5% but not less than 300,000
10,000,001 to 25,000,000	4% but not less than 500,000
25,000,001 to 50,000,000	3% but not less than 1,000,000
50,000,001 to 500,000,000	2% but not less than 1,500,000
over 500,000,000	not less than 10,000,000

**KEY: bonding requirements, public treasurers, accounts, state and local affairs**

**Date of Enactment or Last Substantive Amendment:** [~~1990~~]2017

**Notice of Continuation:** October 5, 2015

**Authorizing, and Implemented or Interpreted Law:** 51-7-15

**Money Management Council,  
Administration**

**R628-15**

**Certification as an Investment Adviser**

**NOTICE OF PROPOSED RULE  
(Amendment)**

DAR FILE NO.: 41862

FILED: 06/29/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This change is being made to address a statute amendment allowing certified investment advisers to use their list of approved broker dealers when trading for Utah public entities. Before this change, certified investment advisers were limited to dealing with only certified broker dealers for

Utah public treasurer accounts, as approved by the Money Management Council. This change was made in Section 51-7-11.5 by H.B. 268 in the 2017 General Session.

**SUMMARY OF THE RULE OR CHANGE:** This change places a definition of approved brokers and dealers in the rule in Section R628-15-4. It adds a new Section R628-15-7 that provides a minimum criteria for brokers on the certified adviser's approved list of qualifying under SEC Rule 15C3-1 and renumbers the sections following. In Section R628-15-10, language is changed to allow certified advisers to use their approved list of dealers in the best interest of the public treasurer, and clarifies the use of soft dollar credits if applicable.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 51-7-11.5

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** This change does not affect any government entity, so no budget items are changed.

◆ **LOCAL GOVERNMENTS:** This change does not affect local government entities, so there is no effect on the public treasurer.

◆ **SMALL BUSINESSES:** The change allows certified investment advisers to use a potentially broader field of brokers, potentially making it easier for them to trade and receive better prices. Some of the Certified Advisers on the list employ fewer than 50 persons. In inquiring, these businesses have been unable to quantify for the Council any savings that may occur.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The change allows certified investment advisers to use a broader field of brokers, potentially making it easier for them to trade and receive better prices. Some of the Certified Advisers on the list employ more than 50 persons. In inquiring, these businesses have been unable to quantify for the Council any savings that may occur.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The change allows certified investment advisers to use a broader field of brokers, potentially making it easier for them to trade and receive better prices. Some of the Certified Advisers on the list are larger than 50 persons. In inquiring, these businesses have been unable to quantify for the Council any savings that may occur.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** After meeting with several certified investment advisers to receive their input on the change, it was determined by the Council that this proposed rule change will not have any fiscal impact on businesses. Providing investment advisers with a broader access to dealers/brokers might benefit local governments by creating a more competitive pricing, thus ensuring best execution.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 MONEY MANAGEMENT COUNCIL  
 ADMINISTRATION  
 ROOM 180  
 UTAH STATE CAPITOL COMPLEX  
 350 N STATE ST  
 SALT LAKE CITY, UT 84114  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Ann Pedroza by phone at 801-538-1883, by FAX at 801-538-1465, or by Internet E-mail at apedroza@utah.gov  
 ♦ Marina Scott by phone at 801-535-6565, or by Internet E-mail at marina.scott@slcgov.com

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/14/2017

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2017

AUTHORIZED BY: Marina Scott, Chair

**R628. Money Management Council, Administration.**

**R628-15. Certification as an Investment Adviser.**

**R628-15-1. Authority.**

This rule is issued pursuant to Sections 51-7-3(3), 51-7-18(2)(b)(vi) and (vii), and 51-7-11.5.

**R628-15-2. Scope.**

This rule establishes the criteria applicable to all investment advisers and investment adviser representatives for certification by the Director as eligible to provide advisory services to public treasurers under the State Money Management Act (the "Act"). It further establishes the application contents and procedures, and the criteria and the procedures for denial, suspension, termination and reinstatement of certification.

**R628-15-3. Purpose.**

This rule establishes a uniform standard to evaluate the financial condition and the standing of an investment adviser to determine if investment of public funds by investment advisers would expose said public funds to undue risk.

**R628-15-4. Definitions.**

A. The following terms are defined in Section 51-7-3 of the Act, and when used in this rule, have the same meaning as in the Act:

1. "Certified investment adviser";
2. "Council";
3. "Director";
4. "Public treasurer";
5. "Investment adviser representative"; and
6. "Certified dealer".

B. For purposes of this rule the following terms are defined:

1. "Investment adviser" means either a federal covered adviser as defined in Section 61-1-13 or an investment adviser as defined in Section 61-1-13.

2. "Realized rate of return" means yield calculated by combining interest earned, discounts accreted and premiums amortized, plus any gains or losses realized during the month, less all fees, divided by the average daily balance during the reporting period. The realized return should then be annualized.

3. "Soft dollar" means the value of research services and other benefits, whether tangible or intangible, provided to a certified investment adviser in exchange for the certified investment adviser's business.

4. "Approved list of brokers and dealers" means broker-dealers approved by a certified investment adviser to transact business on a public treasurer's account regardless of status as a certified dealer.

**R628-15-5. General Rule.**

Before an investment adviser or investment adviser representative provides investment advisory services to any public treasurer, the investment adviser or investment adviser representative must submit and receive approval of an application to the Division, pay to the Division a non-refundable fee as described in Section 51-7-18.4(2), and become a Certified investment adviser or Investment adviser representative under the Act.

**R628-15-6. Criteria for Certification of an Investment Adviser.**

To be certified by the Director as a Certified investment adviser or Investment adviser representative under the Act, an investment adviser or investment adviser representative shall:

A. Submit an application to the Division on Form 628-15 clearly designating:

- (1) the investment adviser;
- (2) its designated official as defined in R164-4-2 of the Division; and
- (3) any investment adviser representative who provides investment advisory services to public treasurers in the state.

B. Provide written evidence of insurance coverage as follows:

- (1) fidelity coverage based on the following schedule:

Utah Public funds under management	Percent for Bond
\$0 to \$25,000,000	10% but not less than \$1,000,000
\$25,000,001 to \$50,000,000	8% but not less than \$2,500,000
\$50,000,001 to \$100,000,000	7% but not less than \$4,000,000
\$100,000,001 to \$500,000,000	5% but not less than \$7,000,000
\$500,000,001 to \$1.250 billion	4% but not less than \$25,000,000
\$1,250,000,001 and higher	Not less than \$50,000,000



(2) errors and omissions coverage equal to five percent (5%) of Utah public funds under management, but not less than \$1,000,000 nor more than \$10,000,000 per occurrence.

C. Provide to the Division at the time of application or renewal of application, its most recent annual audited financial statements prepared by an independent certified public accountant in accordance with generally accepted accounting principles in accordance with R628-15-8A.

D. Pay to the Division the non-refundable fee described in Section 51-7-18.4(2).

E. Have a current Certificate of Good Standing dated within 30 days of application from the state in which the applicant is incorporated or organized.

F. Have net worth as of its most recent fiscal year-end of not less than \$150,000 documented by the financial statements audited according to Subsection R628-15-6(C).

G. Allow the public treasurer to select the forum and method for dispute resolution, whether that forum be arbitration, mediation or litigation in any state or federal court. No agreement, contract, or other document that the applicant requires or intends to require to be signed by the public treasurer to establish an investment advisory relationship shall require or propose to require that any dispute between the applicant and the public treasurer must be submitted to arbitration.

H. Agree to the jurisdiction of the Courts of the State of Utah and applicability of Utah law, where relevant, for litigation of any dispute arising out of transactions between the applicant and the public treasurer.

I. All Investment adviser representatives who have any contact with a public treasurer or its account, must sign and have notarized a statement that the representative:

(1) is familiar with the authorized investments as set forth in the Act and the rules of the Council;

(2) is familiar with the investment objectives of the public treasurer, as set forth in Section 51-7-17(2);

(3) acknowledges, understands, and agrees that all investment transactions conducted for the benefit of the public treasurer must fully comply with all requirements set forth in Section 51-7-7 and that the Certified investment adviser and any Investment adviser representative is prohibited from receiving custody of any public funds or investment securities at any time.

**R628-15-7. Use of an Adviser's Approved List of Broker-Dealers.**

If an investment adviser intends to use their own approved list of brokers-dealers, those broker-dealers on the adviser's approved list must qualify under SEC Rule 15C3-1 or other applicable regulatory requirements.

**R628-15-[7]8. Certification.**

A. The initial application for certification must be received on or before the last day of the month for approval at the following month's Council meeting.

B. All certifications shall be effective upon acceptance by the Council.

C. All certifications not otherwise terminated shall expire on June 30 of each year, unless renewed.

**R628-15-[8]9. Renewal of Application.**

A. Certified investment advisers shall apply annually, on or before April 30 of each year, for certification to be effective July 1 of each year.

B. The application must contain all of the documents and meet all of the requirements as set forth above with respect to initial applications.

C. The application must be accompanied by an annual certification fee as described in Section 51-7-18.4(2).

D. A Certified investment adviser whose certification has expired as of June 30 may not function as a Certified investment adviser until the investment adviser's certification is renewed.

**R628-15-[9]10. Post Certification Requirements.**

A. Certified investment advisers shall notify the Division of any changes to any items or information contained in the original application within 30 calendar days of the change. The notification shall provide copies, where necessary, of relevant documents.

B. Certified investment advisers shall maintain a current application on Form 628-15 with the Division throughout the term of any agreement or contract with any public treasurer. Federal covered advisers shall maintain registration as an investment adviser under the Investment Advisers Act of 1940 throughout the term of any agreement or contract with any public treasurer.

C. Certified investment advisers shall provide and maintain written evidence of insurance coverage as described in R628-15-6(B).

D. Certified investment advisers shall provide to the public treasurer the SEC Form ADV Part II prior to contract execution.

E. Certified investment advisers shall file annual audited financial statements with all public treasurers with whom they are doing business.

F. Certified investment advisers shall fully disclose all conflicts of interest and all economic interests in ~~[certified]~~dealers and other affiliates, consultants and experts used by the Investment adviser in providing investment advisory services.

G. Certified investment advisers shall act with the degree of care, skill, prudence, and diligence that a person having special skills or expertise acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

H. ~~[Certified investment advisers shall exercise good faith in allocating transactions to certified dealers in the best interest of the account and in overseeing the completion of transactions and performance of certified dealers used by the Investment adviser in connection with investment advisory services.]~~Certified investment advisers shall use their approved list of broker-dealers or certified dealers in the best interest of the public treasurer's account for which they are transacting business when allocating transactions to broker-dealers.

I. Any value from transacting on a public treasurer's account accrued to the investment adviser, including soft dollar credits, for allocating transactions to broker-dealers must be paid back to the public treasurer's account. In addition, Certified investment advisers shall fully disclose to the public treasurer any self-dealing with subsidiaries, affiliates or partners of the

Investment adviser and any soft dollar benefits to the Investment adviser for transactions placed on behalf of the public treasurer.

J. Certified investment advisers shall fully and completely disclose to all public treasurers with whom they do business the basis for calculation of fees, whether and how fees may be adjusted during the term of any agreement, and any other costs chargeable to the account. If performance-based fees are proposed, the disclosure shall include a clear explanation of the amount of the fee at specific levels of performance and how prior losses are handled in calculation of the performance-based fee.

K. Certified investment advisers shall not assign any contract or agreement with a public treasurer without the written consent of the public treasurer.

L. Certified investment advisers shall provide immediate written notification to any public treasurer to whom advisory services are provided and to the Division upon conviction of any crime involving breach of trust or fiduciary duty or securities law violations.

M. Not less than once each calendar quarter and as often as requested by the public treasurer, Certified investment advisers shall timely deliver to the public treasurer:

(1) copies of all trade confirmations for transactions in the account;

(2) a summary of all transactions completed during the reporting period;

(3) a listing of all securities in the portfolio at the end of each reporting period, the market value and cost of each security, and the credit rating of each security;

(4) performance reports for each reporting period showing the total return on the portfolio as well as the realized rate of return, when applicable, and the net return after calculation of all fees and charges permitted by the agreement; and

(5) a statistical analysis showing the portfolio's weighted average maturity and duration, if applicable, as of the end of each reporting period.

**R628-15-~~10~~11. Notification of Certification.**

The Director shall provide a list of Certified investment advisers and Investment adviser representatives to the Council at least semiannually. The Council shall mail this list to each public treasurer.

**R628-15-~~11~~12. Grounds for Denial, Suspension or Termination of Status as a Certified Investment Adviser.**

Any of the following constitutes grounds for denial, suspension, or termination of status as a Certified investment adviser:

A. Denial, suspension or termination of the Certified investment adviser's license by the Division.

B. Failure to maintain a license with the Division by the firm or any of its Investment adviser representatives conducting investment transactions with a public treasurer.

C. Failure to maintain the required minimum net worth and the required bond.

D. Requiring the public treasurer to sign any documents, contracts, or agreements which require that disputes be submitted to mandatory arbitration.

E. Failure to pay the annual certification fee.

F. Making any false statement or filing any false report with the Division.

G. Failure to comply with any requirement of section R628-15-9.

H. Engaging in any material act in negligent or willful violation of the Act or Rules of the Council.

I. Failure to respond to requests for information from the Division or the Council within 15 days after receipt of a request for information.

J. Engaging in a dishonest or unethical practice. "Dishonest or unethical practice" includes but is not limited to those acts and practices enumerated in Rule R164-6-1g.

K. Being the subject of:

(1) an adjudication or determination, within the past five years by a securities or commodities agency or administrator of another state, Canadian province or territory, or a court of competent jurisdiction that the person has willfully violated the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Commodity Exchange Act, or the securities or commodities law of any other state; or

(2) an order entered within the past five years by the securities administrator of any state or Canadian province or territory or by the Securities and Exchange Commission denying or revoking license as an investment adviser, or investment adviser representative or the substantial equivalent of those terms or is the subject of an order of the Securities and Exchange Commission suspending or expelling the person from a national securities exchange or national securities association registered under the Securities Exchange Act of 1934, or is the subject of a United States post office fraud order.

**R628-15-~~12~~13. Procedures for Denial, Suspension, or Termination and Reinstatement of Status.**

A. Where it appears to the Division or to the Council that grounds may exist to deny, suspend, or terminate status as a Certified investment adviser, the Council shall proceed under the Utah Administrative Procedures Act, Chapter 4, Title 63G ("UAPA").

B. All proceedings to suspend a Certified investment adviser or to terminate status as a certified investment adviser are designated as informal proceedings under ("UAPA").

C. In any hearings held, the Chair of the Council shall be the presiding officer, and that person may act as the hearing officer, or may designate another person from the Council or the Division to be the hearing officer. After the close of the hearing, other members of the Council may make recommendations to the hearing officer.

D. The Notice of Agency Action as set forth under UAPA, or any petition filed in connection with it, shall include a statement of the grounds for suspension or termination, and the remedies required to cure the violation.

E. A Certified investment adviser and its Investment adviser representative who has received a Notice of Agency Action alleging violations of the Act or these rules, may continue, in the discretion of the public treasurer, to conduct investment transactions with the public treasurer until the violations asserted by the Money Management Council in the Notice of Agency Action becomes subject to a written order of the Council or Agency against the

adviser or adviser representative, or until the Council enters an emergency order indicating that public funds will be jeopardized by continuing investment transactions with the adviser or adviser representative.

F. The Council may issue an emergency order to cease and desist operations or specified actions with respect to public treasurers or public funds. Further, the Council may issue an emergency suspension of certification if the Council determines that public funds will be jeopardized by continuing investment transactions or other specified actions with the adviser or adviser representative.

G. Within ten business days after the conclusion of a hearing on an emergency order, the Council shall lift this prohibition upon a finding that the Certified investment adviser and its investment adviser representative may maintain certification.

**KEY: cash management, public investments, securities regulations, investment advisers**

**Date of Enactment or Last Substantive Amendment: ~~July 13, 2015~~ 2017**

**Notice of Continuation: May 5, 2010**

**Authorizing, and Implemented or Interpreted Law: 51-7-3(3); 51-7-18(2)(b)(vi); 51-7-18(2)(b)(vii); 51-7-11.5(2)(b); 51-7-11.5(2)(c)**

## Natural Resources; Oil, Gas and Mining; Oil and Gas **R649-2-9** Refusal to Agree

### NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 41868  
FILED: 06/30/2017

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This filing will clarify the existing Section R649-2-9 by specifying timeframes and supplying other information required by a recent statutory change. The statutory enactment requiring modification of Section R649-2-9 took effect on 05/09/2017. In order to timely implement the required rule modification, the Board of Oil, Gas and Mining adopted an emergency rule on that date. The Board is presently engaged in ongoing public outreach activities, and analysis, under Board Docket No. 2017-013, Cause No. RO&G-2017-01, concerning what the final rule should provide. The Board anticipates concluding its analysis and publishing a proposed final rule amendment, in late fall of 2017. The presently governing emergency rule will expire, however, on 09/06/2017. The purpose of the present filing is to formally, but temporarily, adopt the terms of the emergency rule to avoid any "gap" between expiration of the emergency rule in September and adoption of a final rule amendment at a later date. The Board therefore intends the language

proposed in the present filing to govern only for a few months until the Board concludes its proceedings in Docket No. 2017-013, Cause No. RO&G-2017-01, at which time the Board will submit a new filing setting forth the final proposed amendment language. (Editor's Note: The 120-day (emergency) rule was published in the June 1, 2017, Bulletin under Filing No. 41614 and is effective as of 05/09/2017.)

**SUMMARY OF THE RULE OR CHANGE:** This rule amendment specifies the manner in which an owner must consent to the drilling and operation of a well and agree to bear that owner's proportionate share of the costs of the drilling, testing, completion and equipping of that well, as well as the timeframe within which such consent must be given. Specifying these details in rule is contemplated by the recently amended Subsections 40-6-2(4) and 40-6-2(11). Under the submitted rule amendment, consent must be given in writing within thirty days of written notice being received. As noted above, the language proposed in this filing is intended to govern only for a few months during the pendency of the Board's ongoing proceedings concerning a final amendment to this same rule. The final amendment will be made in late 2017.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 40-6-6.5 and Subsection 40-6-2(11) and Subsection 40-6-2(4)

#### ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** The rule specifies the manner in which owners must consent to the drilling and operation of wells. There are no anticipated changes in costs or savings to the Division or Board under this rule. This rule is also not expected to have any budgetary impacts on other state agencies or have any other direct or indirect costs to the state.

♦ **LOCAL GOVERNMENTS:** This rule is not expected to create any costs or savings for counties, cities, towns, school districts, special districts, or any other form of local government. The rule only clarifies existing regulations in certain respects which do not implicate costs and will therefore have no effect on anticipated costs or savings.

♦ **SMALL BUSINESSES:** Small businesses are not expected to be impacted by this rule. This rule only clarifies existing regulations in certain respects which do not implicate costs and will therefore have no effect on anticipated costs or savings for small businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Persons other than small businesses, businesses, or local government entities are not expected to be impacted by this rule because the rule only clarifies existing provisions of the current statutory and regulatory scheme concerning compulsory pooling.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Mineral interest owners and operators would not experience any increase in compliance costs under this rule. These types of parties could potentially experience a reduction in

their attorney and legal fees relating to costs of appearing before the Board of Oil Gas and Mining. The Division and Board do not have access to industry expenditures for Board hearings, so a specific costs savings could not be reasonably estimated.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to business as it only clarifies existing provisions of the current statutory and regulatory scheme concerning compulsory pooling.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
NATURAL RESOURCES  
OIL, GAS AND MINING; OIL AND GAS  
ROOM 1210  
1594 W NORTH TEMPLE  
SALT LAKE CITY, UT 84116-3154  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Michael Johnson by phone at 801-538-7484, or by Internet E-mail at mikejohnson@agutah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/15/2017

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 08/23/2017 10:00 AM, Natural Resources, 1594 W North Temple, Room 1040, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 08/24/2017

AUTHORIZED BY: John Baza, Director

#### **R649. Natural Resources; Oil, Gas and Mining; Oil and Gas.**

##### **R649-2. General Rules.**

##### **R649-2-9. Refusal to Agree.**

1. An owner shall be deemed to have refused to agree to bear his proportionate share of the costs of the drilling and operation of a well under Section 40-6-6.5 if:

1.1. The operator of the proposed well has, in good faith, attempted to reach agreement with such owner for the leasing of the owner's mineral interest or for that owner's voluntary participation in the drilling of the well.

1.2. The owner and the operator have been unable to agree upon terms for the leasing of the owner's interest or for the owner's participation in the drilling of the well. For purposes of Utah Code Sections 40-6-2(4) and -2(11), the consent and agreement required of an owner shall be manifested by the owner agreeing in writing, within thirty (30) days from the date the notice required by Utah Code Section 40-6-2(11) is received, to bear that owner's proportionate share of the costs of drilling, testing, completion, equipping and operation of the well.

2. If the operator of the proposed well shall fail to attempt, in good faith, to reach agreement with the owner for the leasing of that owner's mineral interest or for voluntary participation by that owner in the well prior to the filing of a Request for Agency Action for involuntary pooling of interests in the drilling unit under Section 40-6-6.5 then, upon written request and after notice and hearing, the hearing on the Request for Agency Action for involuntary pooling may, at the discretion of the board or its designated hearing examiner, be delayed for a period not to exceed 30 days, to allow for negotiations between the operator and the owner.

**KEY: oil[and gas law], pooling, nonconsenting, consenting**

**Date of Enactment or Last Substantive Amendment: [June 2, 1998]2017**

**Notice of Continuation: August 26, 2016**

**Authorizing, and Implemented or Interpreted Law: 40-6-1 et seq.**

## Natural Resources, Wildlife Resources **R657-20** Falconry

### **NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 41853

FILED: 06/27/2017

### **RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted regularly for taking public input and reviewing the Division of Wildlife Resources' (DWR) rule pursuant to falconry.

SUMMARY OF THE RULE OR CHANGE: The proposed revisions to this rule: 1) modify the definition of "Hybrid" to conform with federal rule; 2) add Eurasian Collared Dove to the definition of "Trial"; 3) align the definition of "Upland Game" with the Upland Game rule; 4) modify the definition of "Wild" to distinguish between wild, imprinted, and captive bred birds; 5) add Eurasian Collared Dove to the list requiring a Certificate of Registration (COR); 6) modify the processing time for Certificate of Registrations to 30 business days; 7) clarify language to state a COR is required for each raptor; 8) add language to address issues raised by changing status due to taxonomy or conservation status granting falconers a 6-month grace period to allow for COR applications under the new status; 9) add language to address re-inspection of facilities; 10) clarify the line of decision authority; 11) incorporate table of authorized falconry raptors and updated geographic restrictions; 12) add language to allow General Class Falconers to legally possess a number of exotic eagle species; 13) clarify language outlining the required experience for a Master Class Falconer; and 14) make

technical corrections and text simplification through out the rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-17-7

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: The amendments clarify the rules that regulate the possession and use of raptors for falconry. Therefore, DWR determines that these amendments will not create any cost or savings impact to the state budget or DWR's budget, since the changes will not increase workload and can be carried out with existing budget.

◆ LOCAL GOVERNMENTS: Since the amendments clarify the rules that regulate the possession and use of raptors for falconry, this filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

◆ SMALL BUSINESSES: These amendments clarify the rules that regulate the possession and use of raptors for falconry. Therefore, this rule does not impose any additional financial requirements on small businesses nor generate a cost or saving impact to small businesses.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: These amendments clarify the rules that regulate the possession and use of raptors for falconry. Therefore, this rule does not impose any additional financial requirements on persons nor generate a cost or saving impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The amendments are for clarification. Thus the DWR determined that there were no additional compliance costs associated with this amendment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to businesses.

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

NATURAL RESOURCES  
WILDLIFE RESOURCES  
1594 W NORTH TEMPLE  
SALT LAKE CITY, UT 84116-3154  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/14/2017

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2017

AUTHORIZED BY: Mike Fowlks, Deputy Director

## **R657. Natural Resources, Wildlife Resources.**

### **R657-20. Falconry.**

#### **R657-20-1. Purpose and Authority.**

(1) Under authority of Section 23-17-7 and in accordance with the Migratory Bird Treaty Act in 16 U.S.C. 703-12 (50 CFR 21[~~and 22~~] [(c)10/01/2000(j)]), and Bald the Bald and Golden Eagle Protection Act in 16 U.S.C. 668-668d (50 CFR 22), which is incorporated by reference, the Wildlife Board has established this rule for the practice of falconry in the state of Utah.

(2) Take and or possession of any raptor species for the practice of falconry must be in compliance with these regulations.

(3) Raptor species possessed under the authority of this rule must be trained in the pursuit of wild game and used in hunting, unless specifically noted otherwise in special provisions granted under this rule.

(4) A federal falconry permit is no longer required for practicing the sport of falconry in the state of Utah.

(5) The Federal Migratory Bird Treaty Act prohibits any person from taking, possessing, purchasing, bartering, selling, or offering to purchase, barter, or sell, among other things, raptors listed in [~~Section 10-13~~]Code of Federal Regulations 50 CFR [~~24,~~]10.13, unless the activities are allowed under provisions of this rule, or are permitted by other applicable state or Federal regulations.

(a) This rule covers all avian species in the Order Accipitriformes (i.e., vultures, California Condor, kites, eagles and hawks), Order Falconiformes (i.e., caracaras, and falcons) and Order Strigiformes (i.e., owls), and hybrids thereof, and applies to any person who possesses one (1) or more wild-caught, captive-bred, or hybrid raptors to use in falconry.

(b) The Bald and Golden Eagle Protection Act in 16 U.S.C. 668-668d and 54 Stat. 250[~~j~~] provides for the taking of golden eagles from the wild to use in falconry, and specifies that the only golden eagles that may be used for falconry are those that would be taken because of depredations on livestock or wildlife (16 U.S.C. 668a).

(6) Specific season dates, possession limits, open and closed areas, number of permits or CORs for birds available for take in a given season, and other administrative [~~regulations for~~]matters pertaining to the practicing of falconry are [~~published in the Utah falconry Guidebook which is available by contacting the Division of Wildlife Resources office in Salt Lake City or~~]available online at <http://wildlife.utah.gov>.

(7) Possession of any raptor, raptor egg, shell fragment, semen, or any raptor part without a valid and applicable state COR or Federal permit is [~~prima facie evidence~~]probable cause that the raptor, raptor egg, shell fragment, semen, or any raptor part was illegally taken and is illegally held in possession.

(8)(a) Pursuant to Utah Code Section 23-19-9, the Division has the authority to suspend or revoke any or all of the privileges granted under this rule.

([a]b) [~~Upon request, a~~]A permittee whose falconry COR has been suspended may reapply for a [~~falconry~~]COR, pursuant to

the application procedures in this rule[;] at the end of the suspension period.

(9) Nothing in this rule shall be construed as to allow the intentional taking of protected wildlife in violation of federal or state laws, rules, regulations, or guidebooks.

#### **R657-20-2. Definitions.**

(1) Terms used in this rule are defined in Utah Code Section 23-13-2 and R657-6-2.

(2) In addition:

(a) "Abatement activities" means use of trained raptors to flush, haze or take birds (or other wildlife where allowed) to mitigate depredation problems, including threats to human health and safety.

(b) "Aerie" refers to the nest of any raptor.

(c) "Bate" refers to a hawk or falcon that attempts to fly while being tethered to the falconer's fist, a block or other form of perch, whether from wildness, or for exercise, or in an attempt to chase.

(d) "Business Day" refers to any day the Division is open for business

(e) "Captive-bred" refers to raptors, including eggs, hatched in captivity from parents that mated or otherwise transferred gametes in captivity.

(f) "CFR" means the Code of Federal Regulations.

(g) "COR" for purposes of this rule means a Certificate of Registration (permit) issued by the Division authorizing an individual to participate in the sport of falconry.

(h) "Eyas" means a young raptor not yet capable of sustained flight such as a nestling or fledgling.

(i) "Division" means the Utah Division of Wildlife Resources.

(j) "Falconry" means, for the purposes of this rule, caring for and training raptors for pursuit of wild game, and hunting wild game with raptors. Falconry includes the taking of raptors from the wild to use in the sport of falconry; and caring for, training, and transporting raptors held for falconry.

(k) "Fledged" means the stage in a young raptor's life when the feathers and wing muscles are sufficiently developed for flight. A young raptor that has recently fledged but is still dependent upon parental care and feeding is called a fledgling.

(l) "Form 3-186A" means the federal Migratory Bird Acquisition and Disposition Report form.

(m) "Hacking" means the temporary or permanent release of a raptor held for falconry to the wild so that it may survive on its own.

(n) "Haggard" means a wild adult raptor.

(o) "Humane treatment" for purposes of this rule means to maintain raptors in accordance with accepted standards for practicing falconry, including care and treatment of a raptor so that it is physically healthy and maintaining raptors under conditions that are known to prevent predictable illness or injury.

(p) "Hybrid" means offspring of birds listed as two (2) or more distinct species[ ~~including but not limited to those listed in section 10.13 of Subchapter B of 50 CFR 21, or offspring of birds recognized by ornithological authorities as two or more distinct species including but not limited to those listed in section 10.13 of Subchapter B of 50 CFR 21.~~ ]

(q) "Imping" means to graft new or additional feathers to existing feather shafts on a raptor's wing(s) or tail to repair damage or to increase flying capacity.

(r) "Imprint", for the purposes of falconry, means a bird that is hand-raised in isolation from the sight of other raptors from two (2) weeks of age until it has fully feathered. An imprinted bird is considered to be so for its entire lifetime.

(s) "Landowner" means any individual, family or corporation who owns property in Utah and whose name appears on the deed as the owner of eligible property or whose name appears as the purchaser on a contract for sale of eligible property, or who is a lessee of the property.

(t) "Livestock depredation area" means a specific geographic location in which depredation on livestock by ~~[golden eagles]~~ Golden Eagles (Aquila chrysaetos) has been recognized.

(u) "Marker or band" means a numbered band issued by the Service which, when affixed to a raptor's leg, identifies an individual raptor[;—] and its source under the following requirements:

[+i] a permanent, nonreusable (plastic, zip-tie) black-colored numbered leg bands identify an individual raptor that has been taken from the wild;

[2]ii] a seamless (metal) yellow-colored numbered leg bands identify an individual raptor that has been captive-bred; or

[a]iii] a permanent, nonreusable (plastic, zip-tie) yellow-colored numbered leg bands are used when a seamless band needs to be replaced.

(v) "Meet" means, for purposes of this rule, an organized falconry event where protected wildlife may be taken and for which a five (5) day non-resident meet hunting license is approved by the ~~[Wildlife Board.]~~ Division Director or designee.

(w) "Mews" refers to a protected indoor facility (a residence or non-residence) where raptors are kept for falconry purposes.

(x) "Migratory game bird" means, for the purposes of this rule, ~~[ducks, geese, swans, snipe, coot, Mourning Dove, White-winged Dove, Band-tailed Pigeon, and Sandhill Crane.]~~ those species listed in R657-6 and R657-9.

(y) "Nest" refers to the structure or place where a raptor lays eggs and shelters its young.

(z) "Passage raptor" means a first-year raptor capable of sustained flight that is no longer dependent upon parental care and/or feeding

(aa) "Raptor" means any bird of the Order Accipitriformes, Order Falconiformes [~~(falcons and caracaras)~~] or the Order Strigiformes [~~(owls)~~] and hybrids thereof unless defined otherwise in this rule.

(bb) "Reasonable time of day" for inspections[;] or other business[;] at a falconers facilities refers to hours the Division is open for business, or some other prearranged time between the falconer and the Division representative.

(cc) "Service" means the U.S. Fish and Wildlife Service.

(dd) "Take" means to[;] hunt, pursue, harass, catch, capture, possess, angle, seine, trap or kill any protected wildlife[;], or attempt any such action.

(ee) "Transport" means to ship, carry, export, import, receive or deliver for shipment, conveyance, carriage, exportation or importation.

(ff) "Trial" means, for purposes of this rule, an organized falconry event where European Starling (*Sturnella neglecta*), House Sparrow (*Passer domesticus*), Rock Dove/feral pigeon (*Columba livia*), Eurasian Collared-Dove (*Streptopelia decaocto*), pen-reared game birds, and lawfully possessed, domestic birds may be taken.

(gg) "Upland game" means, for purposes of this rule, [~~pheasant, quail, Chukar Partridge, Hungarian Partridge, Sage-grouse, Ruffed Grouse, Dusky ("Blue") Grouse, Sharp-tailed Grouse, cottontail rabbit, snowshoe hare, and White-tailed Ptarmigan.~~] those species defined by R657-6 and R657-9.

(hh) "Weathering Area" [~~refers to~~] means a protected outdoor facility where raptors are kept for falconry purposes[-] that meet the requirements established in R657-20-6.

(ii) "Wild" refers to an animal in its original natural state of existence[-] not. Animals that are domesticated [not] or cultivated are not considered wild.

(jj) "Year" refers to a normal calendar year of January 1 to December 31, unless defined otherwise in this rule.

### **R657-20-3. Minimum Age Requirement.**

(1) A person who wishes to practice the sport of falconry in Utah must be at least 12 years of age.

### **R657-20-4. Falconry COR, Permits, and Licenses.**

(1) The division may deny issuing a COR or permit to any applicant, if:

(a) The applicant has violated any provision of Title 23, Utah Wildlife Resources Code, Administrative Code R657, a certificate of registration, an order of the Wildlife Board or any other law that when considered with the functions and responsibilities of practicing the sport of falconry bears a reasonable relationship to the applicant's ability to safely and responsibly carry out such activities;

(b) the applicant misrepresented or failed to disclose material information required in connection with the application; or

(c) holding raptors at the proposed location violates federal, state, or local laws.

(2) A COR is not transferrable.

(3) CORs do not provide the holder with any rights of succession.

(4) Any COR issued to a business or organization shall be void upon the termination of the business or organization or upon bankruptcy or transfer.

(5)(a) A resident must possess a valid COR issued by the Division to take, possess, hunt with, or transport raptors for the purpose of [~~practicing the sport of~~] falconry in Utah.

(a) A falconry COR requires up to a 30-business day processing time from the date an application is received.

(b) A falconry COR is valid at the Apprentice Class level for a three (3)-year period from date of issuance.

(d) A falconry COR is valid at the General and Master Class level for a five (5)-year period from date of issuance.

(6) The falconer must have a falconry COR or a legible copy of it in their immediate possession when not at the location of their falconry facilities and is trapping, transporting, working with, or flying raptors in falconry.

(7)(a) A falconer must obtain a Raptor Capture Permit prior to capturing or attempting to capture any raptor from the wild in Utah.

(i) A valid falconry COR is required for a Utah resident in order to obtain a Raptor Capture Permit.

(c) Nonresident falconers are not required to purchase a Utah falconry COR in order to purchase a Nonresident Raptor Capture Permit.

(8) [~~The~~] An individual possessing a valid falconry COR [allows a resident falconer to] may use a raptor for unrestricted take of unprotected wildlife including coyote, field mouse, gopher, ground squirrel, jackrabbit, muskrat, raccoon, and European Starling, House Sparrow, Eurasian Collared Dove, and [rook dove] Rock Dove or feral pigeon[-] no, consistent with the following provisions:

(a) A resident falconer is not required to possess any other license or permit [~~is required other than the falconry COR for take of~~] take these species[-];

(a) A non-resident falconer is required to have a current falconry license or permit from his/her state of residence and a valid federal falconry permit, if applicable.

(9) [~~With a falconry bird, a~~] A falconer may take any species with a falconry bird for which a [federal] Federal Depredation Order is in place under parts 21.43, 44, [45,] or 46 of 50 CFR 21, at any time in accordance with the conditions of the applicable depredation order, as long as the falconer is not paid for doing so.

(10) A falconer releasing a raptor for the purpose of hunting protected wildlife[-] not identified in R657-20-4(8) that are not held in private ownership[-] must first obtain the appropriate licenses, permits, tags, CORs and stamps as provided in the applicable rules and guide books of the Wildlife Board[-], consistent with the following provisions:

(a) The hunting of upland game shall be done in accordance with the rule and guide book of the Wildlife Board for taking upland game species[-]; and

(b) The hunting of migratory game birds shall be done in accordance with the rule and guide book of the Wildlife Board for taking migratory game species.

(e) (1)(a) A hunting license is not required to take pen-reared game birds with a trained raptor if the game birds are lawfully possessed and banded with a permanent leg band purchased from the Division or other permanent marking.

(b) Pen-reared game birds used in falconry must comply with all requirements in R657-4 and all requirements established by the Utah Department of Agriculture and Food.

### **R657-20-5. Application for a Falconry COR.**

(1) To obtain a falconry COR, applicants must have either an indoor mews or an outdoor weathering area, or both pursuant to Section R657-20-~~6~~6.

(2) Resident Applications.

(a) A resident applying for or renewing a falconry COR shall:

(i) [~~Submit~~] submit a completed falconry application to the Division; [~~and~~]

(ii) [~~Include~~] identify species and number of birds proposed to be held at a given facility; and

(iii) include the appropriate COR fee.

(b) As a condition to obtaining a falconry COR, the falconer agrees to reasonable administrative inspections of falconry raptors, facilities, equipment, CORs, and related documents.

(c) Falconry raptors, facilities, equipment, and documents may be inspected by the Division only in the presence of the permittee at a reasonable time of day.

(d) At the time of renewal, the current falconry COR number must be included on the falconry COR renewal application.

(e) A falconer claiming residency in Utah may not claim residency in, or possess a resident falconry license or falconry permit from, another state.

(f)(i) Resident falconers wishing to renew a valid falconry COR must submit a completed falconry COR renewal form to the Division upon or before the expiration date specified on the current falconry COR.

(i)ii) Falconry COR ~~Renewals~~ renewals require up to a 30 business-day processing time for completion.

(g) Residents who do not hold a valid falconry COR or do not submit a COR renewal form by the date their current COR lapses and who maintain raptors in possession are in violation of unlawful captivity of protected wildlife under Sections 23-13-4 and 23-20-3.

(h) Failure to submit required records and timely, accurate, or valid reports may result in administrative action by the Division ~~[-]~~, including:

(i) ~~Administrative action that may be taken by the Division includes:~~

~~(A)~~ Issuance of a probationary COR with restrictions on activities allowed; or

~~(B)~~ii) Non-renewal of a COR until the required records and reports are completed.

(j)(i) A falconry COR is considered to be lapsed if the falconer has not applied for renewal within 30 calendar days of the expiration of their current COR.

(i)ii) Disposition of raptors held under a lapsed falconry COR is at the discretion of the Division.

(i)iii) Raptors held under a lapsed falconry COR are subject to seizure by the Division.

(k) A falconer who has allowed their COR to lapse may apply for a new COR.

(l) If a falconry COR has lapsed for fewer than five (5) years, it will be reinstated at the level held previously if:

(i) proof of certification at that level is provided ~~[and]~~ to the Division;

(ii) the applicant has ~~[appropriate]~~ facilities and equipment that meet the requirements in R657-20-6; and

(iii) the applicant is otherwise qualified ~~[under]~~ to obtain a COR pursuant to R657-20-[4]4.

(m)(i) If a falconry COR or Permit has lapsed for five (5) years or longer, an applicant must correctly answer at least 80 percent of the questions on an examination administered by the Division as required in Section R657-20-9(1)(b).

(A)ii) If the applicant passes the examination, a falconry COR will be reinstated at the level previously held.

(B)iii) The applicant's facilities and equipment must also pass inspection by a Division representative before possessing a raptor for falconry as required in Sections R657-20-6.

(3) Falconers Wishing to Establish Residency in Utah.

(a) A falconer entering Utah to establish residency must possess the following:

(i) A copy of the previous state's valid falconry license indicating class designation~~[-]~~;

~~\_\_\_\_\_~~ (ii) a current federal falconry permit number, if applicable~~[-]~~;

~~\_\_\_\_\_~~ (iii) a valid health certificate~~[-]~~ for each raptor in possession;

~~\_\_\_\_\_~~ (iv) the number and species of raptors with the band ~~[number]~~ numbers (if banded) ~~[of]~~ for each raptor held in possession~~[-]~~, and an entry permit number obtained from~~[-]~~; and

~~\_\_\_\_\_~~ (v) any additional documentation required by the Utah Department of Agriculture~~[- must be presented to the Division within 5 business days after entering Utah].~~

(b) A six (6)-month domicile period is required for a falconer entering Utah to establish residency.

(c) A falconer entering Utah to establish residency may possess legally obtained raptors that were acquired prior to entering Utah~~[-]~~ if the following requirements are satisfied:

~~\_\_\_\_\_~~ (i) If the raptor(s) is to be used for falconry during the six-month domicile period~~[-]~~;

~~\_\_\_\_\_~~ (i) documentation satisfying import requirements for the Utah Department of Agriculture for each falconry bird must be presented to the Division within five (5) business days after entering Utah;

~~\_\_\_\_\_~~ (ii) the falconer must purchase all applicable Utah non-resident hunting licenses and/or permits~~[-]~~;

~~\_\_\_\_\_~~ (d) A falconer wishing if the raptor(s) is to be used for falconry during the six (6)-month period necessary to establish residency;

~~\_\_\_\_\_~~ (iii) the falconer must maintain proper facilities and equipment ~~[(see Section)]~~as required in Sections R657-20-6, ~~[R657-20-]~~7, and ~~[R657-20-8-]~~8; and

~~\_\_\_\_\_~~ (iv) possession of the raptor is allowed under the provisions of this rule.

(e)d) At the conclusion of the six (6)-month domicile period, a new resident applying for a falconry COR must submit the following to the Division:

(i) ~~[-A]~~a completed falconry application indicating class designation;

(ii) ~~[-A]~~a copy of a valid falconry license from the former state of residency indicating class designation;

(iii) ~~[-A]~~a valid federal falconry permit number, if applicable; and

(iv) ~~[-The]~~the appropriate COR fee.

(f)e) A falconer that holds raptors in possession and fails to apply for a falconry COR within 30 days of qualifying for residency ~~[will be]~~is in violation ~~[of the law for unlawful captivity of protected wildlife under]~~Utah Code Sections 23-13-4 and 23-20-~~[3 and]~~3, may be denied a falconry COR, and any raptors in their possession may be subject to seizure.

#### **R657-20-6. Care and Facilities Requirements.**

(1) A person may not possess a raptor without first providing adequate facilities and equipment to humanely house and care for the raptor.

(2) Care Requirements.

(a) The ~~[Falconer]~~falconer is responsible for the maintenance and security of raptors held in his or her care.

(b) All raptors held under a falconry COR must be kept in humane and healthy conditions.

(i)c) The Division may impose additional requirements ~~[to insure]~~regarding the safe and humane handling and care of



raptors ~~[when]~~ that are necessary to ensure the birds are maintained in ~~[inhumane or unhealthy conditions]~~ a healthy condition.

(3) Facilities Requirements and Inspections.

(a) The primary consideration for raptor housing facilities, whether an indoor mews or outdoor weathering area, is protection of the raptor from unauthorized human access and disturbance, the environment, predators ~~[(to include)]~~, including domestic as well as wild animals ~~[)]~~, inhumane treatment, and other undue disturbances.

(b) Request for a facilities inspection must be made by ~~[calling]~~ contacting the Regional Division office where the facilities are located.

(c) Once a request is received, a facilities inspection will be completed by the Division within 30 business days of the date the request is received.

(d)(i) Before a person may obtain a falconry COR, the raptor housing facilities and equipment shall be inspected and approved by a Division representative.

(i)(ii) Inspections must be conducted in the presence of the ~~[permittee]~~ applicant.

(i)(iii) In the course of this inspection, the Division representative may collect ~~[a photograph]~~ photographs of the facilities to keep on file with the falconer's ~~[other state]~~ records.

(e) Detailed photos and a description of facilities and equipment, including measurements of mews or weathering areas, shall constitute a temporary inspection for purposes of issuing ~~[COR's]~~ CORs if the Division has not physically inspected within 30 business days.

(f) The COR may be revoked if significant changes to facilities are made without prior notification to the Division or if the photos and descriptions of facilities and equipment do not match the facilities in place. ~~[Any significant changes to facilities require notification to the Division.]~~

(f)(g) Facilities must be adequate to house the number and species of raptors in possession.

(i)(h) Only inspected and approved indoor mews and weathering areas may be used for housing raptors for falconry.

(f)(j) In ~~[conjunction with]~~ addition to inspected and approved facilities, raptors may also be housed inside a place of residence as provided in Section R657-20-6(4)(f)(g)(c).

(i)(j) A new facilities inspection will be required when a permittee changes address ~~[-or]~~, increases the number or species of raptors in their possession beyond capacity of the existing inspected facilities, or changes class of their falconry COR.

(h)(k) The Utah Falconry Program Coordinator must be notified within five (5) business days of a change in the location of an individual's falconry facilities ~~[-]~~ by submitting notice to [falconry@utah.gov](mailto:falconry@utah.gov).

(i)(l) Facilities requirements for non-resident falconers wishing to establish residency in Utah.

(A)(i) A raptor may be housed in a temporary facility for no more than six (6) months, provided the temporary facility has been inspected and has a suitable perch for the raptor and adequately protects it from predators, domestic animals, extreme temperatures, wind, and excessive disturbance.

(ii) Following establishment of residency, the falconer must have facilities re-inspected to ensure compliance with the facilities requirements of this rule.

(m) Falconry facilities may be on property owned by another person, provided the falconer submits a signed and dated statement by the falconer and the property owner agreeing that the falconry facilities, equipment, and raptors may be inspected without advance notice by the Division at any reasonable time of day.

(4) The Mews.

(a) ~~[The mews must have a suitable perch for each raptor, at least one opening for sunlight, and must provide for a healthy environment for each raptor inside.]~~

~~[(b)]~~ A mews [must] shall:

~~[(i)]~~ be large enough to allow easy access for the care and feeding of raptors kept inside[-];

~~[(e)]~~ Untethered raptors may be housed together in the mews if they are compatible with each other.

~~[(i)]~~ If untethered raptors housed in an indoor mews that is not a place of residence, then the mews must be fully enclosed;

~~[(ii)]~~ provide for a healthy environment for each raptor inside;

~~[(ii)]~~ Walls [iii] have walls and ceiling [of the mews] that may be solid, [or] barred, or covered with heavy duty netting[-];

~~[(iii)]~~ If bars, or heavy duty netting, or mesh are used, so long as any openings [must be] are narrower than the width of the body of the smallest raptor [housed in the mews.] kept inside;

~~[(iv)]~~ have a suitable perch for each raptor and at least one (1) opening for sunlight, or adequate lighting if mews is in a residence.

~~[(d)]~~ Each mews must [v] be large enough to allow each raptor the opportunity to fly if it is untethered or, if tethered, to fully extend its wings or bate without damaging its feathers[-]; and

~~[(e)]~~ Each raptor shall have [vi] include a pan of clean water large enough for each raptor housed in the mews to bathe in it that remains available to [it] the housed raptors at all times [while in a mews], unless weather conditions, perch type used, or some other factor makes it inadvisable to have water available next to the raptor.

(b) Indoor facilities as a mews.

~~[(i)]~~ Indoor mews used to house untethered raptors must be fully enclosed, unless the indoor mews are a place of residence.

~~[(f)]~~ Acceptable indoor facilities may include shelf perch enclosures where raptors are tethered side by side. [Other innovative]

~~[(iii)]~~ At the discretion of the Division, other housing systems [are acceptable] may be approved if they provide the enclosed raptors with [protection and] comparable facilities characteristics to those listed in R657-20-6(4) and the opportunity to maintain undamaged feathers.

~~[(g)]~~ A place of residence [used for housing falconry raptors indoors is considered a mews provided each raptor is tethered to a suitable perch] as a mews.

~~[(i)]~~ A raptor may be untethered inside a place of residence when being handled.

~~[(ii)]~~ If a raptor is housed inside a place of residence, the residence must satisfy all of the general requirements of a mews identified in R657-20-6(4), except there is no need to modify windows or other openings in the residence.

~~[(iii)]~~ A raptor may be housed untethered inside a flight chamber constructed within a place of residence with the following provisions: [(ii) Falconry raptors housed in a place of residence may

satisfy the mews requirement, provided each raptor is tethered to a suitable perch, except when being handled or when flown within a flight chamber.

(iii) Areas within a residence that may be used as a flight chamber must satisfy the following conditions:

(A) the flight chamber must have a source of light;

(B) ~~The~~the flight chamber must be fully enclosed;

(C) ~~Walls~~walls and ceiling of the flight chamber may be solid, ~~or~~barred, or covered with heavy duty netting; and

(D) ~~If~~if bars, ~~or~~heavy duty netting, or mesh are used, openings must be narrower than the width of the body of the smallest raptor housed in the flight chamber.

(d) Untethered raptors may be housed together in any mews if they are compatible with each other.

(5) Weathering Area.

(a) The weathering area must be:

(i) totally enclosed, ~~and can be made of heavy-gauge wire, heavy-duty plastic mesh, slats, pipe, wood, or other~~;

(ii) constructed of any suitable material capable of preventing the raptor's escape and excluding predators and other animals capable of causing harm to the raptor[.];

~~(b) The weathering area must be~~(iii) covered and have at least one (1) covered perch to protect a raptor from predators and weather[-];

~~(c) Adequate perches must be provided within the weathering area to ensure the health, safety and protection of the raptor[.];~~

~~(d) Raptors must be tethered while inside the weathering area[.]~~

~~(e) The weathering area must be~~(iv) large enough to insure that the raptor(s) cannot strike the enclosure when bating from the perch[-];

(v) include a pan of clean water large enough for each raptor housed in the mews to bathe in it;

(vi) provide a water source that that remains available to the housed raptors at all times, unless weather conditions, perch type used, or some other factor makes it inadvisable to have water available next to the raptor.

(b) Raptors must be tethered while inside the weathering area.

~~(f)~~(c) Raptors may be perched next to a solid or fully opaque wall in the weathering area provided the proximity of the wall to the perch will not cause injury to the raptor or feather damage.

~~(g) Each raptor should have a pan of clean water available.~~

~~(i) At the discretion of the permittee, this requirement is waived if weather conditions, the perch type used, or some other factor makes it inadvisable to have water available to the raptor[.]~~

~~(h)~~(d) New types of housing facilities and/or husbandry practices may be used if they satisfy the requirements of this chapter and are approved by the Division.

~~(i)~~(6) Falconry raptors may be kept outside in the open at any location if they are under watch by an individual familiar with the handling of raptors.

~~(j) Approved falconry facilities may be on property owned by another person, provided the falconer submits a signed and dated statement by the falconer and the property owner~~

~~agreeing that the falconry facilities, equipment, and raptors may be inspected without advance notice by the Division at any reasonable time of day.~~

~~(k)~~(7) Raptors in transit must be provided with an adequate perch and protected from extreme temperatures, wind, and excessive disturbance to ensure the health, safety and protection of any raptor being transported.

#### **R657-20-7. Temporary Care of Falconry Raptors.**

(1) Short-term handling of a raptor by a person other than the permitted falconer, such as allowing a person to handle or practice flying a permittee's raptor, is not considered temporary possession for the purposes of this rule, provided the permittee is present and supervising the individual that is handling the raptor.

(2) Temporary care of raptors by another falconry permittee.

(a) Another falconry permittee may care for a falconer's raptors for up to 120 consecutive calendar days.

(b) The temporary care permittee must have a signed and dated statement from the falconer authorizing the temporary possession, in addition to a copy of the FWS Form 3-186A for that raptor.

(i) The signed and dated statement must identify the time period for which the temporary permittee will keep the raptors and what activities are allowed to be carried out with the raptors.

(ii) Falconry raptors in temporary care will remain on the original falconer's COR and will not be counted against the possession limit of the person providing the temporary care for the raptors.

(iii) If the permittee providing temporary care for the raptors holds the appropriate level falconry permit, then the temporary permittee may fly the raptors in whatever way authorized by the falconer, including hunting.

(iv) Temporary care of raptors may be extended by the Division Director or designee in extenuating circumstances such as, illness, military duty, and family emergency. The Division Director or designee will consider extenuating circumstances on a case-by-case basis.

(3) Temporary care of raptors by a non-falconer.

(a) A non-falconer may care for a falconer's raptors for up to 45 consecutive calendar days.

~~(i)~~(b) The raptors will remain on the original falconer's COR.

~~(ii)~~(c) The raptors must remain at the original falconer's facilities.

~~(iii)~~(d) Temporary care of raptors by non-falconers may be extended by the Division Director or designee in extenuating circumstances such as illness, military duty, or family emergency. The Division Director or designee will consider extenuating circumstances on a case-by-case basis.

~~(iv)~~(e)~~[—]~~ A non-~~falconer~~falconer caring for a falconer's raptors may not fly them for any reason.

(4) Transfer of falconry raptors when a permittee dies.

(a) A surviving spouse, executor, administrator, or other legal representative of a deceased falconry permittee may transfer any raptor(s) held by the deceased permittee to another authorized permittee within 90 calendar days of the death of the original falconry permittee.

(b) After ~~[45]~~90 calendar days from the death of the falconry permittee, disposition of raptors held under the permit is at the discretion of the Division.

#### **R657-20-8. Equipment.**

(1) Prior to the facilities inspection and issuance of a falconry COR, the applicant shall possess the following items for each raptor in possession or for each raptor proposed for future capture:

(a)~~[-A]~~(i) at least one (1) pair of Aylmeri jesses, or similar type, made from pliable, high quality leather or suitable synthetic material~~[-];~~

~~-----~~~~(b) The], or the~~ materials and equipment necessary to make Aylmeri jesses or other material to be used when any raptor is flown free~~[-]; and~~

~~[(i) Traditional]~~(ii) traditional one (1)-piece jesses may be used on raptors when not being flown~~[-];~~

~~(e)]~~(b) ~~[-A]~~at least one (1) flexible, weather-resistant leash~~[-];~~

~~(d)]~~(c) ~~[-A]~~at least one (1) swivel of acceptable falconry design~~[-];~~

~~(e)]~~(d) ~~[-A]~~at least one (1) suitable container, two (2) to six (6) inches deep and wider than the length of the raptor, to hold drinking and bathing water for each raptor~~[-];~~

~~(f)]~~(e) ~~[-A]~~at least one (1) perch of an acceptable design will be provided for use for each raptor~~[-];~~

~~(g)]~~(f) ~~[-A]~~a reliable scale or balance suitable for weighing the raptor held and graduated to increments of not more than one (1)-half ounce or less~~[-]; and~~

~~(h)]~~(g) ~~[Før]~~for small raptors, such as kestrels, merlins, and sharp-shinned hawks, the scale must weight in increments of at least one (1) gram.

#### **R657-20-9. Apprentice Class Falconer.**

(1) Apprentice class falconer requirements,

(a) Applicants for an Apprentice Class falconry COR must be at least 12 years of age~~[-];~~

~~(i)]~~(b) Applicants for an Apprentice Class falconry COR who are under 18 years of age must have a parent or legal guardian sign their application~~[-];~~

~~(ii)]~~(c) The parents or legal guardian of a minor Apprentice Class falconer under the age of 18 are legally responsible for the activities of their child.

~~(d) An individual may not take the falconry exam earlier than two (2) months prior to their 12th birthday.~~

~~(b)]~~(e) Applicants for an Apprentice Class falconry COR must correctly answer at least 80 percent of the questions on an examination administered by a Division representative.

~~-----~~~~(i) An individual may not take the falconry exam earlier than two months prior to their 12th birthday.]~~

~~(ii)]~~(f) The examination questions will cover basic care and handling of falconry raptors, state and Federal laws and regulations relevant to falconry, raptor biology, diseases and health issues, raptor identification, trapping~~[-and]~~, training methods, and other appropriate subject matter.

~~(iii)]~~(i) An individual may contact any Division office for information about taking the examination.

~~(iv)]~~(ii) Falconry examinations are administered at any Division office by appointment only during business hours.

~~(v)]~~(iii) An individual that fails to correctly answer at least 80 percent of the questions on the exam may retake the exam after a minimum 14-day period.

~~(vi)]~~(vi) An individual that correctly answers at least 80 percent of the questions on the exam has up to 1 year from the exam date to submit application for a falconry COR.

~~(vii)]~~(vii) An individual may only attempt the falconry exam three times in a calendar year.

~~(e)]~~(g) An applicant's facilities and equipment must pass inspection by the Division under R657-20-6 before a falconry COR can be issued.

(2) Possession of Raptors at the Apprentice Class,  
~~(a) [-An Apprentice Class falconer may take or possess for falconry]~~

~~-----~~~~(i) Any wild-caught passage age raptor or captive-bred, or hybrid raptor species of the Order Accipitriformes, Falconiformes or Strigiformes with the following exceptions:~~

~~-----~~~~(3) The hybrid raptor cannot be the result of a cross involving any species listed in Section 10.13 of 50 CFR 21 (Federal Migratory Bird Treaty Act)~~

~~-----~~~~(i) An Apprentice Class falconer may not take or possess;~~

~~-----~~~~(i) any raptor taken from the wild as an eyas;~~

~~-----~~~~(ii) any federally listed threatened or endangered species;~~

~~-----~~~~(iii) any wild caught, captive-bred, or hybrid eagles;~~

~~-----~~~~(ii) An Apprentice Class falconer may not take or possess federally listed threatened or endangered species;~~

~~-----~~~~(iii) An Apprentice Class falconer may not take or possess any wild-caught species listed as a national Species of Conservation Concern by the Service;]~~

~~-----~~~~(iv) any wild-caught species taken in Utah when that bird is listed as a Bird of Conservation Concern ("BCC") by the Service for the Bird Conservation Region ("BCR") area where it is taken, as depicted on the Division's website at [utah.falconry.gov](http://utah.falconry.gov);~~

~~-----~~~~(b) An Apprentice Class falconer may possess no more than one (1) wild-caught passage age raptor or captive-bred raptor for use in falconry regardless of the number of state, tribal, or territorial falconry CORs or permits that the Apprentice has been issued.]~~

~~-----~~~~(v) any hybrid raptor; or~~

~~-----~~~~(vi) any imprinted raptor.~~

~~-----~~~~(b) If not otherwise prohibited by R657-20-9(2)(a), an Apprentice Class falconer may take or possess any passage age raptor that is wild-caught, captive-bred, or acquired through legal transfer listed below:~~

~~-----~~~~(i) Northern Harrier (Circus cyaneus);~~

~~-----~~~~(ii) Sharp-shinned Hawk (Accipiter striatus);~~

~~-----~~~~(iii) Cooper's Hawk (Accipiter cooperii);~~

~~-----~~~~(iv) Northern Goshawk (Accipiter gentilis);~~

~~-----~~~~(v) Harris's Hawk (Parabuteo unicinctus);~~

~~-----~~~~(vi) Common Black-Hawk (Buteo gallus anthracinus);~~

~~-----~~~~(vii) Red-tailed Hawk (Buteo jamaicensis);~~

~~-----~~~~(viii) Rough-legged Hawk (Buteo lagopus);~~

~~-----~~~~(ix) Ferruginous Hawk (Buteo regalis);~~

~~-----~~~~(x) American Kestrel (Falco sparverius);~~

~~-----~~~~(xi) Merlin (Falco columbarius);~~

~~-----~~~~(xii) Prairie Falcon (Falco mexicanus);~~

~~-----~~~~(xiii) Gyrfalcon (Falco rusticolus);~~

~~(xiv) Peregrine Falcon (*Falco peregrines*), except an Apprentice may only possess non-imprint Peregrine Falcons; and~~

~~(xv) Great Horned Owl (*Bubo virginianus*).~~

~~(c) An Apprentice Class falconer may possess no more than one (1) raptor for use in falconry.~~

~~(c) Another falconry permittee may capture a wild raptor in compliance with R657-20-13 and transfer the raptor to an Apprentice Class falconer [as provided in R657-20-15.~~

~~(d) An Apprentice Class falconer may not take or possess a raptor taken from the wild as an eyas.~~

~~(e) An if the Apprentice Class falconer may [not]lawfully possess [an imprint]that raptor.~~

#### **R657-20-10. Apprentice Class Sponsor.**

(1) Applicants for an Apprentice Class falconry COR must have a sponsor to mentor and assist the Apprentice Class falconer[~~as necessary,~~] in the following activities:

(a) [~~Husbandry~~]husbandry and training of raptors held for falconry;

(b) [~~Relevant~~]relevant wildlife laws and regulations[~~;~~]; and

(c) [~~Determining~~]determining what species of raptor is appropriate for the Apprentice to possess.

(2) The person applying for an Apprentice Class falconry COR must provide the Division with a letter from their chosen sponsor stating that sponsor's willingness to serve as a sponsor for the Apprentice Class falconer.

(3) Requirements of an Apprentice Class Sponsor.

(a) Any person sponsoring an [~~apprentice~~]Apprentice under the age of 18, other than the minor's parent or legal guardian, must be approved in writing by the minor's parent or legal guardian and submitted to the Division before being designated as the minor's sponsor; and

(b)[~~A~~](i) a sponsor must be a Master Class Falconer who holds a valid Utah Falconry COR[~~;~~]; or

(i)ii) [~~Be~~]be a General Class Falconer who is at least 18 years of age, has no less than two (2) years experience at the General Class falconer level, and who holds a valid Utah falconry COR.

(4) Unless approved in writing by the Division [~~in writing~~]director or designee, the sponsor cannot reside :

(a) [~~Greater~~]greater than a 100 mile distance from the Apprentice; or

(b) [~~Outside~~]outside of Utah[~~;~~] so long as the falconer has a valid falconry permit at the General or Master Class level.

(5)(a) Apprentice Class falconers that change or terminate sponsors must notify the Division in writing and provide a letter from the new sponsor showing compliance with the requirements listed in R657-20-10(3) and (4).

(a)b) In the event sponsorship is terminated, the holder of an Apprentice Class falconry COR must notify the Division and obtain a new sponsor within 30 calendar days of termination.

#### **R657-20-11. General Class Falconer.**

(1) General Class falconer requirements.

(a) Applicants for a General Class falconry COR must be at least 16 years of age[~~;~~].

(i)b) Applicants for a General Class falconry COR who are under 18 years of age must have a parent or legal guardian sign their application[~~;~~].

(i)c) The parents or legal guardian of a minor General Class falconer under the age of 18 are legally responsible for the activities of their child.

(i)d) New General Class applicants must submit a request for class upgrade to the Division in writing or via email at [falconry@utah.gov](mailto:falconry@utah.gov), and include a document from their [~~General Class or Master Class~~]sponsor stating that the General Class applicant has practiced falconry at the Apprentice Class [~~Falconer~~]falconer level or equivalent for at least two (2) years, including maintaining, training, flying, and hunting raptors for at least four (4) months in each separate 12-consecutive month period.

(i) For purposes of this Subsection, two (2) years means two (2) separate 12-consecutive month periods, beginning when the COR is issued.

(ii) A General Class applicant may not substitute any falconry school program or education to shorten the minimum period of two (2) years at the Apprentice level.

(iii) Evidence that a General Class applicant has had a valid General Class level falconry license or permit in another state for at least two (2) years may be substituted for the Apprentice Class falconry COR requirement.

(2) Possession of raptors at the General Class.

(a) A General Class falconer may not take or possess[~~any eyas or passage age wild-caught raptor,~~];

(i) any federally listed threatened or endangered species, unless otherwise authorized by a federal take permit; or

(ii) any wild caught, captive-bred, or hybrid Bald Eagle, Golden Eagles, White-tailed Eagle or Stellar's Sea-eagle.

(b) A General Class falconer [~~may~~]wishing to possess [~~captive-bred, or hybrid raptor species of the Order Accipitiformes, Falconiformes or Strigiformes with the following exceptions~~]any of the following raptors must first obtain an authorization from the Division by providing the information required in R657-20-12(2)(d) (i) and (ii):

(i) [~~A General Class falconer may not take or possess eagles;~~]Bonelli's Eagle (*Aquila fasciata*);

(ii) [~~A General Class falconer may take or possess or any wild-caught species listed as a national Species of Conservation Concern by the Service.~~]Steppe Eagle (*Aquila nipalensis*);

(iii) Tawny Eagle (*Aquila rapax*);

(iv) African Hawk-Eagle (*Aquila spilogaster*);

(v) Verreaux's Eagle (*Aquila verreauxii*);

(vi) Crested Hawk-Eagle (*Nisaetus cirrhatus*);

(vii) Mountain Hawk-Eagle (*Niseatus nipalensis*);

(viii) Martial Eagle (*Polemaetus bellicosus*);

(ix) Harpy Eagle (*Harpia harpyja*); and

(x) Eurasian Eagle-Owl (*Bubo bubo*).

(c) A General Class falconer may possess no more than three (3) wild-caught eyas[~~or~~], passage, or haggard age raptors, captive-bred raptors, or hybrid raptors, or any combination thereof[~~;~~ for use in falconry regardless of the number of state, tribal, or territorial falconry CORs or permits that the General Class falconer has been issued[~~;~~].

**R657-20-12. Master Class Falconer.**

(1) Master Class falconer requirements.

(a) Applicants for a Master Class falconry COR must have five (5) years of experience practicing falconry with raptor(s) held under their own state, tribal, or territorial falconry COR or permits at the General Class [~~Falconer~~] level.

(i) For the purposes of this Subsection, [~~five (5) years of experience~~] means maintaining, training, flying, and hunting the raptor(s) for at least four (4) months in each of five (5) separate 12-month periods, beginning when the COR is issued.

(ii) Evidence that the applicant has had a valid General Class level falconry license or permit in another state for at least five (5) years may be substituted for the General Class falconry COR requirement.

(iii) If an applicant has held falconry raptor(s) on an extended temporary basis, that experience may qualify for purposes of these requirements.

(2) Possession of Raptors at the Master Class.

(a) A Master Class falconer may not take or possess;

(i) any federally listed threatened or endangered species, unless otherwise authorized by a federal take permit; or

(ii) any wild[-] caught[-] raptor, or hybrid raptor species of the Order Accipitriformes, Falconiformes or Strigiformes with the following exceptions[-], or hybrid Bald Eagles.

~~[(i) A Master Class falconer may not take or possess a bald eagle (Haliaeetus leucocephalus)]~~

~~[(ii) A Master Class falconer may take or possess any wild-caught species listed as a national Species of Conservation Concern by the U. S. Fish and Wildlife Service]~~

(b) A Master Class falconer may take ~~[and possess a golden eagle only if the qualifications set forth parting Subsection (2)(d) below are met.]~~ or possess a Golden Eagle (*Aquila chrysaetos*), if:

(i) the bird is obtained through legal transfer or is wild-caught from a livestock or wildlife depredation area described in R657-20-13(15); and

(ii) the falconer satisfies the conditions found R657-20-12(d).

(c)(i) A Master Class falconer may possess no more than 5 wild-caught ~~[eyes or passage age-]raptors~~ for use in falconry ~~[-including golden eagles, regardless of the number of state, tribal, or territorial falconry CORs or permits that the Master Class falconer has been issued].~~

(i) A Master Class falconer may possess any number of captive-bred raptors, provided :

(A) [Approved]approved facilities are available for the number of birds possessed; and

(B) [The]all captive-bred raptors [must be]in possession are trained and used in the [pursuit of wild game and used for hunting.]sport of falconry.

(d) A Master Class falconer [must]may obtain an authorization from the Division to possess [an eagle for use in falconry pursuant to R657-20-13;

(i) Approval for a Master Class falconer to take or possess an eagle for use in falconry shall not be granted unless the following documentation is provided:-]a Golden Eagle, White-tailed Eagle, Stellar's Sea-eagle, or other species listed in R657-20-11(2) (b) by providing the following:

~~[(A)]~~ [A] a written statement documenting the experience of the Master Class falconer in handling large raptors, including information about the species handled and the type and duration of activities in which the experience was obtained ~~[-]; and~~

~~[(B) At]ii~~ at least two (2) letters of reference from individuals with experience in handling or flying large raptors such as eagles, ~~[ferruginous hawks (Buteo regalis), Northern goshawks, or great horned owls (Bubo virginianus).]~~ Ferruginous Hawks, Northern Goshawks, or Great Horned Owls addressing:

~~[(H) Each reference letter must contain]A~~ a concise history of the author's experience with large raptors, which can include but is not limited to, handling of raptors held by zoos, rehabilitating large raptors, or scientific studies involving large raptors ~~[-]; and~~

~~[(H) Each reference letter must also assess]B~~ the Master Class ~~[Falconer]falconer's~~ ability to care for ~~[eagles]the species listed in R657-20-11(2)(b)~~ and fly them in falconry.

**R657-20-13. Acquiring Raptors for Falconry.**

(1) Licensed falconers wishing to take raptors from the wild for falconry must purchase a Raptor Capture Permit from the Division.

(a) A Raptor Capture Permit is valid for one (1) wild raptor authorized for possession in accordance with the restrictions and limitations of this rule.

(3) A licensed falconer may not take more than two (2) raptors from the wild each calendar year for falconry purposes.

(b) Raptor Capture Permits are non-transferable and non-assignable and can only be used by the person specified on the permit ~~[-. However]~~, except another person can assist the permit holder pursuant to Section R657-20-15.

(e) The Raptor Capture Permit and falconry COR (or legible copies thereof) must be in the possession of the permittee while pursuing, capturing or attempting to capture a wild raptor.

(2) (a) On an annual basis, the [falconry]Falconry Program Coordinator shall determine the available take of peregrine [falconers]falcons and [raptors]raptor species listed on the most recent edition of the Utah [sensitive species list.]Sensitive Species List.

(a) Notice of any limitations on the take of Peregrine Falcons and sensitive [raptors]raptor species shall be available by February 1 of each year and posted on the Division's website.

(c) The application period for take of Peregrine Falcons and sensitive raptor species is the first business day in February, though the last business day in March.

(b) If the number of applications received exceeds the available take, then the Division will conduct a drawing for each species.

~~[(c) An individual may only draw once every 2 years to take peregrine falcons, sensitive raptor species, and nonresident legal raptors.]~~

~~[(i) If the number of applications received is less than the available take, then the 2 year restriction is waived, and the remaining take will be made available to resident and nonresident falconers of the appropriate class on a first-come first-served basis.]~~

~~[(3) A licensed falconer may not take more than 2 raptors from the wild each calendar year for falconry purposes.]~~

(e) Individuals who draw a capture permit for a given species are placed on a one (1) year waiting period.

~~(f) Individuals on a waiting period may still apply in a drawing, be placed in the drawing order, and receive a capture permit if all applicants not on a waiting period have been given the opportunity to accept an available capture permit.~~

~~(a)7~~ Haggard age raptors may not be taken from the wild for falconry, with the exception that General and Master Class falconers may take a haggard American Kestrel from the wild between August 15<sup>th</sup> and February 15<sup>th</sup> annually.

~~(b)8~~ Any raptor taken from the wild for falconry is considered a "wild" raptor for the balance of the raptor's life, regardless of the length of captivity or the raptor's transfer to another permittee or permit type.

~~(e)9~~ A licensed falconer who wishes to take a raptor from the wild must meet all state and tribal requirements in this rule for capture of wild raptors for falconry.

~~(d)10~~ A permittee may not purchase, sell, trade, or barter a wild raptor.

~~(4) Resident Take of Wild Raptors]~~

~~(a)11~~ While trapping, falconers shall not retain and transport more than one (1) captured wild raptor per capture permit.

~~(5)12~~ Taking of wild raptors is prohibited within the boundaries of all National and State Parks in Utah.

~~(6)(13)(a)~~ A raptor ~~may~~ must be taken from the wild ~~by~~ using traps or nets that minimize the potential of physical injury and unnecessary stress to the raptor.

~~(a) Examples of acceptable devices are the ], including, but not limited to bal-chatri, dho-gazza, harness-type, phi trap, bow net traps, or other trapping devices that are humane and acceptable as commonly used in falconry trapping procedures.~~

(b) Trapping devices must be constantly attended while in use.

~~(7)14~~ A raptor taken from the wild may be transferred to another permittee under the following conditions:

(a) The captured raptor will count as one (1) of the raptors allowed for take from the wild in the calendar year it was taken by the capturing falconer; and

(b) The transferred wild raptor will not count as a capture by the recipient.

~~(8)15(a)~~ A permittee may not intentionally capture wild raptor species for falconry that their classification as a falconer does not allow them to possess.

~~(a)b~~ If a permittee captures a wild raptor he or she is not allowed to possess, it must be released immediately.

~~(9)16~~ A General or Master Class falconer may take no more than one (1) raptor from the wild each year which belongs to a species listed as threatened or endangered under the federal Endangered Species Act if allowed under 50C CFR part 17, and only if a federal endangered species permit is obtained before taking the bird.

~~(17)(a)(40)~~ A General or Master Class falconer may take eyas raptors from a nest or aerie only during the seasons specified for taking eyas raptors in Subsection ~~(12)19~~.

~~(a)b~~ At least one (1) young must be left in any nest or aerie from which an eyas is taken.

~~(b)c~~ Removal of young is prohibited from a nest or aerie that contains only one ~~eyas~~.

~~(c) An eyas may not be removed from its aerie prior to 10 days of age. (1) eyas.~~

~~(d) Aeries may not be entered when young are 28 days or more of age.]~~

~~(11)18~~ An Apprentice, General or Master Class falconer may take passage age raptors from the wild only during the seasons specified for taking passage age raptors in Subsection ~~(12)19~~.

~~(12)19~~ Periods for Allowable Take ~~of~~ of Raptors From the Wild.

(a) Eyas or passage age raptors of any allowable Strigiform species may be taken from March 1 through November 30.

(b) Eyas or passage age raptors of any allowable Accipitriform and Falconiform species, except ~~peregrine falcon (Falco peregrinus) and golden eagle (Aquila chrysaetos)]~~ Peregrine Falcon and Golden Eagle, may be taken January 1 through December 31.

~~(i) The peregrine falcon take season begins annually on May 1st and ends on August 31st.]~~

~~(ii)c~~ Notwithstanding Subsection ~~(12)19~~(b):

~~(A)i~~ Passage age raptors that fledged from the prior year may not be taken after March 1st; and

~~(B)ii~~ Passage age ~~gyrfalcons (Falco rusticolus)]~~ Gyrfalcons may be taken at any time.

~~(d) The Peregrine Falcon take season begins annually on May 1st and ends on August 31st.~~

~~(i) A Peregrine Falcon eyas may not be removed from its aerie prior to 10 days of age.~~

~~(ii) Peregrine Falcon aeries may not be entered when young are 28 days or more of age.~~

~~(e)e~~ Licensed falconers may take any raptor from the wild ~~that~~ if take is authorized under this rule ~~for take~~ and possession is authorized for their class level.

~~(f)i~~ A wild caught raptor, except Peregrine Falcon, that is banded with a Federal Bird Banding Laboratory aluminum band may be taken, provided the Federal Bird Banding Laboratory is notified of the removal of the banded raptor from the wild. Banded Peregrine Falcons must be promptly released and reported to the Federal Bird Banding Laboratory at www.reportband.gov.

(ii) The Federal Bird Banding Laboratory aluminum band may be removed if the raptor is to be retained, after notifying the Federal Bird Banding Laboratory.

(iii) Capture of any raptor that is marked with a seamless metal band, a transmitter, or any other item identifying it as a falconry bird must be reported to the Division no more than 5 business days after the capture.

(iv) Capture of any raptor that is marked with any other band, research marking, or ~~attached~~ research transmitter attached to it must be promptly reported to the Federal Bird Banding Laboratory at [www.reportband.gov](http://www.reportband.gov) or 1-800-327-2263.

~~(13)20~~ Nonresident Take of Wild Raptors.

(a) A nonresident falconer may not take any raptor from the wild without first obtaining a Nonresident Raptor Capture Permit from the Division.

(b) Nonresidents must show proof of a valid federal falconry permit or falconry license issued by their state of residency to purchase a Nonresident Raptor Capture Permit.

(c) Nonresident take of raptors is subject to all other applicable regulations set forth in this rule.

(~~[14]~~21) Special provisions for take of wild peregrine falcons.

(a) Only General and Master Class falconers ~~[only]~~ may take wild eyas or passage age peregrine falcons as provided in this rule.

(~~[b]~~e) The areas open for taking eyas and passage age peregrine falcons will be designated annually by the ~~[Falconry Program Coordinator]~~ Division Director or designee.

(~~[e]~~f) ~~[-A peregrine falcon]~~ A Peregrine Falcon that is marked with a with a Federal Bird Banding Laboratory aluminum band and/or a research band such as a colored band with alphanumeric codes or some other research marking attached must be immediately released~~[-~~

~~(i) Research band numbers and location and date of capture must be reported to the Division and] and reported within five (5) business days to the Federal Bird Banding Laboratory [(4-800-327-2263) within 5 business days of the date of capture.] at www.reportband.gov.~~

(~~[15]~~22) Special provisions for take of wild ~~[golden eagles]~~ Golden Eagles.

(a) A Master Class falconer with a COR to take ~~[golden eagles]~~ Golden Eagles may ~~[take]~~ possess no more than three ~~(3)~~ from the wild, subject to the requirements in ~~[federal statute]~~ 50 CFR 21 and Section R657-20-~~[12(2)(e)]~~12.

(~~[b]~~i) A Master Class Falconer that is authorized to take ~~[golden eagles]~~ Golden Eagles may take no more than two ~~[golden eagles]~~ (2) Golden Eagles from the wild in any calendar year and only in a livestock or wildlife depredation area during the time the depredation area declaration is in effect.

(~~[A]~~ii) The establishment, boundaries, and duration of a livestock or wildlife depredation area in Utah are ~~[declared]~~ as determined by U.S.D.A. Wildlife Services and the U. S. Fish and Wildlife Service in Lakewood, CO, or on request by the Governor to the Director of the Service (50 CFR 22.31).

(~~[ii]~~iii) A Master Class falconer authorized to take ~~[golden eagles]~~ Golden Eagles for use in falconry may capture an immature or subadult ~~[golden eagle]~~ Golden Eagle only in a livestock or wildlife depredation area during the time the depredation area is in effect in Utah.

(~~[A]~~iv) A Master Class Falconer may capture a nesting adult ~~[golden eagle]~~ Golden Eagle, or take an eyas from its nest, in a livestock or wildlife depredation area if a biologist representing the agency responsible for declaring the depredation area has determined that the parent adult eagle is preying on livestock or wildlife.

(~~[B]~~v) A government employee who has trapped a ~~[golden eagle]~~ Golden Eagle under Federal, State, or tribal permit may transfer the eagle to a Master Class falconer that is authorized to possess ~~[golden eagles]~~ Golden Eagles if the eagle cannot be released in an appropriate location.

(~~[ii]~~vi) A Master Class Falconer authorized to take a ~~[golden eagle]~~ Golden Eagle for falconry must contact USDA, Wildlife Services or the U. S. Fish and Wildlife Service in Lakewood, CO to determine the establishment and location of a livestock or wildlife depredation area in Utah and comply with the provisions of 50 CFR 21.29(e)(3)(ii)(E) regarding notification of law enforcement prior to initiating trapping activities.

(~~[A]~~vii) The Division does not provide livestock or wildlife depredation area information.

(~~[B]~~viii) The Master Class falconer must have permission from the private landowner to capture a ~~[golden eagle]~~ Golden Eagle on private lands.

(~~[16]~~23) Other special provisions for obtaining raptors for falconry

(a) A permittee may receive assistance from another individual in capturing a wild raptor, but the permittee must be present at the capture site.

(b) Regardless of the assistance of another person in capturing a wild raptor:

(i) The permittee is always considered to be the individual who removes the bird from the wild; and

(ii) ~~[the]~~ The permittee is legally responsible for complying with the reporting requirements for capturing a raptor from the wild, as provided in Subsection (1).

(~~[c]~~i) A permittee with a long-term or permanent physical impairment that prevents their attendance at the capture of a raptor for use in falconry, or is otherwise unable to be present at the immediate location where the raptor is taken from the wild, may contact a General or Master Class falconer only to capture a raptor on their behalf.

(~~[ii]~~ii) The impaired permittee is legally responsible for complying with the reporting requirements for capturing a raptor from the wild, as provided in Subsection (1).

(~~[ii]~~iii) The raptor will count against the take of wild raptors that the impaired permittee is allowed in any year.

(~~[iii]~~iv) The raptor will not count as one ~~(1)~~ of the two ~~[replacement]~~ (2) raptors the General or Master Class falconer who offers assistance is allowed to capture in any year.

(~~[iv]~~v) The raptor will not count as being taken from the wild by the permittee acting on behalf of the impaired permittee.

(d) Individuals authorized to do so may sell, purchase, or barter, or offer to sell, purchase, or barter captive-bred raptors marked with seamless bands to other permittees who are legally authorized to possess the raptor.

(e) A permittee may transfer a wild-caught raptor to another permittee who is legally authorized to possess the raptor, provided there is no pecuniary consideration for the transfer.

(~~[i]~~f) The number of wild caught or captive-bred raptors transferred to a permittee may not exceed the established possession limit for each permit class.

(~~[f]~~g)i) A licensed falconer may acquire directly from a rehabilitator a raptor of any age or species that the falconer is permitted to possess.

(~~[i]~~ii) A wild raptor acquired for falconry from a rehabilitator will count as one ~~(1)~~ of the raptors the falconer is allowed to take from the wild that calendar year.

#### **R657-20-14. Raptors Injured Due to Falconer Trapping Efforts.**

(1) Falconers that injure a raptor during trapping efforts are responsible for the costs of care and rehabilitation of the injured raptor.

(~~[a]~~2) An injured raptor retained by the permittee must be placed on the permittee's falconry permit.

(~~[b]~~3) The injured raptor must be treated by a veterinarian or a permitted wildlife rehabilitator.

(~~[e]~~4) The injured raptor must be immediately transported to a veterinarian, a permitted wildlife rehabilitator, or an appropriate wildlife agency employee.

(~~d~~)<sup>5</sup> The injured raptor will not count against the permittee's allowed take or the permittee's possession limit.

#### **R657-20-15. Recapture of Falconry Raptors.**

(1) A falconry raptor that has been lost may be recaptured at any time without the need to purchase a Raptor Capture Permit.

(2) Recapture of [~~a lost or~~an escaped [~~"wild"~~]raptor is not considered to be the taking of a raptor from the wild.

(3) A raptor wearing falconry equipment or a lost or escaped captive-bred raptor may be recaptured at any time by any other permitted falconer[~~—~~], even if the permittee performing the recapture is not allowed to possess the species.

(4)(~~a~~) A recaptured raptor will not count against a permitted falconer's possession limit, nor will its recapture from the wild count against the permitted falconer's replacement limit.

(~~a~~)<sup>b</sup> A recaptured falconry raptor must be returned to the permittee who lost it if that individual may legally take possession.

(~~i~~)<sup>c</sup> Disposition of a recaptured falconry raptor where the permittee's legal authority to possess the bird is in question will be determined by the Division Director or designee.

(~~ii~~)<sup>d</sup> A recaptured falconry raptor temporarily held for return to the permittee who lost it will not count against the possession or replacement limit on take of raptors from the wild if the individual temporarily holding the raptor has reported the recapture to the Division.

#### **R657-20-16. Flying a Hybrid Raptor in Falconry.**

(1) When flown free, a hybrid raptor must have at least two (2) attached radio transmitters for tracking.

#### **R657-20-17. Hacking of Falconry Raptors and other Training Techniques.**

(1) [~~A~~]Only a General or Master Class Falconer [~~only~~] may hack a falconry raptor or raptors.

(2) Raptors at hack count against possession limits and must be a species authorized for possession.

(3) Hybrid raptors at hack must have two (2) attached and functioning radio transmitters.

(4)(~~a~~) Raptors [~~are~~]may not be released [~~at~~]to hack near the nesting area of a federally threatened or endangered bird species or in any other location where the raptor is likely to harm a federally listed threatened or endangered animal species that might be disturbed or taken by the raptor at hack.

[~~—(a) The Division must be notified prior to hacking a falconry raptor.~~]

(b) Information on federally-listed species can be obtained from the Service.

(5) The Division must be notified prior to hacking a falconry raptor.

(6) Use of other falconry training or conditioning techniques.

(a) Other acceptable falconry practices may be used, such as the use of tethered flying, lures, balloons, or kites in training or conditioning raptors for falconry.

(b) Falconry raptors may be flown at pen-raised animals or at bird species not protected under this rule or the Migratory Bird Treaty Act, so long as those activities otherwise comply with Titles 4 and 23 of Utah Code.

#### **R657-20-18. Permission to Conduct Falconry Activities on Public or Private [~~lands-~~]Lands.**

(1) A falconer must comply with all applicable Federal, State, local, or tribal laws regarding falconry activities, including hunting, on private, public, and tribal lands.

(a) All falconry activities shall be conducted consistent with the trespass requirements in Section 23-20-14.

(b) A person may not engage in any falconry activity on Tribal trust lands without authorization.

(2) Raptor training is not allowed on state waterfowl and wildlife management areas without authorization.

(3) Practicing the sport of falconry without permission is prohibited on all National Parks in Utah

(4) Practicing the sport of falconry without permission is prohibited on all Utah [~~state~~]State Parks.

(5) Unless specifically authorized by the U.S. Fish and Wildlife Service, practicing the sport of falconry on National Wildlife Refuges is prohibited.

#### **R657-20-19. Practicing Falconry in the Vicinity of a Federally Listed Threatened or Endangered Animal Species.**

(1) Individuals practicing falconry must ensure that such activities do not result in the take of federally listed threatened or endangered wildlife.

(2) Under the [~~federal~~]Federal Endangered Species Act:

(a) "Take" means "to harass, pursue, hunt, shoot, wound, kill, trap, capture, or collect or attempt to engage in any such conduct".

(b) "Harass" means any act that may injure wildlife by disrupting normal behavior, including breeding, feeding, or sheltering; and

(c) "Harm" means an act that actually kills or injures wildlife.

(3) Information about threatened or endangered species that may occur in Utah is available by contacting the Service or the Division.

#### **R657-20-20. Releasing a Falconry Raptor to the Wild.**

(1)(~~a~~) A raptor that is non-native to the State of Utah or that is a hybrid of any kind[~~—~~] may not be permanently released into the wild.

(~~a~~)<sup>b</sup> A raptor that is non-native to the State of Utah or that is a hybrid of any kind[~~—~~] may be transferred to another falconry permittee authorized for possession.

(2)(~~a~~) A raptor that is native to the State of Utah and captive-bred may not be permanently released into the wild without prior authorization from the Division.

(~~a~~)<sup>b</sup> Once authorization for release of a captive-bred native raptor is received, the raptor must be hacked [~~(allow it to adjust)~~—]to the wild at an appropriate time of year and at an appropriate location [~~as determined by the falconer~~—].

(~~b~~)<sup>c</sup> The falconry or captive-bred band must be removed and release of the bird reported to the Division in accordance with Section R657-20-21.

(3)(~~a~~) If the species to be released is native to the State of Utah and was taken from the wild, the raptor may be released only at an appropriate time of year and at an appropriate location [~~as determined by the falconer~~—].



([a]b) If the raptor is banded, the band must be removed and release of the bird reported to the Division in accordance with Section R657-20-21.

#### **R657-20-21. Reporting Requirements.**

(1) All activities, including wild take, acquisition, transfer, exchange, band[~~/~~ or reband or microchip implant, loss [~~of bird~~ if not recovered within 30 days[~~3~~], recapture, injuries, and theft of any falconry raptor must be reported to the Division within 10 business days of the date of the event, as follows:

(a) Submit to the Division a completed paper Form 3-186a by mail or email at [falconry@utah.gov](mailto:falconry@utah.gov); and

(b) Enter the required information in the electronic database located at [~~http://permits.fws.gov/186A~~] <http://permits.fws.gov/186A> if it is functional.

(2) A permittee must retain copies of all electronic database submissions documenting take, transfer, loss, rebanding or micro chipping or any other transaction for each falconry raptor for up to five (5) years after the given transaction or event has taken place.

(3)(a) Date of capture, sex of the raptor, and location of the capture in UTM or latitude/longitude must be recorded on the Raptor Capture Permit for all species.

([a]b) Nest locations are held for use by the Division[~~s sensitive species biologists and will not be made available to the public.~~] and are subject to state records laws.

(4) [~~All Resident falconers holding a valid falconry COR must submit a completed falconry Annual Report to the Division by January 31 of each year, as follows:~~

~~(a)~~ By December 31 of each year, the Division will provide each resident falconer with an annual report form.

~~(b)~~ Each resident falconer must complete the annual report and return the report[5]. All Resident falconers holding a valid falconry COR must submit a completed falconry Annual Report to the Division by [the following] January [31-]31 of each year.

#### **R657-20-22. Unintentional Take of Protected Wildlife by a Falconry Raptor.**

(1) A falconry raptor may be allowed to feed on a prey animal taken unintentionally, provided the prey animal is not taken into the falconer's possession.

(2) Unintentional take of any federally listed threatened or endangered species must be reported to the Division and the U. S. Fish and Wildlife Ecological Services Field Office in Salt Lake City within 48 hours of the take event.

(3) Unintentional take of any Utah protected wildlife must be reported to the Division within 48 hours of the take event.

#### **R657-20-23. Banding or Tagging Raptors Used in Falconry.**

(1)(a) A falconer who has captured or acquired a wild [~~northern goshawk~~] Northern Goshawk, wild Harris's hawk [~~(Parabuteo unicinctus)]~~, wild [~~peregrine falcon~~] Peregrine Falcon, or wild [~~gyrfalcon~~] Gyrfalcon must band the raptor with a permanent, nonreusable, black-colored numbered Service leg band.

([a]b) A falconer must contact the Division for information on obtaining and disposing of bands.

([b]c) In addition to banding the raptor, a falconer may also purchase and implant an ISO (International Organization for Standardization)-compliant (1234.2 kHz) implantable microchip.

(d) New and replacement band or any required microchip information must be reported to the Division pursuant to Section R657-20-21.

(2)(a) Raptors bred in captivity must be banded with a Service seamless metal band described in 50 CFR 21 Section 21.30, or plastic, numbered Service yellow band.

([a]b) Unbanded raptors, or black, or yellow banded raptors may not be sold, traded or bartered in any way.

([b]c) In addition to banding the raptor, a falconer may also purchase and implant an ISO (International Organization for Standardization)-compliant (1234.2 kHz) implantable microchip.

([e]d) Removal or loss of a seamless band must be reported to the Division within 10 business days of the event and a replacement non-reusable band attached to the raptor.

([d]e) New and replacement band or any required microchip information must be reported to the Division pursuant to Section R657-20-[24-]21.

(3)(a) In the event a non-reusable band is removed or lost from a banded raptor, the removal or loss of the band must be reported to the Division pursuant to Section R657-20-21 and a replacement band requested.

([a]b) Immediately upon rebanding the raptor, the required information must be submitted to the Division pursuant to Section R657-20-[21-]21.

(4) A band may not be altered, defaced, or counterfeited.

(5)(a) Exemptions for banding of raptors will be considered on a case-by-case basis[~~, as follows:~~

~~(a) Documented] if there are documented~~ health or injury problems for a raptor that are caused by the band.

(b) A copy of the exemption paperwork must be kept by the permittee when transporting or flying the raptor.

(c) If the raptor is a wild northern goshawk, wild Harris's hawk, wild peregrine falcon, or wild gyrfalcon, the band [~~must~~] may be replaced with an ISO-compliant microchip.

([i]d) Substituting a microchip for a band on a wild [~~goshawk~~] Goshawk, wild Harris's [~~hawk~~] Hawk, wild [~~peregrine falcon~~] Peregrine Falcon, or wild [~~gyrfalcon~~] Gyrfalcon will not be authorized unless it has been demonstrated that a band causes an injury or a health problem for the raptor.

#### **R657-20-24. Importation Requirements for Residents and Nonresidents.**

~~(1) A person~~ (1) If an individual possesses a falconry COR from the State of Utah for the possession of a raptor, that individual is not required to obtain [a special] any other COR from the Division to import a raptor brought into Utah from another state when the raptor is imported and used for falconry purposes[-] on a permanent basis.

([a]2) Importation of a raptor used for any purposes other than falconry is governed by Rule R657-3.

([b]3) A raptor imported into Utah is required to [~~have:]~~ satisfy all import and health

~~(i) A certificate of veterinary inspection from the state, tribe, or territory of origin; and~~

~~(ii) An entry permit number issued through requirements of the Utah Department of Agriculture and Food, Animal Health Office pursuant to R58-1-4.~~

(2) Any raptor brought into the state on a permanent basis must be reported to the Division pursuant to Section R657-20-~~24~~21.

#### **R657-20-25. Falconry Meets or Trials.**

(1) Falconers participating in falconry meets or trials must possess a valid falconry license and federal falconry permit, if applicable.

(2) A falconry meet license is not required for participation in a falconry trial.

(3) A falconry meet or trial may not be held on state waterfowl and wildlife management areas from April 1 through August 15, except in those areas approved by the Division Director or designee.

(4) An organizer of a falconry meet must obtain prior approval from the ~~Wildlife Board for non-residents to purchase a 5-day non-resident meet license.~~ Division Director or designee to hold a falconry meet in Utah by submitting a written request to falconry@utah.gov.

(5) A nonresident entering Utah to participate in the sport of falconry at an organized meet must be 12 years of age or older and must obtain a nonresident falconry meet license or non-resident hunting license, if hunting protected wildlife.

(6) A non-resident falconry meet license may be obtained by completing an application and submitting the application and appropriate fees to the Division.

(7) A non-resident falconry meet license is valid only for nonresidents and only for ~~five~~ten (5)10 consecutive calendar days as designated on the license.

(8) The holder of a nonresident falconry meet license may engage in the sport of falconry on protected wildlife during the specified ~~five~~ten (10) day period in accordance with the ~~applicable proclamations of the Wildlife Board.~~ provisions of this rule.

(9) A nonresident participating in an organized meet must ~~provide a health certificate and an entry permit number obtained from the Utah Department of Agriculture, Animal Health Section, or meet the importation requirements in R657-20-24 for each raptor brought into the state.~~

#### **R657-20-26. Use of Pen-Reared Game Birds for Meets, Trials and Training.**

(1) Any falconer using pen-reared game birds for meets, trials or training must have an invoice or bill of sale or a copy thereof in their possession showing lawful personal possession or ownership of such birds.

(2) Pen-reared game birds may be held in possession no longer than 60 calendar days unless the person possessing the pen-reared game birds first obtains a private aviculture COR as provided in Rule R657-4.

(3)(a) Each pen-reared game bird must be marked with an aluminum leg band or other permanent marking before being released except as provided in Subsection (e)d).

(a)b Aluminum leg bands may be purchased at any Division office.

(b)c The aluminum leg band or other permanent marking must remain attached to the pen-reared game bird.

(e)d Each pen-reared game bird used on a commercial hunting area, as defined in R657-22, may be released without marking.

(4) Pen-reared game birds used for a meet may be released only on the property specified and only during the dates approved for the falconry meet.

(5) Released pen-reared game birds may be taken using falconry raptors, as follows:

(a) By the individual who released the pen-reared game birds, or by any individual participating in the meet; and

(b) Only during the approved dates of the meet.

(6) Once released, any pen-reared game birds that leave the property where the meet is held or are not retrieved at the conclusion of the meet become the property of the State of Utah and may not be recaptured or taken, except as prescribed in the Upland Game or Waterfowl proclamations of the Wildlife Board.

(7) Pen-reared game birds used for training raptors~~;~~ or for a trial that escape or are not recovered on the day of the training or trial, or pen-reared game birds that escape, become property of the State of Utah and may not be recaptured or taken, except as prescribed in the Upland Game and Waterfowl proclamations of the Wildlife Board and elsewhere in this rule.

#### **R657-20-27. Use of Feathers and Carcasses.**

(1)(a) Feathers that a falconry bird or birds molt may be used for imping.

(a)b Flight feathers for each species of raptor currently in possession or previously held may be kept for imping for as long as needed by a falconer with a valid falconry COR.

(i)c Feathers for imping purposes may be received from or provided to other licensed falconers, wildlife rehabilitators, or propagators in the United ~~states.~~ States.

(i)d Licensed falconers may not buy, sell, or barter molted raptor feathers.

(b)e Molted feathers from a falconry bird, except ~~golden eagle~~ Golden Eagle feathers, may be donated to any person or institution with a valid permit for possession.

(e)f Except for primary or secondary wing feathers or rectrix (tail) feathers from a ~~golden eagle~~ Golden Eagle, a falconer is not required to gather feathers that are molted or otherwise lost by a falconry bird held under a valid COR.

(i)g Molted feathers may be left where they fall, stored for imping, or destroyed.

(i)h(i) A licensed falconer possessing a ~~golden eagle~~ Golden Eagle must collect any molted flight feathers and rectrices.

(i)h(ii) Collected ~~golden eagle~~ Golden Eagle feathers that are not to be retained for imping must be sent to the National Eagle Repository at U.S. Fish and Wildlife Service, National Eagle Repository, Rocky Mountain Arsenal, 6550 Gateway Road, Building 128, Commerce City, Colorado 80022 (303-287-2110).

(d)j Once a falconry COR expires and is not renewed or is revoked, the falconer must donate molted feathers of any species of falconry raptor to any person or institution authorized by permit to acquire and possess the feathers.

(~~(i)~~~~k~~) Molted feathers that are not donated must be burned, buried, or otherwise destroyed.

(2) Disposition of carcasses of falconry birds that die.

(a) The entire carcass of a ~~[golden-eagle]~~Golden Eagle held for falconry that dies, including all feathers, talons, and other parts, must be sent to the National Eagle Repository at U.S. Fish and Wildlife Service, National Eagle Repository, 6550 Gateway Road, Rocky Mountain Arsenal, Building 128, Commerce City, Colorado 80022 (303-287-2110).

(b) The body or feathers of any other species of falconry raptor may be donated to any person or institution authorized by permit to acquire and possess raptor parts or raptor feathers.

(c) A falconry raptor, except a ~~[golden-eagle]~~Golden Eagle, that was either banded or micro chipped prior to its death may be retained by the licensed falconer.

(~~(d)~~~~i~~) The body of the raptor may be kept so that the feathers are available for imping, or the body may be mounted by a taxidermist.

(~~(A)~~~~ii~~) The mounted raptor may be used in conservation education programs.

(~~(B)~~~~iii~~) If the falconry raptor was banded, the band must be left in place on the mounted raptor body.

(~~(C)~~~~iv~~) If the falconry raptor has an implanted microchip, the microchip must be left in place on the mounted raptor body.

(~~(d)~~~~e~~) The body and feathers of a deceased falconry raptor that are not donated or retained must be burned, buried, or otherwise destroyed within 10 calendar days of the death of the bird or after final examination by a veterinarian to determine cause of death.

(~~(e)~~~~f~~) A licensed falconer that does not wish to donate or destroy the flight feathers of a deceased raptor or have the body mounted by a taxidermist, may possess the flight feathers for as long as they possess a valid falconry COR, provided:

(i) ~~[-The]~~ the feathers are not be bought, sold, or bartered; and

(ii) ~~[-The]~~ the paperwork documenting lawful possession of the deceased raptor is retained.

#### **R657-20-28. Other Uses of Raptors.**

(1) Transfer of wild raptors captured for falconry to other permitted uses.

(a) A wild-caught falconry raptor may be transferred to a person authorized to possess raptors for propagation purposes only after the raptor has been used in falconry for at least:

(i) 12 months from the date of capture for a ~~[sharp]~~Sharp-shinned ~~[hawk]~~Hawk, Cooper's ~~[hawk, merlin]~~Hawk, Merlin, or American ~~[kestrel]~~Kestrel; and

(ii) 24 months from the date of capture for all other falconry raptors.

(b) The time periods imposed in Subsection (1)(a) for transferring a wild-caught falconry raptor to a person authorized to possess raptors for propagation purposes may be waived by the Division Director or designee if the raptor has been injured and a veterinarian or permitted wildlife rehabilitator has determined that the raptor can no longer be flown for falconry.

(~~(i)~~~~c~~) In order to permanently transfer an injured raptor to a propagation permit, the falconer must provide the Division and the Federal ~~[migratory bird permits office]~~Migratory Bird Permits Office that administers propagation permits a certification from the

treating veterinarian or rehabilitator stating that the raptor is injured and cannot be used in falconry.

(~~(e)~~~~d~~) Upon transfer of a wild raptor to a propagation permit, the falconer must provide a copy of the 3-186A form documenting acquisition of the raptor by the propagator to the Division and the Federal ~~[migratory bird permit office]~~Migratory Bird Permits Office that administers propagation permits.

(2) Transfer of captive-bred falconry raptors to other permitted uses.

(a) Captive-bred falconry raptors may be transferred to another person if the recipient is authorized for possession.

(3) Use of raptors possessed for falconry in captive propagation.

(a) Raptors possessed for falconry may be bred in captivity if the falconer or the person overseeing the propagation has the necessary permits and facilities.

(b) Formal transfer of a raptor from a falconry permit to a captive propagation permit is required if the raptor is to be permanently used for propagation.

(c) Formal transfer of a raptor from a falconry permit to a captive propagation permit is not required if the raptor is used for propagation less than eight (8) months in a year.

(~~(i)~~~~d~~) The licensed propagator must have a signed and dated statement from the falconer authorizing the temporary possession, plus a copy of the falconer's original FWS Form 3-186A for that raptor.

(4) Use of falconry raptors in conservation education programs.

(a) A General or Master Class falconer may use a falconry raptor in conservation education programs presented in public venues.

(~~(i)~~~~b~~) A Federal education permit is not required to conduct conservation education activities using a falconry raptor held under a Utah falconry COR.

(~~(i)~~~~c~~) In order to permanently transfer an injured raptor to an education permit, the falconer must provide the Division and the Federal migratory bird permits office that administers education permits a certification from the treating veterinarian or rehabilitator stating that the raptor is injured and cannot be used in falconry.

(~~(b)~~~~d~~) Conservation programs may be presented by an Apprentice Falconer who is accompanied by their General or Master Class sponsor.

(~~(e)~~~~e~~) Raptors used to present conservation programs must primarily be used for falconry.

(~~(d)~~~~f~~) A falconer may charge a fee for presentation of a conservation education program[-

~~(i)~~ ~~[-The]~~, however the fee charged may not exceed the amount required to recoup costs of presenting the conservation education program.

(~~(e)~~~~g~~) When presenting conservation education programs, the falconer must provide information about the biology, ecological roles, and conservation needs of raptors and other migratory birds, although not all of these topics must be addressed in every presentation.

(~~(f)~~~~h~~~~i~~) A falconer may not give presentations using a falconry raptor that do not address falconry and conservation education.

(~~(g)~~~~ii~~) The falconer is responsible for all liability associated with conservation education activities undertaken.

(5) Other educational uses of falconry raptors.

(a) A falconer may allow photography, filming, or other similar uses of falconry raptors to make movies or other sources of information on the practice of falconry or on the biology, ecological roles, and conservation needs of raptors and other migratory birds.

(~~i~~)<sup>b</sup> A falconer may not be paid or otherwise compensated for such activities.

(~~b~~)<sup>c</sup> A falconer may not use falconry raptors or permit the use of falconry raptors to make movies, commercials, or in other commercial ventures that are not related to the practice of falconry or the biology, ecological roles, and conservation needs of raptors and other migratory birds.

(c) Falconry raptors may not be used for:

(i) Commercial entertainment for advertisements;

(ii) ~~promoting~~ Promoting or endorsing any business, company, corporation, or other organization; or

(iii) ~~promoting~~ Promoting or endorsing any product, merchandise, good, service, meeting, or fair, except for products related directly to falconry, such as hoods, telemetry equipment, giant hoods, perches, and materials for raptor facilities.

(6) Assisting in rehabilitation of raptors in preparation for release.

(a) A General or Master Class Falconer may assist a permitted migratory bird rehabilitator in conditioning raptors in preparation for their release to the wild.

(i) The falconer may keep the raptor being rehabilitated in their facilities up to 180 calendar days.

(ii) The rehabilitator must provide the falconer with a letter or form that identifies the raptor and explains that the falconer is assisting in the rehabilitation of the raptor to be released.

(iii) Facilities where the raptor will be temporarily housed must adhere to standards outlined in Sections R657-20-6 of this rule.

(iv) The falconer is not required to add any raptor possessed for rehabilitation to their COR; the raptor will remain under the permit of the rehabilitator.

(v) The falconer must permanently release any raptor capable of sustaining itself in the wild or return it to the rehabilitator within the 180-day timeframe in which the rehabilitator is authorized to possess the raptor, unless the Division authorizes the falconer to retain the bird for longer than 180 calendar days.

(7) Using ~~a~~ falconry raptors in abatement activities.

(a) Abatement activities may only be conducted with captive bred raptors.

(b) A Master Class falconer may conduct abatement activities with raptors possessed for falconry and receive compensation for such activities, if the falconer is in possession of a Special Purpose Abatement ~~permit~~ Permit issued by the Service.

(c) A General Class falconer may conduct abatement activities only as a subpermittee of a Master Class falconer that possesses an abatement permit.

(d) An Apprentice Class falconer may not conduct abatement activities.

(8) A person who possesses a raptor for any purpose other than falconry, including raptor propagation, educational uses, and rehabilitation, shall obtain the appropriate authorization from the Division as provided in Rule R657-3 and the appropriate authorization from the Service.

**KEY: wildlife, birds, falconry**

**Date of Enactment or Last Substantive Amendment: [~~April 23, 2013~~]****2017**

**Notice of Continuation: December 6, 2016**

**Authorizing, and Implemented or Interpreted Law: 23-17-7; 50 CFR 21**

## Public Safety, Highway Patrol R714-220 Standards for Protective Headgear

### NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 41863

FILED: 06/29/2017

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is being repealed because the requirements regarding the use of protective headgear and the adoption of standards set forth in 49 CFR 571.218 and 49 CFR Part 1203 are included in Section 41-6a-1505; therefore, the rule is no longer needed.

**SUMMARY OF THE RULE OR CHANGE:** This rule is being repealed because the requirements regarding the use of protective headgear and the adoption of standards set forth in 49 CFR 571.218 and 49 CFR Part 1203 are included in Section 41-6a-1505. Due to the fact that the information contained in the rule is now included in the Utah Code, the rule is no longer needed. This rule is repealed in its entirety.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 41-6a-1505 and Subsection 53-1-105(1)(a)

### ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is not an anticipated cost or savings to the state budget because the rule is being repealed due to the fact that the provisions of the rule are now included in Section 41-6a-1505. As a result, the rule is no longer needed.

◆ **LOCAL GOVERNMENTS:** There is not an anticipated cost or savings to the local government because the rule is being repealed due to the fact that the provisions of the rule are now included in Section 41-6a-1505. As a result, the rule is no longer needed.

◆ **SMALL BUSINESSES:** There is not an anticipated cost or savings to small businesses because the rule is being repealed due to the fact that the provisions of the rule are now included in Section 41-6a-1505. As a result, the rule is no longer needed.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is not an anticipated cost or savings to the persons

other than small businesses, businesses, or local government entities because the rule is being repealed due to the fact that the provisions of the rule are now included in Section 41-6a-1505. As a result, the rule is no longer needed.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There is not an anticipated compliance cost for affected persons because the rule is being repealed due to the fact that the provisions of the rule are now included in Section 41-6a-1505. As a result, the rule is no longer needed.

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

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

PUBLIC SAFETY  
HIGHWAY PATROL  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W  
SALT LAKE CITY, UT 84119-5994  
or at the Office of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

- ◆ Greg Willmore by phone at 801-965-4889, or by Internet E-mail at gwillmor@utah.gov
- ◆ Kim Gibb by phone at 801-556-8198, by FAX at 801-964-4482, or by Internet E-mail at kgibb@utah.gov
- ◆ Steven Winward by phone at 801-550-6163, or by Internet E-mail at swinward@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/14/2017

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2017

AUTHORIZED BY: Steven Winward, Captain

**R714. Public Safety, Highway Patrol.**

~~[R714-220. Standards for Protective Headgear.~~

~~**R714-220-1. Purpose:**~~

~~Section 41-6a-1505 prohibits a person under age 18 from operating or riding on a motorcycle or motor-driven cycle, i.e., electric assisted bicycle, motor assisted scooter, and personal motorized mobility device, on a highway unless the person is wearing protective headgear that complies with standards established in a rule made by the commissioner of public safety. The purpose of this rule is to establish those standards.~~

~~**R714-220-2. Authority:**~~

~~This rule is authorized by Subsection 53-1-106(1)(a).~~

~~**R714-220-3. Motorcycle Standards:**~~

~~The commissioner of public safety hereby adopts the protective headgear standards in 49 CFR 571.218 (2006 edition) as~~

~~the motorcycle protective headgear standards in this state and such federal regulation is incorporated into this rule by this reference.~~

~~**R714-220-4. Electric Assisted Bicycle, Motor Assisted Scooter, and Personal Motorized Mobility Device Standards.**~~

~~The commissioner of public safety hereby adopts the protective headgear standards in 16 CFR 1203 (2007 edition) as the electric assisted bicycle, motor assisted scooter, and personal motorized mobility device standards in this state and such federal regulation is incorporated into this rule by this reference. The standards in 16 CFR 1203 (2007 edition) meet the standards of the Snell Memorial Foundation's Standards for Protective Headgear for use in bicycling as required by Section 41-6a-1505(3)(b).~~

~~**KEY: headgear, motorcycles, bicycles**~~

~~**Date of Enactment or Last Substantive Amendment: June 26, 2003**~~

~~**Notice of Continuation: July 2, 2012**~~

~~**Authorizing, and Implemented or Interpreted Law: 41-6a-1505; 53-1-106(1)(a)]**~~

Public Safety, Highway Patrol  
**R714-230**  
Standards and Specifications for  
Vehicle Seat Belts and Safety  
Harnesses

**NOTICE OF PROPOSED RULE**

(Repeal)

DAR FILE NO.: 41865

FILED: 06/29/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is being repealed because the adoption of standards set forth in 49 CFR 571.209 with regards to seat belt and safety harness standards has been included in Subsection 41-6a-1601(2)(c)(i); therefore, the rule is no longer needed.

**SUMMARY OF THE RULE OR CHANGE:** This rule is being repealed because the adoption of standards set forth in 49 CFR 571.209 with regards to seat belt and safety harness standards has been included in Subsection 41-6a-1601(2)(c)(i); therefore, the rule is no longer needed. This rule is repealed in its entirety.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 41-6a-1628 and Subsection 53-1-106(1)(a)

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** There is not an anticipated cost or savings to the state budget because the rule is being repealed due to the fact that the standards for safety belts

and harnesses are now referenced in Subsection 41-6a-1601(2)(c)(i). Because the standards have been included in the Utah Code, the rule is no longer needed.

◆ LOCAL GOVERNMENTS: There is not an anticipated cost or savings to local government because the rule is being repealed due to the fact that the standards for safety belts and harnesses are now referenced in Subsection 41-6a-1601(2)(c)(i). Because the standards have been included in the Utah Code, the rule is no longer needed.

◆ SMALL BUSINESSES: There is not an anticipated cost or savings to small businesses because the rule is being repealed due to the fact that the standards for safety belts and harnesses are now referenced in Subsection 41-6a-1601(2)(c)(i). Because the standards have been included in the Utah Code, the rule is no longer needed.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is not an anticipated cost or savings to persons other than small businesses, businesses or local government entities because the rule is being repealed due to the fact that the standards for safety belts and harnesses are now referenced in Subsection 41-6a-1601(2)(c)(i). Because the standards have been included in the Utah Code, the rule is no longer needed.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is not an anticipated compliance cost for affected persons because the rule is being repealed due to the fact that the standards for safety belts and harnesses are now referenced in Subsection 41-6a-1601(2)(c)(i). Because the standards have been included in the Utah Code, the rule is no longer needed.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to business.

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

PUBLIC SAFETY  
HIGHWAY PATROL  
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- ◆ Steven Winward by phone at 801-550-6163, or by Internet E-mail at swinward@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/14/2017

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2017

AUTHORIZED BY: Steven Winward, Captain

**R714. Public Safety, Highway Patrol.**

~~[R714-230. Standards and Specifications for Vehicle Seat Belts and Safety Harnesses.~~

**R714-230-1. Purpose.**

~~\_\_\_\_\_The purpose of this rule is to adopt standards and specifications for vehicle seat belts and safety harnesses.~~

**R714-230-2. Authority.**

~~\_\_\_\_\_This rule is authorized by Sections 41-6a-1628 and 53-1-106(1)(a).~~

**R714-230-3. Federal Standards and Specifications Adopted and Incorporated by Reference.**

~~\_\_\_\_\_The Department of Public Safety hereby adopts the vehicle seat belt and safety harness standards and specifications set forth in 49 CFR 571.209 (2006 edition) as the vehicle seat belt and safety harness standards and specifications for Utah and incorporates such federal regulation into this rule by this reference.~~

**KEY: seat belts, motor vehicle safety**

~~**Date of Enactment or Last Substantive Amendment: May 5, 1998**~~

~~**Notice of Continuation: July 2, 2012**~~

~~**Authorizing, and Implemented or Interpreted Law: 41-6a-1628; 53-1-106(1)(a)**~~

**Public Safety, Highway Patrol**  
**R714-240**  
**Standards and Specifications for Child Restraint Devices and Safety Belts**

**NOTICE OF PROPOSED RULE**

(Repeal)

DAR FILE NO.: 41864

FILED: 06/29/2017

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being repealed because the requirements regarding the use of safety belts and child restraint devices are included in Section 41-6a-1803, and adoption of standards set forth in 49 CFR 571.213 is included in Subsection 41-6a-1601(2)(c)(ii). Due to the fact that the information contained in the rule is now included in the Utah Code, the rule is no longer needed.

SUMMARY OF THE RULE OR CHANGE: This rule is being repealed because the requirements regarding the use of safety belts and child restraint devices are included in Section

41-6a-1803, and adoption of standards set forth in 49 CFR 571.213 is included in Subsection 41-6a-1601(2)(c)(ii). Due to the fact that the information contained in the rule is now included in the Utah Code, the rule is no longer needed. This rule is repealed in its entirety.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 41-6a-1803

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: There is not an anticipated cost or savings to the state budget because the rule is being repealed due to the fact that the provisions of the rule are now included in Section 41-6a-1803 and Subsection 41-6a-1601(2)(c)(ii). As a result, the rule is no longer needed.
- ◆ LOCAL GOVERNMENTS: There is not an anticipated cost or savings to local government because the rule is being repealed due to the fact that the provisions of the rule are now included in Section 41-6a-1803 and Subsection 41-6a-1601(2)(c)(ii). As a result, the rule is no longer needed.
- ◆ SMALL BUSINESSES: There is not an anticipated cost or savings to small businesses because the rule is being repealed due to the fact that the provisions of the rule are now included in Section 41-6a-1803 and Subsection 41-6a-1601(2)(c)(ii). As a result, the rule is no longer needed.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is not an anticipated cost or savings to persons other than small businesses, businesses, or local government entities because the rule is being repealed due to the fact that the provisions of the rule are now included in Section 41-6a-1803 and Subsection 41-6a-1601(2)(c)(ii). As a result, the rule is no longer needed.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is not an anticipated compliance cost for affected persons because the rule is being repealed due to the fact that the provisions of the rule are now included in Section 41-6a-1803 and Subsection 41-6a-1601(2)(c)(ii). As a result, the rule is no longer needed.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After conducting a thorough analysis, it was determined that this proposed rule will not have a fiscal impact on businesses.

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

PUBLIC SAFETY  
HIGHWAY PATROL  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W  
SALT LAKE CITY, UT 84119-5994  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Greg Willmore by phone at 801-965-4889, or by Internet E-mail at gwillmor@utah.gov

- ◆ Kim Gibb by phone at 801-556-8198, by FAX at 801-964-4482, or by Internet E-mail at kgibb@utah.gov
- ◆ Steven Winward by phone at 801-550-6163, or by Internet E-mail at swinward@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/14/2017

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2017

AUTHORIZED BY: Steven Winward, Captain

#### **R714. Public Safety, Highway Patrol.**

~~[R714-240. Standards and Specifications for Child Restraint Devices and Safety Belts.~~

##### ~~R714-240-1. Purpose.~~

~~Subsection 41-6a-1803(1)(b)(e) states that the operator of a motor vehicle operated on a highway shall provide for the protection of each person younger than five years of age by using a child restraint device to restrain each person in the manner prescribed by the manufacturer of the device and provide for the protection of each person five years of age up to 16 years of age by using an appropriate child restraint device to restrain each person in the manner prescribed by the manufacturer of the device or securing, or causing to be secured, a properly adjusted and fastened safety belt. The purpose of this rule is to adopt the standards and specifications that a child restraint device and safety belt must meet in order to be approved by the commissioner of public safety.~~

##### ~~R714-240-2. Authority.~~

~~This rule is authorized by Subsection 53-1-106(1)(a).~~

##### ~~R714-240-3. Federal Standards and Specifications Adopted and Incorporated by Reference.~~

~~The type of child restraint device and safety belt approved by the commissioner of public safety for use in Utah is a child restraint device and safety belt which meet the standards and specifications set forth in 49 CFR 571.213 (2006 edition). The standards and specifications in such federal regulation are adopted for use in Utah and such federal regulation is incorporated into this rule by this reference.~~

##### ~~KEY: seat belts, motor vehicle safety~~

~~Date of Enactment or Last Substantive Amendment: December 10, 2008~~

~~Notice of Continuation: July 2, 2012~~

~~Authorizing, and Implemented or Interpreted Law: 41-6a-1803(1)(b)(e)]~~

## Transportation, Program Development **R926-11** Clean Fuel Vehicle Decal Program

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 41884

FILED: 06/30/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this amendment is to make technical changes and to correct legal citations included in the rule, to include text that defines and regulates placement of newly devised C Stickers that are to be used as part of the Clean Fuel Vehicle Decal Program and to change the way the waiting list for applications submitted to participate in the program will operate.

**SUMMARY OF THE RULE OR CHANGE:** This amendment makes technical changes and corrects legal citations included in the rule, adds text that defines and regulates placement of newly devised C Stickers that are to be used as part of the Clean Fuel Vehicle Decal Program, and changes the way the waiting list for applications submitted to participate in the program operates.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** 23 U.S.C. 166(b)(4) and Section 41-6a-702 and Section 72-6-121

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** This amendment may result in savings to the state's annual budget because it makes the Clean Fuel Vehicle Decal Program more efficient. However, quantifying the aggregate savings to the state's budgets is not possible at present and may be negligible.

♦ **LOCAL GOVERNMENTS:** This amendment will not result in an increase in aggregate costs or savings to local governments because the Clean Fuel Vehicle Decal Program does not involve a fee to participate. Permits and their associated C Decals and C Stickers are issued to all applicants in the order that the applications are approved, and the Department of Transportation does not charge a fee to apply.

♦ **SMALL BUSINESSES:** This amendment will not result in an increase in aggregate costs or savings to small businesses because the Clean Fuel Vehicle Decal Program does not involve a fee to participate. Permits and their associated C Decals and C Stickers are issued to all applicants in the order that the applications are approved, and the Department does not charge a fee to apply.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This amendment will not result in an increase in aggregate costs or savings to persons other than small businesses, businesses, or local government entities because the Clean Fuel Vehicle Decal Program does not involve a fee to participate. Permits and their associated C Decals and C Stickers are issued to all applicants in the order that the applications are approved, and the Department does not charge a fee to apply.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** This amendment will not result in an increase in aggregate costs or savings to affected persons because the Clean Fuel Vehicle Decal Program does not involve a fee to participate. Permits and their associated C Decals and C Stickers are issued to all applicants in the order that the applications are approved, and the Department does not charge a fee to apply.

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

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

TRANSPORTATION  
PROGRAM DEVELOPMENT  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W  
SALT LAKE CITY, UT 84119-5998  
or at the Office of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

- ♦ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at [cwnewman@utah.gov](mailto:cwnewman@utah.gov)
- ♦ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at [jimpalmer@utah.gov](mailto:jimpalmer@utah.gov)
- ♦ Linda Hull by phone at 801-965-4253, or by Internet E-mail at [lhull@utah.gov](mailto:lhull@utah.gov)
- ♦ Mark Burns by phone at 801-366-0198, by FAX at 801-366-0352, or by Internet E-mail at [markburns@utah.gov](mailto:markburns@utah.gov)

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/14/2017**

**THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2017**

**AUTHORIZED BY: Carlos Braceras, Executive Director**

**R926. Transportation, Program Development.****R926-11. Clean Fuel Vehicle Decal Program.****R926-11-1. Purpose and Authority.**

(1) As authorized in Utah Code [~~Ann.~~]Sections 41-6a-702 and 72-6-121 this rule establishes procedures for regulating access to high occupancy vehicle lanes by vehicles with a clean fuel vehicle decal regardless of the number of occupants.

(2) [~~Federal law~~]United States Code Title 23, Subsection 166(b) authorizes states to allow the use of high occupancy vehicle (HOV) lanes by inherently low emission vehicles (ILEV) and low emission and energy-efficient vehicles with only a single occupant[~~through September 30, 2017, unless federal authorization is extended~~]. [~~Federal law further~~]United States Code Title 23, Subsection 166(d) requires a state to limit or discontinue the use of these single-occupant vehicles if the presence of [~~the~~]such vehicles has degraded the operation of the HOV facility.



**R926-11-2. Definitions.**

(1) "Hybrid" means a Low Emission and Energy Efficient vehicle as defined by the United States Environmental Protection Agency as authorized in 23 United States Code Section 166.

(2) "ILEV" means an Inherently Low Emission Vehicle as defined by the United States Environmental Protection Agency as authorized in 23 United States Code Section 166(b).

(3) "C ~~[d]~~Decal" means a clean vehicle ~~[decal]~~radio frequency identification transponder issued by the department.

(4) ~~["C plate" means a clean fuel special group license plate issued by the Division of Motor Vehicles as had been previously authorized in Utah Code.]~~"C Sticker" means a clean vehicle sticker issued by the department.

(5) "C ~~[p]~~Permit" means a permit issued by the department to the owner of an eligible ILEV or Hybrid vehicle.

(6) "Department" means the Utah Department of Transportation.

(7) "HOV" means a highway lane that has been designated for the use of high occupancy vehicles pursuant to Utah Code Section 41-6a-702.

**R926-11-3. Permitting of Eligible Vehicles.**

(1) Owners of an eligible ILEV and Hybrid vehicle registered in the state of Utah shall qualify for a C ~~[d]~~Decal, C Sticker, and C ~~[p]~~Permit upon application to the ~~[d]~~Department under permitting processes and payment of a fee defined under this rule.

(2) The owner of a vehicle issued a C ~~[d]~~Decal, C Sticker, and a C ~~[p]~~Permit is prohibited from placing the C ~~[d]~~Decal, and C Sticker on any vehicle other than the vehicle for which the ~~[d]~~Department has issued a C ~~[d]~~Decal and C ~~[p]~~Permit. Posting a C ~~[d]~~Decal on a vehicle other ~~[then]than~~ the vehicle for which the ~~[d]~~Department has issued a C ~~[d]~~Decal, C Sticker, and C ~~[p]~~Permit will render the vehicle owner ineligible to participate in the Clean Fuel Vehicle Program.

(3) The owner of a vehicle issued a C ~~[d]~~Decal, and C Sticker must have in the person's immediate possession the C ~~[p]~~Permit issued by the ~~[d]~~Department for that vehicle.

(4) The C ~~[d]~~Decal must be placed in the windshield of the vehicle, centered near the rearview mirror and 4 inches from the top of the windshield. If the vehicle has an AS-1 line, the C ~~[d]~~Decal must be mounted below the line. The C ~~[d]~~Decal must be mounted directly onto the windshield and cannot be mounted with tape or any other device.

(5) The C Sticker must be placed on the vehicle's right side on the rear of the vehicle in the upright position. The C Sticker must be placed using the sticker's adhesive backing and cannot be affixed with tape or any other device.

~~(5)~~<sup>(6)</sup> The ~~[d]~~Department shall maintain and publish a listing online of all ILEV and Hybrid vehicle makes and models eligible for a C ~~[d]~~Decal, C Sticker, and C ~~[p]~~Permit.

~~(6)~~<sup>(7)</sup> The ~~[d]~~Department will charge a fee for the issuance of a C ~~[d]~~Decal and C Sticker. The amount of the fee will be posted on the application in the amount established by the ~~[d]~~Department in accordance with Utah Code Section 63J-1-504.

~~(7)~~<sup>(8)</sup> The ~~[d]~~Department may restrict use of the HOV facility by single-occupant vehicles with ~~[a-]C [d]Decals and C~~

Stickers if the operation of the facility ~~[is]becomes~~ degraded. For the purposes of this rule, an HOV facility is considered degraded if vehicles operating on the facility are failing to maintain a minimum average operating speed of 45 miles per hour 90 percent of the time over a consecutive 180 day period, during morning or evening weekday peak hour periods (or both).

**R926-11-4. Issuance of C Decals and C Permits.**

(1) Except as set forth in subsection (2), the ~~[d]~~Department may not issue more than 6,000 C ~~[Decals]~~Permits and their associated C Decals and C Stickers.

(2) Not more frequently than once a year, the ~~[d]~~Department may evaluate the operation of the HOV facility and determine whether the facility will continue to operate at an acceptable level of service. For the purposes of this rule, an HOV facility is considered to be operating at an acceptable level of service if vehicles operating on the facility are maintaining a minimum average operating speed of 55 miles per hour 90 percent of the time over a consecutive 180 day period, during morning or evening weekday peak hour periods (or both). Based on that evaluation and if the ~~[d]~~Department determines that additional single-occupant vehicles with a C ~~[d]~~Decal may operate in the HOV lane without compromising operation of the facility, the ~~[d]~~Department may increase the number of clean fuel decals issued beyond the minimum set forth in subsection R926-11-4(1) and shall issue the appropriate number of C ~~[d]~~Decals to eligible applicants as set forth under subsection R926-11-4(5).

(3) Vehicle owners with an eligible ILEV or Hybrid vehicle as defined by this rule must submit an application to the ~~[d]~~Department for a C ~~[d]~~Decal, C Sticker and C ~~[p]~~Permit. The application, approved and issued by the ~~[d]~~Department, shall contain the vehicle owner's name, the license plate number, the vehicle identification number, and the ILEV or Hybrid vehicle make and year model as a condition for obtaining a C ~~[d]~~Decal, C Sticker and C ~~[p]~~Permit.

(4) A vehicle owner must pay the fee for the issuance of a C ~~[d]~~Decal, C Sticker, and C ~~[p]~~Permit within 30 days of the application being approved. If the owner does not pay the fee within 30 days, the application will be closed. After the application is closed, a vehicle owner must submit a new application for a C ~~[d]~~Decal, C Sticker, and C ~~[p]~~Permit.

(5) If more applications for ~~[a-]C [d]Decals, C Stickers, and C Permits~~ are received than the total number ~~[of decals-]the~~ ~~[d]~~Department may issue at any one time, C ~~[d]~~Decals, C Stickers, and C permits will be offered to applicants in the order that applications are approved as C Decals~~[randomly chosen applicants as they]~~ become available. The number of available C Decals will be published on the C Decal website.

**KEY: hybrid vehicles, C ~~[d]~~Decals, C Stickers, C ~~[p]~~Permits, clean fuel]**

**Date of Enactment or Last Substantive Amendment: ~~[December 9, 2013]2017~~**

**Notice of Continuation: December 18, 2013**

**Authorizing, and Implemented or Interpreted Law: 41-6a-702; 72-6-121**



# FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at <https://rules.utah.gov/>. The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

**REVIEWS** are governed by Section 63G-3-305.

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## Agriculture and Food, Marketing and Development

### **R65-5**

#### Utah Red Tart and Sour Cherry Marketing Order

#### **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 41860  
FILED: 06/29/2017

#### **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is promulgated under Subsection 4-2-2(1)(e) which allows the department to make and adopt rules regarding market orders.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received regarding the tart cherry marketing order.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The market order is at the request of the producers. Industry can call a referendum vote once a year with 10% of the industry making the request. No such referendum has been requested by industry. Therefore, this rule should be continued.

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

AGRICULTURE AND FOOD  
MARKETING AND DEVELOPMENT  
350 N REDWOOD RD  
SALT LAKE CITY, UT 84116-3034  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Melissa Ure by phone at 801-538-4976, or by Internet E-mail at [mure@utah.gov](mailto:mure@utah.gov)
- ◆ Scott Ericson by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at [sericson@utah.gov](mailto:sericson@utah.gov)
- ◆ Wayne Bradshaw by phone at 801-538-7108, or by Internet E-mail at [waynebradshaw@utah.gov](mailto:waynebradshaw@utah.gov)

AUTHORIZED BY: LuAnn Adams, Commissioner

EFFECTIVE: 06/29/2017

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## Agriculture and Food, Marketing and Development

### **R65-11**

#### Utah Sheep Marketing Order

#### **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 41859  
FILED: 06/29/2017

#### **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS

ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is promulgated under Subsection 4-2-2(1)(e) which allows the department to make and adopt rules regarding market orders.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received regarding the sheep marketing order.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The market order is established at the request of the producers to provided marketing for their product. Industry can call a referendum vote once a year with 40% of the industry making the request, at which point the marketing order can be discontinued. No such referendum has been requested and industry would like for the order to continue. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 AGRICULTURE AND FOOD  
 MARKETING AND DEVELOPMENT  
 350 N REDWOOD RD  
 SALT LAKE CITY, UT 84116-3034  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Melissa Ure by phone at 801-538-4976, or by Internet E-mail at mure@utah.gov
- ◆ Scott Ericson by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at sericson@utah.gov
- ◆ Wayne Bradshaw by phone at 801-538-7108, or by Internet E-mail at waynebradshaw@utah.gov

AUTHORIZED BY: LuAnn Adams, Commissioner

EFFECTIVE: 06/29/2017

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**Agriculture and Food, Regulatory  
 Services  
 R70-520  
 Standard of Identity and Labeling  
 Requirements for Honey**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION  
 DAR FILE NO.: 41861  
 FILED: 06/29/2017**

**NOTICE OF REVIEW AND STATEMENT OF  
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is promulgated under Subsections 4-5-6(1)(b) and 4-5-8(5), and Section 4-5-20 which allows the department to set standard of identify for commodities and to establish rules regarding the labeling of honey.

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 on the standard of identity and labeling requirements for honey during this five-year period.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to ensure that the consumer knows what they are purchasing. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 AGRICULTURE AND FOOD  
 REGULATORY SERVICES  
 350 N REDWOOD RD  
 SALT LAKE CITY, UT 84116-3034  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Melissa Ure by phone at 801-538-4976, or by Internet E-mail at mure@utah.gov
- ◆ Scott Ericson by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at sericson@utah.gov
- ◆ Travis Waller by phone at 801-538-7150, by FAX at 801-538-7124, or by Internet E-mail at twaller@utah.gov

AUTHORIZED BY: LuAnn Adams, Commissioner

EFFECTIVE: 06/29/2017

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**Health, Health Care Financing,  
 Coverage and Reimbursement Policy  
 R414-15  
 Residents Personal Needs Fund**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION  
 DAR FILE NO.: 41855  
 FILED: 06/28/2017**

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-18-3 requires the Department of Health to implement the Medicaid program through administrative rules, which include the provision of long-term care services to facility residents. In addition, 42 CFR 483.10(c)(3)(i) requires facilities to deposit resident funds over \$50 in a separate interest-bearing account.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department did not receive any written or oral comments regarding 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: The Department will continue this rule because it requires long-term care facilities to manage and safeguard a resident's personal funds.

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

HEALTH  
HEALTH CARE FINANCING,  
COVERAGE AND REIMBURSEMENT POLICY  
CANNON HEALTH BLDG  
288 N 1460 W  
SALT LAKE CITY, UT 84116-3231  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 06/28/2017

**Human Services, Aging and Adult  
Services  
R510-1  
Authority and Purpose**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 41870  
FILED: 06/30/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Sections 62A-3-101 through 62A-3-312. The rule cites the state and federal statutes that authorize the Division of Aging and Adult Services to exist and operate.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to authorize the Division's continued operation. Therefore, this rule should be continued.

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

HUMAN SERVICES  
AGING AND ADULT SERVICES  
195 N 1950 W  
SALT LAKE CITY, UT 84116  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Nels Holmgren by phone at 801-538-3921, by FAX at 801-538-4395, or by Internet E-mail at nholmgrn@utah.gov

AUTHORIZED BY: Ann Williamson, Executive Director

EFFECTIVE: 06/30/2017

**Human Services, Aging and Adult  
Services**

**R510-100**

**Funding Formulas**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 41871  
FILED: 06/30/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE

OR REQUIRE THE RULE: This rule is authorized by Section 62A-3-108. This rule explains the elements and weighting of the three funding formulas used by the Division of Aging and Adult Services to distribute funds to Utah's Area Agencies on Aging.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: This rule went through a review and revision process at the request of the Area Agencies on Aging to resolve issues with the In-Home Services funding formula, which had not been updated in many years. During this process a number of public meetings were held and discussions were held regarding the formula. The Utah State Board on Aging and Adult Services voted to accept the agreed upon rule changes which went into effect on 06/30/2015.

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 allows the Division to distribute funds to partner agencies based on fair and updated factors that were agreed to by all parties. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 HUMAN SERVICES  
 AGING AND ADULT SERVICES  
 195 N 1950 W  
 SALT LAKE CITY, UT 84116  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Nels Holmgren by phone at 801-538-3921, by FAX at 801-538-4395, or by Internet E-mail at nholmrgren@utah.gov

AUTHORIZED BY: Ann Williamson, Executive Director

EFFECTIVE: 06/30/2017

**Human Services, Aging and Adult Services  
 R510-101**

**Carryover Policy for Title III: Grants for State and Community Programs on Aging**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 41872  
 FILED: 06/30/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Section 62A-3-104. The rule allows Area Agencies on Aging to request carryover of federal funds from one fiscal year to another.

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.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule specifies the policy and process for Area Agencies on Aging to retain funding that would otherwise lapse at the end of the state fiscal year. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 HUMAN SERVICES  
 AGING AND ADULT SERVICES  
 195 N 1950 W  
 SALT LAKE CITY, UT 84116  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Nels Holmgren by phone at 801-538-3921, by FAX at 801-538-4395, or by Internet E-mail at nholmrgren@utah.gov

AUTHORIZED BY: Ann Williamson, Executive Director

EFFECTIVE: 06/30/2017

**Human Services, Aging and Adult Services  
 R510-102**

**Amendments to Area Plan and Management Plan**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 41873  
 FILED: 06/30/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS

ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Section 62A-3-104. The rule clarifies the process for an Area Agency on Aging's required annual plan can be amended.

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.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule allows for the amendment of area plans and specifies the approval process for amendments. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 HUMAN SERVICES  
 AGING AND ADULT SERVICES  
 195 N 1950 W  
 SALT LAKE CITY, UT 84116  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Nels Holmgren by phone at 801-538-3921, by FAX at 801-538-4395, or by Internet E-mail at nholmrgren@utah.gov

AUTHORIZED BY: Ann Williamson, Executive Director

EFFECTIVE: 06/30/2017

**Human Services, Aging and Adult Services  
 R510-103**

**Use of Senior Centers by Long-Term Care Facility Residents Participating in Activities Outside Their Planning and Service Area**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 41874  
 FILED: 06/30/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Sections 62A-3-104 and 62A-3-107 through 108. The rule

clarifies exceptions to eligibility rules for individuals who are not 60 years of age but who live in a setting in which the majority of residents are qualified for aging services programs.

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.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Older Americans Act allows for younger individuals in certain situations to participate in aging services programs but allows states to decide how to handle these situations. This rule provides Utah's approach to these individuals. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 HUMAN SERVICES  
 AGING AND ADULT SERVICES  
 195 N 1950 W  
 SALT LAKE CITY, UT 84116  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Nels Holmgren by phone at 801-538-3921, by FAX at 801-538-4395, or by Internet E-mail at nholmrgren@utah.gov

AUTHORIZED BY: Ann Williamson, Executive Director

EFFECTIVE: 06/30/2017

**Human Services, Aging and Adult Services  
 R510-104**

**Nutrition Programs for the Elderly (NPE)**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 41869  
 FILED: 06/30/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Section 62A-3-104 and 42 U.S.C. Section 3001. The rule is enacted

under rulemaking authority granted to the Utah Division of Aging and Adult Services by Section 62A-3-104 and by the federal Older Americans Act, which requires the maintenance of a nutrition program for the elderly as a condition of the state receiving federal funds.

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: As stated above, the state is required to create and maintain a nutrition program for the elderly in order to be considered a State Unit on Aging by the federal government and to continue receiving federal funding. The rule is necessary to administer the required nutrition program. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 HUMAN SERVICES  
 AGING AND ADULT SERVICES  
 195 N 1950 W  
 SALT LAKE CITY, UT 84116  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Nels Holmgren by phone at 801-538-3921, by FAX at 801-538-4395, or by Internet E-mail at [nholmrgren@utah.gov](mailto:nholmrgren@utah.gov)

AUTHORIZED BY: Ann Williamson, Executive Director

EFFECTIVE: 06/30/2017

**Human Services, Aging and Adult Services**  
**R510-106**  
**Minimum Percentages of Older Americans Act, Title III Part B: State and Supportive Services Funds**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 41875  
 FILED: 06/30/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS

ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Section 62A-3-101 et seq. This rule clarifies the minimum funding of services under the Older Americans Act and explains the Division of Aging and Adult Services' process for Area Agencies on Aging to request a waiver for these minimums.

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.

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 lays out the waiver process altering for required services and funding levels required of the Area Agencies on Aging. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 HUMAN SERVICES  
 AGING AND ADULT SERVICES  
 195 N 1950 W  
 SALT LAKE CITY, UT 84116  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Nels Holmgren by phone at 801-538-3921, by FAX at 801-538-4395, or by Internet E-mail at [nholmrgren@utah.gov](mailto:nholmrgren@utah.gov)

AUTHORIZED BY: Ann Williamson, Executive Director

EFFECTIVE: 06/30/2017

**Human Services, Aging and Adult Services**  
**R510-107**  
**Title V Senior Community Service Employment Program Standards and Procedures**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 41876  
 FILED: 06/30/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Section



62A-3-104. The rule provides a clarification of the program and the federal statute that authorizes it.

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.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Because this program is not part of the standard Older Americans Act programs and is overseen by the federal Department of Labor, this labor provides the statutory support for the Division of Aging and Adult Services to administer it. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 HUMAN SERVICES  
 AGING AND ADULT SERVICES  
 195 N 1950 W  
 SALT LAKE CITY, UT 84116  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Nels Holmgren by phone at 801-538-3921, by FAX at 801-538-4395, or by Internet E-mail at [nholmngren@utah.gov](mailto:nholmngren@utah.gov)

AUTHORIZED BY: Ann Williamson, Executive Director

EFFECTIVE: 06/30/2017

## Human Services, Aging and Adult Services

### **R510-108**

## Definition of Rural for Title III: Grants for State and Community Programs on Aging Reporting Under the Older American Act

### **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 41877  
FILED: 06/30/2017

### **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE

OR REQUIRE THE RULE: This rule is authorized by Section 62A-3-104. This rule defines which counties in Utah are considered rural for purposes of funding and reporting.

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.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule clarifies which counties meet the definition of 'rural' as required by the Older Americans Act. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 HUMAN SERVICES  
 AGING AND ADULT SERVICES  
 195 N 1950 W  
 SALT LAKE CITY, UT 84116  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Nels Holmgren by phone at 801-538-3921, by FAX at 801-538-4395, or by Internet E-mail at [nholmngren@utah.gov](mailto:nholmngren@utah.gov)

AUTHORIZED BY: Ann Williamson, Executive Director

EFFECTIVE: 06/30/2017

## Human Services, Aging and Adult Services

### **R510-109**

## Definition of Significant Population of Older Native Americans

### **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 41878  
FILED: 06/30/2017

### **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Section 62A-3-104. This rule defines which areas of the state are considered to have a significant population of Native American elders for purposes of funding and reporting.

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.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule clarifies the population density that qualifies as area as having a significant population of Native American elders as required by the Older Americans Act. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 HUMAN SERVICES  
 AGING AND ADULT SERVICES  
 195 N 1950 W  
 SALT LAKE CITY, UT 84116  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Nels Holmgren by phone at 801-538-3921, by FAX at 801-538-4395, or by Internet E-mail at nholmgren@utah.gov

AUTHORIZED BY: Ann Williamson, Executive Director

EFFECTIVE: 06/30/2017

under the same standards when no other provider is available or cost effective.

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.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Older Americans Act specifies that services should be performed by providers in the community unless providers are not available or not cost effective. This rule clarifies that policy and provides standards for providers. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 HUMAN SERVICES  
 AGING AND ADULT SERVICES  
 195 N 1950 W  
 SALT LAKE CITY, UT 84116  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Nels Holmgren by phone at 801-538-3921, by FAX at 801-538-4395, or by Internet E-mail at nholmgren@utah.gov

AUTHORIZED BY: Ann Williamson, Executive Director

EFFECTIVE: 06/30/2017

**Human Services, Aging and Adult Services**  
**R510-110**

**Policy Regarding Contractual Involvements of Area Agencies on Aging for Private Eldercare and Case Management Services**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 41879  
 FILED: 06/30/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Section 62A-3-104. This rule lays out the standards required for Area Agencies on Aging to contract with local providers, and allows for an Area Agency to provide services directly to clients

**Human Services, Aging and Adult Services**  
**R510-111**

**Policy on Use of State Funding for Travel Expenses to Assist the National Senior Service Corps (NSSC)**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 41880  
 FILED: 06/30/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Section 62A-3-104. This rule specifies requirements for using state

funds to reimburse travel expenses for volunteers serving seniors.

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.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: State funds are provided to the Division of Aging and Adult Services to assist in reimbursing travel costs of volunteers working with seniors. This rule provides specifics on what are appropriate reimbursable costs. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
HUMAN SERVICES  
AGING AND ADULT SERVICES  
195 N 1950 W  
SALT LAKE CITY, UT 84116  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Nels Holmgren by phone at 801-538-3921, by FAX at 801-538-4395, or by Internet E-mail at [nholmgren@utah.gov](mailto:nholmgren@utah.gov)

AUTHORIZED BY: Ann Williamson, Executive Director

EFFECTIVE: 06/30/2017

Human Services, Aging and Adult  
Services

**R510-200**

Long-Term Care Ombudsman Program  
Policy

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 41881  
FILED: 06/30/2017

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Sections 62A-3-201 to 62A-3-8 and 62A-3-104. This rule provides the authority, definitions, and policies for the Long-

Term Care Ombudsman program administered by the Division of Aging and Adult Services and its Area Agency on Aging partners.

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.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Long-Term Care Ombudsman program is ongoing and requires that the rule continue. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
HUMAN SERVICES  
AGING AND ADULT SERVICES  
195 N 1950 W  
SALT LAKE CITY, UT 84116  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Nels Holmgren by phone at 801-538-3921, by FAX at 801-538-4395, or by Internet E-mail at [nholmgren@utah.gov](mailto:nholmgren@utah.gov)

AUTHORIZED BY: Ann Williamson, Executive Director

EFFECTIVE: 06/30/2017

Human Services, Aging and Adult  
Services

**R510-302**

Adult Protective Services

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 41883  
FILED: 06/30/2017

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The Division of Aging and Adult Services is authorized by Section 62-A-107 to establish administrative rules. Section 62A-3-301 authorizes the Division to provide Adult Protective Services. The purpose of this rule is to define services provided and establish procedures.

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.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The program is still actively administered by the Division. There is a need to define these services and to establish procedures by which this program will operate. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 HUMAN SERVICES  
 AGING AND ADULT SERVICES  
 195 N 1950 W  
 SALT LAKE CITY, UT 84116  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Julene Robbins by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at [jhjonesrobbins@utah.gov](mailto:jhjonesrobbins@utah.gov)  
 ♦ Nels Holmgren by phone at 801-538-3921, by FAX at 801-538-4395, or by Internet E-mail at [nholmgren@utah.gov](mailto:nholmgren@utah.gov)

AUTHORIZED BY: Nels Holmgren, Director

EFFECTIVE: 06/30/2017

Human Services, Aging and Adult Services  
**R510-400**  
 Home and Community Based Alternatives Program

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 41882  
 FILED: 06/30/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Sections 62A-3-101 through 62A-3-312. This rule provides clarification and lays out standards for this program which was created under state statute and allows individuals to be served in their homes rather than in facility based care.

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.

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 provides program standards and policy for the ongoing operation of this program. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 HUMAN SERVICES  
 AGING AND ADULT SERVICES  
 195 N 1950 W  
 SALT LAKE CITY, UT 84116  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Nels Holmgren by phone at 801-538-3921, by FAX at 801-538-4395, or by Internet E-mail at [nholmgren@utah.gov](mailto:nholmgren@utah.gov)

AUTHORIZED BY: Ann Williamson, Executive Director

EFFECTIVE: 06/30/2017

Public Safety, Highway Patrol  
**R714-110**  
 Permit to Operate a Motor Vehicle in Violation of Equipment Laws

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 41835  
 FILED: 06/19/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53-8-204(5) states that the division shall make rules setting minimum standards covering the design, construction, condition, and operation of motor vehicle equipment for safely operating a motor vehicle on the highway. Section 41-6a-1602 states that the department may issue a permit which will allow temporary operation of a vehicle in violation of the provisions of this chapter (16) or in violation of rules made by the department.

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 regarding 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: The rule is needed so that vehicles that need repairs may still be operated while parts are being ordered or found. The rule is also needed for tinted window waivers for medical and security requests. Therefore, this rule should be continued.

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

PUBLIC SAFETY  
HIGHWAY PATROL  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W  
SALT LAKE CITY, UT 84119-5994  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Greg Willmore by phone at 801-965-4889, or by Internet E-mail at [gwillmor@utah.gov](mailto:gwillmor@utah.gov)
- ◆ Kim Gibb by phone at 801-556-8198, by FAX at 801-964-4482, or by Internet E-mail at [kgibb@utah.gov](mailto:kgibb@utah.gov)
- ◆ Steven Winward by phone at 801-550-6163, or by Internet E-mail at [swinward@utah.gov](mailto:swinward@utah.gov)

AUTHORIZED BY: Steven Winward, Captain

EFFECTIVE: 06/19/2017

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**Public Safety, Highway Patrol**  
**R714-158**  
**Vehicle Safety Inspection Program**  
**Requirements**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 41836  
FILED: 06/19/2017

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53-8-204(5) states that the division shall make rules setting minimum standards

covering the design, construction, condition, and operation of motor vehicle equipment for safely operating a motor vehicle on the highway; establishing safety inspection station building, equipment, and personnel requirements necessary to qualify to perform safety inspections; and establishing age, training, examination, and renewal requirements to qualify for a safety inspector certificate.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Many of the comments received at the Utah Highway Patrol Safety Inspection Office are negative when a vehicle fails an inspection or if a person disagrees with an inspection standard. Most of these comments come by phone.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Subsection 53-8-204(5) states that the division shall make rules setting minimum standards covering the design, construction, condition, and operation of motor vehicle equipment for safely operating a motor vehicle on the highway; establishing safety inspection station building, equipment, and personnel requirements necessary to qualify to perform safety inspections; and establishing age, training, examination, and renewal requirements to qualify for a safety inspector certificate. Therefore, this rule should be continued.

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

PUBLIC SAFETY  
HIGHWAY PATROL  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W  
SALT LAKE CITY, UT 84119-5994  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Greg Willmore by phone at 801-965-4889, or by Internet E-mail at [gwillmor@utah.gov](mailto:gwillmor@utah.gov)
- ◆ Kim Gibb by phone at 801-556-8198, by FAX at 801-964-4482, or by Internet E-mail at [kgibb@utah.gov](mailto:kgibb@utah.gov)
- ◆ Steven Winward by phone at 801-550-6163, or by Internet E-mail at [swinward@utah.gov](mailto:swinward@utah.gov)

AUTHORIZED BY: Steven Winward, Captain

EFFECTIVE: 06/19/2017

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**Public Safety, Highway Patrol**  
**R714-159**  
**Vehicle Safety Inspection**  
**Apprenticeship Program Guidelines**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 41837  
FILED: 06/19/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53-8-204(5)(e) requires the division to make rules establishing program guidelines for a school district that elects to implement a safety inspection apprenticeship program for high school students.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The agency received one comment regarding interest in an apprenticeship program. The constant supervision of the apprentice and the requirement to register as an Automotive Technician Apprentice with the Bureau of Apprenticeship and Training, U.S. Department of Labor may make this a complicated process.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Subsection 53-8-204(5)(e) requires the division to make rules establishing program guidelines for a school district that elects to implement a safety inspection apprenticeship program for high school students. This program is not used but is required by statute and is available to any high schools interested. Therefore, this rule should be continued.

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

PUBLIC SAFETY  
HIGHWAY PATROL  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W  
SALT LAKE CITY, UT 84119-5994  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Greg Willmore by phone at 801-965-4889, or by Internet E-mail at [gwillmor@utah.gov](mailto:gwillmor@utah.gov)
- ◆ Kim Gibb by phone at 801-556-8198, by FAX at 801-964-4482, or by Internet E-mail at [kgibb@utah.gov](mailto:kgibb@utah.gov)
- ◆ Steven Winward by phone at 801-550-6163, or by Internet E-mail at [swinward@utah.gov](mailto:swinward@utah.gov)

AUTHORIZED BY: Steven Winward, Captain

EFFECTIVE: 06/19/2017

**Public Safety, Highway Patrol****R714-200****Standards for Vehicle Lights and Illuminating Devices****FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 41838  
FILED: 06/19/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 41-6a-1601(2)(c)(iv) states that 49 CFR 571 Standard 108 related to lights and illuminating devices is adopted. Section 41-6a-1620 states that the department shall approve or disapprove any lighting device or other safety equipment, component or assembly of a type for which approval is specifically required under this part. It states that the department shall consider the part for approval within a reasonable time after approval has been requested. It also states that the department shall establish a procedure for the submission, review, approval, disapproval, issuance of an approval certificate, and the expiration or renewal of approval for any part mentioned above. Subsection 53-1-106(1)(a) states that the department shall make rules and perform the functions specified in Title 41, Chapter 6a, Traffic Code.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There was a request that undercarriage lights of different colors be approved because the owner of the vehicle felt the lights enhanced safety and identification when picking up passengers at night.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Subsection 41-6a-1601(2)(c)(iv) states that 49 CFR 571 Standard 108 related to lights and illuminating devices is adopted. Section 41-6a-1620 states that the department shall approve or disapprove any lighting device or other safety equipment, component or assembly of a type for which approval is specifically required under this part. It states that the department shall consider the part for approval within a reasonable time after approval has been requested. It also states that the department shall establish a procedure for the submission, review, approval, disapproval, issuance of an approval certificate, and the expiration or renewal of approval for any part mentioned above. Subsection 53-1-106(1)(a) states that the department shall make rules and

perform the functions specified in Title 41, Chapter 6a, Traffic Code. This rule helps keep vehicles safe and help reduce distractions from improper lighting on vehicles. Therefore, this rule should be continued.

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

PUBLIC SAFETY  
HIGHWAY PATROL  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W  
SALT LAKE CITY, UT 84119-5994  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Greg Willmore by phone at 801-965-4889, or by Internet E-mail at gwillmor@utah.gov
- ◆ Kim Gibb by phone at 801-556-8198, by FAX at 801-964-4482, or by Internet E-mail at kgibb@utah.gov
- ◆ Steven Winward by phone at 801-550-6163, or by Internet E-mail at swinward@utah.gov

AUTHORIZED BY: Steven Winward, Captain

EFFECTIVE: 06/19/2017

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**Public Safety, Highway Patrol**  
**R714-210**  
**Standards for Motor Vehicle Air**  
**Conditioning Equipment**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 41839  
FILED: 06/19/2017

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 41-6a-1601(2)(c)(v) states the department shall make rules setting minimum standards covering the design, construction, condition, and operation of vehicle equipment for safely operating a motor vehicle on the highway as required under this part and that 40 CFR 82.30 through 82.42 and Part 82, Subpart B, Appendix A and B related to air conditioning equipment are adopted. Section 41-6a-1640 states that a person may not operate a motor vehicle on a highway if the motor vehicle is equipped with air conditioning equipment unless the air conditioning equipment complies with the specifications adopted under Section 41-6a-1601 and this section. Subsection 53-1-106(1)

(a) states that the department shall make rules and perform the functions specified in Title 41, Chapter 6a, Traffic Code.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The agency received no comments regarding 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: Subsection 41-6a-1601(2)(c)(v) states the department shall make rules setting minimum standards covering the design, construction, condition, and operation of vehicle equipment for safely operating a motor vehicle on the highway as required under this part and that 40 CFR 82.30 through 82.42 and Part 82, Subpart B, Appendix A and B related to air conditioning equipment are adopted. Subsection 53-1-106(1)(a) states that the department shall make rules and perform the functions specified in Title 41, Chapter 6a, Traffic Code. Therefore, this rule should be continued.

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

PUBLIC SAFETY  
HIGHWAY PATROL  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W  
SALT LAKE CITY, UT 84119-5994  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Greg Willmore by phone at 801-965-4889, or by Internet E-mail at gwillmor@utah.gov
- ◆ Kim Gibb by phone at 801-556-8198, by FAX at 801-964-4482, or by Internet E-mail at kgibb@utah.gov
- ◆ Steven Winward by phone at 801-550-6163, or by Internet E-mail at swinward@utah.gov

AUTHORIZED BY: Steven Winward, Captain

EFFECTIVE: 06/19/2017

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**Public Safety, Highway Patrol**  
**R714-300**  
**Standards for Motor Vehicle Braking**  
**Systems**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 41840  
FILED: 06/19/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 41-6a-1601 states that the department shall make rules setting minimum standards covering the design, construction, condition, and operation of vehicle equipment for safely operating a motor vehicle on the highway as required under this part. Section 41-6a-1623 states that the in addition to the requirements of Subsections 41-6a-1623(1) and (2) if necessary for safe operation, the department may by rule require additional braking systems in accordance with federal standards. Subsection 53-1-106(1) (a) states that the department shall make rules and perform the functions specified in Title 41, Chapter 6a, Traffic Code.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The agency received no comments regarding 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: Section 41-6a-1601 states that the department shall make rules setting minimum standards covering the design, construction, condition, and operation of vehicle equipment for safely operating a motor vehicle on the highway as required under this part. Section 41-6a-1623 states that the in addition to the requirements of Subsections 41-6a-1623(1) and (2), if necessary for safe operation, the department may by rule require additional braking systems in accordance with federal standards. Subsection 53-1-106(1) (a) states that the department shall make rules and perform the functions specified in Title 41, Chapter 6a, Traffic Code. Therefore, this rule should be continued.

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

PUBLIC SAFETY  
HIGHWAY PATROL  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W  
SALT LAKE CITY, UT 84119-5994  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Greg Willmore by phone at 801-965-4889, or by Internet E-mail at gwillmor@utah.gov
- ◆ Kim Gibb by phone at 801-556-8198, by FAX at 801-964-4482, or by Internet E-mail at kgibb@utah.gov
- ◆ Steven Winward by phone at 801-550-6163, or by Internet E-mail at swinward@utah.gov

AUTHORIZED BY: Steven Winward, Captain

EFFECTIVE: 06/19/2017

Public Safety, Highway Patrol  
**R714-550**

**Rule for Spending Fees Provided under Section 53-1-117**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 41841  
FILED: 06/19/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The rule set establishes protocols and guidelines in establishing a committee that oversees the distribution of fees gathered through DUI driver license sanctions and DUI impound fees. This committee reviews applications for equipment and authorizes funding for DUI enforcement shifts in the state.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: During the time since the last review, there have not been any written comments opposing or supporting the rule as written.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The funding source established by the statute is still in place. The established rule is still necessary to make sure the committee that oversees the disbursement of the fund is still in place. Therefore, this rule should be continued.

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

PUBLIC SAFETY  
HIGHWAY PATROL  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W  
SALT LAKE CITY, UT 84119-5994  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Steven Winward by phone at 801-550-6163, or by Internet E-mail at swinward@utah.gov

AUTHORIZED BY: Steven Winward, Captain

EFFECTIVE: 06/19/2017



School and Institutional Trust Lands,  
Administration  
**R850-4**  
Application Fees and Assessments

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 41845  
FILED: 06/27/2017

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53C-1-302(1)(a)(ii) authorizes the Director of the School and Institutional Trust Lands Administration to adopt rules necessary to fulfill the purposes of Title 53C.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received by the agency regarding this rule since the last five-year notice of review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary as it allows the agency to establish a list of fees that may be charged in order to recoup some of the costs of doing business. The assessment of these fees is established pursuant to policy set by the Board of Trustees and assists the Trust in fulfilling its fiduciary responsibility in behalf of the various trust beneficiaries. Therefore, this rule should be continued.

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

SCHOOL AND INSTITUTIONAL TRUST LANDS  
ADMINISTRATION  
ROOM 500  
675 E 500 S  
SALT LAKE CITY, UT 84102-2818  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ John Andrews by phone at 801-538-5180, by FAX at 801-538-5118, or by Internet E-mail at [jandrews@utah.gov](mailto:jandrews@utah.gov)

AUTHORIZED BY: David Ure, Director

EFFECTIVE: 06/27/2017

School and Institutional Trust Lands,  
Administration  
**R850-5**  
Payments, Royalties, Audits, and  
Reinstatements

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 41846  
FILED: 06/27/2017

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsections 53C-1-302-(1)(a)(ii) and 53C-1-303(1)(b) authorize the Director of the School and Institutional Trust Lands Administration to established procedures and rules for the management of the trust 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 by the Trust concerning this rule since the last five-year notice of review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rules sets forth the guidelines and procedures necessary for protecting the assets of the various beneficiaries in the course of leasing and selling trust assets. Guidelines for the audit of leases ensures that the trust assets are being protected and the trust beneficiaries are receiving full value for their lands. This rule is necessary for the day-to-day operations of the Trust. Therefore, this rule should be continued.

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

SCHOOL AND INSTITUTIONAL TRUST LANDS  
ADMINISTRATION  
ROOM 500  
675 E 500 S  
SALT LAKE CITY, UT 84102-2818  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ John Andrews by phone at 801-538-5180, by FAX at 801-538-5118, or by Internet E-mail at [jandrews@utah.gov](mailto:jandrews@utah.gov)

AUTHORIZED BY: David Ure, Director

EFFECTIVE: 06/27/2017

School and Institutional Trust Lands,  
Administration  
**R850-6**  
Government Records Access and  
Management

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 41847  
FILED: 06/27/2017

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 63G-2-204, 63G-2-603, and 53C-2-102, and Subsection 53C-1-201(3)(a)(I)(A) direct and authorize the Director of the School and Institutional Trust Lands Administration to adopt rules that provide guidelines for public access to Trust records and protect confidential information that is provided to the Trust.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received by the Trust regarding this rule since the last five-year notice of review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is required by statute in order to establish guidelines for public access to Trust records, as well as the protection of confidential and protected information provided to the Trust in the course of managing the interests of the various Trust beneficiaries. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
SCHOOL AND INSTITUTIONAL TRUST LANDS  
ADMINISTRATION  
ROOM 500  
675 E 500 S  
SALT LAKE CITY, UT 84102-2818  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ John Andrews by phone at 801-538-5180, by FAX at 801-538-5118, or by Internet E-mail at jandrews@utah.gov

AUTHORIZED BY: David Ure, Director

EFFECTIVE: 06/27/2017

School and Institutional Trust Lands,  
Administration  
**R850-30**  
Special Use Leases

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 41848  
FILED: 06/27/2017

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsections 53C-1-302(1)(a)(ii) and 53C-4-101(1) authorize the Director of the School and Institutional Trust Lands Administration to prescribe the standards and conditions for the leasing and development of surface resources on trust 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 by the Trust regarding this rule since the last five-year notice of review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Statute requires the Trust to establish rules outlining procedures for the issuance of special use leases on trust lands. The Trust manages a vast amount of surface estate for the benefit of the trust beneficiaries and these guidelines are crucial to the successful management of that estate. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
SCHOOL AND INSTITUTIONAL TRUST LANDS  
ADMINISTRATION  
ROOM 500  
675 E 500 S  
SALT LAKE CITY, UT 84102-2818  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Kim Christy by phone at 801-538-5183, by FAX at 801-355-0922, or by Internet E-mail at kimchristy@utah.gov

AUTHORIZED BY: David Ure, Director

EFFECTIVE: 06/27/2017

School and Institutional Trust Lands,  
Administration  
**R850-40**  
Easements

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
DAR FILE NO.: 41849  
FILED: 06/27/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 53C-1-302 and 53C-4-203 authorize the Director of the School and Institutional Trust Lands Administration to establish rules for the issuance of easements on, through, and over trust lands; and to establish price schedules for this use.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received by the Trust regarding this rule since the last five-year notice of review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Agency manages a vast amount of surface estate for the benefit of the trust beneficiaries. Easements are one of the many uses for the surface estate and statute specifically requires the Trust to provide rules for the issuance of easements and establish price schedules at fair market value. This rule meets the statutory requirement for issuance of easements on trust land. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
SCHOOL AND INSTITUTIONAL TRUST LANDS  
ADMINISTRATION  
ROOM 500  
675 E 500 S  
SALT LAKE CITY, UT 84102-2818  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Kim Christy by phone at 801-538-5183, by FAX at 801-355-0922, or by Internet E-mail at kimchristy@utah.gov

AUTHORIZED BY: David Ure, Director

EFFECTIVE: 06/27/2017

School and Institutional Trust Lands,  
Administration  
**R850-50**  
Range Management

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
DAR FILE NO.: 41850  
FILED: 06/27/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53C-1-302-(1)(a)(ii) and Section 53C-5-102 authorize the Director of the School and Institutional Trust Lands Administration to establish rules prescribing standards and conditions for the utilization of forage and related development of range resources on trust 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 by the Trust for this rule since the last five-year notice of review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Statute requires that guidelines for the grazing of livestock on trust lands be established. Range management provides a resource for local ranchers to utilize in their agricultural operations, as well as an additional source of revenue for the trust beneficiaries. This rule provides the criteria to meet statute requirements. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
SCHOOL AND INSTITUTIONAL TRUST LANDS  
ADMINISTRATION  
ROOM 500  
675 E 500 S  
SALT LAKE CITY, UT 84102-2818  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Kim Christy by phone at 801-538-5183, by FAX at 801-355-0922, or by Internet E-mail at kimchristy@utah.gov

AUTHORIZED BY: David Ure, Director

EFFECTIVE: 06/27/2017

School and Institutional Trust Lands,  
Administration  
**R850-60**  
Cultural Resources

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
DAR FILE NO.: 41851  
FILED: 06/27/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 9-8-305 and 9-8-404 mandate the preservation and protection of all antiquities, historic and prehistoric ruins, historic sites, buildings, and objects. Subsections 53C-1-302(1)(a)(ii) and 53C-2-201(1)(a) authorize the Director of the School and Institutional Trust Lands Administration to prescribe the management of those cultural resources located on trust 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 by the Trust regarding this rule since the previous five-year notice of review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: As required by statute, this rule provides the guidelines whereby the School and Institutional Trust Lands Administration manages the cultural resources located on trust lands, in compliance with Subsection 9-8-305(2) and Section 9-8-204. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION  
ROOM 500  
675 E 500 S  
SALT LAKE CITY, UT 84102-2818  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Kim Christy by phone at 801-538-5183, by FAX at 801-355-0922, or by Internet E-mail at kimchristy@utah.gov

AUTHORIZED BY: David Ure, Director

EFFECTIVE: 06/27/2017

School and Institutional Trust Lands,  
Administration  
**R850-80**  
Sale of Trust Lands

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
DAR FILE NO.: 41852  
FILED: 06/27/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsections 53C-1-302(1)(a)(ii) and 53C-4-101(1) authorize the Director of the School and Institutional Trust Lands Administration to prescribe the terms and conditions for the sale of trust land.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received by the Trust regarding this rule since the previous five-year notice of review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary as it sets forth the procedures and guidelines for determining if and when it is in the best interests of the trust beneficiaries to sell portions of the surface estate. It also sets forth the process for establishing and receiving fair market value for the lands available for sale. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION  
ROOM 500  
675 E 500 S  
SALT LAKE CITY, UT 84102-2818  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Kim Christy by phone at 801-538-5183, by FAX at 801-355-0922, or by Internet E-mail at kimchristy@utah.gov

AUTHORIZED BY: David Ure, Director

EFFECTIVE: 06/27/2017

Workforce Services, Administration  
**R982-402**  
 Energy Assistance Programs  
 Standards

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION**

DAR FILE NO.: 41856  
 FILED: 06/28/2017

**NOTICE OF REVIEW AND STATEMENT OF  
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The federal Low Income Home Energy Assistance Act of 1981, 42 U.S.C. 8621 et seq., as amended, and its accompanying regulations, 45 CFR 96.80 et seq., provide grants to the states for subsidies for certain low-income individuals and households in need of assistance in paying their home energy costs. In response, the Utah Legislature has passed the Home Energy Assistance Target (HEAT) Program Act, Section 35A-8-1401 et seq., which authorizes the Department of Workforce Services to administer the HEAT Program in accordance with the above-cited federal authorities. Section 35A-8-1403 specifically authorizes the Department to make rules setting forth the eligibility criteria for the HEAT Program.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received during the last five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary to define the program standards for the HEAT Program. Therefore, the rule should be continued.

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

WORKFORCE SERVICES  
 ADMINISTRATION  
 140 E BROADWAY  
 SALT LAKE CITY, UT 84111-2333  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Nathan White by phone at 801-526-9647, or by Internet E-mail at [nwhite@utah.gov](mailto:nwhite@utah.gov)

AUTHORIZED BY: Jon Pierpont, Executive Director

EFFECTIVE: 06/28/2017

Workforce Services, Administration  
**R982-403**

Energy Assistance Income Standards,  
 Income Eligibility, and Payment  
 Determination

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION**

DAR FILE NO.: 41857  
 FILED: 06/28/2017

**NOTICE OF REVIEW AND STATEMENT OF  
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The federal Low Income Home Energy Assistance Act of 1981, 42 U.S.C. 8621 et seq., as amended, and its accompanying regulations, 45 CFR 96.80 et seq., provide grants to the states for subsidies for certain low-income individuals and households in need of assistance in paying their home energy costs. In response, the Utah Legislature has passed the Home Energy Assistance Target (HEAT) Program Act, Section 35A-8-1401 et seq., which authorizes the Department of Workforce Services to administer the HEAT Program in accordance with the above-cited federal authorities. Section 35A-8-1403 specifically authorizes the Department to make rules setting forth the eligibility criteria for the HEAT Program.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received during the last five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is required to define program standards for eligibility and payment determination for the HEAT Program. Therefore, the rule should be continued.

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

WORKFORCE SERVICES  
 ADMINISTRATION  
 140 E BROADWAY  
 SALT LAKE CITY, UT 84111-2333  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Nathan White by phone at 801-526-9647, or by Internet E-mail at [nwhite@utah.gov](mailto:nwhite@utah.gov)

AUTHORIZED BY: Jon Pierpont, Executive Director

EFFECTIVE: 06/28/2017

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**Workforce Services, Administration**  
**R982-404**  
**Energy Assistance: Asset Standards**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 41858  
FILED: 06/28/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The federal Low Income Home Energy Assistance Act of 1981, 42 U.S.C. 8621 et seq., as amended, and its accompanying regulations, 45 CFR 96.80 et seq., provide grants to the states for subsidies for certain low-income individuals and households in need of assistance in paying their home energy costs. In response, the Utah Legislature has passed the Home Energy Assistance Target (HEAT) Program Act, Section 35A-8-1401 et seq., which authorizes the Department of Workforce Services to administer the HEAT Program in accordance with the above-

cited federal authorities. Section 35A-8-1403 specifically authorizes the Department to make rules setting forth the eligibility criteria for the HEAT Program.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received during the last five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to set standards for whether household assets will be counted when determining eligibility for the HEAT Program. Therefore, the rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
WORKFORCE SERVICES  
ADMINISTRATION  
140 E BROADWAY  
SALT LAKE CITY, UT 84111-2333  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Nathan White by phone at 801-526-9647, or by Internet E-mail at [nwhite@utah.gov](mailto:nwhite@utah.gov)

AUTHORIZED BY: Jon Pierpont, Executive Director

EFFECTIVE: 06/28/2017

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**End of the Five-Year Notices of Review and Statements of Continuation Section**

## NOTICES OF RULE EFFECTIVE DATES

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State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

**NOTICES OF EFFECTIVE DATE** are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

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### Abbreviations

AMD = Amendment

CPR = Change in Proposed Rule

NEW = New Rule

R&R = Repeal & Reenact

REP = Repeal

### Administrative Services

Purchasing and General Services

No. 41534 (AMD): R33-1. Utah Procurement Rule, General

Procurement Provisions

Published: 05/15/2017

Effective: 06/21/2017

No. 41535 (AMD): R33-4. Supplemental Procurement

Procedures

Published: 05/15/2017

Effective: 06/21/2017

No. 41536 (AMD): R33-5. Other Standard Procurement

Processes

Published: 05/15/2017

Effective: 06/21/2017

No. 41539 (AMD): R33-6. Bidding

Published: 05/15/2017

Effective: 06/21/2017

No. 41540 (AMD): R33-7. Request for Proposals

Published: 05/15/2017

Effective: 06/21/2017

No. 41544 (AMD): R33-8. Exceptions to Standard

Procurement Process

Published: 05/15/2017

Effective: 06/21/2017

No. 41545 (AMD): R33-9. Cancellations, Rejections, and  
Debarment

Published: 05/15/2017

Effective: 06/21/2017

No. 41546 (AMD): R33-11. Form of Bonds

Published: 05/15/2017

Effective: 06/21/2017

No. 41547 (AMD): R33-12. Terms and Conditions,

Contracts, Change Orders and Costs

Published: 05/15/2017

Effective: 06/21/2017

No. 41548 (AMD): R33-13. General Construction Provisions

Published: 05/15/2017

Effective: 06/21/2017

No. 41549 (AMD): R33-15. Procurement of Design

Profession Services

Published: 05/15/2017

Effective: 06/21/2017

No. 41550 (AMD): R33-16. Protests

Published: 05/15/2017

Effective: 06/21/2017

No. 41551 (AMD): R33-17. Procurement Appeals Board

Published: 05/15/2017

Effective: 06/21/2017

No. 41552 (AMD): R33-18. Appeals to Court and Court

Proceedings

Published: 05/15/2017

Effective: 06/21/2017

No. 41553 (AMD): R33-19-101. Encouraged to Obtain Legal

Advice From Legal Counsel

Published: 05/15/2017

Effective: 06/21/2017

No. 41554 (AMD): R33-21-201e. Division May Charge Administrative Fees on State Cooperative Contracts - Prohibition Against Other Procurement Units Charging Fees on State Contracts  
 Published: 05/15/2017  
 Effective: 06/21/2017

No. 41555 (AMD): R33-25. Executive Branch Insurance Procurement  
 Published: 05/15/2017  
 Effective: 06/21/2017

Records Committee

No. 41478 (AMD): R35-1-2. Procedures for Appeal Hearings  
 Published: 05/01/2017  
 Effective: 06/22/2017

No. 41479 (AMD): R35-2-2. Declining Requests for Hearings  
 Published: 05/01/2017  
 Effective: 06/22/2017

Commerce  
Securities

No. 41470 (AMD): R164-15-4. Notice Filings for Offerings Made Under Federal Crowdfunding Provisions  
 Published: 05/01/2017  
 Effective: 06/30/2017

Financial Institutions

Nondepository Lenders  
 No. 41480 (NEW): R343-11. Rule Designating Applicable Federal Law for a Mortgage Lender, Broker, or Servicer Subject to the Jurisdiction of the Department of Financial Institutions  
 Published: 05/15/2017  
 Effective: 06/21/2017

Health

Disease Control and Prevention, Environmental Services  
 No. 41486 (AMD): R392-600. Illegal Drug Operations Decontamination Standards  
 Published: 05/15/2017  
 Effective: 06/21/2017

Health Care Financing, Coverage and Reimbursement Policy  
 No. 41496 (AMD): R414-1. Utah Medicaid Program  
 Published: 05/15/2017  
 Effective: 07/01/2017

No. 41563 (AMD): R414-1-6. Services Available  
 Published: 05/15/2017  
 Effective: 07/01/2017

No. 41498 (AMD): R414-1-28. Cost Sharing  
 Published: 05/15/2017  
 Effective: 07/01/2017

No. 41566 (AMD): R414-1-30. Face-to-Face Requirements for Home Health Services  
 Published: 05/15/2017  
 Effective: 07/01/2017

No. 41559 (AMD): R414-2A-7. Limitations  
 Published: 05/15/2017  
 Effective: 07/01/2017

No. 41497 (AMD): R414-3A-6. Services  
 Published: 05/15/2017  
 Effective: 07/01/2017

No. 41567 (AMD): R414-10. Physician Services  
 Published: 05/15/2017  
 Effective: 07/01/2017

No. 41564 (AMD): R414-14. Home Health Services  
 Published: 05/15/2017  
 Effective: 07/01/2017

No. 41562 (AMD): R414-49. Dental, Oral and Maxillofacial Surgeons and Orthodontia  
 Published: 05/15/2017  
 Effective: 07/01/2017

No. 41565 (AMD): R414-70. Medical Supplies, Durable Medical Equipment, and Prosthetic Devices  
 Published: 05/15/2017  
 Effective: 07/01/2017

No. 41560 (AMD): R414-401-3. Assessment  
 Published: 05/15/2017  
 Effective: 07/01/2017

No. 41561 (NEW): R414-514. Requirements for Moratorium Exception  
 Published: 05/15/2017  
 Effective: 07/01/2017

Human Resource Management

Administration  
 No. 41499 (AMD): R477-1. Definitions  
 Published: 05/15/2017  
 Effective: 07/01/2017

No. 41501 (AMD): R477-2. Administration  
 Published: 05/15/2017  
 Effective: 07/01/2017

No. 41502 (AMD): R477-4. Filling Positions  
 Published: 05/15/2017  
 Effective: 07/01/2017



No. 41504 (AMD): R477-5. Employee Status and Probation  
Published: 05/15/2017  
Effective: 07/01/2017

No. 41503 (AMD): R477-6. Compensation  
Published: 05/15/2017  
Effective: 07/01/2017

No. 41505 (AMD): R477-7. Leave  
Published: 05/15/2017  
Effective: 07/01/2017

No. 41506 (AMD): R477-8. Working Conditions  
Published: 05/15/2017  
Effective: 07/01/2017

No. 41507 (AMD): R477-10. Employee Development  
Published: 05/15/2017  
Effective: 07/01/2017

No. 41508 (AMD): R477-11. Discipline  
Published: 05/15/2017  
Effective: 07/01/2017

No. 41509 (AMD): R477-12. Separations  
Published: 05/15/2017  
Effective: 07/01/2017

No. 41510 (AMD): R477-14. Substance Abuse and Drug-Free Workplace  
Published: 05/15/2017  
Effective: 07/01/2017

No. 41511 (AMD): R477-15. Workplace Harassment Prevention  
Published: 05/15/2017  
Effective: 07/01/2017

No. 41512 (AMD): R477-16. Abusive Conduct Prevention  
Published: 05/15/2017  
Effective: 07/01/2017

School and Institutional Trust Lands Administration

No. 41558 (NEW): R850-160. Withdrawal of Trust Lands from Public Target Shooting  
Published: 05/15/2017  
Effective: 06/21/2017

Transportation

Program Development

No. 41484 (AMD): R926-2. Evaluation of Proposed Additions to or Deletions from the State Highway System  
Published: 05/15/2017  
Effective: 06/30/2017

Preconstruction

No. 41485 (NEW): R930-9. Detection and Elimination of Unauthorized Discharges into Drainage Systems, Enforcement of Water Laws, Sanctions for Violation, and Permitting  
Published: 05/15/2017  
Effective: 06/30/2017

Workforce Services

Unemployment Insurance

No. 41520 (NEW): R994-102. Employment Security Act, Public Policy and Authority  
Published: 05/15/2017  
Effective: 06/21/2017

No. 41521 (NEW): R994-106. Combined Wage Claims  
Published: 05/15/2017  
Effective: 06/21/2017

No. 41522 (NEW): R994-303. Contribution Rates  
Published: 05/15/2017  
Effective: 06/21/2017

No. 41523 (NEW): R994-401. Payment of Benefits  
Published: 05/15/2017  
Effective: 06/21/2017

No. 41525 (NEW): R994-402. Extended Benefits (EB)  
Published: 05/15/2017  
Effective: 06/21/2017

**End of the Notices of Rule Effective Dates Section**



**RULES INDEX  
BY AGENCY (CODE NUMBER)  
AND  
BY KEYWORD (SUBJECT)**

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The Rules Index is a cumulative index that reflects all effective changes to Utah's administrative rules. The current Index lists changes made effective from January 2, 2017 through June 30, 2017. The Rules Index is published in the Utah State Bulletin and in the annual Utah Administrative Rules Index of Changes. Nonsubstantive changes, while not published in the Bulletin, do become part of the Utah Administrative Code (Code) and are included in this Index, as well as 120-Day (Emergency) rules that do not become part of the Code. The rules are indexed by Agency (Code Number) and Keyword (Subject).

Questions regarding the index and the information it contains should be addressed to the Office of Administrative Rules (801-538-3003).

A copy of the **RULES INDEX** is available for public inspection at the Office of Administrative Rules (5110 State Office Building, Salt Lake City, UT), or may be viewed online at the Office's web site (<https://rules.utah.gov/>).

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## RULES INDEX - BY AGENCY (CODE NUMBER)

### ABBREVIATIONS

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b>ADMINISTRATIVE SERVICES</b>					
<u>Debt Collection</u>					
R21-1	Transfer of Collection Responsibility of State Agencies	41374	NSC	04/10/2017	Not Printed
R21-1	Transfer of Collection Responsibility of State Agencies	41743	5YR	06/07/2017	2017-13/229
R21-2	Office of State Debt Collection Administrative Procedures	41376	5YR	03/17/2017	2017-8/59
R21-3	Debt Collection Through Administrative Offset	41377	5YR	03/17/2017	2017-8/59
<u>Facilities Construction and Management</u>					
R23-1	Procurement Rules with Numbering Related to the Procurement Code	41266	5YR	02/01/2017	2017-4/57
R23-3	Planning, Programming, Request for Capital Development Projects and Operation and Maintenance Reporting	40947	AMD	01/20/2017	2016-23/6
R23-19	Facility Use Rules	41267	5YR	02/01/2017	2017-4/57
R23-20	Free Speech Activities	41268	5YR	02/01/2017	2017-4/58
R23-30	State Facility Energy Efficiency Fund	40946	AMD	01/20/2017	2016-23/11
<u>Finance</u>					
R25-5	Payment of Per Diem to Boards	41796	NSC	06/29/2017	Not Printed
R25-7	Travel-Related Reimbursements for State Employees	41127	EMR	01/06/2017	2017-3/71
R25-7	Travel-Related Reimbursements for State Employees	41147	AMD	03/10/2017	2017-3/2
R25-14	Payment of Attorney's Fees in Death Penalty Cases	41124	5YR	01/06/2017	2017-3/79
R25-20	Indigent Defense Funds Board, Procedures for Electronic Meetings	41327	5YR	02/21/2017	2017-6/29
<u>Fleet Operations</u>					
R27-1	Definitions	41105	AMD	02/21/2017	2017-2/4
R27-3	Vehicle Use Standards	41106	AMD	02/21/2017	2017-2/6
R27-4	Vehicle Replacement and Expansion of State Fleet	41107	AMD	02/21/2017	2017-2/12
<u>Inspector General of Medicaid Services (Office of)</u>					
R30-1	Office of Inspector General of Medicaid Services	41487	5YR	04/21/2017	2017-10/163
<u>Purchasing and General Services</u>					
R33-1	Utah Procurement Rule, General Procurement Provisions	41534	AMD	06/21/2017	2017-10/4
R33-4	Supplemental Procurement Procedures	41535	AMD	06/21/2017	2017-10/7

R33-4-101b	Vendors with Exclusive Authorization to Bid	41292	NSC	03/06/2017	Not Printed
R33-5	Other Standard Procurement Processes	41536	AMD	06/21/2017	2017-10/10
R33-5	Other Standard Procurement Processes	41665	NSC	06/26/2017	Not Printed
R33-6	Bidding	41539	AMD	06/21/2017	2017-10/15
R33-7	Request for Proposals	41540	AMD	06/21/2017	2017-10/18
R33-8	Exceptions to Standard Procurement Process	41544	AMD	06/21/2017	2017-10/27
R33-8-102	Adding Additional Funds to a Contract	41023	AMD	02/02/2017	2016-24/4
R33-9	Cancellations, Rejections, and Debarment	41545	AMD	06/21/2017	2017-10/31
R33-11	Form of Bonds	41546	AMD	06/21/2017	2017-10/35
R33-12	Terms and Conditions, Contracts, Change Orders and Costs	41547	AMD	06/21/2017	2017-10/37
R33-13	General Construction Provisions	41548	AMD	06/21/2017	2017-10/43
R33-15	Procurement of Design Profession Services	41549	AMD	06/21/2017	2017-10/47
R33-16	Protests	40898	AMD	01/20/2017	2016-22/10
R33-16	Protests	41550	AMD	06/21/2017	2017-10/48
R33-17	Procurement Appeals Board	41551	AMD	06/21/2017	2017-10/51
R33-18	Appeals to Court and Court Proceedings	41552	AMD	06/21/2017	2017-10/54
R33-19-101	Encouraged to Obtain Legal Advice From Legal Counsel	41553	AMD	06/21/2017	2017-10/55
R33-21-201e	Division May Charge Administrative Fees on State Cooperative Contracts - Prohibition Against Other Procurement Units Charging Fees on State Contracts	41554	AMD	06/21/2017	2017-10/56
R33-25	Executive Branch Insurance Procurement	41555	AMD	06/21/2017	2017-10/57
<u>Records Committee</u>					
R35-1-2	Procedures for Appeal Hearings	41478	AMD	06/22/2017	2017-9/2
R35-2-2	Declining Requests for Hearings	41479	AMD	06/22/2017	2017-9/4
<u>Risk Management</u>					
R37-1	Risk Management General Rules	41601	5YR	05/05/2017	2017-11/209
R37-2	Risk Management State Workers' Compensation Insurance Administration	41602	5YR	05/05/2017	2017-11/210
R37-3	Risk Management Adjudicative Proceedings	41603	5YR	05/05/2017	2017-11/210
R37-4	Adjusted Utah Governmental Immunity Act Limitations on Judgments	41604	5YR	05/05/2017	2017-11/211
AGRICULTURE AND FOOD					
<u>Administration</u>					
R51-2	Administrative Procedures for Informal Proceedings Before the Utah Department of Agriculture and Food	41120	5YR	01/03/2017	2017-2/45
<u>Animal Industry</u>					
R58-1	Admission, Identification, and Inspection of Livestock, Poultry, and Other Animals	41168	5YR	01/12/2017	2017-3/79
R58-3	Brucellosis Vaccination Requirements	41164	5YR	01/12/2017	2017-3/80
R58-6	Poultry	41165	5YR	01/12/2017	2017-3/80
R58-11	Slaughter of Livestock and Poultry	40951	AMD	01/12/2017	2016-23/16
R58-11	Slaughter of Livestock and Poultry	41372	NSC	04/05/2017	Not Printed
R58-11	Slaughter of Livestock and Poultry	41467	NSC	05/15/2017	Not Printed
R58-18	Elk Farming	41162	5YR	01/12/2017	2017-3/81
R58-19	Compliance Procedures	41194	5YR	01/18/2017	2017-4/58
R58-21	Trichomoniasis	41471	AMD	06/14/2017	2017-9/5
R58-22	Equine Infectious Anemia (EIA)	41163	5YR	01/12/2017	2017-3/81
R58-23	Equine Viral Arteritis (EVA)	41167	5YR	01/12/2017	2017-3/82
<u>Horse Racing Commission (Utah)</u>					
R52-7	Horse Racing	41102	AMD	03/06/2017	2017-1/4
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R850-3	Applicant Qualifications, Application Forms, and Application Processing	41695	5YR	05/23/2017	2017-12/40
R850-4	Application Fees and Assessments	41845	5YR	06/27/2017	Not Printed
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R982-403-5	Income Exclusions	41594	NSC	05/23/2017	Not Printed
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R982-601	Provider Code of Conduct	41714	5YR	05/31/2017	2017-12/42

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R986-200	Family Employment Program	41596	NSC	05/23/2017	Not Printed
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R986-400-401	Authority for General Assistance (GA) and Applicable Rules	41598	NSC	05/23/2017	Not Printed
R986-600	Workforce Investment Act	41336	AMD	05/01/2017	2017-6/18
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R994-402	Extended Benefits (EB)	41525	NEW	06/21/2017	2017-10/159
R994-403-202	Qualifying Elements for Approval of Training	41427	AMD	05/30/2017	2017-8/54
R994-404	Payment Following Workers' Compensation	41686	5YR	05/19/2017	2017-12/42
R994-405-2	Separations from a Temporary Help Company (THC)	41103	AMD	03/01/2017	2017-1/97
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**ABBREVIATIONS**

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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<u>accounts receivable</u> Administrative Services, Debt Collection	41374 41743 41376 41377	R21-1 R21-1 R21-2 R21-3	NSC 5YR 5YR 5YR	04/10/2017 06/07/2017 03/17/2017 03/17/2017	Not Printed 2017-13/229 2017-8/59 2017-8/59
<u>accreditation</u> Education, Administration	41733	R277-410	5YR	06/06/2017	2017-13/235
<u>acid rain</u> Environmental Quality, Air Quality	41640	R307-417	5YR	05/15/2017	2017-11/217
<u>action plan</u> Public Service Commission, Administration	41392	R746-430	5YR	03/27/2017	2017-8/83
<u>ADA</u> Insurance, Administration	41729	R590-149	5YR	06/05/2017	2017-13/244
<u>adjudicative procedures</u> Heritage and Arts, Library	41708	R458-1	5YR	05/31/2017	2017-12/37
<u>adjudicative proceedings</u> Environmental Quality, Environmental Response and Remediation	41404	R311-210	5YR	03/27/2017	2017-8/67
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	41285	R477-15	EXT	02/02/2017	2017-5/78
	41543	R477-15	5YR	04/27/2017	2017-10/174
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	41635	R602-1	NSC	05/25/2017	Not Printed
	41612	R602-2	5YR	05/09/2017	2017-11/222
	41633	R602-2	NSC	06/01/2017	Not Printed
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	41408	R652-3	5YR	03/28/2017	2017-8/77
	41409	R652-4	5YR	03/28/2017	2017-8/77
	41411	R652-5	5YR	03/29/2017	2017-8/78
	41413	R652-20	5YR	03/29/2017	2017-8/79
	41414	R652-30	5YR	03/29/2017	2017-8/79
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	41416	R652-50	5YR	03/29/2017	2017-8/80
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	41848	R850-30	5YR	06/27/2017	Not Printed
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<u>administrative responsibility</u>					
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	41694	R710-7-8	NSC	06/13/2017	Not Printed
	41343	R710-8	5YR	03/06/2017	2017-7/88
	41577	R710-9	5YR	05/03/2017	2017-11/229
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	41094	R277-915	AMD	02/07/2017	2017-1/46
	41317	R277-916	5YR	02/14/2017	2017-5/64
	41319	R277-916	AMD	04/10/2017	2017-5/17
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	41670	R746-110-3	NSC	06/05/2017	Not Printed
	41337	R746-200-7	AMD	05/15/2017	2017-7/59
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	41673	R746-312	NSC	06/05/2017	Not Printed
	41667	R746-320	5YR	05/17/2017	2017-12/38
	41676	R746-320	NSC	06/13/2017	Not Printed
	41678	R746-344-3	NSC	06/13/2017	Not Printed
	41679	R746-345-1	NSC	06/13/2017	Not Printed
	41262	R746-349	5YR	01/31/2017	2017-4/88
	41680	R746-349-3	NSC	06/13/2017	Not Printed
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<u>RACT</u>					
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	41181	R313-34	5YR	01/17/2017	2017-3/90
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	41193	R317-12	5YR	01/17/2017	2017-3/93
<u>water quality</u>					
Environmental Quality, Water Quality	41613	R317-3	5YR	05/09/2017	2017-11/219
<u>water rights</u>					
Natural Resources, Water Rights	41592	R655-6	5YR	05/05/2017	2017-11/223
<u>waterfowl</u>					
Natural Resources, Wildlife Resources	41153	R657-9	AMD	03/13/2017	2017-3/39
<u>weapons</u>					
Human Services, Juvenile Justice Services	41391	R547-14	5YR	03/27/2017	2017-8/74
<u>well logging</u>					
Environmental Quality, Waste Management and Radiation Control, Radiation	41185	R313-38	5YR	01/17/2017	2017-3/92
<u>white-collar contests</u>					
Governor, Economic Development, Pete Suazo Utah Athletic Commission	41425	R359-1	5YR	03/30/2017	2017-8/70
<u>wildland fire fund</u>					
Natural Resources, Forestry, Fire and State Lands	41013	R652-121	AMD	01/10/2017	2016-23/102
<u>wildland urban interface</u>					
Natural Resources, Forestry, Fire and State Lands	41014	R652-122	AMD	01/10/2017	2016-23/105
<u>wildlife</u>					
Natural Resources, Wildlife Resources	41580	R657-2	5YR	05/03/2017	2017-11/224
	41583	R657-4	5YR	05/03/2017	2017-11/225
	41153	R657-9	AMD	03/13/2017	2017-3/39
	41149	R657-16	REP	03/13/2017	2017-3/40
	41581	R657-22	5YR	05/03/2017	2017-11/225
	41353	R657-27	5YR	03/13/2017	2017-7/87
	41582	R657-30	5YR	05/03/2017	2017-11/226
	41148	R657-38	AMD	03/13/2017	2017-3/44
	41330	R657-43	5YR	02/27/2017	2017-6/30
	41668	R657-44	5YR	05/18/2017	2017-12/38
	41352	R657-50	5YR	03/13/2017	2017-7/88
	41150	R657-59	AMD	03/13/2017	2017-3/49

	41151	R657-60	AMD	03/13/2017	2017-3/61
	41098	R657-62	AMD	02/07/2017	2017-1/82
	41152	R657-62	AMD	03/13/2017	2017-3/67
<u>wildlife conservation</u>					
Natural Resources, Wildlife Resources	41148	R657-38	AMD	03/13/2017	2017-3/44
<u>wildlife law</u>					
Natural Resources, Wildlife Resources	41581	R657-22	5YR	05/03/2017	2017-11/225
	41353	R657-27	5YR	03/13/2017	2017-7/87
	41151	R657-60	AMD	03/13/2017	2017-3/61
<u>WIOA</u>					
Workforce Services, Employment Development	41595	R986-100	NSC	05/23/2017	Not Printed
<u>witness fees</u>					
Labor Commission, Adjudication	41605	R602-1	5YR	05/08/2017	2017-11/221
	41635	R602-1	NSC	05/25/2017	Not Printed
<u>women</u>					
Health, Family Health and Preparedness, WIC Services	41254	R406-100	5YR	01/30/2017	2017-4/69
	41255	R406-200	5YR	01/30/2017	2017-4/70
	41256	R406-201	5YR	01/30/2017	2017-4/70
	41257	R406-202	5YR	01/30/2017	2017-4/71
	41258	R406-301	5YR	01/30/2017	2017-4/71
<u>wood furniture</u>					
Environmental Quality, Air Quality	41218	R307-343	5YR	01/27/2017	2017-4/67
<u>work-based learning programs</u>					
Education, Administration	41317	R277-916	5YR	02/14/2017	2017-5/64
<u>workers' compensation</u>					
Administrative Services, Risk Management	41602	R37-2	5YR	05/05/2017	2017-11/210
Labor Commission, Adjudication	41612	R602-2	5YR	05/09/2017	2017-11/222
	41633	R602-2	NSC	06/01/2017	Not Printed
Workforce Services, Unemployment Insurance	41686	R994-404	5YR	05/19/2017	2017-12/42
<u>Workforce Innovation and Opportunity Act</u>					
Workforce Services, Employment Development	41336	R986-600	AMD	05/01/2017	2017-6/18
<u>Workforce Innovation and Opportunity Act (WIOA)</u>					
Workforce Services, Employment Development	41599	R986-600	NSC	05/23/2017	Not Printed
<u>world languages</u>					
Education, Administration	41004	R277-499	NEW	01/10/2017	2016-23/30
<u>x-rays</u>					
Environmental Quality, Waste Management and Radiation Control, Radiation	41180	R313-30	5YR	01/17/2017	2017-3/90
	41183	R313-35	5YR	01/17/2017	2017-3/91