R70. Agriculture and Food, Regulatory Services.
R70-910. Voluntary Registration of Servicemen and Service Agencies for Commercial Weighing and Measuring Devices.
R70-910-1. Authority.

Promulgated under Section 4-9-2.

R70-910-2. Policy.

It shall be the policy of the Division of Regulatory Services, Weights and Measures Program, of the Utah Department of Agriculture and Food to accept voluntary registration of:

A. an individual and/or

B. an agency that provides acceptable evidence that he or it is fully qualified to install, service, repair, or recondition a commercial weighing or measuring device; has a thorough working knowledge of all appropriate weights and measures laws, orders, rules, and regulations; and has possession of, or has accessible for his use, weights and measures standards and testing equipment certified by the Department of Agriculture and Food to be appropriate in design and capacity. This policy shall in no way preclude or limit the right and privilege of any qualified individual or agency not registered with the Department of Agriculture and Food to install, service, repair, or recondition a commercial weighing or measuring device.

R70-910-3. Definitions.

A. "Registered Servicemen" - shall be construed to mean any individual who for hire, award, commission, or any other payment of any kind, installs, services, repairs or reconditions a commercial weighing or measuring device, and who voluntarily registers himself as such with the Department of Agriculture and Food.

B. "Registered Service Agency" - shall be construed to mean any agency, firm, company, or corporation which, for hire, award, commission, or any other payment of any kind, installs, services, repairs, or reconditions a commercial weighing or measuring device, and which voluntarily registers itself as such with the Department of Agriculture and Food. Under agency registration, identification of individual servicemen shall be required.

C. "Commercial Weighing and Measuring Device" - shall include any weight or measure or weighing or measuring device commercially used or employed in establishing the size, quantity, extent, area, or measurement of quantities, things, product, or articles for distribution or consumption, purchased, offered or submitted for sale, hire, or award or in computing any basic charge or payment for services rendered on the basis of weight or measure, and shall also include any accessory attached to or used in connection with a commercial weighing or measuring device when such accessory is so designed or installed that its operation affects, or may affect, the accuracy of the device.

R70-910-4. Reciprocity.

The Department of Agriculture and Food may enter into a reciprocal agreement with any other State or States that have similar voluntary registration policies. Under such agreement, the Registered Servicemen and the Registered Service Agencies of the States party to the reciprocal agreement are granted full reciprocal authority, including reciprocal recognition of certification of standards and testing equipment, in all states party to such agreement.

R70-910-5. Registration Fee.

Upon application for and renewal of registration, the applicant shall pay to the Department of Agriculture and Food a registration fee determined by the department pursuant to subsection 4-2-2(2) for Registered Serviceman and/or Registered Service Agency. Registration shall expire December 31 of each year, and shall be renewed annually.

R70-910-6. Voluntary Registration.

An individual or agency may apply for voluntary registration to service weighing devices or measuring devices on an application form supplied by the Department of Agriculture and Food. Said form, duly signed and witnessed, shall include certification by the applicant that the individual or agency is fully qualified to install, service, repair, or recondition such devices as specified upon registration; has in possession, or available for his use, all necessary testing equipment and standards; and has full knowledge of all appropriate weights and measures laws, orders, rules, and regulation. An applicant also shall submit appropriate evidence or references as to qualifications.

R70-910-7. Certificate of Registration.

Upon receipt and acceptance of a properly executed application form, the Department of Agriculture and Food shall issue to the applicant a "Certificate of Registration," including an assigned registration number, which shall remain effective until returned by the applicant, withdrawn by the Department of Agriculture and Food, or registration expires.

R70-910-8. Privileges of a Voluntary Registrant.

The bearer of a Certificate of Registration shall have the authority to remove an official rejection tag or mark placed on a weighing or measuring device by the authority of the Department of Agriculture and Food; place in service, until such time as an official examination can be made, a weighing or measuring device that has been officially rejected; and place in service, until such time as an official examination can be made, a new or used weighing or measuring device.

R70-910-9. Place in Service Report.

The Department of Agriculture and Food shall furnish each Registered Serviceman and Registered Service Agency with a supply of report forms to be known as "Placed in Service Reports". Such a form shall be executed in triplicate, shall include the assigned registration number, and shall be signed by a Registered Serviceman or by a serviceman representing a Registered Agency for each rejected device restored to service and for each newly installed device placed in service. Within 24 hours after a device is restored to service, or placed in service, the original of the properly executed Place in Service Report, together with any official rejection tag removed from the device, shall be mailed to the Department of Agriculture and Food, the Division of Regulatory Services, Weights and Measures Program, 350 North Redwood Rd, PO Box 146500, Salt Lake City, UT 84114-6500. The duplicate copy of the report shall be retained by the owner or operator of the device, and the triplicate copy of the report shall be retained by the Registered Serviceman or Agency.

R70-910-10. Standards and Testing Equipment.

A Registered Serviceman and a Registered Service Agency shall submit, at least biennially to the Department of Agriculture and Food, for examination and certification, any testing equipment and standards that are used, or are to be used, in the performance of the service and testing functions with respect to weighing and measuring devices for which competence is registered. A Registered Serviceman or Agency shall not use in officially servicing commercial weighing or measuring devices any standards or testing equipment that have not been certified by the Department of Agriculture and Food.

R70-910-11. Qualification to Service Heavy Capacity Scales.

No registered service agency or serviceman shall be qualified to place in service or remove a Rejection Tag from a

heavy capacity scale unless such registered service agency or serviceman has adequate testing weights certified by the Utah Department of Agriculture and Food, Division of Regulatory Services, Weights and Measures Program. Adequate testing weights shall be deemed to be 10,000 pounds of test weights or one-fourth the capacity of the scale, whichever is less.

R70-910-12. Revocation of Certificate of Registration.

The Department of Agriculture and Food may, for good cause, after careful investigation, consideration, and due notice and process which shall include an opportunity for a hearing, suspend or revoke a Certificate of Registration, Section 4-1-5 and Section 63-46b.

R70-910-13. Publication of Lists of Registered Servicemen and Registered Service Agencies.

The Department of Agriculture and Food shall publish, and may supply upon request, lists of Registered Servicemen and Registered Service Agencies.

KEY: inspections
February 12, 2002 4-9-2
Notice of Continuation November 3, 2005

R70. Agriculture and Food, Regulatory Services.
R70-950. Uniform National Type Evaluation.
R70-950-1. Authority.

A. Promulgated under authority of Section 4-9-2.

B. Application. This rule shall apply to all classes of devices and/or equipment as covered in National Institute of Standards and Technology (N.I.S.T) Handbooks 44, 105-1, 105-2, and 105-3. (The department has a complete set of the publications mentioned, additional copies may be obtained from the U.S. Government Printing Office.)

R70-950-2. Definitions.

A. National Type Evaluation Program.

The term "National Type Evaluation Program" means a program of cooperation between the National Institute of Standards and Technology (N.I.S.T), the National Conference on Weights and Measures, the States, and the private sector for determining, on a uniform basis, conformance of a type with the relevant provisions of National Institute of Standards and Technology (N.I.S.T) Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices," National Institute of Standards and Technology (N.I.S.T) Handbook 105-1, "Specifications and Tolerances for Reference Standards and Field Standard Weights and Measures, Specifications and Tolerances for Field Standard Weights (N.I.S.T Class F)," National Institute of Standards and Technology (N.I.S.T) Handbook 105-2, "Specifications and Tolerances for Reference Standards and Field Standard Weights and Measures, Specifications and Tolerances for Field Standard Measuring Flask," or National Institute of Standards and Technology (N.I.S.T) Handbook 105-3, "Specifications and Tolerances for Reference Standards and Field Standard Weights and Measures, Specifications and Tolerances for Graduated Neck Type Volumetric Field Standards."

B. Type Evaluation.

The term "type evaluation" means the testing, examination, and/or evaluation of a type by a Participating Laboratory under the National Type Evaluation Program.

C. Type.

The term "type" means a model or models of a particular measurement system, instrument, element, or a field standard that positively identifies the design. A specific type may vary in its measurement ranges, size, performance, and operating characteristics as specified in the Certificate of Conformance.

D. Participating Laboratory.

The term "Participating Laboratory" means any State Measurement Laboratory that has been certified by the National Institute of Standards and Technology (N.I.S.T), in accordance with its program for the Certification of Capability of State Measurement Laboratories, to conduct a type evaluation under the National Type Evaluation Program.

E. Certificate of Conformance.

The term "Certificate of Conformance" means a document issued by the National Institute of Standards and Technology (N.I.S.T) or National Conference on Weights and Measures (NCWM) based on testing in participating laboratories, said document constituting evidence of conformance of a type with the requirements of National Institute of Standards and Technology (N.I.S.T) Handbooks 44, 105-1, 105-2, and 105-3.

F. Director.

The term "Director" means the Director of Regulatory Services, Utah Department of Agriculture and Food.

R70-950-3. Certificate of Conformance.

The Director may require any weight or measure, or any weighing or measuring instrument or device to be issued a Certificate of Conformance prior to use for commercial or law enforcement purposes.

R70-950-4. Participating Laboratory.

The Director is authorized to operate a Participating Laboratory as part of the National Type Evaluation Program. In this regard, the Director is authorized to charge and collect fees for type evaluation services.

KEY: inspections
1987 **4-9-2**
Notice of Continuation November 3, 2005

R131. Capitol Preservation Board (State), Administration.
R131-5. Board Review, Compensation and Incentive Award Process.

R131-5-1. Purpose.

Pursuant to Section 63C-9-401, Utah Code, which provides the Board shall appoint an executive director to assist them, this rule defines the Board's review, compensation and bonus procedure for the executive director and staff.

R131-5-2. Authority.

This rule is authorized by Subsection 63C-9-301 and 63C-9-401, Utah Code, directing the Board to make rules to govern, administer and regulate the executive director and staff.

R131-5-3. Definitions.

(1) "Board" or "CPB" means Capitol Preservation Board as provided for in Section 63-9-101, et seq., Utah Code.

(2) DHRM means the Division of Human Resource Management within the Utah Department of Administrative Services.

R131-5-4. Authority of the Board.

(1) The Board is the authorizing agent to approve, by majority vote of members present, incentive and bonus awards, and compensation amount(s) for staff as recommended by the executive director and the Budget Development and Board Operations Subcommittee.

(2) The Board shall be the sole approving authority, and shall sanction appropriate awards in accordance with these rules.

R131-5-5. Performance Review of Executive Director.

(1) The Board's Budget Development and Board Operations Subcommittee shall oversee a performance evaluation review of the executive director of the Board.

(2) This review shall be conducted by an appointed performance review panel of three members of the subcommittee and shall be comprised of one member from the executive branch, one from the house and one from the senate. The chair of the subcommittee shall designate members of the panel.

(3) Pursuant to Sections 63C-9-401 and 402, Utah Code, the panel shall review the work-plan as developed by the executive director and approved by the Board. The panel shall meet with the executive director to review the executive director's performance, to include the following:

(a) day-to-day activities and functions of the office and staff under the executive director's direction;

(b) management and oversight of ongoing construction projects under the executive director's direction;

(c) fiduciary management of funds appropriated, earned or donated to the Board for the management of the office, upkeep of Capitol Hill, and restoration or construction of projects within the responsibilities of the Board;

(d) personal and working relationships which have been developed with the members of the Board as well as groups associated with Capitol Hill;

(e) other assignments, functions, or responsibilities the panel finds a need to discuss.

(4) The review shall take place in a timely manner, at least annually, and prior to July 1 of each year.

R131-5-6. Performance Review of Staff.

(1) The executive director shall define performance standards for each staff person under the executive director's supervision, evaluate their performance, and make recommendations to the Budget Development and Board Operations Subcommittee. The Board shall review the recommendations and give final approval.

(2) In accordance with Section R477-10, Utah Administrative Code, the executive director shall implement the following general performance methodology for each staff employee:

(a) An employee performance plan shall be developed by August 30 of each fiscal year, or in the case of a new employee, within 60-days of the hiring-date, whichever is later;

(b) Employees shall be provided with periodic verbal and written feedback based on the standards of performance and conduct outlined in the performance plan.

(c) Each employee shall be informed concerning the actions to be taken, time frames, and the supervisor's role in providing assistance to improve performance and increase the value of service.

(3) The executive director shall implement the following performance management rating system by August 30 to be effective for the fiscal year:

TABLE

Rating	Score
Exceptional	3
Highly Successful	2.5
Successful	2
Marginal	1
Unsuccessful	0

(4) Each employee shall receive a performance evaluation effective on or before the beginning of the first pay period of each fiscal year. A new employee shall receive a performance evaluation at the end of a 6-month probationary period and again prior to the beginning of the first pay period of the fiscal year.

(5) The employee shall sign the evaluation. Signing the evaluation only means that the employee has reviewed the evaluation. Refusal to sign the evaluation shall constitute insubordination, subject to discipline.

(6) The evaluation form shall include a space for the employee's comments. Each employee shall have the right to include written comment(s) to be placed in the employee's file, to accompany the written performance evaluation as provided by the executive director. The employee may comment in writing, either in the space provided or on separately attached pages.

R131-5-7. Performance Review and Compensation.

(1) Classification, evaluation, and compensation of the executive director and staff shall be consistent with DHRM policies and procedures. The executive director shall consult with DHRM to develop recommendations for staff job-descriptions and standards.

(2) Upon receipt of the executive director's recommendations for changes in master plans, work plans, compensation, bonuses or adjustments, the Budget Development and Board Operations Subcommittee shall present its recommendations to the Board no later than its regularly scheduled September meeting.

(3) Upon the Board's approval of the Budget Development and Board Operations Subcommittee's recommendations, the executive director will prepare a final "Budget/Planning Request" to be presented to the Governor and the Legislature.

R131-5-8. Incentive Awards for the CPB Staff.

(1) The Board's executive director shall follow the provisions of DHRM's policy when granting incentive and bonus awards, as contained in R477-6-5, Utah Administrative Code; and hereby adopts and incorporates it by reference within this rule.

(2) When the executive director has approved the issuance of an incentive or bonus award, and such action has been approved by the Board, the award shall be issued within 30-days.

R131-5-9. Incentive Awards for the Executive Director of the Board.

(1) Based on particular or unusual circumstances, the Board may approve and grant the executive director incentive or bonus awards. Incentive and bonus awards are discretionary, without entitlement, and are subject to the availability of funds. The Board shall issue award(s) that accord with the following parameters:

(a) Awarded amounts may be paid either directly, or if requested by the executive director, into a 401(k) program approved by the Utah Retirement System.

(b) Individual awards shall not exceed $4,000 per occurrence and $8,000 per fiscal year.

(c) All cash incentive and bonus awards shall be subject to payroll taxes.

(2) Performance Based Incentive Award:

(a) Cash Incentive Award: The Board may grant a cash incentive award if:

(i) Exceptional effort or accomplishment is demonstrated, beyond normal job expectations over a sustained period of time.

(ii) A cash award approved by the Board shall be documented with a copy maintained in the executive director's employee file.

(b) Noncash Incentive Award: The Board may recognize its appreciation for the executive director's performance with noncash incentive awards.

(i) Individual noncash incentive awards shall not exceed a value of $50 per occurrence and $200 for each fiscal year.

(ii) Noncash incentive awards may not include cash equivalents such as gift certificates or tickets for admission.

(3) Cost-Savings Bonus: The Board may encourage increased productivity of the executive director when, through the executive director's action, cost savings are generated within a particular restoration or construction segment of the project,

(a) The Budget Development and Board Operations Subcommittee shall document the pertinent cost savings in their recommendation for the award.

(b) Amounts shall be for exceptional performance and circumstances, and may exceed limits stated in R477-6-5(1)(c), Utah Administrative Code, and R131-5-9-(b) when approved by the Board.

(4) Market Based Bonus:

The Board may extend a cash bonus to the executive director as an incentive for the executive director to obtain or retain an employee who possesses unusual job skills that are critical to the state and difficult to recruit in the marketplace.

(a) Retention Bonus:

The Board may pay a bonus to a current employee, to recognize usual or unique qualifications that are essential for the agency to retain.

(b) Recruitment or Signing Bonus:

The Board may pay a recruitment bonus to a qualified job candidate to convince the candidate to accept the position.

(c) Scarce Skills Bonus:

The Board may pay a bonus to a qualified job candidate that has unusual and scarce skills which are essential for the job.

(d) Relocation Bonus:

The Board may pay a bonus to a current employee, or a new employee, for relocation, including relocation to a different commuting area.

(e) Referral Bonus:

The Board may pay a bonus to an employee who refers a job applicant who is subsequently selected and completes successful employment for at least six months.

KEY: bonuses, reviews, compensation
November 15, 2005 63C-9-401

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

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

R156-1-102. Definitions.

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

(1) "Active and in good standing" means a licensure status which allows the licensee full privileges to engage in the practice of the occupation or profession subject to the scope of the licensee's license classification.

(2) "Aggravating circumstances" means any consideration or factors that may justify an increase in the severity of an action to be imposed upon an applicant or licensee. Aggravating circumstances include:

(a) prior record of disciplinary action, unlawful conduct, or unprofessional conduct;

(b) dishonest or selfish motive;

(c) pattern of misconduct;

(d) multiple offenses;

(e) obstruction of the disciplinary process by intentionally failing to comply with rules or orders of the Division;

(f) submission of false evidence, false statements or other deceptive practices during the disciplinary process including creating, destroying or altering records after an investigation has begun;

(g) refusal to acknowledge the wrongful nature of the misconduct involved, either to the client or to the Division;

(h) vulnerability of the victim;

(i) lack of good faith to make restitution or to rectify the consequences of the misconduct involved;

(j) illegal conduct, including the use of controlled substances; and

(k) intimidation or threats of withholding clients' records or other detrimental consequences if the client reports or testifies regarding the unprofessional or unlawful conduct.

(3) "Branching questionnaire", as used in Section R156-1-601, means an adaptive, progressive inquiry used by a physician to determine a health history and assessment, and serves as the basis for a diagnosis.

(4) "Cancel" or "cancellation" means nondisciplinary action by the division to rescind, repeal, annul, or void a license issued in error. Such action includes rescinding a license issued to an applicant whose payment of the required application fee is dishonored when presented for payment, or who has been issued a conditional license pending a criminal background check and the check cannot be completed due to the applicant's failure to resolve an outstanding warrant or to submit acceptable fingerprint cards.

(5) "Charges" means the acts or omissions alleged to constitute either unprofessional or unlawful conduct or both by a licensee, which serve as the basis to consider a licensee for inclusion in the diversion program authorized in Section 58-1-404.

(6) "Denial of licensure" means action by the division refusing to issue a license to an applicant for initial licensure, renewal of licensure, reinstatement of licensure or relicensure.

(7) "Disciplinary action" means adverse licensure action by the division under the authority of Subsections 58-1-401(2)(a) through (2)(b).

(8) "Diversion agreement" means a formal written agreement between a licensee, the division, and a diversion committee, outlining the terms and conditions with which a licensee must comply as a condition of entering in and remaining under the diversion program authorized in Section 58-1-404.

(9) "Diversion committees" mean diversion advisory committees authorized by Subsection 58-1-404(2)(a)(i) and created under Subsection R156-1-404a.

(10) "Duplicate license" means a license reissued to replace a license which has been lost, stolen, or mutilated.

(11) "Emergency review committees" mean emergency adjudicative proceedings review committees created by the division under the authority of Subsection 58-1-108(2).

(12) "Expire" or "expiration" means the automatic termination of a license which occurs:

(a) at the expiration date shown upon a license if the licensee fails to renew the license before the expiration date; or

(b) prior to the expiration date shown on the license:

(i) upon the death of a licensee who is a natural person;

(ii) upon the dissolution of a licensee who is a partnership, corporation, or other business entity; or

(iii) upon the issuance of a new license which supersedes an old license, including a license which:

(A) replaces a temporary license;

(B) replaces a student or other interim license which is limited to one or more renewals or other renewal limitation; or

(C) is issued to a licensee in an upgraded classification permitting the licensee to engage in a broader scope of practice in the licensed occupation or profession.

(13) "Inactive" or "inactivation" means action by the division to place a license on inactive status in accordance with Sections 58-1-305 and R156-1-305.

(14) "Investigative subpoena authority" means, except as otherwise specified in writing by the director, the division regulatory and compliance officer, or if the division regulatory and compliance officer is unable to so serve for any reason, a bureau manager designated by the regulatory and compliance officer, or if both the division regulatory and compliance officer and the designated bureau manager are unable to so serve for any reason, a department administrative law judge.

(15) "License" means a right or privilege to engage in the practice of a regulated occupation or profession as a licensee.

(16) "Limit" or "limitation" means nondisciplinary action placing either terms and conditions or restrictions or both upon a license:

(a) issued to an applicant for initial licensure, renewal or reinstatement of licensure, or relicensure; or

(b) issued to a licensee in place of the licensee's current license or disciplinary status.

(17) "Mitigating circumstances" means any consideration or factors that may justify a reduction in the severity of an action to be imposed upon an applicant or licensee.

(a) Mitigating circumstances include:

(i) absence of prior record of disciplinary action, unlawful conduct or unprofessional conduct;

(ii) absence of dishonest or selfish motive;

(iii) personal, mental or emotional problems provided such problems have not posed a risk to the health, safety or welfare of the public or clients served such as drug or alcohol abuse while engaged in work situations or similar situations where the licensee or applicant should know that they should refrain from engaging in activities that may pose such a risk;

(iv) timely and good faith effort to make restitution or rectify the consequences of the misconduct involved;

(v) full and free disclosure to the client or Division prior to the discovery of any misconduct;

(vi) inexperience in the practice of the occupation and profession provided such inexperience is not the result of failure to obtain appropriate education or consultation that the applicant or licensee should have known they should obtain prior to beginning work on a particular matter;

(vii) imposition of other penalties or sanctions; and

(viii) remorse.

(b) The following factors should not be considered as

mitigating circumstances:

(i) forced or compelled restitution;

(ii) withdrawal of complaint by client or other affected persons;

(iii) resignation prior to disciplinary proceedings;

(iv) failure of injured client to complain; and

(v) complainant's recommendation as to sanction.

(18) "Nondisciplinary action" means adverse licensure by the division under the authority of Subsections 58-1-401(1) or 58-1-401(2)(c) through (2)(d).

(19) "Peer committees" mean advisory peer committees to boards created by the legislature in Title 58 or by the division under the authority of Subsection 58-1-203(1)(f).

(20) "Private reprimand" means disciplinary action to formally reprove or censure a licensee for unprofessional or unlawful conduct, with the documentation of the action being classified as a private record.

(21) "Probation" means disciplinary action placing terms and conditions upon a license;

(a) issued to an applicant for initial licensure, renewal or reinstatement of licensure, or relicensure; or

(b) issued to a licensee in place of the licensee's current license or disciplinary status.

(22) "Public reprimand" means disciplinary action to formally reprove or censure a licensee for unprofessional or unlawful conduct, with the documentation of the action being classified as a public record.

(23) "Regulatory authority" as used in Subsection 58-1-501(2)(d) means any governmental entity who licenses, certifies, registers, or otherwise regulates persons subject to its jurisdiction, or who grants the right to practice before or otherwise do business with the governmental entity.

(24) "Reinstate" or "reinstatement" means to activate an expired license or to restore a license which is restricted, as defined in Subsection (26)(b), or is suspended, or placed on probation, to a lesser restrictive license or an active in good standing license.

(25) "Relicense" or "relicensure" means to license an applicant who has previously been revoked or has previously surrendered a license.

(26) "Remove or modify restrictions" means to remove or modify restrictions, as defined in Subsection (26)(a), placed on a license issued to an applicant for licensure.

(27) "Restrict" or "restriction" means disciplinary action qualifying or limiting the scope of a license:

(a) issued to an applicant for initial licensure, renewal or reinstatement of licensure, or relicensure in accordance with Section 58-1-304; or

(b) issued to a licensee in place of the licensee's current license or disciplinary status.

(28) "Revoke" or "revocation" means disciplinary action by the division extinguishing a license.

(29) "Suspend" or "suspension" means disciplinary action by the division removing the right to use a license for a period of time or indefinitely as indicated in the disciplinary order, with the possibility of subsequent reinstatement of the right to use the license.

(30) "Surrender" means voluntary action by a licensee giving back or returning to the division in accordance with Section 58-1-306, all rights and privileges associated with a license issued to the licensee.

(31) "Temporary license" or "temporary licensure" means a license issued by the division on a temporary basis to an applicant for initial licensure, renewal or reinstatement of licensure, or relicensure in accordance with Section 58-1-303.

(32) "Unprofessional conduct" as defined in Title 58 is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-1-502.

(33) "Warning or final disposition letters which do not constitute disciplinary action" as used in Subsection 58-1-108(3) mean letters which do not contain findings of fact or conclusions of law and do not constitute a reprimand, but which may address any or all of the following:

(a) division concerns;

(b) allegations upon which those concerns are based;

(c) potential for administrative or judicial action; and

(d) disposition of division concerns.

R156-1-103. Authority - Purpose.

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

R156-1-106. Division - Duties, Functions, and Responsibilities.

(1) In accordance with Subsection 58-1-106(2), the following responses to requests for lists of licensees may include multiple licensees per request and may include home telephone numbers and home addresses, subject to the restriction that the addresses and telephone numbers shall only be used by a requester for purposes for which the requester is properly authorized and shall not be sold or otherwise redisclosed by the requester:

(a) responses to requests from another governmental entity, government-managed corporation, a political subdivision, the federal government, another state, or a not-for-profit regulatory association to which the division is a member;

(b) responses to requests from an occupational or professional association, private continuing education organizations, trade union, university, or school, for purposes of education programs for licensees;

(c) responses to a party to a prelitigation proceeding convened by the division under Title 78, Chapter 14;

(d) responses to universities, schools, or research facilities for the purposes of research;

(e) responses to requests from licensed health care facilities or third party credentialing services, for the purpose of verifying licensure status for credentialing or reimbursement purposes; and

(f) responses to requests from a person preparing for, participating in, or responding to:

(i) a national, state or local emergency;

(ii) a public health emergency as defined in Section 26-23b-102; or

(iii) a declaration by the President of the United States or other federal official requesting public health-related activities.

(2) In accordance with Subsection 58-1-106(3)(a), the division may deny a request for an address or telephone number of a licensee to an individual who provides proper identification and the reason for the request, in writing, to the division, if the reason for the request is deemed by the division to constitute an unwarranted invasion of privacy or a threat to the public health, safety, and welfare.

(3) In accordance with Subsection 58-1-106(3)(c), proper identification of an individual who requests the address or telephone number of a licensee and the reason for the request, in writing, shall consist of the individual's name, mailing address, and daytime number, if available.

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

(1) The rules and sections in Title R156 shall, to the extent practicable, follow the numbering and organizational scheme of the chapters in Title 58.

(2) Rule R156-1 shall contain general provisions applicable to the administration and enforcement of all occupations and professions regulated in Title 58.

(3) The provisions of the other rules in Title R156 shall

contain specific or unique provisions applicable to particular occupations or professions.

(4) Specific rules in Title R156 may supplement or alter Rule R156-1 unless expressly provided otherwise in Rule R156-1.

R156-1-109. Presiding Officers.

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

(1) The division regulatory and compliance officer is designated as the presiding officer for issuance of notices of agency action and for issuance of notices of hearing issued concurrently with a notice of agency action or issued in response to a request for agency action, provided that if the division regulatory and compliance officer is unable to so serve for any reason, a bureau manager designated by the regulatory and compliance officer is designated as the alternate presiding officer.

(2) Subsections 58-1-109(2) and 58-1-109(4) are clarified with regard to defaults as follows. Unless otherwise specified in writing by the director, or with regard to Title 58, Chapter 55, by the Construction Services Commission, the department administrative law judge is designated as the presiding officer for entering an order of default against a party, for conducting any further proceedings necessary to complete the adjudicative proceeding, and for issuing a recommended order to the director or commission, respectively, determining the discipline to be imposed, licensure action to be taken, relief to be granted, etc.

(3) Except as provided in Subsection (4) or otherwise specified in writing by the director, the presiding officer for adjudicative proceedings before the division are as follows:

(a) Director. The director shall be the presiding officer for:

(i) formal adjudicative proceedings described in Subsections R156-46b-201(1)(f) through (g), and R156-46b-201(2)(a) through (b), however resolved, including stipulated settlements and hearings; and

(ii) informal adjudicative proceedings described in Subsections R156-46b-202(1)(d), (h),(j), (m), (n), (p), and (q), and R156-46b-202(2)(a) through (d), however resolved, including memorandums of understanding and stipulated settlements.

(b) Bureau managers or program coordinators. Except for Title 58, Chapter 55, the bureau manager or program coordinator over the occupation or profession or program involved shall be the presiding officer for:

(i) formal adjudicative proceedings described in Subsections R156-46b-201(1)(a) through (c), provided that any evidentiary hearing requested shall be conducted by the appropriate board who shall be designated as the presiding officer to act as the fact finder at any evidentiary hearing and shall issue a recommended order to the division based upon the record developed at the hearing determining all issues pending before the division to the director for a final order, and R156-46b-201(1)(e). The authority of the presiding officer in formal adjudicative proceedings described in R156-46b-201(1)(e) shall be limited to approval of claims, conditional denial of claims, and final denial of claims based upon jurisdictional defects;

(ii) formal adjudicative proceedings described in Subsection R156-46b-201(1)(h), for purposes of determining whether a request for a board of appeal is properly filed as set forth in Subsections R156-56-105(1) through (4); and

(iii) informal adjudicative proceedings described in Subsections R156-46b-202(1)(a) through (c), (e), (g), (i), (k), and (o).

(iv) At the direction of a bureau manager or program coordinator, a licensing technician or program technician may sign an informal order in the name of the licensing technician or program technician provided the wording of the order has been approved in advance by the bureau manager or program coordinator and provided the caption "FOR THE BUREAU MANAGER" or "FOR THE PROGRAM COORDINATOR" immediately precedes the licensing technician's or program technician's signature.

(c) Contested Citation Hearing Officer. The regulatory and compliance officer or other contested citation hearing officer designated in writing by the director shall be the presiding officer for the adjudicative proceeding described in Subsection R156-46b-202(1)(l).

(d) Uniform Building Code Commission. The Uniform Building Code Commission shall be the presiding officer for the adjudicative proceeding described in Subsection R156-46b-201(1)(f) for convening a board of appeal under Subsection 58-56-8(3), for serving as fact finder at any evidentiary hearing associated with a board of appeal, and for entering the final order associated with a board of appeal. An administrative law judge shall perform the role specified in Subsection 58-1-109(2).

(e) Residence Lien Recovery Fund Advisory Board. The Residence Lien Recovery Fund Advisory Board shall be the presiding officer for adjudicative proceedings described in Subsection R156-46b-201(1)(e) and R156-46b-202(1)(g) that exceed the authority of the program coordinator, as delegated by the board, or are otherwise referred by the program coordinator to the board for action.

(4) Unless otherwise specified in writing by the Construction Services Commission, the presiding officers and process for adjudicative proceedings under Title 58, Chapter 55, are established or clarified as follows:

(a) Commission.

(i) The commission shall be the presiding officer for all adjudicative proceedings under Title 58, Chapter 55, except as otherwise delegated by the commission in writing or as otherwise provided in these rules; provided, however, that all orders adopted by the commission as a presiding officer shall require the concurrence of the director.

(ii) Unless otherwise specified in writing by the commission, the commission is designated as the presiding officer:

(A) for formal adjudicative proceedings described in Subsections R156-46b-201(1)(g) and R156-46b-201(2)(a) through (b), however resolved, including stipulated settlements and hearings;

(B) informal adjudicative proceedings described in Subsections R156-46b-202(1)(d), (m), (n), (p), and (q), and R156-46b-202(2)(a) and (c), however resolved, including memorandums of understanding and stipulated settlements;

(C) to serve as fact finder and adopt orders in formal evidentiary hearings associated with adjudicative proceedings involving persons licensed as or required to be licensed under Title 58, Chapter 55; and

(D) to review recommended orders of a board, an administrative law judge, or other designated presiding officer who acted as the fact finder in an evidentiary hearing involving a person licensed or required to be licensed under Title 58, Chapter 55, and to adopt an order of its own. In adopting its order, the commission may accept, modify or reject the recommended order.

(iii) If the commission is unable for any reason to act as the presiding officer as specified, it shall designate another presiding officer in writing to so act.

(iv) Orders of the commission shall address all issues before the commission and shall be based upon the record developed in an adjudicative proceeding conducted by the

commission. In cases in which the commission has designated another presiding officer to conduct an adjudicative proceeding and submit a recommended order, the record to be reviewed by the commission shall consist of the findings of fact, conclusions of law, and recommended order submitted to the commission by the presiding officer based upon the evidence presented in the adjudicative proceeding before the presiding officer.

(v) The commission or its designee shall submit adopted orders to the director for the director's concurrence or rejection within 30 days after it receives a recommended order or adopts an order, whichever is earlier. An adopted order shall be deemed issued and constitute a final order upon the concurrence of the director.

(vi) If the director or his designee refuses to concur in an adopted order of the commission or its designee, the director or his designee shall return the order to the commission or its designee with the reasons set forth in writing for the nonconcurrence therein. The commission or its designee shall reconsider and resubmit an adopted order, whether or not modified, within 30 days of the date of the initial or subsequent return, provided that unless the director or his designee and the commission or its designee agree to an extension, any final order must be issued within 90 days of the date of the initial recommended order, or the adjudicative proceeding shall be dismissed. Provided the time frames in this subsection are followed, this subsection shall not preclude an informal resolution such as an executive session of the commission or its designee and the director or his designee to resolve the reasons for the director's refusal to concur in an adopted order.

(vii) The record of the adjudicative proceeding shall include recommended orders, adopted orders, refusals to concur in adopted orders, and final orders.

(viii) The final order issued by the commission and concurred in by the director may be appealed by filing a request for agency review with the executive director or his designee within the department.

(ix) The content of all orders shall comply with the requirements of Subsection 63-46b-5(1)(i) and Sections 63-46b-10 and 63-46b-11.

(b) Director. Unless otherwise specified in writing by the commission, the director is designated as the presiding officer for conducting informal adjudicative proceedings specified in R156-46b-202(2)(b).

(c) Administrative Law Judge. Unless otherwise specified in writing by the commission, the department administrative law judge is designated as the presiding officer to conduct formal adjudicative proceedings before the commission and its advisory boards, as specified in Subsection 58-1-109(2).

(d) Bureau Manager. Unless otherwise specified in writing by the commission, the responsible bureau manager is designated as the presiding officer for conducting:

(i) formal adjudicative proceedings specified in Subsections R156-46b-201(1)(a) through (c), provided that any evidentiary hearing requested shall be conducted by the appropriate board or commission who shall be designated as the presiding officer to act as the fact finder at any evidentiary hearing and to adopt orders as set forth in these rules; and

(ii) informal adjudicative proceedings specified in Subsections R156-46b-202(1)(a) through (c), (e), (i), and (o).

(iii) At the direction of a bureau manager, a licensing technician may sign an informal order in the name of the licensing technician provided the wording of the order has been approved in advance by the bureau manager and provided the caption "FOR THE BUREAU MANAGER" immediately precedes the licensing technician's signature.

(e) Plumbers Licensing Board. Except as set forth in Subsection (c) or as otherwise specified in writing by the commission, the Plumbers Licensing Board is designated as the presiding officer to serve as the fact finder and to issue recommended orders to the commission in formal evidentiary hearings associated with adjudicative proceedings involving persons licensed as or required to be licensed as plumbers.

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

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

R156-1-110. Issuance of Investigative Subpoenas.

(1) All requests for subpoenas in conjunction with a division investigation made pursuant to Subsection 58-1-106(1)(c), shall be made in writing to the investigative subpoena authority and shall be accompanied by an original of the proposed subpoena.

(a) Requests to the investigative subpoena authority shall contain adequate information to enable the subpoena authority to make a finding of sufficient need, including: the factual basis for the request, the relevance and necessity of the particular person, evidence, documents, etc., to the investigation, and an explanation why the subpoena is directed to the particular person upon whom it is to be served.

(b) Approved subpoenas shall be issued under the seal of the division and the signature of the subpoena authority.

(2) The investigative subpoena authority may quash or modify an investigative subpoena if it is shown to be unreasonable or oppressive.

R156-1-205. Peer or Advisory Committees - Executive Director to Appoint - Terms of Office - Vacancies in Office - Removal from Office - Quorum Requirements - Appointment of Chairman - Division to Provide Secretary - Compliance with Open and Public Meetings Act - Compliance with Utah Administrative Procedures Act - No Provision for Per Diem and Expenses.

(1) The executive director shall appoint the members of peer or advisory committees established under Title 58 or Title R156.

(2) Except for ad hoc committees whose members shall be appointed on a case-by-case basis, the term of office of peer or advisory committee members shall be for four years. The executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the peer or advisory committee is appointed every two years.

(3) No peer or advisory committee member may serve more than two full terms, and no member who ceases to serve may again serve on the peer or advisory committee until after the expiration of two years from the date of cessation of service.

(4) If a vacancy on a peer or advisory committee occurs, the executive director shall appoint a replacement to fill the unexpired term. After filling the unexpired term, the replacement may be appointed for only one additional full term.

(5) If a peer or advisory committee member fails or refuses to fulfill the responsibilities and duties of a peer or advisory committee member, including the attendance at peer committee meetings, the executive director may remove the peer or advisory committee member and replace the member in

accordance with this section. After filling the unexpired term, the replacement may be appointed for only one additional full term.

(6) Committee meetings shall only be convened with the approval of the appropriate board and the concurrence of the division.

(7) Unless otherwise approved by the division, peer or advisory committee meetings shall be held in the building occupied by the division.

(8) A majority of the peer or advisory committee members shall constitute a quorum and may act in behalf of the peer or advisory committee.

(9) Peer or advisory committees shall annually designate one of their members to serve as peer or advisory committee chairman. The division shall provide a division employee to act as committee secretary to take minutes of committee meetings and to prepare committee correspondence.

(10) Peer or advisory committees shall comply with the procedures and requirements of Title 52, Chapter 4, Open and Public Meetings, in their meetings.

(11) Peer or advisory committees shall comply with the procedures and requirements of Title 63, Chapter 46b, Administrative Procedures Act, in their adjudicative proceedings.

(12) Peer or advisory committee members shall perform their duties and responsibilities as public service and shall not receive a per diem allowance, or traveling or accommodations expenses incurred in peer or advisory committees business, except as otherwise provided in Title 58 or Title R156.

R156-1-206. Emergency Adjudicative Proceeding Review Committees - Appointment - Terms - Vacancies - Removal - Quorum - Chairman and Secretary - Open and Public Meetings Act - Utah Administrative Procedures Act - Per Diem and Expenses.

(1) The chairman of the board for the profession of the person against whom an action is proposed may appoint the members of emergency review committees on a case-by-case or period-of-time basis.

(2) With the exception of the appointment and removal of members and filling of vacancies by the chairman of a board, emergency review committees, committees shall serve in accordance with Subsections R156-1-205(7), and (9) through (12).

R156-1-301. Application for Licensure - Filing Date - Applicable Requirements for Licensure - Issuance Date.

(1) The filing date for an application for licensure shall be the postmark date of the application or the date the application is received and date stamped by the division, whichever is earlier.

(2) Except as otherwise provided by statute, rule or order, the requirements for licensure applicable to an application for licensure shall be the requirements in effect on the filing date of the application.

(3) The issuance date for a license issued to an applicant for licensure shall be as follows:

(a) the date the approval is input into the division's electronic licensure database for applications submitted and processed manually; or

(b) the date printed on the verification of renewal certificate for renewal applications submitted and processed electronically via the division's Internet Renewal System.

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

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

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

(2) mitigating circumstances, as defined in Subsection R156-1-102(17);

(3) the degree of risk to the public health, safety or welfare;

(4) the degree of risk that a conduct will be repeated;

(5) the degree of risk that a condition will continue;

(6) the magnitude of the conduct or condition as it relates to the harm or potential harm;

(7) the length of time since the last conduct or condition has occurred;

(8) the current criminal probationary or parole status of the applicant or licensee;

(9) the current administrative status of the applicant or licensee;

(10) results of previously submitted applications, for any regulated profession or occupation;

(11) results from any action, taken by any professional licensing agency, criminal or administrative agency, employer, practice monitoring group, entity or association;

(12) evidence presented indicating that restricting or monitoring an individual's practice, conditions or conduct can protect the public health, safety or welfare;

(13) psychological evaluations; or

(14) any other information the Division or the board reasonably believes may assist in evaluating the degree of threat or potential threat to the public health, safety or welfare.

R156-1-305. Inactive Licensure.

(1) In accordance with Section 58-1-305, except as provided in Subsection (2), a licensee may not apply for inactive licensure status.

(2) The following licenses issued under Title 58 that are active in good standing may be placed on inactive licensure status:

(a) advanced practice registered nurse;
(b) audiologist;
(c) certified nurse midwife;
(d) certified public accountant emeritus;
(e) certified registered nurse anesthetist;
(f) certified court reporter;
(g) certified social worker;
(h) chiropractic physician;
(i) clinical social worker;
(j) contractor;
(k) deception detection examiner;
(l) deception detection intern;
(m) dental hygienist;
(n) dentist;
(o) direct-entry midwife;
(p) genetic counselor;
(q) health facility administrator;
(r) hearing instrument specialist;
(s) licensed substance abuse counselor;
(t) marriage and family therapist;
(u) naturopath/naturopathic physician;
(v) optometrist;
(w) osteopathic physician and surgeon;
(x) pharmacist;
(y) pharmacy technician;

(z) physician assistant;
(aa) physician and surgeon;
(bb) podiatric physician;
(cc) private probation provider;
(dd) professional counselor;
(ee) psychologist;
(ff) radiology practical technician;
(gg) radiology technologist;
(hh) security personnel;
(ii) speech-language pathologist; and
(jj) veterinarian.

(3) Applicants for inactive licensure shall apply to the division in writing upon forms available from the division. Each completed application shall contain documentation of requirements for inactive licensure, shall be verified by the applicant, and shall be accompanied by the appropriate fee.

(4) If all requirements are met for inactive licensure, the division shall place the license on inactive status.

(5) A license may remain on inactive status indefinitely except as otherwise provided in Title 58 or rules which implement Title 58.

(6) An inactive license may be activated by requesting activation in writing upon forms available from the division. Unless otherwise provided in Title 58 or rules which implement Title 58, each reactivation application shall contain documentation that the applicant meets current renewal requirements, shall be verified by the applicant, and shall be accompanied by the appropriate fee.

(7) An inactive licensee whose license is activated during the last four months of a renewal cycle shall, upon payment of the appropriate fees, be licensed for a full renewal cycle plus the period of time remaining until the impending renewal date, rather than being required to immediately renew their activated license.

R156-1-308a. Renewal Dates.

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

TABLE
RENEWAL DATES

(1)	Acupuncturist	May 31	even years
(2)	Advanced Practice Registered Nurse	January 31	even years
(3)	Alternate Dispute Resolution Provdr	September 30	even years
(4)	Architect	May 31	even years
(5)	Athlete Agent	September 30	even years
(6)	Audiologist	May 31	odd years
(7)	Building Inspector	November 30	odd years
(8)	Burglar Alarm Security	November 30	even years
(9)	C.P.A. Firm	September 30	even years
(10)	Certified Court Reporter	May 31	even years
(11)	Certified Dietitian	September 30	even years
(12)	Certified Nurse Midwife	January 31	even years
(13)	Certified Public Accountant	September 30	even years
(14)	Certified Registered Nurse Anesthetist	January 31	even years
(15)	Certified Social Worker	September 30	even years
(16)	Chiropractic Physician	May 31	even years
(17)	Clinical Social Worker	September 30	even years
(18)	Construction Trades Instructor	July 31	odd years
(19)	Contractor	November 30	odd years
(20)	Controlled Substance Precursor Distributor	May 31	odd years
(21)	Controlled Substance Precursor Purchaser	May 31	odd years
(22)	Controlled Substance Handler	May 31	odd years
(23)	Cosmetologist/Barber	September 30	odd years
(24)	Cosmetology/Barber School	September 30	odd years
(25)	Deception Detection	November 30	even years
(26)	Dental Hygienist	May 31	even years
(27)	Dentist	May 31	even years
(28)	Direct-entry Midwife	September 30	odd years
(29)	Electrician Apprentice, Journeyman, Master, Residential Journeyman, Residential Master	November 30	even years
(30)	Electrologist	September 30	odd years
(31)	Electrology School	September 30	odd years
(32)	Environmental Health Scientist	May 31	odd years
(33)	Esthetician	September 30	odd years
(34)	Esthetics School	September 30	odd years
(35)	Factory Built Housing Dealer	September 30	even years
(36)	Funeral Service Director	May 31	even years
(37)	Funeral Service Establishment	May 31	even years
(38)	Genetic Counselor	September 30	even years
(39)	Health Facility Administrator	May 31	odd years
(40)	Hearing Instrument Specialist	September 30	even years
(41)	Landscape Architect	May 31	even years
(42)	Licensed Practical Nurse	January 31	even years
(43)	Licensed Substance Abuse Counselor	May 31	odd years
(44)	Marriage and Family Therapist	September 30	even years
(45)	Massage Apprentice, Therapist	May 31	odd years
(46)	Master Esthetician	September 30	odd years
(47)	Nail Technologist	September 30	odd years
(48)	Nail Technology School	September 30	odd years
(49)	Naturopath/Naturopathic Physician	May 31	even years
(50)	Occupational Therapist	May 31	odd years
(51)	Occupational Therapy Assistant	May 31	odd years
(52)	Optometrist	September 30	even years
(53)	Osteopathic Physician and Surgeon	May 31	even years
(54)	Pharmacy (Class A-B-C-D-E)	September 30	odd years
(55)	Pharmacist	September 30	odd years
(56)	Pharmacy Technician	September 30	odd years
(57)	Physical Therapist	May 31	odd years
(58)	Physician Assistant	May 31	even years
(59)	Physician and Surgeon	January 31	even years
(60)	Plumber Apprentice, Journeyman, Residential Apprentice, Residential Journeyman	November 30	even years
(61)	Podiatric Physician	September 30	even years
(62)	Pre Need Funeral Arrangement Provider	May 31	even years
(63)	Pre Need Funeral Arrangement Sales Agent	May 31	even years
(64)	Private Probation Provider	May 31	odd years
(65)	Professional Counselor	September 30	even years
(66)	Professional Engineer	March 31	odd years
(67)	Professional Geologist	March 31	odd years
(68)	Professional Land Surveyor	March 31	odd years
(69)	Professional Structural Engineer	March 31	odd years
(70)	Psychologist	September 30	even years
(71)	Radiology Practical Technician	May 31	odd years
(72)	Radiology Technologist	May 31	odd years
(73)	Recreational Therapy Technician, Specialist, Master Specialist	May 31	odd years
(74)	Registered Nurse	January 31	odd years
(75)	Respiratory Care Practitioner	September 30	even years
(76)	Security Personnel	November 30	even years
(77)	Social Service Worker	September 30	even years
(78)	Speech-Language Pathologist	May 31	odd years
(79)	Veterinarian	September 30	even years

(2) The following non-standard renewal terms and renewal or extension cycles are established by license classification in accordance with Subsection 58-1-308(1) and in accordance with specific requirements of the license:

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

(b) Certified Professional Counselor Intern licenses shall

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

(c) Certified Social Worker Intern licenses shall be issued for a period of six months or until the examination is passed whichever occurs first. An intern license may be extended if the licensee presents satisfactory evidence to the Division and the board that reasonable progress is being made toward passing the qualifying examinations or is otherwise on a course reasonably expected to lead to licensure; but the period of the extension may not exceed two years past the date the minimum supervised experience requirement has been completed.

(d) Funeral Service Apprentice licenses shall be issued for a two year term and may be extended for an additional two year term if the licensee presents satisfactory evidence to the division and the board that reasonable progress is being made toward passing the qualifying examinations or is otherwise on a course reasonably expected to lead to licensure.

(e) Professional Employer Organization registrations expire every year on September 30.

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

(g) Hearing Instrument Intern licenses shall be issued for a three year term and may be extended if the licensee presents satisfactory evidence to the Division and the Board that reasonable progress is being made toward passing the qualifying examination, but a circumstance arose beyond the control of the licensee, to prevent the completion of the examination process.

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

(1) Except as otherwise provided by statute or as required to establish or reestablish a renewal period, each renewal period shall be for a period of two years.

(2) The renewal fee for a renewal period which is extended or shortened by more than one month to establish or reestablish a renewal period shall increased or decreased proportionately.

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

The procedures for renewal of licensure shall be as follows:

(1) The division shall mail a renewal notice to each licensee at least 60 days prior to the expiration date shown on the licensee's license. The notice shall include directions for the licensee to renew the license via the Division's website.

(2) Renewal notices shall be sent by letter deposited in the post office with postage prepaid, addressed to the last address shown on the division's automated license system. Such mailing shall constitute legal notice. It shall be the duty and responsibility of each licensee to maintain a current address with the division.

(3) Renewal notices shall specify the renewal requirements and require that each licensee document or certify that the licensee meets the renewal requirements.

(4) Renewal notices shall advise each licensee that a license that is not renewed prior to the expiration date shown on the license automatically expires and that any continued practice without a license constitutes a criminal offense under Subsection 58-1-501(1)(a).

(5) Licensees licensed during the last four months of a renewal cycle shall be licensed for a full renewal cycle plus the period of time remaining until the impending renewal date, rather than being required to immediately renew their license.

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

(1)(a) In accordance with Subsection 58-1-203(1)(g), a licensee may request a waiver of any continuing education requirement established under this title or an extension of time to complete any requirement on the basis that the licensee was unable to complete the requirement due to a medical or related condition, humanitarian or ecclesiastical services, extended presence in a geographical area where continuing education is not available, etc.

(b) A request must be submitted no later than the deadline for completing any continuing education requirement.

(c) A licensee submitting a request has the burden of proof and must document the reason for the request to the satisfaction of the Division.

(d) A request shall include the beginning and ending dates during which the licensee was unable to complete the continuing education requirement and a detailed explanation of the reason why. The explanation shall include the extent and duration of the impediment, extent to which the licensee continued to be engaged in practice of his profession, the nature of the medical condition, the location and nature of the humanitarian services, the geographical area where continuing education is not available, etc.

(e) The Division may require that a specified number of continuing education hours, courses, or both, be obtained prior to reentering the practice of the profession or within a specified period of time after reentering the practice of the profession, as recommended by the appropriate board, in order to assure competent practice.

(f) While a licensee may receive a waiver from meeting the minimum continuing education requirements, the licensee shall not be exempted from the requirements of Subsection 58-1-501(2)(i), which requires that the licensee provide services within the competency, abilities and education of the licensee. If a licensee cannot competently provide services, the waiver of meeting the continuing education requirements may be conditioned upon the licensee limiting practice to areas in which the licensee has the required competency, abilities and education.

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

(1) A license that automatically expires prior to the expiration date shown on the license due to the dissolution of the licensee's registration with the Division of Corporations, with the registration thereafter being retroactively reinstated pursuant to Section 16-10a-1422, shall:

(a) upon written application for reinstatement of licensure submitted prior to the expiration date shown on the license, be retroactively reinstated to the date of expiration of licensure; and

(b) upon written application for reinstatement submitted after the expiration date shown on the current license, be reinstated on the effective date of the approval of the application for reinstatement, rather than relating back retroactively to the date of expiration of licensure.

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

(1) Denial of renewal of licensure shall be classified as a formal adjudicative proceeding under Rule R156-46b.

(2) When a renewal application is denied and the applicant

concerned requests a hearing to challenge the division's action as permitted by Subsection 63-46b-3(3)(d)(ii), unless the requested hearing is convened and a final order is issued prior to the expiration date shown on the applicant's current license, the division shall conditionally renew the applicant's license during the pendency of the adjudicative proceeding as permitted by Subsection 58-1-106(1)(h).

(3)(a) When a renewal applicant or a reinstatement applicant under Subsections 58-1-308(5) or (6)(b) is selected for audit or is under investigation, the division may conditionally renew or reinstate the applicant pending the completion of the audit or investigation.

(b) The undetermined completion of a referenced audit or investigation rather than the established expiration date shall be indicated as the expiration date of a conditionally renewed or reinstated license.

(c) A conditional renewal or reinstatement shall not constitute an adverse licensure action.

(d) Upon completion of the audit or investigation, the division shall notify the renewal or reinstatement applicant whether the applicant's license is unconditionally renewed, reinstated, denied, or partially denied or reinstated.

(e) A notice of unconditional denial or partial denial of licensure to a licensee who the division determines may be conditionally renewed or reinstated shall include the following:

(i) that the licensee's unconditional renewal or reinstatement of licensure is denied or partially denied and the basis for such action;

(ii) the division's file or other reference number of the audit or investigation;

(iii) that the denial or partial denial of unconditional renewal or reinstatement of licensure is subject to review and a description of how and when such review may be requested;

(iv) that the licensee's license automatically will or did expire on the expiration date shown on the license, and that the license will not be renewed or reinstated unless or until the applicant timely requests review; and

(v) that if the licensee timely requests review, the licensee's conditionally renewed or reinstated license does not expire until an order is issued unconditionally renewing, reinstating, denying, or partially denying the renewal or reinstatement of the licensee's license.

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

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

(1) In accordance with Subsection 58-1-308(5), if an application for reinstatement is received by the division between the date of the expiration of the license and 31 days after the date of the expiration of the license, the applicant shall:

(a) submit a completed renewal form as furnished by the division demonstrating compliance with requirements and/or conditions of license renewal; and

(b) pay the established license renewal fee and a late fee.

(2) In accordance with Subsection 58-1-308(5), if an application for reinstatement is received by the division between 31 days after the expiration of the license and two years after the date of the expiration of the license, the applicant shall:

(a) submit a completed renewal form as furnished by the division demonstrating compliance with requirements and/or conditions of license renewal; and

(b) pay the established license renewal fee and reinstatement fee.

(3) In accordance with Subsection 58-1-308(6)(a), if an application for reinstatement is received by the division more than two years after the date the license expired and the applicant has not been active in the licensed occupation or profession while in the full-time employ of the United States government or under license to practice that occupation or profession in any other state or territory of the United States during the time the license was expired, the applicant shall:

(a) submit an application for licensure complete with all supporting documents as is required of an individual making an initial application for license demonstrating the applicant meets all current qualifications for licensure and compliance with requirements and/or conditions of license reinstatement;

(b) provide information requested by the division and board to clearly demonstrate the applicant is currently competent to engage in the occupation or profession for which reinstatement of licensure is requested;

(c) if the applicant has not been engaged in unauthorized practice of the applicant's occupation or profession following the expiration of the applicant's license, pay the established license fee for a new applicant for licensure and the reinstatement fee; and

(d) if the applicant has been engaged in unauthorized practice of the applicant's occupation or profession following the expiration of the applicant's license, pay the current license renewal fee multiplied by the number of renewal periods for which the license renewal fee has not been paid since the time of expiration of license, plus a reinstatement fee.

(4) In accordance with Subsection 58-1-308(6)(b), if an application for reinstatement is received by the division more than two years after the date the license expired but the applicant has been active in the licensed occupation or profession while in the full-time employ of the United States government or under license to practice that occupation or profession in any other state or territory of the United States shall:

(a) provide documentation of prior licensure in the State of Utah;

(b) provide documentation that the applicant has continuously, since the expiration of the applicant's license in Utah, been active in the licensed occupation or profession while in the full-time employ of the United States government or under license to practice that occupation or profession in any other state or territory of the United States;

(c) provide documentation that the applicant has completed or is in compliance with any renewal qualifications;

(d) provide documentation that the applicant's application was submitted within six months after reestablishing domicile within Utah or terminating full-time government service; and

(e) pay the established license renewal fee and the reinstatement fee.

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

(1) Reinstatement of restricted, suspended, or probationary licensure during the term of limitation, suspension, or probation shall be in accordance with the disciplinary order which imposed the discipline.

(2) Unless otherwise specified in a disciplinary order imposing restriction, suspension, or probation of licensure, the disciplined licensee may, at reasonable intervals during the term of the disciplinary order, petition for reinstatement of licensure.

(3) Petitions for reinstatement of licensure during the term of a disciplinary order imposing restriction, suspension, or probation, shall be treated as a request to modify the terms of the disciplinary order, not as an application for licensure.

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

Requirements.

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

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

(2) pay the established license renewal fee and the reinstatement fee;

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

(4) pay any fines or citations owes to the Division prior to the expiration of license.

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

An applicant for relicensure following revocation of licensure shall:

(1) submit an application for licensure complete with all supporting documents as is required of an individual making an initial application for license demonstrating the applicant meets all current qualifications for licensure and compliance with requirements and/or conditions of license reinstatement;

(2) pay the established license fee for a new applicant for licensure; and

(3) provide information requested by the division and board to clearly demonstrate the applicant is currently competent to be relicensed to engage in the occupation or profession for which the applicant was revoked.

R156-1-308k. Relicensure Following Surrender of Licensure - Requirements.

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

(1) An applicant who surrendered a license that was active and in good standing at the time it was surrendered shall meet the requirements for licensure listed in Section R156-1-308.

(2) An applicant who surrendered a license while the license was active but not in good standing as evidenced by the written agreement supporting the surrender of license shall:

(a) submit an application for licensure complete with all supporting documents as is required of an individual making an initial application for license demonstrating the applicant meets all current qualifications for licensure and compliance with requirements and/or conditions of license reinstatement;

(b) pay the established license fee for a new applicant for licensure;

(c) provide information requested by the division and board to clearly demonstrate the applicant is currently competent to be relicensed to engage in the occupation or profession for which the applicant was surrendered;

(d) pay any fines or citations owed to the Division prior to the surrender of license.

R156-1-308l. Reinstatement of Licensure and Relicensure - Term of Licensure.

Except as otherwise governed by the terms of an order issued by the division, a license issued to an applicant for reinstatement or relicensure issued during the last four months of a renewal cycle shall, upon payment of the appropriate fees, be issued for a full renewal cycle plus the period of time remaining until the impending renewal date, rather than requiring the licensee to immediately renew their reinstated or relicensed license.

R156-1-310. Cheating on Examinations.

(1) Policy.

The passing of an examination, when required as a condition of obtaining or maintaining a license issued by the division, is considered to be a critical indicator that an applicant or licensee meets the minimum qualifications for licensure. Failure to pass an examination is considered to be evidence that an applicant or licensee does not meet the minimum qualifications for licensure. Accordingly, the accuracy of the examination result as a measure of an applicant's or licensee's competency must be assured. Cheating by an applicant or licensee on any examination required as a condition of obtaining a license or maintaining a license shall be considered unprofessional conduct and shall result in imposition of an appropriate penalty against the applicant or licensee.

(2) Cheating Defined.

Cheating is defined as the use of any means or instrumentality by or for the benefit of an examinee to alter the results of an examination in any way to cause the examination results to inaccurately represent the competency of an examinee with respect to the knowledge or skills about which they are examined. Cheating includes:

(a) communication between examinees inside of the examination room or facility during the course of the examination;

(b) communication about the examination with anyone outside of the examination room or facility during the course of the examination;

(c) copying another examinee's answers or looking at another examinee's answers while an examination is in progress;

(d) permitting anyone to copy answers to the examination;

(e) substitution by an applicant or licensee or by others for the benefit of an applicant or licensee of another person as the examinee in place of the applicant or licensee;

(f) use by an applicant or licensee of any written material, audio material, video material or any other mechanism not specifically authorized during the examination for the purpose of assisting an examinee in the examination;

(g) obtaining, using, buying, selling, possession of or having access to a copy of the examination prior to administration of the examination.

(3) Action Upon Detection of Cheating.

(a) The person responsible for administration of an examination, upon evidence that an examinee is or has been cheating on an examination shall notify the division of the circumstances in detail and the identity of the examinees involved with an assessment of the degree of involvement of each examinee;

(b) If cheating is detected prior to commencement of the examination, the examinee may be denied the privilege of taking the examination; or if permitted to take the examination, the examinee shall be notified of the evidence of cheating and shall be informed that the division may consider the examination to have been failed by the applicant or licensee because of the cheating; or

(c) If cheating is detected during the examination, the examinee may be requested to leave the examination facility and in that case the examination results shall be the same as failure of the examination; however, if the person responsible for administration of the examination determines the cheating detected has not yet compromised the integrity of the examination, such steps as are necessary to prevent further cheating shall be taken and the examinee may be permitted to continue with the examination.

(d) If cheating is detected after the examination, the division shall make appropriate inquiry to determine the facts concerning the cheating and shall thereafter take appropriate

action.

(e) Upon determination that an applicant has cheated on an examination, the applicant may be denied the privilege of retaking the examination for a reasonable period of time, and the division may deny the applicant a license and may establish conditions the applicant must meet to qualify for a license including the earliest date on which the division will again consider the applicant for licensure.

(4) Notification.

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

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

(1) There are created diversion advisory committees of at least three members for the professions regulated under Title 58. The diversion committees are not required to be impaneled by the director until the need for the diversion committee arises. Diversion committees may be appointed with representatives from like professions providing a multi-disciplinary committee.

(2) Committee members are appointed by and serve at the pleasure of the director.

(3) A majority of the diversion committee members shall constitute a quorum and may act on behalf of the diversion committee.

(4) Diversion committee members shall perform their duties and responsibilities as public service and shall not receive a per diem allowance, or traveling or accommodations expenses incurred in diversion committees business.

R156-1-404b. Diversion Committees Duties.

The duties of diversion committees shall include:

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

(2) recommending to the director terms and conditions to be included in diversion agreements;

(3) supervising compliance with all terms and conditions of diversion agreements;

(4) advising the director at the conclusion of a licensee's diversion program whether the licensee has completed the terms of the licensee's diversion agreement; and

(5) establishing and maintaining continuing quality review of the programs of professional associations and/or private organizations to which licensees approved for diversion may enroll for the purpose of education, rehabilitation or any other purpose agreed to in the terms of a diversion agreement.

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

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

R156-1-404d. Diversion - Procedures.

(1) Diversion committees shall complete the duties described in Subsections R156-1-404b(1) and (2) no later than 60 days following the referral of a licensee to the diversion committee for possible diversion.

(2) The director shall accept or reject the diversion committee's recommendation no later than 30 days following receipt of the recommendation.

(3) If the director finds that a licensee meets the qualifications for diversion and should be diverted, the division shall prepare and serve upon the licensee a proposed diversion agreement. The licensee shall have a period of time determined by the diversion committee not to exceed 30 days from the service of the proposed diversion agreement to negotiate a final diversion agreement with the director. The final diversion agreement shall comply with Subsections 58-1-404.

(4) If a final diversion agreement is not reached with the director within 30 days from service of the proposed diversion agreement, the division shall pursue appropriate disciplinary action against the licensee in accordance with Section 58-1-108.

(5) In accordance with Subsection 58-1-404(5), a licensee may be represented, at the licensee's discretion and expense, by legal counsel during negotiations for diversion, at the time of execution of the diversion agreement and at any hearing before the director relating to a diversion program.

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

(1) The division may enter into agreements with professional or occupational organizations or associations, education institutions or organizations, testing agencies, health care facilities, health care practitioners, government agencies or other persons or organizations for the purpose of providing rehabilitation, education or any other services necessary to facilitate an effective completion of a diversion program for a licensee.

(2) The division may enter into agreements with impaired person programs to coordinate efforts in rehabilitating and educating impaired professionals.

(3) Agreements shall be in writing and shall set forth terms and conditions necessary to permit each party to properly fulfill its duties and obligations thereunder. Agreements shall address the circumstances and conditions under which information concerning the impaired licensee will be shared with the division.

(4) The cost of administering agreements and providing the services thereunder shall be borne by the licensee benefiting from the services. Fees paid by the licensee shall be reasonable and shall be in proportion to the value of the service provided. Payments of fees shall be a condition of completing the program of diversion.

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

R156-1-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) surrendering licensure to any other licensing or regulatory authority having jurisdiction over the licensee or applicant in the same occupation or profession while an investigation or inquiry into allegations of unprofessional or unlawful conduct is in progress or after a charging document has been filed against the applicant or licensee alleging unprofessional or unlawful conduct;

(2) practicing a regulated occupation or profession in, through, or with a limited liability company which has omitted the words "limited company," "limited liability company," or the abbreviation "L.C." or "L.L.C." in the commercial use of the name of the limited liability company;

(3) practicing a regulated occupation or profession in, through, or with a limited partnership which has omitted the words "limited partnership," "limited," or the abbreviation "L.P." or "Ltd." in the commercial use of the name of the limited partnership;

(4) practicing a regulated occupation or profession in, through, or with a professional corporation which has omitted the words "professional corporation" or the abbreviation "P.C." in the commercial use of the name of the professional

corporation;

(5) using a DBA (doing business as name) which has not been properly registered with the Division of Corporations and with the Division of Occupational and Professional Licensing; or

(6) failing, as a prescribing practitioner, to follow the "Model Policy for the Use of Controlled Substances for the Treatment of Pain", 2004, established by the Federation of State Medical Boards, which is hereby adopted and incorporated by reference.

R156-1-503. Reporting Disciplinary Action.

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

R156-1-601. Online Assessment, Diagnosis and Prescribing Protocols.

(1) In accordance with Subsection 58-1-501(4), a person licensed to prescribe under this title may prescribe legend drugs to a person located in this state following an online assessment and diagnosis in accordance with the following conditions:

(a) the prescribing practitioner is licensed in good standing in this state;

(b) an assessment and diagnosis is based upon a comprehensive health history and an assessment tool that requires the patient to provide answers to all the required questions and does not rely upon default answers, such as a branching questionnaire;

(c) only includes legend drugs and may not include controlled substances;

(d) the practice is authorized by these rules and a written agreement signed by the Division and the practitioner and approved by a panel comprised of three board members from the Physicians Licensing Board or the Osteopathic Physician and Surgeon's Licensing Board and three members from the Utah State Board of Pharmacy. The written agreement shall include:

(i) the specific name of the drug or drugs approved to be prescribed;

(ii) the policies and procedures that address patient confidentiality;

(iii) a method for electronic communication by the physician and patient;

(iv) a mechanism for the Division to be able to conduct audits of the website and records to ensure an assessment and diagnosis has been made prior to prescribing any medications; and

(v) a mechanism for the physician to have ready access to all patients' records.

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R162. Commerce, Real Estate.
R162-9. Continuing Education.
R162-9-1. Objective and Specific Hour Requirements.

9.1.1 Objective. Through education, the licensee shall be reasonably current in real estate knowledge and shall have improved ability to provide greater protection and service to the real estate consumer, thereby meeting the Real Estate Commission's primary objective of protection of and service to the public.

9.1.2 Specific Hour Requirements. A minimum of three of the 12 hours of continuing education required by Section 61-2-9(2)(a) must be taken in a "core" course, the subject of which will be designated by the Division to keep a licensee current in changing practices and laws.

9.1.2.1 Definitions.

9.1.2.1.1 For the purposes of this rule, "live" continuing education is defined as: a) live, in-class instruction; b) videotapes, computer courses, or other education in which the instructor and the student are separated by distance and sometimes by time, so long as the education takes place in a school or industry association office with a Division-certified prelicensing instructor present to answer questions; or c) ARELLO-certified courses or other courses that have received Distance Education Certification from the Division as provided in Subsection 9.5.3 of these rules.

9.1.2.1.2 For the purposes of this rule and except for courses that have received Distance Education Certification from the Division as provided in Subsection 9.5.3 of these rules, "passive" continuing education is defined as videotapes, computer courses, or other education in which the instructor and student are separated by distance and sometimes by time if viewed in a location where no Division-certified prelicensing instructor is present.

9.1.2.2 A minimum of 6 hours of the 12 hours of continuing education required to renew must be live continuing education. The balance of up to 6 hours may be passive continuing education.

R162-9-2. Education Providers.

9.2. Continuing education providers who provide education courses specifically tailored for, or marketed to, Utah real estate, appraiser, or mortgage licensees, and who intend that real estate licensees shall receive continuing education credit for such courses, are required to apply to the Division for course certification prior to the courses being taught to students. Except as may be provided in Subsections 9.2.4, the Division will not grant continuing education credit to students who have taken courses that have not been certified by the Division in advance of the courses being taught to students.

9.2.1 Approved providers may include accredited colleges and universities, public or private vocational schools, national and state real estate related professional societies and organizations, real estate boards, and proprietary schools or instructors.

9.2.2 Application procedure. Except as provided in Subsection 9.2.3, education providers shall make application to the Division following the procedures set for in Section 9.5.

9.2.3 A real estate education provider who provides proof to the division that the provider's course offering has been certified for continuing education credit in a minimum of three other states and that the provider has specific standards in place for development of courses and approval of instructors may be granted course certification by filling out the form required by the Division and including with the application:

(a) a copy of the provider's standards used for developing curricula and for approving instructors;

(b) evidence that the course is certified in at least three states;

(c) a sample of the course completion certification bearing all information required by Section 9.5.2.15; and

(d) all required fees, which shall be nonrefundable.

9.2.4 Individual licensees may apply to the Division for continuing education credit for a non-certified real estate course that was not required by these rules to be certified in advance by the Division by filling out the form required by the Division and providing all information concerning the course required by the Division. If the licensee is able to demonstrate to the satisfaction of the Division that the course will likely improve the licensee's ability to better protect or serve the public and improve the licensee's professional licensing status, the Division may grant the individual licensee continuing education credit for the course.

9.2.4.1 Provided the subject matter of the course taken is not exclusive to the other state or jurisdiction, a course approved for continuing education in another state or jurisdiction may be granted Utah continuing education credit on a case by case basis.

R162-9-3. Course Certification Criteria.

9.3 Courses submitted for certification shall have significant intellectual or practical content and shall serve to increase the professional competence of the licensee, thereby meeting the objective of the protection of and service to the public.

9.3.1 Three hours shall be comprised of "core course" curricula, the subjects of which will be determined by the division and the Real Estate Commission. The subject matter of these courses will be for the purpose of keeping a licensee current in changing practices and laws. These courses may be provided by the division or by private education providers but, in all cases, will have prior certification by the division.

9.3.1.1 Principal brokers and associate brokers may use the Division's Trust Account Seminar to satisfy the "core" course requirement once every three renewal cycles.

9.3.2 The remaining nine hours shall be in substantive areas dealing with the practice of real estate. Acceptable course subject matter shall include the following:

9.3.2.1 Real estate financing, including mortgages and other financing techniques; real estate investments; accounting and taxation as applied to real property; estate building and portfolio management; closing statements; real estate mathematics;

9.3.2.2 Real estate law; contract law; agency and subagency; real estate securities and syndications; regulation and management of timeshares, condominiums and cooperatives; real property exchanging; real estate legislative issues; real estate license law and administrative rules;

9.3.2.3 Land development; land use, planning and zoning; construction; energy conservation;

9.3.2.4 Property management; leasing agreements; accounting procedures; management contracts; landlord/tenant relationships;

9.3.2.5 Fair housing; affirmative marketing; Americans with Disabilities Act;

9.3.2.6 Real estate ethics.

9.3.2.7 Using the computer, the Internet, business calculators, and other technologies to enhance the licensee's service to the public.

9.3.2.8 Offerings concerning professional development, customer relations skills, or sales promotion, including salesmanship, negotiation, sales psychology, marketing techniques, servicing your clients, or similar offerings.

9.3.2.9 Offerings in personal and property protection for the licensee and his clients.

9.3.3 Non-acceptable course subject matter shall include courses similar to the following:

9.3.3.1 Offerings in mechanical office and business skills, such as typing, speed reading, memory improvement, language

report writing, advertising, or similar offerings;

9.3.3.2 Offerings concerning physical well-being or personal development, such as personal motivation, stress management, time management, dress-for-success, or similar offerings;

9.3.3.3 Meetings held in conjunction with the general business of the licensee and his broker or employer, such as sales meetings, in-house staff or licensee training meetings;

9.3.4 The determination about whether or not the subject matter of a course is acceptable for continuing education credit shall be made by the Division.

9.3.4.1 If the Division has denied certification to a course on a finding that the subject matter is not acceptable, the course provider may request that the Commission conduct a new review of the course. All requests for a new review of a course shall be made in writing within 30 days after issuance of the Division's decision. The Commission will thereafter review the course and issue a written decision about whether or not the subject matter of the course is acceptable for continuing education credit. The decision of the Commission shall be subject to agency review by the Executive Director of the Department of Commerce.

9.3.5 The minimum length of a course shall be one credit hour or its equivalency. A credit hour is defined as 50 minutes within a 60-minute time period.

R162-9-4. Instructor Certification Criteria.

9.4 Instructors for continuing education purposes will be evaluated and approved separately from the continuing education courses. All instructors must apply for certification from the Division not less than 60 days prior to the anticipated date of the first class that they intend to teach.

9.4.1 The instructor applicant must meet the same requirements as a certified prelicensing instructor as defined in R162-8.4.1; and

9.4.2 The instructor applicant must demonstrate knowledge of the subject matter by submission of proof of the following:

9.4.2.1 At least five years experience in a profession, trade or technical occupation in a field directly related to the course which the applicant intends to instruct; or

9.4.2.2 A bachelors or postgraduate degree in the field of real estate, business, law, finance, or other academic area directly related to the course which applicant intends to instruct; or

9.4.2.3 Any combination of at least five years of full-time experience and college-level education in a field directly related to the course which the applicant intends to instruct, or

9.4.3 The instructor applicant must demonstrate evidence of the ability to communicate the subject matter by the submission of proof of the following:

9.4.3.1 A state teaching certificate or showing successful completion of appropriate college courses in the field of education; or

9.4.3.2 A professional teaching designation from the National Association of Realtors or the Real Estate Educators Association; or

9.4.3.3 Evidence, such as instructor evaluation forms or letters of reference, of the ability to teach in schools, seminars, or in an equivalent setting.

9.4.4 An original continuing education instructor certification shall expire twenty-four months after issuance. Instructor certifications may be renewed by submitting a properly completed application for renewal prior to the expiration of the instructor's current certification, using the form required by the Division. The term of a renewed instructor certification is twenty-four months.

9.4.4.1 If the instructor does not submit a properly completed renewal prior to the expiration date of the instructor's current certification, the certification shall expire. For a period of thirty days after the expiration of an instructor certification, the instructor may apply for reinstatement of the certification by complying with all of the requirements for a timely renewal and, in addition, paying a non-refundable late fee.

9.4.4.2 After this thirty day period, and until three months after the expiration date, an instructor certification may be reinstated upon payment of a non-refundable late fee and completion of 6 classroom hours of education related to real estate or teaching techniques in addition to complying with all of the requirements for a timely renewal.

9.4.4.3 After the certification has been expired for three months, an instructor may not reinstate an expired certification and must apply for a new certification following the same procedure as an original applicant for certification.

R162-9-5. Submission of Course for Certification.

9.5 An applicant shall apply for consideration of certification of a course to the Division of Real Estate not less than 60 days prior to the anticipated date of the first class.

9.5.1 Until January 1, 2005, the application shall include a non-refundable filing fee of $35.00 and an instructor certification fee of $15.00 per course per instructor. Beginning January 1, 2005, the application shall include a non-refundable course certification fee of $70.00 and a non-refundable instructor certification fee of $30.00 per course per instructor. Both fees shall be made payable to the Division of Real Estate.

9.5.2 The application shall be made on the form approved by the Division which shall include the following information:

9.5.2.1 Name, phone number and address of the sponsor of the course, including owners and the coordinator or director responsible for the offering;

9.5.2.2 The title of the course offering including a description of the type of training; for example, seminar, conference, correspondence course, or similar offering;

9.5.2.3 A copy of the course curriculum including a course outline of the comprehensive subject matter. Except for courses approved for specific distance education delivery, the course outline shall include the length of time to be spent on each subject area broken into segments of no more than 15 minutes each, the instructor for each segment, and the teaching technique used in each segment;

9.5.2.4 Three to five learning objectives for every three hours or its equivalency of the course and the means to be used in assessing whether the learning objectives have been reached;

9.5.2.5 A complete description of all materials to be distributed to the participants;

9.5.2.6 The date, time and locations of each course;

9.5.2.7 The procedure for pre-registration, the tuition or registration fee and a copy of the cancellation and refund policy;

9.5.2.8 Except for courses approved for specific distance education delivery, the procedure for taking and maintaining control of attendance during class time, which procedure shall be more extensive than having the student sign a class roll;

9.5.2.9 The difficulty level of the course categorized by beginning, intermediate or advanced;

9.5.2.10 A sample of the proposed advertising to be used, if any;

9.5.2.11 An instructor application on a form approved by the Division including the information as defined in R162-9.4;

9.5.2.12 A signed statement agreeing to allow the course to be randomly audited on an unannounced basis by the Division or its representative;

9.5.2.13 A statement defining how the course will meet the objectives of continuing education by providing education of a current nature and how it will improve the licensees ability to provide greater protection of and service to the public;

9.5.2.14 A signed statement agreeing not to market personal sales product.

9.5.2.15 A sample of the completion certificate, or the

completion certificate required by the division, if any, that will be issued which shall bear the following information:

(a) Space for the licensee's name, type of license and license number, date of course

(b) The name of the course provider, course title, hours of credit, certification number, and certification expiration date;

(c) Space for signature of the course sponsor and a space for the licensee's signature.

9.5.2.16 Signature of the course coordinator or director.

9.5.3 Continuing education courses in which the instruction does not take place in a traditional classroom setting, but rather through other media where teacher and student are separated by distance and sometimes by time, may be certified by the Division provided the delivery method of the course has been certified by either the Commission or the Association of Real Estate Licensing Law Officials (ARELLO).

9.5.3.1 If a course is certified by ARELLO, only the delivery method will be certified by ARELLO. The subject matter of the course will be certified by the Division.

9.5.3.2. Education providers making application for Distance Education Certification based on ARELLO certification shall provide appropriate documentation that the ARELLO certification is in effect and that the course meets the content requirements of R162-9.3.2 along with other applicable requirements of this rule.

9.5.3.2.1. Approval under this paragraph will cease immediately should ARELLO certification be discontinued for any reason.

9.5.3.3. Courses approved for distance education delivery shall justify the classroom hour equivalency as is required by ARELLO standards.

9.5.4. The Real Estate Commission reserves the right to consider alternative certification methods and/or procedures for non-ARELLO certified Distance Education Courses.

R162-9-6. Conditions to Certification.

9.6.1 Upon completion of the educational program the course sponsor shall provide a certificate of completion in the form required by the Division.

9.6.1.1 Certificates of completion will be given only to those students who attend a minimum of 90% of the required class time of a live lecture. Within 10 days of the end of the course, the sponsor shall provide to the Division a roster of students and their license numbers for whom certificates were issued.

9.6.2 A course sponsor shall maintain for three years a record of registration of each person completing an offering and any other prescribed information regarding the offering, including exam results, if any.

9.6.2.1 Students registered for a distance education course shall complete the course within one year of the registration date.

9.6.3 Whenever there is a material change in a certified course, for example, curriculum, course length, instructor, refund policy, the sponsor shall promptly notify the Division in writing.

9.6.4 Until January 1, 2005, all course certifications shall be valid for one year after date of approval by the Division. Beginning January 1, 2005, all original course certifications and all renewed course certifications shall be issued with an expiration date of twenty-four months after approval by the Division.

9.6.4.1 If a course is not renewed within three months after its expiration date, the course provider will be required to apply for a new certification for the course.

9.6.4.2 After a course has been renewed for three times, the course provider will be required to make application as for a new certification.

9.6.5 Until January 1, 2005, instructor certifications shall expire December 31 of each year. Until January 1, 2005, instructors who certify for the first time by September 30 shall renew December 31 of that same year. Until January 1, 2005, instructors who certify for the first time after October 1 shall renew December 31 of the following year. Beginning January 1, 2005, renewed instructor certifications shall be issued for a term of twenty-four months.

9.6.5.1 To renew instructor certification an instructor must teach, during the year prior to renewal, a minimum of one class in each course for which certification is sought.

9.6.5.2 If the instructor has not taught during the year and wishes to renew certification, written explanation shall be submitted outlining the reason for not instructing the course, including documentation satisfactory to the Division as to the present level of expertise in the subject matter of the course.

R162-9-7. Course and Instructor Evaluations.

9.7 The Division shall cause the course to be evaluated for adherence to course content and other prescribed criteria, and for the effectiveness of the instructor.

9.7.1 At the end of each course each student shall complete a standard evaluation form provided by the Division. The forms shall be collected at the end of the class in an envelope and the course provider will mail the sealed envelope to the Division within 10 days of the last class.

9.7.2 On a random basis the Division will assign monitors to attend a course for the purpose of evaluating the course and the instructor. The monitors will complete a standard evaluation form provided by the Division which will be returned to the Division within 10 days of the last class.

KEY: continuing education
November 16, 2005 61-2-5.5
Notice of Continuation June 26, 2002

R162. Commerce, Real Estate.
R162-103. Appraisal Education Requirements.
R162-103-1. Definitions.

103.1.1 For the purposes of this rule, "school" includes:

(a) An accredited college, university, junior college or community college;

(b) Any state or federal agency or commission;

(c) A nationally or state recognized real estate appraisal or real estate related organization, society, institute, or association;

(d) Any other school or organization as approved by the Board.

103.1.2 "School director" means an authorized individual in charge of the educational program at a school.

R162-103-2. School Certification.

103.2.1 Each school requesting certification shall make application for approval on the form prescribed by the Division, and shall submit the applicable fees. The application shall include, and the Board may consider, the following information in determining the school's eligibility for certification:

103.2.1.1 Name, phone number, and address of the school, school director and all owners of the school.

103.2.1.2 Attestation to upstanding moral character by individuals who are school directors or owners of the school, and whether any individual:

(a) has had a license or certification to practice in the appraisal profession, or any other profession or occupation, denied, restricted, suspended, or revoked.

(b) has been permitted to resign or surrender an appraiser license or certification, or has ever allowed an appraiser license or certification to expire while the individual was under investigation, or while action was pending against the individual by an appraiser licensing or any other agency.

(c) has any action now pending by any appraiser licensing or other agency.

(d) is currently under investigation for, or charged with, or has ever pled guilty or no contest to, or been convicted of, a misdemeanor or felony, excluding minor traffic offenses.

(e) has ever been placed on probation in connection with any criminal offense or a licensing action.

103.2.1.3 A description of the type of school and a description of the school's physical facilities. All courses shall be taught in an appropriate classroom facility and not in any private residence, except for courses approved for specific home-study purposes;

103.2.1.4 A copy of the statement which shall be provided for each student outlining the days, times and locations of classes; the number of quizzes and examinations; the grading system, including methods of testing and standards of grading; the requirements for attendance; and the school's refund policy.

103.2.2 A public school may schedule its courses within the criteria of its regular schedule, for example, quarter, semester, or similar schedule. A quarter hour of college credit is the equivalent of 10 classroom hours, and a semester hour of college credit is the equivalent of 15 classroom hours.

103.2.3 Upon approval by the Board, a school will be issued certification. Until January 1, 2005, all certifications expire January 1. Beginning on January 1, 2005, a school certification will be issued for a two-year term and will expire twenty-four months from the date of issuance. School certifications may be renewed by submitting a properly completed application for renewal prior to the expiration date of the school's current certification, using the form required by the Division. Until January 1, 2005, renewed school certifications shall be issued for a term of one calendar year. Beginning on January 1, 2005, the term of a renewed school certification shall be twenty-four months. Conditions of certification include the following:

(a) A school shall teach the approved course of study as outlined in the State Approved Course Outline;

(b) A school shall require each student to attend the required number of hours and pass a final examination;

(c) A school shall maintain a record of each student's attendance for a minimum of five years after his enrollment;

(d) A school shall not make any misrepresentation in its advertising about any course of instruction, and shall be able to provide substantiation of any claims made. All advertising and public notices shall be free of statements or implications which do not enhance the dignity and integrity of the appraisal profession. A school shall refrain from disparaging a competitor's services or methods of operation;

(e) Within 15 calendar days after the occurrence of any material change in the school which could affect its approval, including the events listed in R162-103.2.1.2, the school shall give the Division written notice of that change; and

(f) A school will not attempt by any means to obtain or use the questions on the state licensure or certification exam unless those questions have been dropped from the current exam bank.

(g) A school shall provide to all students at the time of registration a copy of the qualifying questionnaire the student will be required by the Division to answer as part of the prelicensing or precertification examination.

R162-103-3. Course Certification.

103.3.1 Each school requesting approval of a course designed to meet the education requirements of licensure or certification shall make application for approval on a form prescribed by the Division and shall pay the applicable fee. The application shall include, and the Board may consider, the following information in determining eligibility for approval:

(a) A course outline including a description of the course, the length of time to be spent on each subject area broken into segments of no more than 30 minutes each, and three to five learning objectives for every three hours;

(b) Indication of any method of instruction other than lecture method including: a slide presentation, cassette, video tape, movie, home study, or other.

(c) A copy of the three final examinations of the course and the answer keys which are used to determine if the student has passed the course;

(d) An explanation of what the school procedure is for maintaining the security of the final exams and the answer keys;

(e) A list of the titles, authors and publishers of all required textbooks;

(f) A list of the instructors and evidence of their certification by the Division, and a list of any guest lecturers to be used and evidence of their qualifications as an instructor for a specific course; and

(g) Days, times, and location of classes.

103.3.2 Upon approval by the Board, a course will be issued certification. Until January 1, 2005, all certifications expire January 1. Beginning January 1, 2005, all original course certifications and all renewed course certifications shall be issued with an expiration date of twenty-four months after issuance.

103.3.3 Each course of study will meet the minimum standards set forth in the State Approved Course Outline provided for each approved course. The school may alter the sequence of presentation of the required topics. Specific nonappraisal courses being used to satisfy the educational requirements shall have prior approval as to their applicability.

103.3.4 All courses of study will meet the minimum hourly requirement of that course. A credit hour is defined as 50 minutes of supervised contact by a certified instructor within a 60-minute time period. A 10-minute break will be given for each 50 minutes in class. Registration or certification credit will be limited to a maximum of eight credit hours per day. The limitation applies only to the credit a student may receive and is

not intended to limit the number of classroom hours offered.

103.3.5 A public school or institution may use any faculty member to teach an approved course provided the individual demonstrates to the satisfaction of the Division and the Board academic training or appraisal experience qualifying him to teach the course.

103.3.6 Distance education is defined as any educational process based on the geographical separation of instructor and student (e.g., CD ROM, On-line learning, correspondence courses, video conferencing, etc.). Distance education courses must provide interaction between the learner and instructor and must include testing. A distance education course may be acceptable to meet the classroom hour requirement or its equivalent providing each course meets the following conditions:

103.3.6.1 The course (a) has been presented by an accredited college or university which offers distance education programs in other disciplines and where accreditation has been made by the Commission on Colleges or a regional accreditation association; or (b) has received approval for college credit by the International Distance Education Certification Center, also known as IDECC; or (c) has been approved under the AQB Course Approval Program.

(a) The learner must successfully complete a written examination personally proctored by an official approved by the college or university or by the presenting entity; and

(b) The course must meet the requirements established by the AQB and be equivalent to the minimum of 15 classroom hours.

103.3.7 A maximum of 10% of the required class time may be spent in testing, including review test and final examination. A student cannot challenge a course or any part of a course of study by taking an exam in lieu of attendance.

103.3.7.1 If a student fails a school final examination, he will not be allowed to retest for a minimum of three days. The student will not be allowed to retake the same final exam, but will be given a new exam with different questions.

103.3.7.2 If the student fails the final exam a second time, he will not be allowed to retest for a minimum of two weeks at which time he will be given an entirely new exam with completely new questions. If the student fails this third exam, he will fail the course.

103.3.8 All texts, workbooks, supplement pamphlets and any other materials shall be appropriate and current in their application to the required course outline.

103.3.9 Within 15 calendar days after the occurrence of any material change in a course which could affect approval, the school shall give the Division written notice of the change.

R162-103-4. Education Credit for Noncertified Courses.

103.4.1 Education credit will be granted towards licensure or certification for an appraisal education course which has been taken and which has not been previously certified in Utah for prelicensing education credit, and has been provided by a school which meets the criteria as outlined in 103.1.

103.4.1.1 The course content shall have met the minimum standards set forth in the Utah State Approved Course Outline.

103.4.1.2 A course must be at least 15 hours in duration, including the examination. An hour is defined as 50 minutes of supervised contact by a certified instructor within a 60-minute time period.

103.4.1.3 A final examination will be administered at the end of each course pertinent to that education offering.

103.4.2 Credit will not be granted for a course taken in which the applicant obtained credit from the course provider by challenge examination without having attended the course.

103.4.3 Credit will not be given for duplicate or highly comparable classes. Each course must represent a progression in which the appraiser's knowledge is increased.

103.4.4 There is no time limit regarding when education credit must have been obtained.

103.4.5 Hourly credit for a course taken from a professional appraisal organization will be granted based upon the Division approved list which verifies hours for these courses.

103.4.6 Credit will only be granted for a course that has been successfully completed. Successful completion of a course means that the applicant has attended a minimum of 90% of the scheduled class hours, has completed all required exercises and assignments, and has achieved a passing score on a course final examination. The final examination shall not be an open book examination.

103.4.7 Submission for Education Approval.

103.4.7.1 Courses that have not been previously certified for prelicensing credit will be reviewed by the Education Review Committee. It is the responsibility of the applicant to establish that a particular education offering will qualify to meet the education requirement for licensing or certification.

103.4.7.2 The applicant shall submit on a form provided by the Division a list of the courses that documents the course title, the name of the sponsoring organization, the number of classroom hours, and the date the course was completed.

103.4.7.3 The applicant will attest on a notarized affidavit that the courses have been completed as documented.

103.4.7.4 The applicant will support the claim for education credit if requested by the Division by providing proof of completion of the courses in the form of certificates, transcripts, report cards, letters of verification, or similar proof.

103.4.7.5 Applicants having appraisal education in categories other than those in the State Approved Course Outline may petition the Board on an individual basis for evaluation and approval of their education as being substantially equivalent to that required for licensing or certification.

R162-103-5. Instructor Application for Certification.

103.5.1 Each instructor requesting approval to be certified as an instructor to teach the education requirements of appraisal licensure or certification shall make application for approval on a form prescribed by the Division and shall submit the applicable fees. The application shall include, and the Board may consider, the following information in determining the instructor's eligibility for approval:

103.5.1.1 Attestation to upstanding moral character, including whether the individual:

(a) has had a license or certification to practice in the appraisal profession, or any other profession or occupation, denied, restricted, suspended, or revoked.

(b) has been permitted to resign or surrender an appraiser license or certification, or has ever allowed an appraiser license or certification to expire while the individual was under investigation, or while action was pending against the individual by an appraiser licensing or any other agency.

(c) has any action now pending by any appraiser licensing or other agency.

(d) is currently under investigation for, or charged with, or has ever pled guilty or no contest to, or been convicted of, a misdemeanor or felony, excluding minor traffic offenses.

(e) has ever been placed on probation in connection with any criminal offense or a licensing action.

103.5.2 The instructor will demonstrate evidence of knowledge of the subject matter by the following:

103.5.2.1 A minimum of five years active experience in appraising, or

103.5.2.2 Evidence of having completed college or other appropriate courses specific to the topic he proposes to teach, or

103.5.2.3 Evidence of other qualifications of experience, education, or credentials which are acceptable to the Board; and

103.5.2.4 Evidence of having passed an examination

designed to test knowledge of the subject matter he proposes to teach.

103.5.3 An applicant to teach the course on USPAP shall conform to all of the above criteria and in addition shall have been certified by the Appraisal Qualifications Board (AQB) of the Appraisal Foundation as an AQB Certified USPAP instructor.

103.5.4 Upon approval by the Board, an applicant will be issued certification. Until January 1, 2005, all certifications expire January 1 of each even numbered year. Beginning January 1, 2005, instructor certifications will be issued for a term that expires twenty-four months from the date of issuance. Conditions of renewal of certification include providing proof of the following:

103.5.4.1 Must have taught at least 20 hours of in-class instruction in a certified course during the preceding two years; and

103.5.4.2 Must have attended a real estate instructor development workshop sponsored or approved by the Division during the preceding two years.

103.5.4.3 Instructor certifications may be renewed by submitting a properly completed application for renewal prior to the expiration date of the instructor's current certification, using the form required by the Division. Renewed instructor certifications will be issued for a term of twenty-four months. If the instructor does not submit a properly completed renewal form, renewal fee, and any required documentation prior to the expiration date of the current certification, the certification shall expire. When a certification expires, the certification may be reinstated for a period of thirty days after the expiration date upon payment of a late fee in addition to completing the requirements for a timely renewal. After this thirty day period, and until three months after the expiration date, an instructor certification may be reinstated upon payment of a non-refundable late fee and submission of proof of completion of six classroom hours of education related to real estate appraisal or teaching techniques in addition to completing the requirements for a timely renewal. Following the three month period, an instructor shall be required to apply as an original applicant in order to obtain a new certification.

103.5.5 Within 15 calendar days after the occurrence of any of the events listed in Section 103.5.1, an applicant or instructor shall give written notice to the Division of that event.

R162-103-6. Education Review Committee.

103.6 A committee may be appointed by the Board to review submissions for education credit for license or certification applicants and also to review submissions for certification of appraiser courses and instructors.

103.6.1 The Education Review Committee shall:

103.6.1.1 Review all applications for adherence to the education credit required for licensure or certification and make recommendations to the Division and the Board for approval or disapproval of the education claimed.

103.6.1.2 Review all submissions requesting certification of appraiser courses and instructors for prelicensing education purposes and make recommendations to the Division and the Board for approval or disapproval.

103.6.2 The Committee shall be composed of appraisers from the following categories: residential appraisers; commercial appraisers; farm and ranch appraisers; right-of-way appraisers; and ad valorem appraisers.

103.6.2.1 The chairperson of the committee shall be appointed by the Board.

103.6.2.2 Meetings may be called upon the request of the chairperson or upon the written request of a quorum of committee members.

103.6.3 If the review of an application has been performed by the Education Review Committee, and the Board has denied the application based on insufficient education or an inability to meet the certification of education requirements, the applicant may request that the Board review the issue again by making a request in writing to the Board within thirty days after the denial stating specific grounds upon which relief is requested. The Board shall thereafter consider the request and issue a written decision.

R162-103-7. Continuing Education Course Certification.

103.7 As a condition of renewal, all appraisers will complete the equivalent of 28 classroom hours of appraisal education during the two-year term preceding renewal. The continuing education requirement is for the purpose of maintaining and increasing the appraiser's skill, knowledge and competency in real estate appraising.

103.7.1 Continuing education credit may be granted for courses that meet the following criteria:

(a) the course has been obtained from any of the course providers designated in 103.1.

(b) the course covers appraisal topics as suggested by the AQB.

(c) the length of the educational offering is at least two classroom hours, each classroom hour is defined as 50 minutes out of each 60-minute segment, and the continuing education credit is limited to eight hours per day.

(d) the course meets the requirements for distance learning as outlined in R162-103.3.6.

103.7.2 Real estate appraisal related field trips are acceptable for continuing education credit; however, transit time to or from the field trip location should not be included when awarding credit if instruction does not occur.

103.7.3 Prelicensing education credit awarded to individuals seeking a different classification than that held, can also be used to satisfy a continuing education requirement.

103.7.4 Alternative Continuing Education Credit - continuing education credit may be granted for participation, other than as a student, in appraisal educational processes and programs.

103.7.4.1 Credit may be granted on a case by case basis for teaching, program development, authorship of textbooks, or similar activities which are determined by the Board to be equivalent to obtaining continuing education.

103.7.4.2 The Education Review Committee will review claims of equivalent education and also alternative continuing education proposed to be used for continuing education purposes.

103.7.4.3 The Board may award continuing education credit to members of the Education Review Committee, the Experience Review Committee, and the Technical Advisory Panel.

103.7.5 Courses that are approved for continuing education credit for real estate sales agents, real estate brokers, or mortgage officers licensed by the Division are not acceptable for appraiser continuing education credit unless the courses have been previously approved by the AQB.

R162-103-8. Administrative Proceedings.

The Division may deny certification or renewal of certification to any course, school or instructor that does not meet the standards required by this chapter.

KEY: real estate appraisals, education
November 23, 2005 61-2b-8
Notice of Continuation June 3, 2002

R162. Commerce, Real Estate.
R162-107. Unprofessional Conduct.
R162-107-1. Unprofessional Conduct.

107.1 Unprofessional conduct includes the following specific acts or omissions:

107.1.1 Violating or disregarding a disciplinary order of the Utah Appraiser Licensing and Certification Board or the division;

107.1.2 Signing an appraisal report containing a statement indicating that an appraiser has inspected a property if the appraiser has not inspected the property;

107.1.3 Signing an appraisal report as the supervising appraiser without having given adequate supervision to the registered appraiser or the unclassified assistant;

107.1.4 Allowing an appraiser in his employ, or an appraiser whom he is otherwise responsible to supervise, to:

(a) exceed the authority of the subordinate appraiser's classification;

(b) engage in conduct which is a violation of Title 61, Chapter 2b.

107.1.5 Allowing a non-appraiser to:

(a) exceed the authority granted to an unclassified person by these rules;

(b) engage in conduct which would be a violation of Title 61, Chapter 2b if done by an appraiser; or

(c) accept an appraisal assignment.

107.1.6 Splitting appraisal fees with any person who is not a State-Licensed Appraiser or a State-Certified Appraiser, except that an appraisal trainee may be paid reasonable compensation proportionate to lawful services actually performed in connection with appraisals. Such payment must be paid to the trainee by the trainee's supervisor or the supervisor's appraisal firm and not by any other person or entity.

107.2 The Board may appoint members of the appraisal industry to serve as a Technical Advisory Panel to provide advice to the Division concerning technical appraisal issues and conduct constituting unprofessional conduct.

KEY: real estate appraisals, conduct
November 23, 2005 61-2b-8
Notice of Continuation January 21, 2003

R223. Community and Economic Development, Community Development, State Library.
R223-2. Public Library Online Access for Eligibility to Receive Public Funds.
R223-2-1. Authority and Policy.

(1) The Utah State Library Division hereby adopts this rule in accordance with Sections 63-46a-1 et seq., and 9-7-213, 9-7-215, and 9-7-216 for the purpose of determining public library eligibility to receive state funds.

(2) For a public library that offers public access to the Internet to retain eligibility to receive state funds, the Library Board shall adopt and enforce a Policy that meets the process and content standards defined in 9-7-216.

R223-2-2. Definitions.

In addition to the terms defined in Section 9-7-101, and 9-7-215:

(1) "Minor" means any individual younger than 18 years of age.

R223-2-3. Reporting.

(1) Each Library Board shall submit a copy of its Policy to the Director of the State Library Division no later than July 1, 2001, accompanied by a letter signed by the Library Director and Library Board Chair affirming that the Policy was adopted in an open meeting, that notice of the Policy's availability has been posted in a conspicuous place within the library, and that the Policy is intended to meet the provisions of this rule and Sections 9-7-213 and 9-7-215.

(2) All documents submitted shall be classified as public records in accordance with the Government Records Access and Management Act (Title 63, Chapter 2).

R223-2-4. State Library Administrative Procedures.

(1) The State Library Division shall review all public library policies received by July 1, 2001, for compliance with this rule.

(2) The Director of the State Library Division shall issue notices of compliance or non-compliance within 30 days following the receipt of the policy. Any library not submitting a policy shall receive a notice of non-compliance.

(3) Appeals to the notice of non-compliance shall be submitted in writing, within 30 days of the date of the notice, to the Executive Director of the Department of Community and Economic Development, who shall respond within 30 days.

(4) A public library receiving a notice of non-compliance shall not be eligible to receive state funds until the condition(s) upon which the notice of non-compliance is based are corrected and a notice of compliance is received.

(5) A public library in compliance shall be eligible to receive state funds in state fiscal year 2002 and subsequent years, as long as a current Policy is resubmitted to the State Library Division no later than July 1, 2004, and every three years thereafter.

(6) A public library otherwise in compliance with the provisions of this rule shall not lose eligibility to receive state funds unless a complaint submitted to the Library Board under its Policy results in a ruling from a court of law that a minor has accessed obscene material expressly due to insufficient enforcement of the Policy by the local library.

KEY: libraries, public library, Internet access*
September 8, 2004 **9-7-213**
Notice of Continuation November 7, 2005 **9-7-215**
9-7-216
20 U.S.C. Sec. 9101

R277. Education, Administration.
R277-100. Rulemaking Policy.
R277-100-1. Definitions.

A. "Board" means the Utah State Board of Education/Utah State Board for Applied Technology Education.

B. "Bulletin" means the Utah State Bulletin.

C. "Effective date" means the date on which a proposed rule becomes enforceable.

D. "Hearing" means an administrative rulemaking hearing.

E. "DAR" means the State Division of Administrative Rules.

F. "Publication date" means the date of the Bulletin in which the rule or summary of the rule is printed.

G. "Rule"

(1) means a statement made by the Board that applies to a general class of persons, rather than specific persons and:

(a) implements or interprets a statutory policy;

(b) prescribes the policy of the Board in policy consistent with Section 53A-1-401(3), U.C.A. 1953; or

(c) prescribes the administration of the Board's functions or describes its organization, procedures, and operations.

(2) does not include declaratory orders under Section 63-46b-21.

H. "Superintendent" means the State Superintendent of Public Instruction or the Superintendent's designee.

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

J. "USOR" means the Utah State Office of Rehabilitation.

K. "Executive Committee" means the Executive Committee of the Board.

L. "Committee" means a study committee consisting of two or more Board members appointed under rules of the Board.

R277-100-2. Authority and Purpose.

A. The Board derives its authority for making rules from Utah Constitution Article X, Section 3. This rule is authorized under Section 63-46a-1 et seq., the Utah Administrative Rulemaking Act which specifies procedures for state agencies to follow in making rules and by Section 53A-1-401(3) which authorizes the Board to adopt rules in accordance with its authority.

B. The purpose of this rule is to conform the rulemaking procedures of the Board and divisions supervised by the Board to those required under the Utah Administrative Rulemaking Act.

R277-100-3. Initiation, Amendment, or Repeal of a Rule.

A. The Board may make, amend, or repeal rules.

(1) Rulemaking is required by the Board when:

(a) explicitly or implicitly required by statutory or federal mandate; and either

(b) Board action affects a class of persons; or

(c) Board action affects the operations of another agency, except as provided in subsection A(2)(c) of this section.

(2) Rulemaking is not required by the Board when:

(a) a procedure or standard is already described in statute;

(b) Board action affects an individual person, not a class of persons;

(c) Board action concerns only the internal management of the Board, USOR, USOE, school districts, or of entities administered by the Board, USOR, USOE, or school districts, and does not affect private persons as a class, other agencies, or other governmental entities; or

(d) grammatical or other insignificant rule changes do not affect policy or the application or results of Board decisions.

B. Public Petition

(1) Any person may petition the Board to make, amend, or repeal a rule. The petition shall contain the name and address of the person submitting the rule, a written copy of the proposal, a statement concerning the Board's legal authority to act, and the reasons for the proposal. The petition is submitted to the Superintendent.

(2) The Superintendent reviews petitions prior to consideration by the Board. Within 30 days after receiving a petition, the Superintendent does one of the following:

(a) Notifies the petitioner by mail that the petition has been denied and gives reasons for the denial; or

(b) Notifies the petitioner by mail that the petition has been accepted, and specifies a date on which rulemaking procedures will be initiated. Changes in the petitioner's proposal suggested by the Superintendent are included in the notice.

(3) A petitioner may appeal a decision by the Superintendent by sending a signed request for consideration of the appeal, including a copy of the original proposal and copies of correspondence with the Superintendent, if any, to the Chairman of the Board. The Chairman presents the appeal to the Board. If the Board votes to review the proposal, it is scheduled for a future meeting of the Board. The decision of the Board is final.

R277-100-4. Procedures for Making, Amending, or Repealing a Rule.

A. Regular Rules

(1) Prior to submitting a proposed rule to the Board, the Superintendent shall ensure that reasonable efforts have been made to solicit information from school district officials, professional associations, and other affected parties concerning the need for, and content of, the proposed rule.

(2) Upon receiving notice of a proposed rule, the Executive Committee of the Board assigns the proposed rule to a committee or to the entire Board.

(3) If a Board committee reads a proposed rule initially, the rule shall be read a second time before the entire Board and the second reading shall include discussion of the Committee report; and

(4) After the entire Board reads a proposed rule, the Board may choose to:

(a) consider the rule again at its next meeting with revisions incorporating Board suggestions, by directing the Superintendent to change the proposed rule;

(b) receive notice of the proposed rule in its final form on the next Board agenda, by directing the Superintendent to put the rule with its effective date on the consent calendar for the Board's next meeting;

(c) allow the rule to become effective 30 days after publication in the State Bulletin if the proposed rule is not rewritten to incorporate public comments or suggestions, by directing the Superintendent to send DAR notice of an effective date for the proposed rule. The date shall be no fewer than 30 days nor more than 90 days after the publication date of the proposed rule; or

(d) direct the Superintendent to take no further action on the rule.

(5) Following the Board's approval of a proposed rule, the Board directs the Superintendent to prepare a rule analysis form and file the form and a copy of the proposed rule with DAR.

The Superintendent shall also send a copy of the proposed rule to:

(a) persons who have filed a timely request with the Superintendent;

(b) school district superintendents;

(c) persons who must be given notice by statutory or federal mandate; and

(d) other persons who, in the judgment of the Superintendent, should receive notice.

(6) The Board allows at least 30 days after publication in the Bulletin for public comment on the proposed rule.

(a) The Superintendent maintains a file containing a copy

of the proposed rule and the rule analysis form, and makes the file available to the public during the regular business hours of the USOE. Written comments, notes on verbal comments, and hearing records, if any, are kept in the file.

(b) Hearings may be held by the Board as described in Section R277-100-6.

(c) The Board may follow Subsection B or C of this section to amend a rule after reviewing public comment.

(d) During the 30-day comment period, the Board may direct the Superintendent to take no further action on a rule. The proposed rule automatically expires 90 days after its publication date.

B. Nonsubstantive Changes in a Rule

(1) Nonsubstantive changes may be made in a rule under this section both before and after the effective date of the rule.

(2) A change is nonsubstantive if, in the opinion of the Superintendent, it does not affect Board policy, application of the rule, or results of Board action under the rule.

(3) To enact a nonsubstantive change, the Superintendent prepares a copy of the new version of the rule and files it with the DAR. The new version is effective upon filing.

C. Substantive Changes in a Proposed Rule

The Board may make a change in a previously published proposed rule prior to its effective date. The Board directs the Superintendent to:

(1) prepare a new rule analysis form describing the change, and file it and a copy of the revised proposal with DAR; and

(2) notify DAR of the effective date of the revised rule. The rule will automatically become effective 30 days after its new publication date if no other date is specified.

D. Emergency Rules

(1) An emergency rule may be adopted under this section if the Superintendent finds that delay resulting from following normal procedures will:

(a) result in imminent peril to the public health, safety or welfare;

(b) cause an imminent budget reduction because of budget restraints or federal requirements; or

(c) place the Board in violation of federal or state law.

(2) The Superintendent notifies the Board Chairman of the need to enact an emergency rule.

(3) If the Board Chairman concurs in the recommendation, the Superintendent:

(a) prepares and files a copy of the proposed emergency rule and the rule analysis form with DAR, stating specific reasons for the adoption of the rule;

(b) notifies DAR of the effective date and the lapsing date for the proposed emergency rule. If no effective date is specified, the proposed emergency rule becomes effective on the filing date. If no lapsing date is specified, the proposed emergency rule lapses 120 days after the filing date. No emergency rule may remain in effect for more than 120 days; and

(c) mails a copy of the rule analysis form to the members of the Board and to persons specified in subsection A(5) of this section.

R277-100-5. Formal Adoption by the Board of Procedures, Handbooks, and Manuals, and Reference to those Documents in Rules.

A. Under Board direction, divisions under the supervision of the Board, periodically develop or amend various policy manuals or policy handbooks which may not necessarily qualify to be rules or are not suitable for the normal rulemaking procedures. These shall be presented to the Board for purposes of formal adoption or amendment.

B. Districts shall be promptly notified of such documents which are to be considered for adoption by the Board.

C. Local school boards and school districts shall comply with the provisions of such documents, after the formal adoption or amendment by the Board of a USOE policy manual or policy handbook.

D. Following formal review by the Board, the Board's designation of a handbook, manual, or similar document as a policy manual or policy handbook is conclusive for purposes of this rule.

R277-100-6. Hearings.

A. When to hold hearings

(1) The Board may hold hearings during a regular or special meeting.

(2) The Board shall hold hearings if:

(a) required by state or federal law; or

(b) an affected agency, ten persons, or an organization having not fewer than ten members submits a written request for a hearing to the Superintendent not more than 15 days after the publication date of the proposed rule, amendment, or rule repeal. The hearing shall be held within 30 days of receipt of the request.

B. Hearing Procedures

(1) Notice of hearing regarding proposed rules published in the Bulletin is provided by:

(a) publication of the hearing date, time, place, and subject matter in the Bulletin;

(b) posting of the notice of information contained on the rule analysis form in a place in the USOE frequented by the public;

(c) sending persons who receive rule analysis forms under section R277-100-4A(5) written notice of any changes made in the notice information contained on the rule analysis form;

(d) giving further notice required by law or regulation; and

(e) sending notice to those requesting the hearing, if the hearing is requested under section R277-100-6A(2)(b).

(2) Notice of hearings held prior to proposing the rule is given by:

(a) posting the hearing date, time, place, and subject in a place in the USOE frequented by the public;

(b) notifying a local media correspondent; and

(c) mailing the notice information to persons specified in section R277-100-4A(2).

C. The Board may hold the hearing itself, or appoint any person who can fairly conduct the hearing, other than the Superintendent, to be the hearing officer. The hearing officer shall know rulemaking procedures, but may not be directly responsible for administering the rule.

D. Conducting the Hearing

(1) Upon opening the hearing, the hearing officer explains the purpose of the hearing and invites orderly, germane comment for a minimum of one hour. The hearing officer may set time limits for speakers and otherwise control prudent use of time.

(2) The hearing officer rules on questions of relevance and redundancy. Oaths, cross-examination, and rules of evidence are not required. The hearing is conducted as an open, informal, orderly, and informative meeting.

(3) A person familiar with the rule at issue may be asked to be present at the hearing to respond to inquiries and to provide information.

(4) The hearing officer invites written comment to be submitted at the hearing or within a reasonable time thereafter. Written comments shall include the name, address, and, if applicable, the organization represented by the person making the comments. Written comment is appended to the hearing minutes.

E. The Record

(1) The hearing officer or a person appointed to take minutes records the name, address, and organization represented by each person speaking at the hearing, and a brief summary of

the remarks.

(2) Hearing minutes, a copy of the proposed rule, written comments, the findings and recommendations of the hearing officer, the decision of the Board, and other pertinent documents constitute the record of the hearing. The record is maintained in a file available to the public at the USOE during regular business hours.

F. Findings and Recommendations

(1) The hearing officer makes written findings and recommendations, including any facts pertinent to the hearing, recommendations for Board action, and reasons for the recommendations.

(2) The hearing officer transmits the findings, recommendations, and the complete record of the hearing to the Board as soon as possible following the close of the hearing.

(3) When the Board conducts the hearing, the Chairman prepares written findings, the decision, and reasons for the decision.

G. The Decision

(1) The Board issues a written decision as soon as possible after the close of the hearing and before the rule becomes effective. The decision states whether the proposed rule will be adopted, changed, or withdrawn; any alternative action such as whether a rule will be proposed on the subject matter of the hearing; and reasons for the decision. The written decision is included in the hearing record.

(2) If the hearing is held under subsection A(2) of this section, the Board mails a copy of the decision to the person who requested the hearing.

H. A decision of the Board may be appealed to a district court.

R277-100-7. Board Review of Rules.

A. Five Year Review

(1) The Board reviews each rule within five years of its effective date and at five year intervals thereafter.

(2) The Superintendent shall coordinate with DAR to ensure that all Administrative rules are adequately reviewed by the Board prior to the five year review deadline.

(3) All other paperwork shall be completed by the Superintendent to repeal or reenact the rules.

B. Declaratory Judgments on the Applicability of a Rule

(1) An interested person may petition the Board for a ruling on the applicability of a particular Board provision, rule, or order in a stated case by filing a petition for a declaratory judgment with the Superintendent.

(2) The petition shall contain the petitioner's name, address, and phone number; the Board provision, rule, or order; and a statement of the facts of the case. The petition shall be filed within six months of the application of the rule to the interested party or to a person represented by the interested party.

(3) Within 15 days of the filing of the petition, the Superintendent makes a recommendation to the Board regarding the applicability of the provision, rule, or order to the case.

(4) Prior to issuing a decision, the Board may:

(a) conduct a hearing on the matter under Section R277-100-6. The hearing shall begin no sooner than 15 days and no later than 45 days after receiving the petition; or

(b) appoint a staff member to conduct an investigation of the case. The investigator makes a recommendation to the Board as soon as possible after the close of the investigation.

(5) The Board notifies the petitioner by certified mail of its decision to conduct a hearing or investigation. Notice includes the time, date, and place of the hearing and the name of the hearing officer; or, in the case of an investigation, the name of the staff member responsible for conducting the investigation.

(6) The Board issues a ruling regarding the applicability of the provision, rule, or order within 60 days of the filing of the petition, or if a hearing is held, as soon as possible after the close of a hearing. The Board's ruling includes reasons for the decision and is sent by certified mail to the petitioner.

R277-100-8. Miscellaneous.

A. The Superintendent maintains a complete copy of the Board's current rules for public inspection at the Superintendent's Office during regular business hours.

B. An applicable federal or professionally recognized uniform code rule may be incorporated by reference into Board rules if the Board:

(1) includes both the federal or uniform rule in the rule;

(2) states specifically in its rules which federal and uniform rules are incorporated by reference, and any Board deviation from them; and

(3) maintains for public inspection at the USOE, USOR and DAR complete and current copies of federal and uniform rules incorporated by reference.

C. Deadlines for publication in the Bulletin are the first day of the month for the Bulletin issued on the fifteenth and the fifteenth day of the month for the first issue of the next month.

D. If any provision of this policy conflicts with an applicable provision of the Utah Administrative Rulemaking Act or a corresponding DAR regulation, the act or regulation controls.

R277-100-9. Rules Not Requiring Board Action.

A. Rules authorized or required of the USOE or USOR by previous Board action, or by state or federal law or regulation, may be adopted by the USOE or USOR without Board action. Procedures for USOE rulemaking are set forth in the Administrative Rulemaking Act, Chapter 46a of Title 63, Utah Code Annotated 1953, and applicable regulations promulgated by the DAR. The procedures are essentially the same as the foregoing for Board adoptions, with the following substitutions:

(1) for "Board," read "USOE", "USOR", "Executive Director", or "Superintendent" as appropriate.

(2) for "Superintendent," read "Executive Director" or "Associate Superintendent who administers the affected program."

B. Notice concerning rules to be adopted under this section shall be given to the Board within 30 days after commencement of rulemaking.

KEY: administrative procedures, rules and procedures
1990 Art X Sec 3
Notice of Continuation November 23, 2005 63-46a-1
53A-1-401(3)

R277. Education, Administration.
R277-477. Distribution of Funds from the School Trust Lands Account and Implementation of the School LAND Trust Program.
R277-477-1. Definitions.

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

B. "Fall Enrollment Report" means the census of students registered in Utah public schools as determined by enrollment on the first school day in October of each year.

C. "Funds" means interest and dividend income as defined under Section 53A-16-101.5(2).

D. "Student" means a child in grades kindergarten through twelve counted on the audited October 1 Fall Enrollment Report of the school district, charter school, or USDB.

E. "USDB" means the Utah Schools for the Deaf and the Blind.

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

R277-477-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which places general control and supervision of the public school system under the Board, by Section 53A-16-101.5(3)(c) which allows the Board to adopt rules regarding the time and manner in which the student count shall be made for allocation of school trust lands funds, and by Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to:

(1) provide direction on the distribution of interest and dividends from the permanent State School Fund through school districts, and

(2) provide a process for the dissemination of accurate and uniform information among the Legislature, Board, local school boards and districts, schools, the School and Institutional Trust Lands Administration, State Treasurer, State Director of Finance and others as may be necessary to facilitate effective administration and implementation of the School LAND Trust Program.

R277-477-3. Distribution of Funds -- Determination of Proportionate Share.

A. Funds shall be distributed to school districts, charter schools, and the USDB as provided under Section 53A-16-101.5(3)(a). The distribution shall be based on the state's total fall enrollment as reflected in the audited October 1 Fall Enrollment Report from the previous school year.

B. Each school district and the USOE, with regard to charter schools and the USDB, shall distribute funds received under R277-477-3A to each school, including schools that have opened since the prior October 1 Enrollment Report, on an equal per student basis. Local school boards and the USOE may adjust distributions, maintaining an equal per student distribution for school openings and closures and for boundary changes occurring after the audited October 1 Fall Enrollment Report of the prior year. All schools receiving funds shall have a current school plan for enhancing or improving academic excellence consistent with Section 53A-16-101.5 approved by the local school board and electronically submitted to the USOE.

C. All charter schools shall be considered collectively as a unit to receive a base amount under Section 53A-16-101.5(3)(a)(i).

D. In order to receive its allocation, a school shall satisfy the requirements of Section 53A-16-101.5(4)(5)(6).

E. Interest and dividend income from the permanent State School Fund shall be distributed to school districts at the close of the state fiscal year as the USOE receives the funds in the Uniform School Fund.

F. Each school board shall establish a policy for timely distribution of the funds to eligible schools.

G. In a year-end report, each local board shall provide to the USOE:

(1) the names of schools and the funds distributed under this rule;

(2) required school plan information as designated in R277-477-4;

(3) a list of 10 percent of the district schools, or five schools implementing exemplary plans to be used to inform the public; and

(4) the date on which funds were made available to each school.

H. Funds not used in the school approved plan may be carried over by the school to the next school year and added to the School LAND Trust Program funds available for expenditure in that school the following year.

I. Schools serving only youth in custody may form committees and submit plans to the district serving the students. Youth in custody schools shall receive the same per pupil distribution as other schools in the district providing services.

J. Plans submitted by schools chartered by the Board shall be reviewed and approved by the charter school governing body and then submitted to the Board or its designee for final approval.

K. Plans submitted by schools chartered by local school boards shall be reviewed and approved by the charter school and then submitted to the local school board for approval.

R277-477-4. Information to USOE.

A. Information on each school's plan to address critical academic needs shall be completed via the School LAND Trust Program website maintained through the USOE for accurate and uniform reporting.

B. To facilitate submission of information by schools, each school board shall establish a timeline for timely submission of information and approval.

C. Timelines shall allow for school committee reconsideration and editing of the school plan when local school boards request changes.

KEY: schools, trust lands funds
May 17, 2002 **Art X Sec 3**
Notice of Continuation November 23, 2005 **53A-16-101.5(3)(c)**
53A-1-401(3)

R277. Education, Administration.
R277-616. Education for Homeless and Emancipated Students and State Funding for Homeless and Economically Disadvantaged Ethnic Minority Students.
R277-616-1. Definitions.

A. "Domicile" means the place which a person considers to be the permanent home, even though temporarily residing elsewhere.

B. "Economically disadvantaged" means a student who is eligible for reduced price or free school lunch.

C. "Emancipated minor" means:

(1) a child under the age of 18 who has become emancipated by order of a court or through marriage, or

(2) a child recommended for school enrollment as an emancipated or independent or homeless child by an authorized representative of the Utah State Department of Social Services.

D. "Homeless child" means a child who:

(1) lacks a fixed, regular, and adequate residence;

(2) has primary nighttime residence in a homeless shelter, welfare hotel, congregate shelter, or domestic violence shelter;

(3) sleeps in a public or private place not ordinarily used as a regular sleeping accommodation for human beings;

(4) is, out of necessity, living with relatives or friends usually on a temporary or emergency basis due to lack of housing; or

(5) is a runaway.

E. "Ethnic minority student" means non-Caucasian students as identified below:

(1) American Indian or Alaskan native;

(2) Hispanic/Latino;

(3) Asian;

(4) Pacific Islander;

(5) Black/African American, not of Hispanic origin;

(6) Other;

(7) The total of ethnic minority students per school shall be determined annually on October 1.

F. "Parent" means a parent or guardian having legal custody of a minor child.

G. "School district of residence for a homeless child" means the district in which the student or the student's legal guardian or both currently resides for the period that the student or student's family satisfies the homeless criteria.

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

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

R277-616-2. Authority and Purpose.

A. This rule is authorized under Article X, Section 3 of the Utah State Constitution, Section 53A-17a-121(2) which directs the Board to develop standards for spending monies for homeless and ethnic minority students, Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities, Section 53A-11-101 which requires that minors between the ages of 6 and 18 attend school during the school year of the district of residence, and by Section 53A-2-201(3) which makes each school district responsible for providing educational services for all children of school age who reside in the district.

B. The purpose of this rule is to ensure that homeless children have the opportunity to attend school with as little disruption as reasonably possible and that funds for homeless and economically disadvantaged ethnic minority students are distributed equitably and efficiently to school districts.

R277-616-3. Criteria for Determining Where a Homeless or Emancipated Student Shall Attend School.

A. A homeless student may:

(1) continue for the remainder of the school year, to attend the school which the child attended prior to becoming homeless, or

(2) transfer to the school district of residence as defined under Subsection R277-616-1G.

B. Determination of residence or domicile may include consideration of the following criteria:

(1) the place, however temporary, where the child actually sleeps;

(2) the place where an emancipated child or an unemancipated child's family keeps its belongings;

(3) the place which an emancipated child or an unemancipated child's parent considers to be home; or

(4) such recommendations concerning a child's domicile as made by the State Department of Human Services.

C. Determination of residence or domicile may not be based upon:

(1) rent or lease receipts for an apartment or home;

(2) the existence or absence of a permanent address; or

(3) a required length of residence in a given location.

D. If there is a dispute as to residence or the status of a child as an emancipated minor, the issue may be referred to the USOE for resolution.

E. The purpose of federal homeless education legislation is to ensure that a child's education is not needlessly disrupted because of homelessness. (See P.L. 177, July 22, 1989, Stuart B. McKinney, Subtitle B, Education for Homeless Children and Youths, Sections 721 and 722) If a child's residence or eligibility is in question, the child shall be admitted to school until the issue is resolved.

R277-616-4. Transfer of Guardianship.

A. If guardianship of a minor child is awarded to a resident of a school district by action of a court or through appointment by a school district under Section 53A-2-202, the child becomes a resident of the district in which the guardian resides.

B. If a child's residence has been established by transfer of guardianship, no tuition may be charged by the new district of residence.

R277-616-5. School District Funding for Homeless Students and Economically Disadvantaged Ethnic Minority Students.

A. Funds appropriated for homeless and economically disadvantaged ethnic minority students shall be distributed as outlined under 53A-17a-121(4).

B. For purposes of determining the homeless student count, districts shall count annually the number of homeless students served in the district.

C. If a student satisfies the homeless criteria at more than one time during the school year in the same district, the student shall be counted once.

KEY: compulsory education, students' rights

July 2, 1998	**Art X Sec 3**
Notice of Continuation November 23, 2005	**53A-1-401(3)**
	53A-2-201(3)
	53A-2-202
	53A-17a-121(4)

R277. Education, Administration.
R277-711. Educational Programs for Gifted and Talented Students.
R277-711-1. Definitions.

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

B. "Gifted and talented students" means children and youth whose superior performance or potential for accomplishment requires a differentiated and challenging education program to meet their needs in any one or more of the following areas:

(1) general intellectual: students who demonstrate a high aptitude for abstract reasoning and conceptualization, who master skills and concepts quickly, and who are exceptionally alert and observant;

(2) specific academic: students who evidence extraordinary learning ability in one or more specific disciplines;

(3) visual and performing arts: students who are consistently superior in the development of a product or performance in any of the visual and performing arts;

(4) leadership: students who emerge as leaders, and who demonstrate high ability to accomplish group goals by working with and through others;

(5) creative, critical or productive thinking: students who are highly insightful, imaginative, and innovative, and who consistently assimilate and synthesize seemingly unrelated information to create new and novel solutions for conventional tasks.

C. "Accelerated" means enabling students to move through academic programs based on their performance level.

D. "Enrichment" means classes or programs that provide greater depth and breadth of experiences and information than students would receive in traditional classes.

E. "Accelerated learning programs" means programs for: gifted and talented students, concurrent enrollment students, and students enrolled in the College Board Advanced Placement Program.

F. "Programs for gifted and talented students" means differentiated and challenging educational programs designed to meet the needs of gifted and talented students in one or more areas identified in Section 1(B).

R277-711-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-17a-120 which directs the Board to adopt rules for the expenditure of funds appropriated for accelerated learning programs, Section 53A-1-402(1) which authorizes the Board to adopt rules for special programs and Section 53A-1-401(3) which authorizes the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to specify standards and procedures for using a portion of accelerated learning program funds to develop programs and services for gifted and talented students.

R277-711-3. Program Standards.

A. Appropriately qualified people shall direct and implement the district's program(s) for gifted and talented students.

B. Each district shall have a process for identifying students in one or more of the areas listed in Section 1(B) based upon at least three assessment instruments. These instruments shall not be solely dependent upon English vocabulary or comprehension skills and shall take into consideration abilities of culturally diverse, handicapped and underachieving students.

C. Each school district shall have a process for appropriately placing students identified as gifted and talented.

D. Each school district shall develop and submit, to the Utah State Office of Education for review annually, a plan for educating gifted and talented students. This plan shall reflect a time frame appropriate to the district. The district plan shall contain provisions to:

(1) develop a written philosophy for the education of gifted and talented students that is consistent with the goals and values of the school district and the community;

(2) select a district coordinator who is responsible for the program;

(3) recognize a variety of areas in which a student may be identified as gifted;

(4) provide carefully integrated, and articulated curricula throughout the district;

(5) identify and use teaching strategies that are appropriate to the learning styles and emotional needs of gifted and talented students;

(6) adopt flexible pacing at all levels and allow students to advance as they master content and skills;

(7) offer program options that reach through and beyond the normal institutional boundaries: across disciplines, across grade levels, and across levels of intelligence;

(8) provide guidance to assist students in addressing personal and interpersonal needs, in program selection and in career and college choices;

(9) balance acceleration with enrichment activities for diverse types and degrees of intelligence;

(10) provide information regarding special services, programs, and other appropriate educational opportunities; and

(11) utilize appropriate community and private resources.

E. Provisions shall be made in the district plan for staff development and support.

F. Each district shall evaluate its program to assure accountability, assess the success of individual program elements, and determine student growth and achievement.

R277-711-4. Fiscal Standards.

A. Each school district shall receive its share of funds in the proportion that the district's number of weighted pupil units for kindergarten through grade twelve and necessarily existent small schools bears to the state total.

B. Funds shall be used in any of the following areas:

(1) planning, program development, and identification of students;

(2) salaries, in-service education costs, and the costs of conferences, workshops, and other educational activities designed to enable teachers to better serve gifted and talented students;

(3) supplies, materials, and equipment to supplement and enhance the education programs for gifted and talented students.

C. Funds allocated for programs for gifted and talented students shall not be used for Advanced Placement or Concurrent Enrollment programs.

D. The Utah State Office of Education shall have fiscal and pupil accounting procedures to assess programs for gifted and talented students.

KEY: gifted children, accelerated learning*

1990	**53A-1-402(1)**
Notice of Continuation November 23, 2005	**53A-1-401(3)**
	53A-17a-120

R307. Environmental Quality, Air Quality.
R307-170. Continuous Emission Monitoring Program.
R307-170-1. Purpose.

The purpose of this rule is to establish consistent requirements for all sources required to install a continuous monitoring system (CMS) and for sources who opt into the continuous emissions monitoring program.

R307-170-2. Authority.

Authority to require continuous emission monitoring devices is found in 19-2-104(1)(c), and authorization for a penalty for rendering inaccurate any monitoring device or method is found in 19-2-115(4). Authority to enforce 40 CFR Part 60 is obtained by its incorporation by reference under R307-210.

R307-170-3. Applicability.

Except as noted in (1) and (2) below, any source required to install a continuous monitoring system to determine emissions to the atmosphere or to measure control equipment efficiency is subject to R307-170.

(1) Any source subject to 40 CFR Part 60 as incorporated by R307-210, Standards of Performance for New Sources, is not subject to R307-170-6, Minimum Monitoring Requirements for Specific Sources.

(2) Any source required by an approval order issued under R307-401 to operate a continuous monitoring system to satisfy the requirements of R307-150, Periodic Reports of Emissions and Availability of Information, is not subject to R307-170-9(7), Excess Emission Report.

R307-170-4. Definitions.

The following additional definitions apply to R307-170.

"Accuracy" means the difference between a continuous monitoring system response and the results of an applicable EPA reference method obtained over the same sampling time.

"Averaging Period" means that period of time over which a pollutant or opacity is averaged to demonstrate compliance to an emission limitation or standard.

"Block Averages" means the total time expressed in fractions of hours over which emission data is collected and averaged.

"Calibration Drift" (zero drift and span drift) means the value obtained by subtracting the known standard or reference value from the raw response of the continuous monitoring system.

"Channel" means the pollutant, diluent, or opacity to be monitored.

"CMS Information" means the identifying information for each continuous monitoring system a source is required to install.

"Computer Enhancement" means computerized correction of a monitor's zero drift and span drift to reflect actual emission concentrations and opacity.

"Continuous Emission Monitoring System" (CEMS) means all equipment required to determine gaseous emission rates and to record the resulting data.

"Continuous Monitoring System" (CMS) means all equipment required to determine gaseous emission rates or opacity and to record the data.

"Continuous Opacity Monitoring System" means all equipment required to determine opacity and data recording.

"Cylinder Gas Audit" means an alternative relative accuracy test of a continuous emission monitoring system to determine its precision using gases certified by or traceable to National Institute of Standards and Technology (NIST) in the ranges specified in 40 CFR 60, Appendix F.

"Description Report" means a short but accurate description of events that caused continuous monitoring system irregularities or excess emissions which occurred during the reporting period submitted in the state electronic data report.

"Excess Emission Report" means a report within the state electronic data report which documents the date, time, and magnitude of each excess emission episode occurring during the reporting period.

"Excess Emissions" means the amount by which recorded emissions exceed those allowed by approval orders, operating permits, the state implementation plan, or any other provision of R307.

"Monitor" means the equipment in a continuous monitoring system that analyzes concentration or opacity and generates an electronic signal which is sent to a recording device.

"Monitor Availability" means any period in which both the source of emissions and the continuous monitoring system are operating and the minimum frequency of data capture occurred as required in 40 CFR 60.13.

"Monitor Unavailability" means any period in which the source of emissions is operating and the continuous monitoring system is:

a. not operating or minimum data capture did not occur,

b. not generating data, not recording data, or data is lost, or

c. out-of-control in the case of a continuous emissions monitor used for continuous compliance purposes.

"New Source Performance Standards" (NSPS) means 40 CFR 60, Standards of Performance for New Stationary Sources, incorporated by reference at R307-210.

"Operations Report" means the report of all information required under 40 CFR 60 for utilities and fossil fuel fired boilers.

"Performance Specification" means the operational tolerances for a continuous monitoring system as outlined in 40 CFR 60, Appendix B.

"Precision" means the difference between a continuous monitoring system response and the known concentration of a calibration gas or neutral density filter.

"Quality Assurance Calibrations" means calibrations, drift adjustments, and preventive maintenance activities on a continuous monitoring system.

"Raw Continuous Monitoring System Response" means a continuous monitoring system's uncorrected response used to determine calibration drift.

"Relative Accuracy Audit" means an alternative relative accuracy test procedure outlined in 40 CFR 60, Appendix F, which is used to correlate continuous emission monitoring system data to simultaneously collected reference method test data, as outlined in 40 CFR Part 60, Appendix A, using no fewer than three reference method test runs.

"Relative Accuracy Test Audit" means the primary method of determining the correlation of continuous emissions monitoring system data to simultaneously collected reference method test data, using no fewer than nine reference method test runs conducted as outlined in 40 CFR 60, Appendix A.

"State Electronic Data Report" (SEDR) means the sum total of a source's monitoring activities which occurred during a reporting period.

"Summary Report" means the summary of all monitor and excess emission information which occurred during a reporting period.

"Tamper" means knowingly:

a. to make a false statement, representation, or certification in any application, report, record, plan, or other document filed or required to be maintained under R307-170, or

b. to render inaccurate any continuous monitoring system or device or any method required to maintain the accuracy of the continuous monitoring system or device.

"Valid Monitoring Data" means data collected by an

accurately functioning continuous monitoring system while any installation monitored by the continuous monitoring system is in operation.

R307-170-5. General Requirements.

(1) Each source required to operate a continuous monitoring system is subject to the requirements of 40 CFR 60.13 (d) through (j), except as follows:

(a) When minimum emission data points are collected by the continuous monitoring system as required in 40 CFR 60.13 or applicable subparts, quality assurance calibration and maintenance activities shall not count against monitor availability.

(b) a monitor's unavailability due to calibration checks, zero and span checks, or adjustments required in 40 CFR 60.13 or R307-170 will not be considered a violation of R307-170.

(c) Monitor unavailability due to continuous monitoring system breakdowns will not be considered a monitor unavailability violation provided that the owner or operator demonstrates that the malfunction was unavoidable and was repaired expeditiously.

(d) To supplement continuous monitor data, a source with minimum continuous monitoring system data collection requirements may conduct applicable reference method tests outlined in 40 CFR 60, Appendix A, or as directed in the source's applicable Subpart of the New Source Performance Standards.

(2) Each source shall monitor and record all emissions data during all phases of source operations, including start-ups, shutdowns, and process malfunctions.

(3) Each source operating a continuous emissions monitoring system for compliance determination shall document each out-of-control period in the state electronic data report.

(4) Each continuous monitoring system subject to R307-170 shall be installed, operated, maintained, and calibrated in accordance with applicable performance specifications found in 40 CFR 60 Appendix B and Appendix F.

(5) Each continuous emissions monitoring system shall be configured so that calibration gas can be introduced at or as near to the probe inlet as possible. Each source shall conduct daily calibration zero drift and span drift checks and cylinder gas audits by flowing calibration gases at the probe inlet, or as near to the probe inlet as possible. Daily calibration drift checks and quarterly cylinder gas audit data shall be recorded by the continuous emissions monitoring system electronically to a strip chart recorder, data logger, or data recording devices.

(6) No person shall tamper with a continuous monitoring system.

(7) Any source that constructs two or more emission point sources which may interfere with visible emissions observations shall install a continuous opacity monitor to show compliance with visible emission limitations on each obstructed stack, duct or vent that has a visible emission limitation.

R307-170-6. Minimum Monitoring Requirements for Specific Sources.

(1) Fossil Fuel Fired Steam Generators.

(a) A continuous monitoring system for the measurement of opacity shall be installed, calibrated, maintained, and operated on any fossil fuel fired steam generator of greater than 250 million BTU per hour for each boiler except where:

(i) natural gas or oil or a mixture of natural gas and oil is the only fuel burned,

(ii) the source is able to comply with the applicable particulate matter and opacity regulations without using particulate matter collection equipment, and

(iii) the source has never been found through any administrative or judicial proceeding to be in violation of any visible emission standard or requirements.

(b) A continuous monitoring system for the measurement of sulfur dioxide shall be installed, calibrated, maintained, and operated on any fossil fuel fired steam generator of greater than 250 million BTU per hour heat input which has installed sulfur dioxide pollution control equipment.

(c) A continuous monitoring system for the measurement of nitrogen oxides shall be installed, calibrated, maintained, and operated on fossil fuel fired steam generators of greater than 1000 million BTU per hour heat input when such facility is located in an Air Quality Control Region where the executive secretary has specifically determined that a control strategy for nitrogen dioxide is necessary to attain the national standards, unless the source owner or operator demonstrates during source compliance tests as required by the executive secretary that such a source emits nitrogen oxides at levels 30 percent or more below the emission standard.

(d) A continuous monitoring system for the measurement of percent oxygen or carbon dioxide shall be installed, calibrated, maintained, and operated on any fossil fuel fired steam generators where measurements of oxygen or carbon dioxide in the flue gas are required to convert either sulfur dioxide or nitrogen oxides continuous emission monitoring data, or both, to units of the emission standard.

(2) Nitric Acid Plants.

Each nitric acid plant of greater than 300 tons per day production capacity, the production capacity being expressed as 100 percent acid, and located in an Air Quality Control Region where the Executive Secretary has specifically determined that a control strategy for nitrogen dioxide is necessary to attain the national standard, shall install, calibrate, maintain, and operate a continuous monitoring system for the measurement of nitrogen oxides for each nitric acid producing installation.

(3) Sulfuric Acid Plants - Burning and Production.

Each sulfuric acid plant of greater than 300 tons per day production capacity, the production being expressed as 100 percent acid, shall install, calibrate, maintain and operate a continuous monitoring system for the measurement of sulfur dioxide for each sulfuric acid producing installation within such plant.

(4) Petroleum Refineries - Fluid Bed Catalytic Cracking Unit Catalyst Regenerator.

Each catalyst regenerator for fluid bed catalytic cracking units of greater than 20,000 barrels per day fresh feed capacity shall install, calibrate, maintain and operate a continuous monitoring system for the measurement of opacity.

R307-170-7. Performance Specification Audits.

(1) Quarterly Audits.

Each continuous emissions monitoring system shall be audited at least once each calendar quarter. Successive quarterly audits shall be conducted at least two months apart. A relative accuracy test audit shall be conducted at least once every four calendar quarters as described in the applicable performance specification of 40 CFR 60, Appendix B.

(a) Relative accuracy shall be determined in units of the applicable emission limit.

(b) An alternative relative accuracy test (cylinder gas audit or relative accuracy audit) may be conducted in three of the four calendar quarters in place of conducting a relative accuracy test audit, but in no more than three quarters in succession.

(c) Each range of a dual range monitor shall be audited using an alternative relative accuracy audit procedure.

(d) Minor deviations from the reference method test must be submitted to the executive secretary for approval.

(e) Performance specification tests and audits shall be conducted so that the entire continuous monitoring system is concurrently tested.

(2) Notification.

The source shall notify the executive secretary of its

intention to conduct a relative accuracy test audit by submitting a pretest protocol or by scheduling a pretest conference if directed to do so by the executive secretary. Each source shall notify the executive secretary no less than 45 days prior to testing.

(3) Audit Procedure.

A source may stop a relative accuracy test audit before the commencement of the fourth run to perform repairs or adjustments on the continuous emissions monitoring system. If the audit is stopped to make repairs or adjustments the audit must be started again from the beginning. If the fourth test run is started, testing shall be conducted until the completion of the ninth acceptable test run or the source may declare the monitor out-of-control and stop the test. If the system does not meet its applicable relative accuracy performance specification outlined in 40 CFR 60, Appendix B, its data may not be used in determining emissions rates until the system is successfully recertified.

(4) Performance Specification Tests.

(a) Except as listed in (b) below, all reference method testing equipment shall be totally independent of the continuous emissions monitoring system equipment undergoing a performance specification test.

(b) Reference method tests conducted on fuel gas lines, vapor recovery units, or other equipment as approved by the executive secretary may use a common probe, when the reference method sample line ties into the continuous emission monitor's probe or sample line as close to the probe inlet as possible.

(5) Submittal of Audit Results.

The source shall submit all relative accuracy performance specification test reports to the executive secretary no later than 60 days after completion of the test.

(a) Test reports shall include all raw reference method calibration data, raw reference method emission data with date and time stamps, and raw source continuous monitoring data with date and time stamps. All data shall be reported in concentration and units of the applicable emission limit.

(b) Relative accuracy performance specification test or audit reports shall include the company name, plant manager's name, mailing address, phone number, environmental contact's name, the monitor manufacturer, the model and serial number, the monitor range, and its location.

(6) Daily Drift Test.

Each source operating a continuous monitoring system shall conduct a daily zero and span calibration drift test as required in 40 CFR 60.13(d). The zero and span drifts shall be determined by using raw continuous monitoring system responses to a known value of the reference standard. Computer enhancements may be used to correct continuous monitoring system emission data which has been altered by monitor drift, but may not be used to determine daily zero and span drift.

(a) A monitor used for compliance which fails the daily calibration drift test as outlined in 40 CFR 60 Appendix F, Subpart 4, shall be declared out-of-control, and the out-of-control period shall be documented in the state electronic data report. The source shall make corrective adjustments to the system promptly. Continuous emission monitoring system data collected during the out-of-control period may not be used for monitor availability.

(b) Each source operating a continuous monitoring system which exceeds the calibration drift limit as outlined in 40 CFR 60 and the applicable performance specification shall make corrective adjustments promptly.

R307-170-8. Recordkeeping.

Each source subject to this rule shall maintain a file of all:

(1) parameters for each continuous monitoring system and monitoring device,

(2) performance test measurements,

(3) continuous monitoring system performance evaluations,

(4) continuous monitoring system or monitoring device calibration checks,

(5) adjustments and maintenance conducted on these systems or devices, and

(6) all other information required by this rule. Information shall be recorded in a permanent form suitable for inspection. The file shall be retained for at least two years following the date of such measurements, maintenance, reports, and records, and shall be available to the executive secretary at any time.

R307-170-9. State Electronic Data Report.

(1) General Reporting Requirements.

(a) Each source required to install a continuous monitoring system shall submit the state electronic data report including all information specified in (2) through (10) below. Each source shall submit a complete, unmodified report in an electronic ASCII format specified by the executive secretary.

(b) Partial Reports.

(i) If the total duration of excess emissions during the reporting period is less than one percent of the total operating time and the continuous monitoring system downtime is less than five percent of the total operating time, only the summary portion of the state electronic data report need be submitted.

(ii) If the total excess emission during the reporting period is equal to or greater than one percent of the total operating time, or the total monitored downtime is equal to or greater than five percent of the total operating time, the total state electronic data report shall be submitted.

(iii) Each source required to install a continuous monitoring system for the sole purpose of generating emissions inventory data is not required to submit the excess emission report required by (7) below or the excess emission summary required by (6)(b) below unless otherwise directed by the executive secretary.

(c) Frequency of Reporting. Each source subject to this rule shall submit a report to the executive secretary with the following frequency:

(i) Each source shall submit a report quarterly if required by the executive secretary or by 40 CFR Part 60, or if the continuous monitoring system data is used for compliance determination. Each source submitting quarterly reports shall submit them by January 30, April 30, July 30, and October 30 for the quarter ending 30 days earlier.

(ii) Any source subject to this rule and not required to submit a quarterly report shall submit its report semiannually by January 30 and July 30 for the six month period ending 30 days earlier.

(iii) The executive secretary may require any source to submit all emission data generated on a quarterly basis.

(2) Source Information.

The report shall contain source information including the company name, name of manager or responsible official, mailing address, AIRS number, phone number, environmental contact name, each source required to install a monitoring system, quarter or quarters covered by the report, year, and the operating time for each source.

(3) Continuous Monitoring System Information.

The report shall identify each channel, manufacturer, model number, serial number, monitor span, installation dates and whether the monitor is located in the stack or duct.

(4) Monitor Availability Reporting.

(a) The report shall include all periods that the pollutant concentration exceeded the span of the continuous monitoring system by source, channel, start date and time, and end date and time.

(b) Each continuous monitoring system outage or

malfunction which occurs during source operation shall be reported by source, channel, start date and time, and end date and time.

(c) When it becomes necessary to supplement continuous monitoring data to meet the minimum data requirements, the source shall use applicable reference methods and procedures as outlined in 40 CFR 60, or as stipulated in the source's applicable Subpart of the New Source Performance Standards.Supplemental data shall be reported by source, channel, start date and time, and end date and time, and may be used to offset monitor unavailability.

(d) Monitor modifications shall be reported by source, channel, date of modification, whether a support document was submitted, and the reason for the modification.

(5) Continuous Monitoring System Performance Specification Audits.

(a) Each source shall submit the results of each relative accuracy test audit, relative accuracy audit and cylinder gas audit. Each source which reports linearity tests may omit reporting cylinder gas audits.

(b) Each relative accuracy test audit shall be reported by source, channel, date of the most current relative accuracy test audit, date of the preceding relative accuracy test audit, number of months between relative accuracy test audits, units of applicable standard, average continuous emissions monitor response during testing, average reference method value, relative accuracy, and whether the continuous emissions monitor passed or failed the test or audit.

(c) A relative accuracy audit shall be reported by source, channel, date of audit, continuous emissions monitor response, relative accuracy audit response, percent precision, pass or fail results, and whether the monitor range is high or low.

(d) Cylinder gas audit and linearity tests shall be reported by source, channel, date, audit point number, cylinder identification, cylinder expiration date, type of certification, units of measurement, continuous emissions monitor response, cylinder concentration, percent precision, pass or fail results, and and whether the monitor range is high or low.

(6) Summary reports.

(a) Each source shall summarize and report each continuous monitoring system outage that occurred during the reporting period in the continuous monitoring system performance summary report. The summary must include the source, channels, monitor downtime as a percent of the total source operating hours, total monitor downtime, hours of monitor malfunction, hours of non-monitor malfunction, hours of quality assurance calibrations, and hours of other known and unknown causes of monitor downtime. A source operating a backup continuous monitoring system must account for monitor unavailability only when accurate emission data are not being collected by either continuous monitoring system.

(b) The summary report shall contain a summary of excess emissions which occurred during the reporting period unless the continuous monitoring system was installed to document compliance with an emission cap or to generate data for annual emissions inventories.

(i) Each source with multiple emission limitations per channel being monitored shall summarize excess emissions for each emission limitation.

(ii) The emission summary must include the source, channels, total hours of excess emissions as a percent of the total source operating hours, hours of start-up and shutdown, hours of control equipments problems, hours of process problems, hours of other known and unknown causes, emission limitation, units of measurement, and emission limitation averaging period.

(c) When no continuous monitoring unavailability or excess emissions have occurred, this shall be documented by placing a zero under each appropriate heading.

(7) Excess Emissions Report.

(a) The magnitude and duration of all excess emissions shall be reported on an hourly basis in the excess emissions report.

(i) The duration of excess emissions based on block averages shall be reported in terms of hours over which the emissions were averaged. Each source that averages opacity shall average it over a six minute block and shall report the duration of excess opacity in tenths of an hour. Sources using a rolling average shall report the duration of excess emissions in terms of the number of hours being rolled into the averaging period.

(ii) Sources with multiple emission limitations per channel being monitored shall report the magnitude of excess emissions for each emission limitation.

(b) Each period of excess emissions that occurs shall be reported. Each episode of excess emission shall be accompanied with a reason code and action code which links the excess emission to a specific description which describes the events of the episode.

(8) Operations Report.

Each source operating fossil fuel fired steam generators subject to 40 CFR 60, Standards of Performance for New Stationary Sources, shall submit an operations report.

(9) Signed Statement.

(a) Each source shall submit a signed statement acknowledging under penalties of law that all information contained in the report is truthful and accurate, and is a complete record of all monitoring related events which occurred during the reporting period. In addition, each source with an operating permit issued under R307-415 shall submit the signed statement required in R307-415-5d.

(10) Descriptions.

Each source shall submit a narrative description explaining each event of monitor unavailability or excess emissions. Each description also shall be accompanied with reason codes and action codes that will link descriptions to events reported in the monitoring information and excess emission report.

KEY: air pollution, monitoring, continuous monitoring

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	40 CFR 60

R307. Environmental Quality, Air Quality.
R307-214. National Emission Standards for Hazardous Air Pollutants.
R307-214-1. Part 61 Sources.

The provisions of 40 Code of Federal Regulations (CFR) Part 61, National Emission Standards for Hazardous Air Pollutants, effective as of October 20, 1994, are incorporated into these rules by reference. For source categories delegated to the State, references in 40 CFR Part 61 to "the Administrator" shall refer to the Executive Secretary.

R307-214-2. Part 63 Sources.

The provisions listed below of 40 CFR Part 63, National Emission Standards for Hazardous Air Pollutants for Source Categories, effective as of July 1, 2005, or later for those whose subsequent publication citation is included below, are incorporated into these rules by reference. References in 40 CFR Part 63 to "the Administrator" shall refer to the executive secretary, unless by federal law the authority is specific to the Administrator and cannot be delegated.

(1) 40 CFR Part 63, Subpart A, General Provisions.

(2) 40 CFR Part 63, Subpart B, Requirements for Control Technology Determinations for Major Sources in Accordance with 42 U.S.C. 7412(g) and (j).

(3) 40 CFR Part 63, Subpart F, National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry.

(4) 40 CFR Part 63, Subpart G, National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater.

(5) 40 CFR Part 63, Subpart H, National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks.

(6) 40 CFR Part 63, Subpart I, National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.

(7) 40 CFR Part 63, Subpart J, National Emission Standards for Polyvinyl Chloride and Copolymers Production.

(8) 40 CFR Part 63, Subpart L, National Emission Standards for Coke Oven Batteries.

(9) 40 CFR Part 63, Subpart M, National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities.

(10) 40 CFR Part 63, Subpart N, National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.

(11) 40 CFR Part 63, Subpart O, National Emission Standards for Hazardous Air Pollutants for Ethylene Oxide Commercial Sterilization and Fumigation Operations.

(12) 40 CFR Part 63, Subpart Q, National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers.

(13) 40 CFR Part 63, Subpart R, National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations).

(14) 40 CFR Part 63, Subpart T, National Emission Standards for Halogenated Solvent Cleaning.

(15) 40 CFR Part 63, Subpart U, National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins.

(16) 40 CFR Part 63, Subpart AA, National Emission Standards for Hazardous Air Pollutants for Phosphoric Acid Manufacturing.

(17) 40 CFR Part 63, Subpart BB, National Emission Standards for Hazardous Air Pollutants for Phosphate Fertilizer Production.

(18) 40 CFR Part 63, Subpart CC, National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries.

(19) 40 CFR Part 63, Subpart DD, National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations.

(20) 40 CFR Part 63, Subpart EE, National Emission Standards for Magnetic Tape Manufacturing Operations.

(21) 40 CFR Part 63, Subpart GG, National Emission Standards for Aerospace Manufacturing and Rework Facilities.

(22) 40 CFR Part 63, Subpart HH, National Emission Standards for Hazardous Air Pollutants for Oil and Natural Gas Production.

(23) 40 CFR Part 63, Subpart JJ, National Emission Standards for Wood Furniture Manufacturing Operations.

(24) 40 CFR Part 63, Subpart KK, National Emission Standards for the Printing and Publishing Industry.

(25) 40 CFR Part 63, Subpart MM, National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills.

(26) 40 CFR Part 63, Subpart OO, National Emission Standards for Tanks - Level 1.

(27) 40 CFR Part 63, Subpart PP, National Emission Standards for Containers.

(28) 40 CFR Part 63, Subpart QQ, National Emission Standards for Surface Impoundments.

(29) 40 CFR Part 63, Subpart RR, National Emission Standards for Individual Drain Systems.

(30) 40 CFR Part 63, Subpart SS, National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process (Generic MACT).

(31) 40 CFR Part 63, Subpart TT, National Emission Standards for Equipment Leaks- Control Level 1 (Generic MACT).

(32) 40 CFR Part 63, Subpart UU, National Emission Standards for Equipment Leaks-Control Level 2 Standards (Generic MACT).

(33) 40 CFR Part 63, Subpart VV, National Emission Standards for Oil-Water Separators and Organic-Water Separators.

(34) 40 CFR Part 63, Subpart WW, National Emission Standards for Storage Vessels (Tanks)-Control Level 2 (Generic MACT).

(35) 40 CFR Part 63, Subpart XX, National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations.

(36) 40 CFR Part 63, Subpart YY, National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic MACT.

(37) 40 CFR Part 63, Subpart CCC, National Emission Standards for Hazardous Air Pollutants for Steel Pickling-HCl Process Facilities and Hydrochloric Acid Regeneration Plants.

(38) 40 CFR Part 63, Subpart DDD, National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production.

(39) 40 CFR Part 63, Subpart EEE, National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors.

(40) 40 CFR Part 63, Subpart GGG, National Emission Standards for Hazardous Air Pollutants for Pharmaceuticals Production.

(41) 40 CFR Part 63, Subpart HHH, National Emission Standards for Hazardous Air Pollutants for Natural Gas Transmission and Storage.

(42) 40 CFR Part 63, Subpart III, National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production.

(43) 40 CFR Part 63, Subpart JJJ, National Emission

Standards for Hazardous Air Pollutants for Group IV Polymers and Resins.

(44) 40 CFR Part 63, Subpart LLL, National Emission Standards for Hazardous Air Pollutants for Portland Cement Manufacturing Industry.

(45) 40 CFR Part 63, Subpart MMM, National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production.

(46) 40 CFR Part 63, Subpart NNN, National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing.

(47) 40 CFR Part 63, Subpart OOO, National Emission Standards for Hazardous Air Pollutants for Amino/Phenolic Resins Production (Resin III).

(48) 40 CFR Part 63, Subpart PPP, National Emission Standards for Hazardous Air Pollutants for Polyether Polyols Production.

(49) 40 CFR Part 63, Subpart QQQ, National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelters.

(50) 40 CFR Part 63, Subpart RRR, National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production.

(51) 40 CFR Part 63, Subpart TTT, National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting.

(52) 40 CFR Part 63, Subpart UUU, National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units.

(53) 40 CFR Part 63, Subpart VVV, National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works.

(54) 40 CFR Part 63, Subpart AAAA, National Emission Standards for Hazardous Air Pollutants for Municipal Solid Waste Landfills.

(55) 40 CFR Part 63, Subpart CCCC, National Emission Standards for Manufacturing of Nutritional Yeast.

(56) 40 CFR Part 63, Subpart DDDD, National Emission Standards for Hazardous Air Pollutants for Plywood and Composite Wood Products, published on July 30, 2004 at 69 FR 45943.

(57) 40 CFR Part 63, Subpart EEEE, National Emission Standards for Hazardous Air Pollutants for Organic Liquids Distribution (non-gasoline).

(58) 40 CFR Part 63, Subpart FFFF, National Emission Standards for Hazardous Air Pollutants for Miscellaneous Organic Chemical Manufacturing.

(59) 40 CFR Part 63, Subpart GGGG, National Emission Standards for Vegetable Oil Production; Solvent Extraction.

(60) 40 CFR Part 63, Subpart HHHH - National Emission Standards for Wet-Formed Fiberglass Mat Production.

(61) 40 CFR Part 63, Subpart IIII, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Automobiles and Light-Duty Trucks.

(62) 40 CFR Part 63, Subpart JJJJ, National Emission Standards for Hazardous Air Pollutants for Paper and Other Web Surface Coating Operations.

(63) 40 CFR Part 63, Subpart KKKK, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Metal Cans.

(64) 40 CFR Part 63, Subpart MMMM, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products.

(65) 40 CFR Part 63, Subpart NNNN - National Emission Standards for Large Appliances Surface Coating Operations.

(66) 40 CFR Part 63, Subpart OOOO, National Emission Standards for Hazardous Air Pollutants for Fabric Printing, Coating and Dyeing Surface Coating Operations.

(67) 40 CFR Part 63, Subpart PPPP, National Emissions Standards for Hazardous Air Pollutants for Surface Coating of Plastic Parts and Products.

(68) 40 CFR Part 63, Subpart QQQQ, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Wood Building Products.

(69) 40 CFR Part 63, Subpart RRRR, National Emission Standards for Hazardous Air Pollutants for Metal Furniture Surface Coating Operations.

(70) 40 CFR Part 63, Subpart SSSS - National Emission Standards for Metal Coil Surface Coating Operations.

(71) 40 CFR Part 63, Subpart TTTT - National Emission Standards for Leather Tanning and Finishing Operations.

(72) 40 CFR Part 63, Subpart UUUU - National Emission Standards for Cellulose Product Manufacturing.

(73) 40 CFR Part 63, Subpart VVVV - National Emission Standards for Boat Manufacturing.

(74) 40 CFR Part 63, Subpart WWWW, National Emissions Standards for Hazardous Air Pollutants for Reinforced Plastic Composites Production.

(75) 40 CFR Part 63, Subpart XXXX - National Emission Standards for Tire Manufacturing.

(76) 40 CFR Part 63, Subpart YYYY, National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines.

(77) 40 CFR Part 63, Subpart ZZZZ, National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines.

(78) 40 CFR Part 63, Subpart AAAAA, National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants.

(79) 40 CFR Part 63, Subpart BBBBB, National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing.

(80) 40 CFR Part 63, Subpart CCCCC, National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks.

(81) 40 CFR Part 63, Subpart DDDDD, National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters, published on September 13, 2004 at 69 FR 55217.

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

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

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

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

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

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

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

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

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

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

Production.

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

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

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

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

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

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R307. Environmental Quality, Air Quality.
R307-840. Lead-Based Paint Accreditation, Certification and Work Practice Standards.
R307-840-1. Purpose and Applicability.

(1) Rule R307-840 establishes procedures and requirements for the accreditation of lead-based paint activities training programs, procedures and requirements for the certification of individuals and firms engaged in lead-based paint activities, and work practice standards for performing such activities. This rule also requires that, except as outlined in (2), all lead-based paint activities, as defined in this rule, must be performed by certified individuals and firms.

(2) R307-840 applies to all individuals and firms who are engaged in lead-based paint activities as defined in R307-840-2, except persons who perform these activities within residential dwellings that they own, unless the residential dwelling is occupied by a person or persons other than the owner or the owner's immediate family while these activities are being performed, or a child residing in the building has been identified as having an elevated blood lead level.

(3) Each department, agency, and instrumentality of the executive, legislative and judicial branches of the Federal Government having jurisdiction over any property or facility, or engaged in any activity resulting, or which may result, in a lead-based paint hazard, and each officer, agent, or employee thereof shall be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural, including the requirements of R307-840 regarding lead-based paint, lead-based paint activities, and lead-based paint hazards.

(4) While Rule R307-840 establishes specific requirements for performing lead-based paint activities should they be undertaken, nothing in R307-840 requires that the owner or occupant undertake any particular lead-based paint activity.

R307-840-2. Definitions.

(1) Definitions found in 40 CFR 745.63, 40 CFR 745.83, and 40 CFR 745.223, in effect as of July 1, 2005, are hereby adopted and incorporated by reference, with the substitutions found in (2) below and the modifications found in (3) below.

(2) Substitutions.

(a) Substitute "the Executive Secretary" for all references to "EPA" except in the definition of "Pamphlet" found in 40 CFR 745.83 and in the definition of "Recognized laboratory" found in 40 CFR 745.223.

(b) Substitute "the Executive Secretary" for all references to "Administrator".

(3) Modifications.

(a) Delete the definition of "Administrator" found in 40 CFR 745.83.

(b) Modify the definition of "Pamphlet" found in Sec. 745.83 by deleting ", or any State or Tribal pamphlet approved by EPA pursuant to 40 CFR 745.326 that is developed for the same purpose".

(c) Delete the definition of "Lead-based paint hazard" found in 40 CFR 745.223.

(d) Modify the definition of "Business day" found in Sec. 745.223 by including "and State of Utah" before "holidays".

R307-840-3. Accreditation, Certification and Work Standards: Target Housing and Child-Occupied Facilities.

(1) The following requirements, in effect as of July 1, 2005, are adopted and incorporated by reference, with the substitutions found in (2) below and the modifications found in (3) below:

(a) 40 CFR 745.61, 745.65, 745.80, 745.81, 745.82, 745.85, 745.86, 745.88, 745.225(a) through (g) and (i), 745.226 (a) through (h), 745.227, and 745.233.

(2) Substitutions.

(a) Substitute "the Executive Secretary" for all references to "EPA" with the following exceptions:

(i) Sec. 745.65(d).

(ii) Sec. 745.86(b)(1).

(iii) Sec. 745.225(b)(1)(iii), Sec. 745.225(b)(1)(iv), Sec. 745.225(c)(2)(ii), Sec. 745.225(c)(10), Sec. 745.225(e)(5)(iii), and Sec. 745.225(e)(5)(iv).

(iv) The last reference to EPA in Sec. 745.226(a)(1)(ii) and the second reference to EPA in Sec. 745.226(d)(1).

(v) The first three references to EPA in Sec. 745.227(a)(3), and the reference to EPA in Sec. 745.227(a)(4), Sec. 745.227(e)(4)(vi)(D), Sec. 745.227(e)(4)(vi)(I), and Sec. 745.227(f)(2).

(b) Substitute "the Executive Secretary or the Executive Secretary's authorized representative" for references to "EPA" in Sec. 745.225(c)(12), Sec. 745.225(f)(4), and Sec. 745.225(i)(1).

(c) Substitute "the Executive Secretary" for all references to "Administrator".

(d) Substitute "R307-840" for "either Federal regulations at Sec. 745.226 or a State or Tribal certification program authorized pursuant to Sec. 745.324" in Sec. 745.82(b)(3).

(e) Substitute "R307-840" for "either Federal regulations at Sec. 745.226 or an EPA-authorized State or Tribal certification program" in Sec. 745.86(b)(1).

(f) Substitute "Sec. 745.82(b)(3)" for "Sec. 745.82(b)(iv)" in 40 CFR 745.86(b)(1).

(g) Substitute sample certification language found in Sec. 745.88(b)(2)(ii) with that found in Sec. 745.88(b)(2)(i).

(h) Substitute sample certification language found in Sec. 745.88(b)(2)(i) with that found in Sec. 745.88(b)(2)(ii).

(i) Substitute "the current Department of Environmental Quality Fee Schedule" for references to "Sec. 745.238" in Sec. 745.225(b)(4), Sec. 745.225(f)(3)(v), Sec. 745.226(a)(6), Sec. 745.226(e)(3), Sec. 745.226(f)(6), and Sec. 745.226(f)(7).

(j) Substitute "Utah Division of Air Quality electronic notification system" for "Agency's central data exchange (CDX)" in Sec. 745.225(c)(13)(vi), Sec. 745.225(c)(14)(iii), and Sec. 745.227(e)(4)(vii).

(k) Substitute "Notification Form" for "Schedule" in Sec. 745.225(c)(13)(vi).

(l) Substitute "Utah Division of Air Quality Lead-Based Paint Program web site" for "NLIC at 1-800-424-LEAD(5323), or on the Internet at http://www.epa.gov/lead" in Sec. 745.225(c)(13)(vi), Sec. 745.225(c)(14)(iii), and Sec. 745.227(e)(4)(vii).

(m) Substitute "Verification Form" for "Course Follow-up" in Sec. 745.225(c)(14)(iii).

(n) Substitute "Utah lead-based paint firm" for "EPA" in Sec. 745.227(e)(4)(vi)(D).

(o) Substitute "Utah lead-based paint individual" for "EPA" in Sec. 745.227(e)(4)(vi)(I).

(p) Substitute "Lead-Based Paint Abatement Project Notification" for "Notification of Lead-Based Paint Abatement Activities" in Sec. 745.227(e)(4)(vii).

(q) Substitute "Sec 745.65(b)" for "Sec 745.227(b)" in 40 CFR 745.227(h)(2)(i).

(3) Modifications.

(a) Change the date in Sec. 745.81 to October 1, 2005.

(b) Change the date in Sec. 745.226(a)(5), Sec. 745.226(d)(2), Sec. 745.226(f)(1), and Sec. 745.227(a)(1) to August 30, 1999.

(c) Modify Sec. 745.225(b)(1)(iii) by deleting "or training materials approved by a State or Indian Tribe that has been authorized by EPA under subpart Q of this part,".

(d) Modify Sec. 745.225(b)(1)(iv) by deleting "or training materials approved by an authorized State or Indian Tribe".

(e) Modify Sec. 745.225(c)(2)(ii) by including "Executive Secretary-accredited," before "EPA-accredited".

(f) Modify Sec. 745.225(c)(13)(v)(B) and Sec. 745.225(c)(14)(ii)(A) by deleting "EPA accreditation number,".

(g) Modify Sec. 745.225(c)(14)(ii)(F) to include "Utah Division of Air Quality Lead-Based Paint Program training verification statement".

(h) Modify Sec. 745.225(e)(5)(iii) by deleting "or training materials approved by a State or Indian Tribe that has been authorized by EPA under Sec. 745.324 to develop its refresher training course materials,".

(i) Modify Sec. 745.225 (e)(5)(iv) by deleting "or training materials approved by an authorized State or Indian Tribe".

(j) Modify Sec. 745.226 (a)(1)(ii) by including "EPA or" after the word "from".

(k) Modify Sec. 745.226(f)(7) by deleting "every 3 years".

(l) Modify Sec. 745.227 (a)(3) by deleting "Regulations, guidance, methods, or protocols issued by States and Indian Tribes that have been authorized by EPA;".

KEY: air pollution, paint, lead-based paint
November 3, 2005 19-2-104(1)(i)
Notice of Continuation May 5, 2003

R309. Environmental Quality, Drinking Water.
R309-535. Facility Design and Operation: Miscellaneous Treatment Methods.
R309-535-1. Purpose.

The purpose of this rule is to provide specific requirements for miscellaneous water treatment methods which are primarily intended to remove chemical contaminants from drinking water; or, adjust the chemical composition of drinking water. It is intended to be applied in conjunction with other rules, specifically R309-500 through R309-550. Collectively, these rules govern the design, construction, operation and maintenance of public drinking water system facilities. These rules are intended to assure that such facilities are reliably capable of supplying adequate quantities of water which consistently meet applicable drinking water quality requirements and do not pose a threat to general public health.

R309-535-2. Authority.

This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104(1)(a)(ii) of the Utah Code and in accordance with 63-46a of the same, known as the Administrative Rulemaking Act.

R309-535-3. Definitions.

Definitions for certain terms used in this rule are given in R309-110 but may be further clarified herein.

R309-535-4. General.

For each process described in this section pertinent rules are given. The designer must also, however, incorporate the relevant rules given in other sections into the plans and specifications for any of these specialized treatment methods. Where applicable, the following topics must be addressed:

(1) Plant Siting (see R309-525-6).
(2) Plant Reliability (see R309-525-7).
(3) Color Coding and Pipe Marking (see R309-525-8).
(4) Chemical Addition (see R309-525-11).
(5) Miscellaneous Plant Facilities (see R309-525-17, particularly sub-section R309-525-17(1), Laboratory).
(6) Operation and Maintenance Manuals (see R309-525-19).
(7) Safety (see R309-525-21).
(8) Disposal of Treatment Plant Waste (see R309-525-23).
(9) Disinfection (see R309-520).

R309-535-5. Fluoridation.

Sodium fluoride, sodium silicofluoride and fluorosilicic acid shall conform to the applicable AWWA standards and/or ANSI/NSF Standard 60. Other fluoride compounds which may be available must be approved by the Executive Secretary.

(1) Fluoride compound storage.

Fluoride chemicals should be isolated from other chemicals to prevent contamination. Compounds shall be stored in covered or unopened shipping containers and should be stored inside a building. Unsealed storage units for fluorosilicic acid should be vented to the atmosphere at a point outside any building. Bags, fiber drums and steel drums should be stored on pallets.

(2) Chemical feed equipment and methods.

In addition to the requirements in R309-525-11 "Chemical Addition", fluoride feed equipment shall meet the following requirements:

(a) scales, loss-of-weight recorders or liquid level indicators, as appropriate, accurate to within five percent of the average daily change in reading shall be provided for chemical feeds,

(b) feeders shall be accurate to within five percent of any desired feed rate,

(c) fluoride compound shall not be added before lime-soda softening or ion exchange softening,

(d) the point of application of fluorosilicic acid, if into a horizontal pipe, shall be in the lower half of the pipe,

(e) a fluoride solution shall be applied by a positive displacement pump having a stroke rate not less than 20 strokes per minute,

(f) a spring opposed diaphragm type anti-siphon device shall be provided for all fluoride feed lines and dilution water lines,

(g) a device to measure the flow of water to be treated is required,

(h) the dilution water pipe shall terminate at least two pipe diameters above the solution tank,

(i) water used for sodium fluoride dissolution shall be softened if hardness exceeds 75 mg/l as calcium carbonate,

(j) fluoride solutions shall be injected at a point of continuous positive pressure or a suitable air gap provided,

(k) the electrical outlet used for the fluoride feed pump should have a nonstandard receptacle and shall be interconnected with the well or service pump,

(l) saturators should be of the upflow type and be provided with a meter and backflow protection on the makeup water line.

(m) lead weights shall not be used in fluoride chemical solutions to keep pump suction lines at the bottom of a day or bulk storage tank.

(3) Secondary controls.

Secondary control systems for fluoride chemical feed devices shall be provided as a means of reducing the possibility for overfeed; these may include flow or pressure switches or other devices.

(4) Protective equipment.

Personal protective equipment as outlined in R309-525-11(10) shall be provided for operators handling fluoride compounds. Deluge showers and eye wash devices shall be provided at all fluorosilicic acid installations.

(5) Dust control.

(a) Provision must be made for the transfer of dry fluoride compounds from shipping containers to storage bins or hoppers in such a way as to minimize the quantity of fluoride dust which may enter the room in which the equipment is installed. The enclosure shall be provided with an exhaust fan and dust filter which place the hopper under a negative pressure. Air exhausted from fluoride handling equipment shall discharge through a dust filter to the outside atmosphere of the building.

(b) Provision shall be made for disposing of empty bags, drums or barrels in a manner which will minimize exposure to fluoride dusts. A floor drain should be provided to facilitate the hosing of floors.

(6) Testing equipment.

Equipment shall be provided for measuring the quantity of fluoride in the water. Such equipment shall be subject to the approval of the Executive Secretary.

R309-535-6. Taste and Odor Control.

Part 4, Section 4.9, Taste and Odor Control, in the Recommended Standards for Water Works (commonly known as "Ten State Standards"), 1997 edition is hereby incorporated by reference and shall govern the design and operation of taste and odor control facilities. This document is published by the Great Lakes-Upper Mississippi River Board of Public Health and Environmental Managers. A copy is available in the office of the Division for reference.

R309-535-7. Stabilization.

Part 4, Section 4.8, Stabilization, in the Recommended Standards for Water Works (commonly known as "Ten State Standards"), 1997 edition is hereby incorporated by reference and it shall govern the design and operation of stabilization

facilities. This document is published by the Great Lakes-Upper Mississippi River Board of Public Health and Environmental Managers. A copy is available in the office of the Division for reference.

R309-535-8. Deionization.

Current practical methods of deionization include Ion Exchange, Reverse Osmosis and Electrodialysis. Additional methods of deionization may be approved subject to the presentation of evidence of satisfactory reliability.

All properly developed groundwater sources having water quality exceeding 2,000 mg/l Total Dissolved Solids and/or 500 mg/l Sulfate shall be either properly diluted or treated by the methods outlined in this section. Deionization cannot be considered a substitute process for conventional complete treatment outlined in R309-525.

(1) Ion Exchange.

(a) General.

Great care shall be taken by the designer to avoid loading the media with water high in organics.

(b) Design.

(i) Pretreatment shall be provided per the manufacturer's recommendation.

(ii) Upflow or down flow units are acceptable.

(iii) Exchangers shall have at least a three foot media depth.

(iv) Exchangers shall be designed to meet the recommendations of the media manufacturer with regard to flow rate or contact time. In any case, flow shall not exceed seven gpm/sf of bed area. The plant shall be provided with an influent or effluent meter as well as a meter on any bypass line.

(v) Chemical feeders used shall conform with R309-525-8. All solution tanks shall be covered.

(vi) Regenerants added shall be uniformly distributed over the entire media surface of upflow or downflow units. Regeneration shall be according to the media manufacturer's recommendations.

(vii) The wash rate capability shall be in excess of the manufacturers recommendation and should be at least six to eight gpm/sf of bed area.

(viii) Disinfection (see R309-520) shall be required ahead of the exchange units where this does not interfere with the media.

Where disinfection interferes with the media, disinfection shall follow the treatment process.

(c) Waste Disposal.

Waste generated by ion exchange treatment shall be disposed of in accordance with R309-525-23.

(2) Reverse Osmosis.

(a) General.

The design shall permit the easy exchange of modules for cleaning or replacement.

(b) Design Criteria.

(i) Pretreatment shall be provided per the manufacturer's recommendation.

(ii) Required equipment includes the following items: pressure gauges on the upstream and downstream side of the filter; a conductivity meter present at the site; taps for sampling permeate, concentrate and blended flows (if practiced). If a continuous conductivity meter is permanently installed, piping shall be such that the meter can be disconnected and calibrated with standard solutions at a frequency as recommended by the manufacturer.

(iii) Aeration, if practiced, shall conform with provisions of R309-535-9.

(iv) Cleaning shall be routinely done in accordance with the manufacturer's recommendations.

(v) Where the feed water pH is altered, stabilization of the finished water is mandatory.

(c) Waste Disposal.

Waste generated by reverse osmosis treatment shall be disposed of in accordance with R309-525-23.

(3) Electrodialysis.

(a) General.

(b) Design.

(i) Pretreatment shall be provided per the manufacturers recommendation.

(ii) The design shall include ability to: measure plant flow rates; measure feed temperature if the water is heated (a high temperature automatic cutoff is required to prevent membrane damage); measure D.C voltage at the first and second stages as well as on each of the stacks. Sampling taps shall be provided to measure the conductivity of the feed water, blowdown water, and product water. D.C. and A.C. kilowatt-hour meters to record the electricity used shall also be provided.

(c) Waste Disposal.

Waste generated by electrodialysis treatment shall be disposed of in accordance with R309-525-23.

R309-535-9. Aeration.

Part 4, Section 4.5, Aeration, in the Recommended Standards for Water Works (commonly known as "Ten State Standards"), 1997 edition, is hereby incorporated by reference and shall govern the design and operation of aeration facilities. This document is published by the Great Lakes-Upper Mississippi River Board of Public Health and Environmental Managers. A copy is available in the office of the Division for reference.

R309-535-10. Softening.

Part 4, Section 4.4, Softening, in the Recommended Standards for Water Works (commonly known as "Ten State Standards"), 1997 edition, is hereby incorporated by reference and shall govern the design and operation of softening facilities. This document is published by the Great Lakes-Upper Mississippi River Board of Public Health and Environmental Managers. A copy is available in the office of the Division for reference.

R309-535-11. Iron and Manganese Control.

Iron and manganese control, as used herein, refers solely to treatment processes designed specifically for this purpose. The treatment process used will depend upon the character of the source water. The selection of one or more treatment processes shall meet specific local conditions as determined by engineering investigations, including chemical analyses of representative samples of water to be treated, and receive approval of the Executive Secretary. It may be necessary to operate a pilot plant in order to gather all information pertinent to the design. Consideration should be given to adjust the pH of the raw water to increase the rate of the chemical reactions involved.

Removal or treatment of iron and manganese are normally by the following methods:

(1) Removal by Oxidation, Detention and Filtration.

(a) Oxidation.

Oxidation may be by aeration, or by chemical oxidation with chlorine, potassium permanganate, ozone or chlorine dioxide.

(b) Detention.

(i) Reaction time - A minimum detention time of twenty minutes shall be provided following aeration in order to insure that the oxidation reactions are as complete as possible. This minimum detention may be omitted only where a pilot plant study indicates no need for detention. The detention basin shall be designed as a holding tank with no provisions for sludge collection but with sufficient baffling to prevent short circuiting.

(ii) Sedimentation - Sedimentation basins shall be

provided when treating water with high iron and/or manganese content, or where chemical coagulation is used to reduce the load on the filters. Provisions for sludge removal shall be made.

(c) Filtration.

(i) General - Minimum criteria relative to number, rate of filtration, structural details and hydraulics, filter media, etc., provided for rapid rate gravity filters shall apply to pressure filters where appropriate, and may be used in this application but cannot be used in the filtration of surface waters or following lime-soda softening.

(ii) Details of Design for Pressure Filter - The filters shall be designed to provide for:

(A) Loss of head gauges on the inlet and outlet pipes of each filter,

(B) An easily readable meter or flow indicator on each battery of filters,

(C) Filtration and backwashing of each filter individually with an arrangement of piping as simple as possible to accomplish these purposes,

(D) The top of the washwater collectors to be at least twenty-four (24) inches above the surface of the media,

(E) The underdrain system to efficiently collect the filtered water and to uniformly distribute the backwash water at a rate capable of not less than 15 gpm/sf of filter area,

(F) Backwash flow indicators and controls that are easily readable while operating the control valves,

(G) An air release valve on the highest point of each filter,

(H) An accessible manhole to facilitate inspections and repairs,

(I) Means to observe the wastewater and filters during backwashing, and

(J) Construction to prevent cross-connection.

(2) Removal by the Lime-soda Softening Process.

For removal by the lime-soda softening process refer to Part 4, Section 4.4, Softening, in the Recommended Standards for Water Works (commonly known as "Ten State Standards"), 1997 edition as indicated in R309-535-10.

(3) Removal by Manganese Greensand Filtration.

This process, consisting of the continuous feed of potassium permanganate to the influent of a manganese greensand filter, is more applicable to the removal of manganese than the removal of iron.

(a) Provisions shall be made to apply the permanganate as far ahead of the filter as practical and at a point immediately before the filter.

(b) An anthracite media cap of at least six inches shall be provided over manganese greensand.

(c) The normal filtration rate is three gpm/sf.

(d) The normal wash rate is 8 to 10 gpm/sf.

(e) Air washing shall be provided.

(f) Sample taps shall be provided:

(i) prior to application of permanganate,

(ii) immediately ahead of filtration,

(iii) at a point between the anthracite media and the manganese greensand,

(iv) halfway down the manganese greensand, and

(v) at the filter effluent.

(4) Removal by Ion Exchange.

This process is not acceptable where either the source water or wash water contains dissolved oxygen.

(5) Sequestration by Polyphosphates.

This process shall not be used when iron, manganese or a combination thereof exceeds 1.0 milligram per liter. The total phosphate applied shall not exceed 10 milligrams per liter as PO_4. Where phosphate treatment is used, satisfactory chlorine residuals shall be maintained in the distribution system and the following required:

(a) feeding equipment shall conform to the requirements of R309-525-11(7),

(b) stock phosphate solution shall be kept covered and disinfected by carrying approximately 10 mg/l free chlorine residual,

(c) polyphosphates shall not be applied ahead of iron and manganese removal treatment. If no iron or manganese removal treatment is provided, the point of application shall be prior to any aeration, oxidation or disinfection steps, and

(d) phosphate chemicals must comply with ANSI/NSF Standard 60.

Sampling taps shall be provided for control purposes. Taps shall be located on each raw water source, and on each treatment unit influent and effluent.

Waste generated by iron and manganese control treatment shall be disposed of in accordance with R309-525-23.

R309-535-12. Point-of-Use and Point-of-Entry Treatment Devices.

Where drinking water does not meet the quality standards of R309-200 and the available water system treatment methods are determined to be unreasonably costly or otherwise undesirable, the Executive Secretary may permit the public water supplier to install and maintain point-of-use or point-of-entry treatment devices. This approval shall only be given after receipt and satisfactory review of the following items.

(1) The Executive Secretary shall only consider approving point-of-use or point-of-entry treatment upon receipt of an analysis that clearly demonstrates that central treatment is not feasible for the public water system. Unless waived by the Executive Secretary, this analysis shall be in the form of an engineering report prepared by a professional engineer registered in the State of Utah. Systems serving fewer than 75 connections are excused from performing an analysis by a Registered Professional Engineer.

(2) The water system shall have a signed access agreement with each customer that allows water system personnel to enter their property on a scheduled basis to install and maintain the treatment devices. The agreement shall include educational information with regard to the health risks of consuming or cooking with water from non-treated taps. Systems with an initial 75% of their connections under a signed access agreement shall be allowed to proceed with the understanding that 100% of their connections are due within a 5 year period. For public water systems that own or control all connections to the public water system, this requirement will not apply.

(3) Documentation that legal authority, which includes a termination of service clause, has been adopted to ensure water system access to the property for installation, maintenance, servicing and sampling of each treatment unit. For public water systems that own or control all connections to the public water system, this requirement will not apply.

(4) Point-of-use or point-of-entry treatment devices used shall only be those proven to be appropriate, safe and effective as determined through testing and compliance with protocols established by EPA's Environmental Technology Verification Program (ETV) or the applicable ANSI/NSF Standard(s). A pilot study may be required to determine the suitability of the point-of-use or point-of-entry device in treating a particular source water. The scope and duration of the pilot study shall be determined by such factors as the characteristics of the raw water, manufacturer's ratings of the treatment device, and good engineering practices. The pilot study will generate data on service intervals, aid in specifying and calibrating alarm systems, and reveal any site specific problems with component fouling or microbial colonization.

(5) The water system shall provide an operation and maintenance plan demonstrating that the treatment units shall be installed and serviced in accordance with the manufacturer's instructions and that compliance sampling as required in R309-215-6 shall take place. The system shall provide documentation

of an operation and maintenance contract or schedule annually as required in R309-105-16(4). If the operation and maintenance of the POU/POE devices is performed by water system personnel, it shall only be performed by a water operator certified at the level of the water system.

(6) The performance indicating device for the point-of-use/point-of-entry treatment device that will be used shall be specified in the submital for plan approval.

(7) The water system shall submit a customer education and out-reach plan that includes at a minimum annual frequency of contact.

(8) Point-of-use or point-of-entry treatment devices for compliance with the nitrate MCL shall only be considered if treatment is provided at all taps that are accessible to the public.

R309-535-13. New Treatment Processes or Equipment.

The policy of the Board is to encourage, rather than to obstruct, the development of new methods and equipment for the treatment of water. Nevertheless, any new processes or equipment must have been thoroughly tested in full-scale, comparable installations, before approval of plans can be issued. The U.S. Environmental Protection Agency (EPA) has created the Environmental Technology Verification (ETV) Program to facilitate the deployment of innovative or improved environmental technologies through performance verification and dissemination of information. NSF International (NSF) in cooperation with the EPA operates the Package Drinking Water Treatment Systems (PDWTS) pilot, one of 12 technology areas under ETV. Engineers and Manufacturers are referred to Bruce Bartley, Manager, ETV project, NSF International, P.O. Box 130140, Ann Arbor, Michigan 48113-0140.

No new treatment process will be approved for use in Utah unless the designer or supplier can present evidence satisfactory to the Executive Secretary that the process will insure the delivery of water of safe, sanitary quality, without imposing undue problems of supervision, operation and/or control.

KEY: drinking water, miscellaneous treatment, stabilization, iron and manganese control
November 16, 2005 19-4-104
Notice of Continuation September 16, 2002

R317. Environmental Quality, Water Quality.
R317-102. Utah Wastewater State Revolving Fund (SRF) Program.
R317-102-1. Policies and Guidelines.

The administrative rules described in R317-101, Utah Wastewater Project Assistance Program apply as a part of this Rule.

R317-102-2. Statutory Authority.

The authority for the Department of Environmental Quality acting through the Utah Water Quality Board to issue loans to finance all or part of wastewater project costs from the SRF is provided in Title VI of the Federal Clean Water Act and Sections 73-10b-1, and 73-10c-1 of the Utah Code Annotated.

R317-102-3. Definitions and Eligibility.

A. Eligible Activities of the SRF. All funds within the SRF must be used solely to provide loans and other authorized forms of financial assistance, but not grants:

1. for the construction of publicly owned wastewater treatment works as defined in Section 212 of the CWA that appear on the Utah State Project Priority List as described in R317-100-1;

2. for implementation of a nonpoint source pollution control management program under Section 319 of the CWA.

B. First Use Requirement. The categories of funds described below must first be used for any major and minor publicly owned treatment works (POTW) that EPA Region VIII and Utah has previously identified as part of the National Municipal Policy universe:

1. the Federal capitalization grant award under section 205(m) and Title VI of the CWA;

2. repayments of initial loans awarded from the grant; and

3. the State match.

In order for Utah to use these funds for other kinds of treatment works, without unmet enforceable requirements under 212 or programs for nonpoint pollution sources, the Utah Division of Water Quality must certify that the POTWs described above are:

a. in compliance, or

b. on an enforceable schedule, or

c. have an enforcement action filed, or

d. have a funding commitment during or prior to the first year covered by the Intended Use Plan.

C. Types of Financial Assistance

1. Loans

a. Interest Rate. Loans may be made at or below market interest rates.

b. Repayment. Annual repayments of principal and interest will be made to begin not later than one year after project completion. Project Completion shall be defined as the date operations of the treatment works are capable of being initiated. Where a treatment works has been phased or segmented, the repayment requirement applies to the completion of individual phases or segments. At the discretion of the Water Quality Board, principal and interest payments may begin earlier than one year after operations are initiated.

The yearly amount of the principal repayment and the interest payment is set at the discretion of the Water Quality Board.

c. Dedicated Repayment Source. Loan recipients must establish one or more dedicated sources of revenue for repayment of the loan.

2. Refinancing Existing Debt Obligations. The Water Quality Board may use funds from the SRF to buy or refinance local debt obligations at or below market interest rate, where such debt was incurred after March 7, 1985. Refinanced projects must comply with the requirements imposed by the CWA as though they were projects receiving initial financing from the SRF. Further, where the original debt was in the form of a multi-purpose bond incurred for purposes in addition to wastewater treatment facility construction, refinancing from the SRF may be provided only for eligible purposes, and not for the entire debt.

3. Guarantee or Purchase Insurance for Local Debt Obligations.

4. Guarantee SRF Debt Obligations. Resources in the SRF may be used as security or as a source of revenue for the payment of principal and interest on revenue or general obligation bonds issued by the State and deposited in the SRF.

5. Loan Guarantees for sub-State Revolving Funds.

6. Earn Interest on Fund Accounts.

7. SRF Administrative Expenses.

R317-102-4. Compliance with Other Requirements.

Recipients of SRF funds may, if determined by the Water Quality Board, as provided by federal law, be required to meet the following other requirements, cited from the July 1, 1988 edition of the Code of Federal Regulations:

A. Title VI of the Civil Rights Act of 1964, whereby applicants must certify compliance with this act (40 CFR Part 7; Nondiscrimination in Programs Receiving Federal Assistance From EPA; and 40 CFR Part 12: Non-discrimination on the Basis of Handicap in Programs or Activities Conducted by the Environmental Protection Agency);

B. Minority and Women Owned Business Enterprise Procurement, whereby applicants agree to assist the state in meeting objectives established under 40 CFR 33.240, prior to authorization of the assistance agreement;

C. Accounting Procedures, whereby applicants agree to maintain a separate project account in accordance with Generally Accepted Accounting Standards and Utah State Uniform Accounting requirements;

D. Construction Payment Schedule, whereby applicants agree to supply the Division of Water Quality with a construction draw-down schedule before the loan closing.

E. Davis-Bacon Labor Wage Provisions. The applicant must apply Davis-Bacon labor wage provisions to treatment works construction (29 CFR Part 5). Wages paid for the construction of treatment works must conform to the prevailing wage rates established for the locality by the U.S. Department of Labor under the Davis-Bacon Act (Section 513, applies 40 U.S.C. 276 et seq.).

R317-102-5. Loans For Underground Wastewater Disposal Systems.

Replacement or repair of underground wastewater disposal systems (UWDS), as defined in R317-501-1.1, are eligible for funding through the SRF if they have malfunctioned or are in non-compliance with state administrative rules or local regulations governing the same. The following procedures apply to UWDS loans:

A. Loans will only be made for the repair or replacement of existing malfunctioning UWDS, as determined by the local health department and as defined in R317-501-1.34, when the malfunction is not attributable to inadequate system operation and maintenance.

B. Projects will be prioritized according to criteria established in R317-100-4, Utah State Project Priority System for the Utah Wastewater Project Assistance Program.

C. UWDS loan applications will be received by the local health department which will evaluate the need, priority, eligibility and technical feasibility of each project. The local health department will issue a certificate of qualification (COQ) for projects which qualify for a UWDS loan. The COQ and completed loan application will be forwarded to the Division of Water Quality for its review.

D. The maximum term of the UWDS loan will be 10 years.

E. The maximum loan amount for a system serving an individual residence will be $15,000. A larger loan may be considered for a system serving multiple residences.

F. The interest rate on UWDS loans will be equal to 60% of the interest rate on a 30-year U.S. Treasury bill.

G. UWDS loan recipients must have a total household income no greater than 150% of the state median adjusted household income, as determined from the Utah Tax Commission's most recently published data.

H. UWDS loan projects are exempt from environmental reviews under the National Environmental Policy Act (NEPA) as long as the funding of these projects is identified in Utah's Non-point Source Pollution Management Plan.

I. Security for UWDS Loans

a. The borrower must adequately secure the loan with real property or chattel.

b. The ratio of the loan amount to the value of the pledged security must not be greater than 70%.

J. Eligible activities under the UWDS loan program include:

1. Septic tank
2. Absorption system
3. Building sewer
4. Appurtenant facilities
5. Conventional or alternate UWDS
6. Connection of the residence to an existing centralized sewer system, including connection or hook-up fees, if this is determined to be the best means of resolving the failure of an UWDS.
7. Costs for construction, permits, legal work, engineering, and administration.

K. Ineligible project components include:

1. UWDS systems serving commercial establishments;
2. land;
3. interior plumbing fixtures;
4. impact fees, if connecting to a centralized sewer system is determined to be the best means of resolving the failure of an UWDS;
5. UWDS for new homes or developments;
6. UWDS operation and maintenance.

L. The local health department will certify the completion of the project to the Division of Water Quality.

M. To be reimbursed for project expenditures the borrower must maintain and submit invoices, financial records, or receipts which document the expenditures or costs.

N. UWDS loan recipients will be billed for monthly payments of principal and interest beginning 60 days after execution of the loan agreement.

O. The UWDS loan must be paid in full if the property served by the project is sold or transferred.

P. UWDS loan applications may be prioritized in accordance with R317-100-4 so that the limited funds which are available are allocated first to the highest priority projects.

Q. The Utah Division of Water Quality, or its designee, will evaluate the financial aspects of the project and the credit worthiness of the applicant.

R. The Executive Secretary to the Water Quality Board, and/or another whom the Water Quality Board may designate, will execute UWDS loan agreements with the borrower.

S. UWDS loans in amounts in excess of $150,000 will be presented to and authorized funding by the Water Quality Board. Loans of less than $150,000 will be considered and authorized funding by the Executive Secretary to the Water Quality Board.

R317-102-6. Loans For Non-point Source Pollution Projects.

Non-point Source Pollution (NPS) Projects, as defined in UAC 73-10c-2(9), are eligible for funding through the SRF. The following procedures apply to NPS project loans:

A. Loans to individuals in amounts in excess of $150,000 will be presented to and authorized funding by the Water Quality Board. Loans of less than $150,000 will be considered and authorized funding by the Executive Secretary to the Water Quality Board.

B. The Executive Secretary to the Water Quality Board, and/or another whom the Water Quality Board may designate, will execute NPS project loan agreements with the borrower.

C. Projects will be prioritized according to criteria established in R317-100-4, Utah State Project Priority System for the Utah Wastewater Project Assistance Program.

D. Following authorization of funds by the Water Quality Board or Executive Secretary, as appropriate, the applicant has a period of six months to meet the conditions of the loan authorization and complete a loan closing. If a loan closing for the project has not occurred within six months of the loan authorization, the funding may be rescinded.

E. The maximum term of NPS project loans will be twenty years but not beyond the depreciable life of the project.

F. The interest rate on NPS project loans will be zero percent.

G. NPS project loans are exempt from environmental reviews under the National Environmental Policy Act (NEPA) as long as the funding of these projects is identified in Utah's Non-point Source Pollution Management Plan.

H. Security for NPS project loans

1. NPS project loans to individuals in amounts greater than $15,000 will be secured by the borrower with water stock or real estate. Such loans less than $15,000 may be secured with other assets.
2. For NPS project loans to individuals the ratio of the loan amount to the value of the pledged security must not be greater than 70%.
3. NPS loans to political subdivisions of the state will be secured by a revenue bond, general obligation bond or some other acceptable instrument of debt.

I. Eligible projects under the NPS project loan program include projects which:

1. abate or reduce untreated or uncontrolled runoff;
2. improve critical aquatic habitat;
3. conserve soil, water, or other natural resources;
4. protect and improve ground water quality;
5. preserve and protect the beneficial uses of water of the state;
6. reduce the number of water bodies not achieving water quality standards;
7. improve watershed management;
8. prepare and implement total maximum daily load (TMDL) assessments.

J. NPS projects which will serve concentrated animal feeding operations (CAFOs), as defined by EPA, are ineligible for NPS project loans.

K. The Division of Water Quality will determine project eligibility and priority. Periodic payments will be made to the borrower, contractors or consultants for work relating to the planning, design and construction of the project. The borrower must maintain and submit the financial records which document expenditures or costs.

L. The Division of Water Quality, or its designee, will perform periodic project inspections. Final payment on the NPS loan project will not occur until a final inspection has occurred and an acceptance letter issued for the completed project.

M. NPS project loan recipients will be billed periodically for payments of principal and interest as agreed to in the executed loan agreements or bond documents.

N. NPS project loan applications may be prioritized so that the limited funds which are available are allocated first to the highest priority projects.

O. The Utah Division of Water Quality, or its designee,

will evaluate the financial aspects of the NPS project and the credit worthiness of the applicant.

P. The Executive Secretary, or other individuals the Water Quality Board may designate, will execute NPS project loan agreements with the borrower.

KEY: wastewater, loans, water quality
August 24, 2001 19-5-104
Notice of Continuation November 29, 2005

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.
R414-40. Nursing Service.
R414-40-1. Policy Statement.

A. Nursing encompasses care and services necessary to maintain or restore health; prevent illness; care for the sick, injured, infirm; and provide support and comfort for the dying patient and his family.

B. General and specialized nursing service is provided consistent with nursing practice as defined in Title 58, Chapter 31 and 31a, Utah Code Annotated, and with all relevant federal statutes, rules and regulations.

R414-40-2. Authority and Purpose.

A. Authority

1. Private duty nursing service is an optional Title XIX program authorized by Section 1901 et seq., of the Social Security Act, Section 1905(a)(8) of the Social Security Act and 42 CFR 440.80.

2. Nursing Service provided to an eligible pregnant woman or a child under the age of 21 by a certified pediatric or family nurse practitioner practicing within the scope of practice as defined by State Law is a mandatory Title XIX program authorized by The Omnibus Budget Reconciliation Act of 1989 (OBRA-89) section 6401 (H.R. 3299, P.L. 101-329).

3. This rule is also authorized by Utah Code Annotated (1953) Sections 26-1-5 and 26-18-3.

B. Purpose

1. Private Duty nursing service is designed to prevent prolonged institutionalization and meet the needs of a special group of ventilator dependent, EPSDT (CHEC) eligible children by providing this service in the home for a period of time essential to meet medically necessary care needs, and to supervise and develop confidence in family caregivers responsible for care of the child. The quality and cost effectiveness of home care and private duty nursing must be considered in relation to other alternatives for care.

2. Pediatric or family nurse practitioner services are authorized for the purpose of expanding the pool of obstetric and pediatric care providers to assure that adequate numbers of ambulatory (non-institutional) obstetric and pediatric care providers will be available to provide appropriate care to those pregnant women mandated for Medicaid coverage at specified poverty levels, and to children eligible to receive EPSDT (CHEC) services.

R414-40-3. Definitions.

A. In addition to the definitions related to nursing and nursing practice specified in the Nurse Practice Act and the Nurse Practitioner Prescriptive Practice Act, Title 58, chapters 31 and 31a, Utah Code Annotated, the following definitions apply specifically to this rule:

1. "Obstetric care" means ambulatory, non-institutional services covered by the State Plan which are provided to a pregnant woman by a certified family nurse practitioner.

2. "Pediatric care" means ambulatory, non-institutional services covered by the State Plan which are provided to a child under age 21 by a certified pediatric or family nurse practitioner.

3. "Pediatric or family nurse practitioner services" means service provided by a certified nurse practitioner who by reason of advanced education, experience, and licensure has an enhanced degree of knowledge, skill and competence necessary to provide specialized health care to women and children.

4. "Prescriptive Practice" means the ability to 'prescribe', within criteria established in protocols, during the course of diagnosis and treatment of common health problems. Prescriptive practice is authorized by Title 58, Section 31a Utah Code Annotated, and is a specialized nursing function which can be performed by an advance practice registered nurse licensed under Title 58 Section 31-9.1. Prescriptive practice is based on advanced education, experience, and licensure of the nurse practitioner; an agreement and consultive relationship with a physician who has agreed to provide direction and review on a continuing basis; and on protocols jointly developed by a nurse practitioner and the consulting physician.

5. "Private duty nursing service" means nursing services for patients who require more individual and continuous care than is available from a visiting nurse.

6. "Ventilator dependent" means reliance on a mechanical ventilator to compensate for decreased lung function as a result of respiratory distress syndrome requiring mechanical ventilation soon after birth. The infant is then unable to be weaned from the assisted ventilation during the first month after birth because a more complicated lung problem known as bronchopulmonary dysplasia (BPD) develops. The ventilator dependence is assumed to be prolonged, perhaps up to and beyond two years of age.

7. "Prior authorization" means that degree of approval of payment of services required to be obtained from the Division of Health Care Financing by a licensed provider before the service is provided.

R414-40-4. Eligibility Requirements/Coverage.

A. Private duty nursing service is available to categorically and medically needy children.

B. Pediatric or family nurse practitioner services are available to categorically eligible and medically needy children eligible to receive EPSDT (CHEC) services and to categorically eligible and medically needy pregnant women.

R414-40-5. Program Access Requirements.

A. Recipients seeking private duty nursing service must be Medicaid eligible, ventilator dependent children under age 21 who meet the criteria established and approved by the Division of Health Care Financing staff and physician consultants.

B. Recipients seeking ambulatory obstetrical care from a family nurse practitioner who is an accepted Medicaid provider must have a verifiable pregnancy and be in need of prenatal care.

C. Recipients seeking ambulatory pediatric care from a pediatric nurse practitioner or a family nurse practitioner who is an accepted Medicaid provider, must be under the age of 21.

R414-40-6. Service Coverage.

A. Private duty nursing provides for service to a special group of ventilator dependent, Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Child Health Evaluation and Care (CHEC) eligible children under age 21 who meet established criteria. A highly technical level of skilled nursing care based on specialized training, knowledge, judgment and skill is required to meet the needs of such children. However, such nursing care can be provided in the home by parents or other trained caregivers after learning and providing hands-on care while the child is hospitalized and after a period of orientation and supervision by a private duty nurse in the home.

B. Private duty nursing may be provided:

1. in the individual's home in order to prevent prolonged institutionalization. The service shall be based on a physician's order and a written plan of care specific to needs of the individual, and will be reviewed and recertified every 60 days consistent with Home Health requirements in 42 CFR 440.70, dated October 1988, hereby adopted and incorporated by reference;

2. for a period of time essential to meet medically necessary care needs and develop confidence in family caregivers. Private duty nursing service needs are expected to decrease over time to minimal, intermittent levels consistent with those in the regular home health program.

C. Certified Pediatric and family nurse practitioners are authorized to perform expanded role functions in addition to all functions appropriate for registered nurses. Pediatric and family nurse practitioner services include a broad range of primary health care services for the promotion and maintenance of health. Appropriate intervention for the management of patient care needs is essential, shall be based on established nursing or health care standards, and shall include but not be limited to:

1. establishing a medical, family and social history;
2. completing a physical examination;
3. ordering diagnostic and laboratory procedures;
4. assessing findings and complaints;
5. evaluating health status;
6. identifying problems;
7. establishing a diagnosis;
8. planning, implementing, and evaluating a treatment program according to established standards of health care;
9. prescribing drug therapy according to standard medical practice and in accordance with the Nurse Practitioner Prescriptive Practices Act;
10. providing emergency care;
11. collaborating with other health care professionals;
12. assisting clients to access community resources;
13. initiating and maintaining medical and legal records;
14. supporting and counseling clients on compliance with treatment plans; and
15. making appropriate referrals to meet client needs.

D. Pediatric and family nurse practitioners may provide service as independent or private practitioners or as part of a group practice in a private office, a community health center, or a local health department.

E. Prescriptive practice privileges must be part of the licensure of the pediatric nurse practitioner or the family nurse practitioner providing service in this program to assure a comprehensive level of service.

R414-40-7. Standards of Care.

A. Private duty nursing service shall be provided in accordance with 42 CFR 440.80, dated October 1988, which is hereby adopted and incorporated by reference.

B. High quality, cost-effective care and safe environment for the child in the home may be provided only through adequate training, knowledge, judgment, and skill of the registered nurse or licensed practical nurse licensed in the State of Utah in accordance with Title 58, Chapter 31 Utah Code Annotated.

C. Pediatric nurse practitioner and family nurse practitioner services shall be provided in accordance with standards of practice defined in the rules promulgated pursuant to the provisions of the Utah Nurse Practice Act, Title 58, Chapters 31 and 31a, Utah Code Annotated, "and to protect the public in relation to the practice of nursing."

R414-40-8. Limitations.

A. Private duty nursing service may be provided only through a certified home health agency or by a nurse properly licensed by the State of Utah and enrolled as a provider for the Utah Medicaid Program.

B. Private duty nursing service may be provided only to ventilator dependent, EPSDT (CHEC) eligible individuals under age 21 who meet established criteria.

C. Private duty nursing service may be provided only through a physician's written orders on which a plan of care specific to the needs of the individual is developed and prior authorized.

D. Private duty nursing service may be provided in the home for a period of time essential to meet medically necessary care needs, supervise and develop confidence in family caregivers.

E. Private duty nursing service may be provided on the basis of a reasonable expectation that the care and the service needs of the child can be met adequately by the private duty nurse in the recipient's home.

F. Private duty nursing hours will be monitored and approved through a weekly utilization review and evaluation, by telephone, with Division of Health Care Financing staff, the private duty nurse/home health agency and in consultation with the primary care pediatrician responsible for medical management of the patient.

G. Only approved services essential to the care of pregnant women and the care of children under the age of 21 may be provided as covered Medicaid services by pediatric and family nurse practitioners in private practice.

R414-40-9. Prior Authorization.

A. Prior authorization is required for private duty nursing service provided after January 1, 1989.

B. Prior authorization requests shall be evaluated through the use of criteria developed and approved by the Division of Health Care Financing staff and physician consultants.

R414-40-10. Reimbursement of Services.

A. Reimbursement for nursing services shall be provided as documented in the Utah State Medicaid Plan, Attachment 4.19-B.

B. When service is provided by a certified licensed nurse practitioner working under supervision in a group practice, in a private office, community health center, or local health department, the supervising provider shall bill according to his authorized fee schedule.

C. When service is provided by a certified licensed nurse practitioner working in a private or independent practice, the certified licensed nurse practitioner shall bill according to his authorized fee schedule.

KEY: medicaid
1991 26-1-5
Notice of Continuation November 22, 2005 26-18-3

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.
R414-59. Audiology-Hearing Services.
R414-59-1. Introduction and Authority.

(1) The Audiology-Hearing Program provides audiology and hearing services to meet the basic audiology and hearing needs of Medicaid clients.

(2) Audiology-hearing services are authorized by 42 CFR, Subsection 440.110(c)(1)(2), October 1994 edition, which is adopted and incorporated by reference.

R414-59-2. Definitions.

(1) The definitions in the Speech-language Pathology and Audiology Licensing Act, Title 58, Chapter 41, apply to this rule.

(2) In addition, "Client," "Categorically Needy", "Medically Needy", and "Provider" have the same meanings as defined in R414-1-1.

R414-59-3. Client Eligibility Requirements.

Audiology-hearing services are available to Categorically Needy and Medically Needy individuals.

R414-59-4. Program Access Requirements.

(1) A physician provider must refer a client for audiology-hearing services before the client can receive these services.

(2) The referral form must state that the medical examination determined that the conditions causing the hearing loss are not medically correctable. It must also state that conditions medically treatable were identified and treated prior to this referral.

(3) The referral form must also state that there is no medical reason, dysfunction, or hearing impairment that would preclude the use of a hearing aid.

R414-59-5. Service Coverage.

(1) A provider may provide audiology-hearing services for a client, including: testing, examination, evaluation, recommendations, hearing aid evaluation, prescription for a hearing aid, ear mold, fitting, orientation, and follow-up. Audiological habilitation includes, but is not limited to, speech, hearing, and gestural communications. All services must be related to medical need. Treatments for social, educational, and developmental needs, while important to the individual, are not covered services.

(2) Only a licensed audiologist may perform audiology examinations and hearing aid assessments.

(3) Hearing aids are a covered service when hearing loss criteria are met, as outlined in the provider manual.

(4) Either an audiologist or a hearing aid supplier may provide hearing aids. All requests for hearing aids must include the results of audiology examinations performed by a licensed audiologist.

(5) Medicaid shall not reimburse an audiologist or a hearing aid supplier for hearing aids that are not guaranteed by the manufacturer for at least one year.

KEY: medicaid
January 24, 1996 26-1-5
Notice of Continuation November 22, 2005 26-18-3

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.
R414-63. Medicaid Policy for Pharmacy Reimbursement.
R414-63-1. Introduction and Authority.

(1) The Medicaid Policy for reimbursement of dispensing fees for pharmacy providers was achieved through negotiations with representatives of the pharmacy industry.

(2) This rule is authorized under Chapter 26-18.

R414-63-2. Pharmacy Reimbursement.

(1) For each prescription filled for a Medicaid recipient the Department may reimburse the pharmacy provider for:

(a) the average wholesale price for the medication minus 15%; and

(b) a dispensing fee in the amount of $3.90 for urban providers and $4.40 for rural providers.

(2) Clients whose prescription exceeds seven prescriptions per month may be subject to clinical review by the Division.

(3) Prescribers may be subject to peer review in regard to a patient's prescription drug profile when opportunities exist to decrease duplicative prescribing, waste, perceived abuse of the pharmacy benefit, or the likelihood of a level one adverse drug event between one or more drugs for any given patient drug profile.

(4) The prescriber shall have ultimate say in what is prescribed.

KEY: Medicaid, prescriptions
January 26, 2005 26-18
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R497. Human Services, Administration, Administrative Hearings.
R497-100. Adjudicative Proceedings.
R497-100-1. Definitions.

The terms used in this rule are defined in Section 63-46b-1. In addition,

(1) For the purpose of this section, "agency" means the Department of Human Services or a division or office of the Department of Human Services including the Division of Child and Family Services (DCFS), the Division of Services to People with Disabilities (DSPD), the Division of Juvenile Justice Services (DJJS), the Division of Aging and Adult Services (DAAS), the Division of Mental Health (DMH), the Division of Substance Abuse (SA), the Office of Licensing (OL), the Utah State Developmental Center (USDC), the Utah State Hospital (USH), and any boards, commissions, officers, councils, committees, bureaus, or other administrative units, including the Executive Director and Director of the Department or other persons acting on behalf of or under the authority of the Executive Director or Director. For purposes of this section, the term "Department of Human Services" does not include the Office of Recovery Services (ORS). The rules regarding ORS are stated in R527-200.

(2) "Agency actions or proceedings" of the Department of Human Services include, but are not limited to the following:

(a) challenges to findings of abuse, neglect and dependency pursuant to Section 62A-4a-116.5;

(b) due process hearings afforded to foster parents prior to removal of a foster child from their home pursuant to Section 62A-4a-206;

(c) the denial, revocation, modification, or suspension of any Department foster home license, or group care license;

(d) the denial, revocation, modification or suspension of a license issued by the Office of Licensing pursuant to Section 62A-2-101, et seq.;

(e) challenges to findings of abuse, neglect or exploitation of a disabled or elder adult pursuant to Section 62A-3-301, et seq.;

(f) the licensure of community alternative programs by the Office of Licensing;

(g) actions by the Division of Juvenile Justice Services and the Youth Parole Authority relating to granting or revocation of parole, discipline or, resolution of grievances of, supervision of, confinement of or treatment of residents of any Juvenile Justice Services facility or institution;

(h) resolution of client grievances with respect to delivery of services by private, nongovernmental, providers within the Department's service delivery system;

(i) actions by Department owned and operated institutions and facilities relating to discipline or treatment of residents confined to those facilities;

(j) placement and transfer decisions affecting involuntarily committed residents of the Utah State Developmental Center pursuant to Sections 62A-5-313;

(k) protective payee hearings;

(l) Department records amendment hearings held pursuant to Section 63-2-603.

(3) "Aggrieved person" includes any applicant, recipient or person aggrieved by an agency action.

(4) "Declaratory Order" is an administrative interpretation or explanation of the applicability of a statute, rule, or order within the primary jurisdiction of the agency to specified circumstances.

(5) "Office" means the Office of Administrative Hearings in the Department of Human Services.

(6) "Presiding officer" means an agency head, or individual designated by the agency head, by these rules, by agency rule, or by statute to conduct an adjudicative proceeding and may include the following:

(a) hearing officers;
(b) administrative law judges;
(c) division and office directors;
(d) the superintendent of agency institutions;
(e) statutorily created boards or committees.

R497-100-2. Exceptions.

The provisions of this section do not govern the following:

(1) The procedures for promulgation of agency rules, or the judicial review of those procedures. See Section 63-46b-1(2)(a).

(2) Department actions relating to contracts for the purchase or sale of goods or services by and for the state or by and for the Department, including terminations of contracts by the Department.

(3) Initial applications for and initial determinations of eligibility for state-funded programs.

R497-100-3. Form of Proceeding.

(1) All adjudicative proceedings commenced by the Department of Human Services or commenced by other persons affected by the Department of Human Services' actions shall be informal adjudicative proceedings.

(2) However, any time before a final order is issued in any adjudicative proceeding, the presiding officer may convert an informal adjudicative proceeding to a formal adjudicative proceeding if:

(a) conversion of the proceeding is in the public interest; and

(b) conversion of the proceeding does not unfairly prejudice the rights of any party.

(3) If a proceeding is converted from informal to formal, the Procedure for Formal Adjudicative Proceedings in Section 63-46b-1, et seq. shall apply. In all other cases, the Procedures for Informal Proceedings in R497-100-6 shall apply.

R497-100-4. Commencement of Proceedings.

(1) All adjudicative proceedings shall be commenced by either:

(a) a notice of agency action, if proceedings are commenced by the agency; or

(b) a request for agency action, if proceedings are commenced by persons other than the agency.

(2) (a) When adjudicative proceedings are commenced by the agency, the notice of agency action shall conform to Section 63-46b-3(2)(a) and shall also include:

(i) a statement that the adjudicative proceeding is to be conducted informally;

(ii) if a hearing is to be held in an informal adjudicative proceeding, a statement of the time and place of any scheduled hearing, a statement of the purpose for which the hearing is to be held, and a statement that a party who fails to attend or participate in the hearing may be held in default; and

(iii) if the agency's rules do not provide for a hearing, a statement that the parties may request a hearing within ten working days of the notice of agency action.

(b) The notice of agency action shall be mailed or published in conformance with Section 63-46b-3(2)(b).

(c) When adjudicative proceedings are commenced by a person other than the agency, the request for agency action shall conform to Section 63-46b-3(3)(a) and (b) and include the name of the adjudicative proceeding, if known.

(d) In the case of adjudicative proceedings commenced under Subsection (2)(c) by a person other than the agency, the presiding officer shall within ten working days give notice by mail to all parties. The written notice shall:

(i) give the agency's file number or other reference number;

(ii) give the name of the proceeding;

(iii) designate that the proceeding is to be conducted informally;

(iv) if a hearing is to be held in an informal adjudicative proceeding, state the time and place of any scheduled hearing, the purpose for which the hearing is to be held, and that a party who fails to attend or participate in the hearing may be held in default;

(v) if the agency's rules do not provide for a hearing, state the parties' right to request a hearing within ten working days of the agency's response; and

(vi) give the name, title, mailing address, and telephone number of the presiding officer.

R497-100-5. Availability of Hearing.

(1) Hearings may be held in any informal adjudicative proceedings conducted in connection with an agency action if the aggrieved party requests a hearing and if there is a disputed issue of fact. If there is no disputed issue of fact, the presiding officer may deny a request for a hearing and determine all issues in the adjudicative proceeding, if done in compliance with the policies and standards of the applicable agency. If the aggrieved person objects to the denial of a hearing, that person may raise that objection as grounds for relief in a request for reconsideration.

(2) There is no issue of fact if:

(a) the aggrieved person tenders facts which on their face establish the right of the agency to take the action or obtain the relief sought in the proceeding;

(b) the aggrieved person tenders facts upon the request of the presiding officer and the fact does not conflict with the facts relied upon by the agency in taking its action or seeking its relief.

R497-100-6. Procedures for Informal Proceedings.

In compliance with Section 63-46b-5, the procedure for the informal adjudicative proceedings is as follows:

(1) (a) The respondent to a notice of agency action or request for agency action may, but is not required to, file an answer or responsive pleading to the allegations contained in the notice of agency action or the request for agency action within 10 working days following receipt of the adverse party's pleading.

(b) A hearing shall be provided to any party entitled to request a hearing in accordance with Section 63-46b-5.

(c) In the hearing, the party named in the notice of agency action or in the request for agency action may be represented by counsel and shall be permitted to testify, present evidence and comment on the issues.

(d) Hearings will be held only after a timely notice has been mailed to all parties.

(e) Discovery is prohibited, but the office may issue subpoenas or other orders to compel production of necessary evidence. The office may require that parties exchange documents prior to the hearing in order to expedite the process. All parties to the proceedings will be responsible for the appearance of witnesses.

(f) All parties shall have access to information contained in the agency's files and to all materials and information gathered in any investigation, to the extent permitted by law.

(g) Intervention is prohibited, except that intervention is allowed where a federal statute or rule requires that a state permit intervention.

(h) Within a reasonable time after the close of the hearing, or after the party's failure to request a hearing within the time prescribed by the agency's rules, the presiding officer shall issue a signed order in writing that conforms to Section 63-46b-5(l)(I).

(i) All hearings shall be open to all parties.

(j) The presiding officer's order shall be based on the facts appearing in the agency's files and on the facts presented in evidence at the hearings.

(k) A copy of the presiding officer's order shall be promptly mailed to each of the parties.

(2) All hearings shall be tape recorded at the office's expense. A transcript of the record may be prepared pursuant to Section 63-46b-5(2)(b). The hearing tape will be maintained for one year after the order has been issued.

R497-100-7. Declaratory Orders.

(1) Who May File. Any person or governmental entity directly affected by a statute, rule or order administered, promulgated or issued by an agency, may file a petition for a declaratory order by addressing and delivering the written petition to the presiding officer of the appropriate agency.

(2) Content of Petition.

(a) The petition shall be clearly designated as a request for an agency declaratory order and shall include the following information;

(i) the statute, rule or order to be reviewed;

(ii) a detailed description of the situation or circumstances at issue;

(iii) a description of the reason or need for a declaratory order, including a statement as to why the petition should not be considered frivolous;

(iv) an address and telephone where the petitioner can be contacted during regular work days;

(v) a statement about whether the petitioner has participated in a completed or on-going adjudicative proceeding concerning the same issue within the past 12 months; and

(vi) the signature of the petitioner or an authorized representative.

(3) Exemptions from Declaratory Order Procedure. A declaratory order shall not be issued by any agency of the Department under the following circumstances:

(a) the subject matter of the petition is not within the jurisdiction and competency of the agency;

(b) the person requesting the declaratory ruling participated in an adjudicative proceeding concerning the same issue within 12 months of the date of the declaratory order request;

(c) the declaratory order procedure is likely to substantially prejudice the rights of a person who would be a necessary party, unless that person consents in writing to a determination of the matter by a declaratory proceeding;

(d) the declaratory order is trivial, irrelevant, or immaterial;

(e) a declaratory order proceeding is otherwise prohibited by state or federal law;

(f) a declaratory order is not in the best interest of the agency or the public;

(g) the subject matter is not ripe for consideration; or

(h) the issue is currently pending in a judicial proceeding.

(4) Intervention in Accordance with 63-46b-5(1)(g) and 63- 46b-21.

(a) Intervention is prohibited in informal adjudicative proceedings, except where a federal statute or rule requires that intervention be permitted.

(b) In the case of an adjudicative proceeding that has been converted to a formal adjudicative proceeding, a person may intervene in a declaratory order proceeding by filing a petition to intervene with the presiding officer of the agency within 30 days after the conversion of the proceeding.

(c) The agency presiding officer may grant a petition to intervene if the petition meets the following requirements:

(i) the intervener's legal interests may be substantially affected by the declaratory order proceedings; and

(ii) the interests of justice and the orderly and prompt conduct of the declaratory order proceeding will not be

materially impaired by allowing intervention.

(5) Review of Petition for Declaratory Order.

(a) After review and consideration of a petition for a declaratory order, the presiding officer of the agency may issue a written order that conforms to Section 63-46b-21(6)(a);

(b) If the matter is set for an adjudicative proceeding, written notice shall be mailed to all parties that shall:

(i) give the name, title, mailing address, and telephone number of the presiding officer;

(ii) give the agency's file number or other reference number;

(iii) give the name of the proceeding;

(iv) state whether the proceeding shall be conducted informally or formally;

(v) state the time and place of any scheduled hearing, the purpose for which the hearing is to be held, and that a party who fails to attend or participate in the hearing may be held in default; and

(vi) if the agency's rules do not provide for a hearing, state the parties' right to request a hearing within 10 working days of the agency's response.

(c) If the agency's presiding officer issues a declaratory order, it shall conform to Section 63-46b-21(6)(b) and shall also contain:

(i) a notice of any right of administrative or judicial review available to the parties; and

(ii) the time limits for filing an appeal or requesting review.

(d) A copy of all declaratory orders shall be mailed in accordance with Section 63-46b-21(6)(c).

(e) If the agency's presiding officer has not issued a declaratory order within 60 days after receipt of the petition, the petition is deemed denied.

R497-100-8. Agency Review.

Agency review shall not be allowed. Nothing contained in this rule prohibits a party from filing a petition for reconsideration pursuant to Section 63-46b-13. If the 20th day for filing a request for reconsideration falls on a weekend or holiday the deadline will be extended until the next working day.

R497-100-9. Scope and Applicability.

The provisions of this section supersede the provisions of any other Department rules which may conflict with the foregoing rules.

KEY: administrative procedures, social services
September 15, 2003 62A-1-110
Notice of Continuation November 2, 2005 62A-1-111

R501. Human Services, Administration, Administrative Services, Licensing.
R501-14 Background Screening.
R501-14-1. Authority and Purpose.

1. This Rule is authorized by and implements Sections 62A-2-108.3, 62A-2-120, 62A-2-121, 62A-2-122, 62A-3-104.3, 62A-5-103.5, 78-30-3.5(2)(a), and 78-30-3.6.

2. This Rule establishes the circumstances under which an applicant may have direct access or provide services to a child or vulnerable adult when the person has a criminal history record, is listed in the Licensing Information System or the statewide database of the Division of Aging and Adult Services, or when juvenile court records show that a court made a substantiated finding under Section 78-3a-320 that the person committed a severe type of child abuse or neglect.

3. This Rule clarifies the standards for approving, denying, or revoking an applicant's background screening.

R501-14-2. Definitions.

1. "Abuse" may include "severe emotional abuse", "severe physical abuse", and "emotional or psychological abuse", as these terms are defined in Sections 62A-4a-101 and Section 62A-3-301.

2. "Applicant" means a person whose identifying information is submitted to the Department of Human Services Office of Licensing under Sections 62A-2-108.3, 62A-2-120, 62A-3-104.3, 62A-5-103.5, 78-30-3.5(2)(a), and 78-30-3.6.

3. "BCI" means the Bureau of Criminal Identification, and is the designated state agency of the Division of Criminal Investigation and Technical Services Division, within the Department of Public Safety, responsible to maintain criminal records in the State of Utah.

4. "Child" is defined in Section 62A-2-101.

5. "Comprehensive Review Committee" means the Committee appointed to conduct comprehensive reviews in accordance with Section 62A-2-120.

6. "Direct Access" is defined in Section 62A-2-101.

7. "Direct Service Worker" is defined in Section 62A-5-101.

8. "Directly supervised" is defined in 62A-2-120(5).

9. "Human services program" is defined in Section 62A-2-101.

10. "Identifying information" means an applicant's:

a. current and former names, aliases, and addresses,

b. date of birth,

c. social security number, and

d. a current, valid state driver's license or state identification card bearing the applicant's photo, current name, and address; and

e. Identifying information includes an applicant's fingerprints when required by law or rule, certified copies of applicable court records, and other records specifically requested by the Office of Licensing.

11. "Licensing Information System" is created by Section 62A-4a-116.2, as a sub-part of the Division of Child and Family Services' Management Information System created by Section 62A-4a-116.

12. "Neglect" may include "severe neglect", as these terms are defined in Sections 62A-4a-101 and 62A-3-301.

13. "Personal Care Attendant" is defined in Section 62A-3-101.

14. "Statewide Database" of the Division of Aging and Adult Services is created by Section 62A-3-311.1 to maintain reports of vulnerable adult abuse, neglect, or exploitation.

15. "Substantiated" is defined in Sections 62A-3-301 and 62A-4a-101.

16. "Supported" is defined in Section 62A-4a-101.

17. "Vulnerable Adult" is defined in Section 62A-2-101.

R501-14-3. Background Screening Procedure.

1.a.i. An applicant for initial background screening shall legibly complete, date and sign a background screening application and consent on a form provided by the Office of Licensing, and attach all required identifying information.

ii. an applicant for annual background screening renewal shall legibly complete, date and sign a background screening application and consent on a form provided by the Office of Licensing, and attach all required identifying information.

A. an applicant for annual background screening renewal shall submit a background screening application and identifying information no sooner than sixty days and no later than fourteen days preceding the expiration date of the current background screening approval.

iii. an applicant shall disclose all criminal charges, including pending charges, and all supported or substantiated findings of abuse, neglect or exploitation on the background screening application.

b.i. An applicant for background screening who has not continuously lived in Utah for the five years immediately preceding the day the application is submitted shall attach two completed ten-print fingerprint cards, and a cashiers' check or money order for the cost of a FBI national criminal history record check, to the background screening application.

A. an applicant for annual background screening renewal who has continuously lived in Utah at all times since the date of the initial background screening approval is not required to attach fingerprint cards or a cashiers' check or money order for the cost of a FBI national criminal history record check to the renewal application.

B. the Office of Licensing shall only accept ten-print fingerprint cards completed by a law enforcement agency or an agency approved by the BCI.

ii. an applicant who has lived outside of the United States during the five years immediately preceding the date of the application shall also attach an original or certified copy of:

A. a criminal history report from each country lived in;

B. a letter of honorable release from U.S. military or full-time ecclesiastical service, from each country lived in; or

C. other written verification of criminal history from each country lived in, as approved by the Office of Licensing Background Screening Unit supervisor.

c. i. an applicant shall submit the completed application and consent form, and all required identifying information, to the applicable licensing specialist, human services program, local government employer (for certified local inspector applicants only), the Area Agency on Aging (for Personal Care Attendant applicants only), or the Division of Services for People With Disabilities (for Direct Service Worker applicants only).

ii. the applicable licensing specialist, human services program, local government employer (for certified local inspector applicants only), Area Agency on Aging (for Personal Care Attendant applicants only), or Division of Services for People With Disabilities (for Direct Service Worker applicants only), shall:

A. inspect the applicant's state driver's license or state identification card and make a good faith effort to determine that it does not appear to have been forged or altered;

B. inspect the copy of applicant's state driver's license or state identification card and make a good faith effort to determine that it appears to be identical to the original; and

C. forward the inspected copy of applicant's state driver's license or state identification card, the completed application and consent form, and all other required identifying information, to the Office of Licensing background screening unit within three business days after the applicant completes and signs the application.

d.i. an application that is illegible, incomplete, unsigned,

undated, or lacks a signed consent or required identifying information, may be returned to the individual who submitted it without further action.

ii. an application that is submitted later than three business days after the applicant completes and signs the application may be returned to the individual who submitted it without further action.

iii. an application for annual background screening renewal that is signed or submitted sooner than sixty days preceding the expiration date of the current background screening approval, as required by subsection (1)(a)(ii)(A), may be returned to the individual who submitted it without further action.

2.a. Identifying information submitted pursuant to Sections 62A-2-108.3, 62A-2-120, 62A-3-104.3, 62A-5-103.5, 78-30-3.5(2)(a), and 78-30-3.6 shall be used to search criminal history records, the Licensing Information System, juvenile court records under Section 78-3a-320, and the statewide database.

b. In accordance with Section 62A-5-103.5, a direct service worker who is a direct ancestor or descendant, or who is an aunt, uncle or sibling of the person to whom services are rendered, shall be exempt from a criminal history record search, but shall remain subject to a search of the Licensing Information System, juvenile court records under Section 78-3a-320, and the statewide database.

3.a. Except as permitted by Section 62A-2-120(5), an applicant for an initial background screening shall have no direct access to a child or vulnerable adult prior to receiving written confirmation of background screening approval from the Office of Licensing.

b. Except as permitted by Section 62A-2-120(5), an applicant seeking annual background screening renewal shall have no direct access to a child or vulnerable adult after the background screening expiration date and prior to receiving written confirmation of background screening approval from the Office of Licensing.

4. Upon receipt of a signed, legible, completed application and identifying information, the Office of Licensing shall:

a. investigate and make a preliminary determination of whether the applicant has been charged with any crime and the disposition of any charges; and

b. search the Licensing Information System, juvenile court records, and the statewide database, and make a preliminary determination of whether the applicant has any supported or substantiated findings of abuse, neglect or exploitation.

5.a. The Office of Licensing may defer action on an application until the applicant submits all additional information required by the Office of Licensing.

b. The Office of Licensing may deny an application in the event that an applicant fails to provide all additional information required by the Office of Licensing.

6. The Office of Licensing may notify an applicant of its preliminary determination that the applicant may have a criminal history outside of Utah, and require an applicant to:

a. submit ten-print fingerprint cards completed by a law enforcement agency or an agency approved by the BCI, and a cashier's check or money order for the cost of a nationwide criminal history check, within 15 calendar days of a letter of notification;

b. obtain and submit a certified copy of the applicant's criminal history or records from local, state, federal, or foreign officials within 15 calendar days of a letter of notification.

7. An applicant has not continuously lived in Utah for the five years immediately preceding the date of the application if the applicant has spent four or more consecutive weeks outside Utah, including but not limited to education, volunteer or employment activities, military duty, vacations, or when the applicant maintains an out-of-state driver's license.

8.a. The Office of Licensing shall send all written communications to the applicant or to the applicable human services program, local government employer (for certified local inspector applicants only), the Area Agency on Aging (for Personal Care Attendant applicants only), or the Division of Services for People With Disabilities (for Direct Service Worker applicants only) by first-class mail.

b. A human services program, local government employer (for certified local inspector applicants only), the Area Agency on Aging (for Personal Care Attendant applicants only), or the Division of Services for People With Disabilities (for Direct Service Worker applicants only) shall provide the applicant with a copy of all written communication from the Office of Licensing within 5 calendar days after the date it is received.

9. The applicant shall promptly notify the Office of Licensing of any change of address while the application remains pending.

R501-14-4. Results of Screening.

1.a. The Office of Licensing shall approve an application for background screening in accordance with Section 62A-2-120(2).

i. The Office of Licensing shall notify the applicant, the applicable licensing specialist, human services program, local government employer (for certified local inspector applicants only), the Area Agency on Aging (for Personal Care Attendant applicants only), or the Division of Services for People With Disabilities (for Direct Service Worker applicants only), that the applicant's background screening application is approved.

ii. The approval granted by the Office of Licensing shall be valid for a period not to exceed one calendar year from the date of approval.

iii. Regardless of the application date, an applicant for background screening who is associated with a licensed program shall have an approval expiration date that is 30 calendar days prior to the expiration date of the associated human services program's license.

b. An approval granted by the Office of Licensing shall not be transferable.

i. A new application shall be submitted each time an applicant may have direct access or provide services to a child or vulnerable adult at any human services program other than the program identified on the initial application.

2. The Office of Licensing shall deny an application for background screening in accordance with Section 62A-2-120(3).

3. The Office of Licensing shall refer an application to the Comprehensive

Review Committee for a comprehensive review in accordance with Section 62A-2-120(4).

R501-14-5. Comprehensive Review Committee.

1. The Director of the following Department of Human Services divisions and offices shall appoint one member and one alternate to serve on the Comprehensive Review Committee:

a. the Executive Director's Office;
b. the Division of Aging and Adult Services;
c. the Division of Child and Family Services;
d. the Division of Juvenile Justice Services;
e. the Division of Services for People with Disabilities;
f. the Division of Substance Abuse and Mental Health;
g. Public Guardian; and
h. the Office of Licensing.

2. Comprehensive Review Committee members and alternates shall be professional staff persons who are familiar with the programs they represent.

3. The appointed Office of Licensing member shall chair the Comprehensive Review Committee as a non-voting member.

4. Five voting members shall constitute a quorum.

5. The Comprehensive Review Committee shall conduct a comprehensive review of an applicant's background screening application, criminal history records, abuse, neglect or exploitation records, and related circumstances, in accordance with Section 62A-2-120(4).

R501-14-6. Comprehensive Review Investigation.

1. The Comprehensive Review Committee shall not deny a background screening application without the Office of Licensing first sending the applicant a written notice that:

a. the Office is investigating the applicant's criminal history or findings of abuse, neglect or exploitation;

b. the applicant is encouraged to submit any written statements or records that the applicant wants the Comprehensive Review Committee to consider;

c. the Comprehensive Review Committee evaluates information using the criteria established by Section 62A-2-120(4)(b), and the applicant may specifically address these issues; and

d. submissions must be received within 15 calendar days of the written notice.

2. a. The Office of Licensing shall gather information described in Section 62A-2-120(4)(b) and provide available information to the Comprehensive Review Committee.

b. The Office of Licensing may request additional information from any available source, including the applicant, victims, witnesses, investigators, the criminal justice system, law enforcement agencies, the courts and any others it deems necessary for the comprehensive evaluation of an application.

i. The Office of Licensing may defer action on an application until the applicant submits all additional information required by the Office of Licensing.

ii. The Office of Licensing may deny an application in the event that an applicant fails to provide all additional information required by the Office of Licensing.

R501-14-7. Comprehensive Review Determination.

1. The Comprehensive Review Committee shall only consider applications presented by the Office of Licensing. The Comprehensive Review Committee shall evaluate the information provided by the Office of Licensing and any information provided by the applicant.

2. The Comprehensive Review Committee shall recommend approval of the background screening of an applicant with a criminal history only after a simple majority of the voting members of the Comprehensive Review Committee determines that approval will not likely create a risk of harm to a child or vulnerable adult.

3. The Comprehensive Review Committee shall recommend approval of the background screening of an applicant when juvenile court records show that a court made a substantiated finding under Section 78-3a-320 that the applicant committed a severe type of child abuse or neglect, the applicant is listed in the Licensing Information System, or the applicant has a substantiated finding of vulnerable adult abuse, neglect, or exploitation in the statewide database, only after a simple majority of the voting members of the Comprehensive Review Committee determines that the applicant was a child at the time of the incident that is being considered, more than ten years have passed since the date of the incident, and approval will not likely create a risk of harm to a child or vulnerable adult.

4. The Comprehensive Review Committee shall recommend denial of the background screening of an applicant when:

a. juvenile court records show that a court made a substantiated finding under Section 78-3a-320 that the applicant committed a severe type of child abuse or neglect, and the applicant was eighteen years of age or older at the time of the incident;

b. juvenile court records show that a court made a substantiated finding under Section 78-3a-320 that the applicant committed a severe type of child abuse or neglect, the applicant was under the age of eighteen at the time of the incident, and less than ten years have passed since the date of the incident;

c. the applicant is listed in the Licensing Information System, and the applicant was eighteen years of age or older at the time of the incident;

d. the applicant is listed in the Licensing Information System, the applicant was under the age of eighteen at the time of the incident, and less than ten years have passed since the date of the incident;

e. the applicant is listed in the statewide database, has a substantiated finding of vulnerable adult abuse, neglect, or exploitation, and the applicant was eighteen years of age or older at the time of the incident;

f. the applicant is listed in the statewide database, has a substantiated finding of vulnerable adult abuse, neglect, or exploitation, the applicant was under the age of eighteen at the time of the incident, and less than ten years have passed since the date of the incident; or

g. it finds that approval will likely create a risk of harm to a child or vulnerable adult.

5. The Office of Licensing shall approve or deny the applicant's background screening application in accordance with the recommendation of the Comprehensive Review Committee, and send written notification to the applicant, the applicant's licensing specialist, the licensed human services program the applicant is associated with (if any), a certified local inspector applicant's local government employer (if any), a person described in Subsections 62A-3-101(9)(a)(i) through (iv) (if any), or a direct service worker's employer (if any).

6. A background screening approval shall be valid for a period not to exceed one calendar year from the date of approval. Regardless of the application date, an applicant for background screening who is associated with a licensed program shall have an approval expiration date that is 30 calendar days prior to the expiration date of the associated human services program's license.

7. An approval granted by the Office of Licensing shall not be transferable.

a. a new application shall be submitted each time an applicant may have direct access or provide services to a child or vulnerable adult at any human services program other than the program identified on the initial application.

R501-14-8. Post-Approval Responsibilities.

1. An applicant, a human services program the applicant is associated with (if any), a certified local inspector applicant's local government employer (if any), a person described in Subsections 62A-3-101(9)(a)(i) through (iv) (if any), and a direct service worker's employer (if any), shall immediately notify the Office of Licensing if the applicant is charged with any felony, misdemeanor, or infraction, or listed in the Licensing Information System, juvenile court records under Section 78-3a-320, or the statewide database after a background screening application is approved.

a. An applicant who is associated with a human services program shall immediately notify the human services program if the applicant is charged with any felony, misdemeanor, or infraction, or listed in the Licensing Information System, juvenile court records under Section 78-3a-320, or the statewide database.

2. An applicant who has received an approved background screening shall resubmit an application and identifying information to the Office of Licensing within ten calendar days after being charged with any felony, misdemeanor, or infraction, or being listed in the Licensing Information System, the statewide database, or juvenile court records under Section 78-

3a-320.

3. An applicant who has been charged with any felony, misdemeanor, or infraction or listed in the Licensing Information System or the statewide database, or juvenile court records under Section 78-3a-320, after a background screening application is approved shall have no unsupervised direct access to a child or vulnerable adult until after an application and identifying information have been resubmitted to the Office of Licensing and a current background screening approval is received from the Office of Licensing.

4.a. An applicant charged with an offense for which there is no final disposition shall inform the Office of Licensing of the current status of each case.

b. The Office of Licensing shall determine whether the charge could require a denial or committee review, and if so, notify the applicant to submit a certified copy of judicial documentation that indicates the current status of the case at least once every 3 months until final disposition.

c. An applicant shall submit a certified copy of judicial documentation that indicates the current status of the case at least once every 3 months until final disposition.

5. The Office of Licensing may revoke the background screening approval of an applicant who:

a. has been charged with any felony, misdemeanor, or infraction or is listed in the Licensing Information System, the statewide database, or juvenile court records under Section 78-3a-320; or

b. fails to provide required current status information; and

c. will likely create a risk of harm to a child or vulnerable adult, as determined by the Office of Licensing.

6. The Office of Licensing shall process identifying information received pursuant to R501-14-8.2 in accordance with R501-14.

R501-14-9. Confidentiality.

1. The Office of Licensing may disclose criminal background screening information, including information acknowledging the existence or non-existence of a criminal history, only to the Applicant, the applicable human services program, local government employer (for certified local inspector applicants only), the Area Agency on Aging (for Personal Care Attendant applicants only), or the Division of Services for People With Disabilities (for Direct Service Worker applicants only), and in accordance with the Government Records Access and Management Act, Section 63-2-101, et seq.

2. Background screening approvals may not be transferred or shared between human service programs.

R501-14-10. Retention of Background Screening Information.

A human services program shall retain the background screening information of all individuals associated with the program for a minimum of three years after the termination of the individual's association with the program.

R501-14-11. Expungement.

An applicant whose background screening application has been denied due to the applicant's criminal record may submit a new application with a certified copy of an Order of Expungement.

R501-14-12. Administrative Hearing.

A notice of agency action that denies or revokes the applicant's background screening application shall inform the applicant of the right to appeal in accordance with Administrative Rule 497-100 and Section 63-46b-0.5, et seq.

R501-14-13. Compliance.

Any licensee that is in operation on the effective date of this rule shall be given 30 days after the effective date to achieve compliance with this rule.

KEY: licensing, background screening
November 16, 2005 62A-2-108 et seq.

R527. Human Services, Recovery Services.
R527-201. Medical Support Services.
R527-201-1. Federal Requirements.

The Office of Recovery Services/Child Support Services, (ORS/CSS), adopts the federal regulations as published in 45 CFR 303.30 and 303.31 (2000), and 45 CFR 303.32 which are incorporated by reference in this rule.

R527-201-2. Definition.

1. The National Medical Support Notice (NMSN) is the federally approved form that ORS/CSS shall use, when appropriate, to notify an employer to enroll dependent children in an employment-related group health insurance plan in accordance with a child support order.

R527-201-3. Limitation of Services.

ORS/CSS shall not:

1. pursue establishment of specific amounts for ongoing medical support,

2. initiate an action to obtain a judgment for uninsured medical expenses, or

3. collect and disburse premium payments to insurance companies.

R527-201-4. Conditions Under Which Non-IV-A Medicaid Recipients May Decline Support Services.

ORS/CSS shall provide child and spousal support services; however, a Non-IV-A Medicaid recipient may decline child and spousal support services if paternity is not an issue and there is an order for the non-custodial parent to provide medical support.

R527-201-5. Securing a Medical Support Provision in the Support Order.

1. Notice to potentially obligated parents: The notice to potentially obligated parents shall include a provision that an administrative or judicial proceeding will occur to determine whether either parent should be ordered to purchase and maintain appropriate medical insurance for the children. This notification shall be provided when either of the following conditions is met:

a. the state initiates an action to establish a final support order or to adjust an existing child support order; or

b. the state joins a divorce or modification action initiated by either the custodial or the non-custodial parent.

2. If a judicial support order does not include a medical support provision, ORS/CSS shall commence judicial action to modify the order to include a medical support provision.

R527-201-6. Reasonable Cost of Insurance Premiums.

Employment-related or other group coverage that does not exceed 5% of the obligated parent's monthly gross income is generally considered reasonable in cost. However, an employer may not withhold more than the lesser of the amount allowed under the Consumer Credit Protection Act, the amount allowed by the state of the employee's principal place of employment, or the amount allowed for health insurance premiums by the child support order. If the combined child support and medical support obligations exceed the allowable deduction amount, the employer shall withhold according to the law, if any, of the state of the employee's principal place of employment requiring prioritization between child support and medical support. If the employee's principal place of employment is in Utah, the employer shall deduct current child support before deducting amounts for health insurance coverage. If the amount necessary to cover the health insurance premiums cannot be deducted due to prioritization or limitations on withholding, the employer shall notify ORS/CSS.

R527-201-7. Credit for Premium Payments and Effect of Changes to the Premium Amount Subsequent to the Order.

1. If the order or underlying worksheet gives credit of a specific amount for the children's portion of the premium and the amount of the premium decreases, ORS/CSS may reduce the amount of the credit without seeking a modification of the order.

2. If the order or underlying worksheet does not mention a specific credit for insurance premiums, ORS/CSS shall give credit for the child(ren)'s portion of the insurance premium when the obligated parent provides the necessary verification coverage.

3. ORS/CSS shall notify both parents in writing whenever the credit is changed.

R527-201-8. Enforcement of Obligation to Maintain Medical and Dental Insurance.

1. In Non-IV-A cases and in IV-A Medicaid cases, appropriate steps shall be taken to ensure compliance with orders which require the obligated parent to maintain insurance. Obligated parents shall demonstrate compliance by providing ORS/CSS with policy numbers and the insurance provider name for the dependent children for whom the medical support is ordered.

2. In Non-IV-A cases and in IV-A Medicaid cases, if an obligated parent has been ordered to maintain employer-based medical insurance and insurance is available at a reasonable cost according to R527-201-7 through an employment-related group health plan, ORS/CSS shall use the NMSN to transfer notice of the insurance provision to the obligated parent's employer unless ORS/CSS is notified pursuant to Section 62A-11-326.1 that the children are already enrolled in an insurance plan in accordance with the order.

3. When appropriate, ORS/CSS shall send the NMSN to the obligated parent's employer within two business days after the name of the obligated parent has been entered into the registry of the State Directory of New Hires, matched with ORS/CSS records, and reported to ORS/CSS in accordance with Subsection 35A-7-105(2).

4. The employer shall transfer the NMSN to the appropriate group health plan for which the children are eligible within twenty business days of the date of the NMSN if all of the following criteria are met:

a. the obligated parent is still employed by the employer;

b. the employer maintains or contributes to plans providing dependent or family health coverage;

c. the obligated parent is eligible for the coverage available through the employer; and

d. state or federal withholding limitations, prioritization, or both, do not prevent withholding the amount required to obtain coverage.

5. If more than one coverage option is available under a group insurance plan and the obligated parent is not already enrolled, ORS/CSS in consultation with the custodial parent may select the least expensive option if the option complies with the child support order and benefits the children. The insurer shall enroll the children in the plan's default option or least expensive option in accordance with Subsection 62A-11-326.2(1)(b) unless another option is specified by ORS/CSS.

6. The employer shall determine if the necessary employee contributions for the insurance coverage are available. If the amounts necessary are available, the employer shall begin withholding when appropriate and remit directly to the plan.

7. In accordance with Subsections 62A-11-326.1(2) and (3), the obligated parent may contest withholding insurance premiums based on a mistake of fact. The employer shall continue withholding under the NMSN until notified by ORS/CSS to terminate withholding insurance premiums.

8. If a parent successfully contests the action to enroll the children in a group health plan based on a mistake of fact,

ORS/CSS shall notify the employer to discontinue enrollment and withholding insurance premiums for the children.

9. In accordance with Subsection 62A-11-406(9), the employer shall promptly notify ORS/CSS when the obligated parent's employment is terminated.

10. ORS/CSS shall promptly notify the employer when a current order for medical support is no longer in effect for which ORS/CSS is responsible.

R527-201-9. Obligated Parent Receiving Medicaid.

1. If an obligated parent is receiving Medicaid or was receiving Medicaid at the time the medical debt was incurred, ORS/CSS shall not enforce payment of the medical debt regardless of medical support provisions in the order.

2. In an unestablished paternity case, if the father's income was taken into consideration when determining the household's eligibility for Medicaid, ORS/CSS shall not enforce payment of medical expenses regardless of the medical support provisions in the order, but shall enforce the health insurance provision.

KEY: child support, health insurance, Medicaid

November 17, 2005	**63-46b-1 et seq.**
Notice of Continuation January 30, 2002	**62A-11-326.1**
	62A-11-326.2
	62A-11-326.3
	62A-11-406(9)
	78-45-7.15
	35A-7-105(2)

R590. Insurance, Administration.
R590-175. Basic Health Care Plan Rule.
R590-175-1. Authority.

This rule is issued pursuant to the general rulemaking authority vested in the commissioner by Section 31A-2-201. Section 31A-22-613.5(2)(a) requires that the commissioner adopt a Basic Health Care Plan.

R590-175-2. Statement of Purpose and Scope.

The purpose of the rule is to set standards for the Basic Health Care Plan which will be offered under the open enrollment provisions of Chapter 30. The commissioner has adopted the Basic Health Care Plan pursuant to Subsection 31A-22-613.5(2)(a) to be offered under those provisions. This rule applies to all insurers marketing health insurance policies subject to the open enrollment provisions of Chapter 30.

R590-175-3. General Requirements.

A. Each insurer who is required to offer a health care plan under the open enrollment provisions of Chapter 30 shall file with the department at least one health plan which is specified by the insurer as complying with the provisions of this rule and which must be offered for sale to anyone qualifying for open enrollment under Chapter 30.

B. The specified plan may offer additional services or provide a greater level of benefits than the Basic Health Care Plan. However, the specified plan must contain at least those benefits set forth in the Basic Health Care Plan.

C. The specified plan shall not be designed or marketed in a manner which may tend to discourage its purchase by anyone purchasing under the open enrollment provisions of Chapter 30.

D. A plan having actuarial equivalence may be considered, at the sole discretion of the commissioner.

E. Each insurer must use the language in this rule to present covered services, limitations and exclusions; however, any plan offered in compliance with the open enrollment provisions of Chapter 30 must contain at least the benefits set forth in the Basic Health Care Plan as adopted by the commissioner. The specified plan is to be offered as a package, in its entirety, and is mutually exclusive of and not comparable on a line by line basis to a carrier's other plans.

F. When the specified plan is offered by a preferred provider organization, PPO, the benefit levels shown in the Basic Health Care Plan are for contracting providers; benefit levels for non-contracting providers' services may be reduced in accordance with Section 31A-22-617.

G. Each insurer is to include its usual contracting provisions in its specified plan including submission of claims, coordination of benefits, eligibility and coverage termination, grievance procedures general terms and conditions, etc.

H. The form to follow for the Basic Health Care Plan is as follows:

TABLE
BASIC HEALTH CARE PLAN

1. MAXIMUM BENEFIT. The maximum benefit per person for the entire period for which coverage is in effect shall not be less than $1,000,000.
2. ANNUAL MAXIMUM BENEFIT. The maximum annual benefit per person shall not be less than $250,000.
3. PREEXISTING CONDITION LIMITATION. Any preexisting condition limitation shall be in compliance with Utah Code 31A-30-107(5); the waiting
period shall not exceed 12 months with credit for prior coverage when applicable.
4. COST-SHARING. Cost-sharing shall be based on eligible expenses. The cost-sharing features of the plan shall be one of the following, at the option of the carrier:
(a)(i) Deductible. An annual deductible may not be greater than $1,000 per person and only two deductibles per family unit. However, when the person has a medical savings account, the deductible amount may be greater than $1,000.
(ii) Copayment. See paragraph 6 for benefits applicable to prescription drugs.
(iii) Coinsurance. For all covered services other than mental illness/substance abuse services and prescriptions, the person shall pay not more than 20% coinsurance to an annual maximum of $3,000 per person, $6,000 per family unit.
(b)(i) Deductible. An annual deductible may not be greater than $1,000 per person and only two deductibles per family unit. However, when the person has a medical savings account, the deductible amount may be greater than $1,000. Preventive services under a managed care plan; e.g., HMO, PPO, are not subject to the deductible.
(ii) Copayment. A copayment is not to exceed $15 per visit for office, including preventive care, services. When a copayment is required, no coinsurance may be charged for the same service. See paragraph 6 for benefits applicable to prescription drugs.
(iii) Coinsurance. For all covered services other than mental illness/substance abuse services and prescriptions, the person shall pay not more than 20% coinsurance to an annual maximum of $3,000 per person, $6,000 per family unit.
(c)(i) Deductible. None.
(ii) Copayment. A copayment is not to exceed $20 per visit for office, including preventive care, services. When a copayment is required, no coinsurance may be charged for the same service. See paragraph 6 for benefits applicable to prescription drugs.
(iii) Coinsurance. For all covered services other than mental illness/substance abuse services and prescriptions, the person shall pay not more than 30% coinsurance to an annual maximum of $3,000 per person, $6,000 per family unit.
5. PREVENTIVE SERVICES. Preventive services covered under a managed care plan shall not be subject to the annual deductible. Preventive services under an indemnity or fee-for-service plan may be subject to the annual deductible. Covered preventive services shall consist of at least the following:
(a) childhood immunizations in accordance with guidelines as recommended by the Centers for Disease Control, as modified from time to time;
(b) well-baby care through age five in accordance with guidelines recommended by the American Academy of Pediatrics, as modified from time to time;
(c) for adults and adolescents, age, sex and risk appropriate preventive and screening services in accordance with guidelines recommended by the U.S. Preventive Services Task Force, as modified from time to time.
6. PRESCRIPTION DRUGS. Benefits for prescription drugs, other than self injectable drugs, except insulin, shall be subject to either:
(a) a copayment of not more than $15 for generic, $25 for brand-name formulary prescription drugs, and $35 for non-formulary prescription drugs; or
(b) at the option of the carrier, benefits may be subject to a 30% maximum coinsurance.
Carriers may use formularies and may choose to not apply out-of-pocket costs of prescription drugs to out-of-pocket maximums.
7. OUTPATIENT REHABILITATION SERVICES. Benefits for outpatient rehabilitation services (e.g., physical therapy, occupational therapy, and speech therapy) shall be limited to not less than 10 visits for each illness or injury.
8. MENTAL ILLNESS AND/OR SUBSTANCE ABUSE SERVICES. Benefits for mental illness and/or substance abuse services may be subject to a deductible. Coinsurance may not exceed 50% of eligible expenses and may not apply toward the maximum. Benefits shall be one of the following, at the option of the carrier:
(a) benefits for inpatient services shall be limited to not less than ten days annually per person; benefits for outpatient services shall be limited to not less than 20 visits annually per person;
(b) mental health and/or substance abuse services for group policies will be subject to 31A-22-625 and 31A-22-720.
9. HOME HEALTH CARE. Benefits for home health care shall be limited to not less than 30 days in any 12 month period and shall consist of services provided, in accordance with a plan of care, in the home by a licensed community home health agency or an approved hospital program for home health care when the person is physically unable to obtain necessary medical care on an outpatient basis, would otherwise be confined as an inpatient, and is under the care of a physician. A "plan of care" means a written plan that:
(a) is approved by the physician prior to commencement of treatment;
(b) is based on the assessment data or physician orders; and
(c) identifies the patient's needs, who will provide needed services, how often, treatment goals, and anticipated outcomes.
Covered services shall not include health aide services furnished when the person is not receiving professional services of a registered nurse (RN), licensed practical nurse (LPN), or licensed vocational nurse (LVN), nor shall it include housekeeping services.
10. DURABLE MEDICAL EQUIPMENT. Benefits for durable medical equipment, rental or purchase, at the option of the carrier. Prosthetics and orthotics shall be limited to not less than $5,000 per person for the entire period for which coverage is in effect.
11. COVERED SERVICES. Subject to medical necessity, provider network, and prior approval criteria established by the carrier,

and subject to the limitations and exclusions and other terms and conditions of the policy, the following shall be covered services under the basic health care plan:
(a) inpatient hospital services:
(i) semi-private room accommodations;
(ii) ICU;
(iii) hospital services and supplies;
(b) ambulatory service facility services:
(i) birthing center services, when maternity care is covered;
(ii) surgical facility services;
(c) office preventive services;
(d) office medical services:
(i) diagnostic services; e.g., x-ray, lab tests;
(ii) therapeutic services; e.g., injection of medication;
(e) outpatient hospital services:
(i) emergency room services;
(ii) diagnostic services;
(iii) therapeutic services; e.g., chemotherapy, radiation therapy;
(iv) surgical facility services;
(f) inpatient medical services; e.g., physician visits;
(g) surgery;
(h) assistant-at-surgery;
(i) anesthesia, including children's general anesthesia for dental, if necessary;
(j) consultation;
(k) dental care for accidental injury to sound natural teeth;
(l) limited home health care;
(m) emergency ambulance transportation;
(n) prescription drugs;
(o) durable medical equipment, prosthetics and orthotics, as limited; and medical supplies;
(p) maternity services:
(i) for employer groups maternity benefits are provided on the same basis as benefits for sickness;
(ii) for individuals there are no maternity benefits;
(iii) benefits for complications of pregnancy are provided on the same basis as benefits for sickness. Complications of pregnancy will not be excluded solely because the pregnancy is a preexisting condition. "Complications of pregnancy" means an illness, distinct from pregnancy, affecting the mother and occurring during pregnancy and requiring separate and specific medical or surgical services for which separate and additional charges are incurred. In no event will the presence of complications of pregnancy result in benefits being provided for services normal to care and treatment of pregnancy and childbirth. Such normal services include but are not limited to hospitalization for childbirth or termination of pregnancy by any means, anesthesia services, ultrasound examinations, prenatal diagnostic laboratory services, antepartum and postpartum care, vaginal or cesarean delivery, threatened premature termination, premature termination, and routine nursery care of the newborn;
(iv) newborn and maternity inpatient time limits will conform to 31A-22-610.2. For conversion plans, maternity will be covered with the lesser of benefits originally on plan prior to conversion or the basic benefit plan. This coverage benefit is only for existing pregnancies, known or unknown at the time of conversion. Additional premium for pregnancy is not allowed;
(q) limited outpatient rehabilitation services;
(r) limited mental illness/substance abuse services;
(s) diabetes as required by 31A-22-626.
(t) inborn metabolic errors, PKU, nutritional benefits as required by 31A-22-623; and
(u) mastectomy as required by 31A-22-630 and 31A-22-719.
12. EXCLUSIONS. Benefits will not be provided for any of the following:
(a) services, supplies, or treatment provided prior to the effective date or after the termination date of coverage;
(b) charges in connection with a work-related injury or sickness for which coverage is provided under any state or federal worker's compensation, employer's liability, or occupational disease law;
(c) services, supplies, or treatment for which coverage is provided under any motor vehicle no-fault plan. When the person is required by law to have no-fault insurance in effect, this exclusion applies to charges up to the minimum coverage required by law whether or not such coverage is in effect.;
(d) services, supplies, or treatment for injury or sickness resulting from war or any act of war whether declared or undeclared;
(e) services, supplies, or treatment for injury or sickness resulting from service in the military of any country;
(f) services, supplies, or treatment for which benefits are provided under Medicare or any other government program except Medicaid;
(g) services, supplies, or treatment for which no charge is made or for which the person is not required to pay;
(h) services or supplies not incident to or necessary for the treatment of injury or sickness or which are not medically necessary, as determined by the carrier;
(i) treatment or prevention of an injury or sickness, including mental illness, by means of treatments, procedures, techniques, or therapy outside generally accepted health care practice;
(j) services, supplies, or treatment required as a result of an injury or sickness sustained while committing a felony or engaging in an illegal occupation;
(k) services to the extent benefits are provided by any governmental unit except as required by federal law for treatment of veterans in Veterans Administration or armed forces facilities for non-service related medical conditions;
(l) examinations, reports, or appearances in connection with legal proceedings; and services, supplies, or accommodations pursuant to a court order, whether or not injury or sickness is involved;
(m) investigative/experimental technology, treatment, procedure, facility, equipment, drug, device or supply, "technology," which does not, as determined by the carrier on a case by case basis, meet all of the following criteria:
(i) the technology must have final approval from appropriate governmental regulatory bodies, if applicable;
(ii) the technology must be available in significant number outside the clinical trial or research setting;
(iii) the available research regarding the technology must be substantial. For purposes of this definition, "substantial" means sufficient to allow the carrier to conclude that:
(A) the technology is both medically necessary and appropriate for the person's treatment;
(B) the technology is safe and efficacious; and
(C) more likely than not, the technology will be beneficial to the person's health;
(iv) the regional medical community as a whole must generally recognize the technology as appropriate;
(n) services in connection with any transplant of any whole organ or part thereof, live or cadaver, bone marrow, either as donor or recipient, or any artificial organ, except for the following:
(i) cornea transplants;
(ii) kidney transplants;
(iii) liver transplants for children under age 18 years;
(iv) bone marrow transplants for children under age 18 years; and
(v) evaluation, treatment and therapy involving the use of myeloablative chemotherapy with autologous hematopoietic stem cell and/or colony stimulating factor support for children under age 18 years;
(o) custodial care. "Custodial care" means:
(i) institutional care, consisting mainly of room and board, which is for the primary purpose of controlling the person's environment; and
(ii) professional or personal care, consisting mainly of non-skilled nursing services with or without medical supervision, which is for the primary purpose of managing the person's disability or maintaining the person's degree of recovery already attained without reasonable expectation of significant further recovery.
"Custodial care" does not mean outpatient palliative and supportive care provided by a hospice program to a person who is terminally ill with a life expectancy of not more than six months and is in lieu of institutional or inpatient hospital care;
(p) services, supplies, or treatment in connection with cosmetic or reconstructive procedures which alter appearance but do not restore or improve impaired physical function or which are performed for psychological or emotional purposes, except when performed while a person is covered under this policy for the following:
(i) repair of defects resulting from an accident occurring within 90 days of the effective date of this policy under creditable coverage or occurring during this policy;
(ii) replacement of diseased tissue surgically removed for illness occurring within 90 days of this policy under creditable coverage or occurring during this policy;
(iii) treatment of a birth defect in a child who has met the pre-existing conditions requirement since birth or date of placement for adoption; and
(iv) mastectomy reconstruction as required by 31A-22-630 and 31A-22-719;
(q) dental services. This exclusion will not apply if dental services are required as a result of an accidental injury which occurs while coverage is in force, dental services are received within two years following the accidental injury, and the person has been continuously covered from the date of the accidental injury through the date the dental services are provided;
(r) eyeglasses, contact lenses and/or servicing of eyeglasses and/or contact lenses. This exclusion does not apply to contact lenses in the case of keratoconus or post-cataract surgery when the contact lenses are medically necessary in the treatment of the condition;
(s) medical, non-surgical, care of weak, strained, flat, unstable or unbalanced feet routine foot care. The exclusion of routine foot care does not apply to cutting or removal of corns, calluses, or nails when provided to a person who has a systemic disease, such as diabetes with peripheral neuropathy or circulatory insufficiency, of such severity that unskilled performance of the procedure would be hazardous;

(t) orthopedic or corrective shoes, foot orthotics, or any other supportive devices for the feet;
(u) drugs and medicines which do not bear the legend "Caution - federal law prohibits dispensing without a prescription" and/or which are not dispensed by a licensed pharmacist;
(v) charges in connection with jaw realignment procedures including, but not limited to, osteotomy, upper or lower jaw augmentation or reduction procedures, and orthognathic surgery; charges in connection with treatment of temporomandibular joint (TMJ) dysfunction, including surgical procedures and injections of the TMJ, physical therapy, splints, and orthodontic appliances. This exclusion will not apply to:
(i) the initial diagnostic evaluation of TMJ dysfunction;
(ii) surgical correction of the TMJ required as a result of an accidental injury which occurs while this coverage is in force; and
(iii) physical therapy services related to and subsequent to covered TMJ surgery;
(w) treatment of obesity by means of surgical, medical or medication services and regardless of associated medical, emotional, or psychological conditions;
(x) services or supplies in connection with genetic studies;
(y) implantable contraceptives (hormonal or other);
(z) reversal of a sterilization procedure;
(aa) any treatment for or diagnosis of infertility, artificial insemination, in vitro fertilization, and any other male or female dysfunction;
(bb) vision testing, vision training;
(cc) radial keratotomy, laser and any surgical correction of errors of refraction;
(dd) educational service or counseling, including weight control clinics, stop smoking clinics, cholesterol counseling, exercise programs or other types of physical fitness training, except for those benefits required by 31A-22-626;
(ee) marriage counseling; family counseling; counseling for educational, social, occupational, religious, or other similar maladjustment; behavior modification, biofeedback, or rest cures as treatment for mental disorders; sensitivity or stress-management training; self-help training; and residential treatment;
(ff) treatment for mental disorders which are irreversible or for which there is little or no reasonable expectation for improvement, including mental retardation, personality disorders, and chronic organic brain disease. This exclusion does not apply to the initial assessment for diagnosis of the condition;
(gg) psychotherapy, counseling, or other services in connection with learning disabilities, disruptive behavior disorders, conduct disorders, psychosexual disorders, or transexualism. This exclusion does not apply to the initial assessment for diagnosis of the condition;
(hh) vitamins, special formulas, special diets, and food supplements except as provided by a hospital or skilled nursing facility during a confinement for which benefits are available, except as outlined in 31A-22-623;
(ii) any devices used to aid hearing, including cochlear implants, the fitting of such devices and any routine hearing tests;
(jj) acupuncture or acupressure;
(kk) speech therapy for psychosocial speech delays;
(ll) all shipping, handling, or postage charges except as incidentally provided, without a separate charge, in connection with covered services or supplies;
(mm) interest or finance charges except as specifically required by law;
(nn) charges for missed appointments, telephone consultations, and clerical services for completion of special reports or claim forms;
(oo) travel expenses, whether or not prescribed;
(pp) care, except urgent or emergency care, rendered outside the United States;
(qq) services provided by a member of the person's immediate family or household; and
(rr) autopsy procedures.

I. The specified plan is to be filed with the department before use.

J. Conversion coverage provided pursuant to Section 31A-22-708, may provide additional benefits in addition to the Basic Health Care Plan.

R590-175-4. Severability.

If a provision of this rule or its application to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of these provisions shall not be affected.

KEY: insurance
August 23, 2001 31A-22-613.5
Notice of Continuation November 8, 2005

R602. Labor Commission, Adjudication.
R602-2. Adjudication of Workers' Compensation and Occupational Disease Claims.
R602-2-1. Pleadings and Discovery.

A. Definitions.

1. "Commission" means the Labor Commission.

2. "Division" means the Division of Adjudication within the Labor Commission.

3. "Application for Hearing" means the request for agency action regarding a workers' compensation claim.

4. "Supporting medical documentation" means a Summary of Medical Record or other medical report or treatment note completed by a physician that indicates the presence or absence of a medical causal connection between benefits sought and the alleged industrial injury.

5. "Authorization to Release Medical Records" is a form authorizing the injured workers' medical providers to provide medical records and other medical information to the commission or a party.

6. "Supporting documents" means supporting medical documentation, list of medical providers, Authorization to Release Medical Records and, when applicable, an Appointment of Counsel Form.

7. "Petitioner" means the person or entity who has filed an Application for Hearing.

8. "Respondent" means the person or entity against whom the Application for Hearing was filed.

9. "Discovery motion" includes a motion to compel or a motion for protective order.

B. Application for Hearing.

1. Whenever a claim for compensation benefits is denied by an employer or insurance carrier, the burden rests with the injured worker, or medical provider, to initiate agency action by filing an Application for Hearing with the Division. Applications for hearing shall include an original, notarized Authorization to Release Medical Records.

2. An employer, insurance carrier, or any other party with standing under the Workers' Compensation Act may obtain a hearing before the Adjudication Division by filing a request for agency action with the Division.

3. All Applications for Hearing shall include any available supporting medical documentation of the claim where there is a dispute over medical issues. Applications for Hearing without supporting documentation and a properly completed Authorization to Release Medical Records may not be mailed to the employer or insurance carrier for answer until the appropriate documents have been provided. In addition to respondent's answer, a respondent may file a motion to dismiss the Application for Hearing where there is no supporting medical documentation filed to demonstrate medical causation when such is at issue between the parties.

4. When an Application for Hearing with appropriate supporting documentation is filed with the Division, the Division shall forthwith mail to the respondents a copy of the Application for Hearing, supporting documents and Notice of Formal Adjudication and Order for Answer.

5. In cases where the injured worker is represented by an attorney, a completed and signed Appointment of Counsel form shall be filed with the Application for Hearing or upon retention of the attorney.

C. Answer.

1. The respondent(s) shall have 30 days from the date of mailing of the Order for Answer, to file a written answer to the Application for Hearing.

2. The answer shall admit or deny liability for the claim and shall state the reasons liability is denied. The answer shall state all affirmative defenses with sufficient accuracy and detail that the petitioner and the Division may be fully informed of the nature and substance of the defenses asserted.

3. All answers shall include a summary of benefits which have been paid to date on the claim, designating such payments by category, i.e. medical expenses, temporary total disability, permanent partial disability, etc.

4. When liability is denied based upon medical issues, copies of all available medical reports sufficient to support the denial of liability shall be filed with the answer.

5. If the answer filed by the respondents fails to sufficiently explain the basis of the denial, fails to include available medical reports or records to support the denial, or contains affirmative defenses without sufficient factual detail to support the affirmative defense, the Division may strike the answer filed and order the respondent to file within 20 days, a new answer which conforms with the requirements of this rule.

6. All answers must state whether the respondent is willing to mediate the claim.

7. Petitioners are allowed to timely amend the Application for Hearing, and respondents are allowed to timely amend the answer, as newly discovered information becomes available that would warrant the amendment. The parties shall not amend their pleadings later than 45 days prior to the scheduled hearing without leave of the Administrative Law Judge.

8. Responses and answers to amended pleadings shall be filed within ten days of service of the amended pleading without further order of the Labor Commission.

D. Default.

1. If a respondent fails to file an answer as provided in Subsection C above, the Division may enter a default against the respondent.

2. If default is entered against a respondent, the Division may conduct any further proceedings necessary to take evidence and determine the issues raised by the Application for Hearing without the participation of the party in default pursuant to Section 63-46b-11(4), Utah Code.

3. A default of a respondent shall not be construed to deprive the Employer's Reinsurance Fund or Uninsured Employers' Fund of any appropriate defenses.

4. The defaulted party may file a motion to set aside the default under the procedures set forth in Section 63-46b-11(3), Utah Code. The Adjudication Division shall set aside defaults upon written and signed stipulation of all parties to the action.

E. Waiver of Hearing.

1. The parties may, with the approval of the administrative law judge, waive their right to a hearing and enter into a stipulated set of facts, which may be submitted to the administrative law judge. The administrative law judge may use the stipulated facts, medical records and evidence in the record to make a final determination of liability or refer the matter to a Medical Panel for consideration of the medical issues pursuant to R602-2-2.

2. Stipulated facts shall include sufficient facts to address all the issues raised in the Application for Hearing and answer.

3. In cases where Medical Panel review is required, the administrative law judge may forward the evidence in the record, including but not limited to, medical records, fact stipulations, radiographs and deposition transcripts, to a medical panel for assistance in resolving the medical issues.

F. Discovery.

1. Upon filing the answer, the respondent and the petitioner may commence discovery. Discovery allowed under this rule may include interrogatories, requests for production of documents, depositions, and medical examinations. Discovery shall not include requests for admissions. Appropriate discovery under this rule shall focus on matters relevant to the claims and defenses at issue in the case. All discovery requests are deemed continuing and shall be promptly supplemented by the responding party as information comes available.

2. Without leave of the administrative law judge, or written stipulation, any party may serve upon any other party

written interrogatories, not exceeding 25 in number, including all discrete subparts, to be answered by the party served. The frequency or extent of use of interrogatories, requests for production of documents, medical examinations and/or depositions shall be limited by the administrative law judge if it is determined that:

a. The discovery sought is unreasonably cumulative or duplicative, or is obtainable from another source that is more convenient, less burdensome, or less expensive;

b. The party seeking discovery has had ample opportunity by discovery in the action to obtain the discovery sought; or

c. The discovery is unduly burdensome or expensive, taking into account the needs of the case, the amount in controversy, limitations on the parties' resources, and the importance of the issues at stake in the adjudication.

3. Upon reasonable notice, the respondent may require the petitioner to submit to a medical examination by a physician of the respondent's choice.

4. All parties may conduct depositions pursuant to the Utah Rules of Civil Procedure and Section 34A-1-308, Utah Code.

5. Requests for production of documents are allowed, but limited to matters relevant to the claims and defenses at issue in the case, and shall not include requests for documents provided with the petitioner's Application for Hearing, nor the respondents' answer.

6. Parties shall diligently pursue discovery so as not to delay the adjudication of the claim. If a hearing has been scheduled, discovery motions shall be filed no later than 45 days prior to the hearing unless leave of the administrative law judge is obtained.

7. Discovery motions shall contain copies of all relevant documents pertaining to the discovery at issue, such as mailing certificates and follow up requests for discovery. The responding party shall have 10 days from the date the discovery motion is mailed to file a response to the discovery motion.

8. Parties conducting discovery under this rule shall maintain mailing certificates and follow up letters regarding discovery to submit in the event Division intervention is necessary to complete discovery. Discovery documents shall not be filed with the Division at the time they are forwarded to opposing parties.

9. Any party who fails to obey an administrative law judge's discovery order shall be subject to the sanctions available under Rule 37, Utah Rules of Civil Procedure.

G. Subpoenas.

1. Commission subpoena forms shall be used in all discovery proceedings to compel the attendance of witnesses. All subpoenas shall be signed by the administrative law judge assigned to the case, or the duty judge where the assigned judge is not available. Subpoenas to compel the attendance of witnesses shall be served at least 14 days prior to the hearing consistent with Utah Rule of Civil Procedure 45. Witness fees and mileage shall be paid by the party which subpoenas the witness.

2. A subpoena to produce records shall be served on the holder of the record at least 14 days prior to the date specified in the subpoena as provided in Utah Rule of Civil Procedure 45. All fees associated with the production of documents shall be paid by the party which subpoenas the record.

H. Medical Records Exhibit.

1. The parties are expected to exchange medical records during the discovery period.

2. Petitioner shall submit all relevant medical records contained in his/her possession to the respondent for the preparation of a joint medical records exhibit at least twenty (20) working days prior to the scheduled hearing.

3. The respondent shall prepare a joint medical record exhibit containing all relevant medical records. The medical record exhibit shall include all relevant treatment records that tend to prove or disprove a fact in issue. Hospital nurses' notes, duplicate materials, and other non-relevant materials need not be included in the medical record exhibit.

4. The medical records shall be indexed, paginated, arranged by medical care provider in chronological order and bound.

5. The medical record exhibit prepared by the respondent shall be delivered to the Division and the petitioner or petitioner's counsel at least ten (10) working days prior to the hearing. Late-filed medical records may or may not be admitted at the discretion of the administrative law judge by stipulation or for good cause shown.

6. The administrative law judge may require the respondent to submit an additional copy of the joint medical record exhibit in cases referred to a medical panel.

7. The petitioner is responsible to obtain radiographs and diagnostic films for review by the medical panel. The administrative law judge shall issue subpoenas where necessary to obtain radiology films.

I. Hearing.

1. Notices of hearing shall be mailed to the addresses of record of the parties. The parties shall provide current addresses to the Division for receipt of notices or risk the entry of default and loss of the opportunity to participate at the hearing.

2. Judgment may be entered without a hearing after default is entered or upon stipulation and waiver of a hearing by the parties.

3. No later than 45 days prior to the scheduled hearing, all parties shall file a signed pretrial disclosure form that identifies: (1) fact witnesses the parties actually intend to call at the hearing; (2) expert witnesses the parties actually intend to call at the hearing; (3) language translator the parties intend to use at the hearing; (4) exhibits, including reports, the parties intend to offer in evidence at the hearing; (5) the specific benefits or relief claimed by the petitioner; (6) the specific defenses that the respondent actually intends to litigate; (7) whether, or not, a party anticipates that the case will take more than four hours of hearing time; (8) the job categories or titles the respondents claim the petitioner is capable of performing if the claim is for permanent total disability, and; (9) any other issues that the parties intend to ask the administrative law judge to adjudicate. The administrative law judge may exclude witnesses, exhibits, evidence, claims, or defenses as appropriate of any party who fails to timely file a signed pre-trial disclosure form as set forth above. The parties shall supplement the pre-trial disclosure form with information that newly becomes available after filing the original form. The pre-trial disclosure form does not replace other discovery allowed under these rules.

4. If the petitioner requires the services of language translation during the hearing, the petitioner has the obligation of providing a person who can translate between the petitioner's native language and English during the hearing. If the respondents are dissatisfied with the proposed translator identified by the petitioner, the respondents may provide a qualified translator for the hearing at the respondent's expense.

5. The petitioner shall appear at the hearing prepared to outline the benefits sought, such as the periods for which compensation and medical benefits are sought, the amounts of unpaid medical bills, and a permanent partial disability rating, if applicable. If mileage reimbursement for travel to receive medical care is sought, the petitioner shall bring documentation of mileage, including the dates, the medical provider seen and the total mileage.

6. The respondent shall appear at the hearing prepared to address the merits of the petitioner's claim and provide evidence to support any defenses timely raised.

7. Parties are expected to be prepared to present their evidence on the date the hearing is scheduled. Requests for

continuances may be granted or denied at the discretion of the administrative law judge for good cause shown. Lack of diligence in preparing for the hearing shall not constitute good cause for a continuance.

8. Subject to the continuing jurisdiction of the Labor Commission, the evidentiary record shall be deemed closed at the conclusion of the hearing, and no additional evidence will be accepted without leave of the administrative law judge.

J. Motions-Time to Respond.

Responses to all motions other than discovery motions shall be filed within ten (10) days from the date the motion was filed with the Division. Reply memoranda shall be filed within seven (7) days from the date a response was filed with the Division.

K. Notices.

1. Orders and notices mailed by the Division to the last address of record provided by a party are deemed served on that party.

2. Where an attorney appears on behalf of a party, notice of an action by the Division served on the attorney is considered notice to the party represented by the attorney.

L. Form of Decisions.

Decisions of the presiding officer in any adjudicative proceeding shall be issued in accordance with the provisions of Section 63-46b-5 or 63-46b-10, Utah Code.

M. Motions for Review.

1. Any party to an adjudicative proceeding may obtain review of an Order issued by an Administrative Law Judge by filing a written request for review with the Adjudication Division in accordance with the provisions of Section 63-46b-12 and Section 34A-1-303, Utah Code. Unless a request for review is properly filed, the Administrative Law Judge's Order is the final order of the Commission. If a request for review is filed, other parties to the adjudicative proceeding may file a response within 20 calendar days of the date the request for review was filed. Thereafter the Administrative Law Judge shall:

a. Reopen the case and enter a Supplemental Order after holding such further hearing and receiving such further evidence as may be deemed necessary;

b. Amend or modify the prior Order by a Supplemental Order; or

c. Refer the entire case for review under Section 34A-2-801, Utah Code.

2. If the Administrative Law Judge enters a Supplemental Order, as provided in this subsection, it shall be final unless a request for review of the same is filed.

N. Procedural Rules.

In formal adjudicative proceedings, the Division shall generally follow the Utah Rules of Civil Procedure regarding discovery and the issuance of subpoenas, except as the Utah Rules of Civil Procedure are modified by the express provisions of Section 34A-2-802, Utah Code or as may be otherwise modified by these rules.

O. Requests for Reconsideration and Petitions for Judicial Review.

A request for reconsideration of an Order on Motion for Review may be allowed and shall be governed by the provisions of Section 63-46b-13, Utah Code. Any petition for judicial review of final agency action shall be governed by the provisions of Section 63-46b-14, Utah Code.

R602-2-2. Guidelines for Utilization of Medical Panel.

Pursuant to Section 34A-2-601, the Commission adopts the following guidelines in determining the necessity of submitting a case to a medical panel:

A. A panel will be utilized by the Administrative Law Judge where one or more significant medical issues may be involved. Generally a significant medical issue must be shown by conflicting medical reports. Significant medical issues are involved when there are:

1. Conflicting medical opinions related to causation of the injury or disease;

2. Conflicting medical reports of permanent physical impairment which vary more than 5% of the whole person,

3. Conflicting medical opinions as to the temporary total cutoff date which vary more than 90 days;

4. Conflicting medical opinions related to a claim of permanent total disability, and/or

5. Medical expenses in controversy amounting to more than $10,000.

B. A hearing on objections to the panel report may be scheduled if there is a proffer of conflicting medical testimony showing a need to clarify the medical panel report. Where there is a proffer of new written conflicting medical evidence, the Administrative Law Judge may, in lieu of a hearing, re-submit the new evidence to the panel for consideration and clarification.

C. The Administrative Law Judge may authorize an injured worker to be examined by another physician for the purpose of obtaining a further medical examination or evaluation pertaining to the medical issues involved, and to obtain a report addressing these medical issues in all cases where:

1. The treating physician has failed or refused to give an impairment rating, and/or

2. A substantial injustice may occur without such further evaluation.

D. Any expenses of the study and report of a medical panel or medical consultant and of their appearance at a hearing, as well as any expenses for further medical examination or evaluation, as directed by the Administrative Law Judge, shall be paid from the Uninsured Employers' Fund, as directed by Section 34A-2-601.

R602-2-3. Compensation for Medical Panel Services.

Compensation for medical panel services, including records review, examination, report preparation and testimony, shall be $112.50 per half hour for medical panel members and $125 per half hour for the medical panel chair.

R602-2-4. Attorney Fees.

A. Pursuant to Section 34A-1-309, the Commission adopts the following rule to regulate and fix reasonable fees for attorneys representing applicants in workers' compensation or occupational illness claims.

1. This rule applies to all fees awarded after January 1, 2005.

2. Fees awarded prior to the effective date of this rule are determined according to the prior version of this rule in effect on the date of the award.

B. Upon written agreement, when an attorney's services are limited to consultation, document preparation, document review, or review of settlement proposals, the attorney may charge the applicant an hourly fee of not more than $125 for time actually spent in providing such services, up to a maximum of four hours.

1. Commission approval is not required for attorneys fees charged under this subsection

B. It is the applicant's responsibility to pay attorneys fees permitted by this subsection B.

2. In all other cases involving payment of applicants' attorneys fees which are not covered by this subsection B., the entire amount of such attorneys fees are subject to subsection C. or D. of this rule.

C. Except for legal services compensated under subsection B. of this rule, all legal services provided to applicants shall be compensated on a contingent fee basis.

1. For purposes of this subsection C., the following

definitions and limitations apply:

a. The term Abenefits@ includes only death or disability compensation and interest accrued thereon.

b. Benefits are Agenerated@ when paid as a result of legal services rendered after an Appointment of Counsel form is signed by the applicant. A copy of this form must be filed with the Commission by the applicant's attorney.

c. In no case shall an attorney collect fees calculated on more than the first 312 weeks of any and all combinations of workers' compensation benefits.

2. Fees and costs authorized by this subsection shall be deducted from the applicant's benefits and paid directly to the attorney on order of the Commission. A retainer in advance of a Commission approved fee is not allowed.

3. Attorney fees for benefits generated by the attorney's services shall be computed as follows:

a. For all legal services rendered through final Commission action, the fee shall be 20% of weekly benefits generated for the first $21,500, plus 15% of the weekly benefits generated in excess of $21,500 but not exceeding $43,000, plus 10% of the weekly benefits generated in excess of $43,000, to a maximum of $10,850.

b. For legal services rendered in prosecuting or defending an appeal before the Utah Court of Appeals, an attorney's fee shall be awarded amounting to 25% of the benefits in dispute before the Court of Appeals. This amount shall be added to any attorney's fee awarded under subsection C.3.a. for benefits not in dispute before the Court of Appeals. The total amount of fees awarded under subsection C.3.a. and this subsection C.3.b. shall not exceed $15,850;

c. For legal services rendered in prosecuting or defending an appeal before the Utah Supreme Court, an attorney's fee shall be awarded amounting to 30% of the benefits in dispute before the Supreme Court. This amount shall be added to any attorney's fee awarded under subsection C.3.a. and subsection C.3.b. for benefits not in dispute before the Supreme Court. The total amount of fees awarded under subsection C.3.a, subsection C.3.b. and this subsection C.3.c shall not exceed $20,850.

4. In addition to attorneys fees authorized by this subsection, a prevailing applicant's attorney shall be awarded reasonable and necessary costs actually incurred in the prosecution of the applicant's claim, as determined by the ALJ.

D. In Amedical only@ cases in which awards of attorneys' fees are authorized by '34A-1-309(4), the amount of such fees and costs shall be computed according to the provisions of subsection C.

R602-2-5. Settlement Agreements.

A. Statutory authority:

Section 34A-2-420 requires the Commission to review all agreements for the settlement or commutation of claims for workers' compensation or occupational disease benefits and grants the Commission discretion to approve such agreements. The Commission's authority under Section 34A-2-420 applies to all claims arising under the Utah Workers' Compensation Act or Occupational Disease Act, regardless of the date of accident or occupational disease. This rule sets forth the requirements for Commission approval of such agreements.

B. General Considerations:

Settlement agreements may be appropriate in claims of disputed validity or when the parties' interests are served by payment of benefits in a manner different than otherwise prescribed by the workers' compensation laws. However, settlement agreements must also fulfill the underlying purposes of the workers' compensation laws. Once approved by the Commission, settlement agreements are permanently binding on the parties. The Commission will not approve any proposed settlement that is manifestly unjust.

C. Procedure:

1. Parties interested in a present or potential workers' compensation claim, whether or not an application for hearing has been filed, may submit their settlement agreement to the Commission for review and approval. The Commission may delegate its authority to review and approve such agreements.

2. Each settlement agreement shall be in writing, executed by each party and such party's attorney, if any, and shall include a proposed order for Commission approval of the agreement.

3. Each settlement agreement shall set forth the nature of the claim being settled and what claims are in dispute, if any.

4. Each settlement agreement shall contain a statement that each party understands that the agreement is permanent, binding and constitutes full and final settlement of any right the claimant may otherwise have to future benefits, including medical benefits. The Commission may establish an approved form for complying with the foregoing disclosure requirement.

5. Attorneys' fees shall be allowed as provided by Rule R602-2-4. Each settlement agreement shall describe the amount to be paid to claimant's counsel as attorney's fees and costs, the manner in which such amounts are computed and the method of payment thereof.

6. The settlement agreement may provide for payment of benefits through insurance contract or by other third parties if the Commission determines a) such payment provisions are secure and b) such payment provisions do not relieve the parties of their underlying liability for payments required by the agreement.

7. Upon receipt of a proposed settlement agreement meeting the requirements of this rule, the Commission shall review such proposed agreement:

a. As needed, the Commission may contact the parties and others to obtain further information about the proposed settlement;

b. If the Commission determines that a proposed settlement agreement conforms with this rule, the Commission shall approve such agreement and notify the parties in writing.

c. If the Commission determines that a proposed settlement agreement does not comply with this rule, the Commission shall notify the parties in writing of its reasons for rejecting the proposed agreement.

d. The Commission shall retain a record of its action on all settlement agreements submitted to it for approval.

KEY: workers' compensation, administrative procedures, hearings, settlements
November 15, 2005 34A-1-301 et seq.
Notice of Continuation September 5, 2002 63-46b-1 et seq.

R612. Labor Commission, Industrial Accidents.
R612-7. Impairment Ratings for Industrial Injuries and Diseases.
R612-7-1. Authority.

This rule is enacted under the authority of Sections 34A-1-104 and 34A-2-412.

R612-7-2. Definition.

The definition of impairment in Section 34A-2-102 applies to this rule.

R612-7-3. Method for Rating.

A. For rating all impairments, which are not expressly listed in Section 34A-2-412, the Commission incorporates by reference "Utah's 2002 Impairment Guides" as published by the Commission for all injuries rated on or after January 1, 2002. For those conditions not found in "Utah's 2002 Impairment Guides," the American Medical Association's "Guides to the Evaluation of Permanent Impairment, Fifth Edition" are to be used.

KEY: workers' compensation, impairment ratings
January 15, 2002 34A-1-104
Notice of Continuation May 28, 2003 34A-2-412

R628. Money Management Council, Administration.
R628-13. Collateralization of Public Funds.
R628-13-1. Authority.

This rule is issued pursuant to Sections 51-7-18.1(5).

R628-13-2. Scope.

This rule applies to all qualified depositories required to pledge collateral security for public funds.

R628-13-3. Purpose.

The purpose of this rule is to establish the requirements for pledging of collateral security to insure that public treasurers have a perfected security interest in the collateral security pledged, to define the conditions under which the Council may require the pledging of collateral security in lieu of relinquishment of deposits in excess of the maximum amount a qualified depository may hold under the Money Management Act and the rules of the Council, and to impose restrictions on a qualified depository which is required to pledge collateral security for the public deposits which it holds.

R628-13-4. Definitions.

A. Deposits means balances due to persons having an account at the qualified depository institution whether in the form of a transaction account, savings account, share account, or certificate of deposit and repurchase agreements other than qualifying repurchase agreements.

B. Designated trustee means the trustee selected to serve as the agent of the State Treasurer to hold and administer collateral security pledged for public funds.

C. Eligible collateral means obligations of or fully guaranteed by the United States or its agencies as to principal and interest, a segregated earmarked deposit account, or notes, drafts, bills of exchange or bankers' acceptances that are eligible for rediscount or purchase by a federal reserve bank, obligations of the State of Utah or any of its political subdivisions, and readily marketable bonds, notes or debentures.

D. Excess deposit means that portion of the public funds held on deposit with a qualified depository by public treasurers which exceeds the most recently adopted maximum amount of public funds allowed pursuant to the Money Management Act and the rules of the Money Management Council as of the effective date of an order issued by the Commissioner of Financial Institutions pursuant to Section 51-7-18.1(6).

E. Market value means the bid or closing price listed for financial instruments in a regularly published listing or an electronic reporting service or, in the case of obligations which are not regularly traded, the bid price received from at least one registered securities broker/dealer.

F. Readily marketable bonds, notes or debentures means obligations in the form of a bond, note, or debenture rated in one of the three highest ratings of a nationally recognized rating agency; it does not include investments which are predominantly speculative in nature.

R628-13-5. General Rule.

A. Conditions Under Which Collateral Will Be Allowed

(1) The Money Management Council may vote to allow collateral security to be pledged to secure excess deposits when a qualified depository has accepted and holds public funds in excess of its public funds allotment.

(2) If the public funds allotment is reduced to one times capital, the Money Management Council may vote to allow collateral security to be pledged to secure excess deposits. The qualified depository will not be precluded or prohibited from accepting, renewing or maintaining deposits of public funds if the total amount of deposits from each public treasurer does not exceed $100,000.

(3) If the public funds allotment is reduced to zero, the qualified depository will be required to pledge sufficient eligible collateral with the state treasurer's designated trustee for all uninsured deposits. The qualified depository is not precluded or prohibited from accepting, renewing or maintaining deposits of public funds when the total amount of all deposits from each public treasurer does not exceed $100,000.

After the effective date of any order requiring the pledging of collateral, the qualified depository may not accept, receive or renew uninsured deposits of public funds.

(4) If the amount of capital as defined in R628-11-4-B. is zero or less, the institution is no longer a qualified depository and must relinquish all deposits of public funds within 15 days of the effective date of any order issued by the Commissioner of Financial Institutions requiring relinquishment.

(5) The requirements for pledging of collateral set forth in this rule shall remain in effect until the public funds allotment has been increased to the statutory maximum or 12 months, whichever occurs first. If at the end of the 12 month period the qualified depository institution's public funds allotment has not been increased to the statutory maximum, the qualified depository shall immediately relinquish all excess deposits.

B. Delivery of Collateral

Within 15 days of the effective date of an order requiring collateralization of excess deposits in accordance with the provisions of this rule, a qualified depository shall deliver to the state treasurer or the designated trustee eligible collateral sufficient to meet the statutory collateralization requirements and shall execute a pledge agreement and trust indenture as required by the state treasurer. Collateral delivered to the state treasurer or the designated trustee may not be released until the state treasurer has received written confirmation from the Commissioner of Financial Institutions that the excess deposits have been surrendered or that the qualified depository is eligible to accept, receive and hold public funds without collateralization.

KEY: public investments, collateral, trustees, financial institutions
1990 51-7-18.1(5)
Notice of Continuation November 7, 2005

R628. Money Management Council, Administration.
R628-16. Certification as a Dealer.
R628-16-1. Authority.

This rule is issued pursuant to Sections 51-7-3(1) and 51-7-18.

R628-16-2. Scope.

This rule establishes the criteria applicable to all broker-dealers and agents for certification by the Director of the Securities Division of the Department of Commerce (the "Director") as eligible to conduct investment transactions under the State Money Management Act. It further establishes the application contents and procedures, and the procedures for termination and reinstatement of certification.

R628-16-3. Purpose.

This rule establishes a uniform standard to evaluate the financial condition and the standing of a broker-dealer to determine if investment transactions with public treasurers by broker-dealers would expose public funds to undue risk.

R628-16-4. Definitions.

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

A. "Certified dealer";
B. "Council";
C. "Director"; and
D. "Public treasurer".

The following terms are defined in Section 61-1-13 of the Utah Uniform Securities Act, and when used in this rule, have the same meaning as in that Act:

A. "Agent".

R628-16-5. General Rule.

No public treasurer may conduct any investment transaction through a broker-dealer or any agent representing a broker-dealer unless that broker-dealer has been certified by the Director as eligible to conduct investment transactions with public treasurers.

R628-16-6. Application to Become a Certified Dealer.

A. Any broker-dealer wishing to become a certified dealer under the State Money Management Act must submit an application to the Utah Securities Division.

B. The application must include:

(1) Primary Reporting Dealers: Proof of status as a primary reporting dealer, including proof of recognition by the Federal Reserve Bank, if applicant is a primary reporting dealer.

(2) Office Address: The address of the applicant's principal office. Broker-dealers who are not primary reporting dealers must have and maintain an office and a resident principal in Utah; the application shall include the address of the Utah office and the identity of the resident principal.

(3) Broker-Dealer Registration: Proof of registration with the Division under its laws and rules, effective as of the date of the application, of the following:

(a) the broker-dealer;
(b) its resident principal (if one is required); and
(c) any agents of a firm doing business in the state.

(4) Corporate Authority: A Certificate of Good Standing, obtained from the state in which the applicant is incorporated. An applicant who is a foreign corporation also must submit a copy of its Certificate of Authority to do business in Utah, obtained from the Corporations Division of the Department of Commerce (hereinafter the "Corporations Division").

(5) Financial Statements: With respect to applicants who are not primary reporting dealers, financial statements, prepared by an independent certified public accountant in accordance with generally accepted accounting principles, indicating that the applicant has, as of its most recent fiscal year end:

(a) Net Capital: Minimum net capital, as calculated under rule 15c3-1 of the General Rules and Regulations under the Securities and Exchange Act of 1934 (the Uniform Net Capital Rule), of at least 5% of the applicant's aggregate debt balances, as defined in the rule, and;

(b) Total Capital: Total capital as follows:

(i) of at least $10 million or;

(ii) of at least $25 million, calculated on a consolidated basis, with respect to an applicant which is a wholly-owned subsidiary.

(6) Government Securities Act Registration: Proof of the firm's registration under the Government Securities Act of 1986 (100 Stat 3208).

(7) Account Documents: Copies of all agreements, contracts, or other documents that the applicant requires or intends to require to be signed by the public treasurer to open or maintain an account. These documents must meet the following requirements:

(a) The Director shall not certify any applicant who requires, or proposes to require, that any dispute arising out of transactions between the applicant and the public treasurer must be submitted to arbitration. The applicant must provide copies of agreements signed or to be signed, which 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.

(b) Any customer agreement shall provide that suit may be litigated in a Utah court, and that Utah law shall apply in settling disputes, where relevant.

(8) Knowledge of Money Management Act: A notarized statement, signed by a principal and by any agent who has any contact with a public treasurer or its account, that the agent is familiar with the authorized investments as enumerated in Section 51-7-11(3) and the rules of the Council, and with the investment objectives of the public treasurer, as set forth in Section 51-7-17(1).

(9) Fee: A non-refundable fee as described in Section 51-7-18.3(2), payable to the Division.

R628-16-7. Certification.

A. Initial Certification: 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. Date of Effectiveness: All certifications shall be effective upon approval by the council.

C. Expiration; Renewal: All certifications not otherwise terminated shall expire on June 30 of each year, unless renewed. Renewal applications must be received on or before April 30 of each year.

R628-16-8. Renewal of Application.

A. Certified dealers wishing to keep their status as certified dealers must reapply annually, on or before April 30 of each year, for recertification to be effective July 1 of each year.

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

C. The renewal application must be accompanied by an annual renewal fee as described in Section 51-7-18.3(2).

R628-16-9. Post Certification Requirements.

Certified dealers are required to notify the Division of any changes to any items or information contained in the original application within 20 calendar days of the change. The notification shall provide copies, where necessary, of relevant documents.

R628-16-10. Notification of Certification.

The Director shall provide a list of certified broker-dealers and agents to the Money Management Council at least semiannually. The Council shall mail this list to each public treasurer.

R628-16-11. Grounds for Suspension or Termination of Status as a Certified Dealer.

Any of the following constitutes grounds for suspension or termination of status as a certified dealer:

A. Termination of the dealer's status as a primary reporting dealer if the dealer gained certification as a primary reporting dealer.

B. Denial, suspension or revocation of the dealer's registration under the Government Securities Act, or by the Division, or by any other state's securities agency.

C. Failure to maintain a principal office operated by a resident registered principal in this state, if applicable.

D. Failure to maintain registration with the Utah Securities Division by the firm or any of its agents having any contact with a public treasurer.

E. Failure to remain in good standing in Utah with the Corporations Division, or to maintain a certificate of authority, as applicable.

F. Failure to submit within 10 days of the due date the required financial statements, or failure to maintain the required minimum net capital and total capital.

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

H. The sale, offer to sell, or any solicitation of a public treasurer by an agent or by a resident principal, where applicable, who is not certified.

I. Failure to pay the annual renewal fee.

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

K. Failure to file amended reports as required in section R628-16-9.

L. The sale, offer to sell, or any solicitation of a public treasurer, by the certified dealer or any of its employees or agents, of any instrument or in any manner not authorized by the Money Management Act or rules of the Council.

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

N. Failure to maintain registration under the federal Government Securities Act.

O. Engaging in a dishonest or unethical practice in connection with any investment transaction with a public treasurer. "Dishonest or unethical practice" includes, those acts and practices enumerated in Rule R164-6-1g.

R628-16-12. Procedures for Suspension or Termination and Reinstatement of Status.

A. Where it appears to the Division or to the Council that grounds may exist to suspend a certified dealer or terminate status as a certified dealer, the Council shall proceed under the Utah Administrative Procedures Act, Chapter 46b, Title 63.

B. All proceedings to suspend a certified dealer or to terminate status as a certified dealer are designated as informal proceedings under the Utah Administrative Procedures Act.

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. At the election of the presiding officer, other members of the Council may issue recommendations to the hearing officer after the close of the hearing.

D. The Notice of Agency Action, or any petition filed in connection with it, required under the Utah Administrative Procedures Act, shall include a statement of the grounds for termination, and the remedies required to cure the violation.

E. After the date of service of the Notice of Agency Action, the certified dealer and its agents shall not conduct any investment transaction with any public treasurer if so ordered by the Money Management Council. The order issued by the hearing officer at the conclusion of the proceedings shall lift this prohibition if the order allows the certified dealer to keep its status as a certified dealer.

KEY: cash management, public investments, securities, regulation stock brokers
August 27, 2001 51-7-3(1)
Notice of Continuation November 3, 2005 51-7-18(2)(b)(v)

R649. Natural Resources; Oil, Gas and Mining; Oil and Gas.
R649-4. Determination of Well Categories Under the Natural Gas Policy Act of 1978.
R649-4-1. Definitions.

1. Unless the context specifically requires otherwise, any special words, terms, or phrases used in the Section and not defined in Section 1 have the meanings defined under the Natural Gas Policy Act of 1978 (NGPA), and applicable Federal Energy Regulatory Commission (FERC) rules and regulations.

R649-4-2. Applications.

An operator requesting the classification of a well or reservoir pursuant to the authority granted to the Board by Section 503 of the NGPA, in order to enable the Board to determine the applicable category for any such well or reservoir pursuant to Title 1 of the NGPA, shall:

1. File the original and two copies of a written application made upon forms prescribed by the Board together with supporting documentation, including all information, data, forms, plats, maps, exhibits, and evidence as may be required by the applicable statutes, rules, and regulations. An application may be amended, supplemented, or withdrawn by the applicant at any time prior to the Board determination.

1.1. Complete an individual application as to each well for which a status determination is being requested. If more than one status determination is being requested for a single well, all forms and information required for each requested determination shall be submitted jointly under one application, with notice to the Board that multiple determinations for one well are being sought under the application.

1.2. File an affidavit as to the truthfulness and correctness of all information contained in the application, including all documents, testimony, and evidence attached to or submitted with the application.

1.3. Certify that the purchaser and owners of the natural gas for which the determination is being submitted, have been served by personal delivery or by mail, postage prepaid, with a copy of the application, including a complete FERC Form 121, excluding required supporting documents.

R649-4-3. Notice and Hearing.

1. Upon receipt of an application for a well status determination under the NGPA, the Board shall:

1.1. Notify the applicant of the receipt of the application;

1.2. Determine the completeness of the application. If the application is incomplete in any respect, the Board shall indicate to the applicant the items to be filed which would make the application complete;

1.3. Assign a cause number to each application, determine a hearing date for each complete application, and notify the applicant of the cause number and hearing date;

1.4. Cause notice of hearing to be given.

2. If the same applicant has filed for multiple well determinations or for multiple determinations as to any well, the published notice of hearing may include more than one well or reservoir in one notice.

R649-4-4. Determination and Orders.

1. Following notice and hearing, the Board shall issue a determination and order for each complete application.

2. If no response or protest to the application is filed with the Board, an application may be considered and a determination may be made by the Director or a designated hearing examiner on the basis of sworn testimony, depositions, or affidavits, together with all exhibits, forms, and other matters properly filed with the Board. Such matters shall comprise the transcript of the hearing on which the determination is based.

3. An applicant may also request consideration and a determination by the Director or a designated hearing examiner by filing a letter with the Board agreeing that the determination can be made by the Director without the necessity of an appearance by the applicant. The Board may, however, upon its own motion, require an evidentiary hearing with sworn testimony to be held upon any application following proper notice. In the event the Board determines that a hearing is required, the Board shall notify the applicant at least ten days prior to the scheduled hearing date.

R649-4-5. Notice of Determination.

Within five days after the last day for filing a motion for rehearing, or, if such a motion is filed, within 15 days after it is denied or overruled by operation of law, the Board shall give written notice to the FERC of its determination and order.

KEY: oil and gas law
January 3, 2001 40-6-1 et seq.
Notice of Continuation November 8, 2005

R657. Natural Resources, Wildlife Resources.
R657-5. Taking Big Game.
R657-5-1. Purpose and Authority.

(1) Under authority of Sections 23-14-18 and 23-14-19, the Wildlife Board has established this rule for taking deer, elk, pronghorn, moose, bison, bighorn sheep, and Rocky Mountain goat.

(2) Specific dates, areas, methods of take, requirements, and other administrative details which may change annually are published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation and the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

R657-5-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Antlerless deer" means a deer without antlers or with antlers five inches or shorter.

(b) "Antlerless elk" means an elk without antlers or with antlers five inches or shorter.

(c) "Antlerless moose" means a moose with antlers shorter than its ears.

(d) "Arrow quiver" means a portable arrow case that completely encases all edges of the broadheads.

(e) "Buck deer" means a deer with antlers longer than five inches.

(f) "Buck pronghorn" means a pronghorn with horns longer than five inches.

(g) "Bull elk" means an elk with antlers longer than five inches.

(h) "Bull moose" means a moose with antlers longer than its ears.

(i) "Cow bison" means a female bison.

(j) "Doe pronghorn" means a pronghorn without horns or with horns five inches or shorter.

(k) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public as a matter of right for vehicular travel.

(l) "Hunter's choice" means either sex may be taken.

(m) "Limited entry hunt" means any hunt published in the hunt tables of the proclamation of the Wildlife Board for taking big game, which is identified as limited entry and does not include general or once-in-a-lifetime hunts.

(n) "Limited entry permit" means any permit obtained for a limited entry hunt by any means, including conservation permits, sportsman permits, cooperative wildlife management unit permits and limited entry landowner permits.

(o) "Once-in-a-lifetime hunt" means any hunt published in the hunt tables of the proclamation of the Wildlife Board for taking big game, which is identified as once-in-a-lifetime, and does not include general or limited entry hunts.

(p) "Once-in-a-lifetime permit" means any permit obtained for a once-in-a-lifetime hunt by any means, including conservation permits, sportsman permits, cooperative wildlife management unit permits and limited entry landowner permits.

(q) "Ram" means a male desert bighorn sheep or Rocky Mountain bighorn sheep.

(r)(i) "Resident" for purposes of this rule means a person who:

(A) has been domiciled in the state of Utah for six consecutive months immediately preceding the purchase of a license or permit; and

(B) does not claim residency for hunting, fishing, or trapping in any other state or country.

(ii) A Utah resident retains Utah residency if that person leaves this state:

(A) to serve in the armed forces of the United States or for religious or educational purposes; and

(B) complies with Subsection (m)(i)(B).

(iii)(A) A member of the armed forces of the United States and dependents are residents for the purposes of this chapter as of the date the member reports for duty under assigned orders in the state if the member:

(I) is not on temporary duty in this state; and

(II) complies with Subsection (m)(i)(B).

(iv) A copy of the assignment orders must be presented to a wildlife division office to verify the member's qualification as a resident.

(v) A nonresident attending an institution of higher learning in this state as a full-time student may qualify as a resident for purposes of this chapter if the student:

(A) has been present in this state for 60 consecutive days immediately preceding the purchase of the license or permit; and

(B) complies with Subsection (m)(i)(B).

(vi) A Utah resident license or permit is invalid if a resident license for hunting, fishing, or trapping is purchased in any other state or country.

(vii) An absentee landowner paying property tax on land in Utah does not qualify as a resident.

(s) "Spike bull" means a bull elk which has at least one antler having no branching above the ears. Branched means a projection on an antler longer than one inch, measured from its base to its tip.

(t)(i) "Valid application" means:

(A) it is for a species that the applicant is eligible to possess a permit;

(B) there is a hunt for that species regardless of estimated permit numbers; and

(C) there is sufficient information on the application to process the application, including personal information, hunt information, and sufficient payment.

(ii) Applications missing any of the items in Subsection (a) may still be considered valid if the application is timely corrected through the application correction process.

R657-5-3. License, Permit, and Tag Requirements.

(1) A person may engage in hunting protected wildlife or in the sale, trade, or barter of protected wildlife or their parts in accordance with Section 23-19-1 and the rules or proclamations of the Wildlife Board.

(2) Any license, permit, or tag that is mutilated or otherwise made illegible is invalid and may not be used for taking or possessing big game.

R657-5-4. Age Requirements and Restrictions.

(1)(a) A person 14 years of age or older may purchase a permit and tag to hunt big game. A person 13 years of age may purchase a permit and tag to hunt big game if that person's 14th birthday falls within the calendar year for which the permit and tag are issued.

(2)(a) A person at least 14 years of age and under 16 years of age must be accompanied by his parent or legal guardian, or other responsible person 21 years of age or older and approved by his parent or guardian, while hunting big game with any weapon.

(b) As used in this section, "accompanied" means at a distance within which visual and verbal communication are maintained for the purposes of advising and assisting.

R657-5-5. Duplicate License and Permit.

(1) Whenever any unexpired license, permit, tag or certificate of registration is destroyed, lost or stolen, a person may obtain a duplicate from a division office, for five dollars or half of the price of the original license, or permit, whichever is less.

(2) The division may waive the fee for a duplicate unexpired license, permit, tag or Certificate of Registration provided the person did not receive the original license, permit, tag or certificate of registration.

R657-5-6. Hunting Hours.

Big game may be taken only between one-half hour before official sunrise through one-half hour after official sunset.

R657-5-7. Temporary Game Preserves.

(1)(a) A person who does not have a valid permit to hunt on a temporary game preserve may not carry a firearm or archery equipment on any temporary game preserve while the respective hunts are in progress.

(b) "Carry" means having a firearm on your person while hunting in the field.

(2) As used in this section, "temporary game preserve" means all bull elk, buck pronghorn, moose, bison, bighorn sheep, Rocky Mountain goat, limited entry buck deer areas and cooperative wildlife management units, excluding incorporated areas, cities, towns and municipalities.

(3) Weapon restrictions on temporary game preserves do not apply to:

(a) a person licensed to hunt upland game or waterfowl provided the person complies with Rules R657-6 and R657-9 and the Upland Game Proclamation and Waterfowl Proclamation, respectively, and possessing only legal weapons to take upland game and waterfowl;

(b) livestock owners protecting their livestock;

(c) peace officers in the performance of their duties; or

(d) a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code, provided the person is not utilizing the concealed firearm to hunt or take protected wildlife.

R657-5-8. Prohibited Weapons.

(1) A person may not use any weapon or device to take big game other than those expressly permitted in this rule.

(2) A person may not use:

(a) a firearm capable of being fired fully automatic; or

(b) any light enhancement device or aiming device that casts a beam of light.

R657-5-9. Rifles and Shotguns.

(1) The following rifles and shotguns may be used to take big game:

(a) any rifle firing centerfire cartridges and expanding bullets; and

(b) a shotgun, 20 gauge or larger, firing only 00 or larger buckshot or slug ammunition.

R657-5-10. Handguns.

(1) A handgun may be used to take deer and pronghorn, provided the handgun is a minimum of .24 caliber, fires a centerfire cartridge with an expanding bullet and develops 500 foot-pounds of energy at the muzzle.

(2) A handgun may be used to take elk, moose, bison, bighorn sheep, and Rocky Mountain goat provided the handgun is a minimum of .24 caliber, fires a centerfire cartridge with an expanding bullet and develops 500 foot-pounds of energy at 100 yards.

R657-5-11. Muzzleloaders.

(1) A muzzleloader may be used during any big game hunt, except an archery hunt, provided the muzzleloader:

(a) can be loaded only from the muzzle;

(b) has open sights, peep sights, or a fixed non-magnifying 1x scope;

(c) has a single barrel;

(d) has a minimum barrel length of 18 inches;

(e) is capable of being fired only once without reloading;

(f) powder and bullet, or powder, sabot and bullet are not bonded together as one unit for loading;

(g) is loaded with black powder or black powder substitute, which must not contain nitrocellulose based somkeless powder.

(2)(a) A lead or expanding bullet or projectile of at least 40 caliber must be used to hunt big game.

(b) A 170 grain or heavier bullet, including sabots must be used for taking deer and pronghorn.

(c) A 210 grain or heavier bullet must be used for taking elk, moose, bison, bighorn sheep, and Rocky Mountain goat, except sabot bullets used for taking these species must be a minimum of 240 grains.

(3)(a) A person who has obtained a muzzleloader permit may not possess or be in control of any firearm other than a muzzleloading rifle or have a firearm other than a muzzleloading rifle in his camp or motor vehicle during a muzzleloader hunt.

(b) The provisions of Subsection (a) do not apply to:

(i) a person licensed to hunt upland game or waterfowl provided the person complies with Rules R657-6 and R657-9 and the Upland Game Proclamation and Waterfowl Proclamation, respectively, and possessing only legal weapons to take upland game or waterfowl;

(ii) a person licensed to hunt big game species during hunts that coincide with the muzzleloader hunt;

(iii) livestock owners protecting their livestock; or

(iv) a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code, provided the person is not utilizing the concealed firearm to hunt or take protected wildlife.

R657-5-12. Archery Equipment.

(1) Archery equipment may be used during any big game hunt, except a muzzleloader hunt, provided:

(a) the minimum bow pull is 40 pounds at the draw or the peak, whichever comes first; and

(b) arrowheads used have two or more sharp cutting edges that cannot pass through a 7/8 inch ring;

(c) expanding arrowheads cannot pass through a 7/8 inch ring when expanded; and

(d) arrows must be a minimum of 20 inches in length from the tip of the arrowhead to the tip of the nock, and must weigh at least 300 grains.

(2) The following equipment or devices may not be used to take big game:

(a) a crossbow, except as provided in Rule R657-12;

(b) arrows with chemically treated or explosive arrowheads;

(c) a mechanical device for holding the bow at any increment of draw;

(d) a release aid that is not hand held or that supports the draw weight of the bow; or

(e) a bow with an attached electronic range finding device or a magnifying aiming device.

(3) Arrows carried in or on a vehicle where a person is riding must be in an arrow quiver or a closed case.

(4)(a) A person who has obtained an archery permit may not possess or be in control of a firearm or have a firearm in his camp or motor vehicle during an archery hunt.

(b) The provisions of Subsection (a) do not apply to:

(i) a person licensed to hunt upland game or waterfowl provided the person complies with Rules R657-6 and R657-9 and the Upland Game Proclamation and Waterfowl Proclamation, respectively, and possessing only legal weapons to take upland game or waterfowl;

(ii) a person licensed to hunt big game species during

hunts that coincide with the archery hunt;

(iii) livestock owners protecting their livestock; or

(iv) a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code, provided the person is not utilizing the concealed firearm to hunt or take protected wildlife.

R657-5-13. Areas With Special Restrictions.

(1)(a) Hunting of any wildlife is prohibited within the boundaries of all park areas, except those designated by the Division of Parks and Recreation in Rule R651-603-5.

(b) Hunting with rifles and handguns in park areas designated open is prohibited within one mile of all park area facilities, including buildings, camp or picnic sites, overlooks, golf courses, boat ramps, and developed beaches.

(c) Hunting with shotguns or archery equipment is prohibited within one-quarter mile of the areas provided in Subsection (b).

(2) Hunting is closed within the boundaries of all national parks and monuments unless otherwise provided by the governing agency.

(3) Hunters obtaining a Utah license, permit or tag to take big game are not authorized to hunt on tribal trust lands. Hunters must obtain tribal authorization to hunt on tribal trust lands.

(4) Military installations, including Camp Williams, are closed to hunting and trespassing unless otherwise authorized.

(5) In Salt Lake County, a person may not:

(a) hunt big game within one-half mile of Silver Lake in Big Cottonwood Canyon;

(b) hunt big game or discharge a shotgun or archery equipment within 600 feet of a road, house, or any other building; or

(c) discharge a rifle, handgun, shotgun firing slug ammunition, or muzzleloader within one mile of a cabin, house, or other building regularly occupied by people, except west of I-15 a muzzleloader may not be discharged within one-half mile of a cabin, house or other building regularly occupied by people.

(6) Hunting is closed within a designated portion of the town of Alta. Hunters may refer to the town of Alta for boundaries and other information.

(7) Domesticated Elk Facilities and Domesticated Elk Hunting Parks, as defined in Section 4-39-102(2) and Rules R58-18 and R58-20, are closed to big game hunting. This restriction does not apply to the lawful harvest of domesticated elk as defined and allowed pursuant to Rule R58-20.

(8) State waterfowl management areas are closed to taking big game, except as otherwise provided in the proclamation of the Wildlife Board for taking big game.

(9) Hunters are restricted to using archery equipment, muzzleloaders or shotguns on the Matheson Wetlands.

(10) A person may not discharge a firearm, except a shotgun or muzzleloader, from, upon, or across the Green River located near Jensen, Utah from the Highway 40 bridge upstream to the Dinosaur National Monument boundary.

R657-5-14. Spotlighting.

(1) Except as provided in Section 23-13-17:

(a) a person may not use or cast the rays of any spotlight, headlight, or other artificial light to locate protected wildlife while having in possession a firearm or other weapon or device that could be used to take or injure protected wildlife; and

(b) the use of a spotlight or other artificial light in a field, woodland, or forest where protected wildlife are generally found is prima facie evidence of attempting to locate protected wildlife.

(2) The provisions of this section do not apply to:

(a) the use of headlights or other artificial light in a usual manner where there is no attempt or intent to locate protected wildlife; or

(b) a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code, provided the person is not utilizing the concealed firearm to hunt or take wildlife.

R657-5-15. Use of Vehicle or Aircraft.

(1)(a) A person may not use an airplane or any other airborne vehicle or device, or any motorized terrestrial or aquatic vehicle, including snowmobiles and other recreational vehicles, except a vessel as provided in Subsection (c), to take protected wildlife.

(b) A person may not take protected wildlife being chased, harmed, harassed, rallied, herded, flushed, pursued or moved by an aircraft or any other vehicle or conveyance listed in Subsection (a).

(c) Big game may be taken from a vessel provided:

(i) the motor of a motorboat has been completely shut off;

(ii) the sails of a sailboat have been furled; and

(iii) the vessel's progress caused by the motor or sail has ceased.

(2)(a) A person may not use any type of aircraft from 48 hours before any big game hunt begins through 48 hours after any big game hunting season ends to:

(i) transport a hunter or hunting equipment into a hunting area;

(ii) transport a big game carcass; or

(iii) locate, or attempt to observe or locate any protected wildlife.

(b) Flying slowly at low altitudes, hovering, circling or repeatedly flying over a forest, marsh, field, woodland or rangeland where protected wildlife is likely to be found may be used as evidence of violations of Subsections (1) and (2).

(3) The provisions of this section do not apply to the operation of an aircraft in a usual manner, or landings and departures from improved airstrips, where there is no attempt or intent to locate protected wildlife.

R657-5-16. Party Hunting and Use of Dogs.

(1) A person may not take big game for another person, except as provided in Section 23-19-1 and Rule R657-12.

(2) A person may not use the aid of a dog to take, chase, harm or harass big game.

R657-5-17. Big Game Contests.

A person may not enter or hold a big game contest that:

(1) is based on big game or their parts; and

(2) offers cash or prizes totaling more than $500.

R657-5-18. Tagging.

(1) The carcass of any species of big game must be tagged in accordance with Section 23-20-30.

(2) A person may not hunt or pursue big game after any of the notches have been removed from the tag or the tag has been detached from the permit.

(3) The tag must remain with the largest portion of the meat until the animal is entirely consumed.

R657-5-19. Transporting Big Game Within Utah.

(1) A person may transport big game within Utah only as follows:

(a) the head or sex organs must remain attached to the largest portion of the carcass;

(b) the antlers attached to the skull plate must be transported with the carcass of an elk taken in a spike bull unit; and

(c) the person who harvested the big game animal must accompany the carcass and must possess a valid permit corresponding to the tag attached to the carcass, except as

provided in Subsection (2).

(2) A person who did not take the big game animal may transport it only after obtaining a shipping permit or disposal receipt from the division or a donation slip as provided in Section 23-20-9.

R657-5-20. Exporting Big Game From Utah.

(1) A person may export big game or their parts from Utah only if:

(a) the person who harvested the big game animal accompanies it and possesses a valid permit corresponding to the tag which must be attached to the largest portion of the carcass; or

(b) the person exporting the big game animal or its parts, if it is not the person who harvested the animal, has obtained a shipping permit from the division.

R657-5-21. Purchasing or Selling Big Game or Their Parts.

(1) A person may only purchase, sell, offer or possess for sale, barter, exchange or trade any big game or their parts as follows:

(a) Antlers, heads and horns of legally taken big game may be purchased or sold only on the dates published in the proclamation of the Wildlife Board for taking big game;

(b) Untanned hides of legally taken big game may be purchased or sold only on the dates published in the proclamation of the Wildlife Board for taking big game;

(c) Inedible byproducts, excluding hides, antlers and horns, or legally possessed big game as provided in Subsection 23-20-3(1)(d), may be purchased or sold at any time;

(d) tanned hides of legally taken big game may be purchased or sold at any time; and

(e) shed antlers and horns may be purchased or sold at any time.

(2)(a) Protected wildlife that is unlawfully taken and seized by the division may be sold at any time by the division or its agent.

(b) A person may purchase protected wildlife, which is sold in accordance with Subsection (2)(a), at any time.

(3) A person selling or purchasing antlers, heads, horns or untanned hides shall keep transaction records stating:

(a) the name and address of the person who harvested the animal;

(b) the transaction date; and

(c) the permit number of the person who harvested the animal.

(4) Subsection (3) does not apply to scouting programs or other charitable organizations using untanned hides.

R657-5-22. Possession of Antlers and Horns.

(1) A person may possess antlers or horns or parts of antlers or horns only from:

(a) lawfully harvested big game;

(b) antlers or horns lawfully purchased as provided in Section R657-5-21; or

(c) shed antlers or horns.

(2) "Shed antler" means an antler which:

(a) has been dropped naturally from a big game animal as part of its annual life cycle; and

(b) has a rounded base commonly known as the antler button or burr attached which signifies a natural life cycle process.

(3) "Shed horn" means the sheath from the horn of a pronghorn that has been dropped naturally as part of its annual life cycle. No other big game species shed their horns naturally.

R657-5-23. Poaching-Reported Reward Permits.

(1) Any person who provides information leading to another person's arrest and successful prosecution for wanton destruction of a bull moose, desert bighorn ram, rocky mountain bighorn ram, rocky mountain goat, bison, bull elk, buck deer or buck pronghorn under Section 23-20-4 for any once-in-a-lifetime species or within any limited entry area may receive a permit from the division to hunt for the same species and on the same once-in-a-lifetime or limited entry area where the violation occurred, except as provided in Subsection (2).

(2)(a) In the event that issuance of a poaching-reported reward permit would exceed 5% of the total number of limited entry or once-in-a-lifetime permits issued in the following year for the respective area, a permit shall not be issued for that respective area. As an alternative, the division may issue a permit as outlined in Subsections (b) or (c).

(b) If the illegally taken animal is a bull moose, desert bighorn ram, rocky mountain bighorn ram, rocky mountain goat or bison, a permit for an alternative species and an alternative once-in-a-lifetime or limited entry area that has been allocated more than 20 permits may be issued.

(c) If the illegally taken animal is a bull elk, buck deer or buck pronghorn, a permit for the same species on an alternative limited entry area that has been allocated more than 20 permits may be issued.

(3)(a) The division may issue only one poaching-reported reward permit for any one animal illegally taken.

(b) No more than one poaching-reported reward permit shall be issued to any one person per successful prosecution.

(c) No more than one poaching-reported reward permit per species shall be issued to any one person in any one calendar year.

(4)(a) Poaching-reported reward permits may only be issued to the person who provides the most pertinent information leading to a successful prosecution. Permits are not transferrable.

(b) If information is received from more than one person, the director of the division shall make a determination based on the facts of the case, as to which person provided the most pertinent information leading to the successful prosecution in the case.

(c) The person providing the most pertinent information shall qualify for the poaching-reported reward permit.

(5) Any person who receives a poaching-reported reward permit must be eligible to hunt and obtain big game permits as provided in all rules and regulations of the Wildlife Board and the Wildlife Resources Code.

(6) For purposes of this section, "successful prosecution" means the screening, filing of charges and subsequent adjudication for the poaching incident.

R657-5-24. Application Process for Premium Limited Entry, Limited Entry, Cooperative Wildlife Management Unit and Once-In-A-Lifetime Permits, and Application Process for General Buck Deer, General Muzzleloader Elk, and Youth General Any Bull Elk Permits.

(1)(a) A person may obtain only one permit per species of big game, including premium limited entry, limited entry, cooperative wildlife management unit, once-in-a-lifetime, conservation, sportsman, landowner and general permits, except antlerless permits as provided in the Antlerless Addendum and permits as provided in Rule R657-42.

(b) Hunting with a permit where payment has not been received for that permit constitutes a violation of hunting without a valid permit.

(c) A person must notify the division of any change of mailing address, residency, telephone number, and physical description.

(2) Applications are available from license agents, division offices, and through the division's Internet address.

(3) A resident may apply in the big game drawing for the following permits:

(a) only one of the following:
(i) buck deer - premium limited entry, limited entry and cooperative wildlife management unit;
(ii) bull elk - premium limited entry, limited entry and cooperative wildlife management unit; or
(iii) buck pronghorn - limited entry and cooperative wildlife management unit; and
(b) only one once-in-a-lifetime permit, including once-in-a-lifetime cooperative wildlife management unit permits, except as provided in Section R657-5-64(2)(b).
(4) A nonresident may apply in the big game drawing for the following permits:
(a) only one of the following:
(i) buck deer - premium limited entry and limited entry;
(ii) bull elk - premium limited entry and limited entry; or
(iii) buck pronghorn - limited entry; and
(b) only one once-in-a-lifetime permit.
(5) A resident or nonresident may apply in the big game drawing for:
(a)(i) a statewide general archery buck deer permit;
(ii) by region for general season buck deer; or
(iii) by region for general muzzleloader buck deer.
(b) A youth may apply in the drawing as provided in Subsection (a) or Subsection R657-5-27(4), and for youth general any bull elk pursuant to Section R657-5-46.
(6) A person may not submit more than one application per species as provided in Subsections (3) and (4), and Subsection (5) in the big game drawing.
(7)(a) Applications must be mailed by the date prescribed in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game. Applications filled out incorrectly or received later than the date prescribed in the Bucks, Bulls and Once-In-A-Lifetime Proclamation may be rejected.
(b) If an error is found on an application, the applicant may be contacted for correction.
(8)(a) Late applications, received by the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation, will not be considered in the drawing, but will be processed, for the purpose of entering data into the division's draw database to provide:
(i) future preprinted applications;
(ii) notification by mail of late application and other draw opportunities; and
(iii) re-evaluation of division or third-party errors.
(b) The nonrefundable handling fee will be used to process the late application. Any permit fees submitted with the application will be refunded.
(c) Late applications received after the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation shall not be processed and shall be returned to the applicant.
(9) Any person who applies for a hunt that occurs on private land is responsible for obtaining written permission from the landowner to access the property. To avoid disappointment and wasting the permit and fee if access is not obtained, hunters should get permission before applying. The division does not guarantee access and does not have the names of landowners where hunts occur.
(10) Only a resident may apply for or obtain a resident permit and only a nonresident may apply for or obtain a nonresident permit, except as provided in Subsections R657-5-27(4).
(12) To apply for a resident permit, a person must be a resident at the time of purchase.
(13) The posting date of the drawing shall be considered the purchase date of a permit.

R657-5-25. Fees for Premium Limited Entry, Limited Entry, Cooperative Wildlife Management Unit and Once-In-A-Lifetime Permits, and for General Buck Deer, General Muzzleloader Elk and Youth General Any Bull Elk Permits.
(1) Each premium limited entry, limited entry, cooperative wildlife management unit and once-in-a-lifetime application must include:
(a) the highest permit fee of any permits applied for;
(b) a nonrefundable handling fee for one of the following permits:
(i) buck deer;
(ii) bull elk; or
(iii) buck pronghorn; and
(c) the nonrefundable handling fee for a once-in-a-lifetime permit; and
(d) the nonrefundable handling fee, if applying only for a bonus point.
(2) Each general buck deer and general muzzleloader elk application must include:
(a) the permit fee, which includes the nonrefundable handling fee; or
(b) the nonrefundable handling fee per species, if applying only for a preference point.

R657-5-26. Applying as a Group for Premium Limited Entry, Limited Entry, Cooperative Wildlife Management Unit and Once-In-A-Lifetime Permits, and for General Buck Deer, General Muzzleloader Elk and Youth General Any Bull Elk Permits.
(1)(a) Up to four people may apply together for premium limited entry, limited entry, and resident cooperative wildlife management unit deer, elk or pronghorn permits in the big game drawing and in the antlerless drawing.
(b) Up to two youth may apply together for youth general any bull elk permits in the big game drawing.
(c) Up to ten people may apply together for general deer permits in the big game drawing.
(d) Youth applicants who wish to participate in the youth general buck deer drawing process as provided in Subsection R657-5-27(4), or the youth antlerless drawing process as provided in Subsection R657-5-59(3), must not apply as part of a group.
(2)(a) Applicants must indicate the number of hunters in the group by filling in the appropriate box on each application form.
(b) If the appropriate box is not filled out with the number of hunters in the group, each hunter in that group shall be entered into the drawing as individual hunters, and not as a group.
(3) Group applicants must submit their applications together in the same envelope.
(4) Residents and nonresidents may apply together.
(5)(a) Group applications shall be processed as one single application.
(b) Any bonus points used for a group application, shall be averaged and rounded down.
(6) When applying as a group:
(a) if the group is successful in the drawing, then all applicants with valid applications in that group shall receive a permit;
(b) if the group is rejected due to an error in fees and only one species is applied for, then the entire group is rejected;
(c) if the group is rejected due to an error in fees and more than one species is applied for, the group will be kept in the drawing for any species with sufficient fees, using the draw order; or
(d) if one or more members of the group are rejected due to an error other than fees, the members with valid applications will be kept in the drawing, unless the group indicates on the application that all members are to be rejected.
(i) The applicant whose application is on the top of all the

applications for that group, will be designated the group leader.

(ii) If any group member has an error on their application that is not corrected during the correction process, the reject box on the group leader's application will determine whether the entire group is rejected.

R657-5-27. Premium Limited Entry, Limited Entry, Cooperative Wildlife Management Unit and Once-In-A-Lifetime and General Buck Deer, General Muzzleloader Elk and Youth General Any Bull Elk Drawings.

(1)(a) Big game drawing results may be posted at the Lee Kay Center for Hunter Education, Cache Valley Hunter Education Center, division offices and on the division Internet address on the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(b) Applicants shall be notified by mail of draw results by the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2) Permits for the big game drawing shall be drawn in the following order:

(a) premium limited entry, limited entry and cooperative wildlife management unit buck deer;

(b) premium limited entry, limited entry and cooperative wildlife management unit bull elk;

(c) limited entry and cooperative wildlife management unit buck pronghorn;

(d) once-in-a-lifetime;

(e) youth general buck deer;

(f) general buck deer; and

(g) youth general any bull elk.

(3) Any person who draws one of the following permits is not eligible to draw a once-in-a-lifetime permit:

(a) a premium limited entry, limited entry or Cooperative Wildlife Management unit buck deer;

(b) a premium limited entry, limited entry, or Cooperative Wildlife Management unit elk; or

(c) a limited entry or Cooperative Wildlife Management unit buck pronghorn.

(4)(a) Fifteen percent of the general buck deer permits in each region are reserved for youth hunters.

(b) For purposes of this section, "youth" means any person 18 years of age or younger on the opening day of the general archery buck deer season.

(c) Youth hunters who wish to participate in the youth drawing must:

(i) submit an application in accordance with Section R657-5-24; and

(ii) not apply as a group.

(d) Youth applicants who apply for a general buck deer permit as provided in Subsection (c), will automatically be considered in the youth drawing based upon their birth date.

(e) Preference points shall be used when applying.

(f) Any reserved permits remaining and any youth applicants who were not selected for reserved permits shall be returned to the general buck deer drawing.

(5) If any permits listed in Subsection (2)(a) through (2)(d) remain after the big game drawing after all choices have been evaluated separately for residents and nonresidents, a second evaluation will be done allowing cross-over usage of remaining resident and nonresident permit quotas.

R657-5-28. Premium Limited Entry, Limited Entry, Cooperative Wildlife Management Unit and Once-In-A-Lifetime, and General Buck Deer, General Muzzleloader Elk and Youth General Any Bull Elk Application Refunds.

(1) Unsuccessful applicants who applied in the big game drawing and who applied with a check or money order will receive a refund in May.

(2)(a) Unsuccessful applicants, who applied with a credit or debit card, will not be charged for a permit.

(b) Unsuccessful applicants, who applied as a group, will receive an equally distributed refund of money remaining after the successful applicants' permits are paid for.

(c) If group members have other financial arrangements between themselves, group members should be prepared to reallocate each group member's individual refunds among themselves.

(3) The handling fees are nonrefundable.

R657-5-29. Permits Remaining After the Drawing.

(1) Permits remaining after the big game drawing are sold only by mail or on a first-come, first-served basis beginning and ending on the dates provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

R657-5-30. Waiting Periods for Deer.

(1) A person who obtained a premium limited entry buck, limited entry buck or cooperative wildlife management unit buck deer permit through the big game drawing process during the preceding two years may not apply in the big game drawing for any of these permits during the current year.

(2) A person who obtains a premium limited entry buck, limited entry buck or cooperative wildlife management unit buck deer permit through the big game drawing process, may not apply for any of these permits again for a period of two years.

(3) A waiting period does not apply to:

(a) general archery, general season, general muzzleloader, antlerless deer, conservation, sportsman and poaching-reported reward deer permits; or

(b) cooperative wildlife management unit or limited entry landowner buck deer permits obtained through the landowner.

R657-5-31. Waiting Periods for Elk.

(1) A person who obtained a premium limited entry, limited entry or cooperative wildlife management unit bull elk permit through the big game drawing process during the preceding four years may not apply in the big game drawing for any of these permits during the current year.

(2) A person who obtains a premium limited entry, limited entry or cooperative wildlife management unit bull elk permit through the big game drawing, may not apply for any of these permits for a period of five years.

(3) A waiting period does not apply to:

(a) general archery, general season, general muzzleloader, antlerless elk, cooperative wildlife management unit spike bull elk, conservation, sportsman and poaching-reported reward elk permits; or

(b) cooperative wildlife management unit or limited entry landowner bull elk permits obtained through the landowner.

R657-5-32. Waiting Periods for Pronghorn.

(1) A person who obtained a buck pronghorn permit through the big game drawing process in the preceding two years, may not apply in the big game drawing for a buck pronghorn permit during the current year.

(2) A person who obtains a buck pronghorn or cooperative wildlife management unit buck pronghorn permit through the big game drawing, may not apply for any of these permits for a period of two years.

(3) A waiting period does not apply to:

(a) doe pronghorn, pronghorn conservation, sportsman and poaching-reported reward permits; or

(b) cooperative wildlife management unit or limited entry landowner buck pronghorn permits obtained through the landowner.

R657-5-33. Waiting Periods for Antlerless Moose.

(1) A person who obtained an antlerless moose permit or a cooperative wildlife management unit antlerless moose permit through the antlerless drawing process during the preceding four years, may not apply for an antlerless moose permit during the current year.

(2) A person who obtains an antlerless moose permit or a cooperative wildlife management unit antlerless moose permit through the antlerless drawing process in the current year, may not apply for an antlerless moose permit for a period of five years.

(3) A waiting period does not apply to cooperative wildlife management unit antlerless moose permits obtained through the landowner.

R657-5-34. Waiting Periods for Once-In-A-Lifetime Species.

(1) Any person who has obtained a permit for any bull moose, bison, Rocky Mountain bighorn sheep, desert bighorn sheep, or Rocky Mountain goat may not apply for a once-in-a-lifetime permit for the same species in the big game drawing or sportsman permit drawing.

(2) A person who has been convicted of unlawfully taking a once-in-a-lifetime species may not apply for or obtain a permit for that species.

R657-5-35. Waiting Periods for Permits Obtained After the Drawing.

(1) Waiting periods provided in Sections R657-5-30 through R657-5-34 do not apply to the purchase of the remaining permits sold over the counter.

(2) However, waiting periods are incurred as a result of purchasing remaining permits after the drawing. Therefore, if a remaining permit is purchased in the current year, waiting periods will be in effect when applying in the drawing in following years.

R657-5-36. Waiting Periods for Cooperative Wildlife Management Unit Permits and Landowner Permits.

(1)(a) A waiting period or once-in-a-lifetime status does not apply to purchasing limited entry landowner or cooperative wildlife management unit permits obtained through a landowner, except as provided in Subsection (b).

(b) Waiting periods are incurred for the purpose of applying in the big game drawing as a result of obtaining a cooperative wildlife management unit bull moose permit through a landowner.

R657-5-37. Bonus Point System and Preference Point System.

(1) Bonus points are used to improve odds for drawing permits.

(2)(a) A bonus point is awarded for:

(i) each valid unsuccessful application when applying for permits in the big game drawing; or

(ii) each valid application when applying for bonus points in the big game drawing.

(b) Bonus points are awarded by species.

(c) Bonus points are awarded for:

(i) premium limited entry, limited entry and cooperative wildlife management unit buck deer;

(ii) premium limited entry, limited entry and cooperative wildlife management unit bull elk;

(iii) limited entry and cooperative wildlife management unit buck pronghorn; and

(iv) all once-in-a-lifetime species.

(3) A person may apply for a bonus point for:

(a) only one of the following species:

(i) buck deer - premium limited entry, limited entry and cooperative wildlife management unit;

(ii) bull elk - limited entry and cooperative wildlife management unit; or

(iii) buck pronghorn - limited entry and cooperative wildlife management unit; and

(b) only one once-in-a-lifetime, including once-in-a-lifetime cooperative wildlife management unit.

(4)(a) A person may not apply in the drawing for both a premium limited entry or limited entry bonus point and a premium limited entry or limited entry permit.

(b) A person may not apply in the drawing for a once-in-a-lifetime bonus point and a once-in-a-lifetime permit.

(c) A person may not apply for a bonus point if that person is ineligible to apply for a permit for the respective species.

(d) A person may only apply for bonus points in the big game drawing.

(e) Group applications will not be accepted when applying for bonus points.

(5)(a) Fifty percent of the permits for each hunt unit and species will be reserved for applicants with bonus points.

(b) Based on the applicant's first choice, the reserved permits will be designated by a random drawing number to eligible applicants with the greatest number of bonus points for each species.

(c) If reserved permits remain, the reserved permits will be designated by a random number to eligible applicants with the next greatest number of bonus points for each species.

(d) The procedure in Subsection (c) will continue until all reserved permits have been issued or no applications for that species remain.

(e) Any reserved permits remaining and any applicants who were not selected for reserved permits will be returned to the big game drawing.

(6)(a) Each applicant receives a random drawing number for:

(i) each species applied for; and

(ii) each bonus point for that species.

(7) Bonus points are forfeited if a person obtains a permit through the drawing for that bonus point species as provided in Subsection (2)(c), including any permit obtained after the drawing.

(8) Bonus points are not forfeited if:

(a) a person is successful in obtaining a conservation permit or sportsman permit;

(b) a person obtains a landowner or a cooperative wildlife management unit permit from a landowner; or

(c) a person obtains a poaching-reported reward permit.

(9) Bonus points are not transferable.

(10) Bonus points are averaged and rounded down when two or more applicants apply together on a group application.

(11)(a) Bonus points are tracked using social security numbers or division-issued hunter identification numbers.

(b) The Division shall retain paper copies of applications for three years prior to the current big game drawing for the purpose of researching bonus point records.

(c) The Division shall retain electronic copies of applications from 1996 to the current big game drawing for the purpose of researching bonus point records.

(d) Any requests for researching an applicant's bonus point records must be requested within the time frames provided in Subsection (b) and (c).

(e) Any bonus points on the Division's records shall not be researched beyond the time frames provided in Subsection (b) and (c).

(f) The Division may eliminate any bonus points earned that are obtained by fraud or misrepresentation.

(12) Preference points are used in the big game drawing for general buck deer permits to ensure that applicants who are unsuccessful in the drawing for general buck deer permits, will have first preference in the next year's drawing.

(13) A preference point is awarded for:

(a) each valid unsuccessful application when applying for a general buck deer permit; or

(b) each valid application when applying only for a preference point in the big game drawing.

(14)(a) A person may not apply in the drawing for both a general buck deer preference point and a general buck deer permit.

(b) A person may not apply for a preference point if that person is ineligible to apply for a permit.

(c) Preference points shall not be used when obtaining remaining permits after the big game drawing.

(15) Preference points are forfeited if a person obtains a general buck deer permit through the drawing.

(16)(a) Preference points are not transferable.

(b) Preference points shall only be applied to the big game drawing.

(17) Preference points are averaged and rounded down when two or more applicants apply together on a group application.

(18)(a) Preference points are tracked using social security numbers or division-issued hunter identification numbers.

(b) The Division shall retain paper copies of applications for three years prior to the current big game drawing for the purpose of researching preference point records.

(c) The Division shall retain electronic copies of applications from 2000 to the current big game drawing for the purpose of researching preference point records.

(d) Any requests for researching an applicant's preference point records must be requested within the time frames provided in Subsection (b) and (c).

(e) Any preference points on the Division's records shall not be researched beyond the time frames provided in Subsection (b) and (c).

(f) The Division may eliminate any preference points earned that are obtained by fraud or misrepresentation.

R657-5-38. General Archery Buck Deer Hunt.

(1) The dates of the general archery buck deer hunt are provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2) A person who has obtained a general archery buck deer permit, or any other permit which allows that person to hunt general archery buck deer may use archery equipment to take:

(a) one buck deer statewide within a general hunt area, except premium limited entry deer, limited entry deer and cooperative wildlife management unit deer areas and specific hunt areas published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game; or

(b) a deer of hunter's choice within the Wasatch Front or Uintah Basin extended archery area as provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(3)(a) A person who obtains a general archery buck deer permit, or any other permit which allows that person to hunt general archery buck deer, may hunt within the Wasatch Front, Ogden or the Uintah Basin extended archery areas during the extended archery area seasons as provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game and as provided in Subsection (b).

(b) A person must complete an extended archery ethics course annually to hunt the Wasatch Front, Ogden or Uintah Basin extended archery areas during the extended archery season.

(c) A person must possess the extended archery ethics course certificate of completion while hunting.

(4) A person who has obtained a general archery deer permit may not hunt during any other deer hunt or obtain any other deer permit, except antlerless deer.

(5)(a) Any person 18 years of age or younger on the opening day of the general archery buck deer season, may hunt the statewide general archery, or by region the general season and general muzzleloader deer seasons, using the appropriate equipment as provided in Sections R657-5-8 through R657-5-12, respectively, for each respective season, provided that person obtains a general season or general muzzleloader deer permit for a specified region.

(b) If a person 18 years of age or younger purchases a general archery buck deer permit, that person may only hunt during the statewide general archery deer season.

(6) Hunter orange material must be worn if a centerfire rifle hunt is also in progress in the same area as provided in Section 23-20-31. Archers are cautioned to study rifle hunt tables and identify these areas described in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

R657-5-39. General Season Buck Deer Hunt.

(1) The dates for the general season buck deer hunt are provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2) A person who has obtained a general season buck permit may use any legal weapon to take one buck deer within the hunt area specified on the permit, except premium limited entry deer, limited entry deer and cooperative wildlife management unit deer areas and specific hunt areas published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(3) A person who has obtained a general season buck deer permit may not hunt during any other deer hunt or obtain any other deer permit, except:

(a) antlerless deer; and

(b) any person 18 years of age or younger on the opening day of the general archery buck deer season, may hunt the general archery, general season and general muzzleloader deer seasons, using the appropriate equipment as provided in Sections R657-5-8 through R657-5-12, respectively, for each respective season.

(i) If a person 18 years of age or younger purchases a general archery buck deer permit, that person may only hunt during the statewide general archery deer season.

R657-5-40. General Muzzleloader Buck Deer Hunt.

(1) The dates for the general muzzleloader buck deer hunt are provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2) A person who has obtained a general muzzleloader buck permit may use a muzzleloader to take one buck deer within the general hunt area specified on the permit, except premium limited entry deer, limited entry deer and cooperative wildlife management unit deer areas and specific hunt areas published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(3) A person who has obtained a general muzzleloader deer permit may not hunt during any other deer hunt or obtain any other deer permit, except:

(a) antlerless deer; and

(b) any person 18 years of age or younger on the opening day of the general archery buck deer season, may hunt the general archery, general season and general muzzleloader deer seasons, using the appropriate equipment as provided in Sections R657-5-8 through R657-5-12, respectively, for each respective season.

(i) If a person 18 years of age or younger purchases a general archery buck deer permit, that person may only hunt during the statewide general archery deer season.

(4) Hunter orange material must be worn if a centerfire

rifle hunt is also in progress in the same area as provided in Section 23-20-31. Muzzleloader hunters are cautioned to study the rifle hunt tables to identify these areas described in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

R657-5-41. Limited Entry Buck Deer Hunts.

(1) To hunt in a premium limited entry or limited entry area, hunters must obtain the respective limited entry buck permit. Limited entry areas are not open to general archery buck, general season buck, or general muzzleloader buck hunting, except as specified in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2) A limited entry buck deer permit allows a person using the prescribed legal weapon, to take one buck deer within the area and season specified on the permit, except deer cooperative wildlife management units located within the limited entry unit.

(3)(a) A person who has obtained a premium limited entry, limited entry, or cooperative wildlife management unit buck deer permit must report hunt information within 30 days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a buck deer.

(b) Limited entry and cooperative wildlife management unit buck deer permit holders must report hunt information by telephone, or through the Division's Internet address.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or cooperative wildlife management unit permit or bonus points in the following year.

(4) A person who has obtained a limited entry buck permit may not hunt during any other deer hunt or obtain any other deer permit, except antlerless deer.

R657-5-42. Antlerless Deer Hunts.

(1) To hunt an antlerless deer, a hunter must obtain an antlerless deer permit.

(2)(a) An antlerless deer permit allows a person to take one antlerless deer, per antlerless deer tag, using any legal weapon within the area and season as specified on the permit and in the antlerless addendum.

(b) A person may not hunt on any cooperative wildlife management units unless that person obtains an antlerless deer permit for a cooperative wildlife management unit as specified on the permit.

(3) A person who has obtained an antlerless deer permit may not hunt during any other antlerless deer hunt or obtain any other antlerless deer permit.

(4)(a) A person who obtains an antlerless deer permit and any of the permits listed in Subsection (b), or any permit valid during the general archery deer hunt, may use the antlerless deer permit during the established season for the antlerless deer permit and during the established season for the permits listed in Subsection (b) provided:

(i) the permits are both valid for the same area;

(ii) the appropriate archery equipment is used if hunting with an archery permit;

(iii) the appropriate muzzleloader equipment is used if hunting with a muzzleloader permit.

(b)(i) General archery deer;

(ii) general muzzleloader deer;

(iii) limited entry archery deer; or

(iv) limited entry muzzleloader deer.

R657-5-43. General Archery Elk Hunt.

(1) The dates of the general archery elk hunt are provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2)(a) A person who has obtained a general archery elk permit may use archery equipment to take:

(i) one elk of hunter's choice on a general any bull elk unit, except on elk cooperative wildlife management units;

(ii) an antlerless elk or spike bull elk on a general spike bull elk unit, except on elk cooperative wildlife management units and the Plateau, Fish Lake-Thousand Lakes;

(iii) only a spike bull elk on the Plateau, Fish Lake-Thousand Lakes; or

(iv) one elk of hunter's choice on the Wasatch Front or Uintah Basin extended archery areas as provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(3)(a) A person who obtains a general archery elk permit may hunt within the Wasatch Front, Uintah Basin, Nebo-West Desert, and Sanpete Valley extended archery areas during the extended archery area seasons as provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game and as provided in Subsection (b).

(b) A person must complete an extended archery ethics course annually to hunt the extended archery areas during the extended archery season.

(c) A person must possess the extended archery ethics course certificate of completion while hunting.

(4) A person who has obtained an archery elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsection R657-5-48(3).

(5) Hunter orange material must be worn if a centerfire rifle hunt is also in progress in the same area as provided in Section 23-20-31. Archers are cautioned to study the rifle hunt tables to identify these areas described in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

R657-5-44. General Season Bull Elk Hunt.

(1) The dates for the general season bull elk hunt are provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game within general season elk units, except in the following areas:

(a) Salt Lake County south of I-80 and east of I-15; and

(b) elk cooperative wildlife management units.

(2)(a) A person may purchase either a spike bull permit or an any bull permit.

(b) A person who has obtained a general season spike bull elk permit may take a spike bull elk on a general season spike bull elk unit. Any bull units are closed to spike bull permittees.

(c) A person who has obtained a general season any bull elk permit may take any bull elk, including a spike bull elk on a general season any bull elk unit. Spike bull units are closed to any bull permittees.

(3) A person who has obtained a general season bull elk permit may use any legal weapon to take a spike bull or any bull elk as specified on the permit.

(4) A person who has obtained a general season bull elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsection R657-5-48(3).

R657-5-45. General Muzzleloader Elk Hunt.

(1) The dates of the general muzzleloader elk hunt are provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game within the general season elk units, except in the following closed areas:

(a) Salt Lake County south of I-80 and east of I-15; and

(b) elk cooperative wildlife management units.

(2)(a) General muzzleloader elk hunters may purchase either a spike bull elk permit or an any bull elk permit.

(b) A person who has obtained a general muzzleloader

spike bull elk permit may take a spike bull elk on an any general spike bull elk unit. Any bull units are closed to spike bull muzzleloader permittees.

(c) A person who has obtained a general muzzleloader any bull elk permit may take any bull elk on an any bull elk unit. Spike bull units are closed to any bull muzzleloader permittees.

(3) A person who has obtained a general muzzleloader elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsection R657-5-48(3).

R657-5-46. Youth General Any Bull Elk Hunt.

(1)(a) For purposes of this section "youth" means any person 18 years of age or younger on the opening day of the youth any bull elk season published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(b) A youth may apply for or obtain a youth any bull elk permit.

(c) A youth may only obtain a youth any bull elk permit once during their youth.

(2) The youth any bull elk hunting season and areas are published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(3)(a) A youth who has obtained a youth general any bull elk permit may take any bull elk, including a spike bull elk, on a general any bull elk unit. Spike bull elk units are closed to youth general any bull elk permittees.

(b) A youth who has obtained a youth general any bull elk permit may use any legal weapon to take any bull elk as specified on the permit.

(4) A youth who has obtained a youth general any bull elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Section R657-5-48(3).

(5) Preference points shall not be awarded or utilized when applying for, or in obtaining, youth general any bull elk permits.

R657-5-47. Limited Entry Bull Elk Hunt.

(1) To hunt in a premium limited entry or limited entry bull elk area, a hunter must obtain the respective premium limited entry or limited entry elk permit.

(2)(a) A premium limited entry bull elk permit allows a person, using the prescribed legal weapon, to take one bull elk within the area and to hunt all seasons specified in the hunt tables, published in the proclamation of the Wildlife Board for taking big game, for the area specified on the permit, except elk cooperative wildlife management units located within a premium limited entry unit. Spike bull elk restrictions do not apply to premium limited entry elk permittees.

(b) A limited entry bull elk permit allows a person, using the prescribed legal weapon, to take one bull elk within the area and season specified on the permit, except elk cooperative wildlife management units located within a limited entry unit. Spike bull elk restrictions do not apply to limited entry elk permittees.

(3)(a) A person who has obtained a premium limited entry, limited entry or cooperative wildlife management unit bull elk permit must report hunt information within 30 days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a bull elk.

(b) Limited entry and cooperative wildlife management unit bull elk permit holders must report hunt information by telephone, or through the Division's Internet address.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or cooperative wildlife management unit permit or bonus points in the following year.

(4) A person who has obtained a premium limited entry or limited entry bull elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsections (4)(a) and R657-5-48(3).

R657-5-48. Antlerless Elk Hunts.

(1) To hunt an antlerless elk, a hunter must obtain an antlerless elk permit.

(2)(a) An antlerless elk permit allows a person to take one antlerless elk using any legal weapon within the area and season as specified on the permit and in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(b) A person may not hunt on any cooperative wildlife management units unless that person obtains an antlerless elk permit for a cooperative wildlife management unit as specified on the permit.

(3)(a) A person may obtain two elk permits each year, provided one or both of the elk permits is an antlerless elk permit.

(b) For the purposes of obtaining two elk permits, a hunter's choice elk permit may not be considered an antlerless elk permit.

(4)(a) A person who obtains an antlerless elk permit and any of the permits listed in Subsection (b), or any permit valid during the general archery deer hunt, may use the antlerless elk permit during the established season for the antlerless elk permit and during the established season for the permits listed in Subsection (b) provided:

(i) the permits are both valid for the same area;

(ii) the appropriate archery equipment is used if hunting with an archery permit;

(iii) the appropriate muzzleloader equipment is used if hunting with a muzzleloader permit.

(b)(i) General archery deer;

(ii) general archery elk;

(iii) general muzzleloader deer;

(iv) general muzzleloader elk;

(v) limited entry archery deer;

(vi) limited entry archery elk;

(vii) limited entry muzzleloader deer; or

(viii) limited entry muzzleloader elk.

R657-5-49. Buck Pronghorn Hunts.

(1) To hunt buck pronghorn, a hunter must obtain a buck pronghorn permit.

(2) A person who has obtained a buck pronghorn permit may not obtain any other pronghorn permit or hunt during any other pronghorn hunt.

(3)(a) A person who has obtained a limited entry or cooperative wildlife management unit buck pronghorn permit must report hunt information within 30 days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a buck pronghorn.

(b) Limited entry and cooperative wildlife management unit buck pronghorn permit holders must report hunt information by telephone, or through the Division's Internet address.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or cooperative wildlife management unit permit or bonus points in the following year.

(4) A buck pronghorn permit allows a person using any legal weapon to take one buck pronghorn within the area and season specified on the permit, except during the buck pronghorn archery hunt, only archery equipment may be used.

R657-5-50. Doe Pronghorn Hunts.

(1) To hunt a doe pronghorn, a hunter must obtain a doe

pronghorn permit.

(2)(a) A doe pronghorn permit allows a person to take one doe pronghorn, per doe pronghorn tag, using any legal weapon within the area and season as specified on the permit and in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(b) A person may not hunt on any cooperative wildlife management units unless that person obtains an antlerless moose permit for a cooperative wildlife management unit as specified on the permit.

(3) A person who has obtained a doe pronghorn permit may not hunt during any other pronghorn hunt or obtain any other pronghorn permit.

R657-5-51. Antlerless Moose Hunts.

(1) To hunt an antlerless moose, a hunter must obtain an antlerless moose permit.

(2)(a) An antlerless moose permit allows a person to take one antlerless moose using any legal weapon within the area and season as specified on the permit and in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(b) A person may not hunt on any cooperative wildlife management unit unless that person obtains an antlerless moose cooperative wildlife management unit as specified on the permit.

(3) A person who has obtained an antlerless moose permit may not hunt during any other moose hunt or obtain any other moose permit.

R657-5-52. Bull Moose Hunts.

(1) To hunt bull moose, a hunter must obtain a bull moose permit.

(2) A person who has obtained a bull moose permit may not obtain any other moose permit or hunt during any other moose hunt.

(3) A bull moose permit allows a person using any legal weapon to take one bull moose within the area and season specified on the permit, except in bull moose cooperative wildlife management units located within a limited entry unit.

(4)(a) A person who has obtained a bull moose permit must report hunt information within 30 days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a bull moose.

(b) Bull moose permit holders must report hunt information by telephone, or through the Division's Internet address.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or cooperative wildlife management unit permit or bonus points in the following year.

R657-5-53. Bison Hunts.

(1) To hunt bison, a hunter must obtain a bison permit.

(2) A person who has obtained a bison permit may not obtain any other bison permit or hunt during any other bison hunt.

(3) The bison permit allows a person using any legal weapon to take a bison within the area and season as specified on the permit.

(4)(a) An orientation course is required for bison hunters who draw a an Antelope Island bison permit. Hunters shall be notified of the orientation date, time and location.

(b) The Antelope Island hunt is administered by the Division of Parks and Recreation.

(5) An orientation course is required for bison hunters who draw Henry Mountain cow bison permits. Hunters will be notified of the orientation date, time and location.

(6)(a) A person who has obtained a bison permit must report hunt information within 30 days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a bison.

(b) Bison permit holders must report hunt information by telephone, or through the Division's Internet address.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or cooperative wildlife management unit permit or bonus points in the following year.

R657-5-54. Desert Bighorn and Rocky Mountain Bighorn Sheep Hunts.

(1) To hunt desert bighorn sheep or Rocky Mountain bighorn sheep, a hunter must obtain the respective permit.

(2) A person who has obtained a desert bighorn sheep or Rocky Mountain bighorn sheep permit may not obtain any other desert bighorn sheep or Rocky Mountain bighorn sheep permit or hunt during any other desert bighorn sheep or Rocky Mountain bighorn sheep hunt.

(3) Desert bighorn sheep and Rocky Mountain big horn sheep permits are considered separate once-in-a-lifetime hunting opportunities.

(4)(a) The desert bighorn sheep permit allows a person using any legal weapon to take one desert bighorn ram within the area and season specified on the permit.

(b) The Rocky Mountain sheep permit allows a person using any legal weapon to take one Rocky Mountain bighorn ram within the area and season specified on the permit.

(5) The permittee may attend a hunter orientation course. The division provides each permittee with the time and location of the course.

(6) All bighorn sheep hunters are encouraged to have a spotting scope with a minimum of 15 power while hunting bighorn sheep. Any ram may be legally taken, however, permittees are encouraged to take a mature ram. The terrain inhabited by bighorn sheep is extremely rugged, making this hunt extremely strenuous.

(7) Successful hunters must deliver the horns of the bighorn sheep to a division office within 72 hours of leaving the hunting area. A numbered seal will be permanently affixed to the horn indicating legal harvest.

(8)(a) A person who has obtained a desert bighorn sheep or Rocky Mountain bighorn sheep permit must report hunt information within 30 days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a desert bighorn sheep or Rocky Mountain bighorn sheep.

(b) Desert bighorn sheep or Rocky Mountain bighorn sheep permit holders must report hunt information by telephone, or through the Division's Internet address.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or cooperative wildlife management unit permit or bonus points in the following year.

R657-5-55. Rocky Mountain Goat Hunts.

(1) To hunt Rocky Mountain goat, a hunter must obtain a Rocky Mountain goat permit.

(2) A person who has obtained a Rocky Mountain goat permit may not obtain any other Rocky Mountain goat permit or hunt during any other Rocky Mountain goat hunt.

(3) Any goat may be legally taken on a hunter's choice permit, however, permittees are encouraged to take a mature goat. A mature goat is a goat older than two years of age, as determined by counting the annual rings on the horn.

(4) The goat permit allows a person using any legal

weapon to take one goat within the area and season specified on the permit.

(5) All goat hunters are encouraged to have a spotting scope with a minimum of 15 power while hunting goats. The terrain inhabited by Rocky Mountain goat is extremely rugged making this hunt extremely strenuous. The goat's pelage may be higher quality later in the hunting season.

(6) An orientation course is required for Rocky Mountain goat hunters who draw female only goat permits. Hunters will be notified of the orientation date, time and location.

(7)(a) A person who has obtained a Rocky Mountain goat permit must report hunt information within 30 days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a Rocky Mountain goat.

(b) Rocky Mountain goat permit holders must report hunt information by telephone, or through the Division's Internet address.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or cooperative wildlife management unit permit or bonus points in the following year.

R657-5-56. Depredation Hunter Pool Permits.

When deer, elk or pronghorn are causing damage, antlerless control hunts not listed in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game may be held as provided in Rule R657-44. These hunts occur on short notice, involve small areas, and are limited to only a few hunters.

R657-5-57. Antlerless Application - Deadlines.

(1) Applications are available from license agents, division offices, and through the division's Internet address.

(2) Residents may apply for, and draw the following permits, except as provided in Subsection (5):

(a) antlerless deer;

(b) antlerless elk;

(c) doe pronghorn; and

(d) antlerless moose.

(3) Nonresidents may apply in the drawing for, and draw the following permits, except as provided in Subsection (5):

(a) antlerless deer;

(b) antlerless elk;

(c) doe pronghorn; and

(d) antlerless moose, if permits are available during the current year.

(4) A youth may apply in the antlerless drawing as provided in Subsection (3) or Subsection R657-5-59(3).

(5) Any person who has obtained a pronghorn permit, or a moose permit may not apply for a doe pronghorn permit or antlerless moose permit, respectively, except as provided in Section R657-5-61.

(6) A person may not submit more than one application in the antlerless drawing per each species as provided in Subsections (2) and (3).

(7) Only a resident may apply for or obtain a resident permit and only a nonresident may apply for or obtain a nonresident permit, except as provided in Subsection R657-5-59(4) and Section R657-5-61.

(8)(a) Applications must be mailed by the date prescribed in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game. Applications filled out incorrectly or received later than the date prescribed in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game may be rejected.

(b) If an error is found on an application, the applicant may be contacted for correction.

(9)(a) Late applications, received by the date published in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation, will not be considered in the drawing, but will be processed for the purpose of entering data into the division's draw data base to provide:

(i) future preprinted applications;

(ii) notification by mail of late application and other draw opportunities; and

(iii) re-evaluation of division or third-party errors.

(b) The nonrefundable handling fee will be used to process the late application. Any permit fees submitted with the application will be refunded.

(c) Late applications received after the date published in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation shall not be processed and shall be returned to the applicant.

(10) Any person who applies for a hunt that occurs on private land is responsible for obtaining written permission from the landowner to access the property. To avoid disappointment and wasting the permit and fee if access is not obtained, hunters should get written permission before applying. The division does not guarantee access and does not have the names of landowners where hunts occur.

(11) To apply for a resident permit, a person must establish residency at the time of purchase.

(12) The posting date of the drawing shall be considered the purchase date of a permit.

R657-5-58. Fees for Antlerless Applications.

Each application must include the permit fee and a nonrefundable handling fee for each species applied for, except when applying with a credit or debit card, the permit fees and handling fees must be paid pursuant to Rule R657-42-8(5).

R657-5-59. Antlerless Big Game Drawing.

(1) The antlerless drawing results may be posted at the Lee Kay Center, Cache Valley Hunter Education Center, division offices and on the division Internet address on the date published in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2) Permits are drawn in the order listed in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(3)(a) Twenty percent of the antlerless deer, elk and doe pronghorn permits are reserved for youth hunters.

(b) For purposes of this section, "youth" means any person 18 years of age or younger on the opening day of the general archery buck deer season.

(c) Youth hunters who wish to participate in the youth drawing must:

(i) submit an application in accordance with Section R657-5-57; and

(ii) not apply as a group.

(d) Youth applicants who apply for an antlerless deer, elk, or doe pronghorn permit as provided in Subsection (c), will automatically be considered in the youth drawing based upon their birth date.

(e) Any reserved permits remaining and any youth applicants who were not selected for reserved permits shall be returned to the antlerless drawing.

(4) If permits remain after all choices have been evaluated separately for residents and nonresidents, a second evaluation will be done allowing cross-over usage of remaining resident and nonresident permit quotas.

R657-5-60. Antlerless Application Refunds.

(1) Unsuccessful applicants, who applied with a check or money order will receive a refund in August.

(2)(a) Unsuccessful applicants, who applied with a credit or debit card, will not be charged for a permit.

(b) Unsuccessful applicants, who applied as a group, will receive an equally distributed refund of money remaining after the successful applicants' permits are paid for in accordance with Section R657-5-26(6).

(3) The handling fees are nonrefundable.

R657-5-61. Over-the-counter Permit Sales After the Antlerless Drawing.

Permits remaining after the drawing will be sold beginning on the date prescribed in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game on a first-come, first-served basis from Division offices, through participating online license agents, and through the mail.

R657-5-62. Application Withdrawal or Amendment.

(1)(a) An applicant may withdraw their application for premium limited entry, limited entry, cooperative wildlife management unit and once-in-a-lifetime, and general buck deer and general muzzleloader elk permits from the big game drawing, or antlerless drawing by requesting such in writing by the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation or Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(b) The applicant must send their notarized signature with a statement requesting that their application be withdrawn to the address published in the proclamation of the Wildlife Board for taking big game.

(c) Handling fees will not be refunded.

(2)(a) An applicant may amend their application for the premium limited entry, limited entry, cooperative wildlife management unit and once-in-a-lifetime, and general buck deer and general muzzleloader elk permits from the big game drawing, or antlerless drawing by requesting such in writing by the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation or Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(b) The applicant must send their notarized signature with a statement requesting that their application be amended to the address published in the proclamation of the Wildlife Board for taking big game.

(c) The applicant must identify in their statement the requested amendment to their application.

(d) Handling fees will not be refunded.

(e) An amendment may cause rejection if the amendment causes an error on the application.

R657-5-63. Special Hunts.

(1)(a) In the event that wildlife management objectives are not being met for once-in-a-lifetime, premium limited entry, or limited entry species, the division may recommend that the Wildlife Board authorize a special hunt for a specific species.

(b) The division will only utilize Subsection (1)(a) if the Bucks, Bulls and Once-In-A-Lifetime Proclamation and Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game has been published and the Bucks, Bulls and Once-In-A-Lifetime and Antlerless drawings have been completed.

(2) The special hunt season dates, areas, number of permits, methods of take, requirements and other administrative details shall be provided in an addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation or Antlerless Addendum of the Wildlife Board for taking big game.

(3) Permits will be allocated through a special drawing for the pertinent species.

R657-5-64. Special Hunt Application - Deadlines.

(1) Applications are available from license agents and division offices.

(2)(a) Residents and nonresidents may apply.

(b) Any person who was unsuccessful in the Bucks, Bulls and Once-In-A-Lifetime or Antlerless drawing may apply. However, any person who has obtained a permit may not apply, unless otherwise provided in this rule and the Bucks, Bulls and Once-In-A-Lifetime Proclamation or Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(3)(a) Applications must be mailed by the date prescribed in the addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation or Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game. Applications filled out incorrectly or received later than the date prescribed in the addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation or Antlerless Addendum of the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game may be rejected. Late applications will be returned unopened.

(b) If an error is found on an application, the applicant may be contacted for correction.

(4) Bonus points will be used in the special hunt drawings to improve odds for drawing permits as provided in Section R657-5-37. However, bonus points will not be awarded for unsuccessful applications in the special hunt drawings.

(5) Any person who obtains a special hunt permit is subject to all rules and regulations provided in this rule, the Bucks, Bulls and Once-In-A-Lifetime Proclamation and Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game, unless otherwise provided in Sections R657-5-63 through R657-5-68.

R657-5-65. Fees for Special Hunt Applications.

(1) Each application must include:

(a) the permit fee for the species applied for; and

(b) a nonrefundable handling fee.

(2)(a) Personal checks, money orders, cashier's checks and credit or debit cards are accepted from residents.

(b) Money orders, cashier's checks and credit or debit cards are accepted from nonresidents. Personal checks are not accepted from nonresidents.

(3)(a) Credit or debit cards must be valid at least 30 days after the drawing results are posted.

(b) If applicants are applying as a group, all fees for all applicants in that group must be charged to one credit or debit card.

(c) Handling fees are charged to the credit or debit card when the application is processed. Permit fees are charged after the drawing, if successful.

(d) Payments to correct an invalid or refused credit or debit card must be made with a cashier's check or money order for the full amount of the application fees plus any permits requested.

(4) An application is voidable if the check is returned unpaid from the bank or the credit or debit card is invalid or refused.

R657-5-66. Special Hunt Drawing.

(1) The special hunt drawing results are posted at the Lee Kay Center, Cache Valley Hunter Education Center and division offices on the date published in the addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation or Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2) If permits remain after all choices have been evaluated

separately for residents and nonresidents, a second evaluation will be done allowing cross-over usage of remaining resident and nonresident permit quotas.

R657-5-67. Special Hunt Application Refunds.

(1) Unsuccessful applicants, who applied on the initial drawing and who applied with a check or money order will receive a refund within six weeks after posting of the drawing results.

(2) Unsuccessful applicants, who applied with a credit or debit card, will not be charged for a permit.

(3) The handling fees are nonrefundable.

R657-5-68. Permits Remaining After the Special Hunt Drawing.

Permits remaining after the special hunt drawing may be sold by mail or on a first-come, first-served basis as provided in the addendum to the Bucks, Bulls and Once-In-A-Lifetime or Antlerless Addendum of the Wildlife Board for taking big game. These permits may be purchased by either residents or nonresidents.

R657-5-69. Carcass Importation.

(1) It is unlawful to import dead elk, mule deer, or white-tailed deer or their parts from the areas of any state, province, game management unit, equivalent wildlife management unit, or county, which has deer or elk diagnosed with Chronic Wasting Disease, except the following portions of the carcass:

(a) meat that is cut and wrapped either commercially or privately;

(b) quarters or other portion of meat with no part of the spinal column or head attached;

(c) meat that is boned out;

(d) hides with no heads attached;

(e) skull plates with antlers attached that have been cleaned of all meat and tissue;

(f) antlers with no meat or tissue attached;

(g) upper canine teeth, also known as buglers, whistlers, or ivories; or

(h) finished taxidermy heads.

(2)(a) The affected states, provinces, game management units, equivalent wildlife management units, or counties, which have deer or elk diagnosed with Chronic Wasting Disease shall be available at division offices and through the division's Internet address.

(b) Importation of harvested elk, mule deer or white-tailed deer or their parts from the affected areas are hereby restricted pursuant to Subsection (1).

(3) Nonresidents of Utah transporting harvested elk, mule deer, or white-tailed deer from the affected areas are exempt if they:

(a) do not leave any part of the harvested animal in Utah and do not stay more than 24 hours in the state of Utah;

(b) do not have their deer or elk processed in Utah; or

(c) do not leave any parts of the carcass in Utah.

R657-5-70. Chronic Wasting Disease - Infected Animals.

(1) Any person who under the authority of a permit issued by the division legally takes a deer or elk that is later confirmed to be infected with Chronic Wasting Disease may:

(a) retain the entire carcass of the animal;

(b) retain any parts of the carcass, including antlers, and surrender the remainder to the division for proper disposal; or

(c) surrender all portions of the carcass in their actual or constructive possession, including antlers, to the division and receive a free new permit the following year for the same hunt.

(2) The new permit issued pursuant to Subsection (1)(c) shall be for the same species, sex, weapon type, unit, region, and otherwise subject to all the restrictions and conditions imposed on the original permit, except season dates for the permit shall follow the proclamation of the Wildlife Board for taking big game published in the year the new permit is valid.

(3) Notwithstanding other rules to the contrary, private landowners and landowner associations may refuse access to private property to persons possessing new permits issued under Subsection (1)(c).

KEY: wildlife, game laws, big game seasons

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	23-16-6

R657. Natural Resources, Wildlife Resources.
R657-17. Lifetime Hunting and Fishing License.
R657-17-1. Purpose and Authority.

(1) Under authority of Section 23-19-17.5, this rule provides the requirements and procedures applicable to lifetime hunting and fishing licenses.

(2) In addition to the provisions of this rule, a lifetime licensee is subject to:

(a) the provisions set forth in Title 23, Wildlife Resources Code of Utah; and

(b) the rules and proclamations of the Wildlife Board, including all requirements for special hunting and fishing permits and tags.

(3) Unless specifically stated otherwise, lifetime licensees shall be subject to any amendment to this rule or any amendment to Section 23-19-17.5.

R657-17-2. Definitions.

Terms used in this rule are defined in Section 23-13-2 and Rule R657-5.

R657-17-3. Lifetime License Entitlement.

(1) (a) A permanent lifetime license card shall be issued to lifetime licensees in lieu of an annual small game, and fishing license.

(b) The issuance of a permanent lifetime license card does not authorize a lifetime licensee to all hunting privileges. The lifetime licensee is subject to the requirements as provided in Subsection R657-17-1(2).

(2) In addition to a lifetime license card, each lifetime licensee shall receive without charge, a permit and tag of his choice for one of the following general deer hunts:

(i) general archery buck deer;

(ii) general season buck deer; or

(iii) general muzzleloader buck deer.

(3) Sales of lifetime hunting and fishing licenses may not be refunded, except as provided in Section 23-19-38.

(4) Lifetime hunting and fishing licenses are not transferable.

(5) Lifetime hunting and fishing licenses are no longer for sale as of March 1, 1994.

(6)(a) Lifetime license holders may participate in the Dedicated Hunter Program.

(b) Upon entering the Dedicated Hunter Program, the lifetime license holder agrees to forego any rights to receive a buck deer permit for the general archery, general season or general muzzleloader deer hunts as provided in Section 23-19-17.5 during enrollment in the Dedicated Hunter Program.

R657-17-4. General Deer Permits and Tags.

(1)(a) The division shall, prior to the annual bucks, bulls and once-in-a-lifetime application period, send a Lifetime General Deer questionnaire to each lifetime licensee who is eligible to hunt big game.

(b) The lifetime licensee shall correctly fill out the questionnaire indicating the lifetime licensee's choice of general deer permits as provided in Subsection R657-17-3(2) and the region in which the lifetime licensee chooses to hunt.

(c) The questionnaire must be returned by mail to the Salt Lake division office and must be received by April 1 annually.

(2)(a) Except as provided in Subsection (c) and Subsection (d), the division may not issue a permit to any lifetime licensee who was given reasonable notice of the deadline as provided in Subsection (1)(c) and fails to return a complete and accurate Lifetime General Deer questionnaire to the division.

(b) The division shall make a good faith effort to notify any lifetime licensee who has made a material error in completing the questionnaire. However, if the division is unable to contact the lifetime licensee and correct the error, the questionnaire shall be void and the lifetime licensee may not receive a permit, except as provided in Subsection (d).

(c) The director or his designee may issue a permit to a lifetime licensee who did not receive reasonable notice of the deadline as provided in Subsection (1)(c).

(d) If a lifetime licensee fails to return a Lifetime General Deer questionnaire by the deadline as provided in Subsection (1)(c), the lifetime licensee may obtain an available general deer permit on the date these permits are made available over-the-counter to the general public.

(e) As used in this section "reasonable notice" means that a Lifetime General Deer questionnaire was sent within a reasonable time before the deadline as provided in Subsection (1)(c) to the most recent address given to the division by the lifetime licensee.

(3) Lifetime licensees must notify the division of any change of mailing address, residency, address, telephone number, physical description, or driver's license number.

(4)(a) Lifetime licensees may apply for or obtain general deer preference points or permits through the big game general buck deer drawing as provided in Rule R657-5 and the proclamation of the Wildlife Board for taking big game, provided the lifetime licensee waives their choice of general deer permits as provided in Subsection R657-17-3(2) and the region in which the lifetime licensee chooses to hunt.

(b) If a lifetime licensee applies for and does not obtain a general deer permit through the big game general buck deer drawing, the lifetime licensee may only obtain an available general deer permit on the date these permits are made available over-the-counter to the general public.

R657-17-5. Applying for Limited Entry Permits in the Bucks, Bulls and Once-In-A-Lifetime Drawing.

(1) A lifetime licensee may apply for a limited entry permit offered through the bucks, bulls and once-in-a-lifetime drawing using a bucks, bulls and once-in-a-lifetime application published by the division.

(2) Limited entry permit species and application procedures are provided in Rule R657-5 and the proclamation of the Wildlife Board for taking big game.

(3)(a) If the lifetime licensee applies for and is successful in obtaining a premium limited entry, limited entry, or cooperative wildlife management unit buck deer permit in the bucks, bulls and once-in-a-lifetime drawing, a general deer permit will not be issued.

(b) If the lifetime licensee does not draw a premium limited entry, limited entry, or cooperative wildlife management unit buck deer permit in the bucks, bulls and once-in-a-lifetime drawing, the general deer permit requested on the Lifetime General Deer Questionnaire shall be issued.

(4) Applying for or obtaining an antlerless deer, antlerless elk, or doe pronghorn permit does not affect eligibility for obtaining a general buck deer permit.

(5) All rules established by the Wildlife Board regarding the availability of big game permits in relation to obtaining general deer permits shall apply to lifetime licensees.

R657-17-6. Hunter Education Requirements -- Minimum Age for Hunting.

(1) The division shall issue a lifetime licensee only those licenses, permits, and tags for which that person qualifies according to the hunter education requirements, age restrictions specified in this Section and Title 23, Wildlife Resources Code of Utah, and suspension orders of a division hearing officer.

(2)(a) Lifetime licensees born after December 31, 1965, must be certified under Section 23-19-11 to engage in hunting.

(b) Proof of hunter education must be provided to the division by the lifetime licensee.

(3) Age requirements to engage in hunting are as follows:

(a) A lifetime licensee must be 12 years of age or older to hunt small game.

(b) A lifetime licensee must be 14 years of age or older to hunt big game. A lifetime licensee 13 years of age may hunt big game if that person's 14th birthday falls within the calendar year.

R657-17-7. Change of Residency.

(1) A lifetime hunting and fishing license shall remain valid if the licensee changes residency to another state or country.

(2)(a) A lifetime licensee who no longer qualifies as a resident under Section 23-13-2 shall notify the division within 60 days of leaving the state.

(b) The division shall issue the lifetime licensee a new lifetime hunting and fishing license with the change of address after the lifetime licensee surrenders the lifetime hunting and fishing license with the previous address.

(3) A lifetime licensee who does not qualify as a resident shall purchase the required nonresident permits or tags required for hunting, except as provided in Subsection R657-17-3(2).

R657-17-8. Lost or Stolen Lifetime Hunting and Fishing License.

(1) If a lifetime hunting and fishing license is lost or stolen, a duplicate may be obtained from any division office.

(2) The lifetime licensee shall:

(a) present a valid driver's license, identification card, birth certificate, or other form of proper identification;

(b) sign an affidavit stating the lifetime hunting and fishing license was lost or stolen; and

(c) pay a duplicate lifetime hunting and fishing license fee.

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R657. Natural Resources, Wildlife Resources.
R657-38. Dedicated Hunter Program.
R657-38-1. Purpose and Authority.

(1) Under the authority of Section 23-14-18, this rule provides the standards and requirements for qualified deer hunters to participate in the Dedicated Hunter Program by obtaining a certificate of registration.

(2) The Dedicated Hunter Program provides the opportunity for participants to:

(a) increase the opportunity for recreational general deer hunting, while the division regulates harvest;

(b) increase participation in wildlife management decisions;

(c) increase participation in wildlife conservation projects that are beneficial to wildlife conservation and the division; and

(d) attend wildlife conservation courses about hunter ethics and the division's wildlife conservation philosophies and strategies.

R657-38-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Dedicated Hunter Permit" means a general buck deer permit issued to a dedicated hunter participant in the Dedicated Hunter Program, which authorizes the participant to hunt general archery, general season and general muzzleloader in the region specified on the permit.

(b) "Hunt area" means an area prescribed by the Wildlife Board where general archery, general season or general muzzleloader deer hunting is open to permit holders for taking deer.

(c) "Limited Entry Dedicated Hunter Permit" means a limited entry deer permit or limited entry elk permit, for use in an area selected by the Division, which shall be offered through the Dedicated Hunter Program Drawing.

(d) "Participant" means a person who has remitted the appropriate fee and has been issued a certificate of registration for the Dedicated Hunter Program.

(e) "Program" means the Dedicated Hunter Program, a program administered by the division as provided in this rule.

(f) "Program harvest" means tagging a deer with a Dedicated Hunter Permit or Limited Entry Dedicated Hunter Deer Permit, or failing to return the Dedicated Hunter Permit or Limited Entry Dedicated Hunter Deer Permit with an attached, unused tag, while enrolled in the program.

(g) "Program requirements" mean the Wildlife Conservation Course as provided in Section R657-38-5, the Wildlife Conservation Project as provided in Section R657-38-6, the Regional Advisory Council meeting as provided in Section R657-38-7, and returning an unused Dedicated Hunter Permit and attached tag as provided in Subsection R657-38-9(1).

(h) "Wildlife conservation course" means a course of instruction provided by the division on hunter ethics and wildlife conservation philosophies and strategies.

(i) "Wildlife conservation project" means a project designed by the division, or any other individual or entity and pre-approved by the division, that provides wildlife habitat protection or enhancement on public or private lands, improves hunting or fishing access, or other conservation projects or activities that benefit wildlife or directly benefits the division.

(j) "Wildlife conservation project manager" means an employee of the division, or person approved by the division, responsible for supervising a wildlife conservation project and maintaining and reporting records of service hours to the division.

R657-38-3. Certificate of Registration Required.

(1) A person may not participate in the program if that person has been convicted of or entered a plea in abeyance to any of the following classes of violations of Title 23, Wildlife Resources Code, or any rule or proclamation of the Wildlife Board, or is currently on wildlife license suspension:

(a) felony;

(b) Class A misdemeanor in the last five years; or

(c) three or more Class B or Class C misdemeanors in the past five years.

(2)(a) To participate in the program a person must obtain and sign a certificate of registration from the division.

(b) No more than ten thousand certificates of registration for the program may be in effect at any given time.

(c) Certificates of registration are issued on a first-come, first-served basis at division offices.

(d) Each prospective participant must provide evidence of having completed a wildlife conservation course before the division may issue the certificate of registration for the program.

(e) A certificate of registration to participate in the program shall only be issued January 1 through January 31 annually, unless January 1 or January 31 is a Saturday, Sunday, or holiday, in which case the date shall be extended to the following business day.

(3) Each certificate of registration is valid for three consecutive general deer hunting seasons.

(4)(a) Any person who is 14 years of age or older may obtain a certificate of registration. A person 13 years of age may obtain a certificate of registration if the date of that person's 14th birthday is before the end of the calendar year in which the certificate of registration is issued.

(b) Any person who is 17 years of age or younger before the beginning date of the annual general archery deer hunt shall pay the youth participant fees.

(c) Any person who is 18 years of age or older on or before the beginning date of the annual general archery deer hunt shall pay the adult participant fees.

(5) A certificate of registration authorizes the participant an opportunity to receive annually a Dedicated Hunter Permit to hunt during the general archery, general season and general muzzleloader deer hunts. The Dedicated Hunter Permit may be used during the dates and within the hunt area boundaries established by the Wildlife Board.

(6)(a) Except as provided in Subsections (b), and R657-38-8(7), a participant using a Dedicated Hunter Permit may take two deer within three years of enrollment, and only one deer in any one year as provided in Rule R657-5.

(b) Participants entering or re-entering the Dedicated Hunter Program shall be subject to any changes subsequently made in this rule during the three-year term of enrollment.

(c) The harvest of an antlerless deer using a Dedicated Hunter Permit, as authorized under specific hunt choice areas during the general archery deer hunt, shall be considered a program harvest.

(7) The certificate of registration must be signed by the participant. The certificate of registration is not valid without the required signature.

(8) The participant and holder of the certificate of registration must have a valid Dedicated Hunter Permit in possession while hunting. A participant is not required to have the Dedicated Hunter Certificate of Registration in possession while hunting.

(9) The division may issue a duplicate Dedicated Hunter Certificate of Registration pursuant to Section 23-19-10.

(10) Certificates of registration are not transferable and shall expire at the end of a participant's third general deer hunting season.

(11)(a) The program requirements set forth in Sections R657-38-5, R657-38-6, and R657-38-7 may be waived annually if the participant provides evidence of leaving the state for a minimum period of one year during the enrollment period for

the Dedicated Hunter Certificate of Registration for religious or educational purposes.

(b) If the participant requests that the program requirements be waived in accordance with Subsection (a), and the request is granted, the participant shall not receive a Dedicated Hunter Permit for the year in which the program requirements were waived.

(12)(a) A participant who is a member of the United States Armed Forces or public health or public safety organization and who is mobilized or deployed on order in the interest of national defense or emergency may request that the requirements set forth in Sections R657-38-5, R657-38-7, and R657-38-9 be extended, and the requirement in Section R657-38-6 be satisfied as provided in Subsections (b) through (e).

(b) The program requirement set forth in Section R657-38-5 may be extended to the second or third year of the program.

(c) The program requirement set forth in Section R657-38-6 may be considered satisfied by a participant that is prevented from completing the requirement due to the mobilization or deployment.

(d) The program requirement set forth in Section R657-38-7 may be:

(i) extended to the third year in the program if the participant is currently in the second year of the program; and

(ii) waived in the third year of the program if the participant remains mobilized or deployed and is unable to reasonably meet the requirement.

(e) A participant must provide evidence of the mobilization or deployment.

(13) A refund for the Dedicated Hunter Certificate of Registration may not be issued pursuant to Section 23-19-38, except as provided in Section 23-19-38.2.

R657-38-4. Dedicated Hunter Permits.

(1)(a) Participants may hunt during the general archery, general season and general muzzleloader deer hunts within the hunt area and during the season dates prescribed in the proclamation of the Wildlife Board for taking big game.

(b) The division may exclude multiple season opportunities on specific units due to extenuating circumstances on that specific unit.

(2)(a) Participants must designate a regional hunt choice upon joining the program.

(b) The regional hunt choice shall remain in effect unless otherwise changed in writing by the participant by January 31 annually, unless January 31 is a Saturday, Sunday, or holiday, in which case the date shall be extended to the following business day, or as modified or rescinded by the Wildlife Board.

(3)(a) Participants must notify the division of any change of mailing address in order to receive a Dedicated Hunter Permit by mail.

(b) A participant who enters the program as a resident and becomes a nonresident, or claims residency outside of Utah shall be issued a nonresident permit at no additional charge.

(c) A participant who enters the program as a nonresident and becomes a resident, or claims residency in Utah, shall be issued a resident permit with no reimbursement of the higher nonresident fee.

(4)(a) Dedicated hunter permits may be issued through the mail by June 1 of each year and again two weeks prior to the beginning of the general archery deer hunt, and only upon evidence that all program requirements have been completed by the participant.

(b) Participants completing program requirements after June 1 may obtain their Dedicated Hunter Permit over-the-counter from any division office.

(5)(a) The division may issue a duplicate Dedicated Hunter Permit pursuant to Section 23-19-10.

(b) If a participant's unused permit and tag is destroyed, lost, or stolen a participant may complete an affidavit verifying the permit was destroyed, lost, or stolen in order to obtain a duplicate.

(c) A duplicate permit shall not be issued after the closing date of the general season buck deer hunt, however, a participant may complete an affidavit and submit a copy of the affidavit for program reporting purposes as required in Section R657-38-9(1).

(6)(a) A participant may exchange or surrender a Dedicated Hunter Permit in accordance with Rule R657-42 provided program requirements are met by June 1 annually.

(b) A participant may not exchange or surrender a Dedicated Hunter Permit for any other buck deer permit once the Dedicated Hunter Permit is issued and the general archery deer hunt has begun.

(7)(a) Lifetime license holders may participate in the program.

(b) Upon signing the certificate of registration, the lifetime license holder agrees to forego any rights to receive a buck deer permit for the general archery, general season or general muzzleloader deer hunts as provided in Section 23-19-17.5.

(c) A refund or credit is not issued for the general archery, general season or general muzzleloader permit.

R657-38-5. Wildlife Conservation Course.

(1)(a) The division shall provide an annual wildlife conservation course.

(b) Prior to entering or re-entering the program, and obtaining a certificate of registration, a prospective participant must complete the wildlife conservation course within the current year in which the prospective participant is entering or re-entering the program.

(2) The wildlife conservation course shall explain the program to give a prospective participant a reasonable understanding of the program as well as hunter ethics, the division's Regional Advisory Council and Wildlife Board processes, and wildlife conservation philosophies and strategies.

(3) The wildlife conservation course is available through the division's Internet site, and a limited number of classroom courses may be available, as scheduled by division offices.

(4)(a) Evidence of completion of the wildlife conservation course shall be provided to the prospective participant upon completion of the wildlife conservation course.

(b) Certificates of registration shall not be issued without verification of the prospective participant having completed the wildlife conservation course.

(c) The division shall keep a record of all participants who complete the wildlife conservation course.

R657-38-6. Wildlife Conservation Projects.

(1) Each participant in the program shall provide a total of 24 hours of service as a volunteer on a wildlife conservation project as provided in Subsections (a) and (b), or pay the approved fee for each hour not completed as provided in Subsection (c).

(a) A participant must provide no fewer than eight hours of service before obtaining the first Dedicated Hunter Permit.

(b) A participant must provide the remaining balance of service hours prior to receiving the second Dedicated Hunter Permit.

(c) Residents may not purchase more than 16 of the 24 total required service hours. Nonresidents may purchase all of the 24 total required service hours.

(d) The division may, upon request, approve a person who is physically unable to provide service by working on a wildlife conservation project to provide other forms of service.

(e) Goods or services provided to the division for wildlife conservation projects by a participant may be, at the discretion of the wildlife conservation project manager, substituted for

service hours based upon current market values for the goods or services, and using the approved hourly service buyout rate when applying the credit.

(2) Wildlife conservation projects shall be designed by the division, or any other individual or entity and shall be pre-approved by the division.

(3)(a) Wildlife conservation projects may occur anytime during the year as determined by the division.

(b) The division shall publicize the dates, times, locations and description of approved wildlife conservation projects and activities at division offices.

(4)(a) Service hours completed in any given year may be carried over to the following years, however excess service hours shall not be carried over to any year outside of the three-year enrollment period.

(b) Dedicated hunter permits issued to participants who fail to make the deadline, two weeks prior to the opening date of the general archery deer hunt annually, shall be issued only as an over-the-counter transaction at division offices.

(5) A participant must request a receipt from the wildlife conservation project manager for service hours worked at the completion of the project, or upon showing evidence that the service hours worked are completed.

(6)(a) If a participant fails to fulfill the wildlife conservation project service requirement in any year of participation, as required under Subsection (4), the participant shall not be issued a Dedicated Hunter Permit for that year.

(b) The participant may obtain a Dedicated Hunter Permit for subsequent years upon completion of the wildlife conservation project program requirements due or payment of the fee in lieu thereof.

(7) The wildlife conservation project manager shall keep a record of all participants who attend the wildlife conservation project and the number of hours worked.

R657-38-7. Regional Advisory Council.

(1) Prior to obtaining a second permit in the program, a participant must attend one regional advisory council meeting.

(2) A participant must request a receipt from the division for attending the regional advisory council meeting.

(3) The division shall keep a record of all participants who attend and sign the roll at the regional advisory council meetings.

R657-38-8. Obtaining Other Permits.

(1)(a) Participants may not apply for or obtain general buck deer permits issued by the division through the big game drawing, license agents, over-the-counter sales, or the Internet during the three-year period of enrollment in the program.

(b) In the initial sign-up year for the program, if the participant previously applied for a general buck deer permit through the big game drawing, a participant must withdraw that permit application prior to the application withdrawal date as published in the proclamation of the Wildlife Board for taking big game.

(i) The general buck deer permit fee may be refunded by the division in May, but the handling fee shall not be refunded.

(ii) If the participant fails to withdraw the general buck deer application and the permit is drawn, the general deer permit obtained through the drawing becomes invalid and must be surrendered prior to the beginning date of the general archery deer hunt. A refund may not be issued pursuant to Section 23-19-38.

(2) Participants may not apply for or obtain general landowner buck deer permits as provided under Rule R657-43.

(3)(a) Participants may apply for or obtain any other buck deer permit as provided in Rule R657-5 and the proclamation of the Wildlife Board for taking big game.

(b) Participants may apply for or obtain a Dedicated Hunter Limited Entry Permit as provided under Section R657-38-10.

(c) If the participant obtains any other buck deer permit, or Dedicated Hunter Limited Entry buck deer permit, the Dedicated Hunter Permit becomes invalid and the participant must surrender the Dedicated Hunter Permit prior to the opening day of the general archery deer hunt. A refund may not be issued pursuant to Section 23-19-38.

(d) If the participant obtains any other buck deer permit, or a Dedicated Hunter Limited Entry Permit, the participant may use the permit only in the prescribed area during the season dates listed on the permit.

(e) Participants who obtain a cooperative wildlife management unit permit may hunt only within those areas identified on the permit and only during the dates determined by the cooperative wildlife management unit landowner or operator.

(4) The permit must be on the person while hunting.

(5) Obtaining any other buck deer permit does not authorize a participant to take an additional deer.

(6)(a) Participants may apply for or obtain antlerless deer permits as provided in Rule R657-5 and the Antlerless Addendum to the proclamation of the Wildlife Board for taking big game.

(b) Antlerless permits do not count against the number of permits issued pursuant to this program.

(c) Antlerless harvest of a deer as provided in the Antlerless Addendum to the proclamation of the Wildlife Board for taking big game shall not be considered a program harvest.

R657-38-9. Reporting Requirements.

(1)(a) A participant must return the unused Dedicated Hunter Permit and attached tag, or an affidavit as provided in Section R657-38-4(5)(c), to a division office by January 31 annually, unless January 31 is a Saturday, Sunday, or holiday, in which case the date shall be extended to the following business day.

(b) The division shall credit any participant who fails to return the unused Dedicated Hunter Permit and attached tag, or an affidavit as provided in Section R657-38-4(5)(c), by January 31 with a program harvest.

(c)(i) An unused Dedicated Hunter Permit and attached tag, or an affidavit as provided in Subsection R657-38-4(5)(c), returned after January 31, will be accepted and the credited program harvest removed.

(ii) A participant who returns a permit after the January 31 deadline, and who is credited with a second program harvest, is only eligible to obtain a permit for an available region if permits remain after the big game drawing and must obtain the Dedicated Hunter Permit over-the-counter at a division office.

(iii) If there are no permits remaining after the big game drawing, additional Dedicated Hunter permits shall not be issued.

(2)(a) The division may contact participants to gather annual harvest information and hunting activity information.

(b) Participants are expected to provide harvest information and hunting activity information if contacted by the division.

(3)(a) A participant may specify a change to their regional hunt choice for a Dedicated Hunter Permit by submitting a request in writing to the division by January 31 annually, unless January 31 is a Saturday, Sunday, or holiday, in which case the date shall be extended to the following business day.

(b) If a change is not specified pursuant to Subsection (a), the regional hunt choice selected initially or in the prior year shall be assigned.

R657-38-10. Limited Entry Dedicated Hunter Program Drawing.

(1) Any unfilled Dedicated Hunter Permit with an unused attached tag, returned to the Division by January 31 annually, unless January 31 is a Saturday, Sunday, or holiday, in which case the date shall be extended to the following business day, may qualify the participant to be entered into the Dedicated Hunter Program Drawing provided:

(a) the participant is currently enrolled in the program; and

(b) the participant has returned the Dedicated Hunter Permit and unused, attached tag, or an affidavit as provided in Section R657-38-4(5)(c).

(2)(a) One limited entry deer permit and one limited entry elk permit shall be offered through the drawing for each 250 permits received by the Division in accordance with Subsection (1).

(b) The eligible participants and limited entry permits shall be randomly drawn.

(c) The successful participant must meet all program requirements by June 1 for the current year in which the permit is valid before the issuance of the permit.

(d) If the successful participant fails to fulfill program requirements by June 1, the permit may be issued to the next participant on the alternate drawing list as provided in Rule R657-42.

(3) The drawing results may be posted at division offices and on the division Internet address on the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(4)(a) The successful participant shall be notified by mail.

(b) The successful participant must submit the appropriate limited entry fee within ten business days of the date on the notification letter.

(c) If the successful participant fails to submit the required limited entry permit fee, the permit may be issued to the next participant, who would have drawn the permit, in accordance with Rule R657-42.

(5)(a) The Limited Entry Dedicated Hunter permit allows the recipient to take only the species for which the permit is issued.

(b) The species that may be taken shall be printed on the permit.

(c) The species may be taken in the area and during the season specified on the permit.

(d) The species may be taken only with the weapon specified on the permit.

(e) The recipient of a limited entry deer or elk permit is subject to all of the provisions of Title 23, Wildlife Resources Code, and the rules and proclamations of the Wildlife Board for taking and pursuing wildlife.

(f) Bonus points shall not be awarded or utilized when applying for or obtaining Limited Entry Dedicated Hunter permits.

(g) Any participant who obtains a Limited Entry Dedicated Hunter Permit is not subject to the waiting periods set forth in Rule R657-5 and the proclamation of the Wildlife Board for taking big game.

R657-38-11. Certificate of Registration Surrender.

(1)(a) A participant who has obtained a Dedicated Hunter Certificate of Registration may surrender the certificate of registration to a division office provided the participant does not have two program harvests.

(b) A participant who surrenders the Dedicated Hunter Certificate of Registration may not re-enter the program until the participant's initial certificate of registration has expired.

(2) The division may not issue a refund except as provided in Section 23-19-38.

R657-38-12. Certificate of Registration Suspension.

(1) A Dedicated Hunter Permit and tag may not be issued to any participant who:

(a) does not perform the program requirements; or

(b) violates the terms of this rule or the Dedicated Hunter Certificate of Registration.

(2) The division may revoke or suspend a certificate of registration as provided in Section 23-19-9.

KEY: wildlife, hunting, recreation, wildlife conservation
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R657. Natural Resources, Wildlife Resources.
R657-41. Conservation and Sportsman Permits.
R657-41-1. Purpose and Authority.

(1) Under the authority of Section 23-14-18 and 23-14-19, this rule provides the standards and procedures for issuing:

(a) conservation permits to conservation organizations for sale at an auction, or for use as an aid to wildlife related fund raising activities; and

(b) sportsman permits.

(2) The division and conservation organizations shall use all revenue derived from conservation permits under Subsections R657-41-5(4) and R657-41-5(5)(b) for the benefit of the species for which the permit is issued, unless the division and conservation organization mutually agree in writing that there is a higher priority use for other species of protected wildlife.

R657-41-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Area Conservation Permit" means a permit issued for a specific unit or hunt area for a specific species, and may include an extended season, or legal weapon choice, or both, beyond the general season.

(i) Area Conservation permits issued for limited entry units are not valid on cooperative wildlife management units, and Area Conservation permits issued for general season hunt areas are not valid on cooperative wildlife management units or limited entry units.

(b) "Conservation Organization" means a nonprofit chartered institution, foundation, or association founded for the purpose of promoting wildlife conservation and has established tax exempt status under Internal Revenue Code, Section 501C-3 as amended.

(c) "Conservation Permit" means any harvest permit authorized by the Wildlife Board and issued by the division for purposes identified in Section R657-41-1(2).

(d) "Sportsman Permit" means a permit which allows a permittee to hunt during the applicable season dates specified in Subsection (e), and which is authorized by the Wildlife Board and issued by the division in a general drawing, requiring all applicants to pay an application fee and the successful applicant the cost of the permit.

(e) "Statewide Conservation Permit" means a permit which allows a permittee to hunt:

(i) big game species on any open unit with archery equipment during the general archery season published in the big game proclamation for the unit beginning before September 1, and with any weapon from September 1 through December 31, except pronghorn and moose from September 1 through November 15;

(ii) turkey on any open unit from April 1 through May 31;

(iii) any other small game species on any open unit during the season authorized by the Wildlife Board;

(iv) bear on any open unit during the season authorized by the Wildlife Board for that unit;

(v) cougar on any open unit during the season authorized by the Wildlife Board for that unit and during the season dates authorized by the Wildlife Board on any harvest objective unit that has been closed by meeting its objective; and

(vi) Antelope Island is not an open unit for hunting any species of wildlife authorized by a conservation or sportsman permit.

R657-41-3. Method for Determining the Number of Conservation and Sportsman Permits.

(1) The number of conservation permits authorized by the Wildlife Board shall be based on:

(a) the species population trend, size, and distribution to protect the long-term health of the population;

(b) the hunting and viewing opportunity for the general public, both short and long term; and

(c) the potential revenue that will support protection and enhancement of the species.

(2) One statewide conservation permit may be authorized for each species for which limited permits are available, except that a second statewide conservation permit for a species may be authorized for a special event or fund raising activity.

(3) A limited number of area conservation permits may be authorized, with a maximum of 5% of the permits or eight permits, whichever is less, for any unit or hunt area, unless a higher number is specifically authorized by the Wildlife Board.

(4) The number of conservation and sportsman permits available for use during the following year will be determined by the Wildlife Board annually.

(5) Area Conservation permits shall be deducted from the number of public drawing permits.

(6) One sportsman permit may be authorized for each statewide conservation permit authorized.

R657-41-4. Obtaining Conservation Permits.

(1) Statewide and area conservation permits may be awarded to eligible conservation organizations to market and sell, or to use as an aid in wildlife related fund raising activities.

(2)(a) Conservation organizations may apply for conservation permits by sending an application to the division for each permit requested.

(b) Only one application per conservation organization may be submitted. Multiple chapters of the same conservation organization may not apply individually.

(3) The application must be submitted to the division by September 1 to be considered for the following year's conservation permits. Each application must include:

(a) the name, address and telephone number of the conservation organization;

(b) a copy of the conservation organization's mission statement;

(c) verification of the conservation organization's tax exempt status under Internal Revenue Code, Section 501C-3 as amended;

(d) the name of the president or other individual responsible for the administrative operations of the conservation organization;

(e) the type of permit and species for which the permit is requested; and

(f) any requested variances for an extended season or legal weapon choice for area conservation permits.

(4)(a) Conservation organizations must further include in their applications the proposed bid amount for each permit. The proposed bid amount is the revenue the organization anticipates to be raised from a permit through auction or other lawful fund raising activity. The recommended minimum permit bid amount is listed in Table 1.

(b) The basis for the bid amount must include the conservation organization's experience in similar activities, and details of the marketing plan.

TABLE 1
RECOMMENDED MINIMUM PERMIT BID AMOUNT

Species	Statewide	Area
Rocky Mountain Bighorn (Ram)	$30,000	$20,000
Desert Bighorn (Ram)	30,000	20,000
Buck Deer	10,000	2,000
Bull Elk	10,000	4,000
Bull Moose	10,000	3,000
Bison (Hunter's Choice)	5,000	5,000
Rocky Mountain Goat (Hunter's Choice)	5,000	3,000
Buck Pronghorn	2,000	1,000
Black Bear	2,000	1,000

Cougar	2,000	500
Turkey	350	250

(5) An application which is incomplete or completed incorrectly may be rejected.

(6) The application of a conservation organization for conservation permits may be denied for:

(a) failing to fully report on the preceding year's conservation permits;

(b) violating any provision of this rule, Title 23 of the Utah Code, Title R657 of the Utah Administrative Code, a division proclamation, or an order of the Wildlife Board ; or

(c) violating any other law that bears a reasonable relationship to the applicant's ability to responsibly and lawfully handle conservation permits pursuant to this rule.

(7) Conservation permits shall be awarded for one year, except as provided in Subsection (8).

(8) Conservation organizations may apply for specific area conservation permits, which may be awarded for up to five consecutive years, provided the conservation organization meets the requirements provided in Subsection (a) for a multi-year permit.

(a)(i) the conservation organization must submit a bid for each multi-year area conservation permit requested and submit a specific project proposal for which the funds will be utilized;

(ii) the project must require more than one year of funding to complete;

(iii) the conservation organization must show the increased benefit to the division by the conservation organization carrying out the project;

(iv) the conservation organization must maintain each year a minimum performance standard, raising no less than 80% of the funds bid for each multi-year permit; and

(v) the conservation organization must report annually on the funds raised and expended, and the project activities accomplished.

(b) Conservation organizations failing to satisfy the performance standards in any given year during the multi-year period or reporting requirements shall lose the multi-year area conservation permit for the balance of the multi-year award period.

(c) Conservation organizations must submit a separate bid for each multi-year area conservation permit.

(d) Bids for multi-year area conservation permits shall be evaluated based on:

(i) an average annual benefit when compared to annual bids for permits; and

(ii) the requirements as provided in Subsection (9).

(e) Conservation organizations receiving multi-year permits shall handle permit revenue consistent with the requirements provided in Section R657-41-5(4) and (5).

(9) The division shall recommend the conservation organization to receive each of the conservation permits based on:

(a) first, the bid amount pledged to the species, adjusted by:

(i) the performance of the organization over the previous two years in meeting proposed bids;

(ii) 90% of the bid amount;

(iii) organizations maintaining a minimum two-year average performance of 70% to be eligible for consideration of permits. Performance of the organization is the proportion of the total revenue generated from permit sales, divided by 90% of the bid amount for all permits, calculated annually and averaged for the last two years.

(b) second, if two or more conservation organizations are tied using the criteria in Subsection (a), the closeness of the organization's purpose to the species of the permit; and

(c) third, if two or more conservation organizations are tied using the criteria in Subsection (a) and (b), the geographic closeness of the organization to the location of the permit.

(10)(a) Between the time the division recommends that a conservation permit be awarded to a conservation organization and the time the Wildlife Board approves that recommendation, a conservation organization may withdraw its application for any given permit or exchange its application with another conservation organization without penalty, provided the bid amount upon which the permit application was evaluated is not changed.

(b) If a conservation organization withdraws it's bid and the bid is awarded to another organization at a lower amount, then the difference between the two bids will be subtracted from the organization making the higher bid for purposes of evaluating organization performance.

(11) The Wildlife Board shall make the final assignment of conservation permits at a meeting prior to December 1 annually.

(12) The Wildlife Board may authorize a conservation permit to a conservation organization, other than the conservation organization recommended by the division, after considering the:

(a) division recommendation;

(b) benefit to the species;

(c) historical contribution of the organization to the conservation of wildlife in Utah;

(d) previous performance of the conservation organization; and

(e) overall viability and integrity of the conservation permit program.

(13) The total of all bids for permits awarded to any one organization shall not exceed $20,000 the first year an organization receives permits.

(14) The number of permits awarded to any one organization shall not increase by more than 100% from the previous year.

(15) If the Wildlife Board authorizes a second statewide conservation permit for a species, the conservation organization receiving the permit must meet the high bid for that permit.

(16) The division and conservation organization receiving the permits shall enter into a contract.

(17)(a) The conservation organization receiving permits must insure that the permits are marketed and distributed by lawful means.

(b) The conservation organization must:

(i) obtain the name of the proposed permit recipient at the event where the permit recipient is selected; and

(ii) notify the division of the proposed permit recipient within 10 days of the recipient selection or the permit may be forfeited.

(c) If a person is selected by a qualified organization to receive a conservation permit and is also successful in obtaining a permit for the same species in the same year through the Bucks, Bulls and Once-In-A-Lifetime Drawing, that person may designate another person to receive the conservation permit, provided the conservation permit has not been issued by the division to the first selected person.

(d) If a person is selected by a qualified organization to receive a conservation permit, but is unable to use the permit, the conservation organization may designate another person to receive the permit provided:

(i) the conservation organization selects the new recipient of the permit;

(ii) the amount of money received by the division for the permit is not decreased;

(iii) the conservation organization relinquishes to the division and otherwise uses all proceeds generated from the redesignated permit, pursuant to the requirements provided in Section R657-41-5;

(iv) the conservation organization and the initial

designated recipient of the permit, must sign an affidavit indicating the initial designated recipient is not profiting from transferring the right to the permit; and

(v) the permit has not been issued by the division to the first designated person.

(e) Except as otherwise provided under Subsection (c) and (d), a person designated by a conservation organization as a recipient of a conservation permit, may not sell or transfer the rights to that designation to any other person. This does not preclude a person from bidding or otherwise lawfully acquiring a permit from a conservation organization on behalf of another person who will be identified as the original designated recipient.

R657-41-5. Conservation Permit Funds and Reporting.

(1) All permits must be marketed by September 1, annually.

(2) Within 30 days of the last event, but no later than September 1 annually, the conservation organization must submit to the division:

(a) a final report on the distribution of permits;

(b) the funds due to the division; and

(c) a report on the status of each project funded in whole or in part with retained conservation permit revenue.

(3)(a) Permits shall not be issued until the permit fees are paid to the division.

(b) If the conservation organization is paying the permit fees for the permit recipient, the fees must be paid from the 10% retained by the conservation organization as provided in Subsection (5)(a).

(4)(a) Conservation organizations shall remit to the division by September 1 of each year 30% of the total revenue generated by conservation permit sales in that year.

(b) The permit revenue payable to the division under Subsection (4)(a), excluding accrued interest, is the property of the division and may not be used by conservation organizations for projects or any other purpose.

(c) The permit revenue must be placed in a federally insured account promptly upon receipt and remain in the account until remitted to the division on or before September 1 of each year.

(d) The permit revenue payable to the division under this subsection shall not be used by the conservation organization as collateral or commingled in the same account with the organization's operation and administration funds, so that the separate identity of the permit revenue is not lost.

(e) Failure to remit 30% of the total permit revenue to the Division by the September 1 deadline may result in criminal prosecution under Title 76, Chapter 6, Part 4 of the Utah Code, and may further disqualify the conservation organization from bidding on any future conservation permits.

(5) A conservation organization may retain 70% of the revenue generated from sale of conservation permits as follows:

(a) 10% of the revenue may be retained and used by the conservation organization for administrative expenses.

(b) 60% of the revenue may be retained and used by the conservation organization only for eligible projects as provided in subsections (i) through (x).

(i) "Retained revenue" means 60% of the revenue raised by a conservation organizations from the sale of conservation permits which the organization retains for eligible projects under this subsection, excluding interest earned thereon.

(ii) Eligible projects include habitat improvement, habitat acquisition, transplants, and other projects providing a substantial benefit to species of wildlife for which conservation permits are issued.

(iii) Retained revenue shall not be committed to or expended on any eligible project without first obtaining the division director's written concurrence.

(iv) Retained revenue shall not be used on any project that does not provide a substantial and direct benefit to conservation permit species located in Utah.

(v) Cash donations to the Wildlife Habitat Account created under Section 23-19-43, division Species Enhancement Funds, or the Conservation Permit Fund shall be considered an eligible project and do not require the division director's approval, provided the donation is made with instructions that it be used for species of wildlife for which conservation permits are issued.

(vi) Retained revenue shall not be used on any project that is inconsistent with Division policy, including feeding programs, depredation management, or predator control.

(vii) Any revenue retained under this subsection must be placed in a federally insured account. All interest revenue earned thereon may be retained and used by the conservation organization for administrative expenses.

(viii) Retained revenue shall not be used by the conservation organization as collateral or commingled in the same account with the organization's operation and administration funds, so that the separate identity of the retained revenue is not lost.

(ix) Retained revenue must be completely expended on or committed to approved eligible projects by September 1 two years following the year in which the relevant conservation permits are awarded to the conservation organization by the Wildlife Board. Failure to commit or expend the retained revenue by the September 1 deadline will disqualify the conservation organization from bidding on any future conservation permits until the unspent retained revenue is committed to an approved eligible project.

(x) All records and receipts for projects under this subsection must be retained by the conservation organization for a period not less than five years, and shall be produced to the division for inspection upon request.

(6)(a) Conservation organizations accepting permits shall be subject to annual audits on project expenditures and conservation permit accounts.

(b) The division shall preform annual audits on project expenditures and conservation permit accounts.

R657-41-6. Obtaining Sportsman Permits.

(1) One sportsman permit is offered to residents through a drawing for each of the following species:

(a) desert bighorn (ram);

(b) bison (hunter's choice);

(c) buck deer;

(d) bull elk;

(e) Rocky Mountain bighorn (ram)

(f) Rocky Mountain goat (hunter's choice)

(g) bull moose;

(h) buck pronghorn;

(i) black bear;

(j) cougar;

(k) sandhill crane; and

(l) wild turkey.

(2) The following information is provided in the proclamation of the Wildlife Board for taking big game:

(a) hunt dates;

(b) open units or hunt areas;

(c) application procedures;

(d) fees; and

(e) deadlines.

R657-41-7. Using a Conservation or Sportsman Permit.

(1)(a) A conservation or sportsman permit allows the recipient to take only the species for which the permit is issued.

(b) The species that may be taken shall be printed on the permit.

(c) The species may be taken in the area and during the

season specified on the permit.

(d) The species may be taken only with the weapon specified on the permit.

(2) The recipient of a conservation or sportsman permit is subject to all of the provisions of Title 23, Wildlife Resources Code, and the rules and proclamations of the Wildlife Board for taking and pursuing wildlife.

(3) Bonus points shall not be awarded or utilized:

(a) when applying for conservation or sportsman permits; or

(b) in obtaining conservation or sportsman permits.

(4) Any person who has obtained a conservation or sportsman permit is subject to all waiting periods as provided in Rules R657-5, R657-6, R657-10 and R657-33.

KEY: wildlife, wildlife permits
January 5, 2004 23-14-18
Notice of Continuation November 21, 2005 23-14-19

R657. Natural Resources, Wildlife Resources.
R657-56. Recreational Lease of Private Lands for Free Public Walk-in Access.
R657-56-1. Purpose and Authority.

Under the authority of Sections 23-14-18, and 23-14-19, this rule provides the procedures, standards, and requirements to administer a three-year walk-in access pilot program in the Northern Region to compensate private landowners for a recreational lease of their property for allowing free public walk-in access to fish, hunt, or trap.

R657-56-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Northern Region" for the purposes of this rule, means private property located within all of, or portions of, the following counties: Box Elder, Cache, Davis, Rich, Morgan, Tooele, Summit, Salt Lake, Duchesne, Daggett and Wasatch counties. The boundary begins at the Utah-Nevada state line and I-80 at Wendover, east along I-80 to US-40; south along US-40 to SR-32; east along SR-32 to SR- 35 at Francis; east along SR-35 to Soapstone Basin Road (USFS Road 037); north along Soapstone Basin Road (USFS 037) to SR-150; northeast along SR-150 to the Summit- Duchesne county line (summit of the Uinta Mountains) to the Wasatch-Ashley National Forest boundary; north along the Wasatch-Ashley National Forest boundary to USFS Road 058; east along USFS 058 to USFS Road 221 (Birch Creek); north along USFS Road 221 to the Utah-Wyoming state line; west and north along the Utah-Wyoming state line to the Utah-Idaho state line; west along the Utah-Idaho state line to the Utah-Nevada state line; south along the Utah-Nevada state line to I-80 at Wendover.

(b) "Private landowner" means any individual, partnership, corporation, or association that possesses the legal right on private property to grant a recreational lease.

(c) "Recreational lease activities" means recreation limited to fishing, hunting or trapping as provided in the recreational lease agreement.

(d) "WIA" means walk-in access.

(e) "WIFA" means walk-in fishing access, which provides free public access to fish waters located on private property as provided in the recreational lease agreement, and includes trapping when the landowner designates this activity in the WIFA recreational lease agreement.

(f) "WIHA" means walk-in hunting access, which provides free public access to hunt private property as provided in the recreational lease agreement, and includes trapping when the landowner designates this activity in the WIHA recreational lease agreement.

R657-56-3. Walk-In Access Enrollment Procedures.

(1) A private landowner with eligible property located within the Northern Region may participate in the WIA program.

(2) A private landowner interested in participating in the WIA program must submit an enrollment form to the Northern Region division office by March 1, and provide:

(a) evidence of property ownership, or if leasing the private property a copy of the lease agreement; and

(b) the private landowner's signature.

(3) Enrollment forms are available at the Northern Region division office or through the division's web site.

R657-56-4. Walk-In Access Recreational Lease Agreement.

(1) The division and private landowner shall prepare and agree to the terms in a WIA recreational lease agreement by May 1.

(2) Terms in the WIA recreational lease agreement shall include private landowner and division responsibilities, including the provisions as provided in Sections R657-56-8 and R657-56-9, and compensation necessary to provide free public access for fishing, hunting, or trapping on private property.

(3) The amount of compensation to be paid to the private landowner participating in the WIA program shall be determined by:

(a) the type of recreational lease activity allowed on the private property;

(b) the duration of the recreational lease agreement; and

(c) the number of acres of private land or pond, or miles of stream or river available for free public walk-in access.

(4) Upon mutual agreement, the division may provide in-kind habitat improvement materials or labor on WIA property in lieu of monetary payment to the landowner for free public walk-in access.

R657-56-5. Walk-In Hunting Access Program Requirements.

(1) Private property enrolled in the WIHA Program must provide suitable wildlife habitat to support the recreational lease activity described in the WIHA recreational lease agreement, and:

(a) contain a minimum of 80 contiguous acres;

(b) contain a minimum of 40 contiguous acres of wetland or riparian land; or

(c) provide an access corridor to comparable tracts of isolated public land open to free public hunting or trapping.

(2)(a) Division personnel shall evaluate proposed WIHA property to determine if the property provides suitable wildlife habitat and wildlife for the designated recreational lease activity.

(b) If the property is approved as suitable wildlife habitat for the designated recreational lease activity, the division and private landowner may enter into the WIHA recreational lease agreement as provided in Section R657-56-4.

R657-56-6. Walk-In Fishing Access Requirements.

(1) Private property enrolled in the WIFA Program must provide suitable fishing waters described in the WIFA recreational lease agreement, and:

(a) contain a minimum 0.25 miles of stream or river;

(b) contain a minimum 5 acres of pond; or

(c) the property provides an access corridor to comparable fishing waters on isolated public land open to free public fishing.

(2)(a) Division personnel shall evaluate proposed WIFA property to determine if the property provides suitable fishing waters.

(b) If the property is approved for the designated recreational lease activity, the division and private landowner may enter into the WIFA recreational lease agreement as provided in Section R657-56-4.

R657-56-7. Walk-In Hunting and Fishing Access Compensation.

(1) The amount of compensation payment to a landowner is determined by the acreage that will be used for the WIA program, and the recreational lease activity allowed on the private property using the base rate fee as provided in the recreational lease agreement.

(2) A bonus fee will be added to the base rate fee when a private landowner initially enrolls private property in the recreational lease agreement for additional consecutive years as follows:

(a) five percent will be added for two years; or

(b) ten percent will be added for three years.

R657-56-8. Walk-In Access Program Landowner Responsibilities.

(1) Each private landowner enrolled in the WIA program

must provide:

(a) free public walk-in access for recreational lease activities as provided in the recreational lease agreement; and

(b) private land with suitable wildlife habitat to support the recreational lease activity; or

(c) an access corridor to comparable tracts of isolated public land open to free public fishing, hunting or trapping.

(2) Each private landowner must indicate the type of landowner authorization required for the public to use the WIA for fishing, hunting, or trapping, as follows:

(a) authorization is not required to access the property;

(b) registration at a WIA site is required prior to accessing the property; or

(c) contacting the landowner is required prior to accessing the property.

(3) The private landowner must transfer to the division, the recreational lease of their property for the recreational lease activities designated in the WIA recreational lease agreement.

R657-56-9. Walk-In Access Program Division Responsibilities.

The division shall provide:

(1) evaluations of wildlife habitat, and wildlife on the proposed WIA property as provided in Subsections R657-56-5(2)(a) or R657-56-6(2)(a);

(2) WIA recreational lease agreement forms;

(3) WIA registration forms and boxes when applicable;

(4) signs for enrolled WIA property;

(5) law enforcement during applicable fishing, hunting, or trapping seasons;

(6) maps of approved and enrolled WIA locations and requirements as provided in the recreational lease agreement; and

(7) compensation payments to landowners following successful completion of the terms of the WIA recreational lease agreement.

R657-56-10. Termination of Walk-In Access Recreational Lease Agreement.

(1) The WIA recreational lease agreement may be:

(a) terminated for any reason by either party upon 30 days written notice; or

(b) amended at any time upon written agreement by the landowner and the division.

(2) If a WIA recreational lease agreement is terminated as provided in Subsection (1)(a), prior to the ending date specified in the recreational lease agreement, the compensation payment fee shall be prorated based upon the recreational lease activity provided.

(3) Restriction of public use by the landowner of the private property enrolled in the WIA program in violation of the recreational lease agreement may void all or a portion of the WIA recreational lease agreement.

(4) Any change in private landownership of enrolled WIA property may terminate the WIA recreational lease agreement.

(5) Misrepresentation of enrolled private property in the WIA program shall terminate the WIA recreational lease agreement.

R657-56-11. Liability Protection for Walk-In Access Private Landowner.

Landowner liability may be limited when free public access is allowed on private property enrolled in the WIA program for the purpose of any recreational lease activities as provided in Section 57-14.

R657-56-12. Licenses, Permits and Seasons.

(1) Any person accessing WIA private lands to fish, hunt, or trap must obtain and possess the required valid license or permit for the recreational lease activity, and must adhere to the respective rules and proclamations established by the Wildlife Board.

(2)(a) If enrolled WIA property requires prior private landowner authorization or any other requirement as provided in the recreational lease agreement, any person entering enrolled WIA private lands to fish, hunt, or trap must comply with said requirements.

(b) The division shall provide to the public maps of approved and enrolled WIA locations and requirements as determined in the recreational lease agreement.

R657-56-13. Right to Deny Access.

The division or the private landowner reserves the right to deny a person access to the WIA property described in the recreational lease agreement for causes related to, but not limited to, intoxication, damage to WIA property, violations of conditions provided in the recreational lease agreement, or any wildlife violation committed on WIA property.

R657-56-14. Prohibited Activities.

(1) It is unlawful for any person to access WIA property in violation of the recreational lease agreement, or refuse to leave WIA property when requested by the landowner, a division representative, or a peace officer.

(2) Any person accessing WIA property in violation of Subsection (1) may further be subject to criminal trespass prosecution as provided in Sections 23-20-14 and 76-6-206.

R657-56-15. Walk-In Access Advisory Committee.

(1) A WIA Advisory Committee shall be created consisting of five members nominated by the Northern Region Supervisor, and approved by the Director.

(2) The committee shall include:

(a) two sportsmen representatives;

(b) two agricultural representatives;

(c) one elected official; and

(d) the division's Wildlife Section Chief, or designee.

(3) The committee shall be chaired by the Wildlife Section Chief, or designee, who shall be a non-voting member.

(4) The committee will:

(a) hear complaints dealing with fair and equitable treatment of anglers, hunters, or trappers on enrolled WIA property;

(b) hear complaints dealing with fair and equitable treatment of WIA private landowners; and

(c) make advisory recommendations to the Director.

(5) The Wildlife Section Chief shall determine the agenda, time, and location of the WIA Advisory Committee meetings.

(6) The director may mitigate or resolve issues dealing with complaints.

(7) Appointment terms for committee members will expire at the end of the three-year pilot WIA Program.

KEY: wildlife, private landowners, public access

November 16, 2005 **23-14-18**
23-14-19
57-14-1

R909. Transportation, Motor Carrier.
R909-1. Safety Regulations for Motor Carriers.
R909-1-1. Adoption of Federal Regulations.

(1) Safety Regulations for Motor Carriers, 49 CFR Parts 350 through 399 and Part 40, as contained in the April 1, 2005 Code of Federal Regulations, is incorporated by reference, except for Parts 391.11(b)(1), 391.49, 395.1(k), 395.1(l), 395.1(m) and 395.1(n). These requirements apply to all motor carrier(s) as defined in 49 CFR Part 390.5, excluding commercial motor vehicles which are designed or used to transport more than 8 and less than 15 passengers (including the driver) for compensation and UCA 72-9-102(2) engaged in commerce.

(2) In the instance of a driver who is used primarily in the transportation of construction materials and equipment, as defined under 395.2, to and from an active construction site, any period of 7 or 8 consecutive days may end with the beginning of any off-duty period of 34 or more successive hours.

(3) Intrastate trucking operations in which the carriers operate double trailer combinations only are not required to comply with 49 CFR Part 380.203(2).

(4) Exceptions to Part 391.41, Physical Qualification may be granted under the rules of Department of Public Safety, Driver's License Division, UCA 53-3-303.5 for intrastate drivers under R708-34.

(5) Drivers involved wholly in intrastate commerce shall be at least 18 years old. However, if they are transporting placarded amounts of hazardous materials or carrying 16 or more passengers, including the driver, they must be 21 years old.

(6) Drivers involved in interstate commerce shall be at least 21 years old.

R909-1-2. Insurance for Private Intrastate/Interstate Motor Carriers.

(1) "Private Motor Carrier" means a person who provides transportation of property or passengers by commercial motor vehicle and is not a for-hire motor carrier.

(2) All intrastate private motor carriers shall have a minimum amount of $750,000 liability.

R909-1-3. Implements of Husbandry.

"Implements of Husbandry" is defined in Utah Code Ann. Section 41-1a-102(23) and must be in compliance with all provisions of Chapter 6, Title 41, Utah Code Annotated. Vehicles meeting this definition are exempt from 49 CFR Part 393 - Parts and Accessories Necessary for Safe Operations.

KEY: trucks, transportation safety, implements of husbandry

November 4, 2005	**72-9-103**
Notice of Continuation March 6, 2002	**72-9-104**
	72-9-101

R909. Transportation, Motor Carrier.
R909-75. Safety Regulations for Motor Carriers Transporting Hazardous Materials and/or Hazardous Wastes.
R909-75-1. Adoption of Federal Regulations.

Safety Regulations for Motor Carriers Transporting Hazardous Materials and/or Hazardous Wastes, 49 CFR, Sub-Chapter C, Parts 100 through 180, of the April 1, 2005 edition of the Code of Federal Regulations, are incorporated by reference. These changes apply to all private, common, and contract carriers by highway in commerce.

KEY: hazardous materials transportation, hazardous substances, hazardous waste, safety regulation
November 4, 2005 72-9-103
Notice of Continuation March 6, 2002 72-9-104

R912. Transportation, Motor Carrier, Ports of Entry.
R912-9. Pilot/Escort Requirements and Certification Program.
R912-9-1. Authority.

This rule is enacted under the authority of Section 72-7-406.

R912-9-2. Purpose.

This rule establishes procedures for pilot/escort driver certification and vehicle equipment requirements for pilot/escort services.

R912-9-3. Definitions.

"Department" means the Utah Department of Transportation.

"Division" means the Motor Carrier Division.

R912-9-4. Pilot/Escort Driver Requirements.

Individuals who operate a pilot/escort vehicle must meet the following requirements:

(1) Must be a minimum of 18 years of age.

(2) Possess a valid drivers license for the state jurisdiction in which he/she resides.

(3) Pilot/Escort driver's will be issued a certification card by an authorized Qualified Certification Program as outlined in R912-10, and shall have it in their possession at all times while in pilot/escort operations.

(4) Initial certification will be valid for four years from the date of issue. One additional four-year certification may be obtained through a mail in or on-line recertification process provided by a Qualified Pilot/Escort Training Entity/Institution.

(5) Pilot/escort drivers must provide a current (within 30 days) Motor Vehicle Record (MVR) certification to the Qualified Certification Program at the time of the course.

(6) Current certification for pilot/escort operators will be honored through expiration date. Prior to expiration of pilot/escort certification it will be the responsibility of the operator to attend classroom instruction provided by an authorized Pilot/Escort Qualified Certification Program. A list of these providers can be obtained by calling (801) 965-4508.

(7) No passengers under 16 years of age are allowed in pilot/escort vehicles during movement of oversize loads.

R912-9-5. Driver Certification Process.

(1) Drivers domiciled in Utah must complete a pilot/escort certification course authorized by the Department. A list of authorized instructors may be obtained by contacting (801) 965-4508.

(2) Pilot/ Escort drivers domiciled outside of Utah may operate as a certified pilot/escort driver with another State's certification credential, provided the course meets the minimum requirements outlined in the Pilot/ Escort Training Manual - Best Practices Guidelines as endorsed by the Specialized Carriers and Rigging Association, Federal Highway Administration, and the Commercial Vehicle Safety Alliance; and/or

(3) The Department may enter into a reciprocal agreement with other states provided they can demonstrate that course materials are comprehensive and meet minimum requirements outlined by the Department.

(4) Pilot/escort driver certification expires four years from the date issued. It will be the responsibility of the driver to maintain certification.

R912-9-6. Suspensions and Revocations of Pilot/Escort Driver Certification.

Pilot/escort drivers may have their certification suspended or revoked by the Department if convicted of a disqualifying offense.

(1) Drivers convicted of serious traffic violations such as excessive speed, reckless driving and driving maneuvers reserved for emergency vehicles, driving under the influence of alcohol or controlled substances may have their certification suspended or revoked by the Department.

(2) The Department may suspend for first offenses up to one year. Subsequent offenses may result in permanent revocation of driver certification.

R912-9-7. Steering Committee. Appeal Process.

When a driver is denied pilot/escort-driving privileges for reasons other than the conditions set forth in R912-9-6, the individual may file an appeal. The appeals shall be handled by a steering committee created by the Division. The steering committee shall have the powers granted to the Deputy Director in R907-1-3 for appeals from other Motor Carrier Division administrative actions. This committee's decision, if adopted by the Director of the Motor Carrier Division, will be considered a final agency order under the Utah Administrative Act.

R912-9-8. Pilot/Escort Vehicle Standards.

(1) Pilot/Escort vehicles may be either a passenger vehicle or a two-axle truck with a 95 inch minimum wheelbase and a maximum gross vehicle weight of 12,000 lbs and properly registered and licensed as required under Sections 41-1a-201 and 41-1a-401.

(2) Equipment and load shall not reduce visibility or mobility of pilot/escort vehicle while in operation.

(3) Trailers may not be towed at any time while in pilot/escort operations.

(4) Pilot/escort vehicles shall be equipped with a two-way radio capable of transmitting and receiving voice messages over a minimum distance of one-half mile. Radio communications must be compatible with accompanying pilot/escort vehicles, utility company vehicles, permitted vehicle operator and police escort, when necessary.

R912-9-9. Pilot/Escort Vehicle Signing Requirements.

(1) Sign requirements on pilot/escort vehicles are as follows:

(a) Pilot escort vehicles must display an "Oversize Load" sign, which shall be mounted on the top of the pilot/escort vehicle.

(b) Signs must be 5 feet by 10 inches in size, with a solid yellow background and 8 inch high by 1-inch wide black letters.

(c) The sign for the front/pilot escort vehicle shall be displayed so as to be clearly legible and readable by oncoming traffic at all times.

(d) The rear pilot/escort vehicle shall display its sign so as to be readable by traffic overtaking from the rear and clearly legible at all times.

R912-9-10. Pilot/Escort Vehicle Lighting Requirements.

(1) Two methods of lighting are authorized by the Department. Requirements are as follows:

(a) Two AAMVA approved amber flashing lights mounted on each side of the required sign. These shall be a minimum of 6 inches in diameter with a capacity of 60 flashes per minute with warning lights illuminated at all times during operation, or

(b) An AAMVA approved amber rotating, oscillating, or flashing beacon/light bar mounted on top of the pilot/escort vehicle. This beacon/light bar must be unobstructed and visible for 360 degrees with warning lights illuminated at all times during operation.

R912-9-11. Pilot/Escort Vehicle Equipment Requirements.

(1) Pilot/Escort vehicles shall be equipped with the following safety items:

(a) Standard 18 inch or 24 inch red/white "STOP" and

black/orange "SLOW" paddle signs. Construction zone flagging requires the 24-inch sign.

(b) Nine reflective triangles.

(c) Eight red-burning flares, glow sticks or equivalent illumination device approved by the Department.

(d) Three orange, 18 inch high cones.

(e) Flashlight with two or more D cell batteries.

(f) Orange hardhat and Class 2 safety vest for personnel involved in pilot/escort operations.

(g) A height-measuring pole made of a non-conductive, non-destructive, flexible or frangible material, when escorting a load exceeding 16 feet in height.

(h) Fire extinguisher.

(i) First aid kit.

(j) One spare "oversize load" sign, 7 feet by 18 inches.

(k) Spare tire, tire jack and lug wrench.

(l) Handheld radio or other form of communication for operations outside pilot/escort vehicles.

(2) Vehicles shall not have unauthorized equipment on the vehicle such as those generally reserved for law enforcement personnel.

R912-9-12. Police Escort Vehicle Equipment and Safety Requirements.

(1) Police escort vehicles shall be equipped with the following safety items:

(a) Handheld radio or other form of communication for operation with pilot/escort vehicles;

(b) If more than one police escort, only one will be required to have direct communication as designated under R912-9-12(a) with pilot/escort vehicle;

(c) Before load movement, police escort(s) shall designate one point of contact for communication with pilot/escort driver and relay communications between other police escorts involved in move;

(d) Police vehicles must be clearly marked with emergency red and blue lighting visible 360 degrees;

(e) Officers shall be in uniform while conducting police escort moves.

R912-9-13. Insurance.

(1) Drivers shall carry proof of current insurance as authorized under Section 31-A-22-301.

(2) Pilot/escort vehicles shall have a minimum amount of $750,000 liability.

R912-9-14. Operating Conditions Requiring Pilot/Escort Vehicles.

(1) One pilot vehicle is required for vehicles/loads, which exceed the following dimensional conditions;

(a) 12 feet in width on secondary highways (non-interstate) and 14 feet in width on divided highways (interstates).

(b) 105 feet in length on secondary highways and 120 feet in length on divided highways.

(c) Overhangs in excess of 20 feet shall have pilot/escort vehicle positioned to the front for front overhangs and to the rear for rear overhangs.

(2) Two pilot/escort vehicles are required for vehicles/loads which exceed the following dimensional conditions:

(a) 14 feet in width on secondary highways and 16 feet in width on divided highways, except for

(i) Mobile and manufactured homes with eaves 12 inches or less on either roadside or curbside shall be measured for box width only and assigned escort vehicles as specified above in R912-9-1.

(ii) Mobile and manufactured homes with eaves greater than 12 inches shall be measured for overall width including eaves and pilot/escort vehicles assigned as specified above R912-9-2; or

(b) 120 feet in length on secondary highways.

(c) 16 feet in height on all highways.

(d) When otherwise required by the Department.

R912-9-15. Convoy Allowances For Permitted Vehicles.

The movement of more than one permitted vehicle in convoy is allowed provided the following requirements are met and authorization is granted by the Division.

(1) The distance between vehicles will not be less than 500 feet nor more than 700 feet.

(2) The number of special permitted vehicles in convoy will not exceed four.

(3) The distance between multiple convoys will be a minimum of one mile.

(4) Except as authorized by the Division, no load in the convoy will exceed 12 feet in width.

(5) Guidelines for convoys of long loads:

TABLE

Overall Length	Convoy Limit	Pilot/Escort Vehicle
95 - 119 ft.	Four	Front and rear
120 - 140 ft.	Two	Front and rear
*Over 140 ft.	--	--

*Must obtain authorization from the Division by calling (801) 965-4508

R912-9-16. Pre-Trip Planning and Coordination Requirements.

(1) A coordination and planning meeting shall be held prior to load movement. The driver(s) carrying or pulling the oversize load(s), the pilot/escort vehicle driver(s), law enforcement officers (if assigned), Department personnel (if involved), and public utilities company representatives (if involved) shall attend. This meeting shall include discussion and coordination on the conduct of the move, including at least the following topics:

(a) The person designated as being in charge (usually a Department representative or a law enforcement officer).

(b) Authorized routing and permit conditions. Ensure that all documentation is distributed to all appropriate individuals involved in the move.

(c) Communication and signals coordination.

(d) Verification/measurement of load dimensions. Compare with permitted dimensions

(e) Copies of permit and routing documents shall be provided to all parties involved with the permitted load movement.

R912-9-17. Permitted Vehicle Restrictions on Certain Highways.

Certified pilot/escort operators must refer to highway restrictions specified in R912-11 prior to all load movements.

KEY: permitted vehicles, trucks, pilot/escort vehicles
November 4, 2005 **72-1-201**
72-7-406