R25. Administrative Services, Finance.
R25-5. Payment of Meeting Compensation (Per Diem) to Boards.
R25-5-1. Purpose.

The purpose of this rule is to establish the procedures for payment of meeting compensation (per diem) and travel expenses to defray the costs for attendance at an official meeting of a board by an officer or employee who is a member.

R25-5-2. Authority.

This rule is established pursuant to Section 63A-3-106, which authorizes the Director of Finance to make rules establishing per diem rates.

R25-5-3. Definitions.

All terms are as defined in Section 63A-3-106(1), except as follows:

(1) "Finance" means the Division of Finance.

(2) "Per diem" means the taxable compensation paid for attendance at an official meeting of a board by an officer or employee who is a member.

(3) "Rate" means an amount of money.

(4) "Independent Corporation Board" means the board of directors of any independent corporation subject to Section 63E Chapter 2 that is subject to this rule by its authorizing statute.

R25-5-4. Rates.

(1) Each member of a board within state government shall receive taxable meeting compensation (per diem) not to exceed $60 for each official meeting attended that lasts up to four hours and taxable meeting compensation (per diem) not to exceed $90 per diem for each official meeting that is longer than four hours.

(a) These rates are applicable to an officer or employee of the executive branch, except as provided under subsection (1)(b);

(b) These rates are applicable to an officer or employee of higher education unless higher education pays the costs of the meeting compensation (per diem).

(2) Travel expenses shall also be paid to board members in accordance with Rule R25-7.

(3) Members may decline to receive meeting compensation (per diem) and/or travel expenses for their services.

(4) Upon approval by Finance, members of an independent corporation board may receive meeting compensation (per diem), at rates exceeding those established in Subsection R25-5-4(1), for each meeting attended as part of their official duties and for reasonable preparation associated with meetings of the full board or the board's subcommittees.

R25-5-5. Governmental Employees.

(1) A member of a board may not receive the taxable meeting compensation (per diem) in R25-5-4(1) or travel expenses if the member is being compensated as an officer or employee of a governmental entity, including the State, while performing the member's service on the board.

Governmental employee board members attending official meetings held at a time other than their normal working hours, who receive no compensation or leave (such as comp time) for the additional hours of the meetings may receive the taxable meeting compensation (per diem) in R25-5-4(1).

(2) Travel expenses related to the attendance of official board meetings for which a governmental employee serving on the board is not otherwise reimbursed may also be paid to the employee in accordance with Rule R25-7.

(3) Governmental employees may decline to receive meeting compensation (per diem) and/or travel expenses for their services.

R25-5-6. Payment of Meeting Compensation (Per Diem).

All board members are required to be paid their meeting compensation (per diem) through the payroll system in order to calculate and withhold the appropriate taxes.

KEY: per diem allowances, rates, state employees, boards
June 21, 2013 63A-3-106
Notice of Continuation February 8, 2018

R25. Administrative Services, Finance.
R25-6. Relocation Reimbursement.
R25-6-1. Purpose.

The purpose of this rule is to establish procedures for payment of relocation reimbursements to employees who move for career progression or to accept employment with the state.

R25-6-2. Authority.

This rule is established pursuant to Subsection 63A-3-103(1), which authorizes the Director of Finance to define fiscal procedures relating to approval and allocation of funds.

R25-6-3. Definitions.

(1) "Agency" means any department, division, commission, council, board, bureau, committee, office, or other administrative subunit of state government.

(2) "Career progression" means job advancement.

(3) "Department" means all executive departments of state government.

(4) "Finance" means the Division of Finance.

(5) "Policy" means the policies and procedures of the Division of Finance, as published in the "Accounting Policies and Procedures."

(6) "Relocation" means the distance between the employee's old residence and new job site must increase at least 50 miles over the distance between the old residence and the old job site.

(7) "Reimbursement" means money paid to compensate an employee for money spent.

R25-6-4. Approval of Relocation Reimbursement.

All relocation reimbursements require prior written approval of the department director or agency head.

R25-6-5. Eligible Employees.

(1) Relocation reimbursement costs shall be granted to employees who move due to an involuntary change in jobs.

(2) Relocation reimbursement costs may be granted to employees who move due to a voluntary change in jobs.

(3) Relocation reimbursement costs may be granted to new employees who are required by the employing agency to move to accept employment with the state.

(a) The amount of relocation costs to be reimbursed to new employees is a matter of negotiation between the department or agency and the employee, but shall be for only those categories of expenditures identified as reimbursable by Section R25-6-8 and shall not exceed those costs identified as reimbursable in Finance policy FIACCT 05-03.03, Employee Reimbursements - Relocation Reimbursement. Finance policies and procedures are available on the Internet at http://www.finance.utah.gov.

R25-6-6. Repayment of Reimbursement.

The employee shall agree in writing to repay any relocation expense if, within one year following the relocation, the employee terminates employment with the state or transfers to another department. Exceptions to repayment of the relocation expense must be approved in writing by the Director of Finance.

R25-6-7. Payment of Relocation Expenses.

(1) The employee makes all payments and then requests reimbursement from the state.

(2) The employee may receive an advance of up to 90 percent of the estimated cost of the moving company, the storage of goods, and/or the real estate fees.

R25-6-8. Reimbursable Categories of Expenditures.

(1) Based on Finance policy, costs reimbursable to an employee for relocation fall into the following broad categories:

(a) Mileage or common carrier expenses;

(b) Lodging and meal expenses;

(c) Costs of moving household goods and furniture; and

(d) Real estate expenses.

(2) The use of state equipment to move an employee or to pull a privately-owned trailer or trailer house is prohibited unless approved by the Director of Finance and the State Risk Manager.

R25-6-9. Maximum Reimbursement.

The maximum reimbursement for relocation costs may not exceed $10,000 unless approved in writing by the Director of Finance.

KEY: costs, finance, relocation benefits, reimbursements
July 2, 2002 63A-3-103
Notice of Continuation February 8, 2018

R25. Administrative Services, Finance.
R25-7. Travel-Related Reimbursements for State Employees.
R25-7-1. Purpose.

The purpose of this rule is to establish procedures to be followed by departments to pay travel-related reimbursements to state employees.

R25-7-2. Authority and Exemptions.

This rule is established pursuant to:

(1) Section 63A-3-107, which authorizes the Division of Finance to make rules governing in-state and out-of-state travel expenses; and

(2) Section 63A-3-106, which authorizes the Division of Finance to make rules governing meeting per diem and travel expenses for board members attending official meetings.

R25-7-3. Definitions.

(1) "Agency" means any department, division, commission, council, board, bureau, committee, office, or other administrative subunit of state government.

(2) "Board" means a board, commission, council, committee, task force, or similar body established to perform a governmental function.

(3) "Department" means all executive departments of state government.

(4) "Finance" means the Division of Finance.

(5) "Home-Base" means the location the employee leaves from and/or returns to.

(6) "Per diem" means an allowance paid daily.

(7) "Policy" means the policies and procedures of the Division of Finance, as published in the "Accounting Policies and Procedures."

(8) "Rate" means an amount of money.

(9) "Reimbursement" means money paid to compensate an employee for money spent.

(10) "State employee" means any person who is paid on the state payroll system.

R25-7-4. Eligible Expenses.

(1) Reimbursements are intended to cover all normal areas of expense.

(2) Requests for reimbursement must be accompanied by original receipts for all expenses except those for which flat allowance amounts are established.

R25-7-5. Approvals.

(1) For insurance purposes, all state business travel, whether reimbursed by the state or not, must have prior approval by an appropriate authority. This also includes non-state employees where the state is paying for the travel expenses.

(2) Both in-state and out-of-state travel must be approved by the Executive Director or designee. The approval of in-state travel reimbursement forms may be considered as documentation of prior approval for in-state travel. Prior approval for out-of-state travel should be documented on form FI5 - "Request for Out-of-State Travel Authorization".

(3) Exceptions to the prior approval for out-of-state travel must be justified in the comments section of the Request for Out-of-State Travel Authorization, form FI 5, or on an attachment, and must be approved by the Department Director or the designee.

(4) The Department Director, the Executive Director, or the designee must approve all travel to out-of-state functions where more than two employees from the same department are attending the same function at the same time.

R25-7-6. Reimbursement for Meals.

(1) State employees who travel on state business may be eligible for a meal reimbursement.

(2) The reimbursement will include tax, tips, and other expenses associated with the meal.

(3) Allowances for in-state travel differ from those for out-of-state travel.

(a) The daily travel meal allowance for in-state travel is $42.00 and is computed according to the rates listed in the following table.

TABLE 1

In-State Travel Meal Allowances

Meals	Rate
Breakfast	$10.00
Lunch	$14.00
Dinner	$18.00
Total	$42.00

(b) The daily travel meal allowance for out-of-state travel is $46.00 and is computed according to the rates listed in the following table.

TABLE 2

Out-of-State Travel Meal Allowances

Meals	Rate
Breakfast	$10.00
Lunch	$14.00
Dinner	$22.00
Total	$46.00

(4) When traveling to a Tier I premium location (Anchorage, Chicago, Hawaii, New York City, San Francisco, and Seattle), the traveler may choose to accept the per diem rate for out-of-state travel (as shown above) or to be reimbursed at the actual meal cost, with original receipts, up to $67 per day.

When traveling to a Tier II premium location (Atlanta, Baltimore, Boston, Dallas, Los Angeles, San Diego, and Washington, DC), the traveler may choose to accept the per diem rate for out-of-state travel (as shown above) or to be reimbursed at the actual meal cost, with original receipts, up to $58 per day.

(a) The traveler will qualify for premium rates on the day the travel begins and/or the day the travel ends only if the trip is of sufficient duration to qualify for all meals on that day.

(b) Complimentary meals of a hotel, motel and/or association and meals included in registration costs are deducted from the premium location allowance as follows:

Tier I Location

(i) If breakfast is provided deduct $15, leaving a premium allowance for lunch and dinner of actual up to $52.

(ii) If lunch is provided deduct $20, leaving a premium allowance for breakfast and dinner of actual up to $47.

(iii) If dinner is provided deduct $32, leaving a premium allowance for breakfast and lunch of actual up to $35.

Tier II Location

(i) If breakfast is provided deduct $13, leaving a premium allowance for lunch and dinner of actual up to $45.

(ii) If lunch is provided deduct $17, leaving a premium allowance for breakfast and dinner of actual up to $41.

(iii) If dinner is provided deduct $28, leaving a premium allowance for breakfast and lunch of actual up to $30.

(c) The traveler must use the same method of reimbursement for an entire day.

(d) Actual meal cost includes tips.

(e) Alcoholic beverages are not reimbursable.

(5) When traveling in foreign countries, the traveler may choose to accept the per diem rate for out-of-state travel (as shown above) or to be reimbursed the actual meal cost, with original receipts, not to exceed the United States Department of

State Meal and Incidental Expenses (M and IE) rate for their location.

(a) The traveler may use both reimbursement methods during a trip; however, they must use the same method of reimbursement for an entire day.

(b) Actual meal cost includes tips.

(c) Alcoholic beverages are not reimbursable.

(6) The meal reimbursement calculation is comprised of three parts:

(a) The day the travel begins. The traveler's entitlement is determined by the time of day the traveler leaves their home base (the location the employee leaves from and/or returns to), as illustrated in the following table.

TABLE 3

The Day Travel Begins

1st Quarter a.m.	2nd Quarter a.m.	3rd Quarter p.m.	4th Quarter p.m.
12:00-5:59	6:00-11:59	12:00-5:59	6:00-11:59
*B, L, D	*L, D	*D	*no meals
In-State			
$42.00	$32.00	$18.00	$0
Out-of-State			
$46.00	$36.00	$22.00	$0

*B = Breakfast, L = Lunch, D = Dinner

(b) The days at the location.

(i) Complimentary meals of a hotel, motel, and/or association and meals included in the registration cost are deducted from the total daily meal allowance. However, continental breakfasts will not reduce the meal allowance. Please Note: For breakfast, if a hot food item is offered, it is considered a complimentary meal, no matter how it is categorized by the hotel/conference facility. The meal is considered a "continental breakfast" if no hot food items are offered.

(ii) Meals provided on airlines will not reduce the meal allowance.

(c) The day the travel ends. The meal reimbursement the traveler is entitled to is determined by the time of day the traveler returns to their home base, as illustrated in the following table.

TABLE 4

The Day Travel Ends

1st Quarter a.m.	2nd Quarter a.m.	3rd Quarter p.m.	4th Quarter p.m.
12:00-6:00	6:01-12:00	12:01-6:00	6:01-11:59
*no meals	*B	*B, L	*B, L, D
In-State			
$0	$10.00	$24.00	$42.00
Out-of-State			
$0	$10.00	$24.00	$46.00

*B = Breakfast, L = Lunch, D = Dinner

(7) An employee may be authorized by the Department Director or designee to receive a taxable meal allowance when the employee's destination is at least 100 miles one way from their home base and the employee does not stay overnight.

(a) Breakfast is paid when the employee leaves their home base before 6:00 a.m.

(b) Lunch is paid when the trip meets one of the following requirements:

(i) The employee is on an officially approved trip that warrants entitlement to breakfast and dinner.

(ii) The employee leaves their home base before 10 a.m. and returns after 2 p.m.

(iii) The Department Director provides prior written approval based on circumstances.

(c) Dinner is paid when the employee leaves their home base and returns after 6:00 p.m.

(d) The allowance is not considered an absolute right of the employee and is authorized at the discretion of the Department Director or designee.

R25-7-7. Meals for Statutory Non-Salaried State Boards.

(1) When a board meets and conducts business activities during mealtime, the cost of meals may be charged as public expense.

(2) Where salaried employees of the State of Utah or other advisors or consultants must, of necessity, attend such a meeting in order to permit the board to carry on its business, the meals of such employees, advisors, or consultants may also be paid. In determining whether or not the presence of such employees, advisors, or consultants is necessary, the boards are requested to restrict the attendance of such employees, advisors, or consultants to those absolutely necessary at such mealtime meetings.

R25-7-8. Reimbursement for Lodging.

State employees who travel on state business may be eligible for a lodging reimbursement.

(1) For stays at a conference hotel, the state will reimburse the actual cost plus tax and any mandatory fees charged by the hotel for both in-state and out-of-state travel. The traveler must include the conference registration brochure with the Travel Reimbursement Request, form FI 51A or FI 51B.

(2) For in-state lodging at a non-conference hotel, the state will reimburse the actual cost up to $70 per night for single occupancy plus tax and any mandatory fees charged by the hotel except as noted in the table below:

TABLE 5

Cities with Differing Rates

Beaver	$75.00 plus tax and mandatory fees
Blanding	$75.00 plus tax and mandatory fees
Bluff	$90.00 plus tax and mandatory fees
Brigham City	$80.00 plus tax and mandatory fees
Bryce Canyon City	$75.00 plus tax and mandatory fees
Cedar City	$80.00 plus tax and mandatory fees
Duchesne	$80.00 plus tax and mandatory fees
Ephraim	$75.00 plus tax and mandatory fees
Farmington	$85.00 plus tax and mandatory fees
Fillmore	$75.00 plus tax and mandatory fees
Garden City	$80.00 plus tax and mandatory fees
Green River	$85.00 plus tax and mandatory fees
Hanksville	$75.00 plus tax and mandatory fees
Heber	$85.00 plus tax and mandatory fees
Kanab	$85.00 plus tax and mandatory fees
Layton	$85.00 plus tax and mandatory fees
Logan	$85.00 plus tax and mandatory fees
Mexican Hat	$90.00 plus tax and mandatory fees
Moab	$100.00 plus tax and mandatory fees
Monticello	$80.00 plus tax and mandatory fees
Ogden	$85.00 plus tax and mandatory fees
Park City/Midway	$100.00 plus tax and mandatory fees
Price	$75.00 plus tax

	and mandatory fees
Provo/Orem/Lehi/American Fork/ Springville	$85.00 plus tax and mandatory fees
Roosevelt/Ballard	$90.00 plus tax and mandatory fees
Salt Lake City Metropolitan Area (Draper to Centerville), Tooele	$100.00 plus tax and mandatory fees
St.George/Washington/Springdale/ Hurricane	$85.00 plus tax and mandatory fees
Torrey	$85.00 plus tax and mandatory fees
Tremonton	$90.00 plus tax and mandatory fees
Vernal	$95.00 plus tax and mandatory fees
All Other Utah Cities	$70.00 plus tax and mandatory fees

(3) State employees traveling less than 50 miles from their home base are not entitled to lodging reimbursement. Miles are calculated from either the departure home-base or from the destination to the traveler's home-base. The traveler may leave from one home-base and return to a different home-base. For example, if the traveler leaves from their residence, then the home-base for departure calculations is their residence. If the traveler returns to where they normally work (ie. Cannon Health Building), then the home-base for arrival calculations is the Cannon Health Building.

(a) In some cases, agencies must use judgement to determine a traveler's home-base. The following are some things to consider when determining a traveler's home-base.

(i) Is the destination less than 50 miles from the traveler's home or normal work location? If the destination is less than 50 miles from either the traveler's home or from their normal work location, then generally the employee should not be reimbursed for lodging.

(ii) Is there a valid business reason for the traveler to go to the office (or to some other location) before driving to the destination?

(iii) Is the traveler required to work at the destination the next day?

(iv) Is the traveler going directly home after the trip, or is there a valid business reason for the traveler to first go to the office (or to some other location)?

(v) Even if "it is not specifically against policy", would the lodging be considered necessary, reasonable and in the best interest of the State?

(4) When the State of Utah pays for a person from out-of-state to travel to Utah, the in-state lodging per diem rates will apply.

(5) For out-of-state travel stays at a non-conference hotel, the state will reimburse the actual cost per night plus tax and any mandatory fees charged by the hotel, not to exceed the federal lodging rate for the location. These reservations must be made through the State Travel Office.

(6) The state will reimburse the actual cost per night plus tax and any mandatory fees charged by the hotel for in-state or out-of-state travel stays where the department/traveler makes reservations through the State Travel Office.

If lodging is not available at the allowable per diem rate in the area the employee needs to stay, the State Travel Office will book a hotel with the best available rate. In this circumstance, the employee will be reimbursed at the actual rate booked.

If an employee chooses to stay at a hotel that costs more than the allowable per diem rate, the employee will only be reimbursed for the allowable per diem rate plus tax and any mandatory fees charged by the hotel. These instances will be audited 100% by the State Finance Post-Auditors.

(7) Lodging is reimbursed at the rates listed in Table 5 for single occupancy only. For double state employee occupancy, add $20, for triple state employee occupancy, add $40, for quadruple state employee occupancy, add $60.

(8) Exceptions will be allowed for unusual circumstances when approved in writing by the traveler's Department Director or designee prior to the trip.

(a) For out-of-state travel, the approval may be on the form FI 5.

(b) Attach the written approval to the Travel Reimbursement Request, form FI 51B or FI 51D.

(9) A proper receipt for lodging accommodations must accompany each request for reimbursement.

A proper receipt is a copy of the registration form generally used by motels and hotels which includes the following information: name of motel/hotel, street address, town and state, telephone number, current date, name of person/persons staying at the motel/hotel, date(s) of occupancy, amount and date paid, number in the party, and (single, double, triple, or quadruple occupancy).

(10) When lodging is required, travelers should stay at the lodging facility nearest to the meeting/training/work location where state lodging per diem rates are accepted in order to minimize transportation costs.

(11) Travelers may also elect to stay with friends or relatives or use their personal campers or trailer homes instead of staying in a hotel.

(a) With proof of staying overnight away from home on approved state business, the traveler will be reimbursed the following:

(i) $25 per night with no receipts required or

(ii) Actual cost up to $40 per night with a signed receipt from a facility such as a campground or trailer park, not from a private residence.

(12) Travelers who are on assignment away from their home base for longer than 90 days will be reimbursed as follows:

(a) First 30 days - follow regular rules for lodging and meals. Lodging receipt is required.

(b) After 30 days - $46 per day for lodging and meals. No receipt is required.

R25-7-9. Reimbursement for Incidentals.

State employees who travel on state business may be eligible for a reimbursement for incidental expenses.

(1) Travelers will be reimbursed for actual out-of-pocket costs for incidental items such as baggage tips, transportation costs, maid service, and bellman. Gratuities/tips for various services such as taxi/shuttle, assistance with baggage, maid service, and bellman, may be reimbursed up to a combined maximum of $5.00 per day.

(a) Tips for doormen and meals are not reimbursable.

(b) No other gratuities will be reimbursed.

(c) Include an original receipt for each individual incidental item above $19.99.

(2) The state will reimburse incidental ground transportation and parking expenses.

(a) Travelers shall document all official business use of taxi, bus, parking, and other ground transportation including dates, destinations, parking locations, receipts, and amounts.

(b) Personal use of such transportation to restaurants is not reimbursable.

(c) The maximum that airport parking will be reimbursed is the economy lot parking rate at the airport they are flying out of. A receipt is required for amounts of $20 or more.

(3) Registration should be paid in advance on a state warrant, or with a state purchasing card.

(a) A copy of the approved FI 5 form must be included with the Payment Voucher for out-of-state registrations.

(b) If a traveler must pay the registration when they arrive, the agency is expected to process a Payment Voucher and have the traveler take the state warrant with them.

(4) Telephone calls related to state business are reimbursed at the actual cost.

(a) The traveler shall list the amount of these calls separately on the Travel Reimbursement Request, form FI 51A or FI 51B.

(b) The traveler must provide an original lodging receipt or original personal phone bill showing the phone number called and the dollar amount for business telephone calls and personal telephone calls.

(5) Allowances for personal telephone calls made while out of town on state business overnight may be based on the number of nights away from home. The traveler must provide an original lodging receipt or original personal phone bill showing the phone number called and the dollar amount for personal telephone calls.

(a) Four nights or less - actual amount up to $2.50 per night.

(b) Five to eleven nights - actual amount up to $20.00

(c) Twelve nights to thirty nights - actual amount up to $30.00

(d) More than thirty days - start over

(6) Actual laundry expenses up to $18.00 per week will be allowed for trips in excess of six consecutive nights, beginning after the sixth night out.

(a) The traveler must provide receipts for the laundry expense.

(b) For use of coin-operated laundry facilities, the traveler must provide a list of dates, locations, and amounts.

(7) An amount of $5 per day will be allowed for travelers away in excess of six consecutive nights beginning after the sixth night out.

(a) This amount covers miscellaneous incidentals not covered in this rule.

(b) This allowance is not available for travelers going to conferences.

(8) Travel on a Weekend during Trips of More Than 10 Nights' Duration - A department may provide for employees to return home on a weekend when a trip extends longer than ten nights. Reimbursements may be given for costs allowed by these policies.

R25-7-10. Reimbursement for Transportation.

State employees who travel on state business may be eligible for a transportation reimbursement.

(1) Air transportation is limited to Air Coach or Excursion class. Priority seating charges will not be reimbursed unless preapproved by the department director or designee.

(a) All reservations (in-state and out-of-state) should be made through the State Travel Office for the least expensive air fare available at the time reservations are made.

(b) Only one change fee per trip will be reimbursed.

(c) The explanation for the change and any other exception to this rule must be given and approved by the Department Director or designee.

(2) Travelers may be reimbursed for mileage to and from the airport and long-term parking or away-from-the-airport parking.

(a) The maximum reimbursement for parking, whether travelers park at the airport or away from the airport, is the long term parking rate at the airport they are flying out of.

(b) The parking receipt must be included with the Travel Reimbursement Request, form FI 51A or FI 51B for amounts of $20 or more.

(c) Travelers may be reimbursed, up to the maximum reimbursements rate, for mileage to and from the airport to allow someone to drop them off and to pick them up.

(3) Travelers may use private vehicles with approval from the Department Director or designee.

(a) Only one person in a vehicle may receive the reimbursement, regardless of the number of people in the vehicle.

(b) Reimbursement for a private vehicle will be at the rate of 40 cents per mile or 53 cents per mile if a state vehicle is not available to the employee.

(i) To determine which rate to use, the traveler must first determine if their department has an agency vehicle (long-term leased vehicle from Fleet Operations) that meets their needs and is reasonably available for the trip (does not apply to special purpose vehicles). If reasonably available, the employee should use an agency vehicle. If an agency vehicle that meets their needs is not reasonably available, the agency may approve the traveler to use either a daily pool fleet vehicle or a private vehicle. If a daily pool fleet vehicle is not reasonably available, the traveler may be reimbursed at 53 cents per mile.

(ii) If a trip is estimated to average 100 miles or more per day, the agency should approve the traveler to rent a daily pool fleet vehicle if one is reasonably available. Doing so will cost less than if the traveler takes a private vehicle. If the agency approves the traveler to take a private vehicle, the employee will be reimbursed at the lower rate of 40 cents per mile.

(c) Agencies may establish a reimbursement rate that is more restrictive than the rate established in this Section.

(d) Any exceptions to this mileage reimbursement rate guidance must be approved in writing by the employees Executive Director or designee.

(e) Mileage will be computed using Mapquest or other generally accepted map/route planning website, or from the latest official state road map and will be limited to the most economical, usually traveled routes.

(f) If the traveler uses a private vehicle on official state business and is reimbursed for mileage, parking charges may be reimbursed as an incidental expense.

(g) An approved Private Vehicle Usage Report, form FI 40, should be included with the department's payroll documentation reporting miles driven on state business during the payroll period.

(h) Departments may allow mileage reimbursement on an approved Travel Reimbursement Request, form FI 51A or FI 51B, if other costs associated with the trip are to be reimbursed at the same time.

(4) A traveler may choose to drive instead of flying if preapproved by the Department Director or designee.

(a) If the traveler drives a state-owned vehicle, the traveler may be reimbursed for meals and lodging for a reasonable amount of travel time; however, the total cost of the trip must not exceed the equivalent cost of the airline trip. The traveler may also be reimbursed for incidental expenses such as toll fees and parking fees.

(b) If the traveler drives a privately-owned vehicle, reimbursement will be at the rate of 40 cents per mile or the airplane fare, whichever is less, unless otherwise approved by the Department Director or designee.

(i) The lowest fare available within 30 days prior to the departure date will be used when calculating the cost of travel for comparison to private vehicle cost.

(ii) A comparison printout which is available through the State Travel Office is required when the traveler is taking a private vehicle.

(iii) The traveler may be reimbursed for meals and lodging for a reasonable amount of travel time; however, the total cost of the trip must not exceed the equivalent cost of an airline trip.

(iv) If the traveler uses a private vehicle on official state business and is reimbursed for mileage, parking charges may be reimbursed as an incidental expense.

(c) When submitting the reimbursement form, attach a schedule comparing the cost of driving with the cost of flying. The schedule should show that the total cost of the trip driving was less than or equal to the total cost of the trip flying.

(d) If the travel time taken for driving during the employee's normal work week is greater than that which would have occurred had the employee flown, the excess time used will be taken as annual leave and deducted on the Time and Attendance System.

(5) Use of rental vehicles must be approved in writing in advance by the Department Director or designee.

(a) An exception to advance approval of the use of rental vehicles shall be fully explained in writing with the request for reimbursement and approved by the Department Director or designee.

(b) Detailed explanation is required if a rental vehicle is requested for a traveler staying at a conference hotel.

(c) When making rental car arrangements through the State Travel Office, reserve the vehicle you need. Upgrades in size or model made when picking up the rental vehicle will not be reimbursed.

(i) State employees should rent vehicles to be used for state business in their own names, using the state contract so they will have full coverage under the state's liability insurance.

(ii) Rental vehicle reservations not made through the State Travel Office must be approved in advance by the Department Director or designee.

(iii) The traveler will be reimbursed the actual rate charged by the rental agency.

(iv) The traveler must have approval for a rental car in order to be reimbursed for rental car parking.

(6) Travel by private airplane must be approved in advance by the Department Director or designee.

(a) The pilot must certify to the Department Director or designee that the pilot is certified to fly the plane being used for state business.

(b) If the plane is owned by the pilot/employee, the pilot must certify the existence of at least $500,000 of liability insurance coverage.

(c) If the plane is a rental, the pilot must provide written certification from the rental agency that the insurance covers the traveler and the state as insured. The insurance must be adequate to cover any physical damage to the plane and at least $500,000 for liability coverage.

(d) Reimbursement will be made at 53 cents per mile.

(e) Mileage calculation is based on air mileage and is limited to the most economical, usually-traveled route.

(7) Travel by private motorcycle must be approved prior to the trip by the Department Director or designee. Travel will be reimbursed at 20 cents per mile.

(8) A car allowance may be allowed in lieu of mileage reimbursement in certain cases. Prior written approval from the Department Director, the Executive Director of the Department of Administrative Services, and the Governor is required.

KEY: air travel, per diem allowances, state employees, transportation

August 7, 2017 63A-3-107

Notice of Continuation February 8, 2018 63A-3-106

R25. Administrative Services, Finance.
R25-8. Overtime Meal Allowance.
R25-8-1. Purpose.

The purpose of this rule is to establish procedures to be followed by departments to pay meal allowances to state employees required to work in excess of regularly scheduled hours during a 24-hour period.

R25-8-2. Authority.

This rule is established pursuant to Subsection 63A-3-103(1), which authorizes the Division of Finance to define fiscal procedures relating to approval and allocation of funds.

R25-8-3. Definitions.

(1) "Overtime Meal allowance" means a sum of money given to state employees to pay for meals which may be authorized when work hours are in excess of regularly scheduled hours during a 24-hour period.

(2) "Department" means all executive departments of state government.

(3) "Finance" means the Division of Finance.

(4) "Policy" means the policies and procedures of the Division of Finance, as published in the "Accounting Policies and Procedures."

(5) "Rate" means an amount of money.

(6) "State employee" means any person who is paid on the state payroll system.

R25-8-4. Allowance.

(1) A state employee required to work in excess of regularly scheduled hours may be authorized by his department to receive a taxable meal allowance up to $10 during a 24-hour period if:

(a) The employee is not on travel status.

(b) The total hours worked during the 24-hour period shall be three hours or more in excess of the regularly scheduled hours.

(c) The allowance is not considered an absolute right of the employee, and is authorized at the discretion of the Department Director or designee.

(d) The allowance may not be given in addition to any other meal allowance or per diem.

(e) The Employee Reimbursement/Earnings Request, form FI 48, should be completed and approved for the payment of the meal allowance. These overtime meal allowances must be paid through the payroll system in order to calculate and withhold the appropriate taxes.

KEY: finance, rates, state employees, allowance
June 21, 2013 63A-3-103
Notice of Continuation February 8, 2018

R68. Agriculture and Food, Plant Industry.
R68-5. Grain Inspection.
R68-5-1. Authority.

Promulgated under authority of Section 4-2-103(g).

R68-5-2. Grain Inspection Fees.

Fees shall be charged for the inspection and grading services as determined by the department pursuant to 4-2-103(g). A current list of approved fees may be obtained, upon request from the department:

A. Location:

Utah Department of Agriculture and Food
Grain Inspection
P.O. Box 1519 - 128 17th Street
Ogden, UT 84402
Phone (801) 392-2292

B. Hours. Regular working hours are 8:00 a.m. to 5:00 p.m., Monday through Friday.

C. Days Not Worked. Saturdays, Sundays, New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas. Holidays are considered overtime hours.

R68-5-3. Utah Standards For Safflower.

A. Safflower (carthamus tinctorius), for purposes of this rule, shall be construed to include all types and varieties of Safflower.

B. Moisture. The moisture, or water content in Safflower shall be tested in the following manner:

1. Basis of determination.

A moisture determination shall be made on a representative portion from the representative sample, before the removal of foreign material or dockage, by testing exactly the amount of 225 grams of safflower seed product.

2. Certification.

The percentages of moisture content shall be reported on the pan-ticket and the Utah Department of Agriculture and Food-Grain Inspection Certificate, and shall be expressed in whole and tenths of a percent, rounded to the nearest tenth percent.

C. Dockage.

All matter other than whole Safflower Seed which can be removed from a test portion of the original sample, shall be removed by the use of an approved device, and also by handpicking a portion of the machine-cleaned sample to remove all remaining material other than Safflower and other grains.

1. Basis of determination.

A dockage determination test shall be made using approximately 750-850 grams or 1 1/8 to 1 1/2 quarts cut from the original sample.

a. The person making the test shall first determine the mechanically separated dockage. This involves a separation procedure using a Carter Dockage Tester.

b. An arbitrarily handpicked portion of approximately 75 grams shall be cut from the mechanically cleaned Safflower Seed.

2. The following process shall be used to determine dockage with the Carter Dockage Tester.

a. The air control shall be set at number 9 (wide open).

b. The feed control shall be set at number 6.

c. In the Riddle Carriage, the plastic seed riddle, part number 35898, shall be used.

d. A number 2 sieve shall be used in the top sieve carriage.

e. If there is a sieve in the middle or the bottom sieve carriage, it shall NOT be used.

3. Dockage will consist of:

a. Any material removed by the aspirator (air collecting pan).

b. Coarse material, except whole Safflower Seed that passed over the riddle (riddle collecting pan). Whole kernels of Safflower Seed that passed over the riddle shall be returned to the cleaned sample.

c. Any material that passed through the number 2 sieve (bottom collecting pan).

d. Any material other than Safflower seed and other grains removed by handpicking a machine cleaned portion of approximately 75 grams.

4. Certification.

The percentage of dockage shall be reported on the pan ticket and the Utah Department of Agriculture and Food-Grain Inspection Certificate. The percent of dockage shall be stated in terms of whole or half percentages.

D. Test weight per bushel.

1. Basis of determination.

A test weight per bushel shall be performed on a representative portion ranging in size from 1 to 1 1/2 quarts or 750-850 grams after the removal of the mechanically separated dockage.

2. Certification.

The test weight per bushel shall be reported on the sample pan ticket and the Utah Department of Agriculture-Grain Inspection Certificate in whole and half pounds.

E. Hulls.

Hulls shall have less than 1 third (1/3) of the kernels attached.

1. Basis of determination.

A determination for testing the percentage of kernels attached to hulls shall be performed using approximately 30 grams cut from the work portion after the removal of dockage.

2. Certification.

The percentage of kernels attached to hulls shall be reported on the pan ticket and the Utah Department of Agriculture-Grain Inspection Certificate, and shall be expressed to the nearest tenth percent.

F. Dehulled kernels and broken seed.

Dehulled kernels and broken seed shall consist of Safflower or pieces of seed in which the hull has been completely removed from Safflower Seed that have 1 third (1/3) or more of the kernels attached, and also in cases of Safflower seeds that have been so broken that the kernel has been exposed.

1. Basis of determination.

A determination of dehulled and broken seed will be reported on the pan ticket and the Utah Department of Agriculture-Grain Inspection Certificate to the nearest tenth percent.

2. Certification.

The percentage of dehulled and broken seed will be reported on the pan ticket and the Utah Department of Agriculture-Grain Inspection Certificate to the nearest tenth percent.

G. Other grains.

Other grains shall consist of any other grain or domestic kernels which are not removed in the dockage.

1. Basis of determination.

A test to determine the percentage of other grains present in the product, will be performed on approximately 30 grams cut from the work sample after the removal of dockage.

2. Certification.

The percentage of other grains will be reported on the pan ticket and the Utah Department of Agriculture-Grain Inspection Certificate to the nearest tenth percent.

H. Damaged and heat-damaged Safflower Seed.

Amounts of damaged Safflower total kernels and pieces of kernels that are heat damaged, sprout damaged, frost damaged, green or otherwise materially damaged shall be assessed. Heat damaged means Safflower kernels and pieces of kernels that have been materially discolored and damaged by heat.

1. Basis of determination.

A test to determine the percentage of damaged and heat damaged Safflower kernels will be performed using approximately 30 grams cut from the work portion after the removal of dockage.

2. Certification.

The percentage of heat damaged Safflower Seed and damaged Safflower Seed (total) shall be reported on the pan ticket and the Utah Department of Agriculture-Grain Inspection Certificate, and shown to the nearest tenth percent.

I. Split damage.

A check for split damage in Safflower Seed shall be conducted noting any break, fissure, crack, or tear in the seed kernels, husk or cover.

1. Basis of determination.

A test to determine the percent of split, damaged Safflower kernels will be performed on approximately 30 grams cut from the work portion after the removal of dockage.

2. Certification.

The percentage of split damaged Safflower seeds shall be reported in the split section and included in the damaged Safflower section on the Utah Department of Agriculture-Grain Inspection Certificate, and shown to the nearest tenth percent.

J. Safflower Seed claiming a UTAH grade shall meet the requirements in the following table:

TABLE

Utah Safflower Seed Grade Requirements

Grade	Utah 1	Utah 2	Utah 3	Sample Grade
Minimum Limit				
Test wt. Per bushel	40.0 lbs	38.0 lbs	35.0 lbs	*
Maximum Limit				
Stones (per 100 grams)	2	6	6	*
Hulls	1	2	5	*
Dehulled Kernels and Broken Seed	2	4	8	*
Splits	2	5	8	*
Other Grains	0.5	2	3	*
Damaged Safflower Seeds				
Sprout	1	2	4	*
Heat	0.0	0.2	1	*
Total	3	5	5	*

*Sample grade Safflower shall consist of a Safflower-seed group which:

i. Does not meet the requirements for grade Utah 1 through Utah 3, or

ii. In approximately a 750-850 gram sample, contains 7 or more stones, or

iii. Has a musty, sour or commercially objectionable foreign odor, or

iv. Contains more than 2.5% of earth pellets after the mechanical separation of dockage.

NOTE: 1. Slightly or badly weather stained Safflower Seed may not be rated higher than grade Utah 2 or Utah 3 for purposes of inspection under this rule.

KEY: inspections
December 16, 1997 4-2-103(g)
Notice of Continuation January 30, 2018

R70. Agriculture and Food, Regulatory Services.
R70-940. Standards and Testing of Motor Fuel.
R70-940-1. Authority and Scope.

(1) Promulgated and enforced by authorities outlined in Utah Code, Title 4 Chapter 33 Motor Fuel Inspection Act.

(2) Scope: This rule establishes motor fuel performance specifications and monitoring standards to ensure consumer confidence in fuel quality.

R70-940-2. Standards.

(1) Gasoline and gasoline-ethanol blends shall have a minimum Anti-Knock Index (AKI) of 85.

(2) The Department adopts by reference motor fuel regulations outlined in the 2017 version of NIST Handbook 130; "Uniform Laws and Regulations in the area of legal metrology and engine fuel quality", Chapter IV, Part G, "Uniform Engine Fuels and Automotive Lubricants Regulation" with the following exceptions:

(a) Section 2.1.1, the Department adopts ASTM specification D4814-17, "Standard Specification for Automotive Spark-Ignition Engine Fuel".

(b) Section 2.1.2, Gasoline-Ethanol blends shall not exceed ASTM D4814-17 Table 1 vapor pressure limits by more than:

(i) 1.0 psi, when gasoline-ethanol blends contain nine to ten volume percent ethanol from June 1st through Sept 15th.

(ii) 1.0 psi, when gasoline-ethanol blends contain one up to and including fifteen volume percent ethanol for volatility classes A, B, C, and D from September 16th through May 31st.

(iii) 0.5 psi, for gasoline-ethanol blends containing one up to and including fifteen volume percent ethanol for volatility class E from September 16th through May 31st.

(iv) Vapor pressure exceptions will remain in effect until ASTM incorporates changes to the vapor pressure maximums for gasoline-ethanol blends.

(c) Section 2.2, the Department adopts by reference ASTM D975-17 "Standard Specification for Diesel Fuel Oils".

(d) Section 4.4.2, If the standard color code is adopted, no color key posting is required

R70-940-3. Storage Tank Preparation.

(1) Retail storage tanks and equipment must be cleaned and purged prior to first introduction of fuel meant for sale or,

(2) Purged when switching from one type or grade of fuel to another.

(3) Access to the bottom of a retail storage tank shall remain unobstructed such that any phase separated water content may be measured or detected from the fill connection.

R70-940-4. Certification, Documentation, and Labeling.

(1) Certification and documentation of motor fuels shall be made in accordance with 16CFR Part 306, "Automotive Fuel Ratings, Certification, and Posting".

(2) Labeling shall be regulated in accordance with requirements in the 2017 version of NIST Handbook 130; "Uniform Laws and Regulations in the area of legal metrology and engine fuel quality", Chapter IV, Part G, "Uniform Engine Fuels and Automotive Lubricants Regulation".

KEY: inspections, motor fuel
February 22, 2018 **4-33-4**
Notice of Continuation August 2, 2016

R105. Attorney General, Administration.
R105-2. Records Access and Management.
R105-2-1. Purpose.

This rule provides information about submitting requests and appeals to the Attorney General's Office under the Government Records Access and Management Act.

R105-2-2. Requests for Access.

All requests for records shall be directed to:

TABLE

If by hand delivery:

GRAMA Coordinator
Office of the Attorney General
Utah State Capitol Complex
350 North State Street Suite 230
Salt Lake City, Utah 84114

If by mail:

GRAMA Coordinator
Office of the Attorney General
PO Box 140860
Salt Lake City, Utah 84114-0860

If by email:

GRAMA Coordinator
AGO_GRAMA_Coordinator@agutah.gov

R105-2-3. Appeals.

Appeals regarding questions of access to records shall be directed to:

TABLE

If by hand delivery:

GRAMA Appeal
Office of the Attorney General
Utah State Capitol Complex
350 North State Street Suite 230
Salt Lake City UT 84114

If by mail:

GRAMA Appeal
Office of the Attorney General
PO Box 140860
Salt Lake City, Utah 84114-0860

If by email:

GRAMA Coordinator
AGO_GRAMA_Coordinator@agutah.gov

R105-2-4. Records of Client Agencies.

Requesters seeking copies of records of client agencies of the Attorney General's Office must make their request directly to the client agency. See Section 67-5-15(1).

R105-2-5. Record Sharing.

For the purpose of record sharing between governmental entities as provided in Section 63G-2-206, the Attorney General's Office is one governmental entity and all divisions in the office are part of that entity.

KEY: public records, government documents, records access, GRAMA
February 7, 2018 63G-2-204
Notice of Continuation September 28, 2016

R277. Education, Administration.
R277-518. Career and Technical Education Licenses.
R277-518-1. Definitions.

A. "Adult education" means organized and structured programs or competencies which directly or indirectly prepare students for post-secondary or training opportunities, and/or entering and retaining employment opportunities. Adult education programs provide qualifying out-of-school youth and adult students with literacy skills below the collegiate/post-secondary level with a continuous education system, driven by a student education occupational plan (SEOP), through competency-based instruction, with opportunities to improve their basic literacy levels, English as a second language skills, or high school level of education consistent with R277-733.

B. "ARL Program" means the alternative licensing route as provided in R277-503-4, administered by USOE.

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

D. "Career and technical education (CTE)" means organized educational programs or competencies which directly or indirectly prepare students for employment, or for additional preparation leading to employment, in occupations where entry requirements do not generally require a baccalaureate or advanced degree. CTE programs provide all students a continuous education system, driven by a student education occupational plan (SEOP), through competency-based instruction, culminating in essential life skills, certified occupational skills, and meaningful employment. Categories include agriculture; business; family and consumer sciences; health science; information technology; marketing; skilled and technical sciences; technology and engineering education; and work-based learning, consistent with R277-916.

E. "CTE Alternative Preparation Program (APP) license area of concentration (license area)" means the provisional license area of concentration issued prior to March 1, 2014 by the Board for a three year period which enables the holder to teach only in a specific CTE or technical field, or adult education in the public school system and may require educational coursework.

F. "Level 1 license" means a Utah professional educator license issued upon completion of an approved preparation program or an alternative preparation program, or pursuant to an agreement under the NASDTEC Interstate Contract, to applicants who have also met all ancillary requirements established by law or rule.

G. "Level 2 license" means a Utah professional educator license issued by the Board after satisfaction of all requirements for a Level 1 license and:

(1) satisfaction of requirements under R277-522 for teachers whose employment as a Level 1 licensed educator began after January 1, 2003 in a Utah public LEA or accredited private school;

(2) at least three years of successful education experience in a Utah public LEA or accredited private school or one year of successful education experience in a Utah public LEA or accredited private school and at least three years of successful education experience in a public LEA or accredited private school outside of Utah;

(3) additional requirements established by law or rule.

H. "Level 3 license" means a Utah professional educator license issued to an educator who holds a current Utah Level 2 license and has also received National Board Certification or a doctorate in education or in a field related to a content area in a unit of the public education system or an accredited private school, or holds a Speech-Language Pathology area of concentration and has obtained American Speech-Language Hearing Association (ASHA) certification.

I. "A license area of concentration (license area)" is obtained by completing an approved preparation program or an alternative preparation program in a specific area of educational studies such as Early Childhood (K-3), Elementary 1-8, Middle (5-9) (still valid, but not issued after 1988), Secondary (6-12), Administrative/Supervisory, CTE, School Counselor, School Psychologist, School Social Worker, Special Education (K-12), Preschool Special Education (Birth-Age 5), Communication Disorders. License areas of concentration may also bear endorsements relating to subjects or specific assignments.

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

R277-518-2. 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-6-104 which permits the Board to issue licenses for educators, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to specify standards for a CTE license area and endorsements. An appropriate CTE or secondary license area and appropriate endorsement(s) are required for all persons teaching CTE programs at the secondary and adult level where high school credit is earned. Specific to adult education, an appropriate CTE, elementary or secondary license area is required for all persons awarding adult education high school completion credits in multiple subjects consistent with R277-733-4L.

R277-518-3. CTE License Required.

A CTE or secondary license area with appropriate endorsements is required for all persons teaching CTE programs at the secondary and adult level where high school credit is earned.

R277-518-4. Career and Technical Education License Area Eligibility.

A. To be eligible to earn a CTE license area through the ARL Program, an applicant shall:

(1) have six years of documented, related occupational experience within the 10 years prior to the Program application in any of the following CTE license areas:

(a) family and consumer sciences;

(b) health sciences;

(c) information technology;

(d) skilled and technical sciences; or

(e) work-based learning; and

(2) have documentation:

(a) of an offer of a teaching assignment in a Utah public or accredited private school;

(b) that is directly related to the applicant's occupational experience; and

(c) of experience which is in an approved CTE license area.

B. Periods of employment lasting less than one month and periods of employment prior to 18 years of age are not accepted for purposes of calculating the occupational experience requirement.

C. An associate's degree in a related area may be counted for up to two years of occupational experience to satisfy the requirement in R277-518-4A(1).

D. An applicant for a CTE license area is not required to have a bachelor's degree.

E. State-approved testing:

The occupational experience requirement may be waived by the appropriate USOE Program Specialist or Coordinator if the applicant has passed a state-approved competency examination in the respective field at or above the USOE established cut-off scores. Individual applicant scores may be used for licensing purposes up to five years after completion of the respective examination(s).

F. In addition to meeting the requirements of R277-518-

4A(1), an ARL Program applicant for a CTE license area shall:

(1) meet all endorsement specific standards established by the USOE; and

(2) hold the applicable license issued by the Utah State Department of Commerce, Division of Occupational and Professional Licensing in any area where such licensure or certification exists.

G. An applicant for a CTE license area shall complete pedagogical coursework or satisfy pedagogical standards consistent with R277-503-4. An ARL Program applicant for a CTE license area shall provide evidence of mastery of the following areas of pedagogy:

(1) instruction, technology, assessment, and planning;

(2) creation of a learning environment;

(3) basic special education/IDEA requirements;

(4) teaching diverse populations; and

(5) literacy strategies in content areas.

H. An applicant for a CTE license area shall provide documentation of participation in transition to teaching orientation and participation in the CTE New Teacher Academy.

I. An ARL Program applicant for a CTE license area with an adult education endorsement is restricted to employment in an accredited adult education program.

R277-518-5. Career and Technical Education Speciality License Area.

A. If an ARL Program applicant is teaching one CTE course and is employed for less than 0.37 FTE in relation to the respective school schedule, the ARL Program applicant may earn a CTE Specialist license area with one year of teaching experience and the recommendation of the employing LEA, in lieu of the CTE license area provided in R277-518-4, in the following endorsement areas:

(1) Adult Education;

(2) Exercise Science/Sports Medicine;

(3) Pharmacy Technician;

(4) Fire Science;

(5) Law Enforcement;

(6) Nurse Assistant; and

(7) Additional areas as approved by USOE in which professionals are required to meet licensure requirements outside of educator licensure.

B. The ARL Program applicant shall:

(1) have had regular employment in the CTE license area in which he is assigned to teach;

(2) have had one year of public school teaching experience; and

(3) have the recommendation of the employing LEA.

C. A CTE specialty license area ARL applicant is not required to pay the ARL professional growth plan fee. These applicants shall not receive ongoing monitoring or program completion support from the USOE ARL office beyond the request for licensure recommendation at the completion of one year of teaching.

D. A CTE specialty license area is only valid for employment in the areas listed in R277-518-5A as long as the holder is teaching one CTE course and is employed for less than 0.37 FTE.

E. An individual holding a CTE Specialist license area may be upgraded to a regular CTE license area or Secondary (6-12) license area upon payment of the additional license area recommendation fee, the completion of the requirements of R277-518-4F, and the recommendation of the employing LEA.

F. An individual with a CTE specialist Level 1 license area shall continue as a Level 1 license holder indefinitely despite the Level 1 limitations in R277-502-4A(6), but shall satisfy the requirements of Section 53A-3-410 and a subsequent review prior to classroom employment, consistent with LEA employment policies.

KEY: educator licensing, professional education, career and technical education

March 10, 2014 Art X Sec 3

Notice of Continuation February 26, 2018 53A-6-104

53A-1-401(3)

R277. Education, Administration.
R277-610. Released-Time Classes and Public Schools.
R277-610-1. Definitions.

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

B. "Non-entangling criteria" means neutral course instruction and standards that are academic not devotional; promote awareness not acceptance of any religion; expose not impose a particular view; educate about religion; and inform but not seek to make students conform to any religion.

C. "Released-time" means a period of time during the regular school day when a student attending a public school is excused from the school, at the request of the student's parent.

R277-610-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-402(1) which directs the Board to adopt minimum standards for public schools, and Section 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to specify standards and procedures for public schools regarding released-time classes.

R277-610-3. Interaction Between Public Schools and Released-Time Classes.

A. Students may attend released-time classes during the regular school day only upon the written request of the student's parent or legal guardian.

B. A public school shall not maintain records of attendance for released-time classes or use school personnel or school resources to regulate such attendance.

C. Teachers of released-time classes are not members of the public school faculty. Released-time teachers may participate in school activities as community members.

D. Public school teachers, administrators, or other officials shall not request teachers of released-time classes to exercise functions or assume responsibilities for the public school program which would result in a commingling of the activities of the two institutions.

E. Public school class schedules and course catalogs shall not include released-time classes by name. At the convenience of the school, registration forms may contain a space for released-time designation.

F. Public school publications shall not include pictures, reports, or records of released-time classes.

G. Public school personnel shall not participate in released-time classes. Released-time classes shall not use school resources or equipment.

R277-610-4. Additional Conditions for Religious Released-Time Programs.

A. Religious classes shall not be held in school buildings or on school property in any way that permits public money or property to be applied to, or that requires public employees to become entangled with, any religious worship, exercise, or instruction.

B. Religious released-time scheduling shall take place on forms and supplies furnished by the religious institution and by personnel employed or engaged by the institution and shall occur off public school premises.

C. There shall be no connection of bells, telephones, computers or other devices between public school buildings and institutions offering religious instruction except as a convenience to the public school in the operation of its own programs. When any connection of devices is permitted, the costs shall be borne by the respective institutions.

D. Records of attendance at religious released-time classes, grades, marks, or other data shall not be included in the correspondence or reports made by the public school to parents.

E. Institutions offering religious instruction are private programs or schools separate and apart from the public schools. Those relationships that are legitimately exercised between the public school and any private school are appropriate with institutions offering released-time classes, so long as public property, public funds, or other public resources are not used to aid such institutions.

F. Public schools may grant elective credit for religious released-time classes if the school district establishes neutral, non-entangling criteria with which to evaluate all released-time courses.

KEY: released-time classes

May 16, 2013	**Art X Sec 3**
Notice of Continuation February 26, 2018	**53A-1-402(1)**
	53A-1-401(3)

R277. Education, Administration.
R277-705. Secondary School Completion and Diplomas.
R277-705-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board;

(b) Subsections 53A-1-402(1)(b) and (c), which direct the Board to make rules regarding competency levels, graduation requirements, curriculum, and instruction requirements; and

(c) Section 53A-1-401, which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to:

(a) provide consistent definitions;

(b) provide alternative methods for a student to earn credit and alternate methods for schools to award credit;

(c) provide rules and procedures for the assessment of all students as required by law; and

(d) provide rules for a student to receive an alternative to a traditional diploma if appropriate criteria are met.

R277-705-2. Definitions.

(1) "Alternate Diploma" means a diploma issued in accordance with Section R277-705-5.

(2) "Demonstrated competence" means subject mastery as determined by LEA standards and review. LEA review may include such methods and documentation as: tests, interviews, peer evaluations, writing samples, reports or portfolios.

(3) "Diploma" means an official document awarded by an LEA consistent with state and LEA graduation requirements and the provisions of this rule.

(4) "FAPE" means a free appropriate public education, which includes special education and related services that are provided at public expense, under public supervision and direction, and without charge in accordance with Board rule and the IDEA.

(5)(a) "Secondary school" means grades 7-12 in whatever kind of school the grade levels exist.

(b) Grade 6 may be considered a secondary grade for some purposes.

(6) "Section 504 plan" means a written statement of reasonable accommodations for a student with a qualifying disability that is developed, reviewed, and revised in accordance with Section 504 of the Rehabilitation Act of 1973.

(7)(a) "Special purpose school" means a school designated by a regional accrediting agency, adopted by the Board.

(b) "Special purpose school" includes a school:

(i) that serves a specific population such as a student with a disability, youth in custody, or a school with a specific curricular emphasis; and

(ii) with curricula designed to serve specific populations that may be modified from a traditional program.

(8) "Student with a significant cognitive disability" or "SCD" is determined by a comprehensive understanding of a whole student, including review of educational considerations and data obtained through the IEP process, including whether a student:

(a) requires intensive, repeated, modified, and direct individualized instruction and requires substantial supports to learn, maintain, and generalize skills in the student's grade and age-appropriate curriculum;

(b) has special education eligibility documentation indicating the disability significantly impacts intellectual functioning and adaptive behavior;

(c) demonstrates cognitive functioning and adaptive behavior in home, school, and community environments, which are significantly below age expectations, even with program modifications, adaptations, and accommodations;

(d) has a severe and complex cognitive disability, which limits the student from meaningful participation in the standard academic core curriculum or achievement of the academic content standards established at grade level, without substantial support, modifications, adaptations, and accommodations;

(e) may be eligible to participate in alternate assessments; and

(f) has a disability, which increases the need for dependence on others for many, if not all, daily living needs, and is expected to require extensive ongoing support through adulthood.

(9) "Supplemental education provider" means a private school or educational service provider:

(a) that may or may not be accredited; and

(b) that provides courses or services similar to public school courses or classes.

(10)(a) "Transcript" means an official document or record generated by one or several schools which includes:

(i) the courses in which a secondary student was enrolled;

(ii) grades and units of credit earned; and

(iii) citizenship and attendance records.

(b) A transcript is one part of a student's permanent record or cumulative file that may include:

(i) birth certificate

(ii) immunization records; and

(iii) other information as determined by the school in possession of the record.

(11) "Unit of credit" means credit awarded for a course taken:

(a) consistent with this rule;

(b) upon LEA authorization; or

(c) for mastery demonstrated by approved methods.

R277-705-3. Required LEA Policy Explaining Student Credit.

(1)(a) An LEA governing board shall establish a policy, in an open meeting, explaining the process and standards for acceptance and reciprocity of credits earned by a student in accordance with state law.

(b) An LEA policy described in Subsection (1)(a) shall include specific and adequate notice to a student and a parent of all policy requirements and limitations.

(2)(a) An LEA shall accept credits and grades awarded to a student from a school or a provider accredited by an accrediting entity adopted by the Board.

(b) An LEA policy may establish reasonable timelines and may require adequate and timely documentation of authenticity for credits and grades submitted.

(3) An LEA policy shall provide various methods for a student to earn credit from a non-accredited source, course work, or education provider including:

(a) satisfaction of coursework by demonstrated competency, as evaluated at the LEA level;

(b) assessment as proctored and determined at the school or school level;

(c) review of student work or projects by an LEA administrator; and

(d) satisfaction of electronic or correspondence coursework, as approved at the LEA level.

(4) An LEA may require documentation of compliance with Section 53A-11-102 prior to reviewing a student's home school or competency work, assessment or materials.

(5) An LEA policy for participation in extracurricular activities, awards, recognitions, and enhanced diplomas may be determined locally consistent with the law and this rule.

(6) An LEA has the final decision-making authority for the awarding of credit and grades from a non-accredited source consistent with state law, due process, and this rule.

R277-705-4. Diplomas and Certificates of Completion.

(1) An LEA shall award diplomas and certificates of completion.

(2) An LEA shall establish criteria for a student to earn a certificate of completion that may be awarded to a student who:

(a) has completed the student's senior year;

(b) is exiting or aging out of the school system; and

(c) has not met all state or LEA requirements for a diploma.

(3) A student with a disability served by a special education program shall satisfy high school completion or graduation criteria, consistent with state and federal law and the student's IEP.

(4) An LEA may award a student a certificate of completion consistent with state and federal law and the student's IEP or Section 504 plan.

R277-705-5. Alternate Diploma.

(1) An LEA may award an alternate diploma to a student with a significant cognitive disability if:

(a) the student accesses grade-level Core standards through the Essential Elements;

(b) the student's IEP team makes graduation substitutions in the same content area, from a list of alternative courses approved by the Superintendent; and

(c) the student meets all graduation requirements prior to exiting school at or before age 22.

(2) An alternate diploma issued in accordance with Subsection (1) may not indicate that the recipient is a student with a disability.

(3) Notwithstanding the award of an alternate diploma, an LEA may still be obligated to provide FAPE to an eligible student in accordance with the IDEA.

(4)(a) The Superintendent shall provide a list of alternative courses that may be considered for student with cognitive disabilities working to receive an alternate diploma.

(b) An LEA may submit courses to the Superintendent to be considered for possible inclusion on the list required by Subsection (4)(a).

(c) The Superintendent shall annually update the list of alternative courses required under Subsection (4)(a) following review of LEA recommendations made under Subsection (4)(b).

R277-705-6. Career Development Credentials.

(1) An LEA may award a career development credential to a student with an IEP or Section 504 plan:

(a) who meets the requirements of a career focused work experience prior to leaving school; and

(b) consistent with:

(i) state and federal law; and

(ii) the student's IEP or Section 504 plan.

(2) Prior to receiving a career development credential, a student shall:

(a) earn the following credits in core content:

(i) English Language Arts (3.0);

(ii) Mathematics (2.0);

(iii) Science (1.0); and

(iv) Social Studies (1.0);

(b) complete 120 hours of community based work experience, to include:

(i) 40 hours of paid employment; or

(ii) documentation of completion of intake with a vocal rehabilitation counselor or the Department of Workforce Services;

(c) complete an LEA approved transition curriculum class or coursework that includes:

(i) disability awareness;

(ii) accommodations;

(iii) self-advocacy training;

(iv) career exploration; and

(v) workplace soft skills;

(d) receive .5 credits in a CTE Work Based Learning internship, including accommodations or modifications as appropriate and allowed by industry standards; and

(e) verify concentration in a CTE pathway in the student's area of interest.

R277-705-7. Adult Education Students.

(1) An adult education student is eligible only for an adult education secondary diploma.

(2) An adult education diploma may not be upgraded or changed to a traditional, high school-specific diploma.

(3) A school district shall establish a policy:

(a) allowing or disallowing adult education student participation in graduation activities or ceremonies; and

(b) establishing timelines and criteria for satisfying adult education graduation and diploma requirements.

R277-705-8. Student Rights and Responsibilities Related to Graduation, Transcripts and Receipt of Diplomas.

(1) An LEA shall supervise the granting of credit and awarding of diplomas, but may delegate the responsibility to schools within the LEA.

(2) An LEA may determine criteria for a student's participation in graduation activities, honors, and exercises, independent of a student's receipt of a diploma or certificate of completion.

(3) A diploma, a certificate, credits, or an unofficial transcript may not be withheld from a student for nonpayment of school fees.

(4)(a) An LEA shall establish a consistent timeline for all students for completion of graduation requirements.

(b) A timeline described in Subsection (4)(a) shall be consistent with state law and this rule.

(5) An LEA's graduation requirements may not apply retroactively.

KEY: adult education, high school credits, graduation requirements

February 28, 2018 Art X Sec 3

Notice of Continuation December 15, 2017 53A-1-402(1)(b)

53A-1-401

R277. Education, Administration.
R277-709. Education Programs Serving Youth in Custody.
R277-709-1. Definitions.

A. "Accreditation" means the formal process for evaluation and approval under the Standards for the Northwest Accreditation Commission supported by AdvancED.

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

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

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

E. "SEOP/plan for college and career readiness" means a plan for students in grades 7-12 that includes:

(1) all Board and LEA board graduation requirements;

(2) the individual student's specific course plan that will meet graduation requirements and provides a supportive sequence of courses consistent with identified post-secondary training goals;

(3) evidence of parent, student, and school representative involvement annually; and

(4) attainment of approved workplace skill competencies.

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

G. "Youth in Custody" means a person defined under Sections 53A-1-403(2)(a) and 62A-15-609.

R277-709-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-403(2)(b) which requires the Board to adopt rules for the distribution of funds for the education of youth in custody, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to specify operation standards, procedures, and distribution of funds for youth in custody programs.

R277-709-3. Student Evaluation, Education Plans, and LEA Programs.

A. Each student meeting the eligibility definition of youth in custody shall have a written SEOP/plan for college and career readiness defining the student's academic achievement, and shall specify known in-school and extra-school factors which may affect the student's school performance.

B. Annually, the student's SEOP/plan for college and career readiness shall be reviewed by the student, school staff and parent/guardian and maintained in the student's file.

C. The program receiving the student is responsible for obtaining the student's evaluation records, and, in cases where the records are not current, for conducting the evaluation, which may include a special education eligibility evaluation, as quickly as possible so that unnecessary delay in developing a student's education program is avoided.

D. The LEA in which the program resides has the responsibility to conduct Individuals with Disabilities Education Act (IDEA) child find activities within the program, consistent with Utah State Board of Education Special Education Rule II.A.

E. Based upon the results of the student evaluation, an appropriate SEOP/plan for college and career readiness and, as needed, a special education Individualized Education Program (IEP), shall be prepared for each eligible youth in custody. The plan shall be reviewed and updated at least once each year or immediately following transfer of a student from one program to another, whichever is sooner. The plan is developed in cooperation with appropriate representatives of other service agencies working with a student. The plan shall specify the responsibilities of each of the agencies towards the student and is signed by each agency's representative.

F. All provisions of the IDEA and state special education rules apply to youth in custody programs. Youth in custody programs shall be included in the USOE general supervision monitoring annually.

G. LEA Youth in Custody Programs

(1) The LEA shall provide an education program for the student which conforms as closely as possible to the student's education plan. Educational services shall be provided in the least restrictive environment appropriate for the student's behavior and educational performance.

(2) Youth in custody who do not require educational services or supervision beyond students not in custody shall be considered part of the district's regular enrollment and provided education services.

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

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

(5) Credit earned in youth in custody programs that are accredited shall be accepted at face value in Utah's public schools consistent with R277-410-9, Transfer or Acceptance of Credit.

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

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

I. Following a student's release from custody or transfer to a new program, the sending program shall bring all available school records up to date and forward them to the receiving program consistent with Section 53A-11-504.

J. All grades, attendance records and special education SCRAM records shall be maintained in the LEA's SIS system in compliance with R277-484, Data Standards.

R277-709-4. Program Fiscal and Accountability Procedures.

A. State funds appropriated for youth in custody, including the Utah State Hospital, are allocated in accordance with Section 53A-1-403 and Section 62A-15-609.

B. Funds appropriated for youth in custody programs shall be subject to Board accounting, auditing, and budgeting rules and policies.

C. Board Contracts for Youth in Custody Services

(1) the Board shall, through an annually submitted and approved state application/plan, contract with LEAs to provide educational services for youth in custody. The respective responsibilities of the Board, LEAs, and other local service providers for education shall be established in the contract. An LEA may subcontract with local non-district educational service providers for the provision of educational services;

(2) the Board may contract through an RFP process with an appropriate entity only if the Board determines that the LEA where the facility is located is unable or unwilling to provide adequate education services.

(3) Youth in custody students receiving education services by or through an LEA are students of that LEA.

D. State funds appropriated for youth in custody are allocated on the basis of an annually submitted and approved

application made by the LEA where a youth in custody program resides.

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

F. Funds approved for youth in custody projects shall be expended solely for the purposes described in the respective funding application.

G. The USOE may retain no more than five percent of the total youth in custody annual legislative appropriation for administration, oversight, monitoring, and evaluation of youth in custody programs and their compliance with law and this rule.

H. Up to three percent of the five percent of administrative funds allowed under R277-709-4G may be withheld by the USOE and directed to students attending youth in custody programs for short periods of time or to new or beginning youth in custody programs or initiatives benefitting youth in custody students.

I. Funds, state (flow through or state contract) or federal (reimbursement) or both, may be withheld or terminated for noncompliance with state policy and procedures and associated reporting timelines as defined by the Board.

J. The Board or its designee shall develop uniform forms, deadlines, reporting and accounting procedures and guidelines to govern the youth in custody school-based programs and Utah State Hospital funded programs.

R277-709-5. Youth in Custody Programs and Students with Disabilities.

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

B. Youth in custody students may be eligible for special education funding and services based upon special education rules and regulations.

C. Youth in custody students qualifying for special education services shall receive educational instruction as defined in R277-750, Education Programs for Students with Disabilities.

D. Special education procedural safeguards shall apply to all IDEA eligible youth in custody students regardless of instructional location.

E. Special education programs provided through youth in custody programs shall be monitored on an annual basis as defined by special education rules and policies.

R277-709-6. Youth in Custody Program Staffing and Monitoring.

A. Education staff assigned to youth in custody shall be qualified and appropriate for their assignments as defined in R277-503, Licensing Routes.

B. Youth in custody programs shall maintain accreditation as part of the LEA where the programs are located consistent with R277-410, Accreditation of Schools.

C. The USOE shall evaluate youth in custody programs through regular site monitoring visits and monthly desk monitoring, as directed by the USOE.

D. Monitored programs shall prepare and submit to the USOE a written corrective action plan for each monitoring finding as requested by the USOE.

E. A youth in custody program's failure to resolve audit/monitoring findings as soon as possible, and, in no case, later than one calendar year from date of notice, may result in the termination of state funding as provided in R277-114, Corrective Action and Withdrawal or Reduction of Program Funds.

F. The USOE may review LEA or State Hospital records and practices for compliance with the law and this rule.

R277-709-7. Utah State Hospital.

A. Funding for the education programs at the Utah State Hospital shall be contingent upon a legislative appropriation.

B. State education contract funds appropriated for State Hospital youth in custody are allocated to the LEA on a reimbursement basis. The State Hospital shall annually submit requests for reimbursement.

C. Funding shall be distributed to the LEA on a reimbursement basis subject to required documentation that supports expenditures.

D. Funds may be withheld or terminated for noncompliance with state and federal policies and procedures and associated reporting requirements and timelines as defined by the USOE.

E. All students qualifying for special education services shall be served by the special education standards defined in R277-750.

F. Staff providing special education services shall comply with all state special education rules, policies and procedures, including SCRAM reporting, child find, assessment and financial accountability, as defined by the Board.

R277-709-8. Youth in Custody/LEA Fiscal Procedures.

A. Ten percent or $50,000, whichever is less, of state youth in custody funds or educational contract funds (State Hospital) not expended in the current fiscal year may be carried over by eligible LEAs and spent in the next fiscal year with written approval of the USOE.

B. A request to carry over funds shall be submitted for approval by August 1. Approved carry over amounts shall be detailed in a revised budget submitted to the USOE no later than October 1 in the year requested.

C. Excess funds may be considered in determining the LEA's allocation for the next fiscal year.

D. Annually, fund balances in excess of ten percent or $50,000 shall be recaptured by the USOE no later than February 1 and reallocated to the youth in custody programs based on the criteria and procedures provided by the USOE.

R277-709-9. Program, Curriculum, Outcomes and Student Mastery.

A. Youth in custody programs shall offer courses consistent with the Utah Core standards under R277-700.

B. The Utah core standards and teaching strategies may be modified or adjusted to meet the individual needs of youth in custody students.

C. Course content mastery shall be stressed rather than completion of predetermined seat time in a classroom.

D. Written course descriptions for GED Test preparation shall be made available for youth in custody students who consider pursuing GED Tests as an alternative to traditional Carnegie diploma courses.

R277-709-10. Confidentiality.

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

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

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

obtained from the records remain the property of the supplying agency and shall not be transferred or shared with other persons or agencies without the permission of the supplying agency, the student's legal guardian, or the eligible student under 20 U.S.C. 1232g(d).

D. All information maintained in permanent form on a student from whatever source derived or received, is a student record under the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g.

E. All confidentiality provisions that pertain to eligible students with disabilities under IDEA apply.

R277-709-11. Coordinating Council.

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

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

(1) Department of Human Services;
(2) Division of Substance Abuse and Mental Health;
(3) Division of Juvenile Justice Services;
(4) Division of Child and Family Services;
(5) Utah State Office of Education;
(6) Administrative Office of the Courts;
(7) School district superintendents; and
(8) a Native American tribe.

R277-709-12. Advisory Councils.

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

(1) a representative of the Division of Child and Family Services;

(2) a representative of the Division of Juvenile Justice Services;

(3) directors of agencies located in an LEA such as detention centers, secure lockup facilities, observation and assessment units, and the Utah State Hospital;

(4) a representative of community-based alternative programs for custodial juveniles; and

(5) a representative of the LEA.

B. The council shall adopt by-laws for its operation.

C. Local interagency advisory councils shall meet at least quarterly.

KEY: students, education, juvenile courts
May 8, 2014 **Art X Sec 3**
Notice of Continuation February 26, 2018 **53A-1-403(1)**
53A-1-401(3)

R277. Education, Administration.
R277-719. Standards for Selling Foods Outside of the Reimbursable Meal in Schools.
R277-719-1. Definitions.

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

B. "Competitive foods" as provided in 7 CFR 210, means all food and beverages, other than meals reimbursed under programs authorized by the Richard B. Russell National School Lunch Act, 42 U.S.C., and the Child Nutrition Act of 1966, available for sale to students on the school campus during the school day.

C. "Eating area," for purposes of this rule, means the place where the reimbursable meal is served or eaten. In some schools, this may include the entire campus.

D. "LEA" means a local education agency, including local school boards/public school district or charter school.

E. "Nutrition Standards" are defined in 7 CFR 210.11 and are hereby incorporated by reference.

F. "Reimbursable meal" means a meal which meets the requirements of 7 CFR 210, 211, 215, 220 or 225 which are incorporated by reference and can be claimed for payment.

G. "School day" means the period from the midnight before, to 30 minutes after the end of the official school day.

H. "School campus" means all areas of the property under the jurisdiction of the school that are accessible to students during the school day.

I. "Unit" means per container, package or amount served.

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

K. "Vending machine" means a self-service device that, upon insertion of a coin, paper currency, token, card or key, dispenses unit servings of food in bulk or in packages.

R277-719-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities, Section 53A-19-201(1) which allows the Board to set standards relating to the use of school lunch revenues, and Section 53A-1-402(1)(e) which requires the Board to establish rules concerning school productivity and cost effectiveness measures and federal programs.

B. The purpose of this rule is to outline requirements for LEA policies regarding foods sold outside of the reimbursable meal service.

R277-719-3. LEA Policies Regarding Vending Machines.

A. Each LEA shall develop and implement a policy for schools that choose to provide vending machines.

B. The policy shall include:

(1) a requirement that all agreements for vending machines be in writing in a contract form approved by the local board of education or charter school governing board;

(2) accepted uses of vending machine income; and

(3) generally accepted accounting procedures, including periodic reports to the LEA of vending machine receipts and expenditures.

R277-719-4. LEA Policies Regarding Competitive Food Sales on Campus.

A. These nutrition standards apply to the sale of competitive food in all schools offering programs authorized by the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966 on the school campus during the school day.

B. The profits from competitive foods shall accrue either to a non-profit school account or to the non-profit school food service account. Profits from competitive foods may not accrue to the benefit of a for-profit account or entity.

C. If the competitive food(s) were purchased using food service funds, the cost of the item shall be reimbursed to the food service account.

D. A competitive food item that is sold by an LEA or an employee or agent shall meet all the competitive food nutrient standards as outlined in 7 CFR 210.11. LEAs may use a Smart Snacks calculator, available online, to verify that food sold meets competitive food standards.

E. Foods which are exempt from the nutrition standards are listed in 7 CFR 210.11(c) - (m).

R277-719-5. Fundraising Using Food/Beverages.

A. These fundraising standards apply to school fundraising using food or beverages in all schools offering programs authorized by the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966 on the school campus during the school day.

B. Competitive food and beverage items sold during the school day shall meet nutrition standards for competitive foods. A special exemption is allowed for the sale of food or beverages that do not meet the competitive food standards for the purpose of conducting infrequent school-sponsored fundraisers.

C. LEAs may hold specifically exempted fundraisers no more than three times per year per site, with each fundraiser lasting no longer than five consecutive school days.

(1) The superintendent or principal of the LEA or school shall designate an individual to maintain records of fundraisers at which foods and beverages that do not meet competitive food standards are sold.

(2) Career and Technical Education programs may make written requests for fundraisers, in addition to the three allowed in R277-519-5C, to the USOE Child Nutrition Program Director.

R277-719-6. LEA Wellness Policies.

A. Wellness policy requirements apply in all schools offering programs authorized by the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966 on the school campus during the school day.

B. Each LEA participating in the National School Lunch Program or the School Breakfast Program shall establish a local school wellness policy for all schools under their jurisdiction. The written policy shall, at a minimum, include all the elements required in 7 CFR 210.30.

R277-719-7. Miscellaneous Provisions.

A. Schools not participating in the National School Lunch/Breakfast programs shall adopt a written policy for the sale of all foods that are not part of the meal service including vending, a la carte or other food sales. The policy shall apply to all foods sold anywhere on school grounds during the school day when school is in session in all areas of the school accessible to students.

B. The policies may use the definitions for competitive foods and wellness policies from 7 CFR 210.11 and 210.30.

C. The provisions of this rule shall become effective no later than August 8, 2014.

D. The superintendent or principal of the LEA or school shall designate an individual who shall provide documentation during audits to show compliance with this rule.

KEY: schools, foods, nutrition, vending machines
August 7, 2014 **Art X Sec 3**
Notice of Continuation February 26, 2018 **53A-1-401(3)**
53A-19-201(1)
53A-1-402(1)(e)

R495. Human Services, Administration.
R495-885. Employee Background Screenings.
R495-885-1. Authority and Purpose.

(1) This Rule is authorized by Sections 62A-1-118 and 62A-2-120.

(2) This Rule clarifies the standards for Department of Human Services' employee and volunteer background screening.

(3) This Rule is created to hold DHS employees and volunteers to high standards of conduct, protect children and vulnerable adults, and promote public trust.

R495-885-2. Definitions.

(1) "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.

(2) "Child" is defined in Section 62A-2-101.

(3) "Department" or "DHS" means the Department of Human Services.

(4) "Direct Access" is defined in Section 62A-2-101.

(5) "Director" means the Director of each DHS Office or Division, and includes the Director's designee.

(6) "Directly Supervised" is defined in 62A-2-101.

(7) "Employee" means a prospective employee who has received a job offer from DHS or a current employee of DHS, and includes paid interns.

(8) "Executive Director" means the Executive Director of DHS or the Deputy Director designated by the Executive Director.

(9) "FBI rap back" is defined in Section 53-10-108.

(10) "Fingerprints" means an individual's fingerprints as copied electronically through a live-scan fingerprinting device or on two ten-print fingerprint cards.

(11) "Volunteer" means an individual who donates services without pay or other compensation, except expenses actually and reasonably incurred and pre-approved by the supervising agency, and includes unpaid interns.

(12) "Vulnerable adult" is defined in Section 62A-2-101.

R495-885-3. Employees and Volunteers with Direct Access.

(1) The Department finds that a criminal history or identification as a perpetrator of abuse or neglect is directly relevant to an individual's employment or volunteer activities within DHS.

(2) All Department employees and volunteers who may have direct access and who may not be directly supervised at all times must have an annual background screening clearance in accordance with Sections 62A-1-118 and 62A-2-120, which shall include retention of fingerprints by BCI for FBI rap back.

(3) Department employees and volunteers who may have direct access and may not be directly supervised at all times shall:

(a) Submit a background screening application to their respective Division or Office on a form created by the Department; and

(b) Submit fingerprints to the Department via a DHS-operated live-scan machine or;

two ten-print fingerprint cards produced by a law enforcement agency, an agency approved by the BCI, or another entity pre-approved by the Department

(c) not be required to submit fingerprints to DHS if they have submitted fingerprints for retention

(i) to BCI for an Office or Division clearance, and the Office or Division ensures that the minimum standards set forth in Section 62A-2-120 are enforced; or

(ii) to the Department of Health for employees and volunteers of the Utah State Developmental Center per code, or

(iii) to the Office of Licensing as an individual associated with a license as long as the fingerprints are retained by BCI for FBI rap back.

(4) The DHS Office of Licensing shall access information to perform the background checks described in Sections 62A-1-118 and 62A-2-120.

(a) The DHS Office of Licensing will not duplicate fingerprint-based criminal background checks on Department employees or volunteers who have a current fingerprint-based criminal background clearance pursuant to R495-885-3(3).

(b) The fingerprints submitted by DHS employees who are required to obtain a background screening pursuant to Section 62A-2-120 as an individual associated with a licensee shall be utilized to perform the screening required by this R495-885. Screening results shall be reviewed in accordance with both the standards required by Section 62A-2-120 and this R495-885.

(5) Except as described in R495-885-5, Department employees and volunteers who would automatically be denied a background screening approval as described in Section 62A-2-120(5)(a) are not eligible for work with the Department.

(6) Except as described in R495-885-5, Department employees and volunteers who have any offense or finding described in Section 62A-2-120(6)(a) are not eligible for work with the Department.

(7) Each Division and Office shall develop and implement a protocol to ensure renewal background screening applications are submitted to the DHS Office of Licensing annually for all database systems that are not included in the FBI rap back fingerprint process.

R495-885-4. Employees and Volunteers with No Direct Access.

(1) The Department finds that a criminal history is directly relevant to an individual's employment activities within DHS.

(2) The Department is not authorized to perform the checks described in Sections 62A-1-118 and 62A-2-120 for employees with no direct access.

(3) Each Division and Office will identify which of their positions includes no potential for direct access that is not directly supervised.

(4) Each employee who does not potentially have direct access shall submit an "Authorization and Waiver for Criminal History Check" form to a Department of Human Resources Management, DHS Field Office authorizing DHRM to perform name-based background checks.

(5) Except as described in R495-885-5, Department employees who would automatically be denied a background screening approval based upon the offenses described in Section 62A-2-120(5)(a) are not eligible for work with the Department.

(6) Except as described in R495-885-5, Department employees who have any offense described in Section 62A-2-120(6)(a) are not eligible for work with the Department.

(7) Volunteers who do not have a background screening clearance pursuant to R495-885-3 will be directly supervised.

R495-885-5. Background Screening Review.

(1) The Office of Licensing or the Department of Human Resources Management, DHS Field Office shall notify the Director of the background screening results of each prospective employee, employee, and volunteer.

(2) The Director shall review the background screening results of each prospective employee, employee, and volunteer.

(3) Review criteria for prospective or probationary employees and volunteers:

(a) Automatic denial offenses outlined in 62A-2-120(5)(a) are not eligible for review by the DHS Employee and Volunteer Comprehensive Review Committee:

(b) The Director has sole discretion to determine whether to deny employment or refer a prospective or probationary employee or volunteer with the following background screening

findings to the DHS Employee and Volunteer Comprehensive Review Committee:

(i) All other circumstances outlined in 62A-2-120(6)(a), or

(ii) any MIS supported or substantiated findings (for individuals with direct access only)

(c) The determinations of the Director and the DHS Employee and Volunteer Comprehensive Review Committee are final, and a prospective or probationary employee or volunteer has no right to appeal.

(4) Review process for non-probationary employees:

(a) The following background screening findings shall be submitted to the Director:

(i) Automatic denial offenses outlined in 62A-2-120(5)(a),

(ii) All other circumstances outlined in 62A-2-120(6)(a), or

(iii) any MIS supported or substantiated findings.

(b) The Director may consult with the Executive Director and/or the Office of Licensing, and shall evaluate whether the non-probationary employee may present a risk of harm to a child or vulnerable adult or does not meet DHS high standards of conduct or promote public trust.

(c) The Executive Director may, in his/her sole discretion, approve the non-probationary employee for continued employment, including defining permissible and impermissible DHS-wide work-related activities, or consult the Department of Human Resource Management regarding termination of employment. The determination of the Executive Director is final.

R495-885-6. DHS Employee and Volunteer Comprehensive Review Committee.

(1) The Director of the following Department divisions and offices shall appoint one member and one alternate to serve on the DHS Employee and Volunteer 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) the Office of the Public Guardian; and

(i) the Office of Licensing.

(2) DHS Employee and Volunteer 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 DHS Employee and Volunteer Comprehensive Review Committee as a non-voting member.

(4) Four voting members shall constitute a quorum.

(5) The DHS Employee and Volunteer Comprehensive Review Committee shall conduct a comprehensive review of a prospective or probationary employee or volunteer's background screening application, criminal history records, abuse, neglect or exploitation records, and related circumstances, in accordance with Section 62A-2-120(6).

R495-885-7. DHS Employee and Volunteer Comprehensive Review Process.

(1) The Office or Division may inform the prospective or probationary employee or volunteer that the results of a background screening indicate they have a criminal history or supported or substantiated findings of abuse or neglect, and the employee or volunteer may:

(a) voluntarily withdraw a pending employment or volunteer application;

(b) voluntarily terminate probationary employment; or

(c) request further review and submit any written statements or records that the employee or volunteer wants the DHS Employee and Volunteer Comprehensive Review Committee to consider, including but not limited to non-redacted documents relating to the results, the nature and seriousness of the offense or incident; the circumstances under which the offense or incident occurred; the age of the employee or volunteer when the offense or incident occurred; whether the offense or incident was an isolated or repeated incident; whether the offense or incident directly relates to abuse of a child or vulnerable adult, evidence of rehabilitation, counseling, psychiatric treatment received, or additional academic or vocational schooling completed.

(i) an employee or volunteer who wants the DHS Employee and Volunteer Comprehensive Review Committee to consider documents relating to the screening results shall submit the documents to the Office or Division within 15 calendar days of notification by the Office of Division.

(2) The Office or Division shall gather information from a prospective or probationary employee or volunteer who requests review and submit it to the DHS Employee and Volunteer Comprehensive Review Committee.

(a) The Division may redact any personally identifying information of the prospective or probationary employee or volunteer that does not compromise the content of the review.

(3) The DHS Employee and Volunteer Comprehensive Review Committee shall evaluate the information provided by the Office or Division and any information provided by the prospective or probationary employee or volunteer. The DHS Employee and Volunteer Comprehensive Review Committee shall consider:

the date of the offense or incident;

(a) the nature and seriousness of the offense or incident;

(b) the circumstances under which the offense or incident occurred;

(c) the age of prospective or probationary employee or volunteer when the offense or incident occurred;

(d) whether the offense or incident was an isolated or repeated incident;

(e) whether the offense or incident directly relates to abuse of a child or vulnerable adult,

(f) whether approval would likely create a risk of harm to a child or a vulnerable adult;

(g) whether the information may be relevant to the employment or volunteer activities of that person;

(h) whether the relevant information should be relied upon to deny employment or volunteer activities, and

(i) that the background screening approval may be transferred to other DHS Offices or Divisions.

(4) The DHS Employee and Volunteer Comprehensive Review Committee may approve the background screening of a prospective or probationary employee or volunteer only after a simple majority of the voting members of the DHS Employee and Volunteer Comprehensive Review Committee determines that approval will not likely create a risk of harm to a child or vulnerable adult or the prospective employee does not meet DHS high standards of conduct or promote public trust, and identify permissible and impermissible DHS-wide work-related activities.

(5) The DHS Employee and Volunteer Comprehensive Review Committee shall recommend denial of the background screening of a prospective or probationary employee or volunteer when it finds that approval will likely create a risk of harm to a child or vulnerable adult in any DHS Office or Division or the prospective or probationary employee or volunteer does not meet DHS high standards of conduct or promote public trust.

(6) Except as described below, a prospective employee or a volunteer whose background screening has been denied shall not be accepted as a volunteer or hired as an employee. A probationary employee whose background screening has been

denied shall have no direct access and employment shall be terminated.

(a) A Director may, in his/her sole discretion, appeal the decision of the DHS Employee and Volunteer Comprehensive Review Committee to the Executive Director.

R495-885-8. Division/Office Responsibilities.

(1) The Department shall notify the DHS Office of Licensing within five months of the termination of each employee for whom fingerprints have been retained under Section 62A-2-120 to enable the Office of Licensing to notify BCI and ensure the destruction of fingerprints.

(2) Each Division and Office shall ensure that an employee or volunteer who previously was screened based upon having no direct access shall, prior to having any direct access, be screened and approved in accordance with R495-885.

R495-885-9. Compliance.

The Department will set an implementation schedule to be in compliance with this rule no later than June 30, 2018.

KEY: background, employees, human services, screenings
February 23, 2018 62A-1-118
62A-2-120

R501. Human Services, Administration, Administrative Services, Licensing.
R501-1. General Provisions for Licensing.
R501-1-1. Authority and Purpose.

(1) This Rule is authorized by Utah Code Title 62A, Chapter 2.

(2) This Rule clarifies the standards for:

(a) approving or denying a human services program license application;

(b) renewing, extending, placing conditions on, restricting admissions, suspending, or revoking a license for a human services program;

(c) inspecting, monitoring, and investigating a prospective or current human services program; and

(d) approving or denying a variance to the Human Services Administrative Rules, Title R501, regarding the licensing of human services programs.

R501-1-2. Definitions.

As used in this Title 501:

(1) "Abuse" includes, but is not limited to:

(a) attempting to cause harm;

(b) threatening to cause harm;

(c) causing non-accidental harm;

(d) unreasonable or inappropriate use of a restraint, medication, confinement, seclusion or isolation that causes harm;

(e) sexual exploitation, as defined in 78A-6-105;

(f) sexual abuse, including sexual contact or conduct with a client, or as defined in 78A-6-105;

(g) a sexual offense, as described in Title 76 Chapter 5; or

(h) domestic violence or domestic violence related to child abuse.

(i) "Abuse" does not include the reasonable discipline of a child, or the use of reasonable and necessary force in self-defense or the defense of others, as such force is defined in 76-2-4.

(2) "Applicant" is defined in 62A-2-101.

(3) "Associated with the Licensee" is defined in 62A-2-101.

(4) "Category" means the type of human service license described in 62A-2-101.

(5) "Client" is defined in 62A-2-101.

(6) "Clinical" means services delivered by a Division of Occupational and Professional Licensing (DOPL) licensed mental health or medical professional in accordance with Utah Code Title 58, Chapters 60, 61, 67 and 68.

(7) "Compliant" means adherence to governing rule and statute or only minor violations that do not rise to the level of a corrective action plan or penalty.

(8) "Conflict of Interest" means a situation in which a person is in a position to derive personal benefit from actions or decisions made in their official capacity.

(9) "Critical Incident" means an occurrence that involves:

(a) abuse;

(b) neglect;

(c) exploitation;

(d) unexpected death;

(e) any client injury, including self-harm, requiring medical attention beyond basic first aid;

(f) any client injury that is a result of staff or client assault, restraint or intervention;

(g) all criminal activity excluding minor infractions, medical emergency or protective service intervention;

(h) the unlawful or unauthorized presence or use of alcohol, substances, or harmful contraband items;

(i) the unauthorized presence or misuse of dangerous weapons;

(j) attempted suicide;

(k) any on-duty or client-involved staff sexual misconduct or any client unlawful sexual misconduct;

(l) client rights violations;

(i) per Office of Licensing code of conduct for all licensed providers; and

(ii) per DHS code of conduct for DHS contracted providers; and

(iii) per human rights committee approval for DSPD contracted providers;

(m) medication errors resulting in impact on client's well-being, medical status or functioning;

(n) the unauthorized departure of a client from the program;

(o) outbreak of a contagious illness or situation requiring notification of or consultation with the local health department;

(p) any event compromising the client environment, including roof collapse, fire, flood, weather events, natural disasters and infestations;

(q) any other incident that compromises client health and safety shall result in a critical incident report;

(i) specific contract language may also exist that requires additional criteria for DHS contracted providers.

(10) "Director" refers to the Office of Licensing director as defined in 62A-2-101, and is not a "Program Director" as defined in this Chapter.

(11) "Exploitation" includes, but is not limited to:

(a) the use of a client's property, labor, or resources without the client's consent or in a manner that is contrary to the client's best interests, or for the personal gain of someone other than the client; such as expending a client's funds for the benefit of another; or

(b) using the labor of a client without paying the client a fair wage or without providing the client with just or equivalent non-monetary compensation, where such use is consistent with therapeutic practices; or

(c) engaging or involving a client in any sexual conduct; or

(d) any offense described in 76-5-111(4) or 76-5b-201 and 202.

(12) "Foster Home" is defined in 62A-2-101 (18).

(13) "Fraud" means a false or deceptive statement, act, or omission that causes, or attempts to cause, property or financial damages, or for personal or licensee gain. Fraud includes the offenses identified as fraud in Utah Code Title 76 Chapter 6.

(14) "Harm" means physical or emotional pain, damage, or injury.

(15) "Human Services Program" is defined in 62A-2-101.

(16) "Initial License" means the license issued to operate a human services program during the licensee's first year of licensure. This license is considered provisional and allows for the licensee to demonstrate sustained compliance with licensing rules prior to renewal.

(17) "Inspection" means announced or unannounced visit of the licensed site in accordance with 62A-2-118.

(18) "Licensee" is defined in 62A-2-101 and includes the person or persons responsible for administration and decision making for the licensed site or program. The term licensee may be used to describe a person or entity that has caused any of the violations described in 62A-2-112 that are related to the human services program.

(19) "Local Government" is defined in 62A-2-101.

(20) "Medical Emergency" is an acute injury or illness posing an immediate risk to a person's life or long-term health.

(21) "Medication-Assisted Treatment" means the use of medications with counseling and behavioral therapies to treat substance use disorders or prevent opioid overdose.

(22) "Mistreatment" means emotional or physical mistreatment:

(a) emotional mistreatment is verbal or non-verbal conduct

that results in a client suffering significant mental anguish, emotional distress, fear, humiliation, or degradation; and may include demeaning, threatening, terrorizing, alienating, isolating, intimidating, or harassing a client; and

(b) physical mistreatment includes:

(i) misuse of work, exercise restraint, or seclusion as a means of coercion, punishment, or retaliation against a client, or for the convenience of the licensee, or when inconsistent with the client's treatment or service plan, health or abilities;

(ii) compelling a client to remain in an uncomfortable position or repeating physical movements to coerce, punish, or retaliate against a client, or for the convenience of the licensee;

(iii) physical punishment.

(23) "Neglect" means abandonment or the failure to provide necessary care, which may include nutrition, education, clothing, shelter, sleep, bedding, supervision, health care, hygiene, treatment, or protection from harm.

(24) "Office" means the Utah Department of Human Services Office of Licensing.

(25) "Owner/Ownership" means any licensee, person, or entity that:

(a) is defined as a "Member" in 62A-2-108; or

(b) is a person or persons listed on a foster home license; or

(c) possesses the exclusive right to hold, use, benefit-from, enjoy, convey, transfer, and otherwise dispose of a program; or

(d) retains the rights, participates in, or is ultimately responsible for operations and business decisions of program, or

(e) may or may not own the real property or building where the facility operates; or

(f) a property owner is also an owner of the program if they operate or have engaged the services of others to operate the program.

(26) "Parent Program" means an applicant or licensee owning or directing multiple sites under the same general administrative organization.

(27) "Penalty" means the Office's denying, placing conditions on, suspending, or revoking a human services license due to noncompliance with statute or administrative rules, may include penalties outlined in 62A-2-112. A penalty does not include corrective action plans as used in this Rule.

(28) "Program" refers to a Human Services Program as defined herein.

(29) "Program Director" means a person or persons ultimately responsible for day to day operations of a program.

(30) "Person" means an individual, agency, association, partnership, corporation, business entity, or governmental entity.

(31) "Regular Business Hours" are the hours that the program is available to the public or providing services to clients.

(32) "Renewal License" means a continuing program license issued based upon ongoing compliance with administrative rules and statutes. It is issued annually or biennially in compliance with 62A-2 108(4).

(33) "Restraint" means the involuntary method of physically restricting a person's freedom of movement, physical activity, or normal access to their body. Restraint is only allowed to prevent harm to the client or in protection of others and is only to be completed by an individual with documented training in non-violent crisis intervention or de-escalation techniques.

(34) "Seclusion" means the involuntary confinement of the individual in a room or an area away from the client community, where the individual is physically prevented from leaving.

(35) "Site" means a human services program identified by a single geographic location and must be linked to the parent program, if one exists.

(36) "Significant Criminal Activity" is any staff or client involved criminal activity that occurs in or related to the program that poses an immediate and serious threat to health and safety.

(37) "Staff" means direct care employees, support employees, managers, program directors, supervisors, administrators, agents, volunteers, owners, and contractors.

(38) "Variance" means the Office authorized deviation from the administrative rule.

(39) "Violation" means an act or omission by the licensee, or any person associated with the licensee, contrary to any administrative regulation, or local, state, or federal law applicable to the program.

R501-1-3. Licensing Application Procedures.

(1) Initial and Renewal Application.

(a) An applicant shall not accept any fees, enter any agreements to provide client services, or provide any client services until they have received a license certificate issued by the Office.

(b) The Office shall issue a license for a human service program only after verifying compliance with applicable administrative rules and statutes.

(c) Applicants and licensees shall permit the Office to have immediate, unrestricted access to the site, all on and off-site program and client records, and all staff and clients.

(d) An applicant may withdraw their application for a license, in writing, at any time during the application process.

(e) An applicant seeking an initial or renewal license to operate a human services program shall submit:

(i) an application as provided by the Office; a renewal application that is not submitted at least thirty days prior to the expiration date of the current license may result in the license expiring;

(ii) the fee(s) required for each category of human service program license(s); except as excluded in R501-1-7-2;

(iii) a completed background screening application, fees and supporting documentation for each person associated with the human services program in accordance with 62A-2-120 and R501-14, except for those excluded in 62A-2-120(13);

(iv) the applicant's required policies and procedures;

(A) for renewal purposes the applicant may submit only the policies and procedures that have been modified;

(v) name and contact information for all owners and program directors, as defined in this Chapter; and

(vi) documentation verifying compliance with, or exemption from, local government zoning, health, fire, safety, and business license requirements.

(A) For residential treatment programs applying for initial licensure, a copy of its notice of intent to operate a residential treatment program, and proof of service, in accordance with 62A-2-108.2.

(2) Application Expiration.

(a) A program initial application, other than an initial foster home application, that remains incomplete shall expire one year from the date it was first submitted to the Office.

(b) A foster home initial application that lacks required documentation may expire 90 days from the date is was first submitted to the Office unless the Office determines the applicant to be making active progress toward licensing compliance.

(c) An expired initial application is void and requires a new initial application and applicable fees for each category of license.

(3) The Office may deny the initial application or place a penalty on a renewal license if:

(a) the program has failed to achieve or maintain compliance with administrative rules, laws, ordinances or statutes; or

(b) the Office determines that the program is not reasonably likely to provide services in accordance with

governing rules or statutes;

(i) the Office may consider the history of rule violations by the owner, licensee, or persons associated with the program;

(ii) the Office determines that significant false or misleading information regarding the program has been provided to the Office, program clients, prospective clients, or the public; or

(c) program directors, owners or any individuals involved in providing billed services or directly preparing billing have been identified and listed on the Medicaid LEIE exclusion list; or

(d) the agency maintains association with any individual who has been a licensee that has had a license revoked by the Office within the five years prior to the date on the application.

(4) Previously denied applicants shall not reapply for at least three months from the date of denial.

R501-1-4. Licensing Determinations.

(1) The Office may place individualized parameters on a program license in order to promote the health, safety, and welfare of clients. Such parameters may include, but are not limited to:

(a) age restrictions;

(b) admission or placement restrictions; or

(c) other parameters specific to individual sites and programs.

(2) A license certificate shall state the name, site address, license category, maximum client capacity if applicable, any specific parameters, and effective dates of the license.

(a) Licensee shall post the license certificate in a conspicuous location at the licensed site.

(3) A site associated with a parent program shall not be issued an initial license while any other license associated with that parent program is under penalty, or has a pending appeal.

(4) Two Year Licenses.

(a) A program may apply for a two year license if:

(i) the program has been licensed consecutively and in compliance for two years prior to application; and

(ii) the Office has determined that the program's individual services and circumstances are likely to maintain compliance under a two year cycle; and

(iii) the program submits double the annual fees for their category/categories of license(s); and

(iv) the program submits a plan for maintaining continued compliance with background screenings as described in 62A-2-120.

(b) A two year license remains subject to the same annual monitoring as a one year license.

(5) License Expiration.

(a) A license that has expired is void and may not be renewed.

(b) A license expires at midnight on the last day of the same month the license was issued, one year following the date or issuance unless:

(i) the license has been revoked by the Office; or

(ii) the license has been extended by the Office; or

(iii) the license has been relinquished by the licensee; or

(iv) the license was issued as a two year license, which will expire at midnight on the last day of the same month the license was issued, two years following the date of issuance and in accordance with R501-4-2.

(c) A program with an expired license shall not accept any fees, enter any agreements to provide client services, or provide any client services.

(d) A program with an expired license shall submit an application and fees for an initial license and be granted an initial license prior to providing any services in accordance with this Rule.

(6) License Extensions.

(a) The Office may extend the current license of a human service program only when the renewal application and applicable fee have been submitted.

(b) A license that is compliant prior to expiration may be extended for a one time maximum of 90 days past the current license expiration date.

(c) A license that is not compliant prior to expiration may be extended in non-compliant status.

(i) A compliant renewal license will not be granted until resolution of identified compliance issues.

(d) The subsequent license following an extension shall be reduced in duration by the time of the extension.

(7) License Relinquishment.

(a) A licensee wishing to voluntarily relinquish its license shall submit a written notice to the Office.

(b) Voluntary relinquishment of a license shall not be accepted by the Office if a notice of agency action revoking the license has been initiated.

R501-1-5. Program Changes.

(1) Name Change.

(a) A licensee wishing to change only the name of the program or site does not need to submit an application or fee; they shall submit updated program documentation reflecting the new name to the Office at least ten days prior to the change.

(b) The Office may link the name of the former program to the new name on the licensing database, and on all license certificates and public websites, for two years following the change.

(2) Relocation.

(a) A human services program wishing to relocate to a new address may serve clients at the new site, only after:

(i) submission of renewal application and renewal fees at least 30 days prior to the move;

(ii) submission of local government business license and applicable inspections and clearances, including but not limited to:

(A) health;

(B) fire; and/or

(C) as required by the rules of a human service program category;

(iii) submission of insurance coverage at the new site;

(iv) inspection by the Office; and

(v) receipt of the updated license certificate for the new site.

(b) A foster home that intends to relocate to a new site may have their license transferred to the new site only after:

(i) a request to relocate has been submitted to the Office at least 30 days prior to the move;

(ii) Office of Licensing inspection and approval of licensure at the new site which shall occur within two weeks, if a foster child is placed, and within 30 days if there are no current foster placements;

(A) if a foster child is placed, it is the responsibility of the licensed foster parent to ensure health and safety of the foster child during the transfer to the new site.

(c) Except for foster homes outlined in subsection (b), no clients may be present and no services may be provided at a relocation address until after the Office issues a new license in accordance with this Rule.

(d) Moving from a licensed site voids that site's license unless the provisions of this Chapter are followed for relocation.

(3) Capacity Change.

(a) A licensee seeking to increase the maximum client capacity of a program shall submit an application and renewal fee for a license renewal as required by the rules of the human service program category.

(4) Add New License Category.

(a) A program may request to add a new category of

service to an existing licensed site by submitting application and fees for an initial license. All requirements for initial licensure must be verified.

(5) Add New Location.

(a) A program may add an additional site of service by submitting an application and fees for an initial license. All requirements for initial licensure must be verified.

(6) Owner/Ownership Changes.

(a) A program anticipating, or undergoing a change of ownership, or change in owner(s), shall submit in writing, prior to the change:

(i) any changes to the programming and services;

(ii) declaration regarding responsibility for records and records retention to include an agreement signed by both current and prospective owners and/or program directors, detailing how all program staff and client records will be retained and remain available to the Office for six years or in accordance with DHS contract requirements regardless of whether the program remains licensed;

(iii) names and contact information of any new directors or owners;

(iv) documentation of continuous insurance coverage; and

(v) an updated business license.

(b) The status of a license at the time of a change of ownership shall continue.

(7) For any substantial change in this Section, the Office may require new, initial application and fees for each license category.

(a) Substantial changes include:

(i) those resulting in direct client impact;

(ii) changes to programming;

(iii) changes in populations served;

(iv) severing ties with previous owner or staff affiliations; or

(v) disrupting continuity of record retention, etc.

R501-1-6. License Fees.

(1) The Office shall collect licensing fees in accordance with 62A-2-106, and Utah Code Title 63J Chapter 1 Part 5.

(2) No licensing fee shall be required from a foster home, or a Division, or Office, of the Department of Human Services.

(3) The Office is not required to perform an on-site visit, or document review until the applicant pays the licensing fee.

(4) A license application fee will expire after 12 months if a program has been unable to meet the license requirements.

(5) A fee paid by a licensee shall not be transferred, prorated, reduced, waived, or refunded. Costs incurred by applicants in preparation for, or maintenance of licensure are the sole responsibility of the applicant.

(6) Separate initial license fees are required for each new category of human services program offered at each program site.

(7) Separate renewal license fees, and applicable capacity fees, are required for each license category that is renewed at each program site.

(a) Capacity fees are calculated according to the maximum licensed client capacity of the human service program, and not according to the number of clients actually served in the program.

(8) A human service program with more than one building, unit, or suite at one site, may choose to have its fees assessed and each category of license issued:

(a) so that each category of license will be issued to include all on-site buildings, units or suites as one; or

(b) so that separate licenses will be issued for each individual on-site building, unit or suite.

R501-1-7. Variances.

(1) A licensee shall not deviate from any administrative rule without first receiving written approval of a specific variance request signed by the Director of the Office, or the director's designee.

(2) The director of the Office, or the director's designee, may grant a variance if the director or the Director's designee determines a variance is not likely to compromise client health and safety, or provide opportunity for abuse, neglect, exploitation, harm, mistreatment, or fraud.

(3) A licensee seeking a variance must submit a written request to their licensing specialist, and specifically describe:

(a) the rule for which the variance is requested;

(b) the reason for the request;

(c) how the variance provides for the best interest of the client(s);

(d) what procedures will be implemented to ensure the health and safety of all clients; and

(e) the proposed variance start and expiration dates.

(4) The Office shall review the variance and notify the licensee of the approval, approval with modification, or denial of the variance, in writing, within 30 days.

(5) The licensee shall comply with the terms of a written variance, including any conditions or modifications contained within the approved written variance.

(6) A variance expires on the end date listed on the approval notice and terms of the variance are no longer permitted after that expiration date, unless a renewal of the variance is granted.

(7) A variance may be renewed by the office when the program is able to justify the request, and ensure ongoing health and safety of all clients.

R501-1-8. Monitoring.

(1) The Office shall conduct a minimum of one annual on-site inspection, but may conduct as many announced, or unannounced inspections as deemed necessary to monitor compliance, investigate alleged violations, monitor corrective action plans or penalty compliance, or to gather information for license renewal.

(2) On-site inspections shall take place during regular business hours, as defined in 62A-2-101.

(3) Applicants and licensees shall not restrict the Office's access to the site, clients, staff, and all program records.

(4) Licensees and staff shall not compromise the integrity of the Office's information gathering process by withholding or manipulating information, or influencing the specific responses of staff or clients.

(5) All on-site inspections shall contribute toward the renewal or denial of the license application at the end of the license period.

(6) The Office shall provide written findings to the Program identifying areas of non-compliance with licensing requirements after each on-site inspection.

(7) Except for reports made in relation to foster homes, the licensee shall make copies of inspection reports available to the public upon request per 62A-2-118(5).

(8) The Office may adopt a written inspection report from a local government, certifying, contracting, or accrediting entity to assist in a determination whether a licensee has complied with a licensing requirement.

(9) The Office shall be allowed access to all program documentation and staff that may be located at an administrative location, away from the licensed site.

R501-1-9. Investigations of Alleged Violations.

(1) Unlicensed Programs.

(a) The Office shall investigate reports of unlicensed human service programs.

(b) Investigation of an unlicensed human service program may include interviewing anyone at the site, neighbors, or

gathering information from any source that will aid the Office in making a determination as to whether or not the site should be licensed.

(c) An unlicensed human services program that meets licensure definition, but does not submit an application and fee, or fails to become licensed, shall be referred to the Office of the Attorney General, and the appropriate County Attorney.

(d) The Office may penalize a licensed program at all program sites when a program adds or operates an unlicensed site that requires licensure by the Office.

(2) Licensed Program Complaints and Critical Incidents.

(a) The Office shall investigate critical incidents and complaints involving alleged licensing violations regarding a licensed human services program.

(b) Complaints about licensees can come to the Office via any means from any source including the Office of Licensing email address: licensingconcerns@utah.gov.

(c) The Office retains discretion to decline investigation of a complaint that is anonymous, unrelated to current conditions of the program, or not an alleged violation of a rule or statute.

(d) Critical incidents that involve one or more clients and/or on-duty staff in a licensed setting or under the direct responsibility and supervision of the program shall be reported by the licensee as follows:

(i) report shall be made to DHS and legal guardians of involved clients within one business day;

(A) if the critical incident involves a client or service under a DHS contract, the critical incident report must be completed within 24 hours and may require a five day follow up report to the involved DHS Division;

(B) if the critical incident involves a client or service to a youth currently in the custody of DHS or its Divisions an immediate live-person verbal notification to the involved Division is additionally required.

(ii) Initial critical incident reports to DHS shall include the following in writing:

(A) name of provider and all involved staff, witnesses and clients;

(B) date, time, and location of the incident, and date and time of incident discovery, if different from time of incident;

(C) descriptive summary of incident;

(D) actions taken; and

(E) actions planned to be taken by the program at the time of the report.

(F) identification of DHS contracts status, if any.

(iii) It is the responsibility of the licensee to collect and maintain and submit as requested original witness and participant witness statements and supporting documentation regarding all critical incidents that require individual perspectives to be understood.

(3) Investigative Process.

(a) In-person, or electronic investigations may include, but are not limited to:

(i) a review of on or offsite records;

(ii) interviews of licensee(s), person(s), client(s), or staff;

(iii) the gathering of information from collateral parties; and

(iv) site inspections.

(c) The Office will prioritize investigations of reports of unlicensed programs, complaints regarding licensed programs, and critical incidents following an assessment of risk to client health and safety as follows:

(i) priority allegations, as administratively identified by the Office as a potential imminent risk to the health and safety of clients, will require initial on-site contact by the Office within three business days. The Office may utilize law enforcement, Child or Adult Protective services, or other protection agencies to meet priority in on-site response;

(ii) all other allegations will require that the Office initiate an investigation within ten business days.

(d) Licensees and staff shall cooperate in any investigation.

(e) The Office may report any allegations or evidence of abuse, neglect, exploitation, mistreatment, or fraud to clients, clients' legal guardians, law enforcement, insurance agencies, the insurance department, the Division of Occupational and Professional Licensing, or any other entity determined necessary by the Office.

(f) Pending investigations or those that do not result in a violation finding shall be classified as protected and only released in accordance with Utah Code Title 63G Chapter 2, Utah Government Access and Management Act.

R501-1-10. License Violations.

(1) When the Office finds evidence of violations of statute or rule, the Office shall do one of the following:

(a) provide written notification of the violation requiring the licensee to correct violation(s) with no formal follow-up; or

(b) provide written notification of violation and request a licensee to submit a corrective action plan in response to a written notification of a violation;

(i) a licensee shall submit a written corrective action plan to the Office within ten calendar days of the request from the Office and the corrective action plan shall include:

(A) a statement of each violation identified by the Office;

(B) a detailed description of how the licensee will correct each violation and prevent additional violations;

(C) the date by which the licensee will achieve compliance with administrative rules and statutes; and

(D) involvement of program owner(s) and director(s), including each foster parent, if involving a licensed or certified foster home.

(c) The Office shall review the submitted corrective action plan and either inform the licensee that the corrective action plan is approved; or inform the licensee that the corrective action plan is not approved and provide explanation;

(i) the Office may permit a licensee to amend and resubmit its corrective action plan within five additional calendar days.

(d) The Office shall issue a Notice of Agency Action imposing a penalty for violation(s) if the licensee fails to submit and comply with an approved corrective action plan.

(e) A corrective action plan is not a penalty. Programs have the right to refuse the corrective action plan process and may preserve their appeal rights by requesting a penalty through an Office initiated Notice of Agency Action.

(2) Provide a written notice of agency action initiating a penalty, as follows:

(a) the Office may place a license on conditional status;

(i) conditional status allows a program that is in the process of correcting violations to continue operation, subject to conditions established by the Office;

(A) Failure to meet the terms of the conditions, and time frames outlined on the notice, could result in further penalty.

(b) The Office may suspend a license for up to one year;

(i) a human services program that has had its license suspended is prohibited from accepting new clients, and may only provide the services necessary to maintain client health and safety during their transition; and

(ii) shall have and comply with written policies and procedures to transition clients into equivalent, safe, currently licensed programs or into the custody of their legal guardians.

(c) The Office may revoke a license;

(i) a human services program that has had its license revoked is prohibited from accepting new clients and may only provide the services necessary to maintain client health and safety during their transition; and

(ii) shall have and comply with written policies and procedures to transition clients into equivalent, safe, currently

licensed program or into the custody of their legal guardians.

(d) Names of licensees and programs who have had their licenses revoked shall be maintained by the Office for a period of five years, and shall not be associated in any way with a licensed program during that five-year period.

(e) A licensee whose license has been suspended or revoked is responsible for the program staffing and health and safety needs of all clients while the suspension or revocation is pending.

(f) The Office may place conditions, such as restricted admissions, to be in immediate effect in the Notice of Agency Action, if necessary, to protect the health and safety of clients.

(g) The Office may utilize any other penalties pursuant to 62A-2, Subsections 112, 113 and/or 116.

(h) The Office may consider chronicity, severity, and pervasiveness of violations when determining whether to simply provide notification of violations with no follow-up requirement; or to request a corrective action plan; or to apply a formal penalty to the program.

(i) Repeated violations of the same rule or statute, or failure to comply with conditions of a Notice of Agency Action may elevate the penalty level assessed.

(j) A licensee shall post the Notice of Agency Action on-site, and on the homepage of each of its websites, where it can be easily reviewed by all clients, guardians of clients, and visitors within five business days, and shall remain posted until the resolution of the penalty, unless otherwise instructed by the Office.

(k) A licensee shall notify all clients, guardians and prospective clients of a Notice of Agency Action issued by the Office within five business days. Prospective and new clients will be notified for as long as the Notice of Agency Action is in effect.

(l) Pending an appeal of a revocation, suspension or conditional license that restricts admissions, licensee shall not accept any new clients as outlined on the Notice of Agency Action, or while an appeal of a penalty is pending without prior written authorization from the Office.

(m) The Office shall electronically post Notices of Agency Action issued to a human services program, on the Office's website, in accordance with 62A-2-106.

(n) Due Process: A Notice of Agency Action shall inform the applicant or licensee of the right to appeal in accordance with Administrative Rule 497-100.

R501-1-11. Licensing Code of Conduct and Client Rights.

(1) Licensees and staff shall:

(a) transparently represent services, fees, and policies and procedures to clients, guardians, prospective clients, and the public;

(b) disclose any potential or existing conflicts of interest to the Office;

(c) comply with all federal, state, and local laws that govern the program;

(d) report all criminal activity;

(i) significant criminal activity and medical emergencies shall be immediately reported to the appropriate emergency services agency per 62A-2-106-2;

(e) comply with a written policy that addresses the appropriate treatment of clients, to include the rights of clients as outlined in this Section;

(f) not abuse, neglect, harm, exploit, mistreat, or act in a way that compromises the health and safety of clients through acts or omissions, by encouraging others to act, or by failing to deter others from acting;

(g) not use or permit the use of corporal punishment and shall only utilize restraint as defined in this Chapter and outlined in applicable Human Service Rules when an individual's behavior presents imminent danger to self or others;

(h) maintain the health and safety of clients in all program services and activities, whether on or offsite;

(i) provide services and supervision that is commensurate with the skills, abilities, behaviors, and needs of each client;

(j) not serve clients outside the program's scope of services;

(k) not commit fraud;

(l) provide an insurer the licensee's records related to any services or supplies billed, upon request by an insurer or the Office;

(m) not charge clients for any fees or expenses that were not previously disclosed to the client;

(n) accept fees only for the services or expenses the provider is willing and able to provide;

(o) not handle the major personal business affairs of a client, without request in writing by the client or legal representative;

(p) require that any licensee or staff member who is aware of, or suspects abuse, neglect, mistreatment, fraud, or exploitation shall ensure that a report is made to the Office and applicable investigative agencies as outlined in R501-1-10-2, and in compliance with mandatory reporting laws, including 62A-4a-403 and 62A-3-305;

(i) any licensee or staff member who is aware of, or suspects a violation of this Rule or any governing local ordinance or state or federal law, shall ensure that a report is made to the Office of Licensing via email at: licensingconcerns@utah.gov, or directly to the licensor of the specific program or site.

(2) Clients have the right to:

(a) be treated with dignity;

(b) be free from potential harm or acts of violence;

(c) be free from discrimination;

(d) be free from abuse, neglect, mistreatment, exploitation, and fraud;

(e) privacy of current and closed records;

(f) communicate and visit with family, attorney, clergy, physician, counselor, or case manager, unless therapeutically contraindicated or court restricted;

(g) be informed of agency policies and procedures that affect client or guardian's ability to make informed decisions regarding client care, to include:

(i) program expectations, requirements, mandatory or voluntary aspects of the program;

(ii) consequences for non-compliance;

(iii) reasons for involuntary termination from the program and criteria for re-admission;

(iv) program service fees and billing; and

(v) safety and characteristics of the physical environment where services will be provided.

(3) Clients shall be informed of these rights and an acknowledgment by the client or guardian shall be maintained in the client file.

(4) Licensees shall train all staff annually on agency policies and procedures, Licensing rules, and the Licensing Code of Conduct.

(i) verification this training shall be dated and acknowledged by each staff member.

R501-1-12. Compliance.

(1) A licensee that is in operation on the effective date of this Rule shall be given 60 days to achieve compliance with this Rule.

KEY: licensing, human services
February 23, 2018 62A-2-101 et seq.
Notice of Continuation October 4, 2017

R501. Human Services, Administration, Administrative Services, Licensing.
R501-12. Foster Care Services.
R501-12-1. Authority.

This Rule is authorized by Sections 62A-2-101 et seq.

R501-12-2. Purpose Statement.

(1) This Rule establishes standards for the licensure of foster parents for children in the custody of DHS, inclusive of its Divisions.

(2) This Rule establishes standards that must be utilized by child-placing foster agencies for the certification of foster parents to provide care for foster children.

(3) This Rule establishes compliance standards for licensed and certified foster parents.

R501-12-3. Definitions.

As used in this Rule:

(1) "Agency" means a child-placing foster agency licensed by the DHS Office of Licensing to certify foster parents.

(2) "Child" means a person under 18 years of age or a person under 21 years of age who remains subject to the continuing jurisdiction of the Juvenile Court.

(3) "Child Care" is defined in Section 26-39-102.

(4) "DCFS" means the DHS Division of Child and Family Services.

(5) "DHS" means the Utah Department of Human Services.

(6) "Direct Access" is defined in section 62A-2-101.

(7) "DJJS" means the DHS Division of Juvenile Justice Services.

(8) "Foster Care" means the temporary provision of family based care for a foster child by a foster parent.

(9) "Foster Parent" means a substitute parent licensed by the DHS Office of Licensing or certified by a licensed child-placing foster agency, and includes the spouse of the primary applicant. Foster parents may also be referred to by other titles, including but not limited to proctor foster parents, professional foster parents, resource families, or kinship caregivers.

(10) "Hazardous Material" means any substance that if ingested, inhaled, ignited, used, or touched may cause significant injury, illness, or death. These substances include but are not limited to:

(a) pesticides;
(b) gasoline;
(c) bleach, including bleach based cleansers;
(d) compressed air
(e) ammonia, including ammonia based cleansers;
(f) chemical drain openers;
(g) hair relaxers/permanents;
(h) kerosene;
(i) spray paint;
(j) paint thinner;
(k) automotive fluids;
(l) toxic glues (excludes non-toxic glues);
(m) oven cleaners;
(n) matches/lighters/lighter fluid;
(o) cleaning aerosols;
(p) medications; and
(q) ultra and concentrated detergent capsules.

(11) "Home Study" is the same as a pre-placement adoptive evaluation as outlined in 78B-6-128 and is the written assessment of an applicant's ability to:

(a) comply with all applicable statutes and administrative rules related to providing foster care;

(b) meet the physical and emotional needs of a child in foster care; and

(c) actively engage in achieving the custodial agency's identified outcomes for foster children.

(12) "Human Services Program" is defined in Section 62A-2-101.

(13) "Incidental Care" is defined in 62A-2-120.

(a) Foster parents shall utilize reasonable and prudent judgment in selecting a provider of incidental care of a foster child;

(b) incidental care is permitted only in DHS licensed homes, not those certified by child placing agencies.

(14) "Medication" means any over-the-counter or prescription drug, vitamin, or supplement in any form.

(15) "Poverty Guidelines" means the current US Department of Health and Human Services listing of poverty levels as determined by the number of members of a family (see http://www.direct.ed.gov/RepayCalc/poverty.html).

(16) "Reside" means living in the home for any cumulative thirty days of the past 12 months.

(17) "Respite Care" means the short term provision of family based care for a foster child by a foster parent in order to provide relief to another parent.

(18) "Siblings" means children with a common parent or grandparent, regardless of whether their legal relationship has been severed, including biological siblings, half-siblings, step-siblings, adopted siblings, and cousins.

(19) "Sick" means to have a fever, to be experiencing ongoing or severe diarrhea, unexplained lethargy, respiratory distress, ongoing or severe vomiting, or pain or other symptoms that are ongoing or severe enough to impair a child's ability to participate in normal activity.

R501-12-4. Initial, Renewal, and Reapplication Process.

(1) Initial Application for Licensure or Certification: An individual or legally married couple age 21 or over may apply to be a foster parent. The applicant shall provide:

(a) Application Forms: A completed Office of Licensing or Agency foster care application that lists each member of the applicant's household must be submitted, including acknowledgment of:

(i) responsibility to maintain all current and past clients' confidentiality ;

(ii) Office of Licensing Provider Code of Conduct; and

(iii) a verification that the applicant(s) have read and understand R501-12 Foster Care Services;

(b) Background Screening: a completed background screening application for each member of the household who is 18 years of age or older, including any supplemental documentation that the application requires;

(c) Financial Viability: a written statement of household income and expenses, together with consecutive current pay stubs or income tax forms;

(i) The Office of Licensing or Agency may consider poverty guidelines when evaluating the dependence of a foster parent on foster payments for their own expenses.

(ii) The Office of Licensing or Agency may require supporting documentation of household income and expenses in order to verify the foster parent will not be dependent on foster care reimbursement for their own expenses.

(d) Training:

(i) Verification of successful completion of agency approved pre-service training by each applicant within the past 24 months, and

(ii) Verification of current CPR/first aid training for each prospective foster parent. Examples of accepted training include but are not limited to: Heart Savers, American Red Cross, and American Heart Association Friends and Family.

(2) Medical Assessment:

(a) Each applicant shall authorize their current licensed physician, physician's assistant or nurse practitioner to complete and send a signed medical reference report directly to the Office of Licensing or Agency. Medical reference reports must assess

the current ability of the individual to be a foster parent.

(b) A professional mental health examination of a prospective or current foster parent may be required by the Office of Licensing or the Agency if there are concerns regarding the individual's mental status which may impair functioning as a foster parent. These concerns may be based upon any information gathered during the licensing/certifying and monitoring process.

(i) The type of professional mental health examination required shall be determined by the Office of Licensing or Agency based on the nature of the presenting concerns.

(ii) Determination of need and type of examination will be made collaboratively involving the licensor, Agency or Office of Licensing administration, and clinical staff from within the Department of Human Services or Agency.

(iii) The prospective or current foster parent shall authorize the release of examination information to the Office of Licensing or Agency, including a signed report that assesses the ability of the individual to parent vulnerable children full time as a foster parent.

(c) Medical and mental health examinations shall be paid for by the prospective or current foster parent.

(d) The Agency or the Office of Licensing may, in the exercise of their professional judgment, deny or revoke an application or license if a medical reference report or other examination reveals reasonable concerns regarding an applicant's ability to provide foster care services, or if the required examination is not completed and provided to the Agency of the Office of Licensing.

(3) References:

(a) At the time of initial application, the applicant(s) shall submit the names, mailing address, email addresses, and phone numbers of no more than four individuals who will be contacted by the agency or the Office of Licensing and asked to provide a reference letter. These individuals shall be knowledgeable regarding the ability of the applicant(s) to provide a safe environment and to nurture foster children. No more than one reference may be a relative of the applicant. Only the four original reference individuals submitted will be considered.

(b) A minimum of three out of the four individuals must submit reference letters directly to the Agency or the Office of Licensing. A minimum of three reference letters received must be acceptable to the Agency or the Office of Licensing.

(c) The Agency or the Office of Licensing may, in the exercise of their professional judgment, deny an application if a reference reveals reasonable concerns regarding an applicant's ability to provide foster care services.

(4) Background Screening:

(a) Each applicant and all persons 18 years of age or older residing in the home shall submit a background screening application as part of the initial application. A background screening application is also required at the point any new individual over the age of 18 moves into the home. A foster parent shall not be licensed or certified unless the background screening applications of all persons 18 years of age or older who reside in the home are approved by the Office of Licensing in compliance with Section 62A-2-120 and R501-14.

(b) A background screening approval shall not be transferred from one Agency to another Agency.

(c) A foster parent shall not permit any person without an Office approved background screening clearance to have unsupervised direct access to a foster child unless:

(i) the person is a provider of "Incidental Care" as defined in 62A-2-120 and 501-12-3-15;

(ii) the person's access is driven by child-centered normalcy needs that are guided by reasonable and prudent parenting as described in 62A-4a-211 through 212 and is not a foster parent-centered delegation of parental responsibility.

(d) A foster parent shall immediately notify the Office of Licensing or Agency if any person in the home is charged with or under investigation for any criminal offense or allegation of abuse, neglect, or exploitation of any child or vulnerable adult.

(e) Pursuant to section 62A-4a-1003(2), the Office of Licensing shall review and evaluate information from the Division of Child and Family Services Management Information System for the purpose of licensing and for the purpose of monitoring all individuals who reside in the foster parents' home. When, in the professional judgment of the Office of Licensing, a supported or substantiated finding against any individual who resides in the foster parents' home may pose a risk of harm to a foster child, the Office of Licensing may issue a safety plan or a sanction on the license of the foster parent or Agency.

(5) Home Study:

(a) The Office of Licensing or Agency is not required to perform a home study until after the background screening applications of all persons 18 years of age or older who reside in the home are approved.

(b) A narrative home study shall be completed by an adoption service provider as described in 78B-6-128(2)(c) and may be used for adoptive purposes.

(c) The home study shall include, but not be limited to:

(i) background and current information of each caregiver, including but not limited to information regarding family of origin, discipline used by parents, family history or presence of abuse or neglect, use of substances, education, employment, relationship with extended family, mental and physical health history based on doctor's examination completed within two years, stress reduction techniques, values, and interests;

(ii) marital relationship information, including but not limited to areas of conflict, communication, how problems are resolved, and how responsibilities are shared;

(iii) family demographical information, including but not limited to ages, ethnicity, languages spoken, dates of birth, gender, relationships, and history of adoption;

(iv) family characteristics including but not limited to functioning, cohesion, interests, work/life balance, family activities, ethnicity, culture, and values;

(v) child care and supervision arrangements;

(vi) written description of in-person interviews conducted with the applicants, applicants' children, and others residing in the home;

(vii) written description of the physical characteristics of the home, including neighborhood and school information, sufficient space and facilities to meet the needs of children and ensure their basic health and safety;

(viii) motivation for doing foster care, including assessment of interest in adoption vs. foster care only;

(ix) assessment of understanding and expectations of children in foster care;

(x) previous experience caring for children;

(xi) current and planned methods of discipline, use of privileges, family rules;

(xii) previous experience with children with special needs or trauma histories;

(xiii) description of the reference response regarding the character and suitability of the applicants;

(xiv) assessment of informal and formal supports;

(xv) assessment of willingness and ability to access support and resources;

(xvi) finances, including bankruptcies;

(xvii) applicant strengths and weaknesses;

(xviii) applicant history of any and all previous applications, home studies, or licenses/certifications related to providing foster care;

(xix) assessment of ability to actively engage in achieving the custodial agency's identified outcomes for foster children; and

(xx) recommendations for the applicant's suitability for placement of children, to include: child matching, capacity, training, and support needs; and

(xxi) query results of the home address on the Utah Sex Offender Registry and address how potential threats will be mitigated.

(6) Foster Parent Annual Renewal Application: A foster parent who wishes to remain authorized to provide foster care services shall submit renewal paper work at least 30 days and no longer than 90 days prior to license or certification expiration. Background screening approvals and renewal activities have to be completed prior to license expiration. Foster parent shall provide or otherwise submit to the following annually:

(a) Renewal application which addresses all updates and changes to the initial application. Requirements to include:

(i) acknowledgment responsibility to maintain confidentiality for current and past clients;

(ii) acknowledgement of Office of Licensing Provider Code of Conduct;

(iii) verification that the applicant(s) have read and understand R501-12 Foster Care Services;

(iv) health statement including new medical reference form if there has been significant health changes over the past year;

(v) proof of current CPR/first aid certification;

(vi) background screening applications for each adult 18 years of age or older residing in the home or any substitute care providers not identified as incidental caregivers. A foster parent shall not be licensed or certified unless the background screening applications of all persons 18 years of age or older who reside in the home are approved by the Office of Licensing in compliance with Section 62A-2-120 and R501-14;

(vii) financial statement outlining changes to household income, job status, and expenses, including any foreclosures and/or bankruptcies.

(A) The Office of Licensing or Agency may consider poverty guidelines when evaluating the dependence of a foster parent on foster payments for their own expenses.

(B) The Office of Licensing or Agency may require supporting documentation of household income and expenses in order to verify the foster parent will not be dependent on foster care reimbursement for their own expenses.

(b) The home study shall be updated in writing annually after a home visit and safety inspection and shall be completed by an adoptions service provider as described in 78B-6-128(2)(c) as a means to assess the family's experience over the past year as a foster family and shall include:

(i) any changes to required home study information; and

(ii) interviews with any members of the home.

(7) Reapplication: A previously licensed or certified foster home is subject to the same requirements as an initial application, with the following exceptions:

(a) Each applicant shall disclose all previous foster care licenses and certifications, including those outside the State of Utah.

(b) Previously licensed homes shall request a written reference from the DCFS region, or out-of-state equivalent, where they last held a foster care license to be sent directly to the Office of Licensing or Agency. Previously certified homes shall request a written reference letter from the last agency where they were certified, and every agency they have been certified by within the past 3 years, to be sent directly to the Office of Licensing or Agency.

(c) Each applicant shall sign releases of information for any agency where they previously provided certified or licensed foster care.

(d) Reapplication of previously licensed or certified homes may utilize an update of the previous home study as long as the home study was created by the same agency currently relicensing or recertifying the home.

(e) If 12 months or less since lapse of any license or certification, non-agency references will be waived.

(f) If 12 months or less since lapse of any license or certification, physician's statement shall be waived. Personal Health statement is still required.

(g) If 24 months or less since lapse of any license or certification, initial training requirements will be waived as long as there is not a change in licensing/certifying agency. A change in agency requires new initial training.

(8) Approval or Denial:

(a) The decision to approve or deny the applicant to provide foster services shall be made on the basis of facts, health and safety factors, and the professional judgment of the Agency or the Office of Licensing.

(b) No person may be denied a foster care license or certification on the basis of the religion, race, color, or national origin of any individual.

(c) The approval of a license or certification is not a guarantee that a foster child will be placed or retained in the foster parent's home.

(d) Foster parents shall not be licensed or certified to provide foster or respite care services in the same home in which they are providing child care or another licensed or certified Department of Health or Department of Human Services program.

(e) In order to promote health and safety, the Office of Licensing or Agency may issue a license or certification that includes additional restrictions unique to the circumstances of the license.

(f) If a license or certification is denied, an applicant may not reapply for a minimum of 90 days from the date of denial.

(9) Initial license expiration dates must coincide with background screening clearance dates by:

(i) allowing the applicants to resubmit clearances in order to receive a full year's license or;

(ii) setting the initial license expiration date no more than one year from the date of the earliest initial completed background clearance.

R501-12-5. Foster Parent Requirements.

(1) Foster parents shall:

(a) be in good health and emotionally stable;

(b) be able to provide for the physical, social, mental health, and emotional needs of the foster child;

(c) be responsible persons who are 21 years of age or older;

(d) provide documentation of legal residential status;

(e) have the ability to help the foster child thrive;

(f) not be dependent on foster care reimbursement for their own expenses, outside of those expenses directly associated with providing foster care services;

(g) provide updated medical, social, financial, or other family information when requested by the Office of Licensing or Agency;

(h) follow all federal, state and local laws and ordinances; and

(i) not engage in conduct that poses a substantial risk of harm to any person or that is illegal or grounds for denying a license under 62A-2-112.

(2) DHS employees shall not be licensed or certified as foster parents for children in the custody of their respective Divisions, unless they qualify as a "relative" to the child in accordance with Utah Code Ann. Section 78A-6-307. An employee may provide foster services for children in the custody of a different Division only with the prior written approval of both Divisions' Directors in accordance with DHS conflict of interest policy.

(3) Foster parents shall cooperate with the Office of Licensing, Agency, courts, and law enforcement officials.

(4) Each foster parent shall read, acknowledge, and comply with the Office of Licensing Provider Code of Conduct.

(a) A foster parent shall not abuse, neglect, or maltreat a child through any act or omission.

(b) A foster parent shall not encourage or fail to deter the acts or omissions of another that abuse, neglect, or maltreat a child.

(5) No more than two children under the age of two, including children who are members of the household and foster children, shall reside in a foster home.

(6) No more than two non-ambulatory children, including children who are members of the household and foster children, shall reside in a foster home.

(7) Except as provided by Section 62A-2-116.5 and R501-12-5-8, no more than four foster children shall reside in a licensed foster home and no more than three children shall reside in a certified foster home.

(i) The capacity limits of the foster care licenses may be exceeded under the conditions outlined in 62A-2-116.5 as long as the Office of Licensing determines that the foster home will remain in compliance with foster care rules in regards to each child.

(8) Foster parents may provide respite care in their home as long as they remain in compliance with licensing rules in regards to each child placed for foster and respite care. Foster parents may provide respite care when the additional foster child(ren) exceed their licensed capacity only as follows:

(a) Respite care is limited to a maximum of 10 days within any 30 day period.

(i) For foster children who are not siblings, each day of respite for each individual child counts as one day of respite care.

(ii) For foster children who are siblings, each day of respite for a sibling group receiving respite in the same foster home at the same time counts as one day of respite care.

(b) The foster home must have no licensing sanctions currently imposed, including corrective action plans or conditional licenses.

(c) Total number of foster and respite children in a home at one time shall not exceed six unless all but one or two of the children are part of a single sibling group.

(9) A foster parent shall report all major changes or events to the Office of Licensing or Agency within one business day.

(a) A major change in the lives of foster parents includes, but is not limited to:

(i) the death or serious illness of a member of the foster parent's household;

(ii) change in marital status;

(iii) loss of employment;

(iv) change in household composition, such as the birth or adoption of a child, addition of household members, or tenants;

(v) allegations of abuse or neglect of any child or vulnerable adult against any member of the foster parent's household; or

(vi) anything defined as a "critical incident" in R501-1.

(10) The Office of Licensing or Agency may evaluate major changes to determine necessary actions which may include an update to the home study; implementation of a safety plan; amendments to the license certification; request for new references or examinations; or agency action in the form of a penalty.

(11) A foster parent shall report any potential change in address in advance to the Office or Agency.

(a) Licenses and certifications are site specific.

(b) An adjoining dwelling with a separate address that is not accessible from the foster home is not considered part of the foster home site.

(c) A foster child shall not be moved into a home that is not licensed or certified to provide foster care except as allowed in R501-1 provisions for relocation of a license.

(d) Foster providers must reside at the license location.

(e) In the event of a separation or divorce, a provider who no longer resides at the licensed location shall be removed from the license certificate and must apply for a separate initial license and meet all licensing requirements in the new residence in order to become licensed at the new location.

(i) The provider remaining in the home shall demonstrate the ability to continue to meet the financial and all other foster care licensure requirements and an update to the home study shall be completed.

R501-12-6. Physical Aspects of Home.

(1) All indoor and outdoor areas of the home shall be maintained to ensure a safe physical environment.

(2) The home shall be free from health and fire hazards.

(3) The home shall have a working smoke detector and a working carbon monoxide detector on each separated level.

(4) The home shall have at least one approved, fully charged fire extinguisher readily accessible to the main living area. An approved fire extinguisher shall be a minimum of 2A:10BC five point, rated multi-purpose, dry chemical fire extinguisher.

(5) Each bathroom shall have a lock sufficient to preserve the privacy of the occupant.

(6) The home shall have sufficient bedroom space to provide for the following:

(a) a bedroom shall not be shared by children of the opposite sex unless each child sharing the room is under two years of age;

(b) a foster parent's bedroom may only be shared with foster children who are under the age of two years;

(c) a foster parent's bedroom shall not be considered in calculating the allowable bedroom space for foster children;

(d) a foster child shall not share a bedroom with other adults in the home;

(e) each child in foster care must have an individual bed/crib, mattress, and linens that meet the child's needs and are comparable to other similarly utilized sleeping accommodations in the household;

(f) a minimum of 40 square feet per child, excluding adjoining bathrooms and storage space;

(g) no more than four children are housed in a single bedroom that houses at least one foster child;

(h) bedrooms used for foster children shall be comparable to other similarly utilized bedrooms in the home, including but not limited to access, location, space, finishings, and furnishings; and

(i) bedrooms used by foster children shall have a source of natural light and shall be equipped with a screened window that opens and provides egress to the outdoors.

(7) Closet or dresser space shall be provided within the bedroom for the foster child's personal possessions and for a reasonable degree of privacy.

(8) The home shall have space or access to common areas for recreational activities.

(9) Foster parents shall offer nutritious, balanced meals that meet each foster child's individual needs.

(10) The home shall be maintained at a reasonable temperature when occupied by a foster child. The age and needs of the child and other residents may be considered. Generally, reasonable temperatures range between 65-82 degrees Fahrenheit.

(11) The home shall have a working refrigerator, cooking appliances, and functional indoor plumbing.

(12) Hazards on the property shall be abated. These areas include but are not limited to fall hazards of 3 feet or greater (steep grades, cliffs, open pits, window wells, stairwells, elevated porches, retaining walls, etc), drowning hazards

(swimming pools, hot tubs, water features, ponds or streams, etc), burn hazards (fireplaces, candles, radiators, water, etc), unstable heavy items (televisions, bookshelves, etc), high voltage boosters, or dangerous traffic conditions. These hazards shall be mitigated through the use of protective hardware, fences, banisters, railings, grates, natural barriers, or other licensor approved methods.

(13) The home and its contents shall be maintained in a clean and safe condition. Food, clothing, supplies, furniture, and equipment shall be of sufficient quantity, variety, and quality to meet the foster child(ren)'s needs.

(14) Exits: There shall be at least two exits on each accessible floor of the home. Each exit shall be accessible and adequately sized for emergency personnel. Multiple-level homes shall have a functional, automatic fire suppression system or an escape ladder, stairway, or other exterior egress to ground level accessible from each of the upper levels.

(15) Foster parents shall have and use child safety devices appropriate to the needs of the foster child, including but not limited to safety gates and electrical outlet covers.

(16) Home address is clearly visible and location is accessible.

(17) Water and sewage disposal systems other than public systems must be approved by the appropriate authorities.

(18) Swimming pools will be secured in order to prevent unsupervised access and comply with applicable community ordinances.

(19) Foster providers with placements made in the home shall ensure that all physical aspects of the home outlined in this section are compliant at all times.

(20) Foster providers with no placements made in the home shall demonstrate the ability to comply upon request.

R501-12-7. Safety.

(1) A foster parent shall not smoke any substance in the foster home or when a foster child is present. All smoking materials shall be inaccessible to foster children.

(2) Foster parents shall provide training to children regarding response to fire warnings and other instructions for life safety upon the initial placement of a child and annually thereafter. This includes an evacuation plan that also anticipates the evacuation of a child who is non-ambulatory or who has a disability.

(3) The home shall have a telephone on-site during all times that a foster child is present. This may be a land line or a mobile phone, but must be able to receive and make calls and be recognized by the 911 system. Telephone numbers for emergency assistance and the address of the home shall be posted next to the telephone or in a central location visible to the child.

(4) The home shall have a fully supplied first aid kit such as recommended by the American Red Cross.

(5) Foster parents shall inform the Office of Licensing or the Agency if they possess or use a firearm or other weapon.

(6) Firearms, ammunition, and other weapons shall be inaccessible to children. Foster parents shall not provide a weapon to a child or permit a child to possess a weapon except as outlined in Sections 76-10-509 through 76-10-509.7.

(a) Foster parents do not have the authority of a parent or guardian under Section 76-10-509.

(b) Firearms may be stored together with ammunition only in a locked container commercially manufactured for the secure storage of firearms.

(c) Firearms not stored in a locked container commercially manufactured for the secure storage of firearms shall be unloaded and securely locked. Ammunition for these firearms shall be kept securely locked in a separate location.

(i) The locked storage for firearms and ammunition shall not be accessible through the same keys or combinations.

(ii) Keys and combinations utilized to open locked storage for firearms and ammunition shall not be accessible to a foster child.

(d) Firearms may be stored in display cases only if unloaded and rendered inoperable through the effective use of trigger locks, bolts removed, or other disabling methods.

(e) This does not restrict an individual's rights regarding concealed weapons permits pursuant to UC 53-5-704.

(7) Foster parents who have alcoholic beverages in their home shall ensure that the beverages are closely monitored and inaccessible to children at all times.

(8) Hazardous materials shall be stored securely and remain locked when not in active use, and closely monitored while in active use.

(i) Hazardous materials shall be stored in the manufacturer's original packaging together with the manufacturer's directions and warnings; or

(ii) a container that complies with the manufacturer's directions and warnings and is clearly labeled with the contents, manufacturer's directions and warnings.

(9) Flammable substances, including but not limited to gasoline and kerosene, shall be locked in a ventilated storage area separate from living areas. This requirement does not include substances contained within the storage tanks of equipment, including but not limited to automobiles, lawnmowers, ATV's, boats and snow blowers.

(10) General, common use, household items (excluding those identified as hazardous materials) shall be stored responsibly in consideration of the age, behavior, history, and cognitive and physical ability of each foster child in the home. The foster parent is responsible for consulting with the caseworker and child and family team regarding individual restrictions. General, common use, household items include, but are not limited to the following:

(a) oral hygiene products;
(b) hair and cosmetic products;
(c) facial and skin hygiene products;
(d) cutlery;
(e) laundry and dish detergent (excluding concentrated pods);
(f) cleaning wipes;
(g) rubbing alcohol;
(h) nail polish remover;
(i) laundry stain remover;
(j) propane attached to a grill;
(k) air fresheners and deodorizers; and
(l) spray furniture polish.

(11) Foster parents shall comply with all laws regarding the care and number of animals on their property.

(12) Foster parents shall ensure that the foster child has the safety equipment, supervision, and training necessary for the child to safely participate in an activity that has an inherent risk of bodily harm, injury, or death.

(a) These activities include but are not limited to participation in rock climbing, swimming, hunting, target practice, camping, hiking, use of recreational vehicles, and sports.

(b) Every precaution must be taken to participate in the respective activity as safely as possible. This includes, but is not limited to: wearing DOT/Snell approved helmets when riding off-highway vehicles (OHV), completing OHV education, personal watercraft or boating education, wearing Coast Guard approved lifejackets, and completing hunter's education.

(c) Foster parents shall follow any applicable statute pertaining to minors operating OHV's, personal watercraft, boats, and firearms.

(d) Foster parents shall not permit a foster child any access to firearms without first obtaining the written approval of the child's caseworker.

(13) Foster parents shall comply with any written safety plan required by the Office of Licensing or Agency which establishes additional safety requirements to protect the child from hazardous conditions on the foster parent's property. A safety plan shall not waive any requirement of this R501-12.

(14) Verification of compliance with the Utah Department of Health's recommended immunization schedules shall be provided for each individual residing in the home who is not a foster child.

(a) Recommended influenza immunizations are optional unless a foster child in the home has an immunocompromised condition.

(b) If compliance of all residents in the home cannot be verified, the license shall be restricted to only placements of children who are over the age of 2 months and who are immunized in accordance with the Utah Department of Health's recommendations for their age.

(i) Foster parents must disclose if any individual residing in the home is not in compliance with the Utah Department of Health's recommended immunization schedules to the child placing agency prior to accepting a placement.

(ii) Newborn infants must reach the required age and receive their first dose of required vaccinations to be considered appropriately immunized for their age.

(15) Foster parents shall not accept the placement of a child into their home in violation of any license conditions.

R501-12-8. Emergency Plans.

(1) Foster parents shall have a written plan of action for emergencies and disaster to include the following:

(a) evacuation with a pre-arranged site for relocation;

(b) transportation and relocation of foster children when necessary;

(c) supervision of foster children after evacuation or relocation; and

(d) notification of appropriate authorities.

(2) Foster parents shall have a written plan for medical emergencies, including arrangements for medical transportation, treatment and care.

(3) Foster parents shall immediately report any serious illness, injury, or death of a foster child to the appropriate Division or Agency and the Office of Licensing.

R501-12-9. Infectious Disease.

(1) In the event of an infectious or communicable disease outbreak, foster parents shall follow specific instructions given by the local health department.

R501-12-10. Medication and Medical Emergencies.

(1) Foster parents shall ensure that prescribed medication is administered according to the written directions of the foster child's health provider.

(a) Foster parents shall ensure that the foster child actually consumes the medication.

(b) Foster parents shall report any severe or unexpected side effects or reactions to the foster child's health provider.

(2) Medication shall only be given to the foster child for whom it was prescribed.

(3) Medication shall not be discontinued without the approval of the foster child's health provider.

(4) Non-prescription medications may be administered by foster parents according to manufacturer's instructions unless otherwise directed by the child's health provider.

(5) Medications shall not be administered or carried by the foster child unless approved in writing by the child's health provider.

(6) Medication shall not be used for behavior management or restraint unless prescribed in writing by the foster child's health provider and after notification to the Division or Agency worker.

(7) Medication shall remain locked at all times they are not in immediate, active use.

(a) Foster parents shall not leave medications in active use unattended.

(b) If a foster child requires immediate access to the child's medication, including but not limited to a child with asthma or diabetes, foster parents may carry a single dose of medication for active use on the foster parent's person.

(8) Medications shall remain in the original pharmacy or manufacturer's packaging.

(a) Foster parents shall not repackage medications or divide doses into alternative containers.

(b) Foster parents should partner with the pharmacy regarding any needed divisions of medication.

(9) Foster parents shall promptly take a foster child who has a medical emergency, who is sick, or who is injured, for an assessment by a medical practitioner.

(10) Foster parents shall comply with the treatment orders of the foster child's health provider.

(11) When a foster child is no longer placed in the foster parent's home, all unused medications shall be transferred to the caseworker or Agency.

R501-12-11. Transportation.

(1) Drivers of vehicles carrying foster child(ren) shall have a valid, current driver's license and valid, current vehicle insurance, and comply with all traffic regulations.

(2) Transportation of foster children shall be provided in an enclosed, registered vehicle that has functional seatbelts. Foster parents shall ensure that foster children properly utilize seatbelts and other safety equipment, including age and size appropriate car/booster seats. Recreational vehicles, including motorcycles, shall not be used for transportation.

(3) Emergency contact information, including but not limited to caseworker and Agency information, shall be provided and accessible in each vehicle used to transport foster children.

(4) Each vehicle shall be equipped with a first aid kit.

R501-12-12. Behavior Management.

(1) Foster parents shall provide supervision appropriate to the age and needs of each foster child.

(2) Foster parents shall not use, nor permit the use of corporal punishment including but not limited to physical, mechanical, or chemical restraint, physical force, infliction of bodily harm or pain, deprivation of meals, rest or visits with family, or humiliating or frightening methods to discipline, coerce, punish, or retaliate against a child.

(3) Foster parents shall only use behavior management techniques appropriate for the child's age, behavior, needs, developmental level, and past experiences.

(4) Foster parents shall use the least restrictive method of behavior management available to control a situation.

(5) Foster parents shall only use behavior management techniques that are positive, consistent, and that promote self-control, self-esteem, and independence.

(6) Foster parents shall not use physical work assignments or activities that inflict pain as behavior management techniques. A physical work assignment or activity that results in minor sore muscles does not violate this subsection.

(7) Foster parents shall not abuse, threaten, ridicule, intimidate, or degrade a child.

(8) Foster parents shall not deny a child medical care, nutrition, hydration, clothing, bedding, sleep, or toilet and bathing facilities.

(9) Passive physical restraint shall be applied only by individuals who are trained in accordance with the non-violent intervention strategies of a state, regional, or nationally

recognized behavior management program. Documentation of passive physical restraint training certification shall be submitted to the Office of Licensing or Agency with the initial and each renewal application.

R501-12-13. Child's Rights in Foster Care.

(1) Foster parents shall not violate a foster child's right to:

(a) eat nutritious meals with the family;

(b) eat the same food as the family, except when the child is provided with alternative food ordered by the child's physician;

(c) participate in family and school activities;

(d) privacy, including but not limited to maintaining the confidentiality of information about the child and not retaining copies of the child's records once the child is no longer placed there;

(e) be informed of the child's responsibilities, including household tasks, privileges, and rules of conduct;

(f) be protected from discrimination based upon the child's race, color, national origin, culture, religion, sex, sexual orientation, age, political affiliation, or disability;

(g) be protected from harm or acts of violence, including but not limited to protection from physical, verbal, sexual, or emotional abuse, neglect, maltreatment, exploitation, or inhumane treatment;

(h) be treated with courtesy and dignity, including but not limited to reasonable personal privacy and self-expression;

(i) communicate with and visit the child's family, attorney, physician, and clergy, except as restricted by court order;

(j) have clean clothes and personal hygiene needs met;

(k) participate in their own cultural traditions; and

(l) receive prompt medical care when sick or injured.

(m) be free from media content that is likely harmful considering the child's age, behavior, needs, developmental level, and past experiences.

R501-12-14. Additional Child Placing Agency Considerations.

(1) The Agency shall comply with all Office of Licensing rules that relate to their Child Placing Foster license.

(2) The Agency shall comply with Background Screening Rules, R501-14.

(3) The Agency shall recruit, train, certify, and supervise foster parents.

(4) The Agency shall not certify a home which is licensed or certified or applying to be licensed or certified with any other Agency.

(5) Agency owners, directors, managers, and members of the governing body shall not be certified to provide foster care services for children placed with or by the Agency.

(6) The Agency shall verify completion of all of a foster parent's training requirements, including but not limited to CPR/First Aid training and training regarding the requirements of R501-12, prior to issuing an initial or renewal certification and prior to placing a foster child in the home.

(7) The Agency shall train each foster parent regarding the Agency's policies and procedures prior to placing a foster child in the home.

(8) The Agency shall provide the Department with identifying information of all certified foster homes via the DHS/DCFS Provider website located on the Human Services DHS/DCFS Employee website and shall report their list of homes annually and upon request.

(9) The Agency shall maintain documentation of the initial and annual home studies of the foster parent's home.

(10) The Agency must have a written agreement with the foster parent(s) which includes:

(a) the expectations and responsibilities of the Agency, staff, foster parents and limitations of authority;

(b) the services to be provided to and by the foster parent;

(c) the provision of medical, remedial, treatment, and other specialized services to the child;

(d) the financial arrangements for children placed in the home;

(e) the authority foster parents can exercise over children placed in the home; and

(f) actions which require staff or DHS authorizations.

(11) The Agency shall monitor and keep detailed documentation regarding foster parents' compliance with R501-12.

(12) The Agency shall document all announced and unannounced visits to the home, including an initial safety inspection and a minimum of one unannounced safety inspection annually in addition to any announced or unannounced visits to the home.

(a) Each safety inspection completed by the Agency shall be documented on the DHS Home Inspection Checklist, or a similar form that contains all of the DHS form contents.

(b) The Agency shall coordinate with the Office when checklist items are not compliant to determine which actions should be taken.

(c) The Agency shall maintain all completed checklists and compliance monitoring documentation in the provider files.

(13) The Agency shall investigate all complaints and alleged violations of this rule. The Agency shall provide documentation to the Office of Licensing of any investigations into complaints and alleged violations of R501-12.

(14) The Agency shall provide written notification to each foster parent that informs the foster parent of the rights and responsibilities assumed by a foster parent who signs as the responsible adult for a foster child to receive a driver license, as described in Section 53-3-211. The Agency shall maintain documentation in the foster parent's file, signed and dated by the foster parent, acknowledging receipt of a copy of this written notification.

(15) The Agency shall have and comply with written policies and procedures regarding the denial, suspension, and revocation of a foster parent's certification to provide foster care services, which must include written notification of the foster parent's appeal process.

(16) The Agency shall provide documentation to the Office of Licensing and DCFS of any denial, suspension, revocation or other agency-initiated termination of a foster parent's certification. Documentation shall be provided within two weeks of the action.

(17) The Agency shall not grant any variance to this R501-12 or any other regulation without the prior written consent of the Director of the Office of Licensing.

(18) The Agency shall certify foster parent(s) for a specific time period that does not exceed one year prior to placing any foster children in the home. Documentation of certification dates shall be made available to the Office of Licensing as requested.

(19) The Agency shall provide ongoing supervision of certified foster parents to ensure the quality of care they provide.

(20) The Agency shall participate with the child's legal guardian and the foster home to obtain, coordinate, and supervise care and services necessary to meet the needs of each child in their care.

R501-12-15. Additional DCFS Kinship and Specified Home Licensure Considerations.

(1) An applicant may be licensed for the placement of a specific foster child or sibling group.

(2) The home study shall be conducted by an approved DCFS kinship home study specialist or by the Office of Licensing.

(3) A minimum of two reference letters received must be

acceptable to the Agency or the Office of Licensing.

(4) The home study safety inspection and background screening approvals shall be successfully completed prior to the placement of the child in the home.

(5) The Office shall grant a kinship/specific probationary license upon receipt and approval of a completed kinship/specific packet submitted by DCFS.

(a) The kinship/specific probationary license shall be issued for no more than five months until full compliance can be achieved in order to receive an initial license for the remainder of the licensing year.

(b) An initial license may be issued at any time that compliance with probationary terms is met.

(c) A probationary license whose terms are not met prior to the expiration of that license shall be extended in corrective or penalty status.

(d) Initial license expiration dates shall be determined per R501-12-4-9.

(6) A kinship/specific home license may not be utilized for the placement of any foster child other than the child designated on the license, and may not be utilized for respite care.

(7) If a kinship/specific home desires to provide general foster care services, they will close their specific license and submit to the requirements of a general foster care license.

(8) The Office of Licensing recognizes the importance of preserving family and cultural connections for children in foster care. In accordance with 62A-2-117.5 and the Indian Child Welfare Act, the Office of Licensing may issue a waiver of any rule in regards to a kinship/specific home that does not impact the health and safety of the specific child or sibling group. This requires prior written approval by the Director of the Office of Licensing.

R501-12-16. Compliance.

Any active license on the effective date of this rule shall be given 30 days to achieve compliance with this rule with the exception of R501-12-7(14) which will be given 60 days to achieve compliance.

KEY: licensing, human services, foster care, certified foster care
February 23, 2018 62A-2-101 et seq.
Notice of Continuation October 4, 2017

R501. Human Services, Administration, Administrative Services, Licensing.
R501-14. Human Service Program Background Screening.
R501-14-1. Authority and Purpose.

(1) This Rule is authorized by Sections 62A-2-106, 62A-2-120, 62A-2-121, and 62A-2-122.

(2) This Rule clarifies the standards for approving, denying, or revoking an applicant's background screening.

R501-14-2. Definitions.

(1) "Abuse" is defined in Sections 78A-6-105 and 62A-3-301, and may include "Severe Abuse", "Severe Neglect", and "Sexual Abuse", as these terms are defined in Sections 78A-6-105 and 62A-3-301.

(2) "Adult-only Substance Use Disorder Program" is a program serving substance use disorder related clients that has declared to the Office of Licensing that they do not serve the following:

(a) clients under the age of 18; or

(b) those with any serious mental illness or cognitive impairments.

(3) "Applicant" means a person whose identifying information is submitted to the Office under Sections 62A-2-120, 62A-3-104.3, 62A-5-103.5, 78B-6-128, and 78B-6-113. Applicant includes the legal guardian of an individual described in Section 62A-2-120-1.a.

(4) "Background Screening Agent" means the applicable licensing specialist, human services program, Area Agency on Aging (for Personal Care Attendant applicants only), and adoption service provider, an attorney representing a prospective adoptive parent as defined in Section 78B-6-103(4), or DHS Division or Office. The background screening agents are the point of contact with the Office for the purpose of background screening.

(5) "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.

(6) "Child" is defined in Section 62A-2-101.

(7) "Child Placing" is defined in Section 62A-2-101.

(8) "Comprehensive Review Committee" means the committee appointed to conduct reviews in accordance with Section 62A-2-120.

(9) "DAAS Statewide Database" is the Division of Aging and Adult Services database created by Section 62A-3-311.1 to maintain reports of vulnerable adult abuse, neglect, or exploitation.

(10) "Direct Access" is defined in Section 62A-2-101.

(11) "Direct Service Worker" is defined in Section 62A-5-101.

(12) "Directly Supervised" is defined in 62A-2-101.

(13) "FBI Rap Back System" is defined in Section 53-10-108.

(14) "Fingerprints" means an individual's fingerprints as copied electronically through a fingerprint scanning device or on two ten-print fingerprint cards by a law enforcement agency, an agency approved by the BCI, or background screening agent.

(15) "Foster Home" is defined in Section 62A-2-101.

(16) "Human Services Program" is defined in Section 62A-2-101.

(17) "Licensee" is defined in Section 62A-2-101.

(18) "Licensing Information System" is created by Section 62A-4a-1006, as a sub-part of the Division of Child and Family Services' Management Information System created by Section 62A-4a-1003.

(19) "Neglect" may include "Severe Neglect", as these terms are defined in Sections 78A-6-105 and 62A-3-301.

(20) "Office" is defined in Section 62A-2-101(27).

(21) "Personal Care Attendant" is defined in Section 62A-3-101.

(22) "Personal Identifying Information" is defined in Section 62A-2-120, and shall include:

(a) a current, valid state driver's license or state identification card bearing the applicant's photo, current name, and address;

(b) any current, valid government-issued identification card bearing the applicant's name and photo, including passports, military identification and foreign government identification cards; or

(c) other records specifically requested in writing by the Office.

(23) "Substance Abuse Treatment Program" is defined in Section 62A-2-101.

(24) "Substantiated" is defined in Section 62A-4a-101.

(25) "Supported" is defined in Sections 62A-3-301 and 62A-4a-101.

(26) "Vulnerable Adult" is defined in Section 62A-2-101.

R501-14-3. Initial Background Screening Procedure.

(1) 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.

(2) 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.

(3) The applicant may provide disclosure statements and related documents as direct attachments to the application or directly attached in a sealed envelope. If the applicant submits a sealed envelope, the background screening agent shall forward it unopened.

(4) An applicant must present valid government-issued identification.

(5) An applicant who presents only a foreign country identification card may be required to submit an original or official copy of a government issued criminal history report from that country.

(6) The background screening application, personal identifying information, including fingerprints, and applicable fee shall be submitted to the background screening agent. The background screening agent shall:

(a) inspect the applicant's government-issued identification card and determine that it does not appear to have been forged or altered;

(b) review for completeness and accuracy and sign the application; and

(c) forward the background screening application, and applicable fee to the Office background screening unit.

(d) The background screening agent may withdraw a background screening application at any point in the process.

R501-14-4. Renewal Background Screening Procedure.

(1) An applicant for background screening renewal shall legibly complete, date and sign a background screening application and consent on a form provided by the Office.

(2) 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. The applicant may provide disclosure statements and related documents as direct attachments to the application or directly attached in a sealed envelope. If the applicant submits a sealed envelope, the background screening agent shall forward it unopened.

(3) The background screening application and personal identifying information shall be submitted to the background screening agent.

(a) Notwithstanding R501-14-4(3), an applicant for a

background screening renewal who is not currently enrolled in the FBI Rap Back System is not required to submit fingerprints for a FBI Rap Back System search and applicable FBI Rap Back System fees unless:

(i) the applicant's most current background screening has lapsed as described in part 7 of this Section;

(ii) the human services program or background screening agent with which the applicant is associated requires a FBI Rap Back System search;

(iii) the applicant wishes to provide services with an additional licensee and has not submitted fingerprints for a FBI Rap Back System search and applicable FBI Rap Back System fees; or

(iv) the renewal application is submitted on or after July 1, 2018 and the applicant is not already enrolled in the FBI Rap Back System.

(4) A background screening agent wishing to submit background screening renewal applications for multiple applicants may submit a summary log of the renewing applicants in lieu of individuals' applications.

(a) A summary log may only be used for applicants:

(i) who are enrolled in the FBI Rap Back System with the Office;

(ii) with a current approval;

(iii) whose name and address have not changed since their last background screening approval;

(iv) who have not had any of the following since their last background screening approval:

(A) criminal arrests or charges;

(B) supported or substantiated findings of abuse, neglect or exploitation; or

(C) any pending or unresolved criminal issues.

(b) Summary logs shall contain:

(i) applicant full legal name,

(ii) applicant date of birth,

(iii) the last four numbers of each applicant's social security number;

(iv) program name; and

(v) name of program representative completing summary form.

(c) A background screening agent choosing to submit a summary log of the renewing applicants in lieu of individuals' applications shall maintain current documentation signed by each applicant, in which they attest to the accuracy of the information described in R501-14-4(4)(a) and (b).

(5) An application shall be submitted each time an applicant may have direct access to a child or vulnerable adult at any human services program other than the program identified on the initial application.

(6) The background screening agent shall:

(a) inspect the applicant's government-issued identification card and make a determination as to whether or not it appears to have been forged or altered; and

(b) review for completeness and accuracy and sign the application.

(7) Renewal applications from background screening agent and applicant shall be submitted to the Office no later than one year from the date of their most recent background screening approval. A screening that has lapsed for 30 days beyond that time is void and a new initial application must be submitted.

R501-14-5. General Background Screening Procedure.

(1) 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.

(a) Personal identifying information submitted pursuant to Sections 62A-2-120, 62A-3-104.3, 62A-5-103.5, 78B-6-113, and 78B-6-128 shall be used to perform a search in accordance with Sections 62A-2-120(3) and (13).

(2) Except as permitted by Section 62A-2-120(9), an applicant for an initial background screening shall submit an application no later than two weeks from becoming associated with the licensee and shall be directly supervised in regards to a child or vulnerable adult prior to receiving written confirmation of background screening approval from the Office.

(a) Except as permitted by Section 62A-2-120(9), an applicant seeking background screening renewal shall submit renewal application within one year of the previous clearance date.

(b) If the screening approval lapses beyond 30 days, the applicant shall be directly supervised in regard to direct access of a child or vulnerable adult prior to receiving written confirmation of background screening approval from the Office.

(c) An applicant whose background screening has been denied shall have no further supervised or unsupervised direct access to clients unless the Office approves a subsequent application.

(3) The applicant or background screening agent shall promptly notify the Office of any change of address while the application remains pending.

(4) A background screening agent may roll fingerprints of applicants for submission to the Office only after it has received and applied training in the proper methods of taking fingerprints.

(a) The background screening agent shall verify the identity of the applicant via government-issued identification card at the time that fingerprints are taken.

(b) In the event that 10% or more of the fingerprints submitted by a background screening agent are rejected for quality purposes, the Office may thereafter require that a program utilize law enforcement or BCI to roll prints.

(c) A minor applicant that submitted a youth application with no fingerprint cards and is not currently on the FBI Rap Back System must submit fingerprints within 30 days prior to the minor's 18th birthday.

R501-14-6. Background Screening Fees.

(1) The applicant and background screening agent are responsible for ensuring the accuracy of information submitted with fee payments.

(2) Fees shall only be made by cashiers' check, corporate check, money order, or internal DHS transfer. Personal checks and credit or debit card payments shall not be accepted.

(3) A background screening agent may choose to submit one payment for any number of applicants.

(4) Fees are not refundable or transferable for any reason.

R501-14-7. Application Processing and Results.

(1) The Office shall approve an application for background screening in accordance with Section 62A-2-120(7).

(a) The Office shall notify the applicant or the background screening agent or contractor when an applicant's background screening application is approved.

(i) Upon receiving notice from the Office, the background screening agent shall provide notice of approval to the applicant as required under Section 62A-2-120 (12)(a)(i).

(b) The approval granted by the Office shall be valid until a renewal approval is issued or the prior approval lapses.

(c) An approval granted by the Office shall not be transferable, except as provided in R501-14-11.

(2) The Office may conditionally approve an application for background screening in accordance with Section 62A-2-120(8).

(a) Conditional approvals are prohibited for initial applicants who are residents of child placing foster or adoption homes.

(b) A background screening agent seeking the conditional approval of an applicant shall not request conditional approval unless 10 business days have passed after the applicant's background screening application is received by the Office without receiving notification of the approval or denial of the application.

(c) A written request for conditional approval shall include the applicant's full name, the last four digits of the applicant's social security number, and the date the application was submitted to the Office.

(d) Upon receipt of a written request for conditional approval that complies with R501-14-7(2)(b), the Office shall make a conditional determination within three business days.

(e) Conditional approvals shall have expiration dates not to exceed 60 days.

(f) If the Office does not provide a standard approval before the expiration date of the conditional approval, the applicant shall be directly supervised until such an approval is granted.

(g) The Office may revoke the conditional approval prior to the expiration date.

(3) The Office shall deny an application for background screening in accordance with Section 62A-2-120.

(4) An applicant whose background screening has been denied shall have no further supervised or unsupervised direct access.

(5) The Office shall refer an application to the comprehensive review committee in accordance with Section 62A-2-120(6).

(a) Per Section 62A-2-120 (6)(a)(ii), all misdemeanor convictions except those listed in R501-14-7(5)(b), within the five years prior to submission of the application to the Office shall be reviewed by the comprehensive review committee.

(b) The following misdemeanors will not be reviewed except as described in (xiv) as listed below:

(i) violation of local ordinances related to animal licenses, littering, dogs at large, noise, yard sales, land uses, storm water, utilities, business licenses, zoning, building, construction and park/access hours;

(ii) all misdemeanors listed in 41-6a except:

(A) part 4 accident responsibility Sections 401.3, 401.5 and 401.7;

(B) part 5 driving under the influence;

(C) part 17 miscellaneous rules Section 1716 if charged as a misdemeanor B and Section 1717;

(D) part 18 Section 1803;

(iii) all misdemeanors listed in 76-10-2, 76-10 part 1 Section 105, 76-10-21 and 76-10-27;

(iv) Failure to Appear: A misdemeanor charge under 77-7-22;

(v) Unauthorized Hunting of Protected Wildlife: A misdemeanor resulting from unauthorized hunting under 23-20-3;

(vi) Fishing Licenses: A misdemeanor resulting from a failure to have the appropriate fishing license under 23-19-1;

(vii) Boating Safety: A misdemeanor resulting from a failure to comply with the boating safety requirements outlined in 73-18-8;

(viii) Business License: A misdemeanor resulting from failure to have a business license as required under 76-8-410;

(ix) all juvenile misdemeanors except those listed in 62A-2-120(5)(a) unless there is a pattern of at least three or more similar offenses within the five years prior to the submission of the application.

(c) The Office shall refer an applicant to the comprehensive review committee upon learning of a potentially disqualifying offense or finding described in Section 62A-2-120(6)(a) not previously considered by the comprehensive review committee.

(6) The Office may provide the status of an application to the sponsoring background screening agent, but shall not share any specific criminal history information.

R501-14-8. 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; and

(g) 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 member shall chair the comprehensive review committee as a non-voting member.

(4) Four voting members shall constitute a quorum, not including the representatives from the Office of Licensing.

(5) The comprehensive review committee shall conduct a comprehensive review of an applicant's background screening application, criminal history records, outstanding warrants for any offenses that require a committee review, abuse, neglect or exploitation records, and related circumstances, in accordance with Section 62A-2-120(6).

R501-14-9. Comprehensive Review Investigation.

(1) The comprehensive review committee shall not review a background screening application without the Office 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 comprehensive review committee needs to make a determination of risk of harm including but not limited to:

(i) original police reports;

(ii) investigatory and charging documents;

(iii) proof of any compliance with court orders;

(iv) any evidence of rehabilitation, counseling, psychiatric treatment received, or additional academic or vocational schooling completed;

(v) personal statements;

(vi) reference letters specific to the potential risk of harm and;

(vii) any other information that specifically addresses the criteria established in Section 62A-2-120(6)(b);

(c) the comprehensive review committee evaluates information using the criteria established by Section 62A-2-120(6)(b); and

(d) submissions must be received within 15 calendar days of the written notice unless an extension has been requested by the background screening agent or applicant and granted by the Office.

(2) The Office shall gather information described in Section 62A-2-120(6)(b) from the applicant and provide available information to the comprehensive review committee.

(3) The Office 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.

(4) A denied application may be re-submitted to the Office after 6 months or upon substantial change to circumstances.

R501-14-10. Comprehensive Review Determination.

(1) The comprehensive review committee shall only consider applications and information presented by the Office. The comprehensive review committee shall evaluate the applications and information provided to the committee through the Office.

(a) A background screening approval may be transferred to other human service programs, therefore the comprehensive review committee shall evaluate whether direct access should be authorized for all types of programs.

(2) Each application that goes to the comprehensive review committee requires individual review by the comprehensive review committee.

(3) The comprehensive review committee shall recommend approval of the background screening of an applicant 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.

(4) The comprehensive review committee shall recommend denial of the background screening of an applicant when it finds that approval will likely create a risk of harm to a child or vulnerable adult.

(5) If the applicant fails to provide additional information requested by the Office, the comprehensive review committee may consider and weigh those omissions in the evaluation of the risk of harm to clients.

(6) The Office shall make the final determination to approve or deny the application after considering the comprehensive review committee's recommendation.

(7) An applicant whose background screening has been denied shall have no further supervised or unsupervised direct access.

R501-14-11 Background Screening Approval Transfer or Concurrent Use.

(1) An applicant is eligible to have their current background screening approval shared with or transferred to another human services program only if the applicant is currently enrolled in the FBI Rap Back System and the screening was run under the same statutory authority as the original screening.

(2) An applicant who wishes to have their current background screening shared with or transferred to another human services program shall complete a background screening application and identify the name of the original program.

(3) An applicant shall be directly supervised until the program receives written confirmation from the Office that the background screening is current and valid.

(4) A background screening approval that has been transferred or shared shall have the same expiration date as the original approval.

R501-14-12. Post-Approval Responsibilities.

(1) An applicant and background screening agent shall immediately notify the Office if the applicant is charged with any felony, misdemeanor, or infraction, or has a new finding in the Licensing Information System, juvenile court records, or the DAAS Statewide Database after a background screening application is approved.

(2) An applicant who has received an approved background screening shall resubmit an application and personal identifying information to the Office within ten calendar days after being charged with any felony, misdemeanor, or infraction, or being listed in the Licensing Information System, the DAAS Statewide Database, or juvenile court records.

(3) An applicant who has been charged with any felony, misdemeanor, or infraction listed in Section 62A-2-120(5)(a) or has a new finding in the Licensing Information System or the DAAS Statewide Database, after a background screening application is approved shall be directly supervised until after an application and personal identifying information have been resubmitted to the Office and a current background screening approval is received from the Office.

(4) An applicant charged with an offense for which there is no final disposition and no comprehensive review committee denial, shall inform the Office of the current status of each case every 90 days.

(a) The Office shall determine whether the pending charge could require a denial or committee review, and if so, notify the applicant to submit an official copy of judicial documentation that indicates the current status of the case at least once every 3 months or until final disposition, whichever comes first.

(b) An applicant shall submit an official copy of judicial documentation that indicates the current status of the case at least once every 3 months or until final disposition, whichever comes first.

(5) The Office 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 DAAS Statewide Database, or juvenile court records; and fails to provide required current status information as described in (4) of this Rule or;

(b) has been convicted of any felony, misdemeanor or infraction listed in 62A-2-120(5) after a background screening approval had already been granted by the Office while charges were pending.

(6) The Office shall process identifying information received pursuant to R501-14-12(2) in accordance with R501-14.

(7) A background screening agent shall notify the Office when an applicant is no longer associated with the program so that the Office may terminate the FBI Rap Back subscription.

R501-14-13. Confidentiality.

(1) The Office may disclose criminal background screening information, including information acknowledging the existence or non-existence of a criminal history, only to the applicant in accordance with the Government Records Access and Management Act, Section 63G-2-101, et seq.

(2) Except as described in R501-14-11 and below, background screening information may not be transferred or shared between human service programs.

(a) A licensed child-placing adoption agency may provide the approval granted by the Office to the person who is the subject of the approval, another licensed child-placing agency, or the attorney for the adoptive parents, in accordance with Section 53-10-108(4).

R501-14-14. Retention of Background Screening Information.

(1) A human services program or department contractor shall retain the background screening information of all associated individuals for a minimum of eight years after the termination of the individual's association with the program.

R501-14-15. Expungement.

(1) An applicant whose background screening application has been denied due to the applicant's criminal record may submit a new application with an official copy of an Order of Expungement.

R501-14-16. Administrative Hearing.

(1) A Notice of Agency Action that denies the applicant's background screening application or revokes the applicant's background screening approval shall inform the applicant of the right to appeal in accordance with Administrative Rule R497-100 and Section 63G-4-101, et seq.

R501-14-17. Exemption.

(1) Section 62A-2-120(13) provides an exemption for substance abuse programs providing services to adults only. In order to claim this exemption, an applicant, human services program, or department contractor may request this exemption on a form provided by the Office, and demonstrate that they meet exemption criteria. Final determination shall be made by the Office.

(2) The substance abuse program exemption limits the exemption with regard to program directors and members. Ownership and management of a human services program, as included in the definition of member, for purposes of this rule means a person or entity who alone or in conjunction with other persons or entities has a majority voice in the decision-making and administration of the program.

KEY: licensing, background screening, fingerprinting, human services
February 23, 2018 62A-2-108 et seq.
Notice of Continuation September 29, 2015

R501. Human Services, Administration, Administrative Services, Licensing.
R501-18. Recovery Residence Services.
R501-18-1. Authority.

This Rule is authorized by Section 62A-2-101 et seq.

R501-18-2. Purpose.

This rule establishes:

(1) basic health and safety standards for recovery residences; and

(2) minimum administration requirements.

R501-18-3. Definitions.

(1) "Currently Enrolled Client" is an individual who is a participatory resident of the sober living environment of a recovery residence and is also referred to as "Client" in this chapter.

(2) "Manager" is an individual designated in-writing by the director to oversee the day-to-day supervision of staff and clients as well as the overall operation of the facility. The manager or substitute manager cannot be a currently enrolled client.

(3) "Recovery Residence" is as defined in Subsection 62A-2-101(22) and includes a variety of sober living settings.

R501-18-4. Legal Requirements.

(1) A recovery residence shall comply with this R501-18 and:

(a) R501-1, General Provisions;

(b) R501-2, Core Rules;

(c) R501-14 by either:

(i) participating in the background clearances for all staff; or

(ii) obtaining an approval by the Office of Licensing for an exemption as outlined in R501-14.

(d) all applicable local, state, and federal laws.

(2) A recovery residence wishing to offer clinical treatment services, shall comply with R501-19 and obtain a residential treatment license. No clinical treatment shall occur at a recovery residence site.

(3) A recovery residence wishing to offer social detoxification services shall comply with R501-11 and obtain a social detoxification license prior to offering any social detoxification services onsite. No services shall be provided to those in active withdrawl at a recovery residence site.

(4) A recovery residence shall only serve adults.

R501-18-5. Administration.

(1) The recovery residence shall ensure that clients receive supportive services from a person associated with the licensee or from a licensed professional. Supportive services include but are not limited to:

(a) vocational services;

(b) peer support;

(c) skills training;or

(d) community resource referral.

(2) A list of current clients shall be maintained on-site at all times and available to the Department of Human Services Office of Licensing upon request.

R501-18-6. Staffing.

(1) The program shall employ, contract with, or otherwise provide as needed, referral information for client access to the following:

(a) Physician

(b) Psychiatrist

(c) Mental health therapist (LCMHT); or

(d) Substance use disorder counselor (SUDSC).

(2) The recovery residence shall have an identified recovery residence director(s) who shall have:

(a) Utah licensure, in good standing, as a substance use disorder counselor, licensed clinical social worker or equivalent; or

(b) a minimum of 2 years experience in one of the following:

(i) administration of a recovery residence;

(ii) substance use disorder treatment education; or

(iii) recovery/support services education.

(3) The director's responsibilities that shall not be delegated include:

(a) monitoring all aspects of the program and operation of the facility;

(b) policy and procedure development, implementation, compliance and oversight per R501-2 Core Rule requirements and to also include:

(i) clearly defining responsibilities of the director, manager, and staff of the program;

(c) supervision, training and oversight of staff;

(d) overseeing all client activities.

(4) The recovery residence director may manage directly or employ a manager as defined in this chapter, to work under the supervision of the director.

(a) The director shall perform the manager's duties when the manager is on scheduled or unscheduled leave unless the manager designates a manager-substitute.

(5) The director is responsible for maintaining the following documentation for self and all direct service staff:

(a) 40 hours of training completed prior to working with clients and ongoing training sufficient to maintain proficiency in the topics of:

(i) recovery services in substance use disorder settings;

(ii) peer support;

(iii) emergency overdose;

(iv) recognition and response to substance-related activities; and

(v) current certification in First Aid and CPR.

(b) documented training regarding compliance with current licensing rules to include:

(i) R501-1, General Provisions;

(A) including the annual required Licensing Code of Conduct; and

(B) Client Rights;

(ii) R501-2, Core Rules;

(iii) R501-18 Recovery Residence rules; and

(iv) all current program policies and procedures.

(6) The recovery residence shall have a director or manager conduct on-site visits daily in order to ensure client safety and support clients.

(a) Site visits shall be documented per-site, not per-client;

(b) site visits shall assess and document the following:

(i) general safety;

(ii) general cleanliness;

(iii) verification that only admitted residents reside or stay overnight at the residence;

(iv) no presence of alcohol or substances of abuse unless lawfully prescribed; and

(v) medications in locked storage.

(7) The director or manager shall have documented face-to-face or telephone daily contact with each admitted client.

(8) The recovery residence director shall ensure administrative on-call availability at all times and remain able to respond to the recovery residence staff and the Office of Licensing immediately by phone, or at the residence in-person within one hour.

(b) shall have a residence director, manager or substitute on-site a minimum of 7 days per week in order to assess safety and support clients. These visits shall be scheduled and documented;

R501-18-7. Direct Service.

(1) This subsection supersedes Core Rules, Section R501-2-5. The recovery residence client records shall contain the following:

(a) name, address, telephone number, email;

(b) admission date;

(c) emergency contact information with names, address, email, and telephone numbers;

(d) all information that could affect the health, safety or well-being of the client to include:

(i) medications;

(ii) allergies;

(iii) chronic conditions; or

(iv) communicable diseases;

(e) intake documentation indicating that the client meets the admission criteria, including the following:

(i) not currently using or withdrawing from alcohol or substances of abuse; and

(ii) not presenting with a current clinical assessment that contraindicates this level of care.

(f) individual recovery plan, including the signature and title of the program representative preparing the recovery plan and the signature of the client; the recovery plan shall include the following:

(i) documentation of all services provided by the program, including a disclosure that no clinical treatment services occur on-site at the recovery residence; and

(ii) documentation of all referred supportive services, not directly associated with the recovery residence site.

(g) the signed written lease agreement for the recovery residence, if required;

(h) a signed agreement indication that the client was notified in writing prior to admission regarding:

(i) program and client responsibilities related to transportation to and location of off-site services;

(ii) program and client responsibilities related to the provision of toiletries, bedding and linens, laundry and other household items;

(iii) program and client responsibilities related to shopping, provision of food and preparation of meals;

(iv) fee disclosures included Medicaid number, insurance information and identification of any other entities who may be billed for the client's services;

(v) rules of the program;

(vi) client rights

(vii) grievance and complaint policy;

(viii) critical incident reports involving the client; and

(iv) discharge documentation.

R501-18-8. Building and Grounds.

(1) The recovery residence shall ensure that building and grounds are safe and well-maintained. Furnishings, finishings, fixtures, equipment, appliances and utilities are operational and in good condition.

(2) The recovery residence shall:

(a) have locking bathroom capability sufficient to preserve the privacy of the occupant;

(b) provide access to a toilet, sink, and a tub or shower; as follows per the International Building Code:

(i) maintain a client to toilet ratio of 1:10, and

(ii) maintain a client to tub/shower ratio of 1:8.

(c) provide a mirror secured to a wall at convenient height;

(d) ensure that each bathroom is ventilated by a screened window that opens, a working fan or heating/air conditioning duct that circulates air;

(e) provide a minimum of 60 square feet per client in a multiple occupant bedroom and 80 square feet in a single occupant bedroom. Storage space shall not be counted;

(f) ensure that sleeping areas shall have a source of natural light, and shall be ventilated by a screened window that opens, a working fan, or heating/air conditioning duct that circulates air;

(g) ensure that each client is provided with a solidly constructed bed, box spring and mattress that is maintained and provides for client comfort and is commensurate with all other client beds in the residence;

(h) ensure that male and female bedrooms are separated within the residence either by floors, walls or locking doors. If locking doors are used, a policy must identify the use of locks to delineate separation;

(i) ensure that clients shall be allowed to decorate and personalize bedrooms with respect for other clients and property;

(j) if a fire clearance is not required or provided from the local fire authority:

(i) a bedroom on the ground floor shall have a minimum of one window that may be used to evacuate the room in case of fire;

(ii) a bedroom that is not on the ground floor (this includes basements) shall have a minimum of two exits, at least one of which shall exit directly to outside the building that may be used to evacuate the room in case of fire;

(k) the recovery residences shall provide either equipment or reasonable access to equipment for washing and drying of linens and clothing;

(l) provide storage commensurate with the clients' assessed ability to safely access hazardous chemicals, materials and aerosols, including but not limited to:

(i) poisonous substances;

(ii) explosive or flammable substances;

(iii) bleach; and

(iv) cleaning supplies;

(m) maintain hazardous chemicals, materials, and aerosols in their original packaging and follow the manufacturer's instructions printed on the label.

(n) maintain a sober environment free from non-prescribed substances and alcohol.

R501-18-9. Food Service.

(1) Meals may be catered, prepared by staff or prepared by clients.

(2) The recovery residence shall have at least one kitchen.

(3) If the recovery residence allows staff or clients to prepare food for clients, it shall comply with food service requirements as follows:

(a) develop and follow a food service policy to address:

(i) how special dietary needs and food allergies will be tracked and accommodated;

(ii) how safe food preparation and cleanup will be ensured;

(b) document compliance with, or exemption from, requirements of the local health department to include:

(i) health inspections and clearances; and

(ii) food handler's permits for anyone preparing food for anyone other than self;

(c) food of sufficient nutrition and variety shall be provided;

(d) menus shall be available upon request; and

(e) this does not prohibit clients from preparing their own food and choosing to share with other clients.

(4) The recovery residence shall provide enough seating at tables or tray tables to accommodate all clients simultaneously.

R501-18-10. Medical Standards.

(1) The recovery residence shall not admit anyone who is currently in an intoxicated state or withdrawing from alcohol or drugs or otherwise unable to understand terms and consent to

reside in the recovery residence.

(2) Before admission or employment, clients and staff shall be screened for Tuberculosis by a questionnaire approved by the local health department; if further screening is indicated, clients and staff will:

(a) follow appropriate protocol according to the local health department;

(b) provide proof of negative test results for Tuberculosis; and

(c) test annually or more frequently as required.

(3) A recovery residence that manages clients' medications shall keep all prescription and non-prescription medications in locked storage that is not accessible by clients when not in active use.

(4) A recovery residence shall ensure that clients who manage their own medications keep all prescription and non-prescription medications in individually accessed locked storage that is not accessible to other clients when not in active use.

(5) Non-prescription and prescription medications shall be stored in their original manufacturer's packaging together with manufacturer/pharmacy directions and warnings.

(6) Naloxone shall be safely maintained and available onsite, and staff and clients shall be trained in its proper use.

KEY: licensing, human services, recovery residence
February 7, 2018 **62A-2-101**
62A-2-106

R512. Human Services, Child and Family Services.
R512-100. In-Home Services.
R512-100-1. Purpose and Authority.

(1) The purpose of In-Home Services is to enhance a parent's capacity to safely care for their child in their home and to safely reduce the need for out-of-home care in Utah. In-Home Services include front-end services that help prevent removal and allow a child to remain at home with their parent or caregiver. It includes cases where a child is placed with a non-custodial parent or relatives who have custody and guardianship of the child. It also includes services for when a child returns home from out-of-home care and there are continuing services with Child and Family Services and court oversight.

(2) In-Home Services are a set of evidence-based services, strategies, and tools that support the safety, permanency, and well-being of a child and the strengthening of their family.

(3) The key components of In-Home Services interventions include:

(a) Case management based on Practice Model skills of engaging, teaming, assessing, planning, and intervening,

(b) Assessing and addressing safety and risk issues to help stabilize the family, providing purposeful home visits and a private conversation with the child,

(c) The application of an evidence-based assessment to identify child and family needs and protective factors early in the case, guiding caseworkers to better target the individual needs of the family with services, and informing the development of the Child and Family Plan, and

(d) Direct services and interventions that help the family make needed changes in addition to linking the family to evidence-based services and community resources.

(4) Pursuant to Sections 62A-4a-105, 62A-4a-201, and 62A-4a-202, Child and Family Services is authorized to provide In-Home Services.

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

R512-100-2. Definitions.

(1) "Child and Family Plan" is a written document that is developed by the Child and Family Team based on the assessment of the child and family's strengths and needs. The Child and Family Plan will guide and enable the family to make the changes that are necessary to meet their child's need for safety, permanency, and well-being.

(2) "Child and Family Services" means the Division of Child and Family Services.

(3) "Child and Family Team" is the family's identified informal supports and the service providers working with the family.

(4) "Utah Family and Children Engagement Tool (UFACET)" is an assessment tool used to identify child and family needs and guide addressing those needs with services in the Child and Family Plan.

R512-100-3. Qualifications.

(1) In-Home Services may be provided to families under the following conditions:

(a) A child has experienced abuse or neglect but can remain safely in the home with a safety plan.

(b) A child is placed with a non-custodial parent or relatives who have custody and guardianship of the child.

(c) A child is returned home from out-of-home care.

(d) An adoptive placement is at risk of disruption and intensive services are needed to maintain the child in the adoptive home.

(e) When reunification is likely within 14 days and intensive support is needed in conjunction with a current out-of-home care caseworker to prepare for and facilitate the reunification.

(2) A family may not qualify for In-Home Services under the following conditions:

(a) A family has the ability to access resources, supports, and services on their own, and

(b) There is minimal risk of abuse/neglect to the child, and

(c) The family requires no ongoing monitoring by Child and Family Services.

(3) In-Home Services may be voluntary or court ordered. A petition may be filed for court-ordered protective supervision of the family.

(4) In-Home Services are available in all geographic regions of the state.

R512-100-5. Service Delivery.

(1) Child and Family Team:

(a) The caseworker will engage the child and family to assemble a Child and Family Team. A Child and Family Team includes informal supports identified by the family in addition to the service providers who are or will be working with the family. The Child and Family Team meets regularly and assesses the strengths and needs of the child and family and plans for the child's safety, permanency, and well-being. Teaming occurs through ongoing information sharing and collaboration.

(2) Assessing:

(a) The purpose of assessing is to inform the Child and Family Team so that they know what they need to know to do what they need to do. Assessing is a sequential process of gathering information about the family's strengths and needs, analyzing the information, drawing conclusions, and acting on those conclusions by developing a plan to meet the identified needs. These needs are met through the provision of effective interventions that help the family achieve enduring safety, permanency, and well-being. Assessing is an ongoing and evolving process throughout the case.

(3) Planning:

(a) A Child and Family Plan shall be developed for each family receiving In-Home Services in accordance with Section 62A-4a-205. The Child and Family Plan guides the provision of services/interventions and is tracked and adapted throughout the case.

(b) Members of the Child and Family Team, including the parents and the child, if age appropriate, shall assist in developing the Child and Family Plan.

(c) A copy of the completed Child and Family Plan shall be provided to the parent or guardian. If In-Home Services are court ordered, a copy of the Child and Family Plan will be provided to the court, Assistant Attorney General, Guardian ad Litem, and legal counsel for the parent or guardian.

(4) Permanency Goals:

(a) All children receiving In-Home Services shall have a primary permanency goal and, if appropriate, a concurrent permanency goal identified by the Child and Family Team.

(b) For court-ordered In-Home Services, both primary and concurrent permanency goals, when applicable, shall be submitted to the court for approval.

(5) Duration of Services:

(a) For court-ordered services, the caseworker will continue to work with the family until the circumstances that brought the family to the attention of Child and Family Services are remedied and a ruling is made by the assigned judge to terminate Child and Family Services oversight.

(b) For voluntary services, the Child and Family Team assesses and determines when to end services with the family. This decision is staffed with the caseworker's supervisor.

KEY: child welfare
January 7, 2016 **62A-4a-102**
Notice of Continuation February 15, 2018 **62A-4a-105**
62A-4a-201

62A-4a-202

R512. Human Services, Child and Family Services.
R512-200. Child Protective Services, Intake Services.
R512-200-1. Purpose and Authority.

(1) The purpose of Intake Services is:

(a) To receive and evaluate whether an investigation is needed;

(b) Assign for investigation referrals of suspected child abuse, neglect, and dependency.

(2) Pursuant to Section 62A-4a-105 and 62A-4a-403, Child and Family Services is authorized to provide CPS.

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

R512-200-2. Definitions.

(1) The following terms are defined for the purposes of this rule:

(a) "Child and Family Services" means the Division of Child and Family Services.

(b) "CPS" means Child Protective Services.

(c) "SAFE" means Child and Family Services' Child Welfare Management Information System.

R512-200-3. Scope of Services.

(1) Qualification for Services.

(a) Child and Family Services will maintain a system for receiving referrals or reports about child abuse, neglect, or dependency. The system shall supply Child and Family Services CPS workers with a complete previous Child and Family Services history for each child, including siblings, foster care episodes, all reports of abuse, neglect, or dependency, treatment plans, and casework deadlines.

(2) Priority of the referral.

(a) Child and Family Services establishes CPS priority time frames as follows:

(i) A Priority 1 response shall be assigned when the child referred is in need of immediate protection. Intake will begin to collect information immediately after the completion of the initial contact from the referent. As soon as possible thereafter, Intake will obtain additional information, staff the referral to determine the priority, notify law enforcement, and assign to the Child and Family Services CPS worker. Intake shall provide the Child and Family Services CPS worker with information concerning prior investigations on SAFE. The Child and Family Services CPS worker has as a standard of 60 minutes from the time Intake notifies the worker to initiate efforts to make face-to-face contact with an alleged victim. For a Priority 1R (rural) referral, a Child and Family Services CPS worker has, as a standard, three hours to initiate efforts to make face-to-face contact if the alleged victim is more than 40 miles from the investigator who is assigned to make the face-to-face contact.

(ii) A Priority 2 response shall be assigned when physical evidence is at risk of being lost or the child is at risk of further abuse, neglect, or dependency, but the child does not have immediate protection and safety needs, as determined by the Intake checklist. Intake will begin to collect information as soon as possible after the completion of the initial contact from the referent. As soon as possible Intake will obtain additional information, staff the referral to determine the priority, assign the referral to the Child and Family Services CPS worker, and notify law enforcement. Intake shall give verbal notification to the assigned Child and Family Services CPS worker. Intake shall also provide the Child and Family Services CPS worker with information concerning prior investigations on SAFE. The Child and Family Services CPS worker has, as a standard, 24 hours from the time Intake notifies the worker to initiate efforts to make face-to-face contact with the alleged victim.

(iii) A Priority 3 response shall be assigned when potential for further harm to the child and the loss of physical evidence is low. Prior to transferring the case to a Child and Family Services CPS worker, Intake will obtain additional information, research data sources, staff the referral as necessary, determine the priority, complete documentation including data entry, make disposition to CPS, and notify law enforcement. Intake shall also provide the Child and Family Services CPS worker with information concerning prior investigations on SAFE. The Child and Family Services CPS worker will make the face-to-face contact with the alleged victim by the end of the third business day.

(3) If Child and Family Services received a report concerning a runaway child, Intake will gather information to determine if there is an allegation of abuse, neglect, or dependency that requires a CPS referral or will refer the caller to contact a youth services agency in accordance with Section 62A-4a-501.

(4) Out-of-State Abuse or Neglect Report.

(a) Child and Family Services will take reasonable steps to ensure that reports of abuse or neglect are referred for investigation to the appropriate out-of-state agency and shall take reasonable steps to adequately protect children in Utah who were victims of abuse in another state or country from the alleged perpetrator.

(b) When the referent identifies an incident of abuse or neglect that occurred outside Utah but the child is in Utah at the time of the referral, the Child and Family Services CPS worker shall:

(i) Obtain all the information needed to complete a referral.

(ii) Determine whether the child is at risk of abuse or neglect from the alleged perpetrator.

(iii) Contact the CPS agency in the state where the incident of abuse occurred and complete the referral process of that state.

(iv) Assign the referral to a Child and Family Services CPS worker for a courtesy interview and coordination with the other state's investigation, when requested.

(v) In domestic violence related child abuse cases, recognize another state's protective order.

(5) When a referent identifies an incident of abuse or neglect that occurred in Utah, and the child is not in Utah at the time of the referral, the Intake worker shall:

(a) Obtain all the information needed to complete a referral.

(b) Determine the location of the child and the length of time the child will be at their current location. If the child will be outside the state of Utah longer than 30 days, a request for courtesy casework will be made in the state where the child is currently located.

(c) If the child is determined to be at risk, a request will be made for courtesy casework within the priority time frame.

(6) The Department of Health Child Care Licensing unit and/or the Department of Human Services Office of Licensing and appropriate Child and Family Services staff shall be notified by Intake when Child and Family Services receives a referral for an allegation of child abuse, neglect, or dependency against a licensed child care provider or out-of-home care provider. The referral shall be forwarded to the assigned personnel for conflict of interest investigations when the allegation involves a child living in substitute care while in protective custody or temporary custody of Child and Family Services, or any other Child and Family Services conflict of interest in accordance with Section 62A-4a-202.6.

(7) Availability.

(a) CPS are available in all geographic regions of the state.

KEY: social services, child welfare, domestic violence, child abuse

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Notice of Continuation February 15, 2018	**62A-4a-105**
	62A-4a-202.6

R512. Human Services, Child and Family Services.
R512-201. Child Protective Services, Investigation Services.
R512-201-1. Purpose and Authority.

(1) Purpose. CPS promotes the safety and protection of children through accurate and timely safety and risk assessments. The CPS caseworker shall assess the safety and risk to a child, as well as determine the protective capacities of the caregiver(s) and resources they have available to them in order to identify the most effective interventions at the most accurate level of intensity.

(2) Authority. Pursuant to Sections 62A-4a-105 and 62A-4a-202.3, Child and Family Services is authorized to provide CPS.

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

R512-201-2. Definitions.

(1) CPS: Child Protective Services.

(2) SDM: Structured Decision Making.

(3) SDM Safety Assessment: A research informed safety assessment used to determine the current safety of the child.

(4) SDM Risk Assessment: An evidence-based risk assessment used to determine the ongoing risk to a child.

R512-201-3. Qualifications.

(1) Children who are the subject of a referral for child abuse, neglect, or dependency qualify for investigation services, as described in Section 62A-4a-403 and Rule R512-200, Child Protective Services, Intake Services.

R512-201-4. Scope of Services.

(1) A CPS investigation shall include (but is not limited to) the following:

(a) SDM Safety and Risk Assessment. The Child and Family Services CPS caseworker shall assess the immediate safety needs of a child and the family's capacity to protect the child, as well as any ongoing risk to a child. The Child and Family Services CPS caseworker shall include a domestic violence assessment in cases with allegations or indicators of Domestic Violence Related Child Abuse.

(b) CPS Investigation and Assessment. In addition to the requirements of Sections 62A-4a-202.3 and 62A-4a-409, a CPS investigation may include, but is not limited to, the following:

(i) Assessment of immediate risk, safety, and protection needs of a child.

(ii) Assessment of risk, protection, and safety needs for any siblings or other children residing in the home as a sibling or child at risk.

(iii) Assessment of the family's strengths, needs, challenges, and limitations, and the ability and willingness to protect the child.

(iv) Determination of eligibility for enrollment or membership in a Native American tribe.

(v) Medical or mental health evaluations completed as required by statute within required time frames to negate or lesson the possibility of physical injury, severe physical abuse, medical neglect, exposure to a hazardous, illegal chemical environment, or recent sexual abuse.

(2) Availability.

(a) CPS are available in all geographic regions of the state.

(3) Transfer of a Case When a Child has Moved Out of the State of Utah.

(a) Child and Family Services regional and inter-regional offices will cooperate to ensure that a CPS investigation is not interrupted and children are not placed in danger when the child has moved out of the state.

(b) If the child and family move outside the state of Utah before the Child and Family Services CPS caseworker is able to make the face-to-face contact with the child and the new location of the child and family is known, the Child and Family Services CPS caseworker shall contact the state child welfare agency where the family has moved and request courtesy casework. If the state child welfare agency where the family has moved refuses to complete courtesy casework, the case shall be closed as "unable to locate." If the receiving state child welfare agency agrees to complete the courtesy casework, the Child and Family Services CPS caseworker shall make the appropriate finding based on information from the receiving state.

(c) If the child and family move outside the state of Utah after the Child and Family Services CPS caseworker has made the face-to-face contact with the alleged victim and the whereabouts of the child and family are known, the Child and Family Services CPS caseworker who began the investigation shall contact the state child welfare agency where the family has moved and shall make a request for courtesy casework referral, providing the information that was obtained in the investigation. The case shall be closed as "unable to complete investigation" unless the information obtained meets the standard of "reasonable cause to believe" that the abuse, neglect, or dependency occurred. If a finding of "supported" is made against one or both of the parents/caregivers, upon case closure a Notice of Agency Action shall be sent to the address of the family in their current state of residence.

(i) If the facts of the investigation establish reason to suspect the child is in imminent danger, the Child and Family Services CPS caseworker shall make appropriate referrals to CPS and law enforcement in the other state and screen the case with the Assistant Attorney General for legal action.

(d) If the child and family move out of the state of Utah after the Child and Family Services CPS caseworker has made the face-to-face contact with the alleged victim and the whereabouts of the child and family are unknown, the Child and Family Services CPS caseworker shall make reasonable efforts to locate the family in order to make a referral to request courtesy casework from the state child welfare agency where the family now resides. Reasonable efforts include (but are not limited to) contacting the post office for a forwarding address and checking with the school to obtain the address where records are being transferred when there is a school-age child in the home.

(4) Transfer of a Case When a Child has Moved Within the State of Utah.

(a) Regional and inter-regional offices will cooperate to ensure that a CPS investigation is not interrupted and children are not placed in danger when the child who is the subject of the investigation has moved within the state of Utah.

(5) Request for Courtesy Casework.

(a) A Child and Family Services CPS caseworker may request courtesy assistance for completion of specific investigative activities on an open CPS case when the child or other related individual is not accessible to the assigned Child and Family Services CPS caseworker.

(6) Courtesy Casework Request from Another State.

(a) A Child and Family Services CPS caseworker shall assist in the protection and supervision of a child under the jurisdiction of another state.

(7) Duration of Services.

(a) Unable to Locate Within the State of Utah. A Child and Family Services CPS caseworker shall not close an investigation solely on the grounds that the child could not be located until reasonable efforts have been made by the caseworker to locate the child and family members.

(b) Case Finding. At the conclusion of a CPS investigation, a finding shall be made for each allegation identified at the time of Intake or identified during the investigation. Each alleged victim in the case shall be linked to a specific allegation or allegations and to an alleged perpetrator or alleged perpetrators. Acceptable findings include:

(i) Supported. A case finding of supported shall be used

when there is a reasonable basis to conclude that abuse, neglect, or dependency occurred, even if the alleged perpetrator is unknown.

(ii) Unsupported. A case finding of unsupported/not accepted shall be used when there is insufficient evidence to conclude that abuse, neglect, or dependency occurred.

(iii) Without Merit. A case finding of without merit shall be used when there is evidence that abuse, neglect, or dependency did not occur.

(iv) Unable to Locate. A case finding of unable to locate shall be used when the Child and Family Services CPS caseworker was unable to complete face-to-face contact with the alleged victim and all reasonable efforts were made to locate the child and family members.

(v) Unable to Complete Investigation. A case finding of unable to complete investigation shall be used when the caseworker is unable to complete the investigation because the subject of the investigation has moved out of the state or similar reason.

KEY: social services, child welfare, domestic violence, child abuse

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	62A-4a-202.3

R512. Human Services, Child and Family Services.
R512-202. Child Protective Services, General Allegation Categories.
R512-202-1. Purpose and Authority.

(1) The purpose of this rule is to provide information about the allegation categories used by the Division of Child and Family Services (Child and Family Services).

(2) Pursuant to Section 62A-4a-105, Child and Family Services is authorized to provide Child Protective Services (CPS).

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

R512-202-2. Categories.

(1) Qualification for Services.

(a) The Child and Family Services worker receiving or investigating a report of child abuse, neglect, or dependency shall categorize the information into an allegation category. Severe and chronic categories of abuse and neglect are found in Sections 62A-4a-101 and 62A-4a-1002. This rule contains the allegation categories that are not severe or chronic.

(2) Referral and Investigation Allegation Categories for Abuse, Neglect, and Dependency.

(a) Abuse: Non-accidental harm or threatened harm of a child or sexual exploitation or sexual abuse as described in Section 78A-6-105 and Rule R512-80. Abuse does not include reasonable discipline or management of a child including withholding privileges, or the use of reasonable and necessary physical restraint or force on a child in self-defense, defense of others, to protect the child, or to remove a weapon in the possession of a child. Abuse includes the following:

(i) Child Endangerment: Subjecting a child to threatened harm. This also includes conduct described in:

(A) Section 76-5-112, recklessly engaging in conduct that creates a substantial risk of death or serious bodily injury to a child, or

(B) Section 76-5-112.5, knowing or intentionally causing or permitting a child to be exposed to, inhale, ingest, or have contact with a controlled substance, chemical substance, or drug paraphernalia. "Exposed to" means the child is able to access or view an unlawfully possessed controlled substance or chemical substance, has reasonable capacity to access drug paraphernalia, or is able to smell an odor produced during or as a result of the manufacture or production of a controlled substance.

(ii) Dealing in Material Harmful to a Child: Distributing (providing or transferring possession), exhibiting (showing), or allowing immediate access to material harmful to a child or any other conduct constituting an offense under Sections 76-10-1201 through 76-10-1206.

(iii) Domestic Violence Related Child Abuse: Domestic violence between cohabitants in the presence of a child. It may be an isolated incident or a pattern of conduct (see Rule R512-205).

(iv) Emotional Abuse: Engaging in conduct or threatening a child with conduct that causes or can reasonably be expected to cause the child emotional harm. This includes demeaning or derogatory remarks that affect or can reasonably be expected to affect a child's development of self and social competence; or threatening harm, rejecting, isolating, terrorizing, ignoring, or corrupting the child.

(v) Fetal Exposure to Alcohol or other Harmful Substances: A condition in which a child has been exposed to or is dependent upon harmful substances as a result of the mother's use of illegal substances or abuse of prescribed medications during pregnancy, or the child has fetal alcohol spectrum disorder.

(vi) Pediatric Condition Falsification (formerly Munchausen Syndrome by Proxy): A cluster of symptoms or signs, circumstantially related, in which the parent or guardian misrepresents information and/or simulates or produces illness in a child, has knowledge about the etiology of the child's illness but denies such knowledge, seeks multiple medical procedures, or acute symptoms and signs of the illness cease when the child is separated from the parent or guardian. A Pediatric Condition Falsification supported finding must be supported by the child's primary care physician or other medical professional's opinion. (May also be referred to as Medical Child Abuse or Factitious Disorder.)

(vii) Physical Abuse: Non-accidental physical harm or threatened physical harm of a child that may or may not be visible. Unexplained physical harm to an infant, toddler, disabled, or non-verbal child. Physical abuse may also include a child who suffered physical harm during a domestic violence episode. Physical harm includes "physical injury" and/or "serious physical injury" as defined in Section 76-5-109.

(viii) Sexual Abuse: An act or attempted act of sexual intercourse, sodomy, incest, or molestation directed toward a child as described in Section 78A-6-105.

(b) Neglect: An action or inaction that causes abandonment of a child, except a safe relinquishment of a newborn child as provided in Section 62A-4a-802; lack of proper parental care by reason of the fault or habits of the parent, guardian, or custodian; failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence, education, or medical care, or any other care necessary for the child's health, safety, morals, or well-being; a child at risk of being neglected or abused because another child in the same home is neglected or abused (see Section 78A-6-105 and Rule R512-80). Neglect includes abandonment, educational neglect, environmental neglect, failure to protect, failure to thrive, medical neglect, non-supervision, physical neglect, and sibling at risk.

(i) Abandonment: Except in the case of the safe relinquishment of a newborn child pursuant to Section 62A-4a-802, conduct by either a parent or legal guardian showing a conscious disregard for parental obligations, where that disregard leads to the destruction of the parent/child relationship. Abandonment also arises when a parent:

(A) Although having legal custody of the child, has surrendered physical custody of the child, and for a period of six months following the surrender has not manifested to the child or to the person having the physical custody of the child a firm intention to resume physical custody or to make arrangements for the care of the child;

(B) Has failed to communicate with the child by mail, telephone, or otherwise for six months;

(C) Failed to have shown the normal interest of a natural parent, without just cause; or

(D) Has abandoned an infant as described in Section 78A-6-316.

(ii) Educational Neglect: Failure or refusal to make a good faith effort to ensure that a child receives an appropriate education, after receiving notice that the child has been frequently absent from school without good cause or that the parent has failed to cooperate with school authorities in a reasonable manner in accordance with Sections 78A-6-105 and 78A-6-319.

(iii) Environmental Neglect: An environment that poses an unreasonable risk to the physical health or safety of a child.

(iv) Failure to Protect: Failure to take reasonable action to remedy or prevent child abuse or neglect. Failure to protect includes the conduct of a non-abusive parent or guardian who knows the identity of the abuser or the person neglecting the child but lies, conceals, or fails to report the abuse or neglect or the alleged perpetrator's identity.

(v) Failure to Thrive: A medically diagnosed condition in which the child fails to develop physically. This condition is typically indicated by inadequate weight gain.

(vi) Medical Neglect: Failure or refusal to provide proper

medical, dental, or mental health care or to comply with the recommendations of a medical, dental, or mental health professional necessary to the child's health, safety, or well-being. Exceptions and limitations provided in Section 78A-6-105 include:

(A) A parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child.

(B) A health care decision made for a child by the child's parent or guardian does not constitute neglect unless clear and convincing evidence shows that the health care decision is not reasonable and informed. Nothing may prohibit a parent or guardian from exercising the right to obtain a second health care opinion per Section 78A-6-301.5.

(vii) Non-Supervision: The child is subjected to accidental harm or an unreasonable risk of accidental harm due to failure to supervise the child's activities at a level consistent with the child's age and maturity.

(viii) Physical Neglect: Failure to provide for a child's basic needs of food, clothing, shelter, or other care necessary for the child's health, safety, morals, or well-being.

(ix) Sibling or Child at Risk: A child who is at risk of being abused or neglected because another child in the same home or with the same caregiver has been or is abused or neglected.

(c) Dependency: The condition of a child who is homeless or without proper care through no fault of the child's parent, guardian, or custodian as described in Section 62A-4a-101 and Rule R512-80. Dependency may be due to a lack of understanding by the child's parent or guardian as a result of a lack of education or due to a mental, emotional, or physical disability. Dependency may also be due to a parent or guardian's lack of economic resources, or the institutionalization of a parent or guardian.

(d) Safe Relinquishment of a Newborn Child: A parent or a parent's designee may safely relinquish a newborn child at a hospital in accordance with the requirements of Section 62A-4a-802 and retain anonymity, as long as the newborn child has not been subjected to abuse or neglect.

KEY: social services, child welfare, domestic violence, child abuse

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Notice of Continuation February 15, 2018 62A-4a-105

R512. Human Services, Child and Family Services.
R512-300. Out-of-Home Services.
R512-300-1. Purpose and Authority.

(1) The purposes of Out-of-Home Services are:

(a) To provide a temporary, safe living arrangement for a child placed in the custody of the Division of Child and Family Services (Child and Family Services) or the Department of Human Services by court order or through voluntary placement by the child's parent or legal guardian.

(b) To provide services to protect the child and facilitate the safe return of the child home or to another permanent living arrangement.

(c) To provide safe and proper care and address the child's needs while in state custody.

(2) Sections 62A-4a-105 and 62A-4a-106 authorize Child and Family Services to provide Out-of-Home Services and 42 USC Section 672 authorizes federal foster care. 42 USC Sections 671 and 672 (2007), and 45 CFR Parts 1355 and 1356 (2008) are incorporated by reference.

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

R512-300-2. Definitions.

The following terms are defined for the purposes of this rule:

(1) "Custody by court order" means temporary custody or custody authorized by Sections 78A-6-117 or 78A-6-322. It does not include protective custody.

(2) "Child and Family Services" means the Division of Child and Family Services.

(3) "Department" means the Department of Human Services.

(4) "Least restrictive" means most family-like.

(5) "Placement" means living arrangement.

R512-300-3. Scope of Services.

(1) Qualification for Services. Out-of-Home Services are provided to:

(a) A child placed in the custody of Child and Family Services by court order and the child's parent or guardian, if the court orders reunification;

(b) A child placed in the custody of the Department by court order for whom Child and Family Services is given primary responsibility for case management or for payment for the child's placement, and the child's parent or guardian if reunification is ordered by the court;

(c) A child voluntarily placed into the custody of Child and Family Services and the child's parent or guardian.

(2) Service Description. Out-of-Home Services consist of:

(a) Protection, placement, supervision, and care of the child;

(b) Services to a parent or guardian of a child receiving Out-of-Home Services when a reunification goal is ordered by the court or to facilitate return of a child home upon completion of a voluntary placement.

(c) Services to facilitate another permanent living arrangement for a child receiving Out-of-Home Services if a court determines that reunification with a parent or guardian is not required or in the child's best interests.

(3) Availability. Out-of-Home Services are available in all geographic regions of the state.

(4) Duration of Services. Out-of-Home Services continue until a child's custody is terminated by a court or when a voluntary placement agreement expires or is terminated.

(5) As specified in Section 62A-4a-415, Child and Family Services may not consent to the interview of a child in state custody by a law enforcement officer, unless consent for the interview is obtained from the child's Guardian ad Litem. This provision does not apply if a Guardian ad Litem is not appointed for the child.

R512-300-4. Child and Family Services Responsibility to a Child Receiving Out-of-Home Services.

(1) Child and Family Team.

(a) With the family's assistance, a Child and Family Team shall be established for each child receiving Out-of-Home Services.

(b) At a minimum, the Child and Family Team shall assist with assessment, Child and Family Plan development, and selection of permanency goals; oversee progress towards completion of the plan; provide input into adaptations to the plan; and recommend placement type or level.

(2) Assessment.

(a) A written assessment is completed for each child placed in the custody of Child and Family Services through court order or voluntary placement and for the child's family.

(b) The written assessment evaluates the child and family's strengths and underlying needs.

(c) The type of assessment is determined by the unique needs of the child and family, such as cultural considerations, special medical or mental health needs, and permanency goals.

(d) Assessment is ongoing.

(3) Child and Family Plan.

(a) Based upon an assessment, each child and family receiving Out-of-Home Services shall have a written Child and Family Plan in accordance with Section 62A-4a-205.

(b) The child's parent or guardian and other members of the Child and Family Team shall assist in creating the plan based on the assessment of the child and family's strengths and needs.

(c) In addition to requirements specified in Section 62A-4a-205, the Child and Family Plan shall include the following to facilitate permanency:

(i) The current strengths of the child and family as well as the underlying needs to be addressed.

(ii) A description of the type of placement appropriate for the child's safety, special needs, and best interests, in the least restrictive setting available and, when the goal is reunification, in reasonable proximity to the parent. If the child with a goal of reunification has not been placed in reasonable proximity to the parent, the plan shall describe reasons why the placement is in the best interests of the child.

(iii) Goals and objectives for assuring the child receives safe and proper care, including the provision of medical, dental, mental health, educational, or other specialized services and resources.

(iv) If the child is age 14 years or older, a written description of the programs and services to help the child prepare for the transition from foster care to independent living in accordance with Rule R512-305.

(v) A visitation plan for the child, parents, and siblings, unless prohibited by court order.

(vi) Steps for monitoring the placement and plan for worker visitation and supports to the Out-of-Home caregiver for a child placed in Utah or out of state.

(vii) If the goal is adoption or placement in another permanent home, steps to finalize the placement, including child-specific recruitment efforts.

(d) The Child and Family Plan is modified when indicated by changing needs, circumstances, progress towards achievement of service goals, or the wishes of the child, family, or Child and Family Team members.

(e) A copy of the completed Child and Family Plan shall be provided to the parent or guardian, Out-of-Home caregiver, juvenile court, Assistant Attorney General, Guardian ad Litem, legal counsel for the parent, and the child, if the child is able to understand the plan.

(4) Permanency Goals.

(a) A child in Out-of-Home care shall have a primary permanency goal and a concurrent permanency goal identified

by the Child and Family Team.

(b) Permanency goals include:

(i) Reunification.

(ii) Adoption.

(iii) Guardianship (Relative).

(iv) Guardianship (Non-Relative).

(v) Individualized Permanency.

(c) For a child whose custody is court ordered, both primary and concurrent permanency goals shall be submitted to the court for approval.

(d) The primary permanency goal shall be reunification unless the court has ordered that no reunification efforts be offered.

(e) A determination that Transition to Adult Living services are appropriate for a child does not preclude adoption as a primary permanency goal. Enrollment in Transition to Adult Living services can occur concurrently with continued efforts to locate and achieve placement of an older child with an adoptive family.

(5) Placement.

(a) A child receiving Out-of-Home Services shall receive safe and proper care in an appropriate placement according to placement selection criteria specified in Rule R512-302.

(b) The type of placement, either initial or change in placement, is determined within the context of the Child and Family Team utilizing a need level screening tool designated by Child and Family Services.

(c) Placement decisions are based upon the child's needs, strengths, and best interests.

(d) The following factors are considered in determining placement:

(i) Age, special needs, and circumstances of the child;

(ii) Least restrictive placement consistent with the child's needs;

(iii) Placement of siblings together;

(iv) Proximity to the child's home and school;

(v) Sensitivity to cultural heritage and needs of a minority child;

(vi) Potential for adoption.

(e) A child's placement shall not be denied or delayed on the basis of race, color, or national origin of the Out-of-Home caregiver or the child involved.

(f) Placement of an Indian child shall be in compliance with the Indian Child Welfare Act, 25 USC Section 1915 (2007), which is incorporated by reference.

(g) When a young woman in state custody is the mother of a child and desires and is able to parent the child with the support of the Out-of-Home caregiver, the child shall remain in the Out-of-Home placement with the mother. Child and Family Services shall only petition for custody of the young woman's child if there are concerns of abuse, neglect, or dependency in accordance with Section 78A-6-322.

(h) The Child and Family Team may recommend a Transition to Adult Living placement for a child age 14 years or older in accordance with Rule R512-305 when in the child's best interests.

(6) Federal Benefits.

(a) Child and Family Services may apply for eligibility for Title IV-E foster care and Medicaid benefits for a child receiving Out-of-Home Services. Information provided by the parent or guardian, as specified in Rule R512-301, shall be utilized in determining eligibility.

(b) Child and Family Services may apply to be protective payee for a child in state custody who has a source of unearned income, such as Supplemental Security Income or Social Security Income. A representative payee account shall be maintained by Child and Family Services for management of the child's income. The unearned income shall be utilized only towards costs of the child's care and personal needs in accordance with requirements of the regulating agency.

(7) Visitation with Familial Connections.

(a) The child has a right to purposeful and frequent visitation with a parent or guardian and siblings, unless the court orders otherwise.

(b) Visitation is not a privilege to be earned or denied based on behavior of the child or the parent or guardian.

(c) Visitation may be supplemented with telephone calls and written correspondence.

(d) The child also has a right to communicate with extended family members, the child's attorney, physician, clergy, and others who are important to the child.

(e) Intensive efforts shall be made to engage a parent or guardian in continuing contacts with a child, when not prohibited by court order.

(f) If clinically contraindicated for the child's safety or best interests, Child and Family Services may petition the court to deny or limit visitation with specific individuals.

(g) Visitation and other forms of communication with familial connections shall only be denied when ordered by the court.

(h) A parent whose parental rights have been terminated does not have a right to visitation.

(8) Out-of-Home Worker Visitation with the Child.

(a) The Out-of-Home worker shall visit with the child to ensure that the child is safe and is appropriately cared for while in an Out-of-Home placement. If the child is placed out of the area or out of state, arrangements may be made for another worker to perform some of the visits. The Child and Family Team shall develop a specific plan for the worker's contacts with the child based upon the needs of the child.

(9) Case Reviews.

(a) Pursuant to Sections 78A-6-313 and 78A-6-315, periodic reviews of court ordered Out-of-Home Services shall be held no less frequently than once every six months.

(b) Child and Family Services shall seek to ensure that each child receiving Out-of-Home Services has timely and effective case reviews and that the case review process:

(i) Expedites permanency for a child receiving Out-of-Home Services,

(ii) Assures that the permanency goals, Child and Family Plan, and services are appropriate,

(iii) Promotes accountability of the parties involved in the child and family planning process, and

(iv) Monitors the care for a child receiving Out-of-Home Services.

(10) Maximum Number of Children in Out-of-Home Care.

(a) At no time during the fiscal year will the proportion of children in Out-of-Home care for over 24 months exceed one-third of the total number of children currently in Out-of-Home care.

(b) On an annual basis, the statewide quality improvement committee (also known as the Child Welfare Improvement Council) will review data on the proportion of children in foster care over 24 months and the steps taken by Child and Family Services to ensure that proportion is not exceeded. As appropriate, recommendations for improvement will be made from the committee to Child and Family Services administration.

KEY: social services, child welfare, domestic violence, child abuse

July 22, 2015 62A-4a-102

Notice of Continuation February 15, 2018 62A-4a-105

42 U.S.C. 671

R512. Human Services, Child and Family Services.
R512-301. Out-of-Home Services, Responsibilities Pertaining to a Parent or Guardian.
R512-301-1. Purpose and Authority.

(1) The purposes of this rule are to clarify:

(a) Roles and responsibilities of Child and Family Services to a parent or guardian of a child receiving out-of-home services in accordance with Rule R512-300, and

(b) Roles and responsibilities of a parent or guardian while a child is receiving out-of-home services.

(2) Sections 62A-4a-105 and 62A-4a-106 authorize Child and Family Services to provide out-of-home services and 42 USC 672 authorizes federal foster care. 42 USC 672 as amended by Public Law 113-183 (September 29, 2014), and 45 CFR Parts 1355 and 1356 (January 6, 2012) are incorporated by reference.

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

R512-301-2. Definitions.

The following terms are defined for the purposes of this rule:

(1) Child and Family Services means the Division of Child and Family Services.

(2) Out-of-Home Services means those services defined in Rule R512-300.

(3) Child and Family Team means a group that includes the child and family and other concerned individuals involved in providing formal or informal supports or services to the family, that meet together as often as needed to assist the family in meeting their needs, providing a safe home for their children, and achieving the goals that will lead to conclusion of Child and Family Services involvement. The family is involved in identifying individuals they want included as a part of the Child and Family Team.

(4) Reunification means safely returning the child to the parent or guardian from whom the child was removed by court order or through a voluntary placement.

R512-301-3. Child and Family Services Roles and Responsibilities to a Parent or Guardian of a Child Receiving Out-of-Home Services when Reunification is the Primary Permanency Goal.

(1) Child and Family Services is responsible to make reasonable efforts to reunify a child with a parent or guardian when a court has determined that reunification is appropriate, in accordance with Section 62A-4a-203, or when a child has been placed with Child and Family Services through a voluntary placement.

(2) Child and Family Services shall actively seek to involve both the custodial and non-custodial parents or guardians in the Child and Family Team process, unless their whereabouts are unknown, including participation in establishing the Child and Family Team, completing an assessment, developing the Child and Family Plan, and selecting the child's primary and concurrent permanency goals, as described in Rule R512-300. Child and Family Services shall also involve the child's foster parents, stepparent (when appropriate), and the Guardian ad Litem, if one has been appointed by the court.

(3) The Child and Family Plan shall address the strengths and needs of both the child and the family. In accordance with Section 62A-4a-205, the plan shall identify what the parents must do in order for the child to be returned home, specifically how the requirements may be accomplished and how the requirements shall be measured. The plan shall also include the specific services needed to reduce the problems that necessitated placing the child in out-of-home care. Child and Family Services shall utilize and complete an assessment, with the input of the Child and Family Team, to identify the provisions that will be included in the plan. Provisions of the plan shall be crafted by the Child and Family Team and designed to maintain and enhance parental functioning, improve safety, well-being, and permanency for the child, and preserve familial connections.

(4) In accordance with Section 62A-4a-205, additional weight and attention shall be given to the input of the child's parents and the foster parents in the plan development.

(5) Child and Family Services shall make a substantial effort to develop a Child and Family Plan with which the child's parents agree. If a parent does not agree with the services outlined on the Child and Family Plan, Child and Family Services shall make attempts to resolve the disagreement, and, if unsuccessful, shall inform the court of the disagreement.

(6) The parent or guardian, foster parent, Guardian ad Litem, and the parent or guardian's legal counsel shall be provided a copy of the completed Child and Family Plan upon finalization of the plan, or as soon as reasonably possible following finalization.

(7) The caseworker shall make diligent attempts to have regular face-to-face contact with the parent or guardian in order to facilitate progress towards completion of the provisions outlined in the Child and Family Plan. At a minimum, the caseworker shall visit the parent or guardian at least once per month.

(8) Child and Family Services shall make diligent efforts to engage a parent or guardian in continuing contacts with the child, whether through visitation, phone, or written correspondence, when it is not prohibited by court order. Visitation requirements specified in Rule R512-300 apply.

(9) Child and Family Services shall also make reasonable and diligent efforts to engage and involve a parent or guardian in their child's activities and appointments, such as attending school meetings, recreational activities, and health care visits, when it is determined to be safe for the child and not prohibited by court order.

(10) Child and Family Services must include the parent or guardian as fully as possible when making health care decisions for the child, as long as the child's health and well-being are not compromised by the decision.

(11) The parent or guardian has a right to reasonable notice and may participate in court and administrative reviews for the child in accordance with 42 USC 675 and Section 78A-6-317.

R512-301-4. Roles and Responsibilities of a Parent or Guardian of a Child Receiving Out-of-Home Services when Reunification is the Primary Permanency Goal.

A parent or guardian is responsible for:

(1) Complying with court orders.

(2) Participating in the Child and Family Team process.

(3) Providing input into the assessment and Child and Family Plan development process, in order to identify specific behavioral changes and actions necessary to enable the child to safely return home.

(4) Completing goals and objectives of the plan.

(5) Frequently communicating with the caseworker about their progress or inability to comply with the objectives of the plan, prior to the proposed completion time frames.

(6) Maintaining communication and frequent visitation with the child in accordance with Rule R512-300, when not prohibited by the court.

(7) Providing information to enable Child and Family Services to determine the child's eligibility for Federal benefits while in care, in accordance with Rule R512-300. Necessary information includes information on household income, assets, and household composition.

(8) Providing financial support for the child's care, in accordance with 42 USC 671, and Sections 62A-4a-114 and

78A-6-1106, unless deferred or waived as specified in Rule R495-879.

R512-301-5. Guidelines for Making Recommendations for Reunification to the Court.

(1) In accordance with Section 62A-4a-205, when considering reunification, the child's health, safety, and welfare shall be the paramount concern.

(2) The Child and Family Team shall consider the following factors in determining whether to recommend that the court order reunification:

(a) The risk factors that led to the placement were acute rather than chronic.

(b) The child and family assessments (including the safety, risk, and family functioning assessments, as well as any other pertinent assessments) conclude that the parent appears to possess or has developed the ability to ensure the child's safety and provide a nurturing environment.

(c) The parent is committed to the child and indicates a desire to have the child returned home.

(d) The child has a desire for reunification, as determined using age appropriate assessments.

(e) Members of the Child and Family Team support a reunification plan.

(f) If the parent is no longer living with the individual who severely abused the minor, reunification may be considered when the parent is able to implement a plan that ensures the child's ongoing safety.

(g) Existence of factors or exceptions that preclude reunification as specified in Section 78A-6-312.

(3) Child and Family Services shall provide additional relevant facts, when available, to assist the court in making a determination regarding the appropriateness of reunification services, such as:

(a) The parent's failure to respond to previous services or Child and Family Plans.

(b) The child being abused while the parent was under the influence of drugs or alcohol, and whether the parent's substance abuse continues to impact their ability to safely parent.

(c) Continuation of a chaotic, dysfunctional lifestyle.

(d) The parent's past history of violent behavior and whether any behavioral changes have been made to address that behavior.

(e) The testimony of a properly qualified professional or expert witness that the parent's behavior is unlikely to be successfully changed.

R512-301-6. Return Home and Trial Home Placement.

(1) When the safety issues that resulted in the child being placed in out-of-home care are remedied or eliminated and the parent has demonstrated the behavioral changes needed in order to safely enable the child to return home, Child and Family Services may recommend a trial home placement or a return home to the court. The child may return home when allowable by court order or in conjunction with provisions of a voluntary placement.

(2) Successful reunification shall be systematically considered and planned for from the earliest possible point in the life of the case. Prior to the child being physically returned home, the Child and Family Team shall discuss and have a well-defined plan for the child to transition home from out-of-home care. Good transition planning shall include identifying ongoing formal and informal supports, as well as crisis or relapse planning, in order to prevent reentry into out-of-home care.

(3) In order for all pertinent parties to adequately prepare for the child to return home, Child and Family Services shall provide reasonable notice (unless otherwise ordered by the court) of the date the child will be returning home. Parties to be notified include the child, parents, members of the Child and Family Team, Guardian ad Litem, out-of-home care provider, school staff, therapist, and other partner agencies.

(4) Child and Family Services shall provide services directed at assisting the child and family make a successful transition of the child back into the home, and shall have supports in place to help observe and monitor that no further abuse or neglect is occurring to the child.

(5) If it is determined that the child and family require more intensive services to ensure successful reunification, intensive family reunification or In-Home Services may be utilized in accordance with Rule R512-100.

(6) A child may be returned home for a trial home visit for up to 90 days. The trial home visit shall continue until the court has returned custody to the parent or guardian.

R512-301-7. Voluntary Relinquishment of Parental Rights.

(1) When it is not in a child's best interest to be reunified with the child's parents, Child and Family Services may explore with both parents the option of voluntary relinquishment in accordance with Section 78A-6-514.

(2) If the child is Native American, provisions of the Indian Child Welfare Act (ICWA), 25 USC 1913 shall be met.

R512-301-8. Termination of Parental Rights.

(1) If a court determines that reunification services are not appropriate, Child and Family Services shall petition for termination of parental rights in accordance with 42 USC 675, 42 CFR 1356.21, and Section 62A-4a-203.5 unless exceptions specified in 42 CFR 1356.21 or Section 62A-4a-203.5 apply.

(2) Child and Family Services shall document in the Child and Family Plan and the court report when a determination is made that there are compelling reasons that filing for termination of parental rights is not in the child's best interest and shall make the plan available to the court for review.

(3) When Child and Family Services files a petition to terminate parental rights, if a permanent family has not already been identified for the child, the caseworker must concurrently begin to identify, recruit, process, and seek approval of a qualified adoptive family for the child. These efforts must be documented in the case record as specified in Rule R512-300.

(4) If the child is Native American, provisions of the ICWA, 25 USC 1913, shall be met.

(5) Child and Family Services shall not give approval to finalize an adoption until the period to appeal a termination of parental rights has expired. If an appeal has been filed, the adoption may not be finalized until the appeal is resolved.

KEY: social services, child welfare, domestic violence, child abuse

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62A-4a-106

R512. Human Services, Child and Family Services.
R512-302. Out-of-Home Services, Responsibilities Pertaining to an Out-of-Home Caregiver.
R512-302-1. Purpose and Authority.

(1) The purposes of this rule are to clarify:

(a) Qualification, selection, payment criteria, and roles and responsibilities of a caregiver while a child is receiving Out-of-Home Services, and

(b) Roles and responsibilities of Child and Family Services to a caregiver for a child receiving Out-of-Home Services in accordance with Rule R512-300.

(2) This rule is authorized by Section 62A-4a-102. Sections 62A-4a-105 and 62A-4a-106 authorize Child and Family Services to provide Out-of-Home Services and 42 USC Section 672 authorizes federal foster care. 42 USC Section 672 (2010), and 45 CFR Parts 1355 and 1356 (2008) are incorporated by reference.

R512-302-2. Definitions.

In addition to definitions in R512-300-2, the following terms are defined for the purposes of this rule:

(1) "Caregiver" means a licensed resource family, also known as a licensed foster family, and may also include a licensed kin provider or a foster family certified by a contract provider that is licensed as a child placing agency. Caregiver does not include a group home or residential facility that provides Out-of-Home Services under contract with Child and Family Services.

(2) "Cohabiting" means residing with another person and being involved in a sexual relationship.

(3) "Involved in a sexual relationship" means any sexual activity and conduct between persons.

(4) "Out-of-Home Services" means those services described in Rule R512-300.

(5) "Residing" means living in the same household on an uninterrupted or an intermittent basis.

R512-302-3. Qualifying as a Caregiver for a Child Receiving Out-of-Home Services.

(1) An individual or couple shall be licensed by the Office of Licensing as provided in Rule R501-12 to qualify as a caregiver for a child receiving Out-of-Home Services. After initial licensure, the caregiver shall take all steps necessary for timely licensure renewal to ensure that the license does not lapse.

(2) A caregiver qualifying for an initial license and any adults living in the home shall complete criminal background checks required by Section 78A-6-308 and P.L. 109-248 before a child in state custody may be placed in that home.

(3) Child and Family Services or the contract provider shall provide pre-service training required in Rule R501-12-5 after the provider has held an initial consultation with the individual or couple to clearly delineate duties of caregivers.

(4) The curriculum for pre-service and in-service training shall be developed by the contract provider and approved by Child and Family Services according to Child and Family Services' contract with the provider.

(5) Child and Family Services or the contract provider shall verify in writing a caregiver's completion of training required for licensure as provided in Rule R501-12-5.

(6) Child and Family Services or the contract provider shall also verify in writing a caregiver's completion of supplemental training required for serving children with more difficult needs.

(7) Once a license is issued, the caregiver's name and identifying information may be shared with the court, Assistant Attorney General, Guardian ad Litem, foster parent training contract provider, resource family cluster group, foster parent associations, the Department of Health, and the child's primary health care providers.

R512-302-4. Selection of a Caregiver for a Child Receiving Out-of-Home Services.

(1) A caregiver shall have the experience, personal characteristics, temperament, and training necessary to work with a child and the child's family to be approved and selected to provide Out-of-Home Services.

(2) An Out-of-Home caregiver shall be selected according to the caregiver's skills and abilities to meet a child's individual needs and, when appropriate, an ability to support both parents in reunification efforts and to consider serving as a permanent home for the child if reunification is not achieved. When dictated by a child's level of care needs, Child and Family Services may require one parent to be available in the home at all times.

(3) An Out-of-Home caregiver shall be selected according to the caregiver's compatibility with the child, as determined by Child and Family Services exercising its professional judgment. The best interest of the child shall be Child and Family Services' primary consideration when making a placement decision.

(a) Child and Family Services may consider the Out-of-Home caregiver's possession or use of a firearm or other weapon, espoused religious beliefs, or choice to school the child outside the public education system in accordance with Section 63G-4-104.

(b) Child and Family Services may consider the child's sex, age, behavior, and the composition of the foster family.

(4) A child in state custody shall be placed with an Out-of-Home caregiver who is fully licensed as provided in Rule R501-12. A child may be placed in a home with a probationary license only if the Out-of-Home caregiver is a child-specific placement.

(5) An Out-of-Home caregiver shall be given necessary information to make an informed decision about accepting responsibility to care for a child. The worker shall obtain all available necessary information about the child's permanency plan, family visitation plans, and needs such as medical, educational, mental health, social, behavioral, and emotional needs, for consideration by the caregiver.

(6) If the court has not given custody to a non-custodial parent or kin provider, to provide safety and maintain family ties, the child shall be placed in the least restrictive placement that meets the child's special needs and is in the child's best interests, according to the following priorities:

(a) A relative of the child.

(b) A friend designated by the custodial parent or guardian of the child, if the friend is a licensed foster parent.

(c) A former foster placement, shelter facility, or other foster placement designated by Child and Family Services.

(7) If a child is reentering custody of the state, the child's former Out-of-Home caregiver shall be given preference as provided in Section 62A-4a-206.1.

(8) A child's placement shall not be denied or delayed on the basis of race, color, or national origin of the Out-of-Home caregiver or the child involved.

(9) Selection of an Out-of-Home caregiver for an Indian child shall be made in compliance with the Indian Child Welfare Act, 25 USC Section 1915 (2007), which is incorporated by reference.

R512-302-5. Child and Family Services' Roles and Responsibilities to a Caregiver for a Child Receiving Out-of-Home Services.

(1) Child and Family Services shall actively seek the involvement of the caregiver in the child and family team process, including participation in the child and family team, completing an assessment, and developing the child and family plan as described in Rule R512-300-4.

(2) The child and family plan shall include steps for

monitoring the placement and a plan for worker visitation and supports to the Out-of-Home caregiver for a child placed in Utah or out of state.

(3) In accordance with Section 62A-4a-205, additional weight and attention shall be given to the input of the child's caregiver in plan development.

(4) The caregiver shall be provided a copy of the completed child and family plan.

(5) The caregiver has a right to reasonable notice and may participate in court and administrative reviews for the child in accordance with Sections 78A-6-310 and 78A-6-317.

(6) Child and Family Services shall provide support to the caregiver to ensure that the child's needs are met, and to prevent unnecessary placement disruption.

(7) Options for temporary relief may include paid respite, non-paid respite, childcare, and babysitting.

(8) The worker shall provide the caregiver with a portable, permanent record that provides available educational, social, and medical history information for the child and that preserves vital information about the child's life events and activities while receiving Out-of-Home Services.

R512-302-6. Roles and Responsibilities of a Caregiver of a Child Receiving Out-of-Home Services.

(1) An Out-of-Home caregiver shall be responsible to provide daily care, supervision, protection, and experiences that enhance the child's development as provided in a written agreement entered into with Child and Family Services and the child and family plan.

(2) The caregiver shall be responsible to:

(a) Participate in the child and family team process.

(b) Provide input into the assessment and child and family plan development process.

(c) Complete goals and objectives of the plan relevant to the caregiver.

(d) Promptly communicate with the worker the child's progress and concerns and progress in completing the plan or regarding problems in meeting specified goals or objectives in advance of proposed completion time frames.

(e) Support and assist with parental visitation.

(3) The caregiver shall document individualized services provided for the child, when required, such as skills development or transportation.

(4) The caregiver shall maintain and update the child's portable, permanent record to preserve vital information about the child's life events, activities, health, social, and educational history while receiving Out-of-Home Services. The caregiver shall share relevant health and educational information during visits with appropriate health care and educational providers to ensure continuity of care for the child.

R512-302-7. Payment Criteria for a Caregiver of a Child Receiving Out-of-Home Services.

(1) An Out-of-Home caregiver shall receive payments according to the rate established for the child's need level, not upon the highest level of service the caregiver has been trained to provide.

(2) The daily rate for the monthly foster care maintenance payment provides for the child's board and room, care and supervision, basic clothing and personal incidentals, and may also include a supplemental daily payment based upon a child's medical need or to assist with care of a youth's child while residing with the youth in an Out-of-Home placement. Foster care maintenance may also include periodic one-time payments for special needs such an initial clothing allowance, additional needs for a baby, additional clothing, gifts, lessons or equipment, recreation, non-tuition school expenses, and other needs recommended by the child and family team and approved by Child and Family Services.

(3) A caregiver may also be reimbursed for transporting a foster child for visitation with a parent or siblings, to participate in case activities such as child and family team meetings and reviews, and for transporting the child to activities beyond those normally required for a family. The caregiver must document all mileage on a form provided by Child and Family Services.

(4) The caregiver shall submit required documentation to receive payments for care or reimbursement for costs.

R512-302-8. Child Abuse Reporting and Investigation of a Caregiver Providing Out-of-Home Services.

(1) Investigation of any report or allegation of abuse or neglect of a child that allegedly occurs while the child is living with an Out-of-Home caregiver shall be investigated by staff designated for this purpose by the Department of Human Services or law enforcement as provided in Section 62A-4a-202.3.

R512-302-9. Removal of a Child from a Caregiver Providing Services.

(1) Removal of a child from a caregiver shall occur as provided in Section 62A-4a-206 and Rule R512-31.

R512-302-10. Cohabitation Not Permitted for Foster Parents.

(1) A foster parent or foster parents must comply with Section 78B-6-137 which states that they are not cohabiting with another person in a sexual relationship. Child and Family Services gives priority for foster care placements to families in which both a man and a woman are legally married or valid proof that a court or administrative order has established a valid common law marriage, Section 30-1-4.5. An individual who is not cohabiting may also be a foster parent if the Region Director determines it is in the best interest of the child. Legally married couples and individuals who are not cohabiting and are blood relatives of the child in state custody may be foster parents pursuant to Section 78A-6-307.

KEY: child welfare

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R512. Human Services, Child and Family Services.
R512-305. Out-of-Home Services, Transition to Adult Living Services.
R512-305-1. Purpose and Authority.

(1) The purpose of Transition to Adult Living (TAL) services is to help prepare a youth who is receiving out-of-home services in accordance with Rule R512-300 to gain skills to transition to adulthood and to provide support to youth upon leaving the Division of Child and Family Services (Child and Family Services) custody. TAL is a continuum of services that begins while youth are in care and continues through post-discharge with the Young Adult Resource Network (YARN). Youth receiving In-Home Services may also receive some TAL services.

(2) TAL services, which includes the Education and Training Voucher Program, are authorized by the John H. Chafee Foster Care Independence Program, 42 USC 677 (September 2, 2015), incorporated by reference.

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

R512-305-2. Scope of Services.

(1) Qualification for and duration of services:

(a) TAL services are required for all youth receiving out-of-home services, age 14 years or older, until Child and Family Services custody is terminated regardless of permanency goal, as specified in Rule R512-300.

(b) The YARN provides services for youth if they are no longer in Child and Family Services custody and are not yet 21 years of age, and the youth:

(i) Ages out of out-of-home care, or

(ii) While in out-of-home care, after the age of 14 years, received at least 12 consecutive months of TAL services and the court terminated reunification.

(2) Service description:

(a) TAL services build on the youth's individual strengths and develop personal assets in order to help young people acquire the motivation and the means to be successful throughout their lives. The strategies are aimed at helping youth achieve five fundamental aspects of adult life, including work, career planning, and education; housing and money management; home life and daily living; self-care and health education; and communication, social relationships, family, and marriage.

(b) YARN consists of time-limited support to youth. This assistance can be provided through support, financial aid, or Basic Life Skills training. It may include housing, counseling, employment education, and other appropriate support and services to complement a youth's efforts to achieve self-sufficiency.

(3) Availability:

(a) TAL services and YARN are available in all geographic regions of the state.

(b) TAL services and YARN are available on the same basis to Native American youth who are or were formerly in Tribal custody within the boundaries of the state.

R512-305-3. Transition to Adult Living Services for a Youth in Child and Family Services Custody.

(1) The caseworker, with the assistance of the youth and Child and Family Team, ensures completion of the empirically validated life skills assessment to identify the strengths and needs of the youth.

(2) Based upon the empirically validated life skills assessment, a TAL plan is developed that identifies the youth's strengths, needs, and specific services.

(3) The youth, with the assistance of the Child and Family Team, determines the TAL plan. Youth aged 14 years or older are required to have a TAL plan, with youth taking the lead in setting goals and facilitating the Child and Family Team with staff guidance. Youth 14 years and older must be given the opportunity to have at least two individuals of their own choosing as members of the Child and Family Team.

(4) The TAL plan includes a continuum of training and services to be completed by the youth and designated team members in such settings as at the foster home, with a therapist, at school, or through other community-based resources and programs.

(5) Basic Life Skills training shall be offered to each youth who attains age 17 years. The training may include training in daily living skills, budgeting, career development and financial management skills, substance abuse prevention, and preventive health activities (including smoking avoidance, nutrition education, and pregnancy prevention).

(6) Each youth who completes Basic Life Skills training may receive a completion payment.

R512-305-4. Transition to Adult Living Placement for a Youth in Child and Family Services Custody.

(1) A TAL placement may be used as an alternative to out-of-home care when it is determined that such a placement is in the best interest of the youth. The appropriate types of living arrangements for youth in this situation include living with kin; living with former out-of-home caregivers while paying rent; living in the community with roommates; living alone; living in a group facility, YWCA, boarding house, or dorm; or living with an adult who has passed a background check or the placement was assessed and approved by the region director or designee. This recommendation will be presented to the Child and Family Team, who will work to ensure that this type of placement is appropriate and that the following Practice Guidelines are met:

(a) A TAL placement may be used as an out-of-home care placement.

(b) A youth must be at least 16 years of age to be in a TAL placement.

(c) The Child and Family Team is responsible to determine if a recommendation for a TAL placement for a youth is appropriate.

(d) The region director or designee is authorized to approve a TAL placement.

(e) The caseworker and youth shall complete a contract outlining responsibilities and expectations while in the TAL placement.

(f) The caseworker shall visit with and monitor progress of the youth at least twice monthly or at an interval determined by the Child and Family Team.

(g) The youth may receive a TAL stipend while in the TAL placement.

(h) If the TAL placement is not successful, the Child and Family Team shall meet to determine, with the youth, a more appropriate living arrangement in accordance with R512-305-4.

R512-305-5. Child and Family Services Responsibility to a Youth Leaving Out-of-Home Care.

(1) The YARN provides support to youth who leave out-of-home care, as specified in R512-305-2.

(2) A youth may access services by contacting a Child and Family Services office and being referred to a regional TAL coordinator.

(3) Services may include additional Basic Life Skills training, information and referral, mentoring, computer access for resources, and follow-up support. Funds may also assist eligible youth in the four areas listed below:

(a) Education, Training, and Career Exploration.

(b) Physical, Mental Health, and Emotional Support.

(c) Transportation.

(d) Housing Support.

(4) Funds used for room and board are subject to federal

limits.

KEY: social services, child welfare, out-of-home care, Transition to Adult Living
January 21, 2016 62A-4a-102
Notice of Continuation February 15, 2018 62A-4a-105

R512. Human Services, Child and Family Services.
R512-309. Out-of-Home Services, Foster Parent Reimbursement of Motor Vehicle Insurance Coverage for Youth in Foster Care.
R512-309-1. Purpose and Authority.

(1) The purpose of this rule is to establish parameters and a process in which Child and Family Services may, within amounts appropriated for this specific purpose, reimburse a foster parent for providing owner's or operator's security covering a youth in foster care's operation of a vehicle if the youth is in the legal custody of Child and Family Services.

(2) Section 62A-4a-121 provides Child and Family Services the authority to provide reimbursement to a foster parent who is willing to provide motor vehicle insurance for a youth in their care to operate a motor vehicle.

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

R512-309-2. Definitions.

(1) The following terms are defined for the purposes of this rule:

(a) "Child and Family Services" means the Division of Child and Family Services.

(b) "Foster parent" means a licensed resource family, also known as a licensed foster family, and may also include a kinship provider or proctor provider. Foster parent does not include a group home or residential facility that provides Out-of-Home Services under contract with Child and Family Services.

(c) "Guardianship" has the same meaning as defined in Section 78A-6-105.

(d) "Minor" has the same meaning as defined in Section 53-3-211.

(e) "Owner's or operator's security" is described in Section 41-12a-301.

R512-309-3. Eligibility Requirements.

(1) The child has been placed in the home of a foster parent who is receiving a foster care maintenance payment from Child and Family Services.

(2) Obtaining a driver license is an objective of the Child and Family Plan that has been developed for the youth with Transition to Adult Living Services.

(3) The foster parent is willing to assume the responsibility for signing as the responsible adult for a youth in foster care to receive a driver license under Section 53-3-211.

(a) The foster parent is willing to provide the minimum insurance coverage for the youth as described in Section 31A-22-304.

(b) The foster parent will sign a liability waiver in case they do not sustain the automobile insurance.

(c) The foster parent will ensure that the vehicle in which they have insured the youth is in good operating condition.

(4) The foster parent has full knowledge that by signing to be that responsible adult, the foster parent is jointly and severally liable with the minor for civil compensatory damages caused by the minor when operating a motor vehicle upon the highway as provided under Section 53-3-211.

(a) The foster parent's liability may not exceed the greater of the minimum liability insurance policy limits established under Section 31A-22-304 or the policy limits of the foster parent's liability insurance policy issued in accordance with Section 31A-22-302 that were in effect at the time damages were caused by the minor's operation of a motor vehicle.

(5) The foster parent who signs the application of a minor for a provisional license must certify that the minor applicant, under the authority of a permit issued, has completed at least 40 hours driving in a motor vehicle, of which at least 10 hours shall be during night hours after sunset.

R512-309-4. Method for Determining Amount of Reimbursement for a Foster Parent.

(1) In accordance with Section 62A-4a-121, Child and Family Services may reimburse a foster parent for providing owner's or operator's security covering a youth's operation of a motor vehicle in amounts required under Section 31A-22-304 if the youth is in the legal custody of Child and Family Services. Reimbursement will be limited to the minimum liability insurance policy limits established under Section 31A-22-304.

(a) As allowed within the amounts appropriated to Child and Family Services for this purpose, Child and Family Services will reimburse the additional cost of the insurance premium for a youth when the foster parent has met the eligibility requirements.

(i) The foster parent will submit to Child and Family Services a current and valid statement from the insurance company that will identify the actual cost of providing insurance coverage for the youth in foster care.

R512-309-5. Child and Family Services Responsibility to Foster Parent.

(1) Child and Family Services will notify the Driver License Division of a request that the permit or license of the youth be cancelled when a person who has signed the application makes a written request to Child and Family Services that the permit or license of a youth in foster care be cancelled.

(2) Child and Family Services will verify to the foster parent upon cancellation of the permit or license for the youth that they are relieved from liability for that youth operating a motor vehicle subsequent to the cancellation.

KEY: child welfare, foster care

January 21, 2016	**31A-22-302**
Notice of Continuation February 15, 2018	**31A-22-304**
	41-12a-301
	53-3-211
	62A-4a-102
	62A-4a-105
	62A-4a-121
	78A-6-105

R512. Human Services, Child and Family Services.
R512-500. Kinship Services, Placement and Background Screening.
R512-500-1. Purpose and Authority.

(1) The purpose of this rule is to establish standards for kinship placement for a child who is in Child and Family Services custody, including Preliminary Placement, evaluation of kinship caregiver capacity for ongoing care, and background screening.

(2) This rule is authorized by Sections 62A-4a-102, 62A-4a-209, 78A-6-307, and 78A-6-307.5.

R512-500-2. Definitions.

(1) "Abuse" is defined in Section 78A-6-105.

(2) "Child" is defined in Section 62A-4a-101.

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

(4) "Child and Family Team" has the same meaning as defined in Rule R512-301.

(5) "Friend" means an adult the child knows and is comfortable with, other than a non-custodial parent or relative as defined in Section 78A-6-307. A friend who is not licensed as a foster parent and who is designated a preference for care of a child by a custodial parent or guardian in accordance with Section 62A-4a-209, must be willing to become a licensed foster parent.

(6) "Kinship caregiver" means a non-custodial parent or relative, as defined in this section, who is selected for placement and care of a child in Child and Family Services custody.

(7) "Neglect" is defined in Section 78A-6-105.

(8) "Non-custodial parent" is a natural parent as defined in Section 78A-6-307 who is a biological or adoptive mother, an adoptive father, or a biological father who was married to the child's biological mother at the time the child was conceived or born, or who has had paternity established, who has not been granted legal custody of the child.

(9) "Non-relative" is defined in Section 62A-4a-209.

(10) "Preliminary Placement" means an out-of-home placement with a non-custodial parent, relative, or with a friend who is either a licensed foster parent or is willing to become a licensed foster parent, which is referred to in statute as an emergency placement with a non-custodial parent or relative as authorized in Section 62A-4a-209 or a post-shelter hearing placement with a non-custodial parent, relative, or friend as authorized in Section 78A-6-307.5.

(11) "Relative" is defined in Section 78A-6-307 as the child's "grandparent, great-grandparent, aunt, great-aunt, uncle, great-uncle, brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, sibling of the child, a first cousin of the child's parent, or an adult who is an adoptive parent of the child's sibling." For a Native American child, relative also includes "extended family members" as defined by the Indian Child Welfare Act (ICWA), 25 USC 1903, which is "by the law or custom of the Native American child's tribe or, in the absence of such law or custom, shall be a person who has reached the age of eighteen and who is the Native American child's grandparent, aunt, or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent."

(12) "Severe type of child abuse or neglect" is defined in Section 62A-4a-1002.

(13) "Sibling" is defined as a child who has the same biological parent or adoptive parent as the child.

(14) "Substantiated" is defined in Section 62A-4a-101.

(15) "Supported" is defined in Section 62A-4a-101.

R512-500-3. Philosophy.

(1) All children need permanency through enduring relationships that provide stability, familiarity, and support for the culture of the child; support the child's sense of self based on existing attachments; provide for the child's safety and physical care; and connect the child to their past, present, and future through continuing family relationships. First priority is to maintain a child safely at home. However, if a child cannot safely remain at home, kinship care has the potential for providing these elements of permanency by virtue of the kin's knowledge of and relationship to the family and child.

(2) All kinship work is done in the context of a Child and Family Team. Kinship care includes elements of child protection, in-home services, family preservation, and out-of-home care. When a child cannot safely remain home, kinship care is preferable to other out-of-home placements if the kinship caregiver can keep the child safe and appropriately meet the child's needs.

(3) The caregiver's willingness and ability to care for and keep the child safe are fundamental. The kinship caregiver must have or acquire knowledge of the child, be able to meet the child's needs, support reunification efforts, and be able to provide the child access to parents, siblings, and other family members through visits or caring for the child and siblings as a group.

(4) Ongoing assessment of the child's safety, permanence, and well-being is important to the stability and value of kinship care. Ongoing assessment of safety is based on the components of safety decision-making, which include threats of harm, vulnerabilities of the child, and protective capacities of the kinship caregiver and their support system.

(5) Providing for kinship care in the Child and Family Services spectrum of services requires active efforts to identify and locate kin families with whom children may form or continue relationships at home or in temporary or permanent placements. Support to kinship caregivers is essential to the success of the child's placement with the family and to the family's ability to respond to the needs of the child. As members of the Child and Family Team, kinship caregivers will seek support from other family members and from informal and formal supports to provide for the child.

R512-500-4. Preferences for Placement.

(1) The following order of preference shall be used when determining the placement of a child in the custody of Child and Family Services, and is subject to the child's best interest:

(a) A non-custodial parent of the child in accordance with Section 78A-6-307;

(b) A relative of the child, including the adoptive parent of the child's sibling;

(c) A friend who is a licensed foster parent, designated by the custodial parent or guardian of the child;

(d) A friend not licensed as a foster parent, designated by the custodial parent or guardian of the child, who is willing to become licensed within six months of the child being placed with them;

(e) A former out-of-home care placement; and

(f) A shelter facility or other out-of-home care placement designated by Child and Family Services.

(2) Preferential consideration given in accordance with Section 78A-6-307 to kinship caregivers or friends who are licensed or who become licensed expires 120 days from the date of the shelter hearing. After that time period has expired, a relative or friend who has not obtained custody or asserted an interest in the child may not be granted preferential consideration by Child and Family Services or the court. Prospective kinship caregivers or friends may be considered for placement after the 120 days has lapsed, if it is in the best interest of the child.

(3) A potential caregiver who meets the definition of friend and who is not a licensed foster parent must be designated by the custodial parent or guardian to provide care

for the child. The friend must be willing to become a licensed foster parent, must be actively engaged in the process of becoming a licensed foster parent within 60 days of the child being placed with them, and must complete all requirements of the Department of Human Services, Office of Licensing to obtain a child-specific foster care license within six months of a child being placed with them in order for a child in the custody of Child and Family Services to be placed with them and to remain in the friend's care. Furthermore, if the child remains in the custody of Child and Family Services placed in the home of the friend, the friend must comply with all Office of Licensing requirements to receive ongoing licensure as a foster parent prior to the child-specific license expiring, or the child will be removed from the friend's care.

R512-500-5. Preliminary Placement.

(1) The requirements specified in Section 62A-4a-209 must be met for Preliminary Placement of a child with a kinship caregiver.

(2) A decision to make a Preliminary Placement of a child with a kinship caregiver will include assessment of the kinship caregiver's willingness and ability to care for a child and to keep the child safe, a limited home inspection, and background screening.

(3) A kinship caregiver must meet the background screening requirements specified in Rule R512-500-7.

(4) Assessment of safety will be based on safety decision-making principles, which include:

(a) Potential threats of harm;

(b) Vulnerabilities of the child; and

(c) Protective capacities of the potential kinship caregiver and their support system.

(5) The limited home inspection specified in Section 62A-4a-209 is required for a non-custodial parent, relative, or friend. The limited home inspection is conducted in the home of the prospective kinship caregiver to determine if there are apparent safety risks in the home that present a potential threat of harm to the child. The limited home inspection determines if the following are met:

(a) The home is free from observable health and fire hazards.

(b) There are adequate sleeping arrangements to meet the specific needs of each child.

(c) Any firearms, ammunition, hazardous chemicals, and/or medications are secured and not accessible to children.

(6) References may be contacted to obtain input regarding placing the child with the potential kinship caregiver or information about other available relatives or friends who may care for the child.

R512-500-6. Evaluation of Capacity for Ongoing Care of a Child.

(1) The Child and Family Team will determine the most appropriate caregiver to meet the ongoing and permanency needs of the child.

(a) Since the Preliminary Placement is made in an emergency situation they may or may not be the most appropriate caregiver to meet the ongoing and permanency needs of the child.

(b) The ongoing caregiver may be the kinship caregiver who is the Preliminary Placement or may be a different prospective caregiver.

(2) Child and Family Services will evaluate with the prospective caregiver their capacity for ongoing care of the child as well as permanency if reunification efforts are not successful. The components of the evaluation process include:

(a) The child-specific home study, including:

(i) Results of the background screening specified in R512-500-7;

(ii) Obtaining positive written references from three different people known to the kinship caregiver expressing the referent's opinion about the family's ability to care for the child;

(iii) Physical and emotional ability of the kinship caregiver to provide adequate care for the child;

(iv) Understanding of family dynamics and how placement will impact relationships within the family;

(v) Ability to provide for the child's safety and well-being needs and to support a plan for permanency;

(vi) Analysis of the type of resources and support needed by the kinship caregiver to care for the child.

(vii) Ability of the home to meet required safety standards of the Office of Licensing.

(b) Providing information to the kinship caregiver to assist with considering options for ongoing care of the child, including:

(i) Educating the kinship caregiver of the expectations of caring for a child who is under the jurisdiction of the court.

(ii) Assessing the resources that may be available to assist the kinship caregiver in providing a stable placement for the child.

(iii) Becoming a licensed out-of-home care placement for the child.

(iv) Requesting temporary custody and guardianship from the court.

R512-500-7. Background Screening.

(1) Background Screening Procedure for Preliminary Placements.

(a) In order for a non-custodial parent, relative, or friend to be considered for Preliminary Placement of a child, background screening must be completed that meets the requirements of Sections 62A-4a-209, 78A-6-307, and 78A-6-308. If any non-relative adults live in the household, applicable background screening requirements in Sections 62A-4a-209, 78A-6-307, and 78A-6-308 must be met.

(b) A non-custodial parent or relative and all persons 18 years of age and older living in the household must provide the following information in order for background screening to be conducted:

(i) Full first, middle, last, maiden, alias, and all previous married names.

(ii) Social Security number, if a number has been issued.

(iii) Proof of identity verified by a government-issued photo identification.

(iv) Date of birth.

(2) Background Screening Procedure for Ongoing Care of a Child.

(a) As part of the evaluation of capacity for ongoing care of a child, in addition to background screening required for Preliminary Placement, anyone over the age of 18 years in the home must complete an FBI fingerprint-based criminal history records check.

(b) A Utah child abuse registry check will be completed or all persons over the age of 18 years residing in the home. If any person 18 years of age or older residing in the home has lived out of the state of Utah in the five years immediately preceding the date of the application, a child abuse and neglect registry check must be completed for any state in which the individual resided.

(c) All persons 18 years of age and older living in the household must provide the following information on a form provided by Child and Family Services in order for background screening to be conducted:

(i) Full first, middle, last, maiden, alias, and all previous married names.

(ii) Social Security number, if a number has been issued.

(iii) Proof of identity verified by a government-issued photo identification.

(iv) Date of birth.

(v) The potential kinship caregiver and applicable adults living in the household shall provide fingerprints from an authorized law enforcement agency or designated electronic scanning site.

(vi) If the applicant has lived outside of Utah in the five years preceding the date of the application, a list of the states the applicant has lived in will be provided.

KEY: child welfare, kinship

September 8, 2015	**62A-4a-102**
Notice of Continuation February 15, 2018	**62A-4a-105**
	62A-4a-209
	78A-6-307
	78A-6-307.5
	78A-6-308

R525. Human Services, Substance Abuse and Mental Health, State Hospital.
R525-3. Medication Treatment of Patients.
R525-3-1. Authority and Purpose.

(1) This rule is adopted under the authority of Section 62A-15-105.

(2) The purpose of this rule is to provide guidance on the medication treatment of patients as required by 62A-15-704(3).

R525-3-2. Medication as Part of Treatment.

Utah State Hospital (USH) offers medication as part of treatment for patients.

R525-3-3. Patients May Refuse Medication Treatment.

Patients have the right to refuse medication treatment.

R525-3-4. Clinical Medication Review.

In the event that a patient refuses medication treatment, USH staff shall constitute a medical review committee to determine if medication treatment is clinically indicated as part of the patient's treatment.

R525-3-5. Patient/Legal Guardian Shall Attend Review.

The patient/legal guardian shall be afforded the opportunity to attend the review and address the issue of medication treatment.

R525-3-6. Medication Review Committee to Render a Decision.

The medication review committee shall render a decision with respect to whether medication is a requirement of treatment and shall inform the patient/legal guardian of that decision.

R525-3-7. The Patient May Appeal the Decision.

The patient/legal guardian shall be afforded the opportunity to appeal any decision and have the case reviewed by the Hospital Clinical Director/designee.

R525-3-8. Hospital Clinical Director/Designee Shall Review the Case.

The Hospital Clinical Director/designee shall review the appeal and render a decision with respect to whether or not the patient is required to take medication as part of their treatment.

R525-3-9. Periodic Reviews.

Patients medicated pursuant to a medication review are periodically evaluated to determine if medication treatment continues to be a requirement of their treatment.

R525-3-10. Medication Treatment of Minors.

Medication treatment of minor children is conducted only in agreement with the child and the parent/legal guardian.

R525-3-11. Electroconvulsive Therapy.

Electroconvulsive therapy is provided upon consent of the patient/legal guardian and may be provided by other hospitals that are equipped and staffed to provide safe and effective electroconvulsive therapy and recovery.

KEY: medication treatment
February 21, 2012 62A-15-704(3)
Notice of Continuation January 16, 2018

R525. Human Services, Substance Abuse and Mental Health, State Hospital.
R525-6. Prohibited Items and Devices.
R525-6-1. Authority.

(1) This rule establishes secure areas on the Utah State Hospital campus and procedures for securing prohibited items and devices as authorized by Subsection 76-8-311.3(2).

(2) This rule is promulgated under authority of section 62A-15-105.

R525-6-2. Establishment of Secure Areas.

(1) Pursuant to Subsections 62A-15-603(3) and 76-8-311.3(2), the following buildings of the Utah State Hospital are established as secure areas:

(a) Forensic Mental Health Facility;

(b) Lucy Beth Rampton Building;

(c) Mountain Springs Pediatric Building; and

(d) any building on the Utah State Hospital campus erected to replace or expand the capacity of these buildings, and/or exist to perform similar functions of the above listed buildings.

R525-6-3. Items and Devices Prohibited from Secure Areas.

(1) Pursuant to Subsections 76-8-311.1(2)(a) and 76-8-311.3(2), all weapons, contraband, controlled substances, ammunition, items that implement escape, explosives, spirituous or fermented liquors, firearms, or any devices that are normally considered to be weapons are prohibited from entry beyond the secure storage lockers in the foyers of each building listed above.

R525-6-4. Storage of Prohibited Items and Devices.

(1) The public is notified of the availability of secure storage lockers at the entrance of the Utah State Hospital campus. Directions for use of the storage lockers are provided at or near the entrance of each of the above listed buildings.

KEY: weapons, state hospital, secure areas, prohibited items and devices

February 21, 2012	**62A-15-603(3)**
Notice of Continuation January 16, 2018	**62A-15-105**
	76-8-311.1(2)(a)
	76-8-311.3(2)

R539. Human Services, Services for People with Disabilities.
R539-1. Eligibility.
R539-1-1. Purpose.

(1) The purpose of this rule is to provide:

(a) procedures and standards for the determination of eligibility for Division services as required by Title 62A, Chapter 5, Part 1; and

(b) notice to Applicants of hearing rights and the hearing process.

R539-1-2. Authority.

(1) This rule establishes procedures and standards for the determination of eligibility for Division services as required by Title 62A, Chapter 5, Part 1.

(2) The procedures of this rule constitute the minimum requirements for eligibility for Division funding. Additional procedures may be required to comply with any other governing statute, federal law, or federal regulation.

R539-1-3. Definitions.

(1) Terms used in this rule are defined in Section 62A-5-101.

(2) In addition:

(a) "Agency Action" means an action taken by the Division that denies, defers, or changes services to an Applicant applying for, or a person receiving, Division funding;

(b) "Applicant" means an individual or a representative of an individual applying for determination of eligibility;

(c) "Brain Injury" means any acquired injury to the brain and is neurological in nature. This would not include those with deteriorating diseases such as Multiple Sclerosis, muscular dystrophy, Huntington's chorea, ataxia, or cancer, but would include cerebral vascular accident;

(d) "Department" means the Department of Human Services;

(e) "Division" means the Division of Services for People with Disabilities;

(f) "Electronic Surveillance" is observing or listening to persons, places, or activities with the aid of electronic devices such as cameras, web cams, global positioning systems, motion detectors, weight detectors or microphones, in real time.

(g) "Electronic Surveillance Certification" is documentation signed by members of the Provider Human Rights Committee that contains the location of the site under surveillance, description of the types of surveillance to be used, names of persons to be under surveillance and signed consent from each person affected as required by Subsections R539-3-7(3) and R539-3-7(4).

(h) "Form" means a standard document required by Division rule or other applicable law;

(i) "Guardian" means someone appointed by a court to be a substitute decision maker for a person deemed to be incompetent of making informed decisions;

(j) "Hearing Request" means a written request made by a person or a person's representative for a hearing concerning a denial, deferral or change in service;

(k) "ICF/ID" means Intermediate Care Facility for People with Intellectual Disability;

(l) "Person" means someone who has been found eligible for Division funding for support services due to a disability and who is waiting for or receiving services at the present time;

(m) "Qualifying Acquired Neurological Brain Injury" means an eligible International Classification of Diseases code diagnosis from the most recent revision of the classification, clinical modification, as outlined in Division Directive 1.40 Qualifying Acquired Brain Injury Diagnoses.

(n) "Related Conditions" means a severe, chronic disability that meets the following conditions:

(i) It is attributable to:

(A) Cerebral palsy or epilepsy; or

(B) Any other condition, other than mental illness, found to be closely related to intellectual disability because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of people with intellectual disability, and requires treatment or services similar to those required for these persons.

(ii) It is manifest before the person reaches age 22.

(iii) It is likely to continue indefinitely.

(iv) It results in substantial functional limitations in three or more of the following areas of major life activity:

(A) Self-care.

(B) Understanding and use of language.

(C) Learning.

(D) Mobility.

(E) Self-direction

(F) Capacity for independent living.

(o) "Representative" means the person's legal representative including the person's parents if the person is a minor child, a court appointed guardian or a lawyer retained by the person;

(p) "Resident" is an Applicant or Guardian who is physically present in Utah and provides a statement of intent to reside in Utah.;

(q) "Support" is assistance for portions of a task allowing a person to independently complete other portions of the task or to assume increasingly greater responsibility for performing the task independently;

(r) "Support Coordinator" is an employee of the Division or an individual contracted with the Division to provide assistance in assessing the needs of, and developing services and supports for, persons receiving Division funding. Support Coordinators complete written documentation of supports and assist with monitoring the appropriate spending of a person's annual budget, as well as monitor the quality of the services provided.

(s) "Team Member" means members of the person's circle of support who participate in the planning and delivery of services and supports with the Person. Team members may include the Person applying for or receiving services, his or her parents, Guardian, the support coordinator, friends of the Person, and other professionals and Provider staff working with the Person; and

(t) "Waiver" means the Medicaid approved plan for a state to provide home and community-based services to persons with disabilities in lieu of institutionalization in a Title XIX facility, the Division administers three such waivers; the intellectual disabilities or related conditions waiver, the brain injury waiver and physical disabilities waiver.

R539-1-4. Non-Waiver Services for People with Intellectual Disabilities or Related Conditions.

(1) The Division will serve those Applicants who meet the definition of a person with a disability in Subsections 62A-5-101(8).

(2) When determining functional limitations in the areas listed below for Applicants ages 7 and older, age appropriate abilities must be considered.

(a) Self-care - An Applicant who requires assistance, training and/or supervision with eating, dressing, grooming, bathing or toileting.

(b) Expressive and/or Receptive Language - An Applicant who lacks functional communication skills, requires the use of assistive devices to communicate, or does not demonstrate an understanding of requests or is unable to follow two-step instructions.

(c) Learning - An Applicant who has a valid diagnosis of mental retardation based on the criteria found in the current edition of the Diagnostic and Statistical Manual of Mental

Disorders (DSM).

(d) Mobility - An Applicant with mobility impairment who requires the use of assistive devices to be mobile and who cannot physically self-evacuate from a building during an emergency without the assistive device.

(e) Capacity for Independent Living - An Applicant (age 7-17) who is unable to locate and use a telephone, cross streets safely, or understand that it is not safe to accept rides, food or money from strangers. An adult who lacks basic survival skills in the areas of shopping, preparing food, housekeeping, or paying bills.

(f) Self-direction - An Applicant (age 7-17) who is significantly at risk in making age appropriate decisions. An adult who is unable to provide informed consent for medical/health care, personal safety, legal, financial, habilitative, or residential issues and/or who has been declared legally incompetent. A person who is a significant danger to self or others without supervision.

(g) Economic self-sufficiency - (This area is not applicable to children under 18.) An adult who receives disability benefits and who is unable to work more than 20 hours a week or is paid less than minimum wage without employment support.

(3) Applicant must be diagnosed with an intellectual disability or related conditionas set forth in Section 62A-5-101(8).

(a) Applicants who have a primary diagnosis of mental illness, hearing impairment and/or visual impairment, learning disability, behavior disorder, substance use disorder or personality disorder do not qualify for services under this rule.

(4) The Applicant, parent of a minor child, or the Applicant's Guardian must be a resident of the State of Utah prior to the Division's final determination of eligibility.

(5) The Applicant or Applicant's Representative shall be provided with information about all service options available through the Division as well as a copy of the Division's Guide to Services.

(6) It is the Applicant's or Applicant's Representative's responsibility to ensure that the appropriate documentation is provided to the intake worker to determine eligibility.

(7) The following documents are required to determine eligibility for non-waivered intellectual disability or related conditions services.

(a) A Division Eligibility for Services Form 19 completed by the designated staff. For children under seven years of age, Eligibility for Services Form 19C, completed by the designated staff within the Division office, will be accepted in lieu of the Eligibility for Services Form 19. The staff member will indicate on the Eligibility for Services Form 19C that the child is at risk for substantial functional limitation in three areas of major life activity due to intellectual disability or related conditions; that the limitations are likely to continue indefinitely; and what assessment provides the basis of this determination.

(b) Inventory for Client and Agency Planning (ICAP) assessment shall be completed by the Division;

(c) Social History completed by or for the Applicant within one year of the date of application;

(d) Psychological Evaluation provided by the Applicant or, for children under seven years of age, a Developmental Assessment may be used as an alternative; and

(e) Supporting documentation for all functional limitations identified on the Division Eligibility for Services Form 19 or Division Eligibility for Services Form 19C shall be gathered and filed in Applicant's record. Additional supporting documentation shall be required when eligibility is not clearly supported by the above-required documentation. Examples of supporting documentation include, but are not limited to, mental health assessments, educational records, neuropsychological evaluations, and medical health summaries.

(8) If eligibility documentation is not completed within 90 calendar days of initial contact, a written notification letter shall be sent to Applicant or Applicant's Representative indicating that the intake case will be placed in inactive status.

(a) The Applicant or Applicant's Representative may activate the application at anytime thereafter by providing the remaining required information.

(b) The Applicant or Applicant's Representative shall be required to update information.

(9) When all necessary eligibility documentation is received from the Applicant or Applicant's Representative, Division staff shall determine the Applicant eligible or ineligible for funding for non-waiver intellectual disability or related conditions services within 90 days of receiving the required documentation.

(10) A Notice of Agency Action, Form 522-I, and a Hearing Request, Form 490S, shall be mailed to each Applicant or Applicant's Representative upon completion of the determination of eligibility or ineligibility for funding. The Notice of Agency Action, Form 522-I, shall inform the Applicant or Applicant's Representative of eligibility determination and placement on the waiting list. The Applicant or Applicant's Representative may challenge the Notice of Agency Action by filing a written request for an administrative hearing before the Department of Human Services, Office of Administrative Hearings.

(11) People receiving services will have their eligibility re-determined on an annual basis. If people are determined to no longer be eligible for services, a transition plan will be developed to discontinue services and ensure health and safety needs are meet.

(12) This section does not apply to Applicants who meet the separate eligibility criteria for physical disability and brain injury outlined in Subsections R539-1-6 and R539-1-8 respectively.

(13) Persons not participating in a Waiver or Persons participating in a Waiver but receiving non-Waiver services may have reductions in non-Waiver service packages or be discharged from non-Waiver services completely, due to budget shortfalls, reduced legislative allocations and/or reevaluations of eligibility.

R539-1-5. Medicaid Waiver Eligibility for People with Intellectual Disability or Related Conditions.

(1) Matching federal funds may be available through the Community Supports Waiver for People with Intellectual Disabilities or Related Conditions to provide an array of home and community-based services that an eligible person needs.

(2) Within appropriations from the Legislature, as set forth by UT Code Subsections 62A-5-102(3) and (4), persons may be found eligible for Waiver funding according to the following methods:

(a) A person's needs score, as determined by the Division's needs assessment tool, identifies the person as ranking among persons with the most critical needs.

(b) A person is identified by the Division as a person whose only need is respite services.

(i) The Division determines that a person only needs respite services by:

(A) Identifying those persons who, according to the Division's records, have indicated that the person is in need of respite services only;

(B) Conducting an additional needs assessment to update the person's needs score and determine if the person is in need of additional services beyond respite.

(ii) Persons identified by the Division as needing only respite services will be grouped together, from which the Division shall randomly select persons, using a simple random sampling method.

(3) Pursuant to Section R414-510, where the Department

of Health determines that sufficient funds are available, a person meeting the eligibility requirements set forth by the Department of Health in Subsection R414-510-3 may receive Medicaid Home and Community-Based Waiver Services by transitioning out of an ICF/ID into the Community Supports Waiver for People with Intellectual Disabilities or Related Conditions.

(4) Pursuant to Section R414-502, where the Department of Health determines that a person meets nursing facility level of care and is medically approved for Medicaid reimbursement of nursing facility services or equivalent care provided through a Medicaid Home and Community-Based Waiver program, a person may be found eligible for funding through the Community Supports Waiver for People with Intellectual Disabilities or Related Conditions when all other eligibility requirements of Section R414-502 are met.

(5) Persons who are found eligible for funds through the Medicaid Home and Community-Based Waiver for People with Intellectual Disabilities or Related Conditions may choose not to participate in the Waiver. Persons who choose not to participate in the Waiver will receive only the state funded portion of the budget the person would have received had the person participated in the Waiver.

R539-1-6. Non-Waivered Services for People with Physical Disabilities.

(1) The Division will serve those Applicants who meet the eligibility requirements for physical disabilities services. To be determined eligible for non-waivered Physical Disabilities Services, the Applicant must:

(a) Have the functional loss of two or more limbs;

(b) Be 18 years of age or older;

(c) Have at least one personal attendant trained or willing to be trained and available to provide support services in a residence that is safe and can accommodate the personnel and equipment (if any) needed to adequately and safely care for the Person; and

(d) Be medically stable and have a physical disability.

(e) Have their physician document that the Person's qualifying disability and need for personal assistance services are attested to by a medically determinable physical impairment which the physician expects will last for a continuous period of not less than 12 months and which has resulted in the individual's functional loss of two or more limbs, to the extent that the assistance of another trained person is required in order to accomplish activities of daily living/instrumental activities of daily living;

(f) Be capable, as certified by a physician, of selecting, training and supervising a personal attendant;

(g) Be capable of managing personal financial and legal affairs; and

(h) Be a resident of the State of Utah.

(2) Applicants seeking non-Waiver funding for physical disabilities services from the Division shall apply directly to the Division's State Office, by submitting a completed Physical Disabilities Services Application Form 3-1 signed by a licensed physician.

(3) If eligibility documentation is not completed within 90 calendar days of initial contact, a written notification letter shall be sent to the Applicant indicating that the intake case will be placed in inactive status.

(a) The Applicant may activate the application at any time thereafter by providing the remaining required information.

(b) The Applicant shall be required to update information.

(4) When all necessary eligibility documentation is received from the Applicant and the Applicant is determined eligible, the Applicant will be assessed by a Nurse Coordinator, according to the Physical Disabilities Needs Assessment Form 3-2 and the Minimum Data Set-Home and Community-based (MDS-HC), and given a score prior to placing a Person into services. The Physical Disabilities Nurse Coordinator shall:

(a) use the Physical Disabilities Needs Assessment Form 3-2 to evaluate each Person's level of need;

(b) determine and prioritize needs scores;

(c) rank order the needs scores for every Person eligible for service, and

(d) if funding is unavailable, enter the Person's name and score on the Physical Disabilities wait list.

(5) The Physical Disabilities Nurse Coordinator assures that the needs assessment score and ranking remain current by updating the needs assessment score as necessary. A Person's ranking may change as needs assessments are completed for new Applicants found to be eligible for services.

(6) A Notice of Agency Action, Form 522-I, and a Hearing Request, Form 490S, shall be mailed to each Applicant upon completion of the determination of eligibility or ineligibility for funding. The Notice of Agency Action, Form 522-I, shall inform the Applicant of eligibility determination and placement on the pending list. The Applicant may challenge the Notice of Agency Action by filing a written request for an administrative hearing before the Department of Human Services, Office of Administrative Hearings.

(7) This does not apply to Applicants who meet the separate eligibility criteria for intellectual disability or related condition and brain injury outlined in Subsections R539-1-4 and R539-1-8 respectively.

(8) Persons not participating in a waiver or Persons participating in a waiver but receiving non-waiver services may have reductions in non-waiver service packages or be discharged from non-waiver services completely, due to budget shortfalls, reduced legislative allocations and/or reevaluations of eligibility.

R539-1-7. Medicaid Waiver Eligibility for People with Physical Disabilities.

(1) Matching federal funds may be available through the Medicaid Home and Community-Based Waiver for People with Physical Disabilities to provide an array of home and community-based services that an eligible person needs.

(2) Within appropriations from the Legislature, as set forth by UT Code Subsections 62A-5-102(3) and (4), persons with physical disabilities may be found eligible for Waiver funding according to the following methods:

(a) A person's needs score, as determined by the Division's needs assessment tool, identifies the person as ranking among persons with the most critical needs.

(b) A person who is eligible for waiver service through the Medicaid Home and Community-Based Waiver for People with Disabilities is not eligible for respite services.

(3) Pursuant to Section R414-502, where the Department of Health determines that an applicant meets nursing facility level of care and is medically approved for Medicaid reimbursement of nursing facility services or equivalent care provided through a Medicaid Home and Community-Based Waiver program, an applicant may be found eligible for funding through the Medicaid Home and Community-Based Waiver for People with Physical Disabilities when all other eligibility requirements of Section R414-502 are met.

(4) Persons who are found eligible for funds through the Medicaid Home and Community-Based Waiver for People with Physical Disabilities may choose not to participate in the Waiver. Persons who choose not to participate in the Waiver will receive only the state funded portion of the budget the person would have received had the person participated in the Waiver.

R539-1-8. Non-Waiver Services for People with Brain Injury.

(1) The Division will serve those Applicants who meet the

eligibility requirements for brain injury services. To be determined eligible for non-waiver brain injury services the Applicant must:

(a) have a documented qualifying acquired neurological brain injury from a licensed physician (MD or DO).

(b) Be 18 years of age or older;

(c) score between (36 and 136) on the Comprehensive Brain Injury Assessment Form 4-1.

(d) meet at least three of the functional limitations listed under number (4).

(2) Applicants with functional limitations due solely to mental illness, substance use disorder or deteriorating diseases like Multiple Sclerosis, Muscular Dystrophy, Huntington's Chorea, Ataxia or Cancer are ineligible for non-waiver services.

(3) Applicants with intellectual disability or related conditions are ineligible for these non-waiver services.

(4) In addition to the definitions in Section 62A-5-101(2) and (8), eligibility for brain injury services will be evaluated according to the Applicant's functional limitations as described in the following definitions:

(a) Memory or Cognition means the Applicant's brain injury resulted in substantial problems with recall of information, concentration, attention, planning, sequencing, executive level skills, or orientation to time and place.

(b) Activities of Daily Life means the Applicant's brain injury resulted in substantial dependence on others to move, eat, bathe, toilet, shop, prepare meals, or pay bills.

(c) Judgment and Self-protection means the Applicant's brain injury resulted in substantial limitation of the ability to:

(i) provide personal protection;

(ii) provide necessities such as food, shelter, clothing, or mental or other health care;

(iii) obtain services necessary for health, safety, or welfare;

(iv) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

(d) Control of Emotion means the Applicant's brain injury resulted in substantial limitation of the ability to regulate mood, anxiety, impulsivity, agitation, or socially appropriate conduct.

(e) Communication means the Applicant's brain injury resulted in substantial limitation in language fluency, reading, writing, comprehension, or auditory processing.

(f) Physical Health means the Applicant's brain injury resulted in substantial limitation of the normal processes and workings of the human body.

(g) Employment means the Applicant's brain injury resulted in substantial limitation in obtaining and maintaining a gainful occupation without ongoing supports.

(5) The Applicant shall be provided with information concerning service options available through the Division and a copy of the Division's Guide to Services.

(6) The Applicant or the Applicant's Guardian must be physically present in Utah and provide evidence of residency prior to the determination of eligibility.

(7) It is the Applicant's or Applicant's Representative's responsibility to provide the intake worker with documentation of brain injury, signed by a licensed physician;

(8) The intake worker will complete or compile the following documents as needed to make an eligibility determination:

(a) Comprehensive Brain Injury Assessment Form 4-1, Sections A through L; and

(b) Brain Injury Social History Summary Form 824L, completed or updated within one year of eligibility determination;

(9) If eligibility documentation is not completed within 90 calendar days of initial contact, a written notification letter shall be sent to the Applicant or the Applicant's Representative indicating that the intake case will be placed in inactive status.

(a) The Applicant or Applicant's Representative may activate the application at any time thereafter by providing the remaining required information.

(b) The Applicant or Applicant's Representative shall be required to update information.

(10) When all necessary eligibility documentation is received from the Applicant or Applicant's Representative, Division staff shall determine the Applicant eligible or ineligible for funding for brain injury supports.

(11) A Notice of Agency Action, Form 522-I, and a Hearing Request, Form 490S, shall be mailed to each Applicant or Applicant's Representative upon completion of the determination of eligibility or ineligibility for funding. The Notice of Agency Action, Form 522, shall inform the Applicant or Applicant's Representative of eligibility determination and placement on the waiting list. The Applicant or Applicant's Representative may challenge the Notice of Agency Action by filing a written request for an administrative hearing before the Department of Human Services, Office of Administrative Hearings.

(12) Persons receiving Brain Injury services will have their eligibility re-determined on an annual basis. Persons who are determined to no longer be eligible for services will have a transition plan developed to discontinue services and ensure that health and safety needs are met.

R539-1-9. Medicaid Waiver Eligibility for People with Acquired Brain Injury.

(1) Matching federal funds may be available through the Medicaid Home and Community-Based Waiver for People with Acquired Brain Injury to provide an array of home and community-based services that an eligible person needs.

(2) Within appropriations from the Legislature, as set forth by UT Code Subsections 62A-5-102(3) and (4), persons may be found eligible for Waiver funding according to the following methods:

(a) A person's needs score, as determined by the Division's needs assessment tool, identifies the person as ranking among persons with the most critical needs.

(b) A person is identified by the Division as a person whose only need is respite services.

(i) The Division determines that a person only needs respite services by:

(A) Identifying those persons who, according to the Division's records, have indicated that the person is in need of respite services only;

(B) Conducting an additional needs assessment to update the person's needs score and determine if the person is in need of additional services beyond respite.

(ii) Persons identified by the Division as needing only respite services will be grouped together, from which the Division shall randomly select persons, using a simple random sampling method.

(3) Pursuant to Section R414-502, where the Department of Health determines that an applicant meets nursing facility level of care and is medically approved for Medicaid reimbursement of nursing facility services or equivalent care provided through a Medicaid Home and Community-Based Waiver program, an applicant may be found eligible for funding through the Medicaid Home and Community-Based Waiver for People with Acquired Brain Injury when all other eligibility requirements of Section R414-502 are met.

(4) Persons who are found eligible for funds through the Medicaid Home and Community-Based Waiver for People with Acquired Brain Injury may choose not to participate in the Waiver. Persons who choose not to participate in the Waiver will receive only the state funded portion of the budget the person would have received had the person participated in the Waiver.

R539-1-10. Graduated Fee Schedule.

(1) Pursuant to Subsections 62A-5-105(2)(b) and(c) the Division establishes a graduated fee schedule for use in assessing fees to individuals. The graduated fee schedule shall be applied to Persons who do not meet the Medicaid eligibility requirements for Waiver services. Family size and gross income shall be used to determine the fee. This rule does not apply to Persons who qualify for Medicaid waiver funding but who choose to have funding reduced to the state match per R539-1-5(5), R539-1-7(4), and R539-1-9(4) rather than participate in the Medicaid Waiver.

(a) Persons who do not participate in a Medicaid Waiver who do not meet Waiver level of care must apply for a Medicaid Card within 30 days of receiving notice of this rule. Persons who do not participate in a Medicaid Waiver who meet Waiver level of care must apply for determination of financial eligibility using Form 927 within 30 days of receiving notice of this rule. Persons who do not participate in a Medicaid Waiver shall provide the Support Coordinator or Nurse Coordinator with the financial determination letter within 10 days of the receipt of such documentation. Persons who do not participate in a Medicaid Waiver and who fail to comply with these requirements shall have funding reduced to the state match rate.

(b) Persons who do not participate in a Medicaid Waiver due to financial eligibility, must be reduced to the state match rate.

(c) Persons who only meet the general eligibility requirements, as per Sections R539-1-4, R539-1-6, and R539-1-8, must report all cash assets (stocks, bonds, certified deposits, savings, checking and trust amounts), annual income and number of family members living together using Division Form 2-1G. Persons with Discretionary Trusts are exempt from the Graduated Fee Schedule as per Subsection 62A-5-110(6). The Form 2-1G shall be reviewed at the time of the annual planning meeting. The Person / family shall return Form 2-1G to the support coordinator prior to delivery of new services. Persons / families currently receiving services will have 60 days from receiving notice of this rule to return a completed and signed Form 2-1G to the Division. Persons / families who complete the Division Graduated Fee Assessment Form 2-1G shall be assessed a fee no more than 3% of their income. If the form is not received within 60 days of receiving notice of this rule, the Person will have funding reduced to the state match rate.

(d) Cash assets, income and number of family members will be used to calculate available income (using the formula: (assets + income) / by the total number of family members = available income). Available income will be used to determine the fee percent (0 percent to 3 percent). The annual fee amount will be calculated by multiplying available income by the fee percent. Persons who do not participate in a Medicaid Waiver, who only meet general eligibility requirements, and have available incomes below 300 percent of the poverty level will not be assessed a fee. Persons with available incomes between 300 and 399 percent of poverty will be assessed a 1 percent fee, Persons with available incomes between 400 and 499 percent of poverty will be assessed a 2 percent fee and those with available income over 500 percent of poverty will be assessed a 3 percent fee.

(e) No fee shall be assessed for a Person who does not participate in a Medicaid Waiver and who receives funding for less than 31 percent of their assessed need. A multiplier shall be applied to the fee of Persons who do not participate in a Medicaid Waiver and who receive 31 to 100% percent of their assessed need.

(f) If a Person's annual allocation is at the state match rate, they will not be assessed a fee.

(g) Only one fee will be assessed per family, regardless of the number of children in the family receiving services. Persons who do not participate in a Medicaid Waiver under the age of 18 shall be assessed a fee based upon parent income. Persons who do not participate in a Medicaid Waiver over the age of 18 shall be assessed a fee based upon individual income and assets.

(h) If the Person is assessed a fee, the Person shall pay the Division of Services for People with Disabilities or designee 1/12th of the annual fee by the end of each month, beginning the following month after the notice of this rule was sent to the Person.

(i) If the Person fails to pay the fee for six months, the Division may reduce the Person's next year annual allocation to recover the amount due. If a Person can show good cause why the fee cannot be paid, the Division Director may grant exceptions on a case-by-case basis.

R539-1-11. Social Security Numbers.

(1) The Division requires persons applying for services to provide a valid Social Security Number. The Division adopts the same standard as Sections R414-302 and 42 CFR 435.910, 2014 ed., which is incorporated by reference.

KEY: human services, disabilities, social security numbers
October 23, 2017 62A-5-103
Notice of Continuation October 23, 2017 62A-5-105

R590. Insurance, Administration.
R590-102. Insurance Department Fee Payment Rule.
R590-102-1. Authority.

This rule is adopted pursuant to Subsection 31A-3-103(3), which requires the commissioner to publish the schedule of fees approved by the legislature and to establish deadlines for payment of each of the various fees.

R590-102-2. Purpose and Scope.

(1) The purposes of this rule are to:

(a) publish the schedule of fees approved by the legislature;

(b) establish fee deadlines; and

(c) disclose this information to licensees and the public.

(2) The rule applies to:

(a) all persons engaged in the business of insurance in Utah;

(b) all licensees;

(c) applicants for licenses, registrations, certificates, or other similar filings; and

(d) all persons requesting services provided by the department for which a fee is required.

R590-102-3. Definitions.

In addition to the definitions in Title 31A, the following definitions shall apply for the purposes of this rule:

(1) "Admitted insurers" include: fraternal, health, health maintenance organization, life, limited health plan, motor club, non-profit health service, property-casualty, title insurers, and a prescription drug plan.

(2) "Agency" means:

(a) a person, other than an individual, including a sole proprietorship by which a natural person does business under an assumed name; and

(b) an insurance organization required to be licensed under Subsections 31A-23a-301, 31A-25-207, and 31A-26-209.

(3) "Captive insurer" includes association captive, branch captive, industrial insured captive, pure captive, sponsored captive, and special purpose financial captive.

(4) "Deadline" means the final date or time:

(a) imposed by:

(i) statute;

(ii) rule; or

(iii) order, and

(b) by which

(i) a payment must be received by the department without incurring penalties for late payment or non-payment; or

(ii) required information must be received by the department without incurring penalties for late receipt or non-receipt.

(5) "Fee" means an amount set by the commissioner, by statute, or by rule and approved by the legislature for licenses, registrations, certificates, and other filings and services provided by the Insurance Department.

(6) "Full-line agency" includes producer, consultant, independent adjuster, managing general agent, public adjuster, reinsurance intermediary broker, and third party administrator.

(7) "Full-line individual" includes a producer, consultant, independent adjuster, managing general agent, public adjuster, reinsurance intermediary broker, and third party administrator.

(8) "Limited-line agency" includes bail bond and limited-line producer.

(9) "Limited-line individual" includes bail bond agent, limited-lines producer and customer service representative.

(10) "Other organizations" include: home warranty, joint underwriter, purchasing group, rate service organization, risk retention group, service contract provider and health discount program.

(11) "Paper application" means an application that must be manually entered into the department's database because the application was submitted by paper, facsimile, or email when the department has provided an electronic application process and stated the electronic process is the preferred process for receiving an application.

(12) "Paper filing" means a filing that must be manually entered into the department's database because the filing was submitted by paper, facsimile, or email when the department has provided an electronic filing process and stated the electronic process is the preferred process for receiving a filing.

(13) "Received by the department" means:

(a) the date delivered to and stamped received by the department, if delivered in person;

(b) the postmark date, if delivered by mail;

(c) the delivery service's postmark date or pick-up date, if delivered by a delivery service; or

(d) the received date recorded on an item delivered, if delivered by:

(i) facsimile;

(ii) email; or

(iii) another electronic method; or

(e) a date specified in:

(i) a statute;

(ii) a rule; or

(iii) an order.

R590-102-4. General Instructions.

(1) Any fee payable to the department not included in Subsections R590-102-5 through 23, shall be due when service is requested, if applicable, otherwise by the due date on the invoice.

(2) Payment.

(a) A non-electronic payment processing fee will be added to a payment when the department has provided an electronic payment process and stated the electronic process is the preferred process for receiving a payment.

(b) Check.

(i) Checks shall be made payable to the Utah Insurance Department.

(ii) A check that is dishonored in the process of the collection will not constitute payment of the fee for which it was issued and any action taken based on the payment will be voided.

(iii) Late fees and other penalties, resulting from the voided action will apply until proper payment is made.

(iv) A check payment that is dishonored is a violation of this rule.

(c) Cash. The department is not responsible for un-receipted cash that is lost or misdelivered.

(d) Electronic.

(i) Credit Card.

(A) Credit cards may be used to pay any fee due to the department.

(B) Credit card payments that are dishonored will not constitute payment of the fee and any action taken based on the payment will be voided.

(C) Late fees and other penalties, resulting from the voided action, will apply until proper payment is made.

(D) A credit card payment that is dishonored is a violation of this rule.

(ii) Automated clearinghouse (ACH).

(A) Payers or purchasers desiring to use this method must contact the department for the proper routing and transit information.

(B) Payments that are made in error to another agency or that are not deposited into the department's account will not constitute payment of the fee and any action taken based on the payment will be voided.

(C) Late fees and other penalties resulting from the voided

action will apply until proper payment is made.

(D) An ACH payment that is dishonored is a violation of this rule.

(3) Retaliation. The fees enumerated in this rule are not subject to retaliation in accordance with Section 31A-3-401 if other states or countries impose higher fees.

(4) Refunds.

(a) All fees in this rule are non-refundable.

(b) Overpayments of fees are refundable.

(c) Requests for return of overpayments must be in writing.

(5) A non-electronic processing fee will be assessed for a particular service if the department has established an electronic process for that service. See R590-102-23.

R590-102-5. Admitted Insurer and Prescription Drug Plan Fees.

(1) Annual license fees:

(a) certificate of authority, initial license application - due with license application: $1,000;

(b) certificate of authority - renewal - due by the due date on the invoice: $300;

(c) certificate of authority - late renewal - due for any renewal paid after the date on the invoice: $350;

(d) certificate of authority - reinstatement - due with application for reinstatement: $1,000.

(2) Other license fees:

(a) certificate of authority - amendments - due with request for amendment: $250;

(b)(i) Form A - application for merger, acquisition, or change of control, due with filing: $2,000.

(ii) Expenses incurred for consultant services necessary to evaluate a Form A will be charged to the applicant and due by the due date on the invoice;

(c) redomestication filing - due with filing: $2,000; and

(d) application for organizational permit for mutual insurer to solicit applications for qualifying insurance policies or subscriptions for mutual bonds or contribution notes - due with application: $1,000.

(3) The annual initial or annual renewal license fee includes the following licensing services for which no additional fee is required:

(a) filing annual statement and report of Utah business - due annually on March 1;

(b) filing holding company registration statement - Form B;

(c) filing application for material transactions between affiliated companies - Form D;

(d) application for: stock solicitation permit, public offering filing, but not an SEC filing; an SEC filing; private placement offering; and

(e) application for individual license to solicit in accordance with the stock solicitation permit.

(4) Annual service fee:

(a) Due annually by the due date on the invoice.

(b) A prescription drug plan is exempted from payment of a service fee.

(c) The fee is based on the Utah premium as shown in the latest annual statement on file with the National Association of Insurance Commissioners and the department. Fee calculation example: the 2004 annual service fee calculation will use the Utah premium shown in the December 31, 2003 annual statement.

(d) Fee schedule:

(i) $0 premium volume: no service fee;

(ii) more than $zero but less than $1 million in premium volume: $700;

(iii) $1 million but less than $3 million in premium volume: $1,100;

(iv) $3 million but less than $6 million in premium volume: $1,550;

(v) $6 million but less than $11 million in premium volume: $2,100;

(vi) $11 million but less than $15 million in premium volume: $2,750;

(vii) $15 million but less than $20 million in premium volume: $3,500; and

(viii) $20 million or more in premium volume: $4,350.

(e) The annual service fee includes the following services for which no additional fee is required:

(i) filing of amendments to articles of incorporation, charter, or bylaws;

(ii) filing of power of attorney;

(iii) filing of registered agent;

(iv) affixing commissioner's seal and certifying any paper;

(v) filing of authorization to appoint and remove agents;

(vi) filing of producer/agency appointment with an insurer - initial;

(vii) filing of producer/agency appointment with an insurer - termination;

(viii) report filing, all lines of insurance;

(ix) rate filing, all lines of insurance; and

(x) form filing, all lines of insurance.

(f) The annual service fee is for services that the department will provide for an admitted insurer during the year. The fee is paid in advance of providing the services.

(5) Other fees:

(a) e-commerce fee: see R590-102-23; and

(b) insurer examination costs reimbursements from examined insurers - due by due date on the invoice: actual costs plus overhead expense.

R590-102-6. Foreign Surplus Lines Insurer, Accredited Reinsurer, Certified Reinsurer, Trusteed Reinsurer, and Employee Welfare Fund Administative/Service Fees.

(1) Initial Fee - due with application: $1,000.

(2) Annual Fee - due annually by the due date on the invoice: $500;

(3) Late annual payment - due for any annual payment paid after the due date on the invoice: $550;

(4) Reinstatement - due with application: $1,000.

(5) The annual fee includes the following services for which no additional fee is required and is paid in advance:

(a) filing of power of attorney; and

(b) filing of registered agent.

(6) E-commerce fee: see R590-102-23.

R590-102-7. Other Organization Fees.

(1) Annual license fee:

(a) initial - due with application: $250;

(b) renewal - due annually by the due date on the invoice: $200;

(c) late renewal - due for any renewal paid after the date on the invoice: $250;

(d) reinstatement - due with application for reinstatement: $250;

(e) The annual other organization initial or renewal fee includes the risk retention group annual statement filing - due annually on March 1.

(2) Annual service fee - due annually by the due date on the invoice: $200.

(a) The annual service fee includes the following services for which no additional fee is required:

(i) filing of power of attorney;

(ii) filing of registered agent; and

(iii) rate, form, report or service contract filing.

(b) The annual service fee is for services that the department will provide during the year. The fee is paid in

advance of providing the services.

(3) E-commerce fee: see R590-102-23.

R590-102-8. Captive Insurer Fees.

(1) Initial license application - due with license application: $200.

(2) Initial license application review - due by the due date on the invoice: actual costs incurred by the department to review the application.

(3) Annual license fees:

(a) initial - due by the due date on the invoice: $5,000;

(b) renewal - due by the due date on the invoice: $5,000;

(c) late renewal - due for any renewal paid after the date on the invoice: $5,050;

(d) reinstatement - due with application for reinstatement: $5,050.

(4) Other fees:

(a) e-commerce fee: see R590-102-23; and

(b) examination costs reimbursements from examined captive insurers - due by due date on the invoice: actual costs plus overhead expense.

R590-102-9. Captive Cell Fees.

(1) Initial license application - due with license application: $200.

(2) Initial license application review - due by the due date on the invoice: actual costs incurred by the department to review the application.

(3) Annual license fees:

(a) initial - due by the due date on the invoice: $1,000;

(b) renewal - due by the due date on the invoice: $1,000;

(c) late renewal - due for any renewal paid after the date on the invoice: $1,050.

R590-102-10. Life Settlement Provider Fees.

(1) Annual license fees:

(a) initial - due with application: $1,000;

(b) renewal - due by the due date on the invoice: $300;

(c) late renewal - due for any renewal paid after the date on the invoice: $350;

(d) reinstatement - due with reinstatement application: $1,000.

(2) Annual service fee - due by the due date on the invoice: $600.

(a) The annual service fee includes the following service for which no additional fee is required: rate, form, report or service contract filing.

(b) The annual service fee is for services that the department will provide during the year. The fee is paid in advance of providing the services.

(3) Other fees:

(a) e-commerce fee: see R590-102-23; and

(b) examination costs reimbursements from examined viatical settlement providers - due by due date on the invoice: actual costs plus overhead expense.

R590-102-11. Professional Employer Organization (PEO) Fees.

(1) Annual license fees:

(a) PEO - not certified by an assurance organization:

(i) initial - due with application: $2,000;

(ii) renewal - due by the due date on the invoice: $2,000;

(iii) late renewal - due for any renewal paid after the date on the invoice: $2,050;

(iv) reinstatement - due with reinstatement application: $2,050;

(b) PEO - certified by an assurance organization:

(i) initial - due with application: $2,000;

(ii) renewal - due by the due date on the invoice: $1,000;

(iii) late renewal - due for any renewal paid after the date on the invoice: $1,050;

(iv) reinstatement - due with reinstatement application: $1,050;

(c) PEO - small operator:

(i) initial - due with application: $2,000;

(ii) renewal - due by the due date on the invoice: $1,000;

(iii) late renewal - due for any renewal paid after the date on the invoice: $1,050;

(iv) reinstatement - due with reinstatement application: $1,050.

(5) E-commerce fee: see R590-102-23.

R590-102-12. Individual Resident and Non-Resident License Fees, Other Than Individual Navigators.

(1) Biennial resident and non-resident full-line individual initial license or renewal fee:

(a) initial license fee - due with application: $70:

(b) renewal license fee if renewed prior to license expiration date - due with renewal application: $70;

(c) reinstatement license fee if inactive license is reinstated within one year following the license expiration date - due with application for reinstatement: $120.

(2) Biennial resident and non-resident limited-line individual initial or renewal license fee:

(a) initial license fee - due with application: $45;

(b) renewal license fee if renewed prior to license expiration date - due with renewal application: $45;

(c) reinstatement license fee if inactive license is reinstated within one year following the license expiration date - due with application for reinstatement: $95.

(3) Other license fees: addition of producer classification or line of authority to individual producer license - due with request for additional classification or line of authority: $25.

(4) The biennial initial and renewal full-line producer and limited-line producer fee includes the following services for which no additional fee is required:

(a) issuance of letter of certification;

(b) issuance of letter of clearance;

(c) issuance of duplicate license;

(d) individual continuing education services.

(5) The biennial initial and renewal individual license fee includes services the department will provide during the year. The fee is paid in advance of providing the services.

(6) Other fees:

(a) e-commerce fee: see R590-102-23; and

(b) title insurance product or service approval for dual licensed title licensee form filing fee - due with filing: $25.

R590-102-13. Individual Navigator.

(1) Individual navigator per annual license period:

(a) initial license fee - due with application: $35;

(b) renewal license fee if renewed prior to license expiration date - due with renewal application: $35;

(c) reinstatement license fee if inactive license is reinstated within one year following the license expiration date - due with application for reinstatement: $60.

(2) The annual initial and renewal individual license fee includes the following services for which no additional fee is required:

(a) issuance of letter of certification;

(b) issuance of letter of clearance;

(c) issuance of duplicate license; and

(d) individual continuing education services.

(3) The annual initial and renewal individual license fee includes will provide during the year. The fee is paid in advance of providing the services.

(4) E-commerce fee: see R590-102-23.

R590-102-14. Agency License Fees, Other than Navigator or Bail Bond Agencies.

(1) Biennial resident and non-resident agency initial or renewal license for a full-line agency and for a limited-line agency:

(a) initial license fee - due with application: $75;

(b) renewal license fee if renewed prior to license expiration date - due with renewal application: $75;

(c) reinstatement license fee if inactive license is reinstated within one year following the license expiration date - due with application for reinstatement: $125;

(d) resident title license:

(i) initial license fee - due with application: $100;

(ii) renewal license fee, if renewed prior to license expiration date - due with renewal application: $100.

(iii) reinstatement license fee, if reinstated within one year following the license inactivation date - due with application for reinstatement: $150.

(2) Other license fees: addition of producer classification or line of authority to agency license - due with request for additional classification or line of authority: $25.

(3) The biennial initial and renewal agency license fee includes the following services for which no additional fee is required:

(a) issuance of letter of certification;

(b) issuance of letter of clearance;

(c) issuance of duplicate license;

(d) filing of producer designation to agency license - initial;

(e) filing of producer designation to agency license - termination;

(f) filing of amendment to agency license; and

(g) filing of power of attorney.

(4) E-commerce fee: see R590-102-23.

R590-102-15. Navigator Agency.

(1) Navigator agency per annual license period:

(a) initial license fee - due with application: $40;

(b) renewal license fee if renewed prior to license expiration date - due with renewal application: $40;

(c) reinstatement license fee if inactive license is reinstated within one year following the license expiration date - due with application for reinstatement: $65.

(2) The annual initial and renewal agency license fee includes the following services for which no additional fee is required:

(a) issuance of letter of certification;

(b) issuance of letter of clearance;

(c) issuance of duplicate license;

(d) filing of producer designation to agency license - initial;

(e) filing of producer designation to agency license - termination;

(f) filing of amendment to agency license; and

(g) filing of power of attorney.

(3) E-commerce fee: see R590-102-23.

R590-102-16. Bail Bond Agency.

(1) Annual bail bond agency per annual license period:

(a) initial license fee - due with application: $250;

(b) renewal license fee if renewed prior to license expiration date - due with renewal application: $250;

(c) reinstatement license fee if inactive license is reinstated within one year following the license expiration date - due with application for reinstatement: $300.

(2) The annual initial and renewal agency license fee includes the following services for which no additional fee is required:

(a) issuance of letter of certification;

(b) issuance of letter of clearance;

(c) issuance of duplicate license;

(d) filing of producer designation to agency license - initial;

(e) filing of producer designation to agency license - termination;

(f) filing of amendment to agency license; and

(g) filing of power of attorney.

(3) E-commerce fee: see R590-102-23.

R590-102-17. Continuing Care Provider.

(1) Annual registration fee:

(a) initial - due with application: $6,900;

(b) renewal - due by the due date on the invoice: $6,900;

(c) reinstatement - due with application for reinstatement: $6,950.

(2) Disclosure statement:

(a) initial - due with application: $600;

(b) renewal - due with annual renewal disclosure statement: $600.

(3) E-commerce fee: see R590-102-23.

R590-102-18. Guaranteed Asset Protection.

(1) Annual guaranteed asset protection provider registration fee per annual period:

(a) initial - due with application: $1,000;

(b) renewal - due by the due date on the invoice: $1,000; and

(c) late renewal - due for any renewal paid after the date on the invoice: $1,050.

(2) Annual guaranteed asset protection retail seller assessment per annual period:

(a) annual assessment - due by the due date on the invoice: $50; and

(b) late fee - due for any retail seller assessment fee paid after the due date on the invoice: $50.

R590-102-19. Continuing Education Fees.

(1) Annual continuing education provider license fees per annual license period:

(a) initial license fee - due with application: $250;

(b) renewal license fee if renewed prior to license expiration date - due with renewal application: $250;

(c) reinstatement license fee if inactive license is reinstated within one year following the license expiration date - due with application for reinstatement: $300.

(2) Continuing education course post-approval fee - due with request for approval: $5 per credit hour, minimum fee $25.

R590-102-20. Non-electronic Processing or Payment Fees.

(1) Non-electronic filing processing fee - assessed on a non-electronic filing when the department has provided an electronic filing process and stated the electronic process is the preferred process for receiving a filing - due with each paper non-electronic filing or by the due date on the invoice: $5.

(2) Non-electronic application processing fee - assessed on a non-electronic application when the department has provided an electronic application process and stated the electronic process is the preferred process for receiving an application - due with each paper non-electronic application or by the due date on the invoice: $25.

(3) Non-electronic payment processing fee - assessed on a non-electronic payment when the department has provided an electronic payment process and stated the electronic process is the preferred process for receiving a payment - due with each non-electronic payment or by the due date on the invoice: $25.

R590-102-21. Dedicated Fees.

The following are fees dedicated to specific uses:

(1)(a) annual fraud assessment fee as calculated under Section 31A-31-108 and stated in the invoice - due by the due date on the invoice;

(b) late fee - due for any fraud assessment fee paid after the due date on the invoice: $50;

(2) annual title insurance regulation assessment fee as calculated under Section 31A-23a-415 and Rule R592-10 and stated in the invoice - due by the due date on the invoice;

(3) annual title assessment for the Title Recovery, Education, and Research Fund fee:

(a) individual title licensee applicant for initial license or renewal license - due with the initial application or the renewal application: $15;

(b) agency title licensee applicant - due with the initial application: $1,000;

(c) annual agency title licensee assessment based on annual written title insurance premium - due by the due date on the invoice:

(i) Band A: $0 to $1 million: $125;

(ii) Band B: more than $1 million to $10 million: $250;

(iii) Band C: more than $10 million to $20 million: $375;

(iv) Band D: more than $20 million: $500;

(4)(a) relative value study book fee - due when book purchased or by invoice due date: $10;

(b) annual health insurance actuarial review assessment fee as calculated under Section 31A-30-115 and stated in the invoice - due by the due date on the invoice;

(5)(a) code book - due when book purchased or by invoice due date: $57;

(b) mailing fee for books - due if book is to be mailed to purchaser: $3;

(6) fingerprint fee - due with application for individual license:

(a) Bureau of Criminal Investigation (BCI): $20; and

(b) Federal Bureau of Investigation (FBI): $12;

(7) annual health insurance actuarial review assessment fee as calculated under Section 31A-30-115 and stated in the invoice - due by the due date on the invoice.

R590-102-22. Electronic Commerce Dedicated Fees.

(1) Electronic commerce, e-commerce, and internet technology services fee:

(a) admitted insurer and surplus lines insurer - due with the initial, annual, renewal, or reinstatement application: $75;

(b) captive insurer - due with the initial, annual renewal, or reinstatement application: $250;

(c) other organization including professional employer organization, continuing care provider, and life settlement provider - due with the initial, annual renewal, or reinstatement application: $50;

(d) continuing education provider - due with the initial, annual renewal, or reinstatement application: $20;

(e) agency - due with the initial, biennial renewal, or reinstatement application: $10; and

(f) individual - due with the initial, biennial renewal, or reinstatement application: $5.

(2) Database access fees:

(a) information accessed through an electronic portal set up for that purpose - due when the department's database is accessed to input or acquire data: $3 per transaction;

(b) rate and form filing database access to an electronic public rate and form filing:

(i) a separate fee is assessed per line of insurance accessed (accident and health, life and annuity, or property-casualty);

(ii) each line of insurance accessed is charged the following fees:

(A) a base fee, which entitles the user up to 30 minutes of access, the assistance of staff during that time, and one DVD: $45;

(B) each additional 30 minutes of access time or fraction thereof, including the assistance of staff during that time: $45;

(iii) additional DVD: $2;

(iv) payment due at time of service or by the due date on the invoice.

R590-102-23. Other Fees.

(1) Photocopy fee - per page: $0.50.

(2) Complete annual statement copy fee - per statement: $40.

(3) Fee for accepting service of legal process: $10.

(4) Fees for production of information lists regarding licensees or other information that can be produced by list:

(a) printed list, if the information is already in list format and only needs to be printed or reprinted: $1 per page;

(b) electronic list compiled by accessing information stored in the Department's database:

(i) a separate fee is assessed for each list compiled;

(ii) each list is assessed one or more of the following fees:

(A) a base fee, which entitles the requestor up to 30 minutes of staff time to draft the information query, compile the information, prepare a CD, and prepare a CD for mailing to the requestor -- due with request for information: $50;

(B) each additional 30 minutes or fraction thereof to draft the information query, compile the information, prepare a CD, and prepare a CD for mailing to the requestor - due by the due date on the invoice: $50;

(iii) additional CD - due by the due date on the invoice: $1.

(5) Returned check fee: $20.

(6) Workers compensation loss cost multiplier schedule: $5.

(7) Address correction fee - assessed when department has to research and enter new address for a licensee - due by the due date on the invoice: $35.

(8) Independent Review Organization. Initial application fee - due with application: $250.

(9) Withdrawal from writing a line of insurance or reducing total annual premium volume by 75% or more - due with plan of orderly withdrawal submission: $50,000.

(10) Administrative disciplinary action removal from public access on Insurance Department controlled website - due with application: $185.

R590-102-24. Severability.

If any provision or clause of this rule or its application to any person or situation is held invalid, that invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

KEY: insurance fees
February 8, 2018 **31A-3-103**
Notice of Continuation December 12, 2016

R600. Labor Commission, Administration.
R600-1. Declaratory Orders.
R600-1-1. Purpose.

A. As required by Section 63G-4-503, this rule provides the procedures for submission, review, and disposition of petitions for agency declaratory orders on the applicability of statutes, rules and orders governing or issued by the agency.

B. In order of importance, procedures governing declaratory orders are:

(1) procedures specified in this rule pursuant to Chapter 46b of Title 63, U.C.A.;

(2) the applicable procedures of Chapter 46b of Title 63;

(3) applicable procedures of other governing state and federal law; and

(4) the Utah Rules of Civil Procedure.

R600-1-2. Definitions.

Terms used in this rule are defined in Section 63G-4-103, except and in addition:

A. "Applicability" means a determination if a statute, rule, or order should be applied, and if so, how the law stated should be applied to the facts.

B. "Declaratory Order" means an administrative interpretation or explanation of rights, status, and other legal relations under a statute, rule or order.

C. "Director" means the agency head or governing body with jurisdiction over the Agency's adjudicative proceedings.

R600-1-3. Petition Form and Filing.

A. The petition shall be addressed and delivered to the director, who shall mark the petition with the date of receipt.

B. The petition shall:

(1) be clearly designated as a request for an agency declaratory order;

(2) identify the statute, rule, or order to be reviewed;

(3) describe in detail the situation or circumstances in which applicability is to be reviewed;

(4) describe the reason or need for the applicability review, addressing in particular, why the review should not be considered frivolous;

(5) include an address and telephone number where the petitioner can be contacted during regular work days; and

(6) be signed by the petitioner.

R600-1-4. Reviewability.

The agency shall not issue a declaratory order if the subject matter is:

A. not within the jurisdiction and competence of the agency;

B. frivolous, trivial, irrelevant, or immaterial;

C. likely to substantially prejudice the rights of a person who would be a necessary party, unless that person consents in writing to the determination of the matter by a declaratory proceeding;

D. one in which the person requesting the declaratory order has participated in a completed or on-going adjudicative proceeding concerning the same issue within the past 12 months; or

E. otherwise excluded by state or federal law.

R600-1-5. Intervention.

A person may file a petition for intervention in a declaratory proceeding only if they deliver to the director a petition complying with all of the requirements of Section 63G-4-207 within 20 days of the director's receipt of the petition for a declaratory order filed under Section 63G-4-503(4).

R600-1-6. Petition Review and Disposition.

A. The agency will be governed by the provisions of Sections 63G-4-503(6) and (7).

B. Petitions seeking declaratory orders will be designated as informal adjudicative proceedings.

R600-1-7. Administrative Review.

A. Petitioner may seek reconsideration of a declaratory order by petitioning the director under the procedures of Section 63G-4-302.

KEY: labor commission, declaratory orders
1988 34A-1-104
Notice of Continuation February 26, 2018 63G-4-504 et seq.

R612. Labor Commission, Industrial Accidents.
R612-100. Workers' Compensation Rules - General Provisions.
R612-100-1. Authority.

These rules are enacted pursuant to the following statutory authority:

A. Section 34A-1-104 of the Utah Labor Commission Act;

B. Section 34A-2-103, 34A-2-201.3, 34A-2-407 and 34A-2-412 of the Utah Workers' Compensation Act;

C. Section 34A-2-1001 et seq. of the Workers'; Compensation Coverage Waiver Act;

D. Section 59-9-101 of the Taxation of Admitted Insurers Act;

E. Section 63G-4-202(1) of the Utah Administrative Procedures Act; and

F. Section 78B-8-404 of Chapter 8, Title 78B, Utah Code Annotated.

R612-100-2. Definitions.

A. "Administrative Law Judge" or "ALJ" means a person designated by the Commission to hear and decide disputed cases.

B. "Claimant" means an injured employee, dependent(s)of an injured employee, medical providers, or any other person seeking relief or claiming benefits under the Utah Workers' Compensation Act or Utah Occupational Disease Act.

C. "Award" means a determination of the Commission, Appeals Board or Administrative Law Judge of the benefits due a claimant.

D. "Benefits" includes any payment, entitlement, or other relief provided under the Utah Workers' Compensation Act or Utah Occupational Disease Act.

E. "Commission" means the Utah Labor Commission.

F. "Defendant" means an employer, insurance carrier, Employers' Reinsurance Fund, Uninsured Employers' Fund or other person or entity against whom a claim for benefits is made.

G. "Division" means the Division of Industrial Accidents within the Commission.

H. "Disabled Injured Worker" means an injured worker who:

1. because of the injury or disease that is the basis for the employee being an injured worker:

a. is or will be unable to return to work in the injured worker's usual and customary occupation; or

b. is unable to perform work for which the injured worker has previous training and experience; and

2. reasonably can be expected to attain gainful employment after an evaluation provided for in accordance with Section 34A-2-413.5.

I. "Employer" is defined in Section 34A-2-103 of the Utah Workers Compensation Act and includes self-insured employers and uninsured employers.

J. "First Aid" is medical care that is:

1. administered on-site or at an employer-sponsored free clinic; and

2. limited to the following:

a. non-prescription medications at non-prescription strength:

b. tetanus immunizations;

c. cleaning and applying bandages to skin surface wounds;

d. hot or cold packs, contrast baths and paraffin;

e. non-rigid support, such as elastic bandages, wraps, and back belts;

f. temporary immobilization devices for transporting an accident victim, such as splints, slings, neck collars, or back boards;

g. drilling a fingernail or toenail to relieve pressure, or draining fluids from blisters;

h. eye patches or use of simple irrigation or a cotton swab to remove foreign bodies not embedded in or adhering to an eye;

i. use of irrigation, tweezers, or cotton swab to remove splinters or foreign material;

j. finger guards;

k. massages;

l. drinking fluids to relieve heat stress.

3. "First aid" is limited to initial treatment and one follow-up visit within a seven-day period after the initial treatment, except that if first aid treatment was provided by a licensed health professional in an employer-sponsored free clinic, first aid includes initial treatment and two follow-up visits within a fourteen-day period after the initial treatment.

4. "First aid" does not include any treatment of a work injury that results in:

a. loss of consciousness;

b. loss of work;

c. restriction of work;

d. transfer to another job.

K. "Injury" includes work-related accidental injury and occupational disease.

L. "Insurance Carrier" includes any worker's compensation insurance carriers, self-insured employer and self-insured employer's adjusting company, unless otherwise specified.

M. "Payor" means any insurance carrier, self-insured employer, or uninsured employer that is liable for any benefit or other relief under the Utah Workers' Compensation Act or Utah Occupational Disease Act.

N. "Usual and Customary Rate (UCR)" is the rate of payment using Ingenix, or a similar service, for charges for services in a particular zip code.

R612-100-3. Forms Used By Industrial Accidents Division.

A. Physician's Initial Report of Work Injury Or Occupational Disease - Form 123. This form is used by physicians to report initial treatment of injured employees as required by Subsection R612-300-4.A. This form must be completed by the physician for any treatment for which a bill is generated, and for any treatment beyond "first aid" as that term is defined in Section R612-100-2.

B. Restorative Services Authorization - Forms 221a (Spine), 221b (Upper Extremity), and 221c (Lower Extremity). These forms must be used by any medical provider billing under the "Restorative Services" provisions of Subsection R612-300-5.G.

C. Statement of Benefits Paid by Insurance Carrier or Uninsured Employer - Form 141. This form is used by insurance carriers and uninsured employers to report the initial benefits paid to a claimant as required by Subsection R612-200-1.C.1.c.

D. Employee Notification of Denial of Claim - Form 089. This form is used by insurance carriers or uninsured employers, as required by Subsection R612-200-1.C.1.b. to notify a claimant of the reasons that the claim has been denied.

E. Statement of Suspension of Benefits - Form 142. An insurance carrier or uninsured employer must use this form to notify a claimant if disability compensation benefits are to be suspended. The form must specify the reason for suspension. The form shall be mailed to the employee and filed with the Division five days before the suspension occurs. Suspension of benefits shall not occur until 5 days after the form is mailed and filed.

F. Final Report of Injury and Statement of Losses - Form 130. This form is used by insurance carriers and uninsured employers to report the total losses occurring in each claim. This form must be filed with the Division within 30 days from closure of each claim and shall include all payments, including medical, disability compensation, dependent's benefits, and any other payments.

G. Dependents' Benefit Order - Form 151. This form is used by the Division in all accidental death cases where no issue of liability for the death or establishment of dependency is raised and only one household of dependents is involved. The carrier indicates acceptance of liability by completing the top half of the form and filing it with the Division.

H. Medical Information Authorization - Form 046. This form is used to release the applicant's medical records for use by the Commission or its subdivisions.

I. Application to Change Doctors - Form 102. This form must be submitted by an injured worker seeking to change physicians as provided by Subsection R612-300-2.D.3.

J. Notice of Intent to Leave State - Form 044. As required by Subsection R612-300-2.F. an injured worker must submit this form, together with Form 043, "Attending Physician's Statement," to the Division prior to the injured worker's change of residency from Utah to another locale.

K. Attending Physician's Statement - Form 043. As required by Subsection R612-300-2.F., this form must be completed by an injured worker and his Utah attending physician and then submitted to the Division with Form 044 before the injured worker changes residency from Utah to another locale.

L. Statement of Compensation - Form 219. As required by Section R612-200-5, insurance carriers and uninsured employers shall use this form to notify injured workers or dependents of the basis upon which compensation has been computed.

M. Request for Copies from Claimant's File - Form 205. This form is used to request copies from a claimant's file in the Commission with the appropriate authorized release.

N. Reemployment Program Forms.

1. "Initial Assessment Report - Form 206" - This form is completed either by the self-insured employer, the workers' compensation insurance provider, or by a rehabilitation agency contracted by the employer/carrier. The report contains claimant demographics and insurance coverage details, and addresses the issue of need for vocational assistance.

2. "Request for Decision of Administrative Review - Form 207" - This form is completed when the employee wishes to contest the information/decision made by the carrier or rehabilitation agency.

3. "U.S.O.R. Rehabilitation Progress Report - Form 208A" - This form shall be requested from the Utah State Office of Rehabilitation at each stage of the reemployment process (eligibility determination, reemployment plan development/implementation and case closure) or at any interruption of the process. An Individualized Written Rehabilitation Program (USOR 5 IWRP) shall also be requested when a plan is developed. All other private rehabilitation providers shall submit a Form 206 for any plan progress, postponement, or interruption in the plan.

4. "Reemployment Plan - Form 209" - This form is used for either an original or amended work plan. The form contains the details and estimated costs in returning the injured worker to the work force.

5. "Reemployment Plan Closure Report - Form 210" - This form is submitted to the Division upon completion of the reemployment plan. The closure report shall detail costs by category either by dollar amounts or time expended (only in the categories of evaluation and counseling). The report shall also contain all the details on the return to work.

6. "Application for Certification as a Reemployment Provider - Form 212" - This form is completed by rehabilitation providers who wish to be certified by the Division. It contains provider demographics, Utah staff credentials, services/fees, and references.

7. "Administrative Review Determination - Form 213" - This form is used by the Division to summarize the outcome of the administrative review.

O. Medical Records - Form 302. This form is used by a claimant to request a free copy of his or her medical records from a medical provider. This form must be signed by a staff member of the Division.

R612-100-4. Designation as Informal Proceedings.

A. Pursuant to Section 63G-4-202, the following are designated as informal adjudicatory proceedings:

1. Assessment of penalty under Section 34A-2-211 against an employer conducting business without obtaining workers' compensation coverage;

2. Assessment of penalty under Section 34A-2-201.3 against an insured employer for direct payment of workers' compensation benefits; and

3. Assessment of penalty under Section 34A-2-407 against an employer or insurance carrier who does not timely report an industrial accident.

4. Assessment of penalty under Section 34A-2-205 against an insurance carrier for improperly notifying the division of coverage written in this state or for this state.

B. All subsequent adjudicative proceedings in the above-identified matters are designated as formal proceedings.

KEY: workers' compensation, administrative procedures
December 8, 2015 34A-2-101 et seq.
Notice of Continuation February 8, 2018 34A-3-101 et seq.
34A-1-104 et seq.
63G-4-102 et seq.

R612. Labor Commission, Industrial Accidents.
R612-200. Workers' Compensation Rules - Filing and Paying Claims.
R612-200-1. Reporting and Investigating Injuries.

A. Employers' Duty to Report Work Injuries.

1. An employer is not required to report an injury that requires only first aid treatment, as defined by Subsection R612-100-3.A.

2. Except for injuries treated only by first aid, an employer shall report each employee work injury within 7 days after receiving initial notice of the injury, as follows:

a. An employer that has obtained workers' compensation insurance shall report the injury to its insurance carrier.

b. An employer that has received Division authorization to self-insure shall report the injury to its claims administrator.

c. An employer that has failed to obtain worker's compensation coverage shall report the injury by contacting the Division directly.

3. An employer has notice of a work injury upon the earliest of:

a. Observation of the injury;

b. Verbal or written notice of the injury from any source; or

c. Receipt of any other information sufficient to warrant further inquiry by the employer.

B. Submitting Reports of Injury to the Division.

1. Except for injuries treated only by first aid as defined by Subsection R612-100-3.A, an insurance carrier, self-insured claim administrator, or uninsured employer shall submit a First Report of Injury to the Division within fourteen days after receiving initial notice of the injury.

a. An insurance carrier or self-insured claim administrator has notice of a work injury upon receipt of verbal or written information that includes the name of the employer, the name of the employee and the date of injury.

b. The insurance carrier or self-insured claim administrator shall submit the First Report of Injury to the Division electronically in compliance with the content and formatting requirements of the Industrial Accidents Division Claims EDI Implementation Guide ("EDI Guide" V2.2, 04-19-13) and the Utah Claims R3 EDI Tables ("EDI Tables"; 04-19-13) adopted and incorporated by this reference as part of these rules.

c. An uninsured employer shall report the information required by this subsection as part of the employer's initial contact with the Division required by subsection A.2.c of this rule.

C. Investigation of Claims; Notice to Division and Claimants; Commencement of Benefits.

1. An insurance carrier, self-insured employer, or uninsured employer shall promptly investigate a reported work injury and either accept or deny workers' compensation liability for the claim within 21 days after receiving initial notice of the injury.

a. If, with reasonable diligence, an insurance carrier, self-insured employer, or uninsured employer cannot complete its investigation within 21 days after initial notice, it may complete and submit Division Form 441, "Notice of Further Investigation of a Workers' Compensation Claim" notify the Division and claimant that the matter remains under investigation. The insurance carrier, self-insured employer, or uninsured employer is then allowed 24 days in addition to the initial 21-day period to complete its investigation and accept or deny liability of the claim.

b. An insurance carrier or self-insured employer denying a claim for workers' compensation benefits shall report such denial through current EDI processes. An uninsured employer denying a claim for workers' compensation benefits shall complete and mail to the Division Form 089, "Employee Notification of Denial of Claim" and to the claimant.

c. If the insurance carrier, self-insured employer, or uninsured employer accepts liability for the claim, payment of benefits shall commence within 7 days from the date of acceptance. The insurance carrier, self-insured employer, or uninsured employer shall use Division Form 141, "Statement of Insurance Carrier or Uninsured Employer with Respect to Payment of Benefits" to report the initial benefits paid to a claimant. Form 141 must accompany the first payment to the claimant and must be filed with or mailed to the Division on that same date.

d. An insurance carrier, self-insured employer, or uninsured employer's payment of benefits during investigation of a claim does not prevent subsequent denial of the claim after the investigation is completed.

D. Consequences of Failure to Comply.

1. Pursuant to Subsection 34A-2-407(8) of the Utah Workers' Compensation Act, the Division may impose a civil assessment of up to $500 for an insurance carrier, insured employer, self-insured employer, or uninsured employer's failure, without good cause, to comply with the requirements of this rule.

a. "Good cause" includes a claimant's unreasonable failure to sign requested medical releases or otherwise cooperate in the investigation of a claim.

b. For improperly filed reports, the civil assessment shall be imposed for the report as a whole and not for each data element within a report.

2. In addition to the civil assessment authorized by Subsection 34A-2-407(8), an insurance company or self-insured employer's failure, without good cause, to comply with the requirements of this rule may result in:

a. referral of the insurance company to the Insurance Department for appropriate disciplinary action; or

b. revocation of a self-insured employer's authorization to remain self-insured.

3. The method of issuing the assessments shall be set by the division's policies and procedures.

4. Assessments shall be issued in the form of an order signed by the division's presiding officer and pursuant to the requirements contained in Section 63G-4-203.

5. An aggrieved party may seek agency review of any order pursuant to Section 63G-4-301.

R612-200-2. Payment of Benefits, Interest and Attorney Fees.

A. Timing and payment of benefits. A workers' compensation benefit is due and payable when the claimant has satisfied all legal requirements applicable to that benefit.

1. Payment intervals for compensation. After entitlement to disability compensation or dependent's benefits has been established, such compensation shall be paid in regular intervals of at least once a month, except that TTD and TPD benefits shall be paid twice monthly.

2. Form of payment. A payor may choose to pay benefits by check, debit card or electronic fund transfer, provided that the form of payment allows a claimant to access the full amount of the benefit on the date the payment is due. No fee or charge of any kind may be assessed against the claimant.

3. Employer coordination of employee benefits. Benefits may be paid "in care of" the employer if the employer coordinates employee benefits.

B. Interest. As required by Subsection 34A-2-420(3) of the Utah Workers' Compensation Act, any final order of the Commission awarding benefits will include interest on the principal amount of the benefits at the rate of 8% per annum from the date the benefit or any part thereof was due and payable.

C. Discounting of lump sum payments. Any proposal to pay all or part of a claimant's future workers' compensation

benefits in a present lump sum must be submitted to the Adjudication Division for review and approval. A discount rate of eight percent per annum shall be used to determine the present value of such benefits. The following table may be used to determine a benefit's present value by interpolating, when necessary, the weeks to be discounted between the weeks listed on the table.

TABLE

Unaccrued Weeks	X	Weekly Benefit $	X	Cumulative Discount	=	Discount $
1				.001475		
10				.008076		
20				.015343		
30				.022538		
40				.029663		
50				.036719		
60				.043706		
70				.050626		
80				.057478		
90				.064264		
100				.070984		
110				.077639		
120				.084229		
130				.090756		
140				.097221		
150				.103623		
160				.109963		
170				.116243		
180				.122463		
190				.128623		
200				.134724		
210				.140767		
220				.146752		
230				.152680		
240				.158552		
250				.164368		
260				.170129		
270				.175835		
280				.181488		
290				.187087		
300				.192633		
312				.199219		

R612-200-3. Statement of Compensation.

At the time a payor first pays permanent partial disability compensation or dependent's benefits to a claimant, the payor shall complete Form 219 "Statement of Compensation." The completed form and supporting documents shall be mailed to the claimant or dependents but need not be filed with the Division unless requested.

R612-200-4. Insurance Carrier/Employer Liability.

A. This rule governs responsibility for payment of benefits for a work injury when:

1. The claimant's entitlement to benefits is not in dispute; and

2. There is a dispute between payors regarding their respective liability for such benefits because the claimant has suffered separate compensable injuries which are the liability of the different payors.

B. In cases meeting the criteria of subsection A, the payor providing coverage for the most recent compensable injury shall advance benefits to the claimant. The benefits advanced shall be limited to medical benefits and temporary total disability compensation and shall be paid according to the entitlement in effect on the date of the earliest related injury.

1. The payor advancing benefits shall notify the non-advancing payor within the time periods established by Subsection R612-200-1.B, that benefits are to be advanced pursuant to this rule.

2. The payor not advancing benefits, upon notification from the advancing payor, shall notify the advancing payor within 10 working days of any potential defenses or limitations of the non-advancing payor's liability.

C. Payors are encouraged to settle liabilities pursuant to this rule.However, any party may file a request for agency action with the Commission for determination of liability for the benefits at issue.

D. The medical utilization decisions of the payor advancing benefits pursuant to this rule shall be presumed reasonable with respect to the issue of reimbursement.

R612-200-5. Permanent Total Disability.

A. This rule applies to claims for permanent total disability compensation under the Utah Workers' Compensation Act.

1. Subsection B applies to permanent total disability claims arising from accident or disease prior to May 1, 1995.

2. Subsection C applies to permanent total disability claims arising from accident or disease on or after May 1, 1995.

B. For claims arising from accident or disease on or after July 1, 1988 and prior to May 1, 1995, the Commission is required under Section 34A-2-413, to make a finding of total disability as measured by the substance of the sequential decision-making process of the Social Security Administration under Title 20 of the Code of Federal Regulations, amended April 1, 1993. The use of the term "substance of the sequential decision-making process" is deemed to confer some latitude on the Commission in exercising a degree of discretion in making its findings relative to permanent total disability. The Commission does not interpret the code section to eliminate the requirement that a finding by the Commission in permanent and total disability shall in all cases be tentative and not final until rehabilitation training and/or evaluation has been accomplished.

1. In the event that the Social Security Administration or its designee has made, or is in the process of making, a determination of disability under the foregoing process, the Commission may use this information in lieu of instituting the process on its own behalf.

2. In evaluating industrial claims in which the injured worker has qualified for Social Security disability benefits, the Commission will determine if a significant cause of the disability is the claimant's industrial accident or some other unrelated cause or causes.

3. To make a tentative finding of permanent total disability the Commission incorporates the rules of disability determination in 20 CFR 404.1520, amended April 1, 1993. The sequential decision making process referred to requires a series of questions and evaluations to be made in sequence. In short, these are:

a. Is the claimant engaged in a substantial gainful activity?

b. Does the claimant have a medically severe impairment?

c. Does the severe impairment meet or equal the duration requirement in 20 CFR 404.1509, amended April 1, 1993, and the listed impairments in 20 CFR Subpart P Appendix 1, amended April 1, 1993?

d. Does the impairment prevent the claimant from doing past relevant work?

e. Does the impairment prevent the claimant from doing any other work?

4. After the Commission has made a tentative finding of permanent total disability:

a. In those cases arising after July 1,1994, the Commission shall order initiation of payment of permanent total disability compensation;

b. the Commission shall review a summary of reemployment activities undertaken pursuant to the Utah Injured Worker Reemployment Act, as well as any qualified reemployment plan submitted by the employer or its insurance carrier; and

c. unless otherwise stipulated, the Commission shall hold a hearing to consider the possibility of rehabilitation and reemployment of the claimant pending final adjudication of the claim.

5. After a hearing, or waiver of the hearing by the parties,

the Commission shall issue an order finding or denying permanent total disability based upon the preponderance of the evidence and with due consideration of the vocational factors in combination with the residual functional capacity which the commission incorporates as published in 20 CFR 404 Subpart P Appendix 2, amended April 1, 1993.

C. For permanent total disability claims arising on or after May 1, 1995, Section 34A-2-413 requires a two-step adjudicative process. First, the Commission must make a preliminary determination whether the applicant is permanently and totally disabled. If so, the Commission will proceed to the second step, in which the Commission will determine whether the applicant can be reemployed or rehabilitated.

1. First Step - Preliminary Determination of Permanent Total Disability: On receipt of an application for permanent total disability compensation, the Adjudication Division will assign an Administrative Law Judge to conduct evidentiary proceedings to determine whether the applicant's circumstances meet each of the elements set forth in Subsections 34A-2-413(1)(b) and (c).

(a) If the ALJ finds the applicant meets each of the elements set forth in Subsections 34A-2-413(1)(b) and (c), the ALJ will issue a preliminary determination of permanent total disability and shall order the employer or insurance carrier to pay permanent total disability compensation to the applicant pending completion of the second step of the adjudication process. The payment of permanent total disability compensation pursuant to a preliminary determination shall commence as of the date established by the preliminary determination and shall continue until otherwise ordered.

(b) A party dissatisfied with the ALJ's preliminary determination may obtain additional agency review by either the Labor Commissioner or Appeals Board pursuant to Subsection 34A-2-801(3). If a timely motion for review of the ALJ's preliminary determination is filed with either the Labor Commissioner or Appeals Board, no further adjudicative or enforcement proceedings shall take place pending the decision of the Commissioner or Board.

(c) A preliminary determination of permanent total disability by the Labor Commissioner or Appeals Board is a final agency action for purposes of appellate judicial review.

(d) Unless otherwise stayed by the Labor Commissioner, the Appeals Board or an appellate court, an appeal of the Labor Commissioner or Appeals Board's preliminary determination of permanent total disability shall not delay the commencement of "second step" proceedings discussed below or payment of permanent total disability compensation as ordered by the preliminary determination.

(e) The Commissioner or Appeals Board shall grant a request for stay if the requesting party has filed a petition for judicial review and the Commissioner or Appeals Board determine that:

(i) the requesting party has a substantial possibility of prevailing on the merits;

(ii) the requesting party will suffer irreparable injury unless a stay is granted; and

(iii) the stay will not result in irreparable injury to other parties to the proceeding.

2. Second Step - Reemployment and Rehabilitation: Pursuant to Subsection 34A-2-413(6), if the first step of the adjudicatory process results in a preliminary finding of permanent total disability, an additional inquiry must be made into the applicant's ability to be reemployed or rehabilitated, unless the parties waive such additional proceedings.

(a) The ALJ will hold a hearing to consider whether the applicant can be reemployed or rehabilitated.

(i) As part of the hearing, the ALJ will review a summary of reemployment activities undertaken pursuant to the Utah Injured Worker Reemployment Act;

(ii) The employer or insurance carrier may submit a reemployment plan meeting the requirements set forth in Subsection 34A-2-413(6)(a)(ii) and Subsections 34A-2-413(6)(d)(i) through (iii).

(b) Pursuant to Subsection 34A-2-413(4)(b) the employer or insurance carrier may not be required to pay disability compensation for any combination of disabilities of any kind in excess of the amount of compensation payable over the initial 312 weeks at the applicable permanent total disability compensation rate.

(i) Any overpayment of disability compensation may be recouped by the employer or insurance carrier by reasonably offsetting the overpayment against future liability paid before or after the initial 312 weeks.

(ii) An advance of disability compensation to provide for the employee's subsistence during the rehabilitation process is subject to the provisions of Subsection 34A-2-413(4)(b), described in subsection 2.(b) above, but can be funded by reasonably offsetting the advance of disability compensation against future liability normally paid after the initial 312 weeks.

(iii) To fund an advance of disability compensation to provide for an employee's subsistence during the rehabilitation process, a portion of the stream of future weekly disability compensation payments may be discounted from the future to the present to accommodate payment. Should this be necessary, the employer or insurance carrier shall be allowed to reasonably offset the amounts paid against future liability payable after the initial 312 weeks. In this process, care should be exercised to reasonably minimize adverse financial impact on the employee.

(iv) In the event the parties cannot agree as to the reasonableness of any proposed offset, the matter may be submitted to an ALJ for determination.

(c) Subsections 34A-2-413(7) and (9) require the applicant to fully cooperate in any evaluation or reemployment plan. Failure to do so shall result in dismissal of the applicant's claim or reduction or elimination of benefit payments including disability compensation and subsistence allowance amounts, consistent with the provisions of Section 34A-2-413(7) and (9).

(d) Subsection 34A-2-413(6) requires the employer or its insurance carrier to diligently pursue any proffered reemployment plan. Failure to do so shall result in a final award of permanent total disability compensation to the applicant.

(e) If, after the conclusion of the foregoing "second step" proceeding, the ALJ concludes that successful rehabilitation is not possible, the ALJ shall enter a final order for continuing payment of permanent total disability compensation. The period for payment of such compensation shall commence on the date the employee became permanently and totally disabled, as determined by the ALJ.

(f) Alternatively, if after the conclusion of the "second step" proceeding, the ALJ concludes that successful rehabilitation and/or reemployment is possible, the ALJ shall enter a final order to that effect, which order shall contain such direction to the parties as the ALJ shall deem appropriate for successful implementation and continuation of rehabilitation and/or reemployment. As necessary under the particular circumstances of each case, the ALJ's final order shall provide for reasonable offset of payments of any disability compensation that constitute an overpayment under Subsection 34A-2-413(4)(b).

(g) The ALJ's decision is subject to all administrative and judicial review provided by law.

D. For purposes of this rule, the following standards and definitions apply:

1. Other work reasonably available: Subject to medical restrictions and other provisions of the Act and rules, other work is reasonably available to a claimant if such work meets the following criteria:

a. The work is either within the distance that a resident of

the claimant's community would consider to be a typical or acceptable commuting distance, or is within the distance the claimant was traveling to work prior to his or her accident;

b. The work is regular, steady, and readily available; and

c. The work provides a gross income at least equivalent to:

(1) The current state average weekly wage, if at the time of the accident the claimant was earning more than the state average weekly wage then in effect; or

(2) The wage the claimant was earning at the time of the accident, if the employee was earning less than the state average weekly wage then in effect.

2. Cooperation: As determined by an administrative law judge, an employee is not entitled to permanent total disability compensation or subsistence benefits unless the employee fully cooperates with any evaluation or reemployment plan. The ALJ will evaluate the cooperation of the employee using, but not limited to, the following factors: attendance, active participation, effort, communication with the plan coordinator, and compliance with the requirements of the vocational plan. In determining if these factors were met, the ALJ shall consider relevant changes in the employee's documented medical condition.

3. Diligent Pursuit: The employer or its insurance carrier shall diligently pursue the reemployment plan. The ALJ will evaluate the employer or insurance carrier's diligent pursuit of the plan using, but not limited to, the following factors: timely payment of expenses and benefits outline in the vocational plan, and as required by the educational institution providing the vocational training, communication with the employee, compliance with the requirements of the vocational plan, and timely modification of the plan as required by documented changes in the employee's medical condition.

4. Resolution of disputes regarding "cooperation" and "diligent pursuit": If a party believes another party is not cooperating with or diligently pursing either the evaluations necessary to establish a plan, or the requirements of an approved reemployment or rehabilitation plan, the aggrieved party shall submit to the workers' compensation mediation unit an outline of the specific instances of non-cooperation or lack of diligence. Other parties may submit a reply. The Mediation Unit will promptly schedule mediation to reestablish cooperation among the parties necessary to evaluate or comply with the plan. If mediation is unsuccessful, a party may request the Adjudication Division resolve the dispute. The Adjudication Division will conduct a hearing on the matter within 30 days and shall issue a written decision within 10 days thereafter.

R612-200-6. Burial Expenses.

1. The Commission adopts this rule pursuant to authority granted by Section 34A-2-418 of the Utah Workers' Compensation Act.

2. If death results from a work injury, burial expenses up to $9,000 shall be paid. Unusual circumstances may require additional payment, either voluntarily or through Commission order.

3. During each even-numbered year the Commission shall review this rule and make such adjustments as are necessary so that payment of burial expense required by this rule remains equitable when compared to the average cost of burial in this state.

KEY: workers' compensation, filing deadlines, time, administrative proceedings
November 28, 2016 34A-2-101 et seq.
Notice of Continuation February 8, 2018 34A-3-101 et seq.
34A-1-104

R612. Labor Commission, Industrial Accidents.
R612-300. Workers' Compensation Rules - Medical Care.
R612-300-1. Purpose, Scope and Definitions.

A. Purpose and scope. Pursuant to authority granted the Utah Labor Commission under Subsection 34A-2-407(9) and Subsection 34A-2-407.5(1) of the Utah Workers' Compensation Act, these rules establish:

1. Reasonable fees for medical care necessary to treat workplace injuries;

2. Standards for disclosure of medical records;

3. Reporting requirements; and

4. Treatment protocols and quality care guidelines.

B. Definitions. The following definitions apply within Rule R612-300:

1. "Heath care provider" is defined by Subsection 34A-2-111(1)(a) as "a person who furnishes treatment or care to persons who have suffered bodily injury" and includes hospitals, clinics, emergency care centers, physicians, nurses and nurse practitioners, physician's assistants, paramedics and emergency medical technicians.

2. "Injured worker" is an individual claiming workers' compensation medical benefits for a work-related injury or disease.

3. "Payor" is the entity responsible for payment of an injured worker's medical expenses';

4. "Physician" is defined by Subsection 34A-2-111(1)(b) to include any licensed podiatrist, physical therapist, physician, osteopath, dentist or dental hygienist, physician's assistant, naturopath, acupuncturist, chiropractor, or advance practice registered nurse.

5. "Workplace injury" is an injury or disease compensable under either the Utah Workers' Compensation Act or the Utah Occupational Disease Act.

R612-300-2. Obtaining Medical Care for Injured Workers.

A. Right of payor to designate initial health care provider.

1. A Payor may adopt managed health care programs. Such programs may designate specific health care providers as "preferred providers" for providing initial medical care for injured workers.

2. A preferred provider program must allow an injured worker to select from two or more health care providers to obtain necessary medical care. At the time a preferred provider program is established, the payor must notify employees of the requirements of the program.

3. If the requirement of subsection A.2. are met, an injured worker subject to a preferred provider program must seek initial medical care from a preferred provider unless:

a. No preferred provider is available;

b. The injured worker believes in good faith that his or her medical condition is not a workplace injury; or

c. Travel to a preferred provider is unduly burdensome.

4. If an injured worker who is subject to a preferred provider program fails to obtain initial medical care from a preferred provider, the payor's liability for the cost of such initial medical care is limited to the amount the payor would have paid a preferred provider. The injured worker may be held personally liable for the remaining balance.

B. Liability for medical expense incurred at payor's direction. If a payor directs an injured worker to obtain an initial medical assessment of a possible work injury, the payor is liable for the cost of such assessment.

1. A medical provider performing an initial assessment must obtain the payor's preauthorization for any diagnostic studies beyond plain x-rays.

C. Injured worker's right to select provider after initial medical care. After an injured worker has received initial care from a preferred provider, the injured worker may obtain subsequent medical care from a qualified provider of his or her choice. The payor is liable for the expense of such medical care.

1. An injured worker's right to select medical providers is subject to subsection D. of this rule, "Limitations to Injured Worker's Right to Change Physicians."

D. Limitations on injured worker's right to change physicians.

1. An injured worker may change health care providers one time without obtaining permission from the payor. The following circumstances DO NOT constitute a change of health care provider:

a. A treating physician's referral of the injured worker to another health care provider for treatment or consultation;

b. Transfer of treatment from an emergency room to a private physician, unless the emergency room was designated as the payor's preferred provider;

c. Medically necessary emergency treatment;

d. A change of physician necessitated by the treating physician's failure or refusal to rate a permanent partial impairment.

2. The injured worker shall promptly report any change of provider to the payor.

3. After an injured worker has exercised his or her one-time right to change health care providers, the worker must request payor approval of any subsequent change of provider. If the payor denies or fails to respond to the request, the injured worker may request approval from the Director of the Division of Industrial Accidents. The Director will authorize a change of provider if necessary for the adequate medical treatment of the injured worker or for other reasonable cause.

4. An injured worker who changes health care providers without payor or Division approval may be held personally liable for the non-approved provider's fees.

E. Hospital or surgery pre-authorization. Except when immediate surgery or hospitalization is medically necessary on an emergency basis, surgery or hospitalization must be pre-authorized by the payor.

1. Within two working days of receipt of a request for authorization, the payor shall notify the physician and injured worker that the request is either approved or denied, or is undergoing medical review.

2. Any medical review of a pending request for authorization must be conducted promptly.

F. Notification required from injured workers leaving Utah. Section 34A-2-604 of the Workers' Compensation Act requires injured workers receiving medical care for a workplace injury to notify the Industrial Accidents Division before leaving the state or locality. Division forms 043 and Form 044 are to be used to provide such notice.

G. Injured worker's right to privacy. No agent of the payor may be present during an injured worker's medical care without the consent of the injured worker. However, if the payor's agent is excluded from a medical visit, the physician and the injured worker shall meet with the agent at the conclusion of the visit or at some other reasonable time so as to communicate regarding medical care and return-to-work issues.

H. Payor's right of medical examination. The payor may arrange for the medical examination of an injured worker at any reasonable time and place. A copy of the medical examination report shall be made available to the Commission upon request.

R612-300-3. Required Reports.

A. Form 123, Physician's Initial Report. Within one week after providing initial medical care to an injured worker, a health care provider shall complete "Form 123 - Physicians' Initial Report." The provider shall fully complete Form 123 according to its instructions. The provider shall then file Form 123 with the Division and payor.

1. Form 123 must be completed and filed for every initial visit for which a bill is generated, including first aid, when the

worker reports that his or her medical condition is work related.

2. If initial medical care is provided by any health care provider other than a physician, Form 123 must be countersigned by the supervising physician.

B. Form 221, Restorative Services Authorization. Form 221, "Restorative Services Authorization Form" required by Subsection R612-300-5. C. 7. shall be filed with both the payor and the Division.

C. Forms 043, Employee's Intent to Leave State, and Form 044, Attending Physician's Statement. These forms are to be submitted to the Division before an injured worker leaves Utah.

D. Form 110, Release to Return to Work. Form 110 shall be mailed by either the health care provider or payor to the injured worker and Division within five calendar days after the health care provider releases the injured worker to return to work.

R612-300-4. General Method For Computing Medical Fees.

A. Adoption of "CPT" and "RBRVS." The Labor Commission hereby adopts and by this reference incorporates:

"Optum 2017 The Essential RBRVS, 2017 1st Quarter Update," designated as RBRC17/U1787 and U1787R ("RBRVS" hereafter).

B. Medical fees calculated according to the RBRVS relative value unit assigned to each CPT code. Unless some other provision of these rules specifies a different method, the RBRVS is to be used in conjunction with the "conversion factors" established in subsection C. of this rule to calculate payments for medical care provided to injured workers.

C. Conversion Factors. Fees for medical care of injured workers shall be computed by determining the relative value unit ("RVU") assigned by the RBRVS to a CPT code and then multiplying that RVU by the following conversion factors for specific medical specialties:

1. Anesthesiology (1 unit per 15 minutes of anesthesia): $65.00;

2. Medicine (Evaluation and Medicine Codes 99201 - 99204 and 99211-99214): $50.00;

3. Pathology and Laboratory: $56.00;

4. Radiology: $58.00;

5. Restorative Services: $50.00;

6. Surgery (all 20000 codes, codes 49505 thru 49525, and all 60000 codes): $65.00;

7. Other Surgery: $43.00.

D. Fees for Medical care not addressed by CPT/RBRVS, or requiring unusual treatment.

1. The payor and medical provider may establish and agree to a reasonable fee for medical care of an injured worker if:

a. neither the CPT/RBRVS or any other provision of these rules address the medical care in question; or

b. application of CPT/RBRVS or other provisions of these rules would result in an inadequate fee due to extraordinary difficulty of treatment.

2. If the medical provider and payor cannot agree to a reasonable fee in such cases, the provider can request a hearing before the Commission's Adjudication Division to establish a reasonable fee.

R612-300-5. Fees for Specific Procedures.

A. Needle procedures: Trigger point injections are reported per muscle. Payment under CPT code 20553 for injections of up to three muscles is the maximum allowed for any one treatment session, regardless of the number of muscles treated.

B. Radiology.

1. The cost of radioisotopes, gadolinium and comparable materials may be charged at the provider's cost plus 15%.

2. When x-rays are reviewed as part of an independent evaluation of the patient, a consultation, or other office visit, the review is included as a part of the basic service to the patient and may not be billed separately.

C. Restorative Services.

1. The following criteria must be met before payment is allowed for restorative services:

a. The patient's condition must have the potential for restoration of function;

b. The treatment must be prescribed by the treating physician;

c. The treatment must be specifically targeted to the patient's condition; and

d. The provider must be in constant attendance during the providing of treatment.

2. No payment is allowed for CPT codes 97024, diathermy; 97026, infrared therapy; 97028, ultraviolet therapy/cold laser therapy; 97005, athletic training evaluations; 97006, athletic training reevaluation.

3. All restorative services provided must be itemized even if not billed.

4. Medical providers billing under CPT codes 97001 through 97610 are limited to payment for a maximum of three procedures/units per visit, or six procedures if different sites are treated. Services billed under CPT codes 97545, 97546 and 97150 require preauthorization and are limited to 4 units per injury. The payor shall pay the three highest valued procedures for each treatment site for the visit.

5. Patient education is to be billed using CPT code 97535 rather than codes 98960 through 98962, and is limited to 4 units per injury claim.

6. The entire spine is considered to be a single body part or unit. For that reason, CPT codes 98941 through 98943 and 98926 through 98929 may not be used for billing purposes.

7. When a change in treatment or a new RSA is required, physicians and physical therapists may bill for one evaluation and up to 2 modalities/procedures. Without an evaluation, they may bill for up to 3 modalities/procedures. With prior authorization from the payor, physicians and physical therapists may make additional billing when justified by special circumstances.

8. Any medical provider billing for restorative services shall file the appropriate version of Form 221, "Restorative Services Authorization (RSA) form" with the payor and the Division within ten days of the initial evaluation. Subjective/objective/ assessment/plan ("SOAP") notes are to be sent to the payor in addition to the RSA form. SOAP notes are not to be sent to the Division unless requested.

a. Upon receipt of the provider's RSA form and SOAP notes, the payor shall respond within ten days by authorizing a specified number of treatments or denying the request. No more than eight treatments may be provided during this ten-day authorization period.

b. A payor may deny the requested treatments for the following reasons:

i. The injury or disease being treated is not work related; or

ii. The payor has received written medical opinion or other medical information indicating the treatment is not necessary. A copy of such written opinion or information must be provided to the injured worker, the medical provider, and the Division.

c. In cases where approval is received for initial treatment, the provider shall submit updated RSA forms and SOAP notes to the payor for approval or denial at least every six treatments.

d. An injured worker or provider may request a hearing before the Division of Adjudication to resolve issues of compensability, necessity of treatment, and compliance with this subsection's time limits.

D. Functional Capacity Evaluations. The following functional capacity evaluations require payor preauthorization and are billed in 15 minute increments under CPT code 97750:

1. A limited functional capacity evaluation to determine an injured worker's dynamic maximal repetitive lifting, walking, standing and sitting tolerance. Billing for this type of evaluation is limited to a maximum of 45 minutes.

2. A full functional capacity evaluation to determine an injured worker's maximum and repetitive lifting, walking, standing, sitting, range of motion, predicted maximal oxygen uptake, as well as ability to stoop, bend, crawl or perform work in an overhead or bent position. In addition, this evaluation includes reliability and validity measures concerning the individual's performance. Billing for this type of evaluation is limited to a maximum of 2.5 hours.

3. A work capacity evaluation to determine an injured worker's capabilities based on the physical aspects of a specific job description. Billing for this type of evaluation is limited to a maximum of 2 hours.

4. A job analysis to determine the physical aspects of a particular job. Billing is not subject to a maximum time limit due to the variability of factors involved in the analysis.

E. Impairment Ratings and Insurance Medical Examinations.

1. Impairment Rating by Treating Physician. Treating physicians shall bill for preparation of impairment ratings under CPT code 99455, with 2.0 RVU assigned/30 minutes.

2. Impairment Rating by Non-Treating Physician. Non-treating physicians may bill for preparation of impairment ratings under CPT code 99456, with 2.65 RVU assigned/30 minutes.

3. Medical Evaluations Commissioned by Payors. The Labor Commission does not regulate fees for medical evaluations requested by payors.

F. Transcutaneous Electrical Nerve Simulators (TENS). No fee is allowed for TENS unless it is prescribed by a physician and supported by prior diagnostic testing showing the efficacy of TENS in control of the patient's chronic pain. TENS testing and training is limited to four (4) sessions and a 30-day trial period but may be extended with written documentation of medical necessity.

G. Electophysiologic Testing. A physician who is legally authorized by his or her medical practice act to diagnose injury or disease is entitled to the full fee for electrophysiologic testing. Physical therapists and physicians who are qualified to perform such testing but who are not legally authorized to diagnose injury or disease are entitled to payment of 75% of the full fee.

H. Dental Injuries.

1. Initial Treatment.

a. If an employer maintains a medical staff or designates a company doctor, an employee requiring treatment for a workplace dental injury shall report to such medical staff or doctor and follow their directions for obtaining the necessary dental treatment.

b. If an employer does not maintain a medical staff or designate a company doctor, or if such medical staff or doctor is unavailable, the injured worker may obtain the necessary dental care from a dentist of his or her choice. The payor shall pay the dentist at 70% of UCR for services rendered.

2. Subsequent treatment.

a. If additional dental care is necessary, the dentist who provided initial treatment may submit to the payor a request for authorization to continue treatment. The transmission date of the request must be verifiable. The request itself must include a description of the injury, the additional treatment required, and the fee to be charged for the additional treatment.

i. The payor shall respond to the request for authorization within 10 working days of the request's transmission. This 10-day period can be extended with written approval of the Director of the Industrial Accidents Division.

ii. If the payor does not respond to the dentist's request for authorization within 10 working days, the dentist may proceed with treatment and the payor shall pay the cost of treatment as contained in the request for authorization.

iii. If the payor approves the proposed treatment, the payor shall send written authorization to the dentist and injured worker. This authorization shall include the amount the payor agrees to pay for the treatment. If the dentist accepts the payor's payment offer, the dentist may proceed to provide the approved services and shall be paid the agreed upon amount.

iv. If the dentist proceeds with treatment without authorization, the dentist's fee is limited to 70% of UCR.

b. If the dentist who provided initial treatment is unwilling to provide subsequent treatment under the terms outlined in subsection 2.a., above, the payor shall within 20 calendar days direct the injured worker to a dentist located within a reasonable travel distance who will accept the payor's payment offer.

i. If, after receiving notice that the payor has arranged for the services of a dentist, the injured worker chooses to obtain treatment from a different dentist, the payor shall only be liable for payment at 70% of UCR. The treating dentist may bill the injured worker for the difference between the dentist's charges and the amount paid by the insurer.

c. If the payor is unable to locate another dentist to provide the necessary services, the payor shall attempt to negotiate a satisfactory reimbursement with the dentist who provided initial treatment.

I. Drug testing. Drug screenings for addictive classes of pain medications shall be performed as recommended in the Utah clinical Guidelines on Prescribing Opiates for Treatment of Pain, Utah Department of Health 2009. The collection and billing shall be limited to one 80300 code per date of service, except for unusual circumstances.

J. Procedures for which no fee is allowed. Due to a lack of evidence of medical efficacy, no payment is authorized for the following:

1. Muscle Testing, CPT codes 95832 through 95857;

2. Computer based Motion Analysis, CPT codes 96000 through 96004;

3. Athletic Training Evaluation, CPT codes 97005 and 97006;

4. Acupuncture, CPT codes 97810 through 97814;

5. Analysis of Data, now BR, CPT code 99090;

6. Patient Education, CPT codes 98960 through 98962;

7. Educational supplies, CPT code 99071; or

8. Thermograms, artificial discs, percutaneous diskectomies, endoscopic diskectomies, IDEPT, platelet rich plasma injections, thermo-rhizotomies and other heat or chemical treatments for discs.

R612-300-6. Limitations on Fees for Specific Medical Providers and Non-Physicians.

A. Physician Assistants, Nurse Practitioners, Medical Social Workers, Nurse Anesthetists, and Physical Therapy Assistants. Fees for services performed by physician assistants, nurse practitioners, medical social workers, nurse anesthetists, and physical therapy assistants are set at 75% of the amount that would otherwise be allowed by these rules and shall be billed using an 83 modifier.

B. Assistant Surgeons. Fees for assistant surgeons are limited as follows:

1. Medical doctors, osteopaths and podiatrists, designated with an -80 modifier, are to be paid 20% of the primary surgeon's fee;

2. Minimum paramedicals, designated with an -81 modifier, are to be paid 15% of the primary surgeon's value or 75% of the amount allowed under subsection B. 1., above.

3. When a qualified resident surgeon is not available, 20% of the primary surgeon's fee;

4. Other paramedical assistants, such as surgical assistants, are not billed separately.

C. Home health care. The following fees, which include mileage and travel time, are payable for Home Health Codes 99500 through 99602:

1. RN: $100/ 2 hours
2. LPN: $75 / 2 hours
3. Home Health Aide: $25 / hour + $6 additional 30 min.
4. Speech Therapists: $80 / visit
5. Physical Therapy: $125/ hour
6. Occupational Therapy: $125/ hour
7. Home Infusion Providers are to be paid according to contract between the payor and home infusion provider. If no contract is established, the payor shall pay the amount specified in Days Guidelines and pay UCR or Cost + 15% for the drugs and supplies.

D. Acupuncturists, naturopathic providers and massage therapy. Payor preauthorization is required for any services provided by acupuncturists and naturopaths. Payment for massage therapy is only allowed when administered by a medical provider and billed according to the requirements of Rule R612-300. 5. C, "Restorative Services."

E. Ambulance. Ambulance charges are limited to the rates set by the State Emergency Medical Service Commission.

R612-300-7. Billing and Payment.

A. Billing Limitations.

1. Except as otherwise provided by a specific provision of the Workers' Compensation Act or these rules, an injured worker may not be billed for the cost of medical care necessary to treat his or her workplace injuries.

2. A health care provider may not submit a bill for medical care of an injured worker to both the employer and the insurance carrier.

B. Discounting and down-coding.

1. Discounting or reducing the fees established by these rules is permitted only pursuant to a specific contract between the medical provider and payor.

2. A payor may change the CPT code submitted by a health care provider under the following circumstances:

a. The submitted code is incorrect;

b. Another code more closely identifies the medical care;

c. The medical provider has not submitted the documentation necessary to support the code; or

d. The medical care is part of a larger procedure and included in the fee for that procedure.

3. If a payor changes a code number, the payor shall explain the reason for the change and provide the name and phone number of the payor's claims processor to the medical provider in order to allow further discussion.

C. Place of Treatment. A medical provider's billing for a medical procedure must identify the setting where a procedure was performed.

1. In an office or clinic: Fees for procedures performed in an office or clinic are to be computed using the Non-Facility Total RVU.

2. In a facility setting: Fees for physician services for procedures performed in a facility are to be computed using the "Facility Total RVU," as the facility will be billing for the direct and indirect costs related to the service.

D. Separate Bills. Separate bills must be presented by each medical provider within 30 days of treatment on a HCFA 1500 billing form. All bills must contain the federal ID number of the provider submitting the bill.

E. Hospital Fees.

1. The Labor Commission does not have authority to set fees for hospital care of injured workers. However, hospitals are subject to the Commission's reporting requirements, and fees charged by health care providers for services performed in a hospital are subject to the Commission's fee rules.

2. Fees covering hospital care shall be separate from those for professional services and shall not extend beyond the actual necessary hospital care.

3. All billings must be submitted on a UB92 form, properly itemized and coded, and shall include all documentation, including discharge summary, necessary to support the billing. No separate fee may be charged for billing or documentation of hospital services.

F. Charges for Supplies, Materials, or Drugs.

1. Ordinary supplies, materials or drugs used in treatment shall not be charged separately but shall be included in the amount allowed for the underlying medical care.

2. Special or unusual supplies, materials, or drugs not included as a normal and usual part of the service or procedure may be billed at cost plus 15% restocking fees and any taxes paid.

G. Miscellaneous.

1. A physician may bill the new patient E and M code when seeing an established patient for a new work injury.

2. Payment for hospital care is limited to the bed rate for semi-private room unless a private room is medically necessary.

3. Non-facility RVS total unit values apply, except that procedures provided in a facility setting shall be reimbursed at the facility total unit value and the facility may bill a separate facility charge.

4. Items that are a portion of an overall procedure are NOT to be itemized or billed separately.

5. Payors may round charges to the nearest dollar. If this is done on some charges, it must be done with all charges.

H. Prompt Payment and Interest.

1. All bills for medical care of injured workers must be paid within 45 days of submission to the payor unless the bill or some portion of the bill is in dispute. Any portion of the bill not in dispute remains payable within 45 days of billing.

2. As required by Section 34A-2-420 of the Utah Workers' Compensation Act, any award for medical care made by the Commission shall include interest at 8% per annum from the date of billing for such medical care.

I. Billing Disputes. Payors and health care providers shall use the following procedures to resolve billing disputes.

1. The provider shall submit a bill for services with supporting documentation to the payor within one year of the date of service.

2. The payor shall evaluate the bill and pay the appropriate fee as established by these rules.

3. If the provider believes the payor has improperly computed the fee, the provider may submit a written request for reevaluation to the payor. The request shall describe the specific areas of disagreement and include all appropriate documentation. Any such request for re-evaluation must be submitted to the payor within one year of the date of the original payment.

4. Within 30 days of receipt of the request for re-evaluation, the payor shall either pay the additional fee due the provider or respond with a specific written explanation of the basis for its denial of additional fees. The payor shall maintain proof of transmittal of its response.

5. A payor seeking reimbursement from a provider for overpayment of a bill shall, within one year of the overpayment, submit to the provider a written request for repayment that explains the basis for request. Within 90 days of receipt of the request, the provider shall either make appropriate repayment or respond with a specific written denial of the request.

6. If the provider and payor continue to disagree regarding the proper fee, either party may request informal review of the matter by the Division. Any party may also file a request for hearing on the dispute with the Adjudication Division.

R612-300-8. Travel Allowance for Injured Workers.

A. Payment for Travel to Obtain Medical Care. An

injured worker who must travel outside his or her community to obtain necessary medical care is entitled to payment of meals and lodging. An injured worker is entitled to other travel expenses regardless of distance. Payors shall reimburse injured workers for these expenses according to the standards set forth in State of Utah Accounting Policies and Procedures, Section FIACCT 10-02.00, "Travel Reimbursement".

1. All travel must be by the most direct route and to the nearest location where adequate treatment is reasonably available.

2. Travel may not be required between the hours of 10:00 p.m. and 6:00 a.m., unless approved by the Commission.

B. Time Limits for Requesting and Paying Travel Expenses.

1. Requests for travel reimbursement must be submitted to the payor for payment within one year after the subject travel expenses were incurred;

2. The payor must pay an injured employee's travel expenses at the earlier of:

a. Every three months;

b. Upon accrual of $100 in such expense; or

c. At closure of the injured worker's claim.

C. Prescriptions. Travel allowance shall not include picking up prescriptions with the following exceptions:

1. Travel allowance will be allowed if documentation is provided substantiating a claim that prescriptions cannot be obtained locally within the injured worker's community;

2. Travel allowance will be allowed in instances where dispensing laws do not allow a medication to be called in to a pharmacy thus requiring an injured worker to physically obtain an original prescription from the provider's office.

R612-300-9. Permanent Impairment Ratings.

A. Utah's 2006 Impairment Guides. The "Utah 2006 Impairment Guides" are incorporated by reference and are to be used to rate a permanent impairment not expressly listed in Section 34A-2-412 of the Utah Workers' Compensation Act.

B. American Medical Association's "Guides to the Evaluation of Permanent Impairment, Fifth Edition." For those permanent impairments not addressed in either Section 34A-2-412 or the "Utah 2006 Impairment Guides," impairment ratings are to be established according to the American Medical Association's "Guides to the Evaluation of Permanent Impairment, Fifth Edition."

R612-300-10. Medical Records.

A. Relationship between HIPAA and Workers' Compensation Disclosure Requirements. Workers' compensation insurers, employers and the Utah Labor Commission need access to health information of individuals who are injured on the job or who have a work-related illness in order to process or adjudicate claims, or to coordinate care under Utah's workers' compensation system. Generally, this health information is obtained from health care providers who treat these individuals and who may be covered by federal "HIPAA" privacy rules.

The HIPAA Privacy Rule specifically recognizes the legitimate need of the workers' compensation system to have access to individuals' health information to the extent authorized by State law. See 45 CFR 164.512(1). The Privacy Rule also recognizes the importance of permitting disclosures required by other laws. See 45 CFR 164.512(a). Therefore, disclosures permitted by this rule for workers' compensation purposes or otherwise required by this rule do not conflict with and are not prohibited by the HIPAA Privacy Rule.

B. Disclosures Permitted Without Authorization. A medical provider, without authorization from the injured worker, shall:

1. For purposes of substantiating a bill submitted for payment or filing required Labor Commission forms, such as the "Physician's Initial Report of Injury/Illness" or the "Restorative Services Authorization," disclose medical records necessary to substantiate the billing, including drug and alcohol testing, to:

a. An employer's workers' compensation insurance carrier or third party administrator;

b. A self-insured employer who administers its own workers' claims.

c. The Uninsured Employers' Fund;

d. The Employers' Reinsurance Fund; or

e. The Labor Commission as required by Labor Commission rules.

2. Disclose medical records pertaining to treatment of an injured worker who makes a claim for workers' compensation benefits, to another physician for specialized treatment, to a new treating physician chosen by the claimant, or for a consultation regarding the claimed work related injury or illness.

C. Disclosures Requiring Authorization.

1. Except as limited in C(3), a medical provider, whose medical records are relevant to a worker's compensation claim, shall, upon receipt of a Labor Commission medical records release form, or an authorization form that conforms to HIPAA requirements, disclose his/her medical records to:

a. An employer's insurance carrier or third party administrator;

b. A self-insured employer who administers its own workers' compensation claims;

c. An agent of an entity listed in B(1)(a through e), which includes, but is not limited to a case manager or reviewing physician;

d. The Uninsured Employers Fund;

e. The Employers' Reinsurance Fund;

f. The Labor Commission;

g. The injured worker;

h. An injured workers' personal representative;

i. An attorney representing any of the entities listed above in an industrial injury or occupational disease claim.

2. Medical records are relevant to a workers' compensation claim if:

a. The records were created after the reported date of the accident or onset of the illness for which workers' compensation benefits have been claimed; or

b. the records were created in the past ten years (15 years if permanent total disability is claimed) and:

i. There is a specific reason to suspect that the medical condition existed prior to the reported date of the claimed work related injury or illness or;

ii. The claim is being adjudicated by the Labor Commission.

3. Medical records related to care provided by a psychiatrist, psychologist, obstetrician, or care related to the reproductive organs may not be disclosed by a medical provider unless a claim has been made for a mental condition, a condition related to the reproductive organs, or the claimant has signed a separate, specific release for these records.

D. Disclosure Regarding Return to Work. A medical provider, who has treated an injured worker for a work related injury or illness, shall disclose information to an injured workers' employer as to when and what restrictions an injured worker may return to work.

E. Additional Disclosures Requiring Specific Approval. Requests for medical records beyond what subsections B, C, and D permit require a signed approval by the director, the medical director, a designated person(s) within the Industrial Accidents Division or an administrative law judge if the claim is being adjudicated.

F. Appeals. A party affected by the decision made by a person in subsection E may appeal that decision to the Adjudication Division of the Labor Commission.

G. Injured Worker's Duty to Disclose Medical Treatment and Providers. Upon receipt and within the scope of this rule, an injured worker shall provide those entities or persons listed in C(1) the names, address, and dates of medical treatment (if known) of the medical providers who have provided medical care within the past 10 years (15 years for permanent total disability claim) except for those medical providers names in C(3). Labor Commission form number 307 "Medical Treatment Provider List" must be used for this purpose. Parties listed in C(1) of this rule must provide each medical provider identified on form 307 with a signed authorization for access to medical records. A copy of the signed authorization may be sent to the medical providers listed on form 307.

H. Injured Worker's Right to Contest Requests for Pre-Injury Medical Records. An injured worker may contest, for good reason, a request for medical records created prior to the reported date of the accident or illness for which the injured worker has made a claim for benefits by filing a complaint with the Labor Commission. Good reason is defined as the request has gone beyond the scope of this rule or sensitive medical information is contained in a particular medical record.

I. Limitations on Use and Re-disclosure of Medical Information.

1. Any party obtaining medical records under authority of this rule may not disclose those medical records, without a valid authorization, except as required by law.

2. An employer may only use medical records obtained under the authority of this rule to:

a. Pay or adjudicate workers' compensation claims if the employer is self-insured;

b. To assess and facilitate an injured workers' return to work;

c. As otherwise authorized by the injured worker.

3. An employer obtaining medical records under authority of this rule must maintain the medical records separately from the employee's personnel file.

4. Any medical records obtained under the authority of this rule to make a determination regarding the acceptance of liability or for treatment of a condition related to a workers' compensation claim shall only be used for workers' compensation purposes and shall not be released, without a signed release by the injured worker or his/her personal representative, to any other party. An employer shall make decisions related only to the workers' compensation claim based on any medical information received under this rule.

K. Permissible Fees for Providing Medical Records. When any medical provider provides copies of medical records, other than the records required when submitting a bill for payment or as required by the Labor Commission rules, the following charges are presumed reasonable:

1. A search fee of $15 payable in advance of the search;

2. Copies at $.50 per page, including copies of microfilm, payable after the records have been prepared and

3. Actual costs of postage payable after the records have been prepared and sent. Actual cost of postage is deemed to be the cost of regular mail unless the requesting party has requested the delivery of the records by special mail or method.

4. The Labor Commission will release its records per the above charges to parties/entities with a signed and notarized release from the injured worker unless the information is classified and controlled under the Government Records Access and Management Act (GRAMA).

5. No fee shall be charged when the RBRVS or the Commission's Medical Fee Guidelines require specific documentation for a procedure or when medical providers are required to report by statute or rule.

6. An injured worker or his/her personal representative may obtain one copy of each of the following records related to the industrial injury or occupational disease claim, at no cost, when the injured worker or his/her personal representative have signed a form by the Industrial Accidents Division to substantiate his/her industrial injury/illness claim;

a. History and physical;

b. Operative reports of surgery;

c. Hospital discharge summary;

d. Emergency room records;

e. Radiological reports;

f. Specialized test results; and

g. Physician SOAP notes, progress notes, or specialized reports.

h. Alternatively, a summary of the patients records may be made available to the injured worker or his/her personal representative at the discretion of the physician.

R612-300-11. Utilization Review Standards.

A. Purpose of Utilization Review and Definitions.

1. "Utilization Review" is used to manage medical costs, improve patient care and enhance decision-making. Utilization review includes, but is not limited to, the review of requests for authorization and the review of medical bills to determine whether the medical services were or are necessary to treat a workplace injury. Utilization review does not include:

a. bill review for the purpose of determining whether the medical services rendered were accurately billed, or

b. any system, program, or activity used to determine whether an individual has sustained a workplace injury.

2. Any utilization review system shall incorporate a two-level review process that meets the criteria set forth in subsections B and C of this rule.

3. Definitions. As used in this rule:

a. "Request for Authorization" means any request by a physician for assurance that appropriate payment will be made for a course of proposed medical treatment.

b. "Reasonable Attempt" requires at least two phone calls and a fax, two phone calls and an e-mail, or three phone calls, within five business days from date of the payor's receipt of the physician's request for review.

B. Level I - Initial Request and Review.

1. A health care provider may use Form 223 to request authorization and payment for proposed medical treatment. The provider shall attach all documentation necessary for the payor to make a decision regarding the proposed treatment.

a. Requests for approval of restorative services are governed by the provisions of Section R612-300.5. C. 7. which requires submission of the appropriate RSA form and documentation.

2. Upon receipt of the provider's request for authorization, the payor may use medical or non-medical personnel to apply medically-based criteria to determine whether to approve the request. The payor must:

a. Within 5 business days after receiving the request and documentation, transmit Form 223 back to the physician, in a verifiable manner, advising of the payor's approval or denial of the proposed treatment.

i. If approval is denied, the payor must include with its denial a statement of the criteria it used to make its determination. A copy of the denial must also be mailed to the injured worker.

C. Level II - Review.

1. A health care provider who has been denied authorization or has received no timely response may request a physician's review by completing and sending the applicable portion of Commission Form 223 to the payor.

a. The provider must include the times and days that he/she is available to discuss the case with the reviewing physician, and must be reasonably available during normal business hours.

b. This request for review may be used by a health care

provider who has been denied authorization for restorative services pursuant to Subsection R612-300-5.C.7.

2. The payor's physician representative must complete the review within five business days of the treating physician's request for review. Additional time may be requested from the Commission to accommodate highly unusual circumstances or particularly difficult cases.

a. The insurer's physician representative must make a reasonable effort to contact the requesting provider to discuss the request for treatment. The payor shall notify the Commission if an additional five days is needed in order to contact the treating physician or to review the case.

b. If the payor again denies approval of the recommended treatment, the payor must complete the appropriate portion of Commission Form 223, and shall include:

i. the criteria used by the payor in making the decision to deny authorization; and

ii. the name and specialty of the payor's reviewing physician;

iii. appeals information.

c. The denial to authorize payment for treatment must then be sent to the physician, the injured worker and the Commission.

3. The payor's failure to respond to the review request within five business days, by a method which provides certification of transmission, shall constitute authorization for payment of the treatment.

D. Mediation and Adjudication. Upon receipt of denial of authorization for payment for medical treatment at Level II, the Commission will facilitate, upon the request of the injured worker, the final disposition of the case.

1. If the parties agree, the medical dispute will be referred to Commission staff for mediation.

2. If the parties do not agree to mediation, the matter will be referred to the Division of Adjudication for hearing and decision.

E. Reduction of Fee for Failure to Follow Utilization Review Standards.

1. In cases in which a health care provider has received notice of this rule but proceeds with non-emergency medical treatment without obtaining payor authorization, the following shall apply:

a. If the medical treatment is ultimately determined to be necessary to treat a workplace injury, the fee otherwise due the health care provider shall be reduced by 25%.

b. If the medical treatment is ultimately determined to be unnecessary to treat a workplace injury, the payor is not liable for payment for such treatment. The injured worker may be liable for the cost of treatment.

2. The penalty provision in D. 1. shall not apply if the medical treatment in question has been preauthorized by some other non-worker's compensation insurance company or other payor.

R612-300-12. Commission Approval of Health Care Treatment Protocols.

A. Authority. Pursuant to authority granted by Subsection 34A-2-111(2)(c)(i)(B)(VII) of the Utah Workers' Compensation Act, the Utah Labor Commission establishes the following standards and procedures for Commission approval of medical treatment and quality care guidelines.

B. Standards

1. Scientifically based: Subsection 34A-2-111(2)(c)(i)(B)(VII)(Aa) of the Act requires that guidelines be scientifically based. The Commission will consider a guideline to be "scientifically based" when it is supported by medical studies and/or research.

2. Peer reviewed: Subsection 34A-2-111(2)(c)(i)(B)(VII)(Bb) of the Act requires that guidelines be peer reviewed. The Commission will consider a guideline to be "peer reviewed" when the medical study's content, methodology, and results have been reviewed and approved prior to publication by an editorial board of qualified experts.

3. Other standards: Pursuant to its rulemaking authority under Subsection 34A-2-111(2)(c)(i)(B)(VII), the Utah Labor Commission establishes the following additional standards for medical treatment and quality care guidelines.

a. The guidelines must be periodically updated and, subject to Commission discretion, may not be approved for use unless updated in whole or in part at least biannually;

b. Guideline sources must be identified;

c. The guidelines must be reasonably priced;

d. The guidelines must be easily accessible in print and electronic versions.

C. Procedure: Pursuant to Subsection 34A-2-111(2)(c)(i)(B)(VII) of the Utah Workers' Compensation Act, a party seeking Commission action to approve or disapprove a guideline shall file a petition for such action with the Labor Commission.

R612-300-13. HIV, Hepatitis B and C Testing and Reporting for Emergency Medical Service Providers.

A. Purpose and Authority. This rule, established pursuant to U.C.A. Section 78B-8-404, establishes procedures for testing and reporting following a significant exposure of an emergency medical services provider to infectious diseases.

B. Definitions. In addition to the terms defined in Section 78B-8-401, the following definitions apply for purposes of this rule.

1. Contact means designated person(s) within the emergency medical services agency or the employer of the emergency medical services provider.

2. Emergency medical services (EMS) agency means an agency, entity, or organization that employs or utilizes emergency medical services providers as defined in (4) as employees or volunteers.

3. Source Patient means any individual cared for by a pre-hospital emergency medical services provider, including but not limited to victims of accidents or injury, deceased persons, prisoners or persons in the custody of the Department of Corrections, a county correctional facility, or a public law enforcement entity.

4. Receiving facility means a hospital, health care or other facility where the patient is delivered by the emergency medical services provider for care.

C. Emergency Medical Services Provider Responsibility.

1. The EMS provider shall document and report all significant exposures to the receiving facility and contact as defined in C.2.

2. The reporting process is as follows:

a. The exposed EMS provider shall complete the Exposure Report Form (ERF) at the time the patient is delivered to the receiving facility and provide a copy to the person at the receiving facility authorized by the facility to receive the form. In the event the exposed EMS provider does not accompany the source patient to the receiving facility, he/she may report the exposure incident, with information requested on the ERF, by telephone to a person authorized by the facility to receive the form. In this event, the exposed EMS provider shall nevertheless submit a written copy of the ERF within three days to an authorized person of the receiving facility.

b. The exposed EMS provider shall, within three days of the incident, submit a copy of the ERF to the contact as defined in C.2.

D. Receiving Facility Responsibility.

1. The receiving facility shall establish a system to receive ERFs as well as telephoned reports from exposed EMS providers on a 24-hour per day basis. The facility shall also

have available or on call, trained pre-test counselors for the purpose of obtaining consent and counseling of source patients when HIV testing has been requested by EMS providers. The receiving facility shall contact the source patient prior to release from the facility to provide the individual with counseling or, if unable to provide counseling, provide the source patient with phone numbers for a trained counselor to provide the counseling within 24 hours.

2. Upon notification of exposure, the receiving facility shall request permission from the source patient to draw a blood sample for disease testing. In conjunction with this request, the source patient must be advised of his/her right to refuse testing and be advised that if he/she refuses to be tested that fact will be forwarded to the EMS agency or employer of EMS provider. The source patient shall also be advised that if he/she refuses to be tested, the EMS agency or provider may seek a court order to compel the source patient to submit to a blood draw for the disease testing.

Testing is authorized only when the source patient, his/her next of kin or legal guardian consents to testing, with the exception that consent is not required from an individual who has been convicted of a crime and is in the custody or under the jurisdiction of the Department of Corrections, a county correctional facility, a public law enforcement entity, or if the source patient is dead. If consent is denied, the receiving facility shall complete the ERF and send it to the EMS agency or employer of the EMS provider. If consent is received, the receiving facility shall draw a sample of the source patient's blood and send it, along with the ERF, to a qualified laboratory for testing.

3. The laboratory that the receiving facility has sent source patient's blood draw to shall send the disease test results, by Case ID number, to the EMS agency or employer of the EMS provider.

F. EMS Agency/Employer Responsibility:

1. The EMS agency/employer, upon receipt of the disease tests, from the receiving facility laboratory, shall immediately report the result, by case number, not name, to the exposed EMS provider.

2. The EMS agency/employer, upon the receipt of refusal of testing by the source, shall report that refusal to the EMS provider.

3. The agency/employer or its insurance carrier shall pay for the EMS provider and the source patient testing for the covered diseases per the Labor Commission fee schedule.

4. The EMS agency/employer shall maintain the records of any disease exposures contained in this rule per the OSHA Blood Borne Pathogen standards.

R612-300-14. Advance Practice Registered Nurse.

A. Authority. This rule is enacted under the authority of 34A-1-104 and 58-31b-803.

B. Requirement. An advanced practice registered nurse who treats an injured worker and prescribes Schedule II controlled substances for chronic pain is subject to the provisions of the "Model Policy on the Use of Opioid Analgesics in the Treatment of Chronic Pain," July 2013, adopted by the Federation of State Medical Boards, which is incorporated by reference.

KEY: workers' compensation, fees, medical practitioners, nurse practitioners

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Notice of Continuation February 8, 2018 34A-2-201

R612. Labor Commission, Industrial Accidents.
R612-400. Workers' Compensation Insurance, Self-Insurance and Waivers.
R612-400-1. Policy Reporting by Workers' Compensation Insurance Carriers.

An insurance carrier writing workers' compensation insurance in Utah shall report to the Division the information required by Section 34A-2-205 of the Utah Workers' Compensation Act as follows:

A. The report shall be filed on behalf of the insurance carrier by an agent that has been approved by the Division as meeting the Division's filing standards.

B. The insurance carrier's agent shall submit the information electronically in accordance with the standards and format established by the International Association of Industrial Accidents Boards and Commissions (IAIABC).

C. Consequences of Failure to Comply.

1. Pursuant to Subsection 34A-2-205(1) of the Utah Workers' Compensation Act, the division may impose civil assessments up to $150 for failure to properly report insurance policy information per the requirements of this rule.

D. Assessments will be issued on a per file or reported policy basis rather than on each individual error within a file or reported policy.

E. The opportunity to correct the filing errors, the amount of the assessments, and the method of issuing shall be set by the division's policies and procedures.

F. Assessments shall be issued in the form of an order signed by the division's presiding officer and pursuant to the requirements contained in Section 63G-4-203.

G. An aggrieved party may seek agency review of any order pursuant to Section 63G-4-301.

R612-400-2. Workers' Compensation Coverage for Professional Employer Organizations and Client Companies.

A. Purpose, Authority and Scope.

1. Purpose. The Utah Professional Employer Organization Licensing Act, Title 31A, Chapter 40, Utah Code Annotated, ("the Act") allows a professional employer organization ("PEO") and a client company to establish a contractual relationship by which the PEO and client company are co-employers of some or all of the client company's workers. This rule establishes workers' compensation coverage and reporting requirements for such co-employment relationships.

2. Authority. This rule is enacted pursuant to authority granted by Section 34A-40-209 of the Act.

3. Scope. This rule applies only to those situations in which one or more workers are co-employees of a PEO and client company. The rule does not apply to workers who are solely employed by either a PEO or a client company. In such cases, the coverage and reporting requirements generally applicable to sole employers must be followed.

B. Alternatives for Providing Workers' Compensation Insurance Coverage for Co-employees.

1. Coverage provided by Client Company utilizing a PEO. A client company may provide workers' compensation coverage for co-employees of the client company and PEO by purchasing an insurance policy from a workers' compensation insurance company. The insurance policy shall list the client company as the named insured and shall provide coverage for the PEO as an additional insured by means of an individual endorsement.

2. Coverage provided through a PEO for a client company. Alternatively, a PEO may provide workers' compensation coverage for co-employees of the client company and PEO by purchasing an insurance policy, if available, from a workers' compensation insurance company. The insurance policy shall list the PEO as the named insured and shall provide coverage for the client company as an additional insured by means of an individual endorsement.

C. Insurance Carrier Reporting Obligation.

1. New Policies. An insurance company providing workers' compensation coverage to a PEO and client company shall comply with the reporting requirements set forth in Subsection R612-400-1. Such reports shall identify any PEO or client company covered by endorsement under the policy.

2. Additional insureds under an existing policy. If an insurance company extends coverage under an existing policy to a PEO or client company by means of an additional endorsement, the company shall report such additional endorsement and coverage to the Division in accordance with the requirements of Section R612-400-1.

3. Cancellations. An insurance company shall notify the Division of cancellation of coverage for any PEO or client company by complying with the requirements of Section R612-400-1. Failure by an insurance company to provide such notice will result in the continuation of coverage by the insurance company until the Division receives notification and may also result in imposition of penalties pursuant to Section 34A-2-205.

D. Reporting Injuries.

Work-related injuries of co-employees shall be reported in the name of the client company.

R612-400-3. Self Insurance of Workers' Compensation Obligations.

A. Purpose, Authority and Scope. 34A-2-201.5 of the Utah Workers' Compensation Act allows an employer or public agency insurance mutual to request authorization from the Division to self-insure workers' compensation obligations. Pursuant to the authority granted by Section 34A-2-201.5, this rule establishes procedures for applying for authorization to self-insure; it also establishes standards for Division decisions to grant, deny, or revoke such authorization and addresses the process for appealing Division decisions.

B. Definitions. In addition to the definitions found in Subsection 34A-2-201.5(1) and Section R612-100-2, the following definitions apply to this rule:

1. "Acceptable Credit Rating Agency" means Dun and Bradstreet or another similarly reputable credit rating agency acceptable to the Division.

2. "Aggregate Excess Insurance" is the amount of insurance required to cover the total accumulated workers' compensation benefits for all claims payable for a given period of time with the employer retaining an obligation for a designated amount as a deductible and insurance company paying all amounts due thereafter up to a maximum total obligation.

3. "Applicant" means an employer or public agency insurance mutual seeking initial authorization or renewal authorization to self-insure workers' compensation obligations.

4. "Reserve" is defined as the amount necessary to satisfy all debts, past, present, and future, incurred by reason of industrial accidents or occupational diseases, the origins of which commenced prior to the date of reserve determination.

5. "Self-Insured" means an employer or public agency insurance mutual that is authorized by the Division to self-insure workers' compensation obligations.

6. "Specific Excess Insurance" is defined as the amount of insurance required to satisfy workers' compensation obligations related to a workplace accident or disease with the employer retaining an obligation for a designated amount as a deductible and the insurance company assuming the obligation for all amounts due thereafter.

C. Application Process. An Applicant must complete the following process to receive Division authorization to self-insure.

1. The Applicant shall complete Division Form 109, "Application for Self Insurance" and submit the form to the Division, together with payment of the applicable fee as

established by the Commission pursuant to Section 63J-1-504.

2. The Applicant shall demonstrate that it has been in business continuously for five years immediately preceding its application.

a. If the Applicant is a wholly-owned subsidiary of another company, it may satisfy this requirement by demonstrating that the parent company has been in business continuously for five years immediately preceding the application, provided that the parent company guarantees the Applicant's workers' compensation obligations. Unless this guarantee requirement is waived by the Division, the form and substance of any such guarantee is subject to Division approval.

b. If the Applicant has changed its business name, the applicant may satisfy this requirement by demonstrating that it has been in business under a combination of its current name and previous name continuously for five years immediately preceding the application.

c. If the Applicant has been formed by merger of two or more companies, the applicant may satisfy this requirement by demonstrating that it and at least one of its predecessor companies, when considered jointly, have been in business continuously for five years immediately preceding the application.

3. The Applicant shall demonstrate sufficient financial strength and liquidity to pay its workers' compensation obligations promptly and in full. The Applicant shall submit to the Division:

a. A current, certified financial statement or other proof acceptable to the Division of the Applicant's financial ability to pay direct compensation and other related expenses;

b. Proof that the Applicant is covered by specific aggregate excess insurance issued by a company authorized to transact such business in Utah and with policy limits and retention amounts acceptable to the Division. The insurance company shall execute Division Form 303, "Utah Bankruptcy and Insolvency Endorsement" for each covered self-insured entity and shall name the Uninsured Employers' Fund as an additional insured.

c. A surety bond issued by a corporate surety authorized to transact such business in this state or other acceptable security as approved by the Division. If a surety bond is submitted, it shall be issued on Division Form 213E, "Self-Insurance Aggregate Surety Bond" in an amount established by the Division based on its review of the applicant's past incurred losses, exposure, and contingency factors. The minimum bond shall be $100,000.

i. With Division approval, a surety bond provided under this subsection may be replaced with another surety bond, provided that a 60-day notice of termination of liability is given to the Division by the original surety, the replacement bond is issued on the prescribed form, and the new surety accepts the liability of the previous surety or a guarantee is filed by all sureties acknowledging their respective liabilities and periods of time covering such liabilities.

ii. The Division may waive surety bond requirements for a public entity.

4. The Division shall confirm through Dun and Bradstreet or other acceptable credit rating agency that the Applicant is within the agency's two highest composite credit appraisal ratings and two highest ratings of estimated financial strength.

a. An Applicant that is within the agency's two highest composite credit appraisal ratings but has received only a "fair" or equivalent composite credit rating may be granted authorization to self-insure by satisfying any additional security requirements required by the Division.

b. The Division may waive credit rating requirements for a public entity, provided that the public entity files financial statements or such other supplemental information as the Division finds necessary.

5. The Applicant shall demonstrate its ability to properly administer a self-insurance program.

a. The Applicant shall either procure the services of an insurance carrier or adjusting company to administer claims and establish reserves or demonstrate that the Applicant has sufficient competent staff to perform such tasks.

b. The Applicant or its adjusting company shall maintain within Utah a knowledgeable contact concerning claims and shall maintain a toll free number or accept a reasonable number of collect calls from injured employees.

c. The Applicant shall register with the Division a designated agent in Utah who is authorized to receive on behalf of the Applicant all notices or orders provided for under the Utah Workers' Compensation Act or the Utah Occupational Disease Act.

d. At its discretion, the Division may train and test adjustors and administrators of self-insurance programs.

6. A subsidiary company may rely upon its parent company to satisfy any of the requirements of subsection C of this rule, provided that the parent company guarantees all the subsidiary company's workers' compensation liabilities. The form and substance of such guarantees must be approved by the Division.

D. Division Action to Grant or Deny Authorization to Self-Insure.

1. If the Division determines that the Applicant has satisfactorily completed the application process required by subsection C, the Division shall issue written authorization for the applicant to self-insure. Such authorization shall be effective for one year from issuance and may be renewed annually as set forth in subsection E of this rule.

2. If the Division determines that the Applicant has not satisfied the requirement of subsection C, the Division will issue a written notice denying the Applicant's request to self-insure. The notice of denial shall state the basis for denial, advise the Applicant of any actions necessary to correct deficiencies in its application, and set forth the Applicant's right to appeal the denial.

E. Renewal of Authorization to Self-Insure.

1. Annual Renewal Application. To request annual renewal of authority to self-insure, a self-insured shall complete and submit Division Form 223E, "Renewal Application for Self Insurance" together with payment of the applicable fee as established by the Commission pursuant to Section 63J-1-504.

a. The completed "Renewal Application" and applicable fee must be submitted at least 60 days before the expiration of the previous self-insurance authorization. Late filing of a renewal application may result in suspension or cancellation of self-insurance privileges.

b. Renewal applicants must satisfy all requirements set forth in subsection C of this rule, except that renewal applicants whose financial information cannot be obtained from Dun and Bradstreet will be required to file financial statements or such other supplemental information as the Division finds necessary.

2. If the Division determines that the renewal applicant qualifies for renewal of authorization to self-insure, the Division shall issue a written renewal. Such renewal shall be effective for one year from issuance.

3. If the Division determines that the renewal applicant has not satisfied the requirements of this rule, the Division will issue a written denial of the request to renew, stating the specific basis for denial, advising the applicant of any actions necessary to correct deficiencies in its renewal application, and the applicant's right to appeal the denial.

F. Revocation of Authority to Self-Insure.

1. In cases where a self-insured entity merges with another entity, the existing authorization to self-insure will be revoked and the newly formed entity must apply for authority to self-insure in its own right.

2. If the Division receives complaints regarding a self-insured's practices or ability to satisfy its obligations, has other reason to believe that a self-insured no longer meets the standards for self-insurance set forth in this rule, or has failed to meet other requirements imposed by law upon self-insureds, the Division shall provide written notice to the self-insured and provide the self-insured a reasonable opportunity to respond.

a. If, after reviewing the self-insured's response, the Division remains of the opinion that the self-insured no longer meets the standards for self-insurance, the Division shall commence informal adjudicative proceedings to revoke the self-insured's authority to self-insure.

b. At the conclusion of such proceedings, the Division shall issue either:

i. written confirmation of the self-insured's continuing authority to self-insure; or

ii. written revocation of authority to self-insure, stating the specific basis for revocation, the self-insured's appeal rights, and the self-insured's right to continue its self insured status by providing additional security pursuant to subsection F of this rule.

c. Within 60 days of notice of revocation, a self-insured whose self-insurance privileges are revoked shall obtain security for their reserve requirements under the two step process set forth in subsection G.1 and 2 of this rule.

G. Continuation of Self-Insurance Authorization by Providing Additional Security.

1. A self-insured that falls below the standards required by subsection C.4 of this rule may, at the discretion of the Division, be allowed to continue self-insurance privileges if the following steps are taken:

a. An independent actuarial study, at the self-insured's expense and satisfactory to the Division, establishes the self-insured's reserve requirements.

b. The self-insured provides acceptable security to the Division for such reserve requirements.

2. Self-insured which retain their self-insurance authorization by complying with the requirements of subsection F.1 and 2 are subject to quarterly financial reviews by the Division

H. Appeals.

An entity dissatisfied with a Division decision to deny or revoke self-insured status may contest the decision by filing an Application For Hearing with the Commission's Adjudication Division pursuant to 34A-302(1) of the Utah Labor Commission Act and complying with the rules and procedures of the Adjudication Division.

R612-400-4. Waivers.

A. Authority and Purpose.

Pursuant to Title 34A, Chapter Two, Part Ten, Workers' Compensation Coverage Waivers Act ("the Act"), this rule establishes procedures for applying for workers' compensation coverage waivers. The rule also addresses the effect of coverage waivers and procedures to be followed by the Labor Commission's Industrial Accidents Division in granting, denying, or revoking coverage waivers.

B. Procedure for Application, Issuance and Renewal of Coverage Waiver.

1. A business entity may obtain a coverage waiver by:

a. completing the application process, available either online at the Utah Labor Commission website or by written application also available at the Commission;

b. submitting the supporting documents required by 34A-2-1004 of the Act; and

c. paying a non-refundable application fee of $50, used to defray the costs of processing and evaluating the application. Payment of the fee by check may delay issuance of a coverage waiver until the check has been honored.

2. If the Division determines that a business entity has satisfied each requirement for a coverage waiver, the Division will issue the coverage waiver. If the Division determines that a business entity has not satisfied each requirement for a workers' compensation insurance waiver, the Division will issue a written denial to the business entity, stating the basis for denial and setting forth the business entity's appeal rights.

3. Subject to revocation of a coverage waiver as provided by subsection C. of this section, a coverage waiver remains in effect for the following time periods:

a. A coverage waiver issued by a licensed workers' compensation insurance company prior to July 1, 2011, the effective date of the Act, shall remain effective for the period shown on the coverage waiver.

b. A coverage waiver issued by the Division after July 1, 2011, shall be effective for one year from the date the coverage waiver is issued.

4. A business entity may renew a coverage waiver by completing the on-line renewal application available at the Utah Labor Commission website and satisfying the requirements set forth in subsection B.1.b. and c. of this rule.

C. Revocation.

1. If the Division has reason to believe that a business entity no longer qualifies for a coverage waiver, the Division shall institute proceedings to determine whether the business entity's coverage waiver should be revoked. Such proceedings shall be conducted as informal proceedings under the Utah Administrative Procedures Act.

2. If the Division concludes that the business entity does not satisfy each requirement for a coverage waiver, the Division will issue a written order revoking the waiver certificate. The order shall state the basis for revocation and the business entity's appeal rights. The Division may also initiate other proceedings authorized by the Utah Workers' Compensation Act to compel the business entity to obtain workers' compensation coverage for its employees.

D. Appeal Rights.

A business entity may challenge a Division decision to deny or revoke a coverage waiver by filing an appeal of the decision with the Adjudication Division. Such appeal proceedings shall be conducted as de novo formal adjudicatory proceedings under the Utah Administrative Procedures Act.

E. Effect, Verification and Limitation of Coverage Waiver.

1. Effect of coverage waiver. Subsection 34A-2-103 (7) (c) permits an employer contracting with a business entity to rely upon a valid coverage waiver issued by the Division as proof that the business entity is not required to have a workers' compensation insurance policy.

2. Verification of coverage waiver. Before an employer may rely upon a business entity's coverage waiver, the employer shall retain the following documents:

a. A photocopy of the coverage waiver issued to the business entity by the Division; and

b. A printout of the Division's waiver status verification web page showing that the business entity's coverage waiver had not been revoked as of the date on which the employer contracted with the business entity.

3. Limitations to effect of coverage waiver. A coverage waiver does not excuse a business entity from obtaining and maintaining workers' compensation insurance coverage for employees who are entitled to such coverage under the Utah Workers' Compensation Act. If and when a business entity has such employees, any coverage waiver previously issued to that business entity becomes void and the business entity must immediately obtain workers' compensation coverage.

R612-400-5. Premium Rates for the Uninsured Employers' Fund and the Employers' Reinsurance Fund.

A. Pursuant to Section 59-9-101(2), Section 59-9-101.3

and 34A-2-202 the workers' compensation premium rates effective January 1, 2018, as established by the Labor Commission, shall be:

1. 0.25% for the Uninsured Employers' Fund;
2. 3.0% for the Employers' Reinsurance Fund;

B. The premium rates are a percentage of the total workers' compensation insurance premium income as detailed in Section 59-9-101(2)(a).

KEY: workers' compensation, insurance, rates, waivers
December 27, 2017 59-9-101(2)
Notice of Continuation February 8, 2018

R651. Natural Resources, Parks and Recreation.
R651-406. Off-Highway Vehicle Registration Fees.
R651-406-1. Annual Registration Fee.

(1) The annual All-terrain Vehicle and off-highway motorcycle registration fee is $18. The annual snowmobile registration fee is $22.

(2) An annual fee of $2 shall be collected to fund the off-highway vehicle safety and education program in addition to each off-highway vehicle registration.

R651-406-2. Fee For Duplicate Registration.

The fee for a duplicate certificate of registration is $3.

R651-406-3. Fee For Duplicate Numbered Stickers.

The fee for duplicate numbered stickers is $5.

KEY: off-highway vehicles
February 21, 2018 41-22-8
Notice of Continuation January 7, 2016

R657. Natural Resources, Wildlife Resources.
R657-3. Collection, Importation, Transportation, and Possession of Animals.
R657-3-1. Purpose and Authority.

(1) Under Title 23, Wildlife Resources Code of Utah and in accordance with a memorandum of understanding with the Department of Agriculture and Food, Department of Health, and the Division of Wildlife Resources, this rule governs the collection, importation, exportation, transportation, and possession of animals and their parts.

(2) Nothing in this rule shall be construed as superseding the provisions set forth in Title 23, Wildlife Resources Code of Utah. Any provision of this rule setting forth a criminal violation that overlaps a section of that title is provided in this rule only as a clarification or to provide greater specificity needed for the administration of the provisions of this rule.

(3) In addition to this rule, the Wildlife Board may allow the collection, importation, transportation, propagation and possession of species of animal species under specific circumstances as provided in Rules R657-4 through R657-6, R657-9 through R657-11, R657-13, R657-14, R657-16, R657-19, R657-20 through R657-22, R657-33, R657-37, R657-38, R657-40, R657-41, R657-43, R657-44, R657-46 and R657-52 through R657-60. Where a more specific provision has been adopted, that provision shall control.

(4) The importation, distribution, relocation, holding in captivity or possession of coyotes and raccoons in Utah is governed by the Agricultural and Wildlife Damage Prevention Board and is prohibited under Section 4-23-11 and Rule R657-14, except as permitted by the Utah Department of Agriculture and Food.

(5) This rule does not apply to division employees acting within the scope of their assigned duties.

(6) The English and scientific names used throughout this rule for animals are, at the time of publication, the most widely accepted names. The English and the scientific names of animals change, and the names used in this rule are to be considered synonymous with names in earlier use and with names that, at any time after publication of this rule, may supersede those used herein.

R657-3-2. Species Not Covered by This Rule.

The following species of animals are not governed by this rule:

(1) Alpaca (Lama pocos);
(2) Ass or donkey (Equus asinus);
(3) American bison, privately owned (Bos bison);
(4) Camel (Camelus bactrianus and Camelus dromedarius);
(5) Cassowary (All species)(Casuarius);
(6) Cat, domestic, including breeds that are recognized by The International Cat Association as Preliminary New, Advanced New, Non-championship, and Championship Breeds (Felis catus);
(7) Cattle (Bos taurus taurus);
(8) Chicken (Gallus gallus);
(9) Chinchilla (Chinchilla laniger);
(10) Dog, domestic including hybrids between wild and domestic species and subspecies (Canis familiaris);
(11) Ducks distinguishable morphologically from wild birds (Anatidae);
(12) Elk, privately owned (Cervus elaphus canadensis);
(13) Emu (Dromaius novaehollandiae);
(14) Ferret or polecat, European (Mustela putorius);
(15) Fowl (guinea) (Numida meleagris);
(16) Fox, privately owned, domestically bred and raised (Vulpes vulpes);
(17) Geese, distinguishable morphologically from wild geese (Anatidae);
(18) "Gerbils" or Mongolian jirds (Meriones unguiculatus);
(19) Goat (Capra hircus);
(20) Hamster (All species) (Mesocricetus spp.);
(21) Hedgehog (white bellied)(Erinaceideae atelerix albiventris)
(22) Horse (Equus caballus);
(23) Llama (Lama glama);
(24) American Mink, privately owned, ranch-raised (Neovison vision);
(25) Mouse, house (Mus musculus);
(26) Mule and hinny (hybrids of Equus caballus and Equus asinus);
(27) Ostrich (Struthio camelus);
(28) Peafowl (Pavo cristatus);
(29) Pig, guinea (Cavia porcellus);
(30) Pigeon (Columba livia);
(31) Rabbit, European (Oryctolagus cuniculus);
(32) Rats, Norway and Black (Rattus norvegicus and Rattus rattus);
(33) Rhea (Rhea americana);
(34) Sheep (Ovis aries);
(35) Sugar glider (Petaurus breviceps);
(36) Swine, domestic (Sus scrofa domesticus);
(37) Tenrec (Tenrecidae);
(38) Turkey, privately owned, pen-raised domestic varieties (Meleagris gallopavo). Domestic varieties means any turkey or turkey egg held under human control and which is imprinted on other poultry or humans and which does not have morphological characteristics of wild turkeys;
(39) Water buffalo (Bubalis arnee);
(40) Yak (Bos mutus); and
(41) Zebu, or "Brahma" (Bos taurus indicus)

R657-3-3. Cooperative Agreements with Department of Health and Department of Agriculture and Food -- Agency Responsibilities.

(1) The division, the Department of Agriculture and Food, and the Department of Health work cooperatively through memorandums of understanding to:

(a) protect the health, welfare, and safety of the public;

(b) protect the health, welfare, safety, and genetic integrity of wildlife, including environmental and ecological impacts; and

(c) protect the health, welfare, safety, and genetic integrity of domestic livestock, poultry, and other animals.

(2) The division is responsible for:

(a) issuing certificates of registration for the collection, possession, importation, and transportation of animals;

(b) maintaining the integrity of wild and free-ranging protected wildlife;

(c) determining the species of animals that may be imported, possessed, and transported within the state;

(d) preventing the outbreak and controlling the spread of disease-causing pathogens among aquatic animals in public aquaculture facilities;

(e) preventing the spread of disease-causing pathogens from aquatic animals in, to be deposited in, or harvested from public aquaculture facilities and private ponds to aquatic wildlife, other animals, and humans;

(f) preventing the spread of disease-causing pathogens from aquatic animals to other aquatic animals transferred from one site to another in the wild;

(g) investigating and preventing the outbreak and controlling the spread of disease-causing pathogens in terrestrial wildlife;

(h) preventing the spread of disease-causing pathogens from terrestrial animals to other terrestrial animals transferred from one site to another; and

(i) enforcing laws and rules made by the Wildlife Board

governing the collection, importation, transportation, and possession of animals.

(3)(a) The Utah Department of Agriculture and Food is responsible for eliminating, reducing, and preventing the spread of diseases among livestock, fish, poultry, wildlife, and other animals by providing standards for:

(i) the importation of livestock, fish, poultry, and other animals, including wildlife, as provided in Section R58-1-4;

(ii) the control of predators and depredating animals as provided in Title 4, Chapter 23, Agriculture and Wildlife Damage Prevention Act;

(iii) enforcing laws and rules made by the Wildlife Board governing species of animals which may be imported into the state or possessed or transported within the state that are applicable to aquaculture or fee fishing facilities;

(iv) preventing the outbreak and controlling the spread of disease-causing pathogens among aquatic animals in aquaculture and fee fishing facilities; and

(v) preventing the spread of disease-causing pathogens from aquatic animals in, to be deposited in, or harvested from aquaculture or fee fishing facilities to aquatic wildlife, or other animals, and humans.

(b) The Department of Agriculture and Food may quarantine any infected domestic animal or area within the state to prevent the spread of infectious or contagious disease as provided in Title 4, Chapter 31, Section 17.

(c) In addition to the authority and responsibilities listed in Subsection (3)(a) and (b), the Department of Agriculture and Food may make recommendations to the division concerning the collection, importation, transportation, and possession of animals if a disease is suspected of endangering livestock, fish, poultry, or other domestic animals.

(4) The Utah Department of Health is responsible for promoting and protecting public health and welfare and may make recommendations to the division concerning the collection, importation, transportation, and possession of animals if a disease or animal is suspected of endangering public health or welfare.

R657-3-4. Definitions.

(1) Terms used for purposes of this rule are defined in Section 23-13-2 and Subsection (2) through Subsection (33).

(2)(a) "Animal" means:

(i) native, naturalized, and nonnative animals belonging to a species that naturally occurs in the wild, including animals captured from the wild or born or raised in captivity;

(ii) hybrids of any native, naturalized, or nonnative species or subspecies of animal, including hybrids between wild and domestic species or subspecies; and

(iii) viable embryos or gametes (eggs or sperm) of any native, naturalized, or nonnative species or subspecies of animals.

(b) "Animal" does not include species listed in Subsection R657-3-2, domestic species, or amphibians or reptiles as defined in Rule R657-53.

(3) "Aquaculture" means the controlled cultivation of aquatic animals.

(4)(a) "Aquaculture facility" means any tank, canal, raceway, pond, off-stream reservoir, or other structure used for aquaculture. "Aquaculture facility" does not include any public aquaculture facility or fee fishing facility.

(b) Structures that are separated by more than 1/2 mile, or structures that drain to or are modified to drain to, different drainages, are considered separate aquaculture facilities regardless of ownership.

(5) "Aquatic animal" means a member of any species of fish, mollusk, or crustacean, including their eggs or sperm.

(6) "Captive-bred" means any privately owned animal, which is born inside of and has spent its entire life in captivity and is the offspring of privately owned animals that are born inside of and have spent their entire life in captivity.

(7) "Certificate of registration" means an official document issued by the division authorizing the collection, importation, transportation, and possession of an animal or animals. A certificate of registration number may be issued in order to obtain an entry permit number and the entry permit number must in turn be provided to the division before final approval and issuance of the certificate of registration.

(8) "Certificate of veterinary inspection" means an official health authorization issued by an accredited veterinarian required for the importation of animals, as provided in Rule R58-1.

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

(10) "CITES" means the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

(a) Appendix I of CITES protects threatened species from all international commercial trade; and

(b) Appendix II of CITES regulates trade in species not threatened with extinction, but which may become threatened if trade goes unregulated.

(c) CITES appendices are published periodically by the CITES Secretariat and may be viewed at http://www.cites.org/ which is incorporated herein by reference.

(11) "Collect" means to take, catch, capture, salvage, or kill any animal within Utah.

(12) "Commercial use" means any activity through which a person in possession of an animal:

(a) receives any consideration for that animal or for a use of that animal, including nuisance control and roadkill removal; or

(b) expects to recover all or any part of the cost of keeping the animal through selling, bartering, trading, exchanging, breeding, or other use, including displaying the animal for entertainment, advertisement, or business promotion.

(13) "Controlled species" means a species or subspecies of animal that if taken from the wild, introduced into the wild, or held in captivity, poses a possible significant detrimental impact to wild populations, the environment, or human health or safety, and for which a certificate of registration is required.

(14) "Domestic" means an animal that belongs to a species which is notably different from its wild ancestors through generations of selective breeding and taming in captivity by humans for food, commodities, transportation, assistance, work, protection, companionship, display and other beneficial purposes.

(15) "Educational use" means the possession and use of an animal for conducting educational activities concerning wildlife.

(16) "Entry permit number" means a number issued by the state veterinarian's office to a veterinarian signing a certificate of veterinary inspection. The entry permit number must be written on the certificate of veterinary inspection before the importation of the animal. This number must be provided to the division prior to final approval and issuance of a certificate of registration. The entry permit is valid only for 30 days after its issuance.

(17) "Export" means to move or cause to move any animal from Utah by any means.

(18) "Fee fishing facility" means a body of water used for holding or rearing fish to provide fishing for a fee or for pecuniary consideration or advantage.

(19) "Import" means to bring or cause an animal to be brought into Utah by any means.

(20)(a) "Marine aquatic animal" means a member of any species of fish, mollusk, or crustacean that spends its entire life cycle in a marine environment.

(b) "Marine aquatic animal" does not include:

(i) anadromous aquatic animal species;

(ii) species that temporarily or permanently reside in

brackish water; and

(iii) species classified as invasive or nuisance by state or federal law.

(21) "Native species" means any species or subspecies of animal that historically occurred in Utah and has not been introduced by humans or migrated into Utah as a result of human activity.

(22) "Naturalized species" means any species or subspecies of animal that is not native to Utah but has established a wild, self-sustaining population in Utah.

(23) "Noncontrolled species" means a species or subspecies of animal that if taken from the wild, introduced into the wild, or held in captivity poses no detrimental impact to wild populations, the environment, or human health or safety, and for which a certificate of registration is not required, unless otherwise specified.

(24)(a) "Nonnative species" means a species or subspecies of animal that is not native to Utah.

(b) "Nonnative species" does not include domestic animals or naturalized species of animals.

(25)(a) "Ornamental aquatic animal species" means any species of fish, mollusk, or crustacean that is commonly cultured and sold in the United States' aquarium industry for display.

(b) "Ornamental aquatic animal species" does not include;

(i) fresh water;

(A) sport fish -- aquatic animal species commonly angled or harvested for recreation or sport;

(B) baitfish -- aquatic animal species authorized for use as bait in R657-13-12, and any other species commonly used by anglers as bait in sport fishing;

(C) food fish -- aquatic animal species commonly cultured or harvested from the wild for human consumption; or

(D) native species; or

(ii) aquatic animal species prohibited for importation or possession by any state, federal, or local law; or

(iii) aquatic animal species listed as prohibited or controlled in Sections R657-3-22 and R657-3-23.

(26) "Personal use" means the possession and use of an animal for a hobby or for its intrinsic pleasure and where no consideration for the possession or use of the animal is received by selling, bartering, trading, exchanging, breeding, hunting or any other use.

(27) "Possession" means to physically retain or to exercise dominion or control over an animal.

(28) "Prohibited species" means a species or subspecies of animal that if taken from the wild, introduced into the wild, or held in captivity, poses a significant detrimental impact to wild populations, the environment, or human health or safety, and for which a certificate of registration shall only be issued in accordance with this rule and any applicable federal laws.

(29) "Public aquaculture facility" means a tank, canal, raceway, pond, off-stream reservoir, or other structure used for aquaculture by the division, U.S. Fish and Wildlife Service, a school, or an institution of higher education.

(30) "Resident Canada Goose" means Canada geese that nest within Utah in urban environments during the months of March, April, May or June.

(31) "Scientific use" means the possession and use of an animal for conducting scientific research that is directly or indirectly beneficial to wildlife or the general public.

(32) "Transport" means to move or cause to move any animal within Utah by any means.

(33) "Wildlife Registration Office" means the division office in Salt Lake City responsible for processing applications and issuing certificates of registration.

R657-3-5. Liability.

(1)(a) Any person who accepts a certificate of registration assumes all liability and responsibility for the collection, importation, transportation, possession and propagation of the authorized animal and for any other activity authorized by the certificate of registration.

(b) To the extent provided under the Utah Governmental Immunity Act, the division, Department of Agriculture and Food, and Department of Health shall not be liable in any civil action for:

(i) any injury, disease, or damage caused by or to any animal, person, or property as a result of any activity authorized under this rule or a certificate of registration; or

(ii) the issuance, denial, suspension, or revocation of or by the failure or refusal to issue, deny, suspend, or revoke any certificate of registration or similar authorization.

(2) It is the responsibility of any person who obtains a certificate of registration to read, understand and comply with this rule and all other applicable federal, state, county, city, or other municipality laws, regulations, and ordinances governing animals.

R657-3-6. Animal Welfare.

(1) Any animal held in possession under the authority of a certificate of registration shall be maintained under humane and healthy conditions, including the humane handling, care, confinement, transportation, and feeding, as provided in:

(a) 9 CFR Section 3 Subpart F, 2002 ed., which is adopted and incorporated by reference;

(b) Section 76-9-301; and

(c) Section 7 CFR 2.17, 2.51, and 371.2(g), 2002 ed., which are incorporated by reference.

(2) A person commits cruelty to animals under this section if that person intentionally, knowingly, or with criminal negligence, as defined in Section 76-2-103:

(a) tortures or seriously overworks an animal; or

(b) fails to provide necessary food, care, or shelter for any animal in that person's custody.

(3) Adequate measures must be taken for the protection of the public when handling, confining, or transporting any animal.

R657-3-7. Take of Nuisance Birds and Mammals.

(1)(a) A person is not required to obtain a certificate of registration or a federal permit to kill a bird belonging to a species listed in Subsection (1)(b) that is committing or about to commit depredations on ornamental or shade trees, agricultural crops, livestock, or wildlife, or when concentrated in such numbers and manner as to constitute a health hazard or other nuisance, provided:

(i) an attempt to control the birds using non-lethal methods occurs prior to using lethal methods;

(ii) applicable local, state and federal laws are strictly complied with; and

(iii) none of the birds killed, nor their plumage, are sold or offered for sale.

(b) The following bird species are subject to the provisions of Subsection (1)(a):

(i) black-billed magpie (Pica hudsonia);

(ii) American crow (Corvus brachyrhynchos);

(iii) bronzed cowbird (Molothrus aeneus);

(iv) brown-headed cowbird (Molothrus ater); and

(v) shiny cowbird (Molothrus bonariensis).

(c) Nuisance birds removed under Subsection (1)(a):

(i) must be taken over the threatened area;

(ii) may not be taken with:

(A) bait, explosives, or poisons; or

(B) ammunition with lead or toxic projectiles, except when fired from an air rifle, air pistol, or a 22 caliber rimfire firearm; and

(iii) must be disposed of at a landfill that accepts wildlife carcasses, or burned or incinerated.

(d)(i) Any person that takes a nuisance bird pursuant to

Subsection (1)(a) must provide to the appropriate U.S. Fish and Wildlife Service, Regional Migratory Bird Permit Office an annual report for each species taken.

(ii) Reports must be submitted by January 31st of the following year, and include the following information:

(A) name, address, phone number, and e-mail address of the person taking the birds;

(B) the species and number of birds taken;

(C) the months in which the birds were taken;

(D) the county or counties in which the birds were taken; and

(E) the general purpose for which the birds were taken, such as protection of agriculture, human health and safety, property, or natural resources.

(e) This Subsection (1) incorporates Section 50 CFR 21.41, 21.42 and 21.43, 2007, ed., by reference.

(2)(a) A person is not required to obtain a certificate of registration or a federal permit to kill a house sparrow (Passer domesticus), European starling (Sturnus vulgaris), or domestic pigeon or rock pigeon (Columba livia) when found damaging personal or real property, or when concentrated in such numbers and manner as to constitute a health hazard or other nuisance, provided:

(i) an attempt to control the birds using non-lethal methods occurs prior to using lethal methods;

(ii) applicable local, state and federal laws are strictly complied with; and

(iii) none of the birds killed, nor their plumage, are sold or offered for sale.

(b) Nuisance birds removed under Subsection (2)(a):

(i) must be taken over the threatened area;

(ii) may not be taken with bait, explosives, or poisons; and

(iii) must be disposed of at a landfill that accepts wildlife carcasses, or burned or incinerated.

(3) A person that takes a nuisance bird pursuant to Subsection (1) shall:

(a) allow any federal warden or state conservation officer unrestricted access over the premises where the birds are killed; and

(b) furnish any information concerning the control operations to the division or federal official upon request.

(4) A person may kill nongame mammals as provided in R657-19

R657-3-8. Collection, Importation, and Possession of Threatened and Endangered Species and Migratory Birds.

(1) The following species are prohibited from collection, possession, and importation into Utah without first obtaining a certificate of registration from the division, a federal permit from the U.S. Fish and Wildlife Service, and an entry permit number from the Department of Agriculture and Food if importing:

(a) any species which have been determined by the U.S. Fish and Wildlife Service to be endangered or threatened pursuant to the federal Endangered Species Act, as amended; and

(b) any species of migratory birds protected under the Migratory Bird Treaty Act.

(2) Federal laws and regulations apply to threatened and endangered species and migratory birds in addition to state and local laws.

(3) Neither a federal permit nor a state certificate of registration is required to destroy the nests and eggs of resident Canada geese provided:

(a) the landowner or agent qualifies, registers and complies with all provisions of the Federal Nest and Egg Registry located at www.fws.gov/permits/mbpermits/GooseEggRegistration.html.

(b) The landowner reports to the state the date, location (including county) and number of eggs and nests destroyed, by October 1 of each year to the Wildlife Registration Coordinator.

R657-3-9. Release of Animals to the Wild -- Capture or Disposal of Escaped Wildlife.

(1)(a) Except as provided in this rule, the rules and regulations of the Wildlife Board, or Title 4, Chapter 37 of the Utah Code, a person may not release to the wild or release into any public or private waters any animal, including fish, without first obtaining authorization from the division.

(b) A violation of this section is punishable under Section 23-13-14.

(2) The division may seize or dispose of any illegally held animal.

(3)(a) Any peace officer, division representative, or authorized animal control officer may seize or dispose of any live animal that escapes from captivity.

(b) The division may retain custody of any recaptured animal until the costs of recapture or care have been paid by its owner or keeper.

R657-3-10. Inspection of Animals, Facilities, and Documentation.

(1) A conservation officer or any other peace officer may require any person engaged in activities regulated by this rule to exhibit:

(a) any documentation related to activities covered by this rule, including certificates of registration, permits, certificates of veterinary inspection, certification, bills of sale, or proof of ownership or legal possession;

(b) any animal; or

(c) any device, apparatus, or facility used for activities covered by this rule.

(2) Inspection shall be made during business hours.

R657-3-11. Certificate of Registration.

(1)(a) Except as provided in Subsection (8) a person shall obtain a certificate of registration before collecting, importing, transporting, possessing or propagating any species of animal or its parts classified as prohibited or controlled, except as otherwise provided in this rule, statute or rules and orders of the Wildlife Board.

(b) A certificate of registration is not required:

(i) to collect, import, transport, possess, or propagate any species or subspecies of animal classified as noncontrolled;

(ii) to export any species or subspecies of animal from Utah, provided that the animal is held in legal possession; or

(iii) to collect, transport or possess brine shrimp and brine shrimp eggs for personal use, provided:

(A) the brine shrimp and brine shrimp eggs are collected, transported and possessed together with water in a container no larger than one gallon;

(B) no more than a one gallon container of brine shrimp and brine shrimp eggs, including water, is collected during any consecutive seven day period; and

(C) the brine shrimp or brine shrimp eggs following possession are not released live into the Great Salt Lake, Sevier River or any of their tributary waters.

(c) Applications for animals classified as prohibited shall not be accepted by the division without providing written justification describing how the applicant's proposed collection, importation, or possession of the animal meets the criteria provided in Subsections R657-3-20(1)(b) or R657-3-18(4)(b).

(2)(a) Certificates of registration are not transferable and expire December 31 of the year issued, except as otherwise designated on the certificate of registration.

(b) If the holder of a certificate of registration is a representative of an institution, organization, business, or agency, the certificate of registration shall expire effective upon the date of the representative's discontinuation of association with that entity.

(c) Certificates of registration do not provide the holder

any rights of succession and any certificate of registration issued to a business or organization shall be void upon the termination of the business or organization or upon bankruptcy or transfer or death of the COR holder.

(3)(a) The issuance of a certificate of registration automatically incorporates within its terms the conditions and requirements of this rule specifically governing the activity for which the certificate of registration is issued.

(b) Any person accepting a certificate of registration under this rule acknowledges the necessity for periodic regulation and monitoring by the division.

(4) In addition to this rule, the division may impose specific requirements on the holder of the certificate of registration necessary for the safe and humane handling and care of the animal involved, including requirements for veterinary care, cage or holding pen sizes and standards, feeding requirements, social grouping requirements, and other requirements considered necessary by the division for the health and welfare of the animal or the public.

(5)(a) Upon or before the expiration date of a certificate of registration, the holder must apply for a renewal of the certificate of registration to continue the activity.

(b) The division may use the criteria provided in Section R657-3-14 in determining whether to renew the certificate of registration.

(c) It is unlawful for a person to possess an animal for which a certificate of registration is required if that person;

(i) does not have a valid certificate of registration authorizing possession of the animal; or

(ii) fails to submit a renewal application to the division prior to the expiration of an existing certificate of registration authorizing possession of the animal.

(d) If a renewal application is not submitted to the division by the expiration date, live or dead animals held in possession under the expired certificate of registration shall be considered unlawfully held and may be seized by the division.

(e) If a renewal application is submitted to the division before the expiration date of the existing certificate of registration, continued possession of the animal under the expired certificate of registration shall remain lawful while the renewal application is pending.

(6) Failure to submit timely, accurate, or valid reports as required under Section R657-3-16 or the terms of a certificate of registration may disqualify a person from renewing an existing certificate of registration or obtaining a new certificate of registration.

(7) A certificate of registration may be suspended as provided in this rule, Section 23-19-9 and Rule R657-26.

(8)(a) A certificate of registration is not required to import, possess, or transfer a live marine aquatic animal classified as noncontrolled, controlled or prohibited, provided the marine aquatic animal is:

(i) imported, possessed, or transferred for purposes of immediate human consumption;

(ii) possessed live no longer than 30 days from the date of importation or the date of receipt, if acquired from an intrastate source;

(iii) held in a tank or aquaria with an effluent that discharges into a sewage treatment system or other area that does not drain into any surface water source;

(iv) never released in any water source, including sewer systems;

(v) acquired from a lawful source and documentation of purchase is retained; and

(vi) imported and possessed in compliance with applicable state and federal laws, including the importation requirements in R657-3-25.

(b) A certificate of registration is not required to import, possess, or transfer a dead aquatic animal or its parts classified as noncontrolled, controlled or prohibited, provided it is:

(i) imported, possessed, or transferred for purposes of immediate human consumption;

(ii) acquired from a lawful source and documentation of purchase is retained; and

(b) imported and possessed in compliance with applicable state and federal laws.

R657-3-12. Application Procedures -- Fees.

(1)(a) Initial and renewal applications for certificates of registration are available from, and must be submitted to, the Wildlife Registration Office in Salt Lake City or any regional division office.

(b) Applications may require a minimum of 45 days for review and processing from the date the application is received.

(c) Applications that are incomplete, completed incorrectly, or submitted without the appropriate fee or other required information may be returned to the applicant.

(2)(a) Legal tender in the correct amount must accompany the application.

(b) The certificate of registration fee includes a nonrefundable handling fee.

(c) Upon request, applicable fees may be waived for wildlife rehabilitation, educational or scientific activities, or for state or federal agencies if, in the opinion of the division, the activity will significantly benefit the division, wildlife, or wildlife management.

R657-3-13. Retroactive Effect on Possession.

A person lawfully possessing an animal prior to the effective date of any species reclassification may receive a certificate of registration from the division for the continued possession of that animal where the animal's species classification has changed hereunder from noncontrolled to controlled or prohibited. The certificate of registration shall be obtained within six months of the reclassification. If a certificate of registration is not obtained possession of the animal thereafter shall be unlawful.

R657-3-14. Issuance Criteria.

(1) The following factors shall be considered before the division may issue or renew a certificate of registration for the collection, importation, transportation, possession or propagation of an animal:

(a) the health, welfare, and safety of the public;

(b) the health, welfare, safety, and genetic integrity of wildlife, domestic livestock, poultry, and other animals;

(c) ecological and environmental impacts;

(d) the suitability of the applicant's holding facilities;

(e) the experience of the applicant for the activity requested; and

(f) ecological or environmental impact on other states.

(2) In addition to the criteria provided in Subsection (1), the division shall use the following criteria for the issuance or renewal of a certificate of registration for a scientific use of an animal;

(a) the validity of the objectives and design;

(b) the likelihood the project will fulfill the stated objectives;

(c) the applicant's qualifications to conduct the research, including education or experience;

(d) the adequacy of the applicant's resources to conduct the study; and

(e) whether the scientific use is in the best interest of the animal, wildlife management, education, or the advancement of science without unnecessarily duplicating previously documented scientific research.

(3) In addition to the criteria provided in Subsection (1), the division may use the following criteria for the issuance or

renewal of a certificate of registration for an educational use of an animal:

(a) the objectives and structure of the educational program; and

(b) whether the applicant has written approval from the appropriate official if the activity is conducted in a school or other educational facility: and

(c) whether the individual is in possession of the required federal permits.

(4) The division may deny issuing or renewing a certificate of registration to any applicant, if:

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

(b) the applicant has previously been issued a certificate of registration and failed to submit any report or information required by this rule, the division, or the Wildlife Board;

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

(d) holding the animal at the proposed location violates federal, state, or local laws.

(5) The collection or importation and subsequent possession of an animal may be granted only upon a clear demonstration that the criteria established in this section have been met by the applicant.

(6) The division, in making a determination under this section, may consider any available facts or information that is relevant to the issuance or renewal of the certificate of registration, including independent inquiry or investigation to verify information or substantiate the qualifications asserted by the applicant.

(7) If an application is denied, the division shall provide the applicant with written notice of the reasons for denial.

(8) An appeal of the denial of an application may be made as provided in Section R657-3-37.

R657-3-15. Amendment to Certificate of Registration.

(1)(a) If circumstances materially change, requiring a modification of the terms of the certificate of registration, the holder may request an amendment by submitting written justification and supporting information.

(b) The division may amend the certificate of registration or deny the request based on the criteria for initial and renewal applications provided in Section R657-3-14, and, if the request for an amendment is denied, shall provide the applicant with written notice of the reasons for denial.

(c) The division may charge a fee for amending the certificate of registration.

(d) An appeal of a request for an amendment may be made as provided in Section R657-3-37.

(2) The division reserves the right to amend any certificate of registration for good cause upon notification to the holder and written findings of necessity.

(3)(a) Each holder of a certificate of registration shall notify the division within 30 days of any change in mailing address.

(b) Animals or activities authorized by a certificate of registration may not be held at any location not specified on the certificate of registration without prior written permission from the division.

R657-3-16. Records and Reports.

(1)(a) From the date of issuance or renewal of the certificate of registration, the holder shall maintain complete and accurate records of any taking, possession, transportation, propagation, sale, purchase, barter, or importation authorized pursuant to this rule or the certificate of registration.

(b) Records must be kept current and shall include the names, phone numbers, and addresses of persons to whom any animal has been sold, bartered, or otherwise transferred or received, and the dates of the transactions.

(c) The records required under this section must be maintained for two years from the expiration date of the certificate of registration.

(2) Reports of activity must be submitted to the Wildlife Registration Office as specified on the certificate of registration.

(3) Failure to submit the appropriate records and reports may result in denial or suspension of a certificate of registration.

R657-3-17. Collection, Importation or Possession for Personal Use.

(1) A person may collect, import or possess live or dead animals or their parts for a personal use only as follows:

(a) Certificates of registration are not issued for the collection, importation or possession of any live or dead animals or their parts classified as prohibited, except as provided in R657-3-36 or the rules and guidebooks of the Wildlife Board.

(b) A certificate of registration is required for collecting, importing or possessing any live or dead animals or their parts classified as controlled, except as otherwise provided by this rule or the rules and guidebooks of the Wildlife Board.

(c) A certificate of registration is not required for collecting, importing or possessing live or dead animals or their parts classified as noncontrolled.

(2) Notwithstanding Subsection (1), a person may import or possess any dead animal or its parts, except as provided in Section R657-3-8, for personal use without obtaining a certificate of registration, provided the animal was legally taken, is held in legal possession, and a valid license, permit, tag, certificate of registration, bill of sale, or invoice is available for inspection upon request.

R657-3-18. Collection, Importation or Possession of a Live Animal for a Commercial Use.

(1)(a) A person may not collect or possess a live animal for a commercial use or commercial venture for financial gain, unless otherwise provided in the rules and proclamations of the Wildlife Board.

(b) Use of brine shrimp for culturing ornamental aquatic animal species is not a commercial use if the brine shrimp eggs or cysts are not sold, bartered, or traded and no more than 200 pounds are collected annually.

(2)(a) A person may import or possess a live animal or parts thereof classified as non-controlled for a commercial use or a commercial venture, except native or naturalized species of animals may not be sold or traded unless they originate from a captive-bred population.

(b) Complete and accurate records for native or naturalized species must be maintained and available for inspection for two years from the date of transaction, documenting the date, name, phone number, and address of the person from whom the animal has been obtained.

(3)(a) A person may not import, collect or possess a live animal classified as controlled for a commercial use or commercial venture, without first obtaining a certificate of registration.

(b) A certificate of registration will not be issued to sell or trade a native or naturalized species of animal classified as controlled unless it originates from a captive-bred population.

(c) It is unlawful to transfer a live animal classified as controlled to a person who does not have a certificate of registration to possess the animal.

(d) Complete and accurate records must be maintained and available for inspection for two years from the date of transaction, documenting the date, name, phone number, and address of the person from whom the animal has been obtained.

(e) Complete and accurate records must be maintained and available for inspection for two years from the date of transfer, documenting the date, name, address and certificate of registration number of the person receiving the animal.

(4)(a) A certificate of registration will not be issued for importing or possessing a live animal classified as prohibited for a commercial use or commercial venture, except as provided in Subsection (b) or R657-3-36.

(b) The division may issue a certificate of registration to a zoo, circus, amusement park, aviary, aquarium, or film company to import, collect or possess live species of animals classified as prohibited if, in the opinion of the division, the importation for a commercial use is beneficial to wildlife or significantly benefits the general public without material detriment to wildlife.

(c) The division's authority to issue a certificate of registration to a zoo, circus, amusement park, aquarium, aviary or film company under this Subsection is restricted to those facilities that keep the prohibited species of animals in a park, building, cage, enclosure or other structure for the primary purpose of public exhibition, viewing, or filming.

(5) An entry permit, and a certificate of veterinary inspection are required by the Department of Agriculture to import a live animal classified as noncontrolled, controlled or prohibited.

R657-3-19. Collection, Importation or Possession of Dead Animals or Their Parts for a Commercial Use.

(1) Pursuant to Sections 23-13-13 and 23-20-3, a person may not collect, import or possess any dead animal or its parts for a commercial use or commercial venture for financial gain, unless otherwise provided in the rules and proclamations of the Wildlife Board, or a memorandum of understanding with the division.

(2) The restrictions in Subsection (1) do not apply to the following:

(a) the commercial use of a dead coyote, jackrabbit, muskrat, raccoon, or its parts;

(b) a business entity that has obtained a certificate of registration from the division to conduct nuisance wildlife control or carcass removal; and

(c) dead animals sold or traded for educational use.

R657-3-20. Collection, Importation or Possession for Scientific or Educational Use.

(1) A person may collect, import or possess live or dead animals or their parts for a scientific or educational use only as follows:

(a) Certificates of registration are not issued for collecting, importing or possessing live or dead animals classified as prohibited, except as provided in Subsection (b), or R657-3-36.

(b) The division may issue a certificate of registration to a university, college, governmental agency, bona fide nonprofit institution, or a person involved in wildlife research to collect, import or possess live or dead animals classified as prohibited if, in the opinion of the division, the scientific or educational use is beneficial to wildlife or significantly benefits the general public without material detriment to wildlife.

(2) A person shall obtain a certificate of registration before collecting, importing or possessing live or dead animals or their parts classified as controlled.

(3) A certificate of registration is not required to collect, import or possess live or dead animals classified as noncontrolled.

R657-3-21. Classification and Specific Rules for Birds.

(1) The following birds are classified as noncontrolled for collection, importation and possession:

(a) Penguins, family Spheniscidae, (All species);

(b) Megapodes (Mound-builders), family Megapodiidae (All species);

(c) Coturnix quail, family Phasianidae (Coturnix spp.);

(d) Buttonquails, family Turnicidae (All species);

(e) Turacos (including Plantain eaters and Go-away-birds), family Musophagidae (All species);

(f) Pigeons and Doves, family Columbidae (All species not native to North America);

(g) Parrots, family Psittacidae (All species not native to North America);

(h) Rollers, family Coraciidae (All species);

(i) Motmots, family Momotidae (All species);

(j) Hornbills, family Bucerotidae (All species);

(k) Barbets, families Capitonidae and Rhamphastidae (Capitoninae) (All species not native to North America;

(l) Toucans, families Ramphastidae and Rhamphastidae (Ramphastinae) (All species not native to North America;

(m) Broadbills, family Eurylaimidae (All species);

(n) Cotingas, family Cotingidae (All species);

(o) Honeyeaters, Meliphagidae Family (All species);

(p) Leafbirds and Fairy-bluebirds, family Irenidae (Irena spp., Chloropsis spp., and Aegithina spp.);

(q) Babblers, family Timaliidae (All species);

(r) White-eyes, family Zosteropidae (All species);

(s) Sunbirds, family Nectariniidae (All species);

(t) Sugarbirds, family Promeropidae (All species)

(u) Weaver finches, family Ploceidae (All species);

(v) Estrildid finches (Waxbills, Mannikins, and Munias) family Estrildidae, (Estrildidae) (Estrildinae) (All species); and

(w) Vidua finches (Indigobirds and Whydahs) family Viduidae, Estrildidae (Viduinae) (All species);

(x) Finches and Canaries, family Fringillidae (All species not native to North America);

(y) Tanagers (including Swallow-tanager), family Thraupidae (All species not native to North America); and

(z) Icterids (Troupials, Blackbirds, Orioles, etc.), family Icteridae (All species not native to North America, except Central and South American Cowbirds).

(2) The following birds are classified as noncontrolled for collection and possession, and controlled for importation:

(a) Cowbirds (Molothrus spp.) family Icteridae;

(b) European Starling, family Sturnidae (Sturnus bulgaris);

(c) House (English) Sparrow, family Passeridae (Passer domesticus); and

(d) Domestic Pigeon (Rock Dove) (Columba livia) family Columbidae.

(3) The following birds are classified as prohibited for collection, importation and possession:

(a) Ocellated turkey, family Phasianidae, (Meleagris ocellata).

(4) All species and subspecies of birds and their parts, including feathers, not listed in Subsection (1) through Subsection (3):

(a) and not listed in Appendix I or II of CITES are classified as prohibited for collection and controlled for importation and possession;

(b) and listed in Appendix I of CITES are classified as prohibited for collection and importation and controlled for possession;

(c) and listed in Appendix II of CITES are classified as prohibited for collection and controlled for importation and possession.

(d) destruction of resident Canada goose eggs and nests is allowed provided the landowner complies with R657-3-8(3).

(5) Destruction of resident Canada goose eggs and nests

is allowed provided the landowner complies with R657-3-8(3).

R657-3-22. Classification and Specific Rules for Crustaceans and Mollusks.

(1) Crustaceans are classified as follows:

(a) Asiatic (Mitten) Crab, family Grapsidae (Eriocheir, All species) are prohibited for collection, importation and possession;

(b) Brine shrimp, family Mysidae (All species) are classified as controlled for collection, and noncontrolled for importation and possession;

(c) Crayfish, families Astacidae, Cambaridae and Parastacidae (All species except Cherax quadricarinatus) are prohibited for collection, importation and possession;

(d) Pilose crayfish, (Pacificastacus gambelii) is prohibited for collection, importation, and possession;

(e) Daphnia, family Daphnidae (Daphnia lumholtzi) is prohibited for collection, importation and possession;

(f) Fishhook water flea, family Cercopagidae (Cercopagis pengoi) is prohibited for collection, importation and possession; and

(g) Spiny water flea, family Cercopagidae (Bythotrephes cederstroemii) is prohibited for collection, importation and possession.

(h) Stygobromus utahensis, family Crangonnyctidae is prohibited for collection, importation and possession.

(2) Mollusks are classified as follows:

(a) Family Achatinidae (All species) is prohibited for collection, importation and possession;

(b) Brian Head mountainsnail, family Oreohelicidae (Oreohelix parawanensis) is controlled for collection, importation and possession;

(c) Dark falsemussel, (Mytilopsis leucophaeta) family Dreissenidae is controlled for collection, importation and possession;

(d) Deseret mountainsnail, family Oreohelicidae (Oreohelixperipherica) is controlled for collection, importation and possession;

(e) Desert springsnail, (Pyrgulopsis deserta) family Hydrobiidae is controlled for collection, importation and possession;

(f) Desert valvata, (Valvata utahensis) family Valvatidae is prohibited for collection, importation and possession;

(g) Eureka mountainsnail, (Oreohelix eurekensis) family Oreohelicidae is controlled for collection, importation and possession;

(h) Fat-whorled pondsnail, (Stagnicola bonnevillensis) family Lymnaeidae is controlled for collection, importation and possession;

(i) Fish Lake physa, (Physella microstriata) family Physidae is controlled for collection, importation and possession;

(j) Fish Springs marshsnail, (Stagnicola pilsbryi) family Lymnaeidae is prohibited for collection, importation and possession;

(k) Floater, (Anodonta spp. All species) family Anodontidae is controlled for collection, importation and possession;

(l) Glossy valvata, (Valvata humeralis) family Valvatidae is controlled for collection, importation and possession;

(m) Kanab ambersnail, (Oxyloma kanabense) family Succineidae is prohibited for collection, importation and possession;

(n) Lyrate mountainsnail, (Oreohelix haydeni) family Oreohelicidae is controlled for collection, importation and possession;

(o) New Zealand mudsnail, (Potamopyrgus antipodarum) family Hydrobiidae is prohibited for collection, importation and possession;

(p) Quagga mussel, (Dreissena bugenses) family Dreissenidae is prohibited for collection, importation and possession;

(q) Red-rimmed melania, (Melanoides tuberculatus) family Thiaridae is prohibited for collection, importation and possession;

(r) Springsnails or pyrgs (Prygulopsis spp,. All species) family Hydrobiidae are controlled for collection, importation and possession.

(s) Southern tightcoil, (Ogaridiscus subrupicola) family Zonitidae is controlled for collection, importation and possession;

(t) Spruce snail, (Microphysula ingersolli) family Thysanophoridae is controlled for collection, importation and possession;

(u) Thickshell pondsnail, (Stagnicola utahensis) family Lymnaeidae is prohibited for collection, importation and possession;

(v) Utah physa, (Physella utahensis) family Physidae is controlled for collection, importation and possession;

(w) Western pearlshell, (Margaritifera falcata) family Margaritiferidae is prohibited for collection, importation and possession;

(x) Wet-rock physa, (Physella zionis) family Physidae is controlled for collection, importation and possession;

(y) Yavapai mountainsnail, (Oreohelix yavapai) family Oreohelicidae is controlled for collection, importation and possession; and

(z) Zebra mussel, (Dreissena polymorpha) family Dreissenidae is prohibited for collection, importation and possession.

(3) All native species and subspecies of crustaceans and mollusks not listed in Subsection (1) and (2), excluding ornamental aquatic animal species, are classified as controlled for collection, importation and possession.

(4) All nonnative species and subspecies of crustaceans and mollusks not listed in Subsection (1) and (2), excluding ornamental aquatic animal species, are classified as prohibited for collection, importation and possession.

R657-3-23. Classification and Specific Rules for Fish.

(1) All species of fish listed in Subsections (2) through (30) are classified as prohibited for collection, importation and possession, except:

(a) Koi, (Cyprinus carpio) family Cyprinidae is prohibited for collection, and noncontrolled for importation and possession;

(b) all species and subspecies of ornamental aquatic animal species not listed in Subsections (2) through (30) are classified as prohibited for collection, and noncontrolled for importation and possession; and

(c) all native and nonnative species and subspecies of fish that are not ornamental aquatic animal species and not listed in Subsections (2) through (30) are classified as prohibited for collection, and controlled for importation and possession.

(2) Carp, including hybrids, family Cyprinidae (All species, except Koi).

(3) Catfish:

(a) Blue catfish, (ictalurus furcatus) family Ictaluridae;

(b) Flathead catfish, (Pylodictus olivaris) family Ictaluridae;

(c) Giant walking catfish (airsac), family Heteropneustidae (All species);

(d) Labyrinth catfish (walking), family Clariidae (All species); and

(e) Parasitic catfish (candiru, carnero) family Trichomycteridae (All species).

(4) Herring:

(a) Alewife, (Alosa pseudoharengus) family Clupeidae;

and

(b) Gizzard shad, (Dorosoma cepedianum) family Clupeidae.

(5) Killifish, family Fundulidae (All species).

(6) Pike killifish, (Belonesox belizanus) family Poeciliidae.

(7) Minnows:

(a) Bonytail, (Gila elegans) family Cyprinidae;

(b) Colorado pikeminnow, (Ptychocheilus lucius) family Cyprinidae;

(c) Creek chub, (Semotilus atromaculatus) family Cyprinidae;

(d) Emerald shiner, (Notropis athernoides) family Cyprinidae;

(e) Humpback chub, (Gila cypha) family Cyprinidae;

(f) Least chub, (Iotichthys phlegethontis) family Cyprinidae;

(g) Northern leatherside chub, (Lepidomeda copei) family Cyprinidae;

(h) Red shiner, (Cyprinella lutrensis) family Cyprinidae;

(i) Redside shiner, (Richardsonius balteatus) family Cyprinidae;

(j) Roundtail chub, (Gila robusta) family Cyprinidae;

(k) Sand shiner, (Notropis stramineus) family Cyprinidae;

(l) Southern leatherside chub, (Lepidomeda aliciae) family Cyprinidae;

(m) Utah chub, (Gila atraria) family Cyprinidae;

(n) Virgin River chub, (Gila seminuda) family Cyprinidae; and

(o) Virgin spinedace, Cyprinidae Family (Lepidomeda mollispinis).

(p) Woundfin, (Plagopterus argentissimus) family Cyprinidae.

(8) Burbot, (Lota lota) family Lotidae.

(9) Suckers:

(a) Bluehead sucker, (Catostomus discobolus) family Catostomidae;

(b) Desert sucker, (Catostomus clarki) family Catostomidae;

(c) Flannelmouth sucker, (Catostomus latipinnis) family Catostomidae;

(d) June sucker, (Chasmistes liorus) family Catostomidae;

(e) Razorback sucker, (Xyrauchen texanus) family Catostomidae;

(f) Utah sucker, (Catostomus ardens) family Catostomidae; and

(g) White sucker, (Catostomus commersoni) family Catostomidae.

(10) White perch, (Morone americana) family Moronidae.

(11) Cutthroat trout, (Oncorhynchus clarki) (All subspecies) family Salmonidae.

(12) Bowfin, (All species) family Amiidae.

(13) Bull shark, (Carcharhinus leucas) family Carcharhinidae.

(14) Drum (All freshwater species), family Sciaenidae.

(15) Gar, (All species) family Lepidsosteidae

(16) Jaguar guapote, (Cichlasoma managuense) family Cichlidae.

(17) Lamprey, (All species) family Petromyzontidae.

(18) Mexican tetra, (Astyanax mexicanus, except blind form) family Characidae.

(19) Mooneye, (All species) family Hiodontidae.

(20) Nile perch, (Lates, luciolates) (All species) family Centropomidae.

(21) Northern pike, (Esox lucius) family Esocidae.

(22) Piranha, (Serrasalmus, All species) family Characidae.

(23) Round goby, (Neogobius melanostomus) family Gobiidae.

(24) Ruffe, (Gymnocephalus cernuus) family Percidae.

(25) Snakehead, (All species) family Channidae.

(26) Stickleback, (All species) family Gasterosteidae.

(27) Stingray (All freshwater species) family Dasyatidae.

(28) Swamp eel, (All species) family Synbranchidae.

(29) Tiger fish or guavinus, (Hoplias malabaricus) family Erythrinidae.

(30) Tilapia, (Tilapia and Sarotherodon) (All species) family Cichlidae.

R657-3-24. Classification and Specific Rules for Mammals.

(1) Mammals are classified as follows:

(a) Monotremes (platypus and spiny anteaters), (All species) families Ornithorhynchidae and Tachyglossidae are prohibited for collection, and controlled for importation and possession;

(b) Marsupials are classified as follows:

(i) Virginia opossum, (Didelphis virginiana) family Didelphidae is noncontrolled for collection, prohibited for importation and controlled for possession;

(ii) Wallabies, wallaroos and kangaroos, (All species) family Macropodidae are prohibited for collection, importation and possession;

(c) Bats and flying foxes (All families, All species) (order Chiroptera), are prohibited for collection, importation and possession;

(d) Insectivores (all groups, All species) are controlled for collection, importation and possession;

(e) Hedgehogs (Erinaceidae) except white bellied hedgehogs are controlled for collection, importation and possession;

(f) Shrews,(Sorex spp. and Notisorex spp.) family Sorcidae are controlled for collection, importation and possession;

(g) Anteaters, sloths and armadillos (All families, All species) (order Xenartha), are prohibited for collection, and controlled for importation and possession;

(h) Aardvark (Orycteropus afer) family Orycteropodidae is prohibited for collection, and controlled for importation and possession;

(i) Pangolins or scaly anteaters (Manis spp.,) (order Philodota) are prohibited for collection and importation, and controlled for possession;

(j) Tree shrews (All species) family Tupalidae are prohibited for collection, and controlled for importation and possession;

(k) Lagomorphs (rabbits,hares and pikas) are classified as follows:

(i) Jackrabbits, (Lepus spp.) family Leporidae are noncontrolled for collection, and controlled for importation and possession;

(ii) Cottontails, (Syvilagus spp.) family Leporidae are prohibited for collection, and controlled for importation and possession;

(iii) Pygmy rabbit, (Brachylagus idahoensis) family Leporidae is prohibited for collection, and controlled for importation and possession;

(iv) Snowshoe hare, (Lepus americanus) family Leporidae is prohibited for collection, and controlled for importation and possession;

(v) Pika, (Ochotona princeps) family Ochotonidae is controlled for collection, importation and possession;

(l) Elephant shrews (All species) family Macroscelididae are prohibited for collection, and controlled for importation and possession;

(m) Rodents (order Rodentia) are classified as follows:

(i) Beaver, (Castor canadensis) family Castoridae is controlled for collection, importation and possession;

(ii) Muskrat, (Ondatra zibethicus) family Muridae are

noncontrolled for collection, and controlled for importation and possession;

(iii) Deer mice and related species, (Peromyscus spp.) family Muridae are controlled for collection, importation and possession;

(iv) Grasshopper mice, (Onychomys spp.) family Muridae are controlled for collection, importation and possession;

(v) Voles (All genera and species), family Muridae, subfamily Microtinae are controlled for collection, importation and possession;

(vi) Western harvest mouse, (Reithrodontomys megalotis) family Muridae is controlled for collection, importation and possession;

(vii) Woodrats, (Neotoma spp.) family Muridae are controlled for collection, importation and possession;

(viii) Nutria or coypu, (Myocastor coypus) family Myocastoridae is noncontrolled for collection, prohibited for importation and controlled for possession;

(ix) Pocket gophers (All species, except the Idaho pocket gopher (Thomomys idahoensis)) family Geomyidae are noncontrolled for collection, and controlled for importation and possession;

(x) Pocket mice, (Perognathus spp. and Chaetodipus intermedius) family Heteromyidae are controlled for collection, importation and possession;

(xi) Dark kangaroo mouse, (Microdipodops pallidus) family Heteromyidae is controlled for collection, importation and possession;

(xii) Kangaroo rats, (Dipodomys spp.) family Heteromyidae are controlled for collection, importation and possession;

(xiii) Abert's squirrel, (Sciurus aberti) family Sciuridae is prohibited for collection, importation and possession;

(xiv) Black-tailed prairie dog, (Cynomys ludovicianus) family Sciuridae is controlled for collection, and prohibited for importation and possession;

(xv) Gunnison's prairie dog, (Cynomys gunnisoni) family Sciuridae is controlled for collection, importation and possession;

(xvi) Utah prairie dog, (Cynomys parvidens) family Sciuridae is controlled for lethal take, and prohibited for live collection, importation and possession;

(xvii) White-tailed prairie dog, (Cynomys leucurus) family Sciuridae is controlled for collection, importation and possession;

(xviii) Chipmunks, All species except yellow-pine chipmunk (Neotamias amoenus) family Sciuridae are noncontrolled for collection, and controlled for importation and possession;

(xix) Yellow-pine chipmunk, (neotamias amoenus) family Sciuridae is controlled for collection, importation and possession;

(xx) Northern flying squirrel, (Glaucomys sabrinus) family Sciuridae is controlled for collection, importation and possession;

(xxi) Southern flying squirrel, (Glaucomys volans) family Sciuridae is prohibited for collection, importation and possession;

(xxii) Fox squirrel or eastern fox squirrel (Sciurus niger) family Sciuridae is prohibited for collection, importation, and possession;

(xxiii) Ground squirrel and rock squirrel, and antelope squirrels (All species, All genera), family Sciuridae are controlled for collection, importation and possession, except nuisance squirrels which are noncontrolled for collection;

(xxiv) Red squirrel, (Tamiasciurus hudsonicus) family Sciuridae are controlled for collection, importation and possession, except for nuisance animals, which are noncontrolled for collection;

(xxv) Yellow-bellied marmot, (Marmota flaviventris) family Sciuridae is controlled for collection, importation and possession;

(xxvi) Western jumping mouse, (Zapus princeps) family Zapodidae is controlled for collection, importation and possession;

(xxvii) Porcupine, (Erethizon dorsatum) family Erethizontidae is controlled for collection, importation and possession;

(xxviii) Degus and other South American rodents, family Octodontidae (All species) are prohibited for collection, importation and possession;

(xxvix) Dormice, families Gliridae and Selevinidae (All species) are prohibited for collection, importation and possession;

(xxx) African pouched rats, family Muridae (All species) are prohibited for collection, importation and possession;

(xxxi) Jirds, (Meriones spp.) family Muridae are prohibited for collection, importation and possession;

(xxxii) Mice, (All species of Mus) family Muridae, except Mus musculus are prohibited for collection, importation and possession;

(xxxiii) Spiny mice, (Acomys spp.) family Muridae are prohibited for collection, importation and possession;

(xxxiv) Hyraxes (All species) family Procaviidae are prohibited for collection, and controlled for importation and possession;

(xxxv) Idaho pocket gopher, (Thomomys idahoensis) family Geomyidae is controlled for collection, importation and possession.

(n) Hoofed mammals (Artiodactyla and Perissodactyla) are classified as follows:

(i) American bison or "buffalo" wild and free ranging, (Bos bison) family Bovidae is prohibited for collection, importation and possession;

(ii) Collared peccary or javelina, (Tayassu tajacu) family Tayassuidae is prohibited for collection, importation and possession;

(iii) Axis deer, (Cervus axis) family Cervidae is prohibited for collection, importation and possession;

(iv) Caribou, wild and free ranging, (Rangifer tarandus) family Cervidae is prohibited for collection, importation and possession;

(v) Caribou, captive-bred, (Rangifer tarandus) family Cervidae is prohibited for collection, and controlled for importation and possession;

(vi) Elk or red deer (Cervus elaphus), wild and free ranging, family Cervidae is prohibited for collection, importation and possession;

(vii) Fallow deer, (Cervus dama), wild and free ranging, family Cervidae is prohibited for collection, importation and possession;

(viii) Fallow deer, (Cervus dama) captive-bred, family Cervidae is prohibited for collection, and controlled for importation and possession;

(ix) Moose, (Alces alces) family Cervidae is prohibited for collection, importation and possession;

(x) Mule deer, (Odocoileus hemionus) family Cervidae is prohibited for collection, importation and possession;

(xi) White-tailed deer (Odocoileus virginianus), family Cervidae is prohibited for collection, importation and possession;

(xii) Rusa deer, (Cervus timorensis) family Cervidae is prohibited for collection, importation and possession;

(xiii) Sambar deer, (Cervus unicolor) family Cervidae is prohibited for collection, importation and possession;

(xiv) Sika deer, (Cervus nippon) family Cervidae is prohibited for collection, importation and possession;

(xv) Muskox, (Ovibos moschatus), wild and free ranging,

family Bovidae is prohibited for collection, importation and possession;

(xvi) Muskox, (Ovibos moschatus), captive-bred, family Bovidae is prohibited for collection, and controlled for importation and possession;

(xvii) Pronghorn, (Antilocapra americana) family Antilocapridae is prohibited for collection, importation and possession;

(xviii) Barbary sheep or aoudad, (Ammotragus lervia) family Bovidae is prohibited for collection, importation and possession;

(xix) Bighorn sheep (Ovis canadensis) (including hybrids)family Bovidae are prohibited for collection, importation and possession;

(xx) Dall's and Stone's sheep (Ovis dalli) (including hybrids) family Bovidae are prohibited for collection, importation and possession;

(xxi) Exotic wild sheep (including mouflon, Ovis musimon; Asiatic or red sheep, Ovis orientalis;urial, Ovis vignei;argali, Ovis ammon; and snow sheep, Ovis nivicola), including hybrids, family Bovidae are prohibited for collection, importation and possession;

(xxii) Rocky Mountain goat, (Oreamnos americanus) family Bovidae is prohibited for collection, importation and possession;

(xxiii) Ibex, (Capra ibex) family Bovidae is prohibited for collection, importation and possession;

(xxiv) Wild boar or pig (Sus scrofa), including hybrids, are prohibited for collection, importation and possession;

(o) Carnivores (Carnivora) are classified as follows:

(i) Bears, (All species) family Ursidae are prohibited for collection, importation and possession;

(ii) Coyote, (Canis latrans) family Canidae is prohibited for importation, and is controlled by the Utah Department of Agriculture for collection and possession;

(iii) Fennec, (Vulpes zerda) family Canidae is prohibited for collection, importation and possession;

(iv) Gray fox, (Urocyon cinereoargenteus) family Canidae is prohibited for collection, importation and possession;

(v) Kit fox, (Vulpes macotis) family Canidae is prohibited for collection, importation and possession;

(vi) Red fox, (Vulpes vulpes) family Canidae, as applied to animals in the wild or taken from the wild, is noncontrolled for lethal take and prohibited for live collection, possession, or importation;

(vii) Gray wolf, (Canis lupus) except hybrids with domestic dogs, family Canidae is prohibited for collection, importation and possession;

(viii) Wild Cats (All species, including hybrids) family Felidae are prohibited for collection, importation, and possession;

(ix) Bobcat, (Lynx rufus) wild and free ranging, family Felidae is prohibited for collection, importation and possession;

(x) Bobcat, (Lynx rufus) captive-bred, family Felidae is prohibited for collection, and controlled for importation and possession;

(xi) Cougar, puma or mountain lion, (Puma concolor) family Felidae is prohibited for collection, importation and possession;

(xii) Canada lynx, (Lynx lynx) wild and free ranging, family Felidae is prohibited for collection, importation and possession;

(xiii) Eurasian lynx, (Lynx lynx) captive-bred, family Felidae is prohibited for collection, and controlled for importation and possession;

(xiv) American badger, (Taxidea taxus) family Mustelidae is prohibited for collection, importation and possession;

(xv) Black-footed ferret, (Mustela nigripes) family Mustelidae is prohibited for collection, importation or possession;

(xvi) Ermine, stout, or short-tailed weasel, (Mustela erminea) family Mustelidae is prohibited for collection, importation and possession;

(xvii) Long-tailed weasel (Mustela frenata) family Mustelidae is prohibited for collection, importation and possession;

(xviii) American marten, (Martes americana) wild and free ranging, family Mustelidae is prohibited for collection, importation and possession;

(xix) American marten, (Martes americana) captive-bred, family Mustelidae is prohibited for collection, controlled for importation and possession;

(xx) American mink, (Neovison vison) except domestic forms, family Mustelidae is prohibited for collection, importation and possession;

(xxi) Northern river otter, (Lontra canadensis) family Mustelidae is prohibited for collection, importation and possession;

(xxii) Striped skunk, (Mephitis mephitis) family Mephitidae is prohibited for collection, importation, and possession, except nuisance skinks, which are noncontrolled for collection;

(xxiii) Western spotted skunk, (Spilogale gracilis) family Mephitidae is prohibited for collection, importation, and possession;

(xxiv) Wolverine ,(Gulo gulo) family Mustelidae is prohibited for collection, importation and possession;

(xxv) Coatis, (Nasua spp. and Nasuella spp.) family Procyonidae are prohibited for collection, importation and possession;

(xxvi) Kinkajou, (Potos flavus) family Procyonidae is prohibited for collection, importation and possession;

(xxvii) Northern Raccoon, (Procyon lotor) family Procyonidae is prohibited for importation, and controlled by the Department of Agriculture for collection and possession;

(xxviii) Ringtail, (Bassariscus astutus) family Procyonidae is prohibited for collection, importation and possession;

(xxix) Civets, genets and related forms, (All species) family Viverridae are prohibited for collection, importation and possession;

(p) Primates are classified as follows:

(i) Lemurs, (All species) family Lemuridae are prohibited for collection, importation and possession;

(ii) Dwarf and mouse lemurs, (All species) family Cheirogaleidae are prohibited for collection, importation and possession;

(iii) Indri and sifakas, (All species) family Indriidae are prohibited for collection, importation and possession;

(iv) Aye aye, (Daubentonia madagasciensis) family Daubentonidae is prohibited for collection, importation and possession;

(v) Bush babies, pottos and lorises, (All species) family Lorisidae are prohibited for collection, importation and possession;

(vi) Tarsiers, (All species) family Tarsiidae are prohibited for collection, importation and possession;

(vii) New World monkeys, (All species) family Cebidae are prohibited for collection, importation and possession;

(viii) Marmosets and tamarins, (All species) family Callitrichidae are prohibited for collection, importation and possession;

(ix) Old-world monkeys, (All species) which includes baboons and macaques, family Cercopithecidae are prohibited for collection, importation and possession;

(x) Great apes (All species), which include gorillas, chimpanzees and orangutans, family Hominidae are prohibited for collection, importation and possession;

(xi) Lesser apes (Siamang and gibbons, All species),

family Hylobatidae are prohibited for collection, importation and possession;

(2) All species and subspecies of mammals and their parts, not listed in Subsection (1):

(a) and not listed in Appendix I or II of CITES are classified as prohibited for collection and controlled for importation and possession;

(b) and listed in Appendix I of CITES are classified as prohibited for collection and importation and controlled for possession;

(c) and listed in Appendix II of CITES are classified as prohibited for collection and controlled for importation and possession.

R657-3-25. Importation of Animals into Utah.

(1) As provided in Rule R58-1, the Department of Agriculture and Food requires a valid certificate of veterinary inspection and an entry permit number before any animal may be imported into Utah.

(2)(a) All live fish imported into Utah and not destined for an aquaculture facility or fee fishing facility must be accompanied by the following documentation:

(i) common or scientific names of fish;

(ii) name and address of the consignor and consignee;

(iii) origin of shipment;

(iv) final destination;

(v) number of fish shipped; and

(vi) certificate of veterinary inspection, Utah entry permit number issued by the Utah Department of Agriculture and Food, and any other health certifications.

(b) A person may import live fish destined for an aquaculture facility or fee fishing facility only as provided by Title 4, Chapter 37, Aquaculture Act and the rules promulgated there under.

(3) Subsection (2)(a) does not apply to dead fish or crayfish caught in Lake Powell, Bear Lake, or Flaming Gorge reservoirs under the authority of a valid fishing license and in accordance with Rule R657-13 and the proclamation of the Wildlife Board for taking fish and crayfish.

R657-3-26. Transporting Live Animals Through Utah.

(1) Any controlled or prohibited species of animal may be transported through Utah without a certificate of registration if:

(a) the animal remains in Utah no more than 72 hours; and

(b) the animal is not sold, transferred, exhibited, displayed, or used for a commercial venture while in Utah; and

(c) the animal is a raptor used for falconry purposes in compliance with the requirements in R657-20.

(2) A certificate of veterinary inspection is required from the state of origin as provided in Rule R58-1 and proof of legal possession must accompany the animal.

(3) If delays in transportation arise, an extension of the 72 hours may be requested by contacting the Wildlife Registration Office in Salt Lake City.

(4) None of the provisions in this section will be construed to supersede R657-20-14 and R657-20-30.

R657-3-27. Importing Animals into Utah for Processing.

(1) A person shipping animals directly to a state or federally regulated establishment for immediate euthanasia and processing is not required to obtain a certificate of registration or certificate of veterinary inspection provided the animals or their parts are accompanied by a waybill or other proof of legal ownership describing the animals, their source, and indicating the destination.

(2) Any water used to hold or transport fish may not be emptied into a stream, lake, or other natural body of water.

R657-3-28. Transfer of Possession.

(1) A person may possess an animal classified as prohibited or controlled only after applying for and obtaining a certificate of registration from the division or Wildlife Board as provided in this rule.

(2) Any person who possesses an animal classified as prohibited or controlled may transfer possession of that animal only to a person who has first applied for and obtained a certificate of registration for that animal from the division or Wildlife Board.

(3) The division may issue a certificate of registration granting the transfer and possession of that animal only if the applicant meets the issuance criteria provided in Section R657-3-14.

(4) A certificate of registration does not provide the holder any rights of succession.

R657-3-29. Propagation.

(1) A person may propagate animals classified as noncontrolled for possession.

(2) A person may propagate animals classified as controlled for possession only after obtaining a certificate of registration from the division, or as otherwise authorized in Sections R657-3-30, R657-3-31, and R657-3-32.

(3) A person may not propagate animals classified as prohibited for possession, except as authorized in Sections R657-3-30, R657-3-31, R657-3-32, and R657-3-36.

R657-3-30. Propagation of Raptors.

(1) A person may propagate raptors only as provided in this section, R657-20-30, and 50 CFR 21.30, 2011 which are incorporated herein by reference. All applicants for captive breeding permits must become familiar with this rule and other applicable state and federal regulations.

(2) A person must apply for a federal raptor propagation permit and a certificate of registration from the division to propagate raptors.

(3) If the applicant requests authority to use raptors taken from the wild, the division's avian program coordinator must determine the following:

(a) whether issuance of the permit would have significant effect on any wild population of raptors;

(b) the length of time the wild caught raptor has been in captivity;

(c) whether suitable captive stock is available; and

(d) whether wild stock is needed to enhance the genetic variability of captive stock; and

(e) whether a federal permit to use a wild caught raptor for propagation has been issued.

(4) Raptors may not be taken from the wild for captive breeding, except as provided in Subsection (3) and R657-20-30.

(5) A person must obtain authorization from the division before importing raptors or raptor semen into Utah. The authorization shall be noted on the certificate of registration.

(6) A person may sell a captive-bred raptor properly marked with a band approved by the U.S. Fish and Wildlife Service or issued by the U.S. Fish and Wildlife Service to a resident raptor breeder or falconer who has a valid Utah falconry certificate of registration or to a nonresident state and federally licensed apprentice, general or master class falconer or raptor breeder.

(7) A permittee may not purchase, sell or barter any raptor eggs, any raptors taken from the wild, any raptor semen collected from the wild, or any raptors hatched from eggs taken from the wild.

(8) A raptor imported into Utah is required to have:

(a) a certificate of veterinary inspection from the state, tribe, country or territory of origin; and

(b) an import authorization number issued through the Utah Department of Agriculture and Food.

(9) A permittee may use raptors held in possession for propagation in the sport of falconry only if such use is designated on both the permittee's propagation permit and the falconry certificate of registration.

(a) Formal approval from the division is required to transfer a raptor from a falconry certificate of registration to propagation use that exceeds 8 months in duration.

(b) A licensed raptor propagator may temporarily possess and use a falconry raptor for propagation without division approval, provided the propagator possesses;

(i) a signed and dated statement from the falconer authorizing the temporary possession; and

(ii) a copy of the falconer's original FWS Form 3-186A for that raptor.

(10) Raptors considered unsuitable for release to the wild from rehabilitation projects, and certified as not releasable by the rehabilitator and a licensed veterinarian, may be placed with a licensed propagator upon written request to the division from the licensed propagator that is endorsed by the rehabilitator and in concurrence with the U.S. Fish and Wildlife Service.

(11) A copy of the propagator's annual report of activities required by the U.S. Fish and Wildlife Service must be sent to the division as specified on the certificate of registration.

(12) None of the provisions in this section will be construed to supersede R657-20-30.

R657-3-31. Propagation of Bobcat, Lynx, and Marten.

(1)(a) A person may propagate captive-bred bobcat, lynx (Canada and/or Eurasian), or American marten only after obtaining a certificate of registration from the division.

(b) The certificate of registration must be renewed annually.

(c) Renewal of a certificate of registration will be subject to submission of a report indicating:

(i) the number of progeny produced;

(ii) the animal's disposition; and

(iii) a certificate of inspection by a licensed veterinarian verifying that the animals are maintained under healthy and nutritionally adequate conditions.

(2)(a) Any person engaged in propagation must keep at least one male and one female in possession.

(b) Live bobcat, lynx, and American marten may not be obtained from the wild for use in propagation.

(c) Bobcat, lynx, and American marten held for propagation shall not be maintained as pets and shall not be declawed or defanged.

(3) The progeny and descendants of any bobcat, lynx, or American marten may be pelted or sold.

(4)(a) If any bobcat, lynx, or American marten is sold live to a person residing in Utah, the purchaser must have first obtained a certificate of registration from the division and must show proof of this fact to the seller.

(b) The offense of selling or transferring a live bobcat, lynx, or American marten to a person who has not obtained a certificate of registration shall be punishable against both the transferor and the transferee.

(5)(a) Each pelt must have attached to it a permanent possession tag before being sold, bartered, traded, or transferred to another person.

(b) Permanent possession tags may be obtained at any regional division office and shall be affixed to the pelt by a division employee.

(6) The progeny of bobcat, lynx, or American marten may not be released to the wild.

(7) Nothing in this section shall be construed to allow a person holding a certificate of registration for propagation to use or possess a bobcat, lynx, or American marten for any purpose other than propagation without express authorization on the certificate of registration.

R657-3-32. Propagation of Caribou, Fallow Deer, Musk-ox, and Reindeer.

(1)(a) A person may propagate captive-bred caribou, fallow deer, musk-ox, or reindeer only after obtaining a certificate of registration from the division.

(b) The certificate of registration must be renewed annually.

(c) Renewal of a certificate of registration will be subject to submission of a report indicating;

(i) the disposition of each animal held in possession during the year; and

(ii) a certificate of inspection by a licensed veterinarian verifying that the animals are maintained under healthy and nutritionally adequate conditions.

(2)(a) If any live caribou, fallow deer, musk-ox, or reindeer is sold, traded, or given to another person as a gift in Utah, the purchaser must have first obtained a certificate of registration from the division and must show proof of this fact to the seller.

(b) The offense of selling or transferring a live caribou, fallow deer, musk-ox, or reindeer to a person who has not obtained a certificate of registration shall be punishable against both the transferor and the transferee.

(3) If, at any time, the division determines that the possession or propagation of caribou, fallow deer, musk-ox, or reindeer has a significantly detrimental effect to the health of any population of wildlife, the division may:

(a) terminate the authorization for propagation; and

(b) require the removal or destruction of the animals at the owner's expense.

R657-3-33. Violations.

(1) Any violation of this rule shall be punishable as provided in Section 23-13-11.

(2) Nothing in this rule shall be construed to supersede any provision of Title 23, of Utah Code which establishes a penalty greater than an infraction. Any provision of this rule which overlaps a provision of Title 23 is intended only as a clarification or to provide greater specificity needed for the administration of the provisions of this rule.

R657-3-34. Certification Review Committee.

(1) The division shall establish a Certification Review Committee which shall be responsible for:

(a) reviewing:

(i) petitions to reclassify species and subspecies of animals;

(ii) appeals of certificates of registration; and

(iii) requests for variances to this rule; and

(b) making recommendations to the Wildlife Board.

(2) The committee shall consist of the following individuals:

(a) the division director or the director's designee who shall represent the director's office and shall act as chair of the committee;

(b) the chief of the Aquatic Section;

(c) the chief of the Wildlife Section;

(d) the chief of the Public Services Section;

(e) the chief of the Law Enforcement Section;

(f) the state veterinarian or his designee; and

(g) a person designated by the Department of Health.

(3) The division shall require a fee for the submission of a request provided in Section R657-3-35 and R657-3-36.

R657-3-35. Request for Species Reclassification.

(1) A person may request to change the classification of a species or subspecies of animal provided in this rule.

(2) A request for reclassification must be made to the Certification Review Committee by submitting an application

for reclassification.

(3)(a) The application shall include:

(i) the petitioner's name, address, and phone number;

(ii) the species or subspecies for which the application is made;

(iii) the name of all interested parties known by the petitioner;

(iv) the current classification of the species or subspecies;

(v) a statement of the facts and reasons forming the basis for the reclassification; and

(vi) copies of scientific literature or other evidence supporting the change in classification.

(b) In addition to the information required under Subsection (a), the applicant must provide any information requested by the committee necessary to formulate a recommendation to the Wildlife Board.

(3)(a) The committee shall, within a reasonable time, consider the request for reclassification and shall submit its recommendation to the Wildlife Board.

(b) The committee shall send a copy of its recommendation to the applicant and other interested parties specified on the application.

(4)(a) At the next available Wildlife Board meeting, the Wildlife Board shall:

(i) consider the committee recommendation; and

(ii) any information provided by the applicant or other interested parties.

(b) The Wildlife Board shall approve or deny the request for reclassification based on the issuance criteria provided in Section R657-3-14.

(5) A change in species classification shall be made in accordance with Title 63G, Chapter 3, Administrative Rulemaking Act.

R657-3-36. Request for Variance.

(1) A person may request a variance to this rule for the collection, importation, propagation, or possession of an animal classified as prohibited under this rule by submitting a variance request to the Certification Review Committee.

(2)(a) A variance request shall include the following:

(i) the name, address, and phone number of the person making the request;

(ii) the species or subspecies of animal and associated activities for which the request is made; and

(iii) a statement of the facts and reasons forming the basis for the variance.

(b) In addition to the information required under Subsection (a), the person making the request must provide any information requested by the committee necessary to formulate a recommendation to the Wildlife Board.

(3) The committee shall, within a reasonable time, consider the request and shall submit its recommendation to the Wildlife Board.

(4) At the next available Wildlife Board meeting the Wildlife Board shall:

(a) consider the committee recommendation; and

(b) any information provided by the person making the request.

(5)(a) The Wildlife Board shall approve or deny the request based on the issuance criteria provided in Section R657-3-14.

(b) If the request applies to a broad class of persons and not to the unique circumstances of the applicant, the Wildlife Board shall consider changing the species classification before issuing a variance to this rule.

(6)(a) If the request is approved, the Wildlife Board may impose any restrictions on the person making the request considered necessary for that person to maintain the standards upon which the variance is made.

(b) Any restrictions imposed on the person making the request shall be included in writing on the certificate of registration which shall be signed by the person making the request before its issuance.

R657-3-37. Appeal of Certificate of Registration Denial.

(1) A person may appeal the division's denial of a certificate of registration by submitting an appeal request to the Certification Review Committee.

(2) The request must be made within 30 days after the date of the denial.

(3) The request shall include:

(a) the name, address, and phone number of the applicant;

(b) the date the request is mailed;

(c) the species or subspecies of animals and the activity for which the application is made; and

(d) supporting facts and other evidence applicable to resolving the issue.

(4) The committee shall review the request within a reasonable time after it is received.

(5) Upon reviewing the application and the reasons for its denial, the committee may:

(a) overturn the denial and approve the application; or

(b) uphold the denial.

(6) The committee may overturn a denial if the denial is:

(a) based on insufficient information;

(b) inconsistent with prior actions of the division or the Wildlife Board;

(c) arbitrary or capricious; or

(d) contrary to law.

(7)(a) Within a reasonable time after making its decision, the committee shall mail a notice to the applicant specifying the reasons for its decision.

(b) The notice shall include information on the procedures for seeking Wildlife Board review of that decision.

(8)(a) If the committee upholds the denial, the applicant may seek Wildlife Board review of the decision by submitting a request for Wildlife Board review within 30 days after its issuance.

(b) The request must include the information provided in Subsection (3).

(9)(a) Upon receiving a request for Wildlife Board review, the Wildlife Board shall, within a reasonable time, hold a hearing to consider the request.

(b) The Wildlife Board may:

(i) overturn the denial and approve the application; or

(ii) uphold the denial.

(c) The Wildlife Board shall provide the petitioner with a written decision within a reasonable time after making its decision.

KEY: wildlife, animal protection, import restrictions, zoological animals

March 9, 2016 **23-14-18**

Notice of Continuation February 27, 2018 **23-14-19**

23-20-3

23-13-14

63G-7-101 et seq.

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 guidebook 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) "Draw-lock" means a mechanical device used to hold and support the draw weight of a conventional or compound bow at any increment of draw until released by the archer using a trigger mechanism and safety attached to the device.

(l) "Drone" means an autonomously controlled, aerial vehicle of any size or configuration that is capable of controlled flight without a human pilot aboard.

(m) "Ewe" means a female bighorn sheep or any bighorn sheep younger than one year of age.

(n) "Hunter's choice" means either sex may be taken.

(o) "Limited entry hunt" means any hunt published in the hunt tables of the guidebook 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.

(p) "Limited entry permit" means any permit obtained for a limited entry hunt by any means, including conservation permits, wildlife expo permits, sportsman permits, cooperative wildlife management unit permits and limited entry landowner permits.

(q) "Once-in-a-lifetime hunt" means any hunt published in the hunt tables of the guidebook 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.

(r) "Once-in-a-lifetime permit" means any permit obtained for a once-in-a-lifetime hunt by any means, including conservation permits, wildlife expo permits, sportsman permits, cooperative wildlife management unit permits and limited entry landowner permits.

(s) "Ram" means a male desert bighorn sheep or Rocky Mountain bighorn sheep older than one year of age.

(t) "Spike bull" means a bull elk which has at least one antler beam with no branching above the ears. Branched means a projection on an antler longer than one inch, measured from its base to its tip.

R657-5-3. License, Permit, and Tag Requirements.

(1) A person may engage in hunting protected wildlife or in the sale, trade, or barter of protected wildlife or its parts in accordance with Section 23-19-1 and the rules or guidebooks 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.

(3) A person must possess or obtain a Utah hunting or combination license to apply for or obtain any big game hunting permit.

R657-5-4. Age Requirements and Restrictions.

(1)(a) A person 12 years of age or older may apply for or obtain a permit to hunt big game.

(b) A person 11 years of age may apply for a permit to hunt big game, provided that person's 12th birthday falls within the calendar year for which the permit is issued and that person does not use the permit to hunt big game before their 12th birthday.

(2)(a) A person at least 12 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 or online license agent, for ten dollars or half of the price of the original license, permit, or certificate of registration, whichever is less.

(2) The division may waive the fee for a duplicate unexpired license, permit, tag or certificate of registration provided the person did not receive the original license, permit, tag or certificate of registration.

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. 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;

(b) any light enhancement device or aiming device that casts a visible beam of light; or

(c) a firearm equipped with a computerized targeting system that marks a target, calculates a firing solution and automatically discharges the firearm at a point calculated most likely to hit the acquired target.

(3) Nothing in this Section shall be construed as prohibiting laser range finding devices or illuminated sight pins for archery equipment.

R657-5-8. Rifles, Shotguns, and Crossbows.

(1) A rifle used to hunt big game must fire centerfire cartridges and expanding bullets.

(2) A shotgun used to hunt big game must be 20 gauge or larger, firing only 00 or larger buckshot or slug ammunition.

(3)(a) A crossbow used to hunt big game must have a minimum draw weight of 125 pounds and a positive mechanical safety mechanism.

(b) A crossbow arrow or bolt used to hunt big game must be at least 16 inches long and have:

(i) fixed broadheads that are at least 7/8 inch wide at the widest point; or

(ii) expandable, mechanical broadheads that are at least 7/8 inch wide at the widest point when the broadhead is in the open position.

(c) Unless otherwise authorized by the division through a certificate of registration, it is unlawful for any person to:

(i) hunt big game with a crossbow during a big game archery hunt;

(ii) carry a cocked crossbow containing an arrow or a bolt while in or on any motorized vehicle on a public highway or other public right-of-way; or

(iii) hunt any protected wildlife with a crossbow utilizing a bolt that has any chemical, explosive or electronic device attached.

(4) A crossbow used to hunt big game may have a fixed or variable magnifying scope only during an any weapon hunt.

R657-5-9. Handguns.

(1) A handgun may be used to take deer and pronghorn, provided the handgun:

(a) is a minimum of .24 caliber;

(b) fires a centerfire cartridge with an expanding bullet; and

(c) 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;

(a) is a minimum of .24 caliber;

(b) fires a centerfire cartridge with an expanding bullet; and

(c) develops 500 foot-pounds of energy at 100 yards.

R657-5-10. 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 variable or fixed power scope, including a magnifying 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 smokeless powder.

(2)(a) A lead or expanding bullet or projectile of at least 40 caliber must be used to hunt big game.

(b) A bullet 130 grains or heavier, or a sabot 170 grains or heavier, 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 for a big game hunt may:

(i) use only muzzleloader equipment authorized in this Subsections (1) and (2) to take the species authorized in the permit; and

(ii) not possess or be in control of a rifle or shotgun while in the field during the muzzleloader hunt.

(b) "Field" for purposes of this section, means a location where the permitted species of wildlife is likely to be found, but does not include a hunter's established campsite or the interior of a fully enclosed automobile or truck.

(c) The provisions of Subsection (a) do not apply to:

(i) a person lawfully hunting 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.

(4) A person who has obtained an any weapon permit for a big game hunt may use muzzleloader equipment authorized in this Section to take the species authorized in the permit.

R657-5-11. Archery Equipment.

(1) Archery equipment may be used during any big game hunt, except a muzzleloader hunt, provided:

(a) the minimum bow pull is 30 pounds at the draw or the peak, whichever comes first;

(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.

(2) The following equipment or devices may not be used to take big game:

(a) a crossbow, except as provided in Subsection (5) and Rule R657-12;

(b) arrows with chemically treated or explosive arrowheads;

(c) a mechanical device for holding the bow at any increment of draw, except as provided in Subsection (5) and Rule R657-12;

(d) a release aid that is not hand held or that supports the draw weight of the bow, except as provided in Subsection (5) and Rule R657-12; or

(e) a bow with 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 for a big game hunt may:

(i) only use archery equipment authorized in Subsections (1) and (2) to take the species authorized in the permit; and

(ii) not possess or be in control of a crossbow, draw-lock, rifle, shotgun or muzzleloader while in the field during an archery hunt.

(b) "Field" for purposes of this section, means a location where the permitted species of wildlife is likely to be found, but does not include a hunter's established campsite or the interior of a fully enclosed automobile or truck.

(c) The provisions of Subsection (a) do not apply to:

(i) a person lawfully hunting upland game or waterfowl;

(ii) a person licensed to hunt big game species during hunts that coincide with the archery hunt, provided the person is in compliance with the regulations of that hunt and possesses only the weapons authorized for that hunt;

(iii) livestock owners protecting their livestock;

(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; or

(v) a person possessing a crossbow or draw-lock under a certificate of registration issued pursuant to R657-12.

(5) A person who has obtained an any weapon permit for a big game hunt may use archery equipment authorized in this Section to take the species authorized in the permit, including a crossbow or draw-lock.

(6)(a) A person hunting an archery-only season on a once-in-a-lifetime hunt may:

(i) only use archery equipment authorized in Subsections (1) and (2) to take the species authorized in the permit; and

(ii) not possess or be in control of a crossbow, draw-lock, rifle, shotgun or muzzleloader while in the field during the

archery-only season.

(b) "Field" for purposes of this section, means a location where the permitted species of wildlife is likely to be found, but does not include a hunter's established campsite or the interior of a fully enclosed automobile or truck.

R657-5-12. 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 R651-614-4.

(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 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:

(a) only use archery equipment to take buck deer and bull elk south of I-80 and east of I-15;

(b) only use archery equipment to take big game in Emigration Township; and

(c) not hunt big game within one-half mile of Silver Lake in Big Cottonwood Canyon.

(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 guidebook of the Wildlife Board for taking big game.

(9) Hunters are restricted to using archery equipment, muzzleloaders or shotguns on the Scott M. Matheson Wetland Preserve.

(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.

R657-5-13. 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:

(i) take protected wildlife; or

(ii) locate protected wildlife while in possession of a rifle, shotgun, archery equipment, crossbow, or muzzleloader.

(b) the use of a spotlight or other artificial light in a field, woodland, or forest where protected wildlife are generally found is probable cause of attempting to locate protected wildlife.

(2) The provisions of this section do not apply to:

(a) the use of headlights, illuminated sight pins on a bow, 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.

R657-5-14. Use of Vehicle or Aircraft.

(1)(a) A person may not use an airplane, drone, 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 any vehicle, device, 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, drone, or other airborne vehicle or device 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, drone, or other airborne vehicle or device in a usual manner, or landings and departures from improved airstrips, where there is no attempt or intent to locate protected wildlife.

R657-5-15. 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. The use of one blood-trailing dog controlled by leash during lawful hunting hours within 72 hours of shooting a big game animal is allowed to track wounded animals and aid in recovery.

R657-5-16. Big Game Contests.

A person may not enter or hold a big game contest that:

(1) is based on big game or its parts; and

(2) offers cash or prizes totaling more than $500.

R657-5-17. 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.

R657-5-18. 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.

R657-5-19. Exporting Big Game From Utah.

(1) A person may export big game or its 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.

R657-5-20. Purchasing or Selling Big Game or its Parts.

(1) A person may only purchase, sell, offer or possess for sale, barter, exchange or trade any big game or its 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 guidebook 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 guidebook of the Wildlife Board for taking big game;

(c) Inedible byproducts, excluding hides, antlers and horns of legally possessed big game as provided in Subsection 23-20-3, 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 obtained by the division by any means may be sold or donated at any time by the division or its agent.

(b) A person may purchase or receive protected wildlife from the division, which is sold or donated 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.

R657-5-21. 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 obtained as provided in Section R657-5-20; or

(c) shed antlers or shed horns.

(2)(a) A person may gather shed antlers or shed horns or parts of shed antlers or shed horns at any time. An authorization is required to gather shed antlers or shed horns or parts of shed antlers or shed horns during the shed antler and shed horn season published in the guidebook of the Wildlife Board for taking big game.

(b) A person must complete a wildlife harassment and habitat destruction prevention course annually to obtain the required authorization to gather shed antlers during the antler gathering season.

(3) "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.

(4) "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.

R657-5-22. Poaching-Reported Reward Permits.

(1) For purposes of this section, "successful prosecution" means the screening, filing of charges and subsequent adjudication of guilt for the poaching incident.

(2) Any person who provides information leading to another person's successful prosecution under Section 23-20-4 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 within any once-in-a-lifetime or limited entry area may receive a permit from the division to hunt the same species on the same once-in-a-lifetime or limited entry area where the violation occurred, except as provided in Subsection (3).

(3)(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.

(4)(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.

(5)(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.

(6) Any person who receives a poaching-reported reward permit must possess or obtain a Utah hunting or combination license and otherwise 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.

R657-5-23. General Archery Buck Deer Hunt.

(1) The dates of the general archery buck deer hunt are provided in the guidebook 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 prescribed in R657-5-11 to take:

(a) one buck deer within the general hunt area specified on the permit for the time specified in the guidebook of the Wildlife Board for taking big game; or

(b) a deer of hunter's choice within extended archery areas as provided in the guidebook of the Wildlife Board for taking big game.

(c) 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 not hunt within Cooperative Wildlife Management unit deer areas.

(d) 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 not hunt within premium limited entry deer or limited entry deer areas, except as provided by the Wildlife Board in the guidebooks for 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 extended archery areas during the extended archery area seasons as provided in the guidebook of the Wildlife Board for taking big game and as provided in Subsection (b).

(b)(i) A person must complete the Archery Ethics Course annually to hunt any extended archery areas during the extended archery season.

(ii) A person must possess an Archery Ethics Course Certificate of Completion while hunting.

(4) A person who has obtained a general archery buck deer permit may not hunt during any other deer hunt or obtain any other deer permit, except antlerless deer and extended archery areas.

(5) If a person 17 years of age or younger obtains a general archery buck deer permit, that person may only hunt during the general archery deer season and the extended archery season as provided Section R657-5-23(3).

R657-5-24. General Any Weapon Buck Deer Hunt.

(1) The dates for the general any weapon buck deer hunts are provided in the guidebook of the Wildlife Board for taking big game.

(2)(a) A person who has obtained a general any weapon buck permit may use any legal weapon to take one buck deer within the hunt area and season dates specified on the permit as published in the guidebook of the Wildlife Board for taking big game.

(b) A person who has obtained a general any weapon buck deer permit, or any other permit which allows that person to hunt general any weapon buck deer, may not hunt within Cooperative Wildlife Management unit deer areas.

(c) A person who has obtained a general any weapon buck deer permit, or any other permit which allows that person to hunt general any weapon buck deer, may not hunt within premium limited entry deer and limited entry deer areas, except as provided by the Wildlife Board in the guidebooks for big game.

(3) A person who has obtained a general any weapon buck deer permit may not hunt during any other deer hunt or obtain any other deer permit, except:

(a) antlerless deer, as provided in R657-5-27; and

(b) any person 17 years of age or younger on July 31 of the current year, may hunt the general archery, extended archery, general any weapon and general muzzleloader buck deer seasons applicable to the unit specified on the general any weapon buck deer permit, using the appropriate equipment as provided in Sections R657-5-7 through R657-5-11, respectively.

R657-5-25. General Muzzleloader Buck Deer Hunt.

(1) The dates for the general muzzleloader buck deer hunt are provided in the guidebook of the Wildlife Board for taking big game.

(2)(a) A person who has obtained a general muzzleloader buck permit may use a muzzleloader, as prescribed in R657-5-10, to take one buck deer within the general hunt area specified on the permit as published in the guidebook of the Wildlife Board for taking big game.

(b) A person who has obtained a general muzzleloader buck deer permit, or any other permit which allows that person to hunt general muzzleloader buck deer, may not hunt within any deer Cooperative Wildlife Management unit.

(c) A person who has obtained a general muzzleloader buck deer permit, or any other permit which allows that person to hunt general muzzleloader buck deer, may not hunt within premium limited entry deer or limited entry deer areas, except as provided by the Wildlife Board in the guidebooks for big game.

(3)(a) A person who has obtained a general muzzleloader buck deer permit may not hunt during any other deer hunt or obtain any other deer permit, except antlerless deer, as provided in R657-5-27.

(b) If a person 17 years of age or younger purchases a general muzzleloader buck deer permit, that person may only hunt during the general muzzleloader deer season.

R657-5-26. Premium Limited Entry and Limited Entry Buck Deer Hunts.

(1)(a) To hunt in a premium limited entry or limited entry buck deer area, hunters must obtain the respective limited entry buck permit. Limited entry areas are not open to general archery buck deer, general any weapon buck deer, or general muzzleloader buck deer hunting, except as specified in the guidebook of the Wildlife Board for taking big game.

(b)(i) The Wildlife Board may establish in guidebook a limited entry buck deer hunt on a general season buck deer unit.

(ii) The season dates for a limited entry hunt under this Subsection will not overlap the season dates for the underlying general season hunt on the unit.

(iii) A landowner association under R657-43 is not eligible to receive limited entry permits that occur on general season units.

(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, excluding deer cooperative wildlife management units located within the limited entry unit.

(3)(a) A person who has obtained a premium limited entry, limited entry, management, or cooperative wildlife management unit buck deer permit must report hunt information within 30 calendar 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, management, or cooperative wildlife management unit permit or bonus point in the following year.

(d) Late questionnaires may be accepted pursuant to Rule R657-42-9(3).

(4) A person who has obtained a premium limited entry or limited entry buck permit may not:

(a) obtain any other deer permit, except an antlerless deer permit as provided in R657-5-27 and the guidebooks of the Wildlife Board; or

(b) hunt during any other deer hunt, except unsuccessful archery hunters may hunt within extended archery areas as provided in Subsection (7).

(5)(a) The Wildlife Board may establish a multi-season hunting opportunity in the big game guidebooks for selected premium limited entry and limited entry buck deer hunts.

(b) A person that obtains a premium limited entry or

limited entry buck deer permit with a multi-season opportunity may hunt during any of the following limited entry buck deer seasons established in the guidebooks of the Wildlife Board for the unit specified on the premium limited entry or limited entry buck deer permit:

(i) archery season, using only archery equipment prescribed in R657-5-11 for taking deer;

(ii) muzzleloader season, using only muzzleloader equipment prescribed in R657-5-10 for taking deer; and

(iii) any weapon season, using any legal weapon prescribed in R657-5 for taking deer.

(c) A landowner association under R657-43 is not eligible to receive a multi-season hunting opportunity for premium limited entry or limited entry units.

(6) A premium limited entry or limited entry buck deer permit, including a permit with a multi-season opportunity, is valid only within the boundaries of the unit designated on the permit, excluding:

(a) areas closed to hunting;

(b) deer cooperative wildlife management units; and

(c) Indian tribal trust lands.

(7) A person who possesses an archery buck deer permit for a premium limited entry or limited entry unit, including a permit with a multi-season opportunity, may hunt buck deer within any extended archery area during the established extended archery season for that area, provided the person:

(a) did not take a buck deer during the premium limited entry or limited entry hunt;

(b) uses the prescribed archery equipment for the extended archery area;

(c) completes the annual Archery Ethics Course required to hunt extended archery areas during the extended archery season; and

(d) possesses on their person while hunting:

(i) the multi-season limited entry or limited entry buck deer permit; and

(ii) the Archery Ethics Course Certificate of Completion.

R657-5-27. Antlerless Deer Hunts.

(1)(a) To hunt antlerless deer, a hunter must obtain an antlerless deer permit.

(b) A person may obtain only one antlerless deer permit or a two-doe antlerless deer permit through the division's antlerless big game drawing.

(2)(a) An antlerless deer permit allows a person to take one antlerless deer using the weapon type, within the area, and during season dates specified on the permit and in the Antlerless guidebook of the Wildlife Board for taking big game.

(b) A two-doe antlerless deer permit allows a person to take two antlerless deer using the weapon type, within the area, and during the season specified on the permit and in the Antlerless guidebook of the Wildlife Board for taking big game.

(c) A person may not hunt antlerless deer on any deer cooperative wildlife management unit unless that person obtains an antlerless deer permit for that specific cooperative wildlife management unit.

(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 permits, except as provided in R657-44-3.

(4)(a) A person who obtains an antlerless deer permit and any of the permits listed in Subsection (b) may use the antlerless deer permit during the established season for the antlerless deer permit and during the established season for the applicable 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 antlerless deer during an archery season or hunt; and

(iii) the appropriate muzzleloader hunt equipment is used, if hunting antlerless deer during a muzzleloader season or hunt.

(b)(i) General buck deer for archery, muzzleloader, any weapon, or dedicated hunter;

(ii) General bull elk for archery, muzzleloader, any weapon, or multi-season;

(iii) Premium limited entry buck deer for archery, muzzleloader, any weapon, or multi-season;

(iv) Limited entry buck deer for archery, muzzleloader, any weapon, or multi-season;

(v) Limited entry bull elk for archery, muzzleloader, any weapon, or multi-season; or

(vi) Antlerless elk.

(c) A person that possess an unfilled antlerless deer permit and harvests an animal under authority of a permit listed in Subsection (b), may continue hunting antlerless deer as prescribed in Subsections (a) and (b) during the remaining portions of the Subsection (b) permit season.

R657-5-28. General Archery Elk Hunt.

(1) The dates of the general archery elk hunt are provided in the guidebooks 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) an antlerless elk or a bull elk on a general any bull elk unit, excluding elk cooperative wildlife management units;

(ii) an antlerless elk or a spike bull elk on a general spike bull elk unit, excluding elk cooperative wildlife management units;

(iii) an antlerless elk or a bull elk on extended archery areas as provided in the guidebook of the Wildlife Board for taking big game.

(3)(a) A person who obtains a general archery elk permit may hunt within the extended archery areas during the extended archery area seasons as provided in the guidebook of the Wildlife Board for taking big game and as provided in Subsection (b).

(b)(i) A person must complete the Archery Ethics Course annually to hunt the extended archery areas during the extended archery season.

(ii) A person must possess an Archery Ethics Course Certificate of Completion on their person 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 R657-5-33(3) and by the guidebooks of the Wildlife Board for taking big game.

R657-5-29. General Season Bull Elk Hunt.

(1) The dates and areas for the general season bull elk hunts are provided in the guidebooks of the Wildlife Board for taking big game, except the following areas are closed to general any weapon bull elk hunting:

(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 elk permit or an any bull elk 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 elk units are closed to spike bull elk 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 elk units are closed to any bull elk permittees.

(3) A person who has obtained a general season bull elk permit may use any legal weapon to take a spike bull elk 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 R657-5-33(3).

(5) The Wildlife Board may establish multi-season hunting opportunities in the big game guidebooks for general season spike and bull elk hunts consistent with the following parameters:

(a) an individual with a multi-season spike elk permit may use:

(i) archery equipment as prescribed in R657-5-11 to take an antlerless elk or spike bull elk on a general season spike unit during the archery season;

(ii) archery equipment as prescribed in R657-5-11 to take an antlerless elk or any bull elk on a general season any bull unit during the archery season;

(iii) muzzleloader equipment as prescribed in R657-5-10 to take spike bull elk on general season spike units during the muzzleloader season; or

(iv) any legal weapon as prescribed in R657-5 to take a spike bull elk on a general season spike unit during the any legal weapon season.

(b) An individual with a multi-season any bull elk permit may use:

(i) archery equipment as prescribed in R657-5-11 to take an antlerless elk or spike elk on a general season spike unit during the archery season;

(ii) archery equipment as prescribed in R657-5-11 to take an antlerless elk or any bull elk on a general season any bull unit during the archery season;

(iii) muzzleloader equipment as prescribed in R657-5-10 to take any bull elk on general season any bull units during the muzzleloader season; or

(iv) any legal weapon as prescribed in R657-5 to take any bull elk on a general season any bull unit during the any legal weapon season.

(c) An individual who obtains a multi-season bull elk permit may hunt within the extended archery areas during the extended archery area seasons described in the guidebook of the Wildlife Board for taking big game, provided that individual:

(i) completes the Archery Ethics Course prior to going afield; and

(ii) possesses the Archery Ethics Course Certificate of Completion on their person while hunting.

R657-5-30. General Muzzleloader Bull Elk Hunt.

(1) The dates and areas for general muzzleloader bull elk hunts are provided in the guidebooks of the Wildlife Board for taking big game, except the following areas are closed to general muzzleloader bull elk hunting:

(a) Salt Lake County south of I-80 and east of I-15; and

(b) elk cooperative wildlife management units.

(2)(a) General muzzleloader bull 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 use a muzzleloader, prescribed in R657-5-10, to 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 use a muzzleloader, as prescribed in R657-5-10, to take any bull elk on an any bull elk unit. Spike bull units are closed to any bull muzzleloader permittees.

(3) On selected units identified in the guidebook of the Wildlife Board for taking big game, a person who has obtained a general muzzleloader bull elk permit may use muzzleloader equipment to take either an antlerless elk or a bull elk.

(4) A person who has obtained a general muzzleloader bull elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsection R657-5-33(3).

R657-5-31. Youth General Any Bull Elk Hunt.

(1)(a) For purposes of this section "youth" means any person 17 years of age or younger on July 31 of the current year.

(b) A youth may apply for or obtain a youth any bull elk permit.

(c) A qualified person may obtain a youth any bull elk permit only once during their life.

(2) The youth any bull elk hunting season and areas are published in the guidebook 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 antlerless 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 or antlerless 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 R657-5-33(3).

(5) Preference points shall not be awarded or utilized when applying for or obtaining a youth general any bull elk permit.

R657-5-32. Limited Entry Bull Elk Hunts.

(1) To hunt in a limited entry bull elk area, a hunter must obtain a limited entry bull elk permit for the area.

(2)(a) 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 as provided in Subsection (5) and excluding 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) The Wildlife Board may establish a multi-season hunting opportunity in the big game guidebooks for selected limited entry bull elk units.

(b) A person that obtains a limited entry bull elk permit with a multi-season opportunity may hunt during any of the following limited entry bull elk seasons established in the guidebooks of the Wildlife Board for the unit specified on the limited entry bull elk permit:

(i) archery season, using only archery equipment prescribed in R657-5-11 for taking elk;

(ii) muzzleloader season, using only muzzleloader equipment prescribed in R657-5-10 for taking elk; and

(iii) any weapon season, using any legal weapon prescribed in R657-5 for taking elk.

(c) A landowner association under R657-43 is not eligible to receive a multi-season hunting opportunity for limited entry units.

(4) A limited entry bull elk permit, including a permit with a multi-season opportunity, is valid only within the boundaries of the unit designated on the permit, excluding:

(a) areas closed to hunting;

(b) elk cooperative wildlife management units; and

(c) Indian tribal trust lands.

(5) A person who possesses any limited entry archery bull elk permit, including a permit with a multi-season opportunity, may hunt bull elk within any extended archery area during the established extended archery season for that area, provided the person:

(a) did not take a bull elk during the limited entry hunt;

(b) uses the prescribed archery equipment for the extended archery area;

(c) completes the annual Archery Ethics Course required to hunt extended archery areas during the extended archery season; and

(d) possesses on their person while hunting:

(i) the limited entry bull elk permit; and

(ii) the Archery Ethics Course Certificate of Completion.

(6) "Prescribed legal weapon" means for purposes of this subsection:

(a) archery equipment, as defined in R657-5-11, when hunting the archery season, excluding a crossbow or draw-lock;

(b) muzzleloader equipment, as defined in R657-5-10, when hunting the muzzleloader season; and

(c) any legal weapon, including a muzzleloader and crossbow with a fixed or variable magnifying scope or draw-lock when hunting during the any weapon season.

(7)(a) A person who has obtained a limited entry or cooperative wildlife management unit bull elk permit must report hunt information within 30 calendar 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 point in the following year.

(d) Late questionnaires may be accepted pursuant to Rule R657-42-9(2).

(8) A person who has obtained a limited entry bull elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsections (5) and R657-5-33(3).

R657-5-33. Antlerless Elk Hunts.

(1) To hunt 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 the weapon type, within the area, and during season dates specified on the permit and in the Antlerless guidebook of the Wildlife Board for taking big game.

(b) A person may not hunt antlerless elk on an elk cooperative wildlife management unit unless that person obtains an antlerless elk permit for that specific cooperative wildlife management unit.

(3)(a) A person may obtain three elk permits each year, in combination as follows:

(i) a maximum of one bull elk permit;

(ii) a maximum of one antlerless elk permit issued through the division's antlerless big game drawing; and

(iii) a maximum of two antlerless elk permits acquired over the counter or on-line after the antlerless big game drawing is finalized, including antlerless elk:

(A) control permits, as described in Subsection (5);

(B) depredation permits, as described in R657-44-8;

(C) mitigation permit vouchers, as defined in R657-44-2(2); and

(D) private lands only permits, as described in Subsection (6).

(b) Antlerless elk mitigation permits obtained by a landowner or lessee under R657-44-3 do not count towards the annual three elk permit limitation prescribed in this subsection.

(i) "Mitigation permit" has the same meaning as defined in R657-44-2(2).

(c) For the purposes of obtaining multiple elk permits, a hunter's choice elk permit is considered a bull elk permit.

(4)(a) A person who obtains an antlerless elk permit and any of the permits listed in Subsection (b) may use the antlerless elk permit during the established season for the antlerless elk permit and during the established season for the applicable 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 antlerless elk during an archery season or hunt; and

(iii) the appropriate muzzleloader hunt equipment is used, if hunting antlerless elk during a muzzleloader season or hunt.

(b)(i) General buck deer for archery, muzzleloader, any legal weapon, or dedicated hunter;

(ii) General bull elk for archery, muzzleloader, any legal weapon, or multi-season;

(iii) Premium limited entry buck deer for archery, muzzleloader, any weapon, or multi-season;

(iv) Limited entry buck deer for archery, muzzleloader, any legal weapon, or multi-season;

(v) Limited entry bull elk for archery, muzzleloader or any legal weapon, or multi-season.

(vi) Antlerless deer or elk, excluding antlerless elk control permits.

(c) A person that possess an unfilled antlerless elk permit and harvests an animal under authority of a permit listed in Subsection (b), may continue hunting antlerless elk as prescribed in Subsections (a) and (b) during the remaining portions of the Subsection (b) permit season.

(5)(a) To obtain an antlerless elk control permit, a person must first obtain a big game buck, bull, or a once-in-a-lifetime permit.

(b) An antlerless elk control permit allows a person to take one antlerless elk using the same weapon type, during the same season dates, and within areas of overlap between the boundary of the buck, bull, or once-in-a-lifetime permit and the boundary of the antlerless elk control permit, as provided in the Antlerless guidebook by the Wildlife Board.

(c) Antlerless elk control permits are sold over the counter or online after the division's antlerless big game drawing is finalized.

(d) A person that possess an unfilled antlerless elk control permit and harvests an animal under the buck, bull, or once-in-a-lifetime permit referenced in Subsection (b), may continue hunting antlerless elk as prescribed in Subsection (b) during the remaining portions of the buck, bull, or once-in-a-lifetime permit season.

(6)(a) A private lands only permit allows a person to take one antlerless elk on private land within a prescribed unit using any weapon during the season dates and area provided in the Big Game guidebook by the Wildlife Board.

(b) No boundary extension or buffer zones on public land will be applied to private lands only permits.

(c) Private lands only permits are sold over the counter or online after the division's antlerless big game drawing is finalized.

(d) "Private lands" means, for purposes of this subsection, any land owned in fee by an individual or legal entity, excluding:

(i) land owned by the state or federal government;

(ii) land owned by a county or municipality;

(iii) land owned by an Indian tribe;

(iv) land enrolled in a Cooperative Wildlife Management Unit under R657-37; and

(v) land where public access for big game hunting has been secured.

R657-5-34. 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 calendar 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 point in the following year.

(d) Late questionnaires may be accepted pursuant to Rule R657-42-9(2).

(4) A buck pronghorn permit allows a person to take one buck pronghorn within the area, during the season, and using the weapon type specified on the permit, except on a pronghorn cooperative wildlife management unit located within a limited entry unit.

R657-5-35. Doe Pronghorn Hunts.

(1)(a) To hunt doe pronghorn, a hunter must obtain a doe pronghorn permit.

(b) A person may obtain only one doe pronghorn permit or a two-doe pronghorn permit through the division's antlerless big game drawing.

(2)(a) A doe pronghorn permit allows a person to take one doe pronghorn using the weapon type, within the area, and during the season specified on the permit and in the Antlerless guidebook of the Wildlife Board for taking big game.

(b) A two-doe pronghorn permit allows a person to take two doe pronghorn using the weapon type, within the area, and during the season dates specified on the permit and in the Antlerless guidebook of the Wildlife Board for taking big game.

(c) A person may not hunt doe pronghorn on any pronghorn cooperative wildlife management unit unless that person obtains an antlerless pronghorn permit for that specific cooperative wildlife management unit.

(3) A person who has obtained a doe pronghorn permit may not hunt pronghorn during any other pronghorn hunt or obtain any other pronghorn permit.

R657-5-36. Antlerless Moose Hunts.

(1) To hunt 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 specified on the permit and in the Antlerless guidebook of the Wildlife Board for taking big game.

(b) A person may not hunt antlerless moose on a moose cooperative wildlife management unit unless that person obtains an antlerless moose permit for that specific cooperative wildlife management unit as specified on the permit.

(3) A person who has obtained an antlerless moose permit may not hunt moose during any other moose hunt or obtain any other moose permit for that hunt year.

R657-5-37. 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 to take one bull moose within the area, during the seasons, and using the weapon type prescribed by the Wildlife Board, excluding any moose cooperative wildlife management unit located within a limited entry unit.

(4)(a) A person who has obtained a bull moose permit must report hunt information within 30 calendar 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 point in the following year.

(d) Late questionnaires may be accepted pursuant to Rule R657-42-9(2).

R657-5-38. 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) A hunter's choice bison permit allows a person to take a bison of either sex within the area, during the seasons, and using the weapon type prescribed by the Wildlife Board.

(4)(a) An orientation course is required for bison hunters who draw 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) A cow bison permit allows a person to take one cow bison within the area, during the seasons, and using the weapon types as specified on the permit and in the Antlerless guidebook of the Wildlife Board for taking big game.

(6) An orientation course is required for bison hunters who draw cow bison permits. Hunters will be notified of the orientation date, time and location.

(7)(a) A person who has obtained a bison permit must report hunt information within 30 calendar 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 point in the following year.

(d) Late questionnaires may be accepted pursuant to Rule R657-42-9(2).

R657-5-39. Desert Bighorn and Rocky Mountain Bighorn Sheep Ram Hunts.

(1) To hunt a ram desert bighorn sheep or a ram Rocky Mountain bighorn sheep, a hunter must obtain the respective permit.

(2) A person who has obtained a ram desert bighorn sheep or a ram 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) Ram desert bighorn sheep and ram Rocky Mountain bighorn sheep permits are considered separate once-in-a-lifetime hunting opportunities.

(4)(a) A ram desert bighorn sheep permit allows a person to take one desert bighorn ram within the area, during the seasons, and using the weapon type prescribed by the Wildlife Board.

(b) A ram Rocky Mountain sheep permit allows a person to take one Rocky Mountain bighorn ram within the area, during the seasons, and using the weapon type prescribed by the Wildlife Board.

(5)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.

(6)(a) A person who has obtained a desert bighorn sheep or Rocky Mountain bighorn sheep permit must report hunt information within 30 calendar 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 point in the following year.

(d) Late questionnaires may be accepted pursuant to Rule R657-42-9(2).

R657-5-39.5. Desert Bighorn and Rocky Mountain Bighorn Ewe Hunts.

(1) To hunt a ewe desert bighorn sheep or a ewe Rocky Mountain bighorn sheep, a hunter must obtain the respective ewe permit.

(2)(a) A ewe permit allows a person to take one ewe using any legal weapon within the area and season specified on the permit and in the Antlerless guidebook of the Wildlife Board for taking big game.

(3) A person who has obtained a ewe permit may not hunt desert bighorn or Rocky Mountain bighorn sheep during any other sheep hunt or obtain any other sheep permit during that hunt year.

(4) Ewe desert bighorn sheep and ewe Rocky Mountain bighorn sheep permits are considered separate hunting opportunities.

R657-5-40. 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) A Rocky Mountain goat of either sex may be legally taken on a hunter's choice permit.

(4) The goat permit allows a person to take one goat within the area, during the seasons, and using the weapon type prescribed by the Wildlife Board.

(5) A female-only goat permit allows a person to take one femalegoat within the area, during the seasons, and using the weapon type specified on the permit and in the Antlerless guidebook of the Wildlife Board for taking big game.

(6) An orientation course is required for Rocky Mountain goat hunters who draw female-goat only 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 calendar 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.

(d) Late questionnaires may be accepted pursuant to Rule R657-42-9(2).

R657-5-41. Depredation Hunter Pool Permits.

(1) When big game are causing damage or are considered a nuisance, control hunts not listed in the guidebook 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.

(2) For the purpose of this section, nuisance is defined as a situation where big game animals are found to have moved off formally approved management units onto adjacent units or other areas not approved for that species.

R657-5-42. Carcass Importation.

(1) It is unlawful to import dead elk, moose, 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, elk, or moose diagnosed with Chronic Wasting Disease shall be available at division offices and through the division's Internet address.

(b) Importation of harvested elk, moose, mule deer, or white-tailed deer or its parts from the affected areas are hereby restricted pursuant to Subsection (1).

(3) Nonresidents of Utah transporting harvested elk, moose, 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, elk, or moose processed in Utah; or

(c) do not leave any parts of the carcass in Utah.

R657-5-43. Chronic Wasting Disease - Infected Animals.

(1) Any person who under the authority of a permit issued by the division legally takes a deer, elk, or moose 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 guidebook 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).

R657-5-44. Management Bull Elk Hunt.

(1)(a) For the purposes of this section "management bull"

means any bull elk with 5 points or less on at least one antler. A point means a projection longer than one inch, measured from its base to its tip.

(b) For purposes of this section "youth" means any person 17 years of age or younger on July 31.

(c) For the purposes of this section "senior" means any person 65 years of age or older on the opening day of the management bull elk archery season published in the guidebook of the Wildlife Board for taking big game.

(2)(a) Management bull elk permits shall be distributed pursuant to R657-62 with thirty percent of the permits being allocated to youth, thirty percent to seniors and the remaining forty percent to hunters of all ages.

(3) Management bull elk permit holders may take one management bull elk during the season, on the area and with the weapon type specified on the permit. Management bull elk hunting seasons, areas and weapon types are published in the guidebook of the Wildlife Board for taking big game.

(4)(a) A person who has obtained a management bull elk permit must report hunt information within 30 calendar days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a management bull elk.

(b) Management bull elk permit holders must report hunt information by telephone, or through the division's Internet address.

(5)(a) Management bull elk permit holders who successfully harvest a management bull elk, as defined in Subsection (1)(a) must have their animal inspected by the division.

(b) Successful hunters must deliver the head and antlers of the elk they harvest to a division office for inspection within 48 hours after the date of kill.

(6) Management bull elk permit holders may not retain possession of any harvested bull elk that fails to satisfy the definition requirements in Subsection (1)(a).

(7) A person who has obtained a management bull elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Section R657-5-33(3).

R657-5-45. General Any Weapon Buck Deer and Bull Elk Combination Hunt.

(1) Permit numbers, season dates and unit boundary descriptions for the general any weapon buck deer and bull elk combination hunt shall be established in the guidebook of the Wildlife Board for taking big game.

(2) A person who obtains a general any weapon buck deer and bull elk combination permit may use any legal weapon to take one buck deer and one bull elk during the season and within the unit specified on the permit.

(a) A general any weapon buck deer and bull elk combination permit does not authorize the holder to hunt deer or elk within any cooperative wildlife management unit.

(3) A person who has obtained a general any weapon buck deer and bull elk combination permit may not hunt during any other deer or elk hunt or obtain any other deer or elk permit, except:

(a) antlerless deer, as provided in Subsection R657-5-27, and

(b) antlerless elk, as provided in Subsection R657-5-33.

(4)(a) Lifetime license holders may obtain a general any weapon buck deer and bull elk combination permit.

(b) Upon obtaining a general any weapon buck deer and bull elk combination permit, the lifetime license holder foregoes any rights to receive a buck deer permit for the general archery, general any weapon 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 any weapon or general muzzleloader deer permit.

R657-5-46. Management Buck Deer Hunt.

(1)(a) For the purposes of this section "management buck" means any buck deer with 3 points or less on at least one antler above and including the first fork in the antler. A point means a projection longer than one inch, measured from its base to its tip. The eye guard is not counted as a point.

(b) For purposes of this section "youth" means any person 17 years of age or younger on July 31.

(c) For the purposes of this section "senior" means any person 65 years of age or older on the opening day of the management buck deer archery season published in the guidebook of the Wildlife Board for taking big game.

(2) Management buck deer permits shall be distributed pursuant to rule R657-62 with thirty percent of the permits being allocated to youth, thirty percent to seniors and the remaining forty percent to hunters of all ages.

(3) Management buck deer permit holders may take one management buck deer during the season, in the area and with the weapon type specified on the permit. Management buck deer hunting seasons, areas and weapon types are published in the guidebook of the Wildlife Board for taking big game.

(4)(a) A person who has obtained a management buck deer permit must report hunt information within 30 calendar days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a management buck deer.

(b) Management buck deer permit holders must report hunt information by telephone, or through the division's Internet address.

(5)(a) Management buck deer permit holders who successfully harvest a management buck deer, as defined in Subsection (1)(a) must have their animal inspected by the division.

(b) Successful hunters must deliver the head and antlers of the deer they harvest to a division office for inspection within 48 hours after the date of kill.

(6) Management buck deer permit holders may not retain possession of any harvested buck deer that fails to satisfy the definition requirements in Subsection (1)(a).

(7) A person who has obtained a management buck deer permit may not hunt during any other deer hunt or obtain any other deer permit, except as provided in Section R657-5-27.

R657-5-47. Cactus Buck Deer Hunt.

(1) For the purposes of this section "cactus buck" means a buck deer with velvet covering at least 50% of the antlers during the season dates established by the Wildlife Board for a cactus buck deer hunt.

(2)(a) Cactus buck deer permit holders may take one cactus buck deer during the season, in the area, and with the weapon type specified on the permit.

(b) Cactus buck deer hunting seasons, areas and weapon types are published in the guidebooks of the Wildlife Board for taking big game.

(3)(a) A person who has obtained a cactus buck deer permit must report hunt information within 30 calendar days after the end of the hunting season, regardless of whether the permit holder was successful or unsuccessful in harvesting a cactus buck deer.

(b) Cactus buck deer permit holders must report hunt information by telephone, or through the division's Internet address.

(4)(a) Cactus buck deer permit holders who successfully harvest a cactus buck deer, as defined in Subsection (1)(a), must have their animal inspected by the division.

(b) Successful hunters must deliver the head and antlers of the deer they harvest to a division office for inspection within 48 hours after the date of harvest.

(5) Cactus buck deer permit holders may not retain

possession of any harvested buck deer that fails to satisfy the definition requirements in Subsection (1).

(6) A person who has obtained a cactus buck deer permit may not hunt during any other deer hunt or obtain any other deer permit, except as provided in Section R657-5-27.

R657-5-48. Hunter Orange Exceptions.

(1) A person shall wear a minimum of 400 inches of hunter orange material on the head, chest, and back while hunting any species of big game, with the following exceptions:

(a) Hunters participating in a once-in-a-lifetime, statewide conservation, or statewide sportsmen hunt;

(b) Hunters participating in an archery or muzzleloader hunt outside of an area where an any weapon general season bull elk or any weapon general season buck deer hunt is occurring;

(c) Hunters hunting on a cooperative wildlife management unit unless otherwise required by the operator of the cooperative wildlife management units; and

(d) Hunters participating in a nuisance wildlife removal hunt authorized under a certificate of registration by the division.

KEY: wildlife, game laws, big game seasons

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Notice of Continuation October 5, 2015	**23-14-19**
	23-16-5
	23-16-6

R657. Natural Resources, Wildlife Resources.
R657-9. Taking Waterfowl, Wilson's Snipe and Coot.
R657-9-1. Purpose and Authority.

(1) Under authority of Sections 23-14-18 and 23-14-19, and in accordance with 50 CFR 20, 50 CFR 32.64 and 50 CFR 27.21, 2004 edition, which is incorporated by reference, the Wildlife Board has established this rule for taking waterfowl, Wilson's snipe, and coot.

(2) Specific dates, areas, limits, requirements and other administrative details which may change annually are published in the guidebook of the Wildlife Board for taking waterfowl, Wilson's snipe and coot.

R657-9-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Bait" means shelled, shucked or unshucked corn, wheat or other grain, salt or other feed that lures, attracts or entices birds.

(b) "Baiting" means the direct or indirect placing, exposing, depositing, distributing, or scattering of salt, grain, or other feed that could serve as a lure or attraction for migratory games birds to, on, or over any areas where hunters are attempting to take them.

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

(d) "Daily Bag Limit" means the maximum number of migratory game birds of a single species or combination (aggregate) of species permitted to be taken by one person in any one day during the open season in any one specified geographic area for which a daily bag limit is prescribed.

(e) "Dark geese" means the following species: cackling, Canada, white-fronted and brant.

(f) "Light geese" means the following species: snow, blue and Ross'.

(g) "Live decoys" means tame or captive ducks, geese or other live birds.

(h) "Off-highway vehicle" means any motor vehicle designed for or capable of travel over unimproved terrain.

(i) "Permanent waterfowl blind" means any waterfowl blind that is left unattended overnight and that is not a portable structure capable of immediate relocation.

(j) "Possession limit" the maximum number of migratory game birds of a single species or a combination of species permitted to be possessed by any one person when lawfully taken in the United States in any one specified geographic area for which a possession limit is prescribed.

(k) "Sinkbox" means any type of low floating device, having a depression, affording the hunter a means of concealment beneath the surface of the water.

(l) "Transport" means to ship, export, import or receive or deliver for shipment.

(m) "Waterfowl" means ducks, mergansers, geese, brant and swans.

(n) "Waterfowl blind" means any manufactured place of concealment, including boats, rafts, tents, excavated pits, or similar structures, which have been designed to partially or completely conceal a person while hunting waterfowl.

R657-9-3. Stamp Requirements.

(1) Any person 16 years of age or older may not hunt waterfowl without first obtaining a federal migratory bird hunting and conservation stamp, and having the stamp in possession.

(2) The stamp must be validated by the hunter's signature in ink across the face of the stamp.

(3) A federal migratory bird hunting and conservation stamp is not required for any person under the age of 16.

R657-9-4. Permit Applications for Swan.

(1) Swan permits will be issued pursuant to R657-62-22.

R657-9-5. Tagging Swans.

(1) The carcass of a swan must be tagged before the carcass is moved from or the hunter leaves the site of kill as provided in Section 23-20-30.

(2) A person may not hunt or pursue a swan after the notches have been removed from the tag or the tag has been detached from the permit.

R657-9-6. Return of Swan Harvest and Hunt Information.

(1) Swan permit holders who do not hunt or are unsuccessful in taking a swan must respond to the swan questionnaire through the division's Internet address, or by telephone, within 30 calendar days of the conclusion of the prescribed swan hunting season.

(2) Within three days of harvest, swan permit holders successful in taking a swan must personally present the swan or its head for measurement to the division or the Bear River Migratory Bird Refuge and further provide all harvest information requested by the division or Refuge.

(3) Hunters who fail to comply with the requirements of Subsections (1) or (2) shall be ineligible to:

(a) obtain a swan permit the following season; and

(b) obtain a swan permit after the first season of ineligibility until the swan orientation course is retaken.

(4) late swan questionnaires may be accepted pursuant to Rule R657-42-9(3). Swan permit holders are still required to present the swan or its head for measurement to a division office.

R657-9-7. Authorized Weapons.

(1) Migratory game birds may be taken with a shotgun, crossbow or archery tackle, including a draw lock.

(2) Migratory game birds may not be taken with a trap, snare, net, rifle, pistol, swivel gun, shotgun larger than 10 gauge, punt gun, battery gun, machine gun, fish hook, poison, drug, explosive or stupefying substance.

(3) Migratory game birds may not be taken with a shotgun of any description capable of holding more than three shells, unless it is plugged with a one-piece filler, incapable of removal without disassembling the gun, so its total capacity does not exceed three shells, except as authorized by the Wildlife Board and specified in the guidebook of the Wildlife Board for taking Waterfowl, Wilson's snipe and Coot.

R657-9-8. Nontoxic Shot.

(1) Only nontoxic shot may be in possession or used while hunting waterfowl and coot.

(2) A person may not possess or use lead shot:

(a) while hunting waterfowl or coot in any area of the state;

(b) on federal refuges;

(c) on the following waterfowl management areas: Bicknell Bottoms, Blue Lake, Brown's Park, Clear Lake, Desert Lake, Farmington Bay, Harold S. Crane, Howard Slough, Locomotive Springs, Manti Meadow, Mills Meadows, Ogden Bay, Powell Slough, Public Shooting Grounds, Salt Creek, Stewart's Lake, Timpie Springs; or

(d) on the Scott M. Matheson or Utah Lake wetland preserve.

R657-9-9. Use of Weapons on State Waterfowl Management Areas.

(1) A person may not discharge a firearm, crossbow, or archery tackle on the Bicknell Bottoms, Blue Lake, Brown's Park, Clear Lake, Desert Lake, Farmington Bay, Harold S. Crane, Howard Slough, Locomotive Springs, Mills Meadows, Ogden Bay, Powell Slough, Public Shooting Grounds, Salt

Creek, Stewart's Lake, Timpie Springs and Topaz Waterfowl Management areas during any time of the year, except:

(a) the use of authorized weapons as provided in Utah Admin. Code R657-9-7 during waterfowl hunting seasons for lawful hunting activities;

(b) as otherwise authorized by the Division in special use permit, certificate of registration, administrative rule, proclamation, or order of the Wildlife Board; or

(c) for lawful purposes of self-defense.

R657-9-10. Airborne, Terrestrial, and Aquatic Vehicles.

Migratory game birds may not be taken:

(1) from or by means of any motorboat or other craft having a motor attached, or sailboat unless the motor has been completely shut off or sails furled and its progress has ceased: provided, that a craft under power may be used to retrieve dead or crippled birds; however, crippled birds may not be shot from such craft under power; or

(2) by means or aid of any motor driven land, water or air conveyance, or any sailboat used for the purpose of or resulting in the concentrating, driving, rallying or stirring up of any migratory bird.

R657-9-11. Airboats.

(1) Air-thrust or air-propelled boats and personal watercraft are not allowed in designated parts of the following areas for the purposes of waterfowl hunting:

(a) Box Elder County: Box Elder Lake, Bear River, that part of Harold S. Crane within one-half mile of all dikes and levees, Locomotive Springs, Public Shooting Grounds and Salt Creek, that part of Bear River Migratory Bird Refuge north of "D" line dike, and outside Units 1, 3, 4 and 5 as posted.

(b) Daggett County: Brown's Park

(c) Davis County: Howard Slough, Ogden Bay and Farmington Bay within diked units or as posted

(d) Emery County: Desert Lake

(e) Millard County: Clear Lake, Topaz Slough

(f) Tooele County: Timpie Springs

(g) Uintah County: Stewart's Lake

(h) Utah County: Powell Slough

(i) Wayne County: Bicknell Bottoms

(j) Weber County: Ogden Bay within diked units or as posted and the portion of Harold S. Crane Waterfowl Management Area that falls within the county line.

(2) "Personal watercraft" means a motorboat that is:

(a) less than 16 feet in length;

(b) propelled by a water jet pump; and

(c) designed to be operated by a person sitting, standing or kneeling on the vessel, rather than sitting or standing inside the vessel.

R657-9-12. Motorized Vehicle Access.

(1) "Motorized vehicle" for the purposes of this section means a vehicle that is self-propelled or possesses the ability to be self-propelled. This does not include vehicles moved solely by human power, motorized wheelchairs, an electric personal assisted mobility device, or an electric assisted bicycle.

(2) Motorized vehicle travel is restricted to county roads, improved roads and parking areas.

(3) Off-highway vehicles are not permitted on state waterfowl management areas, except as marked and posted open.

(4) Off-highway vehicles are not permitted on Bear River Migratory Bird Refuge.

(5) Motorized boat use is restricted on waterfowl management areas as specified in the guidebook of the Wildlife Board for taking waterfowl, Wilson's snipe and coot.

R657-9-13. Sinkbox.

A person may not take migratory game birds from or by means, aid, or use of any type of low floating device, having a depression affording the hunter a means of concealment beneath the surface of the water.

R657-9-14. Live Decoys.

A person may not take migratory game birds with the use of live birds as decoys or from an area where tame or captive live ducks or geese are present unless such birds are and have been, for a period of ten consecutive days prior to such taking, confined within an enclosure which substantially reduces the audibility of their calls and totally conceals such birds from the sight of wild migratory waterfowl.

R657-9-15. Amplified Bird Calls.

A person may not use recorded or electrically amplified bird calls or sounds or recorded or electronically amplified imitations of bird calls or sounds except as authorized by the Wildlife Board and specified in the guidebook of the Wildlife Board for taking waterfowl, Wilson's snipe and coot.

R657-9-16. Baiting.

(1) A person may not take migratory game birds by the aid of baiting, or on or over any baited area where a person knows or reasonably should know that the area is or has been baited. This section does not prohibit:

(a) the taking of any migratory game bird on or over the following lands or areas that are not otherwise baited areas:

(i) standing crops or flooded standing crops (including aquatics), standing, flooded or manipulated natural vegetation, flooded harvested croplands, or lands or areas where seeds or grains have been scattered solely as the result of a normal agricultural planting, harvesting, post-harvest manipulation or normal soil stabilization practice;

(ii) from a blind or other place of concealment camouflaged with natural vegetation;

(iii) from a blind or other place of concealment camouflaged with vegetation from agricultural crops, as long as such camouflaging does not result in the exposing, depositing, distributing or scattering of grain or other feed; or

(iv) standing or flooded standing agricultural crops where grain is inadvertently scattered solely as a result of a hunter entering or exiting a hunting area, placing decoys or retrieving downed birds.

(b) The taking of any migratory game bird, except waterfowl, coots and cranes, is legal on or over lands or areas that are not otherwise baited areas, and where grain or other feed has been distributed or scattered solely as the result of manipulation of an agricultural crop or other feed on the land where grown or solely as the result of a normal agricultural operation.

R657-9-17. Possession During Closed Season.

No person shall possess any freshly killed migratory game birds during the closed season.

R657-9-18. Live Birds.

(1) Every migratory game bird wounded by hunting and reduced to possession by the hunter shall be immediately killed and become part of the daily bag limit.

(2) No person shall at any time, or by any means possess or transport live migratory game birds.

R657-9-19. Waste of Migratory Game Birds.

(1) A person may not waste or permit to be wasted or spoiled any protected wildlife or any part of them.

(2) No person shall kill or cripple any migratory game bird pursuant to this rule without making a reasonable effort to immediately retrieve the bird and include it in that person's daily

bag limit.

R657-9-20. Termination of Possession.

Subject to all other requirements of this part, the possession of birds taken by any hunter shall be deemed to have ceased when the birds have been delivered by the hunter to another person as a gift; to a post office, a common carrier, or a migratory bird preservation facility and consigned for transport by the Postal Service or common carrier to some person other than the hunter.

R657-9-21. Tagging Requirement.

(1) No person shall put or leave any migratory game bird at any place other than at that person's personal abode, or in the custody of another person for picking, cleaning, processing, shipping, transporting or storing, including temporary storage, or for the purpose of having taxidermy services performed unless there is attached to the birds a disposal receipt, donation receipt or transportation slip signed by the hunter stating the hunter's address, the total number and species of birds, the date such birds were killed and the Utah hunting license number under which they were taken.

(2) Migratory game birds being transported in any vehicle as the personal baggage of the possessor shall not be considered as being in storage or temporary storage.

R657-9-22. Donation or Gift.

No person may receive, possess or give to another, any freshly killed migratory game birds as a gift, except at the personal abodes of the donor or donee, unless such birds have a tag attached, signed by the hunter who took the birds, stating such hunter's address, the total number and species of birds taken, the date such birds were taken and the Utah hunting license number under which taken.

R657-9-23. Custody of Birds of Another.

No person may receive or have in custody any migratory game birds belonging to another person unless such birds are tagged as required by Section R657-9-21.

R657-9-24. Species Identification Requirement.

No person shall transport within the United States any migratory game birds unless the head or one fully feathered wing remains attached to each bird while being transported from the place where taken until they have arrived at the personal abode of the possessor or a migratory bird preservation facility.

R657-9-25. Marking Package or Container.

(1) No person shall transport by the Postal Service or a common carrier migratory game birds unless the package or container in which such birds are transported has the name and address of the shipper and the consignee and an accurate statement of the numbers and kinds of species of birds contained therein clearly and conspicuously marked on the outside thereof.

(2) A Utah shipping permit obtained from the division must accompany each package shipped within or from Utah.

R657-9-26. Migratory Bird Preservation Facilities.

(1) Migratory bird preservation facility means:

(i) Any person who, at their residence or place of business and for hire or other consideration; or

(ii) Any taxidermist, cold-storage facility or locker plant which, for hire or other consideration; or

(iii) Any hunting club which, in the normal course of operations; receives, possesses, or has in custody any migratory game birds belonging to another person for purposes of picking, cleaning, freezing, processing, storage or shipment.

(2) No migratory bird preservation facility shall:

(a) receive or have in custody any migratory game bird unless accurate records are maintained that can identify each bird received by, or in the custody of, the facility by the name of the person from whom the bird was obtained, and show:

(i) the number of each species;

(ii) the location where taken;

(iii) the date such birds were received;

(iv) the name and address of the person from whom such birds were received;

(v) the date such birds were disposed of; and

(vi) the name and address of the person to whom such birds were delivered; or

(b) destroy any records required to be maintained under this section for a period of one year following the last entry on record.

(3) Record keeping as required by this section will not be necessary at hunting clubs that do not fully process migratory birds by removal of the head and wings.

(4) No migratory bird preservation facility shall prevent any person authorized to enforce this part from entering such facilities at all reasonable hours and inspecting the records and the premises where such operations are being carried out.

R657-9-27. Importation.

A person may not:

(1) import migratory game birds belonging to another person; or

(2) import migratory game birds in excess of the following importation limits:

(a) From any country except Canada and Mexico, during any one calendar week beginning on Sunday, not to exceed 10 ducks, singly or in the aggregate of all species, and five geese including brant, singly or in the aggregate of all species;

(b) From Canada, not to exceed the maximum number to be exported by Canadian authorities;

(c) From Mexico, not to exceed the maximum number permitted by Mexican authorities in any one day: provided that if the importer has his Mexican hunting permit date-stamped by appropriate Mexican wildlife authorities on the first day he hunts in Mexico, he may import the applicable Mexican possession limit corresponding to the days actually hunted during that particular trip.

R657-9-28. Use of Dogs.

(1) An individual may not use or permit a dog to harass, pursue, or take protected wildlife unless otherwise allowed for in the Wildlife Code, administrative rules issued under Wildlife Code, or a guidebook of the Wildlife Board.

(2) Dogs may be used to locate and retrieve turkey during open turkey hunting seasons.

(3) Dogs are generally allowed on state wildlife management and waterfowl management areas, subject to the following conditions.

(a) Dogs are not allowed on the following state wildlife management areas and waterfowl management areas between March 10 and August 31 annually or as posted by the Division:

(i) Annabella;

(ii) Bear River Trenton Property Parcel;

(iii) Bicknell Bottoms;

(iv) Blue Lake;

(v) Browns Park;

(vi) Bud Phelps;

(vii) Clear Lake;

(viii) Desert Lake;

(ix) Farmington Bay;

(x) Harold S. Crane;

(xi) Hatt's Ranch

(xii) Howard Slough;

(xiii) Huntington;

(xiv) James Walter Fitzgerald;

(xv) Kevin Conway;
(xvi) Locomotive Springs;
(xvii) Manti Meadows;
(xviii) Mills Meadows;
(xix) Montes Creek;
(xx) Nephi;
(xxi) Ogden Bay;
(xxii) Pahvant;
(xxiv) Public Shooting Grounds;
(xxv) Redmond Marsh;
(xxvi) Richfield;
(xxvii) Roosevelt;
(xxviii) Salt Creek;
(xxix) Scott M. Matheson Wetland Preserve;
(xxx) Steward Lake;
(xxxi) Timpie Springs;
(xxxii) Topaz Slough;
(xxxiii) Vernal; and
(xxxiv) Willard Bay.

(b) The Division may establish special restrictions for Division-managed properties, such as on-leash requirements and temporary or locational closures for dogs, and post them at specific Division properties and at Regional offices;

(c) Organized events or group gatherings of twenty-five (25) or more individuals that involve the use of dogs, such as dog training or trials, that occur on Division properties may require a special use permit as described in R657-28; and

(d) Dog training may be allowed in designated areas on Lee Kay Center and Willard Bay WMA by the Division without a special use permit.

R657-9-29. Season Dates and Bag and Possession Limits.

(1) Season dates and bag and possession limits are specified in the guidebook of the Wildlife Board for taking waterfowl, Wilson's snipe and coot.

(2) A youth duck hunting day may be allowed for any person 17 years of age or younger on July 31st of the year in which the youth hunting day is held, as provided in the guidebook of the Wildlife Board for taking waterfowl, Wilson's snipe and coot.

R657-9-30. Rest Areas and No Shooting Areas.

(1) A person may only access and use state waterfowl management areas in accordance with state and federal law, state administrative code, and proclamations of the Wildlife Board.

(2)(a) The division may establish portions of state waterfowl management areas as "rest areas" for wildlife that are closed to the public and trespass of any kind is prohibited.

(b) In addition to any areas identified in the proclamation of the Wildlife Board for taking waterfowl, Wilson's snipe, and coot, the following areas are designated as rest areas:

(i) That portion of Clear Lake Waterfowl Management Area known as Spring Lake;

(ii) That portion of Desert Lake Waterfowl Management Area known as Desert Lake;

(iii) That portion of Public Shooting Grounds Waterfowl Management Area that lies above and adjacent to the Hull Lake Diversion Dike known as Duck Lake;

(iv) That portion of Salt Creek Waterfowl Management Area known as Rest Lake;

(v) That portion of Farmington Bay Waterfowl Management Area that lies in the northwest quarter of unit one; and

(iv) That portion of Ogden Bay Waterfowl Management Area known as North Bachman.

(c) Maps of all rest areas will be available at division offices, on the division's website, and to the extent necessary, marked with signage at each rest area.

(3)(a) The division may establish portions of state waterfowl management areas as "No Shooting Areas" where the discharge of weapons for the purposes of hunting is prohibited.

(b) No Shooting Areas remain open to the public for other lawful activities.

(c) In addition to any areas identified in the proclamation of the Wildlife Board for taking waterfowl, Wilson's snipe, and coot, the following areas are No Shooting Areas:

(i) Within 600 feet of the north and south side of the center line of Antelope Island causeway;

(ii) Within 600 feet of all structures found at Brown's Park Waterfowl Management Area;

(iii) The following portions of Farmington Bay Waterfowl Management Area:

(A) within 600 feet of the Headquarters;

(B) within 600 feet of dikes and roads accessible by motorized vehicles; and

(C) within the area designated as the Learning Center.

(iv) Within 600 feet of the headquarters area of Ogden Bay Waterfowl Management Area;

(v) Within the boundaries of all State Parks except those designated open by appropriate signage as provided in Rule R651-614-4;

(vi) Within 1/3 of a mile of the Great Salt Lake Marina;

(xi) Below the high water mark of Gunnison Bend Reservoir and its inflow upstream to the Southerland Bridge, Millard County;

(xii) All property within the boundary of the Salt Lake International Airport; and

(xii) All property within the boundaries of federal migratory bird refuges, unless hunting waterfowl specifically authorized by the federal government.

(4) The division reserves the right to manage division lands and regulate their use consistent with Utah Code Section 23-21-7 and Utah Administrative Code R657-28.

R657-9-31. Shooting Hours.

(1) A person may not hunt, pursue, or take wildlife, or discharge any firearm or archery tackle on state-owned lands adjacent to the Great Salt Lake, on division-controlled waterfowl management areas, or on federal refuges between official sunset and one-half hour before official sunrise.

(2) Legal shooting hours for taking or attempting to take waterfowl, Wilson's snipe, and coot are provided in the guidebook of the Wildlife Board for taking waterfowl, Wilson's snipe and coot.

R657-9-32. Falconry.

(1) Falconers must obtain a valid hunting or combination license, a federal migratory bird stamp and a falconry certificate of registration to hunt waterfowl.

(2) Areas open and bag and possession limits for falconry are specified in the guidebook of the Wildlife Board for taking waterfowl, Wilson's snipe and coot.

R657-9-33. Migratory Game Bird Harvest Information Program (HIP).

(1) A person must obtain an annual Migratory Game Bird Harvest Information Program (HIP) registration number to hunt migratory game birds.

(2)(a) A person must call the telephone number published in the guidebook of the Wildlife Board for taking waterfowl, Wilson's snipe and coot, or register online at the address published in the guidebook of the Wildlife Board for taking waterfowl, Wilson's snipe and coot to obtain their HIP registration number.

(b) A person must write their HIP registration number on their current year's hunting license.

(3) Any person obtaining a HIP registration number will be required to provide their:

(a) hunting license number;
(b) hunting license type;
(c) name;
(d) address;
(e) phone number;
(f) birth date; and
(g) information about the previous year's migratory bird hunts.

(4) Lifetime license holders will receive a sticker every three years from the division to write their HIP number on and place on their lifetime license card.

(5) Any person hunting migratory birds will be required, while in the field, to prove that they have registered and provided information for the HIP program.

R657-9-34. Waterfowl Blinds on Waterfowl Management Areas.

(1) Waterfowl blinds on division waterfowl management areas may be constructed or used as provided in Subsection (a) through Subsection (e).

(a) Waterfowl blinds may not be left unattended overnight, except for blinds constructed entirely of non-woody, vegetative materials that naturally occur where the blind is located.

(b) Trees and shrubs on waterfowl management areas that are live or dead standing may not be cut or damaged except as expressly authorized in writing by the division.

(c) Excavating soil or rock on waterfowl management areas above or below water surface is strictly prohibited, except as expressly authorized in writing by the division.

(d) Rock and soil material may not be transported to waterfowl management areas for purposes of constructing a blind.

(e) Waterfowl blinds may not be constructed or used in any area or manner, which obstructs vehicular or pedestrian travel on dikes.

(2) The restrictions set forth in Subsection (1)(a) through Subsection (1)(c) do not apply to the following waterfowl management areas:

(a) Farmington Bay Waterfowl Management Area - West and North of Unit 1, Turpin Unit, and Doug Miller Unit.

(b) Howard Slough Waterfowl Management Area - West and South of the exterior dike separating the waterfowl management area's fresh water impoundments from the Great Salt Lake.

(c) Ogden Bay Waterfowl Management Area - West of Unit 1, Unit 2, and Unit 3.

(d) Harold Crane Waterfowl Management Area - one half mile North and West of the exterior dike separating the waterfowl management area's fresh water impoundments from Willard Spur.

(3) Waterfowl blinds constructed or maintained on waterfowl management areas in violation of this section may be removed or destroyed by the division without notice.

(4) Any unoccupied, permanent waterfowl blind located on state land open to public access for hunting may be used by any person without priority to the person that constructed the blind. It being the intent of this rule to make such blinds available to any person on a first-come, first-serve basis.

(5) Waterfowl blinds or decoys cannot be left unattended overnight on state land open to public access for hunting in an effort to reserve the particular location where the blinds or decoys are placed.

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R657. Natural Resources, Wildlife Resources.
R657-12. Hunting and Fishing Accommodations for People With Disabilities.
R657-12-1. Purpose and Authority.

Under authority of Sections 23-14-18, 23-19-1, 23-19-36, 23-20-12 and 63G-3-201, this rule provides the standards and procedures for a person with disabilities to:

(1) obtain a certificate of registration for taking wildlife from a vehicle;

(2) obtain a fishing license as authorized under Section 23-19-36(1);

(3) obtain a certificate of registration to participate in companion hunting;

(4) obtain a certificate of registration to receive a limited entry season extension;

(5) obtain a certificate of registration to receive a general deer or elk season extension;

(6) obtain a certificate of registration to hunt with a crossbow or draw-lock; or

(7) obtain a certificate of registration to use telescopic sights on a weapon when otherwise prohibited.

R657-12-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Blind" means the person:

(i) has no more than 20/200 visual acuity in the better eye when corrected; or

(ii) has, in the case of better than 20/200 central vision, a restriction of the field of vision in the better eye which subtends an angle of the field of vision no greater than 20 degrees.

(b) "Crutches" means a staff or support designed to fit under or attach to each arm, including a walker, which improve a person's mobility that is otherwise severely restricted by a permanent physical injury or disability.

(c) "Draw-lock" means a mechanical device used to hold and support the draw weight of a conventional or compound bow at any increment of draw until released by the archer using a trigger mechanism attached to the device.

(d) "Loss of either or both lower extremities" means the permanent loss of use or the physical loss of one or both legs or a part of either or both legs which severely impedes a person's mobility.

(e) "Telescopic sights" means an optical or electronic sighting system that magnifies the natural field of vision beyond 1X and is used to aim a firearm, bow or crossbow.

(f) "Upper extremity disabled" means a person who has a permanent physical impairment due to injury or disease, congenital or acquired, which renders the person so severely disabled as to be physically unable to use any legal hunting weapon or fishing device.

R657-12-3. Providing Evidence of Disability for Obtaining a Fishing License.

(1) A resident may receive a free fishing license under Section 23-19-36(1) by providing evidence the person is blind, paraplegic, or otherwise permanently disabled so as to be permanently confined to a wheelchair or the use of crutches, or who has lost either or both lower extremities.

(2) A person may obtain this license at any division office.

(3) The division shall accept the following as evidence of disability:

(a) obvious physical impediment;

(b) use of any mobility device described in Section R657-12-2(b);

(c) a signed statement by a licensed ophthalmologist, optometrist, or a physician verifying the person is blind as defined under Section R657-12-2(a); or

(d) a signed statement by a licensed physician verifying the person is paraplegic, or otherwise permanently disabled so as to be permanently confined to a wheelchair or the use of crutches, or has lost either or both lower extremities.

R657-12-4. Obtaining Authorization to Hunt from a Vehicle.

(1) A person who is paraplegic, or otherwise permanently disabled so as to be permanently confined to a wheelchair or the use of crutches, or who has lost either or both lower extremities, and who possesses a valid license or permit to hunt protected wildlife may receive a certificate of registration to take protected wildlife from a vehicle pursuant to Section 23-20-12.

(2)(a) Applicants for the certificate of registration must provide evidence of disability as provided in Subsections R657-12-3(3)(a), (b), or (d).

(b) Certificates of registration may be renewed annually.

(3) Wildlife may be taken from a vehicle under the following conditions:

(a) Only those persons with a valid hunting license or permit and a certificate of registration allowing them to hunt from a vehicle may discharge a firearm or bow from, within, or upon any motorized terrestrial vehicle;

(b) Shooting from a vehicle on or across any established roadway is prohibited;

(c)(i) Firearms must be carried in an unloaded condition, and a round may not be placed in the firearm until the act of firing begins, except as authorized in Title 53, Chapter 5, Part 7 of the Utah Code; and

(ii) Arrows must remain in the quiver until the act of shooting begins; and

(d) Certificate of registration holders must be accompanied by, and hunt with, a person who is physically capable of assisting the certificate of registration holder in recovering wildlife.

(4) Certificate holders must comply with all other laws and rules pertaining to hunting wildlife, including state, federal, and local laws regulating or restricting the use of motorized vehicles.

R657-12-5. Companion Hunting and Fishing.

(1) A person may take protected wildlife for a person who is blind, upper extremity disabled or quadriplegic provided the blind, upper extremity disabled or quadriplegic person:

(a) satisfies hunter education requirements as provided in Section 23-19-11 and Rule R657-23;

(b) possesses the appropriate license, permit and tag;

(c) obtains a Certificate of Registration from the division authorizing the companion to take protected wildlife for the blind, upper extremity disabled or quadriplegic person; and

(d) is accompanied by a companion who has satisfied the hunter education requirements provided in Section 23-19-11 and Rule R657-23.

(2) A person who is blind may obtain a Certificate of Registration from the Division by submitting a signed statement by a licensed ophthalmologist, optometrist or physician verifying that the applicant is blind as defined in Section R657-12-2(2)(a).

(3)(a) A person who is upper extremity disabled or quadriplegic may obtain a Certificate of Registration from the division upon submitting evidence of the disability.

(b) The division shall accept the following as evidence of an applicant's disability:

(i) obvious physical disability demonstrating the applicant is quadriplegic or upper extremity disabled as defined in Section R657-12-2(2)(d); or

(ii) a signed statement by a licensed physician verifying that the applicant is quadriplegic or upper extremity disabled as defined in Section R657-12-2(2)(d).

(4) The hunting or fishing companion must be accompanied by the blind, upper extremity disabled or

quadriplegic person at all times while hunting or fishing, at the time of take, and while transporting the protected wildlife.

R657-12-6. Special Season Extension for Disabled Persons - Limited Entry Hunts.

(1) A person may obtain a Certificate of Registration from a division office requesting an extension for any limited entry hunt, provided the person requesting the extension:

(a) is blind, quadriplegic, upper extremity disabled, paraplegic, or otherwise permanently disabled so as to be permanently confined to a wheelchair or the use of crutches, or who has lost either or both lower extremities;

(b) satisfies the hunter education requirements as provided in Section 23-19-11 and Rule R657-23; and

(c) obtains the appropriate license, permit, and tag.

(2) The division shall not issue a Certificate of Registration for an extension on any limited entry hunt where the extension will violate federal law.

(3) The division shall accept the following as evidence of disability:

(a) obvious physical impediment;

(b) use of any mobility device described in Section R657-12-2(2)(b);

(c) a signed statement by a licensed ophthalmologist, optometrist, or a physician verifying the person is blind as defined under Section R657-12-2(2)(a); or

(d) a signed statement by a licensed physician verifying the person is quadriplegic, upper extremity disabled as defined under Section R657-12-2(2)(d), paraplegic, or otherwise permanently disabled so as to be permanently confined to a wheelchair or the use of crutches, or has lost either or both lower extremities.

R657-12-7. Special Season Extension for Disabled Persons - General Deer, Elk and Wild Turkey Hunts.

(1) A person may obtain a Certificate of Registration from a division office to hunt an extended general deer, elk or wild turkey season as provided in Subsection (2), provided the person requesting the extension:

(a) is blind, quadriplegic, upper extremity disabled, paraplegic, or otherwise permanently disabled so as to be permanently confined to a wheelchair or the use of crutches, or who has lost either or both lower extremities;

(b) satisfies the hunter education requirements as provided in Section 23-19-11 and Rule R657-23; and

(c) obtains the appropriate license, permit and tag.

(2)(a) The extended general deer season may include:

(i) a hunt immediately preceding the general any weapon buck deer season opening date published in the guidebook of the Wildlife Board for taking big game;

(A) the extension may not apply to general any weapon deer hunts with season length restrictions.

(b) The extended general spike bull elk season may occur five days after the general season spike bull elk hunt published in the guidebook of the Wildlife Board for taking big game.

(c) The extended general any bull elk season may occur concurrently with the general youth any bull elk hunt published in the guidebook of the Wildlife Board for taking big game.

(d) The extended general wild turkey season may occur seven days prior to the limited entry turkey hunt season as published in the guidebook of the Wildlife Board for taking Upland Game and Wild Turkey.

(3) The division shall accept the following as evidence of disability:

(a) obvious physical impediment;

(b) use of any mobility device described in Section R657-12-2(2)(b);

(c) a signed statement by a licensed ophthalmologist, optometrist, or a physician verifying the person is blind as defined under Section R657-12-2(2)(a); or

(d) a signed statement by a licensed physician verifying the person is quadriplegic, upper extremity disabled as defined under Section R657-12-2(2)(d), paraplegic, or otherwise permanently disabled so as to be permanently confined to a wheelchair or the use of crutches, or has lost either or both lower extremities.

R657-12-8. Crossbows and Draw-Locks.

(1)(a) A person who has a permanent physical impairment due to injury or disease, congenital or acquired, which renders the person so severely disabled as to be unable to use conventional archery equipment may receive a certificate of registration to use a crossbow or draw-lock to hunt big game, cougar, bear, turkey, waterfowl, small game or carp during the respective archery, any weapon hunting, or fishing seasons as provided in the applicable guidebooks of the Wildlife Board for taking protected wildlife.

(b) The division shall accept the following as evidence of eligibility to use a crossbow or draw-lock:

(i) obvious physical disability, as provided in Subsection (1)(a), demonstrating the applicant is eligible to use a crossbow or draw-lock; or

(ii) a physician's statement confirming the disability as defined in Subsection (1)(a).

(2)(a) Any crossbow used to hunt big game, cougar, bear, turkey, waterfowl or small game must comply with the requirements in R657-5-8(3), except a crossbow used to hunt turkey, waterfowl, or small game may have a minimum draw weight of 60 pounds.

(3)(a) Any crossbow or drawlock used to hunt carp must have a:

(i) reel with line capable of tethering the bolt to restrict the flight distance; and

(ii) positive safety mechanism.

(4) Conventional bows equipped with a draw-lock and used to hunt big game must conform with the minimum draw weights, and arrow and broadhead restrictions contained in R657-5.

R657-12-9. Telescopic Sights.

(1) A person who has a permanent vision impairment leaving them with worse than 20/40 corrected visual acuity in the better eye may receive a Certificate of Registration to use telescopic sights when otherwise prohibited by the rules and proclamations of the Wildlife Board; if in the professional opinion of the eye care provider telescopic sights will sufficiently mitigate the effects of the disability to enable the person to:

(a) adequately discern between lawful and unlawful wildlife species and species genders; and

(b) safely discharge a firearm or bow in the field.

(2) A person with a qualified vision impairment may obtain a Certificate of Registration from the Division to use telescopic sights, when otherwise prohibited, by submitting a signed statement from a licensed ophthalmologist, optometrist or physician verifying that:

(a) the applicant has a permanent vision impairment resulting in worse than 20/40 corrected visual acuity in the better eye; and

(b) telescopic sights will sufficiently mitigate the effects of the vision impairment to enable the applicant to:

(i) adequately discern between lawful and unlawful wildlife species and species genders; and

(ii) safely discharge a firearm or bow in the field.

R657-12-10. Fishing Licenses for Veterans with Disabilities.

(1) A resident who has a service-connected disability of 20% or more and is not eligible to fish without a license under

Section 23-19-14 or to receive a free fishing license under Section 23-19-36 may purchase a discounted 365-day fishing license upon furnishing verification of a service-connected disability and paying the fee established in the approved fee schedule.

(a) "Armed Forces" means the United States Army, Navy, Marine Corps, Air Force, and Coast Guard, including the reserve components thereof and the Army and Air National Guard of the United States.

(b) "Service-connected disability" means injury or illness incurred or aggravated:

(i) while in Armed Forces service; and

(ii) that is recognized by the United States Department of Veterans Affairs or by a branch of the Armed Forces.

(c) "Verification of Service-Connected Disability" means an official written letter, statement, or card issued by the Department of Veterans Affairs or by a branch of the Armed Forces certifying that the person has a service-connected disability with a disability rating of 20% or higher.

(2) The discount provided in this section on the purchase of a fishing license does not apply to combination licenses.

(3) Veteran fishing licenses shall be issued at division offices and may be issued by mail, online or at license agents. The purchaser may be required to complete an affidavit of the service-connected disability at the time of purchase.

R657-12-11. Administrative and judicial review.

(1) A person may request administrative review of the division's partial or complete denial of a certificate of registration under this chapter by delivering a written request for administrative review to the division director or designee within 30 days of the date of denial.

(2) The request for administrative review shall include:

(a) the name, address, and phone number of the petitioner;

(b) a specific description of the disability involved and the physical limitations imposed by that disability;

(c) a specific description of the accommodations requested to mitigate the physical limitations caused by the disability; and

(d) verifiable medical or other information describing the disability and the medical need for the requested accommodation.

(3) A person may appeal the division director's or designee's decision under Subsection (1) by filing a request for agency action pursuant to R657-2.

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R657. Natural Resources, Wildlife Resources.
R657-19. Taking Nongame Mammals.
R657-19-1. Purpose and Authority.

(1) Under authority of Sections 23-13-3, 23-14-18 and 23-14-19, this rule provides the standards and requirements for taking and possessing nongame mammals.

(2) A person capturing any live nongame mammal for a personal, scientific, educational, or commercial use must comply with R657-3 Collection, Importation, Transportation and Subsequent Possession of Zoological Animals.

R657-19-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Immediate family" means the landowner's or lessee's spouse, children, son-in-law, daughter-in-law, father, mother, father-in-law, mother-in-law, brother, sister, brother-in-law, sister-in-law, stepchildren, and grandchildren.

(b) "Nongame mammal" means:

(i) any species of bats;

(ii) any species of mice, rats, or voles of the families Heteromyidae, Cricetidae, or Zapodidae;

(iii) opossum of the family Didelphidae;

(iv) pikas of the family Ochotonidae;

(v) porcupine of the family Erethizontidae;

(vi) shrews of the family Soricidae; and

(vii) squirrels, prairie dogs, and marmots of the family Sciuridae.

R657-19-3. General Provisions.

(1) A person may not purchase or sell any nongame mammal or its parts.

(2)(a) The live capture of any nongame mammals is prohibited under this rule.

(b) The live capture of nongame mammals species may be allowed as authorized under Rule R657-3.

(3) Section 23-20-8 does not apply to the taking of nongame mammal species covered under this rule.

R657-19-4. Nongame Mammal Species - Certificate of Registration Required.

(1) A certificate of registration is required to take any of the following species of nongame mammals:

(a) bats of any species; and

(b) pika - Ochotona princeps.

(2) A certificate of registration is required to take any shrew - Soricidae, all species.

(3) A certificate of registration is required to take a Utah prairie dog, Cynomys parvidens, as provided in Sections R657-19-6, R657-19-7, R657-19-8 and R657-19-9.

(4) A certificate of registration is required to take any of the following species of nongame mammals in Washington County:

(a) cactus mouse - Peromyscus eremicus;

(b) kangaroo rats - Dipodomys, all species;

(c) Southern grasshopper mouse - Onychomys torridus; and

(d) Virgin River montane vole - Microtus montanus rivularis, which occurs along stream-side riparian corridors of the Virgin River.

(5) A certificate of registration is required to take any of the following species of nongame mammals in San Juan and Grand counties:

(a) Abert squirrel - Sciurus aberti;

(b) Northern rock mouse - Peromyscus nasutus; and

(c) spotted ground squirrel - Spermophilus spilosoma.

(6) The division may deny a certificate of registration to any applicant, if:

(a) the applicant has violated any provision of:

(i) Title 23 of the Utah Code;

(ii) Title R657 of the Utah Administrative Code;

(iii) a certificate of registration;

(iv) an order of the Wildlife Board; or

(v) any other law that bears a reasonable relationship to the applicant's ability to safely and responsibly perform the activities that would be authorized by the certificate of registration;

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

(c) taking the nongame mammal as proposed in the application violates any federal, state or local law;

(d) the application is incomplete or fails to meet the issuance criteria set forth in this rule; or

(e) the division determines the activities sought in the application may significantly damage or are not in the interest of wildlife, wildlife habitat, serving the public, or public safety.

R657-19-5. Nongame Mammal Species - Certificate of Registration Not Required.

(1) All nongame mammal species not listed in Section R657-19-4 as requiring a certificate of registration, may be taken:

(a) without a certificate of registration;

(b) year-round, 24-hours-a-day; and

(c) without bag or possession limits.

(2) A certificate of registration is not required to take any of the following species of nongame mammals, however, the taking is subject to the provisions provided under Section R657-19-10:

(a) White-tailed prairie dog, Cynomys leucurus; and

(b) Gunnison prairie dog, Cynomys gunnisoni.

R657-19-6. Utah Prairie Dog Provisions.

(1)(a) A person may not take a Utah Prairie dog, Cynomys parvidens, without first obtaining a certificate of registration from the division.

(b) A certificate of registration for taking Utah prairie dogs may be issued as provided in Subsection (i) or Subsection (ii), or Subsection (iii), if the taking will not further endanger the existence of the species:

(i) in cases where Utah Prairie dogs are causing damage to agricultural lands as provided in the rules of the U.S. Fish and Wildlife Service; or

(ii) as provided in a valid Incidental Take permit issued by the U.S. Fish and Wildlife Service under an approved Habitat Conservation Plan; or

(iii) as provided under a valid Incidental Take permit issued by the U.S. Fish and Wildlife Service allowing take of Utah prairie dogs on specified private lands as part of an approved conservation agreement enacted between the U.S. Fish and Wildlife Service and the owner of those private lands.

(c) A person may apply for a certificate of registration at the division's southern regional office, 1470 North Airport Road, Suite 1, Cedar City, Utah 84721.

(d) A landowner, lessee, or their immediate family member, or an employee on a regular payroll and not hired specifically to take Utah prairie dogs, may apply for a certificate of registration.

(e)(i) A person, other than those listed in Subsection (d), may apply for a certificate of registration to take Utah prairie dogs as a designee of the landowner or lessee provided the application includes:

(A) an explanation of the need for the certificate of registration to be issued;

(B) justification for utilization of the designee; and

(C) the landowner or lessee's signature.

(ii) A maximum of two designee certificates of registration may be issued per landowner or lessee.

(iii) Each designee application shall be considered individually based upon the explanation and justification provided.

(f) An application for a certificate of registration must include:

(i) full name;

(ii) complete mailing address;

(iii) phone number;

(iv) date of birth;

(v) weight and height;

(vi) gender;

(vii) color of hair and eyes;

(viii) social security number;

(ix) driver's license number, if issued;

(x) proof of hunter education certification if the applicant was born after December 31, 1965; and

(xi) the township, range, section and 1/4 section of the agricultural lands where the prairie dogs will be taken.

(g) An applicant must be at least 14 years of age at the time of application and must abide by the provisions for children being accompanied by adults while hunting with a weapon pursuant to Section 23-20-20.

(h) After review of the application, a certificate of registration may be issued.

(i) A maximum of four certificates of registration may be issued to any landowner or lessee, including those issued to the landowner or lessee's designees.

(j) A certificate of registration shall be issued on an individual basis and shall be valid only for the person to whom the certificate of registration is issued.

(k) A certificate of registration is not transferrable and must be signed by the holder prior to use.

(l) If the application and permitting process is accomplished by U.S. Mail, the certificate of registration shall only become valid after a copy of the signed certificate of registration is received by the division's southern regional office.

(2)(a) A person may take Utah prairie dogs with a firearm during daylight hours or by trapping as specified on the certificate of registration.

(b) A person may not use any chemical toxicant to take Utah prairie dogs.

(c) In addition to the requirements of this rule, any person taking Utah prairie dogs must comply with state laws, and local ordinances and laws.

(d) A person at least 14 years of age and under 16 years of age who takes Utah Prairie dogs must be accompanied by an adult with a valid certificate of registration to take Utah Prairie dogs on the same property.

R657-19-7. Areas Open to Taking Utah Prairie Dogs -- Dates Open --Limits on Number of Utah Prairie Dogs Taken.

(1) A person who obtains a valid certificate of registration may take Utah prairie dogs only on private lands within the following counties:

(a) Beaver;

(b) Garfield;

(c) Iron;

(d) Kane;

(e) Millard;

(f) Piute;

(g) Sanpete;

(h) Sevier;

(i) Washington; and

(j) Wayne.

(2) Taking of a Utah prairie dog on any land or by any method, other than as provided in the valid certificate of registration, including any public land, is a violation of state and federal law.

(3) Any person, who is specifically named on a valid certificate of registration, may remove Utah prairie dogs, as provided in the certificate of registration.

(4) The taking of any Utah prairie dog outside the areas provided in this section is prohibited, except by division employees while acting in the performance of their assigned duties.

(5) The taking of Utah prairie dogs is limited to the dates designated on the certificate of registration. All dates are confined to June 15 through December 31, except as provided in Subsection R657-19-6(1)(b)(iii).

(6)(a) A person may take only the total number of Utah prairie dogs designated in the certificate of registration, except as provided in Subsection R657-19-6(1)(b)(iii).

(b) The total annual range-wide take of Utah prairie dogs and the total annual take of Utah Prairie dogs on agricultural lands is governed by federal law.

(c) If the division determines that taking Utah prairie dogs has an adverse effect on conservation of the species, taking shall be further restricted or prohibited.

R657-19-8. Monthly Reports of Take of Utah Prairie Dogs.

(1) The following information must be reported to the division's southern regional office, 1470 North Airport Road, Suite 1, Cedar City, Utah 84721, every 30 days:

(a) the name and signature of the certificate of registration holder;

(b) the person's certificate of registration number;

(c) the number of Utah prairie dogs taken; and

(d) the location, method of take, and method of disposal of each Utah prairie dog taken during the 30-day period.

(2) Failure to report the information required in Subsection (1), within 30 days, may result in the denial of future applications for a certificate of registration to take Utah prairie dogs.

R657-19-9. Unlawful Possession of Utah Prairie Dogs.

A person may not possess a Utah prairie dog or its parts, without first obtaining a valid certificate of registration and a federal permit.

R657-19-10. White-tailed and Gunnison Prairie Dogs.

(1)(a) A license or certificate of registration is not required to take either white-tailed or Gunnison prairie dogs.

(b) There are no bag limits for white-tailed or Gunnison prairie dogs for which there is an open season.

(2)(a) White-tailed prairie dogs, Cynomys leucurus, may be taken in the following counties from January 1 through March 31, and June 16 through December 31:

(i) Carbon County;

(ii) Daggett County;

(iii) Duchesne County;

(iv) Emery County;

(v) Morgan;

(vi) Rich;

(vii) Summit County;

(viii) Uintah County, except in the closed area as provided in Subsection (2)(b)(i);

(ix) Weber; and

(x) all areas west and north of the Colorado River in Grand and San Juan counties.

(b) White-tailed prairie dogs, Cynomys leucurus, may not be taken in the following closed area in order to protect the reintroduced population of black-footed ferrets, Mustela nigripes:

(i) Boundary begins at the Utah/Colorado state line and Uintah County Road 403, also known as Stanton Road, northeast of Bonanza; southwest along this road to SR 45 at Bonanza; north along this highway to Uintah County Road 328, also known as Old Bonanza Highway; north along this road to

Raven Ridge, just south of US 40; southeast along Raven Ridge to the Utah/Colorado state line; south along this state line to point of beginning.

(3) The taking of White-tailed prairie dogs, Cynomys leucurus, is prohibited from April 1 through June 15, except as provided in Subsection (5).

(4)(a) The taking of Gunnison prairie dogs, Cynomys gunnisoni, is prohibited in all areas south and east of the Colorado River, and north of the Navajo Nation in Grand and San Juan counties from April 1 through June 15.

(b) Gunnison prairie dogs may be taken in the area provided in Subsection (4)(a) from June 16 through March 31.

(5) Gunnison prairie dogs and White-tailed prairie dogs causing agricultural damage or creating a nuisance on private land may be taken at any time, including during the closed season from April 1 through June 15.

R657-19-11. Violation.

(1) Any violation of this rule is a Class C misdemeanor as provided in Section 23-13-11(2).

(2) In addition to this rule any animal designated as a threatened or endangered species is governed by the Endangered Species Act and the unlawful taking of these species may also be a violation of federal law and rules promulgated thereunder.

(3) Pursuant to Section 23-19-9, the division may suspend a certificate of registration issued under this rule.

KEY: wildlife, game laws

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	23-14-19

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;

(b) sportsman permits;

(c) Special Antelope Island State Park Conservation Permits to a conservation organization for marketing and sale at the annual wildlife exposition held pursuant to R657-55; and

(d) Special Antelope Island State Park Limited Entry Permits to successful applicants through a general drawing conducted by the Division.

(2) The division and conservation organizations shall use all revenue derived from conservation permits under Subsections R657-41-9(4) and R657-41-9(5)(b) for the benefit of species for which conservation permits are issued, unless the division and conservation organization mutually agree in writing that there is a higher priority use for other species of protected wildlife.

R657-41-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.
(2) In addition:

(a) "Area Conservation Permit" means a permit issued for a specific unit or hunt area for a conservation permit species, and may include an extended season, or legal weapon choice, or both, beyond the season except area turkey permits are valid during any season option and are valid in any open area during general season hunt.

(i) Area Conservation permits issued for limited entry units are not valid on cooperative wildlife management units.

(b) "Conservation Organization" means a nonprofit chartered institution, foundation, or association founded for the purpose of promoting the protection and preservation of one or more conservation permit species 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.

(d) "Conservation Permit Species" means the species for which conservation permits may be issued and includes deer, elk, pronghorn, moose, bison, Rocky Mountain goat, Rocky Mountain bighorn sheep, desert bighorn sheep, wild turkey, cougar, and black bear.

(e) "Multi-Year Conservation Permit" means a conservation permit awarded to an eligible conservation organization pursuant to R657-41-7 for three consecutive years to sell, market or otherwise use as an aid in wildlife related fund raising activities.

(f) "Retained Revenue" means 60% of the revenue raised by a conservation organizations from the sale of conservation permits that the organization retains for eligible projects, excluding interest earned thereon.

(g) "Special Antelope Island State Park Conservation Permit" means a permit authorized by the Wildlife Board to hunt bighorn sheep or mule deer on Antelope Island State Park which is issued pursuant to R657-41-12(3).

(h) "Special Antelope Island State Park Limited Entry Permit" means a permit authorized by the Wildlife Board to hunt bighorn sheep or mule deer on Antelope Island State Park which is issued by the division in a general drawing, requiring all applicants to pay an application fee and the successful applicant the cost of the permit.

(i) "Sportsman Permit" means a permit which allows a permittee to hunt during the applicable season dates specified in Subsection (k), 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.

(j) "Single Year Conservation Permit" means a conservation permit awarded to an eligible conservation organization pursuant to R657-41-6 for one year to sell, market or otherwise use as an aid in wildlife related fund raising activities.

(k) "Statewide Conservation Permit" means a permit issued for a conservation permit species that allows a permittee to hunt:

(i) big game species on any open unit with archery equipment during the general archery season published in the big game 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 and deer and elk from September 1 through January 15;

(ii) two turkeys on any open unit from April 1 through May 31;

(iii) bear on any open unit during the season authorized by the Wildlife Board for that unit;

(iv) cougar on any open unit during the season authorized by the Wildlife Board for that unit and during the season dates authorized by the Wildlife Board on any harvest objective unit that has been closed by meeting its objective;

(v) Antelope Island is not an open unit for hunting any species of wildlife authorized by a conservation or sportsman permit, except for the Special Antelope Island State Park Conservation Permits and the Special Antelope Island State Park Limited Entry Permits; and

(vi) Rocky Mountain bighorn sheep on any open unit, excluding the Box Elder, Pilot Mountain sheep unit, which is closed to both the Sportsmen permit holder and the Statewide conservation permit holder every year.

R657-41-3. Determining the Number of Conservation and Sportsman Permits.

(1) The number of conservation permits authorized by the Wildlife Board shall be based on:

(a) the species population trend, size, 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 conservation permit species.

(3) A limited number of area conservation permits may be authorized as follows:

(a) the potential number of multi-year and single year permits available for Rocky Mountain bighorn sheep and desert bighorn sheep, assigned to a hunt area or combination of hunt areas, will be calculated based on the number permits issued the year prior to the permits being awarded using the following rule:

(i) 5-14 public permits = 1 conservation permit, 15-24 public permits = 2 conservation permits, 25-34 public permits = 3 conservation permits, 35-44 permits = 4 conservation permits, 45-54 public permits = 5 conservation permits, 55-64 = 6 conservation permits, 65-74 public permits = 7 conservation permits and >75 public permits = 8 conservation permits.

(b) the potential number of multi-year and single year permits available for the remaining conservation permit species, for any unit or hunt area, will be calculated based on the number permits issued the year prior to the permits being awarded using the following rule:

(i) 11-30 public permits = 1 conservation permit, 31-50 public permits = 2 conservation permits, 51-70 public permits

= 3 conservation permits, 71-90 permits = 4 conservation permits, 91-110 public permits = 5 conservation permits, 111-130 = 6 conservation permits, 131-150 public permits = 7 conservation permits and >150 public permits = 8 conservation permits.

(4) The number of conservation permits may be reduced if the number of public permits declines during the time period or which multi-year permits were awarded.

(5) The actual number of conservation and sportsman permits available for use will be determined by the Wildlife Board.

(6) Area conservation permits shall be deducted from the number of public drawing permits.

(7) One sportsman permit shall be authorized for each statewide conservation permit authorized.

(8) All area conservation permits are eligible as multi-year permits except that the division may designate some area conservation permits as single year permits based on the applications received for single year permits.

(9) All statewide permits will be multi-year permits except for a second statewide permit issued for a special event.

R657-41-4. Eligibility for 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) To be eligible for multi-year conservation permits, a conservation organization must have generated in conservation permit sales during the previous three year period at least one percent of the total revenue generated by all conservation organizations in conservation permit sales during the same period. Conservation organizations eligible for multi-year permits may not apply for single year permits, and conservation organizations ineligible for multi-year permits may only apply for single year permits.

(3) Conservation organizations applying for single year permits may not:

(a) bid for or obtain conservation permits if any employee, officer, or board of director member of the conservation organization is an employee, officer, or board of director member of any other conservation organization that is submitting a bid for single year conservation permits; or

(b) enter into any pre-bidding discussions, understandings or agreements with any other conservation organization submitting a bid for conservation permits regarding:

(i) which permits will be sought by a bidder;

(ii) what amounts will be bid for any permits; or

(iii) trading, exchanging, or transferring any permits after permits are awarded.

R657-41-5. Applying for Conservation Permits.

(1)(a) Conservation organizations may apply for conservation permits by sending an application to the division.

(b) Only one application per conservation organization may be submitted. Multiple chapters of the same conservation organization may not apply individually.

(c) Conservation organizations may apply for single year conservation permits or multi-year conservation permits. They may not apply for both types of conservation permits.

(2) 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; and

(d) the name of the president or other individual responsible for the administrative operations of the conservation organization;

(3) If applying for single year conservation permits, a conservation organization must also include in its application:

(a) the proposed bid amount for each permit requested. The proposed bid amount is the revenue the organization anticipates to be raised from a permit through auction or other lawful fund raising activity.

(b) certification that there are no conflicts of interest or collusion in submitting bids as prohibited in R657-41-4(3);

(c) acknowledgement that the conservation organization recognizes that falsely certifying the absence of collusion may result in cancellation of permits, disqualification from bidding for five years or more, and the filing of criminal charges;

(d) evidence that the application and bid has been reviewed and approved by the board of directors of the bidding conservation.

(e) the type of permit, and the 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) An application that is incomplete or completed incorrectly may be rejected.

(5) 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.

R657-41-6. Awarding Single Year Conservation Permits.

(1) The division shall recommend the conservation organization to receive each single year conservation permit based on:

(a) 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) the 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) 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) 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.

(2)(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 its 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.

(3) The Wildlife Board shall make the final assignment of

conservation permits at a meeting prior to December 1 annually.

(4) 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.

(5) The total of all bids for permits awarded to any one organization shall not exceed $20,000 the first year an organization receives permits.

(6) The number of permits awarded to any one organization shall not increase by more than 100% from the previous year.

(7) If the Wildlife Board authorizes a second statewide conservation permit for a species, the conservation organization receiving the permit must meet the division designated bid for that permit.

R657-41-7. Awarding Multi-Year Conservation Permits.

(1) Distribution of multi-year conservation permits will be based on a sequential selection process where each eligible conservation organization is assigned a position or positions in the selection order among the other participating organizations and awarded credits with which to purchase multi-year permits at an assigned value. The selection process and other associated details are as follows.

(2) Multi-year permits will be awarded to eligible conservation organizations for no more than three years.

(3) The division will determine the number of permits available as multi-year permits after subtracting the proposed number of single year permits.

(a) Season types for multi-year area conservation permits for elk on any given hunt unit will be designated and assigned in the following order:

(i) first permit -- multi-season;

(ii) second permit -- any-weapon;

(iii) third permit -- any-weapon; (iv) fourth permit -- archery;

(v) fifth permit -- muzzleloader;

(vi) sixth permit -- multi-season;

(vii) seventh permit -- any-weapon; and

(viii) eighth permit -- any-weapon.

(b) Season types for multi-year area conservation permits for deer on any given hunt unit will be designated and assigned in the following order:

(i) first permit -- hunter choice of season;

(ii) second permit -- hunter choice of season;

(iii) third permit -- muzzleloader;

(iv) fourth permit -- archery; (v) fifth permit -- any-weapon;

(vi) sixth permit -- any-weapon;

(vii) seventh permit -- muzzleloader; and

(viii) eighth permit -- archery.

(4) The division will assign a monetary value to each multi-year permit based on the average return for the permit during the previous three year period. If a history is not available, the value will be estimated.

(5) The division will determine the total annual value of all multi-year permits.

(6)(a) The division will calculate a market share for each eligible conservation organization applying for multi-year permits.

(b) Market share will be calculated and determined based on:

(i) the conservation organization's previous three years performance;

(ii) all conservation permits (single and multi-year) issued to a conservation organization except for special permits allocated by the Wildlife Board outside the normal allocation process.

(iii) the percent of conservation permit revenue raised by a conservation organization during the three year period relative to all conservation permit revenue raised during the same period by all conservation organizations applying for multi-year permits.

(7) The division will determine the credits available to spend by each group in the selection process based on their market share multiplied by the total annual value of all multi-year permits.

(8) The division will establish a selection order for the participating conservation organizations based on the relative value of each groups market share as follows:

(a) groups will be ordered based on their percent of market share;

(b) each selection position will cost a group 10% of the total market share except the last selection by a group will cost whatever percent a group has remaining;

(c) no group can have more than three positions in the selection order; and

(d) the selection order will be established as follows:

(i) the group with the highest market share will be assigned the first position and ten percent will be subtracted from their total market share;

(ii) the group with the highest remaining market share will be assigned the second position and ten percent will be subtracted from their market share; and

(iii) this procedure will continue until all groups have three positions or their market share is exhausted.

(9) At least two weeks prior to the multi-year permit selection meeting, the division will provide each conservation organization applying for multi-year permits the following items:

(a) a list of multi-year permits available with assigned value;

(b) documentation of the calculation of market share;

(c) credits available to each conservation group to use in the selection process;

(d) the selection order; and

(e) date, time and location of the selection meeting.

(10) Between the establishing of the selection order and the selection meeting, groups may trade or assign draw positions, but once the selection meeting begins draw order cannot be changed.

(11) At the selection meeting, conservation organizations will select permits from the available pool according to their respective positions in the selection order. For each permit selected, the value of that permit will be deducted from the conservation organization's available credits. The selection order will repeat itself until all available credits are used or all available permits are selected.

(12) Conservation organizations may continue to select a single permit each time their turn comes up in the selection order until all available credits are used or all available permits are selected.

(13) A conservation organization may not exceed its available credits except a group may select their last permit for up to 10% of the permit value above their remaining credits.

(14) Upon completion of the selection process, but prior to the Wildlife Board meeting where final assignment of permits are made, conservation organizations may trade or assign permits to other conservation organizations eligible to receive multi-year permits. The group receiving a permit retains the

permit for the purposes of marketing and determination of market share for the entire multi-year period.

(15) Variances for an extended season or legal weapon choice may be obtained only on area conservation permits and must be presented to the Wildlife Board prior to the final assignment of the permit to the conservation organization.

(16) Conservation organizations may not trade or transfer multi-year permits to other organizations once assigned by the Wildlife Board.

(17) Conservation organizations failing to comply with the reporting requirements in any given year during the multi-year period shall lose the multi-year conservation permits for the balance of the multi-year award period.

(18) If a conservation organization is unable to complete the terms of marketing the assigned permits, the permits will be returned to the regular public drawing process for the duration of the multi-year allocation period.

R657-41-8. Distributing Conservation Permits.

(1) The division and conservation organization receiving permits shall enter into a contract.

(2)(a) The conservation organization receiving permits must insure that the permits are marketed and distributed by lawful means. Conservation permits may not be distributed in a raffle except where the following conditions are met:

(i) the conservation organization obtains and provides the division with a written opinion from a licensed attorney or a written confirmation by the local district or county attorney that the raffle scheme is in compliance with state and local gambling laws;

(ii) except as otherwise provided in R657-41-8(5), the conservation organization does not repurchase, directly or indirectly, the right to any permit it distributes through the raffle;

(iii) the conservation organization prominently discloses in any advertisement for the raffle and at the location of the raffle that no purchase is necessary to participate; and

(iv) the conservation organization provides the division with a full accounting of any funds raised in the conservation permit raffle, and otherwise accounts for and handles the funds consistent with the requirement in Utah Admin. Code R657-41-9.

(3) 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 30 days of the recipient selection or the permit may be forfeited.

(4) 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 a division 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.

(5) 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:

(a) the conservation organization selects the new recipient of the permit;

(b) the amount of money received by the division for the permit is not decreased;

(c) the conservation organization relinquishes to the division and otherwise uses all proceeds generated from the re-designated permit, pursuant to the requirements provided in Section R657-41-9;

(d) the conservation organization and the initial designated recipient of the permit, sign an affidavit indicating the initial designated recipient is not profiting from transferring the right to the permit; and

(e) the permit has not been issued by the division to the first designated person.

(6) Except as otherwise provided under Subsections (4) and (5), 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.

(7) A person cannot obtain more than one conservation permit for a single conservation permit species per year, except for:

(a) elk, provided no more than two permits are obtained where one or both are antlerless permits; and

(b) turkey.

(8) the person designated on a conservation permit voucher must possess or obtain a current Utah hunting or combination license to redeem the voucher for the corresponding conservation permit.

R657-41-9. Conservation Permit Funds and Reporting.

(1) All permits must be 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 total funds raised on each permit;

(c) the funds due to the division; and

(d) 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 obtaining any future conservation permits.

(5) A conservation organization may retain 70% of the revenue generated from the sale of conservation permits as follows:

(a) 10% of the revenue may be withheld 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 (ix).

(i) eligible projects include habitat improvement, habitat acquisition, transplants, targeted education efforts and other projects providing a substantial benefit to species of wildlife for which conservation permits are issued, unless the division and conservation organization mutually agree in writing that there is a higher priority use for other species of protected wildlife.

(ii) retained revenue shall not be committed to or expended on any eligible project without first obtaining the division director's written concurrence.

(iii) retained revenue shall not be used on any project that does not provide a substantial and direct benefit to conservation permit species or other protected wildlife located in Utah.

(iv) 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.

(v) funds committed to approved projects will be transferred to the division within 90 days of being committed

(A) if the project to which funds are committed is completed under the projected budget or is canceled, funds committed to the project that are not used will be kept by the division and credited back to the conservation organization and will be made available for the group to use on other approved projects during the current or subsequent year.

(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) retained revenue 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 obtaining 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 perform annual audits on project expenditures and conservation permit accounts.

R657-41-10. Obtaining Sportsman Permits.

(1) One sportsman permit is offered to residents through a drawing for each of the following species:

(a) desert bighorn (ram);
(b) bison (hunter's choice);
(c) buck deer;
(d) bull elk;
(e) Rocky Mountain bighorn (ram)
(f) Rocky Mountain goat (hunter's choice)
(g) bull moose;
(h) buck pronghorn;
(i) black bear;
(j) cougar; and
(k) wild turkey.

(2) The following information on sportsman permits is provided in the proclamations of the Wildlife Board for taking protected wildlife:

(a) hunt dates;
(b) open units or hunt areas;
(c) application procedures;
(d) fees; and
(e) deadlines.

(3) a person must possess or obtain a current Utah hunting or combination license to apply for or obtain a sportsman permit.

R657-41-11. Using a Conservation or Sportsman Permit.

(1)(a) A conservation or sportsman permit allows the recipient to take only one individual of the species for which the permit is issued, except a statewide turkey conservation or sportsman permit allows the holder to take two turkeys.

(b) The species that may be taken shall be printed on the permit.

(c) The species may be taken in the area and during the season specified on the permit.

(d) The species may be taken only with the weapon specified on the permit.

(2) The recipient of a conservation or sportsman permit is subject to all 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 R657-62.

R657-41-12. Special Antelope Island State Park Hunting Permits.

(1)(a) The Wildlife Board may authorize a hunt for bighorn sheep and buck mule deer on Antelope Island State Park, with one or more permits for each species made available as Special Antelope Island State Park Conservation Permits and an equal number of permits for each species made available as Special Antelope Island State Park Limited Entry Permits.

(b) The Division of Wildlife Resources and the Division of Parks and Recreation, through their respective policy boards, will enter into a cooperative agreement for the purpose of establishing:

(i) the number of permits issued annually for bighorn sheep and buck mule deer hunts on Antelope Island;

(ii) season dates for each hunt;

(iii) procedures and regulations applicable to hunting on Antelope Island;

(iv) protocols for issuing permits and conducting hunts for antlerless deer on Antelope Island when populations require management; and

(v) procedures and conditions for transferring Special Antelope Island State Park Conservation Permit revenue to the Division of Parks and Recreation.

(c) The cooperative agreement governing bighorn sheep and mule deer hunting on Antelope Island and any subsequent amendment thereto shall be presented to the Wildlife Board and the Parks Board for approval prior to holding a drawing or issuing hunting permits.

(2)(a) Special Antelope Island State Park Limited Entry Permits will be issued by the Division through its annual bucks, bulls, and once-in-a-lifetime drawing.

(i) The mule deer Special Antelope Island State Park

Limited Entry Permit is a premium limited entry buck deer permit and subject to the regulations governing such permits, as provided in this rule, R657-5, and R657-62.

(ii) The bighorn sheep Special Antelope Island State Park Limited Entry Permit is a once-in-a-lifetime Rocky Mountain bighorn sheep permit and subject to the regulations governing such permits, as provided in this rule, R657-5, and R657-62.

(b) To apply for a Special Antelope Island State Park Limited Entry Permit, the applicant must:

(i) pay the prescribed application handling fee;

(ii) possess a current Utah hunting license or combination license;

(iii) not be subject to a waiting period under R657-62 for the species of wildlife applied for; and

(iv) otherwise be eligible to hunt the species of wildlife designated on the application;

(c) A person that obtains a Special Antelope Island State Park Limited Entry Permit:

(i) must pay the applicable permit fee;

(ii) may take only one animal of the species and gender designated on the permit;

(iii) may hunt only with the weapon and during the season prescribed on the permit;

(iv) may hunt the specified species within the areas of Antelope Island designated open by the Wildlife Board and the rules and regulations of the Division of Parks and Recreation; and

(v) is subject to the:

(A) provisions of Title 23, Wildlife Resources Code, and the rules and proclamations of the Wildlife Board for taking and pursuing wildlife; and

(B) statutes, rules, and regulations of the Division of Parks and Recreation for hunting on Antelope Island.

(d) Bonus points are awarded and utilized in applying for and obtaining a Special Antelope Island State Park Limited Entry Permit.

(e) A person who has obtained a Special Antelope Island State Park Limited Entry Permit is subject to all waiting periods applicable to the particular species, as provided in R657-62.

(f) A person cannot obtain a Special Antelope Island State Park Limited Entry Permit for a bighorn sheep or mule deer and any other permit for a male animal of the same species in the same year.

(3) Special Antelope Island State Park Conservation Permits will be provided to the conservation group awarded the wildlife expo permit series, as provided in R657-55, for marketing at the wildlife exposition.

(a) The division and conservation organization receiving Special Antelope Island State Park Conservation Permits shall enter into a contract.

(b) The conservation organization receiving Special Antelope Island State Park Conservation Permits must insure that the permits are marketed and distributed by lawful means.

(c) 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.

(d) If a person is selected by a qualified organization to receive a Special Antelope Island State Park Conservation Permit and is also successful in obtaining a permit for the same species in the same year through a division drawing, that person may designate another person to receive the Special Antelope Island State Park Conservation Permit, provided the permit has not been issued by the division to the first selected person.

(e) If a person is selected by a qualified organization to receive a Special Antelope Island State Park 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 re-designated permit, pursuant to the requirements provided below:

(A) the conservation organization and the initial designated recipient of the permit, sign an affidavit indicating the initial designated recipient is not profiting from transferring the right to the permit; and

(B) the permit has not been issued by the division to the first designated person.

(f) Within 30 days of the exposition, but no later than May 1 annually, the conservation organization must submit to the division:

(i) a final report on the distribution of the Special Antelope Island State Park Conservation Permits;

(ii) the total funds raised on each permit; and

(iii) the funds due to the division.

(g)(i) Permits shall not be issued until the permit fees are paid to the division.

(ii) 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 R657-41-9(5)(a).

(h)(i) Conservation organizations shall remit to the division 90% of the total revenue generated by the Special Antelope Island State Park Conservation Permit sales in that year.

(ii) Failure to remit 90% of the total permit revenue to the division by the September 1 deadline may result in criminal prosecution under Title 76, Chapter 6, Part 4 of the Utah Code.

(i) A conservation organization may retain 10% of the revenue generated by the permits for administrative expenses.

(j) Special Antelope Island State Park Conservation Permits will be issued under this section and will not be limited by the requirements of R657-41-3 through R657-41-8.

(k) Upon receipt of the permit revenue from the conservation organization, the division will transfer revenue to the Division of Parks and Recreation, as provided in the cooperative agreement under Subsection (1)(b) between the two divisions.

(4)(a) Except as otherwise provided under Subsections (3)(d) and (3)(e), a person designated by a conservation organization as a recipient of a Special Antelope Island State Park 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.

(b) A person cannot obtain a Special Antelope Island State Park Conservation Permit for a bighorn sheep or mule deer and any other permit for a male animal of the same species in the same year.

(c) The person designated to receive a Special Antelope Island State Park Conservation Permit must possess or obtain a current Utah hunting or combination license before being issued the permit.

R657-41-13. Failure to Comply.

Any conservation organization administratively or criminally found in violation of this rule or the Wildlife Resources Code may be suspended from participation in the conservation permit program and required to surrender all conservation permit vouchers.

KEY: wildlife, wildlife permits, sportsmen, conservation

permits
February 7, 2018 23-14-18
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R657. Natural Resources, Wildlife Resources.
R657-62. Drawing Application Procedures.
R657-62-1. Purpose and Authority.

(1) Under authority of Sections 23-14-18 and 23-14-19, the Wildlife Board has established this rule for drawing applications and procedures.

(2) Specific season dates, bag and possession limits, areas open, number of permits and other administrative details that may change annually are published in the respective guidebooks of the Wildlife Board.

R657-62-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Application" means a form required by the Division which must be completed by a person and submitted to the Division in order to apply for a hunting permit.

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

(c) "Limited entry hunt" means any hunt listed in the hunt tables published by the Wildlife Board and is identified as a premium limited entry hunt or limited entry hunt. "Limited entry hunt" does not include cougar pursuit or bear pursuit.

(d) "Limited entry permit" means any permit obtained for a limited entry hunt,

including conservation permits, expo permits and sportsman permits.

(e)(i) "Valid application" means an application:

(A) for a permit to take a species for which the applicant is eligible to possess;

(B) for a permit to take a species regardless of estimated permit numbers;

(C) for a certificate of registration; and

(D) containing sufficient information, as determined by the division, to process the application, including personal information, hunt information, and sufficient payment.

(ii) Applications missing any of the items in Subsection (i) may be considered valid if the application is timely corrected through the application correction process.

(f) "Waiting period" means a specified period of time that a person who has obtained a permit must wait before applying for the same permit type.

(g) "Once-in-a-lifetime hunt" means any hunt listed in the hunt tables published by the Wildlife Board and is identified as once-in-a-lifetime, and does not include general or limited entry hunts.

(h) "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.

R657-62-3. Scope of Rule.

(1) This rule sets forth the procedures and requirements for completing and filing applications to receive the following hunting permits and/or certificates of registrations:

(a) Dedicated Hunter certificate of registrations;
(b) limited-entry deer;
(c) limited-entry elk;
(d) limited-entry pronghorn;
(e) once-in-a-lifetime;
(f) public cooperative wildlife management unit;
(g) general season deer and youth elk;
(h) limited entry bear;
(i) bear pursuit;
(j) antlerless big game;
(k) sandhill crane;
(l) sharp-tail and greater sage grouse;
(m) swan
(n) cougar;
(o) sportsman; and
(p) turkey.

R657-62-4. Residency Restrictions.

(1) Only a resident may apply for or obtain a resident permit or resident certificate of registration and only a nonresident may apply for or obtain a nonresident permit or nonresident certificate of registration.

(2)(a) To apply for a resident permit or certificate of registration, a person must be a resident at the time of purchase.

(b) The posting date of the drawing shall be considered the purchase date of a permit or certificate of registration issued through a drawing.

R657-62-5. Hunting on Private Lands.

(1) 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. The division does not guarantee access and cannot restore lost opportunity, bonus points, or permit fees when access is denied. Hunters should contact private landowners for permission to access their land prior to applying for a permit. The Division does not have the names of landowners where hunts occur.

R657-62-6. Applications.

(1)(a) Applications are available at the division's internet address, and must be completed and submitted online by the date prescribed in the respective guidebook of the Wildlife Board.

(b) The permit fees and handling fees must be paid with a valid debit or credit card.

(c) Any license, permit or certificate of registration issued to a person is invalid where full payment is not remitted to and received by the division.

(d) A person who applies for or obtains a permit or certificate of registration must notify the division of any change in mailing address, residency, telephone number, email address, and physical description.

R657-62-7. Group Applications.

(1) When applying as a group all applicants in the group with valid applications and who are eligible to possess the permit or certificate of registration applied for shall receive a permit or certificate of registration where the group is successful in the drawing.

(2) Group members must apply for the same hunt choices.

(3) When applying as a group, if the available permit or certificate of registration quota is not large enough to accommodate the group size, the group application will not be considered.

R657-62-8. Bonus Points.

(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 limited-entry permits; or

(ii) each valid application when applying for bonus points.

(b) Bonus points are awarded by species for;

(i) limited-entry deer including cooperative wildlife management unit buck deer and management buck deer;

(ii) limited-entry elk including cooperative wildlife management unit bull elk and management bull elk;

(iii) limited-entry pronghorn including cooperative wildlife management unit buck pronghorn;

(iv) once-in-a-lifetime species including cooperative

wildlife management units;
(v) limited entry bear;
(vi) antlerless moose;
(vii) ewe Rocky Mountain bighorn sheep;
(viii) ewe desert bighorn sheep;
(ix) cougar; and
(x) turkey.
(3)(a) A person may not apply in the drawing for both a permit and a bonus point for the same species.
(b) A person may not apply for a bonus point if that person is ineligible to apply for a permit for the respective species.
(c) Group applications will not be accepted when applying for bonus points.
(d) A person may apply for bonus points only during the applicable drawing application for each species.
(4)(a) Fifty percent of the permits for each hunt unit will be reserved for applicants with the greatest number of 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 are issued or no applications for that species remain.
(e) Any reserved permits remaining and any applicants who are not selected for reserved permits will be returned to the applicable drawing.
(5)(a) Each applicant receives a random drawing number for:
(i) each species applied for; and
(ii) each bonus point for that species.
(6) Bonus points are forfeited if a person obtains a permit through the drawing for that bonus point species including any permit obtained after the drawing.
(7) Bonus points are not forfeited if:
(a) a person is successful in obtaining a conservation permit, expo permit, sportsman permit, or harvest objective bear 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.
(8) Bonus points are not transferable.
(9) Bonus points are averaged and rounded down when two or more applicants apply together on a group application.
(10)(a) Bonus points are tracked using social security numbers or division-issued customer identification numbers.
(b) The division shall retain electronic copies of applications from 1996 to the current drawings for the purpose of researching bonus point records.
(c) Any requests for researching an applicant's bonus point records must be submitted within the time frames provided in Subsection (b).
(d) Any bonus points on the division's records shall not be researched beyond the time frames provided in Subsection (b).
(e) The division may void or otherwise eliminate any bonus point obtained by fraud, deceit, misrepresentation, or in violation of law.

R657-62-9. Preference Points.
(1) Preference points are used in the applicable drawings to ensure that applicants who are unsuccessful in the drawing will have first preference in the next year's drawing.
(2)(a) A preference point is awarded for:
(i) each valid, unsuccessful application applying for a general buck deer, antlerless deer, antlerless elk, doe pronghorn, Sandhill Crane, Sharp-tailed grouse, Greater sage grouse or Swan permit; or
(ii) each valid application when applying only for a preference point in the applicable drawings.
(b) Preference points are awarded by species for:
(i) general buck deer;
(ii) antlerless deer;
(iii) antlerless elk;
(iv) doe pronghorn;
(v) Sandhill Crane;
(vi) Sharp-tailed Grouse;
(vii) Greater sage grouse; and
(viii) Swan.
(3)(a) A person may not apply in the drawing for both a preference point and a permit for the species listed in (2)(b).
(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.
(4) Preference points for the applicable species are forfeited if a person obtains a general buck deer, antlerless deer, antlerless elk, doe pronghorn, Sandhill Crane, Sharp-tailed grouse, Greater sage grouse or Swan permit through the drawing.
(5) Preference points are not transferable.
(6) Preference points are averaged and rounded down when two or more applicants apply together on a group application.
(7)(a) Preference points are tracked using social security numbers or division-issued customer identification numbers.
(b) The division shall retain copies of electronic applications from 2000 to the current applicable drawings for the purpose of researching preference point records.
(c) Any requests for researching an applicant's preference point records must be submitted within the time frames provided in Subsection (b).
(d) Any preference points on the division's records shall not be researched beyond the time frames provided in Subsection (b).
(e) The division may eliminate any preference point obtained by fraud, deceit, misrepresentation, or in violation of law.

R657-62-10. Dedicated Hunter Preference Points.
(1) Preference points are used in the dedicated hunter certificate of registration drawing to ensure that applicants who are unsuccessful in the drawing will have first preference in the next year's drawing.
(2) A preference point is awarded for:
(a) each valid unsuccessful application;
(b) each valid application when applying only for a preference point in the dedicated hunter drawing.
(3)(a) A person may not apply in the drawing for both a preference point and a certificate of registration.
(b) A person may not apply for a preference point if that person is ineligible to apply for a certificate of registration.
(4) Preference points are forfeited if a person obtains a certificate of registration through the drawing.
(5)(a) Preference points are not transferable.
(b) Preference points shall only be applied to the Dedicated Hunter drawing.
(6) Preference points are averaged and rounded down to the nearest whole point when two or more applicants apply together on a group application.
(7)(a) Preference points are tracked using social security numbers or division-issued customer identification numbers.
(b) The division shall retain copies of electronic applications from 2011 to the current applicable drawing for the purpose of researching preference point records.

(c) Any requests for researching an applicant's preference point records must be requested within the time frames provided in Subsection (b).

(d) Any preference points on the division's records shall not be researched beyond the time frames provided in Subsection (b).

(e) The division may eliminate any preference points earned that are obtained by fraud, deceit or misrepresentation.

R657-62-11. Corrections, Withdrawals and Resubmitting Applications.

(1)(a) If an error is found on the application, the applicant may be contacted for correction.

(b) The division reserves the right to correct or reject applications.

(2)(a) An applicant may withdraw their application from the permit or certificate of registration drawing by the date published in the respective guidebook of the Wildlife Board.

(b) An applicant may resubmit their application, after withdrawing a previous application, for the permit or certificate of registration drawing by the date published in the respective guidebook of the Wildlife Board.

(c) Handling fees, hunting or combination license fees and donations will not be refunded. Resubmitted applications will incur a handling fee.

(3) To withdraw an entire group application, all applicants must withdraw their individual applications.

R657-62-12. Drawing Results.

Drawing results will be made available by the date prescribed in the respective guidebook of the Wildlife Board.

R657-62-13. License, Permit, Certificate of Registration and Handling Fees.

(1) Unsuccessful applicants will not be charged for a permit or certificate of registration.

(2) The handling fees and hunting or combination license fees are nonrefundable.

(3) All license, permit, certificate of registration and handling fees must be paid with a valid debit or credit card.

R657-62-14. Permits Remaining After the Drawing.

(1) Any permits remaining after the drawing are available on the date published in the respective guidebook of the Wildlife Board on a first-come, first-served basis from division offices, participating license agents and through the division's internet site.

R657-62-15. Waiting Periods for Permits Obtained After the Drawing.

(1) Waiting periods do not apply to the purchase of remaining permits sold over the counter except as provided in Section 2.

(2) Waiting periods are incurred as a result of purchasing remaining permits after the drawing. If a remaining permit is purchased in the current year, waiting periods will be in effect when applying in the drawing in following years.

R657-62-16. Dedicated Hunter Certificates of Registration.

(1)(a) Applicants for a dedicated hunter certificate of registration must meet all age requirements, proof of hunter education requirements and youth restrictions as provided in Rule R657-38.

(b) Each prospective participant must complete Dedicated Hunter program orientation course annually before submitting an application.

(2) Group applications are accepted. Up to four applicants may apply as a group.

R657-62-17. Lifetime License Permits.

(1) Lifetime License permits shall be issued pursuant to Rule R657-17.

R657-62-18. Big Game.

(1) Permit Applications

(a) Limited entry, Cooperative Wildlife Management Unit, Once-in-a-Lifetime, Management Bull Elk, Management Buck Deer, General Buck Deer, and Youth General Any Bull Elk permit applications.

(i) A person must possess or obtain a valid hunting or combination license to apply for or obtain a big game permit.

(ii) Applicants must meet all age requirements, proof of hunter education requirements and youth restrictions as provided in Rule R657-5.

(iii) A person may obtain only one permit per species of big game, including limited entry, cooperative wildlife management unit, once-in-a-lifetime, conservation, landowner and general permits, except antlerless permits as provided in the Antlerless Addendum and permits as provided in Rule R657-42.

(b) A resident may apply in the big game drawing for the following permits:

(i) only one of the following:

(A) buck deer - limited entry and cooperative wildlife management unit;

(B) bull elk - limited entry and cooperative wildlife management unit; or

(C) buck pronghorn - limited entry and cooperative wildlife management unit; and

(ii) only one once-in-a-lifetime permit, including once-in-a-lifetime cooperative wildlife management unit permits.

(c) A nonresident may apply in the big game drawing for the following permits:

(i) all of the following:

(A) buck deer -limited entry;

(B) bull elk - limited entry;

(C) buck pronghorn - limited entry; and

(D) all once-in-a-lifetime species.

(ii) Nonresidents may not apply for cooperative management units through the big game drawing.

(d) A resident or nonresident may apply in the big game drawing by unit for:

(i) a statewide general archery buck deer permit; or

(ii) for general any weapon buck deer; or

(iii) for general muzzleloader buck deer; or

(iv) a dedicated hunter certificate of registration.

(2) Youth

(a) For purposes of this section "youth" means any person 17 years of age or younger on July 31.

(b) Youth applicants who apply for a general buck deer permit

(i) will automatically be considered in the youth drawing based upon their birth date.

(ii) 20% of general buck deer permits in each unit are reserved for youth hunters.

(iii) Up to four youth may apply together for youth general deer permits.

(iv) Preference points shall be used when applying.

(v) Any reserved permits remaining and any youth applicants who were not selected for reserved permits shall be returned to the general buck deer drawing.

(c) Youth applicants who apply for a management buck deer permit

(i) will automatically be considered in the youth drawing based upon their birth date.

(ii) 30% of management buck deer permits in each unit are reserved for youth hunters.

(iii) Bonus points shall be used when applying

(iv) Any reserved permits remaining and any youth

applicants who were not selected for reserved permits shall be returned to the management buck deer drawing.

(3) Senior

(a) For purposes of this section "senior" means any person 65 years of age or older on the opening day of the management buck deer archery season published in the guidebook of the Wildlife Board for taking big game.

(b) Senior applicants who apply for a management buck deer permit

(i) will automatically be considered in the senior drawing based upon their birth date.

(ii) 30% of management buck deer permits in each unit are reserved for senior hunters.

(iii) Bonus points shall be used when applying.

(c) Any reserved permits remaining and any senior applicants who were not selected for reserved permits shall be returned to the management buck deer drawing.

(4) Drawing Order

(a) Permits for the big game drawing shall be drawn in the following order:

(i) limited entry, cooperative wildlife management unit and management buck deer;

(ii) limited entry, cooperative wildlife management unit and management bull elk;

(iii) limited entry and cooperative wildlife management unit buck pronghorn;

(iv) once-in-a-lifetime;

(v) general buck deer - lifetime license;

(vi) general buck deer - dedicated hunter;

(vii) general buck deer - youth;

(viii) general buck deer; and

(ix) youth general any bull elk.

(b) Any person who draws one of the following permits is not eligible to draw a once-in-a-lifetime permit:

(i) limited entry, Cooperative Wildlife Management unit or management buck deer;

(ii) limited entry, Cooperative Wildlife Management unit or management bull elk; or

(iii) a limited entry or Cooperative Wildlife Management unit buck pronghorn.

(c) If any permits listed in Subsection (a)(i) through (a)(iii) 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.

(5) Groups

(a) Limited Entry

(i) Up to four people may apply together for limited entry deer, elk or pronghorn; or resident cooperative wildlife management unit permits.

(b) Group applications are not accepted for management buck deer or bull elk permits.

(c) Group applications are not accepted for Once-in-a-lifetime permits.

(d) General season

(i) Up to four people may apply together for general deer permits.

(ii) Up to two youth may apply together for youth general any bull elk permits.

(iii) Up to four youth may apply together for youth general deer permits.

(6) Waiting Periods

(a) Deer waiting period.

(i) Any person who draws or obtains a limited entry, management or cooperative wildlife management unit buck deer permit through the big game drawing process may not apply for or receive any of these permits again for a period of two seasons.

(ii) A waiting period does not apply to:

(A) general archery, general any weapon, general muzzleloader, conservation, sportsman, poaching-reported reward permits; or

(B) cooperative wildlife management unit or limited entry landowner buck deer permits obtained through the landowner.

(b) Elk waiting period.

(i) Any person who draws or obtains a limited entry, management or cooperative wildlife management unit bull elk permit through the big game drawing process may not apply for or receive any of these permits for a period of five seasons.

(ii) A waiting period does not apply to:

(A) general archery, general any weapon, general muzzleloader, conservation, sportsman, poaching-reported reward permits; or

(B) cooperative wildlife management unit or limited entry landowner bull elk permits obtained through the landowner.

(c) Pronghorn waiting period.

(i) Any person who draws or obtains a buck pronghorn or cooperative wildlife management unit buck pronghorn permit through the big game drawing may not apply for or receive any of these permits thereafter for a period of two seasons.

(ii) A waiting period does not apply to:

(A) conservation, sportsman, poaching-reported reward permits; or

(B) cooperative wildlife management unit or limited entry landowner buck pronghorn permits obtained through the landowner.

(d) Once-in-a-lifetime species waiting period.

(i) Any person who draws or obtains a permit for any bull moose, bison, Rocky Mountain bighorn sheep, desert bighorn sheep or Rocky Mountain goat may not apply for or receive an once-in-a-lifetime permit for the same species in the big game drawing or sportsman permit drawing.

(ii) 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.

(e) Cooperative Wildlife Management Unit and landowner permits.

(i) Waiting periods and once-in-a-lifetime restrictions do not apply to purchasing limited entry landowner or cooperative wildlife management unit permits obtained through a landowner, except as provided in Subsection (ii).

(ii) Waiting periods are incurred and applied 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.

R657-62-19. Black Bear.

(1) Permit and Pursuit Applications.

(a) A person must possess or obtain a valid hunting or combination license in order to apply for or obtain a limited entry bear permit or bear pursuit permit.

(b) A person may not apply for or obtain more than one bear permit distributed pursuant to this rule within the same calendar year.

(c) Limited entry bear permits are valid only for the hunt unit and for the specified

season designated on the permit.

(d)(i) Applicants may select up to three hunt unit choices when applying for limited entry bear permits. Hunt unit choices must be listed in order of preference.

(ii) Applicants must specify in the application a specific season for their limited entry or bear pursuit permit.

(e) Any person intending to use bait during their bear hunt must obtain a certificate of registration as provided in Sections R657-33-13 and 14.

(f) Applicants must meet all age requirements, proof of hunter education requirements and youth restrictions as provided in Sections 23-19-22.5, 23-19-11 and 23-20-20.

(2) Group applications are not accepted.

(3) Waiting periods.

(a) Any person who obtains a limited entry bear permit through the division drawing, may not apply for a permit thereafter for a period of two years.

(4) A person must complete a mandatory orientation course prior to applying for any bear permit offered through a division drawing or obtaining bear permits as described in R657-33-3(5).

R657-62-20. Antlerless Species.

(1) Permit Applications.

(a) A person must possess or obtain a valid hunting or combination license in order to apply for or obtain an antlerless permit.

(b) Applicants must meet all age requirements, proof of hunter education requirements and youth restrictions as provided in rule R657-5.

(c) A person may apply in the drawing for and draw the following permits, except as provided in Subsection (d):

(i) antlerless deer;

(ii) antlerless elk;

(iii) doe pronghorn;

(iv) antlerless moose, if available;

(v) ewe Rocky Mountain bighorn sheep, if available; and

(vi) ewe desert bighorn sheep, if available.

(d)(i) Any person who has obtained a buck pronghorn permit, bull moose permit, ram Rocky Mountain bighorn sheep permit, or a ram desert bighorn sheep permit may not apply in the same year for a doe pronghorn permit, antlerless moose permit, ewe Rocky Mountain bighorn sheep permit, or a ewe desert bighorn sheep permit, respectively, except for permits remaining after the drawing as provided in R657-62-15.

(ii) A resident may apply for an antlerless moose, ewe Rocky Mountain bighorn sheep, or ewe desert bighorn sheep in the antlerless drawing, but may not apply for more than one of those permits in a given year.

(iii) A nonresident may apply for all antlerless species in a given year.

(e) Applicants may select up to five hunt choices when applying for antlerless deer, antlerless elk and antlerless pronghorn.

(f) Applicants may select up to two hunt choices when applying for antlerless moose.

(g) Applicants may select up to two hunt choices when applying for ewe bighorn sheep permits.

(h) Hunt unit choices must be listed in order of preference.

(i) A person may not submit more than one application in the antlerless drawing per species. (2) Youth applications.

(a) For purposes of this section, "youth" means any person 17 years of age or younger on July 31.

(b) Twenty percent of the antlerless deer, elk and doe pronghorn permits are reserved for youth hunters.

(c) Youth applicants who apply for an antlerless deer, elk, or doe pronghorn permit as provided in this Subsection, will automatically be considered in the youth drawing based upon their birth date.

(3) Drawing Order

(a) Permits are drawn in the order listed in the guidebook of the Wildlife Board for taking big game.

(b) Any reserved permits remaining and any youth applicants who were not selected for reserved permits shall be returned to the antlerless drawing.

(c) 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.

(4) Group Applications

(a) Up to four hunters can apply together for antlerless deer, antlerless elk and doe pronghorn

(b) Group applications are not accepted for antlerless moose or ewe bighorn sheep permits.

(c) Youth hunters who wish to participate in the youth drawing must not apply as a group.

(5) Waiting Periods

(a) Antlerless moose waiting period.

(i) Any person who draws or obtains an antlerless moose permit or a cooperative wildlife management unit antlerless moose permit through the antlerless drawing process, may not apply for or receive an antlerless moose permit thereafter for a period of five seasons.

(ii) A waiting period does not apply to cooperative wildlife management unit antlerless moose permits obtained through the landowner.

(b) Ewe bighorn sheep waiting period.

(i) Any person who draws or obtains a ewe bighorn sheep permit through the antlerless drawing process may not apply for or receive a permit for the same species of ewe bighorn sheep for a period of five seasons.

R657-62-21. Sandhill Crane, Sharp-Tailed and Greater Sage Grouse.

(1) Permit applications.

(a) A person may obtain only one Sandhill Crane permit each year.

(b) A hunting or combination license is required when taking Sandhill Crane, Sharp-Tailed and Greater Sage Grouse and may be purchased when applying for the permit.

(c) Applicants must meet all age requirements, proof of hunter education requirements and youth restrictions as provided in Utah Code 23-19-24, 23-19-11 and 23-20-20.

(d) Applicants may select up to four hunt choices. Hunt unit choices must be listed in order of preference.

(2) Youth applications.

(a) For purposes of this section, "youth" means any person 17 years of age or younger on July 31for the purpose of obtaining Sandhill Crane, Sharp-tailed grouse and Greater Sage grouse permits.

(b) Fifteen percent of the Sandhill Crane, Sharp-tailed grouse and Greater sage grouse permits are reserved for youth hunters.

(c) Youth applicants who apply for a Sandhill Crane, Sharp-tailed grouse or Greater sage grouse permit as provided in this Subsection, will automatically be considered in the youth drawing based upon their birth date.

(3) Group applications.

(a) Up to four people may apply together.

(b) Youth hunters who wish to participate in the youth drawing must not apply as a group.

(4) Waiting Periods do not apply.

R657-62-22. Swan.

(1) Permit applications.

(a) A person may obtain only one swan permit each year.

(i) A person may not apply more than once annually.

(b) A Utah hunting or combination license is required when hunting Swan and may be purchased when applying for the permit.

(c) The division shall issue no more than the number of swan permits authorized by the U.S. Fish and Wildlife Service each year.

(d) A person must complete a one-time orientation course before applying for a swan permit, except as provided under Subsection R657-9-6 (3)(b).

(i) Remaining swan permits available for sale shall be issued only to persons having previously completed the orientation course.

(e) Applicants must meet all age requirements, proof of hunter education requirements and youth restrictions as

provided in Utah Code 23-19-24, 23-19-11 and 23-20-20.

(2) Youth applications.

(a) For purposes of this section, "youth" means any person 17 years of age or younger on July 31st of the year in which the youth hunting day is held, as provided in the guidebook of the Wildlife Board for taking waterfowl, Wilson's snipe and coot.

(b) Fifteen percent of the Swan permits are reserved for youth hunters.

(c) Youth who apply for a swan permit will automatically be considered in the youth permit drawing based on their birth date.

(3) Group applications.

(a) Up to four people may apply together in a Group Application.

(b) Up to four youth may apply together in a Group Application.

(4) Waiting period does not apply.

R657-62-23. Cougar.

(1) Permit Applications

(a) A person must possess or obtain a valid hunting or combination license to apply for or obtain a cougar limited entry permit.

(b) A person may not apply for or obtain more than one cougar permit for the same year.

(c) Limited entry cougar permits are valid only for the limited entry management unit and for the specified season provided in the hunt tables of the proclamation of the Wildlife Board for taking cougar.

(d) Applicants may select up to three management unit choices when applying for limited entry cougar permits. Management unit choices must be listed in order of preference.

(e) If permits remain after all choices have been evaluated separately for residents and nonresidents, a second evaluation shall be done allowing cross-over usage of remaining resident and nonresident permit quotas.

(f) Any limited entry cougar permit purchased after the season opens is not valid until seven days after the date of purchase.

(g) Applicants must meet all age requirements, proof of hunter education requirements and youth restrictions as provided in Utah Code 23-19-22.5, 23-19-11 and 23-20-20.

(2) Group applications are not accepted.

(3) Waiting periods.

(a) Any person who draws or purchases a limited entry cougar permit valid for the current season may not apply for a permit thereafter for a period of three seasons.

(b) Waiting periods are not incurred as a result of purchasing cougar harvest objective permits.

R657-62-24. Sportsman.

(1) Permit applications.

(a) One sportsman permit is offered to residents for each of the following species:

(i) desert bighorn (ram);

(ii) bison (hunter's choice);

(iii) buck deer;

(iv) bull elk;

(v) Rocky Mountain bighorn (ram);

(vi) Rocky Mountain goat (hunter's choice);

(vii) bull moose;

(viii) buck pronghorn;

(ix) black bear;

(x) cougar; and

(xi) wild turkey.

(b) Bonus points shall not be awarded or utilized when applying for or obtaining sportsman permits.

(2) Group applications are not accepted.

(3) Waiting Periods.

(a) Any person who applies for or obtains a Sportsman Permit is subject to all waiting periods and exceptions as applicable to the species pursuant to Rule R657-41.

(b) Once-in-lifetime waiting periods.

(i) If you have obtained a once-in-a-lifetime permit through the sportsman drawing you are ineligible to apply for that once-in-a-lifetime species through the big game drawing.

(ii) If you have obtained a once-in-a-lifetime permit through the big game drawing you are ineligible to apply for that once-in-a-lifetime species through the sportsman drawing.

(c) Limited Entry waiting periods.

(i) Waiting periods do not apply to Sportsman deer, elk, pronghorn, bear or cougar.

(ii) Waiting period will not be incurred for receipt of a Sportsman deer, elk, pronghorn, bear or cougar.

R657-62-25. Turkey.

(1) Permit applications.

(a) A person must possess a valid hunting or combination license in order to apply for or obtain a wild turkey permit.

(b) A person may obtain only one limited entry or general spring wild turkey permit each year. A person may obtain wild turkey conservation permits in addition to obtaining one limited entry or spring wild turkey permit as well as a fall general season permit.

(c) Applicants may select up to five hunt choices when applying for limited entry turkey permits. Hunt unit choices must be listed in order of preference.

(d) A turkey permit allows a person, using any legal weapon as provided in Section R657-54-7, to take one bearded turkey within the area and season specified on the permit.

(2) Group applications.

(a) Up to four people may apply together in a Group Application.

(b) Youth hunters who wish to participate in the youth drawing must not apply as a group.

(3) Waiting period does not apply.

(4) Youth permits

(a) Up to 15 percent of the limited entry permits and fall general season permits are available to youth hunters.

(b) For purposes of this section "youth" means any person who is 17 years of age or younger on July 31.

(c) Youth who apply for a turkey permit will automatically be considered in the youth permit drawing based on their birth date.

(d) Bonus points shall be used when applying for youth turkey permits.

(e) Youth who are successful in obtaining a limited entry turkey permit but unsuccessful in harvesting a bird during the limited entry hunt season, may use the limited entry turkey permit to participate in the youth 3-day turkey hunt and the spring general season turkey hunt provided no more than one bird is harvested.

KEY: wildlife, permits
February 7, 2018 23-14-18
Notice of Continuation April 14, 2014 23-14-19

R657. Natural Resources, Wildlife Resources.
R657-67. Utah Hunter Mentoring Program.
R657-67-1. Purpose and Authority.

Under the authority of Utah Code Annotated Sections 23-14-1, 23-14-3, 23-14-18, 23-14-19, and 23-19-1, this rule creates a hunting mentor program that will increase hunting opportunities for Utah families and provides the procedures under which a minor child may share the permit of another to take protected wildlife.

R657-67-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2 and this Subsection.

(2) "Hunting Mentor" means a Resident or Nonresident individual possessing a valid permit issued by the Division to take protected wildlife in Utah and who is 21 years of age or older at the time of application for the Mentor Program.

(3) "Qualifying Minor" means a Utah Resident who is under 18 at the time of application for the Mentor Program and who is otherwise eligible to lawfully hunt.

(4) "Wildlife document" means a permit to hunt protected wildlife or Division-issued authorization to share such a permit.

R657-67-3. Requirements for Sharing Permits.

(1) A Hunting Mentor may lawfully share a permit with a Qualifying Minor, and a Qualifying Minor may lawfully take protected wildlife authorized by the Hunting Mentor's permit, if the following conditions are satisfied:

(a) The Qualifying Minor has successfully completed a Hunter's Education Program recognized by the Division and possesses a Utah Hunter's Education number;

(b) The Hunting Mentor receives prior written approval by the Division authorizing the sharing of the permit;

(c) The Hunting Mentor receives no form of compensation or remuneration for sharing the permit with the Qualifying Minor;

(d) The Hunting Mentor accompanies the Qualifying Minor while hunting at a distance where the Hunting Mentor can communicate in person with the Qualifying Minor by voice or hand signals;

(e) The Hunting Mentor provides advice, assistance, and mentoring on sportsman ethics, techniques, and safety to the Qualifying Minor; and

(f) Both the Hunting Mentor and the Qualifying Minor otherwise comply with all laws, rules, and regulations governing the taking of protected wildlife as authorized by the permit.

(2) A Qualifying Minor does not need to possess a valid hunting or combination license to participate in the mentor program.

(3) A Hunting Mentor may name up to four individuals to mentor under a single permit.

(4)(a) A Qualifying Minor may only share one permit for each species and sex of protected wildlife per hunt year.

(b) A bobcat permit may only be shared under the Mentor Program if permit quotas are capped under the Bobcat Management Plan.

(c) A Qualifying Minor may not share a swan or sandhill crane permit possessed by a Hunting Mentor.

(5)(a) A Qualifying Minor may simultaneously possess a permit and share a permit for the same species and sex of protected wildlife.

(b) A Qualifying Minor simultaneously possessing a permit and an authorization to share a permit for the same species and sex of protected wildlife may harvest under both wildlife documents.

R657-67-4. Administrative Process for Sharing Permits.

(1) The Hunting Mentor shall submit a complete application for participation in the Mentor Program and receive the Division's written authorization prior to sharing a permit.

(2) A complete application for the mentor program includes the following:

(a) A handling fee as established by the Utah Legislature;

(b) The Permit Number that is to be shared;

(c) A physically identifying description of the Qualifying Minors;

(d) Each Qualifying Minor's hunter education number;

(e) Written authorization from the Qualifying Minor's parent or legal guardian approving their participation in the hunting activity; and

(f) any wildlife document(s) that must be surrendered in order to qualify for the Hunter Mentoring Program.

(3) If a Qualifying Minor must surrender a wildlife document in order to qualify for the Mentor Program, that surrender must be done prior to or at the time of their application to the Utah Hunter Mentoring Program as described in R657-67-6.

(4) If a Hunting Mentor wishes to change the Qualifying Minor with whom they share their permit, they must:

(a) Surrender the authorization issued to the Qualifying Minor by the Division;

(b) Reapply with the Division to have a new Qualifying Minor participate in the mentor program in the same manner as described in this Section.

R657-67-5. Sharing the Permit in the Field.

(1) While in the field, the Qualifying Minor must possess the Division-issued authorization to share in the use of the Hunting Mentor's permit.

(2) A Hunting Mentor may only mentor one Qualifying Minor in the field at a time.

(3) Only one Qualifying Minor and the Hunting Mentor may carry a legal weapon in the field.

(4) Protected wildlife taken by a Qualifying Minor shall be tagged with the Hunting Mentor's permit in the same manner as if the Hunting Mentor was the individual taking the animal.

(5) Take limitations and bag limits apply based upon the permit issued, and the issuance of written authorization to share the permit does not confer additional rights to take protected wildlife.

R657-67-6. Variances, Surrenders, Refunds, Special Accommodations, and Administrative Details.

(1) The surrender of a wildlife document shall generally be in accordance with R657-42-4.

(2) Notwithstanding R657-42-4, a Qualifying Minor may surrender a wildlife document in their possession as part of their application to participate in the Hunter Mentoring Program, consistent with the following:

(a) the timeframe for a Qualifying Minor to surrender a permit is defined in this Section;

(b) A Qualifying Minor may surrender a wildlife document obtained as part of a group application and have their bonus points or preference points reinstated and waiting period waived without requiring all group members to also surrender their permits; and

(c) A Qualifying Minor who wishes to surrender a wildlife document after the opening day of that hunt may only do so if:

(i) they did not hunt under the authorization of that wildlife document; and

(ii) their legal guardian submits a signed affidavit certifying that the Qualifying Minor did not hunt under that wildlife document.

(4) All variances, refunds, and accommodations for people with disabilities shall be based on the type of permit that is shared and the individual using the wildlife document.

(5) All bonus points, reference points, and waiting periods shall be assessed to the Hunting Mentor.

KEY: wildlife, game laws, hunter education
February 7, 2018

23-14-1
23-14-3
23-14-18
23-14-19
23-19-1

R657. Natural Resources, Wildlife Resources.
R657-71. Removal of Wild Deer from Domesticated Elk Facilities.
R657-71-1. Purpose and Authority.

Under the authority of Utah Code Annotated Sections 23-14-1, 23-14-3, 23-14-18, 23-14-19, and 23-19-1, this rule authorizes the division to issue a certificate of registration for the lethal removal of wild deer that are found within the enclosures of domesticated elk facilities.

R657-71-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

R657-71-3. Application for a Certificate of Registration.

(1) An owner or operator of a lawfully permitted domesticated elk facility that locates wild deer within the boundary of their facility must immediately notify the division.

(2) Upon confirmation by the division that there are wild deer confined within the perimeter of a domesticated elk facility, the owner or operator may apply for a certificate of registration authorizing the lethal removal of deer.

(3) As a condition of receiving a certificate of registration, the division may, in cooperation with the Department of Agriculture, identify modifications or improvements to the domesticated elk facility that will ensure a secure perimeter and prevent future entry of wild cervids into the facility.

(4)(a) Only the owner or operator, their immediate family members, or facility employees may be authorized to lethally remove deer from a domesticated elk facility.

(b) Any individual authorized to act under a certificate of registration must:

(i) have passed a division authorized hunter education course;

(ii) be eligible to legally possess and handle a firearm; and

(iii) not be under an active suspension or revocation of their big game hunting privileges.

(c) Only weapons authorized by the division's big game rule, R657-5, may be used to lethally remove deer under the certificate of registration.

R657-71-4. Terms of Certificate of Registration.

(1) The certificate of registration shall identify:

(a) the name and contact information for the domesticated elk facility;

(b) the number of wild deer that are to be lethally removed;

(c) the names of the individuals authorized to act under the certificate of registration;

(e) the dates authorized for lethal removal;

(f) the reporting date for which the division must receive confirmation that all wild deer have been removed from the facility; and

(g) directions to the certificate of registration holder regarding carcass delivery to the division for donation and disease sampling.

(2)(a) The certificate of registration may only authorize lethal removal of wild deer within the perimeter of the facility.

(3) A certificate of registration may not authorize lethal removal of deer outside of the facility perimeter fence.

(4) No fee may be assessed by the certificate of registration holder, any individual acting under the authority of the certificate of registration, or the individual or business entity operating the facility in order exercise the privileges authorized by the certificate of registration.

(5) Neither the certificate of registration holder nor any individual acting under its authority may commercialize any wildlife or their parts that are removed from a domestic elk facility pursuant to this rule.

(6)(a) A certificate of registration may allow lethal removal of wild deer for a specified term between August 1 to December 31.

(b) Lethal removal of wild deer may not be authorized between January 1 through July 31.

R657-71-5. Reporting Requirements and Disease Testing.

(1)(a) Every wild deer and all parts lethally removed from the facility must be collected and provided to division promptly following removal.

(b) Upon locating a deer carcass not initially recovered, the owner or operator shall promptly deliver the carcass to the division, including any attached antlers.

(2) The certificate of registration holder must deliver each carcass to the division in a condition allowing for meat donation and disease sampling.

(3) The certificate of registration holder shall notify the Department of Agriculture of all lethal removal efforts, including the following:

(a) deer that are lethally removed and delivered to the division;

(b) deer that are shot but not recovered; and

(c) any deer carcass that is not initially recovered but located and subsequently delivered to the division.

R657-71-6. Reservation of Division Authority.

(1) Nothing herein shall preclude the division from unilaterally removing wild deer from domesticated elk facilities, consistent with statutory notification provisions.

(2) If the division determines that issuance of a certificate of registration for lethal removal is appropriate, the division may determine the number of deer that may be removed under a certificate of registration based upon the individual circumstances of each request, including but not limited to:

(a) the age and sex of the animals confined;

(b) threats to the wildlife resource; and

(c) potential impacts to the owner or operator.

KEY: wildlife, game laws, big game
February 7, 2018 **23-14-1**
23-14-3
23-14-18
23-14-19
23-19-1

R671. Pardons (Board of), Administration. **77-27-4**
R671-312. Commutation Hearings for Death Penalty Cases. **77-27-5**
R671-312-1. General Applicability. **77-27-5.5**
77-27-8
77-27-9
77-27-9.5.

The provisions and procedures set forth below are of general applicability to all petitions filed with the Utah Board of Pardons and Parole (Board) seeking the commutation of a death sentence.

(1) Any person, individually or through counsel, who has been sentenced to death by a court in this state may petition the Board for commutation of the death sentence.

(2) No person has a right, privilege, or entitlement to commutation or clemency; nor to the scheduling of a commutation hearing. Nothing in this rule may be interpreted to convey any right or expectation of commutation, clemency, or to a commutation hearing. The decision to schedule a commutation hearing is within the exclusive power and authority of the Board.

(3) Petitions for commutation of a death sentence shall be governed by applicable state constitutional provisions, statutes, this rule, and other Board administrative rules as applicable.

(4) Any document, pleading, notice, attachment or other item submitted as part of the commutation petition, response, or subsequent pleadings shall be delivered to and filed with the Board's Administrative Coordinator at the Board's offices.

(5) Upon the filing of a commutation petition, and throughout the duration of all commutation proceedings, any communication to the Board by any party or party's counsel should be directed to the Board's Administrative Coordinator. Any communication from the Board to any party or counsel will be directed through the Board's Administrative Coordinator. This section does not apply to Board communications with its own legal counsel as assigned by the Attorney General.

(6) A commutation petition, any response thereto, and any subsequent pleading, or document submitted to the Board for consideration in relation to a commutation petition is considered a public document, unless the document is determined by the Board to be controlled, protected, or private, pursuant to any other statute, law, rule, or prior case law.

(7) Any order issued by the Board relating to a commutation petition is a public document.

(8) If the petitioner's execution is stayed by any court, after a commutation petition has been filed with the Board, but prior to commencement of any commutation hearing, all commutation proceedings before the Board shall cease.

(9) If the petitioner's execution is stayed by any court after a commutation hearing has commenced, the hearing may continue, and the Board may render its decision.

(10) As used in this rule, "day" means a regular calendar day, including weekends and holidays.

(11) As used in this rule, "Petitioner" means the person whose death sentence is sought to be commuted by the filing of a commutation petition with the Board.

(12) The Board may summarily deny, with or without a response or objection from the State, any commutation petition without a hearing.

(13) Procedures applicable to commutation petitions for any person sentenced to death by a court in this state prior to April 26, 1992, are governed by Rule R671-312A. Procedures applicable to commutation petitions for any person sentenced to death by a court in this state after April 26, 1992, are governed by Rule R671-312B.

(14) If the Board deems necessary and appropriate, the Board may temporarily stay an execution to fully hear a petition for commutation.

KEY: capital punishment
May 22, 2013 **Art VII, Sec 12**
Notice of Continuation February 13, 2018 **77-19-8**
77-27-2

R671. Pardons (Board of), Administration.
R671-509. Parole Progress / Violation Reports.
R671-509-1. Progress / Violation Reports.

(1) A parole agent or other representative of the Department of Corrections shall submit a parole progress / violation report to the Board when an incident occurs that may constitute cause to modify the conditions of or revoke parole, including:

a. an arrest or conviction of any misdemeanor or felony;

b. significant violations of the general or special conditions of parole; and

c. an incident which results in the parole agent placing the parolee in jail, under arrest, in detainment, or other conditions or incidents which result in the parolee being denied liberty.

(2) These reported parole violations shall be investigated and all incident reports along with a recommended course of action shall be submitted to the Board within 72 hours of confinement or, if the parolee is not confined, detained or arrested, within seven days from the date of the violation.

(3) The report shall advise the Board of a parolee's adjustment to parole and provide reasons for modification of the parole agreement conditions. Police reports, court orders, and waivers of personal appearance from parolees shall be attached when applicable.

KEY: parole, incidents
May 22, 2013 **77-27-11**
Notice of Continuation February 13, 2018

R671. Pardons (Board of), Administration.
R671-510. Evidence for Issuance of Warrants.
R671-510-1. Evidence for Issuance of Warrants.

(1) Board Warrants shall be issued only upon a showing that there is probable cause to believe that a parole violation has occurred.

(2) A certified Warrant Request shall be submitted by the parole agent setting forth facts that establish probable cause to believe that the parolee committed specific parole violations. All facts supporting probable cause shall be contained in the body of the warrant request, as supplementary reports or information may not be considered.

(3) Upon approval of the request by the Board, a Warrant of Arrest shall be issued to arrest, detain, and return the parolee to custody.

R671-510-2. Warrant Request.

(1) Warrant requests shall include:

(a) the name of the parolee, offender number, and date of birth;

(b) the nature of the allegations that justify possible revocation of parole;

(c) the elements substantiating probable cause for each allegation which should include who did what, when, and where;

(d) the condition of the parole agreement that the parolee is alleged to have violated, along with the date and location where the violation occurred;

(e) the legible name, signature, and telephone number of the parole officer and supervisor; and

(f) under separate or additional cover, contact information and phone numbers for the reporting agent.

R671-510-3. Parole Information.

(1) The agent shall, on a form approved by the Board, provide the Board with the following information:

(a) the parolee's risk/need assessment level at the time of the current violation and a summary of the areas of concern;

(b) the number of prior paroles;

(c) the parolee's parole violation history;

(d) the parolee's custody status;

(e) financial obligation details regarding the parolee;

(f) the parolee's address or living arrangements;

(g) the parolee's treatment summary;

(h) the results of any drug or alcohol tests;

(i) any new referred offenses or new criminal charges;

(j) any aggravating factors concerning the parolee;

(k) any mitigating factors concerning the parolee; and

(l) a summary of the parolee's current parole performance.

R671-510-4. Update Information.

(1) Once the parolee is detained on a Board warrant, the agent shall track the case and keep the Board informed of any changes in status or circumstance of the allegations or parolee.

(2) No less than seven days prior to the hearing, the agent shall send the Board all updated information and any amended allegations and recommendations. The agent shall provide the offender with a copy of the updated information no less than seven days prior to the hearing.

(3) At its discretion, the Board may dismiss the allegations if the updated information is not received in a timely manner.

KEY: warrants, parole, probable cause
October 31, 2016 77-27-11
Notice of Continuation February 13, 2018

R671. Pardons (Board of), Administration.
R671-512. Execution of the Warrant.
R671-512-1. Execution of the Warrant.

(1) When an agent executes a Board warrant, the agent shall provide the parolee with copies of the warrant, the warrant request/parole violation report, and a form with which the parolee may challenge the evidence or allegations which were used to show probable cause for the warrant.

(2) If applicable, the agent shall provide an affidavit of waiver and pleas of guilt, along with a time waiver.

(3) If the parolee refuses to accept any of the aforementioned documents, the agent shall document the refusal of service on the Acknowledgement of Receipt form.

KEY: parole, warrants
May 22, 2013 **77-27-11**
Notice of Continuation February 13, 2018 **77-27-27**
77-27-28
77-27-29
77-27-30

R671. Pardons (Board of), Administration.
R671-513. Expedited Determination of Parolee Challenge to Probable Cause.
R671-513-1. Expedited Determination of Parolee Challenge to Probable Cause.

1. If a parolee who is returned to custody for a parole violation wishes to challenge the probable cause statements or evidence upon which the warrant request was based, the parolee shall submit the challenge in writing, accompanied by evidence supporting the challenge, within seven days of arrest or detention on the warrant.

2. At least one member of the Board shall review all the evidence in support of the parole violation allegations, as well as the challenge and evidence submitted in support of the challenge, and decide whether probable cause for the violation allegations continues to exist.

3. The parolee also shall inform the Board and the parole agent in writing if any evidence relating to possible defenses to the alleged parole violation exists and must be preserved. The request to preserve evidence shall be in writing and sufficiently detailed so that the parole agent can easily identify and locate the evidence to be preserved.

R671-513-2. Review of Evidence.

Review of the parolee's evidence shall occur no later than five days after the parolee has submitted a challenge to probable cause. If the reviewing Board member decides that the original probable cause determination was correct, the Board member shall deny the parolee's challenge, and parole violation proceedings will continue in accordance with applicable rules. If the reviewing Board member decides that the probable cause determination was incorrect, or that probable cause to believe a violation occurred no longer exists, the case shall be routed to the Board for deliberation. If a majority of the Board believes the parolee's evidence negates the finding of probable cause, the warrant shall be withdrawn and the parolee reinstated on parole. Time spent incarcerated pursuant to a warrant which is withdrawn constitutes service of the parolee's sentence and parole term.

KEY: parole, warrant, hearing
May 22, 2013 **77-27-9(4)**
Notice of Continuation February 13, 2018 **77-27-11**
77-27-27
77-27-28
77-27-29
77-27-30

R671. Pardons (Board of), Administration.
R671-514. Waiver and Pleas of Guilt.
R671-514-1. Waiver and Pleas of Guilt.

After executing a Board warrant, the Department of Corrections employee shall inform the offender of the opportunity to plead guilty to any or all of the alleged parole violations and that such a plea waives the right to a further hearing on any allegation admitted in the waiver. The Department of Corrections employee shall also inform the offender that a plea of guilty is voluntary, and there is no requirement to plead guilty or waive the offender's right to a parole violation hearing.

R671-514-2. Guilty Pleas Before Hearing.

(1) If an offender wishes to plead guilty or no contest to any alleged parole violation before a parole violation hearing, the Department of Corrections employee shall provide the offender with an Affidavit of Waiver and Plea of Guilt form.

(2) If the agent believes the offender is unable to understand the affidavit and waiver and appreciate the consequences of signing it for any reason,

(a) The Department of Corrections employee may not execute the waiver.

(b) The Department of Corrections employee shall promptly inform the Board, which may assign counsel to the offender or take other action the Board deems appropriate to assist the offender with understanding the parole violation process or the offender's rights.

R671-514-3. Multiple Pleas Before Hearing.

An offender may plead guilty or no contest to some of the allegations and plead not guilty to others. The Board may decide to dismiss the allegations to which the offender pled not guilty and enter a disposition based solely on the pleas of guilt or no contest. If the Board chooses to make a disposition based solely on pleas of guilt or no contest, it will not hold an evidentiary or parole revocation hearing. However, at its discretion, the Board may schedule a hearing to interview the offender or take victim testimony, if the Board determines that doing so would assist the Board in its decision.

R671-514-4. Acceptance of Pleas.

(1) An offender may enter a plea of guilty or no contest at any time.

(2) Before an offender pleads guilty or no contest at a revocation or evidentiary hearing, the hearing official shall explain to the offender that a no contest plea, if offered, will be treated for dispositional purposes and revocation as a guilty plea; that a revocation of parole may result in the offender being ordered to serve their full sentences to expiration; and that such a plea waives the offender's rights to:

(a) a hearing at which the state would be required to prove parole violation allegations by a preponderance of the evidence;

(b) the appointment of an attorney to assist the offender at an evidentiary hearing;

(c) hear and see the evidence and testimony supporting the allegations;

(d) confront and cross-examine any witnesses who testify regarding the violation allegations;

(e) call witnesses and testify themselves regarding the violation allegations.

(3) The hearing official shall receive an admission and plea from the offender on the record.

(4) The hearing official may then receive information, statements, testimony or recommendations to assist the Board in its final determination and disposition of the revocation proceedings.

R671-514-5. Withdrawal of Pleas.

(1) A plea of guilty or no contest may be withdrawn by an offender prior to the entry of the Board's revocation order and disposition based upon the plea.

(2) A plea of guilty or no contest may be withdrawn only upon leave of the Board and a showing that the plea was not knowingly and voluntarily made.

(3) A request to withdraw a plea of guilty or no contest shall:

(a) be made in writing;

(b) clearly state that it is a motion or request to withdraw a parole revocation plea;

(c) be addressed to the Board Chair;

(d) clearly state the reasons supporting the withdrawal; and

(e) be delivered to the Board within 10 days of the guilty or no contest plea.

(4) The Board need not hold a hearing prior to ruling on the request to withdraw a plea.

(5) The Board shall rule on the request to withdraw a plea of guilty or no contest within thirty days of receipt, and shall promptly notify the offender of its decision.

KEY: parole, allegations, pleas
November 24, 2014 77-27-9(4)
Notice of Continuation February 13, 2018 77-27-11
77-13-6

R671. Pardons (Board of), Administration.
R671-515. Timeliness of Parole Revocation Hearings.
R671-515-1. Timeliness of Parole Revocation Hearings.

A Parole Revocation Hearing shall be conducted within 30 days after detention in a state prison, unless the parolee expressly waives the hearing in writing, or unless the Board finds good cause to continue the hearing.

R671-515-2. Detained in Another State.

If a parolee is detained in another state on a Utah Board warrant or on a new criminal offense, a parole revocation hearing should be conducted within 30 days after the parolee's return to the State of Utah.

R671-515-3. Exceed Time Period for Good Cause.

The Board may for good cause upon a motion by the parolee, the Department of Corrections, or upon its own motion, exceed the time period established by this rule. The time periods established by this rule are discretionary, not mandatory. A motion to dismiss a warrant or revocation proceeding based on failure to meet time limits will be granted only if the failure has substantially prejudiced the parolee's defense.

KEY: parole, timeliness, good cause
May 22, 2013 77-27-9(4)
Notice of Continuation February 13, 2018 77-27-11

R671. Pardons (Board of), Administration.
R671-516. Parole Revocation Hearings.
R671-516-1. Allegations.

At the hearing, the hearing official shall: (a) inform the parolee of the parole violation allegations; (b) review the parolee's rights as to any guilty or no-contest pleas that may be entered; and (c) take the parolee's pleas on the record.

R671-516-2. Proceedings Upon Plea of Guilt or No-Contest.

If the parolee pleads guilty or no-contest to any of the allegations, the hearing official may conduct further inquiry or proceedings in order to reach a disposition and recommendation regarding the parole violation. The parolee may present any reasons for mitigation. If present, the parole agent or representative of the Department of Corrections may discuss reasons for aggravation or mitigation and recommend a disposition. If not present, the parole agent or representative of the Department of Corrections may make such submissions and recommendations in writing.

R671-516-3. Not Guilty Pleas.

If the parolee pleads not guilty to any allegation, the Board shall either schedule an evidentiary hearing on the allegation or dismiss it as soon as practical. See also Utah Admin. Code R671-514, Waiver and Pleas of Guilt.

R671-516-4. Insufficient Evidence.

If, upon receiving a plea of not guilty to a parole violation allegation, the hearing official believes there is insufficient evidence to justify an evidentiary hearing, the matter shall be promptly routed to the Board. If a majority of the Board agrees, the allegation shall be dismissed. If all allegations are dismissed, the Board's warrant shall be vacated and the parolee released from custody and reinstated on parole.

KEY: parole, revocation, hearings
May 22, 2013 **77-27-5**
Notice of Continuation February 13, 2018 **77-27-9**
77-27-11

R671. Pardons (Board of), Administration.
R671-517. Evidentiary Hearings and Proceedings.
R671-517-1. Evidentiary Hearings and Proceedings.

When a parolee has entered a not guilty plea to a parole violation allegation and the Board wishes to consider the allegation, the Board shall hold an evidentiary hearing unless the parolee has been convicted of a criminal charge and revocation is ordered pursuant to Utah R. Admin. P. R671-518.

R671-517-2. Confidentiality.

All hearings are open to the public, unless the Board decides that confidential information must be discussed. Only those portions of the hearing during which confidential information is discussed may be closed. See Utah R. Admin. R. R671-520.

R671-517-3. Notification.

The Board shall notify all parties of the time, date, and place of the hearing and of the disputed allegations. The parolee shall be notified of the right to be represented by an attorney of choice at the parolee's own expense, or such counsel as may be provided by the Board. The parolee shall also be informed of the right to confront and cross examine witnesses, absent a showing of good cause for not allowing the confrontation, and the right to present rebuttal evidence.

R671-517-4. Anticipated Witnesses, Documents and Other Evidence.

At least ten days prior to the hearing, unless otherwise directed by the Board, each party shall provide to the opposing party and to the Board a list of anticipated witnesses, documents, and other evidence to be submitted at the hearing, together with a summary of the relevance of each anticipated piece of evidence. Failure to comply with this rule may result in sanctions including, but not limited to, exclusion of the non-disclosed witnesses and evidence.

R671-517-5. Single Hearing Official.

An evidentiary hearing may be presided over by a single Board member or hearing officer as the Board Chair designates. The hearing official may, sua sponte, or upon motion of either party, exclude evidence that is irrelevant, unduly repetitious, or privileged. The hearing official may take judicial notice of undisputed facts and may rule on motions made prior to or during the hearing.

R671-517-6. Department of Corrections Bears Burden of Proof.

The Department of Corrections bears the burden of establishing a parole violation by a preponderance of the evidence. All testimony shall be given under oath. The Utah Rules of Evidence do not apply. Hearsay evidence is admissible and shall be given such weight as the hearing official considers appropriate; however, no finding of guilt shall be based solely on hearsay evidence, except where such evidence would be otherwise permitted in a court of law. Exclusionary rules and case law do not apply to parole revocation hearings.

R671-517-7. Opening Statements.

At the hearing, each party may make a brief opening statement, beginning with the State. After opening statements, the State has the burden of presenting evidence of parole violation. Upon conclusion of the State's case, the parolee may present evidence in response. If the parolee, as a defense, raises issues not adequately addressed by the State's case in chief, the hearing official may allow the State to present rebuttal evidence in response. Upon conclusion of all evidence, the hearing official may allow each party to make a brief closing argument.

R671-517-8. Written Submissions.

Any brief or legal memorandum submitted to the Board as part of an evidentiary hearing shall be filed at least ten calendar days prior to the hearing, and shall include proof of service on the opposing party. The opposing party shall file any written response no later than three calendar days prior to the hearing. Written submissions shall be no longer than ten double-spaced, typed pages, excluding exhibits. Either party may petition the hearing official for permission to exceed these length requirements or shorten these time requirements, and the decision whether to allow this shall rest in the sole discretion of the hearing official.

R671-517-9. Continuances.

1. All requests to continue a scheduled evidentiary hearing shall: (a) be submitted to the board in writing, at least seven calendar days prior to the scheduled hearing; and (b) contain either a stipulation of the parties, or a statement of why there is an extraordinary need for continuance and why such a continuance will not prejudice the interests of the other party.

2. The decision to grant or deny a continuance rests in the sole discretion of the hearing official.

3. In the event a continuance is granted, each party shall be responsible for notifying its own witnesses.

KEY: parole, evidentiary, hearings

May 22, 2013	**77-27-5**
Notice of Continuation February 13, 2018	**77-27-9**
	77-27-11

R671. Pardons (Board of), Administration.
R671-518. Conduct of Proceedings When a Criminal Charge Results in Conviction.
R671-518-1. Conduct of Proceedings When a Criminal Charge Results in Conviction.

If a parolee has been convicted of a new crime, the Board may revoke parole upon receipt of verification of conviction. The Board need not hold an evidentiary hearing even if the parolee continues to deny guilt. It is sufficient that a trial court has adjudicated guilt.

KEY: parole, conviction, criminal charges
November 19, 2003 77-27-5
Notice of Continuation February 13, 2018 77-27-9
77-27-11

R671. Pardons (Board of), Administration.
R671-519. Proceedings When Criminal Charges Result in Acquittal.
R671-519-1. Proceedings When Criminal Charges Result in Acquittal.

1. If the basis for a parole revocation proceeding is a criminal charge of which the parolee is later acquitted, the parole agent or representative of the State may submit as its sole evidence the transcript from the criminal trial, which shall be disclosed to the parolee.

2. The parolee may submit a response to the trial transcript submission or otherwise submit any information to supplement the record.

R671-519-2. Evidence Explanation.

Any party may file memoranda explaining whether the evidence provided at the trial was sufficient, under a preponderance standard, for finding a parole violation. Such memoranda shall not exceed ten, double-spaced, typed pages in length (excluding exhibits), except in cases where the Board has granted leave to exceed this limit.

R671-519-3. Personal Appearance.

A personal appearance hearing is not required for purposes of arguing the evidence. However, if, after reviewing the transcripts and memoranda, the hearing official concludes that parole has been violated, a personal appearance hearing may be held for purposes of determining disposition and hearing victim testimony.

KEY: parole, acquit, hearings
May 22, 2013 **77-27-5**
Notice of Continuation February 13, 2018 **77-27-9**
77-27-11

R671. Pardons (Board of), Administration.
R671-520. Treatment of Confidential Testimony.
R671-520-1. Treatment of Confidential Testimony.

1. Confidential testimony shall be admitted at an evidentiary hearing on an alleged parole violation.

2. The State shall make a specific, written preliminary showing of good cause for the testimony to be received in camera.

3. Upon a finding of good cause for confidentiality, the Board shall conduct an in-camera inspection of the witness, the proffered testimony, and any supporting testimony to determine:

a. the credibility and veracity of the witness;

b. the overall reliability of the testimony itself; and

c. whether keeping the information confidential will substantially impair the parolee's due process rights to notice of the evidence or to confront and cross-examine adverse witnesses.

4. If the Board is satisfied with the three aspects in Subsection (3), it shall receive the testimony and give it whatever weight it considers appropriate. An electronic record shall be made of this in-camera proceeding.

5. A summary of the testimony taken in-camera shall be prepared for disclosure to the parolee, informing the parolee of the general nature of the testimony received in-camera but without defeating the good cause found by the Board for treating the information confidentially. This summary shall be presented on the record at the public evidentiary hearing and the parolee shall be given an opportunity to respond.

KEY: parole, confidential testimony, hearings
May 22, 2013 77-27-5
Notice of Continuation February 13, 2018 77-27-9
77-27-11

R671. Pardons (Board of), Administration.
R671-522. Continuances Due to Pending Criminal Charges.
R671-522-1. Continuances Due to Pending Criminal Charges.

The board may, in it's discretion, continue hearings to allow for adjudication of new criminal charges.

R671-522-2. Notification and Verification.

If the Board determines that pending charges warrant a continuance of a hearing, the Board will notify the offender in writing and the reasons for doing so. When the Board receives verification that the criminal charges have been resolved, the hearing will be rescheduled as soon as practical.

KEY: parole, continuing, hearings
October 10, 2007 77-27-5
Notice of Continuation February 13, 2018 77-27-9
77-27-11

R746. Public Service Commission, Administration.
R746-8. Utah Universal Public Telecommunications Service Support Fund (UUSF).
R746-8-100. Authority, Purpose, and Organization.

(1) This rule is adopted under:
(a) Utah Code Section 54-8b-10; and
(b) Utah Code Section 54-8b-15.
(2) This rule:
(a) governs the methods, practices, and procedures by which:
(b) the UUSF is created, maintained, and funded; and
(c) funds are disbursed from the UUSF to qualifying access line providers.
(3) This rule is organized into the following Parts:
(a) Part 100: Authority, Purpose and Organization;
(b) Part 200: Definitions;
(c) Part 300: UUSF Funding; and
(d) Part 400: UUSF Distributions.

R746-8-200. Definitions.

(1)(a) "Access line" is defined at Utah Code Subsection 54-8b-2(1), and is used in this rule, R746-8, to the extent consistent with federal law.
(b) For purposes of applying the statutory definition of "access line," the term "connection" is defined at Utah Code Subsection 54-8b-15(1) and is used in this rule, R746-8, to the extent consistent with federal law.
(c)(i) Providers of access lines and functionally equivalent connections are hereafter referred to jointly as "providers."
(ii) Access lines and connections are hereafter referred to jointly as "access line" or "access lines."
(2)(a) "Affordable base rate" or "ABR" means the monthly retail rate that a rate-of-return regulated provider is required to charge on a per-access line basis in order to receive ongoing disbursements from the UUSF.
(b) "Affordable base rate" may include, if itemized in the provider's Commission-approved tariff:
(i) the applicable UUSF surcharge;
(ii) mandatory extended area service fees; or
(iii) state subscriber line fees.
(c) "Affordable base rate" does not include:
(i) municipal franchise fee(s);
(ii) tax(es); or
(iii) any incidental surcharge(s) other than those identified in R746-8-200(2)(b):
(A) included in a Commission-approved tariff; or
(B) authorized under these rules.
(3) "Broadband internet access service" is defined at Utah Code Subsection 54-8b-15(1).
(4) "Carrier of last resort" is defined at Utah Code Subsection 54-8b-15(1).
(5) "Eligible telecommunications carrier" or "ETC" means a provider that, if seeking to participate in the state Lifeline program:
(a) is designated as an eligible telecommunications carrier by the commission in accordance with 47 U.S.C. Section 214(e); or
(b) is designated by the FCC as a Lifeline Broadband Provider (LBP).
(6) "Designated support area" means the geographic area used to determine a provider's UUSF support distribution, including, at a minimum, the provider's entire certificated service territory located in the State of Utah.
(7) The acronym "FCC" means the Federal Communications Commission.
(8) "Facilities-based provider" means a provider that uses:
(a) its own facilities;
(b) essential facilities or unbundled network elements obtained from another provider; or
(c) a combination of its own facilities and essential facilities or unbundled network elements obtained from another provider.
(9)(a) "Household" means any individual or group of individuals living together at the same address as one economic unit.
(b) "Economic unit" means all adult individuals contributing to and sharing in the income and expenses of a household.
(10) "Lifeline subscriber" means an individual who qualifies for state subsidization of an access line through participation in a program for low-income individuals that is recognized by the FCC.
(11) "Non-rate-of-return regulated" is defined at Utah Code Subsection 54-8b-15(1).
(12) "Rate-of-return regulated" is defined at Utah Code Subsection 54-8b-15(1).
(13) "Wholesale broadband internet access service" is defined at Utah Code Subsection 54-8b-15(1).

R746-8-300. UUSF Funding.

The following sections in the 300 series address UUSF Funding.

R746-8-301. Calculation and Application of UUSF Surcharge.

(1) The Utah Universal Public Telecommunications Service Support Fund (UUSF) shall be funded as follows:
(a) Unless Subsection R746-8-301(3) applies, providers shall remit to the Commission $0.36 per month per access line that, as of the last calendar day of each month, has a place of primary use in Utah in accordance with the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.
(b)(i) "Place of primary use" means the street address representative of where the customer's use of the telecommunications service primarily occurs.
(ii) A provider of mobile telecommunications service shall consider the customer's place of primary use to be the customer's residential street address or primary business street address.
(iii) A provider of non-mobile telecommunications service shall consider the customer's place of primary use to be:
(A) the customer's residential street address or primary business street address; or
(B) the customer's registered location for 911 purposes.
(c) A provider may collect the surcharge:
(i) as an explicit charge to each end-user; or
(ii) through inclusion of the surcharge within the end-user's rate plan.
(d) A provider that offers a multi-line service shall apply the surcharge to each concurrent real-time voice communication call session that an end-user can place to or receive from the public switched telephone network.
(e)(i) A provider that offers prepaid access lines or connections that permit access to the public telephone network shall remit to the Commission $0.36 per month per access line for such service (new access lines or connections, or recharges for existing lines or connections) purchased on or after January 1, 2018.
(ii) Subsection R746-8-301(1)(e)(i) operates in lieu of Subsection R746-8-301(1)(a) in that a provider who is required to make a remittance for an access line under Subsection R746-8-301(1)(e)(i) is not required to make an additional remittance for the same access line under Subsection R746-8-301(1)(a).
(iii)(A) Multiple recharges of a single prepaid access line during a single month do not trigger multiple remittance requirements.
(B) $0.36 per month is both the maximum and minimum amount of remittance necessary for any single access line.

(2)(a) A provider shall remit to the Commission no less than 98.69 percent of its total monthly surcharge collections.

(b) A provider may retain a maximum of 1.31 percent of its total monthly surcharge collections to offset the costs of administering this rule.

(3)(a) Subject to Subsection R746-8-301(3)(b), a provider may omit the UUSF surcharge with respect to an access line that is described in Subsection R746-8-301(1), and:

(i) generates revenue that is subject to a universal service fund surcharge in a state other than Utah for the relevant month for which the provider omits the UUSF surcharge; or

(ii) for the relevant month for which the provider omits the UUSF surcharge, was not used to access Utah intrastate telecommunications services.

(b) A provider that omits any UUSF surcharge pursuant to Subsection R746-8-301(3)(a) shall:

(i) maintain documentation for at least 36 months that the omission complied with Subsection R746-8-301(3)(a); and

(ii) consent to any audit of the documentation requested by the:

(A) Commission; or

(B) Division of Public Utilities.

(c) A provider who omits any UUSF surcharge pursuant to Subsection R746-8-301(3)(a) shall report monthly to the Division of Public Utilities, using a method approved by the Division, the number of omissions claimed pursuant to each Subsection R746-8-301(3)(a)(i) and R746-8-301(3)(a)(ii).

R746-8-302. UUSF Surcharge Remittances.

Providers shall remit surcharge assessments to the Commission as follows:

(1) If, over a period of six months, the average monthly UUSF surcharge assessments total $1,000 or more, the provider shall remit the funds:

(a) on a monthly basis; and

(b) within 45 days of the last calendar day of each month.

(2) If, over a period of six months, the average UUSF surcharge assessments are less than $1,000 per month, the provider shall accrue the UUSF surcharge assessments and submit the accrued assessments every six months.

R746-8-400. UUSF Distributions.

The following sections in the 400 series address UUSF Distributions.

R746-8-401. Rate-of-Return Regulated Providers.

(1) A rate-of-return regulated provider is eligible for ongoing UUSF support pursuant to Utah Code Section 54-8b-15 if the provider:

(a) is a carrier of last resort;

(b) is in compliance with Commission orders and rules;

(c) unless a petition brought pursuant to Subsection R746-8-401(2) is granted after adjudication, charges, at a minimum, $18 per access line;

(d) offers Lifeline service on terms and conditions prescribed by the Commission;

(e) operates as a facilities-based provider, not a reseller; and

(f) in compliance with R746-8-401(3), demonstrates through an adjudicative proceeding that its costs as established in Utah Code Section 54-8b-15 exceed its revenues as established in Utah Code Section 54-8b-15.

(2)(a) A rate-of-return regulated provider may petition the Commission to deviate from the affordable base rate set forth in Subsection R746-8-401(1)(c).

(b) A rate-of-return regulated provider that files a petition to deviate from the affordable base rate shall:

(i) demonstrate that the affordable base rate is not reasonable in the provider's designated support area; or

(ii) impute income up to the affordable base rate in calculating the provider's UUSF disbursement.

(3) The calculation of a rate-of-return regulated provider's ongoing UUSF distribution shall conform to the following standards:

(a) The provider's state rate-of-return shall be equal to the weighted average cost of capital rate-of-return prescribed by the FCC for rate-of-return regulated carriers, as of the date of the provider's application for support, and as follows:

(A) beginning July 1, 2016: 11.0%

(B) beginning July 1, 2017: 10.75%;

(C) beginning July 1, 2018: 10.5%;

(D) beginning July 1, 2019, 10.25%;

(E) beginning July 1, 2020, 10.0%; and

(F) beginning July 1, 2021, 9.75%.

(b) The provider's depreciation costs shall be calculated as established in Utah Code Section 54-8b-15.

(4) Yearly following a change in the FCC rate-of-return, unless the provider files with the Commission a petition for review of its UUSF disbursement, the Division shall make a recommendation of whether each provider's monthly distribution should be adjusted according to:

(a) the current FCC rate-of-return as set forth in R746-8-401(3)(a); and

(b) the provider's financial information from its last Annual Report filed with the Commission.

R746-8-402. Non-rate-of-return Regulated Providers.

(1) A non-rate-of-return regulated provider may be eligible for ongoing UUSF support for the deployment and management of networks capable of providing access lines, connections, or broadband internet access, upon application to the Commission, if the provider:

(a) is a carrier of last resort; and

(b) is in compliance with Commission orders and rules.

(2) Upon receipt of an application brought under R746-8-402, the Commission shall establish the appropriate criteria for the entitlement to, and the disbursement of, UUSF funds to non-rate-of-return regulated providers.

R746-8-403. Lifeline Support.

(1) In addition to any disbursement calculated under R746-8-401 or R746-8-402, an ETC may receive an ongoing distribution through ongoing participation in a Commission-approved Lifeline program upon a specific finding of public interest by the Commission.

(2)(a) The support claimed under this Subsection R746-8-403 may not exceed $3.50 per Lifeline subscriber per month of subscription to a service that:

(i)(A) meets FCC broadband Lifeline requirements as set forth in 47 C.F.R. 54.408; and

(B) for wireless Lifeline, allows, at no charge beyond the basic monthly fee, unlimited texting and at least 750 voice minutes per month; or

(ii)(A) meets FCC broadband Lifeline requirements as set forth in 47 C.F.R. 54.408; and

(B) does not include a voice component.

(b) Lifeline distributions will be based on eligible Lifeline subscribers as of the first day of each month, with no prorated discounts.

(3) An ETC that is approved to participate in the Commission Lifeline program shall:

(a) provide potential Lifeline subscribers with application materials and information;

(b) provide service to any customer who is verified as eligible for participation through:

(i) the FCC's national verifier system; or

(ii) if the FCC's national verifier system is not yet operational, the program administrator with which the

Commission contracts to administer the initial and continued eligibility verification of state Lifeline participants;

(c) waive, for Lifeline subscribers, the following charges:

(i) customer security deposits, if the customer voluntarily elects to receive toll blocking; and

(ii) within any 12-month period, the first nonrecurring service charge for:

(A) changing local exchange usage service to Lifeline service; and

(B) changing from flat rate service to message rate service; and

(d)(i) add the Lifeline discount to a customer's account within five (5) business days of notification of the customer's eligibility under FCC Lifeline requirements; and;

(ii) remove the Lifeline discount from a Lifeline subscriber's account within five (5) business days of notification of the Lifeline subscriber's ineligibility under FCC Lifeline requirements; and

(e) submit to the Division by May 1 of each year, a complete Lifeline subscriber list, as defined by the FCC.

(4) An ETC participating in the Commission Lifeline program may not:

(a) disconnect Lifeline telephone service for nonpayment of toll service;

(b) require a Lifeline subscriber to purchase additional services from the ETC; or

(c) prohibit a Lifeline subscriber from purchasing additional services from the ETC, unless the participant fails to comply with the ETC's terms and conditions for those additional services.

R746-8-404. One-time UUSF Distribution.

A non-rate-of-return regulated carrier of last resort may apply for a one-time UUSF distribution pursuant to Utah Code Subsection 54-8b-15(3)(d).

R746-8-405. UUSF Support for Deaf, Hard of Hearing, or Severely Speech Impaired Person.

(1) This rule governs a program to provide telecommunication devices and services to qualifying deaf, hard of hearing, or severely speech impaired persons

(2) Definitions.

(a) "Applicant" means a person applying for:

(i) a telecommunication device for the deaf, hard of hearing, or severely speech impaired;

(ii) a signal device; or

(iii) another assistive communication device.

(b) "Audiologist" means a person who:

(i)(A) has a master's or doctoral degree in audiology; or

(B) is licensed in audiology in Utah; and

(ii) holds a Certificate of Clinic Competence in Audiology from the American Speech/Language/Hearing Association or its equivalent.

(c) "Deaf" means hearing loss that requires the use of a TDD to communicate effectively on the telephone.

(d). "Hard of hearing" means hearing loss that requires use of a TDD to communicate effectively on the telephone.

(e) "Otolaryngologist" means a licensed physician specializing in ear, nose, and throat medicine.

(f) "Recipient" means a person who is approved to receive a TDD, signal device, personal communicator, or other assistive communication device.

(g) "Speech language pathologist" means a person who:

(i) has a master's or doctoral degree in Speech Language Pathology; and

(ii) holds a Certificate of Clinical Competence in Speech/Language Pathology from the American Speech Language Hearing Association or its equivalent.

(h) "Severely Speech Impaired" means a speech handicap or disorder that renders speech on an ordinary telephone unintelligible.

(i) "Signal device" means a mechanical device that alerts a deaf, deaf-blind, or hard of hearing person of an incoming telephone call.

(j) "Telecommunications Device for the Deaf" or "TDD" means an electrical device for use with a telephone that utilizes:

(i) a key board;

(ii) an acoustic coupler;

(iii) a display screen;

(iv) a braille display; or

(v) a tablet device or unlocked cellular telephone that is equipped with applications that allow a user to transmit and receive messages.

(3) Eligibility.

(a) At a minimum, applicants shall demonstrate that they:

(i) live within the State of Utah;

(ii) are

(A) deaf;

(B) hard of hearing; or

(C) severely speech impaired;

(iii) are eligible for assistance under a low-income public assistance program; and

(iv) are able to send and receive messages with a TDD or other appropriate assistive device.

(b) Qualification under Subsection R746-8-405(3)(a)(ii) shall be established by the certification of:

(i) a person who is licensed to practice medicine;

(ii) an audiologist;

(iii) an otolaryngologist;

(iv) a speech/language pathologist; or

(v) qualified personnel within a state agency.

(4) Distribution process.

(a) If approved by the Commission to receive an assistive device, the applicant shall:

(i) unless Subsection R746-8-405(4)(b) applies, sign an agreement and conditions of acceptance form supplied by the Commission; and

(ii) report, as instructed by the Commission, for training and receipt of the approved device.

(b) If the recipient is a minor or is unable to sign the agreement and conditions of acceptance form, the recipient's legal guardian may sign.

(5) Ownership and Liability.

(a)(i) An assistive device provided under this rule remains the property of the State of Utah.

(ii) A recipient shall not remove an assistive device from the state of Utah for a period of time longer than 90 days unless the recipient obtains the written consent of the Commission.

(b) A recipient shall be solely responsible for the costs of:

(i) repair of an assistive device, other than for normal wear and tear;

(ii) replacement of an assistive device;

(iii) paper required by an assistive device;

(iv) telephone and internet service; and

(v) light bulbs required by an assistive device.

(c) If an assistive device requires repair, the recipient shall return it to the Commission and may not make private arrangements for repair.

(6) Termination of Use. A recipient, or if applicable, the recipient's guardian, shall return an assistive device to the Commission if the recipient:

(a) no longer intends to reside in Utah;

(b) becomes ineligible pursuant to R746-8-405(3); or

(c) is notified by the Commission to return the device.

R746-8-405a. New Technology Equipment Distribution Program (NTEDP).

(1) Authority and Purpose.

(a) This rule section is promulgated pursuant to Utah Code Subsection 54-8b-10(3)(b).

(b) The purposes of the NTEDP are:

(i) to explore the feasibility of using tablet devices and/or unlocked cellular telephones to address the telecommunication needs of the deaf, hard of hearing, and severely speech-impaired communities;

(ii) to determine how best to manage a program in which tablet devices and/or unlocked cellular telephones are provided; and

(iii) to determine the level of support services that would be required if tablet devices and/or unlocked cellular telephone devices are provided.

(2) Duration. The NTEDP shall terminate no later than December 31, 2018.

(3) Participation.

(a) An individual who wishes to participate in the NTEDP shall:

(i) submit a completed application form to the Relay Utah office;

(ii) provide medical documentation of:

(A) deafness;

(B) hardness of hearing; or

(C) severe speech impairment;

(iii) demonstrate that the individual is receiving assistance from a low-income public assistance program administered by a state agency;

(iv)(A) if applying for a tablet, certify that the individual has consistent access to a WiFi network; or

(B) if applying for an unlocked cellular telephone, certify that the individual has a service plan in place with a wireless telecommunications provider; and

(v) certify that the individual is able and willing to comply with Subsection (4).

(b) Priority may be given to applicants who have previously participated in the Commission's Relay Utah program.

(c) An applicant who is not selected to participate may request to be placed on a waiting list.

(d) Participation shall be limited as follows:

(i) From the inception of the program through June 30, 2017, no more than 25 participants, as follows:

(A) no more than 8 deaf individuals who are at least 13 years old;

(B) no more than 8 hard of hearing individuals who are at least 13 years old;

(C) no more than 8 severely speech impaired individuals who are at least 13 years old; and

(D) at least one deaf, hard of hearing, or severely speech impaired individual who is under 13 years of age.

(ii) From July 1, 2017 through the conclusion of the program, up to 10 additional participants in each six-month period.

(4) Participant obligations.

(a) An individual who is chosen to participate in the NTEDP shall:

(i) participate in an entrance interview with the Relay Utah office;

(ii) complete online surveys as instructed by the Relay Utah office;

(iii) promptly comply with all instructions from the Relay Utah office to download apps;

(iv) promptly respond to requests from the Relay Utah office for information and feedback;

(v) maintain the device in the storage case provided;

(vi) retain all original device packaging, instructions, and information;

(vii) contact the manufacturer's customer service department for assistance with technical support;

(viii) promptly report to the Relay Utah office:

(A) software and hardware failures; and

(B) damage to the device;

(ix) take financial responsibility for loss of, or damage to, the device if caused by the individual's misuse or negligence; and

(x) immediately return the device to the Relay Utah office if the individual:

(A) moves from the State of Utah;

(B) is disqualified by the Relay Utah office from further participation in the NTEDP; or

(C) chooses to terminate the individual's participation in the NTEDP.

(b) An individual who is chosen to participate in the NTEDP may not:

(i) reformat or attempt to reformat the device;

(ii) allow any other person to use the device, except as necessary to assist the participant with telecommunications; or

(iii) install software, apps, or other programs not authorized by the Relay Utah office.

(c) A participant who fails to comply with this Subsection (4) may be disqualified from further participation in the NTEDP.

(5) All devices distributed as part of the NTEDP shall remain the property of the State of Utah Public Service Commission.

KEY: Utah universal service fund, surcharges and disbursements, speech/hearing challenges, assistive devices and technology

February 21, 2018 **54-3-1**
54-4-1
54-8b-15
54-8b-10

R746. Public Service Commission, Administration.
R746-330. Rules for Water and Sewer Utilities Operating in Utah.
R746-330-1. General Provisions.

A. Scope and Applicability--The following rules apply to the methods and conditions of service of water and sewer utilities, as defined in 54-2-1, operating within Utah.

B. Definitions--For purposes of these rules, the following terms shall bear the following meanings:

1. "Board" means the Utah Drinking Water Board.

2. "Commission" means the Public Service Commission of Utah.

3. "Utility" means a water or sewer corporation as defined in Section 54-2-1.

R746-330-2. Purity of Water Supply.

A. Water Quality--Water furnished by utilities for culinary purposes shall be agreeable to sight and smell and be free from disease-producing organisms and injurious chemical or physical substances. The standards to be applied in meeting these criteria shall be those of the Board.

B. Sampling and Testing--

1. The Commission may, on its own motion, require utilities to submit to sampling and testing of water quality additional to that required by the Board.

R746-330-3. Meters.

A. Testing Equipment--Utilities maintaining meters on their systems for measuring culinary water service shall have equipment approved by the Commission available for testing the accuracy of the meters.

B. Testing Intervals--Utilities shall establish testing methods and intervals satisfactory to the Commission.

C. Customer Test Requests--Utilities shall test the accuracy of their meters at the request of customers free of charge if the meter has not been tested for a period within the 12 months before the request. If the meter has been tested within 12 months of the request, and the test discloses the meter records within a range of 97 percent to 103 percent of absolute accuracy, under test conditions satisfactory to the Commission, the utility may charge the customer for costs of the test.

D. Meter Standards of Accuracy--Utilities shall replace meters which do not record within 97 percent to 103 percent of accuracy under testing methods approved by the Commission.

E. Meter Cards--Utilities shall keep individual cards for each meter measuring culinary water service. The cards shall show, at a minimum identification data; date and location of latest meter test; reason for test; name of person or organization performing test; and result of test. The meter cards shall be available for inspection by the Commission at reasonable hours.

R746-330-4. Uniform System of Accounts.

A. Adoption of System of Accounts--The Commission adopts, and incorporates by this reference, the following Uniform Systems of Accounts.

1. Water utilities - Classes A, B, and C Water Utilities, 1996 editions, published by the National Association of Regulatory Utility Commissioners.

2. Sewer utilities - Classes A, B, and C Wastewater Utilities, 1996 editions, published by the National Association of Regulatory Utility Commissioners.

B. Utilities operating in Utah shall keep their accounts in accordance with the system of accounts appropriate to the utilities' respective classifications.

R746-330-5. Preservation of Records.

Preservation of Records -- The Commission adopts the following standards, incorporated by this reference, to govern the preservation of records of water and sewer utilities subject to the jurisdiction of the Commission: Regulations to Govern the Preservation of Records of Electric, Gas and Water Utilities published by the National Association of Regulatory Utility Commissioners in April 1974 and revised in May 1985.

R746-330-6. Ratebase Treatment of Developer-owned Water or Sewer Company Assets--Presumption of Recovery.

There is a rebuttable presumption that the value of original utility plant and assets has been recovered in the sale of lots in a development to be served by a developer-owned water or sewer utility.

KEY: public utilities, sewerage, water, water quality

March 14, 1997	**54-2-1**
Notice of Continuation February 14, 2018	**54-4-1**
	54-4-7
	54-4-18
	54-4-23

R746. Public Service Commission, Administration.
R746-332. Depreciation Rates for Water Utilities.
R746-332-1. Depreciation Rates for Water Utilities.

A. Water utilities operating under the jurisdiction of the Public Service Commission of Utah shall be allowed to recover in rates charged consumers, the cost of the investment in depreciable utility plant, less established net salvage, over the useful life of the plant.

B. The base on which depreciation expense is calculated shall be the original cost of the depreciable property to the person or entity who first devotes the property to public service, and that the method to be used in calculating depreciation expense for book and rate making purposes shall be the straight line average service life method.

C. Effective with each utility's next general rate case, each water utility operating in Utah shall not depreciate utility plant faster than allowed by the following rates, except where the Commission has approved depreciation rates based on shorter plant lives as shown by a competent depreciation study:

TABLE

NARUC Account Number	Account	Average Service Life -- Years	Net Salvage Percent --	Depreciation Rate Percent
304	Structures and Improvements	35		2.9
305	Collecting and Impounding reservoirs	50		2.0
306	Lake, River and Other Intakes	35		2.9
307	Wells and Springs	25		4.0
308	Infiltration Galleries and Tunnels	25		4.0
309	Supply Mains	50		2.0
311	Pumping Equipment	20		5.0
320	Water Treatment Equipment	20		5.0
330	Distribution Reservoirs and Standpipes	30		3.3
331	Transmission and Distribution Mains	50		2.0
333	Services	30		3.3
334	Meters and Meter Installations	35	10	2.6
335	Hydrants	40	5	2.4
340	Office Furniture and Equipment	20	5	4.8
341	Transportation Equipment	7	10	12.9
342	Stores Equipment	20		5.0
343	Tools, Shop and Garage Equipment	15	5	6.3
344	Laboratory Equipment	15		6.7
345	Power Operated Equipment	10	10	9.0
346	Communication Equipment	10	10	9.0

KEY: public utilities, water, rules and procedures
1987 54-4-24
Notice of Continuation February 14, 2018

R746. Public Service Commission, Administration.
R746-347. Extended Area Service (EAS).
R746-347-1. Purpose and Authority.

A. Authorization -- This rule is adopted under authority of Sections 54-3-3 and 54-8b-11.

B. Title -- This rule shall be known and may be cited as the "EAS Rule."

C. Scope and Applicability -- This rule shall supersede all criteria and procedures for establishment and restructuring of EAS previously in effect. This rules applies to the establishment or restructuring of EAS or expanded EAS by incumbent telephone corporations. Provisions of this rule requiring provision of information to the Division of Public Utilities or the Commission apply to all providers of public telecommunications services.

R746-347-2. Definitions.

A. "Extended Area Service" (EAS) -- A local exchange public telecommunications service that enlarges the toll-free calling area to include two or more local exchange areas for which pre-EAS calls incurred long distance charges. A larger local calling area may result in an increase in the separately itemized EAS rate that local exchange carriers charge for local telephone service.

B. "Local Calling Area" -- An area encompassing one or more local exchange areas between which public telecommunication services are furnished by the local exchange carrier in accordance with its local exchange service tariffs, without message telephone service or toll charges.

C. "Local Exchange Area" -- A geographic area used by a local exchange carrier to furnish and administer telecommunication services in accordance with its local exchange service tariffs. It may consist of one or more contiguous central offices serving areas as further defined in R746-340-1.

D. "Committee" -- Committee of Consumer Services

E. "Division" -- Division of Public Utilities

R746-347-3. Petitioning Process.

A. Establishment of EAS -- The establishment of new or expanded EAS may be initiated by the Commission, by a petition requesting the establishment of new or expanded EAS signed by the residential customers of an incumbent telephone corporation in a local exchange area, or a petition from the incumbent telephone corporation.

B. Residential Petition -- The residential petition shall contain signatures from customers of record of the petitioning exchange, but only one signature per account, meeting the following applicable criteria:

1. In a petitioning local exchange area in which the incumbent telephone corporation has fewer then 500 residential access lines, the petition must be signed by 55 percent of the residential customers of record of the incumbent telephone corporation.

2. In a petitioning local exchange area in which the incumbent telephone corporation has more than 500 but fewer than 1,500 residential access lines, the petition must be signed by customers representing the greater of 275 or 30 percent of the total number of residential customers of record of the incumbent telephone corporation.

3. In a local exchange area in which the incumbent telephone corporation has more then 1,500 residential access lines, the petition must be signed by customers representing 30 percent of the total number of residential customers of record of the incumbent telephone corporation.

C. Petition Form -- The petition form must state that the signatory is willing to pay an estimated price for EAS to be determined as provided in R746-347-4 which may be within or above the range of current EAS prices of the incumbent telephone corporation. The current range of EAS prices of the incumbent telephone corporation shall be clearly set forth on each sheet of the petition.

D. Petition Signatures -- Signatures on the petition shall include the full name of the customer of record in addition to the billed party telephone number.

E. Petition Distribution -- The petition shall be filed with the Commission. Copies of the petition shall be served upon the Division, Committee and the incumbent telephone corporation. If the petition requests establishment of new or expanded EAS between areas served by two or more incumbent telephone corporations, a copy of the petition shall be served on each incumbent telephone corporation.

R746-347-4. Cost-Based Pricing.

A. Cost-Based Study -- If the threshold criteria specified in R746-347-3 are clearly met, the Commission shall direct the incumbent telephone corporations to conduct a study determining cost-based prices of providing EAS to the petitioned route. The study shall determine a precise cost-based EAS rate for both the petitioning and non-petitioning exchanges. These prices shall be used in the survey conducted pursuant to R746-347-5.

B. Costing and Pricing Methodology -- The incumbent carrier shall comply with a uniform EAS costing and pricing methodology for EAS rate development, which shall be jointly defined by the local exchange carrier, the Division and the Committee. The EAS costing and pricing methodology shall comport in all material respects with Total Service Long Run Incremental Cost, as required by Subsections 54-8b-2(13) and 54-8b-3.3.

C. Route-Specific Assumptions -- EAS cost studies shall reflect route-specific assumptions of demand and direct costs attributable to facilities investment and operating expenses.

D. Lost Toll Revenue -- Calculation of the incremental EAS price attributable to expansion of a local calling area may not include as a cost element any estimate of lost toll revenue.

E. Stimulation Factor -- The engineered cost of trunk and circuit facilities converted from toll to local calling may include a specified stimulation factor to reflect carriage of larger traffic volumes resulting from the substitution of flat-rated EAS for usage-sensitive toll rates. In deriving the stimulation factor, consideration shall be given estimated toll traffic provided by the local exchange carriers, foreign exchange lines, and toll resellers.

F. Filing of Study -- The local exchange carrier shall conduct the route-specific EAS cost and pricing analysis and shall file the study promptly upon completion.

R746-347-5. Customer Survey for New or Expanded EAS.

A. When to Conduct Survey -- Upon approval by the Commission of the proposed prices pursuant to Section R746-347-4, a survey shall be conducted of residential telephone subscribers of the incumbent telephone corporation in each petitioning and each non-petitioning local exchange area proposed to be included in the new or expanded EAS. The Division, Committee and involved incumbent telephone corporations shall arrange to conduct a poll within the affected local exchange areas.

B. Who to Survey -- A statistical sample of residential subscribers, sized to produce a final result with at least a ten percent level of significance with a plus or minus five percent margin of error shall be surveyed.

C. Public Interest -- The Commission will presume that the proposed EAS is in the public interest if:

1. the survey results indicate that at least 67 percent of the customers of the incumbent telephone corporation in each petitioning local exchange area desire EAS at the price represented in the survey questionnaire, and

2. the survey results further show that at least 30 percent of customers of the incumbent telephone corporation in each non-petitioning local exchange area desire EAS at the price represented in the survey questionnaire.

D. Minimum Monthly Increase -- Notwithstanding R746-347-5-C.2, if the cost study results show that the EAS rate increase in the non-petitioning exchange represents less than a 3.5 percent monthly increase in the local exchange carriers tariff for a basic dial-tone line and local usage, then the residential customer survey need not be conducted in the non-petitioning local exchange area. The Commission will presume that the proposed EAS is in the public interest if 67 percent of the customers in the petitioning local exchange areas desire EAS at the price represented in the survey questionnaire.

E. When Customers Pay Entire Cost of EAS -- If the customer survey indicates that the criterion for R746-347-5.C.2 has not been met, the customers of the petitioning exchange area(s) may pay the entire cost of establishing the EAS route(s). In this instance, the Commission will presume that the proposed EAS is in the public interest if the survey results indicate that 67 percent of the customers of the incumbent telephone corporation in each petitioning local exchange areas desire EAS at a price representing the petitioning exchange area(s) paying the entire cost of the proposed EAS.

R746-347-6. Approval of EAS.

If the criteria of R746-347-3 through R746-347-5 of this Rule are satisfied, the Commission may issue an order approving the establishment of EAS between the petitioning and non-petitioning exchanges at the prices approved by the Commission under R746-347-5. Such EAS shall be mandatory for all customers of the incumbent telephone corporation in each petitioning and non-petitioning exchange unless otherwise ordered by the commission.

R746-347-7. Restructuring of Existing EAS.

Each incumbent telephone corporation providing EAS pursuant to tariff may petition the Commission for approval of a restructuring of EAS to simplify EAS prices or to reduce the number of EAS areas. The petition shall be served upon the Division and Committee. The petition shall be handled in accordance with the Commission?s rules of procedure for other petitions. The Commission may grant or deny the petition in the public interest.

R746-347-8. Information from Telecommunications Service Providers and Resellers.

The Division may conduct discovery or otherwise obtain information from telecommunication service providers and resellers reasonably related to the consideration of an EAS petition, including, but not limited to traffic between petitioning and non-petitioning exchanges or areas carried by the telecommunications service providers or resellers. Information provided to the Division shall be deemed to be confidential and shall be used only for purposes of this Rule and for no other purpose.

KEY: extended area service, public utilities, telecommunications
June 30, 2003 54-3-3
Notice of Continuation February 14, 2018 54-8b-11

R746. Public Service Commission, Administration.
R746-402. Rules Governing Reports of Accidents by Electric, Gas, Telephone, and Water Utilities.
R746-402-1. Reporting Accidents.

A. As hereinafter specified, a report should be made to this Commission of every accident occurring on the property, or involving the property of a public utility, or resulting from the construction, operation, and maintenance of its properties, whenever it may be located in Utah.

B. Accidents to be Reported--Accidents should be reported that result in one or more of the following circumstances:

1. as required by federal law;

2. death of a person;

3. damage to property amounting to more than $1,000,000 or one percent of utility revenues, whichever is less. In determining the cost of property damage under this rule, the damage shall be considered separately for each localized area.

C. Instructions for Reporting Accidents--

1. Accidents resulting in the loss of life, or damages to property which in the opinion of the reporting officers are of major importance, shall be reported to this Commission by telephone.

2. Written reports of accidents resulting in loss of life, or damages to property, including those previously reported by telephone, shall be submitted to this Commission within a period of ten days from the date on which the accident occurred.

KEY: public utilities, rules and procedures
1987 54-4-1
Notice of Continuation February 14, 2018 54-4-14

R746. Public Service Commission, Administration.
R746-405. Filing of Tariffs for Gas, Electric, Telephone, and Water Utilities.
R746-405-1. General Provisions.

A. Scope--The following rules for electricity, gas, telephone, and water utilities are designed to provide for:

1. the general form and construction of tariffs required by law to be filed with the Commission and open for public inspection,

2. the procedures for filing and publishing tariffs in Utah, and

3. the particular circumstances and procedures under which utilities may depart from their filed and effective tariffs.

B. Applicability--These rules apply to and govern utilities of the classes herein named, whether they begin service before or after the effective date of these rules, but they shall not affect a right or duty arising out of an existing rule or order in conflict herewith. The rules apply only to new tariff filings, and do not require the modification of tariffs which are effective on the date the rules are adopted. Each utility shall have on file with the Commission its current tariff. Each utility shall abide by the tariff as filed and approved by the Commission. The Commission at any time may direct utilities to make revisions or filings of their tariffs or a part thereof to bring them into compliance. These rules do not apply to a telecommunications corporation subject to pricing flexibility pursuant to 54-8b-2.3.

C. Definitions--

1. "Commission" means the Public Service Commission of Utah.

2. "Effective Date" means the date on which the rates, charges, rules and classifications stated in the tariff sheets first become effective, except as otherwise provided by statute. This date, in accordance with the statutory notice period, shall not be less than the 30th calendar day after the filed date, without the prior approval of the Commission. Unless otherwise authorized, rates shall be made effective for service rendered on or after the effective date.

3. "Filed Date" of tariff sheets submitted to the Commission for filing is the date the tariff sheets are date-stamped at the Commission's Salt Lake City office.

4. "Tariff" means the entire body of rates, tolls, rentals, charges classifications and rules collectively enforced by the utility, although the book or volumes incorporating the same may consist of one or more sheets applicable to distinct service classifications.

5. "Tariff Sheet" means the individual sheets of the volume constituting the entire tariff of a utility and includes the title page, preliminary statement, table of contents, service area maps, rates schedules and rules.

6. "Utility" means a gas, electric, telecommunications, water or heat corporation as defined in Section 54-2-1.

D. Separate Utility Services--

1. Utilities engaged in rendering two or more classes of utility services, such as both gas and electric services, shall file with the Commission a separate tariff covering each class of utility service rendered.

2. Utilities planning to jointly provide utility service shall designate one utility to file a joint tariff for the service with the other utility or utilities filing a concurrence with the joint tariff.

E. Withdrawal of Service--No utility of a class specified herein shall, without prior approval of the Commission, withdraw from public service entirely or in any portion of the territory served.

R746-405-2. Format and Construction of Tariffs.

A. Format--Tariffs shall be in loose-leaf form for binding in a stiff-backed book or books as required and consist of parts or subdivisions arranged in order set forth as follows:

1. Title:

"TARIFF"
Applicable to
Kind of
SERVICE
NAME OF UTILITY

2. Table of Contents: a complete index of numbers and titles of effective sheets listed in the order in which the tariff sheets are arranged in the tariff book. Table of contents sheets shall bear sheet numbers and be in the form set forth in Subsection R746-405-2(C).

3. Preliminary statement: a brief description of the territory served, types and classes or service rendered and general conditions under which the service is rendered. Preliminary sheets shall bear sheet numbers and be in the form set forth in Subsection R746-405-2(C).

4. Service area maps: maps for telecommunication utilities shall clearly indicate the boundaries of the service area, the principal streets, other main identifying features therein, the general location of the service area in relation to nearby cities, major highways or other well-known reference points and the relation between service area boundaries and map references. Service area maps shall be approximately 8-1/2 x 11 inches in size, or folded to that size in order to fit within the borders of the space provided on tariff sheets. Maps for gas, water and electric utilities shall clearly indicate the boundaries of the service area.

B. Tariff Books--

1. Utilities shall maintain their presently effective tariff at each business office open to the public. Utilities with public websites shall provide access to a searchable copy of the utility's presently effective tariff.

2. Utilities shall remove canceled tariff sheets from their currently effective tariffs. Utilities shall permanently retain a file of canceled tariff sheets.

C. Construction of Tariffs for Filing--

1. The loose-leaf sheets used in tariffs shall be of paper stock not less than 16 lb. bond or of equal durability and 8-1/2 x 11 inches in size and electronically printed or copied. Tariffs may not be hand-written. One side of a sheet only may be used and a binding margin of at least 1-1/8 inches at the left of the sheet.

a. The tariff sheets of each utility shall provide the following information:

i. the name of the utility;

ii. the sheet, or page number, along with information to designate whether it is the first version of the sheet or whether the sheet has been revised since it was originally issued. Sheets shall be numbered consecutively;

iii. the number of the advice letter with which the sheet is submitted to the Commission or the docket number if the sheet is filed in accordance with a report and order of the Commission;

iv. information to indicate the date the sheet was filed with the Commission and the date the sheet became effective.

2. Tariffs shall include the following information and as nearly as possible in the following order:

a. schedule number or other designation;

b. class of service, such as business or residential;

c. character of applicability, such as heating, lighting or power, or individual and party-line service;

d. territory to which the tariff applies;

e. rates, in tabular form if practicable;

f. special conditions, limitations, qualifications and restrictions. The conditions shall be brief and clearly worded to cover all special conditions of the rate. Amounts subject to refund shall be specified.

3. If a rate schedule or a rule is carried forward from one sheet to another, the word "Continued" shall be shown.

D. Submission of Tariff Sheets and Advice Letters--

1. Tariff sheets shall be transmitted by an advice letter or in response to a Commission order. A revised table of contents sheet shall be transmitted with each proposed tariff change, if the change requires alteration of the table of contents.

2. An original of each advice letter and tariff sheet shall be filed with the commission, along with the number of paper copies specified at http://www.psc.utah.gov/filingrequirements.html. In addition, each advice letter and tariff filing shall be presented as an electronic word processing or spreadsheet document that is substantially the same as the filed paper copy.

3. Advice letters shall include the following:

a. sheet numbers and titles of the tariff sheets being filed, together with the sheet numbers of the sheets being canceled;

b. essential information as to the reasons for the filing;

c. dates on which the tariff sheets are proposed to become effective;

d. increases or decreases, more or less restrictive conditions, or withdrawals;

e. in the case of an increase authorized by the Commission, reference to the report and order authorizing the increase and docket number;

f. if the filing covers a new service not previously offered or rendered, an explanation of the general effect of the filing, including a statement as to whether present rates or charges will be affected, or service withdrawn from a previous user and advice whether the proposed rates are cost-based;

g. a statement that the tariff sheets proposed do not constitute a violation of state law or Commission rule. The filing of proposed tariff sheets shall of itself constitute the representation of the filing utility that it, in good faith, believes the proposed sheets or revised sheets to be consistent with applicable statutes, rules and orders. The Commission may, after hearing, impose sanctions for a violation hereof.

4. If authorized to file a notice that the effective tariff of a previous owner for the same service area is being adopted, the notice of adoption shall be submitted in the form of an advice letter.

5. Advice letters shall be numbered annually and chronologically. The first two digits represent the year followed by a hyphen and two or more digits, beginning with 01, as submitted by a utility for class of utility service rendered.

6. If a change is proposed on a tariff sheet, both clean and marked-up versions of the tariff sheet shall be included as part of the advice letter filing. The marked-up version of the proposed revised tariff sheet shall indicate deleted text by strike-through and additional text by underline.

7. At the time of making a tariff filing with the Commission, the utility shall furnish a copy of the advice letter and a copy of each related tariff sheet to:

a. the Division;

b. the Office; and

c. interested parties having requested notification.

8. If the suspension is lifted by order of the Commission, the filing shall be resubmitted under a new advice letter number. If the suspension is made permanent by the Commission, the advice letter number shall not be used again.

E. Approval of Filed Tariff Sheets--

1. Utility tariffs may not increase rates, charges or conditions, change classifications which result in increases in rates and charges or make changes which result in lesser service or more restrictive conditions at the same rate or charge, unless a showing has been made before and a finding has been made by the Commission that the increases or changes are justified. This requirement does not apply to electrical or telephone cooperatives in compliance with Section 54-7-12(6), or by telecommunications utilities with less than 5,000 subscribers access lines in compliance with Section 54-7-12(7).

2. New tariff sheets covering a service or commodity not previously furnished or supplied, or revised tariff sheets, not increasing, or increasing pursuant to Commission order, a rate, toll, rental or charge, may be filed by the advice letter. Tariff sheets, unless otherwise authorized by the Commission either on complaint or on its own motion, shall become effective after not less than 30 calendar days after the filed date.

3. Upon application in the advice letter and for good cause shown, the Commission may authorize tariff sheets to become effective on a day before the end of the 30 day notice period.

4.a. The Commission may reject, suspend, alter, or modify the effectiveness of tariff sheets that do not conform to these rules, which have alterations on the face thereof or contain errors, or for other reasons as the Commission determines.

b. Any party recommending that the Commission reject, suspend, alter, or modify the effectiveness of tariff sheets shall file its request no later than 15 calendar days after the date the tariff sheets were filed with the Commission.

c. The Commission shall notify the utility of its action by a letter stating the reasons for the action.

d. Rejected tariff sheets shall be retained in the utility's file of canceled and superseded sheets.

e. Advice letter numbers of rejected filings shall not be reused.

F. Public Inspection of Tariffs--

1. Utilities shall maintain, open for public inspection at their main office, a copy of the complete tariff and advice letters filed with the Commission. Utilities shall maintain, open for public inspection, copies of their effective tariffs applicable within the territories served by the offices.

2. Utilities shall post in a conspicuous place in their major manned business office, a notice to the effect that copies of the schedule of applicable rates in the territory are on file and may be inspected by anyone desiring to do so.

G. Contracts Authorized by Tariff--Tariff sheets expressly providing that a written contract shall be executed by a customer as a condition to the receipt of service, relating either to the quantity or duration of service or the installation of equipment, the contract need not be filed with the Commission. A copy of the general form of contract to be used in each case shall be filed with the tariff as provided in these rules.

This contract shall be subject to changes or modifications by the Commission.

KEY: rules and procedures, public utilities, tariffs, utility regulations

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	54-4-1
	54-4-4
	54-7-12

R805. Regents (Board of), University of Utah, Administration.
R805-1. Operating Regulations for Bicycles, Skateboards, Rollerskates and Scooters (Non-Motorized Riding Devices).
R805-1-1. Purpose and Scope.

A. The purpose of this Rule is to govern the operation and use of non-motorized riding devices, including bicycles, skateboards, rollerskates and scooters, on the campus of, or on other premises owned, operated or controlled by, the University of Utah.

The University wishes to encourage and facilitate the use of non-motorized forms of transportation to, from and across the University campus while also ensuring a safe environment for pedestrians, reducing risks of personal injury for pedestrians or device riders, and avoiding damage to University facilities caused by inappropriate use of devices on University premises. This Rule is intended to balance these interests.

B. This Rule governs the use of non-motorized riding devices by members of the public who visit the University of Utah campus. It is not intended to govern use by current University students and faculty, University employees, and other persons who are formally affiliated with the University. The use of such devices on University premises by members of the University community is governed by University of Utah Policy 3-232.

This Rule is not intended to govern the use of any non-motorized riding device carried out as a planned part of a special event specifically approved by University officials to be conducted on University premises, including a riding competition, exhibition, or similar event. Use of riding devices as part of any such event will be governed by the terms of any applicable contract or event rules.

R805-1-2. Definitions.

These definitions apply for the limited purposes of this Rule.

A. "Bicycle" means a device propelled by human power upon which a person may ride having two tandem wheels either of which is more than 12 inches in diameter. It also includes any device generally recognized as a bicycle, although equipped with more than one front or rear wheel (e.g., a tricycle).

B. "Skateboard" means a non-motorized device consisting of two or more wheels affixed to a platform or footboard upon which a rider stands and which does not have steering capability similar to that of a bicycle or brakes which operate on or upon the wheels of the skateboard. It also includes every device generally recognized as a skateboard.

C. "Scooter" means a non-motorized device consisting of two or more wheels affixed to a platform or footboard upon which a rider stands and which has a handle or other mechanism for holding or guiding the device. It also includes every device generally recognized as a scooter. It does not include mopeds, whether operated with or without motor power. For the purpose of this Rule mopeds and motorcycles are considered motor vehicles, and are not within the scope of this Rule.

D. "Rollerskates" means a device consisting of a shoe with a set of wheels attached for skating or a metal frame with wheels attached that can be fitted to the sole of a shoe worn by a person. It includes in-line skates, rollerblades and every device generally recognized as rollerskates.

E. "University premises" means the University campus and any other real property or structure located on real property owned, operated or controlled by the University of Utah.

F. "Non-motorized riding device" means any non-motorized device designed or used for riding by one or more persons including any bicycle, skateboard, scooters, or rollerskates, as defined above. "Non-motorized riding device" does not include a wheelchair or similar device when being used for transportation by any person with disabilities or a baby stroller or similar device when being used for transporting any child.

G. "Visitor" means a member of the public who visits University premises and is not a student, employee or other person who is formally affiliated with the University.

R805-1-3. Rule.

A. Permissible and Impermissible Uses of Non-Motorized Riding Devices.

1. In areas where designated bicycle paths are provided, bicycles may only be ridden in such designated bicycle paths. Where bicycle paths are not available for reaching a particular location, bicycles may be ridden upon roadways and pedestrian sidewalks to reach such areas. However, the University may identify and by appropriate signage designate some locations in which bicycle riding is prohibited either permanently or during certain time periods (e.g., restricting bicycle riding on certain highly congested pedestrian walkways during designated periods). Bicycle riders shall comply with all official traffic control devices and signs including posted signs prohibiting riding in a particular designated location. Bicyclists may dismount and walk their bicycles across any pedestrian accessible area in which bicycling riding is prohibited.

2. Skateboards, scooters and rollerskates (or other non-motorized riding devices other than bicycles) may only be ridden upon designated bicycle paths and pedestrian pathways. Riding such devices on roadways or in parking lots is strictly prohibited at all times--because the University has determined that such uses would present unacceptable risks of injury to riders and other users, and unacceptable impeding of motor vehicle traffic in such areas. Also, the University may identify and by appropriate signage designate certain areas in which riding of any particular type of non-motorized device is prohibited (e.g., it may designate certain pedestrian pathways as off-limits for skateboard riding because risks of personal injury are heightened due to steep grades or congestion). Persons riding such non-motorized riding devices shall comply with all official traffic control devices and signs including posted signs prohibiting riding in a particular designated location. Device users may dismount and carry their devices across any pedestrian accessible area in which riding of such devices is prohibited.

3. Non-motorized riding devices, of any type, shall not be ridden upon any stairway, wall, bench, fountain, or other structure or facility, or on or over landscaping, shrubbery, grass or flower beds. Such devices shall not be ridden within any building or parking structure.

4. Every person riding a non-motorized riding device in any pedestrian accessible area shall yield the right of way to pedestrians at all times.

5. Every person riding a non-motorized riding device shall ride their device in a controlled manner and shall exercise due care and reasonable caution to prevent injury to others, to self, or to property.

6. No person riding a non-motorized riding device shall exceed a reasonable and proper speed under the circumstances then and there existing (including the limited braking or steering capabilities of the device). In no instance shall any person operate a non-motorized riding device at a speed greater than 10 miles per hour upon any bicycle path, sidewalk or other pedestrian pathway.

7. Non-motorized riding device shall not be ridden two or more abreast on any bicycle path, sidewalk or pedestrian walkway.

8. No non-motorized riding device shall be used to carry more persons at one time than the number for which it is designed and equipped, except that an adult bicycle rider may carry a child securely attached to his/her person in a backpack or sling or in a child carrier securely attached to the bicycle. No

bicycle rider shall carry any package, bundle, or other article which may prevent the rider from keeping at least on hand on the handle bars.

9. No person riding a non-motorized riding device shall attach the same in any manner to any moving motor vehicle, except that this shall not prohibit the attaching to a bicycle of a bicycle trailer or semitrailer specifically designed for such attachment.

10. Every bicycle ridden on University premises shall be equipped with such brakes, reflectors and other safety devices as are required by Utah state law for operating a bicycle on streets or highways.

11. No non-motorized riding devices of any type shall be left unattended or parked on or at ramps, entrances or other facilities designated for persons with physical disabilities or in such a manner as to impede the free and clear use of such facilities.

12. No non-motorized riding devices shall be left unattended or parked in the public areas of any building, including but not limited to hallways, stairwells, and classrooms. Such devices shall not be left unattended or parked at or near any building entrance or exit in such manner as to impede the free and clear use of such areas.

13. No non-motorized devices shall be parked at or attached to any fire hydrant, standpipe, building service equipment or other safety device.

B. Sanctions for Impermissible Uses

1. Any Visitor who violates sections III(A)(1) through III(A)(10), above may be subject to the following sanctions:

a. For a first offense, the University will record the individual's name and provide a written warning against further non-motorized riding device use in violation of this Rule. If, at the time of violation, an individual does not produce satisfactory identification, his/her non-motorized riding device will be impounded. The non-motorized riding device will be released when the individual presents appropriate proof of the individual's identification to the University's Department of Public Safety. There is no impoundment fee (or any fine) for the first offense. (However, note that per section III-E below, any violation which results in serious injury to another person or major damage to property could result in criminal prosecution or civil liability under applicable Utah state law. In such serious cases, a Public Safety officer may take the device into custody as evidence).

b. For a second offense which takes place within twenty-four months of an individual's first offense or warning, the non-motorized riding device will be impounded for not less than forty-eight hours and the individual shall be required to pay a fine of not less than $100 dollars plus the applicable impoundment fee.

c. For offenses after an individual's second offense, which are within twenty-four months of the individual's immediately preceding offense, the non-motorized riding device will be impounded for not less than thirty calendar days and the offender shall be subject to an escalating schedule of fines for each offense beyond the second offense, plus the applicable impoundment fee.

d. In appropriate cases, including but not limited to chronic or flagrant violations of this Rule, Visitors may be prohibited from riding or using non-motorized devices on University premises, permanently or for a designated period.

e. In appropriate cases, including but not limited to chronic or flagrant violations of this Rule, Visitors may be subject to eviction or denial of access to University premises.

2. Any Visitor who violates sections III(A)(1) through III(A)(14), above may be subject to the following sanctions:

a. Receipt of a violation notice which will be processed and settled through the office of Commuter Services. Violation notice fees shall be paid within seven working days of receipt of the notice. After the seven day period, additional fees or penalties will be invoked. It is the responsibility of the recipient of a violation notice to promptly settle it.

b. Non-motorized devices parked or placed in prohibited areas will be impounded, or otherwise secured by the Department of Public Safety. Non-motorized devices parked or placed in areas where they may constitute a hazard to others will be removed and impounded.

3. The sanctions set forth under section III(B)(2) will not be applied in an instance in which an individual receives sanctions under section III(B)(1) for the same offense.

4. All Utah state laws pertaining to non-motorized riding devices are in full force and effect on University premises. In particular, improper usage of such devices resulting in injury to other persons or property damage may subject the user to criminal prosecution or civil liability under applicable state law, in addition to any sanctions provided for under this Rule.

C. Impoundment

Impounded non-motorized riding devices will be held by the University's Department of Public Safety or office of Commuter Services and released only during regular business hours to individuals with satisfactory identification. Payment of an impoundment fee (not to exceed $25) will also be required for release, except as provided in (III)(B)(1)(a) above.

Devices impounded under this section will be held for a maximum of sixty days following the applicable impoundment period. Devices not retrieved during this period are presumed to have been abandoned and will be subject to disposal by University Surplus and Salvage. The device owner who has abandoned his/her device shall not be entitled to repurchase the device at University Surplus and Salvage.

The University and its officers, agents, and employees shall not be liable for loss or damage of any kind resulting from impounding, storage, or sale of any item under this section.

Impoundment or sale of any non-motorized riding device under this section shall neither substitute for, nor release any person from, liability for damage to persons or property caused by use of a non-motorized device on University premises (under applicable Utah law per Part III-E); nor does it remove the obligation for any fines or fees associated with the violation or other outstanding citations. Any proceeds resulting from the sale of a non-motorized riding device will be credited toward the outstanding fee associated with the impoundment of that device.

D. Appeals

1. Impoundments and fines or fees assessed pursuant to Section III(B)(1) above may be appealed to the Office of the Vice President for Administrative Services. The decision of the Vice President for Administrative Services, or his designee, shall be final.

2. Violation notices provided pursuant to Section III(B)(2) above may be appealed to the University's office of Commuter Services under the same rules, including time limitations, as parking violation notices. See Policy 5-206 Vehicle Parking Policy. An adverse ruling of an Appeals Officer may be appealed to the Parking Appeals Committee under the same rules, including time limitations, as parking violation notices. The decision of the Parking Appeals Committee shall be final.

KEY: bicycles, pedestrians, safety, speed limits, skateboards
August 21, 2013 53B-2-106
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76-8-701 et seq.

R918. Transportation, Operations, Maintenance.
R918-6. Maintenance Responsibility at Intersections, Overcrossings, and Interchanges between Class A Roads and Class B or Class C Roads.
R918-6-1. Authority.

Section 72-1-201 assigns to the Utah Department of Transportation general responsibility for the maintenance of the state transportation system, and directs the department to make policy and rules governing the same, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act. Sections 72-3-102, 72-3-103, and 72-3-104 assign maintenance responsibility for Class A Roads (state roads), Class B Roads (county roads), and Class C Roads (city streets), to the state, counties, and municipalities, respectively. Section 72-1-208 directs the department to cooperate with counties and municipalities in the maintenance of highways and allows the department to provide maintenance services to them under terms mutually agreed upon. Section 72-3-109 delineates the division of responsibilities for state highways within cities and towns. Section 72-6-105 provides that the department may enter into written agreements with counties and municipalities for the maintenance of any highway.

R918-6-2. Purpose and Background.

(1) The purpose of this rule is to assign maintenance responsibility between the department and the local government entity for roadway and roadside features at the intersection of state and local roads, including grade-separated interchanges, overcrossings, undercrossings, and at-grade intersections.

(2) In general, the department is responsible for the maintenance of all state roads, including roadside features associated with those roads, except as otherwise delineated in state law. Likewise, county and municipal governments are responsible for roads under their jurisdiction.

(3) In the case of bridges, the department is responsible for the maintenance of bridges on the state highway system, and county and municipal governments are responsible for maintenance of bridges on their respective road systems. UDOT is responsible for, and carries out, inspections on all highway bridges located on public roads, both on the state highway system and on the local road system, on a schedule that results in an inspection for each bridge every two years. Prior to a scheduled inspection, local government will be notified and invited to attend the inspection. Subsequent to each inspection, UDOT supplies a bridge inspection summary to the entity responsible for maintenance of the bridge (UDOT maintenance shed in the case of bridges on the state highway system, or the local government in the case of bridges on the local road system), which describes recommended preventive and rehabilitative bridge maintenance actions, and which, in the case of bridges carrying a local road over a state highway, indicates which maintenance and preventive actions are the responsibility of the local government. The responsible jurisdiction is then expected to perform the actions recommended in the bridge inspection summary, in order to keep the bridge in a state of good repair.

(4) Where state roads intersect with roads under local jurisdiction, either at grade or at a grade separation, confusion sometimes arises regarding the maintenance responsibility for specific features at those locations. This rule is intended to clarify which jurisdiction has responsibility for which elements at those locations, and to address the large majority of such situations. Sometimes, however, unusual circumstances or geometry may render a logical division of responsibilities difficult. In those cases, formal agreements between the parties involved are appropriate and encouraged. The language in this rule was developed to encourage consistency regarding maintenance responsibilities between the department and local government. It is recognized the traveling public may benefit in some cases from deviations from the guidelines set forth in this rule to meet the capabilities and skills available individually at the department's maintenance sheds and/or local road departments. In such cases, Region Directors of the department and local officials should together evaluate the guidelines and deviate from them as necessary and as mutually agreed upon, to meet the needs of a specific situation. Open and frequent communication supported by a written agreement is strongly encouraged.

R918-6-3. Definitions.

For the purpose of this rule, the following definitions apply:

(1) "At-grade intersection" means a surface street intersection that may be signalized or unsignalized, where one or more of the intersecting streets are state routes;

(2) "Department", or "UDOT", means the Utah Department of Transportation;

(3) "Full control of access", means access to adjoining land that is designated as no access or limited access by means of the right-of-way instrument;

(4) "Grade-separated interchange" means an intersection where the state road or interstate highway and the local road are separated from each other by one or more structures, and where access between the two roads is provided by means of entrance and exit ramps;

(5) "Local road" means any road under the jurisdiction of any public entity other than UDOT. The entity may be a county, a municipality, or an agency of the federal government;

(6) "Overcrossing" means a grade-separated intersection where no access between the intersecting roadways is provided, and where the state road or interstate highway crosses over the local road;

(7) "Undercrossing" means a grade-separated intersection where no access between the intersecting roadways is provided, and where the state road or interstate highway crosses under the local road.

R918-6-4. General Maintenance Responsibilities.

(1) Signal Systems. Maintenance responsibility for all signal systems on state roads, and components that are required for the functionality of those systems, belongs to UDOT. This includes detection and signing on the local legs of the intersection.

(2) Park Strips, Sidewalks, and Pedestrian Ramps. Maintenance responsibility for park strips and sidewalks, including that portion of pedestrian access ramps behind the curb, belongs to the local government. Replacement and upgrading as part of road improvement projects may be done by UDOT.

(3) Curb and Gutter. Maintenance responsibility for curb and gutter belongs to UDOT for state routes, and to the local government for local routes. UDOT responsibility on the local leg extends to the point of tangency of the curb radius.

(4) Snow Removal. Responsibility for snow removal from the roadway belongs to UDOT for state routes, and to the local government for local routes. UDOT is responsible for snow removal on ramps at interchanges on state routes.

(5) Pavement Maintenance. Responsibility for roadway pavement maintenance belongs to UDOT for state routes, and to the local government for local routes. This includes the pavement surface on or under bridges. For at-grade intersections, UDOT is responsible for pavement maintenance through the intersection, bounded by a line extending to the point of tangency of the edge of oil, or of the curb return if a curb exists, on the local leg. If the geometry of the approach is unusual, such as angled instead of rounded, UDOT responsibility shall extend to a point agreeable to both parties. In no case, however, shall UDOT responsibility extend beyond

the right-of-way line. UDOT is responsible for pavement maintenance on ramps at interchanges on state routes.

(6) Traffic Islands. Responsibility for traffic islands belongs to UDOT for state routes, and to the local government for local routes. For at-grade intersections, UDOT is responsible for island maintenance through the intersection. Maintenance responsibility for any landscaping within traffic islands is described in R918-6-4(15).

(7) Pavement Striping and Messages. Responsibility for pavement striping and marking belongs to UDOT for state routes, and to the local government for local routes. Local jurisdiction responsibility includes stop bars and crosswalks on the local legs of unsignalized intersections. At signalized intersections, UDOT is responsible for stop bars and crosswalks on all legs, and the local government is responsible for lane lines and other markings or messages on the local legs.

(8) Highway Lighting. Responsibility for maintenance, including payment of power bills, repairs and replacement when necessary, of highway lighting is divided as follows.

(a) UDOT is responsible for:

(i) mainline interstate, interchange, and interstate underpass lighting;

(ii) cross street underpass lighting at interchanges with on/off ramps;

(iii) sign lighting on state routes or along the interstate corridor;

(iv) traffic signals on state routes or interstate corridor off ramps;

(v) unsignalized intersection lighting at on or off ramp intersecting cross street; and

(vi) signal-attached lighting at non-traditional signalized intersections, such as Diverging Diamond Interchanges (DDI), and Single Point Urban Interchanges (SPUI).

(b) Local government is responsible for:

(i) street lighting along state routes, other than interstate;

(ii) non-interstate cross street underpass lighting where no interchange on or off ramps occur;

(iii) all decorative lighting requested by the municipality or county including street, bridge, and underpass lighting; and

(iv) lighting at traditional signalized intersections along state routes.

(9) Signs. Responsibility for signs belongs to UDOT for signs facing traffic on state routes, and to the local government for signs facing traffic on local routes, with the exception that UDOT is responsible for traffic control, route marker, junction, and guide signs associated with a state route but facing traffic on a local route. For STOP and YIELD signs on the local legs of unsignalized intersections, the local government is responsible for initial installation, non-safety critical maintenance such as minor vandalism, graffiti, or leaning, and coordination with UDOT to identify and correct fading (loss of retroreflectivity), and UDOT is responsible for safety critical maintenance such as replacement of knock-downs. At signalized intersections, UDOT is responsible for signs mounted on the signal mast arm. UDOT will coordinate the installation of signs on local routes with the local agency prior to sign installation. The local government is responsible for street name signs, except those mounted on signal mast arms.

(10) Crash Cushions, Barrier, Etc. Responsibility for crash cushions, barrier, guardrail, and end treatments, belongs to UDOT for those elements protecting traffic on state routes, and to the local government for those protecting traffic on local routes.

(11) Sweeping. Responsibility for roadway sweeping belongs to UDOT for state routes, and to the local government for local routes. UDOT is responsible for sweeping on ramps at interchanges.

(12) Graffiti. Graffiti removal from structures is the responsibility of the entity having the best access to the graffiti. In general, that is the entity having jurisdiction of the road underneath the structure.

(13) Cattle Guards. UDOT provides cattle guards within the rural area of the State at all freeway access points to fully controlled access highways, either on the cross road or the entrance ramps, as necessary to meet the requirements of the particular location. Responsibility for maintenance of these cattle guards belongs to UDOT. Where cattle guards exist along partially controlled access state roads, either across a local road or a private road, responsibility for maintenance of the cattle guard belongs to the local jurisdiction or to the private property owner.

(14) Weed Control. In accordance with Section 72-3-109, responsibility for weed control and mowing behind the curb or beyond the shoulder at at-grade intersections, both signalized and unsignalized, belongs to the local government. On facilities with full control of access, UDOT will be responsible for weed control and mowing to a point that ensures adequate sight distance.

(15) Decorative Landscaping. Responsibility for maintenance of landscaping beyond the baseline described in UDOT Aesthetics Guidelines, including irrigation systems, belongs to the local jurisdiction.

(16) Drainage Facilities such as catch basins, culverts, etc. In general, storm drain systems and culverts will be maintained by the owner of the drainage facility, unless otherwise stipulated in a cooperative agreement. Catch basins and their connector pipes at intersections will be maintained by the entity having jurisdiction for the road.

R918-6-5. Maintenance Responsibility at Overcrossings and at Interchanges where the State Route Crosses Over the Local Route.

(1) UDOT is responsible for:

(a) maintenance, repairs, and replacement of all structure elements, including decks, parapets, bent caps, beams, columns, footings, abutments, approach slabs, and slope protection;

(b) maintenance of drains on the structure;

(c) maintenance of retaining walls;

(d) fence maintenance on the structure and its approaches and ramps; and

(e) vegetation control, including mowing, along the state route, as demarcated by access control or Right-of-Way fencing.

(2) The local jurisdiction is responsible for:

(a) maintenance of drainage under the structure;

(b) vegetation control, including mowing, along the local route, as demarcated by access control or Right-of-Way fencing; and

(c) maintenance of decorative landscaping beyond the UDOT Aesthetics Guideline baseline, as described in R918-6-4(15).

(3) If the local entity proposes a pavement treatment that would decrease vertical or horizontal clearance under the structure to less than the current standard, or that would potentially compromise the integrity of substructure elements, such work shall be done in consultation with UDOT.

R918-6-6. Maintenance Responsibility at Undercrossings and at Interchanges where the State Route Crosses Under the Local Route.

(1) UDOT is responsible for:

(a) Providing a bridge inspection summary for all structures to the local entity, indicating which recommended actions are the responsibility of the local entity;

(b) major structure rehabilitation, including repair or replacement of parapets, bent caps, beams, columns, footings, abutments, approach slabs, and slope protection;

(c) deck rehabilitation where necessary to preserve the structural integrity of the bridge such as where the rebar is

exposed;

(d) structural replacement of bridge joints;

(e) maintenance of retaining walls;

(f) maintenance of drainage under the structure;

(g) vegetation control, including mowing, along the state route, as demarcated by access control or Right-of-Way fencing; and

(h) fence maintenance under the structure.

(2) The local jurisdiction is responsible for:

(a) routine maintenance and preventive maintenance actions indicated in the bridge inspection summary to be the responsibility of the local entity. This maintenance normally includes deck overlay/seal treatments, deck pothole patching, parapet surface repair and sealing, bridge joint cleaning and sealing, and drain cleaning and maintenance. If UDOT performs a deck rehabilitation project involving pothole patching and an overlay system, the local owner is responsible to maintain the overlay upon completion of the initial installation. If the local entity proposes a deck treatment that would add static load to the structure, such work shall be done in consultation with UDOT;

(b) submitting records to UDOT Structures Division of deck and parapet maintenance work performed by the local jurisdiction according to the recommendations in the bridge inspection summary. If the local jurisdiction does not perform the preventive maintenance work, and rehabilitation work becomes necessary, the local jurisdiction and UDOT will meet to negotiate how the cost of the rehabilitation work to be performed will be shared;

(c) fence maintenance on the structure and its approaches;

(d) vegetation control, including mowing, along the local route, as demarcated by access control or Right-of-Way fencing; and

(e) maintenance of decorative landscaping beyond the UDOT Aesthetics Guideline baseline, as described in R918-6-4(15).

KEY: maintenance, intersections, interchanges, structures

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	72-3-102
	72-3-103
	72-3-104
	72-3-109
	72-6-105

R982. Workforce Services, Administration.
R982-800. Utah Data Research Center.
R982-800-101. Background; Definitions.

(1) The rules in this chapter govern data research requests made to the Utah Data Research Center established pursuant to Utah Code Ann. Section 35A-14-101 et seq.

(2) Terms used in these rules that are defined in Section 35A-14-101 et seq. have the same definitions as stated in those statutes.

(3) In addition, the following definitions apply:

(a) "Primary requester" means one of the following, as set forth in Utah Code Ann. Subsection 35A-14-302(3)(a):

(i) A legislative committee or a legislative staff office;

(ii) The governor or an executive branch agency;

(iii) The State Board of Education;

(iv) The State Board of Regents; or

(v) The Utah College of Applied Technology.

(b) "Ancillary requester" means one of the following, as set forth in Utah Code Ann. Section 35A-14-302:

(i) A state government entity that is not a primary requester;

(ii) A political subdivision of the state;

(iii) A private entity; or

(iv) A member of the public.

(c) "Requester" means a person making a data research request.

R982-800-102. Data Research Request Procedures.

(1) Data research requests shall be submitted via an electronic form available on the center's website.

(2) Each data research request must include the information set forth in Section R982-800-104. If the requester fails to include that information:

(a) In the case of a primary requester, the center shall seek the necessary additional information and clarification from the requester, and may decline to act on the request until the necessary additional information and clarification is received;

(b) In the case of an ancillary requester, the center may:

(i) Seek the necessary additional information and clarification from the requester, and may decline to act on the request until the necessary additional information and clarification is received; or

(ii) Deny the request and provide to the requester the reason(s) for the denial of the request.

(3)(a) If the center accepts a data research request from an ancillary requester, the center shall submit to the ancillary requester a payment agreement setting forth at least the following:

(i) The reasonable estimated cost of completing the data research request; and

(ii) The obligation of the ancillary requester to pay the full cost of completing the data research request, even if the full cost differs from the reasonable estimated cost.

(b) The ancillary requester shall execute the payment agreement and return it to the center. If the ancillary requester fails or refuses to execute and return the payment agreement, the center may decline the data research request.

R982-800-103. Criteria for Priority of Data Research Requests.

(1) The director, with consultation by the advisory board, shall use the following criteria to determine the priority of the data research requests the center receives:

(a) The type of requester;

(b) The potential of the requester's research to lead to meaningful policy changes or other meaningful impacts for members of the general public; and

(c) The availability of the data being requested.

(2) The director, with consultation by the advisory board, shall evaluate the criteria described in Subsection (1) and assign a numerical score for each data research request. The data research request with the highest score shall be given the highest priority. Remaining data research requests are sorted in order thereafter.

(3) The director, with consultation by the advisory board, may, in his or her discretion, deviate from the criteria described in Subsection (1) if the requester makes a showing of compelling public interest sufficient to justify deviating from the criteria.

R982-800-104. Information Required for Data Research Requests.

(1) The following information shall be included in every data research request:

(a) The name of the requester;

(b) The agency or organization with which the requester is affiliated, if any;

(c) The requester's thesis, together with the research question(s) the requester is seeking to answer, described in sufficient detail to allow the center to properly evaluate the request;

(d) A specific description of the data the requester is seeking, including the date range(s) and the variable(s) being studied; and

(e) Any applicable timeframes or deadlines by which the requester seeks to obtain the data being requested.

(2) The center may request other information in addition to the information listed in Subsection (1).

KEY: Utah Data Research Center, data research requests
March 1, 2018 35A-14-302