

# UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT  
Filed May 2, 2003, 12:00 a.m. through May 15, 2003, 11:59 p.m.

Number 2003-11  
June 1, 2003

Kenneth A. Hansen, Director  
Nancy L. Lancaster, Editor

The *Utah State Bulletin (Bulletin)* is an official noticing publication of the executive branch of Utah State Government. The Department of Administrative Services, Division of Administrative Rules produces the *Bulletin* under authority of Section 63-46a-10, *Utah Code Annotated* 1953.

Inquiries concerning administrative rules or other contents of the *Bulletin* may be addressed to the responsible agency or to: Division of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone (801) 538-3218, FAX (801) 538-1773. To view rules information, and on-line versions of the division's publications, visit: <http://www.rules.utah.gov/>

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

Division of Administrative Rules, Salt Lake City 84114

All materials in this publication are in the public domain and may be reproduced, Reprinted, and/or redistributed as desired. Citation to the source is requested.

Printed in the United States of America

**Library of Congress Cataloging-in-Publication Data**

Utah state bulletin.

Semimonthly.

1. Delegated legislation--Utah--Periodicals.
2. Administrative procedure--Utah--Periodicals.
- I. Utah. Office of Administrative Rules.

KFU440.A73S7

348.792'025--DDC

85-643197

# TABLE OF CONTENTS

---

## 1. SPECIAL NOTICES

Governor, Administration: Governor's Executive Order: Integrating Alternative Dispute Resolution (ADR) Into State Government .....	1
Governor, Administration: Governor's Proclamation: Calling the Fifty-Fifth Legislature into the First Special Session .....	3
Governor, Administration: Governor's Proclamation: Supplemental to the First Special Session for the Fifty-Fifth Legislature .....	4

## 2. NOTICES OF PROPOSED RULES

### Commerce

Administration	
No. 26260 (Amendment): R151-33-102. Definitions .....	6
Occupational and Professional Licensing	
No. 26284 (Amendment): R156-60c. Professional Counselor Licensing Act Rules .....	7

### Environmental Quality

Air Quality	
No. 26282 (Amendment): R307-840. Lead-Based Paint Accreditation, Certification and Work Practice Standards .	9
Radiation Control	
No. 26270 (Amendment): R313-26. Generator Site Access Permit Requirements for Accessing Utah Radioactive Waste Disposal Facilities .....	11

### Health

Health Care Financing, Coverage and Reimbursement Policy	
No. 26264 (Amendment): R414-1. Utah Medicaid Program .....	13
No. 26246 (Amendment): R414-7A-5. Certification of Additional Nursing Facility Programs .....	15
No. 26267 (Amendment): R414-21. Physical and Occupational Therapy .....	16
No. 26265 (Amendment): R414-49. Dental Service .....	20
No. 26266 (Amendment): R414-50. Dental, Oral and Maxillofacial Surgeons .....	21
No. 26268 (Amendment): R414-305. Resources .....	23

### Human Services

Administration	
No. 26261 (Amendment): R495-879. Parental Support for Children in Care .....	28

### Insurance

Administration	
No. 26283 (Amendment): R590-152. Medical Discount Programs Rule .....	30
No. 26285 (Repeal and Reenact): R590-176. Small Employer Open Enrollment Rule .....	31

### Labor Commission

TABLE OF CONTENTS

---

Industrial Accidents  
No. 26286 (Amendment): R612-2-5. Regulation of Medical Practitioner Fees .....35

Natural Resources  
Wildlife Resources  
No. 26273 (Amendment): R657-27. License Agent Procedures.....36  
No. 26272 (Amendment): R657-34. Procedures for Confirmation of Ordinances on Hunting Closures .....41  
No. 26271 (Amendment): R657-37. Cooperative Wildlife Management Units for Big Game.....42  
No. 26277 (Amendment): R657-42. Accepted Payment of Fees, Late Fees, Exchanges, Surrenders, Refunds and Reallocation of Licenses, Certificates of Registration and Permits.....45  
No. 26276 (Amendment): R657-44. Big Game Depredation .....46  
No. 26279 (Amendment): R657-45. Wildlife License, Permit, Certificate of Registration, Habitat Authorization and Heritage Certificate Forms.....52

Public Safety  
Driver License  
No. 26287 (Amendment): R708-2. Commercial Driver Training Schools .....53  
No. 26288 (Amendment): R708-37. Certification of Licensed Instructors of Commercial Driver Training Schools to Administer Driving Skills Tests .....62  
Fire Marshal  
No. 26281 (Amendment): R710-6. Liquefied Petroleum Gas Rules .....65  
No. 26269 (Amendment): R710-8-3. Day Care Rules .....68  
No. 26289 (Amendment): R710-9. Rules Pursuant to the Utah Fire Prevention Law.....69

**3. NOTICES OF 120-DAY (EMERGENCY) RULES**

Health  
Health Care Financing, Coverage and Reimbursement Policy  
No. 26244: R414-1-5. State Plan .....73

Human Services  
Aging and Adult Services  
No. 26259: R510-100-2. In-Home Services.....74  
Child and Family Services  
No. 26258: R512-100. Home Based Services.....76  
No. 26256: R512-200. Child Protective Services, Intake Services .....78  
No. 26255: R512-201. Child Protective Services, Investigation Services.....80  
No. 26254: R512-202. Allegations Categories .....82  
No. 26252: R512-300. Out of Home Services .....84  
No. 26253: R512-301. Out of Home Services, Responsibilities Pertaining to a Parent or Guardian .....86

---

No. 26250: R512-302. Out of Home Services, Responsibilities Pertaining to an Out of Home Caregiver .....	89
No. 26257: R512-305. Out of Home Services, Independent Living Services.....	91
No. 26251: R512-500. Kinship Services .....	93
<b>4. FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION</b>	
<u>Environmental Quality</u>	
Air Quality	
No. 26249: R307-840. Lead-Based Paint Accreditation, Certification and Work Practice Standards .....	95
<u>Natural Resources</u>	
Wildlife Resources	
No. 26274: R657-34. Procedures for Confirmation of Ordinances on Hunting Closures .....	95
No. 26275: R657-37. Cooperative Wildlife Management Units for Big Game.....	96
No. 26278: R657-42. Accepted Payment of Fees, Exchanges, Surrenders, Refunds and Reallocation of Licenses, Certificates of Registration and Permits.....	97
No. 26280: R657-45. Wildlife License, Permit, Certificate of Registration, Habitat Authorization and Heritage Certificate Forms .....	97
<b>5. NOTICES OF RULE EFFECTIVE DATES .....</b>	<b>99</b>
<b>6. RULES INDEX.....</b>	<b>100</b>



# SPECIAL NOTICES

---

## GOVERNOR'S EXECUTIVE ORDER: INTEGRATING ALTERNATIVE DISPUTE RESOLUTION (ADR) INTO STATE GOVERNMENT

**WHEREAS**, this administration is committed to ensuring that state agencies utilize the most efficient and effective means of resolving disputes in fulfilling the mission of the state government;

**WHEREAS**, to be effective in addressing the wide array of issues that face the state, agencies need to employ a variety of strategies and problem-solving tools;

**WHEREAS**, alternative dispute resolution (ADR) methods offer an opportunity to resolve disputes in a collaborative manner;

**WHEREAS**, ADR has proven successful in resolving and preventing public and private conflicts;

**WHEREAS**, the appropriate use of ADR methods by state agencies and the state's partners will improve public services by providing for broad input on, and creative resolutions to, complex public policy disputes; and

**WHEREAS**, the Government Dispute Resolution Act, Title 63, Chapter 46c of the Utah Code, authorizes public agencies in Utah to utilize ADR procedures and to appoint ADR coordinators to assist them for that purpose:

**NOW, THEREFORE**, I, Michael O. Leavitt, Governor of the State of Utah, by virtue of the authority vested in me by the laws and constitution of the state, hereby order the following:

1. The chief executive of each department and the director of each executive branch agency that functions independently of a department shall:

- a. in the case of agencies of more than 50 FTE's, designate an agency ADR Coordinator, who shall:
  - i) participate as a member of the State ADR Council to review the agency's processes for managing conflicts and controversies;
  - ii) participate in training or certification as determined by the ADR Council; and
  - iii) coordinate efforts within the agency to design, evaluate and implement ADR systems;
- b. for agencies of 50 or fewer FTE's, arrange for a representative to participate on the ADR Council on the agency's behalf; and
- c. in any case, deploy and support ADR systems within the agency by providing staff, budget, and opportunity consistent with law, agency circumstances, and available resources.

2. An ADR Council is established consisting of representatives of all department level executive branch agencies and other participating agencies. The Office of the Governor shall designate the council chair. The chair shall establish the council's agenda and meeting schedule. As appropriate, the council shall:

- a. evaluate dispute resolution systems in state government;
- b. determine how ADR systems, such as facilitated discussions, mediation and collaboration, can be deployed to improve the efficient resolution of disputes;
- c. make recommendations for deploying ADR systems in state agencies; and
- d. identify and address barriers to the use of ADR systems in state agencies; and
- e. establish qualifications and selection criteria for appointing a state ADR executive director, in accordance with terms of the William and Flora Hewlett Foundation grant received for that purpose;
- f. prepare and submit to the Governor a statewide ADR needs assessment and plan that:
  - i) identifies current conflict management methods in effect throughout the state;
  - ii) identifies areas or types of disputes within various agencies that lend themselves to resolution through ADR systems;
  - iii) assesses training and staffing needs to put ADR systems into operation in state agencies;
  - iv) outlines training or certification standards for ADR neutrals; and
  - v) outlines strategies and time frames for putting ADR systems into operation.

## SPECIAL NOTICES

---

3. The state ADR executive director shall report to the Governor's Chief of Staff and shall work closely with the ADR Council, with the ADR Advisory Board, and with state agencies to:

- a. integrate dispute resolution systems into state government by providing consultation, technical assistance, and guidance to agency ADR coordinators as they develop ADR plans and programs;
- b. work with agencies, the Office of the Governor, the Attorney General, and the ADR community in Utah to identify opportunities and to implement ADR systems in state government;
- c. develop model policies and procedures to govern ADR systems in state agencies, and coordinate or assist with the delivery of ADR programs as needed, including identifying ADR resources and ensuring access to neutrals and training opportunities;
- d. develop certification standards, training curricula and standards, and training systems;
- e. track relevant data for evaluating ADR systems and make recommendations to improve integration of ADR systems in state government;
- f. prepare reports for the Governor of ADR activities as needed or requested, including:
  - i) agency utilization of ADR;
  - ii) evaluation of the effectiveness of ADR processes in the various agencies;
  - iii) ADR training delivered to agency employees;
  - iv) the implementation of any new ADR programs and projects;
  - v) the status of activities proposed or planned by the ADR Council; and
  - vi) the goals for improving the ADR systems over the next fiscal year; and
- g. prepare such reports as may be required for any grant-making organization.

4. The ADR Council, with approval of the Office of the Governor, may establish an advisory board of ADR practitioners to provide advice and guidance concerning establishment, maintenance, and improvement of ADR systems in the state agencies.

5. The state ADR executive director and ADR Council shall, on an annual basis or as appropriate, nominate to the Governor the recipient of the Utah Dispute Resolution Award to recognize outstanding service of an individual or agency in promoting the use of ADR in state government.

6. The purpose of this order is to facilitate and enhance the use of ADR in state government with a view to improving services to the public and avoiding unnecessary and costly litigation. The implementation of this order shall be carried out in a manner consistent with law and conducive to the mission of each agency involved. The state ADR executive director and ADR Council shall advise agency leaders how to improve agency operations and processes through appropriate ADR. If an agency dispute process or operation does not by its nature or by law lend itself to ADR, the state ADR executive director and the ADR Council shall serve as a resource in suggesting other appropriate improvements. Nothing in this order is intended to require the hiring of additional staff, the creation of new offices of government, or the adoption of administrative rules by an agency. The hiring of new personnel, including a state ADR executive director, is contingent on the availability of funding. The Governor's Chief of Staff is authorized to make final decisions with respect to all personnel and resources in carrying out this order.

7. This order is repealed December 31, 2004.

**IN WITNESS WHEREOF**, I have here unto set my hand and cause to be affixed the Great Seal of the State of Utah. Done at the State Capitol in Salt Lake City, Utah, this 7th day of May, 2003.

(STATE SEAL)

**MICHAEL O. LEAVITT**  
Governor

Attest:  
**OLENE WALKER**  
Lieutenant Governor



**GOVERNOR'S PROCLAMATION: CALLING THE FIFTY-FIFTH LEGISLATURE INTO THE FIRST SPECIAL SESSION**

**WHEREAS**, since the adjournment of the 2003 General Session of the Fifty-Fifth Legislature of the State of Utah, matters have arisen which require immediate legislative attention; and

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

**NOW, THEREFORE, I, MICHAEL O. LEAVITT**, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and the Laws of the State of Utah, do by this Proclamation call the Fifty-Fifth Legislature of the State of Utah into a Special Session at the State Capitol at Salt Lake City, Utah, on the 21st day of May, 2003, at 12:00 noon, for the following purposes:

1. to consider amendments to Utah Code Title 63B, Chapter 1a, Master General Obligation Bond Act;
2. and, to consider such other measures as may be brought to the attention of the Legislature by supplemental communication from the Governor before or during the Special Session hereby called.

**IN TESTIMONY WHEREOF**, I have here unto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the State Capitol in Salt Lake City, Utah, this 15th day of May, 2003.

(STATE SEAL)

**MICHAEL O. LEAVITT**  
Governor

**OLENE S. WALKER**  
Lieutenant Governor

**GOVERNOR'S PROCLAMATION: SUPPLEMENTAL TO THE FIRST SPECIAL SESSION FOR THE FIFTY-FIFTH LEGISLATURE**

**PURSUANT** to Item 2 of the Proclamation issued May 15, 2003, calling the Legislature into a first special session, I add the following items to the agenda:

1. To consider authorizing the transfer of money between funding sources at the end of the fiscal year to address any end-of-year imbalance.

(STATE SEAL)

**IN TESTIMONY WHEREOF**, I have here unto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the State Capitol in Salt Lake City, Utah, this 19th day of May, 2003.

**MICHAEL O. LEAVITT**  
Governor

**OLENE S. WALKER**  
Lieutenant Governor

**End of the Special Notices Section**

## NOTICES OF PROPOSED RULES

---

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between May 2, 2003, 12:00 a.m., and May 15, 2003, 11:59 p.m. are included in this, the June 1, 2003, issue of the *Utah State Bulletin*.

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

Following the RULE ANALYSIS, the text of the PROPOSED RULE is usually printed. New rules or additions made to existing rules are underlined (e.g., example). Deletions made to existing rules are struck out with brackets surrounding them (e.g., [~~example~~]). Rules being repealed are completely struck out. A row of dots in the text (· · · · ·) indicates that unaffected text was removed to conserve space. If a PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of each rule that is too long to print is available from the filing agency or from the Division of Administrative Rules.

The law requires that an agency accept public comment on PROPOSED RULES published in this issue of the *Utah State Bulletin* until at least July 1, 2003. The agency may accept comment beyond this date and will list the last day the agency will accept comment in the RULE ANALYSIS. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency to hold a hearing on a specific PROPOSED RULE. Section 63-46a-5 (1987) requires that a hearing request be received "in writing not more than 15 days after the publication date of the PROPOSED RULE."

From the end of the public comment period through September 29, 2003, the agency may notify the Division of Administrative Rules that it wants to make the PROPOSED RULE effective. The agency sets the effective date. The date may be no fewer than 31 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a CHANGE IN PROPOSED RULE in response to comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing lapses and the agency must start the process over.

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

PROPOSED RULES are governed by *Utah Code* Section 63-46a-4 (2001); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5, R15-4-9, and R15-4-10.

---

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

Commerce, Administration  
**R151-33-102**  
 Definitions

**NOTICE OF PROPOSED RULE**  
 (Amendment)

DAR FILE No.: 26260  
 FILED: 05/12/2003, 11:17

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment clarifies the definition of "nominal value" to more appropriately meet the intent of the Pete Suazo Utah Athletic Commission Act ("Act"). "Nominal value" was previously defined in rule as "retail value of less than \$500." However, the Commission believes that those who organize unregulated competitions might be misinterpreting the prior rule. The rule was to be enforced in conjunction with the Act, which defines a regulated contest purse as any "money, prize, or remuneration," but not a "trophy, medal, or similar object of nominal value." Therefore, the definition of "nominal value" has been amended to clarify that cash and other similar payments are not acceptable in unregulated competitions.

SUMMARY OF THE RULE OR CHANGE: Subsection R151-33-102(6) is amended to define "nominal value" as a trophy, plaque, or ribbon that is valued at no more that \$35.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 13, Chapter 33; and Subsections 13-33-102(4), 13-33-102(13)(b), and 13-33-202(2)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: No costs or savings is anticipated as a result of this rule change because it does not change administrative duties.

❖ LOCAL GOVERNMENTS: Local government is not affected by this rule, therefore there is no impact.

❖ OTHER PERSONS: This rule change should not pose a negative impact to any regulated or unregulated person or entity. The amendment clarifies the Commission's interpretation of the statute, but does not make a substantive change. Those who organize unregulated competitions might argue that such clarification will could cost them or their competition participants up to \$499. However, the rule change is necessary to properly implement the Act, which has always defined a regulated contest purse as one involving money, prize, remuneration, or any other valuable consideration of more than nominal value.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule change should not pose a negative impact to any regulated or unregulated person or entity. The amendment clarifies the Commission's interpretation of the statute, but does not make a substantive change. Those who organize unregulated competitions might argue that such clarification will could cost them or their competition participants up to \$499. However, the rule change is necessary to properly implement the Act, which has always defined a regulated contest purse as one

involving money, prize, remuneration, or any other valuable consideration of more than nominal value.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule amendment poses no fiscal impact to businesses beyond that which has already been anticipated by passage of the Pete Suazo Utah Athletic Commission Act. The amendment clarifies the definition of "nominal value" to better comply with the language and intent of the Act.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Masuda Medcalf at the above address, by phone at 801-530-7663, by FAX at 801-530-6446, or by Internet E-mail at mmedcalf@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/01/2003

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 6/17/2003 at 12:00 PM, Heber M. Wells Bldg., 160 E 300 S, Room 205, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 07/02/2003

AUTHORIZED BY: Ted Boyer Jr., Executive Director

**R151. Commerce, Administration.**

**R151-33. Pete Suazo Utah Athletic Commission Act Rule.**

**R151-33-102. Definitions.**

In addition to the definitions in Title 13, Chapter 33, the following definitions are adopted for the purpose of this Rule:

(1) "Boxing" means the sport of attack and defense using the fist, covered by an approved boxing glove.

(2) "Designated Commission member" means a member of the Commission designated as supervisor for a contest and responsible for the conduct of a contest, as assisted by other Commission members, Commission personnel, and others, as necessary and requested by the designated Commission member.

(3) "Drug" means a controlled substance, as defined in Title 58, Chapter 37, Utah Controlled Substances Act, or alcohol.

(4) "Elimination Tournament" means a contest involving unarmed combat in which contestants compete in a series of matches until not more than one contestant remains in any weight category.

(5) "Mandatory count of eight" means a required count of eight that is given by the referee of a boxing contest to a contestant who has been knocked down.

(6) "Nominal Value" means a trophy, plaque, or ribbon that is valued at no more that \$35[retail value of less than \$500].

(7) "Unprofessional conduct" is as defined in Subsection 13-33-102(21), and is defined further to include the following:

(a) as a promoter, failing to promptly inform the Commission of all matters relating to the contest;

(b) as a promoter, substituting a contestant in the 24 hours immediately preceding the scheduled contest without approval of the Commission;

(c) violating the rules for conduct of contests;

(d) testing positive for drugs or alcohol in a random body fluid screen before or after participation in any contest;

(e) testing positive for HIV;

(f) failing or refusing to comply with a valid order of the Commission or a representative of the Commission; and

(g) for a promoter and a contestant, entering into a secret contract that contradicts the terms of the contract(s) filed with the Commission.

**KEY: licensing, boxing, contests**

~~January 15, 2003~~

Notice of Continuation August 2, 2002

13-33-101 ~~through 13-33-904~~ et seq.



Commerce, Occupational and  
Professional Licensing  
**R156-60c**  
Professional Counselor Licensing Act  
Rules

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 26284

FILED: 05/15/2003, 10:20

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Professional Counselor Licensing Board are proposing amendments to correct education requirements in this rule so they are consistent the Council for Accreditation of Counseling and Related Educational Programs (CACREP) requirements for mental health therapy and to clarify which CACREP degrees are mental health therapy degrees and which CACREP degrees are not mental health therapy degrees. This area has caused confusion for applicants who may have a CACREP approved degree but who have not been adequately educated to engage in mental health therapy. Sometimes these persons have applied for licensure but have been denied until they complete a mental health therapy education program. Also corrects internship class to be a 900-hour program to match CACREP requirements.

SUMMARY OF THE RULE OR CHANGE: In Section R156-60c-102, increased internship hours from 600 to 900 hours of which 360 hours must be in the provision of mental health therapy. Added that if an applicant completes the internship prior to October 31, 2003, the 600-hour internship shall be acceptable. Deleted that the internship could also mean "five years of supervised experience engaged in the practice of

mental health therapy". In Section R156-60c-302a, amendments are made so education requirements match the (CACREP) requirements for mental health therapy. Amendments are also made to clarify that three semester hours are equivalent to four and 1/2 quarter hours; and to clarify which CACREP degrees are mental health therapy degrees and which CACREP degrees are not mental health therapy degrees.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-60-401, and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The Division will incur minimal costs, less than \$100, to reprint this rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.

❖ LOCAL GOVERNMENTS: Proposed amendments do not apply to local governments, therefore, there is no impact to local governments.

❖ OTHER PERSONS: The Division has determined that there should be no costs or savings to applicants for licensure as a professional counselor as a result of these proposed amendments as the amendments are only providing further clarification of education requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Division has determined that there should be no costs or savings to applicants for licensure as a professional counselor as a result of these proposed amendments as the amendments are only providing further clarification of education requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change contains amendments intended to clarify existing standards and procedures, and does not create any fiscal impact to businesses. Ted Boyer, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dan S. Jones at the above address, by phone at 801-530-6720, by FAX at 801-530-6511, or by Internet E-mail at dsjones@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/01/2003

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 6/11/2003 at 9:00 AM, 160 East 300 South, Conference Room 457 (Fourth Floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 07/02/2003

AUTHORIZED BY: J. Craig Jackson, Director

**R156. Commerce, Occupational and Professional Licensing.  
R156-60c. Professional Counselor Licensing Act Rules.**

**R156-60c-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 60, as used in Title 58, Chapters 1 and 60, or these rules:

(1) "Internship" means:

(a) ~~[600]900~~ clock hours of supervised counseling experience of which ~~[200]360~~ hours must be in the provision of mental health therapy. If an applicant completed the internship prior to October 31, 2003, the 600 hour internship under the prior rule shall be acceptable.~~[-or~~

~~—(b) five years of supervised experience engaged in the practice of mental health therapy.]~~

(2) "Practicum" means a supervised counseling experience in an appropriate setting of at least three semester or ~~[five]four and 1/2~~ quarter hours duration for academic credit.

(3) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 60 is further defined, in accordance with Subsection 58-1-203(5), in Section R156-60c-502.

**R156-60c-302a. Qualifications for Licensure - Education Requirements.**

(1) ~~[The recognized accredited institution of higher education in Subsection 58-60-405(1)(d) is one which is accredited by a professional accrediting body approved by the Council for Higher Education Accreditation of the American Council on Education at the time the applicant obtained the education.] Pursuant to Subsection 58-60-405(1)(d)(i), the degree and educational program which prepares one to competently engage in mental health therapy is established and clarified to be a masters or doctorate degree in Mental Health Counseling with the classification of a Marriage, Couple and Family Counseling/Therapy degree or Mental Health Counseling degree, which degree is received from an institution accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP), at the time the applicant obtained the education, which includes a minimum of 60 semester (90 quarter) hours of graduate studies and includes the specific course requirements as specified in Subsection (2).~~

(2) The core curriculum in Subsection 58-60-405(1)(d) shall consist of the following courses:

(a) a minimum of two semester or three quarter hours shall be in ethical standards, issues, behavior and decision-making;

(b) a minimum of two semester or three quarter hours shall be in professional roles and functions, trends and history, professional preparation standards and credentialing;

(c) a minimum of two semester or three quarter hours shall be in individual theory;

(d) a minimum of two semester or three quarter hours shall be in group theory;

(e) a minimum of six semester or nine quarter hours shall be in human growth and development. Examples are:

- (i) physical, social and psychosocial development;
- (ii) personality development;
- (iii) learning theory and cognitive development;
- (iv) emotional development;

(v) life-span development;

(vi) enhancing wellness;

(vii) human sexuality; and

(viii) career development;

(f) a minimum of three semester or ~~[five]four and 1/2~~ quarter hours shall be in cultural foundations. Examples are:

(i) human diversity;

(ii) multicultural issues and trends;

(iii) gender issues;

(iv) exceptionality;

(v) disabilities;

(vi) aging; and

(vii) discrimination;

(g) a minimum of six semester or nine quarter hours shall be in the application of individual and group therapy and other therapeutic methods and interventions. Examples are:

(i) building, maintaining and terminating relationships;

(ii) solution-focused and brief therapy;

(iii) crisis intervention;

(iv) prevention of mental illness;

(v) treatment of specific syndromes;

(vi) case conceptualization;

(vii) referral, supportive and follow-up services; and

(viii) lab not to exceed four semester or six quarter hours;

(h) a minimum of two semester or three quarter hours shall be in psychopathology and DSM classification;

(i) a minimum of two semester or three quarter hours shall be in dysfunctional behaviors. Examples are:

(i) addictions;

(ii) substance abuse;

(iii) cognitive dysfunction;

(iv) sexual dysfunction; and

(v) abuse and violence;

(j) a minimum of two semester or three quarter hours shall be in a foundation course in test and measurement theory;

(k) a minimum of two semester or three quarter hours shall be in an advanced course in assessment of mental status;

(l) a minimum of three semester or ~~[five]four and 1/2~~ quarter hours shall be in research and evaluation. This shall not include a thesis, dissertation, or project, but may include:

(i) statistics;

(ii) research methods, qualitative and quantitative;

(iii) use and interpretation of research data;

(iv) evaluation of client change; and

(v) program evaluation;

(m) a minimum of three semester or ~~[five]four and 1/2~~ quarter hours of practicum as defined in Subsection R156-60c-102(2);

(n) a minimum of six semester or nine quarter hours of internship as defined in Subsection R156-60c-102(1); and

(o) a minimum of ~~[46]17~~ semester or ~~[23]25.5~~ quarter hours of course work in the behavioral sciences. No more than six semester or nine quarter hours of credit for thesis, dissertation or project hours shall be counted toward the required core curriculum hours in this subsection. ~~[-These hours are required beginning January 1, 1997.]~~

(3) The supplemental course work shall consist of formal graduate level work meeting the requirements of Subsections (1) and (2) in regularly offered and scheduled classes. University based directed reading courses may be approved at the discretion of the board.

(4) ~~[Professional counseling course work required in the core curriculum pursuant to Subsection 58-60-405(1)(d) may be~~

~~completed after the applicant received their degree; however, pursuant to Subsection 58-60-405(1)(f), the experience required must be obtained after the complete education requirement has been met.]~~ The following degrees do not prepare a person to competently engage in mental health therapy: Career Counseling, College Counseling, Community Counseling, Gerontological Counseling, School Counseling, Student Affairs, Rehabilitation Counseling, Music Therapy, Art Therapy, or Dance Therapy. Applicants who have one of these degrees or comparable degrees and who subsequently return to college and complete the classes which have been included in the Marriage, Couple and Family Counseling/Therapy degree or the Mental Health Counseling degree and as outlined in Subsection (1) and (2), may request the Division and the Board to consider their education as equivalent to the requirements for licensure. Upon completion of this equivalent education requirement, the applicant may be granted a license as a certified professional counselor intern under Subsection 58-60-405(2) or a temporary professional counselor license under Section 58-60-117.

(5) An applicant who has met the degree requirements under Subsection (1) which prepares one to competently engage in mental health therapy, but who is deficit in one or more of the courses provided in Subsection (2) may be granted a temporary professional counselor license under Section 58-60-117.

**KEY: licensing, counselors, mental health, professional counselors**

**[January 7, 2002]2003**

**Notice of Continuation April 6, 2000**

**58-60-401**

**58-1-106(1)(a)**

**58-1-202(1)(a)**

▼ ————— ▼

## Environmental Quality, Air Quality **R307-840** Lead-Based Paint Accreditation, Certification and Work Practice Standards

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 26282

FILED: 05/15/2003, 09:49

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment adds new federal requirements into the Utah program.

SUMMARY OF THE RULE OR CHANGE: This amendment adds new federal provisions identifying dangerous levels of lead and amends previous federal provisions for certification and work practice standards. Without these changes, Utah's program will not be federally approved or supported after September 30, 2003. The amendments delete one of the two federal definitions of "Lead-based paint hazard," and deletes Section

R307-840-4 which specifies fees that are now set by the Legislature in the annual Department of Environmental Quality fee schedule.

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR 745

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: No impact--The program is operated with support from EPA and fees from contractors.
- ❖ LOCAL GOVERNMENTS: Local governments use the services provided by this program at no cost; the amendments do not change this. Without the amendments, the Utah program would no longer be supported by EPA and the services would no longer be available.
- ❖ OTHER PERSONS: The fees paid by contractors and workers in the lead-based paint field pay only a small percentage of the costs of the program and will not change as a result of these amendments. Without the amendments, the Utah program would no longer be supported by EPA and the services would no longer be available.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The fees paid by contractors and workers in the lead-based paint field pay only a small percentage of the costs of the program and will not change as a result of these amendments. Without the amendments, the Utah program would no longer be supported by EPA and the services would no longer be available.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This program provides assistance to citizens and businesses in reducing the hazards of lead-based paint. It does not mandate that anyone remove or abate lead-based paint. The amendments maintain federal approval of the Utah program thus ensuring federal financial support for the Utah program.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at [janmiller@utah.gov](mailto:janmiller@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/01/2003

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 6/18/2003 at 1:30 PM, Division of Air Quality, Main Conference Room, 150 N 1950 W, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 09/03/2003

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

**R307. Environmental Quality, Air Quality.**  
**R307-840. Lead-Based Paint Accreditation, Certification and Work Practice Standards.**

**R307-840-1. Purpose and Applicability.**

(1) Rule R307-840 establishes procedures and requirements for the accreditation of lead-based paint activities training programs, procedures and requirements for the certification of individuals and firms engaged in lead-based paint activities, and work practice standards for performing such activities. This rule also requires that, except as outlined in (2), all lead-based paint activities, as defined in this rule, must be performed by certified individuals and firms.

(2) R307-840 applies to all individuals and firms who are engaged in lead-based paint activities as defined in R307-840-2, except persons who perform these activities within residential dwellings that they own, unless the residential dwelling is occupied by a person or persons other than the owner or the owner's immediate family while these activities are being performed, or a child residing in the building has been identified as having an elevated blood lead level.

(3) Each department, agency, and instrumentality of the executive, legislative and judicial branches of the Federal Government having jurisdiction over any property or facility, or engaged in any activity resulting, or which may result, in a lead-based paint hazard, and each officer, agent, or employee thereof shall be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural, including the requirements of R307-840 regarding lead-based paint, lead-based paint activities, and lead-based paint hazards.

(4) While Rule R307-840 establishes specific requirements for performing lead-based paint activities should they be undertaken, nothing in R307-840 requires that the owner or occupant undertake any particular lead-based paint activity.

**R307-840-2. Definitions.**

(1) Definitions found in 40 CFR 745.63 and 40 CFR 745.223, in effect as of April [21, 1998]10, 2003, are hereby adopted and incorporated by reference, with the substitution found in (2) below and the modification found in (3) below.

(2) Substitute "Executive Secretary" for all references to "EPA," except in the definition of "Recognized laboratory" found in 40 CFR 745.223.

(3) Delete the definition of "Lead-based paint hazard" found in 40 CFR 745.223.

**R307-840-3. Accreditation, Certification and Work Standards: Target Housing and Child-Occupied Facilities.**

(1) The following requirements, in effect as of April [21, 1998]10, 2003, are adopted and incorporated by reference, with the substitutions found in (2) below and the modifications found in (3) below:

(a) 40 CFR 745.61, 745.65, 745.225(a) through (g) and (i), 745.226 (a) through (h), 745.227, and 745.233.

(2) Substitutions.

(a) Substitute "Executive Secretary" for all references to "EPA" with the following exceptions:

(i) Sec. 745.65(d) [~~Definition of "Recognized laboratory" as found in Sec. 745.223~~].

(ii) Sec. 745.225(b)(1)(iii), Sec. 745.225(b)(1)(iv), Sec. 745.225(c)(2)(ii), Sec. 745.225(c)(10), Sec. 745.225(e)(5)(iii), and Sec. 745.225(e)(5)(iv).

(iii) The last reference to EPA in Sec. 745.226 (a)(1)(ii) and the second reference to EPA in Sec. 745.226(d)(1).

(iv) The first three references to EPA in Sec. 745.227(a)(3), Sec. 745.227(a)(4), the second reference to EPA in Sec. 745.227(e)(4), and Sec. 745.227(f)(2).

(v) Substitute "Executive Secretary or Executive Secretary's authorized representative" for references to "EPA" in Sec. 745.225(c)(12), Sec. 745.225(f)(4), and Sec. 745.225(i)(1).

(b) Substitute [~~"Guidance on Identification of Lead-Based Paint Hazards" (Federal Register, Vol. 60, No. 175, Pgs. 47248-57) for all references to "TSCA section 403"~~] "the current Department of Environmental Quality Fee Schedule" for all references to "Sec. 745.238."

(c) Substitute "Sec 745.63(b)" for "Sec 745.227(b)" in 40 CFR 745.227(h)(2)(i).

(3) Modifications.

(a) Change the date in Sec. 745.226(a)(5), Sec. 745.226(d)(2), Sec. 745.226(f)(1), and Sec. 745.227(a)(1) to August 30, 1999.

(b) Modify Sec. 745.225(b)(1)(iii) by deleting the statement, "or training materials approved by a State or Indian Tribe that has been authorized by EPA under subpart Q of this part,".

(c) Modify Sec. 745.225(b)(1)(iv) by deleting the statement, "or training materials approved by an authorized State or Indian Tribe[<sup>2</sup>]."

(d) Modify Sec. 745.225(c)(2)(ii) by including the statement, "Executive Secretary-accredited," before the statement "EPA-accredited[<sup>2</sup>]."

(e) Modify Sec. 745.225(e)(5)(iii) by deleting the statement, "or training materials approved by a State or Indian Tribe that has been authorized by EPA under subsection 745.324 to develop its refresher training course materials,".

(f) Modify Sec. 745.225 (e)(5)(iv) by deleting the statement, "or training materials approved by an authorized State or Indian Tribe[<sup>2</sup>]."

(g) Modify Sec. 745.226 (a)(1)(ii) by including the statement, "EPA or" after the word "from[<sup>2</sup>]."

(h) Modify Sec. 745.227 (a)(3) by deleting the statement, "Regulations, guidance, methods, or protocols issued by States and Indian Tribes that have been authorized by EPA;".

(i) Modify Sec. 745.226(f)(7) by deleting the statement "every 3 years."

**R307 840 4. Lead-Based Paint Fees.**

Utah lead-based paint fees are set forth in the table below.

TABLE	
Lead-Based Paint Regulations Packet	\$5.00
—(Printed Copy)	
Lead-Based Paint Regulations Packet	\$3.00
—(Computer Disk)	
Specialized Computer Generated Information	\$50.00
—(per hour)	
Certified Lead-Based Paint Firm	\$500.00
—(initial year)	
Certified Lead-Based Paint Firm	\$250.00
—(subsequent years)	



Certified Lead Based Paint Abatement Worker, —Inspector, Project Designer, Risk Assessor, —or Supervisor (initial year)	\$100.00
Certified Lead Based Paint Abatement Worker, —Inspector, Project Designer, Risk Assessor, —or Supervisor (subsequent years)	\$75.00
Lead Based Paint Course Provider Accreditation	\$500.00
Lead Based Paint Abatement Project Notification —Review]	\$500.00

**KEY:** air pollution, paint[<sup>±</sup>], lead-based paint[<sup>±</sup>]  
~~August 13, 1998~~ 2003  
 19-2-104(1)(i)

▼ ————— ▼

## Environmental Quality, Radiation Control **R313-26** Generator Site Access Permit Requirements for Accessing Utah Radioactive Waste Disposal Facilities

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 26270

FILED: 05/14/2003, 09:42

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Definition change from "broker" to "waste collector" and "waste processor" as used by and in agreement with terminology used by the Federal Government as in 10 CFR Part 20. Also, the elimination of the requirement for the Executive Secretary of the Radiation Control Board to receive a copy of the waste manifest; rather, the shipper is required to provide on demand a copy of the waste manifest to the Executive Secretary or a representative. The purpose of the change in the manifest requirement: the manifest can be changed up to the time it arrives at the disposal facility—consequently, it is more effective to receive a copy of the manifest at the time of delivery. A copy of the manifest, however, can be requested at any time by the Executive Secretary.

SUMMARY OF THE RULE OR CHANGE: Definition change from "broker" to "waste collector" and "waste processor" as used by and in agreement with terminology used by the Federal Government as in 10 CFR Part 20. Also, the elimination of the requirement for the Executive Secretary of the Radiation Control Board to receive a copy of the waste manifest; rather, the shipper is required to provide on demand a copy of the waste manifest to the Executive Secretary or a representative. A copy of the manifest can be requested at any time by the Executive Secretary.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-3-106.4

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Fees are collected from generator site

access (GSA) permittees for the administration of the GSA program. There are no costs or savings to the State budget. There are no changes to the permit fees or fee collections from GSA permittees as a result of the proposed changes.

❖ LOCAL GOVERNMENTS: Fees are collected from GSA permittees for the administration of the GSA program. There are no costs or savings to local governments. There are no changes to the permit fees or fee collections from GSA permittees as a result of the proposed changes.

❖ OTHER PERSONS: There are minimal fiscal impacts to businesses as a consequence of the changes made to Rule R313-26. The GSA permittees will no longer provide a copy of the Nuclear Regulatory Commission's "Uniform Low Level Radioactive Waste Manifest" except on demand by the Executive Secretary.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are minimal fiscal impacts to businesses as a consequence of the changes made to Rule R313-26. The GSA permittees will no longer provide a copy of the Nuclear Regulatory Commission's "Uniform Low Level Radioactive Waste Manifest" except on demand by the Executive Secretary.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are minimal fiscal impacts to businesses as a consequence of the changes made to Rule R313-26. The GSA permittees will no longer provide a copy of the Nuclear Regulatory Commission's "Uniform Low Level Radioactive Waste Manifest" except on demand by the Executive Secretary.

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

ENVIRONMENTAL QUALITY  
RADIATION CONTROL  
Room 212  
168 N 1950 W  
SALT LAKE CITY UT 84116-3085, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Edith Barker at the above address, by phone at 801-536-0077, by FAX at (n/a), or by Internet E-mail at [erbarker@utah.gov](mailto:erbarker@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/01/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 08/08/2003

AUTHORIZED BY: William Sinclair, Director

**R313. Environmental Quality, Radiation Control.**  
**R313-26. Generator Site Access Permit Requirements for Accessing Utah Radioactive Waste Disposal Facilities.**  
**R313-26-1. Purpose and Scope.**

The purpose of this rule is to establish procedures, criteria, and terms and conditions upon which the Executive Secretary issues

permits to generators for accessing a land disposal facility located within the State. This rule also contains requirements for shippers. The requirements of Rule R313-26 are in addition to, and not in substitution for, other applicable requirements of these rules.

### R313-26-2. Definitions.

As used in Rule R313-26, the following definitions apply:

~~["Broker" means a person who performs one or more of the following functions for a generator: arranges for transportation of the radioactive waste; collects or consolidates shipments of radioactive waste; or processes radioactive waste in some manner. "Broker" does not include a carrier whose sole function is to transport the radioactive waste.~~

~~—]"Disposal" means the isolation of wastes from the biosphere by placing them in a land disposal facility.~~

~~["Generator" means a person who:~~

~~—(a) possesses any material or component;~~

~~—(i) that contains radioactivity or is radioactively contaminated; and~~

~~—(ii) for which the person foresees no further use; and~~

~~—(b) transfers the material or component to:~~

~~—(i) a commercial radioactive waste treatment or disposal facility;~~

~~or~~

~~—(ii) a broker.~~

~~—]"Generator Site Access Permit" means an authorization to deliver radioactive wastes to a land disposal facility located within the State of Utah.~~

"Land disposal facility" has the same meaning as that given in Section R313-25-2.

"Manifest" means the document, as defined in Appendix G of 10 CFR 20, used for identifying the quantity, composition, origin, and destination of radioactive waste during its transport to a disposal facility.

"Packager" means ~~[broker]~~Waste Processor, Waste Collector or Waste Generator as defined in Section R313-26-2.

"Radioactive waste" means any material that contains radioactivity or is radioactively contaminated and is intended for ultimate disposal at a licensed land disposal facility in Utah.

"Shipper" means the person who offers radioactive waste for transportation, typically consigning this type of waste to a ~~[broker or ]~~land disposal facility.

"Waste Collector" means an entity whose principal purpose is to collect and consolidate radioactive waste generated by others and to transfer this waste, without processing or repackaging the collected waste, to a licensed land disposal facility.

"Waste Generator" means a person who possesses any material or component that contains radioactivity or is radioactively contaminated, and for which the person foresees no further use; and transfers the material or component to a commercial radioactive waste treatment disposal facility; or Waste Collector or Waste Processor.

"Waste Processor" means an entity, whose principal purpose is to process, repackage or otherwise treat low-level radioactive material or waste generated by others prior to eventual transfer of the material or waste to a licensed low-level radioactive-waste land disposal facility.

### R313-26-3. Generator Site Access Permits.

A generator or broker shall obtain a Generator Site Access Permit from the Executive Secretary before transferring radioactive waste to a land disposal facility in Utah.

(1) Generator Site Access Permit applications shall be filed on a form prescribed by the Executive Secretary.

(2) Applications shall be received by the Executive Secretary at least 30 days prior to any shipments being delivered to a land disposal facility in Utah.

(3) Each Generator Site Access Permit application shall include a certification to the Executive Secretary that the shipper shall comply with all applicable State or Federal laws, administrative rules and regulations, licenses, or license conditions of the land disposal facility regarding the packaging, transportation, storage, disposal and delivery of radioactive wastes.

(4) Generator Site Access Permit fees shall be assessed annually by the Executive Secretary based on the following classifications:

(a) Waste Generators shipping more than 1000 cubic feet of radioactive waste annually to a land disposal facility in Utah.

(b) Waste Generators shipping 1000 cubic feet or less of radioactive waste annually to a land disposal facility in Utah.

(c) Waste Collectors or Waste Processors~~[Brokers]~~ shipping radioactive waste to a land disposal facility in Utah.

(5) Generator Site Access Permits shall be valid for a maximum of one year from the date of issuance. The Executive Secretary may modify individual Generator Site Access Permit terms and prorate the annual fees accordingly for administrative purposes.

(6) Generator Site Access Permits may be renewed by filing a new application with the Executive Secretary. To ensure timely renewal, generators and brokers shall submit applications, for Generator Site Access Permit renewal, a minimum of 30 days prior to the expiration date of their Generator Site Access Permit.

(7) Generator Site Access Permit fees are not refundable.

(8) Transfer of a Generator Site Access Permit shall be approved by the Executive Secretary.

(9) The number of Generator Site Access Permits required by each generator shall be determined by the following requirements:

(a) Generators who own multiple facilities within the same state may apply for one Generator Site Access Permit, provided the same contact person within the generator's company shall be responsible for responding to the Executive Secretary for matters pertaining to the waste shipments.

(b) Facilities which are owned by the same generator and located in different states shall obtain separate Generator Site Access Permits.

(c) Persons who both generate and are either a Waste Processor or Waste Collector~~[broker-waste]~~ shall obtain separate Generator Site Access Permits.

### R313-26-4. Shipper's Requirements.

(1) The shipper shall provide on demand the Executive Secretary a copy of the Nuclear Regulatory Commission's "Uniform Low Level Radioactive Waste Manifest" for shipments consigned for disposal within Utah.

~~[(2) The manifest shall be delivered to the Executive Secretary prior to the shipment arriving at the disposal site, but not more than thirty days prior to shipment departure.~~

~~—(3) The generator's and broker's]~~(2) The appropriate Generator Site Access Permit number(s) shall be documented on the manifest.

~~[(4)]~~(3) Waste Generators, Waste Processors and Waste Collectors~~[-and brokers]~~ shall ensure that all Generator Site Access Permits are current prior to shipment of waste to a land disposal facility located in the state of Utah, and that the waste will arrive at the land disposal facility prior to the expiration date of the Generator Site Access Permits.

~~[(5)]~~(4) A ~~[broker]~~Waste Collector, Waste Processor or Generator shall ensure all radioactive waste contained within a shipment ~~[accepted]~~ for disposal at a land disposal facility in the state is traceable

to the original generators and states, regardless of whether the waste is shipped directly from the point of generation to the disposal facility, ~~or shipped through a broker.~~]

**R313-26-5. Land Disposal Facility Licensee Requirements.**

The land disposal facility licensee shall ensure that generators, Waste Collectors and Waste Processors ~~[and brokers]~~ have a current, unencumbered Generator Site Access Permit prior to accepting a generator's, Waste Collector's or Waste Processor's ~~[or broker's]~~ waste.

**R313-26-6. Enforcement.**

Generator Site Access Permittees shall be subject to the provisions of Rule R313-14 for violations of federal regulations, state rules or requirements in the current land disposal facility operating license regarding radioactive waste packaging, transportation, labeling, notification, classification, marking, manifesting or description.

**KEY: radioactive waste generator permit**  
~~[September 14, 2001]~~ 2003  
 19-3-106.4



**Health, Health Care Financing,  
 Coverage and Reimbursement Policy**

**R414-1**

**Utah Medicaid Program**

**NOTICE OF PROPOSED RULE  
 (Amendment)**

DAR FILE NO.: 26264  
 FILED: 05/13/2003, 15:53

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: H.B. 126, which takes effect May 5, 2003, deletes a reference in Title 26, Chapter 18, that previously authorized implementation of the Utah Medicaid program through policy rather than rule. This rule conforms current rules to H.B. 126 by adopting the Utah State Medicaid Plan by reference. Also, a January filing cut dental services, speech-language pathology, and audiology-hearing services. This rulemaking repeals that language, but it is reenacted in the dental area in companion filings in Rules R414-49 and R414-50. This rulemaking is designed to make it easier for the public to find limitations. (DAR NOTES: H.B. 126 if found at UT L 2003 Ch 324, and was effective May 5, 2003. The filing for Rule R414-49 in under DAR No. 26265, and the filing for Rule R414-50 in under DAR No. 26266 in this issue.)

SUMMARY OF THE RULE OR CHANGE: Language is added under Subsection R414-1-5(2) that incorporates by reference the Utah State Medicaid Plan, in effect May 1, 2003. Subsection R414-1-6(3), listing the service cuts and effective date, is eliminated. (DAR NOTE: A corresponding 120-day (emergency) rule that is effective as of May 2, 2003, that concerns the incorporation only, is under DAR No. 26244 in this issue.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 18

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The incorporation has no costs associated with it. The other change notifies the public of the restructuring of this rule, but has no substantive impact on services or reimbursement, and therefore has not fiscal impact.
- ❖ LOCAL GOVERNMENTS: The incorporation has no costs associated with it. The other change notifies the public of the restructuring of this rule, but has no substantive impact on services or reimbursement, and therefore has not fiscal impact.
- ❖ OTHER PERSONS: The incorporation has no costs associated with it. The other change notifies the public of the restructuring of this rule, but has no substantive impact on services or reimbursement, and therefore has not fiscal impact.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The incorporation has no costs associated with it. The other change notifies the public of the restructuring of this rule, but has no substantive impact on services or reimbursement, and therefore has not fiscal impact.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The incorporation by reference has no costs associated with it. The other change is nonsubstantive but is being processed as a regular amendment to assure that the public is notified of the change. It will have no fiscal impact. Rod L. Betit

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

HEALTH  
 HEALTH CARE FINANCING,  
 COVERAGE AND REIMBURSEMENT POLICY  
 CANNON HEALTH BLDG  
 288 N 1460 W  
 SALT LAKE CITY UT 84116-3231, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ross Martin at the above address, by phone at 801-538-6592, by FAX at 801-538-6099, or by Internet E-mail at [rmartin@utah.gov](mailto:rmartin@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/01/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 07/02/2003

AUTHORIZED BY: Rod L. Betit, Executive Director

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

**R414-1. Utah Medicaid Program.**

**R414-1-5. State Plan.**

(1) As a condition for receipt of federal funds under title XIX of the Act, the Utah Department of Health must submit a State Plan contract to the federal government for the medical assistance program, and agree to administer the program in accordance with the provisions of the State Plan, the requirements of Titles XI and XIX of the Act, and all applicable federal regulations and other official issuances of the United States Department of Health and Human Services. A copy of the State Plan is available for public inspection at the Division's offices during regular business hours.

(2) The department adopts the Utah State Plan Under Title XIX of the Social Security Act Medical Assistance Program, in effect May 1, 2003, which is incorporated by reference.

**R414-1-6. Services Available.**

(1) Medical or hospital services available under the Medical Assistance Program are generally limited by federal guidelines as set forth under Title XIX of the federal Social Security Act and Title 42 of the Code of Federal Regulations (CFR).

(2) The following services provided in the State Plan are available to both the categorically needy and medically needy:

(a) inpatient hospital services, with the exception of those services provided in an institution for mental diseases;

(i) The Department shall conduct an annual open enrollment period for Medicaid recipients residing in Intermediate Care Facilities for the Mentally Retarded to allow each person the opportunity, on a yearly basis, to move to Medicaid Home and Community-Based Waiver covered services and supports that the Department has deemed appropriate for the identified needs of the individual.

(ii) The Department shall designate a three-month open enrollment period each fiscal year. The Department relocates individuals whom it determines to be eligible through the open enrollment process at the time appropriate services and supports are available, and the Department has completed the required Home and Community-Based Services Waiver procedures.

(b) outpatient hospital services and rural health clinic services;

(c) other laboratory and x-ray services;

(d) skilled nursing facility services, other than services in an institution for mental diseases, for individuals 21 years of age or older;

(e) early and periodic screening and diagnoses of individuals under 21 years of age, and treatment of conditions found, are provided in accordance with federal requirements;

(f) family planning services and supplies for individuals of child-bearing age;

(g) physician's services, whether furnished in the office, the patient's home, a hospital, a skilled nursing facility, or elsewhere;

(h) podiatrist's services;

(i) optometrist's services;

(j) psychologist's services;

(k) interpreter's services;

(l) home health services:

(i) intermittent or part-time nursing services provided by a home health agency;

(ii) home health aide services by a home health agency; and

(iii) medical supplies, equipment, and appliances suitable for use in the home;

(m) private duty nursing services for children under age 21;

(n) clinic services;

(o) dental services;

(p) physical therapy and related services;

(q) services for individuals with speech, hearing, and language disorders furnished by or under the supervision of a speech pathologist or audiologist;

(r) prescribed drugs, dentures, and prosthetic devices and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist;

(s) other diagnostic, screening, preventive, and rehabilitative services other than those provided elsewhere in the State Plan;

(t) services for individuals age 65 or older in institutions for mental diseases:

(i) inpatient hospital services for individuals age 65 or older in institutions for mental diseases;

(ii) skilled nursing services for individuals age 65 or older in institutions for mental diseases; and

(iii) intermediate care facility services for individuals age 65 or older in institutions for mental diseases;

(u) intermediate care facility services, other than services in an institution for mental diseases. These services are for individuals determined, in accordance with section 1902(a)(31)(A) of the Social Security Act, to be in need of this care, including those services furnished in a public institution for the mentally retarded or for individuals with related conditions;

(v) inpatient psychiatric facility services for individuals under 22 years of age;

(w) nurse-midwife services;

(x) family or pediatric nurse practitioner services;

(y) hospice care in accordance with section 1905(o) of the Social Security Act;

(z) case management services in accordance with section 1905(a)(19) or section 1915(g) of the Social Security Act;

(aa) extended services to pregnant women, pregnancy-related services, postpartum services for 60 days, and additional services for any other medical conditions that may complicate pregnancy;

(bb) ambulatory prenatal care for pregnant women furnished during a presumptive eligibility period by a qualified provider in accordance with section 1920 of the Social Security Act; and

(cc) other medical care and other types of remedial care recognized under state law, specified by the Secretary of the United States Department of Health and Human Services, pursuant to 42 CFR 440.60 and 440.170, including:

(i) medical or remedial services provided by licensed practitioners, other than physician's services, within the scope of practice as defined by state law;

(ii) transportation services;

(iii) skilled nursing facility services for patients under 21 years of age;

(iv) emergency hospital services; and

(v) personal care services in the recipient's home, prescribed in a plan of treatment and provided by a qualified person, under the supervision of a registered nurse.

(dd) other medical care, medical supplies, and medical equipment not otherwise a Medicaid service if the Division determines that it meets both of the following criteria:

(i) it is medically necessary and more appropriate than any Medicaid covered service; and

(ii) it is more cost effective than any Medicaid covered service.[

~~—(3) Effective June 1, 2002, dental services are not covered for non-pregnant adult recipients ages 21 and older except for dental emergency services for the relief of pain and infection which is limited to an emergency examination, emergency x-ray and emergency extraction only. Effective July 1, 2002, speech language pathology, and audiology hearing services are not covered for non-pregnant adult recipients ages 21 and older. This supersedes previous definitions of coverage for these three categories of services made in R414-49, R414-50, R414-54, and R414-59.]~~

**KEY: Medicaid**

~~[October 2, 2002]~~ **2003**

Notice of Continuation April 30, 2002

26-1-5

26-18-1

▼ ————— ▼

## Health, Health Care Financing, Coverage and Reimbursement Policy

### **R414-7A-5**

#### Certification of Additional Nursing Facility Programs

##### **NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 26246

FILED: 05/05/2003, 14:37

##### **RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This amendment permits the Utah State Veterans Nursing Home to qualify for Medicaid certification.

**SUMMARY OF THE RULE OR CHANGE:** Subsection R414-7A-5(6) is added which states that there is an unmet need for veterans that are Medicaid eligible to be admitted to the Utah State Veterans Nursing Home without the need to comply with earlier provisions of this section.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Sections 26-1-5, 26-18-1, 26-18-2.3, and 26-18-32; and Subsections 6-1-30(2)(a), (b), and (w)

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** Medicaid eligible veterans would already be served in other nursing homes so there should be no increase to the state budget.

❖ **LOCAL GOVERNMENTS:** If a Medicaid eligible veteran is currently in a nursing home operated by local government and chooses to transfer to the Utah State Veterans Nursing Home, there may be a negative impact on the local government operated facility. The exact impact is impossible to estimate.

❖ **OTHER PERSONS:** If a Medicaid eligible veteran is currently in a nursing home and chooses to transfer to the Utah State Veterans Nursing Home, there may be a negative impact on the private nursing home. The exact impact is impossible to estimate.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The Utah State Veterans Nursing Home will incur costs to become Medicaid certified. This rule gives the Home that option but does not require anything. Therefore, any compliance costs will be assumed voluntarily and should be minimal.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** Veterans eligible for Medicaid should have the option of receiving long-term care at the Utah State Veterans Nursing Home. This rule should have a positive impact on the Utah State Veterans Nursing Home, and only a minimal impact on other nursing homes. Rod L. Betit

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

HEALTH  
HEALTH CARE FINANCING,  
COVERAGE AND REIMBURSEMENT POLICY  
CANNON HEALTH BLDG  
288 N 1460 W  
SALT LAKE CITY UT 84116-3231, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Doug Springmeyer at the above address, by phone at 801-538-6971, by FAX at 801-538-6306, or by Internet E-mail at dspringm@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/01/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 07/02/2003

AUTHORIZED BY: Rod L. Betit, Executive Director

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

##### **R414-7A. Medicaid Certification of New Nursing Facilities.**

##### **R414-7A-5. Certification of Additional Nursing Facility Programs.**

The department may certify additional nursing facility programs if the executive director or his designee determines that there is insufficient capacity at certified programs in a service area to meet the public need.

(1) The department may certify an additional nursing facility program only if:

(a) after 30-day notice to the Department of Human Services of the department's finding that there is insufficient capacity at certified programs in a service area to meet the public need, the Department of Human Services cannot demonstrate that community-based services can meet the public need; and

(b) after the close of the 30-day notice to the Department of Human Services and a separate 30-day notice to all certified programs operating in the service area, the certified programs operating in the service area cannot demonstrate that they have tangible plans to add additional capacity to their nursing facility programs to meet the public need.

(2) If community-based services and existing certified programs operating in the service area cannot demonstrate that they can meet the public need, the department may select an additional nursing facility program through a request-for-proposal process.

(a) Each proposal must include sufficient information to allow the department to evaluate and rank it among all proposals according to the criteria in R414-7A-5(2)(b), as well as other information that the department solicits in its request-for-proposals. The department shall reject all proposals that offer to operate for a reimbursement rate higher than that paid to similar certified programs.

(b) The department shall evaluate and select from among the proposals based on maintaining price competition, economy, and efficiency in the Medicaid program; the ability of the proposed nursing facility program to deliver quality care; and how quickly the proposed nursing facility program can begin to operate.

(3) If a nursing facility program that the department selected under the request-for-proposal process fails to undertake the necessary steps to become Medicaid certified or fails to begin to provide medical assistance to Medicaid recipients as represented in its proposal, the department may reject that nursing facility program, and either select the next ranked nursing facility program or solicit new proposals without again complying with the requirements of R414-7A-5(1).

(4) If, after certifying an additional nursing facility program, the executive director or his designee determines that there is sufficient capacity at certified programs in a service area to meet the public need, the limitations set out in R414-7A-5(1) through (3) control the certification of nursing facility programs.

(5) The department hereby determines that there is insufficient capacity to meet the public need wherever a critical care access hospital is located and may certify a new nursing facility program that is directly related to the operation of a critical care access hospital, without the need to meet the requirements of subsections (1) to (4) above.

(6) The department hereby determines that there is insufficient capacity to meet the public need for those eligible for placement at the Utah State Veterans Nursing Home and may certify the Utah State Veterans Nursing Home without the need to meet the requirements of subsections (1) to (4) above.

**KEY:** [m]Medicaid

[November 1, 2000]2003

Notice of Continuation December 20, 1999

26-1-5

26-18-1

26-18-2.3

26-1-30(2)(a), (b), (w)

26-18-3

▼ ————— ▼

Health, Health Care Financing,  
Coverage and Reimbursement Policy

**R414-21**

Physical and Occupational Therapy

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE No.: 26267

FILED: 05/13/2003, 16:15

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rulemaking clarifies the limited physical therapy benefits that can be provided to adults and which can be provided in mandated settings such as in outpatient hospitals and nursing facilities. Also, the rule is amended throughout to accommodate the addition of occupational therapy.

**SUMMARY OF THE RULE OR CHANGE:** In January, 2003, non-pregnant adult recipients ages 21 and older were excluded from physical and occupational therapy services (PT/OT). However, the change in Section R414-21-4 restores these limited services to non-pregnant adult recipients ages 21 and older who are categorically and medically needy individuals under Medicaid.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 26, Chapter 18

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** This rulemaking will annually cost the state General Fund \$93,100. That will be matched by \$234,800 in federal funds.

❖ **LOCAL GOVERNMENTS:** Local governments do not provide PT/OT services, therefore there is no fiscal impact.

❖ **OTHER PERSONS:** Providers will gain additional reimbursement probably in excess of \$300,000 as a result of this rule.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** This restoration of service should not cause any compliance costs except for minimal reprogramming by providers to bill Medicaid for this service.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** Due to additional appropriations from the 2003 Legislature, this cut is being restored. This will have a positive impact on both providers and recipients.

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

HEALTH

HEALTH CARE FINANCING,

COVERAGE AND REIMBURSEMENT POLICY

CANNON HEALTH BLDG

288 N 1460 W

SALT LAKE CITY UT 84116-3231, or

at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

Ross Martin at the above address, by phone at 801-538-6592, by FAX at 801-538-6099, or by Internet E-mail at [rmartin@utah.gov](mailto:rmartin@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/01/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 07/02/2003

AUTHORIZED BY: Rod L. Betit, Executive Director

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

##### **R414-21. Physical and Occupational Therapy.**

###### **R414-21-1. Policy Statement.**

(1) "Qualified" physical therapists and occupational therapists may provide services for Medicaid eligible individuals upon the order of a doctor of medicine, osteopathy, dentistry or podiatry.

(2) Non-licensed therapists, although they may have received the required academic training, may not provide services for Medicaid eligible recipients with the expectation of reimbursement from Medicaid.

###### **R414-21-2. Authority and Purpose.**

###### (1) Authority

(a) The provision of physical therapy and occupational therapy evaluation and treatment is authorized under the authority of the 42 CFR in the following Sections:

- (i) 405.1718a Medicare Standard, Nursing Home patients;
- (ii) 405.1718b Medicare Standard, Nursing Home equipment;
- (iii) 405.1718c Medicare Standard, Nursing Home personnel;
- (iv) 440.70(b)(4) Home health provisions of service;
- (v) 440.110(a)(1)(2) Physical Therapy and

440.110(b)(1)(2)Occupational Therapy definitions and qualifications;

- (vi) 442.486 Physical Therapy services, ICF/MR;
- (vii) 442.487 ICF/MR records and evaluation.

###### (2) Purpose

(a) The purpose of the physical therapy and occupational therapy program is to increase the functioning ability of each handicapped Medicaid recipient whether the handicap is temporary or permanent.

(b) The rehabilitation goals must include evaluation of the potential of each individual patient, the factual statement of the level of functions present, the identification of the goal that may reasonably be achieved, and the predetermined space of time and concentration of services that would achieve the goal.

(c) The Medicaid program is designed to provide services within financial limitations. A desired level of function must be balanced with an achievable level of function within a defined length of time. The objectives of the program are to provide a scope of service, supplementary information, limitations, and instructions concerning prior authorizations, billing, and utilization which clearly direct the provider to accomplish the goals he has identified for the patient.

(d) The goal of the physical therapist and the occupational therapist is to improve the ability of the patient, through the rehabilitative process, to function at a maximum level.

(e) The objectives of the provider must include:

(i) The evaluation and identification of the existing problem, not an anticipated problem;

(ii) The evaluation of the potential level of function actually achievable;

(iii) The restoration, to the level reasonably possible, of functions which have been lost due to accident or illness;

(iv) The establishment, to the level reasonably possible, of functions which are lacking due to defects of birth.

(v) The eventual termination or transfer of the responsibility for identified procedures to family, guardians, or other care-givers.

###### **R414-21-3. Definitions.**

(1) Physical Therapy: means the treatment of a human being by the use of exercise, massage, heat or cold, air, light, water, electricity, or sound for the purpose of correcting or alleviating any physical or mental condition or preventing the development of any physical or mental disability, or the performance of tests of neuromuscular function as an aid to the diagnosis or treatment of any human condition, provided, however, that physical therapy shall not include radiology or electrosurgery.

(2) Physical Therapist: means a person who practices physical therapy. "Physical therapist," "physiotherapist" and "physical therapy technician" are equivalent terms and reference to any one of them in this rule shall include the others.

(3) Qualified Physical Therapist: means an individual who is:

(a) a graduate of a program of physical therapy approved by both the Council on Medical Education of the American Medical Association and the American Physical Therapy Association, or its equivalent;

(b) licensed by the State of Utah; and

(c) a provider for Medicaid.

(4) Occupational Therapy means treatment of a human being by the use of therapeutic exercise, ADL activities, patient education, family training, home environment evaluation, equipment measurement and fitting, and fine motor skills.

(5) Occupational therapist means a person who practices occupational therapy.

(6) Qualified Occupational Therapist means an individual who is:

(a) registered by the American Occupational Therapy Association: or

(b) a graduate of a program in occupational therapy approved by the committee on Allied Health Education and Accreditation of the American Medical Association and engaged in the supplemental clinical experience required before registration by the American Occupational Therapy Association. 42 CFR 440.110.

(c) licensed by the State of Utah; and

(d) a provider for Medicaid

[(4)](7) Rehabilitation: means the process of treatment that leads the disabled individual to attainment of maximum function.

[(5)](8) Rehabilitation Services: means the delivery of rehabilitative medical or remedial services recommended by a physician or other licensed practitioner of the healing arts, within the scope of his practice under state law, for maximum reduction of physical or mental disability and restoration of a recipient to his best possible functional level. (42 CFR 440.130 (d).)

###### **R414-21-4. Eligibility Requirements/Coverage.**

Physical and occupational therapy services are available to categorically and medically needy individuals under Medicaid[~~except for non-pregnant adult recipients ages 21 and older~~].

**R414-21-5. Program Access Requirements.**

Physical and occupational therapy services are available to categorically and medically needy individuals under Medicaid[ ~~except for non-pregnant adult recipients ages 21 and older~~].

**R414-21-6. Service Coverage.**

(1) Providers of physical therapy shall offer an adequate program that provides services which utilize therapeutic exercise and the modalities of heat, cold, water, air, sound, massage and electricity; recipient evaluations and tests; and measurements of strength, balance, endurance, range of motion, and activities.

(a) Patients in need of physical therapy services are accepted for evaluation with a referral or recommendation by a physician, dentist, podiatrist or osteopath.

(b) Provision of services is with the expectation that the condition under treatment will improve in a reasonable and predictable time. Continuation of treatment beyond the maximum rehabilitative potential within a specified time will not be approved. Length of time and number of treatments will be predicated by Physical Therapy Association guidelines.

~~[(c) Physical therapy treatments are limited to one per day.~~

~~[(d)](c)~~ All therapy services after the first ten sessions per client per provider per calendar year require prior authorization.

~~(2) Providers of occupational therapy shall offer an adequate program that provides services which utilize therapeutic modalities approved by the American Occupational Therapy Association.~~

~~(a) Patients in need of occupational therapy services are accepted for evaluation with a referral or recommendation by a physician, dentist, podiatrist or osteopath.~~

~~(b) Provision of services is with the expectation that the condition under treatment will improve in a reasonable and predictable time. Continuation of treatment beyond the maximum rehabilitative potential within a specified time will not be approved. Length of time and number of treatments will be predicated by Physical Therapy Association guidelines.~~

~~[(2) ICF/MR Residents. Where residents require physical therapy as part of their plan of care, the facility is legally bound to provide and pay for this need.~~

~~(a) To clarify this requirement, the following Federal Register (42 CFR) requirements are listed:~~

~~Intermediate Care Facilities for Mentally Retarded (42 CFR 442.486) ICF/MR. Evaluation and therapy (treatment) for residents of ICF/MR facilities are no longer Medicaid benefits. These services are components of the "active treatment" concept and are the responsibility of the facility. In the event that services are ordered by the facility or by the physician for a resident in an ICF/MR facility, said services must be billed to and paid by the facility.~~

**R414-21-7. Standards of Care.**

(1) The services must be considered under accepted standards of medical practice to be a specific and effective treatment for the recipient's conditions.

(2) The services must be of a level of complexity and sophistication, or the condition of the recipient must be such, that services required can be safely and effectively performed only by a qualified physical therapist. To constitute physical therapy, a service must, among other things, be reasonable and necessary to the treatment of the individual's illness. If an individual's expected rehabilitative potential would be insignificant in relation to the extent and duration of the physical therapy, it would not be

considered reasonable and necessary. There must be an expectation that the recipient's condition will improve significantly in a reasonable (and generally predictable) period of time. If, at any point in the treatment of an illness, it is determined that the expectation will not materialize, the services will no longer be considered reasonable and necessary.

(3) The amount, frequency, and duration of the services must be reasonable. Requests will be reviewed and a determination made by Health Care Financing, Utilization Management Staff using guidelines provided by the American Physical Therapy Association and the American Occupational Therapy Association.

**R414-21-8. Programs.**

(1) Independent Physical Therapist licensed by Utah and practicing according to the provisions of this rule.

(2) Independent Occupational Therapist licensed by Utah and practicing according to the provisions of this rule.

(3) Physical Therapists and Occupational Therapists associated with a professional group in a hospital or clinic or rehabilitation center. This clinic situation will allow the physical therapy and occupational therapy programs to overlap. The clinic or rehabilitation center under the direction a physician will determine which therapy, P.T. or O.T., will be given. The total treatments for any diagnosis will be determined by the provisions of this rule.

**R414-21-[8]9. Limitations.**

(1) General Limitations

(a) More than ten physical therapy services per calendar year per client per provider are not reimbursable without prior approval following the evaluation. All other services by the same billing provider require prior authorization.

(b) Physical therapy or occupational therapy treatments are limited to one per day.

(c) Independent Occupational Therapist: all services after the initial evaluation require prior authorization.

(d) Clinic or Rehabilitation Center Occupational Therapists: the first ten visits (combination of P.T./O.T. visits) do not require prior authorization. All other services beyond the initial ten visits require prior approval.

~~[(b)](e)~~ The following services are not covered:

(i) Treatment for social or educational needs;

(ii) Treatment for patients who have stable chronic conditions which cannot benefit from physical therapy services;

(iii) Treatment for recipients where there is no documented potential for improvement;

(iv) Treatment for recipients who have reached maximum potential for improvement;

(v) Treatment for recipients who have achieved stated goals;

(vi) Treatment for non-diagnostic, non-therapeutic, routine, repetitive or reinforced procedures;

(vii) Treatment for CVA which begins more than 60 days after onset of the CVA;

(viii) Treatment for residents of ICF/MR;

(ix) Treatment in excess of one session or service per day.

(2) ~~[Specific]~~Specifications. Various physical therapy and occupational therapy modalities are included in the therapy procedure code. There are no specific procedure codes in the Medicaid program for such procedures as heat, cold, whirlpool, massage, air and sound therapy. Any modality the therapist chooses is acceptable under the one procedure code.

~~[(a) The following specific limitations apply:~~



~~—(i) Clinics. Physical therapists associated with a professional practice group in a hospital or clinic are required to use the Medicaid physical therapy guidelines, service definitions and codes for their services when their license number is identified in box H of the HCFA invoice. All limitations apply including prior approval for all services after the first ten sessions, except evaluation. CPT4 codes for physical medicine are to be used only when the physician directly performs the service and bills Medicaid with his provider number.~~

~~—(ii)(a) Hot Pack, Hydrocollator, Infra-Red Treatments, Paraffin Baths and Whirlpool Baths. Heat treatments of this type, including whirlpool baths, do not ordinarily require the skills of a qualified physical therapist. However, in a particular case, the skills, knowledge, and judgment of a qualified physical therapist might be required for such treatments as baths where the recipient's condition is complicated by circulatory deficiency, areas of desensitization, open wounds, or other complications. Also, if such treatments are given prior to, but as an integral part of, a skilled physical therapy procedure, they would be considered part of the physical therapy service.~~

~~(iii)(b) Gait Training. Gait evaluation and training furnished a recipient whose ability to walk has been impaired by neurological, muscular, or skeletal abnormality, require the skills of a qualified physical therapist. However, if gait evaluation and training cannot reasonably be expected to improve significantly the patient's ability to walk, such services would not be considered reasonable or medically necessary. Repetitious exercises to improve gait or maintain strength and endurance and assist in walking are appropriately provided by supportive personnel such as aides or nursing personnel and do not require the skills of a qualified physical therapist.~~

~~(iv)(c) Ultrasound, shortwave, and microwave treatments. These modalities must always be performed by a qualified physical therapist.~~

~~(v)(d) Range of Motion Tests. Therapeutic exercises which must be performed by or under the supervision of a qualified physical therapist, due either to the type of exercise employed or condition of the recipient, would constitute physical therapy. Range of motion exercises require the skills of a qualified physical therapist only when they are part of active treatment of a specific disease which has resulted in the loss or restriction of mobility (as evidenced by physical therapy notes showing the degree of motion lost and the degree to be restored). Such exercises, either because of their nature or condition of the recipient, may be performed safely and effectively by a qualified physical therapist briefly. Generally, range of motion exercises related to the maintenance of function do not require the skills of a qualified physical therapist and are not reimbursable.~~

~~(3) Home Health Limitations~~

~~(a) In a home health agency where the physical therapist is an employee of the agency or where there is a contractual arrangement with the therapist, the home health agency must follow the Medicaid guidelines.~~

~~(b) All therapy services, including the evaluation, require prior authorization.~~

~~(c) Occupational therapy is not a benefit in the home health program.~~

**R414-21-[9]10. Prior Authorization.**

(1) Ten services per calendar year per client are reimbursable without prior approval following the evaluation.

(a) All other services by the same provider require prior authorization.

(b) All physical therapy treatment, therapies, or sessions require a prior approval beginning after the first ten services per client per calendar year per billing provider.

(2) Process. The evaluation does not require prior approval. The first ten services per patient per billing provider per calendar year do not require prior approval. Prior approval for therapy services after the first ten services per provider per calendar year require prior approval before the services begin. The request for prior approval for treatment should include a copy of the plan of treatment for the patient or a document which includes:

- (a) the diagnosis, and the severity of the condition;
- (b) the prognosis for progress;
- (c) the expected goals and objectives for the recipient to attain;
- (d) the detail of the method(s) of treatment;
- (e) the frequency of treatment sessions, length of each session, and duration of the program.

(3) Prior Approval Procedure

(a) Prior approval requests will be evaluated for the number, frequency, and duration of treatments.

(i) The number of services approved will be based on the documented diagnosis, history and goals.

(ii) The frequency of services will be determined by the provider not to exceed one treatment per day.

(b) Reauthorization will require review by the patient's primary physician and will be dependent upon the medical necessity of the patient. Medicaid physician consultants will review and evaluate requests for continued service.

(4) Prior Approval Criteria

(a) Prior approval requests for treatment will be reviewed and approved or denied based on the following criteria:

(i) Services are for treatment of medically oriented disorders and disabilities.

(ii) Services are professionally appropriate under standards in the field, utilizing professionally appropriate methods and materials, in a professionally appropriate environment.

(iii) Services are provided with the expectation that the condition under treatment will improve in a reasonable and predictable time to the identified level.

(iv) Services are provided with a plan that explicitly states the methods to be used and the termination conditions.

(v) Services are requested for a patient suffering from CVA within 60 days of the CVA.

(5) Reauthorization

(a) When a reauthorization is necessary after the initial prior-approved sessions, a medical evaluation and documentation from the physician, as well as the therapist, must be attached to the prior authorization request. A new treatment plan is necessary defining the new goals. A new medical summary from the physician must also be attached. Additional requests should also include any supplemental data such as past treatment, progress made, family problems that may hinder progress, and a definite termination date. Medicaid physician consultants will review and evaluate requests for continued service in accordance with the process and criteria set forth in R414-21.

**R414-21-[10]11. Reimbursement for Services.**

Physical therapy reimbursement procedure codes and instructions are found in the Physical Therapy Provider Manual.

**KEY: Medicaid**[~~April 7,~~ 2003

Notice of Continuation May 6, 2002

26-1-4.1

26-1-5

26-18-3

▼ ————— ▼

## Health, Health Care Financing, Coverage and Reimbursement Policy

# R414-49

## Dental Service

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 26265

FILED: 05/13/2003, 16:01

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rulemaking reenacts language that is being deleted from Section R414-1-6(3). This rulemaking is designed to make it easier for the public to find limitations in dental services. (DAR NOTE: The amendment to Rule R414-1 is under DAR No. 26264 in this issue.)

**SUMMARY OF THE RULE OR CHANGE:** In Section R414-49-3, language is reenacted that had appeared in Subsection R414-1-6(3) to continue to limit services to those who are ages 20 and younger, or who are pregnant. Dental services to non-pregnant adults ages 21 and older are limited to emergency services only.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 26, Chapter 18

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** This reorganization of where the limitation enacted in January is found in rule does not change any substantive requirement and will therefore have no fiscal impact.

❖ **LOCAL GOVERNMENTS:** This reorganization of where the limitation enacted in January is found in rule does not change any substantive requirement and will therefore have no fiscal impact.

❖ **OTHER PERSONS:** This reorganization of where the limitation enacted in January is found in rule does not change any substantive requirement and will therefore have no fiscal impact.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** This reorganization of where the limitation enacted in January is found in rule does not change any substantive requirement and will therefore have no fiscal impact.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This reorganization of where dental service limitations enacted in January are found in rule

does not change any substantive requirement and will therefore have no fiscal impact. Rod L. Betit

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

HEALTH  
HEALTH CARE FINANCING,  
COVERAGE AND REIMBURSEMENT POLICY  
CANNON HEALTH BLDG  
288 N 1460 W  
SALT LAKE CITY UT 84116-3231, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ross Martin at the above address, by phone at 801-538-6592, by FAX at 801-538-6099, or by Internet E-mail at rmartin@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/01/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 07/02/2003

AUTHORIZED BY: Rod L. Betit, Executive Director

---

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

**R414-49. Dental Service.**

**R414-49-1. Introduction and Authority.**

(1) The Medicaid Dental Program provides a scope of dental services to meet the basic dental needs of Medicaid recipients.

(2) Dental services are authorized by 42 CFR, October, 1995 ed., sections 440.100, 440.120, 483.460, which are adopted and incorporated by reference.

**R414-49-2. Definitions.**

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

(1) "Adult" means a person who has attained the age of 21.

(2) "Child" means a person under age 21 who is eligible for the EPSDT (CHEC) program.

(3) "Child Health Evaluation and Care" (CHEC) is the Utah-specific term for the federally mandated program of early and periodic screening, diagnosis, and treatment (EPSDT) for children under the age of 21.

(4) "Dental services" means diagnostic, preventive, or corrective procedures provided by, or under the supervision of, a dentist in the practice of his profession.

(5) "Emergency services" means treatment of an unforeseen, sudden, and acute onset of symptoms or injuries requiring immediate treatment, where delay in treatment would jeopardize or cause permanent damage to a person's dental health.

**R414-49-3. Client Eligibility Requirements.**

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

**R414-49-4. Program Access Requirements.**

Dental services are available only from a dentist who meets all of the requirements necessary to participate in the Utah Medicaid Program, and who has signed a provider agreement.

**R414-49-5. Service Coverage.**

Specific services are identified for adults and for children eligible for the EPSDT (CHEC) program, since program covered services may differ. Specific program covered services for residents of ICFs/MR are detailed in this section.

(1) Diagnostic services are covered as follows:

(a) Each provider may perform a comprehensive oral evaluation one time only for either a child or an adult.

(b) A limited problem-focused oral evaluation for a child or an adult.

(c) Each provider may perform either two periodic oral evaluations, or a comprehensive and a periodic oral evaluation per calendar year.

(d) A choice of panoramic film, a complete series of intraoral radiographs, or a bitewing series of radiographs of diagnostic quality.

(e) Study models or diagnostic casts for children.

(2) Preventive services are covered as follows:

(a) Child:

(i) Two prophylaxis treatments in a calendar year by a provider, with or without fluoride.

(ii) Occlusal sealants are a benefit on the permanent molars of children under age 18.

(iii) Space maintainers.

(b) Adult: Two prophylaxis treatments in a calendar year by a provider.

(3) Restorative services are covered as follows:

(a) Amalgam restorations, composite restorations on anterior teeth, stainless steel crowns, crown build-up, prefabricated post and core, crown repair, and resin or porcelain crowns on permanent anterior teeth for children.

(b) Amalgam restorations, and composite restorations on anterior teeth for adults.

(4) Endodontics services are covered as follows:

(a) Therapeutic pulpotomy for primary teeth.

(b) Root canals, except for permanent third molars or primary teeth, or permanent second molars for adults.

(c) Apicoectomies.

(5) Periodontics services are covered as follows:

(a) Root planing or periodontal treatment for children.

(b) Gingivectomies for patients who use anticonvulsant medication, as verified by their physician.

(6) Oral Surgery services are covered as follows:

(a) Extractions for adults and children.

(b) Surgery for emergency treatment of traumatic injury.

(c) Emergency oral and maxillofacial services provided by dentists or oral and maxillofacial surgeons.

(7) Prosthodontics services are covered as follows:

Initial placement of dentures, including the relining to assure the desired fit.

(a) Full Dentures

(i) Child: Complete dentures.

(ii) Adult: "Initial" dentures.

(b) Partial dentures may be provided if the denture replaces an anterior tooth or is required to restore mastication ability where there is no mastication ability present on either side.

(c) Relining, rebasing, or repairing of existing full or partial dentures.

(8) Medicaid covered dental services are available to residents of an ICF/MR on a fee-for-service basis, except for the annual exam, which is part of the per diem paid to the ICF/MR.

(9) Patients who receive total parenteral or enteral nutrition may not receive dentures.

(10) The provider must mark all new placements of full or partial dentures with the patient's name to prevent lost or stolen dentures in facilities licensed under Title 26, Chapter 21.

(11) General anesthesia and I.V. sedation are covered services.

(12) Fixed bridges, osseo-implants, sub-periosteal implants, ridge augmentation, transplants or replants are not covered services.

(13) pontic services, vestibuloplasty, occlusal appliances, or osteotomies are not covered services.

(14) Consultations or second opinions not requested by Medicaid are not covered services.

(15) Treatment for temporomandibular joint syndrome, its prevention or sequela, subluxation, therapy, arthrotomy, meniscectomy, condylectomy are not covered services.

(16) Services requiring prior authorization or those with other limitations are listed in the Medicaid Dental Provider Manual. This manual is a public document published by the Division of Health Care Financing. A copy of the manual may be obtained by contacting Medicaid Information. In the Salt Lake City area, call 538-6155. In Utah, Idaho, Wyoming, Colorado, New Mexico, Arizona, and Nevada, call toll-free 1-800-662-9651. From other states, call 1-801-538-6155. A copy may also be obtained by writing to:

BUREAU OF MEDICAID OPERATIONS

Box 142911

SALT LAKE CITY, UT 84114-2911

**KEY: [m]Medicaid**

**[February 15, 1997]2003**

**Notice of Continuation December 20, 1999**

**26-1-5**

**26-18-3**



**Health, Health Care Financing,  
Coverage and Reimbursement Policy  
R414-50  
Dental, Oral and Maxillofacial Surgeons**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 26266

FILED: 05/13/2003, 16:05

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Cuts to dental services enacted in Subsection R414-1-6(3) are being moved to the rule that specifically addresses dental services. This is designed to make it easier for users to locate those cuts. (DAR NOTE: The amendment to Rule R414-1 is under DAR No. 26264 in this issue.)

SUMMARY OF THE RULE OR CHANGE: In Section R414-50-3, language is enacted to continue limited services to those who are ages 20 and younger, or who are pregnant. Dental services to non-pregnant adults ages 21 and older are limited to emergency services only.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 18

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This reorganization of where the limitation enacted in January is found in rule does not change any substantive requirement and will therefore have no fiscal impact.

❖ LOCAL GOVERNMENTS: This reorganization of where the limitation enacted in January is found in rule does not change any substantive requirement and will therefore have no fiscal impact.

❖ OTHER PERSONS: This reorganization of where the limitation enacted in January is found in rule does not change any substantive requirement and will therefore have no fiscal impact.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This reorganization of where the limitation enacted in January is found in rule does not change any substantive requirement and will therefore have no fiscal impact.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This reorganization of where the limitation enacted in January is found in rule does not change any substantive requirement and will therefore have no fiscal impact. Rod L. Betit

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

HEALTH  
HEALTH CARE FINANCING,  
COVERAGE AND REIMBURSEMENT POLICY  
CANNON HEALTH BLDG  
288 N 1460 W  
SALT LAKE CITY UT 84116-3231, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Doug Springmeyer at the above address, by phone at 801-538-6971, by FAX at 801-538-6306, or by Internet E-mail at dspringm@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/01/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 07/02/2003

AUTHORIZED BY: Rod L. Betit, Executive Director

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

**R414-50. Dental, Oral and Maxillofacial Surgeons.**

**R414-50-1. Introduction and Authority.**

(1) The Medicaid Oral and Maxillofacial Surgery Program provides a scope of oral and maxillofacial surgery services to meet the basic needs of Medicaid clients. This includes services by both oral and maxillofacial surgeons and general dentists if surgery is performed by a general dentist in an emergency situation and an oral and maxillofacial surgeon is not available.

(2) Oral and maxillofacial surgery services are authorized by 42 USC 1396d(a)(5), which is adopted and incorporated by reference.

**R414-50-2. Definitions.**

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

(1) "Oral and Maxillofacial Surgeons" means those individuals who have completed a post-graduate curriculum from an accredited institution of higher learning and are board-certified or board-eligible in oral and maxillofacial surgery.

(2) "Oral and maxillofacial surgery" means that part of dental practice which deals with the diagnosis and surgical and adjunctive treatment of diseases, injuries, and defects of the oral and maxillofacial regions.

**R414-50-3. Client Eligibility Requirements.**

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

**R414-50-4. Program Access Requirements.**

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

**R414-50-5. Service Coverage.**

(1) Emergency services are covered services. Emergency services provided by a dentist in areas where an oral and maxillofacial surgeon is unavailable are covered services.

(2) Appropriate general anesthesia necessary for optimal management of the emergency is a covered service.

(3) Hospitalization of patients for dental surgery may be a covered service if a patient's physician, at the time of the proposed hospitalization, verifies that the patient's general health status dictates that hospitalization is necessary for the health and welfare of the patient.

(4) Treatment of temporomandibular joint fractures is a covered service. All other temporomandibular joint treatments are not covered services.

(5) For procedures requiring prior approval, Medicaid shall deny payment if the services are rendered before prior approval is obtained. Exceptions may be made for emergency services, or for recipients who obtain retroactive eligibility. The provider must apply for approval as soon as is practicable after the service is provided.

(6) Extraction of primary teeth at or near the time of exfoliation, as evidenced by mobility or loosening of the teeth, is not a covered service.

**KEY:** [m]Medicaid  
 [September 13, 1995]2003  
 Notice of Continuation December 20, 1999  
 26-1-4.1  
 26-1-5  
 26-18-3

▼ ————— ▼

## Health, Health Care Financing, Coverage and Reimbursement Policy

# R414-305

### Resources

#### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 26268

FILED: 05/13/2003, 16:19

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rulemaking clarifies that resources excluded while an individual was eligible under the Medicaid Work Incentive program will continue to be excluded under other Aged, Blind, or Disabled Medicaid programs. In addition, as required by federal mandate, it adds language about deeming assets from a legal alien's sponsor. Medicaid applicants that inappropriately transfer assets in anticipation of Medicaid eligibility are ineligible for the value of the transferred assets divided by the average private pay rate. This rule adjusts the private pay rate based upon updated information from providers, which will have the effect of shortening the sanction period. Finally, it updates citations and makes other nonsubstantive changes.

**SUMMARY OF THE RULE OR CHANGE:** In Subsection R414-305-1(1), the dates on some citations are updated. Subsection R414-305-1(22) is clarified about excluding resources of a person who was eligible under the Medicaid Work Incentive Program. Language is added to Sections R414-305-1 and R414-305-2 to deem assets of an alien's sponsor. In Subsection R414-305-2(1), citation dates are updated. In Sections R414-305-3 and 4, citations are corrected. In Subsection R414-305-6(2), the average private pay rate for nursing home care is increased to \$3,618 per month. There are nonsubstantive changes throughout the rulemaking.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 26, Chapter 18

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** All fiscal changes in this rule are related to federal mandates. Deeming income for aliens is required. The Department has no way of assessing the impact this new requirement will have on eligibility or collections. Federal law

requires that Medicaid applicants be sanctioned if they make asset transfers in anticipation of applying for Medicaid. This rule change increases the average private pay rate based on survey data, which is used to determine the length of the sanction. Very few Medicaid recipients violate this requirement so the fiscal impact is likely to be very small.

❖ **LOCAL GOVERNMENTS:** Local governments that operate long-term care facilities may experience a shorter delay in being able to qualify a resident for Medicaid since the sanction period will be reduced as a result of increasing the average private pay rate. Local governments that are Medicaid providers may experience some impact on reimbursement due to deeming of a sponsor's income. The exact amount is impossible to predict.

❖ **OTHER PERSONS:** Providers that operate long-term care facilities may experience a shorter delay in being able to qualify a resident for Medicaid since the sanction period will be reduced as a result of increasing the average private pay rate. Applicants will have a shorter sanction period. Medicaid providers may experience some impact on reimbursement due to deeming of a sponsor's income. Legal aliens may lose some eligibility or have a higher spend-down based on sponsor's income. The exact amount is impossible to predict.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Legal aliens may have added burden to establish their sponsor's income. This is a federal mandate. The exact amount is impossible to predict.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rulemaking clarifies that resources excluded while an individual was eligible under the Medicaid Work Incentive program will continue to be excluded under other Aged, Blind, or Disabled Medicaid programs. In addition, it adds language about deeming assets from an alien's sponsor. It also more equitably determines the length of a sanction period based upon the inappropriate transfer of assets in anticipation of Medicaid eligibility by increasing the average private pay rate to reflect more recent data. Finally, it updates citations and makes other nonsubstantive changes. All changes that have a fiscal impact are mandated by federal law. Rod L. Betit

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

HEALTH  
 HEALTH CARE FINANCING,  
 COVERAGE AND REIMBURSEMENT POLICY  
 CANNON HEALTH BLDG  
 288 N 1460 W  
 SALT LAKE CITY UT 84116-3231, or  
 at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

Ross Martin at the above address, by phone at 801-538-6592, by FAX at 801-538-6099, or by Internet E-mail at [rmartin@utah.gov](mailto:rmartin@utah.gov)

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/01/2003.**

THIS RULE MAY BECOME EFFECTIVE ON: 07/02/2003

AUTHORIZED BY: Rod L. Betit, Executive Director

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

**R414-305. Resources.**

**R414-305-1. A, B and D Medicaid and A, B and D Institutional Medicaid Resource Provisions.**

(1) The Department adopts 42 CFR 435.735, 435.840 through 435.845, [1997]2001 ed., and 20 CFR 416.1201 through 416.1202 and 416.1204 through 416.1266, [1998]2002 ed., which are incorporated by reference. The Department adopts Subsection[s 1613(a)(4) and] 1902(k) of the Compilation of the Social Security Laws, 1993 ed., which is incorporated by reference. The Department adopts 1917(d) and (e), 404(h)(4) and 1613(a)(13) of the [Compilation]Compilation of the Social Security Laws in effect January 1, 1999, which are incorporated by reference. The Department shall not count as an available resource any assets that are prohibited under other federal laws from being counted as a resource to determine eligibility for federally-funded medical assistance programs.

(2) The definitions in R414-1 and R414-301 apply to this rule, in addition:

(a) "Burial plot" means a burial space and any item related to repositories customarily used for the remains of any deceased member of the household. This includes caskets, concrete vaults, urns, crypts, grave markers and the cost of opening and closing a grave site.

(b) "Sanction" means a period of time during which a person is not eligible for Medicaid services for institutional care or services provided under a Home and Community Based waiver due to a transfer of assets for less than fair market value.

(c) "Transfer" in regard to assets means a person has disposed of assets for less than fair market value.

(3) A resource is available when the client owns it or has the legal right to sell or dispose of the resource for the client's own benefit.

(4) Except for the Medicaid Work Incentive Program, the resource limit is \$2,000 for a one person household, \$3,000 for a two member household and \$25 for each additional household member.

(5) For an individual who meets the criteria for the Medicaid Work Incentive Program, the resource limit is \$15,000. This limit applies whether the household size is one or more than one.

(6) The Department bases Medicaid eligibility on all available resources owned by the client. Eligibility cannot be granted based upon the client's intent to or action of disposing of non-liquid resources.

(7) Any resource or the interest from a resource[~~-, which is~~] held within the rules of the Uniform [Gift]Transfers to Minors Act is not countable. Any money from the resource [which]that is given to the child as unearned income is countable.

(8) The resources of a ward that are controlled by a legal guardian are counted as the ward's resources.

(9) Lump sum payments received on a sales contract for the sale of an exempt home are not counted if the entire proceeds are committed to replacement of the property sold within 30 days and the purchase is completed within 90 days. The individual shall receive one extension of 90 days, if more than 90 days is needed to

complete the actual purchase. Proceeds is defined as all payments made on the principal of the contract. Proceeds does not include interest earned on the principal.

(10) If a resource is potentially available, but a legal impediment to making it available exists, it is not a countable resource until it can be made available. The applicant or recipient must take appropriate steps to make the resource available unless one of the following conditions exist:

(a) Reasonable action would not be successful in making the resource available.

(b) The probable cost of making the resource available exceeds its value.

(11) Water rights attached to the home and the lot on which the home sits are exempt providing it is the client's principal place of residence.

(12) For an institutionalized individual, a home or life estate is not considered an exempt resource. Therefore, a home [which is]transferred to a trust becomes a countable resource or constitutes a transfer of a resource. A home or life estate so transferred could continue to be excluded under the provisions of Section 1924 of the Compilation of the Social Security Laws, in effect January 1, 1999.

(13) For A, B and D Medicaid, the Department shall not count up to \$6,000 of equity value of non-business property used to produce goods or services essential to home use daily activities.

(14) For A, B and D Institutional Medicaid where the resources are determined to exceed the limits for Medicaid, eligibility shall not be given conditioned upon disposition of resources as described in 20 CFR 416.1240, [2000]2002 ed.

(15) A previously unreported resource may be retroactively designated for burial and thereby exempted effective the first day of the month in which it was designated for burial or intended for burial. However, it cannot be exempted retroactively prior to November 1982 or earlier than 2 years prior to the date of application. Such resources shall be treated as funds set aside for burial.

(16) One vehicle is exempt if it is used at least four times per calendar year to obtain necessary medical treatment.

(17) The Department allows SSI recipients, who have a plan for achieving self support approved by the Social Security Administration, to set aside resources that allow them to purchase work-related equipment or meet self support goals. These resources are excluded.

(18) An irrevocable burial trust is not counted as a resource. However, if the owner is institutionalized or on home and community based waiver Medicaid, the value of the trust, which exceeds \$7,000, is considered a transferred resource.

(19) Business resources required for employment or self-employment are not counted.

(20) The Department shall exclude as a resource the contributions made by an individual into and the interest accrued on an Individual Development Account as defined in Sections 404-416 of Pub. L. No. 105-285 effective October 27, 1998.

(21) [Additional resource exclusions for the Medicaid Work Incentive Program.

~~—(a)—~~For the Medicaid Work Incentive Program, the Department shall exclude the following additional resources of the eligible individual:

(~~f~~)a Retirement funds held in an employer or union pension plan, retirement plan or account, including 401(k) plans, or an Individual Retirement Account, even if such funds are available to the individual.

(~~ii~~)b) A second vehicle when it is used by a spouse or child of the eligible individual living in the [~~household~~]household to get to work.

(~~b~~)22) After qualifying for the Medicaid Work Incentive Program, these resources described in R414-305-1(21) will continue to be excluded throughout the lifetime of the individual to qualify for A, B or D Medicaid programs other than the Medicaid Work Incentive, even if the individual ceases to have earned income or no longer meets the criteria for the Work Incentive Program.

(23) Assets shall be deemed from an alien's sponsor, and the sponsor's spouse, if any, when the sponsor has signed an Affidavit of Support pursuant to Section 213A of the Immigration and Nationality Act on or after December 19, 1997. Sponsor deeming will end when the alien becomes a naturalized U.S. citizen, or has worked 40 qualifying quarters as defined under Title II of the Social Security Act or can be credited with 40 qualifying work quarters. Beginning after December 31, 1996, a creditable qualifying work quarter is one during which the alien did not receive any federal means-tested public benefit.

(24) Sponsor deeming does not apply to applicants who are eligible for Medicaid for emergency services only.

(~~22~~)25) Life estates.

(a) For non-institutional Medicaid life estates shall be counted as resources only when a market exists for the sale of the life estate as established by knowledgeable sources.

(b) For Institutional Medicaid, life estates are countable resources even if no market exists for the sale of the life estate.

(c) The client may dispute the value of the life estate by verifying the property value to be less than the established value or by submitting proof based on the age and life expectancy of the life estate owner that the value of the life estate is lower. The value of a life estate shall be based upon the age of the client and the current market value of the property.

(d) The following table lists the life estate figure corresponding to the client's age. This figure is used to establish the value of a life estate:

TABLE

Age	Life Estate Figure
0	.97188
1	.98988
2	.99017
3	.99008
4	.98981
5	.98938
6	.98884
7	.98822
8	.98748
9	.98663
10	.98565
11	.98453
12	.98329
13	.98198
14	.98066
15	.97937
16	.97815
17	.97700
18	.97590
19	.97480
20	.97365
21	.97245
22	.97120
23	.96986
24	.96841
25	.96678
26	.96495

27	.96290
28	.96062
29	.95813
30	.95543
31	.95254
32	.94942
33	.94608
34	.94250
35	.93868
36	.93460
37	.93026
38	.92567
39	.92083
40	.91571
41	.91030
42	.90457
43	.89855
44	.89221
45	.88558
46	.87863
47	.87137
48	.86374
49	.85578
50	.84743
51	.83674
52	.82969
53	.82028
54	.81054
55	.80046
56	.79006
57	.77931
58	.76822
59	.75675
60	.74491
61	.73267
62	.72002
63	.70696
64	.69352
65	.67970
66	.66551
67	.65098
68	.63610
69	.62086
70	.60522
71	.58914
72	.57261
73	.55571
74	.53862
75	.52149
76	.50441
77	.48742
78	.47049
79	.45357
80	.43659
81	.41967
82	.40295
83	.38642
84	.36998
85	.35359
86	.33764
87	.32262
88	.30859
89	.29526
90	.28221
91	.26955
92	.25771
93	.24692
94	.23728
95	.22887
96	.22181
97	.21550
98	.21000
99	.20486
100	.19975
101	.19532
102	.19054
103	.18437

104	.17856
105	.16962
106	.15488
107	.13409
108	.10068
109	.04545

#### **R414-305-2. Family Medicaid and Family Institutional Medicaid Resource Provisions.**

~~[(1)]~~(1) The Department adopts 45 CFR 206.10(a)(vii), 233.20(a)(3), and 233.51(b)(2), ~~[1997]~~2001 ed., which are incorporated by reference. The Department adopts Subsection 1902(k) of the Compilation of the Social Security Laws, 1993 ed., which is incorporated by reference. The Department adopts 1917(d) and (e), Subsection 404(h) and 1613(a)(13) of the Compilation of the Social Security Laws in effect January 1, 1999, which are incorporated by reference. The Department shall not ~~count~~count as an available resource any assets that are prohibited under other federal laws from being counted as a resource to determine eligibility for federally-funded medical assistance programs.

(2) A resource is available when the client owns it or has the legal right to sell or dispose of the resource for the client's own benefit.

(3) The resource limit is \$2,000 for a one person household, \$3,000 for a two member household and \$25 for each additional household member.

(4) Except for the exclusion for a vehicle, the methodology for treatment of resources is the same for all medically needy and categorically needy individuals.

(5) Medicaid eligibility is based on all available resources owned by the client. Eligibility cannot be granted based upon the client's intent to or action of disposing of non-liquid resources.

(6) The resources of a sanctioned household member are counted.

(7) The resources of a ward ~~[which]that~~ are controlled by a legal guardian are counted as the ward's resources.

(8) If a resource is potentially available, but a legal impediment to making it available exists, it is not countable until it can be made available. The applicant or recipient must take appropriate steps to make the resource available unless one of the following conditions exist:

(a) Reasonable action would not be successful in making the resource available.

(b) The probable cost of making the resource available exceeds its value.

(9) Except for determining countable resources for 1931 Family Medicaid, the maximum exemption for the equity of one car is \$1,500.

(10) Maintenance items essential for day-to-day living are not countable resources.

(11) Life estates are not countable resources if the life estate is the principal residence of the applicant or recipient. If the life estate is not the princip~~al~~ residence, see Subsection R414-305-1~~(22)]~~25).

(12) The resources of an ineligible child are not counted.

(13) The value of the lot on which the home stands is not counted if the lot does not exceed the average size of residential lots for the community in which it is located. The value of the property in excess of an average size lot is a countable resource.

(14) Water rights attached to a home and lot are not counted.

(15) Any resource, or interest from a resource~~[which is]~~ held within the rules of the Uniform ~~[Gift]~~Transfers to Minors Act is not

countable. Any money from a resource ~~[which]that~~ is given to the child as unearned income is countable.

(16) Lump sum payments received on a sales contract for the sale of an exempt home are not counted if the entire proceeds are committed to replacement of the property sold within 30 days and the purchase is completed within 90 days. The individual shall receive one extension of 90 days, if more than 90 days is needed to complete the actual purchase. Proceeds is defined as all payments made on the principal of the contract. Proceeds does not include interest earned on the principal.

(17) Retroactive benefits received from the Social Security Administration and the Railroad Retirement Board are not counted for the first 6 months after receipt.

(18) A \$1,500 burial and funeral fund exemption is allowed for each eligible household member. Burial and funeral agreements include burial trusts, funeral plans, and funds set aside expressly for the purposes of burial.

~~(19) [The resources of an alien's sponsor are not considered available to the alien.]~~Assets shall be deemed from an alien's sponsor, and the sponsor's spouse, if any, when the sponsor has signed an Affidavit of Support pursuant to Section 213A of the Immigration and Nationality Act on or after December 19, 1997. Sponsor deeming will end when the alien becomes a naturalized U.S. citizen, or has worked 40 qualifying quarters as defined under Title II of the Social Security Act or can be credited with 40 qualifying work quarters. Beginning after December 31, 1996, a creditable qualifying work quarter is one during which the alien did not receive any federal means-tested public benefit.

~~(20) Sponsor deeming does not apply to applicants who are eligible for Medicaid for emergency services only.~~

~~(20)]~~21) Business resources required for employment or self employment are not counted.

~~(21)]~~22) For 1931 Family Medicaid households, the state shall either disregard the equity value of one vehicle that meets the definition of a "passenger vehicle" as defined in 26-18-2(6) or \$1,500 of the equity of one vehicle, whichever provides the greatest disregard for the household.

~~(22)]~~23) For eligibility under Family-related ~~[Medicaid]~~Medicaid programs, retirement funds held in an employer or union pension plan, retirement plan or account including 401(k) plans and Individual Retirement Accounts of a disabled parent or disabled spouse who is not included in the coverage shall be excluded from countable resources.

~~(23)]~~24) The Department shall exclude from resources the contributions made by an individual and the interest accrued on funds held in an Individual Development account as defined in Sections 404-416 of Pub. L. No. 105-285, effective October 27, 1998.

#### **R414-305-3. Spousal Impoverishment Resource Rules for Married Institutionalized Individuals.**

~~[(1)]~~(1) The Department adopts Section 1924 of the Compilation of the Social Security Laws, in effect January 1, 1999, which is incorporated by reference.

(2) The resource limit is \$2,000.

(3) The Department shall determine the joint owned resources of married couples as available to each other. One half of the joint owned resources shall count towards the institutional client's resource eligibility determination.

(4) When a client is unable to comply with spousal impoverishment rules and claims undue hardship because of an



uncooperative spouse or because the spouse cannot be located, assignment of support rights shall be done by signing the Form 048.

(5) "Undue hardship" in regard to counting a spouse's resources as available to the institutionalized client means:

(a) The client completes the Form 048.

(b) The client will not be able to get the medical care needed without Medicaid.

(c) The client is at risk of death or permanent disability without institutional care.

(6) The client may be eligible for Medicaid without regard to the spouse's resources if both of the following conditions are met:

(a) The spouse cannot be located or will not provide information needed to determine eligibility.

(b) The client signs the Form 048.

(7) The assessed spousal share of resources shall not be less than the minimum amount nor more than the maximum amount mandated by section 1924(f) of the Compilation of the Social Security Laws in effect January 1, 199[8]9.

(8) Any resource owned by the community spouse in excess of the assessed spousal share is counted to determine the institutionalized client's initial Medicaid eligibility.

(9) A protected period, after eligibility is established, of up to 90 days is allowed for an institutionalized client to transfer resources to the community spouse.

(10) After eligibility is established for the institutionalized client, those resources held in the name of the community spouse will not be considered available to the institutionalized client.

#### **R414-305-4. Medicaid Qualifying Trusts.**

The Department adopts Section 1902(k) of the Compilation of the Social Security Laws, 1993 ed., which is incorporated by reference.

#### **R414-305-5. Transfer of Resources for A, B and D Medicaid and Family Medicaid.**

There is no sanction for the transfer of resources.

#### **R414-305-6. Transfer of Resources for Institutional Medicaid.**

(1) The Department adopts Subsection 1917(c) of the Compilation of the Social Security Laws, in effect January 1, 1999, which is incorporated by reference.

(2) The average private-pay rate for nursing home care in Utah is [~~\$3,118~~]\$3,618 per month.

(3) To determine if a resource is transferred for the sole benefit of a spouse, disabled or blind child, or disabled individual, a binding written agreement must be in place which establishes that the resource transferred can only be used to benefit the spouse, disabled child, or disabled individual, and is actuarially sound. The written agreement must specify the payment amounts and schedule. Any provisions in such agreement that would benefit another person at any time nullifies the sole benefit provision except for exempt trusts established under section 1917(d) of the Compilation of the Social Security Laws, January 1, 1999 ed., that provide for repayment of the state Medicaid agency or provide for a pooled trust to retain a portion of the remainder.

(4) No sanction is imposed when the total value of a whole life insurance policy is irrevocably assigned to the state; and the recipient is the owner of and the insured in the policy; and no further premium payments are necessary for the policy to remain in effect.

At the time of the client's death, the state shall distribute the benefits of the policy as follows:

(a) Up to \$7,000 can be distributed to cover burial and funeral expenses. The total value of this distribution plus the value of any irrevocable burial trusts and/or the burial and funeral funds for the client can not exceed \$7,000.

(b) An amount to the state that is not more than the total amount of previously unreimbursed medical assistance correctly paid on behalf of the client.

(c) Any amount remaining after payments are made as defined in a. and b. will be made to a beneficiary named by the client.

(5) Clients that claim an undue hardship as a result of a transfer of resources must meet both of the following conditions:

(a) The client has exhausted all reasonable legal means to regain possession of the transferred resource. It is considered unreasonable to require the client to take action if a knowledgeable source confirms that it is doubtful those efforts will succeed. It is unreasonable to require the client to take action more costly than the value of the resource.

(b) The client is at risk of death or permanent disability if not admitted to a medical institution or Waiver service. This decision will be based upon the client's medical condition and the financial situation of the client. Income of the client, client's spouse, and parents of an unemancipated client shall be used to decide if the financial situation creates undue hardship.

(6) After Institutional Medicaid eligibility is determined, the client's spouse, not living in the institution, may transfer any resource to any person without impacting the Medicaid eligibility of the institutionalized spouse.

(7) The portion of an irrevocable burial trust that exceeds \$7,000 is considered a transfer of resources. The value of any fully paid burial plot, as defined in R414-305-1(2)(a), shall be deducted from such burial trust first before determining the amount transferred.

(8) If more than one transfer has occurred and the sanction periods would overlap, the sanctions will be applied consecutively, so that they do not overlap. A sanction begins on the first day of the month in which the resource was transferred unless a previous sanction is in effect, in which case the sanction begins on the first day of the month immediately following the month the previous sanction ends. If resources were transferred before August 11, 1993, applicable sanction periods for those transfers may overlap.

#### **R414-305-7. Home and Community-Based Services Waiver Resource Provisions.**

(1) The resource limit is \$2,000.

(2) Following the initial month of eligibility, continued eligibility is determined by counting only the resources that belong to the client.

(3) For married clients, spousal impoverishment resource rules apply as defined in R414-305-3.

#### **R414-305-8. QMB, SLMB, and QI-1 Resource Provisions.**

(1) The Department adopts Subsection 1905(p) of the Compilation of the Social Security Laws, 1999 ed., which is incorporated by reference.

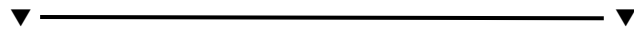
(2) The resource limit is the same for all medically needy individuals.

(3) The QMB, SLMB, and QI-1 resource limit is \$4,000 for an individual and \$6,000 for a couple.

**KEY:** [m]Medicaid

[July 6, 2001]2003

Notice of Continuation January 31, 2003  
26-18



## Human Services, Administration **R495-879**

### Parental Support for Children in Care

#### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 26261

FILED: 05/12/2003, 16:23

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this filing is to add Section R495-879-8 to the existing rule, update the title of the "Public Support of Children Act," clarify the Good Cause Deferral and Waiver Request process, and add additional criteria to Section R495-879-3.

**SUMMARY OF THE RULE OR CHANGE:** This proposed amendment to add Section R495-879-8, "Parents Receiving Adoption Assistance", clarifies that the Office of Recovery Services will establish and enforce child support obligations for parents receiving adoption assistance. This amendment also updates the "Public Support of Children Act" to "Child Support Services Act," clarifies the approval process for the Good Cause Deferral and Waiver Request, and adds two additional criteria to Section R495-879-3 "Criteria for Deviating from Guidelines."

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsections 62A-1-111(16), 62A-5-109(1), and 78-3a-105(5)(A); and Sections 62A-4a-114, 62A-7-124, 62A-11-301, 62A-11-302, 62A-15-607, 78-3a-906, 78-45-4.2, and 78-45-7.2 through 78-45-7.21

#### ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** These changes will not have a negative impact on the state budget. The rule change to assess child support for parents receiving adoption assistance will result in the Office of Recovery Services reinstating, assessing, and collecting child support on cases not currently being collected.

These changes will not require additional staff and could potentially result in increased collections. The exact amount of collections impacted will vary depending on the number of obligors affected by these changes and by the number of these cases actually paying. The rule change also clarifies the deviation criteria and the Good Cause Deferral and Waiver Request process, neither of which will have a substantial impact on the state budget.

❖ **LOCAL GOVERNMENTS:** This rule does not impose a cost or savings impact on any local government entity, since the does affect local government.

❖ **OTHER PERSONS:** These rule changes will now require parents receiving adoption assistance to pay a child support obligation while their child is in the care or custody of the state. The average cost is dependent on the parent's income and varies from family to family. After determining gross income, the Uniform Child Support Guidelines will be utilized to determine the final amount of support. Individuals being assessed a support obligation will have the option of requesting a hearing to deviate from the guidelines.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Each affected person's costs resulting from these changes is dependent on gross income, which varies from family to family.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** Rule R495-879 specifies the formula and criteria for determining the child support obligation for children residing in Human Services 24-hour care programs. It established the same assessment formula and criteria for all Human Services programs. However, the rule itself, as well as the proposed changes, do not pose any fiscal impact on businesses.

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

HUMAN SERVICES  
ADMINISTRATION  
120 N 200 W  
SALT LAKE CITY UT 84103-1500, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kari Smith at the above address, by phone at 801-536-8777, by FAX at 801-536-8509, or by Internet E-mail at ksmith@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/01/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 07/02/2003

AUTHORIZED BY: Robin Arnold-Williams, Executive Director

#### **R495. Human Services, Administration. R495-879. Parental Support for Children in Care. R495-879-1. Child Support Liability.**

The Office of Recovery Services will establish and enforce child support obligations against parents whose children are in out-of-home placement programs, administered by the Department of Human Services or Department of Health. The department shall consider fees for outpatient and day services separate from child support payments. Establishment and enforcement of child support shall be pursuant to the Uniform Civil Liability for Support Act, Title 78, Chapter 45; Child Support Services Act [Public Support of Children], 62A-11-301 et seq.; Support and expenses of child in custody of an individual or institution, 78-3a-906;

**R495-879-2. Support Guidelines.**

Child support obligations shall be calculated in accordance with Child Support Guidelines, Sections 78-45-7.2 through 78-45-7.21.

**R495-879-3. Criteria For Deviating From Guidelines.**

The following criteria may be used to deviate from the guidelines when a prior order does not exist.

## 1. Deduction For a Disabled Child.

A deduction from gross income shall be allowed each year, equal to the federal tax exemption for dependents, for each year a child was cared for at home if that child's disability would ordinarily have qualified him for residential care.

## 2. Medical Payments.

A deduction from gross income shall be allowed for medical expenses equal to the IRS deduction allowed the previous year on the parents' 1040 tax return.

## 3. Children Over 18 Years Old.

Children up to 23 years of age shall be included on the Child Support Worksheet if the parents are claiming the child as an exemption on their income tax return. Parents must provide prior year's tax return and a statement that they will be claiming child on current year tax return.

## 4. Federal Poverty Level.

If the parent is not under employed and is responsible for providing food, clothing, shelter, transportation, and other life sustaining items for his family, and lives at or below the federal poverty level, he shall not be assessed child support for a child placed in out-of-home care.

## 5. Loss of child's Social Security Survivor Payments.

If the parent's income is below 133% of the poverty level, allow a direct credit against the child support amount from the child's social security survivor's benefit paid to the state.

## 6. Adoption Assistance.

The child is adopted, the parents continue to receive adoption assistance, and the child is placed in the care or custody of the state for reasons other than neglect or abuse of the child by the parents.

## 7. Best Interest of the Child.

It is in the best interest of the child to deviate from the child support guidelines pursuant to Section 78-45-7.14.

**R495-879-4. Establishing an Order.**

ORS may modify and establish child support orders through the Child Support Services Act [Public Support of Children Act], 62A-11-301 et seq.; Administrative Procedures Act, Section 63-46b-1 et seq.; Jurisdiction - Determination of Custody questions by Juvenile Court, Subsection 78-3a-105(5)(a); and in accordance with R527-200.

**R495-879-5. Good Cause Deferral and Waiver Request.**

If collections interfere with family unification, a division may, using the Good Cause-Deferral/Waiver (form 602), request a deferral or waiver of arrears payments. The request may be applied to current support when an undue hardship is created by an unpreventable loss of income to the present family. A loss of income may include non payment of child support from the other parent for the children at home, loss of employment, or loss of monthly pension or annuity payments. The request shall be initiated by the responsible case worker and forwarded to his or her supervisor, regional director, division director/superintendent, or designee for approval. The Good Cause Deferral and Waiver request may be denied or approved at any stage in the process. Once the waiver has been approved at all levels, the division director shall send the waiver[~~sent~~] to the ORS director or

designee for review and decision. If the requesting agency disagrees with the ORS[~~to the~~] director's decision, the request may be referred to the Executive Director of the Department of Human Services[Division] for a final decision[approval]. The request shall not be approved when it proposes actions that are contrary to state or federal law.

**R495-879-6. In-Kind Support.**

ORS may accept in-kind support, based on parents' service to the program in which the child is placed. The service provided by a parent must be approved by the director of the Division responsible for the child's care. The approval should be based on a monetary savings or an enhancement to a program. It is preferable for the service to benefit the program in which the child is receiving care. However, if geographical distances prohibit direct service, then the division director may approve support services for in-kind support that do not directly offset costs to the agency. A memorandum of understanding shall be signed by the agency and the parent specifying the type, length, and value of service.

Verification of the service hours worked must be provided by the division to ORS (using Form 603) within 10 days of the end of the month in which the service was performed. The verification shall include the dates the service was performed, the number of hours worked, and the total credit amount allowed. Unless approved by the director of the Department, in-kind support approved by one agency shall not be used to reduce child support owed to another agency. In-kind support shall not be approved when it proposes actions that are contrary to state or federal law.

**R495-879-7. Extended Visitation During The Year.**

A rebate shall be granted to a parent for support paid when a child's overnight visits equal 25% or more of the service period. The rebate will only be provided when the service period lasts six months or more. The rebate will be proportionate to the number of days at home compared to the number of days in care. One continuous 24-hour period equals one day.

**R495-879-8. Child Support and Adoption Assistance.**

ORS will establish and enforce child support obligations for parents who are currently receiving adoption assistance or who have received adoption assistance from this state or any other state or jurisdiction, for children who are in the custody of the state, in accordance with Sections 78-3a-906, 78-45-4.2, R495-879-1 and R527-550-1. If an order for support does not currently exist, the department will establish a monthly child support obligation prospectively on existing cases. When establishing a child support obligation, ORS will not include the adoption assistance amount paid to the family in determining the family's income, pursuant to Section 78-45-7.4.

**KEY: child support, custody of children**

~~[May 10, 1999]~~2003

Notice of Continu[~~t~~]ation March 11, 1999

62A-1-111(16)

62a-4a-116

62A-5-109(1)

62A-7-124

62A-11-302

62A-12-206

78-3a-105(5) (a)

78-3a-906

78-45-4.2

78-45-7.2 through 78-45-7.21

**Insurance, Administration**  
**R590-152**  
**Medical Discount Programs Rule**

**NOTICE OF PROPOSED RULE**  
 (Amendment)

DAR FILE No.: 26283  
 FILED: 05/15/2003, 10:11

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the change is to add an additional disclosure requirement.

SUMMARY OF THE RULE OR CHANGE: Many of the changes throughout the rule correct grammatical errors, clarify, and make changes to comply with the rulemaking requirements such as the elimination of references to "U.C.A." Subsection R590-152-4(E) adds the requirement to provide a disclosure to consumers that the program is not guaranteed by the Utah Life and Health Guaranty Association. A new enforcement section (R590-152-6) is added to the rule specifying that revisions to the rule will be enforced 45 days after the rule goes into effect.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-1-103 and 31A-2-201

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There will be no need for a change in office personnel as a result of these changes nor will the department's expenditures or revenues be affected.

❖ LOCAL GOVERNMENTS: This rule will not affect local governments. It only deals with the requirements the Insurance Department places on limited line producers selling medical discount plans. These changes will not affect local government requirements, therefore, there is no impact on local governments.

❖ OTHER PERSONS: The changes will have little financial impact on those selling medical discount plans. The rule exempts the department's regulation of these plans as long as the seller complies with the rule. Those selling medical discount plans may be licensees we regulate and may also be those outside of our jurisdiction. Sellers of this product will need to add the new disclosure wording in Subsection 4 to their marketing materials and contracts which will incur for them some paper and printing costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The changes will have little financial impact on those selling medical discount plans. The rule exempts the department's regulation of these plans as long as the seller complies with the rule. Those selling medical discount plans may be licensees we regulate and may also be those outside of our jurisdiction. Sellers of this product will need to add the new disclosure wording in Subsection 4 to their marketing materials and contracts which will incur for them some paper and printing costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes to this rule will have very little fiscal impact on those selling medical discount plans. Much of the cost will depend on the amount and variety of promotional material they use.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at [jwhitby@utah.gov](mailto:jwhitby@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/02/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 07/03/2003

AUTHORIZED BY: Jilene Whitby, Information Specialist

**R590. Insurance, Administration.**  
**R590-152. Medical Discount Programs Rule.**  
**R590-152-1. Authority.**

This rule is promulgated and adopted pursuant to Subsection 31A-1-103(3)(d) and Section 31A-2-201[~~Utah Code Annotated (U.C.A.)~~].

**R590-152-2. Purpose.**

The purpose of this rule is to exempt providers of certain medical discount programs from regulation under Chapter 8 of Title 31A[~~U.C.A.~~] and to define those so exempted.

**R590-152-3. Definitions.**

For the purposes of this rule, the following definition shall apply:

Medical Discount Program. A program established or operated by a third ~~persons~~ person which arranges for participating medical professionals to provide medical goods or services at a discount to a subscriber.

**R590-152-4. Rule.**

A. A medical discount program is a [~~Limited Health Plan~~]limited health plan as defined under 31A-8-101(6)(a) [~~U.C.A.~~] and must comply with the requirements of [~~Limited Health Plans~~]limited health plans unless otherwise exempted from regulation by this rule.

B. The commissioner, pursuant to 31A-1-103(3)(d)[~~U.C.A.~~], finds that medical discount programs[~~]~~ that operate in accordance with all of the provisions of this rule, do not require regulation [~~of~~]by the [Department of Insurance]department for the protection of the interest of the residents of this state and that it would otherwise

be impracticable to require compliance with the provisions of Title 31A~~[, U.C.A.]~~.

C. An exempt medical discount program, pursuant to 31A-4-106~~[, U.C.A.]~~, may not make any payments to providers for participation in the program or for the services performed, capitation payments, signing fees, bonuses, or other forms of compensation other than referral of the program subscribers to the provider.

D. An exempt medical discount program may provide discount or free services through its contracted providers to its subscribers in exchange for a periodic payment to the program or as a benefit in connection with membership in a particular group.

E. An exempt medical discount program must include the following disclosures in all contracts, booklets, advertising, and any presentations relating to the solicitation of the program:

(1) prominently state that the program is "Not Insurance" and that the program is a "Discount Program;" ~~[in all contracts, booklets, advertising, and any presentations relating to the solicitation of the program;]~~

(2) prominently state the following: "Note to Utah Residents: This contract is not protected by the Utah Life and Health Guaranty Association;" and ~~[(2) not use in its title, name or description, words usually associated with insurance, including but not limited to, "insurance," "premium", or "coverage", and may not refer to its sales representatives as "agents"; and]~~

(3) ~~[disclose]~~ prominently state that the program and the program administrators have no liability for ~~[the]~~ providing or guaranteeing service and should state that they have no liability for the quality of service rendered.

F. A medical discount plans may not use in its title, name or description words usually associated with insurance, including "insurance," "premium," or "coverage," and may not refer to its sales representatives as "agents," "broker," "producer," or "consultant."

#### **R590-152-5. Department Opinion.**

Any program may request an opinion from the ~~[Utah Department of Insurance]~~ department as to whether it complies with the provisions of this rule and would, therefore, be exempt from the requirements of ~~[the Utah Insurance Code]~~ Title 31A.

#### **R590-152-6. Enforcement Date.**

The commissioner will begin enforcing the revised provision of this rule 45 days from the rule's effective date.

#### **R590-152-7. Severability.**

If any provision of this rule or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of such provision to other persons or circumstances shall not be affected thereby.

**KEY: insurance, medical discount plans**

~~[1993]~~2003

Notice of Continuation November 27, 2002

31A-1-103

31A-2-201



Insurance, Administration

## **R590-176**

Small Employer Open Enrollment Rule

### **NOTICE OF PROPOSED RULE**

(Repeal and Reenact)

DAR FILE No.: 26285

FILED: 05/15/2003, 13:56

### **RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is being updated to comply with Health Insurance Portability and Accountability Act of 1996.

**SUMMARY OF THE RULE OR CHANGE:** The following have been removed from the rule that is currently in effect and have not been included in the new rule: 1) requirements for small employer open-enrollment certifications; and 2) open-enrollment requirement for new hires. Regarding the new rule: 1) added requirements for carrier certifications for meeting the enrollment cap in the individual market; 2) the term "open-enrollment" has been changed to "enrollment;" 3) a new section was added for enrollment of new employees on current small employer groups; and 4) revised the auditing standards to be more specific and to include a time period for record retention.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Sections 31A-2-201 and 31A-2-202

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** These rule changes will have no impact on the department's or state's budget. It will not result in a change in revenues received or number of employees needed by the department.

❖ **LOCAL GOVERNMENTS:** Local government will not be affected by this rule since it only affects the relationship between Utah health insurers and the department.

❖ **OTHER PERSONS:** The changes noted in the summary above will have no fiscal impact on carriers impacted by the rule. The requirements were implemented by the 1996 Utah Legislature and went into effect January of 1997. Insurers have been complying with the provisions of the law since then.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The changes noted in the summary above will have no fiscal impact on carriers impacted by the rule. The requirements were implemented by the 1996 Utah Legislature and went into effect January of 1997. Insurers have been complying with the provisions of the law since then.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The changes to this rule will have no fiscal impact on Utah businesses.

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

INSURANCE

ADMINISTRATION

Room 3110 STATE OFFICE BLDG

450 N MAIN ST

SALT LAKE CITY UT 84114-1201, or

at the Division of Administrative Rules.

## DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at [jwhitby@utah.gov](mailto:jwhitby@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/02/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 07/03/2003

AUTHORIZED BY: Jilene Whitby, Information Specialist

**R590. Insurance, Administration.****~~R590-176. Small Employer Open Enrollment Rule.~~****~~R590-176-1. Authority and Purpose.~~**

~~— This rule implements the provisions of Title 31A, Chapter 30, The Individual and Small Employer Health Insurance Act. The commissioner's authority to promulgate this rule is provided in Sections 31A-2-201 and 202 and Subsection 31A-30-106(1)(k).~~

**~~R590-176-2. Definitions.~~**

~~— The definitions in Section 31A-30-103 apply to this rule.~~

**~~R590-176-3. Applicability and Scope.~~**

~~— This rule has the same applicability and scope as Title 31A, Chapter 30, Utah Code, The Individual and Small Employer Health Insurance Act.~~

**~~R590-176-4. General Provisions.~~**

~~— A. Any attempt to selectively or unfairly delay, obstruct or otherwise hinder any person from obtaining coverage under Chapter 30 is a violation of Subsection 31A-30-108(1).~~

~~— B. Open enrollment shall be equally available through all distribution systems, classes of business, and rating criteria categorizations.~~

~~— C. Open enrollment is available without respect to whether any eligible employee or dependent is classified as uninsurable.~~

~~— D. The open enrollment residency requirements do not supersede other dependent and child requirements of the Insurance Code.~~

**~~R590-176-5. Open Enrollment Eligibility if Cap Has Not Been Reached.~~**

~~— A. Offers required by Subsection 31A-30-108(2)(a):~~

~~— (1) The carrier shall retain a signed statement from each covered small employer that the carrier offered to accept all eligible employees and their dependents at the same level of benefits under the health benefit plan provided to the employer.~~

~~— (2) For eligible employees not provided coverage due to the residency requirement, the carrier shall offer the small employer the opportunity to enroll eligible employees when the eligible employee or small employer notifies the carrier the residency requirement has been met.~~

~~— (3)(a) For health benefit plans provided to small employers and in force as of January 1, 1996, the carrier shall offer to accept eligible employees and dependents who:~~

~~— (i) were denied the opportunity to enroll; or~~

~~— (ii) are enrollees of the Comprehensive Health Insurance Pool (HIP).~~

~~— (b) The carrier shall offer to accept all other eligible employees and dependents as of the earliest date upon which a premium may be adjusted following December 31, 1995 but not later than December 31, 1996 unless the carrier has evidence:~~

~~— (i) the small employer was offered coverage by the carrier for an eligible employee or dependent; and~~

~~— (ii) the employer or employee chose not to be covered after December 31, 1995.~~

~~— B. Coverage under Subsection 31A-30-108(2)(b).~~

~~— A small employer is considered uninsured if it does not have a health benefit plan subject to Chapter 30, or its health benefit plan is with a carrier that has made an election under Subsection 31A-30-107(1)(f).~~

**~~R590-176-6. Basic Health Care Plan.~~**

~~— A. The carrier must offer the specified plan as defined in Rule R590-175-3.~~

~~— B. Filing Requirements:~~

~~— (1) The specified plan must be filed by January 1, 1996.~~

~~— (2) If the specified plan is already filed with the Department, an information copy must be filed by January 2, 1996.~~

**~~R590-176-7. Open Enrollment Applications.~~**

~~— A. The carrier shall establish a procedure to determine the order of applications by small employers. The procedure shall group the applications into consistent time periods such as daily, weekly or monthly. The open enrollment cap may not be applied until the end of the time period in which it is met. The carrier may not require that an application be complete in order to qualify as an application for coverage. The carrier shall keep a record of all applications for coverage that includes the time period an application is received by the insurer.~~

~~— B. Applicants with incomplete applications shall have at least 15 working days, after being notified additional information is required, before an application can be filed as incomplete. A date earlier than the postmarked date of a notice may not be used as the date of notification.~~

~~— C. The acceptance of an application may not be delayed pending the receipt of statements or records. This does not apply to statements from applicants.~~

~~— D. All applications shall be treated consistently.~~

~~— E. Persons eligible for open enrollment under R590-176-5A.(3)(b) may apply for open enrollment effective January 1, 1996. This application includes them in the open enrollment coverage order even though the enrollment date is not required to be immediate. The carrier may include persons accepted under this provision in its uninsurable coverage count if they meet the underwriting criteria.~~

**~~R590-176-8. Open Enrollment Cap Calculation and Certification.~~**

~~— A. A carrier may not decline open enrollment until the carrier has met its open enrollment cap and submitted a certification to the commissioner. A carrier may limit open enrollment after submitting its certification. The commissioner may require additional open enrollment after reviewing the certification.~~

~~— B. An officer of the carrier shall submit a certification that:~~

~~— (1) lists the UC, CS and CI as defined in Chapter 30;~~

~~— (2) lists the coverage counts at the time of the certification;~~

~~— (3) categorizes the UC into new applicants with insured groups and newly covered groups;~~

~~— (4) identifies the number of HIP participants; and~~

~~— (5) list the counts separately for groups subject to the 3% counting method.~~

— C. Carriers, whose coverage count exceeds 200% of the coverage count as of the end of the prior year, shall determine the uninsurable percentage using counts as of the end of the most recent calendar quarter.

— D. The open enrollment cap of 31A-30-110(1) is 1.0% effective November 15, 1996.

**R590-176-9. HIP Enrollment Limit and Certification.**

— A carrier may declare an individual who participated in HIP prior to December 31, 1995, ineligible for open enrollment if that carrier has reached its HIP count maximum. An officer of the carrier must certify that this limit has been reached and provide the commissioner the numerical values for each element of the formula in Subsection 31A-30-103(16). A carrier may not decline open enrollment using this limit until they have submitted this certification to the commissioner.

**R590-176-10. Open Enrollment for New Hires.**

— A. The cap on acceptance of newly hired eligible employees (and their eligible dependents, if any) in a small employer group with existing coverage, as identified in Section 31A-30-110(1)(e), is eliminated beginning November 15, 1996, and remains eliminated through June 30, 1997. Therefore newly hired eligible employees (and their dependents, if any) making timely and appropriate application for coverage in a small employer group with existing coverage will be accepted.

— B. Carriers shall compile a list of all newly hired and declined eligible employees who previously made timely application as above and send notice to the employers of said employees of the opportunity to reapply. Eligible employees who previously made timely application for coverage and who were declined because new hire caps had been met under Section 31A-30-110(1)(e), may make reapplication to the same carrier within 45 days of the effective date of this rule or the notification, whichever is later, and will be underwritten as if the reapplication had been timely made. The carriers shall make such documentation of the notices sent and the results thereof, and make such documentation available to the staff of the Utah Health Policy Commission and the Utah Department of Insurance.

**R590-176-11. Solvency Waiver.**

— A carrier that expects the requirements of Chapter 30 to place the carrier in supervision, insolvency or liquidation shall, within 15 days, submit a report to the commissioner. The report shall detail the financial consequences of Chapter 30 and request the specific waivers or modifications required to prevent supervision, insolvency or liquidation.

**R590-176-12. Auditing Standards.**

— All records regarding open enrollment applications and underwriting determinations shall be retained and organized in a fashion conducive to efficient review and audit.

**R590-176-13. Underwriting Criteria.**

— A. Each carrier shall determine the number of individuals classified as uninsurable at initial enrollment. This determination shall be made in accordance with underwriting standards established by this rule.

— B. An individual insured by the HIP is classified as uninsurable.

— C. A person may be classified as uninsurable if the person has a condition listed on the Uninsurable Conditions List taking into account the elapsed time, additional criteria and exception criteria. A carrier may not take into account conditions for which coverage is not

provided. This includes conditions excluded as a pre-existing condition for which treatment is expected during the exclusion period if the applicant would not be considered uninsurable after the treatment. For example, a pregnancy excluded by a pre-existing condition waiver may not be used to classify a person as uninsurable.

— D. A carrier may appeal to have an individual classified as uninsurable if the individual has a combination of conditions that would clearly cause that person to have claims as great as the average of those included on the Uninsurable Conditions List. The commissioner may appoint a designee to review these appeals.

— E. Only persons enrolling in a group eligible for open enrollment under 31A-30-108(2)(b) and individuals eligible for open enrollment into a currently insured group under 31A-30-108(2)(a) may be counted as uninsurable. Beginning January 1, 1996 if a carrier accepts a small employer group that is not eligible for open enrollment no eligible employees at enrollment may be counted as uninsurable.

— F. For small employers with 25 or more covered employees, all carriers shall calculate the number of uninsurables enrolled in these groups as 3% times the number of new enrollees that are eligible for open enrollment. New hires in a currently insured group are eligible for open enrollment. A carrier may elect to calculate uninsurables under this 3% method for small employers with less than 25 eligible employees if it applies this method to all groups above a certain size.

**R590-176-14. Severability.**

— If a provision of this rule or its application to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of these provisions may not be affected.

**KEY: -insurance**

**February 24, 1997**

**Notice of Continuation February 1, 2002**

**31A-30-106]**

**R590-176. Health Benefit Plan Enrollment.**

**R590-176-1. Authority.**

The commissioner's authority to promulgate this rule is provided in Sections 31A-2-201(3) and 31A-2-202(2).

**R590-176-2. Purpose and Scope.**

The purpose and scope of this rule is to provide enrollment requirements under Section 31A-30-108 for carriers who provide health benefit plan coverage to individuals and small employers as stated in Section 31A-30-104.

**R590-176-3. Definitions.**

(1) The definitions in Sections 31A-1-301 and 31A-30-103 apply to this rule.

(2) "Carrier" means a covered carrier as defined in Section 31A-30-103.

(3) "Time period" means the period such as daily, weekly or monthly, as determined by the carrier, in which applications are grouped.

**R590-176-4. General Provisions.**

(1) Any attempt to selectively or unfairly delay, obstruct or otherwise hinder any person from obtaining coverage under Chapter 30 is a violation of Section 31A-30-108.

(2) Enrollment shall be equally available through all distribution systems, classes of business, and rating criteria categorizations.

(3) Enrollment is available to small employers without respect to whether any eligible employee or dependent is classified as uninsurable.

(4) The enrollment residency requirements do not supersede other dependent and child requirements of the Insurance Code.

(5) A carrier must offer a basic health care plan in compliance with Sections 31A-22-613.5 and 31A-30-109.

(6) A carrier may not market or encourage producers to market individual or small employer health benefit plans in such a way that there is a lessened incentive to insure business with greater health risks.

(7) Commission schedules shall be structured in compliance with R590-207, Health Agent Commissions for Small Employer Groups.

(8) The carrier shall retain a signed statement from each covered small employer that the carrier offered to accept all eligible employees and their dependents at the same level of benefits under the health benefit plan provided to the employer.

(9) An individual or small employer is considered uninsured if the individual or small employer:

(a) does not have a health benefit plan subject to Chapter 30; or

(b) health benefit plan is with a carrier that has made an election under Subsections 31A-8-402.3(3)(e), 31A-8-402.5(3)(e), 31A-22-721(3)(e), 31A-30-107(3)(e), or 31A-30-107.1(3)(e).

(10) All records regarding enrollment applications and underwriting determinations shall:

(a) be organized by the time period the application was received;

(b) include all documents, indicating the applicable date, pertaining to the application and its underwriting; and

(c) be retained for the current year plus three years.

(11) The documents indicated in subsection (10)(b) would include:

(a) application and date received;

(b) notifications to the application and the date of notification;

(c) records used in underwriting and date received; and

(d) underwriting decision and date of decision.

#### **R590-176-5. Application and Enrollment.**

(1) The carrier shall establish a procedure to determine the order of applications. The procedure shall group the applications into consistent time periods. The enrollment cap may not be applied until the end of the time period in which it is met. The carrier shall keep a record of all applications for coverage that includes the time period an application is received by the carrier.

(2) All applications shall be treated consistently.

(3)(a) A complete application shall be processed and a written notice of the decision communicated to the applicant within 30 days of the decision.

(b) The carrier may not require that an application be complete in order to qualify as an application for coverage.

(c) If an application is incomplete, within 15 days from receipt of the application, a carrier shall notify the applicant of the areas that are incomplete and the information required to complete the application.

(d) Before an application can be filed as incomplete, applicants shall have at least 30 days, after being notified additional information is required.

(e) A date earlier than the postmarked date of the notice in Subsection (3)(c), may not be used as the date of notification.

(4) The acceptance of an application may not be delayed pending the receipt of medical records. This does not apply to other required statements from applicants as provided in Subsection (3).

#### **R590-176-6. Enrollment.**

A carrier shall:

(1) permit an eligible employee, or a dependent of such employee, to enroll for coverage under the terms of the plan, if the eligible employee requests enrollment not later than 30 days after the eligibility date; and

(2) enroll a new eligible employee and a dependent of such employee making timely application for coverage in a small employer group with existing coverage.

#### **R590-176-7. Underwriting Criteria.**

(1) Each carrier shall determine the number of individuals classified as uninsurable at initial enrollment. This determination shall be made in accordance with underwriting standards established by this rule.

(2) An individual insured by the Utah Comprehensive Health Insurance Pool is classified as uninsurable.

(3) An individual may be classified as uninsurable if the individual has a condition listed on the Uninsurable Conditions List taking into account the elapsed time, additional criteria and exception criteria. A carrier may not take into account conditions for which coverage is not provided. This includes conditions excluded as a pre-existing condition for which treatment is expected during the exclusion period if the applicant would not be considered uninsurable after the treatment. For example, a pregnancy excluded by a pre-existing condition waiver may not be used to classify an individual as uninsurable.

(4) A carrier may appeal to the commissioner to have an individual classified as uninsurable if the individual has a combination of conditions that would clearly cause that individual to have claims as great as the average of those included on the Uninsurable Conditions List. The commissioner may appoint a designee to review these appeals.

(5) Only individuals enrolling under Subsection 31A-30-108(3) may be counted as uninsurable.

#### **R590-176-8. Enrollment Cap Calculation and Certification.**

(1) Pursuant to Section 31A-30-110, an individual carrier may not decline enrollment until the carrier has:

(a) met its enrollment cap; and

(b) submitted a certification to the department in compliance with this section.

(2) A carrier may limit enrollment after submitting its certification.

(3) The commissioner may require additional enrollment after reviewing the certification.

(4) An officer of the carrier shall submit a certification that:

(a) lists the UC and CI as defined in Section 31A-30-103(27);

(b) lists the number of individual natural covered lives at the time of the certification;

(c) categorizes the UC into new applicants added to existing policies and newly issued policies;

(d) identifies the number of Comprehensive Health Insurance Pool participants; and

(e) identifies the qualifying condition listed on the Uninsurable Condition List.



(5) Carriers, whose coverage count exceeds 200% of the coverage count as of the end of the prior year, shall determine the uninsurable percentage using counts as of the end of the most recent calendar quarter.

**R590-176-9. Solvency Waiver.**

A carrier that expects the requirements of Chapter 30 to place the carrier in supervision, insolvency or liquidation shall, within 15 days of such determination, submit a report to the commissioner. The report shall detail the financial consequences of Chapter 30 and request the specific waivers or modifications required to prevent supervision, insolvency or liquidation.

**R590-176-10. Enforcement Date.**

The commissioner will begin enforcing the revised provisions of this rule 45 days from the rule's effective date.

**R590-176-11. Severability.**

If a provision of this rule or its application to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of these provisions may not be affected.

**KEY: health insurance**

**2003**

**Notice of Continuation February 1, 2002**

**31A-2-201**

**31A-2-202**



Labor Commission, Industrial Accidents  
**R612-2-5**  
 Regulation of Medical Practitioner Fees

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 26286

FILED: 05/15/2003, 16:30

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed rule change increases fees paid to medical providers for some medical and restorative services provided to injured workers. It also updates the references for the "Resource-Based Relative Value Scale" (RBRVS) and the Medical Fee Guidelines to the 2003 editions.

SUMMARY OF THE RULE OR CHANGE: The proposed rule change increases the Utah conversion factor from \$40 to \$42 per unit for certain specified medical and restorative services. It also updates the references for the RBRVS and the Medical Fee Guidelines to the 2003 editions.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 34A-2-101 et seq., 34A-3-101 et seq., and 34A-1-104

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Utah Labor Commission Medical Fee

Guidelines, effective July 2, 2003; and The Essential RBRVS, 2003 edition

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The proposed rule change will impose no additional enforcement or administration costs of the State budget. The proposed increase in medical payments is minor and should have no appreciable effect on the State's workers' compensation costs.

❖ LOCAL GOVERNMENTS: The proposed increase in medical payments is negligible and should have no appreciable effect on local government's workers' compensation costs.

❖ OTHER PERSONS: The proposed increase in medical payments is negligible and should have no appreciable effect on other persons' workers' compensation costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed rule does not modify compliance requirements and should not change the compliance costs of affected persons over current levels.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Overall, this change will increase medical costs in the workers' compensation system by approximately \$230,000. However, this increase is more than offset by a reduction in other medical costs in the system.

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

LABOR COMMISSION  
 INDUSTRIAL ACCIDENTS  
 HEBER M WELLS BLDG  
 160 E 300 S  
 SALT LAKE CITY UT 84111-2316, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Joyce Sewell at the above address, by phone at 801-530-6988, by FAX at 801-530-6804, or by Internet E-mail at [jsewell@utah.gov](mailto:jsewell@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/01/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 07/02/2003

AUTHORIZED BY: R Lee Ellertson, Commissioner

**R612. Labor Commission, Industrial Accidents.**  
**R612-2. Workers' Compensation Rules-Health Care Providers.**  
**R612-2-5. Regulation of Medical Practitioner Fees.**

Pursuant to Section 34A-2-407:

A. The Labor Commission of Utah:

1. Establishes and regulates fees and other charges for medical, surgical, nursing, physical and occupational therapy, mental health, chiropractic, naturopathic, and osteopathic services, or any other area of the healing arts as required for the treatment of a work-related injury or illness.

2. Adopts and by this reference incorporates the National Health Care Financing Administration's (HCFA) "Resource-Based Relative Value Scale" (RBRVS), 200[2]3 edition, as the method for calculating reimbursement and the American Medical Association's CPT-4, 200[2]3 edition, coding guidelines. The non-facility total unit value will apply in calculating the reimbursement, 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. The CPT-4 coding guidelines are subject to the Utah Labor Commission's Medical Fee Guidelines and Codes and the following Labor Commission conversion factors for medical care rendered for a work-related injury or illness, effective ~~June 1, 2002~~ July 2, 2003:

Anesthesiology \$41.00 (1 unit per 15 minutes of anesthesia);  
Medicine \$4[0]2.00;

Pathology and Laboratory 150% of Utah's published Medicare carrier;

Radiology \$53.00;

Restorative Medicine \$4[0]2.00, with Utah code 97001 and 97003 at a 0.8 relative value unit and Utah code 97002 and 97004 at a 0.5 of relative value unit.

Surgery \$37.00;

All 20000 codes, codes 49505 thru 49525 and all 60000 codes of the CPT-4 coding guidelines \$58.00.

3. Adopts and incorporates by this reference the Utah Labor Commission's Medical Fee Guidelines and Codes, as of June 1, 2002. The Utah Medical Fee Guidelines and Codes can be obtained from the division for a fee sufficient to recover costs of development, printing, and mailing.

4. Decides appropriate billing procedure codes when disputes arise between the medical practitioner and the employer or its insurance carrier. In no instance will the medical practitioner bill both the employer and the insurance carrier.

B. Employees cannot be billed for treatment of their work-related injuries or illnesses.

C. Discounting from the fees established by the Labor Commission is allowed only through specific contracts between a medical provider and a payor for treatment of work-related injury or illness.

D. Restocking fee 15%. Rule R612-2-16 covers the restocking fee.

E. Dental fees are not published. Rule R612-2-18 covers dental injuries.

F. Ambulance fees are not published. Rule R612-2-19 covers ambulance charges.

**KEY: workers' compensation, fees, medical practitioner**

~~August 1, 2002~~ 2003

Notice of Continuation June 15, 1998

34A-2-101 et seq.

34A-3-101 et seq.

34A-1-104



## Natural Resources, Wildlife Resources

# R657-27

## License Agent Procedures

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 26273

FILED: 05/14/2003, 12:08

#### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment adds provisions that will allow license agents to sell licenses, permits, and tags through the Division of Wildlife Resources' (DWR) online sales system and make changes for clarity.

SUMMARY OF THE RULE OR CHANGE: Section R657-27-2 is being amended to add definitions of "agent hunting and fishing licenses online", "bond", "deactivated license agent or deactivated", "license agent application", "license paper", "location", and "online license agent." Section R657-27-4 is being amended to add that DWR may deny a license agent application if the license agent applicant has been convicted, pleaded guilty, pleaded no contest, or entered into a plea in abeyance to a criminal offense that bears a reasonable relationship to the license agent's ability to competently and responsibly perform the functions of a license agent. Section R657-27-6 is being amended to delete the provisions of the license agent big game permit sales agreement, which is being replaced with the supplemental wildlife document sales agreement in Section R657-27-17. Provisions are being amended to clarify the license agent's obligations and provide that if the license agent becomes delinquent on reporting or remission of proceeds DWR may: 1) change the license agent's status to deactivated; 2) withhold issuing additional wildlife documents; 3) withhold access to the online sales system; 4) collect inventory of wildlife documents and license paper, and determine unaccounted inventory; 5) assess a monetary penalty for each wildlife document and piece of license paper unaccounted for; and 6) take action to revoke license agent status. Provisions are being added to provide provisions for: 1) renewal application of a license agent authorization; 2) distribution of preprinted licenses and permits; 3) becoming an online license agent; and 4) entering into supplemental wildlife document sales agreements. Other changes are made for consistency and clarity.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-19-15

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This amendment is to allow license agents to sell licenses, permits and tags through the DWR's online sales system. The sale of licenses, permits and tags electronically will save an estimated \$20,000 annually in preprinted license and permit costs. The savings may increase over time as new or existing license agents choose to use the online sales system.

❖ LOCAL GOVERNMENTS: None--This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖ OTHER PERSONS: No impact--This amendment does not impose any requirements on persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: License agents selling licenses, permits, and tags through DWR's online sales system may incur minimal costs for computer hardware and infrastructure outlays. The estimated cost may range from zero additional costs to the variable costs of Internet connections and basic laser printers. A good portion of these costs may be offset in less personnel hours to complete manual reports.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: License agents selling licenses, permits, and tags through DWR's online sales system may incur minimal costs for computer hardware and infrastructure outlays. The benefits may far outweigh the negligible compliance costs to impacted businesses.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debbie Sundell at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at [debbiesundell@utah.gov](mailto:debbiesundell@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/01/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 07/02/2003

AUTHORIZED BY: Kevin Conway, Director

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

### **R657-27. License Agent Procedures.**

#### **R657-27-1. Purpose and Authority.**

Under Section 23-19-15, this rule provides the application procedures, standards, and requirements for wildlife license agents.

#### **R657-27-2. Definitions.**

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Application" means a written request to be authorized by the division to sell wildlife documents. "Agent hunting and fishing licenses online" means the web application that allows an online license agent to print wildlife documents on license paper.

"(b) "Conditional Big Game Permit Sales Agreement" means a supplemental agreement to the License Agent Authorization allowing a license agent to sell big game hunting permits that are held under a quota. (b) "Bond" means a surety bond to remain in full force and effect continuously and indefinitely, until canceled.

(c) "Deactivated license agent or deactivated" means a license agent that holds license agent status but is temporarily precluded from selling wildlife documents for failure to comply with this rule or any other laws or agreements regulating license agent activity.

(d) "License agent" means a person authorized by the division to sell wildlife documents.

(e) "License Agent Application" means a written request to be authorized by the division to sell wildlife documents.

(f)(~~h~~) "License Agent Authorization" means an agreement between the division and a license agent, allowing a license agent to sell wildlife documents.

(g) "License paper" means designated paper issued by the division for the sole purpose of printing specified licenses or permits through the agent hunting and fishing licenses online sales system.

(h) "Location" means the building or structure from which a license agent is authorized to sell wildlife documents.

(i) "Online license agent" means a person authorized by the division to sell wildlife documents through the agent hunting and fishing licenses online sales system.

(j)(~~e~~) "Presiding officer" means the hearing officer designated by the director of the division [~~or the director's designee~~].

(~~h~~)(k) "Remuneration" means money that a license agent receives for each wildlife document sold as provided in Section 23-19-15.

(~~g~~) "Wildlife)(l) "Wildlife documents["]" means licenses, permits, tags and Heritage Certificates R657-27-3., and tags preprinted by the division or printed by the online license agent on license paper.

#### **R657-27-3. License Agent Application.**

(1) License agent applications may be obtained from the Licensing Section in the Salt Lake Office or downloaded from the division's website.

(2) License agent applications shall be ~~accepted~~ considered from any person located within Utah or in close proximity to Utah.

(3) Applications shall be processed within 30 days.

(4) The applicant must:

(a) complete and return the application to the Licensing Section in the Salt Lake Office; and

(b) pay a non refundable application fee.

(5) A separate application and application fee must be submitted for each location where wildlife documents will be sold.

#### **R657-27-4. License Agent Eligibility - Reasons for Application Denial - Term of Authorization.**

(1) The division may deny a license agent application for any of the following reasons:

(a) A sufficient number of license agents already exist in the area;

(b) The applicant does not have adequate security including a safe or locking cabinet in which to store wildlife documents or license paper;

(c) The applicant has previously been authorized to sell wildlife documents or possess license paper and the applicant:

(i) failed to comply with the license agent authorization or any provision of statute or rule governing license agents; or

(ii) was ~~terminated~~ deactivated or revoked by the division as a license agent;

(d) The applicant provided false information on the license agent application;

(e) The applicant has been convicted of a wildlife related violation; or

(f) The applicant has been convicted, pleaded guilty, pleaded no contest, or entered into a plea in abeyance to a criminal offense that bears a reasonable relationship to the license agent's ability to

competently and responsibly perform the functions of a license agent.[-]

(2) The division shall send the applicant a written notice stating the reason for denial.

(3) If the division approves the license agent application, a license agent authorization shall be sent to the applicant.

(4) The license agent authorization is not effective until:

(a) it is signed and notarized by the applicant; and

(b) signed by the director.

(5)(a) The license agent authorization must be ~~returned to~~received by the Licensing Section in the Salt Lake Office within 30 days of being ~~received~~mailed to the applicant.

~~(b) A separate application, application fee, and license agent authorization is required for each location where wildlife documents will be sold.~~

(6) Each license agent authorization shall be established for a term of five years.

#### **R657-27-5. ~~[Surety]Bond Requirement.~~**

(1) After approval, but before the license agent authorization is executed, the division may require the applicant to post a reasonable ~~[surety bond]~~bond payable to the division in an amount determined by the division.

(2) The division may require any existing license agent to obtain a reasonable ~~[surety]~~bond in an amount determined by the division after providing the license agent ~~[with]~~30 days written notice.

(3) The division may require a reasonable increase in the amount of the bond after providing the license agent ~~[with]~~30 days written notice.

#### **R657-27-6~~]- License Agent Big Game Permit Sales Agreement.~~**

~~(1) Upon approval of license agent authorization, a license agent may only sell any big game permits held under a quota by entering into a Conditional Big Game Permit Sales Agreement with the division.~~

~~(2) The division shall, prior to May 1 annually, send a Conditional Big Game Permit Sales Agreement form to each authorized license agent eligible to sell wildlife documents.~~

~~(3)(a) The license agent shall:~~

~~(i) complete all information indicated in the agreement; and~~

~~(ii) sign and date the agreement.~~

~~(b) The license agent signature must be notarized.~~

~~(c) The agreement must be returned by mail or hand delivery to any division office and must be received no later than the date indicated under the terms on the agreement form. Facsimiles will not be accepted.~~

~~(d) Agreements received after the date as indicated on the agreement form may be returned.~~

~~(4)(a) The division may not enter into an agreement with any license agent who was given reasonable notice of the time period for entering into the agreement and fails to return a complete agreement to the division.~~

~~(b) The division may notify a license agent who has made an error in completing the agreement form and may afford an opportunity for correction. However, if the division is unable to contact the license agent within two weeks following the filing date indicated on the agreement and correct the error, the agreement shall be void and the license agent may not receive authorization to sell big game permits held under a quota.~~

~~(5) By signing the agreement, the license agent agrees to abide by the terms of the agreement.~~

#### **R657-27-7]. License Agent Obligations.**

(1) Each license agent ~~[shall]~~must:

~~(a) report all wildlife document sales to the division on or before the 10th day of each month;~~(a) comply with the requirement and provisions provided in Section 23-19-15;

~~(b) remit all proceeds from wildlife document sales, minus remuneration, to the division on or before the 10th day of each month;~~

~~(c) retain all money obtained from wildlife document sales separate from the private funds of the license agent except remuneration;~~

~~(d)(b) keep wildlife documents or license paper secure and out of the public view during business hours;~~

~~(e)(c) keep wildlife documents or license paper in a safe or locked cabinet after business hours;~~

~~(f)(d) display all signs and distribute proclamations provided by the division;~~

~~(g)(e) have all sales clerks and management staff available for sales training; and~~

~~(h)(f) maintain a License Agent Manual provided by the division and make it available to the license agent's staff, including supplemental manuals and addendums.[-]~~

~~(2) If an~~(2) If a license agent becomes delinquent on reporting or remission of proceeds Subsection (2)(a), (2)(b) or (2)(c) shall apply.

(a) The license agent ~~[shall]~~must immediately submit all reports when due ~~[immediately]~~ along with the remission of required proceeds.

(b) If the license sales report ~~[has been reported]~~is submitted in accordance with Subsection (1)(a)~~(b)~~ but funds are not submitted with the report then the following applies:

(i) A repayment plan may be structured in an agreement that will allow repayment in equal monthly installments for up to six months at a payment level that will provide repayment of the principal along with an annual percentage interest rate (APR) of 12%. This APR shall be calculated back to the date that the payment should have been received in accordance with Subsection ~~(1)(b)~~(1)(a);

(ii) If the ongoing monthly report and proceed submissions are not received for the future months, from the month of the agreement in accordance with ~~[Subsections]~~Subsection (1)(a) and (1)(b), then any agreement made in Subsection (2)(b)(i) may be terminated and all outstanding balances and accrued interest shall become due immediately, along with a penalty of 20% of the unpaid balance. Interest shall continue to accumulate on any unpaid balance, including the penalty, at the APR~~[-]~~;

(iii) Activate the bond and collect all ~~[available]~~remaining funds ~~[under the agent surety bond]~~ in accordance with Section R657-27-5 and hold any remaining unpaid balances of penalty, ongoing interest, and principle amounts as a receivable from the license agent; ~~or~~[-]

(iv) If the license agent enters into an agreement with the division as provided in Subsection (2)(b)(i), and then violates the terms of that agreement, the division may ~~[terminate the license agent agreement without further cause.]~~begin the revocation process in accordance with Section R657-27-11.

~~(e) If the~~(c) Nothing in this rule shall be construed as requiring the division to offer a repayment agreement to a license

agent delinquent on report submissions or proceeds remissions before taking action to revoke license agent status.

(d) If the license agent does not submit a monthly report as provided in Subsection (1)(a), or if the license agent does not immediately pay the delinquent funds [and refuses to enter into] or fails to execute and abide by the terms of a repayment agreement as provided in Subsection (2)(b), [then] the division may:

(i) [terminate the agent contract without further cause;] change the license agent's status to deactivated;

[(ii) collect the agent inventory of documents and determine the amount due to the division based on unaccountable inventory;] (ii) withhold issuing additional wildlife document inventory;

[(iii)] (iii) withhold access to the agent hunting and fishing licenses online sales system;

(iv) collect the license agent's inventory of wildlife documents and license paper, and determine unaccounted inventory of wildlife documents and license paper;

(v) assess a monetary penalty for each wildlife document and piece of license paper unaccounted for as provided in Subsection R657-27-7(2);

(vi) take action to revoke license agent status;

(vii) create a receivable from the license agent that equals the amount due as determined in Subsection (1)(a) and charge a 20% late penalty on the entire balance, and accumulate the unpaid balance, included penalties, at a 12% APR from the due date of the earliest date in which [an] a license agent failed to submit a report in accordance with Subsection (1)(a); [and] or

[(iv)] (viii) activate the bond and collect all available funds [under the agent surety bond] remaining in accordance with Section R657-27-5 and hold any remaining unpaid balances of penalty, ongoing interest, and principle amounts as a receivable from the [agent.] license agent.

[R657-27-8](e) A deactivated license agent that has not been revoked may regain active status by paying all due balances in full, and providing a bond, provided the license agent is otherwise in compliance with this rule or any other laws or agreements regulating license agent activity.

#### **R657-27-7. Lost or Stolen Wildlife Documents or License Paper.**

(1) The license agent [shall] must act as bailee for purposes of safeguarding all wildlife documents or license paper issued to the license agent by the division.

(2)(a) The license agent [shall] must remit full payment, less remuneration, to the division for any wildlife documents lost, stolen, or unaccounted for unless otherwise relieved for good cause by the director.

(b) The online license agent must remit full payment for lost, stolen, or unaccounted license paper in the amount of \$10 per sheet of license paper.

(c) Payments made to the division for any wildlife documents or license paper that are lost or unaccounted [for] may be refunded if the wildlife documents or license paper are returned to the Licensing Section in the Salt Lake office by June 30 of the current state fiscal year.

#### **R657-27-[9]8. Audits.**

(1) License agents are subject to an audit without prior notification anytime during normal business hours to assess financial and procedural compliance with statute, rule, and the terms of the license agent authorization.

(2) The division shall provide a written report to the license agent of any finding of noncompliance within five days of the completion of the audit.

#### **R657-27-[10]9. Checks Returned for Non-sufficient Funds.**

If a check from a license agent is returned to the division for non-sufficient funds, the division may:

(1)[(1) The division may] require a license agent to remit payment for wildlife documents in the form of a cashiers check or money order [if any check from a license agent is returned to the division for non-sufficient funds.];

[(2) The presiding officer may revoke a license agent authorization pursuant to Section 63-46b-20 if payment is not made to the division within five business days after the license agent receives written notification of the returned check.] (2) change the license agent status to deactivated;

[R657-27-11](3) activate the bond; or

(4) submit the license agent's account to the Utah Office of Debt Collection for collection activity.

#### **R657-27-10. Change of Business Ownership.**

(1) License agent authorizations are nontransferable.

(2) The license agent [shall] must notify the division of any anticipated change of ownership of the license agent's business at least 30 days prior to the change of ownership.

(3) Prior to change of ownership, unless otherwise directed by the division in writing, the license agent [shall] must:

(a) remit payment for all wildlife documents sold minus remuneration; and

(b) return all unsold wildlife documents or license paper to the division.

#### **R657-27-[12]11. Revocation of License Agent Authorization.**

(1) The presiding officer may revoke a license agent authorization pursuant to Chapter 46b, Title 63, Utah Administrative Procedures Act, if the presiding officer determines that the license agent or the license agent's employee [violated]:

(a) violated the terms of the license agent authorization;

(b) [the terms of the Big Game Permit Sales Agreement;] violated the terms of any supplemental wildlife document sales agreements with the division;

(c) fails to maintain a bond in accordance with Section R657-27-5;

(d) is found to have committed fraud regarding wildlife documents or license paper;

(e) violated any provision of Title 23, Wildlife Resources Code;

[or

(f) violated any rule promulgated under Title 23, Wildlife Resources Code; or

(g) has been convicted, pleaded guilty, pleaded no contest, or entered into a plea in abeyance to a criminal offense that bears a reasonable relationship to the license agent's ability to competently and responsibly perform the functions of a license agent.

(2) The presiding officer may hold a hearing to determine matters relating to the license agent revocation if the license agent makes a written request for a hearing within [10]20 days after the notice of agency action is issued.

**R657-27-[13-]12. Termination of License Agent Authorization by the License Agent.**

(1) A license agent may terminate a license agent authorization by submitting a written request to the Licensing Section in the Salt Lake Office.

(2) Any request for termination ~~[shall]~~ must state the requested date of termination.

(3) On or before the effective date of termination the license agent ~~[shall]~~ must:

(a) discontinue selling wildlife documents;

(b) return all unsold wildlife documents or license paper to the division; and

(c) return to the division any signs, proclamations or other information provided by the division.

(4) On or before the 10th day of the month following the date of termination the license agent ~~[shall]~~ must remit payment for all wildlife documents minus remuneration to the division.

**R657-27-[14-]13. Renewal Application of a License Agent Authorization.**

~~(1) [The division may not renew a license agent authorization. (2)]~~ At the end of the five-year term of authorization to sell wildlife documents, ~~[a license agent may reapply for a license agent authorization by following the application procedures prescribed in this rule.]~~ the division shall provide a renewal notice and renewal application to the license agent.

~~[R657-27-15. Violation.]~~ (2)(a) The license agent must complete and return the renewal application to the Licensing Section in the Salt Lake Office within 30 days of being mailed to the license agent.

~~(4)(b)~~ The division will not charge a renewal application fee.

(3) If the license agent fails to return the renewal application within 30 days of being mailed, the division may:

(a) confiscate wildlife document inventories;

(b) not provide new wildlife document inventories; or

(c) interrupt use of the agent hunting and fishing licenses online system.

(2) The division may deny a license agent renewal application for any of the reasons provided in Section R657-27-4(1).

**R657-27-14. Violation.**

It is unlawful for a license agent to sell [;

~~(a) any]~~ wildlife documents in violation of:

(1) the License Agent Authorization; or

(2) any supplemental wildlife document sales agreements executed with the division.

**R657-27-15. Distribution of Preprinted Licenses and Permits.**

(1) The division shall determine, in its sole discretion, the types and numbers of preprinted licenses and permits issued to a license agent.

(2) Certain licenses or permits may not be available for sale by a license agent, unless a license agent becomes an online license agent in accordance with Section R657-27-16.

**R657-27-16. Online License Agent.**

(1) To become an online license agent, a license agent must:

(a) successfully complete a division-sponsored training session;

(b) provide and maintain approved hardware capable of printing in a permanent, clear, and legible manner;

(c) sign a supplemental wildlife documents sales agreement; and

(d) place the user manual provided by the division with the license agent manual.

(2) Use of the agent hunting and fishing licenses online system must be in compliance with the users manual provided by the division.

**R657-27-17. Supplemental Wildlife Document Sales Agreement.**

(1) Upon approval of a license agent authorization, the division may enter into a supplemental wildlife document sales agreement with the license agent.

(2)(a) The license agent must:

(i) complete all information indicated in the agreement; and

(ii) sign and date the agreement.

(b) The agreement must be returned by mail or hand-delivery to any division office and must be received no later than the date indicated under the terms on the agreement form. Facsimiles will not be accepted.

(c) Agreements received after the date indicated on the agreement form may be returned.

(4)(a) The division may not enter into an agreement with any license agent who was given reasonable notice of the time period for entering into the agreement and fails to return a complete agreement to the division.

(b) The division may notify a license agent who has made an error in completing the agreement form and may afford an opportunity for correction. However, if the division is unable to contact the license agent within two weeks following the filing date indicated on the agreement and correct the error, the agreement shall be void and the license agent may not receive authorization to sell the wildlife documents covered by the supplemental agreement.

(5) By signing the agreement, the license agent agrees to abide by the terms of the agreement.

**R657-27-18. License Agent Authorization and Supplemental Agreements Subject to Change.**

(1) A license agent authorization or supplemental agreement issued or renewed by the division under this rule is a privilege and not a right. The license agent authorization or supplemental agreement authorizes the license agent to sell wildlife documents subject to all present and future conditions, restrictions, and regulations imposed on such activities by the division, the Wildlife Board, or the State of Utah.

(2) A license agent authorization or supplemental agreement does not guarantee or otherwise legally entitle the license agent to any of the following:

(a) a minimum number of wildlife documents;

(b) a particular type or types of wildlife documents;

(c) access to any particular wildlife document distribution system; or

(d) any other right or opportunity advantageous to the license agent.

(3) The procedures, processes and opportunities outlined in this rule regulating license agents and the distribution of wildlife documents are all subject to future change, including discontinuation, by the division and the Wildlife Board. ~~(4) any big game permits in violation of the Big Game Permit Sales Agreement.]~~

**KEY: licensing, wildlife, wildlife law, rules and procedures**  
**[June 3, 2002]2003**  
**Notice of Continuation April 10, 2002**  
**23-19-15**



**Natural Resources, Wildlife Resources**  
**R657-34**  
**Procedures for Confirmation of**  
**Ordinances on Hunting Closures**

**NOTICE OF PROPOSED RULE**  
 (Amendment)  
 DAR FILE No.: 26272  
 FILED: 05/14/2003, 12:08

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is being amended pursuant to Regional Advisory Council meetings and the Wildlife Board meeting conducted for taking public input and reviewing the procedures for Wildlife Board Review of confirmation of ordinances on hunting closures.

**SUMMARY OF THE RULE OR CHANGE:** Section R657-34-1 is being amended to add the reference to Section 23-14-19; and Subsection R657-34-4(4) is being amended to correct the citation reference to Section R657-2-16.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Sections 23-14-1, 23-14-18, and 23-14-19

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** This amendment corrects citation references. The Division of Wildlife Resources (DWR) determines that this rule will not create any cost or savings impact to the state budget or DWR's budget.

❖ **LOCAL GOVERNMENTS:** None--This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖ **OTHER PERSONS:** No impact--This amendment corrects citation references. These amendments do not impose any requirements on persons.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** This amendment corrects citation references. Therefore, this amendment does not impose any cost requirements or burdens on persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The amendments to this rule do not create an impact on businesses.

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

**NATURAL RESOURCES**  
**WILDLIFE RESOURCES**

1594 W NORTH TEMPLE  
 SALT LAKE CITY UT 84116-3154, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 Debbie Sundell at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at debbiesundell@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/01/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 07/02/2003

AUTHORIZED BY: Kevin Conway, Director

**R657. Natural Resources, Wildlife Resources.**  
**R657-34. Procedures for Confirmation of Ordinances on Hunting Closures.**

**R657-34-1. Purpose and Authority.**

(1) Under the authority of Sections 23-14-1~~[-and]~~, 23-14-18, ~~and 23-14-19~~, this rule provides the standards and procedures for a political subdivision within a community to obtain confirmation from the Wildlife Board to close an area to hunting for reasons of safety.

(2) If a political subdivision of the state adopts an ordinance or policy concerning hunting, fishing, or trapping that conflicts with Title 23, Wildlife Resources Code of Utah, or rules promulgated pursuant thereto, state law shall prevail.

**R657-34-2. Definitions.**

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition, "Political subdivision" means any municipality, city, county, or other governmental entity which is legally separate and distinct from the state.

**R657-34-3. Information Gathering.**

(1) Prior to making a request to the Wildlife Board to close an area to hunting, the political subdivision shall hold a public hearing within its boundaries for the purpose of disclosing the proposed ordinance or policy and gathering public comment.

(2) The political subdivision shall compile a written summary of the hearing, including the date of the hearing, number of persons in attendance, and public comment.

(3) At least 45 days prior to the Wildlife Board meeting in which the request for a hunting closure shall be made, the political subdivision shall submit the following information to the director of the division:

(a) a draft copy of the proposed ordinance or policy;

(b) a plat map showing the boundaries of the area in which the political subdivision is requesting the closure and the boundaries of the political subdivision;

(c) the safety reasons for the proposed closure; and

(d) the written summary of the public hearing as required in Subsection (2).

(4) The purpose of this section is to provide sufficient information to allow the division to conduct a technical evaluation of the impacts the closure may have on division objectives,

administrative rules, game depredation, wildlife management, and public interests.

(5) As the division conducts a technical evaluation of the impacts the closure may have regarding public interests, the division shall gather information and broad input from the appropriate regional advisory councils and the officials of the pertinent political subdivision.

#### **R657-34-4. Wildlife Board Confirmation.**

(1) At least 20 days prior to the Wildlife Board meeting in which the request for closure is to be made, the director of the division shall submit the following information to the chairman of the Wildlife Board:

(a) a copy of any information received from the political subdivision, including the information provided in Subsection R657-34-3(3);

(b) the technical evaluation prepared by the division; and

(c) the division's recommendations regarding the closure.

(2) The Wildlife Board shall consider the request for closure in an open public meeting.

(3)(a) At or within a reasonable time after the hearing, the chairman of the Wildlife Board shall notify the political subdivision in writing that the requested closure is confirmed or denied.

(b) If the Wildlife Board denies the requested closure, the notification shall include the reasons for the decision.

(4) If the requested closure is denied, the political subdivision may submit a request for reconsideration of the decision by following the procedures provided in ~~[Section]~~Sections R657-2-[47-]16 or R657-2-22. The request for reconsideration is not a prerequisite for judicial review.

(5) The closure shall become effective concurrently with the proposed ordinance or policy.

**KEY: wildlife, hunting closures<sup>[#]</sup>, game laws**

~~[November 19, 1998]~~2003

Notice of Continuation October 1, 1998

23-14-1

23-14-18

## Natural Resources, Wildlife Resources

# R657-37

## Cooperative Wildlife Management Units for Big Game

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 26271

FILED: 05/14/2003, 12:07

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Wildlife Board meetings conducted for taking public input and reviewing the Cooperative Wildlife Management Unit (CWMU) program for big game.

SUMMARY OF THE RULE OR CHANGE: Section R657-37-3 is being amended to: 1) eliminate the reference to the year 1999 for renewing a CWMU less than 10,000 acres and adding that if the CWMU had possessed a CWMU during the previous year, less than 10,000 acres will be allowed; and 2) providing provisions for the Board to renew a CWMU that is less than 5,000 acres. Section R657-37-4 is being amended to clarify that a CWMU Management Plan must be amended when the CWMU acreage changes, and clarify that the CWMU Management Plan must include an explanation of how the public is compensated by the CWMU when public land is included. Sections R657-37-5 and R657-37-6 are being amended to clarify the application process for obtaining a CWMU Certificate of Registration and renewal of a CWMU Certificate of Registration. Other changes are made for consistency and clarity.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-23-3

#### ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The amendments to this rule are for the purpose of clarification for both the CWMU operators and the Division of Wildlife Resources (DWR). The changes will lead to greater ease of administration for the division, and operators will be less encumbered with unnecessary details. DWR determines that these amendments do not create a cost or savings impact to the state budget or DWR's budget.

❖ LOCAL GOVERNMENTS: None--This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖ OTHER PERSONS: The amendments to this rule are for the purpose of clarification for both the CWMU operators and DWR. DWR has determined that these amendments do not create a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The amendments to this rule are for the purpose of clarification for both the CWMU operators and DWR. DWR has determined that there are no additional compliance costs associated with these amendments.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule are for the purpose of clarification for both the CWMU operators and DWR. DWR has determined that there are no compliance costs associated with this amendment.

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

NATURAL RESOURCES

WILDLIFE RESOURCES

1594 W NORTH TEMPLE

SALT LAKE CITY UT 84116-3154, or

at the Division of Administrative Rules.



## DIRECT QUESTIONS REGARDING THIS RULE TO:

Debbie Sundell at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at debbiesundell@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/01/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 07/02/2003

AUTHORIZED BY: Kevin Conway, Director

**R657. Natural Resources, Wildlife Resources.****R657-37. Cooperative Wildlife Management Units for Big Game.****R657-37-3. Requirements for the Establishment of a Cooperative Wildlife Management Unit.**

(1)(a) The minimum allowable acreage for a CWMU is 10,000 contiguous acres, except as provided in Subsection (2).

(b) The land comprising Domesticated Elk Facilities and Domesticated Elk Hunting Parks, as defined in Section 4-39-102(2) and Rules R58-18 and R58-20, shall not be included as part of any big game CWMU.

(2)(a) The Wildlife Board may renew a CWMU that is less than 10,000 acres provided the CWMU legally possessed a ~~[1999]~~ CWMU Certificate of Registration during the previous year, allowing for acreage less than 10,000 contiguous acres or allowing noncontiguous land parcels; or

(b) the Wildlife Board may approve a new CWMU for deer or pronghorn that is at least 5,000 contiguous acres provided:

(i) the property is capable of independently maintaining the presence of the respective big game species and harboring them during the period of big game hunting;

(ii) the property is capable of accommodating the anticipated number of hunters and providing a reasonable hunting opportunity;

(iii) the property exhibits enforceable boundaries clearly identifiable to both the public and private hunters; and

(iv) the CWMU contributes to meeting division wildlife management objectives; or

(c) the Wildlife Board may renew a CWMU that is less than 5,000 acres provided the CWMU legally possessed a CWMU Certificate of Registration during the previous year, allowing for acreage less than 5,000 contiguous acres or allowing noncontiguous land parcels.[-]

(3)(a) Cooperative Wildlife Management Units organized for hunting big game, shall consist of private land to the extent practicable.

(b) The Wildlife Board may approve a CWMU containing public land only if:

(i) the public land is completely surrounded by private land or is otherwise inaccessible to the general public;

(ii) the public land is necessary to establish an enforceable boundary clearly identifiable to both the general public and public and private permit holders; or

(iii) the public land is necessary to achieve statewide and unit management objectives.

(c) If any public land is included within a CWMU, the landowner association member must meet applicable federal and state land use requirements on the public land.

(d) The Wildlife Board shall increase the number of permits or hunting opportunities made available to the general public to reflect the proportional habitat on public land to private land within the CWMU pursuant to Subsection R657-37-4(3)(a)(iv).

**R657-37-4. Cooperative Wildlife Management Unit Management Plan.**

(1) The landowner association member must manage the CWMU in compliance with a CWMU Management Plan consistent with statewide and unit management objectives for the respective big game unit and approved by the Wildlife Board.

(2)(a) The CWMU Management Plan may be approved by the Wildlife Board for a period of five years, expiring on January 31 at the end of the five-year period.

(b) The CWMU Management Plan must be amended when the management plan~~[-of]~~, land ownership, or CWMU acreage changes.

(c) The CWMU Management Plan may be amended as requested by the Wildlife Board, the division or the CWMU landowner association member or operator.

(3)(a) The CWMU Management Plan must include:

(i) big game management objectives for the CWMU that are consistent with statewide and unit management objectives for the respective big game unit, including population management and antlerless harvest;

(ii) procedures for obtaining age and harvest data;

(iii) an explanation of how comparable hunting opportunities will be provided to both the private and public permit holders on the CWMU as required in Section 23-23-7.5 and Rule R657-37-7(3)(a);

(iv) a clear explanation of the private and public permit ratio; ~~—(v) rationale and~~ purpose for including public land within the CWMU boundaries, if public land is included;

(v) an explanation of how the public is compensated by the CWMU when public land is included;

(vi) rules and guidelines used to regulate a permit holder's conduct as a guest on the CWMU;

~~(vii) rules and guidelines defining the CWMU landowner association member, landowner association operator or CWMU agent responsibilities;~~

~~—(viii)]~~ County Recorder Plat Maps or equivalent maps, dated by receipt of purchase within 30 days of the initial or renewal application deadline for a certificate of registration, depicting boundaries and ownership for all property within the CWMU;

~~[(ix)]~~ (vii) two original 1:100,000 USGS maps, which must be filed in the appropriate regional division office and the Salt Lake office, depicting all interior and exterior boundaries of the proposed CWMU; and

~~[(x)]~~ (ix) strategies and methods that avoid adverse impacts to adjacent landowners resulting from the operation of the CWMU, including the provisions provided in Section R657-37-7(6).

(b) The division shall, upon the applicant's request, provide assistance in preparing the CWMU Management Plan.

**R657-37-5. Application for Certificate of Registration.**

(1)(a) An application for a CWMU Certificate of Registration must be completed and returned to the regional division office where the proposed CWMU is located no later than August 1.

(b) An application for a new CWMU Certificate of Registration must be completed when:

(i) a CWMU Certificate of Registration has not been issued for sixty-six percent or more of the private land included within a CWMU;

(ii) a previous CWMU Certificate of Registration has not been issued in the past year or longer for sixty-six percent or more of the private land identified in the application; or

(iii) sixty-six percent or more of the private land within the CWMU is under new ownership.

(2) The application must be accompanied by:

(a) the CWMU Management Plan as described in R657-37-4(3), including all maps;

(b)(i) a petition containing the signature and acreage of each participating landowner agreeing to establish and operate the CWMU as provided in this rule and Title 23, Chapter 23 of the Wildlife Resources Code; or

(ii) a copy of a legal contract or agreement identifying:

(A) the private land;

(B) the duration of the contract or agreement; and

(C) the names and signatures of landowners conveying the hunting rights to the CWMU agent or landowner association operator;

(c) the name of the designated landowner association operator; and

(d) the nonrefundable handling fee.

(3) The division may reject any application that is incomplete or completed incorrectly.

(4) The division shall forward the complete and correct application and required documentation to the Regional Advisory Councils and Wildlife Board for consideration.

(5) Upon receiving the application and recommendation from the division, the Wildlife Board may:

(a) authorize the issuance of a certificate of registration, for one year, allowing the landowner association member to operate a CWMU; or

(b) deny the application and provide the landowner association member with reasons for the decision.

(6)(a) A landowner association member or landowner association operator issued a certificate of registration must request an amendment to the original certificate of registration as provided in Subsection (b) or through the renewal process described in R657-37-6 for any variation in:

(i) the CWMU Management Plan; or

(ii) any other matter related to the management and operation of the CWMU not originally included in the certificate of registration.

(b) A request for an amendment to a certificate of registration to allow a CWMU permit holder to hunt within a reciprocal CWMU must be made in writing and submitted to the appropriate regional division office where the CWMU is located.

(i) Upon review by the region and Wildlife Section and upon approval by the director, an amendment to the original certificate of registration shall be issued in writing.

(7) The Wildlife Board shall consider any violation of the provisions of Title 23, Wildlife Resources Code and any information provided by the division, landowners, and the public in determining whether to authorize the issuance of a certificate of registration for a CWMU.

(8) A CWMU Certificate of Registration is issued on an annual basis and shall expire on January 31, providing the certificate of registration is not suspended or revoked prior to the expiration date.

(9) The CWMU application/agreement is binding upon the landowner association members, landowner association operators and all successors in interest to the CWMU property or the hunting rights thereon as it pertains to allowing public permit holders reasonable access to all CWMU property during the applicable hunting seasons for purposes of filling the permit.

#### **R657-37-6. Renewal of a Certificate of Registration.**

(1)(a) A CWMU Certificate of Registration must be renewed annually and may be approved by the division, except as provided in ~~Subsection~~ Subsections (b) and (c).

(b) If any changes occur in the activities or information authorized in the ~~original~~ current certificate of registration or CWMU Management Plan, the renewal must be considered for approval by the Wildlife Board.

(c)(i) A CWMU Certificate of Registration shall not be renewed if:

(A) a CWMU Certificate of Registration has not been issued for sixty-six percent or more of the private land included within a CWMU;

(B) a previous CWMU Certificate of Registration has not been issued in the past year or longer for sixty-six percent or more of the private land identified in the application; or

(C) sixty-six percent or more of the private land within the CWMU is under new ownership.

(ii) If a CWMU Certificate of Registration is not renewable under this Subsection, an application for a new CWMU Certificate of Registration must be completed as provided in Section R657-37-5.

(2)(a) An application for renewal of a certificate of registration must be completed and returned to the regional division office where the CWMU is established no later than September 1, 2003, for renewal of a CWMU certificate of registration for 2004.

(b)(2) An application for renewal of a certificate of registration after 2003, must be completed and returned to the regional division office where the CWMU is established no later than ~~September~~ August 1.

(3) The renewal application must identify all changes from the previous years CWMU Certificate of Registration or CWMU Management Plan.

(4) The renewal application must be accompanied by:

(a) the CWMU Management Plan, including all maps as described in Section R657-37-4(3), if the plan has expired or is being amended; and

(b) all maps as described in Section R657-37-4(3) if the CWMU boundaries have changed;

(c)(b) a petition containing the signature and acreage of each participating landowner agreeing to establish and operate the CWMU as provided in this rule and Title 23, Chapter 23 of the Wildlife Resources Code; or

(b)(i) a petition containing the signature and acreage of each participating landowner agreeing to establish and operate the CWMU as provided in this rule and Title 23, Chapter 23 of the Wildlife Resources Code; or

(ii) a copy of a legal contract or agreement identifying:

(A) the private land;

(B) the duration of the contract or agreement; and  
(C) the names and signatures of landowners conveying the  
hunting rights to the CWMU agent or landowner association  
operator;

(c) the name of the designated landowner association operator;  
 and

(d) the nonrefundable handling fee.

(5) The division may reject any application that is incomplete  
 or completed incorrectly.

(6) The division shall consider:

(a) the previous performance of the CWMU, including the  
 actions of the landowner association member or landowner  
 association operator when reviewing renewal of the certificate of  
 registration; and

(b) any violation of Title 23, Wildlife Resources Code, this  
 rule, stipulations contained in the certificate of registration and all  
 other relevant information provided from any source related to the  
 applicant's fitness to operate a CWMU.

(7) The division shall:

(a) approve the renewal Certificate of Registration and forward  
 the permit recommendations to the Regional Advisory Councils and  
 Wildlife Board; or

(b) deny the renewal Certificate of Registration and state the  
 reasons for denial in writing to the applicant; and

(i) forward the application, reason for denial and  
 recommendation to the Regional Advisory Councils and Wildlife  
 Board; and

(iii) provide the applicant with information for seeking  
 Wildlife Board review of the denial.

(8) Upon receiving the division's recommendation as provided  
 in Subsection (b)(i), the Wildlife Board may consider:

(a) the previous performance of the CWMU, including the  
 actions of the landowner association member or landowner  
 association operator when reviewing renewal of the certificate of  
 registration; and

(b) any violation of Title 23, Wildlife Resources Code, this  
 rule, stipulations contained in the certificate of registration and all  
 other relevant information provided from any source related to the  
 applicant's fitness to operate a CWMU.

(9) A CWMU Certificate of Registration for renewal is  
 authorized annually and shall expire on January 31, providing the  
 certificate of registration is not revoked or suspended prior to the  
 expiration date.

**KEY: wildlife, cooperative wildlife management unit**

~~August 15, 2002~~2003

Notice of Continuation May 3, 1999

23-23-3



## Natural Resources, Wildlife Resources **R657-42**

Accepted Payment of Fees, Late Fees,  
 Exchanges, Surrenders, Refunds and  
 Reallocation of Licenses, Certificates of  
 Registration and Permits

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 26277

FILED: 05/14/2003, 12:11

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is  
 being amended pursuant to Wildlife Board meetings  
 conducted for taking public input and reviewing Rule R657-42.

**SUMMARY OF THE RULE OR CHANGE:** Section R657-42-8 is being  
 amended to add business checks as an accepted method of  
 payment. Section R657-42-10 is being added to provide a  
 procedure for issuing duplicate licenses, permits, or  
 Certificates of Registration, consistent with Section 23-19-10.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS  
 RULE:** Sections 23-19-1 and 23-19-38

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** This amendment is to allow business  
 checks as an accepted method of payment and provide a  
 procedure for issuing duplicate licenses, permits, or  
 Certificates of Registration. The Division of Wildlife  
 Resources (DWR) determines that there is not a cost or  
 savings impact to the state budget or DWR's budget  
 associated with this amendment.

❖ **LOCAL GOVERNMENTS:** None--This filing does not create any  
 direct cost or savings impact to local governments because  
 they are not directly affected by the rule. Nor are local  
 governments indirectly impacted because the rule does not  
 create a situation requiring services from local governments.

❖ **OTHER PERSONS:** This amendment is to allow business  
 checks as an accepted method of payment, and provide a  
 procedure for issuing duplicate licenses, permits, or  
 Certificates of Registration. Therefore, this amendment does  
 not impose any additional requirements on other persons, nor  
 generate a cost or savings impact to other persons.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** This amendment  
 is to allow business checks as an accepted method of  
 payment, and provide a procedure for issuing duplicate  
 licenses, permits, or Certificates of Registration. DWR  
 determines that there are no compliance costs associated with  
 this amendment.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE  
 RULE MAY HAVE ON BUSINESSES:** The amendments to this rule  
 do not create an impact on businesses.

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

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

## DIRECT QUESTIONS REGARDING THIS RULE TO:

Debbie Sundell at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at [debbiesundell@utah.gov](mailto:debbiesundell@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/01/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 07/02/2003

AUTHORIZED BY: Kevin Conway, Director

**R657. Natural Resources, Wildlife Resources.****R657-42. Accepted Payment of Fees, Late Fees, Exchanges, Surrenders, Refunds and Reallocation of Licenses, Certificates of Registration and Permits.****R657-42-8. Accepted Payment of Fees.**

(1) Personal checks, business checks, money orders, cashier's checks, and cards are accepted for payment of licenses, permits or certificates of registration.

(2) Personal or business checks drawn on an out-of-state account are not accepted.

(3) Third-party checks are not accepted.

(4) All payments must be made payable to the Utah Division of Wildlife Resources.

(5)(a) Credit cards must be valid at least 30 days after any drawing results are posted.

(b) Checks and credit cards will not be accepted as combined payment on single or group applications.

(c) If applicable, if applicants are applying as a group, all fees for all applicants in that group must be charged to one credit card.

(d) Handling fees and donations are charged to the credit card when the application is processed. Applicable license and permit fees are charged after the drawings, if successful.

(6)(a) An application is voidable if the check is returned unpaid from the bank or the credit card is invalid or refused.

(b) The division charges a returned check collection fee for any check returned unpaid.

(7)(a) A license or permit is voidable if the check is returned unpaid from the bank or the credit card is invalid or refused.

(b) The Division may void a permit after making a reasonable effort to contact the successful applicant to collect payment and payment is not received.

(c) The Division shall reinstate the applicant's bonus points or preference points, whichever is applicable, and waive waiting periods, if applicable, when voiding a permit in accordance with Subsection (b).

(d) A permit which is deemed void in accordance with Subsection (b) may be reissued by the Division to the next person listed on the alternate drawing list.

(8) A license or permit received by a person shall be deemed invalid if payment for that license or permit is not received, or a check is returned unpaid from the bank, or the credit card is invalid or refused.

(9) Hunting with a permit where payment has not been received for that permit constitutes a violation of hunting without a valid permit.

(10) The division may require a money order or cashier's check to correct payment for a license, permit, or certificate of registration.

(11) Any person who fails to pay the required fee for any license, permit or certificate of registration, shall be ineligible to obtain any other license, permit, tag, or certificate of registration until the delinquent fees and associated collection costs are paid.

**R657-42-9. Assessment of Late Fees.**

(1) Any wildlife application submitted under the Utah Administrative Code Rules provided in Subsection (a) through (e), within 30 days of the applicable application deadline established in such rules, in the proclamations of the Wildlife Board, or by the division may be processed only upon payment of a \$10.00 late fee.

(a) R657-52, Commercial Harvesting of Brine Shrimp and Brine Shrimp Eggs;

(b) R657-21, Cooperative Wildlife Management Units for Small Game;

(c) R657-22, Commercial Hunting Areas;

(d) R657-37, Cooperative Wildlife Management Units for Big Game; or

(e) R657-43, Landowner Permits.

**R657-42-10. Duplicate License, Permit or Certificate of Registration.**

(1) Whenever any unexpired license, permit, tag or certificate of registration is destroyed, lost or stolen, a person may obtain a duplicate from a division office, for five dollars or half of the price of the original license, or permit, whichever is less.

(2) The division may waive the fee for a duplicate unexpired license, permit, tag or Certificate of Registration provided the person did not receive the original license, permit, tag or certificate of registration.

(3) To obtain the duplicate license, permit, tag or certificate of registration, the applicant must complete an affidavit testifying to such loss, destruction or theft pursuant to Section 23-19-10.

**KEY: wildlife, permits**

**[January 15,] 2003**

**Notice of Continuation November 30, 2000**

**23-19-1**

**23-19-38**

**Natural Resources, Wildlife Resources****R657-44****Big Game Depredation****NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE No.: 26276

FILED: 05/14/2003, 12:11

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Provisions of this rule are being amended to comply with legislative amendments to Sections 23-16-3, 23-16-4, and 23-20-4; legislative enactments of Sections 23-16-1.1, 23-16-3.1, and 23-16-3.2; and legislative repeal of Section 23-16-3.5 (H.B.

130, 2003 Legislative Session). (DAR NOTE: H.B. 130 is found at UT L 2003 Ch 228, and was effective May 5, 2003.)

SUMMARY OF THE RULE OR CHANGE: Section R657-44-2 provides the new definition of "Cleared and planted land" and deletes the definition of "cultivated crops" which is now defined in Section 23-16-1.1. Section R657-44-3 is being amended to include damage to fences, or irrigation equipment by big game animals, which are currently covered under Sections R657-44-4, R657-44-5, and R657-44-6, and are being removed from these sections. In addition, the following sections of this rule have been rearranged and clarified into a more logical sequence: 1) R657-44-4, 2) R657-44-5, and 3) R657-44-6. Other provisions of the rule are being amended to add new sections or make clarification consistent with legislative amendments to Sections 23-16-3, 23-16-4, and 23-20-4; and legislative enactments of Sections 23-16-1.1, 23-16-3.1, and 23-16-3.2.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-16-2, 23-16-3, 13-16-3.1, 23-16-3.2, and 23-16-4

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The amendments to the depredation rule are necessary in order to address changes in the big game depredation code, Section 23-16-1.1.; 23-16-3.; 23-16-3.1.; and 23-16-3.2., as made by recent legislative action. The current amendments to the rule significantly alter the rule format, resulting in a more comprehensive document having fewer pages. Minor additions have been added to clarify standards and procedures. Otherwise, the Division of Wildlife Resources (DWR) determines that these amendments do not create a cost or savings impact to the state budget or DWR's budget.

❖ LOCAL GOVERNMENTS: None--This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖ OTHER PERSONS: These amendments are for significant changes in formatting, and the clarification of standards and procedures for assessing big game depredation and mitigation procedures for big game depredation. These amendments do not impose any requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These amendments are for significant changes in formatting, and the clarification of standards and procedures for assessing big game depredation and mitigation procedures for big game depredation. DWR determines that there are no compliance costs associated with this amendment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Debbie Sundell at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at debbiesundell@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/01/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 07/02/2003

AUTHORIZED BY: Kevin Conway, Director

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

**R657-44. Big Game Depredation.**

**R657-44-1. Purpose and Authority.**

Under authority of Section 23-16-2, 23-16-3, 23-16-~~3.1~~3.1, ~~23-16-3.2~~ and 23-16-4, this rule provides:

- (1) the procedures, standards, requirements, and limits for assessing big game depredation; and
- (2) mitigation procedures for big game depredation.

**R657-44-2. Definitions.**

(1) Terms used in this rule are defined in ~~[Section]~~Sections 23-13-2 and 23-16-1.1.

(2) In addition:

(a) "Alternate drawing list" means a list of persons who have not already drawn a permit and would have been the next person in line to draw a permit.

(b) "Cleared and planted land" means private land or privately leased state or federal land used to produce a cultivated crop for commercial gain and the cultivated crop is routinely irrigated or routinely mechanically or manually harvested, or is crop residue that has forage value for livestock.

(c) "Commercial gain" means intent to profit from cultivated crops through an enterprise in support of the crop owner's livelihood.

~~[(e) "Cultivated crops" means any crop from or upon cleared and planted private land or privately leased state or federal land that is used for commercial gain and is routinely irrigated or routinely mechanically or manually harvested, including crop residues that have forage value for livestock.~~

(d) "Damage incident period" means 90 days, or some longer period as approved in writing by the division, during which the division shall take action to prevent further depredation and during which compensation for damage will be calculated.

(e) "Irrigated" means the controlled application of water for agricultural purposes through man-made systems to supply water not satisfied by rainfall.

(f) "Livestock Forage" means any forage, excluding cultivated crops and crop residues, meant for consumption by livestock, not routinely irrigated or routinely mechanically or manually harvested.

(g) "Mitigation permit voucher" means a document issued to a landowner or lessee, allowing the landowner or lessee to designate who may ~~purchase~~ obtain a big game mitigation permit.

(h) "Private land" means land in private fee ownership and in agricultural use as provided in Section 59-2-502 and eligible for agricultural use valuation as provided in Section 59-2-503 and 59-2-504. Private land does not include tribal trust lands.

**R657-44-3. Damage to Cultivated Crops, Fences, or Irrigation Equipment by Big Game Animals.**

(1) If big game animals are damaging cultivated crops on cleared and planted land, or fences or irrigation equipment on private land, the landowner or lessee shall immediately, upon discovery of big game damage, ~~notify~~ request that the division take action by notifying a division representative in the appropriate ~~division~~ regional office ~~as provided in~~ pursuant to Section 23-16-3(1).

(2) Notification ~~must~~ may be made:

(a) orally to expedite a field investigation; ~~and~~ or  
(b) in writing to a division representative in the appropriate division regional office.

(3)(a) The regional supervisor or division representative shall contact the landowner or lessee within 72 hours ~~of~~ after receiving notification to determine the nature of the damage and take appropriate action for the extent of the damage experienced or expected during the damage incident period.

(b) ~~In determining the appropriate action, the~~ The division shall consider [=

~~(i) the provisions provided in Subsections 23-16-3(2)(a) through 23-16-3(2)(d); and,~~

~~(ii) if not detrimental to the landowner or lessee,~~ the big game population management objectives as established in the wildlife unit management plan approved by the Wildlife Board.

(c) Division action shall include:

(i) removing the big game animals causing depredation; or

(ii) implementing a depredation mitigation plan pursuant to Sections 23-16-3(2)(b) through 23-16-3(2)(f) and approved in writing by the landowner or lessee.

(4)(a) The division ~~may utilize one or~~ mitigation plan may incorporate any of the following ~~actions~~ measures:

(i) sending a division representative onto the premises to control or remove the big game animals, including:

- (A) herding;
- (B) capture and relocation;
- (C) temporary or permanent fencing; or
- (D) removal, as authorized by the division director or the division director's designee;

(ii) recommending to the Wildlife Board an antlerless big game hunt in the next big game season framework;

(iii) scheduling a depredation hunter pool hunt ~~as~~ in accordance with Sections R657-44-7, R657-44-8, or R657-44-9;

(iv) issuing permits to the landowner or lessee for the harvest of big game animals causing depredation during a general or special season hunt authorized by the Wildlife Board, of which: [=

~~(iv)(A) the hunting area for big game animals may include a buffer zone established by the division that surrounds, or is adjacent to, the lands where depredation is occurring;~~

~~(B) the landowner or lessee may retain no more than five antlerless deer, five doe pronghorn, and two antlerless elk; or~~

(v) issuing big game mitigation permit vouchers for use on the ~~landowner's or lessee's~~ landowner's or lessee's private land during a general or special hunt authorized by the Wildlife Board ~~or~~.

~~(v) issuing mitigation permits to the~~ (b) The mitigation plan may describe how the division will assess and compensate for damage pursuant to Section 23-16-4.

~~(c) The landowner or lessee [for the harvest of big game animals causing depredation] and the division may agree upon a combination of mitigation measures to be used pursuant to Subsections (4)(a)(i) through (4)(a)(v), and a payment of damage pursuant to Section 23-16-4.~~

~~(d) The agreement pursuant to Subsection (4)(c) must be made before a claim for damage is filed and the mitigation measures are taken.~~

(5) Vouchers may be issued in accordance with Subsection ~~(4)(a)(iv)~~ (4)(a)(v) to:

~~(i)~~ (a) the landowner or lessee; or

~~(ii)~~ (b) a landowner association that:

~~(A)~~ (i) applies in writing to the division;

~~(B)~~ (ii) provides a map of the association lands;

~~(C)~~ (iii) provides signatures of the landowners in the association; and

~~(D)~~ (iv) designates an association representative to act as liaison with the division.

~~(e) The landowner or lessee may retain no more than five deer or pronghorn, and two elk in accordance with Subsection (4)(a)(v).~~

~~(5)(a) A landowner or lessee who elects to pursue mitigation through the measures provided in Subsections (4)(a)(i) through (4)(a)(v) may not subsequently file a claim under Section 23-16-4, except as provided by an agreement made under Subsection 23-16-3.5(3)(b)(i).~~

~~(b)~~ (6) In determining appropriate mitigation, the division shall consider the landowner's or lessee's revenue pursuant to Subsections 23-16-~~3(2)(d)~~ 3(2)(f) and 23-16-~~4(4)(b)~~ 4(3)(b).

~~(e)~~ (7) Mitigation permits or vouchers may be withheld from persons who have violated this rule, any other wildlife rule, or the Wildlife Resources Code.

~~(6)(a)~~ (8)(a) The options provided in ~~Subsection~~ Subsections (4)(a)(i) through (4)(a)(v) are for antlerless animals only.

(b) Deer and pronghorn hunts may be August 1 through December 31, and elk hunts may be August 1 through January 31.

~~(7)(a)~~ (9)(a) The division director may approve mitigation permits or mitigation permit vouchers issued for antlered animals.

(b) A big game mitigation permit may be issued to the landowner or lessee for personal use, provided the division and the landowner or lessee desire the animals to be permanently removed.

(c) A mitigation permit voucher may be issued to the landowner or lessee, provided:

(i) the division has determined that the big game animals in the geographic area significantly contribute to the wildlife management units;

(ii) the landowner or lessee agrees to perpetuate the animals on their land; and

(iii) the damage, or expected damage, to the cultivated crop is comparable with the expected value of the mitigation permit voucher on that private land within the wildlife unit.

~~(8)(a)~~ (10)(a) If the landowner or lessee and the division are unable to agree on the assessed damage, they shall designate a third party pursuant to Subsection 23-16-~~4(4)(e)~~ 4(3)(d).

(b) Additional compensation shall be paid above the value of any mitigation permits or vouchers granted to the landowner or lessee if the damage exceeds the value of the mitigation permits or vouchers.

~~(9)(a)~~ (11)(a) The landowner or lessee ~~is authorized to kill big game animals damaging cultivated crops as provided in Subsections~~

~~23-16-3(1)(e) and 23-16-3(3) after notification to the division.] may revoke approval of the mitigation plan agreed to pursuant to Subsection (4)(c).~~

~~[(b) Notification must be made:] (b) If the landowner or lessee revokes the mitigation plan, the landowner or lessee must request that the division take action pursuant to Section 23-16-3(1)(a).~~

~~[(i) orally to a division representative in the appropriate regional division office; and] (c) Any subsequent request for action shall start a new 72-hour time limit as specified in Section 23-16-3(2)(a).~~

~~[(ii) followed in writing to the division representative in the appropriate regional division office.~~

~~(e) The landowner or lessee must surrender the big game carcass to the division pursuant to Subsection 23-16-3(4)(a).~~

~~(d) The authority of the landowner or lessee to remove big game animals damaging cultivated crops expires after 90 days, unless a longer period is approved pursuant to Subsection 23-16-3(3)(a)(iii).~~

~~(10)(12) The expiration of the damage incident period does not preclude the landowner or lessee from making future claims.~~

~~(13) The division may enter into a conservation lease with the landowner or lessee of private land pursuant to Section 23-16-3(5).~~

#### **R657-44-4. Landowner or Lessee Authorized to Kill Big Game Animals.**

~~(1) The landowner or lessee is authorized to kill big game animals damaging cultivated crops on cleared and planted land pursuant to Section 23-16-3.1.~~

~~(2) The expiration of the damage incident period does not preclude the landowner or lessee from making future claims.~~

#### **R657-44-5. Compensation for Damage to Crops, Fences, or Irrigation Equipment**~~[**R657-44-4. Damage to Fences**] on Private Land.~~

~~(1) The division may provide compensation to landowners or lessees for damage to cultivated crops on cleared and planted land, or fences or irrigation equipment on private land caused by big game animals pursuant to Section 23-16-4.~~

~~(2) For purposes of compensation, all depredation incidents end on June 30 annually, but may be reinstated July 1.~~

#### **R657-44-6. Damage to Livestock Forage on Private Land.**

~~(1)(a) If big game animals are damaging [fences] livestock forage on private land, the landowner or lessee shall immediately, upon discovery of big game damage, request that the division take action to alleviate the depredation problem pursuant to Section 23-16-3, and as provided in Subsections R657-44-3(1) through R657-44-3(4)(a)(v), and R657-44-3(5) and R657-44-3(8)(a). [ may request the division to take action to prevent depredation pursuant to Subsection 23-16-3.5(1).~~

~~(2) Notification must be made:~~

~~(a) orally to a division representative in the appropriate regional division office to expedite a field investigation; and~~

~~(b) in writing to the division representative at the appropriate regional division offices.~~

~~(3)(a) The regional supervisor or division representative shall contact the landowner or lessee within 72 hours of notification to determine the nature of the damage and take appropriate action for the extent of the damage experienced or expected during the damage incident period.~~

~~(b) In determining the appropriate action the division shall consider:~~

~~(i) the provisions provided in Subsections 23-16-3(2)(a) through 23-16-3(2)(d); and~~

~~(ii) if not detrimental to the landowner or lessee, the big game population management objectives as established in the management plan approved by the Wildlife Board.~~

~~(4)(a) The division may utilize one or any of the following actions:~~

~~(i) sending a division representative onto the premises to control or remove the big game animals, including:~~

~~(A) herding;~~

~~(B) capture and relocation;~~

~~(C) temporary fencing; or~~

~~(D) removal, as authorized by the division director or the division director's designee;~~

~~(ii) recommending to the Wildlife Board an antlerless big game hunt in the next big game season framework;~~

~~(iii) scheduling a depredation hunter pool hunt as authorized by the Wildlife Board;~~

~~(iv) issuing big game mitigation permit vouchers for use on the landowner's or lessee's land during a general or special hunt authorized by the Wildlife Board; or~~

~~(v) issuing mitigation permits to the landowner or lessee for the harvest of big game animals causing depredation.~~

~~(b) Vouchers may be issued in accordance with Subsection (4)(a)(iv) to:~~

~~(i) the landowner or lessee; or~~

~~(ii) a landowner association that:~~

~~(A) applies in writing to the division;~~

~~(B) provides a map of the association lands;~~

~~(C) provides signatures of the landowners in the association; and~~

~~(D) designates an association representative to act as liaison with the division.~~

~~(c) The landowner or lessee may retain no more than five deer or pronghorn, and two elk in accordance with Subsection (4)(a)(v).~~

~~(5)(a) A landowner or lessee who elects to pursue mitigation through the measures provided in Subsections (4)(a)(i) through (4)(a)(v) may not subsequently file a claim under Section 23-16-4, except as provided by an agreement made under Subsection 23-16-3.5(3)(b)(i).~~

~~(b) In determining appropriate mitigation, the division shall consider the [landowner's or lessee's] landowner's or lessee's revenue pursuant to Subsections 23-16-3.5(3)(e) and 23-16-4(4)(b).~~

~~(c) Mitigation permits or vouchers may be withheld from persons who have violated this rule, any other wildlife rule, or the Wildlife Resources Code.~~

~~(6)(a) The options provided in Subsections (4)(a)(i) through (4)(a)(v) are for antlerless animals only.~~

~~(b) Deer and pronghorn hunts may be August 1 through December 31, and elk hunts may be August 1 through January 31.~~

~~(7)(a) The division director may approve mitigation permits or mitigation permit vouchers issued for antlered animals.~~

~~(b) A big game mitigation permit may be issued to the landowner or lessee for personal use, provided the division and the landowner or lessee desire the animals to be permanently removed.~~

~~(c) A mitigation permit voucher may be issued to the landowner or lessee, provided:~~

~~(i) the division has determined that the big game animals in the geographic area significantly contribute to the wildlife management units;~~

~~(ii) the landowner or lessee agrees to perpetuate the animals on their land; and~~

—(iii) the damage, or expected damage, to the fence is comparable with the expected value of the mitigation permit voucher on that private land within the wildlife unit.

—(8)(a) If the landowner or lessee and the division are unable to agree on the assessed damage, they shall designate a third party pursuant to Subsection 23-16-4(4)(e).

—(b) Additional compensation may be paid above the value of any mitigation permits or vouchers granted to the landowner or lessee if the damage exceeds the value of the mitigation permits or vouchers.

—(9) The expiration of the damage incident period does not preclude the landowner or lessee from making future claims.

#### **R657-44-5. Damage to Irrigation Equipment on Private Land.**

—(1) If big game animals are damaging irrigation equipment on private land, the landowner or lessee may request the division to take action to prevent depredation pursuant to Subsection 23-16-3.5(1).

—(2) Notification must be made:

—(a) orally to a division representative in the appropriate regional division office to expedite a field investigation; and

—(b) in writing to the division representative in the appropriate regional division offices.

—(3)(a) The regional supervisor or division representative shall contact the landowner or lessee within 72 hours of notification to determine the nature of the damage and take appropriate action for the extent of the damage experienced or expected.

—(b) In determining the appropriate action the division shall consider:

—(i) the provisions as provided in Subsections 23-16-3(2)(a) through 23-16-3(2)(d); and

—(ii) if not detrimental to the landowner or lessee, the big game population management objectives as established in the management plan approved by the Wildlife Board.

—(4)(a) The division may utilize one or any of the following actions:

—(i) sending a division representative onto the premises to control or remove the big game animals, including:

—(A) herding;

—(B) capture and relocation;

—(C) temporary fencing; or

—(D) removal, as authorized by the division director or the division director's designee;

—(ii) recommending to the Wildlife Board an antlerless big game hunt in the next big game season framework;

—(iii) scheduling a depredation hunter pool hunt as authorized by the Wildlife Board;

—(iv) issuing big game mitigation permit vouchers for use on the landowner's or lessee's land during a general or special hunt authorized by the Wildlife Board; or

—(v) issuing mitigation permits to the landowner or lessee for the harvest of big game animals causing depredation.

—(b) Vouchers may be issued in accordance with Subsection (4)(a)(iv) to:

—(i) the landowner or lessee; or

—(ii) a landowner association that:

—(A) applies in writing to the division;

—(B) provides a map of the association lands;

—(C) provides signatures of the landowners in the association; and

—(D) designates an association representative to act as liaison with the division.

—(c) The landowner or lessee may retain no more than five deer or pronghorn, and two elk in accordance with Subsection (4)(a)(v).

—(5)(a) A landowner or lessee who elects to pursue mitigation through the measures provided in Subsections (4)(a)(i) through (4)(a)(v) may not subsequently file a claim under Section 23-16-4, except as provided by an agreement made under Subsection 23-16-3.5(3)(b)(i).

—(b) In determining appropriate mitigation, the division shall consider the landowner's or lessee's revenue pursuant to Subsections 23-16-3.5(3)(e) and 23-16-4(4)(b).

—(c) Mitigation permits or vouchers may be withheld from persons who have violated this rule, any other wildlife rule, or the Wildlife Resources Code.

—(6)(a) The options in Subsections (4)(a)(i) through (4)(a)(v) are for antlerless animals only.

—(b) Deer and pronghorn hunts may be August 1 through December 31, and elk hunts may be August 1 through January 31.

—(7)(a) The division director may approve mitigation permits or mitigation permit vouchers issued for antlered animals.

—(b) A big game mitigation permit may be issued to the landowner or lessee for personal use, provided the division and the landowner or lessee desire the animals to be permanently removed.

—(c) A mitigation permit voucher may be issued to the landowner or lessee, provided:

—(i) the division has determined that the big game animals in the geographic area significantly contribute to the wildlife management units;

—(ii) the landowner or lessee agrees to perpetuate the animals on their land; and

—(iii) the damage, or expected damage, to the irrigation equipment is comparable with the expected value of the mitigation permit voucher on that private land within the wildlife unit.

—(8)(a) If the landowner or lessee and the division are unable to agree on the assessed damage, they shall designate a third party pursuant to Subsection 23-16-4(4)(e).

—(b) Additional compensation may be paid above the value of any mitigation permits or vouchers granted to landowner or lessee if the damage exceeds the value of the mitigation permits or vouchers.

—(9) The expiration of the damage incident period does not preclude the landowner or lessee from making future claims.

#### **R657-44-6. Compensation for Damage to Crops, Fences, or Irrigation Equipment on Private Land.**

—(1) The division may provide compensation to landowners or lessees for damage to cultivated crops, fences or irrigation equipment on private land caused by big game pursuant to Section 23-16-4.

—(2) For purposes of compensation, all depredation incidents end on June 30 annually, but may be reinstated July 1.

#### **R657-44-7. Damage to, or Consumption of Livestock Forage on Private Land.**

—(1)(a) If big game animals are damaging or consuming livestock forage on private land, the landowner or lessee may request the division to take action to prevent depredation pursuant to Section 23-16-3.5.

—(b) Damage to or consumption of livestock forage is not eligible for monetary compensation from the division.

—(2) The request shall be made:

—(a) orally to a division representative in the appropriate regional division office to expedite field investigations; and

—(b) in writing to the division representative in the appropriate regional division office.

—(3)(a) The regional supervisor or division representative shall contact the landowner or lessee within 72 hours of notification and



~~investigate the situation pursuant to Subsections 23-16-3.5(2)(a) through 23-16-3.5(3)(a)(ii).~~

~~— (b) In determining appropriate mitigation, the division shall:~~

~~— (i) consider the provisions provided in Subsections 23-16-3.5(2)(a)(iii) through 23-16-3.5(2)(b), and Subsections 23-16-3.5(3)(e) through 23-16-3.5(5); and~~

~~— (i) if not detrimental to the landowner or lessee, the big game population management objectives as established in the management plan approved by the Wildlife Board.~~

~~— (4)(a) The division may utilize one or any of the following actions:~~

~~— (i) send a division representative onto the premises to control or remove the big game animals, including:~~

~~— (A) herding;~~

~~— (B) capture and relocation;~~

~~— (C) temporary fencing; or~~

~~— (D) removal, as authorized by the division director or the division director's designee;~~

~~— (ii) recommend an antlerless big game hunt to the Wildlife Board in the next big game season framework;~~

~~— (iii) scheduling a depredation hunter pool hunt, as authorized by the Wildlife Board;~~

~~— (iv) issuing big game mitigation permit vouchers for use on the landowner's or lessee's land during a general or special hunt authorized by the Wildlife Board; or~~

~~— (v) issuing permits to the landowner or lessee for the harvest of big game animals causing depredation.~~

~~— (b) Vouchers may be issued in accordance with Subsection (4)(a)(iv) to:~~

~~— (i) the landowner or lessee; or~~

~~— (ii) a landowner association that:~~

~~— (A) applies in writing to the division;~~

~~— (B) provides a map of the association lands;~~

~~— (C) provides signatures of the landowners in the association; and~~

~~— (D) designates an association representative to act as liaison with the division.~~

~~— (e) The landowner or lessee may retain no more than five antlerless deer or doe pronghorn, and two antlerless elk in accordance with Subsection (4)(a)(v).~~

~~(5)(a)3(2)(f) and 23-16-4(3)(b).~~

~~(c) Damage to livestock forage is not eligible for monetary compensation from the division.~~

~~(2)(a) Antlerless deer and doe pronghorn hunts may be occur August 1 through December 31, and antlerless elk hunts may be occur August 1 through January 31.~~

~~(b) Antlerless permits shall not exceed ten percent of the animals on the private land, with a maximum of twenty permits per landowner or lessee.~~

~~(c) Mitigation permits or vouchers may be withheld from persons who have violated this rule, any other wildlife rule, or the Wildlife Resources Code.~~

~~(6)(3) The division may enter into a conservation lease with the owner landowner or lessee of private land pursuant to Section Subsection 23-16-~~3.5(6)~~3(5).~~

~~(7)(4) Permits and vouchers for antlered animals using livestock forage on private land are issued only through the provisions provided in Rule R657-43.~~

#### **R657-44-[8]7. Depredation Hunts for Buck Deer, Bull Elk or Buck Pronghorn.**

(1)(a) Buck deer, bull elk, or buck pronghorn depredation hunts, that are not published in the proclamation of the Wildlife Board for taking big game, may be held.

(b) Buck deer, bull elk, or buck pronghorn depredation hunts may be held when the buck deer, bull elk, or buck pronghorn are:

(i) causing damage to cultivated crops on cleared and planted land, or fences or irrigation equipment on private land;

(ii) a significant public safety hazard; or

(iii) causing a nuisance in urban areas.

(2) The depredation hunts may occur on short notice, involve small areas, and be limited to only a few hunters.

(3) Pre-season depredation hunters shall be selected using:

(a) hunters possessing a limited entry buck deer, bull elk, or buck pronghorn permit for that limited entry unit;

(b) hunters from the alternate drawing list for that limited entry unit; or

(c) general permittees for that unit through the depredation hunter pool pursuant to Section R657-44-~~[10]9~~, provided the animals being hunted are determined by the appropriate regional division representative, to not come from a limited entry unit.

(4) Post-season depredation hunters shall be selected using:

(a) hunters from the alternate drawing list for that limited entry unit;

(b) hunters from the alternate drawing list from the nearest adjacent limited entry unit; or

(c) general permittees for that unit through the depredation hunter pool pursuant to Section R657-44-~~[10]9~~, provided the animals being hunted are determined by the appropriate regional division representative, to not come from a limited entry unit.

(5) A person may participate in the depredation hunter pool, for depredation hunts pursuant to Subsections (3)(c) and (4)(c), as provided in Section R657-44-~~[10]9~~.

(6)(a) Hunters who are selected for a limited entry buck deer, bull elk, or buck pronghorn depredation hunt must possess an unfilled, valid, limited entry buck deer, bull elk, or buck pronghorn permit for the species to be hunted, or must purchase the appropriate depredation permit before participating in the depredation hunt.

(b) Hunters who are selected for a general buck deer or bull elk depredation hunt must possess an unfilled, valid, general buck deer or bull elk permit, respectively.

(7) The buck deer, bull elk, or buck pronghorn harvested during a depredation hunt must be checked with the division within 72 hours of the harvest.

(8) If a hunter is selected from the alternate drawing list for a depredation hunt in a limited entry unit and harvests a trophy animal, that person shall lose their bonus points and incur the appropriate waiting period as provided in Rule R657-5.

(9)(a) Hunters with depredation permits for buck deer, bull elk, or buck pronghorn may not possess any other permit for those species, except as provided in the proclamation of the Wildlife Board for taking big game and Rule R657-5.

(b) A person may not take more than one buck deer, bull elk, or buck pronghorn in one calendar year.

**R657-44-[9]8. Depredation Hunts for Antlerless Deer, Elk or Doe Pronghorn.**

(1) When deer, elk, or pronghorn are causing damage to cultivated crops~~[, fences,]~~ on cleared and planted land, or livestock forage, fences or irrigation equipment on private land, antlerless hunts not listed in the proclamation of the Wildlife Board for taking big game may be held. These hunts occur on short notice, involve small areas, and are limited to only a few hunters.

(2) Depredation hunters shall be selected using:

- (a) hunters possessing an antlerless deer, elk, or doe pronghorn permit for that unit;
- (b) hunters from the alternate drawing list for that unit; or
- (c) the depredation hunter pool pursuant to Section R657-44-~~[4]9.~~

(3) The division may contact hunters to participate in a depredation hunt prior to the general or limited entry hunt for a given species of big game. Hunters who do not possess an antlerless deer, elk, or doe pronghorn permit may purchase an appropriate permit.

(4) Hunters with depredation permits for antlerless deer, elk, or doe pronghorn may not possess any other permit for those species, except as provided in the proclamation of the Wildlife Board for taking big game and Rule R657-5.

**R657-44-~~[4]9.~~ Depredation Hunter Pool.**

(1) When deer, elk or pronghorn are causing damage, hunts not listed in the proclamation of the Wildlife Board for taking big game may be held. These hunts occur on short notice, involve small areas, and are limited to only a few hunters.

(2) Hunters shall be selected pursuant to Subsections R657-44-~~[8(3)]7(3), R657-44-~~[8(4)]7(4), and R657-44-~~[9(2)]8(2).~~~~~~

(3) A hunter pool application does not affect eligibility to apply for any other big game permit. However, hunters who participate in any deer, elk, or pronghorn depredation hunt may not possess an additional permit for that species during the same year, except as provided in Rule R657-5 and the proclamation of the Wildlife Board for taking big game.

(4) Applications must be sent to the appropriate regional division office for the area requested.

(5)(a) Applications must be received by the date published in the proclamation of the Wildlife Board for taking big game.

(b) Applications received after the date published in the proclamation of the Wildlife Board for taking big game may be used if adequate numbers of applicants are not available to satisfy depredation situations.

(6) Hunters who have not obtained the appropriate deer, elk, or pronghorn permit may purchase an appropriate permit.

**R657-44-~~[4]10.~~ Appeal Procedures.**

(1) Upon the petition of an aggrieved party to a final division action relative to big game depredation and this rule, a qualified hearing examiner shall take evidence and make recommendations to the Wildlife Board, who shall resolve the grievance in accordance with Rule R657-2.

**KEY: wildlife, big game, depredation**

~~[February 16,] 2003~~

Notice of Continuation July 3, 2002

23-16-2

23-16-3

23-16-3.5

## Natural Resources, Wildlife Resources

# R657-45

## Wildlife License, Permit, Certificate of Registration, Habitat Authorization and Heritage Certificate Forms

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 26279

FILED: 05/14/2003, 12:13

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is being amended pursuant to Wildlife Board meetings conducted for taking public input and reviewing Rule R657-45.

**SUMMARY OF THE RULE OR CHANGE:** Provisions of this rule are being amended to delete "Habitat Authorization," and "Heritage Certificate," which are both being eliminated.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Sections 23-14-19 and 23-19-2

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** The Division of Wildlife Resources (DWR) determines that there is not a cost or savings impact to the state budget or the DWR's budget associated with this amendment.

❖ **LOCAL GOVERNMENTS:** None--This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖ **OTHER PERSONS:** This rule is being amended to delete "Habitat Authorization," and "Heritage Certificate," which are both being eliminated. Therefore, this amendment does not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** This rule is being amended to delete "Habitat Authorization," and "Heritage Certificate," which are both being eliminated. DWR determines that there are no compliance costs associated with this amendment.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The amendments to this rule do not create an impact on businesses.

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

NATURAL RESOURCES

WILDLIFE RESOURCES

1594 W NORTH TEMPLE

SALT LAKE CITY UT 84116-3154, or

at the Division of Administrative Rules.

## DIRECT QUESTIONS REGARDING THIS RULE TO:

Debbie Sundell at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at debbiesundell@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/01/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 07/02/2003

AUTHORIZED BY: Kevin Conway, Director

**R657. Natural Resources, Wildlife Resources.****R657-45. Wildlife License, Permit, and Certificate of Registration[, ~~Habitat Authorization and Heritage Certificate~~] Forms.****R657-45-1. Purpose and Authority.**

Under authority of Sections 23-14-19 and 23-19-2 the Wildlife Board has established this rule for prescribing the forms of a Wildlife License, Permit, and Certificate of Registration[, ~~Habitat Authorization and Heritage Certificate~~].

**R657-45-2. Information Listed on the License, Permit, and Certificate of Registration[, ~~Habitat Authorization and Heritage Certificate~~] Forms.**

(1) A License, Permit, and Certificate of Registration[, ~~Habitat Authorization and Heritage Certificate~~] issued for hunting or fishing shall be made upon forms and in the manner prescribed by the Wildlife Board.

(2) The License, Permit, and Certificate of Registration[, ~~Habitat Authorization and Heritage Certificate~~] forms shall include the licensee's name, address, date of birth, social security number, and any other information the Division of Wildlife may request.

**KEY:** license, permit, certificate of registration

~~August 19, 1998~~ **2003**  
23-19-2



Public Safety, Driver License  
**R708-2**  
Commercial Driver Training Schools

**NOTICE OF PROPOSED RULE**  
(Amendment)

DAR FILE NO.: 26287  
FILED: 05/15/2003, 16:54

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The changes in this rule will allow the division to better protect the public from fraud and ensure the public that the commercial driver education schools certified by the state will meet and adhere to all the requirements necessary to operate a commercial driver education school.

SUMMARY OF THE RULE OR CHANGE: The rule changes included the following: 1) improved licensing requirements; 2) required evidence of a surety bond; 3) added a new section for application requirements for an operator license; 4) clarified requirements for classroom and behind-the-wheel instruction; 5) added new requirements and information concerning instruction permits; 6) added new requirements and instructions regarding contracts; 7) clarified and added additional requirements concerning records; 8) strengthened and clarified grounds for cancellation, revocation, probation, etc.; and 9) provisions for testing only schools to eliminate unnecessary requirements for a school that engages in testing only.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-3-505

## ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There will be an additional cost to the state budget to certify school operators but existing staff will handle this task. There are currently approximately 30 schools in operation with a total of approximately 40 offices or branch offices. It is estimated that the time frame for completing the operator licensing certification will be approximately one employee hour for each operator certification. The initial financial impact would be approximately \$600. The continued impact would most likely add one employee hour to the existing process for school licensure for new schools. It is not anticipated that renewal of the operator license will have a financial impact to the state budget.

❖ LOCAL GOVERNMENTS: There is no cost impact to local governments because they are not involved in commercial driver education.

❖ OTHER PERSONS: There are approximately 30 schools currently in operation that will be required to get a surety bond. It is anticipated that the collective cost to schools for surety bond premiums will be approximately \$18,000 per year. All schools will be required to have signs posted in order to identify the school. Most schools currently meet this requirement. The approximate cost per sign will be \$400 for schools that do not currently have signs. Schools may also be required to hire qualified school operators, however, due to the fact that existing schools currently have personnel functioning in the capacity of an operator, it is not anticipated that there will be a financial impact to the schools as a result of the operator license requirement. There is a potential for a financial impact to students if tuition is increased as a result of additional requirements to schools, however, it is not anticipated that this is likely to occur due to the competitive nature of the business. In addition, the amount of hours an instructor is allowed to conduct behind-the-wheel training has been limited to 10 hours per day within a 24-hour period, which may cause a fiscal impact on some of the instructors. They may not conduct as many behind-the-wheel training hours in a day as they have in the past.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are 30 schools that will be required to get a surety bond. It is anticipated that the amount of the bond will range from approximately \$5,000 to \$60,000 depending on the number of

students being taught. It will cost the schools a premium cost of approximately \$10 per \$1,000 per year. It is anticipated that the maximum amount an individual school will pay in premiums for the surety bond will be approximately \$600 per year. All schools will be required to have signs posted in order to identify the school. Most schools currently meet this requirement. The approximate cost per sign will be \$400 for schools that do not currently have signs. Schools may also be required to hire qualified school operators, however, due to the fact that existing schools currently have personnel functioning in the capacity of an operator, it is not anticipated that there will be a financial impact to the schools as a result of the operator license requirement. There is a potential for a financial impact to students if tuition is increased as a result of additional requirements to schools, however, it is not anticipated that this is likely to occur due to the competitive nature of the business. In addition, the amount of hours an instructor is allowed to conduct behind-the-wheel training has been limited to 10 hours per day within a 24-hour period, which may cause a fiscal impact on some of the instructors. They may not conduct as many behind-the-wheel training hours in a day as they have in the past.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses must ensure they have an individual who has the skills necessary to function as a school operator, which may have a fiscal impact on business. The extra cost of hiring a skilled school operator is justified to ensure commercial driver education schools teach driver education in accordance with the rules and regulations to ensure the safety of the students and the public. Existing schools in operation prior to January 1, 2003, currently have personnel functioning in the capacity of a school operator. These individuals will be issued an operator license based on their experience, therefore, these schools will not need to hire additional personnel to be in compliance with the rule.

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

PUBLIC SAFETY  
DRIVER LICENSE  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W 3RD FL  
SALT LAKE CITY UT 84119-5595, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Vinn Roos at the above address, by phone at 801-965-4456, by FAX at 801-964-4482, or by Internet E-mail at vroos@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/01/2003

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 6/17/2003 at 2:00 PM, The Calvin Rampton Building, 4501 S 2700 W, Highway Patrol Training Room (First Floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 07/02/2003

AUTHORIZED BY: Judy Hamaker Mann, Director

**R708. Public Safety, Driver License.**

**R708-2. Commercial Driver Training Schools.**

**R708-2-1. Purpose.**

Sections 53-3-501 through 509, requires the Driver License Division to administer the Commercial Driver Training Schools Act by licensing and regulating commercial driver training schools and instructors of such schools. This rule assists the division in doing that.

**R708-2-2. Authority.**

This rule is authorized by Section 53-3-505.

**R708-2-3. Definitions.**

(1) "Behind-the-wheel instruction" means instruction a student receives while driving a commercial driver training vehicle.

(2) "Branch office" means an approved location where the business of the driver training school is conducted other than the principal place of business.

(3) "Business plan" means a plan that will contain written acknowledgment of expectations, as outlined by this rule and a detailed explanation of how these expectations will be accomplished.

(~~3~~4) "Classroom instruction" means that part of the driver training course which takes place in a classroom and which utilizes effective teaching methods such as lecture, discussion, and audio-visual aids.

(~~4~~5) "Commercial driver training school" or "school" means a business enterprise conducted by an individual, association, partnership, or corporation for the education and training of persons, either practically or theoretically, or both, to drive motor vehicles, including motorcycles, and to prepare an applicant for an examination given by the state for a license or learner permit, and charging a consideration or tuition for those services.

(~~5~~6) "Commercial driver training vehicle" means a motor vehicle equipped with a second functioning foot brake and inside and outside mirrors which are positioned for use by the instructor for the purpose of observing rearward.

(~~6~~7) "Commissioner" means the Commissioner of the Department of Public Safety.

(~~7~~8) "Corporation" means a business incorporated under the laws of a state or other jurisdiction.

(~~8~~9) "Department" means the Department of Public Safety.

(~~9~~10) "Division" means the Driver License Division.

(~~10~~11) "Driver training" means behind-the-wheel instruction, extended learning, observation time, and classroom instruction provided by a driver training school for the purpose of teaching students to safely operate motor vehicles.

(~~11~~12) "Extended learning course" means a home-study course in driver education offered by a school and approved and operated under the direction of an institution of higher learning. The division must also approve the course.

(~~12~~13) "Fraudulent practices" means any misrepresentation on the part of a licensee or any partner, officer, agent, or employee of a licensee tending to induce another to part with something of value or to surrender a legal right.

~~(14)~~14 "Higher education" means a university or college currently accredited by an appropriate accreditation agency recognized by the U.S. Dept. of Education and the Utah State Board of Regents.

~~(15)~~15 "Instructor" means any person, whether acting for himself as operator of a commercial driver training school or for any school for compensation, who teaches, conducts classes of, gives demonstrations to, or supervises practice of persons learning to drive motor vehicles, including motorcycles, or preparing to take an examination for a license or learner permit, ~~and any person who supervises the work of any other instructor~~.

~~(16)~~16 "Observation time" means the time a student is riding in the ~~rear seat of a~~ commercial driver training vehicle to observe the driver instructor, other student drivers, and other road users.

17 "Operator" means any person who is certified as an instructor, has met requirements for operator status as outlined in this rule, is authorized or certified to operate or manage a driver training school, and who may supervise the work of any other instructor.

~~(18)~~18 "Partnership" means an association of two or more persons who co-own and operate a commercial driver training school or testing only school.

19 "Permanent record book" means a permanently bound book with pages consecutively numbered, setting forth the name, address, date of birth, enrollment date, and completion date of every person receiving lessons, lectures, tutoring, instruction of any kind or any other services relating to instruction in the operation of motor vehicles.

20 "Probation" means action taken by the department which includes a period of close supervision as determined by the division.

21 "Reinstatement" means the process for an instructor, operator, commercial driver training school or testing only school to re-license following revocation.

22 "Revocation" means the removal of certification of an instructor license, operator license, commercial driver training school or testing only school for a period of six months.

23 "Student record book" means a book or other record showing the name, date of birth for each student, and also the date, type, time, and duration of all lessons, lectures, tutoring, instructions or other services relating to instruction in the operation of motor vehicles. It will also contain the names of the instructors giving such lessons or instructions and identification of the vehicle in which any behind-the-wheel instruction is given.

24 "Testing only school" means a school that has been designated by the division as a commercial testing only school, employs instructors who are certified in accordance with R708-37, and engages only in testing students for the purpose of obtaining a driver license. A testing only school may not engage in education or training of persons, either practically or theoretically, or both, to drive motor vehicles, except when counseling the driver following a test in reference to errors made during the administration of the test.

#### **R708-2-4. Licensing Requirement for a Commercial Driver Training School.**

(1) Every person who ~~operates~~owns a commercial driver training school shall obtain a school license from the division. School ~~l~~license applications may be obtained from the Driver License Division at 4501 South 2700 West, Salt Lake City, Utah. Applicants are also responsible for obtaining any business licenses required by the municipality or county in which they are located. School and business licenses must be conspicuously displayed in the licensee's principal place of business and branch offices. Each school shall be inspected by a division representative before it can be licensed.

(2) A license is valid for the calendar year and expires on December 31 of the year issued. The annual fee for an original license is \$80. The annual fee for a renewal license is \$50. The annual fee for each branch license is \$20. Fees shall be payable to the Department of Public Safety. If a license is ~~suspended or~~revoked, ~~or refused issuance or reinstatement~~, no part of the fee will be refunded.

(3) Licenses are not transferable.

(4) If a license is lost or destroyed, a duplicate will be issued upon ~~proof of loss or destruction and~~ payment of a fee of \$5. A notarized affidavit setting forth the date the license was lost or destroyed and the circumstances of such loss or destruction must be provided.

(5) Whenever any school or branch office is discontinued, the school or branch office license must be surrendered to the division within five days. In such cases, the licensee shall state in writing the reason for such surrender.

(6) Any branch office or classroom facility in a location other than the school's principal place of business shall be separately licensed. A branch office shall meet the same requirements as the school's principal place of business and shall be similarly equipped and perform substantially the same services. Application for a branch office license shall be made on an application form provided by the division. Branch offices shall be inspected by a division representative before they can be licensed.

7 Each school or branch office must employ a licensed operator to operate the school before it may become licensed. ~~If at any time the operator discontinues employment with the school, a new operator must be employed before continuation of operation of the school may occur. The name of the school operator must be listed on the school license application.~~

(a) It is not permissible for an individual to maintain employment with more than one commercial driver training school or testing only school at a time.

8 Only one school may be operated from a branch office or a classroom facility. It is not permissible for two schools owned by separate individuals and owned under different school names to operate from the same facility or office space unless one school has been designated by the division as a testing only school. One commercial driver training school and one testing only school may be operated from the same school or branch office. A clear separation of the schools must be identified, and each school must comply with standards set forth in R708-2.

9 Each school or classroom facility must be posted with signage that will identify the school by name as the school is listed on the school certification.

#### **R708-2-5. Licensing Requirement for a Testing Only School.**

(1) Every person who owns a testing only school shall obtain a school license from the division. School license applications may be obtained from the Driver License Division at 4501 South 2700 West, Salt Lake City, Utah. Applicants are also responsible for obtaining any business licenses required by the municipality or county in which they are located. School and business licenses must be conspicuously displayed in the licensee's principal place of business and branch offices. Each school shall be inspected by a division representative before it can be licensed.

(2) A license is valid for the calendar year and expires on December 31 of the year issued. The annual fee for an original license is \$80. The annual fee for a renewal license is \$50. The annual fee for each branch license is \$20. Fees shall be payable to the Department of Public Safety. If a license is revoked, or refused issuance or reinstatement, no part of the fee will be refunded.

- (3) Licenses are not transferable.
- (4) If a license is lost or destroyed, a duplicate will be issued upon payment of a fee of \$5. A notarized affidavit setting forth the date the license was lost or destroyed and the circumstances of such loss or destruction must be provided.
- (5) Whenever any school or branch office is discontinued, the school or branch office license must be surrendered to the division within five days. In such cases, the licensee shall state in writing the reason for such surrender.
- (6) Any branch office in a location other than the school's principal place of business shall be separately licensed. A branch office shall meet the same requirements as the school's principal place of business and shall be similarly equipped and perform substantially the same services. Application for a branch office license shall be made on an application form provided by the division. Branch offices shall be inspected by a division representative before they can be licensed.
- (7) It is not permissible for an individual to maintain employment with more than one commercial driver training school or testing only school at a time.
- (8) Only one school may be operated from a branch office. It is not permissible for two schools owned by separate individuals and owned under different school names to operate from the same facility or office space unless one school has been designated by the division as a testing only school. One commercial driver training school and one testing only school may be operated from the same school or branch office. A clear separation of the schools must be identified, and each school must comply with standards set forth in R708-2.
- (9) Each school must be posted with signage that will identify the school by name as the school is listed on the school certification.
- (10) It is not required that a testing only school maintain a classroom facility in the school or branch office location. It is required that the testing only school location or branch office have a designated area in which to maintain required files and records.

**R708-2-[5]6. Application for a Commercial Driver Training School License or a Testing Only School License.**

- (1) Application for an original or renewal commercial driver training school license or a testing only school license must be made on forms provided by the division, signed by the applicant, and notarized. In the case of a partnership, the application must be signed by all partners. In the case of a corporation, the application must be signed by an officer of the corporation. Applications must be submitted at least 30 days prior to licensing. An appointment should be made when the application is filed to have the school inspected by a division representative.
- (2) Every application must be accompanied by the following supplementary documents:
- (a) in the case of a corporation, a certified copy of a certificate of incorporation;
  - (b) samples of all forms and receipts to be used by the school;
  - (c) a schedule of fees for all services to be performed by the school;
  - (d) a fingerprint record for each applicant, partner or corporate officers. A Bureau of Criminal Identification check will be done by the division on all applicants, partners, and corporate officers. Fingerprints may be taken by any law enforcement agency. The division may require renewal applicants to submit new fingerprint records;
  - (e) a certificate of insurance for each vehicle used for driver training purposes;~~and~~
  - (f) a copy of all tests and criteria which the school requires in order for a student to satisfactorily complete the driver training

course~~]~~all of which are subject to approval of the division: including copies of translations, which must be completed by a qualified translator; and

(g) evidence that a surety bond has been obtained by the school. The amount of the surety bond will be determined by the division with the use of a formula that incorporates the number of students that the school is capable of instructing over a period of three months based on its facility, equipment, personnel, and the tuition that would be collected from each student, with a minimum requirement of \$5,000.00 coverage and a maximum requirement of \$60,000.00 coverage. Cancellation of the surety bond is grounds for revocation, probation, or refusal to issue or renew the school license. A school designated by the department as a testing only school will not be required to obtain a surety bond.

(3) The division may require ~~a financial statement from~~ that a credit check be performed for each applicant. Based on the results of the credit check, the division may deny certification.

**R708-2-[6]7. ~~Licensing~~Application Requirements for a Commercial Driver Training School Instructor License.**

(1) Every person who serves as an instructor in a commercial driver training school, including the owner, operator, partner or corporate officer of the licensee, substitute or part-time instructor, shall obtain an instructor's license from the division. Such license shall be valid only for the specific driver training school listed on the license.

(2) A license is valid for the calendar year and expires on December 31 of the year issued. The annual fee for an original license is \$15. The annual fee for a renewal license is \$10. Fees shall be payable to the Department of Public Safety. If a license is ~~suspended or~~revoked or refused issuance, or refused renewed, no part of the fee will be refunded.

(3) Licenses are not transferable.

(4) If an instructor license is lost or destroyed, a duplicate will be issued upon proof of loss or destruction and payment of a fee of \$3. A notarized affidavit setting forth the date the license was lost or destroyed and the circumstances of such loss or destruction must be provided.

**R708-2-8. Application Requirements for a Commercial Driver Training School Operator License.**

(1) Every person who serves as an operator of a commercial driver training school, including the owner, operator, partner or corporate officer of the licensee, substitute or part-time instructor, shall obtain an operator license from the division. Such license shall be valid only for the specific driver training school listed on the license.

(2) A school operator license is not valid unless accompanied by a valid instructor license.

(a) Requirements for licensure as a school operator include six college semester credit hours or eight college quarter credit hours in business related courses through an accredited college or university; or two years experience operating a business, or a combination thereof.

(b) Prior to licensure, a potential school operator must submit a business plan to the division for approval.

(c) Individuals who are functioning in the capacity of a commercial driver training school operator prior to January 1, 2003, will not be required to comply with section (a) of this section.

(3) An operator license is valid for the calendar year and expires on December 31 of the following year issued.

(4) Licenses are non-transferable.

(5) If an operator license is lost or destroyed, a duplicate will be issued upon request. A notarized affidavit setting forth the date the

license was lost or destroyed and the circumstances of such loss or destruction must be provided.

**R708-2-[7]9. Additional Requirements for Commercial Driver Training School Instructors.**

(1) In addition to obtaining a license, a commercial driver training school instructor must:

- (a) have a valid Utah driver license;
- (b) be at least twenty one years of age;
- (c) have at least three years of driving experience[;] in the United States, Canada, or a country with which the state of Utah has established a license reciprocity agreement;

(d) have a driving record free of conviction for a moving violation or chargeable accident resulting in suspension or revocation of the driver license for the two year period immediately prior to application and during employment and be checked to determine if there is an unsatisfactory driving record in any state;

(e) be in acceptable physical condition as required by Section 8 of this rule;

(f) complete specialized professional preparation in driver safety education consisting of not less than 21 quarter hours of credit as approved by the division. Of the 21 hours, one class must be in teaching methodology and another class must include basic driver training instruction or organization and administration of driver training instruction;

(g) pass a written test given by the division. The test may cover commercial driver training school rules, traffic laws, safe driving practices, motor vehicle operation, teaching methods and techniques, statutes pertaining to commercial driver training schools, business ethics, office procedures and record keeping, financial responsibility, no fault insurance, procedures involved in suspension or revocation of an individual's driving privilege, material contained in the "Utah Driver Handbook", and traffic safety education programs;

(h) pass a practical driving test;

(i) pass the same standard eye test that is given to applicants who apply for a Utah operator or commercial driver license; and

(j) submit a fingerprint record for a criminal history record check.

(2) Instructors shall be sponsored by a commercial driver training school which shall be responsible for controlling and supervising the actions of the instructors. No school may knowingly employ any person as an instructor or in any other capacity if such person has been convicted of a felony or any crime involving moral turpitude.

(3) The instructor's license must be in the possession of the instructor at all times while providing behind-the-wheel or classroom instruction.

**R708-2-[8]10. Application and Medical Requirements for a Commercial Driver Training School Instructor License.**

(1) Application for an original or renewal instructor's license must be made on forms provided by the division, signed by the applicant in front of a division employee authorized to administer oaths. Applications must be submitted at least 30 days prior to licensing. The original and each yearly renewal application must be accompanied by a medical profile form provided by the division and completed by a health care professional as defined in Subsection 53-3-302(2).

(2) The medical profile form shall indicate any physical or mental impairments which may preclude service as a commercial driver training school instructor. The physical examinations must take place no more than three months prior to application.

(3) The commercial driver training school desiring to employ the applicant as an instructor must sign the application verifying that the applicant will be employed by the school.

(4) When deemed necessary by the division, an applicant seeking to renew an instructor's permit may be required to take a driving skills test.

**R708-2-[9]11. Re-certification.**

Holders of school licenses, operator licenses, and instructor[~~s~~] licenses may at the discretion of the division be required to re-certify every three years. Re-certification may be obtained by submitting proof of completion of classes, seminars, and workshops approved by the division.

**R708-2-[10]12. Classroom and Behind-The-Wheel Instruction.**

(1) Classroom instruction for students shall meet or exceed 18 clock hours and shall be conducted in not less than nine separate class sessions on nine separate days of two hours per class. Not more than five of the classroom hours may be devoted to showing slides or films. Classroom instruction shall cover the following areas:

- (a) attitudes and physical characteristics of drivers;
- (b) driving laws with special emphasis on Utah law;
- (c) driving in urban, suburban, and rural areas;
- (d) driving on freeways;
- (e) maintenance of the motor vehicle;
- (f) affect of drugs and alcohol on driving;
- (g) motorcycles, bicycles, trucks, and pedestrian's in traffic;
- (h) driving skills;
- (i) affect of the motor vehicle on modern life;
- (j) Utah's motor vehicle laws regarding financial responsibility and no fault insurance, and a driver's responsibility when involved in an accident; and

(k) suspension or revocation of a driver license.

(2) Behind-the-wheel instruction shall include a minimum of six clock hours of instruction in a dual-control vehicle with a licensed instructor. Each student will be limited to a maximum of two hours of behind-the-wheel instruction per day. An instructor may not conduct more than 10 hours of behind-the-wheel instruction within a period of 24 hours and must have at least eight consecutive hours of off-duty time between each ten hour shift. The front seat of the vehicle shall be occupied by the instructor and no more than one student. Under no circumstances shall there be more than five individuals in the vehicle.

(a) Behind-the-wheel instruction shall include [~~instructor demonstrations and~~] student practice in using vehicle controls to start, shift gears, make right and left turns, stop, backup, and park. This instruction shall begin under relatively simple conditions and progress until the student has acquired reasonable skill in operating the vehicle under varying traffic conditions.

(b) Students shall receive experience in driving on urban streets, open highways, and freeways. Behind the wheel instruction shall include the experience of driving under variable conditions which may be used by the instructor at different times of the day and year. Special emphasis should be given to teaching students to show courtesy to other drivers and pedestrians.

(c) Students shall receive a minimum of six clock hours of observation time. This instruction shall include instructor demonstrations [~~be obtained while the student is in the rear seat of the vehicle~~] and may not exceed two hours per day. Students observing from the rear seat, as well as the student driver, should benefit from

time in the vehicle. The instructor's role is not merely to provide driving experience for the student behind-the-wheel, but to make the vehicle a practical classroom on wheels where all students may learn about the problems which face a driver and the appropriate solution to such problems.

(d) Behind-the-wheel instruction may not be conducted for a student unless the division has issued an instruction permit for the student and the instruction permit issued for the student is in the vehicle and in the instructor's possession at the time the instruction is conducted.

(3) All classroom and behind-the-wheel instruction will be conducted by an individual who is licensed as a commercial driver training school instructor as specified in this rule.

(a) It is a violation of this rule to conduct classroom or behind-the-wheel instruction or to allow another individual to conduct classroom or behind-the-wheel instruction without an instructor's license.

([3]4) Instructors shall screen students for visual acuity and physical or emotional conditions which may compromise public safety before allowing students to participate in behind-the-wheel instruction. Screening may not be performed over the telephone. An employee of the school who is not certified as an instructor may not perform medical or visual screening unless approved by the division in writing.

(a) Students must have 20/40 visual acuity or better in each eye and a visual field of 90 degrees in each eye. Students with less than the required visual acuity and/or visual field in each eye shall be referred to [the division] a licensed medical practitioner for further consideration.

(b) Students must answer all questions on a health questionnaire approved by the Driver License Medical Advisory Board and sign a statement of affirmation of truth. Students indicating a physical or emotional condition on the questionnaire shall be referred to [the division] a licensed medical practitioner for further consideration. Health questionnaires shall be provided by the division.

(4)5) Commercial driver training schools shall provide each student a copy of the current Utah Driver Handbook. The handbook shall not be used as the sole text of the course, but as an essential aid when Utah traffic laws are studied. Handbooks may be obtained by the schools from the division.

#### **R708-2-[44]13. Monthly Reports.**

(1) Each commercial driver training school shall submit a monthly report of the number of students completing both classroom and behind-the-wheel instruction.

(2) Monthly reports shall be submitted on forms supplied by the division and must be received by the division no later than the 15th day of each month.

(3) Failure to submit monthly reports within the prescribed time is grounds for the [cancellation] or revocation of the school's license.

(4) Monthly reports may be submitted electronically with division approval.

#### **R708-2-[42]14. Extended Learning Course.**

(1) A commercial driver training school may offer an extended learning course of instruction as a substitute for the classroom instruction set forth in Section 10 of this rule provided such course is approved by an institution of higher learning and the division.

(2) An extended learning course must be operated under the direction of an institution of higher learning. The institution of higher learning shall notify the division in writing when it has approved a school's extended learning course. The institution of higher learning will monitor any extended learning course approved by them to ensure

the course is run as originally planned. They will notify the division of any substantive changes in the course as well as their approval of such changes. An institution of higher learning can approve the extended learning course of more than one school.

(3) An extended learning course shall consist at a minimum of a text, a workbook, and a 50 question competency test which addresses the subjects described in Section 10 of this rule.

(a) All materials, including texts, workbooks, and tests, used in the course must be submitted by the school to the division for approval.

(b) The average study time required to complete the workbook exercises must meet or exceed 30 clock hours.

(c) An extended learning student must complete all workbook exercises.

(d) An extended learning student must pass the 50 question written competency test at 80% or better. Testing shall occur under the following conditions:

(i) the test shall be taken at the school;

(ii) testing procedures shall be monitored by a licensed instructor;

(iii) the identity of the student will be verified by the licensed instructor prior to testing;

[(iii)](iv) the test shall be completed by the student without any outside help;

[(iv)](v) the school shall maintain at least three separate 50 question competency tests created from a test pool of at least 200 questions;

[(v)](vi) the extended learning student will be given a minimum of three opportunities to pass the test. After each failure the school will provide the student with additional instruction to assist the student to pass the next test;

[(vi)](vii) the original fees for the course must include the three opportunities to pass the test and any additional instruction that is required;

[(vii)](viii) an extended learning student must pass the test in order to complete driver training; and

[(viii)](ix) the school will maintain for three years records of all tests administered by the school. Test records shall include the results of all tests taken by every student.

#### **R708-2-[43]15. Instruction Permits.**

(1) A commercial driver training school must obtain from the division an instruction permit for each student enrolled in the school. An instruction permit provides proof that the student is enrolled in a driver training course and is licensed to receive behind-the-wheel instruction with a licensed instructor. Instruction permits shall be retained by the instructor and shall be available in the vehicle at all times while the student is driving.

(a) It is the responsibility of the school to ensure that the instruction permit application contains the correct name, date of birth, and address of the student, by means of a birth certificate or other official form of identification.

(b) Application for an instruction permit must be typed or printed in ink. Duplicate instruction permits may not be issued unless the student's name and date of birth are the same as those on the original application.

(c) Instruction permits shall not be issued for persons under the age of 15 years and nine months.

(d) All unused instruction permits issued between January 1 and September 30 of each year shall be returned to the division prior to December 31 of that year. Unused permits issued during October, November, and December shall be submitted with the unused permits of the following year.



(2) Upon ~~successful~~ completion of the driver training course, the commercial driver training school shall release to the student a form consisting of an instruction permit, a certificate of training which must be signed by the student, and a certificate of completion which must be signed by the instructor and the school owner.

(3) The student shall present the certificate of completion to the division when the student makes application for a driver license.

(4) Duplicate certificates of completion may be obtained for \$5.

(5) Following notice of intent to take agency action, suspension of issuance of instruction permits to a school or instructor may occur whenever the division has reason to believe that a school or instructor is in non-compliance with this rule.

(6) After notice of intent to take agency action is sent to a school, and after allowing sufficient time for the school to have received the notice, the division will no longer issue instruction permits to the school.

(7) Suspension of issuance of instruction permits will remain in effect until such times as the school, operator or instructor is in compliance with requirements as stipulated in the notice of intent to take agency action and reinstatement of the school license, instructor license, and/or operator license has occurred. The subject of intended action may request a hearing regarding the agency's intent to take action. If a hearing is requested, suspension of issuance of instruction permits will remain in effect pending the outcome of the hearing.

(8) After a school has received notice from the division of intent for agency action to occur, it is a violation of this rule for the school to allow students to enroll in a driver training course at the school or to accept money from students for whom the school will be unable to obtain an instruction permit or for whom the school will be unable to provide a completion slip if the school license is revoked or refused renewal or reinstatement following a hearing as requested by the school.

(9) In the event that a school license is revoked or refused renewal, all incomplete instruction permits shall be returned to the division.

#### **R708-2-[14]16. Students Transferring from the Utah Public School System.**

(1) Students transferring from the Utah public school system will not be given credit by the division for any previous driver education instruction unless authorized in writing by the State Office of Education.

(2) Students who have completed the classroom portion of driver training in the public school system in the State of Utah or in another state, but who have not completed behind-the-wheel driving instruction and observation time, may receive credit for the classroom instruction if they provide an authorized letter or certificate from the school which provided the training. The letter or certificate must state the number of classroom hours completed.

#### **R708-2-[15]17. Commercial Driver Training Vehicles.**

(1) Commercial driver training vehicles used for behind-the-wheel instruction shall be properly registered, maintained in safe mechanical condition, and equipped with the following:

- (a) functioning dual control brakes;
- (b) outside and inside mirrors for both the driver and the instructor for the purpose of observing rearward;
- (c) a separate seat belt for each occupant;
- (d) functioning heaters and defrosters; and
- (e) a functioning fire extinguisher, first aid kit, safety flares and/or reflectors.

(2) Students shall receive instruction in either standard shift or automatic transmission vehicles. The school shall have the option of choosing the type of transmission.

(3) If instruction is given in snow or on icy road surfaces tire chains or snow tires shall be used in compliance with local police or highway patrol recommendations.

(4) Vehicles must be capable of passing a state safety inspection at all times during their instructional use. Failure to maintain a vehicle in safe operating condition is grounds for the ~~cancelation or~~ revocation of the license of the school operating the vehicle.

(5) Vehicles unable to meet safety standards shall be replaced by the school.

(6) It is the responsibility of the school to notify the division of any vehicle added to or deleted from their fleet. No vehicle may be used for driver training until it passes inspection by the division.

(7) Each vehicle used by a school for driver training shall be properly identified to safeguard against accidents. A vehicle is properly identified when the words "STUDENT DRIVER" are displayed on the front and rear and on both the left and right sides of the vehicle. The letters shall be at least three inches in height.

(8) Advertising or other markings on the vehicle for identifying or ~~advertising~~ advertising the school shall not exceed two inches in height.

#### **R708-2-[16]18. Notification of Accident.**

If any driver training vehicle is involved in an accident during the course of instruction, the school shall notify the division in writing within five working days of the date of the accident and submit to the division a copy of the investigating law enforcement officer's accident report as soon as it is available.

#### **R708-2-[17]19. Insurance.**

(1) Each commercial driver training school ~~or testing only school~~ must file with the division evidence of the minimum required insurance with an insurance company authorized to do business in Utah. Schools shall maintain suitable insurance coverage on each vehicle used in the driver training program sufficient to protect the instructor, students, and the public. The minimum insurance coverage is that required by the Utah Insurance Code, in Title 31A, Chapter 22, Part 3.

(2) The insurance company supplying the policy shall furnish to the division a certificate of insurance and shall notify the division immediately upon cancellation of said insurance. Operation of a vehicle without the required minimum insurance coverage shall be grounds for ~~cancelation or~~ revocation of the licensee's license.

#### **R708-2-[18]20. Contracts.**

(1) A student shall not be given lessons, lectures, tutoring or any other service relating to instruction in driver training, unless a written contract approved by the division has been executed by the school and the student.

(a) The contract must be signed by both the student and a representative of the school who is employed by the school, is authorized to enter into a contract with the student on behalf of the school and who is listed as school representative on the school application. If the student is under 18 years of age, the contract must also be signed by a parent or legal guardian.

(2) A copy of the contract must be given to the student and the original retained by the school.

(3) A school shall not agree orally or in writing to give an unlimited number of lessons, to give instruction until the driver license

is obtained, or to give free lessons, or a premium or discount if a driver license is not obtained.

(4) The term "no refund" or similar phrase is not permitted in contracts.

(5) The contract must contain the following information:

(a) a disclaimer that specifies that if the school license is revoked or refused renewal the school will not be eligible to obtain an instruction permit for the student;

(b) a statement that if the school is unable to complete the instruction for a student, the school will reimburse all fees paid to the school by the student for instruction;

(c) a statement that if the school is unwilling or unable to reimburse the student, the student has the right to seek reimbursement for all fees paid to the school for instruction by either requesting reimbursement from the school directly, through the division in connection with the required surety bond, or by filing suit in court; and

(d) a statement that the division is not financially liable for reimbursement of fees for which a student is entitled in the event that a school is closed.

(6) It is required that the student shall be provided with a receipt each time that money is paid by the student to the school. It is also required that the school shall maintain a copy of all receipts.

#### **R708-2-[19]21. Records.**

(1) Every commercial driver training school shall maintain the following records:

(a) A permanent record book, defined as: [A] a permanently bound book, with pages consecutively numbered, setting forth the name, address, ~~record~~ date of birth, enrollment date, and completion date of every person receiving lessons, lectures, tutoring, instruction of any kind or any other services relating to instruction in the operation of motor vehicles. The permanent record book must be updated upon enrollment of each student. The division must approve the format of the permanent record book.

(b) A student record book, defined as: [A] a book or other record showing the name and date of birth for each student; and the date, type, time, and duration of all lessons, lectures, tutoring, instructions or other services relating to instruction in the operation of motor vehicles. It will also contain the names of the instructors giving such lessons or instructions and identification of the vehicle in which any behind-the-wheel instruction is given. The student record book must be updated on same day that instruction is conducted for each student. The division must approve the format of the student record book.

(c) Computerized files may be substituted for the permanently bound book and student record book if the format to be used has been approved by the division. It is a violation of this rule to maintain computerized files that have not been approved by the division.

(d) Each school is expected to maintain accurate, up to date records. Failure to do so is a violation of this rule.

(2) The division shall review the records of all schools at least annually and may observe the instruction given both in the classroom and behind the wheel. The division shall have the right to review the operation of the schools whenever the division deems it necessary to insure compliance with this rule.

(3) The loss, mutilation or destruction of any records which a school is required to maintain, must be immediately reported by the school to the division by affidavit stating:

(a) The date such records were lost, mutilated or destroyed; and

(b) The circumstances involving such loss, mutilation or destruction.

(4) All records must be retained by the schools for three years, with the exception of the permanently bound book or computerized file thereof, which is to be kept permanently, during which time they shall be subject to inspection by the division during reasonable business hours. In the event that the school closes permanently, the permanent record book will be submitted by the school to the division.

(5) When deemed necessary by the division, the school records will be removed from the school location for the purpose of conducting an audit.

(a) When records are removed from the school location, a receipt will be provided to the school operator which will include the name of the school, location of the school, date of removal of records from the school location, information that specifies all records removed from the school location, the signature of the school operator, and the signature of a division representative.

(b) Upon return of the school records, the receipt will be updated to reflect the date that the records were returned to the school, the signature of the school operator, and the signature of the division designate returning the records.

(c) Records will be held by the division for the minimum amount of time necessary so that an audit can occur without creating an unnecessary hardship or inconvenience to the school.

(d) All records, including computerized records, must be provided to the division when requested for the purpose of an audit or review of the school's records. Failure to provide all records as requested by the division is a violation of this rule. In the event that a hearing occurs subsequent to an audit, records not provided by the school at the time of the audit may not be considered as evidence during the hearing.

#### **R708-2-[20]22. Advertising and School Location.**

(1) [Schools] Commercial driver training schools and testing only schools may not imply or expressly guarantee that a driver license is guaranteed or assured. The display of a sign such as "Driver License Secured Here" is forbidden.

(2) A [school] Commercial driver training school or testing only school may display on its premises a sign reading, "This School is Licensed by the State of Utah".

(3) No [school] Commercial driver training school or testing only school may solicit business directly or indirectly or display or distribute any advertising material within 1500 feet of a building in which vehicle registrations or driver licenses are issued to the public.

(4) In municipalities having a population of 50,000 or more, no license will be issued for a commercial driver training school or testing only school if the school's place of business is located within 1500 feet of a building in which vehicle registrations or driver licenses are issued to the public.

(5) No commercial driver training school or testing only school may change its place of business or location without prior approval from the division.

(6) Each commercial driver training school shall provide classroom space, either in their own building or in any other building approved by the division. The classroom shall have seating for all students, access to sanitary facilities, and appropriate training aids, such as blackboards, charts, projectors, etc. Classroom facilities and buildings shall comply with federal, state, and local building, fire, safety and health codes.

#### **R708-2-[24]23. Change of Address and Officers.**

(1) The commercial driver training school or testing only school shall immediately notify the division in writing if there is a change in

the residence or business address of any individual owner, partner, officer or employee of the school.

(2) The commercial driver training school or testing only school shall immediately notify the division in writing of any change in officers or directors and shall provide the same information that would be required on an original application by the corporation.

(3) Failure to notify the division of a change of address, or of a change in the officers, directors or controlling stockholders of any corporation, or change in the members of a partnership, may be considered grounds for the ~~[cancellation or]~~ revocation of the school license.

#### **R708-2-~~[22]~~24. Change in Ownership.**

(1) In the event of any ownership change in the commercial driver training school or testing only school, the division must be notified immediately in writing by the new owner and a new application must be submitted. Such application shall be considered a renewal if one or more of the original licensees remain as part owner of the school. In the event the change in ownership is to any person or persons not named in the application for the last current license or renewal license of the school, such license shall be considered a new application.

(2) The division may permit continuance of the commercial driving training school or testing only school by the current licensee, pending processing of the application made by the person or persons to whom ownership of the school is to be transferred.

(3) Upon issuance of the new license, the prior license must be immediately surrendered to the division. Refund of any part of the license fee is not permitted.

#### **R708-2-~~[23]~~25. Grounds for ~~[Cancellation,]~~Revocation, Probation or Refusal to Issue or Renew Instructor License, Operator License, or School License.**

(1) Following a ~~[proper]~~ hearing, the division may ~~[cancel,]~~ revoke, place on probation, or refuse to renew a license for either an instructor, operator, commercial driver training school or a testing only school. The division may also refuse to issue a license for an instructor, operator, commercial driver training school or a testing only school. A license may be ~~[canceled,]~~ revoked, placed on probation or refused for renewal for any of the following reasons:

(a) failure to comply with any of the provisions of Title 53, Chapter 3, Part 5;

(b) failure to comply with any of the provisions of this rule;

(c) cancellation of surety bond as required in Section 6(2)(g) of this rule;

(d) providing false information in an application or form required by the division;

(e) commission of a violation of Section 7(1)(d) of this rule pertaining to moving violations or chargeable accident that results in a suspension or revocation of one's driver license;

(f) failure to permit the division or its representatives to inspect the school, classrooms, records, or vehicles used in the instruction of the school's students;

(g) conviction of any crime involving violence, dishonesty, deceit, indecency, degeneracy, drug or alcohol abuse, fraud, or moral turpitude;

(h) conviction of any fraudulent acts or practices by any partner, officer, agent or employee in relation to the business conducted under the license; or

(i) failure to appear for a hearing on any of the above charges; and

(j) violation of any of the provisions of this rule.

(2) Any licensee who has had a license ~~[canceled or]~~ revoked shall not be eligible to reapply for a license until six months have elapsed since the date of the ~~[cancellation or]~~ revocation. The applicant will be required to complete an application for an original license and meet all applicable requirements for an original license as stated herein. In addition to the other fees provided for in section 4(2), the licensee shall be required to pay a \$25.00 reinstatement fee for each license that was revoked to the division at the time of application for reinstatement.

(a) Upon receipt of a completed application for an instructor license, operator license, commercial driver training school license or a testing only school, and applicable documentation and fees, the division will conduct a review process as established by the division director in order to determine eligibility for reinstatement or re-licensure. Notice of a final decision will be made in writing by the division within twenty days of receipt of evidence that all applicable requirements have been met for reinstatement or re-licensure.

(b) In the event that a request for reinstatement is denied, the applicant will have an opportunity to request a hearing in writing within five days of receipt of the final decision made by the division.

(3) Any proceeding to ~~[cancel,]~~ revoke, place on probation, or refuse to issue or renew ~~[a school or instructor]~~ an instructor license, operator license, commercial driver training school license or a testing only school license is hereby designated as an informal adjudicative proceeding under the Utah Administrative Procedures Act, Section 63-46b-4.

(4) The following procedures will govern informal adjudicative proceedings:

(a) Action by the division to ~~[cancel,]~~ revoke, place on probation or refuse to issue or renew a license will be commenced by the division by the issuance of a notice of agency action. The notice of agency action will comply with the provisions of Section 63-46b-3.

(b) No response is required to the notice of agency action.

(c) An opportunity for a hearing will be granted on a ~~[cancellation,]~~ revocation, probation or refusal to issue or renew a license if, within five days, the division receives in writing a request for a hearing.

(d) The licensee or applicant will receive written notice of the hearing at least ten days prior to the date of the hearing.

(e) No discovery, either compulsory or voluntary, will be permitted prior to the hearing except that all parties shall have access to information contained in the division's files, and to investigatory information and materials not restricted by law.

(f) The hearing shall be conducted by an individual, or panel, designated by the division.

(g) Within twenty days after the close of the hearing or after the failure of a party to appear for the hearing, the individual conducting the hearing shall issue a written decision which shall constitute final agency action. The written decision shall state the decision, the reason for the decision, notice of right to request reconsideration under Section 63-46b-13, notice of right of judicial review under Section 63-46b-15, and the time limits for filing an appeal to the appropriate district court.

(5) When a commercial driver training school license or a testing only school is under investigation by the division or when a commercial driver training school license or a testing only school license has been revoked, placed on probation or refused renewal, or reinstatement the school license may not be transferred to another party.

(6) If a commercial driver training school license is revoked, placed on probation or refused renewal, the existing incomplete instruction permits and or classroom, behind-the-wheel, and

observation training hours may not be transferred to another school for completion.

(7) If a commercial driver training school license is revoked or refused renewal under the emergency provisions of UAPA, Section 63-46b-20, all remaining incomplete instruction permits will be confiscated from the school and the school will not be authorized to conduct business unless otherwise determined at a hearing.

(8) If an instructor license is revoked, placed on probation, or refused renewal under the emergency provisions of UAPA, Section 63-46b-20, and the school license is valid, the school may continue operation provided that there is an instructor employed by the school with a valid instructor license, and that to allow operation will not compromise public safety.

(9) If an operator license is revoked, placed on probation, or refused renewal under the emergency provisions of UAPA, Section 63-46b-20, and the school license is valid, the school may continue operation provided that there is an operator employed by the school with a valid operator license, and that to allow operation will not compromise public safety.

(10) An instructor license, operator license, commercial driver training school license or a testing only school may be placed on probation upon approval of the director of the division in the event that a violation of this section has occurred and it has been determined that the violation was not committed maliciously or with intent to defraud the department or the public. During a period of probation, provided that the terms of the probation agreement are adhered to by the subject, the instructor license, operator license, commercial driver training school license or a testing only school license shall remain intact and the instructor, operator, or school will be allowed to continue operation.

**KEY: driver education, schools, rules and procedures**  
**[December 4, 2000]2003**  
**Notice of Continuation November 25, 2002**  
**53-3-505**



## Public Safety, Driver License

# R708-37

### Certification of Licensed Instructors of Commercial Driver Training Schools to Administer Driving Skills Tests

#### NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 26288  
FILED: 05/15/2003, 16:59

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose for changing this rule is to clarify various requirements, add new sections, and more clearly define expectations and department actions for certification of third party testers.

**SUMMARY OF THE RULE OR CHANGE:** The rule changes include the following: 1) added an agreement clause that contains provisions for a written agreement between the applicant and the division; 2) added a new section that defined medical

screening for the tester to use to screen students prior to administering skills tests; 3) defined what kind of license a student had to have in their possession prior to being tested; 4) defined what a tester needed to do if involved in a vehicle accident while testing; 5) added a new section concerning monthly reports; 6) clarified actions that could lead to suspensions, cancellations, or revocation of the certification; and 7) other minor changes.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-3-510

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There is no extra cost because the changes made in this rule reflect provisions that were already in Rule R708-2 and are added to this rule. Existing policies are also added to have them formalized by placing them in this rule.

❖ **LOCAL GOVERNMENTS:** There is no cost or savings to local government because they are not involved in third party testing.

❖ **OTHER PERSONS:** There is no extra cost because the changes made in this rule reflect provisions that were already in Rule R708-2 and are added to this rule. Existing policies are also added to have them formalized by placing them in this rule.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There is no extra cost because the changes made in this rule reflect provisions that were already in Rule R708-2 and are added to this rule. Existing policies are also added to have them formalized by placing them in this rule.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There is no fiscal impact on businesses because the changes in the rule do not affect the third party testers financially.

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

PUBLIC SAFETY  
DRIVER LICENSE  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W 3RD FL  
SALT LAKE CITY UT 84119-5595, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Vinn Roos at the above address, by phone at 801-965-4456, by FAX at 801-964-4482, or by Internet E-mail at vrooms@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/01/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 07/02/2003

AUTHORIZED BY: Judy Hamaker Mann, Director

**R708. Public Safety, Driver License.****R708-37. Certification of Licensed Instructors of Commercial Driver Training Schools or Testing Only Schools to Administer Driving Skills Tests.****R708-37-1. Purpose.**

The purpose of this rule is to establish standards and procedures to certify instructors of commercial driver training schools and testing only schools to administer driving skills tests.

**R708-37-2. Authority.**

This rule is authorized by Section 53-3-510.

**R708-37-3. Definitions.**

(1) "Agreement" means a written agreement between the state and a third-party tester agreeing to the conditions contained in this rule.

~~(1)~~(2) "Cancellation" means action taken by the division that voids an instructor's testing certification.

~~(2)~~(3) "Certification" means the process by which commercial driver training instructors are certified by the division to administer driving skills tests.

~~(3)~~(4) "Commercial driver training school" or "school" means a business enterprise conducted by an individual, association, partnership, or corporation for the education and training of persons to drive motor vehicles, and to prepare applicants for examinations prerequisite to their obtaining driver licenses or learner permits.

(4)(5) "Commercial driver training vehicle" means a motor vehicle equipped with a second functioning foot brake and inside and outside mirrors which are positioned for use by the instructor for the purpose of observing rearward.

~~(5)~~(6) "Corporation" means a business incorporated under the laws of a state or other jurisdiction.

~~(6)~~(7) "Division" means the Driver License Division of the Utah Department of Public Safety.

~~(7)~~(8) "Instructor" means a person who is authorized to teach driver education in an approved commercial driver training school.

~~(8)~~(9) "Partnership" means an association of two or more persons who co-own and operate a commercial driver training school or a testing only school.

~~(9)~~(10) "Probation" means action taken by the department which includes a period of close supervision as determined by the division.

~~(10)~~(11) "Suspension" means action taken by the division that temporarily voids an instructor's testing certification. The certification may be reinstated whenever the instructor follows a division-approved plan and complies with reinstatement procedures.

~~(11)~~(12) "Test" means a driving skills test approved by the division.

~~(12)~~(13) "Tester" means an instructor who is certified to administer driving skills tests.

**R708-37-4. Application Procedures.**

(1) An instructor shall become a certified tester by making application and by meeting the requirements of this rule. In order to become a certified tester, an individual must be certified as a commercial driver education instructor in accordance with R708-2-6.8 and 9. Application shall be made on a form furnished by the division and shall include the following information:

(a) the name of the instructor who is applying for tester certification;

(b) the name and address of the commercial driver training or testing only school where the instructor is employed; and

(c) the signature of the school owner indicating approval of the instructor for tester certification and consent to the use of school vehicles, facilities, etc. for the purpose of testing.

(2) The instructor must enter into a written agreement with the division. The agreement must contain provisions that:

(a) the tester cannot maintain employment with more than one commercial driver training school or testing only school at a time;

(b) allow the division to conduct random examinations, inspections, and audits without prior notice during normal business hours; and

(c) allow the division to conduct on-site inspections annually or when deemed necessary by the division.

~~(2)~~(3) The division will offer training to instructors regarding minimum standards which must be met in the administration and scoring of tests.

~~(3)~~(4) The division may authorize, train, and approve persons outside the division to provide the training. Instructors are responsible for any costs associated with training provided by approved organizations, agencies, or individuals.

~~(4)~~(5) The division shall maintain a list of approved testers and shall assign testers identification numbers.

**R708-37-5. Medical Screening**

(1) Prior to administering a driving skills test, the tester shall screen students for visual acuity, visual field and physical or emotional conditions which may compromise public safety. Screening may not be performed over the telephone. An employee of the tester who is not certified as an instructor or tester may not perform medical or visual screening unless approved in writing by the division.

(a) Students must have 20/40 or better visual acuity in each eye and a visual field of 90 degrees in each eye. Students with less than the required visual acuity and/or visual field in each eye shall be referred to a licensed medical practitioner for further consideration.

(b) Students must answer all questions on a health questionnaire approved by the Driver License Medical Advisory Board and sign a statement of affirmation of truth. Students indicating a physical or emotional condition on the questionnaire shall be referred to a licensed medical practitioner for further consideration. Health questionnaires shall be provided by the division and maintained for three years by the commercial driver training school or testing only school as a part of the school's records.

(c) The driver will not be required to submit to a medical screening if one of the following is provided to the tester:

(i) a verification of medical fitness approval form as completed by a commercial driver education instructor; or

(ii) a driver receipt issued by the division that indicates that the medical screening has taken place in the division.

**R708-37-~~5~~6. Tests.**

(1) When testing students for driver licenses, instructors certified as testers shall administer tests developed in accordance with these rules which meet or exceed minimum division testing standards.

(2) Tests shall be conducted:

(a) on test routes approved by the division;

(b) by certified testers who are also certified instructors;

(c) in vehicles provided by commercial driver training schools or testing only schools which have been inspected and approved for use in driver training by the division or in a personal vehicle

provided by the applicant. Each school shall notify the division of any vehicle added to or deleted from their fleet. No vehicle owned by a commercial driver training school or testing only school may be used for testing until it passes an inspection by the division;

(d) using division approved content, forms, and scoring procedures;

(e) only for students who have completed a course of driver education or who have had a previous driver license;

(f) with only the student and the tester occupying the vehicle. The tester shall be seated next to the student. No other passengers or observers shall occupy the vehicle during the test, except upon approval and written consent by the division; and

(g) only for students who have in their possession a temporary driving permit, a learner permit, [or] an instruction permit issued by the division; or a valid driver license issued by a jurisdiction other than the State of Utah.

(h) only for students who have in their possession adequate verification of their identity.

(3) a tester may not make any changes to a testing route without prior written approval by the division.

(4) a tester shall not employ an employee of the division as a tester.

#### **R708-37-[6]7. Test Requirements.**

(1) A tester may not administer a skills test to a student who:

(a) completed the driver training course at the same commercial driver training school or testing only school in which the tester is employed as an instructor; or

(b) completed the driver training course at a commercial driver training school that is owned completely or partially by an individual or individuals who possess any ownership in the school in which the tester is employed as an instructor.

(2) A student who fails the skills test given by a tester may:

(a) apply to the same tester for additional testing;

(b) apply to a different tester for additional testing; or

(c) complete the skills test at a division office.

(3) The written test shall be administered by the division.

#### **R708-37-[7]8. Notification of Accident.**

If any vehicle is involved in an accident during the driving skills test the tester shall notify the division of the accident in a written report on a form supplied by the division within five working days of the date of the accident. If damages are \$1,000 or more, the accident must also be reported to the local law enforcement agency. A copy of the officer's report shall also be submitted to the division when available.

#### **R708-37-[8]9. Evidence of Test Completion.**

(1) The tester shall furnish a certificate of test completion to the student in a sealed envelope with the tester's signature signed over the seal. The certificate shall be a form approved by the division and shall contain the results of tests taken, the signature and certification number of the tester who administered the tests, and the dates the tests were completed. The test results are valid for a period of one year from the test completion date.

(2) The tester shall provide the student with a receipt each time money is paid by the student to the tester. The tester shall maintain a copy of all receipts.

([2]3) A student, under this rule, must submit a certificate of completion of a driver education course and a certificate of

successful test completion, issued by a tester, to the division and make an application in order to obtain a Class D Driver License.

([3]4) The commercial driver training school or testing only school shall maintain records of all tests administered for a period of three years. Records shall be maintained in separate files for each tester for auditing purposes. The records shall be subject to inspection by the division during business hours.

#### **R708-37-10. Monthly Reports.**

(1) Each third-party tester shall submit to the division a monthly report containing the number of tests administered each month.

(2) Monthly reports shall be submitted on forms supplied by the division and must be received by the division no later than the 10th day of each month following the month in which the testing occurred.

(3) Failure to submit monthly reports within the prescribed time is grounds for suspension or cancellation of the third-party tester's certification.

(4) Monthly reports may be submitted electronically with division approval.

#### **R708-37-[9]11. Refusal to Certify, Grounds for Cancellation, [and] Suspension, or Probation of a Tester's [Testing] Certification.**

(1) The division may refuse to certify tester applicants who do not meet the standards for training or who submit an application that contains false or incomplete information.

(2) The tester certification shall remain effective as long as the tester retains the status of instructor for a commercial driver training school or testing only school or until the tester certification is canceled or suspended by the division. A commercial driver training school or testing only school may initiate suspension or cancellation of the testing certification held by one of their instructors by providing the division with acceptable written justification ~~in the form of a written request~~.

(3) The tester certification shall be canceled or suspended upon cancellation, revocation, denial of issuance of renewal [or suspension] of the tester's instructor certification. Grounds for cancellation or suspension of the tester certification shall include all items listed in R708-2-[23]25.

(4) Certification may be canceled or suspended for non-compliance with these rules.

(5) Certification may be canceled or suspended for failure to participate in any in-service training required by the division.

(6) Certification may be canceled or suspended when a third-party tester's personal driver license has been denied, suspended, revoked, canceled, or disqualified. The tester shall be required to notify the division in writing within five working days of any action taken against the tester's driving privilege.

([6]7) When the division determines it is necessary to cancel, [or] suspend, or place on probation a tester's certification, it shall determine an appropriate course of action from the following options:

(a) probation, with terms that must be met and adhered to by the tester;

([a]b) suspension, pending a remedial plan leading to reinstatement; or

([b]c) cancellation.

([7]8) Action by the division to cancel, suspend, place on probation or refuse to issue a tester certification is designated as an

informal adjudicative proceeding under the Utah Administrative Procedures Act, Section 63-46b-4.

(9) The following procedures will govern informal adjudicative proceedings:

(a) action by the division to cancel, revoke, place on probation or refuse to issue a certification will be commenced by the division by the issuance of a notice of agency action. The notice of agency action will comply with the provisions of Section 63-46b-3;

(b) no response is required to the notice of agency action;

(c) an opportunity for a hearing will be granted on a cancellation, revocation, probation or refusal to issue a certification if, within five days, the division receives a request for a hearing;

(d) the tester will receive written notice of the hearing at least ten days prior to the date of the hearing;

(e) no discovery, either compulsory or voluntary, will be permitted prior to the hearing except that all parties shall have access to information contained in the division's files, and to investigatory information and materials not restricted by law;

(f) the hearing shall be conducted by an individual, or panel designated by the division; and

(g) within twenty days after the close of the hearing or after the failure of a party to appear for the hearing, the individual conducting the hearing shall issue a written decision which shall constitute final agency action. The written decision shall state the decision, the reason for the decision, notice of right to request reconsideration under Section 63-46b-13, notice of right to judicial review under Section 63-46b-15, and the time limits for filing an appeal to the appropriate district court.

([8]10) Reinstatement following cancellation of certification shall consist of completing an approved training plan and making application for a new certification. Instructors and testers must have a driving record free of suspensions or revocations of their driving privilege resulting from moving violations, chargeable accidents, and drug or alcohol related offenses, in all states, for a two year period immediately prior to application and during employment.

([9]11) Certification shall be canceled when testers are no longer employed as instructors in commercial driver training schools or testing only schools. Testers who discontinue employment as instructors with a commercial driver training schools or testing only school and subsequently return to instruct and test under the sponsorship of a different commercial driver training schools or testing only school must make a new application with the division for a new instructor certification and tester certification. If the period of cancellation of testing certification exceeds six months the applicant shall complete a course of approved training.

#### **R708-37-[40]12. Advertising.**

(1) No advertisement shall indicate in any way that a commercial driver training schools or testing only school or a tester can issue or guarantee the issuance of a driver license, or imply that the testing program, except for reporting test scores, can in any way influence the division in the issuance of a Class D driver license; or imply that preferential or advantageous treatment can be obtained from the division through participation in their testing program.

(2) No tester, employee, or agent of a commercial driver training schools or testing only school shall be permitted to advertise or solicit business or cause business to be solicited in its behalf, or display or distribute any advertising material within 1500 feet of a building in which vehicle registrations or driver licenses are issued to the public.

**KEY: driver training, skills tests**

**[August 15, 2000]2003**

**53-3-510**



## Public Safety, Fire Marshal **R710-6** Liquefied Petroleum Gas Rules

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 26281

FILED: 05/14/2003, 22:31

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Liquefied Petroleum Gas Board met and proposed that Rule R710-6 be amended. The Board directed that the existing rule be amended to update an incorporated reference, amend the re-examination test text, and redefine and add reasons a person might have their license or certificate of registration suspended or revoked.

SUMMARY OF THE RULE OR CHANGE: The Liquefied Petroleum Gas Board met in a regularly scheduled Board meeting on May 2, 2003, and proposed that the following be completed by amending the rule as follows: 1) in Subsection R710-6-1(1.3), the Board proposes to adopt and update an existing incorporated reference; 2) in Subsections R710-6-4(4.7.1) and R710-6-4(4.7.2), the Board proposes to delete the 25 question requirement for the re-examination and just require an "open book" re-examination; 3) in Subsection R710-6-5(5.2.7.3), the Board proposes to redefine this section for clarification; and, 4) in Subsection R710-6-5(5.2.9), the Board proposes to add the requirement that if a person or applicant fails to pay certain fees, the license or certificate of registration can be suspended or revoked.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-7-305

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: National Fire Protection Association (NFPA), Standard 1192, Standard on Recreational Vehicles, 2002 edition

#### ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There would be an aggregate anticipated cost of \$100 dollars to purchase four copies of NFPA, Standard 1192, for the members of the State Fire Marshal's Office that have a need.

❖ LOCAL GOVERNMENTS: There would be no aggregate anticipated cost or savings to local government because these proposed changes do not effect local government.

❖ OTHER PERSONS: The cost to purchase NFPA, Standard 1192, 2002 edition, is \$25 per copy. This would affect those recreational vehicles (RV) Dealerships that wished to purchase a copy to have on hand for reference or to prepare for the examination to certify. Total aggregate anticipated cost

is impossible to state due to the unknown number of RV dealerships that would purchase an NFPA, Standard 1192, or how many copies would be purchased per dealership or repair garage.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The compliance cost for affected persons would be the cost to purchase NFPA, Standard 1192, so that all that use this standard are fully informed of its contents and requirements. The NFPA standard sells for \$25 per copy.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The only fiscal impact on businesses would be the \$25 to purchase the updated incorporated reference. This would be a very small fiscal impact on those RV repair facilities requiring this standard.

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

PUBLIC SAFETY  
FIRE MARSHAL  
Room 302  
5272 S COLLEGE DR  
MURRAY UT 84123-2611, or  
at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**  
Brent Halladay at the above address, by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at bhallada@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/01/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 07/02/2003

AUTHORIZED BY: Gary A. Wise, State Fire Marshal

**R710. Public Safety, Fire Marshal.**  
**R710-6. Liquefied Petroleum Gas Rules.**  
**R710-6-1. Adoption, Title, Purpose and Scope.**

Pursuant to Title 53, Chapter 7, Section 305, Utah State Code Annotated 1953, the Liquefied Petroleum Gas (LPG) Board adopts minimum rules to provide regulation to those who distribute, transfer, dispense or install LP Gas and/or its appliances in the State of Utah.

There is adopted as part of these rules the following codes which are incorporated by reference:

1.1 National Fire Protection Association (NFPA), Standard 58, LP Gas Code, 2001 edition, except as amended by provisions listed in R710-6-8, et seq.

1.2 National Fire Protection Association (NFPA), Standard 54, National Fuel Gas Code, 1999 edition, except as amended by provisions listed in R710-6-8, et seq.

1.3 National Fire Protection Association (NFPA), Standard 1192, Standard on Recreational Vehicles, [1999]2002 Edition, except as amended by provisions listed in R710-6-8, et seq.

1.4 International Fire Code (IFC), Chapter 38, 2000 edition, as published by the International Code Council, Inc. (ICC), except as amended by provisions listed in R710-6-8, et seq.

1.5 A copy of the above codes are on file with the Division of Administrative Rules, and the State Fire Marshal's Office. The definitions contained in the afore referenced codes shall also pertain to these rules.

1.6 Title.

These rules shall be known as "Rules Governing LPG Operations in the State of Utah" and may be cited as such, and will be hereinafter referred to as "these rules".

1.7 Validity.

If any article, section, subsection, sentence, clause, or phrase, of these rules is, for any reason, held to be unconstitutional, contrary to statute, or exceeding the authority of the LPG Board such decision shall not affect the validity of the remaining portion of these rules.

1.8 Conflicts.

In the event where separate requirements pertain to the same situation in the same code, or between different codes or standards as adopted, the more restrictive requirement shall govern, as determined by the enforcing authority.

**R710-6-4. LP Gas Certificates.**

4.1 Application.

Application for an LPG certificate shall be made in writing to the Division. The application shall be signed by the applicant.

4.2 Examination.

Every person who performs any act or acts within the scope of a license issued under these rules, shall pass an initial examination in accordance with the provisions of this article.

4.3 Types of Initial Examinations:

4.3.1 Carburetion

4.3.2 Dispenser

4.3.3 HVAC/Plumber

4.3.4 Recreational Vehicle Service

4.3.5 Serviceman

4.3.6 Transportation and Delivery

4.4 Initial Examinations.

4.4.1 The initial examination shall include an open book written test of the applicant's knowledge of the work to be performed by the applicant. The written examination questions shall be taken from the adopted statute, administrative rules, NFPA 54, and NFPA 58.

4.4.2 The initial examination shall also include a practical or actual demonstration of some selected aspects of the job to be performed by the applicant.

4.4.3 To successfully complete the written and practical initial examinations, the applicant must obtain a minimum grade of seventy percent (70%) in each portion of the examination taken. Each portion of the examination will be graded separately. Failure of any one portion of the examination will not delete the entire test.

4.4.4 Examinations may be given at various field locations as deemed necessary by the Division. Appointments for field examinations are required.

4.4.5 As required in Sections 4.2 and 4.3, those applicants that have successfully completed the requirements of the Certified Employee Training Program (CETP), as written by the National Propane Gas Association, and that corresponds to the work to be performed by the applicant, shall have the requirement for initial examination waived, after appropriate documentation is provided to the Division by the applicant.



#### 4.5 Original and Renewal Date.

Original LPG certificates shall be valid for one year from the date of issuance. Thereafter, each LPG certificate shall be renewed annually and renewals thereof shall be valid from for one year from issuance.

#### 4.6 Renewal Date.

Application for renewal shall be made on forms provided by the Division.

#### 4.7 Re-examination.

Every holder of a valid LPG Certificate shall take a re-examination every five years from the date of original certificate issuance, to comply with the provisions of Section 4.3 of these rules as follows:

4.7.1 The re-examination to comply with the provisions of Section 4.3 of these rules shall consist of ~~[one 25 question]~~ an open book examination, to be mailed to the certificate holder at least 60 days before the renewal date.

4.7.2 The ~~[25 question]~~ open book re-examination will consist of questions that focus on changes in the last five years to NFPA 54, NFPA 58, the statute, or the adopted administrative rules. The re-examination may also consist of questions that focus on practices of concern as noted by the Board or Division.

4.7.3 The certificate holder is responsible to complete the ~~[25 question]~~ re-examination and return it to the Division in sufficient time to renew.

4.7.4 The certificate holder is responsible to return to the Division with the re-examination the correct renewal fees to complete that certificate renewal.

#### 4.8 Refusal to Renew.

The Division may refuse to renew any LPG certificate in the same manner and for any reason that is authorized pursuant to Article 5.

#### 4.9 Inspection.

The holder of a LPG certificate shall submit such certificate for inspection, upon request of the Division or the enforcing authority.

#### 4.10 Type.

4.10.1 Every LPG certificate shall indicate the type of act or acts to be performed and for which the applicant has qualified.

4.10.2 Any person holding a valid LPG certificate shall not be authorized to perform any act unless he is a licensee or is employed by a licensed concern.

4.10.3 It is the responsibility of the LPG certificate holder to insure that the concern they are employed by is licensed under this act.

#### 4.11 Change of Address.

Any change in home address of any holder of a valid LPG certificate shall be reported by the registered person to the Division within thirty (30) days of such change.

#### 4.12 Duplicate.

A duplicate LPG certificate may be issued by the Division to replace any previously issued certificate which has been lost or destroyed upon the submission of a written statement to the Division from the certified person. Such statement shall attest to the certificate having been lost or destroyed. If the original is found, it shall be surrendered to the Division within 15 days.

#### 4.13 Contents of Certificate of Registration.

Every LPG certificate issued shall contain the following information:

4.13.1 The name and address of the applicant.

4.13.2 The physical description of applicant.

4.13.3 The signature of the LP Gas Board Chairman.

4.13.4 The date of issuance.

4.13.5 The expiration date.

4.13.6 Type of service the person is qualified to perform.

4.13.7 Have printed on the card the following: "This certificate is for identification only, and shall not be used for recommendation or advertising".

#### 4.14 Minimum Age.

No LPG certificate shall be issued to any person who is under sixteen (16) years of age.

#### 4.15 Restrictive Use.

4.15.1 No LPG certificate shall constitute authorization for any person to enforce any provisions of these rules.

4.15.2 A LPG certificate may be used for identification purposes only as long as such certificate remains valid and while the holder is employed by a licensed concern.

4.15.3 Regardless of the acts for which the applicant has qualified, the performance of only those acts authorized under the licensed concern employing such applicant shall be permissible.

4.15.4 Regardless of the acts authorized to be performed by a licensed concern, only those acts for which the applicant for a LPG certificate has qualified shall be permissible by such applicant.

#### 4.16 Right to Contest.

4.16.1 Every person who takes an examination for a LPG certificate shall have the right to contest the validity of individual questions of such examination.

4.16.2 Every contention as to the validity of individual questions of an examination that cannot be reasonably resolved, shall be made in writing to the Division within 48 hours after taking said examination. Contentions shall state the reason for the objection.

4.16.3 The decision as to the action to be taken on the submitted contention shall be by the Board, and such decision shall be final.

4.16.4 The decision made by the Board, and the action taken, shall be reflected in all future examinations, but shall not affect the grades established in any past examination.

#### 4.17 Non-Transferable.

LPG Certificates shall not be transferable to another individual. Individual LPG certificates shall be carried by the person to whom issued.

#### 4.18 New Employees.

New employees of a licensed concern may perform the various acts while under the direct supervision of persons holding a valid LPG certificate for a period not to exceed ~~[forty five (45)]~~ 45 days from the initial date of employment. By the end of such period, new employees shall have taken and passed the required examination. In the event the employee fails the examination, re-examination shall be taken within 30 days. The employee shall remain under the direct supervision of an employee holding a valid LPG certificate, until certified.

#### 4.19 Certificate Identification.

Every LPG certificate shall be identified by a number, delineated as PE-(number). Such number shall not be transferred from one person to another.

### **R710-6-5. Adjudicative Proceedings.**

5.1 All adjudicative proceedings performed by the agency shall proceed informally as set forth herein and as authorized by UCA, Sections 63-46b-4 and 63-46b-5.

5.2 The issuance, renewal, or continued validity of a license or LPG certificate may be denied, suspended or revoked by the Division, if the Division finds that the applicant, person employed for, or the person having authority and management of a concern commits any of the following violations:

5.2.1 The person or applicant is not the real person in interest.

5.2.2 Material misrepresentation or false statement in the application, whether original or renewal.

5.2.3 Refusal to allow inspection by the Division or enforcing authority on an annual basis to determine compliance with the provisions of these rules.

5.2.4 The person, applicant, or concern for a license does not have the proper or necessary facilities, including qualified personnel, to conduct the operations for which application is made.

5.2.5 The person or applicant for a LPG certificate does not possess the qualifications of skill or competence to conduct the operations for which application is made. This can also be evidenced by failure to pass the examination and/or practical tests.

5.2.6 The person or applicant refuses to take the examination.

5.2.7 The person or applicant has been convicted of any of the following:

5.2.7.1 a violation of the provisions of these rules;

5.2.7.2 a crime of violence or theft; or

5.2.7.3 a crime that would indicate that the person or applicant would create a danger to public safety~~[bears upon the person or applicant's ability to]~~ by performing their functions and duties.

5.2.8 The person or applicant does not complete the re-examination process by the person or applicants certificate or license expiration date.

5.2.9 The person or applicant fails to pay the license fee, certificate of registration fee, examination fee or other fees as required in Section 6 of these rules.

5.3 A person whose license or certificate of registration is suspended or revoked by the Division shall have an opportunity for a hearing before the LPG Board if requested by that person within 20 days after receiving notice.

5.4 All adjudicative proceedings, other than criminal prosecution, taken by the Enforcing Authority to enforce the Liquefied Petroleum Gas Section, Utah Fire Prevention and Safety Act, and these rules, shall commence in accordance with UCA, Section 63-46b-3.

5.5 The Board shall act as the hearing authority, and shall convene after timely notice to all parties involved. The Board shall be the final authority on the suspension or revocation of a license or certificate of registration.

5.6 The Board shall direct the Division to issue a signed order to the parties involved giving the decision of the Board within a reasonable time of the hearing pursuant to UCA, Section 63-46b-5(i).

5.7 Reconsideration of the Board's decision may be requested in writing within 20 days of the date of the decision pursuant to UCA, Section 63-46b-13.

5.8 After a period of three (3) years from the date of revocation, the Board may review the written application of a person whose license or certificate of registration has been revoked.

5.9 Judicial review of all final Board actions resulting from informal adjudicative proceedings is available pursuant to UCA, Section 63-46b-15.

**KEY: liquefied petroleum gas**  
**[August 15, 2002] July 2, 2003**

**Notice of Continuation July 5, 2001**  
**53-7-305**

## Public Safety, Fire Marshal **R710-8-3** Day Care Rules

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 26269

FILED: 05/13/2003, 22:03

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Fire Prevention Board met and proposed that Rule R710-8 be amended. The Board directed that there be an addition to the existing rule that allowed clients under the age of two to be housed in areas other than the first story of the facility.

SUMMARY OF THE RULE OR CHANGE: The Utah Fire Prevention Board met in a regularly scheduled Board meeting on May 13, 2003, and proposed that there be an amendment to Subsection R710-8-3(3.3.4.1.). The Board proposes to allow clients in Family Day Care facilities to house clients under the age of two above or below the first story where there is at least one exit that leads directly to the outside of the facility. This will also place this set of rules in concert with the rules of the Department of Health, Division of Licensure.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-7-204

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There would be no aggregate anticipated cost or savings to the state budget from the enactment of this rule because the newly amended rule will be posted on the State Fire Marshal Website.

❖ LOCAL GOVERNMENTS: There would be no aggregate anticipated cost or savings to local government because local government is unaffected by this proposed rule change.

❖ OTHER PERSONS: There would be an anticipated cost of \$500 to \$2,000 to those Family Day Care facilities that desired to locate clients under the age of two above or below the first story. The aggregate anticipated cost is impossible to predict due to the unknown number of Family Day Care facilities that would make the decision to house clients under the age above or below the first story.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance cost for affected persons would only apply if the Family Day Care wished to locate clients under the age of two years above or below the first story. If they wished to have this granted it would cost anywhere from \$500 to \$2,000 to install another exit from the facility if one currently did not exist.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There could be a cost of \$500 to \$2,000 to install a second exit from a Family Day Care

facility if the owner wished to have children on a second level or in a basement. This cost is the decision of the owner if they wish to move the children off of the first story and a second exit does not exist.

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

PUBLIC SAFETY  
FIRE MARSHAL  
Room 302  
5272 S COLLEGE DR  
MURRAY UT 84123-2611, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Brent Halladay at the above address, by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at [bhallada@utah.gov](mailto:bhallada@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/01/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 07/02/2003

AUTHORIZED BY: Gary A. Wise, State Fire Marshal

## **R710. Public Safety, Fire Marshal.**

### **R710-8. Day Care Rules.**

#### **R710-8-3. Amendments and Additions.**

##### 3.1 Exemptions

3.1.1 Places of religious worship shall not be required to meet the provisions of this rule in order to operate a nursery or day care while religious services are being held in the building.

##### 3.2 Fire Code Amendments

3.2.1 IFC, Chapter 2, Section 202, Educational E, Day Care is amended as follows: On line three delete the word "five" and replace it with the word "four".

3.2.2 IFC, Chapter 2, Section 202, Institutional Group I-4, day care facilities, Child care facility is amended as follows: On line three delete the word "five" and replace it with the word "four". Also on line two of the Exception delete the word "five" and replace it with the word "four".

3.2.3 IFC, Chapter 9, Sections 907.3.1.1 Group E is deleted.

##### 3.3 Family Day Care

3.3.1 Family Day Care units shall have on each floor occupied by clients, two separate means of egress, arranged so that if one is blocked the other will be available.

3.3.2 Family Day Care units that are located in the basement or on the second story shall be provided with two means of egress, one of which shall discharge directly to the outside.

3.3.2.1 Type I Family Day Care units, located on the ground level or in a basement, may use an emergency escape or rescue window as allowed in IFC, Chapter 10, Section 1009.

3.3.3 Family Day Care units shall not be located above the second story.

3.3.4 In Family Day Care units, clients under the age of two shall not be located above or below the first story.

3.3.4.1 Clients under the age of two may be housed above or

below the first story where there is at least one exit that leads directly to the outside and complies with IFC, Section 1003.3.3 or Section 1003.3.4.

3.3.5 Family Day Care units located in split entry/split level type homes in which stairs to the lower level and upper level are equal or nearly equal, may have clients housed on both levels when approved by the AHJ.

3.3.6 Family Day Care units shall have a portable fire extinguisher on each level occupied by clients, which shall have a classification of not less than 2A:10BC, and shall be serviced in accordance with NFPA, Standard 10.

3.3.7 Family Day Care units shall have single station smoke detectors in good operating condition on each level occupied by clients. Battery operated smoke detectors shall be permitted if the facility demonstrates testing, maintenance, and battery replacement to insure continued operation of the smoke detectors.

3.3.8 Rooms in Family Day Care units that are provided for clients to sleep or nap, shall have at least one window or door approved for emergency escape.

3.3.9 Fire drills shall be conducted in Family Day Care units monthly and shall include the complete evacuation from the building of all clients and staff. At least quarterly, in Type I Family Day Care units, the fire drill shall include the actual evacuation using the escape or rescue window, if one is used as a substitute for one of the required means of egress.

##### 3.4 Day Care Centers

3.4.1 Day Care Centers shall comply with either I-4 requirements or E requirements of the IBC, whichever is applicable for the type of Day Care Center.

3.4.2 Fire Drills shall be completed as required in IFC, Chapter 4, Section 405.

##### 3.5 Requirements for all Day Care

3.5.1 Heating equipment in spaces occupied by children shall be provided with partitions, screens, or other means to protect children from hot surfaces and open flames.

3.5.2 A fire escape plan shall be completed and posted in a conspicuous place. All staff shall be trained on the fire escape plan and procedure.

3.5.3 The AHJ shall insure at each inspection there is sufficient adult staff to client ratios to allow safe and orderly evacuation in case of fire.

3.5.3.1 For Day Care involving children, the AHJ may use the care giver to children ratios established in rule by the Department of Health as an established guideline.

**KEY: fire prevention, day care**

**~~January 2, 2002~~ July 2, 2003**

**Notice of Continuation April 23, 2002**

**53-7-204**



Public Safety, Fire Marshal  
**R710-9**  
Rules Pursuant to the Utah Fire  
Prevention Law

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 26289

FILED: 05/15/2003, 22:33

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Fire Prevention Board met and proposed that Rule R710-9 be amended. The Board directed that the existing rule be amended to allow that Boarding houses accommodating 10 persons or less be exempted from a fire sprinkler system, adds a new position to the Fire Advisory and Code Analysis Committee, and makes a number of grammatical changes and updates.

SUMMARY OF THE RULE OR CHANGE: The Utah Fire Prevention Board met in a regularly scheduled Board meeting on May 13, 2003, and proposed that the following be completed by amending the rule as follows: 1) in Subsections R710-9-4(4.2) and R710-9-4(4.3), some corrections were made to clarify the rule and existing standard with regards to selecting a Special Deputy State Fire Marshals; 2) in Subsections R710-9-6(6.13) and R710-9-6(6.14), the Board proposes to add rule amendments that allow Residential Group R-1 and R-2 occupancies that are classified as Boarding houses to not have to install an automatic fire sprinkler system if they have an occupant load of 10 or less; 3) in Subsection R710-9-7(7.2.5), the Board proposes to add the Chief Elevator Inspector from the Utah Labor Commission be added as a member of the Fire Advisory and Code Analysis Committee; and 4) in Subsection R710-9-10(10.2.9), the Board proposes to enlarge the selection pool for a representative from the Emergency Medical Services to be a member of the Standards and Training Council. There were also a number of grammatical changes in Section R710-9-10 and the appointment or reappointment process was also clarified for members of the Standards Council.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-7-204

## ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There are no aggregate anticipated cost or savings to the state budget because the proposed changes do not effect the state budget.
- ❖ LOCAL GOVERNMENTS: There are no aggregate anticipated cost or savings to local government because the proposed changes do not effect local government.
- ❖ OTHER PERSONS: There would be a savings seen to Residential Group R-1 and R-2 owners who will not be required to install an automatic fire sprinkler system if there occupant load is 10 or fewer. This will save several thousand dollars per facility. The total aggregate anticipated savings is impossible to predict due to the unknown number of R-1 and R-2 occupancies that would be effected by this rule change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no compliance costs for affected persons by the enactment of this proposed rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on businesses for the enactment of this proposed rule.

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

PUBLIC SAFETY  
FIRE MARSHAL  
Room 302  
5272 S COLLEGE DR  
MURRAY UT 84123-2611, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Brent Halladay at the above address, by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at bhallada@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/01/2003.

THIS RULE MAY BECOME EFFECTIVE ON: 07/02/2003

AUTHORIZED BY: Gary A. Wise, State Fire Marshal

**R710. Public Safety, Fire Marshal.****R710-9. Rules Pursuant to the Utah Fire Prevention Law.****R710-9-4. Deputizing Persons to Act as Special Deputy State Fire Marshals.**

4.1 Special deputy state fire marshals may be appointed by the SFM to positions of expertise within the regular scope of the Fire Marshal's Office.

4.2 Pursuant to Section 53-7-101 et seq., [S]special deputy state fire marshals may also be appointed to assist the Fire Marshal's Office in establishing and maintaining minimum fire prevention standards in those [occupancies]occupancy classifications listed in the [Fire Prevention Law]International Fire Code.

4.3 Special deputy state fire marshals shall be appointed after review by the State Fire Marshal in regard to their qualifications and the overall benefit to the Office of the State Fire Marshal.

4.4 Special deputy state fire marshals shall be appointed by completing an oath and shall be appointed for a specific period of time.

4.5 Special deputy state fire marshals shall have a picture identification card and shall carry that card when performing their assigned duties.

**R710-9-6. Amendments and Additions.**

The following amendments and additions are hereby adopted by the Board for application statewide:

## 6.1 Institutional

6.1.1 IFC, Chapter 2, Section 202, Educational Group E, Day care is amended as follows: On line three delete the word "five" and replace it with the word "four".

6.1.2 IFC, Chapter 2, Section 202, Institutional Group I-1 is amended to add the following: On line nine add "type 1" in front of the words "assisted living facilities".

6.1.3 IFC, Chapter 2 Section 202, Institutional Group I-2 is amended as follows: On line three delete the word "five" and replace it with the word "three". On line eight after the words "detoxification facilities" delete the rest of the paragraph, and add the following: "ambulatory surgical centers with two or more operating rooms where care is less than 24 hours and type 2 assisted living facilities. Type 2 assisted living facilities with five or fewer persons shall be classified as a Group R-4. Type 2 assisted living facilities with at least six and not more than 16 residents shall be classified as a Group I-1 facility.

6.1.4 IFC, Chapter 2, Section 202, Institutional Group I-2, Child care facility is amended as follows: On line two delete the word "five" and replace it with the word "four".

6.1.5 IFC, Chapter 2, Section 202, Institutional Group I-4 day care facilities, Child care facility is amended as follows: On line three delete the word "five" and replace it with the word "four". Also on line two of the Exception delete the word "five" and replace it with the word "four".

#### 6.2 Record Drawings

6.2.1 IFC, Chapter 9, Section 901.2.1 is amended to add the following: The code official has the authority to request record drawings ("as built") to verify any modifications to the previously approved construction documents.

6.2.2 IFC, Chapter 9, Section 902.1 Definitions, RECORD DRAWINGS is deleted and rewritten as follows: Drawings ("as built") that document all aspects of a fire protection system as installed.

#### 6.3 Automatic Fire Sprinkler Systems

6.3.1 IFC, Chapter 9, Section 903.2.5 is deleted to include the exception and rewritten as follows: An automatic fire sprinkler system shall be provided throughout buildings with Group I fire areas. Listed quick response or residential sprinkler heads shall be installed in patient or resident sleeping areas.

6.3.2 IFC, Chapter 9, Section 903.2.9 is amended to add the following: Exception: Buildings not more than 4500 gross square feet and not containing more than 16 residents, provided the building is equipped throughout with an approved fire alarm system that is interconnected and receives its primary power from the building wiring and a commercial power system.

#### 6.4 Class K Portable Fire Extinguishers

6.4.1 IFC, Chapter 9, Section 906.4, and NFPA, Standard 10, Section 2-3.2, 1998 edition, is deleted and replaced with the following:

6.4.1.1 Class K labeled portable fire extinguishers shall be provided for the protection of commercial food heat-processing equipment using vegetable or animal oils and fat cooking media. A placard shall be provided and placed above the Class K portable fire extinguisher that states that if a fire protection system exists, it shall be activated prior to use of the Class K portable fire extinguisher.

6.4.1.2 Those existing sodium or potassium bicarbonate dry-chemical portable fire extinguishers, having a minimum rating of 40-BC, and specifically placed for protection of commercial food heat-processing equipment, shall be allowed to remain in use in the kitchen area to provide protection to hazards other than the commercial food heat-processing oils and cooking media.

6.5 Retroactive Installations of Automatic Fire Alarm Systems in Existing Buildings

6.5.1 IFC, Chapter 9, Sections 907.3.1.1, 907.3.1.2, 907.3.1.3, 907.3.1.4, 907.3.1.6, 907.3.1.7, 907.3.1.8 and 907.3.1.9 are deleted.

#### 6.6 Backflow Protection

6.6.1 The potable water supply to automatic fire sprinkler systems and standpipe systems shall be protected against backflow as required in Utah Administrative Code, R156-56-707(41).

#### 6.7 Exit Signs

6.7.1 IFC, Chapter 10, Section 1003.2.10 is amended to add the following section: 1003.2.10.1.1 Floor-level exit signs. Where exit signs are required in Section 1003.2.10.1, additional approved exit signs that are internally or externally illuminated, photo luminescent or self-luminous, shall be provided in all corridors serving guest rooms of R-1 occupancies and amusement building exits. The bottom of such signs shall not be less than six inches (152mm) nor more than 8 inches (203mm) above the floor level and shall indicate the path of travel. For exit and access doors, the sign shall be on the door or adjacent to the door with the closest edge of the sign within eight inches (203mm) of the door frame.

#### 6.8 Fireworks

6.8.1 IFC, Chapter 33, Section 3301.1.3 is amended to add the following Exception: 5. The use of fireworks for display and retail sales is allowed as set forth in UCA 53-7-220 and UCA 11-3-1.

#### 6.9 Flammable and Combustible Liquids

6.9.1 IFC, Chapter 34, Section 3404.4.3 is amended as follows: Delete 3403.6 on line three and replace it with 3403.4.

#### 6.10 Liquefied Petroleum Gas

6.10.1 IFC, Chapter 38, Section 3809.12, is amended as follows: Delete 20 from line three and replace it with 10.

6.11 Automatic Fire Sprinkler Systems and Commercial Cooking Operations

6.11.1 IFC, Chapter 9, Section 903.2.14.2 is amended to add the following:

903.2.14.2.1 Commercial cooking operation suppression. Automatic fire sprinkler systems protecting commercial kitchen exhaust hood and duct systems with appliances that generate appreciable depth of cooking oils shall be replaced with a UL300 listed system by May 1, 2004.

#### 6.12 Alternative Automatic Fire-Extinguishing Systems

6.12.1 IFC, Chapter 9, Section 904.2.1 is amended to add the following:

904.2.1.1 Dry chemical hood system suppression. Existing automatic fire-extinguishing systems using dry chemical that protect commercial kitchen exhaust hood and duct systems shall be removed and replaced with a UL300 listed system by January 1, 2006 or before that date when any of the following occurs: 1) Six year internal maintenance service; 2) Recharge; 3) Hydrostatic test date as indicated on the manufacturers date of the cylinders; or 4) Reconfiguration of the system piping.

904.2.1.2 Wet chemical hood system suppression. Existing wet chemical fire-extinguishing systems not UL300 listed and protecting commercial kitchen exhaust hood and duct systems shall be removed, replaced or upgraded to a UL300 listed system by January 1, 2006 or before that date when any of the following occurs: 1) Six year internal maintenance service; 2) Recharge; 3) Hydrostatic test date as indicated on the manufacturer date of the cylinder; or 4) Reconfiguration of the system piping.

6.13 IFC, Chapter 2, Section 202 General Definitions, Occupancy Classification, Residential Group R-1 is amended to add the following: Exception: Boarding houses accommodating 10 persons or less shall be classified as Residential Group R-3.

6.14 IFC, Chapter 2, Section 202 General Definitions, Occupancy Classification, Residential Group R-2 is amended to add the following: Exception: Boarding houses accommodating 10 persons or less shall be classified as Residential Group R-3.

**R710-9-7. Fire Advisory and Code Analysis Committee.**

7.1 There is created by the Board a Fire Advisory and Code Analysis Committee whose duties are to provide direction to the Board in the matters of fire prevention and building codes.

7.2 The committee shall serve in an advisory position to the Board, members shall be appointed by the Board, shall serve for a term of three years, and shall consist of the following members:

7.2.1 A member of the State Fire Marshal's Office.

7.2.2 The Code Committee Chairman of the Fire Marshal's Association of Utah.

7.2.3 A fire marshal from a local fire department.

7.2.4 A fire inspector or fire officer involved in fire prevention duties.

7.2.5 The Chief Elevator Inspector from the Utah Labor Commission.

7.2.~~[5]~~6 A member appointed at large.

7.3 This committee shall join together with the Uniform Building Code Commission Fire Protection Advisory Committee to form the Unified Code Analysis Council.

7.4 The Council shall meet as directed by the Board or as directed by the Building Codes Commission or as needed to review fire prevention and building code issues that require definitive and specific analysis.

7.5 The Council shall select one of its members to act in the position of chair and another to act as vice chair. The chair and vice chair shall serve for one year terms on a calendar year basis. Elections for chair and vice chair shall occur at the meeting conducted in the last quarter of the calendar year.

7.6 The chair or vice chair of the council shall report to the Board or Building Codes Commission recommendations of the Council with regard to the review of fire and building codes.

**R710-9-10. Fire Service Standards and Training Council.**

10.1 There is created by the Board, the Fire Service Standards and Training Council, whose duties are to provide direction to the Board and Academy in matters relating to fire service standards, training, and certification.

10.2 ~~[This]~~The Standards Council shall serve in an advisory position to the Board, members shall be appointed by the Board, shall serve ~~three~~four year terms, and shall consist of the following members:

10.2.1 Representative from the Utah State Fire Chiefs Association.

10.2.2 Representative from the Utah State Firemen's Association.

10.2.3 Representative from the Fire Marshal's Association of Utah.

10.2.4 Specialist in hazardous materials representing the Hazardous Materials Institute.

10.2.5 Fire/arson investigator representing the Utah Chapter of the International Association of Arson Investigators.

10.2.6 Specialist in wildland fire suppression and prevention from the Utah State Division of Forestry, Fire and State Lands.

10.2.7 Representative from the International Association of Firefighters.

10.2.8 Representative from the Utah Fire Service Certification Council.

10.2.9 Representative from the fire service that ~~[sits on the Utah State Emergency Medical Services Committee]~~is an Advanced Life Support (ALS) provider to represent Emergency Medical Services.

10.2.10 Representative from the Utah Fire Training Officers Association.

10.3 The Standards Council shall meet quarterly and may hold other meetings as necessary for proper transaction of business.

~~[The]~~A majority of the Standards Council members shall be present to constitute a quorum.

10.4 The Standards Council shall select one of its members to act in the position of chair, and another member to act as vice chair. The chair and vice chair shall serve one year terms on a calendar year basis. Elections for chair and vice chair shall occur at the meeting conducted in the last quarter of the calendar year. If voted upon by the council, the vice chair will become the chair the next succeeding calendar year.

10.5 If a Standards ~~[e]~~Council member has two or more unexcused absences during a 12 month period, from regularly scheduled Standards Council meetings, it is considered grounds for dismissal pending review by the Board. The Coordinator shall submit the name of the Standards Council member to the Board for status review.

10.6 A member of the Standards Council may have a representative of their respective organization sit in proxy of that member, if submitted ~~[in writing]~~ and approved by the Coordinator prior to the meeting.

10.7 The Chair or Vice Chair of the Standards Council shall report to the Board the activities of the Standards Council at regularly scheduled Board meetings. The Coordinator may report to the Board the activities of the Standards Council in the absence of the Chair or Vice Chair.

10.8 The Standards Council shall consider all subjects presented to them, subjects assigned to them by the Board, and shall report their recommendations to the Board at regularly scheduled Board meetings.

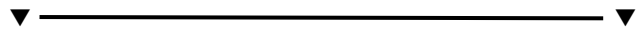
10.9 One-half of the members of the Standards Council shall be reappointed or replaced by the Board every two years.

**KEY: fire prevention, law**

~~[March 18, 2003]~~July 2, 2003

**Notice of Continuation June 12,2002**

**53-7-204**



## NOTICES OF 120-DAY (EMERGENCY) RULES

---

An agency may file a 120-DAY (EMERGENCY) RULE when it finds that the regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (*Utah Code* Subsection 63-46a-7(1) (2001)).

As with a PROPOSED RULE, a 120-DAY RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the 120-DAY RULE including the name of a contact person, justification for filing a 120-DAY RULE, anticipated cost impact of the rule, and legal cross-references. A row of dots in the text (· · · · ·) indicates that unaffected text was removed to conserve space.

A 120-DAY RULE is effective at the moment the Division of Administrative Rules receives the filing, or on a later date designated by the agency. A 120-DAY RULE is effective for 120 days or until it is superseded by a permanent rule.

Because 120-DAY RULES are effective immediately, the law does not require a public comment period. However, when an agency files a 120-DAY RULE, it usually files a PROPOSED RULE at the same time, to make the requirements permanent. Comment may be made on the proposed rule. Emergency or 120-DAY RULES are governed by *Utah Code* Section 63-46a-7 (2001); and *Utah Administrative Code* Section R15-4-8.

---

### Health, Health Care Financing, Coverage and Reimbursement Policy **R414-1-5** State Plan

#### NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 26244  
FILED: 05/02/2003, 09:31

#### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: H.B. 126, which takes effect May 5, 2003, deletes a reference in Title 26, Chapter 18, that previously authorized implementation of the Utah Medicaid program through policy rather than rule. This rule conforms current rules to H.B. 126 by adopting the Utah State Medicaid Plan by reference. (DAR NOTE: H.B. 126 is found at UT L 2003 Ch 324, and was effective May 5, 2003.)

SUMMARY OF THE RULE OR CHANGE: This rulemaking adds language that incorporates by reference the Utah State Medicaid Plan, in effect May 1, 2003. (DAR NOTE: A corresponding proposed amendment is under DAR No. 26264 in this issue.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 18

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: The Utah State Plan under Title XIX of the Social Security Act, in effect May 1, 2003

#### ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: Incorporating the Utah State Medicaid Plan will make no substantive change in how the Medicaid program is administered, therefore, there should be no cost to the State.
- ❖ LOCAL GOVERNMENTS: Incorporating the Utah State Medicaid Plan will make no substantive change in how the Medicaid program is administered, therefore, there should be no cost to local government.
- ❖ OTHER PERSONS: Incorporating the Utah State Medicaid Plan will make no substantive change in how the Medicaid program is administered, therefore, there should be no cost to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Incorporating the Utah State Medicaid Plan will make no substantive change in how the Medicaid program is administered, therefore, there should be no compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Incorporating the Utah State Medicaid Plan by reference into rule will make no change in how the Medicaid program is administered and should have no fiscal impact on any business. Rod L. Betit

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

This rulemaking is required to conform to H.B. 126 which was effective May 5, 2003.

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

HEALTH  
HEALTH CARE FINANCING,  
COVERAGE AND REIMBURSEMENT POLICY  
CANNON HEALTH BLDG  
288 N 1460 W  
SALT LAKE CITY UT 84116-3231, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ross Martin at the above address, by phone at 801-538-6592, by FAX at 801-538-6099, or by Internet E-mail at rmartin@utah.gov

THIS RULE IS EFFECTIVE ON: 05/02/2003

AUTHORIZED BY: Rod L. Betit, Executive Director

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

**R414-1. Utah Medicaid Program.**

**R414-1-5. State Plan.**

(1) As a condition for receipt of federal funds under title XIX of the Act, the Utah Department of Health must submit a State Plan contract to the federal government for the medical assistance program, and agree to administer the program in accordance with the provisions of the State Plan, the requirements of Titles XI and XIX of the Act, and all applicable federal regulations and other official issuances of the United States Department of Health and Human Services. A copy of the State Plan is available for public inspection at the Division's offices during regular business hours.

(2) The department adopts the Utah State Plan Under Title XIX of the Social Security Act Medical Assistance Program, in effect May 1, 2003, which is incorporated by reference.

**KEY: Medicaid**

May 2, 2003

Notice of Continuation April 30, 2002

26-1-5

26-18-1

Human Services, Aging and Adult  
Services

**R510-100-2**

In-Home Services

**NOTICE OF 120-DAY (EMERGENCY) RULE**

DAR FILE NO.: 26259

FILED: 05/12/2003, 10:06

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule authorizes the Division to phase in, over a five year period, the

impact of the changing demographics in the state, and to correct an error in the methodology used to allocate In-Home Service funds to Area Agencies on Aging.

SUMMARY OF THE RULE OR CHANGE: Subsection R510-100-2(5) is added authorizing the Division to adjust, during a five year period, the allocation of In-Home Service funds allocated to Area Agencies on Aging. Adjustment will address the significant demographic changes noted in the 2000 census and inaccurate application of the 1993 hold harmless provision that occurred during the previous years.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-3-108

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There will be no effect upon the state budget. The total amount to be distributed to the Area Agencies on Aging remains the same.

❖ LOCAL GOVERNMENTS: The total value of the correction being accomplished is approximately \$140,000, with six area agencies receiving a phased increase in funds and six receiving a phased decrease.

❖ OTHER PERSONS: Potentially some clients around the state will be impacted by the availability or non-availability of services due to funding. It is impossible at this time to estimate the cost of a services that may be denied or provided to a client.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs cannot be estimated at this time. Some clients will be placed on waiting lists while others will receive services immediately.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This change is necessary to phase in demographic changes and a correction to the methodology used to allocated certain funds to area agencies of aging. While it is possible that some service providers may see a decrease in need for their service, the impact should be minor.

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD cause an imminent peril to the public health, safety, or welfare.

Without a phase in period, the full impact of the changes would necessitate a significant number of frail and elderly seniors currently receiving in-home services to have their services discontinued in order to permit the agencies to operate within their adjusted budgets.

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

HUMAN SERVICES  
AGING AND ADULT SERVICES  
Room 325  
120 N 200 W  
SALT LAKE CITY UT 84103-1500, or  
at the Division of Administrative Rules.



DIRECT QUESTIONS REGARDING THIS RULE TO:

Sheldon Elman at the above address, by phone at 801-538-3921, by FAX at 801-538-4395, or by Internet E-mail at selman@utah.gov

THIS RULE IS EFFECTIVE ON: 05/15/2003

AUTHORIZED BY: Robin Arnold-Williams, Executive Director

**R510. Human Services, Aging and Adult Services.**

**R510-100. Funding Formulas.**

**R510-100-1. Older Americans Act.**

(1) Compliance with State and Federal Law for Older Americans Act (OAA).

(a) The Division of Aging and Adult Services (Division) shall develop an intrastate funding formula for distribution of OAA, Title III: Grants for State and Community Programs on Aging funds and State general funds for social and nutrition services which complies with 45 CFR, Subchapter C, Part 1321.37 and with Section 62A-3-108.

(b) The formula shall be reviewed whenever a new State Plan on Aging is required to be submitted.

(2) Affected Funding Sources for OAA.

(a) The funding formula shall include:

(i) All federal funds received under Title III of the OAA with the exception of:

(A) Allowable State Division administrative funds, and

(B) Funds allocated to the State-delivered Long-Term Care Ombudsman Program.

(ii) All state funds appropriated for Title III social and nutrition services.

(b) The funding formula shall not include state or federal funds appropriated for:

(i) The Alternatives Program,

(ii) Adult Services under the Division, or

(iii) Funds identified under Section 62A-3-108(2).

(3) Funding Formula Factors for OAA.

(a) The funding formula shall incorporate the following factors:

(i) Base factor divided equally among the twelve Area Agencies on Aging (AAA) in existence on July 1, 1986;

(ii) Population factor comprised of each AAA's proportion of the State's weighted elderly population; and

(iii) Land area factor consisting of each AAA's proportion of the State's total adjusted square miles.

(b) Weighted elderly population shall consist of:

(i) The number of persons age 60 and over who have annual incomes below 125% of the poverty level, plus

(ii) The number of persons age 75 and over weighted two times, plus

(iii) The number of minority persons, Hispanic, Native American, Asian/Pacific Islander, and Blacks, age 60 and over.

(c) All population figures utilized shall reflect the most recent U.S. census figures adjusted on an annual basis based on available population estimates from the Utah State Office of Planning and Budget.

(4) Base Restrictions for OAA.

(a) If any AAA in existence on July 1, 1986, should in the future sub-divide into two or more AAAs, the base amount allocated to the original AAA shall be divided proportionally among the new AAA.

(5) Funding Distribution for OAA.

(a) Distribution of funds under the formula shall be as follows:

(i) 7.5% of total formula funds allocated to the base factor;

(ii) 7.5% of total formula funds allocated to the land area factor; and

(iii) 85% of total formula funds allocated to the population factor.

**R510-100-2. In-Home Services.**

(1) Affected Funding Sources for In-Home Services.

(a) The funding formula shall include all federal and state funds used for in-home services with the exception of:

(i) funds allocated under Section R510-100-1 and

(ii) funds identified under Section 62A-3-108(2), and

(iii) Adult Services funded under the Division pursuant to Section 62A-3-301 et seq.

(2) Funding Formula Factors for In-Home Services.

(a) The funding formula shall include the following factors:

(i) Land area factor consisting of each AAA's proportion of the state's total adjusted square miles.

(ii) Population factor comprised of each AAA's proportion of the designated population factors.

(iii) Base amount of \$16,000 allocated to each Area Agency on Aging.

(b) Designated population factors shall consist of the following:

(i) The number of minority persons, Hispanic, Native American, Asian/Pacific Islanders and Blacks, age 60 and over weighted 10%,

(ii) The number of all persons age 18-59 weighted 5%,

(iii) The number of all persons age 60 years and over weighted 55%, and

(iv) The number of all persons age 75 years and over weighted 30%.

(c) All population figures utilized shall reflect the most recent U.S. census figures adjusted on an annual basis based on available population estimates from the Utah State Office of Planning and Budget.

(3) Funding Distribution for In-Home Services.

(a) Distribution of funds under the formula will be as follows:

(i) 10% of total formula funds allocated to the land area factor;

and

(ii) 90% of total formula funds allocated to the population factor.

(4) Funding Formula Phase-In for In-Home Services.

(a) Funds allocated in fiscal year 1993 shall be held harmless.

(b) New funds above the fiscal year 1993 level shall be allocated by the in-home services funding formula.

(5) The following is the funding formula adjustment phase-in period for In-Home Services:

(a) The Division is authorized to apply an adjustment to the allocation calculated in accord with funding formula contained in paragraph (2) of this section for five fiscal years beginning with FY 2004.

(b) Each adjustment shall be applied to the allocation to all area agencies calculated in accord with the funding formula contained in paragraph (2) of this section and shall represent 20% of the difference between the funds allocated in accord with paragraph (2) of this section and the allocation for FY 2004.

**R510-100-3. Long-Term Care Ombudsman Program.**

(1) Affected funding sources for the Long-Term Care Ombudsman (LTCO) Program.

(a) All Federal and State funds received for delivery of the LTCO Program with the exception of State Division administrative funds.

(i) Funding Formula for the LTCO Program.

The funding formula for the LTCO Program shall allocate dollars to each designated AAA based on the following factors:

(A) Federal Funds.

Using the base allocation of federal funds available for the LTCO program during State Fiscal Year 1993, each designated AAA will receive an equal share of the dollars available.

Additional funds that may become available above the base allocation will be distributed based on each AAA proportion of long-term care beds in the State as reported by the State Department of Health and the Division for the preceding year. Long-term care beds shall include licensed nursing facility beds, licensed residential care beds, and approved adult foster care beds.

(B) State General Funds.

A base allocation of \$60,000 shall be distributed equally to each designated AAA.

State General funds in excess of this base allocation shall be distributed based on each AAA's proportion of long-term care beds in the State, as reported by the State Department of Health and the Division for the preceding year.

**KEY: elderly, funding formula[±], long-term care ombudsman[±]  
May 15, 2003  
Notice of Continuation November 1, 2002  
62A-3-108**

▼ ————— ▼

**Human Services, Child and Family  
Services  
R512-100  
Home Based Services**

**NOTICE OF 120-DAY (EMERGENCY) RULE**

DAR FILE NO.: 26258  
FILED: 05/06/2003, 15:15

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this rule is to provide services to allow children to remain safely in their own home, and provide services to facilitate the return home of children who have been placed in the custody of the Division.

**SUMMARY OF THE RULE OR CHANGE:** Home Based Services provide the following: case management, skills development, family education, counseling, therapy, and home visits by Division workers.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 62A-4a-105

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** The content of this rule has been in place for years as an agency policy. Experience has shown that home based services can be provided within the current Division budget. There should be no additional cost or savings.

❖ **LOCAL GOVERNMENTS:** The content of this rule has been in place for years as an agency policy. Experience has shown that there will be no cost to local government.

❖ **OTHER PERSONS:** The content of this rule has been in place for years as an agency policy. Experience has shown that there will be no cost to other persons.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The content of this rule has been in place for years as an agency policy. Experience has shown that there will be no compliance costs for affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The content of this rule has been in place for years as an agency policy. Experience has shown that there should be no fiscal impact on businesses.

**EMERGENCY RULE REASON AND JUSTIFICATION:** REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

The passage of S.B. 30 requires rules to replace agency policies. (DAR NOTE: S.B. 30 is found at UT L 2003 Ch 197, and was effective May 5, 2003.)

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

HUMAN SERVICES  
CHILD AND FAMILY SERVICES  
Room 225  
120 N 200 W  
SALT LAKE CITY UT 84103-1500, or  
at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

Steven Bradford at the above address, by phone at 801-538-8210, by FAX at 801-538-3993, or by Internet E-mail at sbradford@utah.gov

THIS RULE IS EFFECTIVE ON: 05/06/2003

AUTHORIZED BY: Richard Anderson, Director

**R512-100. Human Services, Child and Family Services.**

**R512-100. Home Based Services.**

**R512-100-1. Authority and Purpose.**

A. The purpose of Home Based Services is to provide services to allow children at risk to remain safely in their own home, and provide services to facilitate the return home of children who have been placed in the custody of the Division (DCFS).

B. The components of Home Based Intervention include:

1. Case Management

2. Skills Development and Family Education

3. Counseling/Therapy

4. Home visits: The DCFS worker will visit with the child and family a minimum of one time per month.

5. Private conversation with one or more of the child(ren) if the child(ren) has(have) been substantiated as a victim of abuse or neglect.

C. Pursuant to Section 62A-4a-105 the Division is authorized to provide Home Based Services.

**R512-100-2. Definitions.**

A. Child and Family Plan is based on the assessment of the child and family's strengths and needs which will enable them to work toward their goals.

B. Child and Family Team: A group that meets together as often as needed and works to support the family and assist them in meeting their needs. May include referent or other concerned individuals identified by the family as supports.

C. Functional Assessment defines the child and family's strengths and needs and provides the framework from which to access appropriate services. Evaluate progress toward goals and adjust plans and interventions accordingly.

**R512-100-3. Qualification.**

A. Home Based services may be provided to children who are potentially at risk of abuse and neglect and their families. The family must agree to work voluntarily with Child and Family Services with regard to Early Intervention services.

B. Requests for Home Based Services will be evaluated as soon as possible after receiving the request. The initial level of intensity will be decided also and is assigned at the discretion of DCFS. Acceptance may be based on any of the following criteria:

1. the ongoing risk of abuse/neglect of a child
2. the risk of removal of the child from his/her home
3. the past history of abuse/neglect of a child
4. the family's willingness to accept Home Based Services
5. the need for ongoing monitoring by DCFS

C. DCFS will have the discretion to determine whether a request for Home Based DCFS Services is accepted unless those services are court-ordered. Home Based Services are appropriate when any of the following conditions exist:

1. a child has experienced abuse or neglect but can remain safely in the home;
2. when a child is returned home from out of home care;
3. when an adoptive placement may disrupt or dissolve and intensive services are needed to maintain the family in the adoptive home; or
4. when reunification is likely within 14 days and intensive support is needed to prepare for and facilitate the reunification.

D. A child and family will not be accepted for Home Based Services if all of the following conditions are present:

1. a family has the ability to access resources, supports and services on their own.
2. there is minimal risk or no of abuse/neglect to the child; and
3. the family does not require ongoing services.

E. The family will be asked to sign a consent for services after the case is opened by a DCFS worker and prior to the time services begin.

F. If the DCFS response to a request is that the family needs Home Based Services but the family refuses to accept these services and the child is determined to be at risk of abuse/neglect, by the evidence from the initial assessment, safety/risk assessments or by observation by the Home Based Worker, the DCFS worker will screen the case with and Assistant Attorney General and will consider filing a petition for court-ordered services.

G. The family and the referent will be contacted and informed of the decision to provide or not to provide Home Based Services.

Notification may be verbal or written and will be documented in the file.

H. If a request for Home Based Services is denied, the reasons for denial of Home Based Services will be documented and explained to the referent and family. The worker will provide suggestions to the family for other resources, supports and services to meet the family's needs. Referral resources will also be recorded in the closing summary.

**R512-100-5. Service Delivery.**

A. A Child and Family Team will be developed or strengthened for every family receiving Home Based Services.

B. Ongoing Child and Family Team meetings will be held for every family receiving Home Based Services to ensure safety of the child and appropriateness and quality of services provided to the family. Child and Family Team Meetings must be held at least once every six months to track and adapt the plan.

C. Ongoing Child and Family Team Meetings for Home Based services will include, but are not limited to, the following:

1. Initial Child and Family Team Meeting which will be held for each Home Based Services case to establish case intensity and to discuss options for service provision.

2. Transition Child and Family Team Meeting may be held prior to the family's transition from services with the following goals:

- a. assess safety of and ongoing risk to the child;
- b. identify continuing and additional service needs; and
- c. assess the family's ability to meet their own needs and access services without further DCFS involvement.

D. A functional assessment will be updated as new information is obtained for each child and family receiving Home Based Services, and prior to the development of the Child and Family Plan.

E. A Child and Family Plan will be developed for each family receiving Home Based Services. The plan will be developed by the Child and Family Team and will have the goal of identifying avenues through which the family can establish and meet their needs.

F. Child and Family plans will be reviewed at a minimum every three months and updated as needed. The worker will request information from Child and Family Team members when reviewing, tracking and adapting the Child and Family Plan.

G. The child and family plan will be complete when the worker, their supervisor and the child and family team have agreed to the plan and it is finalized in SAFE. Signatures will be obtained as soon as possible after the plan is finalized in SAFE. If a family member refuses to sign the plan, the worker will document that family member's reasons for refusal.

H. The worker will provide a copy of the Child and Family Plan to the family, other Child and Family Team members and, if services are court ordered, to the attorney general, guardian ad litem and the court.

I. When Home Based Services are court ordered, it is the responsibility of DCFS to determine the level of intensity of the services to be provided to the family unless a court order specifically sets a level of intensity.

J. If services are court ordered but the assessment indicates that Home Based Services are not appropriate, the DCFS worker will contact the assistant attorney general and guardian ad litem, explain the situation and request a petition be filed with the court to terminate services.

K. The family and referent must be informed of the results of a functional assessment when the Home Based worker has concluded that Home Based Services are inappropriate and is recommending that those services should be terminated. If needs have been identified that could not be met by other means then other service options should be explored with the family prior to ending services with the family.

L. When determining the level of service intensity, the DCFS worker will consider the following factors:

1. The degree of risk to the child;
2. The family's schedule;
3. The needed frequency and duration of contacts with the family;
4. The amount of time needed for case management activities;
5. If a clinical service is needed; and
6. the extent of services to be provided.

M. The intensity of service may change during the course of Home Based Services. A change in intensity level does not require termination of service or starting a new service and does not require a worker change.

N. The needs of the child and family and the intensity of the service will determine the frequency of home visits to the child and family. The worker, or another member of the team will contact the child/family at a minimum, once monthly. Contact may include a Home or Community Visit. If a team member other than the identified DCFS targeted case manager contacts the family, they will report the nature and outcome of the visit to the case manager.

O. Unannounced visits are permissible and the likelihood of such visits should be explained to the family.

#### **R512-100-6. Duration of Services.**

A. Early intervention services may last for 30 to 90 days, or, if determined by the worker, supervisor and the child and family team to be necessary, may be extended as long as the family needs to reduce risks and develop or strengthen a support system separate from Child and Family Services.

B. Intensive services will be provided for a period of 60 to 90 days. If intensive services beyond the 60 to 90 days are in the best interest of the child and family, the supervisor or designee may approve an extension. The reasons for the extension must be documented and include specific desired results and treatment methods.

#### **R512-100-7. Termination of Services.**

A. If the initial functional assessment indicates that Home Based Services are not appropriate, services may be terminated (unless court ordered) without development of a Child and Family Plan. Termination will occur prior to the due date of the Child and Family Plan.

B. When it is determined that services will no longer be provided, a final progress summary will be completed, including the reason for closure.

C. If there are two DCFS workers assigned to the case, the workers will collaborate prior to making a decision to remove the child from the home, unless the removal is due to an emergency.

D. If a child needs to be removed from the home in which the child's family is receiving Home Based Services, the Home Based Services worker will follow the requirement specified in Rule R512-200, obtaining a warrant, motion hearing, or if appropriate circumstances exist, will remove without a warrant.

E. A consultation is required prior to the removal of the child and will include the Home Based Services supervisor, a DCFS Child Protective Services (CPS) supervisor or a CPS worker. The Home Based worker should also consult with the guardian ad litem and assistant attorney general.

#### **R512-100-8. Documentation.**

A. Functional Assessment: Must be updated initially within 20 days of the case start date and as information is gathered.

B. The worker will staff the case with his/her supervisor and/or a clinical support team and must document the following staffings on SAFE:

1. Initial: within the first five days of the case start date,
2. Midpoint: 30 or 45 days, and
3. Transition: at the end of intensive service delivery (60 or 90 days).

C. If Domestic Violence (DV) is identified through the provision of the service where it wasn't before, the worker will document the completion of the following:

1. staff with supervisor and/or DV specialist/or community specialist; and
2. conduct assessment alone with the victim or see that a domestic violence or community specialist conducts an assessment.

D. complete Risk of Danger form;

1. create Safety Plan; and
2. interview child and assess.

**KEY: child welfare**

**May 6, 2003**

**62A-4a-105**



## Human Services, Child and Family Services

### **R512-200**

## Child Protective Services, Intake Services

#### **NOTICE OF 120-DAY (EMERGENCY) RULE**

DAR FILE NO.: 26256

FILED: 05/06/2003, 15:11

#### **RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to receive, evaluate and assign for investigation, referrals of suspected child abuse, neglect, and dependency under intake services.

SUMMARY OF THE RULE OR CHANGE: The Division will maintain a system for receiving referrals or reports about child abuse, neglect, or dependency when there is reasonable cause to believe that abuse, neglect, or dependency occurred. The system shall supply Division of Child and Family Services Child Protective Services' workers with a complete history for each child, including siblings, foster care episodes, all reports of abuse, neglect, or dependency, treatment plans, and casework deadlines.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-4a-105

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The content of this rule has been in place for years as an agency policy. Experience has shown that Out of Home Services, Responsibilities Pertaining and Out of Home Caregiver can be provided within the current Division budget. There should be no additional cost or savings.

❖ LOCAL GOVERNMENTS: The content of this rule has been in place for years as an agency policy. Experience has shown that there will be no cost to local government.

❖ OTHER PERSONS: The content of this rule has been in place for years as an agency policy. Experience has shown that there will be no cost to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The content of this rule has been in place for years as an agency policy. Experience has shown that there will be no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The content of this rule has been in place for years as an agency policy. Experience has shown that there should be no fiscal impact on businesses.

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

The passage of S.B. 30 requires agencies to replace policies with rules. (DAR NOTE: S.B. 30 is found at UT L 2003 Ch 197, and was effective May 5, 2003.)

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

HUMAN SERVICES  
CHILD AND FAMILY SERVICES  
Room 225  
120 N 200 W  
SALT LAKE CITY UT 84103-1500, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Steven Bradford at the above address, by phone at 801-538-8210, by FAX at 801-538-3993, or by Internet E-mail at sbradford@utah.gov

THIS RULE IS EFFECTIVE ON: 05/06/2003

AUTHORIZED BY: Richard Anderson, Director

**R512. Human Services, Child and Family Services.**

**R512-200. Child Protective Services, Intake Services.**

**R512-200-1. Authority and Purpose.**

A. The purpose of Intake Services is:

1. to receive and evaluate whether an investigation is needed;
2. assign for investigation, referrals of suspected child abuse, neglect, and dependency.

B. Pursuant to Section 62A-4a-105 and 62A-4a-403, the Division of Child and Family Services (DCFS) is authorized to provide child protective services.

**R512-200-2. Definitions.**

A. The following terms are defined for the purposes of this rule:

1. SAFE: DCFS' Child Welfare Management Information System.

**R512-200-3. Scope of Services.**

A. Qualification for Services.

1. DCFS will maintain a system for receiving referrals or reports about child abuse, neglect, or dependency. The system shall supply DCFS Child Protective Services (CPS) workers with a complete previous Division history for each child, including siblings, foster care episodes, all reports of abuse, neglect, or dependency, treatment plans, and casework deadlines.

B. Priority of the referral.

1. The Division establishes CPS priority time frames as follows.

a. 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 DCFS CPS worker. Intake shall provide the DCFS CPS worker with information concerning prior investigations on SAFE. The DCFS 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 DCFS 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.

b. 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 DCFS CPS worker, and notify law enforcement. Intake shall give verbal notification to the assigned DCFS CPS worker. Intake shall also provide the DCFS CPS worker with information concerning prior investigations on SAFE. The DCFS 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. Notification of a Priority 2 referral received after normal working hours (8:00 a.m. through 5:00 p.m.) shall occur as early as possible following morning.

c. 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 CPS Intake worker 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 DCFS CPS worker with information concerning prior investigations on SAFE. The DCFS CPS worker

will make the face-to-face contact with the alleged victim within a reasonable period of time.

d. A Priority 4 response shall be assigned when one or more of the following apply and there are no safety or protection issues identified:

1. A juvenile court or district court orders an investigation where there are no specific allegations of abuse, neglect, or dependency (unless otherwise ordered by the court).

2. There is an alleged out-of-home perpetrator (an alleged perpetrator who does not reside with or have access to the child) and there is no danger that critical evidence will be lost.

3. An agency outside the state of Utah requests a courtesy investigation, and the circumstances in the case do not meet the definition of a priority 1, 1R, 2, or 3.

C. Out-of-State Abuse or Neglect Report.

1. DCFS 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.

2. 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 DCFS CPS worker shall:

a. Obtain all the information needed to complete a referral.

b. Determine whether the child is at risk of abuse or neglect from the alleged perpetrator.

c. Contact the child protective service agency in the state where the incident of abuse occurred and complete the referral process of that state.

d. Assign the referral to a DCFS CPS worker for a courtesy interview and coordination with the other state's investigation, when requested.

e. In domestic violence related child abuse cases, recognize another state's protective order.

f. If the other state refuses to open an investigation or the investigation is contrary to the evidence acquired in Utah, the referral shall be assigned to a DCFS CPS worker for investigation. The DCFS CPS worker completing the investigation shall review the case with the Attorney General's Office for assistance with jurisdictional issues.

D. 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:

1. Obtain all the information needed to complete a referral.

2. 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.

3. If the child is determined to be at risk, a request will be made for courtesy casework within the priority time frame.

E. The Department of Health Child Care Licensing unit and/or the DHS Office of Licensing and appropriate DCFS staff shall be notified by Intake when DCFS 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 contracted entity for conflict of interest investigations when the allegation involves a child living in substitute care while in protective custody or temporary custody of DCFS, or any other DCFS conflict of interest.

F. Availability.

1. CPS Services are available in all geographic regions of the state.

**KEY: social services, child welfare, domestic violence, child abuse**

**May 6, 2003**

**62A-4a-105**



Human Services, Child and Family  
Services

**R512-201**

Child Protective Services, Investigation  
Services

**NOTICE OF 120-DAY (EMERGENCY) RULE**

DAR FILE NO.: 26255

FILED: 05/06/2003, 15:09

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to establish the services needed to investigate suspected incidents of child abuse, neglect, and dependency.

SUMMARY OF THE RULE OR CHANGE: Protection and safety of children are promoted through completing accurate and timely investigations and assessments which determine the capability, willingness, and availability of resources for achieving safety, permanence and well-being for the children. The Division of Child and Family Services Child Protective Services worker shall assess protection, risk, and safety needs of a child, the family strengths, needs, challenges, capacity and willingness of the family to provide for and protect the child and determine appropriate services.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-4a-105

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The content of this rule has been in place for years as an agency policy. Experience has shown investigation services can be provided within the current Division budget. There should be no additional cost or savings.

❖ LOCAL GOVERNMENTS: The content of this rule has been in place for years as an agency policy. Experience has shown that there will be no cost to local government.

❖ OTHER PERSONS: The content of this rule has been in place for years as an agency policy. Experience has shown that there will be no cost to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The content of this rule has been in place for years as an agency policy. Experience has shown that there will be no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The content of this rule has been in place for years as an agency policy. Experience has shown that there should be no fiscal impact on businesses.

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

The passage of S.B. 30 requires agencies to replace policies with rules. (DAR NOTE: S.B. 30 is found at UT L 2003 Ch 197, and was effective May 5, 2003.)

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

HUMAN SERVICES  
CHILD AND FAMILY SERVICES  
Room 225  
120 N 200 W  
SALT LAKE CITY UT 84103-1500, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Steven Bradford at the above address, by phone at 801-538-8210, by FAX at 801-538-3993, or by Internet E-mail at sbradford@utah.gov

THIS RULE IS EFFECTIVE ON: 05/06/2003

AUTHORIZED BY: Richard Anderson, Director

**R512. Human Services, Child and Family Services.**

**R512-201. Child Protective Services, Investigation Services.**

**R512-201-1. Authority and Purpose.**

A. Purpose. Promoting protection, Child Protective Services, and safety of children by:

1. accurate and timely investigations; and
2. assessments which determine the capability, willingness, and the availability of resources for achieving safety, permanence and well-being for the children. The DCFS CPS worker shall assess protection, risk, and safety needs of a child, the families strengths, needs, and challenges, capacity and willingness of the family to provide for and protect the child, and determine appropriate services.

B. Authority. Pursuant to Sections 62A-4a-105 and 62A-4a-202.3, the Division of Child and Family Services (DCFS) is authorized to provide child protective services.

**R512-201-2. Definitions.**

A. Immediate Protection and Safety Assessment: An organized protocol whereby DCFS or another agency gathers information to identify the strengths and challenges and other factors of the family members that may contribute to safety or risk issues of a child who may be an alleged victim of abuse, neglect, or dependency.

**R512-201-3. Qualifications.**

A. 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 DHS Rule, R512-200, Child Protective Services, Intake Services.

**R512-201-4 Scope of Services.**

A CPS investigation shall include (but is not limited to) the following:

A. Immediate Protection and Safety Assessment for the Child The DCFS CPS worker shall assess the immediate protection safety needs of a child and the family's capacity to protect the child. The DCFS CPS worker shall include a domestic violence assessment.

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:

1. Assessment of immediate risk, safety, and protection needs of a child to include an assessment of risk, that an absent parent or cohabitant may pose to the child.

2. Assessment of risk, protection, and safety needs for any siblings or other children residing in the home as sibling or child at risk. Complete the team consultation of each case.

3. Assessment of the family's strengths, needs, challenges, limitations, struggles, ability, and willingness to protect the child.

4. Determination of eligibility for enrollment or membership in a Native American tribe.

5. Medical or mental health evaluations completed as required by statute within required time frames to negate or lessen the possibility of physical injury, severe physical abuse, medical neglect, exposure to a hazardous, illegal chemical environment, or recent sexual abuse.

C. Availability.

1. CPS Services are available in all geographic regions of the state.

2. Transfer of a Case When a Child has Moved Out of the State of Utah. DCFS 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.

3. If the child and family move outside the state of Utah before the DCFS CPS worker is able to make the face-to-face contact with the child and the new location of the child and family is known, the DCFS CPS worker 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 DCFS CPS worker shall make the appropriate finding based on information from the receiving state.

4. If the child and family move outside the state of Utah after the DCFS CPS worker has made the face-to-face contact with the alleged victim and the whereabouts of the child and family are known, the DCFS CPS worker 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 family in their current state of residence.

a. If the facts of the investigation establish reason to suspect the child is in imminent danger, CPS 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.

5. If the child and family move out of the state of Utah after the DCFS CPS worker has made the face-to-face contact with the alleged victim and the whereabouts of the child and family are unknown, the

DCFS CPS worker 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.

6. Transfer of a Case When a Child has Moved Within the State of Utah. 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.

7. Request for Courtesy Casework. A DCFS CPS worker 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 DCFS CPS worker.

8. Courtesy Casework Request from Another State. A DCFS CPS worker shall assist in the protection and supervision of a child under the jurisdiction of another state.

D. Duration of Services.

1. Unable to Locate Within the State of Utah. A DCFS CPS worker 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.

2. 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:

a. 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.

b. Unsupported. A case finding of unsupported/not accepted shall be used when there is insufficient evidence to conclude that abuse, neglect, or dependency occurred.

c. Without Merit. A case finding of without merit shall be used when there is evidence that abuse, neglect, or dependency did not occur.

d. Unable to Locate. A case finding of unable to locate shall be used when the DCFS CPS worker 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.

e. Child and Family Assessment (in approved pilot region offices). A case finding of child and family assessment in approved pilot region offices shall be used when the case is converted from a CPS investigation to a family assessment.

f. 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**  
**May 6, 2003**  
**62A-4a-105**



## Human Services, Child and Family Services **R512-202** Allegations Categories

### NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 26254

FILED: 05/06/2003, 15:06

#### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule establishes allegation categories used in Child Protective Services Investigations.

SUMMARY OF THE RULE OR CHANGE: Allegation Categories are used by Division workers to categorize the information received on suspected child abuse, neglect, and dependency incidents.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-4a-105

#### ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The content of this rule has been in place for years as an agency policy. Experience has shown that services provided using allegation categories can be provided within the current Division budget. There should be no additional cost or savings.

❖ LOCAL GOVERNMENTS: The content of this rule has been in place for years as an agency policy. Experience has shown that there will be no cost to local government.

❖ OTHER PERSONS: The content of this rule has been in place for years as an agency policy. Experience has shown that there will be no cost to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The content of this rule has been in place for years as an agency policy. Experience has shown that there will be no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The content of this rule has been in place for years as an agency policy. Experience has shown that there should be no fiscal impact on businesses.

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

The passage of S.B. 30 requires agencies to replace policies with rules. (DAR NOTE: S.B. 30 is found at UT L 2003 Ch 197, and was effective May 5, 2003.)



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

HUMAN SERVICES  
CHILD AND FAMILY SERVICES  
Room 225  
120 N 200 W  
SALT LAKE CITY UT 84103-1500, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Steven Bradford at the above address, by phone at 801-538-8210, by FAX at 801-538-3993, or by Internet E-mail at sbradford@utah.gov

THIS RULE IS EFFECTIVE ON: 05/06/2003

AUTHORIZED BY: Richard Anderson, Director

**R512. Human Services, Child and Family Services.**

**R512-202. Child Protective Services, Allegation Categories.**

**R512-202-1. Authority and Purpose.**

A. Pursuant to Section 62A-4a-105, the Division of Child and Family Services (DCFS) is authorized to provide child protective services.

**R512-202-2 Categories.**

A. Qualification for Services. Referral and Investigation Allegation Categories for Abuse Neglect and Dependency. The Division worker receiving or investigating a report of child abuse, neglect, or dependency shall categorize the information into at least one of the following (more than one category may be documented, if applicable):

Abuse:

1. Child endangerment:

a. Cited for driving under the influence with children in the vehicle;

b. Homes where there are lab paraphernalia, chemicals for manufacturing of illegal drugs, access to illegal drugs, distribution of illegal drugs in the presence of a child, or loaded weapons in the reach of the child

c. Giving children illegal drugs or substances, alcohol, tobacco or non-prescribed/not recommended medications for that child;

d. Involving a child in the commission of crimes, such as shoplifting.

2. Domestic Violence Related Child Abuse:

a. Potential for or actual injury to a child during a domestic violence episode;

b. Violent physical and/or verbal altercation between adults, in the presence a child.

3. Emotional maltreatment:

a. General emotional maltreatment, such as a pattern or severe isolated incident of:

i. Demeaning or derogatory remarks;

ii. Parental alienation causing emotional distress to the child;

iii. Perception of or actual threatened harm;

iv. Teaching the child illegal behavior;

v. Severe or chronic role reversal where the child assumes the majority of adult or caregiver responsibilities;

vi. Custody disputes leading to multiple false reports to CPS;

4. Material harmful to a child.

5. Physical abuse:

a. Physical abuse, general, including (but not limited to):

i. Non-accidental injury to a child that may or may not be visible;

ii. Unexplained injuries to an infant or toddler;

iii. Unexplained injuries to a disabled or non-verbal child.

6. Physical abuse, serious:

a. Non-accidental physical injury or a set of injuries, which may or may not be visible, which seriously impairs the child's health, or which involves physical torture or causes serious emotional harm to the child, or which involves a substantial risk of death, including:

i. Fracture of any bone or bones;

ii. Intracranial bleeding, swelling, or contusion of the brain, or retinal hemorrhaging, whether caused by blows, shaking, or causing the child's head to impact with an object or surface (such as Shaken Baby Syndrome);

iii. A burn, including burns inflicted by hot water or those caused by placing a hot object upon the skin or body of the child;

iv. An injury caused by use of a deadly or dangerous weapon;

v. A combination of two or more physical injuries inflicted by the same person, either at the same time or on different occasions;

vi. Damage to internal organs of the body;

vii. Conduct toward a child that results in severe emotional harm, severe developmental delay or retardation, or severe impairment of the child's ability to function;

viii. An injury that creates a permanent disfigurement or protracted loss or impairment of the function of a bodily member, limb, or organ;

ix. Conduct that causes a child to cease breathing, even if resuscitation is successful following the conduct;

x. Conduct that results in starvation or malnutrition that jeopardizes the child's life.

7. Fetal exposure to alcohol or other substances.

8. Fetal addiction to alcohol or other harmful substances.

9. Pediatric Condition Falsification (formerly known as Munchausen Syndrome by Proxy).

10. Sexual abuse:

a. Incest;

b. Molestation;

c. Sexual intercourse;

d. Sodomy;

e. Oral sexual contact;

f. Digital and/or object penetration;

g. Indecent liberties;

h. Sexual acts;

i. Rape and object rape of a child;

j. Forcing or coercing a child to observe sexual activities;

k. Sexual acts with animals;

l. Forcing or coercing a child to engage in sexual activity with an adult with or without legal marriage.

10. Lewdness.

11. Sexual exploitation of a child, including (but not limited to) prostitution and pornography.

12. Physical abuse, chronic

B Neglect:

1. Medical neglect: This allegation or finding needs to be based on the opinion of the child's primary care physician or other licensed medical professional. A parent or guardian may obtain a second opinion to be considered in determining medical neglect, at their

own expense. A parent or guardian may obtain a second medical opinion to present for consideration by DCFS, but DCFS is not bound by the opinion and shall consider the totality of the facts.

2. Baby Doe (congenital birth defect that parents or caregiver declines to treat).

3. Failure to thrive, based on the opinion of the child's primary care physician or other licensed medical professional..

4. Physical health.

5. Psychological health.

6. Dental health.

7. Pediatric Condition Falsification (formerly known as: Munchausen Syndrome by Proxy).

8. Physical neglect.

9. Neglect Chronic/Severe.

10. Sibling or child at risk.

11. Educational neglect.. Occurs when a 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. Sections 62A-4a-101(14)(a)(iv), 62A-4a-101(14)(b), and §78-3a-316.

12. Failure to protect.

13. Non-supervision.

14. Abandonment.

15. Environmental neglect: Physical neglect of the environment such as absence of utilities, home conditions below minimum standards, hazards, etc.

16. Dependency: A child who is homeless or without proper care through no fault of the child's parent, guardian, or custodian. Institutionalization of a parent or guardian who has not or cannot arrange for safe and appropriate care for the child.

C. Court ordered: When a court orders an investigation on a case when the allegation is not one of the categories listed in this rule, categorizes the allegation category as court ordered.

D. Availability.

1. CPS Services are available in all geographic regions of the state.

**KEY: social services, child welfare, domestic violence, child abuse**

**May 6, 2003**

**62A-4a-105**



Human Services, Child and Family  
Services  
**R512-300**  
Out of Home Services

**NOTICE OF 120-DAY (EMERGENCY) RULE**

DAR FILE NO.: 26252

FILED: 05/06/2003, 15:02

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of Out of Home Services is to provide a temporary, safe living arrangement for a child placed in the custody of the Division or Department by court order or through voluntary placement by the child's parent or guardian.

SUMMARY OF THE RULE OR CHANGE: Out of Home Services provides safe and proper care of children in the custody of the Division.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-4a-105

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The content of this rule has been in place for years as an agency policy. Experience has shown that Out of Home Services can be provided within the current Division budget. There should be no additional cost or savings.

❖ LOCAL GOVERNMENTS: The content of this rule has been in place for years as an agency policy. Experience has shown that there will be no cost to local government.

❖ OTHER PERSONS: The content of this rule has been in place for years as an agency policy. Experience has shown that there will be no cost to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The content of this rule has been in place for years as an agency policy. Experience has shown that there will be no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The content of this rule has been in place for years as an agency policy. Experience has shown that there should be no fiscal impact on businesses.

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

The passage of S.B. 30 requires agencies to replace policies with rules. (DAR NOTE: S.B. 30 is found at UT L 2003 Ch 197, and was effective May 5, 2003.)

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

HUMAN SERVICES  
CHILD AND FAMILY SERVICES  
Room 225  
120 N 200 W  
SALT LAKE CITY UT 84103-1500, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Steven Bradford at the above address, by phone at 801-538-8210, by FAX at 801-538-3993, or by Internet E-mail at sbradford@utah.gov

THIS RULE IS EFFECTIVE ON: 05/06/2003

AUTHORIZED BY: Richard Anderson, Director

**R512. Human Services, Child and Family Services.  
R512-300. Out of Home Services.**

**R512-300-1. Purpose and Authority.**

A. The purposes of Out of Home Services are:

1. To provide a temporary, safe living arrangement for a child placed in the custody of the Division or Department by court order or through voluntary placement by the child's parent or legal guardian.

2. To provide services to protect the child and facilitate safe return of the child home or to another permanent living arrangement.

3. To provide safe and proper care and address the child's needs while in agency custody.

B. Sections 62A-4a-105 and 62A-4a-106 authorize the Division to provide out-of-home services and 42 USC Section 472 authorizes federal foster care. 42 USC Section 472 (2000), and 45 CFR Parts 1355 and 1356 (2000) are incorporated by reference.

#### **R512-300-2. Definitions.**

The following terms are defined for the purposes of this rule:

A. Custody by court order means temporary custody or custody authorized by Title 78, Chapter 3a, Part 3, Abuse, Neglect, and Dependency Proceedings or Section 78-3a-118. It does not include protective custody.

B. Division means the Division of Child and Family Services.

C. Department means the Department of Human Services.

D. Least restrictive means most family-like.

E. Placement means living arrangement.

#### **R512-300-3. Scope of Services.**

A. Qualification for Services. Out of home services are provided to:

1. A child placed in the custody of the Division by court order and the child's parent or guardian, if the court orders reunification;

2. A child placed in the custody of the Department by court order for whom the Division 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;

3. A child voluntarily placed into the custody of the Division and the child's parent or guardian.

B. Service Description. Out of home services consist of:

1. Protection, placement, supervision and care of the child;

2. 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.

3. 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.

C. Availability. Out of home services are available in all geographic regions of the state.

D. 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.

#### **R512-300-4. Division Responsibility to a Child Receiving Out of Home Services.**

A. Child and Family Team

1. With the family's assistance, a child and family team shall be established for each child receiving out of home services.

2. 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.

B. Assessment

1. A written assessment is completed for each child placed in custody of the Division through court order or voluntary placement and for the child's family.

2. The written assessment evaluates the child and family's strengths and underlying needs.

3. 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.

4. Assessment is ongoing.

C. Child and Family Plan

1. 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.

2. 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.

3. In addition to requirements specified in Section 62A-4a-205, the child and family plan shall include the following to facilitate permanency:

a. The current strengths of the child and family as well as the underlying needs to be addressed.

b. 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.

c. 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.

d. If the child is age 16 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.

e. A visitation plan for the child, parents, and siblings, unless prohibited by court order.

f. 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.

g. If the goal is adoption or placement in another permanent home, steps to finalize the placement, including child-specific recruitment efforts.

4. 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.

5. 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.

D. Permanency Goals

1. 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.

2. Permanency goals include:

a. Return home

b. Adoption

c. Custody and Guardianship

d. Independent Living

e. Individualized Permanency

3. For a child whose custody is court ordered, both primary and concurrent permanency goals shall be submitted to the court for approval.

4. The primary permanency goal shall be return home unless the court has ordered that no reunification efforts be offered.

5. A determination that independent living services are appropriate for a child does not preclude adoption as a primary permanency goal. Enrollment in independent living services can occur concurrently with continued efforts to locate and achieve placement of an older child with an adoptive family.

E. Placement

1. 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.

2. 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 the Division.

3. Placement decisions are based upon the child's needs, strengths and best interests.

4. The following factors are considered in determining placement:

a. Age, special needs, and circumstances of the child;

b. Least restrictive placement consistent with the child's needs;

c. Placement of siblings together;

d. Proximity to the child's home and school;

e. Sensitivity to cultural heritage and needs of a minority child;

f. Potential for adoption.

5. 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.

6. Placement of an Indian child shall be in compliance with the Indian Child Welfare Act, 25 USC Section 1915, which is incorporated by reference.

7. When a young woman in Division custody is 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. The Division shall only petition for custody of the young woman's child if there are concerns of abuse, neglect, or dependency in accordance with Title 78, Chapter 3a, Part 3, Abuse, Neglect, and Dependency Proceedings.

8. The child and family team may recommend an independent living placement for a child age 16 year or older in accordance with Rule R512-305 when in the child's best interests.

G. Federal Benefits

1. The Division 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.

2. The Division may apply to be protective payee for a child in custody who has a source of unearned income, such as Supplemental Security Income or Social Security income. A trust account shall be maintained by the Division 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.

H. Visitation with Familial Connections

1. The child has a right to purposeful and frequent visitation with a parent or guardian and siblings, unless the court orders otherwise.

2. Visitation is not a privilege to be earned or denied based on behavior of the child or the parent or guardian.

3. Visitation may be supplemented with telephone calls and written correspondence.

4. 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.

5. Intensive efforts shall be made to engage a parent or guardian in continuing contacts with a child, when not prohibited by court order.

6. If clinically contraindicated for the child's safety or best interests, the Division may petition the court to deny or limit visitation with specific individuals.

7. Visitation and other forms of communication with familial connections shall only be denied when ordered by the court.

8. A parent whose parental rights have been terminated does not have a right to visitation.

I. Out of Home Worker Visitation with the Child

1. 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.

J. Case Reviews

1. Pursuant to Sections 78-3a-311.5, 73-3a-312, and 78-31-313, periodic reviews of court ordered out of home services shall be held no less frequently than once every six months.

2. The Division shall seek to ensure that each child receiving out of home services has timely and effective case reviews and that the case review process:

a. Expedites permanency for a child receiving out of home services,

b. Assures that the permanency goals, child and family plan, and services are appropriate,

c. Promotes accountability of the parties involved in the child and family planning process, and

d. Monitors the care for a child receiving out of home services.

**KEY: social services, child welfare, domestic violence, child abuse**

**May 6, 2003**

**62A-4a-105**



## Human Services, Child and Family Services

### **R512-301**

## Out of Home Services, Responsibilities Pertaining to a Parent or Guardian

### **NOTICE OF 120-DAY (EMERGENCY) RULE**

DAR FILE NO.: 26253

FILED: 05/06/2003, 15:04

## RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to clarify the responsibilities of the Division to a parent or guardian of a child receiving out of home services.

SUMMARY OF THE RULE OR CHANGE: The Division is responsible to make reasonable efforts to reunify a child with a parent or guardian when a court has determined reunification is appropriate. This rule details the standard for reasonable efforts at reunification.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 62A-4a-105 and 62A-4a-203

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The content of this rule has been in place for years as an agency policy. Experience has shown that responsibilities pertaining to a parent or guardian under out of home services can be provided within the current Division budget. There should be no additional cost or savings

❖ LOCAL GOVERNMENTS: The content of this rule has been in place for years as an agency policy. Experience has shown that there will be no cost to local government.

❖ OTHER PERSONS: The content of this rule has been in place for years as an agency policy. Experience has shown that there will be no cost to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The content of this rule has been in place for years as an agency policy. Experience has shown that there will be no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The content of this rule has been in place for years as an agency policy. Experience has shown that there should be no fiscal impact on businesses.

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

This rule is required by the passage of S.B. 30. (DAR NOTE: S.B. 30 is found at UT L 2003 Ch 197, and is effective May 5, 2003.)

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

HUMAN SERVICES  
CHILD AND FAMILY SERVICES  
Room 225  
120 N 200 W  
SALT LAKE CITY UT 84103-1500, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Steven Bradford at the above address, by phone at 801-538-8210, by FAX at 801-538-3993, or by Internet E-mail at sbradford@utah.gov

THIS RULE IS EFFECTIVE ON: 05/06/2003

AUTHORIZED BY: Richard Anderson, Director

**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.**

A. The purposes of this rule are to clarify:

1. Roles and responsibilities of the Division to a parent or guardian of a child receiving out of home services in accordance with R512-300, and

2. Roles and responsibilities of a parent or guardian while a child is receiving out of home services.

B. Sections 62A-4a-105 and 62A-4a-106 authorize the Division to provide out-of-home services and 42 USC Section 472 authorizes federal foster care. 42 USC Section 472 (2000), and 45 CFR Parts 1355 and 1356 (2000) are incorporated by reference.

**R512-301-2. Definitions.**

The following terms are defined for the purposes of this rule:

A. Division means the Division of Child and Family Services.

B. Out of Home Services means those services defined in Rule R512-300.

C. 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. Division Roles and Responsibilities to a Parent or Guardian of a Child Receiving Out of Home Services when Reunification Is the Primary Permanency Goal.**

A. The Division 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 the Division through a voluntary placement.

B. The Division shall actively seek the involvement of the parent or guardian in the Child and Family Team process, 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 Section R512-300-4.

C. The Child and Family Plan shall not only address child's strengths and needs, but shall also address the family's strengths and underlying needs. In accordance with Section 62A-4a-205, the plan shall identify specifically what the parents must do in order for the child to be returned home, including how those requirements may be accomplished behaviorally and how they shall be measured. Provisions of the plan shall be crafted by the Child and Family Team and designed to maintain and enhance parental functioning, care and familial connections.

D. In accordance with Section 62A-4a-205, additional weight and attention shall be given to the input of the child's parent in plan development.

E. The parent or guardian and the parent or guardian's legal counsel shall be provided a copy of the completed Child and Family Plan.

F. The worker shall have regular contact with the parent or guardian to facilitate progress towards goal achievement as

determined by the needs of the parent and the recommendations of the Child and Family Team. At a minimum, the worker shall visit the parent or guardian at least once per month.

G. The Division shall make efforts to engage a parent or guardian in continuing contacts with the child, whether through visitation, phone, or written correspondence. Visitation requirements specified in Section R512-300-4 apply.

H. The Division shall also make efforts to engage a parent or guardian in appropriate parenting tasks such as attending school meetings and health care visits.

I. 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 Section 475(6) and Section 78-3a-314.

**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.**

In addition to responsibility to comply with orders made by the court, a parent or guardian has responsibility to:

- A. Participate in the Child and Family Team process.
- B. Provide input into the assessment and Child and Family Plan development process to help identify changes in behavior and actions necessary to enable the child to safely return home.
- C. Complete goals and objectives of the plan.
- D. Communicate with the worker about progress in completing the plan or regarding problems in meeting specified goals or objectives in advance of proposed completion time frames.
- E. Maintain communication and frequent visitation with the child in accordance with Section R512-300-4, when not prohibited by the court.
- F. Provide information necessary to determine the child's eligibility for Federal benefits while in care in accordance with Section R512-300-4, including information on household income, assets, and household composition.
- G. Provide financial support for the child's care in accordance with 42 USC Subsection 471(a)(19) and Sections 62A-4a-114 and 78-3a-906, unless deferred or waived as specified in R495-879.

**R512-301-5. Guidelines for Making Recommendations for Reunification to the Court.**

A. In accordance with Section 62A-4a-205, when considering reunification, the child's health, safety, and welfare shall be the paramount concern.

B. The Child and Family Team shall consider the following factors in determining whether to recommend that the court order reunification:

1. The risk factors that led to the placement were acute rather than chronic.
2. The family assessments (including factors such as the initial risk assessment, level of informal and formal supports available to the family, and family history, including past patterns of behavior) conclude that the parent appears to possess or have the potential to develop the ability to ensure the child's safety and provide a nurturing environment.
3. The parent is committed to the child and indicates a desire to have the child returned home.
4. The child has a desire for reunification as determined using age appropriate assessments.
5. Members of the Child and Family Team support a reunification plan.

6. If the parent is no longer living with the individual who severely abused the minor, reunification may be considered if the parent is able to implement a plan that ensures the child's on-going safety.

7. Existence of factors or exceptions that preclude reunification as specified in Section 78-3a-311.

C. The Division shall provide additional relevant facts, when available, to assist the court in making a determination regarding the appropriateness of reunification services such as:

1. the parent's failure to respond to previous services or service plan;
2. the child being abused while the parent was under the influence of drugs or alcohol;
3. continuation of a chaotic, dysfunctional lifestyle;
4. the parent's past history of violent behavior;
5. the testimony of a competent professional or expert witness that the parent's behavior is unlikely to be successfully changed.

**R512-301-6. Return Home and Trial Home Placement.**

A. When a child and family's safety needs have been met and the original reasons and risks have been reduced or eliminated, the child may return home, when allowable by court order or in conjunction with provisions of a voluntary placement.

B. The Child and Family Team shall plan for the transition and return home prior to the child being returned.

C. The Division shall provide reasonable notice (unless otherwise ordered by the court) of the date child will be returning home to all pertinent parties such as child, parents, guardian ad litem, foster care provider, school staff, therapist, and partner agencies, so all parties can be adequately prepared for the return home.

D. Prior to and when the child is returned home, the Division shall provide services directed at assisting the child and family with the transition back into the home and contact relevant parties to that no further abuse or neglect is occurring.

E. If it is determined that the child and family require more intensive services to ensure successful reunification, intensive family reunification services may be utilized in accordance with Rule R512-100.

F. A child may be returned home for a trial home visit for up to 60 days. The trial home visit shall continue until the court has terminated agency custody.

**R512-301-7. Voluntary Relinquishment of Parental Rights.**

A. When it is not in a child's best interest to be reunified with the child's parents, the Division may explore with both parents the option of voluntary relinquishment in accordance with Section 78-3a-414.

B. If the child is Indian, provisions of the Indian Welfare Act, 25 USC Section 1915, incorporated by reference, shall be met.

**R512-301-8. Termination of Parental Rights.**

A. If a court determines that reunification services are not appropriate, the Division shall petition for termination of parental rights in accordance with 42 USC Section 475 (5)(E), 42 CFR 1356.21(i), and Section 62A-4a-203.5 unless exceptions specified in 42 CFR 1356.21(i)(2) or Subsection 62A-203.5(3) apply.

B. The Division shall document in the Child and Family Plan care by kin or a compelling reasons for determining that filing for termination of parental rights is not in the child's best interests and shall make the plan available to the court for review.

C. When the Division files a petition to terminate parental rights, the worker must also concurrently begin to identify, recruit, process, and seek approval of a qualified adoptive family for the child. These efforts must be documented in the Child and Family Plan as specified in Section R512-300-4.

D. If the child is Indian, provisions of the Indian Welfare Act, 25 USC Section 1915, incorporated by reference, shall be met.

E. The Division shall not give approval to finalize an adoption until the period to appeal a termination of parental rights has expired.

**KEY: child welfare, domestic violence, foster care, child abuse**  
**May 6, 2003**  
**62A-4a-105**



Human Services, Child and Family  
Services  
**R512-302**  
Out of Home Services, Responsibilities  
Pertaining to an Out of Home Caregiver

**NOTICE OF 120-DAY (EMERGENCY) RULE**

DAR FILE NO.: 26250  
FILED: 05/06/2003, 14:59

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to clarify responsibilities, roles, qualification, selection, and payment as they effect out of home providers (caregivers) under out of home services.

SUMMARY OF THE RULE OR CHANGE: This rule establishes standards for responsibilities, roles, qualification, selection, and payment as they effect out of home providers.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-4a-105

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The content of this rule has been in place for years as an agency policy. Experience has shown that the direction of responsibilities pertaining to an out of home caregiver under out of home services can be provided within the current Division budget. There should be no additional cost or savings.

❖ LOCAL GOVERNMENTS: The content of this rule has been in place for years as an agency policy. Experience has shown that there will be no cost to local government.

❖ OTHER PERSONS: The content of this rule has been in place for years as an agency policy. Experience has shown that there will be no cost to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The content of this rule has been in place for years as an agency policy. Experience has shown that there will be no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The content of this rule has been in place for years as an agency policy. Experience has shown that there should be no fiscal impact on businesses.

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

The rule is required by the passage of S.B. 30. (DAR NOTE: S.B. 30 is found at UT L 2003 Ch 197, and was effective May 5, 2003.)

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

HUMAN SERVICES  
CHILD AND FAMILY SERVICES  
Room 225  
120 N 200 W  
SALT LAKE CITY UT 84103-1500, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Steven Bradford at the above address, by phone at 801-538-8210, by FAX at 801-538-3993, or by Internet E-mail at sbradford@utah.gov

THIS RULE IS EFFECTIVE ON: 05/06/2003

AUTHORIZED BY: Richard Anderson, Director

**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.**

A. The purposes of this rule are to clarify:

1. Qualification, selection, payment criteria, and roles and responsibilities of a caregiver while a child is receiving out of home services, and

2. Roles and responsibilities of the Division to a caregiver for a child receiving out of home services in accordance with R512-300.

B. Sections 62A-4a-105 and 62A-4a-106 authorize the Division to provide out-of-home services and 42 USC Section 472 authorizes federal foster care. 42 USC Section 472 (2000), and 45 CFR Parts 1355 and 1356 (2000) are incorporated by reference.

**R512-302-2. Definitions.**

In addition to definitions in Section R512-300-2, the following terms are defined for the purposes of this rule:

A. Caregiver means a licensed resource family, also known as a licensed foster family, and may also include a licensed kin provider. Caregiver does not include a group home or residential facility that provides out of home services under contract with the Division.

B. Out of Home Services means those services described in Rule R512-300.

**R512-302-3. Qualifying as a Caregiver for a Child Receiving Out of Home Services.**

A. 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.

B. The Division or contract provider shall provide pre-service training required in Section R501-12-5 after the provider has held an initial consultation with the individual or couple to clearly delineate duties of caregivers.

C. The curriculum for pre-service and in-service training shall be developed by the contract provider and approved by the Division according to the Division's contract with the provider.

D. The Division or contract provider shall verify in writing a caregiver's completion of training required for licensure as provided in Section R501-12-5.

E. The Division or contract provider shall also verify in writing a caregiver's completion of supplemental training required for serving children with more difficult needs.

F. 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, the Foster Care Citizen Review Board, and the child's primary health care providers.

**R512-302-4. Selection of a Caregiver for a Child Receiving Out of Home Services.**

A. 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.

B. 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, the Division may require one parent to be available in the home at all times.

C. A child in agency 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 that is conditionally licensed only if the out of home caregiver is a kinship placement.

D. 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.

E. 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:

1. With siblings.
2. In the home of licensed kin.
3. With a licensed caregiver, group, or residential provider within reasonable proximity to the child's family and community, if the goal is reunification.

4. With a licensed caregiver, group, or residential provider not in reasonable proximity to the child's family and community.

F. If a child is reentering custody of the Division, the child's former out of home caregiver shall be given preference as provided in Section 62A-4a-206.1.

G. 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.

H. Selection of a out of home caregiver for an Indian child shall be made in compliance with the Indian Child Welfare Act, 25 USC Section 1915, which is incorporated by reference.

**R512-302-5. Division Roles and Responsibilities to a Caregiver for a Child Receiving Out of Home Services.**

A. The Division 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 Section R512-300-4.

B. 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.

C. 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.

D. The caregiver shall be provided a copy of the completed child and family plan.

E. The caregiver has a right to reasonable notice and may participate in court and administrative reviews for the child in accordance with 42 USC Section 475(5) and Sections 78-3a-309 and 78-3a-314.

F. The Division shall provide support to the caregiver to ensure that the child's needs are met, and to prevent unnecessary placement disruption.

G. Options for temporary relief may include paid respite, non-paid respite, childcare, and babysitting.

H. 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.**

A. 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 the Division and the child and family plan.

B. The caregiver shall be responsible to:

1. Participate in the child and family team process.
2. Provide input into the assessment and child and family plan development process.
3. Complete goals and objectives of the plan relevant to the caregiver.
4. 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.
5. Support and assist with parental visitation



C. The caregiver shall document individualized services provided for the child, when required, such as skills development or transportation.

D. 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.**

A. 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.

B. 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 as 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 the Division.

C. 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 the Division.

D. 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.**

A. 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 a contract agency or law enforcement as provided in Section 62A-4a-202.5.

**R512-302-9. Removal of a Child from a Caregiver Providing Out of Home Services.**

A. Removal of a child from a caregiver shall occur as provided in Section 62A-4a-206 and Rule R512-31.

**KEY: child welfare**  
**May 6, 2003**  
**62A-4a-105**



Human Services, Child and Family  
Services

**R512-305**

Out of Home Services, Independent  
Living Services

**NOTICE OF 120-DAY (EMERGENCY) RULE**

DAR FILE No.: 26257  
FILED: 05/06/2003, 15:13

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to help prepare a youth who is receiving out of home services to transition to self-sufficiency under independent living services.

SUMMARY OF THE RULE OR CHANGE: Independent living services consist of a variety of personalized strategies and resources that assist a youth to prepare for adult living, such as strength and needs assessment; planning, educational and employment guidance; basic skills training; personal and emotional support; and transitional placement.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-4a-105

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The content of this rule has been in place for years as an agency policy. Experience has shown that independent living services can be provided within the current Division budget. There should be no additional cost or savings.
- ❖ LOCAL GOVERNMENTS: The content of this rule has been in place for years as an agency policy. Experience has shown that there will be no cost to local government.
- ❖ OTHER PERSONS: The content of this rule has been in place for years as an agency policy. Experience has shown that there will be no cost to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The content of this rule has been in place for years as an agency policy. Experience has shown that there will be no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The content of this rule has been in place for years as an agency policy. Experience has shown that there should be no fiscal impact on businesses.

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

This rule is required by the passage of S.B. 30. (DAR NOTE: S.B. 30 is found at UT L 2003 Ch 197, and was effective May 5, 2003.)

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

HUMAN SERVICES  
CHILD AND FAMILY SERVICES  
Room 225  
120 N 200 W  
SALT LAKE CITY UT 84103-1500, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Steven Bradford at the above address, by phone at 801-538-

8210, by FAX at 801-538-3993, or by Internet E-mail at sbradford@utah.gov

THIS RULE IS EFFECTIVE ON: 05/06/2003

AUTHORIZED BY: Richard Anderson, Director

**R512. Human Services, Child and Family Services.**  
**R512-305. Out of Home Services, Independent Living Services.**  
**R512-305-1. Purpose and Authority.**

A. The purpose of independent living services is to help prepare a youth who is receiving out of home services in accordance with R512-300 to transition to self-sufficiency in adulthood.

B. Independent living services are authorized by the John H. Chafee Foster Care Independence Program, 42 USC 677 (1999), incorporated by reference.

**R512-305-2. Scope of Services.**

A. Qualification for and Duration of Services. Independent living services are offered to all youth age 14 or older who are receiving out of home services, regardless of permanency goal as specified in R512-300-4.D, or who formerly received out of home services. Services are:

1. Optional for a youth receiving out of home services who is age 14 or 15, when the Child and Family Team determines that services are appropriate;

2. Required for a youth receiving out of home services who is age 16 or older until agency custody is terminated;

3. Optional for a youth who attained age 18 while in agency custody, but who is no longer in agency custody, and may continue until the last day of the month in which the youth attains age 21, in accordance with R512-305-5.

B. Service Description. Independent living services consist of a variety of personalized strategies and resources that assist a youth to prepare for adult living, such as strength and needs assessment, planning, educational and employment guidance, basic skills training, personal and emotional support, and independent living placement.

C. Availability. Independent living services are available in all geographic regions of the state.

**R512-305-3. Independent Living Services for a Youth in Agency Custody.**

A. The Child and Family Team determines the independent living plan, with a youth age 16 or older taking the lead and setting goals.

B. The caseworker, with the assistance of the youth and Child and Family Team, completes an assessment to identify the strengths and needs of the youth.

C. Based upon the assessment, a plan is developed that identifies the youth's strengths and specific services and needs.

D. The plan includes a continuum of training and services to be completed by the youth in such settings as the foster home, with a therapist, at school, or through other community-based resources and programs.

E. Basic Living Skills training shall be offered to each youth who attains age 16. The training shall include human hygiene and sexuality and a basic knowledge of community resources. Other topics included in basic living skills training may include:

1. Communication, socialization and relationships
2. Job seeking information, assistance and maintenance skills
3. Money management
4. Housing
5. Food preparation and planning
6. Legal rights and responsibilities
7. Health care and counseling
8. Substance abuse
9. Decision making
10. Educational planning
11. Housekeeping
12. Transportation

F. Each youth who completes basic living skills training is entitled to receive a completion payment.

**R512-305-4. Independent Living Placement for a Youth in Agency Custody.**

A. An independent living 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 an independent living placement.

C. The Child and Family Team is responsible to determine if a recommendation for an independent living placement for a youth is appropriate.

D. The regional director or designee is authorized to approve an independent living placement.

E. The worker and youth shall complete a contract outlining responsibilities and expectations while in the placement.

F. The worker shall visit with and monitor progress of the youth at an interval determined by the Child and Family Team, but no less frequently than once per month.

G. The youth may receive an independent living stipend while in the independent living placement.

H. If the independent living 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.E.

**R512-305-5. Division Responsibility to a Youth Leaving Out of Home Services at Age 18 or Older.**

A. A youth who attained age 18 while in state custody, but who is no longer in state custody, may request independent living services from the Division until the last day of the month in which the youth attains age 21.

B. A youth may access services by contacting a Division office and being referred to a regional independent living coordinator.

C. If services will stabilize the youth's living situation and no other reasonable alternative exists to meet the needs, independent living services will be provided.

D. Services may include additional basic life skills training, information and referral, mentoring, computer access including word processing, employment and educational counseling, information and referral, follow-up support, and assistance with costs of room and board, subject to the limits of available Division funding designated for this purpose.

E. Room and board includes rent, utilities, food, clothing, transportation costs, personal care items and other expenses related to daily living. Room and board does not include medical care, dental care, mental health care, tuition payments, or the purchase of automobiles.

F. The amount that a youth may receive for room and board is \$500 per month, with a maximum of \$2,000 per year.

G. Independent living services are available on the same basis to Indian youth who were formerly in tribal custody within the boundaries of the State, and whose tribal custody was terminated at age 18 or older, as they are for youth who received out of home services from the Division until age 18 or older.

**KEY: social services, child welfare, foster care**  
**May 6, 2003**  
**62A-4a-105**



Human Services, Child and Family  
 Services  
**R512-500**  
 Kinship Services

**NOTICE OF 120-DAY (EMERGENCY) RULE**

DAR FILE NO.: 26251  
 FILED: 05/06/2003, 15:01

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this rule is to make it possible for children to remain safely with relatives when they have been removed from their home as the result of suspected child abuse or neglect.

**SUMMARY OF THE RULE OR CHANGE:** When a child has been removed from their home due to suspected child abuse or neglect, kinship services are provided to identify, recruit, and support a placement with a relative who can provide temporary care of the child.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 62A-4a-105

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** The content of this rule has been in place for years as an agency policy. Experience has shown that kinship services can be provided within the current Division budget. There should be no additional cost or savings.

❖ **LOCAL GOVERNMENTS:** The content of this rule has been in place for years as an agency policy. Experience has shown that there will be no cost to local government.

❖ **OTHER PERSONS:** The content of this rule has been in place for years as an agency policy. Experience has shown that there will be no cost to other persons.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The content of this rule has been in place for years as an agency policy. Experience has shown that there will be no compliance costs for affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The content of this rule has

been in place for years as an agency policy. Experience has shown that there should be no fiscal impact on businesses.

**EMERGENCY RULE REASON AND JUSTIFICATION:** REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

The passage of S.B. 30 requires agencies to replace policies with rules. (DAR NOTE: S.B. 30 may be found at UT L 2003 Ch 197, and is effective May 5, 2003.)

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

HUMAN SERVICES  
 CHILD AND FAMILY SERVICES  
 Room 225  
 120 N 200 W  
 SALT LAKE CITY UT 84103-1500, or  
 at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**  
 Steven Bradford at the above address, by phone at 801-538-8210, by FAX at 801-538-3993, or by Internet E-mail at sbradford@utah.gov

THIS RULE IS EFFECTIVE ON: 05/06/2003

AUTHORIZED BY: Richard Anderson, Director

**R512. Human Services, Child and Family Services.**

**R512-500. Kinship Services.**

**R512-500-1. Purpose and Authority.**

- A. The purpose of Kinship care is to:
1. make it possible for children who cannot remain safely at home to live with persons they may already know and trust;
  2. reduce the trauma children may experience when placed with a non-relative caregiver who is not known to the child;
  3. maintain children's family history, culture, and sense of identity;
  4. assist families to consider and rely on family resources and strengths; and
  5. support families to provide children the support they need.
- b. Pursuant to Sections 62A-4a-209 and 78-3a-307, the Division of Child and Family Services (DCFS) is authorized to provide kinship placements and services.

**R512-500-2. Qualifications.**

- A. Relatives will be considered for an emergency kinship placement when they meet the requirements of Sections 62A-4a-209 and 78-3a-307 and the following:
1. When the relative agrees to care for the child on an emergency basis under the following conditions:
    - a. The relative agrees not to allow the custodial parent or guardian to have any unauthorized contact with the child to contact law enforcement and DCFS if the custodial parent or guardian attempts to make unauthorized contact with the child;
    - b. The relative will agree not to talk to the child about the events that led to the removal, if the child wishes to talk about the events leading to the removal, refer to a therapist or other trusted individual who is not the relative caregiver;

c. The relative has been informed and understands that while they may be asked to be a potential long-term placement, DCFS will continue to search for other possible potential kinship placements for long-term care, if needed;

d. The relative is willing to assist the custodial parent or guardian in reunification efforts at the request of DCFS and to follow all court orders.

B. Criteria for an emergency kinship placement:

1. A relative will be considered as an emergency placement only if willing to provide the following:

a. Full names of all persons living in their household, including maiden names;

b. Social Security Numbers for all persons living in the household;

c. driver licenses or other identification for all persons living in the household, as applicable.

C. Assessment - Non-custodial Parent

1. The region in which the non-custodial parent resides will conduct an assessment of the non-custodial parent as follows:

a. home inspection that will assess space, accommodations, and safety.

b. interview of the non-custodial parent to determine the following:

i. nature and quality of the relationship between the child and non-custodial parent;

ii. ability and desire to protect the child from further abuse and neglect.

D. The DCFS worker will interview the child (when age appropriate) regarding the child's relationship and comfort level with the non-custodial parent.

E. Deciding between Relatives.

1. If more than one relative requests consideration for temporary or permanent placement of the child, the DCFS worker:

a. Will provide each relative with specific information on the methods and criteria used to assess suitability of a relative's home for the placement of the child;

b. May conduct a child and family team meeting for the purpose of assisting the relatives to come to consensus regarding which relative would be the most appropriate placement for the child;

c. Will determine which relative has the closest existing personal relationship with the child before making the recommendation to the court.

d. Will determine which placement should be made and make a recommendation to the court consistent with that determination.

**KEY: child welfare, kinship**

**May 6, 2003**

**62A-4a-209**

**78-3a-307**



**End of the Notices of 120-Day (Emergency) Rules Section**

# FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

---

Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by *Utah Code* Section 63-46a-9 (1998).

---

## Environmental Quality, Air Quality **R307-840** Lead-Based Paint Accreditation, Certification and Work Practice Standards

### FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 26249  
FILED: 05/05/2003, 17:21

### NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Statutory provisions under which the rule is enacted: Rule R307-840 implements Subsection 19-2-104(1)(i) which authorizes the Air Quality Board to make rules to implement the requirements for training, certification, and performance of 15 U.S.C. 2601 et seq., Toxic Substances Control Act, Subchapter IV--Lead Exposure Reduction, Sections 402 and 404.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: If the Utah program did not exist, U.S. EPA would run the program in Utah. Utah prefers to operate the program here using funding from EPA so this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at janmiller@utah.gov

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

EFFECTIVE: 05/05/2003



## Natural Resources, Wildlife Resources **R657-34**

### Procedures for Confirmation of Ordinances on Hunting Closures

### FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 26274  
FILED: 05/14/2003, 12:09

### NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 23-14-1(3)(b) states: "Communities may close areas to hunting for safety reasons after confirmation by the Wildlife Board." This rule provides the standards and procedures for a political subdivision within a community to use to obtain confirmation from the Wildlife Board to close an area to hunting for reasons of safety.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Division of Wildlife Resources and the Wildlife Board have not received written comments or verbal comments regarding this rule. Written comments received in opposition to the rule are resolved using existing policies and procedures or the issue is placed on the Regional Advisory Council's and Wildlife Board's

agenda for review and discussion during the annual process for taking public input. The public is welcome to view the Regional Advisory Council minutes, Wildlife Board minutes and administrative record for this rule at the Division of Wildlife Resources.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-34 is necessary to provide the procedures for a political subdivision within a community to obtain confirmation from the Wildlife Board to close an area to hunting for reasons of safety. The provisions adopted in this rule are effective. Continuation of this rule is necessary to provide the standards and procedures for obtaining confirmation from the Wildlife Board.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debbie Sundell at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at debbiesundell@utah.gov

AUTHORIZED BY: Kevin Conway, Director

EFFECTIVE: 05/14/2003



## Natural Resources, Wildlife Resources **R657-37** Cooperative Wildlife Management Units for Big Game

### FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 26275  
FILED: 05/14/2003, 12:09

### NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under Section 23-23-3, the Wildlife Board is authorized to make rules applicable to cooperative wildlife management units (CWMU) for big game to administer and enforce the provisions of Title 23, Chapter 23.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Division of Wildlife Resources (DWR) and the Wildlife Board have not received

written comments during the last five-years. However, DWR and Wildlife Board have received verbal comments, both in support and opposition to Rule R657-37. Verbal comment received during the last five-year review specifically regarded:

1) providing landowner's criteria in posting all boundaries of a CWMU in accordance with Subsection 23-23-7(6)(a); 2) clarifying that permits shall not be issued for spike bull elk; 3) providing criteria that DWR will consider when renewing a CWMU Certificate of Registration and the procedures for forwarding the renewal to the Wildlife Board for approval of permit numbers; 4) clarify that reciprocal hunting agreements within CWMUs may only be approved to raise funds to address joint habitat improvement projects, or address emergency situations limiting hunting opportunity on a CWMU; 5) allowing a 61-day season variance for buck deer and provide the criteria for establishing the season; and 6) providing a CWMU Advisory Committee to hear complaints regarding CWMUs, review the operation of the CWMU program, and make advisory recommendations to DWR's director or Wildlife Board regarding such matters. Written comments received in opposition to the rule are resolved using existing policies and procedures or the issue is placed on the Regional Advisory Council's and Wildlife Board's agenda for review and discussion during the annual process for taking public input. The public is welcome to view the Regional Advisory Council minutes, Wildlife Board minutes, and administrative record for this rule at DWR.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-37 provides the procedures, standards, and requirements for the establishment of a CWMU. The provisions adopted in this rule are effective in providing the standards and requirements for establishing CWMUs and providing adequate protection to landowners who open their lands for hunting and provide additional hunting opportunities. Continuation of this rule is necessary for continued success of this program.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debbie Sundell at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at debbiesundell@utah.gov

AUTHORIZED BY: Kevin Conway, Director

EFFECTIVE: 05/14/2003



**Natural Resources, Wildlife Resources**  
**R657-42**  
 Accepted Payment of Fees,  
 Exchanges, Surrenders, Refunds and  
 Reallocation of Licenses, Certificates of  
 Registration and Permits

**FIVE YEAR NOTICE OF REVIEW AND  
 STATEMENT OF CONTINUATION**

DAR FILE No.: 26278  
 FILED: 05/14/2003, 12:12

**NOTICE OF REVIEW AND  
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under Sections 23-19-1 and 23-19-38, the Wildlife Board is authorized to provide the requirements and procedures applicable to the issuance of licenses, permits, tag, and certificates of registration.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Division of Wildlife Resources (DWR) and the Wildlife Board have not received written comments since the last five-year review of Rule R657-42. Written comments received in opposition to the rule are resolved using existing policies and procedures or the issue is placed on the Regional Advisory Council's and Wildlife Board's agenda for review and discussion during the annual process for taking public input. The public is welcome to view the Regional Advisory Council minutes, Wildlife Board minutes and administrative record for this rule at DWR.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-42 provides the procedures, standards, and requirements applicable to the division issuing licenses, permits, tags, and certificates of registration. Specifically, this rule provides the standards and procedures for the exchange of permits; surrender of licenses, permits, and certificates of registration; the refund of licenses, permits and certificates of registration; and the reallocation of permits. The provisions adopted in this rule are effective in providing the standards and requirements for the division issuing licenses, permits, tags, and certificates of registration. Continuation of this rule is necessary for continued success of efficiently and fairly issuing licenses, permits, tags, and certificates of registration.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debbie Sundell at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at debbiesundell@utah.gov

AUTHORIZED BY: Kevin Conway, Director

EFFECTIVE: 05/14/2003



**Natural Resources, Wildlife Resources**  
**R657-45**  
 Wildlife License, Permit, Certificate of  
 Registration, Habitat Authorization and  
 Heritage Certificate Forms

**FIVE YEAR NOTICE OF REVIEW AND  
 STATEMENT OF CONTINUATION**

DAR FILE No.: 26280  
 FILED: 05/14/2003, 12:13

**NOTICE OF REVIEW AND  
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under Sections 23-14-19 and 23-19-2, the Wildlife Board is authorized and required to prescribe the form of a wildlife license, permit, and certificate of registration.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Division of Wildlife Resources (DWR) and the Wildlife Board have not received written comments since the enactment of Rule R657-45. Written comments received in opposition to the rule are resolved using existing policies and procedures or the issue is placed on the Regional Advisory Council's and Wildlife Board's agenda for review and discussion during the annual process for taking public input. The public is welcome to view the Regional Advisory Council minutes, Wildlife Board minutes and administrative record for this rule at DWR.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-45 is established for prescribing the forms of a wildlife license, permit, and certificate of registration. The provisions adopted in this rule are effective in prescribing the form of a license, permit, and certificate of registration. Continuation of this rule is necessary for prescribing the form of a license, permit, and certificate of registration.

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

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

4707, by FAX at 801-538-4745, or by Internet E-mail at [debbiesundell@utah.gov](mailto:debbiesundell@utah.gov)

AUTHORIZED BY: Kevin Conway, Director

EFFECTIVE: 05/14/2003

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Debbie Sundell at the above address, by phone at 801-538-



**End of the Five-Year Notices of Review and Statements of Continuation Section**



## NOTICES OF RULE EFFECTIVE DATES

---

These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. These effective dates are at least 31 days and not more than 120 days after the date the following rules were published.

---

### Abbreviations

AMD = Amendment  
CPR = Change in Proposed Rule  
NEW = New Rule  
R&R = Repeal and Reenact  
REP = Repeal

### Administrative Services

#### Fleet Operations

No. 25879 (AMD): R27-3. Vehicle Use Standards.  
Published: January 15, 2003  
Effective: May 15, 2003

### Education

#### Administration

No. 26087 (AMD): R277-717. Math, Engineering, Science Achievement (MESA).  
Published: April 1, 2003  
Effective: May 2, 2003

### Environmental Quality

#### Radiation Control

No. 26074 (AMD): R313-19-100. Transportation.  
Published: April 1, 2003  
Effective: May 9, 2003

No. 26086 (AMD): R313-25. License Requirements for Land Disposal of Radioactive Waste - General Provisions.  
Published: April 1, 2003  
Effective: May 9, 2003

### Health

#### Health Care Financing, Coverage and Reimbursement Policy

No. 25967 (NEW): R414-5. Reduction in Hospital Payments.  
Published: February 1, 2003  
Effective: May 13, 2003

No. 25974 (NEW): R414-6. Reduction in Certain Targeted Case Management Services.  
Published: February 1, 2003  
Effective: May 13, 2003

### Human Services

#### Administration, Administrative Services, Licensing

No. 26071 (AMD): R501-2. Core Standards.  
Published: April 1, 2003  
Effective: May 6, 2003

#### Services for People with Disabilities

No. 25975 (AMD): R539-3. Service Coordination.  
Published: February 1, 2003  
Effective: May 5, 2003

No. 25949 (AMD): R539-8-3. Supported Employment.  
Published: February 1, 2003  
Effective: May 5, 2003

### Labor Commission

#### Safety

No. 26109 (AMD): R616-3-3. Safety Codes for Elevators.  
Published: April 1, 2003  
Effective: May 8, 2003

**End of the Notices of Rule Effective Dates Section**

**RULES INDEX  
BY AGENCY (CODE NUMBER)  
AND  
BY KEYWORD (SUBJECT)**

---

The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 2003, including notices of effective date received through May 15, 2003, the effective dates of which are no later than June 1, 2003. The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

DAR NOTE: The index may contain inaccurate page number references. Also the index is incomplete in the sense that index entries for Changes in Proposed Rules (CPRs) are not preceded by entries for their parent Proposed Rules. These difficulties with the index are related to a new software package used by the Division to create the Bulletin and related publications; we hope to have them resolved as soon as possible. Bulletin issue information and effective date information presented in the index are, to the best of our knowledge, complete and accurate. If you have any questions regarding the index and the information it contains, please contact Nancy Lancaster (801 538-3218), Mike Broschinsky (801 538-3003), or Kenneth A. Hansen (801 538-3777).

A copy of the *Rules Index* is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.utah.gov/>).

---

**RULES INDEX - BY AGENCY (CODE NUMBER)**

**ABBREVIATIONS**

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	* = Text too long to print in <i>Bulletin</i> , or repealed text not printed in <i>Bulletin</i>
5YR = Five-Year Review	
EXD = Expired	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b>Administrative Services</b>					
<u>Facilities Construction and Management</u>					
R23-3	Authorization of Programs for Capital Development Projects	25639	R&R	01/02/2003	2002-23/3
R23-3	Planning and Programming for Capital Projects	25989	AMD	03/24/2003	2003-4/4
R23-4	Contract Performance Review Committee and Suspension/Debarment From Consideration for Award of State Contracts	25964	5YR	01/15/2003	2003-3/62
R23-4	Contract Performance Review Committee and Suspension/Debarment From Consideration for Award of State Contracts	25783	AMD	02/04/2003	2003-1/3
R23-5	Contingency Funds	25955	5YR	01/15/2003	2003-3/62
R23-6	Value Engineering and Life Cycle Costing of State-Owned Facilities Rules and Regulations	25956	5YR	01/15/2003	2003-3/63
R23-7	Utah State Building Board Policy Statement Master Planning	25770	REP	02/04/2003	2003-1/5

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R23-7	Utah State Building Board Policy Statement Master Planning (5YR EXTENSION)	25984	NSC	02/04/2003	Not Printed
R23-8	Planning Fund Use	25640	REP	01/02/2003	2002-23/5
R23-9	Building Board State/Local Cooperation Policy	25957	5YR	01/15/2003	2003-3/63
R23-9	Building Board State/Local Cooperation Policy	25988	R&R	03/24/2003	2003-4/5
R23-10	Naming of State Buildings	25962	5YR	01/15/2003	2003-3/64
R23-10	Naming of State Buildings	25784	AMD	02/04/2003	2003-1/5
R23-11	Facilities Allocation and Sale Procedures	25771	REP	02/04/2003	2003-1/7
R23-11	Facilities Allocation and Sales Procedures (5YR EXTENSION)	25986	NSC	02/04/2003	Not Printed
R23-13	State of Utah Parking Rules for Facilities Managed by the Division of Facilities Construction and Management	26117	5YR	03/25/2003	2003-8/43
R23-21	Division of Facilities Construction and Management Lease Procedures	25959	5YR	01/15/2003	2003-3/64
R23-24	Capital Projects Utilizing Non-appropriated Funds	25960	5YR	01/15/2003	2003-3/65
<u>Finance</u>					
R25-6	Relocation Reimbursement	26206	5YR	05/01/2003	2003-10/150
R25-7	Travel-Related Reimbursements for State Employees	26203	5YR	05/01/2003	2003-10/150
<u>Fleet Operations</u>					
R27-3	Vehicle Use Standards	25879	AMD	05/15/2003	2003-2/5
<b>Alcoholic Beverage Control</b>					
<u>Administration</u>					
R81-1-17	Advertising	25886	AMD	02/26/2003	2003-2/5
R81-5-5	Advertising	25887	AMD	02/26/2003	2003-2/8
R81-7-3	Guidelines for Issuing Permits for Outdoor or Large-Scale Public Events	25650	AMD	01/24/2003	2002-24/6
<b>Commerce</b>					
<u>Administration</u>					
R151-14	New Automobile Franchise Act Rules	25624	AMD	01/02/2003	2002-23/6
R151-33	Pete Suazo Utah Athletic Commission Act Rule	25649	AMD	01/15/2003	2002-24/7
R151-35	Powersport Vehicle Franchise Act Rule	25724	NEW	01/15/2003	2002-24/9
R151-46b	Department of Commerce Administrative Procedures Act Rules	25822	AMD	02/18/2003	2003-1/8
<u>Corporations and Commercial Code</u>					
R154-2	Utah Uniform Commercial Code, Revised Article 9 Rules	25549	AMD	03/14/2003	2002-22/7
R154-10	Utah Digital Signatures Rules	25553	AMD	03/14/2003	2002-22/9
<u>Occupational and Professional Licensing</u>					
R156-22	Professional Engineers and Professional Land Surveyors Licensing Act Rules	25922	5YR	01/13/2003	2003-3/65
R156-22	Professional Engineers and Professional Land Surveyors Licensing Act Rules	25763	AMD	04/03/2003	2003-1/10
R156-22	Professional Engineers and Professional Land Surveyors Licensing Act Rules	25763	CPR	04/03/2003	2003-5/27
R156-46a	Hearing Instrument Specialist Licensing Act Rules	25987	AMD	03/18/2003	2003-4/7
R156-47b-302a	Qualifications for Licensure as a Massage Therapist - Massage School Curriculum Standards - Equivalent Education and Training	25651	AMD	01/16/2003	2002-24/10
R156-59	Professional Employer Organization Act Rules	25920	5YR	01/09/2003	2003-3/66
R156-60a	Social Worker Licensing Act Rules	25629	AMD	01/02/2003	2002-23/8

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>Real Estate</u>					
R162-8-9	Disclosure Requirements	25663	AMD	01/16/2003	2002-24/11
R162-105	Scope of Authority	26024	AMD	04/23/2003	2003-5/4
R162-106	Professional Conduct	26060	AMD	04/23/2003	2003-6/3
R162-107	Unprofessional Conduct	25981	5YR	01/21/2003	2003-4/52
<b>Community and Economic Development</b>					
<u>Community Development, History</u>					
R212-1	Adjudicative Proceedings	25630	AMD	01/06/2003	2002-23/10
R212-1	Adjudicative Proceedings	25570	AMD	01/06/2003	2002-22/10
R212-4	Archaeological Permits	25787	AMD	03/11/2003	2003-1/13
<b>Corrections</b>					
<u>Administration</u>					
R251-110	Sex Offender Notification	25991	AMD	03/21/2003	2003-4/9
R251-304	Contract Procedures	25885	AMD	02/19/2003	2003-2/9
R251-304	Contract Procedures	26053	5YR	02/21/2003	2003-6/17
<b>Education</b>					
<u>Administration</u>					
R277-469	Instructional Materials Commission Operating Procedures	26157	5YR	04/04/2003	2003-9/135
R277-470	Charter Schools	25726	AMD	01/15/2003	2002-24/12
R277-483	Persistently Dangerous Schools	25965	NEW	03/07/2003	2003-3/5
R277-485	Loss of Enrollment	25966	NEW	03/07/2003	2003-3/7
R277-508	Employment of Substitute Teachers	26188	5YR	04/25/2003	2003-10/151
R277-516	Library Media Certificates and Programs	25925	5YR	01/14/2003	2003-3/67
R277-518	Vocational-Technical Certificates	25926	5YR	01/14/2003	2003-3/67
R277-600	Student Transportation Standards and Procedures	25928	5YR	01/14/2003	2003-3/68
R277-605	Coaching Standards and Athletic Clinics	25931	5YR	01/14/2003	2003-3/68
R277-610	Released-Time Classes for Religious Instruction	25932	5YR	01/14/2003	2003-3/68
R277-611	Medical Recommendations by School Personnel to Parents	25647	NEW	01/03/2003	2002-23/12
R277-615	Foreign Exchange Students	25933	5YR	01/14/2003	2003-3/69
R277-700	The Elementary and Secondary School Core Curriculum	25935	5YR	01/14/2003	2003-3/69
R277-702	Procedures for the Utah General Educational Development Certificate	25936	5YR	01/14/2003	2003-3/70
R277-705	Secondary School Completion and Diplomas	25648	AMD	01/03/2003	2002-23/13
R277-709	Education Programs Serving Youth in Custody	25937	5YR	01/14/2003	2003-3/70
R277-717	Math, Engineering, Science Achievement (MESA)	26087	AMD	05/02/2003	2003-7/6
R277-718	Utah Career Teaching Scholarship Program	25938	5YR	01/14/2003	2003-3/71
R277-721	Deadline for CACFP Sponsor Participation in Food Distribution Program	25929	5YR	01/14/2003	2003-3/71
R277-722	Withholding Payments and Commodities in the CACFP	25930	5YR	01/14/2003	2003-3/72
R277-730	Alternative High School Curriculum	25939	5YR	01/14/2003	2003-3/72
R277-746	Driver Education Programs for Utah Schools	26089	5YR	03/12/2003	2003-7/73
R277-747	Private School Student Driver Education	26090	5YR	03/12/2003	2003-7/73
R277-751	Special Education Extended School Year	26091	5YR	03/12/2003	2003-7/74

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>Applied Technology Education (Board for), Rehabilitation</u>					
R280-200	Rehabilitation	26088	5YR	03/12/2003	2003-7/74
R280-203	Certification Requirements for Interpreters for the Hearing Impaired	25646	AMD	01/03/2003	2002-23/16
<b>Environmental Quality</b>					
<u>Air Quality</u>					
R307-121	General Requirements: Eligibility of Vehicles That Use Cleaner Burning Fuels or Conversion of Vehicles and Special Fuel Mobile Equipment To Use Cleaner Burning Fuels for Corporate and Individual Income Tax Credits.	25495	AMD	01/09/2003	2002-21/6
R307-840	Lead-Based Paint Accreditation, Certification and Work Practice Standards	26249	5YR	05/05/2003	2003-11/96
<u>Drinking Water</u>					
R309-710	Drinking Water Source Protection Funding	25863	REP	03/05/2003	2003-2/10
<u>Environmental Response and Remediation</u>					
R311-207	Accessing the Petroleum Storage Tank Trust Fund for Leaking Petroleum Storage Tanks	25161	CPR	02/04/2003	2003-1/46
<u>Radiation Control</u>					
R313-12-3	Definitions	25785	AMD	03/14/2003	2003-1/22
R313-15	Standards for Protection Against Radiation	25943	5YR	01/14/2003	2003-3/73
R313-19-100	Transportation	26074	AMD	05/09/2003	2003-7/9
R313-25	License Requirements for Land Disposal of Radioactive Waste - General Provisions	26086	AMD	05/09/2003	2003-7/10
R313-28	Use of X-Rays in the Healing Arts	25786	AMD	03/14/2003	2003-1/27
<u>Solid and Hazardous Waste</u>					
R315-15	Standards for the Management of Used Oil	26064	5YR	03/03/2003	2003-7/75
R315-301	Solid Waste Authority, Definitions, and General Requirements	26092	5YR	03/14/2003	2003-7/75
R315-302	Solid Waste Facility Location Standards, General Facility Requirements, and Closure Requirements	26093	5YR	03/14/2003	2003-7/76
R315-303	Landfilling Standards	26094	5YR	03/14/2003	2003-7/77
R315-305	Class IV and VI Landfill Requirements	26095	5YR	03/14/2003	2003-7/78
R315-306	Energy Recovery and Incinerator Standards	26096	5YR	03/14/2003	2003-7/79
R315-307	Landtreatment Disposal Standards	26097	5YR	03/14/2003	2003-7/79
R315-308	Ground Water Monitoring Requirements	26098	5YR	03/14/2003	2003-7/80
R315-309	Financial Assurance	26100	5YR	03/14/2003	2003-7/81
R315-310	Permit Requirements for Solid Waste Facilities	26099	5YR	03/14/2003	2003-7/82
R315-311	Permit Approval for Solid Waste Disposal, Waste Tire Storage, Energy Recovery, And Incinerator Facilities	26101	5YR	03/14/2003	2003-7/82
R315-312	Recycling and Composting Facility Standards	26102	5YR	03/14/2003	2003-7/83
R315-313	Transfer Stations and Drop Box Facilities	26103	5YR	03/14/2003	2003-7/84
R315-314	Facility Standards for Piles Used for Storage and Treatment	26104	5YR	03/14/2003	2003-7/84
R315-315	Special Waste Requirements	26105	5YR	03/14/2003	2003-7/85
R315-316	Infectious Waste Requirements	26106	5YR	03/14/2003	2003-7/86
R315-317	Other Processes, Variances, and Violations	26107	5YR	03/14/2003	2003-7/87
R315-318	Permit by Rule	26108	5YR	03/14/2003	2003-7/87
<u>Water Quality</u>					
R317-1	Definitions and General Requirements	25636	AMD	01/30/2003	2002-23/17

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R317-4-3	Onsite Wastewater Systems General Requirements	25203	AMD	01/10/2003	2002-18/43
R317-4-3	Onsite Wastewater Systems General Requirements	25635	AMD	01/30/2003	2002-23/21
R317-6-6	Implementation	25632	AMD	01/30/2003	2002-23/25
R317-7-13	Public Participation	25631	AMD	01/30/2003	2002-23/32
R317-8	Utah Pollutant Discharge Elimination System (UPDES)	25634	AMD	01/30/2003	2002-23/33
R317-9	Administrative Procedures	25633	NEW	02/05/2003	2002-23/74
R317-10	Certification of Wastewater Works Operators.	25638	AMD	01/30/2003	2002-23/78
R317-11	Certification Required to Design, Inspect and Maintain Underground Wastewater Disposal Systems, or Conduct Percolation and Soil Tests for Underground Wastewater Disposal Systems	25637	AMD	01/30/2003	2002-23/80
R317-101	Utah Wastewater Project Assistance Program	26183	5YR	04/22/2003	2003-10/151
<b>Health</b>					
<u>Administration</u>					
R380-250	HIPAA Privacy Rule Implementation	26161	EMR	04/14/2003	2003-9/131
<u>Community and Family Health Services, Immunization</u>					
R396-100	Immunization Rule for Students	26187	5YR	04/24/2003	2003-10/152
<u>Health Care Financing, Coverage and Reimbursement Policy</u>					
R414-1-5	State Plan	26244	EMR	05/02/2003	2003-11/74
R414-5	Reduction in Outlier Reimbursements	25889	EMR	01/03/2003	2003-2/55
R414-5	Reduction in Hospital Payments	25948	EMR	01/15/2003	2003-3/52
R414-5	Reduction in Hospital Payments	25967	NEW	05/13/2003	2003-3/8
R414-6	Reduction in Certain Targeted Case Management Services	25969	EMR	01/15/2003	2003-3/53
R414-6	Reduction in Certain Targeted Case Management Services	25974	NEW	05/13/2003	2003-3/9
R414-10	Physician Services	26010	EMR	02/01/2003	2003-4/45
R414-10	Physician Services	26036	EMR	02/11/2003	2003-5/33
R414-10	Physician Services	26008	AMD	04/07/2003	2003-4/11
R414-13	Psychology Services	25907	5YR	01/03/2003	2003-3/74
R414-13	Psychology Services (5YR EXTENSION)	25192	NSC	01/03/2003	Not Printed
R414-21	Physical Therapy	25968	EMR	01/15/2003	2003-3/54
R414-21	Physical Therapy	25973	AMD	04/07/2003	2003-3/10
R414-27	Medicare Nursing Home Certification	25982	5YR	01/21/2003	2003-4/52
R414-52	Optometry Services	25970	EMR	01/15/2003	2003-3/57
R414-52	Optometry Services	25976	AMD	04/09/2003	2003-3/14
R414-53	Eyeglasses Services	25971	EMR	01/15/2003	2003-3/59
R414-53	Eyeglasses Services	25972	AMD	04/07/2003	2003-3/15
R414-60	Medicaid Policy for Pharmacy Copayment Procedures	26011	EMR	02/01/2003	2003-4/50
R414-60	Medicaid Policy for Pharmacy Copayment Procedures	26009	AMD	04/07/2003	2003-4/16
R414-63	Medicaid Policy for Pharmacy Reimbursement	25898	AMD	04/07/2003	2003-2/12
R414-301	Medicaid General Provisions	26004	5YR	01/31/2003	2003-4/53
R414-302	Eligibility Requirements	26005	5YR	01/31/2003	2003-4/53
R414-303	Coverage Groups	26012	5YR	01/31/2003	2003-4/54
R414-304	Income and Budgeting	26017	5YR	01/31/2003	2003-4/55

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R414-305	Resources	26018	5YR	01/31/2003	2003-4/55
R414-306	Program Benefits	26019	5YR	01/31/2003	2003-4/56
R414-307	Eligibility Determination and Redetermination	26020	5YR	01/31/2003	2003-4/56
R414-308	Record Management	26021	5YR	01/31/2003	2003-4/57
R414-504	Nursing Facility Payments	25897	AMD	02/17/2003	2003-2/21
<u>Health Systems Improvement, Emergency Medical Services</u>					
R426-100	Emergency Medical Services Do Not Resuscitate	25864	AMD	03/14/2003	2003-2/24
<u>Center for Health Data, Health Care Statistics</u>					
R428-11	Health Data Authority Ambulatory Surgical Data Reporting Rule	26080	5YR	03/10/2003	2003-7/88
R428-13	Health Data Authority, Audit and Reporting of HMO Performance Measures	26079	5YR	03/10/2003	2003-7/89
<u>Health Systems Improvement, Child Care Licensing</u>					
R430-6	Criminal Background Screening	25921	5YR	01/10/2003	2003-3/74
R430-6	Criminal Background Screening	25865	AMD	03/13/2003	2003-2/25
R430-100	Child Care Center	25944	5YR	01/15/2003	2003-3/75
<u>Health Systems Improvement, Licensing</u>					
R432-3	General Health Care Facility Rules Inspection and Enforcement	25868	AMD	03/13/2003	2003-2/29
R432-5	Nursing Facility Construction	25452	AMD	01/15/2003	2002-21/92
R432-13	Freestanding Ambulatory Surgical Center Construction	25791	AMD	03/13/2003	2003-1/32
R432-14	Birthing Center Construction	25792	AMD	03/13/2003	2003-1/34
R432-16	Hospice Inpatient Facility Construction	26038	5YR	02/12/2003	2003-5/39
R432-35	Background Screening	25866	AMD	03/13/2003	2003-2/30
R432-100-38	Emergency and Disaster Plan	25867	AMD	03/13/2003	2003-2/33
<b>Human Services</b>					
<u>Administration</u>					
R495-881	HIPAA Privacy Rule Implementation	26160	EMR	04/14/2003	2003-9/133
<u>Administration, Administrative Services, Licensing</u>					
R501-1	General Provisions	25652	AMD	01/30/2003	2002-24/15
R501-2	Core Standards	26071	AMD	05/06/2003	2003-7/19
R501-8	Outdoor Youth Programs	25707	AMD	01/17/2003	2002-24/19
R501-11	Social Detoxification Programs	25660	AMD	01/30/2003	2002-24/25
R501-12	Child Foster Care	25644	AMD	01/30/2003	2002-23/82
R501-16	Intermediate Secure Treatment Programs for Minors (5YR EXTENSION)	25703	NSC	02/26/2003	Not Printed
R501-16	Intermediate Secure Treatment Programs for Minors	26055	5YR	02/26/2003	2003-6/17
R501-17	Adult Foster Care	26084	5YR	03/11/2003	2003-7/89
<u>Aging and Adult Services</u>					
R510-100-2	In-Home Services	26259	EMR	05/15/2003	2003-11/75
R510-105	Out and About Homebound Transportation Assistance Fund Rules	25552	NEW	03/14/2003	2002-22/14
R510-401	Utah Caregiver Support Program	25557	CPR	04/16/2003	2003-5/28
<u>Child and Family Services</u>					
R512-100	Home Based Services	26258	EMR	05/06/2003	2003-11/77
R512-200	Child Protective Services, Intake Services	26256	EMR	05/06/2003	2003-11/79

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R512-201	Child Protective Services, Investigation Services	26255	EMR	05/06/2003	2003-11/81
R512-202	Allegations Categories	26254	EMR	05/06/2003	2003-11/83
R512-300	Out of Home Services	26252	EMR	05/06/2003	2003-11/85
R512-301	Out of Home Services, Responsibilities Pertaining to a Parent or Guardian	26253	EMR	05/06/2003	2003-11/87
R512-302	Out of Home Services, Responsibilities Pertaining to an Out of Home Caregiver	26250	EMR	05/06/2003	2003-11/90
R512-305	Out of Home Services, Independent Living Services	26257	EMR	05/06/2003	2003-11/92
R512-500	Kinship Services	26251	EMR	05/06/2003	2003-11/94
<u>Recovery Services</u>					
R527-3	Definitions	25977	AMD	03/19/2003	2003-4/26
R527-39	Applicant/Recipient Cooperation	25979	5YR	01/17/2003	2003-4/57
R527-39	Applicant/Recipient Cooperation	26061	AMD	04/21/2003	2003-6/8
R527-56	In-Kind Support	26075	5YR	03/10/2003	2003-7/90
R527-201	Medical Support Services	25869	AMD	03/05/2003	2003-2/34
R527-305	High-Volume, Automated Administrative Enforcement in Interstate Child Support Cases	26076	5YR	03/10/2003	2003-7/91
R527-430	Administrative Notice of Lien-Levy Procedures	25980	5YR	01/21/2003	2003-4/57
<u>Services for People with Disabilities</u>					
R539-3	Service Coordination	25975	AMD	05/05/2003	2003-3/16
R539-8-3	Supported Employment	25949	AMD	05/05/2003	2003-3/20
<b>Insurance</b>					
<u>Administration</u>					
R590-76	Health Maintenance Organization and Limited Health Plans	25870	AMD	02/26/2003	2003-2/35
R590-94	Rule Permitting Smoker/Nonsmoker Mortality Tables for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits	26182	5YR	04/17/2003	2003-10/153
R590-124	Loss Information Rule	25990	5YR	01/24/2003	2003-4/58
R590-154	Unfair Marketing Practices Rule	26181	5YR	04/17/2003	2003-10/153
R590-155	Disclosure of Life and Health Guaranty Association Limitations	25993	5YR	01/24/2003	2003-4/59
R590-157	Taxation of Surplus Lines Premiums	26033	5YR	02/10/2003	2003-5/39
R590-160	Administrative Proceedings	25643	AMD	01/09/2003	2002-23/86
R590-172	Notice to Uninsurable Applicants for Health Insurance	25626	AMD	01/09/2003	2002-23/91
R590-183	Title Plant Rule (EXPIRED RULE)	25908	NSC	01/02/2003	Not Printed
R590-199	Plan of Orderly Withdrawal Rule Relating to Health Benefit Plans	25628	CPR	03/14/2003	2003-3/50
R590-199	Plan of Orderly Withdrawal Rule Relating to Health Benefit Plans	25628	AMD	03/14/2003	2002-23/92
R590-215	Permissible Arbitration Provisions for Individual and Group Health Insurance	25093	CPR	01/09/2003	2002-23/100
R590-215	Permissible Arbitration Provisions for Individual and Group Health Insurance	25093	NEW	01/09/2003	2002-15/65
R590-218	Permitted Language for Reservation of Discretion Clauses	25670	NEW	03/21/2003	2002-24/28
<b>Labor Commission</b>					
<u>Occupational Safety and Health</u>					
R614-1-4	Incorporation of Federal Standards	25941	AMD	03/04/2003	2003-3/26



CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>Safety</u>					
R616-3-3	Safety Codes for Elevators	26109	AMD	05/08/2003	2003-7/52
<b>Natural Resources</b>					
<u>Administration</u>					
R634-1	Americans With Disabilities Complaint Procedure	25950	5YR	01/15/2003	2003-3/76
R634-1	Americans With Disabilities Complaint Procedure	25951	AMD	03/04/2003	2003-3/27
<u>Parks and Recreation</u>					
R651-102	Government Records Access Management Act	26039	5YR	02/13/2003	2003-5/40
R651-227	Boating Safety Course Fees	26173	5YR	04/15/2003	2003-9/135
R651-301	State Recreation Fiscal Assistance Programs	26040	5YR	02/13/2003	2003-5/40
R651-408	Off-Highway Vehicle Education Curriculum Standards	26026	AMD	04/01/2003	2003-5/7
R651-410	Off-Highway Vehicle Safety Equipment	26028	NEW	04/01/2003	2003-5/8
R651-602	Aircraft and Powerless Flight	26029	AMD	04/01/2003	2003-5/9
R651-611	Fee Schedule	25837	AMD	03/31/2003	2003-2/38
<u>Water Rights</u>					
R655-5	Maps Submitted to the Division of Water Rights	26195	5YR	04/29/2003	2003-10/154
R655-7	Administrative Procedures for Notifying the State Engineer of Sewage Effluent Use or Change in the Point of Discharge for Sewage Effluent	25550	NEW	02/10/2003	2002-22/39
<u>Wildlife Resources</u>					
R657-3	Collection, Importation, Transportation and Possession of Zoological Animals	26167	5YR	04/15/2003	2003-9/136
R657-5	Taking Big Game	25720	AMD	01/15/2003	2002-24/29
R657-17	Lifetime Hunting and Fishing License	25721	AMD	01/15/2003	2002-24/46
R657-23	Process for Providing Proof of Completion of Hunter Education	25890	AMD	02/16/2003	2003-2/41
R657-33	Taking Bear	25892	AMD	02/16/2003	2003-2/43
R657-33-6	Firearms and Archery Permits	26056	AMD	04/15/2003	2003-6/15
R657-34	Procedures for Confirmation of Ordinances on Hunting Closures	26274	5YR	05/14/2003	2003-11/96
R657-37	Cooperative Wildlife Management Units for Big Game	26275	5YR	05/14/2003	2003-11/97
R657-38	Dedicated Hunter Program	25722	AMD	01/15/2003	2002-24/48
R657-42	Accepted Payment of Fees, Late Fees, Exchanges, Surrenders, Refunds and Reallocation of Licenses, Certificates of Registration and Permits	25723	AMD	01/15/2003	2002-24/52
R657-42	Accepted Payment of Fees, Exchanges, Surrenders, Refunds and Reallocation of Licenses, Certificates of Registration and Permits	26278	5YR	05/14/2003	2003-11/98
R657-44	Big Game Depredation	25894	R&R	02/16/2003	2003-2/46
R657-45	Wildlife License, Permit, Certificate of Registration, Habitat Authorization and Heritage Certificate Forms	26280	5YR	05/14/2003	2003-11/98
<b>Pardons (Board Of)</b>					
<u>Administration</u>					
R671-102	Americans with Disabilities Act Complaint Procedure Rule	25345	AMD	02/12/2003	2002-20/102
R671-202	Notification of Hearings	25350	AMD	02/12/2003	2002-20/104

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R671-308	Offender Hearing Assistance	25394	AMD	02/12/2003	2002-20/110
R671-311	Special Attention Hearings and Reviews	25398	AMD	02/12/2003	2002-20/112
R671-403	Restitution	26050	5YR	02/18/2003	2003-6/18
<b>Professional Practices Advisory Commission</b>					
<u>Administration</u>					
R686-100	Professional Practices Advisory Commission, Rules of Procedure: Complaints and Hearings	26032	5YR	02/07/2003	2003-5/41
<b>Public Safety</b>					
<u>Driver License</u>					
R708-39	Physical and Mental Fitness Testing	25645	NEW	01/24/2003	2002-23/97
<u>Fire Marshal</u>					
R710-1	Concerns Servicing Portable Fire Extinguishers	25954	AMD	03/06/2003	2003-3/29
R710-4	Buildings Under the Jurisdiction of the State Fire Prevention Board	26006	AMD	03/18/2003	2003-4/28
R710-7	Concerns Servicing Automatic Fire Suppression Systems	25961	AMD	03/06/2003	2003-3/36
R710-7	Concerns Servicing Automatic Fire Suppression Systems	26001	AMD	03/18/2003	2003-4/32
R710-9	Rules Pursuant to the Utah Fire Prevention Law	26003	AMD	03/18/2003	2003-4/38
<u>Criminal Investigations and Technical Services, Criminal Identification</u>					
R722-300	Concealed Firearm Permit Rule	25999	5YR	01/28/2003	2003-4/59
R722-300	Concealed Firearm Permit Rule (5YR EXTENSION)	25683	NSC	01/28/2003	Not Printed
R722-320	Undercover Identification	25998	5YR	01/28/2003	2003-4/60
R722-340	Emergency Vehicles	25996	5YR	01/28/2003	2003-4/60
R722-340	Emergency Vehicles (5YR EXTENSION)	25684	NSC	01/28/2003	Not Printed
<u>Peace Officer Standards and Training</u>					
R728-409	Refusal, Suspension, or Revocation of Peace Officer Certification	26072	EMR	03/07/2003	2003-7/62
R728-411	Guidelines Regarding Administrative Action Taken Against Individuals Functioning as Peace Officers without Peace Officer Certification or Powers	26067	5YR	03/04/2003	2003-7/91
<b>Public Service Commission</b>					
<u>Administration</u>					
R746-330	Rules for Water and Sewer Utilities Operating in Utah	26081	5YR	03/10/2003	2003-7/92
R746-331	Exemption of Mutually Owned Water Companies from Commission Regulation	26142	5YR	04/02/2003	2003-9/137
R746-332	Depreciation Rates for Water Utilities	26143	5YR	04/02/2003	2003-9/137
R746-342	Rule on One-Way Paging	26145	5YR	04/02/2003	2003-9/138
R746-347	Extended Area Service (EAS)	25578	NEW	03/10/2003	2002-22/44
R746-402	Rules Governing Reports of Accidents by Electric, Gas, Telephone, and Water Utilities	26146	5YR	04/02/2003	2003-9/138
R746-405	Rules Governing the Filing of Tariffs for Gas, Electric, Telephone, Water and Heat Utilities	26147	5YR	04/02/2003	2003-9/139
<b>Regents (Board Of)</b>					
<u>Administration</u>					
R765-171	Postsecondary Proprietary School Act Rules (5YR EXTENSION)	25712	NSC	03/31/2003	Not Printed
R765-171	Postsecondary Proprietary School Act Rules	25704	REP	03/31/2003	2002-24/55

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R765-555	Providing Facilities, Goods and Services in Competition with Private Enterprise	26141	5YR	04/02/2003	2003-9/139
R765-660	Utah State Student Incentive Grant Program	26134	5YR	04/01/2003	2003-8/43
R765-660	Utah State Student Incentive Grant Program (5YR EXTENSION)	25713	NSC	04/01/2003	Not Printed
<b>School and Institutional Trust Lands</b>					
<u>Administration</u>					
R850-120	Beneficiary Use of Institutional Trust Land	25953	AMD	03/04/2003	2003-3/43
<b>Tax Commission</b>					
<u>Administration</u>					
R861-1A-20	Time of Appeal Pursuant to Utah Code Ann. Sections 59-1-301, 59-1-401, 59-1-501, 59-2-1007, 59-7-517, 59-10-533, 59-12-114, 59-13-210, and 63-46b-3	25823	AMD	03/11/2003	2003-1/39
<u>Auditing</u>					
R865-9I-26	Petition For Redetermination of a Deficiency Pursuant to Utah Code Ann. Section 59-10-533	25829	AMD	03/11/2003	2003-1/40
R865-9I-27	Redetermination of Tax Deficiency by Tax Commission Pursuant to Utah Code Ann. Section 59-10-525	25828	AMD	03/11/2003	2003-1/41
R865-9I-28	Petition For Redetermination of Tax Commission Action On Claim For Refund Pursuant to Utah Code Ann. Section 59-10-533	25826	AMD	03/11/2003	2003-1/42
R865-9I-29	Action of Tax Commission on Redetermination Claim For Refund Pursuant to Utah Code Ann. Section 59-10-535	25819	AMD	03/11/2003	2003-1/43
R865-19S-61	Meals Furnished Pursuant to Utah Code Ann. Section 59-12-104	25924	AMD	04/23/2003	2003-3/44
<u>Property Tax</u>					
R884-24P-60	Age-Based Uniform Fee on Tangible Personal Property Required to be Registered with the State Pursuant to Utah Code Ann. Section 59-2-405.1	25917	EMR	01/06/2003	2003-3/60
R884-24P-60	Age-Based Uniform Fee on Tangible Personal Property Required to be Registered with the State Pursuant to Utah Code Ann. Section 59-2-405.1	26044	AMD	04/23/2003	2003-5/15
<b>Transportation</b>					
<u>Administration</u>					
R907-1	Administrative Procedure	26035	AMD	04/23/2003	2003-5/17
<b>Workforce Services</b>					
<u>Employment Development</u>					
R986-400-404	Participation Requirements	25827	AMD	02/06/2003	2003-1/43
R986-700-703	Client Rights and Responsibilities	26042	AMD	04/01/2003	2003-5/23
R986-700-709	Employment Support (ES) CC	26043	AMD	04/01/2003	2003-5/24
<u>Workforce Information and Payment Services</u>					
R994-406-311	Reschedule and Adjournment of Hearings	25946	AMD	03/04/2003	2003-3/46
R994-406-315	Finality of Decision	25947	AMD	03/04/2003	2003-3/48

**RULES INDEX - BY KEYWORD (SUBJECT)**

**ABBREVIATIONS**

AMD = Amendment  
 CPR = Change in proposed rule  
 EMR = Emergency rule (120 day)  
 NEW = New rule  
 5YR = Five-Year Review  
 EXD = Expired

NSC = Nonsubstantive rule change  
 REP = Repeal  
 R&R = Repeal and reenact  
 \* = Text too long to print in *Bulletin*, or  
 repealed text not printed in *Bulletin*

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<b><u>accidents</u></b>					
Public Service Commission, Administration	26146	R746-402	5YR	04/02/2003	2003-9/138
<b><u>accreditation</u></b>					
Education, Administration	25925	R277-516	5YR	01/14/2003	2003-3/67
<b><u>adjudicative proceedings</u></b>					
Community and Economic Development, Community Development, History	25630	R212-1	AMD	01/06/2003	2002-23/10
	25570	R212-1	AMD	01/06/2003	2002-22/10
<b><u>administrative procedures</u></b>					
Commerce, Administration	25822	R151-46b	AMD	02/18/2003	2003-1/8
Community and Economic Development, Community Development, History	25630	R212-1	AMD	01/06/2003	2002-23/10
	25570	R212-1	AMD	01/06/2003	2002-22/10
	25787	R212-4	AMD	03/11/2003	2003-1/13
Environmental Quality, Water Quality	25633	R317-9	NEW	02/05/2003	2002-23/74
School and Institutional Trust Lands, Administration	25953	R850-120	AMD	03/04/2003	2003-3/43
	26035	R907-1	AMD	04/23/2003	2003-5/17
<b><u>adult education</u></b>					
Education, Administration	25936	R277-702	5YR	01/14/2003	2003-3/70
<b><u>air pollution</u></b>					
Environmental Quality, Air Quality	25495	R307-121	AMD	01/09/2003	2002-21/6
	26249	R307-840	5YR	05/05/2003	2003-11/96
<b><u>air travel</u></b>					
Administrative Services, Finance	26203	R25-7	5YR	05/01/2003	2003-10/150
<b><u>alcoholic beverages</u></b>					
Alcoholic Beverage Control, Administration	25886	R81-1-17	AMD	02/26/2003	2003-2/5
	25887	R81-5-5	AMD	02/26/2003	2003-2/8
	25650	R81-7-3	AMD	01/24/2003	2002-24/6
<b><u>alternative onsite wastewater systems</u></b>					
Environmental Quality, Water Quality	25203	R317-4-3	AMD	01/10/2003	2002-18/43
<b><u>alternative schools</u></b>					
Education, Administration	25939	R277-730	5YR	01/14/2003	2003-3/72

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<b><u>animal protection</u></b> Natural Resources, Wildlife Resources	26167	R657-3	5YR	04/15/2003	2003-9/136
<b><u>appellate procedures</u></b> Workforce Services, Workforce Information and Payment Services	25946 25947	R994-406-311 R994-406-315	AMD AMD	03/04/2003 03/04/2003	2003-3/46 2003-3/48
<b><u>applications</u></b> Natural Resources, Water Rights	26195	R655-5	5YR	04/29/2003	2003-10/154
<b><u>appraisals</u></b> Tax Commission, Property Tax	25917 26044	R884-24P-60 R884-24P-60	EMR AMD	01/06/2003 04/23/2003	2003-3/60 2003-5/15
<b><u>archaeology</u></b> Community and Economic Development, Community Development, History	25787	R212-4	AMD	03/11/2003	2003-1/13
<b><u>assistance</u></b> Natural Resources, Parks and Recreation	26040	R651-301	5YR	02/13/2003	2003-5/40
<b><u>automobiles</u></b> Commerce, Administration	25624	R151-14	AMD	01/02/2003	2002-23/6
<b><u>banking</u></b> Commerce, Corporations and Commercial Code	25549	R154-2	AMD	03/14/2003	2002-22/7
<b><u>beam limitation</u></b> Environmental Quality, Radiation Control	25786	R313-28	AMD	03/14/2003	2003-1/27
<b><u>bear</u></b> Natural Resources, Wildlife Resources	25892 26056	R657-33 R657-33-6	AMD AMD	02/16/2003 04/15/2003	2003-2/43 2003-6/15
<b><u>beneficiaries</u></b> School and Institutional Trust Lands, Administration	25953	R850-120	AMD	03/04/2003	2003-3/43
<b><u>benefits</u></b> Health, Health Care Financing, Coverage and Reimbursement Policy	26005	R414-302	5YR	01/31/2003	2003-4/53
<b><u>big game</u></b> Natural Resources, Wildlife Resources	25894	R657-44	R&R	02/16/2003	2003-2/46
<b><u>big game seasons</u></b> Natural Resources, Wildlife Resources	25720	R657-5	AMD	01/15/2003	2002-24/29
<b><u>boating</u></b> Natural Resources, Parks and Recreation	26173	R651-227	5YR	04/15/2003	2003-9/135
<b><u>boxing</u></b> Commerce, Administration	25649	R151-33	AMD	01/15/2003	2002-24/7
<b><u>budgeting</u></b> Administrative Services, Facilities Construction and Management	25640	R23-8	REP	01/02/2003	2002-23/5

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
Health, Health Care Financing, Coverage and Reimbursement Policy	26017	R414-304	5YR	01/31/2003	2003-4/55
<b><u>budgets</u></b>					
Administrative Services, Facilities Construction and Management	25960	R23-24	5YR	01/15/2003	2003-3/65
<b><u>building names</u></b>					
Administrative Services, Facilities Construction and Management	25962	R23-10	5YR	01/15/2003	2003-3/64
<b><u>buildings</u></b>					
Administrative Services, Facilities Construction and Management	25955	R23-5	5YR	01/15/2003	2003-3/62
	25956	R23-6	5YR	01/15/2003	2003-3/63
	25957	R23-9	5YR	01/15/2003	2003-3/63
	25962	R23-10	5YR	01/15/2003	2003-3/64
	25784	R23-10	AMD	02/04/2003	2003-1/5
	25986	R23-11	NSC	02/04/2003	Not Printed
	25771	R23-11	REP	02/04/2003	2003-1/7
	25960	R23-24	5YR	01/15/2003	2003-3/65
<b><u>care receiver</u></b>					
Human Services, Aging and Adult Services	25557	R510-401	CPR	04/16/2003	2003-5/28
<b><u>career education</u></b>					
Education, Administration	25938	R277-718	5YR	01/14/2003	2003-3/71
<b><u>caregiver</u></b>					
Human Services, Aging and Adult Services	25557	R510-401	CPR	04/16/2003	2003-5/28
<b><u>case management</u></b>					
Health, Health Care Financing, Coverage and Reimbursement Policy	25969	R414-6	EMR	01/15/2003	2003-3/53
<b><u>certificate of registration</u></b>					
Natural Resources, Wildlife Resources	26280	R657-45	5YR	05/14/2003	2003-11/98
<b><u>certification</u></b>					
Education, Applied Technology Education (Board for), Rehabilitation	25646	R280-203	AMD	01/03/2003	2002-23/16
Labor Commission, Safety	26109	R616-3-3	AMD	05/08/2003	2003-7/52
Public Safety, Peace Officer Standards and Training	26072	R728-409	EMR	03/07/2003	2003-7/62
<b><u>charities</u></b>					
Tax Commission, Auditing	25924	R865-19S-61	AMD	04/23/2003	2003-3/44
<b><u>charter schools</u></b>					
Education, Administration	25726	R277-470	AMD	01/15/2003	2002-24/12
<b><u>child abuse</u></b>					
Human Services, Child and Family Services	26256	R512-200	EMR	05/06/2003	2003-11/79
	26255	R512-201	EMR	05/06/2003	2003-11/81
	26254	R512-202	EMR	05/06/2003	2003-11/83
	26252	R512-300	EMR	05/06/2003	2003-11/85
	26253	R512-301	EMR	05/06/2003	2003-11/87

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<b><u>child care</u></b>					
Health, Health Systems Improvement, Child Care Licensing	25921	R430-6	5YR	01/10/2003	2003-3/74
	25865	R430-6	AMD	03/13/2003	2003-2/25
	25944	R430-100	5YR	01/15/2003	2003-3/75
Workforce Services, Employment Development	26042	R986-700-703	AMD	04/01/2003	2003-5/23
	26043	R986-700-709	AMD	04/01/2003	2003-5/24
<b><u>child support</u></b>					
Human Services, Recovery Services	25977	R527-3	AMD	03/19/2003	2003-4/26
	25979	R527-39	5YR	01/17/2003	2003-4/57
	26061	R527-39	AMD	04/21/2003	2003-6/8
	26075	R527-56	5YR	03/10/2003	2003-7/90
	25869	R527-201	AMD	03/05/2003	2003-2/34
	26076	R527-305	5YR	03/10/2003	2003-7/91
	25980	R527-430	5YR	01/21/2003	2003-4/57
<b><u>child welfare</u></b>					
Human Services, Child and Family Services	26258	R512-100	EMR	05/06/2003	2003-11/77
	26256	R512-200	EMR	05/06/2003	2003-11/79
	26255	R512-201	EMR	05/06/2003	2003-11/81
	26254	R512-202	EMR	05/06/2003	2003-11/83
	26252	R512-300	EMR	05/06/2003	2003-11/85
	26253	R512-301	EMR	05/06/2003	2003-11/87
	26250	R512-302	EMR	05/06/2003	2003-11/90
	26257	R512-305	EMR	05/06/2003	2003-11/92
	26251	R512-500	EMR	05/06/2003	2003-11/94
<b><u>civil rights</u></b>					
Natural Resources, Administration	25950	R634-1	5YR	01/15/2003	2003-3/76
	25951	R634-1	AMD	03/04/2003	2003-3/27
<b><u>client rights</u></b>					
Health, Health Care Financing, Coverage and Reimbursement Policy	26004	R414-301	5YR	01/31/2003	2003-4/53
<b><u>commerce</u></b>					
Commerce, Corporations and Commercial Code	25553	R154-10	AMD	03/14/2003	2002-22/9
<b><u>competition with private enterprise</u></b>					
Regents (Board Of), Administration	26141	R765-555	5YR	04/02/2003	2003-9/139
<b><u>concealed firearm permits</u></b>					
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	25999	R722-300	5YR	01/28/2003	2003-4/59
	25683	R722-300	NSC	01/28/2003	Not Printed
<b><u>conduct</u></b>					
Commerce, Real Estate	26060	R162-106	AMD	04/23/2003	2003-6/3
Professional Practices Advisory Commission, Administration	26032	R686-100	5YR	02/07/2003	2003-5/41

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<b><u>construction</u></b>					
Administrative Services, Facilities Construction and Management	25964	R23-4	5YR	01/15/2003	2003-3/62
	25783	R23-4	AMD	02/04/2003	2003-1/3
	25988	R23-9	R&R	03/24/2003	2003-4/5
<b><u>construction costs</u></b>					
Administrative Services, Facilities Construction and Management	25956	R23-6	5YR	01/15/2003	2003-3/63
<b><u>construction disputes</u></b>					
Administrative Services, Facilities Construction and Management	25964	R23-4	5YR	01/15/2003	2003-3/62
	25783	R23-4	AMD	02/04/2003	2003-1/3
<b><u>contamination</u></b>					
Environmental Quality, Radiation Control	25943	R313-15	5YR	01/14/2003	2003-3/73
<b><u>contests</u></b>					
Commerce, Administration	25649	R151-33	AMD	01/15/2003	2002-24/7
<b><u>contingency</u></b>					
Administrative Services, Facilities Construction and Management	25955	R23-5	5YR	01/15/2003	2003-3/62
<b><u>contracts</u></b>					
Administrative Services, Facilities Construction and Management	25964	R23-4	5YR	01/15/2003	2003-3/62
	25783	R23-4	AMD	02/04/2003	2003-1/3
Corrections, Administration	25885	R251-304	AMD	02/19/2003	2003-2/9
	26053	R251-304	5YR	02/21/2003	2003-6/17
<b><u>cooperative wildlife management unit</u></b>					
Natural Resources, Wildlife Resources	26275	R657-37	5YR	05/14/2003	2003-11/97
<b><u>corrections</u></b>					
Corrections, Administration	25885	R251-304	AMD	02/19/2003	2003-2/9
	26053	R251-304	5YR	02/21/2003	2003-6/17
<b><u>costs</u></b>					
Administrative Services, Finance	26206	R25-6	5YR	05/01/2003	2003-10/150
<b><u>course</u></b>					
Natural Resources, Parks and Recreation	26173	R651-227	5YR	04/15/2003	2003-9/135
<b><u>coverage groups</u></b>					
Health, Health Care Financing, Coverage and Reimbursement Policy	26012	R414-303	5YR	01/31/2003	2003-4/54
<b><u>criminal investigation</u></b>					
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	25998	R722-320	5YR	01/28/2003	2003-4/60
<b><u>curricula</u></b>					
Education, Administration	25935	R277-700	5YR	01/14/2003	2003-3/69
	25648	R277-705	AMD	01/03/2003	2002-23/13
<b><u>definitions</u></b>					
Environmental Quality, Radiation Control	25785	R313-12-3	AMD	03/14/2003	2003-1/22



<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<b><u>dental</u></b> Environmental Quality, Radiation Control	25786	R313-28	AMD	03/14/2003	2003-1/27
<b><u>depreciation</u></b> Public Service Commission, Administration	26143	R746-332	5YR	04/02/2003	2003-9/137
<b><u>depredation</u></b> Natural Resources, Wildlife Resources	25894	R657-44	R&R	02/16/2003	2003-2/46
<b><u>design</u></b> Administrative Services, Facilities Construction and Management	25639 25989	R23-3 R23-3	R&R AMD	01/02/2003 03/24/2003	2002-23/3 2003-4/4
<b><u>developmentally disabled</u></b> Tax Commission, Administration	25823	R861-1A-20	AMD	03/11/2003	2003-1/39
<b><u>digital signature</u></b> Commerce, Corporations and Commercial Code	25553	R154-10	AMD	03/14/2003	2002-22/9
<b><u>dirt bikes</u></b> Commerce, Administration	25724	R151-35	NEW	01/15/2003	2002-24/9
<b><u>disabilities</u></b> Pardons (Board Of), Administration	25345	R671-102	AMD	02/12/2003	2002-20/102
<b><u>disabled</u></b> Human Services, Aging and Adult Services	25552	R510-105	NEW	03/14/2003	2002-22/14
<b><u>disabled persons</u></b> Human Services, Services for People with Disabilities	25975 25949	R539-3 R539-8-3	AMD AMD	05/05/2003 05/05/2003	2003-3/16 2003-3/20
<b><u>discharge permits</u></b> Environmental Quality, Water Quality	25634	R317-8	AMD	01/30/2003	2002-23/33
<b><u>disclosure requirements</u></b> Tax Commission, Administration	25823	R861-1A-20	AMD	03/11/2003	2003-1/39
<b><u>discretion clauses</u></b> Insurance, Administration	25670	R590-218	NEW	03/21/2003	2002-24/28
<b><u>do not resuscitate</u></b> Health, Health Systems Improvement, Emergency Medical Services	25864	R426-100	AMD	03/14/2003	2003-2/24
<b><u>domestic violence</u></b> Human Services, Child and Family Services	26256 26255 26254 26252 26253	R512-200 R512-201 R512-202 R512-300 R512-301	EMR EMR EMR EMR EMR	05/06/2003 05/06/2003 05/06/2003 05/06/2003 05/06/2003	2003-11/79 2003-11/81 2003-11/83 2003-11/85 2003-11/87
<b><u>drinking water</u></b> Environmental Quality, Drinking Water	25863	R309-710	REP	03/05/2003	2003-2/10

RULES INDEX

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>driver education</u></b>					
Education, Administration	26089	R277-746	5YR	03/12/2003	2003-7/73
	26090	R277-747	5YR	03/12/2003	2003-7/73
<b><u>education</u></b>					
Education, Administration	25726	R277-470	AMD	01/15/2003	2002-24/12
	25937	R277-709	5YR	01/14/2003	2003-3/70
	25938	R277-718	5YR	01/14/2003	2003-3/71
	25939	R277-730	5YR	01/14/2003	2003-3/72
	25712	R765-171	NSC	03/31/2003	Not Printed
	25704	R765-171	REP	03/31/2003	2002-24/55
<b><u>educational testing</u></b>					
Education, Administration	25936	R277-702	5YR	01/14/2003	2003-3/70
<b><u>effluent standards</u></b>					
Environmental Quality, Water Quality	25636	R317-1	AMD	01/30/2003	2002-23/17
<b><u>elderly</u></b>					
Human Services, Aging and Adult Services	26259	R510-100-2	EMR	05/15/2003	2003-11/75
	25557	R510-401	CPR	04/16/2003	2003-5/28
<b><u>electronic commerce</u></b>					
Commerce, Corporations and Commercial Code	25553	R154-10	AMD	03/14/2003	2002-22/9
<b><u>electronic communication</u></b>					
Commerce, Corporations and Commercial Code	25553	R154-10	AMD	03/14/2003	2002-22/9
<b><u>elevators</u></b>					
Labor Commission, Safety	26109	R616-3-3	AMD	05/08/2003	2003-7/52
<b><u>eligibility</u></b>					
Health, Health Care Financing, Coverage and Reimbursement Policy	26020	R414-307	5YR	01/31/2003	2003-4/56
<b><u>emergency medical services</u></b>					
Health, Health Systems Improvement, Emergency Medical Services	25864	R426-100	AMD	03/14/2003	2003-2/24
<b><u>emergency vehicle</u></b>					
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	25684	R722-340	NSC	01/28/2003	Not Printed
<b><u>emergency vehicles</u></b>					
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	25996	R722-340	5YR	01/28/2003	2003-4/60
<b><u>enforcement (administrative)</u></b>					
Transportation, Administration	26035	R907-1	AMD	04/23/2003	2003-5/17
<b><u>engineering</u></b>					
Education, Administration	26087	R277-717	AMD	05/02/2003	2003-7/6
<b><u>engineers</u></b>					
Commerce, Occupational and Professional Licensing	25922	R156-22	5YR	01/13/2003	2003-3/65
	25763	R156-22	CPR	04/03/2003	2003-5/27

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	25763	R156-22	AMD	04/03/2003	2003-1/10
<b><u>enrollment</u></b>					
Education, Administration	25966	R277-485	NEW	03/07/2003	2003-3/7
<b><u>enterprise</u></b>					
Tax Commission, Auditing	25829	R865-9I-26	AMD	03/11/2003	2003-1/40
	25828	R865-9I-27	AMD	03/11/2003	2003-1/41
	25819	R865-9I-29	AMD	03/11/2003	2003-1/43
<b><u>environmental health</u></b>					
Environmental Quality, Drinking Water	25863	R309-710	REP	03/05/2003	2003-2/10
<b><u>equipment leasing</u></b>					
Commerce, Corporations and Commercial Code	25549	R154-2	AMD	03/14/2003	2002-22/7
<b><u>exceptional children</u></b>					
Education, Administration	26091	R277-751	5YR	03/12/2003	2003-7/74
<b><u>exemptions</u></b>					
Environmental Quality, Radiation Control	25785	R313-12-3	AMD	03/14/2003	2003-1/22
	26074	R313-19-100	AMD	05/09/2003	2003-7/9
<b><u>expelled</u></b>					
Education, Administration	25965	R277-483	NEW	03/07/2003	2003-3/5
<b><u>extended area service</u></b>					
Public Service Commission, Administration	25578	R746-347	NEW	03/10/2003	2002-22/44
<b><u>extinguishers</u></b>					
Public Safety, Fire Marshal	25954	R710-1	AMD	03/06/2003	2003-3/29
<b><u>extracurricular activities</u></b>					
Education, Administration	25931	R277-605	5YR	01/14/2003	2003-3/68
<b><u>fees</u></b>					
Natural Resources, Parks and Recreation	26173	R651-227	5YR	04/15/2003	2003-9/135
	25837	R651-611	AMD	03/31/2003	2003-2/38
<b><u>filing documents</u></b>					
Commerce, Corporations and Commercial Code	25549	R154-2	AMD	03/14/2003	2002-22/7
<b><u>finance</u></b>					
Administrative Services, Finance	26206	R25-6	5YR	05/01/2003	2003-10/150
<b><u>financial aid</u></b>					
Regents (Board Of), Administration	26134	R765-660	5YR	04/01/2003	2003-8/43
	25713	R765-660	NSC	04/01/2003	Not Printed
<b><u>financial disclosures</u></b>					
Health, Health Care Financing, Coverage and Reimbursement Policy	26017	R414-304	5YR	01/31/2003	2003-4/55
<b><u>financial responsibility</u></b>					
Environmental Quality, Environmental Response and Remediation	25161	R311-207	CPR	02/04/2003	2003-1/46

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<b><u>fire prevention</u></b>					
Public Safety, Fire Marshal	25954	R710-1	AMD	03/06/2003	2003-3/29
	26006	R710-4	AMD	03/18/2003	2003-4/28
	25961	R710-7	AMD	03/06/2003	2003-3/36
	26001	R710-7	AMD	03/18/2003	2003-4/32
	26003	R710-9	AMD	03/18/2003	2003-4/38
<b><u>fiscal</u></b>					
Natural Resources, Parks and Recreation	26040	R651-301	5YR	02/13/2003	2003-5/40
<b><u>food aid programs</u></b>					
Education, Administration	25929	R277-721	5YR	01/14/2003	2003-3/71
	25930	R277-722	5YR	01/14/2003	2003-3/72
<b><u>foreign students</u></b>					
Education, Administration	25933	R277-615	5YR	01/14/2003	2003-3/69
<b><u>foster care</u></b>					
Human Services, Administration, Administrative Services, Licensing	25644	R501-12	AMD	01/30/2003	2002-23/82
Human Services, Child and Family Services	26253	R512-301	EMR	05/06/2003	2003-11/87
	26257	R512-305	EMR	05/06/2003	2003-11/92
<b><u>franchises</u></b>					
Commerce, Administration	25624	R151-14	AMD	01/02/2003	2002-23/6
	25724	R151-35	NEW	01/15/2003	2002-24/9
<b><u>franchises historic preservation</u></b>					
Tax Commission, Auditing	25826	R865-9I-28	AMD	03/11/2003	2003-1/42
<b><u>funding</u></b>					
Administrative Services, Facilities Construction and Management	25960	R23-24	5YR	01/15/2003	2003-3/65
<b><u>funding formula</u></b>					
Human Services, Aging and Adult Services	26259	R510-100-2	EMR	05/15/2003	2003-11/75
<b><u>game laws</u></b>					
Natural Resources, Wildlife Resources	25720	R657-5	AMD	01/15/2003	2002-24/29
	25721	R657-17	AMD	01/15/2003	2002-24/46
	25890	R657-23	AMD	02/16/2003	2003-2/41
	25892	R657-33	AMD	02/16/2003	2003-2/43
	26056	R657-33-6	AMD	04/15/2003	2003-6/15
	26274	R657-34	5YR	05/14/2003	2003-11/96
<b><u>general assistance</u></b>					
Workforce Services, Employment Development	25827	R986-400-404	AMD	02/06/2003	2003-1/43
<b><u>government hearings</u></b>					
Commerce, Administration	25822	R151-46b	AMD	02/18/2003	2003-1/8
	26050	R671-403	5YR	02/18/2003	2003-6/18

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<b><u>grievance procedures</u></b>					
Tax Commission, Administration	25823	R861-1A-20	AMD	03/11/2003	2003-1/39
<b><u>ground water</u></b>					
Environmental Quality, Water Quality	25632	R317-6-6	AMD	01/30/2003	2002-23/25
<b><u>hazardous waste</u></b>					
Environmental Quality, Solid and Hazardous Waste	26064	R315-15	5YR	03/03/2003	2003-7/75
<b><u>health</u></b>					
Health, Center for Health Data, Health Care Statistics	26080	R428-11	5YR	03/10/2003	2003-7/88
	26079	R428-13	5YR	03/10/2003	2003-7/89
<b><u>health facilities</u></b>					
Health, Health Systems Improvement, Licensing	25868	R432-3	AMD	03/13/2003	2003-2/29
	25452	R432-5	AMD	01/15/2003	2002-21/92
	25791	R432-13	AMD	03/13/2003	2003-1/32
	25792	R432-14	AMD	03/13/2003	2003-1/34
	26038	R432-16	5YR	02/12/2003	2003-5/39
	25866	R432-35	AMD	03/13/2003	2003-2/30
	25867	R432-100-38	AMD	03/13/2003	2003-2/33
<b><u>health insurance</u></b>					
Human Services, Recovery Services	25869	R527-201	AMD	03/05/2003	2003-2/34
Insurance, Administration	25628	R590-199	CPR	03/14/2003	2003-3/50
<b><u>health insurance arbitration</u></b>					
Insurance, Administration	25093	R590-215	CPR	01/09/2003	2002-23/100
	25093	R590-215	NEW	01/09/2003	2002-15/65
<b><u>health planning</u></b>					
Health, Center for Health Data, Health Care Statistics	26080	R428-11	5YR	03/10/2003	2003-7/88
	26079	R428-13	5YR	03/10/2003	2003-7/89
<b><u>health policy</u></b>					
Health, Center for Health Data, Health Care Statistics	26079	R428-13	5YR	03/10/2003	2003-7/89
<b><u>hearing aids</u></b>					
Commerce, Occupational and Professional Licensing	25987	R156-46a	AMD	03/18/2003	2003-4/7
<b><u>hearings</u></b>					
Environmental Quality, Water Quality	25633	R317-9	NEW	02/05/2003	2002-23/74
Professional Practices Advisory Commission, Administration	26032	R686-100	5YR	02/07/2003	2003-5/41
<b><u>higher education</u></b>					
Regents (Board Of), Administration	26134	R765-660	5YR	04/01/2003	2003-8/43
	25713	R765-660	NSC	04/01/2003	Not Printed
<b><u>HIPAA</u></b>					
Health, Administration	26161	R380-250	EMR	04/14/2003	2003-9/131

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	26160	R495-881	EMR	04/14/2003	2003-9/133
<b><u>historic preservation</u></b>					
Tax Commission, Auditing	25829	R865-9I-26	AMD	03/11/2003	2003-1/40
	25828	R865-9I-27	AMD	03/11/2003	2003-1/41
	25819	R865-9I-29	AMD	03/11/2003	2003-1/43
<b><u>HMO insurance</u></b>					
Insurance, Administration	25870	R590-76	AMD	02/26/2003	2003-2/35
<b><u>hospital</u></b>					
Health, Health Care Financing, Coverage and Reimbursement Policy	25889	R414-5	EMR	01/03/2003	2003-2/55
	25948	R414-5	EMR	01/15/2003	2003-3/52
<b><u>hospital policy</u></b>					
Health, Center for Health Data, Health Care Statistics	26080	R428-11	5YR	03/10/2003	2003-7/88
<b><u>hospitals</u></b>					
Health, Health Care Financing, Coverage and Reimbursement Policy	25967	R414-5	NEW	05/13/2003	2003-3/8
<b><u>human services</u></b>					
Human Services, Administration, Administrative Services, Licensing	25652	R501-1	AMD	01/30/2003	2002-24/15
	26071	R501-2	AMD	05/06/2003	2003-7/19
	25707	R501-8	AMD	01/17/2003	2002-24/19
	25660	R501-11	AMD	01/30/2003	2002-24/25
	25644	R501-12	AMD	01/30/2003	2002-23/82
	25703	R501-16	NSC	02/26/2003	Not Printed
	26055	R501-16	5YR	02/26/2003	2003-6/17
	26084	R501-17	5YR	03/11/2003	2003-7/89
<b><u>hunter education</u></b>					
Natural Resources, Wildlife Resources	25890	R657-23	AMD	02/16/2003	2003-2/41
<b><u>hunting</u></b>					
Natural Resources, Wildlife Resources	25722	R657-38	AMD	01/15/2003	2002-24/48
<b><u>hunting and fishing licenses</u></b>					
Natural Resources, Wildlife Resources	25721	R657-17	AMD	01/15/2003	2002-24/46
<b><u>hunting closures</u></b>					
Natural Resources, Wildlife Resources	26274	R657-34	5YR	05/14/2003	2003-11/96
<b><u>immunization</u></b>					
Health, Community and Family Health Services, Immunization	26187	R396-100	5YR	04/24/2003	2003-10/152
<b><u>import restrictions</u></b>					
Natural Resources, Wildlife Resources	26167	R657-3	5YR	04/15/2003	2003-9/136
<b><u>income</u></b>					
Health, Health Care Financing, Coverage and Reimbursement Policy	26005	R414-302	5YR	01/31/2003	2003-4/53
	26012	R414-303	5YR	01/31/2003	2003-4/54
	26017	R414-304	5YR	01/31/2003	2003-4/55

<u>KEYWORD AGENCY</u>	<u>FILE NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE DATE</u>	<u>BULLETIN ISSUE/PAGE</u>
<b><u>income tax</u></b>					
Tax Commission, Auditing	25829	R865-9I-26	AMD	03/11/2003	2003-1/40
	25828	R865-9I-27	AMD	03/11/2003	2003-1/41
	25819	R865-9I-29	AMD	03/11/2003	2003-1/43
<b><u>industrial waste</u></b>					
Environmental Quality, Water Quality	25636	R317-1	AMD	01/30/2003	2002-23/17
<b><u>inmates</u></b>					
Pardons (Board Of), Administration	25350	R671-202	AMD	02/12/2003	2002-20/104
	25394	R671-308	AMD	02/12/2003	2002-20/110
	25398	R671-311	AMD	02/12/2003	2002-20/112
<b><u>inspection</u></b>					
Administrative Services, Facilities Construction and Management	25957	R23-9	5YR	01/15/2003	2003-3/63
<b><u>inspections</u></b>					
Environmental Quality, Radiation Control	25785	R313-12-3	AMD	03/14/2003	2003-1/22
<b><u>instructional materials</u></b>					
Education, Administration	26157	R277-469	5YR	04/04/2003	2003-9/135
<b><u>insurance</u></b>					
Insurance, Administration	26181	R590-154	5YR	04/17/2003	2003-10/153
	25993	R590-155	5YR	01/24/2003	2003-4/59
	26033	R590-157	5YR	02/10/2003	2003-5/39
	25643	R590-160	AMD	01/09/2003	2002-23/86
	25626	R590-172	AMD	01/09/2003	2002-23/91
	25908	R590-183	NSC	01/02/2003	Not Printed
	25628	R590-199	AMD	03/14/2003	2002-23/92
	25670	R590-218	NEW	03/21/2003	2002-24/28
<b><u>insurance companies</u></b>					
Insurance, Administration	25990	R590-124	5YR	01/24/2003	2003-4/58
<b><u>insurance law</u></b>					
Insurance, Administration	26182	R590-94	5YR	04/17/2003	2003-10/153
<b><u>interpreters</u></b>					
Education, Applied Technology Education (Board for), Rehabilitation	25646	R280-203	AMD	01/03/2003	2002-23/16
<b><u>interstate</u></b>					
Human Services, Recovery Services	26076	R527-305	5YR	03/10/2003	2003-7/91
<b><u>investigations</u></b>					
Public Safety, Peace Officer Standards and Training	26072	R728-409	EMR	03/07/2003	2003-7/62
<b><u>jurisdiction</u></b>					
Workforce Services, Workforce Information and Payment Services	25946	R994-406-311	AMD	03/04/2003	2003-3/46
	25947	R994-406-315	AMD	03/04/2003	2003-3/48

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<b><u>juvenile courts</u></b> Education, Administration	25937	R277-709	5YR	01/14/2003	2003-3/70
<b><u>kinship</u></b> Human Services, Child and Family Services	26251	R512-500	EMR	05/06/2003	2003-11/94
<b><u>land use</u></b> School and Institutional Trust Lands, Administration	25953	R850-120	AMD	03/04/2003	2003-3/43
<b><u>law</u></b> Public Safety, Fire Marshal	26003	R710-9	AMD	03/18/2003	2003-4/38
<b><u>law enforcement</u></b> Public Safety, Criminal Investigations and Technical Services, Criminal Identification	25998	R722-320	5YR	01/28/2003	2003-4/60
<b><u>law enforcement officers</u></b> Public Safety, Peace Officer Standards and Training	26072	R728-409	EMR	03/07/2003	2003-7/62
<b><u>lead-based paint</u></b> Environmental Quality, Air Quality	26249	R307-840	5YR	05/05/2003	2003-11/96
<b><u>leasing</u></b> Administrative Services, Facilities Construction and Management	25959	R23-21	5YR	01/15/2003	2003-3/64
<b><u>liberties</u></b> Natural Resources, Administration	25950	R634-1	5YR	01/15/2003	2003-3/76
	25951	R634-1	AMD	03/04/2003	2003-3/27
<b><u>libraries</u></b> Education, Administration	25925	R277-516	5YR	01/14/2003	2003-3/67
<b><u>license</u></b> Environmental Quality, Radiation Control	26074	R313-19-100	AMD	05/09/2003	2003-7/9
Natural Resources, Wildlife Resources	26280	R657-45	5YR	05/14/2003	2003-11/98
<b><u>licensing</u></b> Commerce, Administration	25649	R151-33	AMD	01/15/2003	2002-24/7
Commerce, Occupational and Professional Licensing	25987	R156-46a	AMD	03/18/2003	2003-4/7
	25651	R156-47b-302a	AMD	01/16/2003	2002-24/10
	25920	R156-59	5YR	01/09/2003	2003-3/66
	25629	R156-60a	AMD	01/02/2003	2002-23/8
Human Services, Administration, Administrative Services, Licensing	25652	R501-1	AMD	01/30/2003	2002-24/15
	26071	R501-2	AMD	05/06/2003	2003-7/19
	25707	R501-8	AMD	01/17/2003	2002-24/19
	25660	R501-11	AMD	01/30/2003	2002-24/25
	25644	R501-12	AMD	01/30/2003	2002-23/82
	26055	R501-16	5YR	02/26/2003	2003-6/17
	25703	R501-16	NSC	02/26/2003	Not Printed
	26084	R501-17	5YR	03/11/2003	2003-7/89



<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<b><u>loans</u></b> Environmental Quality, Water Quality	26183	R317-101	5YR	04/22/2003	2003-10/151
<b><u>long-term care ombudsman</u></b> Human Services, Aging and Adult Services	26259	R510-100-2	EMR	05/15/2003	2003-11/75
<b><u>mammography</u></b> Environmental Quality, Radiation Control	25786	R313-28	AMD	03/14/2003	2003-1/27
<b><u>maps</u></b> Natural Resources, Water Rights	26195	R655-5	5YR	04/29/2003	2003-10/154
<b><u>massage therapy</u></b> Commerce, Occupational and Professional Licensing	25651	R156-47b-302a	AMD	01/16/2003	2002-24/10
<b><u>mathematics</u></b> Education, Administration	26087	R277-717	AMD	05/02/2003	2003-7/6
<b><u>Medicaid</u></b> Health, Health Care Financing, Coverage and Reimbursement Policy	26244	R414-1-5	EMR	05/02/2003	2003-11/74
	25889	R414-5	EMR	01/03/2003	2003-2/55
	25948	R414-5	EMR	01/15/2003	2003-3/52
	25967	R414-5	NEW	05/13/2003	2003-3/8
	25969	R414-6	EMR	01/15/2003	2003-3/53
	25974	R414-6	NEW	05/13/2003	2003-3/9
	26010	R414-10	EMR	02/01/2003	2003-4/45
	26036	R414-10	EMR	02/11/2003	2003-5/33
	26008	R414-10	AMD	04/07/2003	2003-4/11
	25192	R414-13	NSC	01/03/2003	Not Printed
	25907	R414-13	5YR	01/03/2003	2003-3/74
	25968	R414-21	EMR	01/15/2003	2003-3/54
	25973	R414-21	AMD	04/07/2003	2003-3/10
	25982	R414-27	5YR	01/21/2003	2003-4/52
	25970	R414-52	EMR	01/15/2003	2003-3/57
	25976	R414-52	AMD	04/09/2003	2003-3/14
	25971	R414-53	EMR	01/15/2003	2003-3/59
	25972	R414-53	AMD	04/07/2003	2003-3/15
	26011	R414-60	EMR	02/01/2003	2003-4/50
	26009	R414-60	AMD	04/07/2003	2003-4/16
	25898	R414-63	AMD	04/07/2003	2003-2/12
	26004	R414-301	5YR	01/31/2003	2003-4/53
	26018	R414-305	5YR	01/31/2003	2003-4/55
	25897	R414-504	AMD	02/17/2003	2003-2/21
Human Services, Recovery Services	25869	R527-201	AMD	03/05/2003	2003-2/34
<b><u>medical recommendations</u></b> Education, Administration	25647	R277-611	NEW	01/03/2003	2002-23/12
<b><u>minority education</u></b> Education, Administration	26087	R277-717	AMD	05/02/2003	2003-7/6

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<b><u>motor vehicles</u></b>					
Commerce, Administration	25624	R151-14	AMD	01/02/2003	2002-23/6
Environmental Quality, Air Quality	25495	R307-121	AMD	01/09/2003	2002-21/6
<b><u>motorcycles</u></b>					
Commerce, Administration	25724	R151-35	NEW	01/15/2003	2002-24/9
<b><u>mutual water corporations</u></b>					
Public Service Commission, Administration	26142	R746-331	5YR	04/02/2003	2003-9/137
<b><u>naming process</u></b>					
Administrative Services, Facilities Construction and Management	25784	R23-10	AMD	02/04/2003	2003-1/5
<b><u>notification</u></b>					
Corrections, Administration	25991	R251-110	AMD	03/21/2003	2003-4/9
<b><u>occupational licensing</u></b>					
Environmental Quality, Water Quality	25637	R317-11	AMD	01/30/2003	2002-23/80
<b><u>off road vehicles</u></b>					
Commerce, Administration	25724	R151-35	NEW	01/15/2003	2002-24/9
<b><u>off-highway vehicles</u></b>					
Natural Resources, Parks and Recreation	26026	R651-408	AMD	04/01/2003	2003-5/7
	26028	R651-410	NEW	04/01/2003	2003-5/8
<b><u>onsite wastewater systems</u></b>					
Environmental Quality, Water Quality	25203	R317-4-3	AMD	01/10/2003	2002-18/43
	25635	R317-4-3	AMD	01/30/2003	2002-23/21
<b><u>operator certification</u></b>					
Environmental Quality, Water Quality	25638	R317-10	AMD	01/30/2003	2002-23/78
<b><u>overpayments</u></b>					
Workforce Services, Workforce Information and Payment Services	25946	R994-406-311	AMD	03/04/2003	2003-3/46
	25947	R994-406-315	AMD	03/04/2003	2003-3/48
<b><u>paint</u></b>					
Environmental Quality, Air Quality	26249	R307-840	5YR	05/05/2003	2003-11/96
<b><u>parking facilities</u></b>					
Administrative Services, Facilities Construction and Management	26117	R23-13	5YR	03/25/2003	2003-8/43
<b><u>parks</u></b>					
Natural Resources, Parks and Recreation	26039	R651-102	5YR	02/13/2003	2003-5/40
	26028	R651-410	NEW	04/01/2003	2003-5/8
	26029	R651-602	AMD	04/01/2003	2003-5/9
	25837	R651-611	AMD	03/31/2003	2003-2/38
<b><u>parole</u></b>					
Pardons (Board Of), Administration	25350	R671-202	AMD	02/12/2003	2002-20/104
	25394	R671-308	AMD	02/12/2003	2002-20/110
	25398	R671-311	AMD	02/12/2003	2002-20/112

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	26050	R671-403	5YR	02/18/2003	2003-6/18
<b><u>paving standards</u></b>					
Public Service Commission, Administration	26145	R746-342	5YR	04/02/2003	2003-9/138
<b><u>per diem allowance</u></b>					
Administrative Services, Finance	26203	R25-7	5YR	05/01/2003	2003-10/150
<b><u>permit</u></b>					
Natural Resources, Wildlife Resources	26280	R657-45	5YR	05/14/2003	2003-11/98
<b><u>permits</u></b>					
Community and Economic Development, Community Development, History	25787	R212-4	AMD	03/11/2003	2003-1/13
Natural Resources, Wildlife Resources	25723	R657-42	AMD	01/15/2003	2002-24/52
	26278	R657-42	5YR	05/14/2003	2003-11/98
<b><u>persistently dangerous schools</u></b>					
Education, Administration	25965	R277-483	NEW	03/07/2003	2003-3/5
<b><u>personal property</u></b>					
Tax Commission, Property Tax	25917	R884-24P-60	EMR	01/06/2003	2003-3/60
	26044	R884-24P-60	AMD	04/23/2003	2003-5/15
<b><u>petroleum</u></b>					
Environmental Quality, Environmental Response and Remediation	25161	R311-207	CPR	02/04/2003	2003-1/46
<b><u>physical and mental fitness testing</u></b>					
Public Safety, Driver License	25645	R708-39	NEW	01/24/2003	2002-23/97
<b><u>planning</u></b>					
Administrative Services, Facilities Construction and Management	25639	R23-3	R&R	01/02/2003	2002-23/3
	25989	R23-3	AMD	03/24/2003	2003-4/4
	25984	R23-7	NSC	02/04/2003	Not Printed
	25988	R23-9	R&R	03/24/2003	2003-4/5
<b><u>planning-programming-budgeting</u></b>					
Administrative Services, Facilities Construction and Management	25984	R23-7	NSC	02/04/2003	Not Printed
	25770	R23-7	REP	02/04/2003	2003-1/5
	25640	R23-8	REP	01/02/2003	2002-23/5
<b><u>police training</u></b>					
Public Safety, Peace Officer Standards and Training	26067	R728-411	5YR	03/04/2003	2003-7/91
<b><u>postsecondary proprietary school</u></b>					
Regents (Board Of), Administration	25712	R765-171	NSC	03/31/2003	Not Printed
	25704	R765-171	REP	03/31/2003	2002-24/55
<b><u>prescriptions</u></b>					
Health, Health Care Financing, Coverage and Reimbursement Policy	25898	R414-63	AMD	04/07/2003	2003-2/12
<b><u>privacy</u></b>					
Health, Administration	26161	R380-250	EMR	04/14/2003	2003-9/131

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	26160	R495-881	EMR	04/14/2003	2003-9/133
<b><u>private schools</u></b>					
Education, Administration	26090	R277-747	5YR	03/12/2003	2003-7/73
<b><u>procurement</u></b>					
Administrative Services, Facilities Construction and Management	25639	R23-3	R&R	01/02/2003	2002-23/3
	25989	R23-3	AMD	03/24/2003	2003-4/4
	25959	R23-21	5YR	01/15/2003	2003-3/64
<b><u>professional competency</u></b>					
Education, Administration	26188	R277-508	5YR	04/25/2003	2003-10/151
	25925	R277-516	5YR	01/14/2003	2003-3/67
Public Safety, Peace Officer Standards and Training	26067	R728-411	5YR	03/04/2003	2003-7/91
<b><u>professional education</u></b>					
Education, Administration	25926	R277-518	5YR	01/14/2003	2003-3/67
<b><u>professional employer organizations</u></b>					
Commerce, Occupational and Professional Licensing	25920	R156-59	5YR	01/09/2003	2003-3/66
<b><u>professional engineers</u></b>					
Commerce, Occupational and Professional Licensing	25922	R156-22	5YR	01/13/2003	2003-3/65
	25763	R156-22	CPR	04/03/2003	2003-5/27
	25763	R156-22	AMD	04/03/2003	2003-1/10
<b><u>professional land surveyors</u></b>					
Commerce, Occupational and Professional Licensing	25922	R156-22	5YR	01/13/2003	2003-3/65
	25763	R156-22	CPR	04/03/2003	2003-5/27
	25763	R156-22	AMD	04/03/2003	2003-1/10
<b><u>program benefits</u></b>					
Health, Health Care Financing, Coverage and Reimbursement Policy	26019	R414-306	5YR	01/31/2003	2003-4/56
<b><u>proof</u></b>					
Natural Resources, Water Rights	26195	R655-5	5YR	04/29/2003	2003-10/154
<b><u>property tax</u></b>					
Tax Commission, Property Tax	25917	R884-24P-60	EMR	01/06/2003	2003-3/60
	26044	R884-24P-60	AMD	04/23/2003	2003-5/15
<b><u>public assistance programs</u></b>					
Health, Health Care Financing, Coverage and Reimbursement Policy	26020	R414-307	5YR	01/31/2003	2003-4/56
	26021	R414-308	5YR	01/31/2003	2003-4/57
<b><u>public buildings</u></b>					
Administrative Services, Facilities Construction and Management	25639	R23-3	R&R	01/02/2003	2002-23/3
	25989	R23-3	AMD	03/24/2003	2003-4/4
	25955	R23-5	5YR	01/15/2003	2003-3/62
	25956	R23-6	5YR	01/15/2003	2003-3/63

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	25984	R23-7	NSC	02/04/2003	Not Printed
	25770	R23-7	REP	02/04/2003	2003-1/5
	25640	R23-8	REP	01/02/2003	2002-23/5
	25957	R23-9	5YR	01/15/2003	2003-3/63
	25962	R23-10	5YR	01/15/2003	2003-3/64
	25959	R23-21	5YR	01/15/2003	2003-3/64
	25960	R23-24	5YR	01/15/2003	2003-3/65
Public Safety, Fire Marshal	26006	R710-4	AMD	03/18/2003	2003-4/28
<b><u>public utilities</u></b>					
Public Service Commission, Administration	26081	R746-330	5YR	03/10/2003	2003-7/92
	26142	R746-331	5YR	04/02/2003	2003-9/137
	26143	R746-332	5YR	04/02/2003	2003-9/137
	26145	R746-342	5YR	04/02/2003	2003-9/138
	25578	R746-347	NEW	03/10/2003	2002-22/44
	26146	R746-402	5YR	04/02/2003	2003-9/138
	26147	R746-405	5YR	04/02/2003	2003-9/139
<b><u>radiation</u></b>					
Environmental Quality, Radiation Control	26086	R313-25	AMD	05/09/2003	2003-7/10
<b><u>radioactive material</u></b>					
Environmental Quality, Radiation Control	25943	R313-15	5YR	01/14/2003	2003-3/73
<b><u>radioactive waste disposal</u></b>					
Environmental Quality, Radiation Control	26086	R313-25	AMD	05/09/2003	2003-7/10
<b><u>real estate appraisal</u></b>					
Commerce, Real Estate	26024	R162-105	AMD	04/23/2003	2003-5/4
<b><u>real estate appraisals</u></b>					
Commerce, Real Estate	26060	R162-106	AMD	04/23/2003	2003-6/3
	25981	R162-107	5YR	01/21/2003	2003-4/52
<b><u>real estate business</u></b>					
Commerce, Real Estate	25663	R162-8-9	AMD	01/16/2003	2002-24/11
<b><u>reciprocity</u></b>					
Environmental Quality, Radiation Control	26074	R313-19-100	AMD	05/09/2003	2003-7/9
<b><u>records</u></b>					
Health, Health Care Financing, Coverage and Reimbursement Policy	26021	R414-308	5YR	01/31/2003	2003-4/57
Human Services, Administration	26160	R495-881	EMR	04/14/2003	2003-9/133
<b><u>recreation</u></b>					
Natural Resources, Parks and Recreation	26040	R651-301	5YR	02/13/2003	2003-5/40
Natural Resources, Wildlife Resources	25722	R657-38	AMD	01/15/2003	2002-24/48
<b><u>recreational vehicles</u></b>					
Commerce, Administration	25624	R151-14	AMD	01/02/2003	2002-23/6
<b><u>registration</u></b>					
Regents (Board Of), Administration	25712	R765-171	NSC	03/31/2003	Not Printed

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	25704	R765-171	REP	03/31/2003	2002-24/55
<b><u>rehabilitation</u></b> Education, Applied Technology Education (Board for), Rehabilitation	26088	R280-200	5YR	03/12/2003	2003-7/74
<b><u>reimbursements</u></b> Administrative Services, Finance	26206	R25-6	5YR	05/01/2003	2003-10/150
<b><u>religious activities</u></b> Tax Commission, Auditing	25924	R865-19S-61	AMD	04/23/2003	2003-3/44
<b><u>religious education</u></b> Education, Administration	25932	R277-610	5YR	01/14/2003	2003-3/68
<b><u>relocation benefits</u></b> Administrative Services, Finance	26206	R25-6	5YR	05/01/2003	2003-10/150
<b><u>respite</u></b> Human Services, Aging and Adult Services	25557	R510-401	CPR	04/16/2003	2003-5/28
<b><u>restitution</u></b> Pardons (Board Of), Administration	26050	R671-403	5YR	02/18/2003	2003-6/18
<b><u>rules and procedures</u></b> Health, Community and Family Health Services, Immunization	26187	R396-100	5YR	04/24/2003	2003-10/152
Public Safety, Peace Officer Standards and Training	26072	R728-409	EMR	03/07/2003	2003-7/62
Public Service Commission, Administration	26143	R746-332	5YR	04/02/2003	2003-9/137
	26145	R746-342	5YR	04/02/2003	2003-9/138
	26146	R746-402	5YR	04/02/2003	2003-9/138
	26147	R746-405	5YR	04/02/2003	2003-9/139
<b><u>safety</u></b> Environmental Quality, Radiation Control	25943	R313-15	5YR	01/14/2003	2003-3/73
Labor Commission, Occupational Safety and Health	25941	R614-1-4	AMD	03/04/2003	2003-3/26
Labor Commission, Safety	26109	R616-3-3	AMD	05/08/2003	2003-7/52
Natural Resources, Parks and Recreation	26173	R651-227	5YR	04/15/2003	2003-9/135
<b><u>sales tax</u></b> Tax Commission, Auditing	25924	R865-19S-61	AMD	04/23/2003	2003-3/44
<b><u>school buses</u></b> Education, Administration	25928	R277-600	5YR	01/14/2003	2003-3/68
<b><u>school choice</u></b> Education, Administration	25965	R277-483	NEW	03/07/2003	2003-3/5
<b><u>school personnel</u></b> Education, Administration	26188	R277-508	5YR	04/25/2003	2003-10/151
	25925	R277-516	5YR	01/14/2003	2003-3/67
<b><u>school transportation</u></b> Education, Administration	25928	R277-600	5YR	01/14/2003	2003-3/68

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<b><u>school year</u></b> Education, Administration	26091	R277-751	5YR	03/12/2003	2003-7/74
<b><u>science</u></b> Education, Administration	26087	R277-717	AMD	05/02/2003	2003-7/6
<b><u>seniors</u></b> Human Services, Aging and Adult Services	25552	R510-105	NEW	03/14/2003	2002-22/14
<b><u>septic tanks</u></b> Environmental Quality, Water Quality	25203	R317-4-3	AMD	01/10/2003	2002-18/43
	25635	R317-4-3	AMD	01/30/2003	2002-23/21
<b><u>sewage effluent use</u></b> Natural Resources, Water Rights	25550	R655-7	NEW	02/10/2003	2002-22/39
<b><u>sewage treatment</u></b> Environmental Quality, Water Quality	26183	R317-101	5YR	04/22/2003	2003-10/151
<b><u>sewerage</u></b> Public Service Commission, Administration	26081	R746-330	5YR	03/10/2003	2003-7/92
<b><u>sex crimes</u></b> Corrections, Administration	25991	R251-110	AMD	03/21/2003	2003-4/9
<b><u>social services</u></b> Human Services, Child and Family Services	26256	R512-200	EMR	05/06/2003	2003-11/79
	26255	R512-201	EMR	05/06/2003	2003-11/81
	26254	R512-202	EMR	05/06/2003	2003-11/83
	26252	R512-300	EMR	05/06/2003	2003-11/85
	26257	R512-305	EMR	05/06/2003	2003-11/92
Human Services, Services for People with Disabilities	25975	R539-3	AMD	05/05/2003	2003-3/16
	25949	R539-8-3	AMD	05/05/2003	2003-3/20
<b><u>social workers</u></b> Commerce, Occupational and Professional Licensing	25629	R156-60a	AMD	01/02/2003	2002-23/8
<b><u>solid waste management</u></b> Environmental Quality, Solid and Hazardous Waste	26092	R315-301	5YR	03/14/2003	2003-7/75
	26093	R315-302	5YR	03/14/2003	2003-7/76
	26094	R315-303	5YR	03/14/2003	2003-7/77
	26095	R315-305	5YR	03/14/2003	2003-7/78
	26096	R315-306	5YR	03/14/2003	2003-7/79
	26097	R315-307	5YR	03/14/2003	2003-7/79
	26098	R315-308	5YR	03/14/2003	2003-7/80
	26100	R315-309	5YR	03/14/2003	2003-7/81
	26099	R315-310	5YR	03/14/2003	2003-7/82
	26101	R315-311	5YR	03/14/2003	2003-7/82
	26102	R315-312	5YR	03/14/2003	2003-7/83
	26103	R315-313	5YR	03/14/2003	2003-7/84

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	26104	R315-314	5YR	03/14/2003	2003-7/84
	26105	R315-315	5YR	03/14/2003	2003-7/85
	26106	R315-316	5YR	03/14/2003	2003-7/86
	26107	R315-317	5YR	03/14/2003	2003-7/87
	26108	R315-318	5YR	03/14/2003	2003-7/87
<b><u>space utilization</u></b>					
Administrative Services, Facilities Construction and Management	25986	R23-11	NSC	02/04/2003	Not Printed
	25771	R23-11	REP	02/04/2003	2003-1/7
<b><u>state employees</u></b>					
Administrative Services, Finance	26203	R25-7	5YR	05/01/2003	2003-10/150
<b><u>state office buildings</u></b>					
Administrative Services, Facilities Construction and Management	25984	R23-7	NSC	02/04/2003	Not Printed
	25770	R23-7	REP	02/04/2003	2003-1/5
<b><u>state planning</u></b>					
Administrative Services, Facilities Construction and Management	25770	R23-7	REP	02/04/2003	2003-1/5
<b><u>state vehicle use</u></b>					
Administrative Services, Fleet Operations	25879	R27-3	AMD	05/15/2003	2003-2/5
<b><u>student competency</u></b>					
Education, Administration	25936	R277-702	5YR	01/14/2003	2003-3/70
<b><u>student financial aid</u></b>					
Education, Administration	25938	R277-718	5YR	01/14/2003	2003-3/71
<b><u>students</u></b>					
Education, Administration	25966	R277-485	NEW	03/07/2003	2003-3/7
	25647	R277-611	NEW	01/03/2003	2002-23/12
	25937	R277-709	5YR	01/14/2003	2003-3/70
<b><u>substance abuse</u></b>					
Human Services, Administration, Administrative Services, Licensing	25660	R501-11	AMD	01/30/2003	2002-24/25
<b><u>surveyors</u></b>					
Commerce, Occupational and Professional Licensing	25922	R156-22	5YR	01/13/2003	2003-3/65
	25763	R156-22	CPR	04/03/2003	2003-5/27
	25763	R156-22	AMD	04/03/2003	2003-1/10
<b><u>system</u></b>					
Public Safety, Fire Marshal	25961	R710-7	AMD	03/06/2003	2003-3/36
<b><u>systems</u></b>					
Public Safety, Fire Marshal	26001	R710-7	AMD	03/18/2003	2003-4/32
<b><u>tariffs</u></b>					
Public Service Commission, Administration	26147	R746-405	5YR	04/02/2003	2003-9/139
<b><u>tax exemption</u></b>					
Environmental Quality, Air Quality	25495	R307-121	AMD	01/09/2003	2002-21/6



<u>KEYWORD AGENCY</u>	<u>FILE NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE DATE</u>	<u>BULLETIN ISSUE/PAGE</u>
<b><u>tax exemptions</u></b>					
Tax Commission, Auditing	25924	R865-19S-61	AMD	04/23/2003	2003-3/44
<b><u>tax returns</u></b>					
Tax Commission, Auditing	25829	R865-9I-26	AMD	03/11/2003	2003-1/40
	25828	R865-9I-27	AMD	03/11/2003	2003-1/41
	25819	R865-9I-29	AMD	03/11/2003	2003-1/43
<b><u>taxation</u></b>					
Tax Commission, Administration	25823	R861-1A-20	AMD	03/11/2003	2003-1/39
Tax Commission, Auditing	25826	R865-9I-28	AMD	03/11/2003	2003-1/42
Tax Commission, Property Tax	25917	R884-24P-60	EMR	01/06/2003	2003-3/60
	26044	R884-24P-60	AMD	04/23/2003	2003-5/15
<b><u>teacher certification</u></b>					
Education, Administration	25926	R277-518	5YR	01/14/2003	2003-3/67
	26032	R686-100	5YR	02/07/2003	2003-5/41
<b><u>teachers</u></b>					
Education, Administration	26188	R277-508	5YR	04/25/2003	2003-10/151
<b><u>telecommunications</u></b>					
Public Service Commission, Administration	26145	R746-342	5YR	04/02/2003	2003-9/138
	25578	R746-347	NEW	03/10/2003	2002-22/44
<b><u>transportation</u></b>					
Administrative Services, Finance	26203	R25-7	5YR	05/01/2003	2003-10/150
Environmental Quality, Radiation Control	26074	R313-19-100	AMD	05/09/2003	2003-7/9
Human Services, Aging and Adult Services	25552	R510-105	NEW	03/14/2003	2002-22/14
<b><u>transportation law</u></b>					
Administrative Services, Facilities Construction and Management	26117	R23-13	5YR	03/25/2003	2003-8/43
<b><u>trucking industries</u></b>					
Tax Commission, Auditing	25826	R865-9I-28	AMD	03/11/2003	2003-1/42
<b><u>undercover identification</u></b>					
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	25998	R722-320	5YR	01/28/2003	2003-4/60
<b><u>underground injection control</u></b>					
Environmental Quality, Water Quality	25631	R317-7-13	AMD	01/30/2003	2002-23/32
<b><u>underground storage tanks</u></b>					
Environmental Quality, Environmental Response and Remediation	25161	R311-207	CPR	02/04/2003	2003-1/46
<b><u>unemployment compensation</u></b>					
Workforce Services, Workforce Information and Payment Services	25946	R994-406-311	AMD	03/04/2003	2003-3/46
	25947	R994-406-315	AMD	03/04/2003	2003-3/48
<b><u>units</u></b>					
Environmental Quality, Radiation Control	25785	R313-12-3	AMD	03/14/2003	2003-1/22

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<b><u>used oil</u></b> Environmental Quality, Solid and Hazardous Waste	26064	R315-15	5YR	03/03/2003	2003-7/75
<b><u>utility regulation</u></b> Public Service Commission, Administration	26147	R746-405	5YR	04/02/2003	2003-9/139
<b><u>vocational education</u></b> Education, Administration	25926	R277-518	5YR	01/14/2003	2003-3/67
Education, Applied Technology Education (Board for), Rehabilitation	26088	R280-200	5YR	03/12/2003	2003-7/74
<b><u>waste disposal</u></b> Environmental Quality, Radiation Control	25943	R313-15	5YR	01/14/2003	2003-3/73
Environmental Quality, Solid and Hazardous Waste	26092	R315-301	5YR	03/14/2003	2003-7/75
	26094	R315-303	5YR	03/14/2003	2003-7/77
	26095	R315-305	5YR	03/14/2003	2003-7/78
	26096	R315-306	5YR	03/14/2003	2003-7/79
	26097	R315-307	5YR	03/14/2003	2003-7/79
	26098	R315-308	5YR	03/14/2003	2003-7/80
	26100	R315-309	5YR	03/14/2003	2003-7/81
	26099	R315-310	5YR	03/14/2003	2003-7/82
	26101	R315-311	5YR	03/14/2003	2003-7/82
	26102	R315-312	5YR	03/14/2003	2003-7/83
	26104	R315-314	5YR	03/14/2003	2003-7/84
	26105	R315-315	5YR	03/14/2003	2003-7/85
	26106	R315-316	5YR	03/14/2003	2003-7/86
	26107	R315-317	5YR	03/14/2003	2003-7/87
	26108	R315-318	5YR	03/14/2003	2003-7/87
Environmental Quality, Water Quality	25636	R317-1	AMD	01/30/2003	2002-23/17
<b><u>waste management</u></b> Environmental Quality, Solid and Hazardous Waste	26093	R315-302	5YR	03/14/2003	2003-7/76
<b><u>waste water</u></b> Environmental Quality, Water Quality	25203	R317-4-3	AMD	01/10/2003	2002-18/43
	25635	R317-4-3	AMD	01/30/2003	2002-23/21
	25637	R317-11	AMD	01/30/2003	2002-23/80
<b><u>wastewater</u></b> Environmental Quality, Water Quality	26183	R317-101	5YR	04/22/2003	2003-10/151
<b><u>wastewater treatment</u></b> Environmental Quality, Water Quality	25638	R317-10	AMD	01/30/2003	2002-23/78
<b><u>water</u></b> Public Service Commission, Administration	26081	R746-330	5YR	03/10/2003	2003-7/92
	26142	R746-331	5YR	04/02/2003	2003-9/137
	26143	R746-332	5YR	04/02/2003	2003-9/137

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<b><u>water pollution</u></b>					
Environmental Quality, Water Quality	25636	R317-1	AMD	01/30/2003	2002-23/17
	25634	R317-8	AMD	01/30/2003	2002-23/33
	25633	R317-9	NEW	02/05/2003	2002-23/74
	25638	R317-10	AMD	01/30/2003	2002-23/78
<b><u>water quality</u></b>					
Environmental Quality, Water Quality	25632	R317-6-6	AMD	01/30/2003	2002-23/25
	25631	R317-7-13	AMD	01/30/2003	2002-23/32
	26183	R317-101	5YR	04/22/2003	2003-10/151
Public Service Commission, Administration	26081	R746-330	5YR	03/10/2003	2003-7/92
<b><u>water rights</u></b>					
Natural Resources, Water Rights	26195	R655-5	5YR	04/29/2003	2003-10/154
<b><u>welfare</u></b>					
Human Services, Recovery Services	25977	R527-3	AMD	03/19/2003	2003-4/26
<b><u>wildlife</u></b>					
Natural Resources, Wildlife Resources	26167	R657-3	5YR	04/15/2003	2003-9/136
	25720	R657-5	AMD	01/15/2003	2002-24/29
	25721	R657-17	AMD	01/15/2003	2002-24/46
	25890	R657-23	AMD	02/16/2003	2003-2/41
	25892	R657-33	AMD	02/16/2003	2003-2/43
	26056	R657-33-6	AMD	04/15/2003	2003-6/15
	26274	R657-34	5YR	05/14/2003	2003-11/96
	26275	R657-37	5YR	05/14/2003	2003-11/97
	25722	R657-38	AMD	01/15/2003	2002-24/48
	25723	R657-42	AMD	01/15/2003	2002-24/52
	26278	R657-42	5YR	05/14/2003	2003-11/98
	25894	R657-44	R&R	02/16/2003	2003-2/46
<b><u>wildlife conservation</u></b>					
Natural Resources, Wildlife Resources	25722	R657-38	AMD	01/15/2003	2002-24/48
<b><u>working toward employment</u></b>					
Workforce Services, Employment Development	25827	R986-400-404	AMD	02/06/2003	2003-1/43
<b><u>x-ray</u></b>					
Environmental Quality, Radiation Control	25786	R313-28	AMD	03/14/2003	2003-1/27
<b><u>youth</u></b>					
Human Services, Administration, Administrative Services, Licensing	25707	R501-8	AMD	01/17/2003	2002-24/19
	25703	R501-16	NSC	02/26/2003	Not Printed
	26055	R501-16	5YR	02/26/2003	2003-6/17
<b><u>zoning</u></b>					
Administrative Services, Facilities Construction and Management	25957	R23-9	5YR	01/15/2003	2003-3/63
	25988	R23-9	R&R	03/24/2003	2003-4/5

RULES INDEX

---

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<b><u>zoological animals</u></b> Natural Resources, Wildlife Resources	26167	R657-3	5YR	04/15/2003	2003-9/136