

# UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT  
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Kenneth A. Hansen, Director  
Nancy L. Lancaster, Editor

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Inquiries concerning administrative rules or other contents of the *Bulletin* may be addressed to the responsible agency or to: Division of Administrative Rules, 4120 State Office Building, Salt Lake City, Utah 84114, 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/>

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Division of Administrative Rules, Salt Lake City 84114

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# SPECIAL NOTICES

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## Governor's Executive Order: Creating the Utah Commission on Literacy

### EXECUTIVE ORDER

#### Creating the Utah Commission on Literacy

**WHEREAS**, reading is fundamental to a child's lifelong success;

**WHEREAS**, every adult can influence the life of a child by spending time reading with that child;

**WHEREAS**, parents can encourage literary achievement by setting realistic expectations for their children, providing reading instruction, responding to children's personal interests, and by reading with their children for twenty minutes daily;

**WHEREAS**, literacy experiences are more likely to occur in homes that have children's books and other reading and writing materials;

**WHEREAS**, language experiences and language-rich environments have a positive effect on vocabulary development in children;

**NOW, THEREFORE**, I, Olene S. Walker, Governor of the State of Utah, by virtue of the authority vested in me by the laws and Constitution of the State of Utah, hereby order the following:

1. There is created the Utah Commission on Literacy.
2. The purpose of the commission is to:
  - a. Maximize the percentage of Utah's children that read at or above grade level by the end of the third grade; and
  - b. Maximize the number of Utah's children that read with an adult at least twenty minutes every day.
3. In furtherance of these purposes the commission shall have the following duties and responsibilities:
  - a. Increase public awareness of the importance of reading and of learning to read well at an early age.
  - b. Encourage parents across the state to read with their children for an average of at least twenty minutes every day.
  - c. Establish and strengthen volunteer programs and services statewide to help individuals, particularly children, to build reading skills.
  - d. Help form partnerships of families, schools, businesses, volunteers, organizations, and communities to help accomplish the purposes of the commission.
  - e. Develop public media campaigns, community relations activities, education projects, and additional resources in order to accomplish the purposes of the commission.
  - f. Act as a clearinghouse for information, materials, learning opportunities, services, programs, networking and other literacy resources.
  - g. Advocate for literacy generally and for the specific purposes of the commission.
4. The commission shall consist of fifteen members appointed by the governor, including:
  - a. The governor's deputy for education;
  - b. A representative from the Utah State Office of Education;
  - c. A representative from the Utah Commission on Volunteers;

SPECIAL NOTICES

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- d. A representative from the Office of Ethnic Affairs;
  - e. A representative of the Parent Teacher Association;
  - f. A member of the Utah House of Representatives;
  - g. A member of the Utah State Senate;
  - h. Remaining members shall be selected from a broad cross section of the state representing local school districts, colleges and universities, the business community, local media, political subdivisions of the state, service groups, faith groups, and members of the general public with a demonstrated interest in literacy programs.
5. Members shall be appointed to serve four-year terms, except that the initial terms shall be staggered so that approximately half of the commission is appointed every two years. Members may be reappointed to additional consecutive terms.
6. When a vacancy occurs in the membership for any reason, the governor shall appoint a replacement to fill the remainder of the unexpired term.
7. The governor shall either appoint one member as chair of the commission or two members to serve as co-chairs.
8. Members of the commission shall serve without per diem or other expenses.
9. A majority of commission members shall constitute a quorum for conducting commission business. All action shall be by a simple majority vote of meeting attendees, if a quorum is present.
10. The commission shall meet at least quarterly, but may meet as often as necessary to achieve the objectives outlined in this order.
11. The commission may establish subcommittees and working groups to accomplish its purposes.
12. The commission is encouraged to utilize the services of the governor's expert panel of advisors in matters of scientific research and best practices relating to literacy and to coordinate activities with the Utah Reads Alliance.
13. The commission shall prepare a brief annual report for the governor.
14. The commission does not have the authority to require the expenditure of public funds.
15. This order shall remain in effect until revoked or supplanted by executive order.

**IN WITNESS, WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah on this 2nd day of December, 2003.

(State Seal)

**OLENE S. WALKER**  
Governor

**ATTEST:**

**GAYLE F. MCKEACHNIE**  
Lieutenant Governor

2003/0013

## NOTICES OF PROPOSED RULES

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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 November 15, 2003, 12:00 a.m., and December 1, 2003, 11:59 p.m. are included in this, the December 15, 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 January 14, 2004. 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 April 13, 2004, 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.

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

Commerce, Occupational and  
Professional Licensing  
**R156-1-106**  
Division - Duties, Functions, and  
Responsibilities

**NOTICE OF PROPOSED RULE**  
(Amendment)

DAR FILE NO.: 26805  
FILED: 11/24/2003, 15:28

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division needs to add another type of entity regarding who may obtain a licensure list with multiple licensees from the Division.

SUMMARY OF THE RULE OR CHANGE: This amendment adds to Subsection R156-1-106(1) the category of health care facilities or third party credentialing services, for the purpose of verifying licensure, as a category of persons who may obtain a licensure list with multiple licensees.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 58-1-106(1)(a)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The Division will incur minimal costs, approximately \$50, to reprint the rule once the proposed amendment is made effective. Any costs incurred will be absorbed in the Division's current budget.
- ❖ LOCAL GOVERNMENTS: The proposed amendment would allow a county-owned hospital to request a licensure list for the purpose of verifying licensure for the credentialing of providers. The list costs \$5 for the first 300 names and \$0.04 per name thereafter.
- ❖ OTHER PERSONS: Any regulated health care facility or credentialing body could obtain a list at a cost of \$5 for the first 300 names and \$0.04 per name thereafter. The cost of a specific list would be dependent upon the size of the population.

COMPLIANCE COSTS FOR AFFECTED PERSONS: To obtain a list containing multiple licensees for those persons specified in Subsection R156-1-106(1), the cost is \$5 for the first 300 names and \$0.04 per name thereafter. The total cost of the list would be dependent upon the size of the population.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There appears to be no fiscal impact to businesses as a result of this rule change, which allows licensed health care facilities or third party credentialing services, to obtain multiple licensure lists for verification of licensure status or credentialing. Klare Bachman, 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:

Laura Poe at the above address, by phone at 801-530-6789, by FAX at 801-530-6511, or by Internet E-mail at lpoe@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 01/14/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/2004

AUTHORIZED BY: J. Craig Jackson, Director

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

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

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

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

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

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

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

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

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

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



**KEY: diversion programs, licensing, occupational licensing**  
~~November 3, 2003~~ 2004  
 Notice of Continuation May 2, 2002  
 58-1-106(1)(a)  
 58-1-308

▼ ————— ▼

**Education, Administration**  
**R277-486**  
**Professional Staff Cost Program**

**NOTICE OF PROPOSED RULE**

(New Rule)  
 DAR FILE NO.: 26828  
 FILED: 12/01/2003, 12:23

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this rule is to provide a formula and procedures for funding for school districts that have certain percentages of licensed professional staff.

**SUMMARY OF THE RULE OR CHANGE:** The rule provides standards for eligibility for school districts to receive weighted pupil units (WPU) for professional staff, defines acceptable experience and training standards, provides a statutory formula, and defines data sources.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 53A-17a-107(2)

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** There are no anticipated cost or savings to state budget. The Utah State Board of Education is directed by statute to provide funding incentives to school districts to maintain a certain percentage of appropriately licensed educators. This rule formalizes practices that the USOE School Finance Section has used previously to distribute funds.

❖ **LOCAL GOVERNMENTS:** There are no anticipated cost or savings to local government. School districts will receive funding for appropriately licensed staff under this rule; the criteria are now clearly articulated. However, school districts have been receiving funding under this formula previously.

❖ **OTHER PERSONS:** There are no anticipated cost or savings to other persons. This rule affects only funds that flow to school districts, not individuals.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs for affected persons. The rule affects only funds that flow to school districts.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at clear@usoe.k12.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 01/14/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/2004

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

**R277. Education, Administration.**  
**R277-486. Professional Staff Cost Program.**  
**R277-486-1. Definitions.**

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

B. "Computer Aided Credentials of Teachers in Utah System (CACTUS)" means the electronic file maintained on all licensed Utah educators. The file includes information such as:

(1) personal directory information;

(2) educational background;

(3) endorsements;

(4) employment history;

(5) professional development information; and

(6) a record of disciplinary action taken against the educator.

C. "ESEA" means the Elementary and Secondary Education Act, also known as the No Child Left Behind Act, P.L. 107-110, Title I, Part A, Subpart 1, Sec. 1119, January 8, 2002.

D. "FTE" means full time equivalent.

E. "Local Education Agency (LEA)" means any organizational unit of the public education system existing under state law as either a traditional school district or a charter school authorized under Section 53A-1a-502.

F. "National Board certified educator" means an educator who has been certified by the National Board for Professional Teaching Standards (NBPTS) by successfully completing a three-year process that may include national content-area assessment, an extensive portfolio, and assessment of video-taped classroom teaching experience.

G. "USOE" means Utah State Office of Education.

H. "Weighted Pupil Unit (WPU)" means the unit of measure that is computed in accordance with the Minimum School Program Act for the purpose of determining the costs of a program on a uniform basis for each school district.

**R277-486-2. Authority and Purpose.**

A. This rule is authorized by Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board, by Section 53A-17a-107(2) which authorizes the Board to adopt a rule to require a certain percentage of a district's professional staff to be licensed in the area in which the teacher teaches in order for the district to receive full funding under

the state statutory formula, and by Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to satisfy statutory percentages of licensed staff and support LEAs in recruiting and retaining highly educated and experienced educators for instructional, administrative and other types of professional employment in public schools.

**R277-486-3. Eligibility to Receive WPU's for Professional Staff.**

A. LEAs shall receive WPU's in accordance with the formula provided in Section 53A-17a-107(1)(a):

(1) only for those educators who hold at least a bachelors degree; and

(2) only to the extent that such educators are qualified to work in the area to which they are assigned consistent with R277-520. For example, an educator who is employed full time but is appropriately qualified in only 75% of his assignments would count for only 0.75 FTEs in the calculation of WPU's.

(3) In order to receive full (100%) funding, an LEA shall have an appropriately qualified educator in every assignment.

B. An educator who is identified as qualified under R277-520 is not necessarily highly qualified for ESEA purposes.

C. LEAs shall not receive WPU's for interns in their second or subsequent years nor for paraprofessionals in any assignment.

**R277-486-4. Acceptable Experience.**

A. Educator experience for purposes of this rule shall be measured in one-year increments.

B. An educator shall be credited with one year of experience for every school year in which he is employed at least half-time (0.5 FTE) in an instructional or administrative position in any public school in the State of Utah or in any regionally accredited:

- (1) public school outside of the State of Utah;
- (2) private school; or
- (3) institution of higher education.

C. To obtain credit under Subsection B(1) through (3), the LEA which employs the educator shall submit to the USOE acceptable documentation verifying such experience, including documentation of the school's or institution's regional accreditation.

D. Employment in a prekindergarten position shall not be acceptable for this purpose, unless the educator is employed in a special education position in an accredited school.

E. Unpaid volunteer service, paid consulting, employment in non-instructional or non-administrative positions in a school setting, and time as a school intern shall not be acceptable experience under this rule.

F. Documentation of an educator's experience in a private school or institution of higher education may be required by USOE staff to determine relevance of experience.

**R277-486-5. Acceptable Training.**

Acceptable training under this rule may include:

A. Any degree at the bachelors level or above or credit beyond the current degree from a:

- (1) regionally accredited institution of higher education; or
- (2) postsecondary degree-granting institution accredited by any of the national accrediting agencies recognized by the United States Department of Education.

B. Any professional development activity consistent with R277-501 and approved in writing by the USOE.

**R277-486-6. Mapping Degree Summary Data to Statutory Formula.**

A. To ensure consistency in applying data from CACTUS to the formula, the following mapping of the relevant two-digit CACTUS Degree Summary codes to the five columns of the Professional Staff Cost formula table in Section 53A-17a-107(1)(a) shall be used:

- (1) 03 = Bachelor's Degree;
- (2) 04 or 05 = Bachelors + 30 quarter hours;
- (3) 06 = Master's Degree;
- (4) 07 or 08 = Master's Degree + 45 quarter hours;
- (5) 09 = Doctorate.

B. A district shall be credited for an individual with National Board certification at the doctorate level.

**R277-486-7. Data Sources.**

A. For LEAs that were in operation in the prior year, data shall be used from June 30 update of CACTUS as required by R277-484-3(c).

B. For LEAs that were not in operation in the prior year, data shall be used from November 1 update of CACTUS as required by R277-484-3(I).

**KEY: professional staff**

**2004**

**Art X Sec 3**

**53A-17a-107(3)**

**53A-1-401(3)**



Education, Administration  
**R277-502**

Educator Licensing and Data Retention

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 26827

FILED: 12/01/2003, 12:20

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide for licensing of professional school counselors. This rule provides language that makes levels of school counselor licenses parallel to levels of professional educator licenses. The rule also updates terminology and definitions.

SUMMARY OF THE RULE OR CHANGE: The amendments updates terminology and definitions, and provides for school counselor levels of licensure.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53A-6-104

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated cost or savings to state budget. The amendments to this rule provide for clearer definitions and clarify levels of licensure for schools counselors.

❖ LOCAL GOVERNMENTS: There are no anticipated cost or savings to local government. The amendments to this rule clarify appropriate school counselor levels-most school districts have followed similar standards previously.

❖ OTHER PERSONS: There may be limited costs to counselors/educators. School counselors must satisfy the requirements of this rule for licensing. However, most of the changes are not new. The terminology and definitions are the major changes. There are many ways for counselors/educators to satisfy license requirements that are inexpensive or free.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There may be limited compliance costs for counselors/educators. School counselors must satisfy the requirements of this rule for licensing. However, most of the changes are not new. The terminology and definitions are the major changes. There are many ways for counselors/educators to satisfy license requirements that are inexpensive or free.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at clear@usoe.k12.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 01/14/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/2004

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

## **R277. Education, Administration.**

### **R277-502. Educator Licensing and Data Retention.**

#### **R277-502-1. Definitions.**

A. "Accredited" means a teacher preparation program accredited by the National Council for Accreditation of Teacher Education (NCATE) or one of the major regional accrediting associations.

~~— F. "Appropriate employment" means full-time experience, in the field for which the license is issued, in a public or accredited private or parochial school.~~

~~]~~ A]B. "Board" means the Utah State Board of Education.

~~— B. "Utah Professional Educator License (license)" means authorization issued by the Board which attests to the fact that the~~

~~holder has satisfied the requirements for employment in the public school system.~~

~~]~~ [H]C. "Letter of Authorization" means [a temporary license or approval issued to a district for an individual who has not completed the requirements for a level 1, 2, or 3 license, such as a student teacher or a person hired to perform professional services on a limited basis when licensed or properly endorsed personnel are not available.] a designation given to an individual, such as an out-of-state candidate or individual pursuing an alternative license, who has not completed the requirements for a Level 1, 2, or 3 license and who is employed by a school district for a limited period of time until required documentation is complete.

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

E. "Level 2 license" means a Utah professional educator license issued after satisfaction of all requirements for a Level 1 license as well as any additional requirements established by law or rule relating to professional preparation or experience.

F. "Level 3 license" means a Utah professional educator license issued to an educator who holds a current Utah Level 2 license and has also received, in the educator's field of practice, National Board certification or a doctorate from an accredited institution.

~~[E]G. "License areas of concentration [-(license areas)]" [means specific areas identified by the Board in which an individual has adequate training as determined by the USOE authorizing the person to teach in that area. Completion of a particular preparation program offered by a university/college or of a Board approved program verifies that qualifications for a license area are satisfied.] are obtained by completing an approved preparation program or an alternative preparation program in a specific area of educational studies to include the following: Early Childhood (K-3), Elementary (1-8), Middle (5-9), Secondary (6-12), Administrative/Supervisory, Applied Technology Education, School Counselor, School Psychologist, School Social Worker, Special Education (K-12), Preschool Special Education (Birth-Age 5), Communication Disorders, and may also bear endorsements relating to subjects or specific assignments.~~

~~[D]H. "License [E]endorsement (endorsement)" means a [qualification based on content area mastery obtained through a higher education major or minor or through a state approved endorsement program.] specialty field or area earned through course work equivalent to at least an academic minor (with pedagogy) or through demonstrated competency; the endorsement shall be listed on the Professional Educator License indicating the specific qualification(s) of the holder.~~

[H]I. "Professional development plan" means a plan developed by an educator and approved by the educator's supervisor that includes locally or Board-approved education-related training or activities that enhance an educator's background. Professional development points are required for periodic educator license renewal.

[E]J. "Renewal" means reissuing or extending the length of a license consistent with R277-501.

[J]K. "State Approved Endorsement [Plan]Program (SAEP)" means a [plan in place for a licensed educator working to complete the requirements of an endorsement.] professional development plan on which an educator is working to obtain an endorsement.

~~[—G. "Special assignment teacher" means a teacher assigned to:  
 —(1) alternative school settings in which the teacher must teach three or more subjects;  
 —(2) teach homebound students with the expectation that several subjects may be covered by the same teacher; or  
 —(3) necessarily existent small or rural schools with limited faculty and enrollment in which teachers may teach three or more core subjects.~~

**R277-502-2. Authority and Purpose.**

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of the public school system under the Board, by Section 53A-6-104 which gives the Board power to issue licenses, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. This rule specifies the types of license levels and license areas of concentration available and procedures for obtaining a license, required for employment as a licensed educator in the public schools of Utah. All licensed educators employed in the Utah public schools shall be licensed consistent with this rule in order for the district to receive full funding under Section 53A-17a-107(2).

**R277-502-3. Program Approval.**

A. The Board uses the approved program approach to educator preparation and licensing which includes:

(1) the development of educator preparation programs by post-secondary institutions in accordance with established rules and procedures;

(2) the official review and evaluation of each institutional program in accordance with standards adopted by the Board and the subsequent approval of a program if standards are met;

(3) approval of applicants for licensing, whether students in post-secondary institutions, individuals with out-of-state licenses, or individuals in other circumstances, prior to their significant unsupervised access to students.

(4) licensing by the Board of an applicant upon completion of an approved program;

(5) the issuance, by the Board, of an educator license. The initial [4]Level 1 license may be converted to a [4]Level 2 or [4]Level 3 license upon demonstration of competence during employment, satisfaction of requirements of R277-522, Entry Years Enhancements (EYE) for Quality Teaching - Level 1 Utah Teachers, and any other federal requirements.

B. The Board, or its designee, shall establish deadlines and uniform forms and procedures for all aspects of licensing.

~~**R277-502-4. Professional Development Requirements/Procedures for Temporary License Holders.**~~

~~A. Temporary license holders authorized by the Board upon request of a school district shall be responsible for professional development consistent with this rule.~~

~~(1) Individuals authorized by the Board shall complete professional development annually.~~

~~(a) The proposed credit shall be approved by the supervising principal.~~

~~(b) Individuals who do not meet the minimum yearly requirement shall not be approved by the Board for employment in successive years by a school district.~~

~~(c) Professional development credit for educators employed under letters of authorization shall be completed by August 15 of~~

~~each year for which the individual was employed and shall be submitted to the employing school district on a form provided by the USOE.~~

~~B. Individuals employed under letters of authorization and working toward a level 1 license or an endorsement may use the same credit or activities for required professional development.]~~

**R277-502-[5]4. License Levels, Procedures, and Periods of Validity.**

A. An initial license, the [4]Level 1 license, is issued to an individual who is recommended by a Board-approved educator preparation program or approved alternative preparation program, or an educator with a professional educator license from another state.

(1) The recommendation indicates that the individual has satisfactorily completed the programs of study required for the preparation of educators and met licensing standards in the license areas of concentration for which the individual is recommended.

(2) The [4]Level 1 license is issued for three years.

(3) Employing school districts and educator preparation institutions shall cooperate in making special assistance available for educator [4]Level 1 license holders. The resources of both may be used to assist those educators experiencing significant problems. The institution in closest proximity to the employing school district is the first choice for district involvement; however, the school district is encouraged to make a cooperative arrangement with the institution from which the educator graduated.

(4) An educator shall satisfy requirements and criteria of R277-522, Entry Years Enhancements (EYE) for Quality Teaching - Level 1 Utah Teachers.

(5) An educator shall satisfy all federal requirements for an educator license prior to moving from Level 1 to Level 2.

B. A [4]Level 2 license may be issued by the Board to a [4]Level 1 license holder upon the recommendation of the employing school district.

(1) The recommendation shall be made following the completion of three years of successful, professional growth and educator experience and satisfaction of R277-522, Entry Years Enhancements (EYE) for Quality Teaching - Level 1 Utah Teachers and before the [4]Level 1 license expires.

(2) A [4]Level 2 license shall be issued for five years and shall be valid unless suspended or revoked for cause by the Board.

(3) The [4]Level 2 license ~~shall~~ may be renewed for successive five year periods consistent with R277-501, Educator Licensing Renewal.

(4) A Level 2 license holder shall satisfy all federal requirements for an educator license holder prior to renewal after June 30, 2006 to remain interim highly qualified.

C. A [4]Level 3 license may be issued by the Board to a [4]Level 2 license holder who has achieved National Board Professional Teaching Standards Certification or who holds a doctorate in the educator's field of practice.

(1) It is valid for seven years unless suspended or revoked for cause by the Board.

(2) The [4]Level 3 license ~~shall~~ may be renewed for successive seven year periods consistent with R277-501.

D. Licenses expire on June 30 of the year shown on the face of the license and may be renewed any time after January of that year. Responsibility for securing renewal of the license rests upon the holder.

**R277-502-[6]5. Professional Educator License Areas of Concentration and Approved Programs.**

A. Unless excepted under rules of the Board, to be employed in the public schools in a capacity covered by the following license areas of concentration, a person shall hold a valid license issued by the Board in the respective license areas of concentration:

- ~~— (1) Preschool Special Education;~~
- ~~— (2) Early Childhood Education;~~
- ~~— (3) Elementary Education;~~
- ~~— (4) Secondary Education;~~
- ~~— (5) Administrative/Supervisory;~~
- ~~— (6) Special Education;~~
- ~~— (7) Communication Disorders;~~
- ~~— (8) School Counselor, School Psychologist, and School Social Worker; and~~
- ~~— (9) Applied Technology Education;~~ (1) Early Childhood (K-3);
- ~~— (2) Elementary (1-8);~~
- ~~— (3) Middle (5-9);~~
- ~~— (4) Secondary (6-12);~~
- ~~— (5) Administrative/Supervisory;~~
- ~~— (6) Applied Technology Education;~~
- ~~— (7) School Counselor;~~
- ~~— (8) School Psychologist;~~
- ~~— (9) School Social Worker;~~
- ~~— (10) Special Education (K-12);~~
- ~~— (11) Preschool Special Education (Birth-Age 5)~~
- ~~— (12) Communication Disorders.~~

B. Licensed educators may be authorized by the Board for employment in the public schools under the following programs:

(1) a license earned through a Board-approved post-secondary educator education program.

(a) The individual seeking a license shall be approved by the post-secondary program personnel following completion of a USOE-approved license area of concentration program;

(b) The program shall require university/college students to satisfy the requirements of Section 53A-3-410, criminal background check, prior to having significant unsupervised access to students. This may include review and approval by the Utah Professional Practices Advisory Commission (UPPAC), consistent with its rules and policies, prior to classroom experience.

(2) alternative educator preparation consistent with R277-503.

(3) eminence, consistent with R277-[544]520.

(4) applied technology, consistent with R277-518.

(5) out-of-state applicants under R277-502-7.

C. Under ~~[prepared]~~qualified educators:

~~(1) If a licensed secondary or middle education educator is assigned in a subject area for which that educator is not endorsed, the employing school district shall request a Letter of Authorization from the Board to continue the educator's assignment.~~

~~— (2) Educators who are licensed but working out of their endorsement area(s) shall request and prepare a [State Approved Endorsement Plan -] [SAEP] to complete the requirements of an endorsement with a USOE education specialist[-]; or~~

~~(2) Local boards may request from the Board a Letter of Authorization for educators employed by the local board who have completed requirements for licensing but are waiting documentation of that completion. An approved Letter of Authorization is valid for a limited period of time. Following the expiration of the Letter of Authorization, the educator who has still not been completely approved for licensing is considered under qualified.~~

~~[D. Special assignment educators or educators in other similar circumstances shall hold a license with endorsement(s) in one or more core curriculum subjects plus have completed not fewer than six semester hours of state approved college/university or 100 professional development points in the subject areas in which they are assigned.~~

~~— E. Special assignment educators not meeting the minimum professional development requirements, shall be placed on an SAEP.~~

~~— F. Individuals applying for a license with a specific license area shall meet the specific requirements for the designated program.~~

~~— G]D. Licenses may be endorsed to indicate qualification in a subject or content area. An endorsement without a current license is not valid for employment purposes.]~~

~~— H. Student teachers and interns shall also hold valid temporary student teacher or intern licenses issued by the Board.]~~

**R277-502-6. School Counselor Levels of Licensure.**

~~There are three levels of licensure for a K-12 school counselor:~~

~~A. School Counselor Professional Educator License Level 1 is a license issued:~~

~~(1) upon completion of an accredited counselor education program; or~~

~~(2) to persons applying for licensure under interstate agreements.~~

~~(3) This license is issued to counselors who are beginning their professional careers who have completed an approved 600 hour field experience (400 hours if the applicant has completed two or more years of successful teaching experience as approved by USOE licensing).~~

~~B. School Counselor Professional Educator License Level 2 is:~~

~~(1) a license issued after satisfaction of all requirements for a Level 1 license and 3 years of successful experience as a school counselor in an accredited school in Utah; and~~

~~(2) is valid for five years.~~

~~C. Counseling Intern Temporary License is based on written recommendation from a USOE accredited program that a candidate:~~

~~(1) is currently enrolled in the program;~~

~~(2) has completed 30 semester hours of course work, including successful completion of a practicum; and~~

~~(3) has skills to work in a school as an intern with supervision from the school setting and from the counselor education program.~~

~~(a) Letters from the accredited program recommending eligible candidates shall be submitted to USOE at the beginning of each school year.~~

~~(b) The Counseling Intern Temporary License is valid for the current year only and is not renewable.~~

**R277-502-7. Professional Educator License Reciprocity.**

~~A. Utah is a member of the Compact for Interstate Qualification of Educational Personnel under Section 53A-6-201.~~

~~B. A [4]Level 1 license may be issued to a graduate of an educator preparation program from an accredited institution of higher education in another state[ which was, at the time of the applicant's graduation, approved by that state on the basis of standards contained in Standards for State Approval of Teacher Education, or equivalent standards.~~

~~(1) Standards are available in the USOE Licensing Section or on the NCATE website].~~

~~(2) The institution conducting the teacher preparation program must be accredited by the National Council for~~

Accreditation of Teacher Education (NCATE) or one of the [six] major regional accrediting associations.

([3]2) If the applicant has one or more years of previous educator experience, a [1] Level 2 license may be issued upon the recommendation of the employing Utah school district after at least one year[, but no more than three years, of educator experience in the state].

~~[R277-502-8. Renewal of Professional Educator Licenses.~~

~~— A. The level 1 license shall be issued for three years and renewed consistent with R277-501-4.~~

~~— B. The level 2 or level 3 license may be renewed in five or seven year cycles consistent with R277-501-4 or R277-501-5.]~~

**R277-502-[9]8. Computer-Aided Credentials of Teachers in Utah Schools (CACTUS).**

A. CACTUS maintains public and protected and private information on licensed Utah educators.

(1) Public information includes name, educational qualifications, degrees earned, and current assignment (if applicable).

(2) Private or protected information includes such items as home address, date of birth, social security number, and any disciplinary action taken against an individual's license.

B. A CACTUS file is opened on a licensed Utah educator when:

(1) the individual's fingerprint cards are submitted to the USOE, or

(2) the USOE receives an application for a license from an individual seeking licensing in Utah.

C. The data in CACTUS may only be changed as follows:

~~[(1) Authorized USOE staff or designated school district staff, if data is demographic;~~

~~— (2) licensing information including endorsements, license areas, degrees, by USOE staff;~~

~~— (3) work experience by employing school district for current school year only;](1) Authorized USOE staff or authorized school district staff may change demographic data.~~

~~— (2) Authorized USOE staff may change licensing data such as endorsements, degrees, license areas of concentration.~~

~~— (3) Authorized employing school district staff may update data on work experience for the current school year only.~~

D. Licensed individuals may view personal data if registered with the Utah Education Network (UEN). An individual may not change or add data.

E. Individuals currently employed by public, private or parochial schools under letters of authorization are included in CACTUS. Interns may be included on CACTUS.

F. Designated individuals have access to CACTUS data:

(1) A licensed individual may view his own file[5].

(2) Designated USOE staff may view or change CACTUS files on a limited basis with specific authorization[5].

(3) For employment or assignment purposes only, designated district or school staff members may access data on individuals employed by their own districts or data on licensed individuals who are not currently employed by public schools, charter schools, some private and parochial schools and ATCs.

(4) Designated individuals may also view specific limited information on job applicants if the applicant has provided a school district with a Social Security Number.

**R277-502-[10]9. Professional Educator License Fees.**

A. The Board, or its designee, shall establish a fee schedule for the issuance and renewal of licenses and endorsements consistent with 53A-6-105. All endorsements to which the applicant is entitled may be issued or renewed with the same expiration date for one licensing fee. The renewal of endorsements at different times may require the payment of a renewal fee for each endorsement.

B. A fee may be charged any time credit is submitted for license renewal.

C. An endorsement may be added at any time, and unless the license is reprinted, there shall be no charge. If a new license is issued, a fee shall be charged.

**KEY: professional competency, educator licensing**

~~[January 4, 2002]2004~~

**Notice of Continuation September 12, 2002**

**Art X Sec 3**

**53A-6-104**

**53A-1-401(3)**

Education, Administration  
**R277-720**  
Child Nutrition Programs

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE No.: 26830

FILED: 12/01/2003, 15:14

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to bring the referenced laws, list of programs, and administrative manuals up-to-date.

SUMMARY OF THE RULE OR CHANGE: The rule updates laws, programs, and administrative manuals.

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 42 USC 1751, et seq.; 42 USC 1761, et seq.; and 42 USC 3030a

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There no anticipated cost or savings to state budget. The amendment to this rule only updates laws, programs, and administrative manuals.

❖ LOCAL GOVERNMENTS: There no anticipated cost or savings to local government. The amendment to this rule only updates laws, programs, and administrative manuals.

❖ OTHER PERSONS: There no anticipated cost or savings to other persons. The amendment to this rule only updates laws, programs, and administrative manuals.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There no compliance costs for affected persons. The amendment to

this rule only updates laws, programs, and administrative manuals.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at clear@usoe.k12.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 01/14/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/2004

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

**R277. Education, Administration.  
R277-720. Child Nutrition Programs.  
R277-720-1. Definitions.**

- A. "Board" means the Utah State Board of Education.
- B. "USOE" means the Utah State Office of Education.

**R277-720-2. Authority and Purpose.**

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, ~~and~~ by Section 53A-1-401(3); ~~U.C.A. 1953,~~ which allows the Board to adopt rules in accordance with its responsibilities~~[-],~~ by Section 53A-1-402(1)(b) ~~[-],~~ ~~and~~ ~~which~~ ~~allows~~ ~~directs~~ the Board to make rules ~~and~~ ~~minimum~~ ~~standards~~ regarding access to programs ~~[-] and health requirements, and Section 53A-1-402(1)(f) which directs the Board to establish minimum standards for the school lunch program,~~ and by Section 53A-1-402(3) which authorizes the Board to administer funds made available through programs of the federal government.

B. The purpose of this rule is to specify the standards and procedures for child nutrition programs administered by the Board.

**R277-720-3. Standards and Procedures for Child Nutrition.**

A. The Board adopts the following laws and regulations found at the Utah State Office of Education Child Nutrition Section and law libraries and hereby incorporates them by reference:

- ~~(1) the National School Lunch Act, 42 U.S.C. 1758, 1759a, 1761, 1762a, 1765, 1766;~~
- ~~(2) the Child Nutrition Act of 1966, 42 U.S.C. 1761, 1771, 1772, 1779;~~

- ~~(3) the Food and Agricultural Act of 1965, 7 U.S.C. 1446a-1;~~
- ~~(4) 42 U.S.C. 3030a;~~

~~B. The Board shall act in accordance with the following publications available from the Utah State Office of Education Child Nutrition Section:~~

- ~~(1) the ADMINISTRATIVE MANUAL CHILD CARE FOOD PROGRAM;~~

- ~~(2) the ADMINISTRATIVE MANUAL CHILD NUTRITION PROGRAM, July, 1992;~~

- ~~(3) UTAH FAMILY DAY CARE HOME SPONSORS MANUAL, June 1993; and~~

- ~~(4) all state plans and agreements which are required and submitted under applicable law; (1) the Richard B. Russell National School Lunch Act, 42 USC 1751, et seq.;~~

- ~~(2) the Child Nutrition Act of 1966, 42 USC 1761, et seq.; and~~

- ~~(3) the Emergency Food Assistance Act, 42 USC, 3030a.~~

~~B. The Board shall act in accordance with the following publications available from the USOE Child Nutrition Section:~~

- ~~(1) Administrative Manual, NSLP/NSBP/SMP (3 vols), 1998;~~

- ~~(2) Administrative Manual, CACFP (FDCH), (3 vols), 2000;~~

- ~~(3) Administrative Manual, Centers, (3 vols), 2001;~~

- ~~(4) Code of Federal Regulations, Chapter 7; and~~

- ~~(5) state plans and agreements which are required and submitted under applicable federal law.~~

**R277-720-4. Programs.**

The Board administers the following federal child nutrition programs:

- A. National School Lunch Program;
- B. School Breakfast Program;
- C. Special Milk Program;
- D. Child and Adult Care Food Program;
- E. Summer Food Service Program for Children;
- F. Food Distribution Program; ~~and~~
- G. Nutrition Education and Training Program~~[-]; and~~
- H. At Risk After School Snack Program.

**KEY: school lunch program, nutrition**

~~[1993]2004~~

**Notice of Continuation September 12, 2002**

**Art X Sec 3**

**53A-1-401(3)**

**53A-1-402(1)(b)**

**53A-1-402~~(1)(b)~~(3)**



**Education, Administration**

**R277-724**

**Criteria for Sponsors Recruiting Day Care Facilities in the Child and Adult Care Food Program**

**NOTICE OF PROPOSED RULE**

(New Rule)

DAR FILE NO.: 26829

FILED: 12/01/2003, 12:33

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to establish eligibility criteria for new sponsors to recruit participants to child care centers and day care homes in unserved areas.

SUMMARY OF THE RULE OR CHANGE: The rule provides criteria for recruiting facilities, and new and renewing institution performance standards.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-402(3)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There are no anticipated cost or saving to state budget because the state budget provides no funding for these programs. Any funding comes from the federal Department of Agriculture.
- ❖ LOCAL GOVERNMENTS: There are no anticipated cost or saving to local government because school districts provide no funding for these programs. Any funding comes from the federal Department of Agriculture.
- ❖ OTHER PERSONS: This rule provides clear criteria for day care providers recruited for participation in this federal child nutrition program. There are no additional costs or savings for participation.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule provides clear criteria for day care providers recruited for participation in this federal child nutrition program. There are no compliance costs for affected persons.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at clear@usoe.k12.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 01/14/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/2004

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

**R277. Education, Administration.****R277-724. Criteria for Sponsors Recruiting Day Care Facilities in the Child and Adult Care Food Program.****R277-724-1. Definitions.**

A. "Child and Adult Care Food Program (CACFP)" means the section of the USOE that administers the initiation, maintenance, and expansion of non-profit food service programs for children in non-residential centers and homes which provide child care. The definition also includes the administration of food service programs for non-residential adult day care.

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

C. "Child care center" means any public or private nonprofit organization, or any proprietary title XX center, licensed or approved to provide nonresidential child care services to enrolled children, primarily of preschool age. Child care centers may participate in the CACFP as independent centers or under the auspices of a sponsoring organization.

D. "Day care home" means an organized nonresidential child care program for children enrolled in a private home, licensed or approved as a family or group day care home and under the auspices of a sponsoring organization.

E. "Facilities" means a sponsored center or a family day care home.

F. "Institution" means an organization with whom the USOE has an agreement to accept final administrative and financial responsibility for CACFP operation.

G. "Recruited facilities" means potential daycare centers or homes that a prospective sponsor seeks to enroll in CACFP participation.

H. "Service area" means the geographic area from which a sponsoring organization draws its client facilities.

I. "Sponsoring organization" means a public or nonprofit private organization which is entirely responsible for the administration of the food program in:

(1) one or more day care homes;

(2) a child care center, outside-school-hours care center, or adult day care center which is a legally distinct entity from the sponsoring organization;

(3) two or more child care centers, outside-school-hours care centers, or adult day care centers are part of the organization; or

(4) any combination of child care centers, adult day care centers, day care homes, and outside-school-hours care centers.

J. "State agency" means the state educational agency or any other State agency that has been designated by the Governor or other appropriate executive or by the legislative authority of the state, and has been approved by the Department to administer the Program within the state.

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

**R277-724-2. Authority and Purpose.**

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, by Section 53A-1-402(3) which authorizes the Board to administer and distribute funds made available through programs of the federal government and by Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to establish eligibility criteria for new sponsors to recruit participants for child care centers and day care homes in unserved areas.



**R277-724-3. Criteria for Recruiting Facilities.**

The following criteria shall be met before a sponsor is approved:

A. The recruited facilities are not currently participating or were recently terminated for convenience by another sponsoring organization due to being outside the sponsoring organization's service area; and

B. The recruited facilities have not been terminated for cause, have no unresolved serious deficiency pending with another sponsoring organization and do not owe a refund to another sponsoring organization; and

C. The state agency certifies other sponsoring organizations are unable to accommodate the targeted facilities or the area(s) where it/they are located because:

(1) other sponsoring organizations generate insufficient resources to properly train and monitor facilities; or

(2) supervising additional facilities would threaten currently participating sponsoring organization's viability, capability or accountability.

**R277-724-4. New and Renewing Institution Performance Standards.**

A. The new or renewing institution shall ensure:

(1) it is financially viable and program funds are spent and accounted for consistent with the requirements of federal law and regulations;

(2) that management practices are in effect to ensure that the institution and participating facilities operate in accordance with federal law and regulations; and

(3) it has internal controls and other management systems in effect to ensure fiscal accountability and to ensure that the CACFP operates in accordance with federal law and regulations.

B. The USOE Child Nutrition Program Section shall regulate and ensure that these performance criteria are met consistent with federal law and regulations.

**KEY: facilities, food programs**

**2004**

**Art X Sec 3**

**53A-1-402(3)**

**53A-1-401(3)**



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

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 26802

FILED: 11/21/2003, 15:06

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rulemaking adds the method by which fees and reimbursements are established for dental, oral, and maxillofacial surgeon services.

SUMMARY OF THE RULE OR CHANGE: This rulemaking action implements recent changes in Subsection 26-18-3(2) that requires that payment methodologies and covered benefits be placed in rule. The changes to eligibility standards are a moving of general language from Rule R414-1 which is made more specific in this rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 26-1-5 and 26-18-3

## ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are minor administrative costs to the state budget associated with this rulemaking that are covered within the Division of Health Care Financing.

❖ LOCAL GOVERNMENTS: There is no cost to local government because local government is not affected by this rulemaking.

❖ OTHER PERSONS: There is no cost because there is no material change. This rulemaking adopts payment methodologies for Medicaid providers that were already in contracts with the providers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no cost because there is no material change. This rulemaking adopts payment methodologies for Medicaid providers that were already in contracts with the providers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rulemaking adds the method by which fees and reimbursements are established for dental, oral, and maxillofacial surgeon services. This rulemaking is required by H.B. 126 passed in the 2003 Legislature. (DAR NOTE: H.B. 126 is found at UT L 2003 Ch 324, and 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:

Craig Devashrayee or Ross Martin at the above address, by phone at 801-538-6641 or 801-538-6592, by FAX at 801-538-6099 or 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov or 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 01/14/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/2004

AUTHORIZED BY: Scott D. Williams, 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.

**R414-50-6. Reimbursement.**

(1) Fees for services for which the Department will pay dentists are established from the physician's fees for CPT codes as described in the State Plan, Attachment 4.19-B, Section D Physicians. Fee schedules were initially established after consultation with provider representatives. Adjustments to the schedule are made in accordance with appropriations and to produce efficient and effective services.

(2) The Department pays the lower of the amount billed and the rate on the schedule. A provider shall not charge the Department a fee that exceeds the provider's usual and customary charges for the provider's private-pay patients.

**KEY: Medicaid****[July 2, 2003]2004****Notice of Continuation December 20, 1999****26-1-4.1****26-1-5****26-18-3**

**Health, Health Care Financing,  
Coverage and Reimbursement Policy**  
**R414-54**  
**Speech-Language Pathology Services**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 26803

FILED: 11/21/2003, 15:11

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rulemaking adds the method by which fees and reimbursements are established for speech-language pathology services.

**SUMMARY OF THE RULE OR CHANGE:** This rulemaking action implements recent changes in Subsection 26-18-3(2) that requires that payment methodologies and covered benefits be placed in rule. The changes to eligibility standards are a moving of general language from Rule R414-1 which is made more specific in this rule.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Sections 26-1-5 and 26-18-3

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** There are minor administrative costs to the state budget associated with this rulemaking that are covered within the Division of Health Care Financing.

❖ **LOCAL GOVERNMENTS:** There is no cost to local government because local government is not affected by this rulemaking.

❖ **OTHER PERSONS:** There is no cost to other persons because there is no material change. This rulemaking adopts payment methodologies for Medicaid providers that were already in contracts with the providers.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There is no cost because there is no material change. This rulemaking adopts payment methodologies for Medicaid providers that were already in contracts with the providers.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rulemaking adds the method by which fees and reimbursements are established for speech-language pathology services. This rulemaking is necessary to comply with H.B. 126 passed by the 2003 Legislature. (DAR NOTE: H.B. 126 is found at UT L 2003 Ch 324, and 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 or Craig Devashrayee at the above address, by phone at 801-538-6592 or 801-538-6641, by FAX at 801-538-6099 or 801-538-6099, or by Internet E-mail at [rmartin@utah.gov](mailto:rmartin@utah.gov) or [cdevashrayee@utah.gov](mailto:cdevashrayee@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 01/14/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/2004

AUTHORIZED BY: Scott D. Williams, Executive Director

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

**R414-54. Speech-Language Pathology Services.**

**R414-54-1. Introduction and Authority.**

(1) The Speech-Language Pathology Program provides speech-language services to meet the basic speech-language pathology needs of Medicaid clients and is limited to recipients age 20 and younger and pregnant adults.

(2) Speech-language pathology services are described in 42 CFR, subsection 440.110(c)(1)(2), October 1997 edition, which is adopted and incorporated by reference.

**R414-54-2. Definitions.**

(1) The definitions in the Speech-language Pathology and Audiology Licensing Act, Title 58, Chapter 41, apply to this rule.

(2) In addition, "Client", "Categorically Needy", and "Medically Needy" have the same meanings as defined in R414-1.

**R414-54-3. Client Eligibility Requirements.**

Speech-language pathology services are available to Categorically Needy and Medically Needy individuals clients who are ages 20 and younger or who are pregnant.

**R414-54-4. Program Access Requirements.**

A physician must refer clients to a speech-language pathologist before any service may be provided.

**R414-54-5. Service Coverage.**

(1) Speech-language services for individuals or groups with speech or language disorders or dysphagia include: evaluative, diagnostic, screening, treatment, preventive, and corrective processes. Only speech-language pathologists, or speech-language pathology aides under supervision of speech-language pathologists, may provide these services.

(2) All services must be related to a medical need. Treatments for social, educational, and developmental needs, while important to the individual, are not covered services.

(3) Only speech-language pathologists may bill for reimbursable services.

**R414-54-6. Reimbursement.**

(1) The Department pays for speech and language pathology services according to an established fees schedule, based on CPT codes as described in the State Plan, Attachment 4.19-B. Fee schedules were initially established after consultation with provider representatives. Adjustments to the schedule are made in accordance with appropriations and to produce efficient and effective services.

(2) The Department pays the lower of the amount billed and the rate on the schedule. A provider shall not charge the Department a fee that exceeds the provider's usual and customary charges for the provider's private-pay patients.

**KEY: [m]Medicaid**

**[1994]2004**

**Notice of Continuation March 31, 1999**

**26-1-5**

**26-18-3**



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

**R414-99**

**Chiropractic Services**

**NOTICE OF PROPOSED RULE**

(New Rule)

DAR FILE No.: 26809

FILED: 11/25/2003, 08:24

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This is a new rule required by recent amendments to the Medicaid statute that requires service coverage and reimbursement methodologies to be placed in rule.

**SUMMARY OF THE RULE OR CHANGE:** This is a new rule governing chiropractic services to Medicaid clients. It provides for the operation of contracted chiropractic services and reimbursement methodologies. It also implements a \$1 copayment to help facilitate proper service utilization and

requiring clients to share in the responsibility for payment for the service.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-18-3

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is an annual savings of \$5,266 to the state general fund and \$12,849 of federal funds as a result of this rulemaking.

❖ LOCAL GOVERNMENTS: There is no budget impact to local governments as a result of this rulemaking because there is no funding from local governments for chiropractic services.

❖ OTHER PERSONS: There is an aggregate cost of \$18,115 to other persons resulting from the \$1 copayment from recipients.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is a \$5 compliance cost per recipient based on the estimate of 5 visits per year by a single client. In addition, there are compliance costs to chiropractors who are unable or chose not to collect payments from recipients; however, the amount is variable for each provider.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rulemaking creates a chiropractic rule and allows the operation of contracted chiropractic services and reimbursement methodologies. It also implements a \$1 copayment to help facilitate proper service utilization and to help clients share in the responsibility associated with service costs. Scott Williams

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 or Craig Devashrayee at the above address, by phone at 801-538-6592 or 801-538-6641, by FAX at 801-538-6099 or 801-538-6099, or by Internet E-mail at [rmartin@utah.gov](mailto:rmartin@utah.gov) or [cdevashrayee@utah.gov](mailto:cdevashrayee@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 01/14/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/2004

AUTHORIZED BY: Scott D. Williams, Executive Director

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

##### **R414-99. Chiropractic Services.**

##### **R414-99-1. Authority and Purpose.**

This rule is authorized under the provisions of 42 CFR 410.21, 42 CFR 433.56 and Utah Code Section 26-18-3. It establishes eligibility and access requirements and establishes the reimbursement methodology for chiropractic services.

##### **R414-99-2. Client Eligibility Requirements.**

Chiropractic services are available to categorically and medically needy individuals.

##### **R414-99-3. Program Access Requirements.**

A client must obtain prior authorization from the Medicaid authorization contractor, who either provides or manages all Medicaid chiropractic services statewide. Services requested are justified with sufficient information for approval.

##### **R414-99-4. Service Coverage.**

(1) Chiropractic services may be provided when medically necessary and include examination, diagnosis and manual manipulations to influence joint and neurophysiological function of the regions of the spine, including x-rays of the spine.

(2) A client may receive only one treatment per day.

##### **R414-99-5. Reimbursement for Chiropractic Service.**

(1) Fees for services for which the Department of Health will pay for chiropractic services are established from the physician's fees for CPT codes as described in the State Plan, Attachment 4.19-B, Section D Physicians. Fee schedules were initially established after consultation with representatives. Adjustments to the schedule are made in accordance with appropriations and to produce efficient and effective services.

(2) The Department pays the lower of the amount billed and the rate on the schedule. A provider shall not charge the Department a fee that exceeds the provider's usual and customary charges for the provider's private pay patients.

(3) The Department pays chiropractic providers through the chiropractic contractor based on a fixed encounter rate per visit.

(4) A recipient must pay a \$1.00 copayment for each chiropractic visit. The Department deducts \$1.00 from the reimbursement paid to the provider for each client visit.

(a) The provider should collect the copayment amount from the recipient.

(5) A Medicaid client who is a child under the age of 20, pregnant, an institutionalized individual, a client whose gross income before exclusions or deductions is below the federal Temporary Assistance to Needy Families standard payment allowance as verified by the eligibility caseworker and clients obtaining services for family planning purposes are exempt from copayment requirements.

##### **KEY: Medicaid, chiropractic services**

**2004**  
**26-18**



Health, Health Care Financing,  
Coverage and Reimbursement Policy  
**R414-300**  
Primary Care Network, Covered-at-  
Work Demonstration Waiver

**NOTICE OF PROPOSED RULE**

(New Rule)

DAR FILE NO.: 26811

FILED: 11/25/2003, 08:27

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rulemaking is necessary to implement the program to the Primary Care Network (PCN) Waiver called "Primary Care Network - Covered-at-Work". For individuals who have access to health insurance through their employer, this program will provide a reimbursement for all or part of the premium paid by those individuals to enroll themselves or their spouses in an employer-sponsored health insurance plan. This new rule describes the benefits an enrollee in the Covered-at-Work program will receive.

SUMMARY OF THE RULE OR CHANGE: This new rule describes the benefits an enrollee in the Covered-at-Work program will receive. These benefits are limited to 60 months for each new enrollee.

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This filing is a companion to a filing with amendments to Rule R414-310. Impacts for both rules combined are as follows: Covered-At-Work enrollees will be served within the 25,000 enrollee cap established for the PCN program. Therefore, funding for this group will come out of funds already appropriated for the PCN program. (DAR NOTE: The proposed amendment to Rule R414-310 is under DAR No. 26810 in this issue.)

❖ LOCAL GOVERNMENTS: This rule has no effect on local government, since it is believed that no local government employees are eligible. Therefore, there will be no cost to local government.

❖ OTHER PERSONS: This filing is a companion to a filing with amendments to Rule R414-310. Impacts for both rules combined are as follows: enrollees in the Covered-At-Work program will be positively impacted by this rule since they will receive partial or full reimbursements of their costs to enroll in their employer-sponsored health insurance. Approximately 2,000 individuals will receive reimbursements annually. Assuming the full \$50 monthly reimbursement and subtracting the enrollment fee, the aggregate savings to enrollees is \$1,100,000.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This filing is a companion to a filing with amendments to Rule R414-310. Impacts for both rules combined are as follows: this rule

requires no affirmative compliance by any person. Persons who choose to enroll in the program will pay a \$50 annual fee, but will be reimbursed \$600 annually for health insurance premium payments.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The PCN program was estimated to use \$3,800,000 in General Fund monies and \$9,300,000 in federal matching funds in the first year. Those eligible to apply for the Covered-at-Work program are included in the estimates above. It is anticipated that through the Covered-at-Work program, currently uninsured individuals who have insurance available through their employer but were unable to afford the coverage, will save significant amounts of money by now having the opportunity to enroll in health insurance, thereby gaining the ability to get their ongoing health care needs met and avoid more costly acute health care episodes. Scott D. Williams

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:

Gayleen Henderson at the above address, by phone at 801-538-6135, by FAX at 801-538-6952, or by Internet E-mail at [gghenderson@utah.gov](mailto:gghenderson@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 01/14/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/2004

AUTHORIZED BY: Scott D. Williams, Executive Director

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

**R414-300 Primary Care Network, Covered-at-Work Demonstration Waiver.**

**R414-300-1. Introduction and Authority.**

This rule describes the benefits under the Primary Care Network (PCN) Covered-at-Work Program. The PCN Covered-at-Work Program is authorized by an amendment to a waiver of federal Medicaid requirements approved by the federal Center for Medicare and Medicaid Services and allowed under Section 1115 of the Social Security Act effective January 1, 1999. This rule is authorized by Title 26, Chapter 18.

**R414-300-2. Definitions.**

"Spouse" means an individual who is married to an applicant or enrollee and has not legally terminated the marriage.

**R414-300-3. Nature of Program and Benefits.**

(1) The Covered-at-Work Program provides cash reimbursement to an enrollee who meets the eligibility requirements and application requirements of R414-310. The Covered-at-Work Program provides benefits as described in this section.

(2) The reimbursement shall not exceed the amount the employee pays toward the cost of the employee's employer-sponsored coverage for the employee and the employee's spouse if covered under the employee's plan. The employer must pay at least 50 percent of the employee's health insurance premium.

(3) The amount of reimbursement for a single person or for a married couple when only one spouse is eligible for the reimbursement, will be provided on the following schedule, in the designated amounts:

(a) Up to \$50 per month for the first 24 months of eligibility.

(b) Up to \$40 per month for the next 12 months (third year) of eligibility.

(c) Up to \$30 per month for the next 12 months (fourth year) of eligibility.

(d) Up to \$20 per month for the last 12 months (fifth year) of eligibility.

(4) The amount of reimbursement for a married couple when both spouses are eligible for the reimbursement and both are covered under the same employer sponsored plan, will be provided on the following schedule, in the designated amounts:

(a) Up to \$100 per month for the first 24 months of eligibility.

(b) Up to \$80 per month for the next 12 months (third year) of eligibility.

(c) Up to \$60 per month for the next 12 months (fourth year) of eligibility.

(d) Up to \$40 per month for the last 12 months (fifth year) of eligibility.

(5) The amount of reimbursement for a married couple when both spouses are eligible for the reimbursement but are covered under their own separate employer-sponsored plans, will be provided as described in subsection (3) for each spouse.

(6) Benefits provided to a Covered-at-Work enrollee are limited to a lifetime maximum of 60 months.

**KEY: Medicaid, primary care network, covered-at-work benefits**  
**2004**  
**26-18-3**



Health, Health Care Financing,  
Coverage and Reimbursement Policy  
**R414-310**  
Medicaid Primary Care Network  
Demonstration Waiver

**NOTICE OF PROPOSED RULE**  
(Amendment)

DAR FILE NO.: 26810  
FILED: 11/25/2003, 08:26

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rulemaking is necessary to implement an amendment to the Primary Care Network (PCN) Waiver called "Primary Care Network - Covered-at-Work". For individuals who have access to health insurance through their employer, this program will provide a cash reimbursement for all or part of the premium paid by those individuals to enroll themselves or their spouses in an employer-sponsored health insurance plan. In addition, the rulemaking clarifies that there is an upper age limit and that individuals may not participate in the PCN program or the Covered-at-Work program after they turn 65 years of age. This rulemaking includes clarification that Veterans who are eligible to enroll in the Veterans Administration (VA) Health Care System, may participate in the PCN while waiting for their enrollment in the VA Health Care System to become effective. This rule change also includes a change in the enrollment fee for PCN to \$15 for individuals and couples who receive General Assistance through the Department of Workforce Services.

SUMMARY OF THE RULE OR CHANGE: There are numerous places throughout the entire rule (Rule R414-310) where the name of the new program, Covered-at-Work, must be added. Subsection R414-310-2(12) will be changed to define both parts of the PCN program, the PCN which provides primary medical services to eligible individuals and the Covered-at-Work program which provides a cash reimbursement for premiums paid to enroll an individual and/or his spouse in employer sponsored health insurance coverage. Subsection R414-310-3(8) will be changed to distinguish between reporting requirements for the PCN program and the Covered-at-Work program. A new Subsection R414-310-3(11) is added to Section R414-310-3 to explain that enrollees in the Covered-at-Work program must continue to pay premiums and remain enrolled in their employer sponsored health insurance to be eligible for benefits. Subsection R414-310-4(4) has been reworded for clarity. Subsection R414-310-7(2) has been modified to make it clear that individuals who are covered by Part A or B Medicare, student health insurance, or the VA's Health Care System at the time of application are not eligible for the PCN program or the Covered-at-Work program. Subsection R414-310-7(3) has been changed to explain that eligibility for individuals who have access to employer-sponsored health insurance will be determined as follows: if the cost of coverage does not exceed 5% of the household's gross income, they are not eligible for the PCN program or the Covered-at-Work program. If the cost of coverage exceeds 5% but does not exceed 15% or the household's gross income, the individual may be eligible for the Covered-at-Work program but not the PCN program. If the cost of coverage exceeds 15% of the household's gross income, the individual may choose between the PCN program and the Covered-at-Work program. To be eligible for the Covered-at-Work Program, the individual must enroll in the employer sponsored health insurance coverage. A new Subsection R414-310-7(5) has been added to Section R414-310-7 to explain that an individual who is eligible to enroll in the VA's Health Care System but who is not enrolled at the time of application can be eligible for the PCN program or Covered-at-Work program while waiting for their enrollment in the VA Health Care

System to become effective. To be eligible during this time, the individual must initiate the process to enroll in the VA Health Care System. Subsections R414-310-7(5), (6), (7), and (8) have been renumbered. The new Subsection R414-310-7(7) has been changed to say the individuals who voluntarily drop coverage through a COBRA plan or the State Health Insurance Pool (HIP) can be eligible without a six-month waiting period. The new Subsection R414-310-7(9) has been reworded for clarity. The original Subsection R414-310-7(9) is being removed because it is a duplication from another section. Section R414-310-9 has been changed to explain that an individual is not eligible for the PCN program or the Covered-at-Work program after turning age 65. Eligibility will end at the end of the month of the 65th birthday.

Subsection R414-310-13(5) has been changed to say that the enrollment fee for individuals or married couples who are receiving General Assistance through the Department of Workforce Services is \$15. The enrollment fee for all other individuals or married couples is still \$50. The wording in Subsection R414-310-13(6) has been changed from "an additional family member" to "spouse". This is because only a spouse and no other family member can be added to this program. Subsection R414-310-14(2) has been reworded for clarity. Subsection R414-310-15(4) has been changed so that the application month does not count in the first 12-month certification period. A new Subsection R414-310-15(5) has been added to explain that PCN program enrollees will lose coverage when they enroll in any type of group health plan or other creditable health insurance coverage and if they enroll in employer-sponsored coverage. They may switch to the Covered-at-Work program if they report within 10 days and meet the requirements in Subsections R414-310-7(3)(b) or (c). Subsection R414-310-7(6) has been added to explain that an enrollee in the PCN who reports within 10 days that he or she has gained access to employer-sponsored coverage may either switch to the Covered-at-Work program based on the requirements defined in Section R414-310-7 and on the requirement that the individual enroll in the employer-sponsored coverage, or may remain on the PCN through the end of the current certification period if the individual chooses not to enroll in the employer-sponsored coverage. Subsection R414-310-7(8) formerly Subsection R414-310-7(5) has been changed to say that when the PCN program or the Covered-at-Work program closes and remains closed for one or more calendar months for any reason other than going on to another Medicaid program, the individual must reapply. Subsection R414-310-7(9) has been added to explain that when the case closes because the individual has become eligible for another Medicaid program that the individual may go back on to the PCN program or the Covered-at-Work program for the remainder of the certification period. Subsection R414-310-7(10) has been added to explain that eligibility under the Covered-at-Work program is limited to 60 months for each enrollee.

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This filing is a companion to a proposed new rule, Rule R414-300. Impacts for both rules combined

are as follows: Covered-At-Work enrollees will be served within the 25,000 enrollee cap established for the PCN program. Therefore, funding for this group will come out of funds already appropriated for the PCN program. (DAR NOTE: The proposed new Rule R414-300 is under DAR No. 26811 in this issue.)

❖ LOCAL GOVERNMENTS: This rule has no effect on local government, since it is believed that no local government employees are eligible. Therefore, there will be no cost to local government.

❖ OTHER PERSONS: This filing is a companion to a proposed new rule, Rule R414-300. Impacts for both rules combined are as follows: enrollees in the Covered-At-Work program will be positively impacted by this rule since they will receive partial or full reimbursements of their costs to enroll in their employer-sponsored health insurance. Approximately 2,000 individuals will receive reimbursements annually. Assuming the full \$50 monthly reimbursement and subtracting the enrollment fee, the aggregate savings to enrollees is \$1,100,000.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This filing is a companion to a proposed new rule, Rule R414-300. Impacts for both rules combined are as follows: this rule requires no affirmative compliance by any person. Persons who choose to enroll in the program will pay a \$50 annual fee, but will be reimbursed \$600 annually for health insurance premium payments.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The PCN program was estimated to use \$3,800,000 in General Fund monies and \$9,300,000 in federal matching funds in the first year. Those eligible to apply for the Covered-at-Work program are included in the estimates above. It is anticipated that through the Covered-at-Work program, currently uninsured individuals who have insurance available through their employer but were unable to afford the coverage, will save significant amounts of money by now having the opportunity to enroll in health insurance, thereby gaining the ability to get their ongoing health care needs met and avoid more costly acute health care episodes. Scott D. Williams

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:

Gayleen Henderson at the above address, by phone at 801-538-6135, by FAX at 801-538-6952, or by Internet E-mail at [gghenderson@utah.gov](mailto:gghenderson@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 01/14/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/2004

AUTHORIZED BY: Scott D. Williams, Executive Director

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

**R414-310. Medicaid Primary Care Network Demonstration Waiver.**

**R414-310-1. Authority.**

This rule sets forth the eligibility requirements for enrollment under the Medicaid Primary Care Network. The Primary Care Network is authorized by a waiver of federal Medicaid requirements approved by the federal Center for Medicare and Medicaid Services and allowed under Section 1115 of the Social Security Act effective January 1, 1999. This rule is authorized by Title 26, Chapter 18.

**R414-310-2. Definitions.**

The following definitions apply throughout this rule:

(1) "Applicant" means an individual who applies for benefits under the Primary Care Network program or the Primary Care Network - Covered-at-Work program, but who is not an enrollee.

(2) "Best estimate" means the Department's determination of a household's income for the upcoming certification period[-] based on past and current circumstances and anticipated future changes.

(3) "Co-payment and co-insurance" means a portion of the cost for a medical service for which the enrollee is responsible to pay for services received under the Primary Care Network.

(4) "Deeming" or "deemed" means a process of counting income from a spouse or an alien's sponsor to decide what amount of income after certain allowable deductions, if any, must be considered income to an applicant or enrollee.

(5) "Department" means the Utah Department of Health.

(6) "Enrollee" means an individual who has applied for and been found eligible for the Primary Care Network program or the Primary Care Network - Covered-at-Work Program and has paid the enrollment fee.

(7) "Enrollment fee" means a payment that an applicant or an enrollee must pay to the Department to enroll in and receive coverage under the Primary Care Network or the Primary Care Network - Covered-at-Work program.

(8) "Income averaging" means a process of using a history of past and current income and averaging it over a determined period of time that is representative of future income.

(9) "Income anticipating" means a process of using current facts regarding rate of pay, number of working hours, and expected changes to anticipate future income.

(10) "Income annualizing" means a process of determining the average annual income of a household, based on the past history of income and expected changes.

(11) "Local office" means any Bureau of Eligibility Services or Department of Workforce Services office location, outreach location, or telephone location where an individual may apply for medical assistance.

(12) "Primary Care Network" ~~means a~~ includes two programs under a federal waiver of Medicaid regulations. The two programs are:

(a) The Primary Care Network Program. This program [which] provides primary care medical services to uninsured adults who do not otherwise qualify for Medicaid[-], and;

(b) The Covered-at-Work Program. This program provides cash reimbursement for all or part of the insurance premium paid by an employee for health insurance coverage through an employer-sponsored health insurance plan that covers the employee and the employee's spouse if the spouse is also covered by the employee's plan.

(13) "Recertification month" means the last month of the eligibility period for an enrollee.

(14) "Spouse" means any individual who has been married to an applicant or enrollee and has not legally terminated the marriage.

(15) "Verifications" means the proofs needed to decide if an individual meets the eligibility criteria to be enrolled in the program. Verifications may include hard copy documents such as a birth certificate, computer match records such as Social Security benefits match records, and collateral contacts with third parties who have information needed to determine the eligibility of the individual.

(16) "Student health insurance plan" means a health insurance plan that is offered to students directly through a university or other educational facility or through a private health insurance company that offers coverage plans specifically for students.

**R414-310-3. Applicant and Enrollee Rights and Responsibilities.**

(1) Any person may apply or reapply any time for any program.

(2) If a person needs help to apply, he may have a friend or family member help, or he may request help from the local office or outreach staff.

(3) Applicants and enrollees must provide requested information and verifications within the time limits given. The Department may grant additional time to provide information and verifications upon request of the applicant or enrollee.

(4) Applicants and enrollees have a right to be notified about the decision made on an application, or other action taken which affects their eligibility for benefits.

(5) Applicants and enrollees may look at information in their case file that was used to make an eligibility determination.

(6) Anyone may look at the policy manuals located at any Department local office.

(7) An individual must repay any benefits received under the Primary Care Network program or the Covered-at-Work program if the Department determines that the individual was not eligible to receive such ~~benefits~~ coverage under the Primary Care Network.

(8) Applicants and enrollees must report certain changes to the local office within ten days of the day the change becomes known. The Department shall notify the applicant at the time of application of the changes that the enrollee must report. Some examples of reportable changes include:

(a) An enrollee in the Primary Care Network program begins to receive coverage under a group health plan or other health insurance coverage.

(b) An enrollee in the Primary Care Network program begins to have access to coverage under a group health plan or other health insurance coverage.

(c) An enrollee in the Covered-at-Work program no longer pays for coverage under an employer-sponsored health plan.

(d) An enrollee in the Primary Care Network program or the Covered-at-Work program begins to receive coverage under, or begins to have access to student health insurance, Medicare Part A or B, or the Veteran's Administration Health Care System.

(e) An enrollee in the Covered-at-Work program has a change in the amount the enrollee pays for coverage under an employer-sponsored health plan.



(~~e~~f) An enrollee leaves the household or dies.

(~~d~~g) An enrollee or the household moves out of state.

(~~e~~h) Change of address of an enrollee or the household.

(~~f~~i) An enrollee enters a public institution or an institution for mental diseases.

(9) An applicant or enrollee has a right to request an agency conference or a fair hearing as described in R414-301.

(10) An enrollee in the Primary Care Network program is responsible for paying any required co-payments or co-insurance amounts to providers for medical services the enrollee receives which are covered under the Primary Care Network program.

(11) An enrollee in the Covered-at-Work program must continue to pay premiums and remain enrolled in the employer-sponsored health plan to be eligible for benefits.

#### **R414-310-4. General Eligibility Requirements.**

(1) The provisions of R414-302-1, R414-302-2, R414-302-3, R414-302-5, and R414-302-6 apply to applicants and enrollees of the Primary Care Network program and the Covered-at-Work program.

(2) An individual who is not a U.S. citizen and does not meet the alien status requirements of R414-302-1 is not eligible for any services or benefits under the Primary Care Network program or the Covered-at-Work program.

(3) Applicants and enrollees are not required to provide Duty of Support information to enroll in the Primary Care Network program or the Covered-at-Work program. An individual who would be eligible for Medicaid but fails to cooperate with Duty of Support requirements required by the Medicaid program cannot enroll in the Primary Care Network program or the Covered-at-Work program.

(4) ~~Medically needy clients can participate in the Primary Care Network in any month they do not pay their spenddown to participate in the Medically Needy Program.~~ Individuals who must pay a spenddown or premium to receive Medicaid can enroll in the Primary Care Network program or the Covered-at-Work program if they meet the program eligibility criteria in any month they do not receive Medicaid.

#### **R414-310-5. Verification and Information Exchange.**

The provisions of R414-307-4 apply to applicants and enrollees of the Primary Care Network program and the Covered-at-Work program.

#### **R414-310-6. Residents of Institutions.**

The provisions of R414-302-4(1), (3) and (4) apply to applicants and enrollees of the Primary Care Network program and the Covered-at-Work program.

#### **R414-310-7. Creditable Health Coverage.**

(1) The Department adopts 42 CFR 433.138(b) and 435.610, 2000 ed., and Section 1915(b) of the Compilation of the Social Security Laws, in effect January 1, 1999, which are incorporated by reference.

(2) An individual who is covered under a group health plan or other creditable health insurance coverage, as defined by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), at the time of application is not eligible for enrollment in the Primary Care Network program or the Covered-at-Work program. This includes coverage under Part A or B Medicare, student health insurance, and the Veteran's Administration Health Care System.

(3) Eligibility for the Primary Care Network program or the Covered-at-Work program for ~~A~~ an individual who has access to but has not yet enrolled in health insurance coverage through an

employer or a spouse's employer ~~[where the employer would pay 50% or more of the applicable insurance premium is not eligible for the Primary Care Network program.]~~ will be determined as follows:

(a) If the cost of the employer-sponsored coverage does not exceed 5% of the household's gross income, the individual is not eligible for the Primary Care Network program or the Covered-at-Work program.

(b) If the cost of the employer-sponsored coverage exceeds 5% but does not exceed 15% of the household's gross income, the individual is not eligible for the Primary Care Network program. These individuals may be eligible for the Covered-at-Work program if they choose to enroll in the employer-sponsored coverage.

(c) If the cost of the employer-sponsored coverage exceeds 15% of the household's gross income, the individual may choose to enroll in either the Primary Care Network program or the Covered-at-Work program. To enroll in the Covered-at-Work program, the individual must enroll in the employer-sponsored coverage.

(d) The individual is considered to have access to coverage even if the employer offers coverage only during an open enrollment period.

(4) An individual who is covered under Medicare Part A or Part B, or who could enroll in Medicare Part B coverage, is not eligible for enrollment in the Primary Care Network or the Covered-at-Work program.

(5) An individual who is enrolled in the Veteran's Administration (VA) Health Care System is not eligible for enrollment in the Primary Care Network program or the Covered-at-Work program. An individual who is eligible to enroll in the VA Health Care System, but who has not yet enrolled, may be eligible for the Primary Care Network program or the Covered-at-Work program while waiting for enrollment in the VA Health Care System to become effective. To be eligible during this waiting period, the individual must initiate the process to enroll in the VA Health Care System. Eligibility for the Primary Care Network program or the Covered-at-Work program ends once the individual becomes enrolled in the VA Health Care System.

~~(5)6~~ Individuals who are full-time students at a university or college, and who ~~have access to~~ can enroll in student health insurance coverage ~~[from the university or college]~~ are not eligible to enroll in the Primary Care Network program or the Covered-at-Work program.

~~(6)7~~ The Department shall deny eligibility if the applicant or spouse has voluntarily terminated health insurance coverage within the six months immediately prior to the application date for enrollment under the Primary Care Network program or the Covered-at-Work program. Eligibility for the Primary Care Network or the Covered-at-Work program may begin six months after the prior insurance coverage expires. An applicant or applicant's spouse who voluntarily discontinues health insurance coverage under a COBRA plan or under the state Health Insurance Pool, or who is involuntarily terminated from an employer's plan may be eligible for the Primary Care Network or the Covered-at-Work program without a six month waiting period.

~~(7)8~~ Notwithstanding the limitations in this section, an individual with creditable health coverage operated or financed by the Indian Health Services may enroll in the Primary Care Network program or the Covered-at-Work program.

~~(8)9~~ ~~[Each applicant]~~ Individuals must report at application and recertification whether ~~each enrollee must report at certification review for~~ each individual for whom enrollment is being requested ~~[whether such individuals have]~~ has access to or [are] is covered by a group health plan or other creditable health insurance coverage, [including] This includes coverage which may be available through an employer or a

spouse's employer, ~~[or through]~~ a student health insurance ~~[university or college]~~ plan, Medicare Part A or B, or the VA Health Care System. ~~[~~

~~(9) An enrollee must report when any enrollee in the household begins to receive coverage under, or begins to have access to, any type of group health plan or other creditable health insurance coverage.]~~

(10) The Department shall deny an application or recertification if the applicant or enrollee fails to respond to questions about health insurance coverage for any individual the household seeks to enroll or recertify in the program.

#### **R414-310-8. Household Composition.**

(1) The following individuals are included in the household when determining household size for the purpose of computing financial eligibility for the Primary Care Network Program or the Covered-at-Work program:

(a) the individual;  
 (b) the individual's spouse living with the individual; and  
 (c) any dependent children of the individual or the individual's spouse who are under age 19 and living with the individual.

(2) A household member who is temporarily absent for schooling, training, employment, medical treatment or military service, or who will return home to live within 30 days from the date of application is considered part of the household.

#### **R414-310-9. Age Requirement.**

(1) An individual must be at least 19 and not yet 65 years of age ~~[or older]~~ to enroll in the Primary Care Network program or the Covered-at-Work program.

(2) The month in which an individual's 19th birthday occurs is the first month the person can be eligible for enrollment in the Primary Care Network program or the Covered-at-Work program; however, if the individual could enroll in the Children's Health Insurance Program for that month, the individual cannot enroll in the Primary Care Network program or the Covered-at-Work program until the following month.

(3) The benefit effective date for the Primary Care Network program or the Covered-at-Work program cannot be earlier than the date of the 19th birthday.

(4) The individual's 65th birthday month is the last month the person can be eligible for enrollment in the Primary Care Network program or the Covered-at-Work program.

#### **R414-310-10. Income Provisions.**

(1) To be eligible to enroll in the Primary Care Network program or the Covered-at-Work program, a household's countable gross income must be equal to or less than 150% of the federal non-farm poverty guideline for a household of the same size. An individual with income above 150% of the federal poverty guideline is not allowed to spend down income to be eligible under the Primary Care Network program or the Covered-at-Work program. All gross income, earned and unearned, received by the individual and the individual's spouse is counted toward household income, unless this section specifically describes a different treatment of the income.

(2) Any income in a trust that is available to, or is received by a household member, is countable income.

(3) Payments received from the Family Employment Program, Working Toward Employment program, refugee cash assistance or adoption support services as authorized under Title 35A, Chapter 3 are countable income.

(4) Rental income is countable income. The following expenses can be deducted:

(a) taxes and attorney fees needed to make the income available;  
 (b) upkeep and repair costs necessary to maintain the current value of the property;

(c) utility costs only if they are paid by the owner; and  
 (d) interest only on a loan or mortgage secured by the rental property.

(5) Cash contributions made by non-household members are counted as income unless the parties have a signed written agreement for repayment of the funds.

(6) The interest earned from payments made under a sales contract or a loan agreement is countable income to the extent that these payments will continue to be received during the certification period.

(7) Needs-based Veteran's pensions are counted as income. Only the portion of a Veteran's Administration check to which the individual is legally entitled is countable income.

(8) Child support payments received by a parent in the household which is in repayment of past due child support is counted as income for the parent. Current child support payments received for a dependent child living in the home are counted as that child's income.

(9) In-kind income, which is goods or services provided to the individual from a non-household member and which is not in the form of cash, for which the individual performed a service or which is provided as part of the individual's wages is counted as income. In-kind income for which the individual did not perform a service, or did not work to receive, is not counted as income.

(10) Supplemental Security Income and State Supplemental payments are countable income.

(11) Income, unearned and earned, 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.

(12) Income that is defined in 20 CFR 416(K) Appendix, 2000 edition, which is incorporated by reference, is not countable.

(13) Payments that are prohibited under other federal laws from being counted as income to determine eligibility for federally-funded medical assistance programs are not countable.

(14) Death benefits are not countable income to the extent that the funds are spent on the deceased person's burial or last illness.

(15) A bona fide loan that an individual must repay and that the individual has contracted in good faith without fraud or deceit, and genuinely endorsed in writing for repayment is not countable income.

(16) Child Care Assistance under Title XX is not countable income.

(17) Reimbursements of Medicare premiums received by an individual from Social Security Administration or the State Department of Health are not countable income.

(18) Earned and unearned income of a child who is under age 19 is not counted if the child is not the head of a household.

(19) Educational income, such as educational loans, grants, scholarships, and work-study programs are not countable income. The individual must verify enrollment in an educational program.

(20) Reimbursements for employee work expenses incurred by an individual are not countable income.

(21) The value of food stamp assistance is not countable income.

**R414-310-11. Budgeting.**

This section describes methods that the Department uses to determine the household's countable monthly or annual income.

(1) The gross income of all household members is counted in determining the eligibility of the applicant or enrollee, unless the income is excluded under this rule. Only expenses that are required to make an income available to the individual are deducted from the gross income. No other deductions are allowed.

(2) The Department determines monthly income by taking into account the months of pay where an individual receives a fifth paycheck when paid weekly, or a third paycheck when paid every other week. The Department multiplies the weekly amount by 4.3 to obtain a monthly amount. The Department multiplies income paid biweekly by 2.15 to obtain a monthly amount.

(3) The Department shall determine an individual's eligibility prospectively for the upcoming certification period at the time of application and at each recertification for continuing eligibility. The Department determines prospective eligibility by using the best estimate of the household's average monthly income that is expected to be received or made available to the household during the upcoming certification period. The Department prorates income that is received less often than monthly over the certification period to determine an average monthly income. The Department may request prior years' tax returns as well as current income information to determine a household's income.

(4) Methods of determining the best estimate are income averaging, income anticipating, and income annualizing. The Department may use a combination of methods to obtain the most accurate best estimate. The best estimate may be a monthly amount that is expected to be received each month of the certification period, or an annual amount that is prorated over the certification period. The Department may use different methods for different types of income received in the same household.

(5) The Department determines farm and self-employment income by using the individual's most recent tax return forms. If tax returns are not available, or are not reflective of the individual's current farm or self-employment income, the Department may request income information from the most recent time period during which the individual had farm or self-employment income. The Department deducts 40% of the gross income as a deduction for business expenses to determine the countable income of the individual. For individuals who have business expenses greater than 40%, the Department may exclude more than 40% if the individual can demonstrate that the actual expenses were greater than 40%. The Department deducts the same expenses from gross income that the Internal Revenue Service allows as self-employment expenses.

(6) The Department may annualize income for any household and specifically for households that have self-employment income, receive income sporadically under contract or commission agreements, or receive income at irregular intervals throughout the year.

(7) The Department may request additional information and verification about how a household is meeting expenses if the average household income appears to be insufficient to meet the household's living expenses.

**R414-310-12. Assets.**

There is no asset test for eligibility in the Primary Care Network program or the Covered-at-Work program.

**R414-310-13. Application Procedure.**

(1) The Department adopts 42 CFR 435.907 and 435.908, 2000 ed., which are incorporated by reference.

(2) The applicant must complete and sign a written application or complete an application on-line via the Internet to enroll in the Primary Care Network program or the Covered-at-Work program.

(3) The Department accepts any Department-approved application form for medical assistance programs offered by the state as an application for the Primary Care Network program or the Covered-at-Work program.

(a) If an applicant cannot write, he must make his mark on the application form and have at least one witness to the signature.

(b) The date of application is the day the signed application form is received by the Department.

(c) If a legal guardian or power of attorney has been appointed, or there is a payee for the individual, the Department shall make all forms and other documents in the name of both the individual and the individual's representative.

(d) An authorized representative may apply for the applicant if unusual circumstances prevent the individual from completing the application process himself. The applicant must sign the application form if possible.

(e) The Department shall reinstate a medical case without requiring a new application if the case was closed in error. The Department shall not require a new application if the case was closed for failure to complete a recertification or comply with a request for information or verification if the enrollee complies before the effective date of the case closure or by the end of the month immediately following the month the case was closed.

(4) An applicant may withdraw an application for the Primary Care Network program or the Covered-at-Work program any time before the Department completes an eligibility decision on the application.

(5) The applicant shall pay ~~a \$50~~an annual enrollment fee to enroll in the Primary Care Network Program or the Primary Care Network - Covered-at-Work Program once the Department has determined that the individual meets the eligibility criteria for enrollment.

(a) Coverage does not begin until the Department receives the enrollment fee.

(b) The ~~[\$50]~~enrollment fee covers both the individual and the individual's spouse if the spouse is also requesting enrollment in the Primary Care Network or the Primary Care Network - Covered-at-Work Program.

(c) The ~~[\$50]~~enrollment fee is required at application, and at each recertification.

(d) The ~~[\$50]~~enrollment fee must be paid to the Department in cash, or by check or money order made out to the Department of Health.

(e) The enrollment fee for an individual or married couple receiving General Assistance from the Department of Workforce Services is \$15. The enrollment fee for any other individual or married couple is \$50.

(6) If an eligible household requests enrollment for a spouse~~an additional family member~~, the application date for the spouse~~additional family member~~ is the date of the request. A new application form is not required~~to enroll the additional family member~~; however, the household shall provide the information necessary to determine eligibility for the spouse~~additional family member~~, including information about access to creditable health insurance, including Part A or B Medicare, student health insurance, and the VA Health Care System~~for that family member~~.

(a) Coverage or benefits for the spouse~~additional family member~~ will be allowed from the date of application through the end of the current certification period.

(b) A new enrollment fee is not required to add a ~~spouse~~~~[an additional household member]~~ during the current certification period.

(c) A new income test is not required to add the ~~spouse~~~~[new family member]~~ for the months remaining in the current certification period.

(d) ~~A spouse~~~~[Additional household members]~~ may be added only if the Department has not stopped enrollment under section R414-310-16.

(e) Income of the ~~spouse~~~~[new family member]~~ will be considered and payment of the enrollment fee will be required at the next scheduled recertification.

#### **R414-310-14. Eligibility Decisions and Recertification.**

The Department adopts 42 CFR 435.911 and 435.912, 2000 ed., which are incorporated by reference.

(1) At application and recertification, the Department shall determine if the individual is eligible for Medicaid before determining eligibility for the Primary Care Network program or the Covered-at-Work program. An individual who is eligible for a Medicaid program without paying a spenddown cannot enroll in the Primary Care Network program or the Covered-at-Work program. If the individual must pay a spenddown to become eligible for Medicaid, the individual may choose to enroll in the Primary Care Network program or the Covered-at-Work program instead of paying a spenddown to receive Medicaid.

(2) To enroll, the individual must meet the eligibility criteria for enrollment in the Primary Care Network program or the Covered-at-Work program, [pay the enrollment fee,] and it must be a time when the Department has not stopped enrollment under section R414-310-16. For the Primary Care Network program, the individual must pay the enrollment fee.

(3) The Department shall complete a determination of eligibility or ineligibility for each application unless:

(a) the applicant voluntarily withdraws the application and the Department sends a notice to the applicant to confirm the withdrawal;

(b) the applicant died; or

(c) the applicant cannot be located or has not responded to requests for information within the 30 day application period.

(4) The enrollee must recertify at least every 12 months.

(5) The Department may require the applicant, the applicant's spouse, or the applicant's authorized representative to attend an interview as part of the application and recertification process. Interviews may be conducted in person or over the telephone, at the Department's discretion.

(6) The enrollee must complete the recertification process and provide the required verifications by the end of the recertification month. The case will be closed at the end of the recertification month if the enrollee does not complete the recertification process and provide required verifications by the end of the recertification month. If an enrollee does not complete the recertification by the end of the recertification month, but completes the process and provides required verifications by the end of the month immediately following the recertification month, coverage will be reinstated as of the first of that month if the individual continues to be eligible and pays the enrollment fee.

(7) The Department may extend the recertification due date if the enrollee demonstrates that a medical emergency, death of an immediate family member, natural disaster or other similar cause prevented the enrollee from completing the recertification process on time.

#### **R414-310-15. Effective Date of Enrollment and Enrollment Period.**

(1) The effective date of enrollment in the Primary Care Network program or the Covered-at-Work program is the day that a completed and signed application or an on-line application is received by the Department. The Department shall not provide any benefits or pay for any services received before the effective enrollment date.

(2) The effective date of re-enrollment for a recertification in the Primary Care Network program or the Covered-at-Work program is the first day of the month after the recertification month, if the recertification is completed [by the end of the recertification month or the month immediately following the recertification month, the enrollee continues to be eligible, and the enrollee pays the recertification enrollment fee] as described in R414-310-14, (6).

(3) If the enrollee does not complete the recertification as described in R414-310-14, (6) [by the end of the recertification month, or by the end of the month immediately following the recertification month], and the enrollee does not have good cause for missing the deadline, the effective date of re-enrollment in the Primary Care Network program or the Covered-at-Work program, shall be the day that a completed recertification form, or a new application form, is received by the Department. If a gap in enrollment occurs because an enrollee does not complete the recertification process within this time frame, the Department shall not cover medical expenses incurred before the new enrollment effective date for the Primary Care Network program or provide reimbursement for premiums paid in a month for which the individual was not enrolled in the Covered-at-Work program.

(4) An individual found eligible for the Primary Care Network program or the Covered-at-Work program shall [receive] be eligible from the date of application through the end of the application month and for the following 12 months, [of coverage unless the individual dies, moves out of state, cannot be located, begins to be covered or to have access to coverage under a group health plan or other creditable health insurance coverage, becomes eligible for Medicaid, or enters a public institution or an Institute for Mental Disease.] If the enrollee completes the redetermination process in accordance with R414-310-14(6) and continues to be eligible, the recertification period will be for an additional 12 months. Eligibility could end before the end of a 12-month certification period for any of the following reasons:

(a) the individual turns age 65;

(b) the individual dies;

(c) the individual moves out of state or cannot be located;

(d) the individual enters a public institution or an Institute for Mental Disease.

(e) an individual on the Covered-at-Work program discontinues enrollment in employer-sponsored insurance coverage.

(5) An individual enrolled in the Primary Care Network program loses eligibility when the individual enrolls in any type of group health plan or other creditable health insurance coverage including employer-sponsored coverage. However, an individual who enrolls in an employer-sponsored plan may switch to the Covered-at-Work program if the individual reports to the Department within 10 days of enrolling that he or she has enrolled in an employer-sponsored plan, and if the requirements defined in R414-310-7(3)(b) or (c) are met.

(6) An enrollee in the Primary Care Network who reports within 10 days that he or she has gained access to enroll in employer-sponsored coverage may either switch to the Covered-at-Work program based on the requirements of R414-310-7 and on the requirement that the individual enrolls in the employer-sponsored coverage, or may remain on the Primary Care Network through the

end of the current certification period if the individual chooses not to enroll in the employer-sponsored coverage.

(7) An individual enrolled in the Primary Care Network program or Covered-at-Work program loses eligibility when the individual enrolls in or gains access to student health insurance, Medicare Part A or B or the Veteran's Administration Health Care System.

(5) [When] If a Primary Care Network or Covered-at-Work case closes for any reason, other than to become covered by another Medicaid program, and remains closed for one or more calendar months, the individual must submit a new application to the Department to reapply. The individual must meet all the requirements of a new applicant including paying a new enrollment fee.

(9) If a Primary Care Network or Covered-at-Work case closes because the enrollee is eligible for another Medicaid program and there is no break in coverage between the programs, the individual may reenroll in the Primary Care Network or the Covered-at-Work program for the remainder of the current certification period. The individual is not required to complete a new application or have a new income eligibility determination. The individual must continue to meet the criteria defined in R414-310-7. The individual is not required to pay a new enrollment fee for the months remaining in the current certification period.

(10) Lifetime eligibility for benefits under the Covered-at-Work program is limited to 60 months for each enrollee.

#### **R414-310-16. Enrollment Limitation.**

The Department shall limit enrollment in the Primary Care Network program and the Covered-at-Work program.

(1) The Department may stop enrollment of new individuals at any time based on availability of funds.

(2) The Department shall not maintain waiting lists during a time period that enrollment of new individuals is stopped.

(3) If enrollment has not been stopped, individuals may apply for the Primary Care Network program or the Covered-at-Work program. [Eligibility will be on a first come, first served basis during any open enrollment period.]

#### **R414-310-17. Notice and Termination.**

(1) The department adopts 42 CFR 431.206, 431.210, 431.211, 431.213, 431.214, 435.919, 2000 ed., which are incorporated by reference.

(2) The Department shall notify an applicant or enrollee in writing of the eligibility decision made on the application or the recertification.

(3) The Department shall terminate an individual's enrollment upon enrollee request or upon discovery that the individual is no longer eligible. The Department shall terminate an individual's enrollment if the individual fails to complete the recertification process on time.

#### **R414-310-18. Improper Medical Coverage.**

(1) An individual who receives benefits under the Primary Care Network program or the Covered-at-Work program for which he is not eligible is responsible to repay the Department for the cost of the benefits received.

(2) [If the sponsor of an alien does not provide correct information, the] An alien and the alien's sponsor are jointly liable for benefits received for which the individual was not eligible.

**KEY: Medicaid, primary care, demonstration**

**[July 1, 2002]2004**

**26-18-1**



## Health, Health Systems Improvement, Child Care Licensing **R430-2** General Licensing Provisions, Child Care Facilities

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 26824

FILED: 11/29/2003, 15:18

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule change allows the Department to issue a two-year license and provides that the Department will recognize the National Association for Family Child Care accreditation for deemed status.

**SUMMARY OF THE RULE OR CHANGE:** In Section R430-2-8, language is amended to allow the issuing of a two-year license. In Section R430-2-16, language is amended to allow the Department to recognize National Association for Child Care accreditation for deemed status.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 26, Chapter 39

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** This update to the rule creates a savings in processing in renewal applications. If the 12 accredited programs seek deemed status there would be a savings by not completing a licensing survey once every 3 years of \$3,600.

❖ **LOCAL GOVERNMENTS:** Child care facilities operated by local government will not experience a change in the regulatory requirements and no additional cost is anticipated. If a local government operates a child care program converting to a two year license, it will see an increase in fees in FY 2005 and a savings in both paperwork and fees in FY 2006.

❖ **OTHER PERSONS:** Child care facilities will not experience a change in the regulatory requirements, family licensed and family group providers will have an increase in fees deposited in the general fund in FY 2004, and a savings in FY 2005. This should be budget neutral. Voluntary accreditation is currently available at a cost of \$500 per facility, there are Office of Child Care grants of \$450 available to seek accreditation and an increase in payment for programs that chose to become accredited. There are currently 12 providers accredited and these would not receive an annual licensing survey.

COMPLIANCE COSTS FOR AFFECTED PERSONS: By eliminating the annual renewal each child care licensed program should see a \$5 per person savings by reducing the paperwork and filing of an annual background clearance. The total for a particular child care provider varies widely between \$10 and \$400, depending on the number of direct care employees.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: In July 2003, the Bureau began issuing two-year licenses to family and family group licensees as per the statutory authority granted in Title 26, Chapter 39. In 2004, the Child Care Centers will be transferred to a two year license. In September 2003, the Child Care Licensing Advisory Committee authorized deemed status to the National Association of Family Child Care Accreditation in lieu of a licensing survey, if a family licensed provider sought to obtain the voluntary accreditation. These are positive changes for business. Scott D. Williams, Executive Director

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

HEALTH  
HEALTH SYSTEMS IMPROVEMENT,  
CHILD CARE LICENSING  
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:

Debra Wynkoop at the above address, by phone at 801-538-6152, by FAX at 801-538-6325, or by Internet E-mail at debwynkoop@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 01/14/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/2004

AUTHORIZED BY: Scott D. Williams, Executive Director

**R430. Health, Health Systems Improvement, Child Care Licensing.**

**R430-2. General Licensing Provisions, Child Care Facilities.**

**R430-2-8. Expiration and Renewal.**

(1) Each standard license shall expire at midnight on the day designated on the license as the expiration date~~[-on the last day of the month, 12 months from the anniversary date of the date of the initial license]~~, unless previously revoked by the Department. If the facility is operating under a conditional license for a period extending beyond the expiration date of the current license the Department shall establish a new expiration date. A license shall expire on the date specified on the license unless the licensee requests and is granted an extension from the Department.

(2) The licensee shall file a Request for Agency Action/License Application form, applicable fees, and clearances to the Department 15 days before the current license expires.

(3) The Department shall renew a standard license upon verification that the licensee and facility are in compliance with all applicable license rules.

(4) The Department shall not renew a license for a child care facility who discontinues child care services. The child care facility shall request an initial license.

**R430-2-16. Deemed Status.**

The Department may grant deemed status to facilities accredited by the National Academy of Early Childhood Programs, (NAEYC), or National Accreditation Commission for Early Care and Education Programs, National Association for Family Child Care (NAFCC) or National Early Childhood Program Accreditation in lieu of the annual licensing inspection by the Department upon completion of the following:

(1) As part of the annual license renewal process, the licensee shall identify on the Request for Agency Action/Application its desire to:

- (a) Initiate deemed status,
- (b) Continue deemed status, or
- (c) Relinquish deemed status during the licensing year of application.

(2) This request constitutes written authorization for the Department to attend the exit conference.

(3) Upon receipt from the accrediting agency, the facility shall submit copies of the following:

- (a) Accreditation Certificate;
- (b) Survey reports and recommendations; and
- (c) Progress reports of all corrective actions underway or completed in response to the accrediting body's action or Department recommendations.

(4) The Department may assert regulatory responsibility and authority pursuant to applicable state and federal statutes, including:

- (a) annual and follow-up inspections,
- (b) investigation of complaints, and
- (c) verification of the following:
  - (i) violations of state law, rule or standard identified in the accrediting body's survey; or
  - (ii) violations of state law, rule or standard identified in the Department's survey.

(5) The Department may annually conduct validation inspections of facilities accredited for the purpose of determining compliance with state licensing requirements. If a validation survey discloses a failure to comply with the licensing rules, the provisions relating to an annual inspection shall apply.

**KEY: child care facilities**

~~[February 4, 1998]~~2004

**Notice of Continuation December 19, 2002**

**26-39**

**26-21-12**

**26-21-13**



Health, Health Systems Improvement,  
Licensing

**R432-2-11**

Expiration and Renewal

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 26825

FILED: 11/29/2003, 15:19

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: H.B. 133 passed in the 2003 Legislature permits a health care facility to be issued a license for a period of time not to exceed 24 months. The rule change is required to be consistent with the amendments to Section 26-21-8. (DAR NOTE: H.B. 133 is found at UT L 2003 Ch 326, and was effective May 5, 2003.)

SUMMARY OF THE RULE OR CHANGE: This change provides that licenses expire as stated on the license instead of one year from renewal, allowing for the issuance of two-year licenses. It also has the effect of requiring background checks every two years instead of every year.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 21

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: Budget will be neutral for state budget since all fees collected are deposited into the general fund. The state owned and operated health care facility will see a savings of \$3,500 in estimated costs for reducing paperwork.
- ❖ LOCAL GOVERNMENTS: It is estimated that local government agencies which own or operate a health care facility will be budget neutral for fees paid for the license, they will see a reduction in paperwork and filing for clearance forms for employees on an annual basis. Savings is estimated to be \$5 per employee for an aggregate savings of approximately \$5,000.
- ❖ OTHER PERSONS: The change in the licensing term is budget neutral for licensees because the fee is double but is only collected every two years. It is anticipated that 17,000 employees will not be subject to an annual filing of clearance forms for background screenings at \$5 per person for the copying and filing of information resulting in a savings of \$85,000.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Each licensee will realize a savings of approximately \$5.00 in administrative costs for each direct care employee. The total for a particular licensee varies widely between \$10 and \$3,500 depending on the number of direct care employees.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: H.B. 133 passed in the 2003 Legislature permits a health care facility to be issued a license for a period of time not to exceed 24 months. The rule change implements this change. It should have a positive impact on business. Scott D. Williams, Executive Director

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

HEALTH  
HEALTH SYSTEMS IMPROVEMENT, LICENSING  
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:

Debra Wynkoop at the above address, by phone at 801-538-6152, by FAX at 801-538-6325, or by Internet E-mail at debwynkoop@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 01/14/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/2004

AUTHORIZED BY: Scott D. Williams, Executive Director

**R432. Health, Health Systems Improvement, Licensing.****R432-2. General Licensing Provisions.****R432-2-11. Expiration and Renewal.**

(1) Each standard license shall expire at midnight on the day designated on the license as the expiration date, ~~[on the last day of the month, 12 months from the anniversary date of the date of the initial license]~~ unless the license is revoked or extended under subsection (2) or (4) by the Department.

(2) If a facility is operating under a conditional license for a period extending beyond the expiration date of the current license, the Department shall establish a new expiration date.

(3) The licensee shall submit a Request for Agency Action/License Application form, applicable fees, clearances, and the annual report for the previous calendar year (if required by the Department under R432-2-8) 15 days before the current license expires.

(4) A license shall expire on the date specified on the license unless the licensee requests and is granted an extension from the Department.

(5) The Department shall renew a standard license upon verification that the licensee and facility are in compliance with all applicable license rules.

(6) Facilities no longer providing patient care or client services may not have their license renewed.

**KEY: health care facilities**

~~[December 30, 2002]~~2004

Notice of Continuation January 11, 1999

26-21-9

26-21-11

26-21-12

26-21-13



Human Services, Administration

**R495-879**

Parental Support for Children in Care

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 26822

FILED: 11/26/2003, 15:23

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this amendment is to delete Subsection R495-879-3(4) from the rule, clarify Subsection R495-879-3(6), clarify the Good Cause Deferral and Waiver Request process and the In-Kind Support process, and update two sections in the citation list.

**SUMMARY OF THE RULE OR CHANGE:** Currently, Subsection R495-879-3(4) is in conflict with Subsection 78-45-7.7(6). The proposed amendment deletes Subsection R495-879-3(4) to be in accordance with Subsection 78-45-7.7(6). The proposed amendment clarifies in Subsection R495-879-3(6) that the criteria for deviating from the child support guidelines exists if a parent has received adoption assistance in the past for the child in care. This amendment also clarifies the Good Cause Deferral Waiver Request process and the In-Kind Support process. Last, the amendment updates the citation list. Section 62A-12-206 was updated to Section 62A-15-607.

Therefore, Section 62A-12-206 needs to be deleted from the citation list and Section 62A-15-607 needs to be added to the citation list. Furthermore, due to a typo, Section 62A-4a-116 should be changed to Section 62A-4a-114 on the citation list.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 62A-1-111(16); Section 62A-4a-114; Subsection 62A-5-109(1); Sections 62A-7-124, 62A-11-302, 62A-15-607, and 63-46b-1; Subsection 78-3a-105(5)(a); and Sections 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 rule changes will not have a negative impact on the state budget. The rule change to delete Subsection R495-879-3(4) will now allow the Office of Recovery Services (ORS) to assess parents who live at or below the federal poverty level a support obligation not to be less than \$20 per month in accordance with Subsection 78-45-7.7(6). These changes will not require additional staff and could potentially increase collections. The exact amount of collections will vary depending on the number of obligors affected by these changes and by the number of these cases that receive payments. The rule change also clarifies the Good Cause Deferral and Waiver Process, the In-kind Support Process, and that a case still meets the criteria for deviating from the guidelines if a parent has received adoption assistance for the child in care. These three items will not have a substantial impact on the state budget, since the changes are clarifying existing procedures.

❖ **LOCAL GOVERNMENTS:** This rule does not impose a cost or savings impact on any local government, since the requirements are budgeted under the state government.

❖ **OTHER PERSONS:** These rule changes will now require parents living at or below the federal poverty level to pay a minimum child support obligation of \$20 a month while their child is in the care or custody of the state to be in accordance

with Subsection 78-45-7.7(6). The average cost will be dependent on the parent's income, which varies. 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:**

Tracy Graham or Kari Smith at the above address, by phone at 801-536-8918 or 801-536-8137, by FAX at 801-536-8509 or 801-536-8509, or by Internet E-mail at [tracygraham@utah.gov](mailto:tracygraham@utah.gov) or [ksmith@utah.gov](mailto: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 01/14/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/2004

AUTHORIZED BY: Robin Arnold-Williams, Executive Director

**R495. Human Services, Administration.****R495-879. Parental Support for Children in Care.****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]4. 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]5. Adoption Assistance.

The child is adopted, the parents continue to receive adoption assistance or have received 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]6. 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.

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

If collections interfere with family re-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 in the referring agency, the division director (or designee) shall send the waiver to the ORS director (or designee) for review and decision. If the requesting agency disagrees with the ORS director's (or designee's) decision, the request may be referred to the Executive Director of the Department of Human Services for a final decision. The requesting agency will notify the family of the final decision. 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 after the support amount has been established, based on the parent's [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 ~~[D]~~ division or the superintendent of the institution 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, i]~~ If geographical distances prohibit direct service, then the division director or superintendent may approve support services for in-kind support that do not directly offset costs to the agency, but support the overall mission of the agency. For example, a parent with a child receiving services at the Utah State Hospital (USH) may provide services to a local mental health center with the approval of the USH superintendent.

A memorandum of understanding shall be signed by the ~~[agency]~~ division/institution and the parent specifying the type, length, and dollar value of service. Verification of the service hours worked must be provided by the division/institution to ORS (using Form 603) within 10 days ~~[of]~~ after 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 earned [allowed]. The in-kind service allowed shall be applied prospectively up to the current support ordered amount. Unless approved by the director of the Department, in-kind support approved by one division/institution ~~[agency]~~ shall not be used to reduce child support owed to another division/institution ~~[agency]~~. In-kind support shall not be approved when it proposes actions that are contrary to state or federal law.

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

~~[July 10, 2003]~~ **2004**

**Notice of Continuation October 31, 2003**

**62A-1-111(16)**

~~[62a-4a-116]~~ **62A-4a-114**

**62A-5-109(1)**

**62A-7-124**

**62A-11-302**

~~[62A-12-206]~~ **62A-15-607**

~~63-46b-1~~

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

**78-3a-906**

**78-45-4.2**

**78-45-7.2 through 78-45-7.21**



**Human Services, Administration,  
Administrative Services, Licensing**

**R501-16**

**Intermediate Secure Treatment  
Programs for Minors**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 26804

FILED: 11/24/2003, 12:14

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment gives greater clarification of definition, terms, and wording of the rule.

SUMMARY OF THE RULE OR CHANGE: This proposed amendment establishes clearer standards for Intermediate Secure Treatment Programs. It also details the definition, purpose, administrative and staffing requirements; clarifying definition on the physical environment; and facility, food service, and medications.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-2-101

## ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: No anticipated cost to the state budget other than for the printing of the amended rule. The changes are for clarification rather than substantive changes.
- ❖ LOCAL GOVERNMENTS: Local government will have no additional costs or savings because the changes are for the clarification of the rule and does not apply to local governments.
- ❖ OTHER PERSONS: No additional charges to individuals or corporations because the changes are for clarification purposes only.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will not be any additional charges or savings to persons because the changes are for clarification purposes only.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There should be no fiscal impact on businesses as a result of the changes made in the rule.

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

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

## DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Bohi at the above address, by phone at 801-538-4153, by FAX at 801-538-4553, or by Internet E-mail at jbohi@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 01/14/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/2004

AUTHORIZED BY: Ken Stettler, Director

**R501. Human Services, Administration, Administrative Services, Licensing.**

**R501-16. Intermediate Secure Treatment Programs for Minors. R501-16-1[-A]. Definition.**

Intermediate Secure Treatment Program means a 24-hour group living environment for four or more individuals unrelated to the owner or provider, in a facility designed to physically restrict ~~minors~~ a person's ability to leave the program at their own free will.

**R501-16-2[-B]. Purpose.**

The program offers room and board and provides for or arranges for the provision of specialized treatment, rehabilitation or habilitation services ~~for children and youth~~. In ~~residential~~ intermediate secure treatment, each is assisted in acquiring the social and behavioral skills necessary for living in the community.

**R501-16-3[-C]. Administration.**

[1]A. Records of enrollment of all registered consumers shall be on-site at all times.

[2]B. The program shall document operational costs and revenue according to common and accepted accounting principles.

[3]C. The program shall have fire, liability, and vehicle insurance.

[4]D. The program shall have copies of any contracts or agreements with other service agencies or individuals providing services to the consumers of the program.

[5]E. The program shall not handle the major personal business affairs of a consumer, without request in writing by the consumer and legal representative.

[6]F. Providers receiving ~~children and youth~~ consumers into the program from outside the boundaries of the State of Utah shall initiate the Interstate Compact ~~on the placement of children and youth~~ prior to the placement.

**R501-16-4[-D]. Staffing.**

[1]A. The program shall have an employed manager who is responsible for the day[-]to[-]day resident supervision and operation of the facility. The manager shall be at least 25 years of age, have a BA or BS degree or equivalent training in human services related field; and have at least 3 years management experience in a secure treatment setting. The responsibilities of the manager shall be clearly defined. Whenever the manager is absent, there shall be a trained qualified substitute to assume managerial responsibility ~~as needed~~.

[2]B. The program shall have ~~a~~ all direct care staff maintain ~~person trained in~~ first aid and CPR ~~on duty in the residence, when residents are present, at all times~~ certification.

[3]C. Programs that utilize students and volunteers, who work with consumers, shall provide them with necessary training and evaluation ~~of volunteers~~. ~~Volunteers~~ Those who work with consumers shall be informed verbally ~~or~~ and in writing of program objectives and scope of service.

[4]D. Programs shall comply with R501-14 and R501-18, BCI/MIS clearance requirements.

[5]E. Professional staff shall include the following who have received training in the specific area of care:

[a]1. a licensed physician, or consulting licensed physician,

[b]2. a licensed psychologist, or consulting licensed psychologist,

[e]3. a licensed mental health therapist, and

[1]a. programs with an enrollment of 20 to 39 consumers shall employ one or more licensed professional therapists to provide a minimum of 20 hours service per week,

[2]b. programs with an enrollment of 40 to 59 consumers shall employ one or more licensed professional therapists to provide a minimum of 30 hours service per week, and

[3]c. programs with an enrollment of 60 or more consumers shall employ one or more licensed professional therapists to provide a minimum of 40 hours service per week,

[d]4. a licensed registered nurse, or a consulting licensed registered nurse,

[1]a. programs with an enrollment of 20 to 39 consumers shall employ one or more registered nurses to provide a minimum of 20 hours service per week,

[2]b. programs with an enrollment of 40 to 59 consumers shall employ one or more registered nurses to provide a minimum of 30 hours service per week, and

~~[3]c.~~ programs with an enrollment of 60 or more consumers shall employ one or more registered nurses to provide a minimum of 40 hours service per week.

~~[6]E.~~ Unlicensed staff who are trained to work with ~~[children and]~~ youth who are chemically dependant or emotionally disturbed or behaviorally disturbed or conduct disordered, shall work under the supervision of a licensed clinical professional.

~~[7]G.~~ ~~[The program shall have a minimum of two staff persons on duty. A staff ratio of no less than one staff to every five consumers shall exist at all times, except nighttime sleeping hours when staff may be reduced. Sensitivity to age range and other developmental factors shall be considered when determining staff ratios.]~~ The Program shall maintain a minimum staff ratio of one staff to every five consumers, but shall never have less than two staff on duty at any time. During night time sleeping hours the required minimum of two staff shall be maintained for programs up to twenty-five consumers; three staff for up to fifty consumers; four staff for up to seventy-five consumers; five staff for up to one hundred consumers; and six staff for over one hundred consumers.

~~[8]H.~~ A program with a mixed gender population shall have at least one male and one female staff on duty at all times.

~~[9]I.~~ Unlicensed Direct Care Staff Training:

~~[a]1.~~ Staff shall receive 20 hours of pre-service training and orientation before being responsible for the care of consumers that shall include at a minimum, the following topics:

- ~~[1]a.~~ crisis intervention,
- ~~[2]b.~~ ~~[facility]~~ program policies and procedures,
- ~~[3]c.~~ rights and responsibilities of consumers and grievance proceedings,
- ~~[4]d.~~ passive restraint and security procedures, and
- ~~[5]e.~~ fire emergency procedures.

~~[b]2.~~ Staff shall receive 30 hours of additional training annually that shall include at a minimum, the following topics:

- ~~[1]a.~~ human relations and communication skills,
- ~~[2]b.~~ special needs of youth and families,
- ~~[3]c.~~ problem solving and guidance,
- ~~[4]d.~~ consumer rules and regulations,
- ~~[5]e.~~ documentation and legal requirements.

~~— 6) basic first aid.]~~

~~[7]j.~~ safety in a secure setting, and

~~[8]k.~~ universal precautions for blood borne pathogens.

#### **R501-16-5[-E]. Direct Service.**

Treatment plans shall be reviewed and signed by ~~[the]a~~ clinical supervisor as frequently as noted in the treatment plan ~~licensed clinical professional.~~

#### **R501-16-6[-F]. Physical Environment.**

~~[1]A.~~ The program shall provide ~~[written]~~ documentation of compliance with:

- ~~[a]1.~~ local zoning ordinances,
- ~~[b]2.~~ local business license requirements,
- ~~[c]3.~~ local building codes, specific to an intermediate secure facility,
- ~~[d]4.~~ local fire safety regulations as required for an intermediate secure facility,
- ~~[e]5.~~ local and state health codes.

~~— f. Section 504 of the Rehabilitative Act of 1973, if it is a federally funded program,~~

~~— g. civil rights notification, and~~

~~— h. the Americans With Disabilities Act.]~~

~~[2]B.~~ The program shall provide ~~[written]~~ documentation of acknowledgment from the appropriate government agency for new program services or increased consumer capacity.

~~[3]C.~~ Building and Grounds

~~[a]1.~~ The program shall insure that the appearance and cleanliness of the building and grounds are maintained.

~~[b]2.~~ The program shall ~~[take reasonable measures to]~~ ensure a safe physical environment for consumers and staff.

~~[c]3.~~ The facility shall incorporate the use of fixtures, and furnishings that aid in preventing occurrence of suicide, such as: plexiglass or safety glass, recessed lighting or sealed light fixtures, non exposed fire sprinkler heads, pressure release robe hooks, ~~[etc].~~

~~[d]4.~~ Consumers are not to be locked in their sleeping rooms.

#### **R501-16-7[-G]. Physical Facilities.**

~~[1]A.~~ Live-in staff shall have separate living space with a private bathroom, bedroom and kitchen.

~~[2]B.~~ The program shall have space to serve as an administrative office for records, secretarial work and bookkeeping.

~~[3]C.~~ Indoor space for free and informal activities of consumers shall be available.

~~[4]D.~~ Provision shall be made for consumer privacy.

~~[5]E.~~ Space shall be provided for private and group counseling sessions.

~~[6]F.~~ Sleeping Space:

~~[a]1.~~ No more than four persons shall be housed in a ~~[single]~~ bedroom.

~~[b]2.~~ A minimum of sixty square feet per consumer shall be provided in a multiple occupant bedroom. Storage space shall not be counted.

~~[c]3.~~ A minimum of eighty square feet per individual shall be provided in a single occupant bedroom. Storage space shall not be counted.

~~[d]4.~~ Sleeping areas shall have a source of natural light, and shall be ventilated by mechanical means or equipped with a screened window that opens.

~~[e]5.~~ Each bed shall be solidly constructed, no portable beds, and be provided with clean linens.

~~[f]6.~~ Sheets and pillow cases shall be changed and cleaned at least weekly.

~~[g]7.~~ Sleeping quarters serving male and female consumers shall be structurally separated.

~~[h]8.~~ Consumers shall be allowed to decorate and personalize bedrooms in accordance with individual treatment plans, with respect for other residents and property.

~~[7]G.~~ Bathrooms

~~[a]1.~~ The program shall have separate bathrooms for males and females. These shall be maintained in good operating order and in a clean and safe manner.

~~[b. Bathrooms shall accommodate consumers with physical disabilities, as required.]~~

~~— e]2.~~ Each consumer shall be supplied with toilet paper, towels, soap and other items required for personal hygiene.

~~[d]3.~~ Bathrooms shall be ventilated by mechanical means or equipped with a screened window that opens.

~~[e]4.~~ Bathrooms shall meet a minimum ratio of one toilet, one lavatory and one tub or shower for each six residents.

~~[f]5.~~ There shall be toilets and baths or showers that allow for individual privacy.

~~[g]6.~~ There shall be safety mirrors secured to the walls at convenient heights.

[h]7. Bathrooms shall be located to allow access without disturbing other residents during sleeping hours.

[8]H. There shall be indoor and outdoor space adequate to accommodate ~~[gross motor]~~ exercise and recreation.

#### R501-16-8[~~-H~~]. Equipment.

[4]A. Furniture and equipment shall be of sufficient quantity, variety, and quality to meet program and consumer plans.

[2]B. All furniture and equipment shall be maintained in a clean and safe manner.

#### R501-16-9[~~-I~~]. Laundry Service.

[4]A. Programs that permit individuals to do their own laundry shall provide equipment and supplies.

[2]B. Programs that provide for common laundry of linens and clothing shall provide containers for soiled laundry that are separate from clean linens and clothing.

[3]C. Laundry appliances shall be maintained in a clean and safe condition.

#### R501-16-10[~~-J~~]. Food Service.

[4]A. One person shall be responsible for food service. If this person is not a ~~[professionally qualified]~~ licensed dietitian, regularly scheduled consultation with a ~~[professionally qualified]~~ licensed dietitian shall be obtained~~[-]~~, and the ~~[-M]~~ meals served shall be from ~~the dietitian's~~ approved menus.

[2]B. The person responsible for food service shall maintain a current list of consumers with special nutritional needs and record in the consumer's service record information relating to special nutritional needs and provide for nutrition counseling where indicated.

[3]C. The program shall establish and post kitchen rules and privileges according to consumer needs.

[4]D. Consumers present in the facility for four or more consecutive hours shall be provided nutritious food.

[5]E. Meals may be prepared at the facility or catered.

[6]E. Kitchens shall have clean, operational equipment for the preparation, storage, serving, and clean up of all meals.

[7]G. Adequate dining space shall be provided for consumers. The dining space shall be maintained in a clean and safe manner.

[8]H. When meals are prepared by consumers there shall be a written policy to include:

- [a]1. rules of kitchen privileges,
- [b]2. menu planning and procedures,
- [e]3. nutritional and sanitation requirements, and
- [d]4. schedule of responsibilities.

#### R501-16-11[~~-K~~]. Storage.

[4]A. The program shall have locked storage for medications.

[2]B. The program shall have locked storage for toxic and hazardous chemicals and materials~~[-, according to the direction of the local fire and health authorities]~~.

#### R501-16-12[~~-L~~]. Medication.

[4]A. Prescriptive medication shall be provided as prescribed by a licensed ~~[practitioner]~~ medical professional.

[2]B. The program ~~[shall have designated qualified]~~ staff~~[-, who]~~ shall~~[- be responsible to:]~~

[a]1. ~~[administer medication, or]~~ assist with the self-administration of medication,

[b]2. ~~[supervise self]~~ observe the taking of medication,

[e]3. record medication, including time and dosage, according to prescription, and

[d]4. record effects of medication.

#### R501-16-13[~~-M~~]. Specialized Services.

[4]A. The program shall not admit those who are currently experiencing convulsions, in shock, delirium tremens, ~~[being in a coma]~~, or ~~[being]~~ unconscious.

~~[2. Direct service staff shall complete first aid and CPR training within six months of being hired and receive updated CPR and first aid training as required by the certifying agency.~~

~~3. The program staff shall be tested for Tuberculosis (TB) annually and consumers shall be tested for TB before admission.~~

~~4]B. Provisions shall be made for children and youth to continue their education with a curriculum approved by the State Office of Education.~~

[5]C. Programs that provide their own school shall be recognized by an educational accreditation organization, i.e., State Board of Education or the National School Accreditation Board.

~~6. The program Director or designee shall meet with the Superintendent or designee of the local school district at the time of initial licensure, and then again each year as the program renews its license to complete the necessary student forms including youth education forms.]~~

[7]D. Unless the individual treatment plan specifies otherwise, the following therapies shall be provided to each child or youth at a minimum:

- [a]1. one individual therapy session weekly,
- [b]2. one group therapy session weekly, and
- [e]3. one family or couple therapy session monthly.

[8]E. Consumers record files shall have documentation of time and date of the session with the signature of the provider.

[9]E. An accurate record shall be kept of all funds deposited and withdrawn with the residential facility for use by a consumer. Consumer purchases of over \$20.00 per item, shall be substantiated by receipts signed by consumer and appropriate staff.

[4]G. Daily program schedules shall include ~~[gross motor]~~ activities that provide the consumer with large muscle exercise.

[4]H. The program shall provide for activity services to meet the physical, social, cultural, health, maintenance and rehabilitation needs of the consumer as defined in the treatment plan.

[4]I. A recreational program offering a wide variety of activities suited to the interests and abilities of the consumers and leisure counseling as needed, shall also be provided daily.

~~[13. Admissions and reviews of each consumer shall be done strictly in accordance with State Statutes, 62A-8-501 and 62A-12-282.1, as applicable. Support of the laws shall be maintained.~~

~~14]J. Health Facility Licensure Code R432-151-15. Special Treatment Procedures. Included [is]are Section 1[-]; Section 2, a[-] through c[-] and Section 3[-] through 4[-] for reference.~~

[a]1. The program shall identify the behavioral interventions and special treatment procedures to be utilized and will provide justification and standards for use, and shall develop standards governing the use of these procedures consistent with consumer rights, and fire and health standards.

[b]2. The program shall identify policies and procedures for the following:

- [1]a. use of seclusion and time out,
- [2]b. prescription and administration of drugs, and
- [3]c. use of involuntary medicine.

[e]3. Use of painful stimuli is not allowed.[

—d. Indications for use of special treatment procedures shall be documented in consumers records.]

K. Programs that conduct strip searches shall have policies and procedures which have been approved by the program's governing body and legal counsel.

**KEY: licensing, human services, youth**  
~~December 2, 1997~~ **February 26, 2004**  
**Notice of Continuation February 26, 2003**  
**62A-4a-413**



## Insurance, Administration **R590-220** Submission of Accident and Health Insurance Filings

### NOTICE OF PROPOSED RULE (New Rule)

DAR FILE No.: 26806  
 FILED: 11/24/2003, 15:38

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule combines Rule R590-86, Filing of Life and Disability Forms and Rates, and Bulletin 99-2, Procedures for the Submission of Disability and Health Form and Rate Filings, that are currently in effect with the department. The purpose of this new rule is to put into one document the procedures for submitting rate filings for accident and health, individual accident and health, individual and group Medicare supplement insurance and filings for long term care insurance, basic health care plans, and health benefit plans.

**SUMMARY OF THE RULE OR CHANGE:** This rule is promulgated to set forth procedures for the Submission of Disability and Health Form and Rate Filings, that are currently in effect with the department. The purpose of this new rule is to put into one document the procedures for submitting rate filings for accident and health, individual accident and health, individual and group Medicare supplement insurance and filings for long term care insurance, basic health care plans, and health benefit plans.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Sections 31A-2-201, 31A-2-201.1, 31A-2-202, 31A-22-605, 31A-22-620, and 31A-30-106

**THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL:** "NAIC Life, Accident and Health, Annuity, Credit Transmittal Document," effective January 1, 2003; "NAIC Instruction Sheet for Life, Accident and Health, Annuity, Credit Transmittal Document," effective January 1, 2003; "NAIC Instruction Sheet for Life, Accident and Health, Annuity, Credit Transmittal Document Form Filing Attachment and Rate Filing Attachment," effective January 1, 2003; "NAIC Uniform Life, Accident and Health, Annuity and Credit Coding Matrix," effective January 1, 2003; "Utah Accident and

Health Insurance Filing Transmittal," version April 1, 2004; "Utah Accident and Health Insurance Filing Certification," version April 1, 2004; "Utah Accident and Health Insurance Group Questionnaire," version April 1, 2004; and "Utah Accident and Health Insurance Request for Discretionary Group Authorization," version April 1, 2004

#### ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** This rule combines Rule R590-86 and Bulletin 99-2, currently in effect at the department. No changes are being made in the requirements already in this rule and bulletin. As a result, there will be no fiscal impact to the state's budget.

❖ **LOCAL GOVERNMENTS:** This rule combines Rule R590-86 and Bulletin 99-2, currently in effect at the department. No changes are being made in the requirements already in this rule and bulletin. As a result, there will be no fiscal impact to local government budgets.

❖ **OTHER PERSONS:** This rule combines Rule R590-86 and Bulletin 99-2, currently in effect at the department. As a result, this rule will have no fiscal impact on the insurance industry doing business in Utah or their customers.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** This rule combines Rule R590-86 and Bulletin 99-2, currently in effect at the department. As a result, this rule will have no fiscal impact on the insurance industry doing business in Utah or their customers.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rule will have no fiscal impact on the insurance industry doing business in Utah.

**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 01/14/2004**

**INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 1/05/2004 at 9:00 AM, State Office Building, Room 3112, Salt Lake City, UT.**

**THIS RULE MAY BECOME EFFECTIVE ON: 01/15/2004**

**AUTHORIZED BY: Jilene Whitby, Information Specialist**

**R590. Insurance, Administration.****R590-220. Submission of Accident and Health Insurance Filings.****R590-220-1. Authority.**

This rule is promulgated by the insurance commissioner pursuant to Section 31A-2-201.1 and Subsections 31A-2-201(3), 31A-2-202(2), 31A-22-605(4), 31A-22-620(3)(f), and 31A-30-106(1)(i) and (k).

**R590-220-2. Purpose and Scope.**

(1) The purpose of this rule is to set forth procedures for submitting:

(a) accident and health filings required by Section 31A-21-201;

(b) individual accident and health filings in accordance with Section 31A-22-605 and Rule R590-85;

(c) individual and group Medicare supplement filings in accordance with Sections 31A-22-605 and 31A-22-620, and Rules R590-85 and R590-146;

(d) long term care filings required by Section 31A-22-1404 and Rule R590-148;

(e) basic health care plan filings required by Section 31A-22-613.5 and Rule R590-175; and

(f) health benefit plan filings required by 31A-30 and Rule R590-167.

(2) This rule applies to:

(a) all types of accident and health insurance products; and

(b) group accident and health contracts issued to nonresident policyholders, including trusts, when Utah residents are provided coverage by certificates of insurance.

**R590-220-3. Documents Incorporated by Reference.**

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

(2) The following filing documents are hereby incorporated by reference and are available on the department's web site, [www.insurance.utah.gov/RF-Flgs.html](http://www.insurance.utah.gov/RF-Flgs.html):

(a) "NAIC Life, Accident and Health, Annuity, Credit Transmittal Document," effective January 1, 2003;

(b) "NAIC Instruction Sheet for Life, Accident and Health, Annuity, Credit Transmittal Document," effective January 1, 2003;

(c) "NAIC Instruction Sheet for Life, Accident and Health, Annuity, Credit Transmittal Document Form Filing Attachment and Rate Filing Attachment," effective January 1, 2003;

(d) "NAIC Uniform Life, Accident and Health, Annuity and Credit Coding Matrix," effective January 1, 2003;

(e) "Utah Accident and Health Insurance Filing Transmittal," version April 1, 2004;

(f) "Utah Accident and Health Insurance Filing Certification," version April 1, 2004;

(g) "Utah Accident and Health Insurance Group Questionnaire," version April 1, 2004; and

(h) "Utah Accident and Health Insurance Request for Discretionary Group Authorization," version April 1, 2004.

**R590-220-4. Definitions.**

In addition to the definitions in Section 31A-1-301, the following definitions shall apply for the purposes of this rule.

(1) "Alternate information" means a list of the states to which the filing was submitted, the date submitted, and the states' actions, including their responses.

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

(3) "Discretionary group" means a group that has been specifically authorized by the commissioner under Subsection 31A-22-701(1)(c).

(4) "Eligible group" means a group that meets the definition in Subsection 31A-22-701(1)(a).

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

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

(7) "File For Acceptance" means a filing can be used, sold, or offered for sale after it has been filed and the filer has received written confirmation that the filing was accepted.

(8) "File for Approval" means a filing can be used, sold, or offered for sale after it has been filed and the filer has received written confirmation that the filing was approved.

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

(10) "Filing," when used as a noun, means an item required to be filed with the department including:

(a) a policy;

(b) a rate, rate manual, or rate methodologies;

(c) a form;

(d) a document;

(e) a plan;

(f) a manual;

(g) an application;

(h) a report;

(i) a certificate;

(j) an endorsement;

(k) an actuarial certification;

(l) a licensee annual statement;

(m) a licensee renewal application; or

(n) an advertisement.

(11) "Letter of authorization" means a letter signed by an officer of the insurer on whose behalf the filing is submitted that designates filing authority to the filer.

(12) "Market type" means the type of policy that indicates the targeted market such as individual or group.

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

(14) "Rating methodology change" for the purpose of a health benefit plan means:

(a) a change in the number of case characteristics used by a covered carrier to determine premium rates for health benefit plans in a class of business;

(b) a change in the manner or procedures by which insureds are assigned into categories for the purpose of applying a case characteristic to determine premium rates for health benefit plans in a class of business;

(c) a change in the method of allocating expenses among health benefit plans in a class of business; or

(d) a change in a rating factor, with respect to any case characteristic, if the change would produce a change in premium for any individual or small employer that exceeds 10%. A change in a rating factor shall mean the cumulative change with respect to such factor considered over a 12-month period. If a covered carrier

changes rating factors with respect to more than one case characteristic in a 12-month period, the carrier shall consider the cumulative effect of all such changes in applying the 10% test.

(15) "Rejected" means a filing is:

(a) not submitted in accordance with Utah laws and rules;  
(b) returned to the filer by the department with the reasons for rejection; and

(c) not considered filed with the department.

(16) "Type of insurance" means a specific accident and health product including dental, health benefit plan, long-term care, Medicare supplement, income replacement, specified disease, or vision.

#### **R590-220-5. General Filing Information.**

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

(2) An insurer and filer is responsible for assuring compliance with Utah laws and rules. A filing not in compliance with Utah laws and rules is subject to regulatory action under Section 31A-2-308.

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

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

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

(a) A filing may be reviewed:

(i) when submitted;

(ii) as a result of a complaint;

(iii) during a regulatory examination or investigation; or

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

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

(6) Filing correction.

(a) No filing transmittal is required when clerical or typographical corrections are made to a filing previously filed if the corrected filing is submitted within 30 days of the date "Filed" with the department. The filer will need to reference the original filing.

(b) A new filing is required if the clerical or typographical corrections are made more than 30 days after the filed date of the original filing. The filer will need to reference the original filing.

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

#### **R590-220-6. Filing Submission Requirements.**

A filing must be submitted by market type and type of insurance. A filing may not include more than one type of insurance, or request filing for more than one insurer. A complete filing consists of the following documents submitted in the following order:

(1) Transmittal. A transmittal, as provided in R590-220-3(2), must be on the top of the filing. The transmittal form must be properly completed.

(2) Filing Description. The following information must be included in a cover letter or in the Filing Description on the NAIC transmittal and presented in the order shown below. If using a cover

letter, the letter must be on company letterhead and properly identify the insurer.

(a) List of Forms. All form numbers being filed or affected by the filing must be listed in the "Regarding" line of the cover letter, or on an attached list, which includes the form number, and title or name. This information does not need to be included if submitting the NAIC transmittal form.

(b) Description of Filing.

(i) Indicate if the filing is new, replacing a previous filing, or contains forms that have been previously filed and are included for informational purposes.

(ii) Provide a brief description of each component's purpose, benefits and provisions.

(iii) Identify any new, unusual, or controversial provision.

(iv) Identify any unresolved previously prohibited provision and explain why the provision is included in the filing.

(v) Explain any change in benefits or premiums that may occur while the contract is in force.

(vi) If the filing is replacing or modifying a previous submission, provide information that identifies the filing being replaced or modified, the Utah filed date, and a detailed description of the changes made.

(vii) If the filing includes forms for informational purposes, provide the dates the forms were filed.

(viii) If filing a certificate, outline of coverage, application, or endorsements, and the filing does not contain a policy, identify the affected policy form number, the Utah filed date, and describe the effect of the submitted forms on the base policy.

(c) Marketing Facts. If the NAIC transmittal is used, the company must:

(i) list the issue ages;

(ii) identify the intended market, such as senior citizens, nonprofit organizations, association members, etc; and

(iii) describe marketing and advertising in detail, i.e., through a marketing association, mass solicitation, electronic media, financial institutions, internet, telemarketing, or individually through licensed producers.

(d) Underwriting Methods. Provide a general explanation of the underwriting applicable to the filing.

(3) Certification. The Utah Accident and Health Insurance Filing Certification must be properly completed and signed. A filing will be rejected if the certification is missing or incomplete. A certification that is inaccurate may subject the filer to administrative action. If the NAIC transmittal is being submitted, the Utah Accident and Health Insurance Filing Certification must also be included.

(4) Domicile Approval. A foreign insurer and filer must first submit filings to their domicile state.

(i) If a filing was submitted to the domicile state, provide a stamped copy of the approval letter from the domicile state for the exact same filing.

(ii) If a filing was not submitted to the domicile state, or the domicile state did not provide specific approval for the filing, then alternate information must be provided.

(5) Group Questionnaire or Discretionary Group Authorization Letter. A group filing must identify the type of group, and include either a completed "Utah Accident and Health Insurance Group Questionnaire," or a copy of the "Utah Accident and Health Insurance Discretionary Group Authorization" letter.

(6) Letter of Authorization. When the filer is not the insurer, a letter of authorization from the insurer must be included. The

insurer remains responsible for the filing being in compliance with Utah laws and rules.

(7) Items being submitted for filing. Refer to each applicable subsection of this rule for general procedures and additional procedures on how to submit forms, rates, and reports.

(8) Return Notification Materials.

(a) Return notification materials are limited to:

(i) a copy of the cover letter if submitted;

(ii) a copy of the transmittal; and

(iii) a self addressed, stamped envelope.

(b) Any additional documents submitted for return will be discarded.

(c) Notice of filing will not be provided unless return notification materials are submitted.

#### **R590-220-7. Procedures for Form Filings.**

(1) Forms in General.

(a) Forms are "File and Use" filings.

(b) Each form must be identified by a unique form number. The form number may not be variable.

(c) A form must be in final printed form or printer's proof format. A draft may not be submitted.

(d) Specific sections may be filed with variable data by placing brackets around affected information. Variable data must be identified within the specific section, or on a separate sheet included with the submission.

(e) Blank spaces within the forms must be completed in John Doe fashion to accurately represent the intended market, purpose, and use.

(2) Application Filing. Each application or enrollment form may be submitted as a separate filing or may be filed with its related policy or certificate filing. If an application has been previously filed or is filed separately, an informational copy of the application must be included with the policy or certificate filing.

(3) Policy Filing. Each type of insurance must be filed separately. A policy filing consists of one policy form, including its related forms, such as outline of coverage, certificate or endorsement, and an actuarial memorandum.

(a) Only one policy filing for a single type of insurance may be filed, except as stated in subsection (b).

(b) A Medicare supplement filing may include more than one policy filing but each filing is limited to only one of each of the Medicare supplement plans A through J.

(4) Endorsement Only Filing.

(a) Up to three related endorsements may be filed together.

(b) A single endorsement that affects multiple forms may be filed if the Filing Description references all affected forms.

(c) The filing must include:

(i) A listing of all base policy form numbers, title and dates filed with the department; and

(ii) a description of how each filed endorsement affects the base policy.

(d) An endorsement may not be used to change a basic feature of the policy form.

(e) Unrelated endorsements may not be filed together.

(5) Outline of Coverage. If an outline of coverage is required to be issued with a policy, the outline of coverage must be filed when the policy is filed.

#### **R590-220-8. Additional Procedures for Individual Market Filings.**

(1) This section does not apply to filings for individual health benefit plans that are subject to 31A-30 and Rule R590-167. Health benefit plan filings are discussed in R590-220-10.

(2) A rate filing addressed in this section is a "File for Acceptance" filing.

(3) A filer submitting an individual accident and health filing is advised to review 31A-22, Part VI, and Rules R590-85, R590-126, and R590-131.

(4) Every individual accident and health policy, or endorsement effecting benefits shall be accompanied by a rate filing with an actuarial memorandum signed by a qualified actuary. A rate filing need not be submitted if the filing does not require a change in premiums, however the reason why there is not a change in premium must be explained in the Filing Description. Rates must be filed in accordance with the requirements of Section 31A-22-602, Rule R590-85, and this rule.

(5) A filer submitting a long term care filing, including an endorsement attached to a life insurance policy, is advised to review 31A-22 Part XIV and Rule R590-148.

(6) A filer submitting a Medicare supplement filing is advised to review Section 31A-22-620 and Rule R590-146.

#### **R590-220-9. Additional Procedures for Group Market Form Filings.**

A filer submitting a group accident and health filing is advised to review 31A-8, 31A-22 Parts VI and VII, 31A-30, Rules R590-76, R590-131, R590-146 and R590-148. A filer submitting a group health benefit plan filing should also review R590-220-10 in addition to this section.

(1) Determine whether the group is an eligible group or a discretionary group.

(2) Eligible Group. A filing for an eligible group must include a completed "Utah Accident and Health Insurance Group Questionnaire."

(a) A questionnaire must be completed for each eligible group under Section 31A-22-503 through 507.

(b) When a filing applies to multiple employee-employer groups under Section 31A-22-502, only one questionnaire is required to be completed.

(3) Discretionary Group. If the group is not an eligible group, then specific discretionary group authorization must be obtained prior to filing.

(a) To obtain discretionary group authorization a Utah Accident and Health Insurance Request for Discretionary Group Authorization must be submitted and include all required information.

(b) Evidence or proof of the following items are some factors considered in determining acceptability of a discretionary group:

(i) the existence of a verifiable group;

(ii) that granting permission is not contrary to public policy;

(iii) the proposed group would be actuarially sound;

(iv) the group would result in economies of acquisition and administration which justify a group rate; and

(v) the group would not present hazards of adverse selection.

(c) A discretionary group filing that does not provide authorization documentation will be rejected.



(d) A change to an authorized discretionary group, such as change of name, trustee or domicile state, must be submitted to the department within 30 days of the change.

(e) The commissioner may periodically re-evaluate the group's authorization.

(4) A filer may not submit a rate or form filing prior to receiving discretionary group authorization. If a rate or form filing is submitted without discretionary group authorization, the filing will be rejected.

**R590-220-10. Additional Procedures for Individual, Small Employer, and Group Health Benefit Plan Filings.**

This section contains instructions for filings subject to 31A-30. A filer submitting health benefit plan filings that are subject to 31A-30 are advised to review 31A-8, 31A-22 Parts VI and VII, 31A-30, Rules R590-76, R590-131, R590-167, and R590-175.

(1) General requirements.

(a) Letter of Intent. A filing must include a copy of the letter filed with the commissioner declaring the carrier's intention as required by R590-167-10.

(b) Class of Business. The Filing Description must describe the class of business, as provided in Section 31A-30-105.

(c) Rate Manual. A health benefit plan form filing must include a rate manual. If the rate manual was previously filed, provide a copy of the transmittal and documentation indicating the department's receipt.

(2) Rate Manual Filing.

(a) A rate manual that does not request a change in rating methodology is a "File Before Use" filing.

(b) A change in rating methodology filing is a "File for Approval" filing.

(c) A new and revised rate manual.

(i) A filing must include an actuarial certification signed by a qualified actuary.

(ii) A rate manual and subsequent change must be filed 30 days prior to use.

(iii) A rate manual must list the case characteristics and rate factors to be used. A rating manual must be applied in the same manner for all health benefit plans in a class. The area factor and industry factor must contain the specific schedules applicable in Utah. Any case characteristic not listed in Subsection 31A-30-106(1)(h) requires prior approval of the commissioner.

(iv) The rating manual shall describe the method of calculating the risk load, including the method used to determine any experience factors. The rating manual must clearly describe how the overall rate is reviewed for compliance with the rate restrictions.

(3) Health Benefit Plan Report. A report must be filed separately and be properly identified.

(a) Reports due April 1 each year:

(i) "Actuarial Certification" An actuarial certification as described in Section 31A-30-106 and Rule R590-167-11.A.

(ii) "List of Health Benefit Plan Policy Forms." A list of every health benefit plan policy form to which 31A-30 applies and a description of how to find each form in the rating manual, as required by R590-167-11.C.

(iii) "Statistical Report." The statistical report, as required by R590-167-11.D, in the required format provided in Appendix 1 of that rule.

(iv) "Small Employer Index Rates." All small employer carriers must file their index rates as of March 1 of the current year and preceding year, as required by Subsection 31A-29-117(2). The

report must include the actual index rates and calculate the percentage change in these rates between the two years.

(b) Report due August 15 each year, "Covered Lives Counts as of June 30." Carriers must submit the number of natural lives covered under individual market health benefit plans and small employer market health benefit plans, as required by R590-167-11.E.

**R590-220-11. Additional Procedures for Medicare Supplement Filings.**

A filer submitting Medicare supplement filings is advised to review Section 31A-22-620 and Rule R590-146. A Medicare supplement form filing that affects rates must be filed with all required rating documentation.

(1) An insurer must file its Medicare Supplement Buyers Guide.

(2) Rates.

(a) Medicare supplement rates are "File for Acceptance" filings.

(b) Medicare supplement rates must comply with Section 31A-22-602, Rules R590-146 and R590-85.

(c) An insurer shall not use or change premium rates for a Medicare supplement policy or certificate unless the rates, rating schedule and supporting documentation have been filed.

(d) A rate revision request may not be used to satisfy the annual filing requirements of Rule R590-146-14.C.

(3) Annual Medicare Supplement Report

(a) Medicare supplement reports are "File and Use" filings.

(b) Report due March 1 each year, "Report of Multiple Policies." As required by R590-146-22, an issuer of Medicare supplement policies shall annually submit a report of multiple policies the insurer has issued to a single insured. The report is required each year listing each insured with multiple policies or stating that no multiple policies were issued.

(c) Reports due May 31 each year.

(i) "Annual Filing of Rates and Supporting Documentation." An issuer of Medicare supplement policies and certificates shall file annually its rates, rating schedule and supporting documentation, including ratios of incurred losses to earned premiums by policy duration, in accordance with R590-146-14.C. The NAIC Medicare Supplement Insurance Model Regulations Manual details what should be included in the annual rate filing. Annual reports submitted with a request or any type of reference to a rate revision will be rejected.

(ii) "Refund Calculation and Benchmark Ratio." An issuer shall file the "Medicare Supplement Refund Calculation Form" and "Reporting Form for the Calculation of Benchmark Ratio Since Inception for Group Policies" reports according to R590-146-14.B.

(d) A report must be filed separately and be properly identified.

**R590-220-12. Additional Procedures for Combination Policies or Endorsements Providing Life and Accident and Health Benefits.**

(1) A combination filing is a policy or endorsement, which create a product that provides both life and accident and health insurance benefits. The two types of acceptable filings is an endorsement or an integrated policy. Combination filings take considerable time to process, and will be processed by both the Life Insurance Division and the Health Insurance Division.

(2) A combination filing must include transmittals for both the Life Insurance Division and the Health Insurance Divisions.

(3) (a) For an integrated policy, the filing must be submitted to the appropriate division based on benefits provided in the base policy.

(b) For an endorsement, the filing must be submitted to the appropriate division based on benefits provided in the endorsement.

(4) The Filing Description must identify the filing as having a combination of insurance types, such as:

(a) term policy with a long-term care benefit rider; or

(b) major medical policy that includes a life insurance benefit.

#### **R590-220-13. Additional Procedures for Completing the NAIC Transmittal.**

If a filer uses the transmittal in R590-220-3(2)(a), the requirements of this section must be met.

(1) The transmittal must be completed using the documents provided under Subsections R590-220-3(2)(b), (c), and (d).

(2) Do NOT submit the documents described in Subsections R590-220-3(2)(b), (c), and (d) with a filing.

(2) The transmittal and its related documents can be viewed at [www.naic.org/rates\\_forms/](http://www.naic.org/rates_forms/) or [www.insurance.utah.gov/RF-Flgs.html](http://www.insurance.utah.gov/RF-Flgs.html).

(3) (a) A filing will be prohibited and subject to a forfeiture if the certification in Section 15 of the transmittal is false.

(b) The filer is also required to submit the Utah Accident and Health Insurance Filing Certification.

#### **R590-220-14. Electronic Filings.**

A filer submitting an electronic filing must follow the requirements for both the electronic system and this rule, as applicable.

#### **R590-220-15. Correspondence, Status Checks, and Responses.**

(1) Correspondence. When corresponding with the department, a filer must provide sufficient information to identify the original filing:

(a) type of insurance;

(b) date of filing;

(c) form numbers; and

(d) copy of the original transmittal.

(2) Status Checks.

(a) A filer can request the status of its filing by telephone or email 60 days after the date of submission.

(b) A complete filing is usually processed within 45 days of receipt. If a filing includes all return notification materials, a response should be received within that time.

(3) Response to an Order. A response to an order must include:

(a) a response cover letter identifying the changes made;

(b) a copy of the Order to Prohibit Use;

(c) one copy of the revised documents with all changes highlighted; and

(d) return notification materials, which consist of a copy of the response cover letter and a self-addressed stamped envelope.

(4) Rejected Filing.

(a) A rejected filing is NOT considered filed. If resubmitted it is considered a new filing.

(b) If resubmitting a previously rejected filing, the new filing must include a copy of the rejection notice.

#### **R590-220-16. Penalties.**

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

#### **R590-220-17. Enforcement Date.**

The commissioner will begin enforcing the provisions of this rule April 1, 2004.

#### **R590-220-18. Severability.**

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

#### **KEY: health insurance filings**

**2004**

**31A-2-201**

**31A-2-201.1**

**31A-2-202**

**31A-22-605**

**31A-22-620**

**31A-30-106**



## Insurance, Administration

# R590-225

## Submission of Property and Casualty Rate and Form Filings

### NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 26821

FILED: 11/26/2003, 12:05

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is a combination of department Bulletins 99-3, Procedures for the Submission of Property and Casualty Rate, Rule and Form Filings; 99-4, Procedures for the Submission of Workers' Compensation Rate Filings; and 99-5, Procedures for the Submission of Title Insurance Rate, Rule and Form Filings. The purpose of this rule is to set forth procedures for submitting property and casualty, title, service contracts and bail bond forms, rate, and supplementary information.

SUMMARY OF THE RULE OR CHANGE: This rule sets forth procedures for submitting property and casualty, title, service contracts and bail bond forms, rate, and supplementary information.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201, 31A-2-201.1, 31A-2-202, and 31A-19a-203

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: NAIC Uniform Property and Casualty Transmittal Document, dated January 1, 2003; NAIC

Instruction Sheet for Property and Casualty Transmittal Document, dated January 1, 2003; NAIC Uniform Property and Casualty Coding Matrix, dated December 20, 2001; Utah Insurer Loss Cost Multiplier and Expense Constant Supplement Filing Forms, dated October 2003; and Utah Workers Compensation Insurer Loss Cost Multiplier Filing Form, dated October 2003

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** No changes are being made to the filing procedures already being followed by insurers that would affect the state's budget.

❖ **LOCAL GOVERNMENTS:** This rule regulates the relationship between insurance licensees doing business in Utah and the department. It will not affect local governments.

❖ **OTHER PERSONS:** This rule will have no fiscal impact on the insurance industry doing business in Utah or their customers. It does not require insurers to do anything that they are not already doing. As a result there should be no impact on insurance consumers.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** This rule will have no fiscal impact on the insurance industry doing business in Utah or their customers. It does not require insurers to do anything that they are not already doing. As a result there should be no impact on insurance consumers.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rule will have no fiscal impact on the insurance industry doing business in Utah.

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 01/14/2004

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 1/06/2004 at 9:00 AM, State Office Building, Room 3112, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/2004

AUTHORIZED BY: Jilene Whitby, Information Specialist

**R590. Insurance, Administration.**

**R590-225. Submission of Property and Casualty Rate and Form Filings.**

**R590-225-1. Authority.**

This rule is promulgated by the insurance commissioner pursuant to Subsections 31A-2-201(3), 31A-2-201.1, 31A-2-202(2), and 31A-19a-203.

**R590-225-2. Purpose and Scope.**

(1) The purpose of this rule is to set forth procedures for submitting:

(a) property and casualty and title form filings required by Section 31A-21-201;

(b) property and casualty and title rates, and supplementary information under Section 31A-19a-203;

(c) service contract form filings required by Subsection 31A-6a-103(2)(a); and

(d) bail bond form filings required by Sections 31A-35-607 and Rule R590-196.

(2) This rule applies to all lines of property and casualty insurance, including title insurance, bail bond and service contracts.

**R590-225-3. Documents Incorporated by Reference.**

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

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

(a) "NAIC Uniform Property and Casualty Transmittal Document", dated January 1, 2003;

(b) "NAIC Instruction Sheet for Property and Casualty Transmittal Document", dated January 1, 2003;

(c) "NAIC Uniform Property and Casualty Coding Matrix", dated December 20, 2001;

(d) "Utah Insurer Loss Cost Multiplier and Expense Constant Supplement Filing Forms", dated October 2003;

(e) "Utah Workers Compensation Insurer Loss Cost Multiplier Filing Form", dated October 2003.

**R590-225-4. Definitions.**

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

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

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

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

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

(5) "Letter of authorization" means a letter signed by an officer of the insurer on whose behalf the filing is submitted that designates filing authority to the filer.

(6) "Order to Prohibit Use" means an order issued by the commissioner which forbids the use of a filing.

- (7) "Rejected" means a filing is:
- (a) not submitted in accordance with applicable laws and rules;
  - (b) returned to the filer by the department with the reasons for rejection; and
  - (c) not considered filed with the department.
- (8) "Type of Insurance" means a specific line of property and casualty insurance including general liability, commercial property, workers compensation, automobile, homeowners, title, bail bond and service contracts.
- (9) "Use And File" means a filing can be used, sold, or offered for sale if it is filed within a stated period of time after its initial use.

#### **R590-225-5. General Filing Information.**

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

#### **R590-225-6. Filing Submission Requirements.**

A filing must be submitted by market type and type of insurance, not by annual statement line number. A filing may not include more than one type of insurance, unless the filing is a commercial or personal inter-line form filing. The inter-line use of a form must be explained in the Filing Description. A filer may not request a filing for more than one insurer unless the filing contains a separate transmittal for each insurer to whom the filing applies. A complete filing consists of the following documents submitted in the following order:

- (1) "NAIC Uniform Property and Casualty Transmittal Document." COMPLETE THE TRANSMITTAL BY USING THE FOLLOWING:
  - (a) "NAIC Coding Matrix;"
  - (b) "NAIC Instruction Sheet;" and
  - (c) "Utah Property and Casualty Content Standards."
- (2) Do not submit the documents described in (1)(a),(b), and (c) with a filing.
- (3) Filing Description. The following information must be included in the Filing Description on the transmittal and presented in the order shown below:
  - (a) Provide a detailed description of the purpose of the filing.
  - (b) Describe the benefits and features of each form in the filing including specific features and options;
  - (c) Identify any new, unusual or controversial provision.
  - (d) Identify any unresolved previously prohibited provision and explain why the provision is included in the filing;
  - (e) If the filing is replacing or modifying a previous submission, provide information that identifies the filing being replaced or modified, the Utah filed date, and a detailed description of the changes made;
  - (f) If filing an application, or endorsement, and the filing does not contain a policy, identify the affected policy form number, the Utah filed date, and describe the effect of the submitted forms on the base policy.
- (4) Certification. The filer must certify that a filing has been properly completed AND is in compliance with Utah laws and rules. Section 21 must contain this statement:  
 "(YOUR NAME) CERTIFIES THAT THE ATTACHED FILING HAS BEEN COMPLETED IN ACCORDANCE WITH THIS RULE AND IS IN COMPLIANCE WITH APPLICABLE UTAH LAWS AND RULES".  
 A filing will be rejected if the certification is missing or incomplete. A certification that is inaccurate may subject the filer to administrative action.
- (5) Letter of Authorization. When the filer is not the insurer, a letter of authorization from the insurer must be included. The insurer remains responsible for the filing being in compliance with Utah laws and rules.
- (6) Items being submitted for filing. Refer to each applicable subsection of this rule for general procedures and additional procedures on how to submit forms, rates, and supplementary information.
- (7) Return Notification Materials.
  - (a) Return notification materials are limited to:
    - (i) a copy of the transmittal; and
    - (ii) a self-addressed, stamped envelope.
  - (b) Additional documents submitted for return will be discarded.
  - (c) Notice of filing will not be provided unless return notification materials are submitted.

#### **R590-225-7. Procedures for Form Filings.**

- (1) Forms in general:
  - (a) Forms are "File And Use" filings. EXCEPTION: service contracts. Service contracts are "File Before Use".
  - (b) Each form must be identified by a unique form number. The form number may not be variable.
  - (c) A form must be in final printed form or printer's proof format. A draft may not be submitted.

(2) If you have authorized a Rate Service Organization (RSO) to make form filings on your behalf, no filing by you is required if you implement the filings as submitted by the RSO. A filing is required if you delay the effective date, non-adopt or alter the filing in any way. Your filing must be received by the department before the RSO effective date. We do not require that you attach copies of the RSO's forms when you reference a filing.

(3) If you have NOT authorized an RSO to file forms on your behalf, you must include, in your filing, a letter stating your intent to adopt any RSO forms for your use. Copies of the RSO forms are not required, however, your filing must include a complete list of the RSO forms you intend to adopt by form number, title/name and filing identification number of the RSO.

(4) A "Me Too" filing, referencing a filing submitted by another insurer, is not permitted.

(5) If a previously filed Utah amendatory endorsement will be used in connection with the form being filed, explain this in the Filing Description section of the transmittal form and include a copy with the filing.

(6) If the filing is for more than one insurer and all insurers included in the filing have submitted a transmittal, only one copy of each form is required. However, if the name of each respective company or unique insurer logo is printed on each separate set of the form, then a separate form must be filed for each insurer.

(7) Since a form may be used once it is "Filed" and must be "Filed" before it can be used, sold or offered for sale, you do not need to re-file or notify the department if the implementation date of the original filing changes.

#### **R590-225-8. Procedures for Rate and Supplementary Information Filings.**

(1) Rates and supplementary information in general.

(a) Rates and supplementary information are "Use And File" filings. EXCEPTION: title and workers compensation rates and supplementary information are "File Before Use" filings.

(b) Service Contract Providers and Bail Bond Sureties, are exempt from this section.

(2) If you have authorized a Rate Service Organization (RSO) to make a prospective loss cost, supplementary information filing, or both, on your behalf, no filing by you is required if you implement the filing as submitted by the RSO. A filing is required if you delay the effective date, non-adopt, or alter the filing in any way. Any such filing must be received by the department within 30 days of the effective date established by the RSO. We do not require that you attach copies of the RSO's manual pages when you reference an RSO filing.

(3) If you have NOT authorized an RSO to file the prospective loss cost, supplementary rating information, or both, on your behalf, you must include in your filing a letter stating your intent to adopt the RSO prospective loss cost, supplementary rating information filing, or both. You must file copies of any manual pages as if they were your own and provide your actuarial justification.

(4) A "Me Too" filing referencing a filing submitted by another insurer is not permitted.

(5) If the filing is for more than one insurer and all insurers included in the filing have submitted a transmittal and the supporting data and manual pages are identical for each insurer included in the filing, only one copy of the supporting data and manual pages are required to be submitted.

(6) Rate and supplementary information filings must be supported and justified by each insurer. Justification must include

submission of all factors used in determining initial supplementary information and rates or changes in existing supplementary information and rates along with a complete explanation as to the extent to which each factor has been used. Underwriting criteria are not required unless they directly affect the rating of the policy. Underwriting criteria used to differentiate between rating tiers is required.

(7) When submitting a filing for any kind of rating plan, rating modification plan, or credit and debit plan, an insurer must include in the filing:

(a) a statement identifying the arithmetic process to be used and whether factors will be added or multiplied when applying them to base rates; and

(b) justification for the method used.

(c) A filing will be rejected as incomplete if it fails to specifically provide this information.

(8) Utah and countrywide statistical data for the latest three years available must be submitted with each filing. This data should include earned premiums, incurred losses, loss ratios, establishment of expense factors, and expected loss ratios. Calculations involved in establishing rates from loss experience are to be exhibited including the establishment of trend factors, loss development factors, etc. If any of the above information is not available, a detailed explanation of why must be provided with the filing.

(9) A rate deviation and prospective loss cost.

(a) In the past, a rate deviation filing was common. A rate deviation consisted of a modification, usually a percentage decrease or increase, to a RSO manual rate or supplementary information. The justification was that an individual insurer could demonstrate experience, expense and profit factors different from the average experience, expense and profit contemplated in the RSO's manual rate.

(b) With prospective loss cost, deviation ceased to exist. There are no longer manual rates from which to deviate. Once an insurer has filed to implement the RSO prospective loss cost for a given line, company deviations previously filed became null and void. A filing of a straight percentage deviation is no longer applicable. An individual insurer adjustment to the RSO prospective loss cost must be made as part of the calculation of the loss cost multiplier and is must be included in the "Utah Insurer Loss Cost Multiplier Filing Forms." This form allows for the inclusion of an individual insurer modification of the RSO prospective loss cost.

(10) Procedures for Reference Filings to Advisory Prospective Loss Cost.

(a) An RSO does not usually file final an advisory rate that contains provisions for expenses, other than loss adjustment expenses, and profit. An RSO develops and files with the commissioner a "Reference Filing" containing advisory prospective loss cost and supporting actuarial and statistical data. Each insurer must individually determine the rates it will file and the effective date of any rate changes.

(b) If an insurer that is a member, subscriber or service purchaser of any RSO determines to use the prospective loss cost in an RSO Reference Filing in support of its own filing, the insurer must make a filing using the "Utah Insurer Loss Cost Multiplier Filing Forms." The insurer's filed rates are the combination of the RSO's prospective loss cost and the loss cost multiplier contained in the "Utah Insurer Loss Cost Multiplier Filing Forms."

(c) An insurer may file a modification of the prospective loss cost in the Reference Filing based on its own anticipated experience.

Actuarial justification is required for a modification, upwards or downwards, of the prospective loss cost in the Reference Filing.

(d) An insurer may request to have its loss cost adjustments remain on file and reference all subsequent RSO prospective loss cost Reference Filings. Upon receipt of subsequent RSO Reference Filings, the insurer's filed rates are the combination of the RSO's prospective loss cost and the loss cost adjustments contained in the "Utah Insurer Loss Cost Multiplier Filing Forms" on file with the commissioner, and will be effective on the effective date of the prospective loss cost. The insurer need not file anything further with the commissioner.

(e) If the filer, wants to have its filed loss cost adjustments remain on file with the commissioner, but intends to delay, modify, or not adopt a particular RSO's Reference Filing, the filer must make an appropriate filing with the commissioner.

(f) An insurer's filed loss cost adjustments will remain in effect until the filer withdraws them or files a revised "Utah Insurer Loss Cost Multiplier Filing Form."

(g) A filer may file such other information the filer deems relevant.

(h) If an insurer wishes to use minimum premiums, it must file the minimum premiums it proposes to use.

(11) Supplementary Rate Information.

(a) The RSO files with the commissioner filings containing a revision of rules, relativities and supplementary rate information. This includes policy-writing rules, rating plans, classification codes and descriptions, territory codes, descriptions and rules, which include factors or relativities such as, increased limits factors, classification relativities or similar factors.

(b) These filings are made by the RSO on behalf of those insurers that have authorized the RSO to file rules, relativities and supplementary rating information on their behalf.

(c) An RSO may print and distribute a manual of rules, relativities and supplementary rating information.

(d) If an insurer has authorized an RSO to file on its behalf and the insurer decides to use the revisions and effective date then the insurer does NOT file anything with the commissioner.

(e) If an insurer has authorized an RSO to file on its behalf and the insurer decides to use the revisions as filed, BUT with a different effective date, then the insurer must notify the commissioner of its effective date within 30 days after the RSO's effective date.

(f) If an insurer has authorized an RSO to file on its behalf, but the insurer decides not to use the revision, then the insurer must notify the commissioner within 30-days after the RSO's effective date.

(g) If an insurer has authorized an RSO to file on its behalf, but the insurer decides to use the revision with modification, then within 30-days of the RSO's effective date the insurer must file the modification specifying the basis for the modification and the insurer's effective date.

(12) Consent-to-rate Filing. Subsection 31A-19a-203(6) allows an insurer to file a written application for a particular risk stating the insurer's reasons for using a higher rate than that otherwise applicable to a risk. This is called a "Consent-to-Rate" filing and must be filed. The Filing Description must show the filed rate, the proposed rate, and the reasons for the difference.

(13) Individual Risk Filing. R590-127, "Rate Filing Exemptions", provides for those circumstances when an Individual Risk filing is permitted. An individual risk filing must be filed with the commissioner. The filing shall consist of a copy of the Declarations Page, copies of any pertinent coverage forms and rating

schedules, and premium development. The Filing Description shall contain the underwriter's explanation for the filing.

(14) Information Regarding Dividend Plan.

(a) Sections 31A-19a-210 and 31A-21-310 allow for dividend distributions.

(b) A plan or schedule for the distribution of dividends developed AFTER THE INCEPTION of a policy is NOT considered a rating plan and does not have to be filed according to the provisions of this rule. However, all other plans or schedules applicable to an insurance policy FROM ITS INCEPTION are required to be filed pursuant to Section 31A-21-310.

(15) The Utah Insurance Code allows tiered rating plans within one insurer or insurer group with common ownership.

(a) A filing must show that the tiers are based on mutually exclusive underwriting rules, which are based on clear, objective criteria that would lead to a logical distinguishing of potential risk. A filing must provide supporting information that shows a clear distinction between the expected losses and expenses for each tier.

(b) If an insurer group is using a tiered rating structure, the group of insurers cannot all file the same loss cost multiplier and then file standard percentage deviations. A difference must be demonstrated in the loss cost multiplier formula, either as a modification of the RSO prospective loss cost or in the insurer expense factor. An individual insurer adjustment or modification must be supported by actuarial data which establishes a reasonable standard for measuring probable insurer variations in historical or prospective experience, underwriting standards, expense and profit factors.

**R590-225-9. Additional Procedures for Workers Compensation Rate Filings.**

The following are additional procedures for workers' compensation rate filings:

(1) Rates and supplementary information must be filed 30 days before they can be used.

(2) Each insurer must individually determine the rates it will file. An insurer's workers' compensation filed rates are the combination of the most current prospective loss cost filed by the designated rate service organization and the insurers loss cost adjustment, known as the loss cost multiplier (LCM), as calculated and filed using the "Utah Worker's Compensation Insurer Loss Cost Multiplier Filing Forms."

(3) Each insurer must implement the designated rate service organization's current prospective loss cost on the effective date assigned by the designated rate service organization. INSURERS MAY NOT DEFER NOR DELAY ADOPTION.

(4) An insurer's filed loss cost multiplier will remain in effect until the insurer withdraws it or files a new loss cost multiplier. Upon receipt of subsequent designated rate service organization reference filings, the insurer's filed rates are the combination of the designated RSO's prospective loss cost and the loss cost multiplier contained in the insurer's most current "Utah Loss Cost Multiplier Filing Form" on file with the department.

(5) An insurer may file a modification to the designated rate service organization prospective loss cost in the subject reference filing based on its own anticipated experience. Supporting documentation will be required for any modifications, upwards or downwards, of the designated rate service organization prospective loss cost.

(6) An insurer may vary expense loads by individual classification or grouping. An insurer may use variable or fixed

expense loads or a combination of these to establish its expense loadings. However, an insurer is required to file data in accordance with the uniform statistical plan filed by the designated rate service organization.

(7) When submitting a filing for a workers compensation rating plan, a rating modification plan, or a credit and debit plan, an insurer must include in the filing the following or it will be rejected as incomplete:

(a) a statement identifying the arithmetic process to be used and whether factors will be added or multiplied when applying them to base rates; and

(b) justification for the method used.

(8) To the extent that an insurer's rates are determined solely by applying its loss cost multiplier, as presented in the "Utah Worker's Compensation Insurer Loss Cost Multiplier Filing Forms" to the prospective loss cost contained in a designated rate service organization reference filing and printed in the designated rate service organization's rating manual, the insurer need not develop or file its rate pages with the commissioner. If an insurer chooses to print and distribute rate pages for its own use, based solely upon the application of its filed loss cost multiplier, the insurer need not file those pages with the insurance commissioner.

#### **R590-225-10. Additional Procedures for Title Rate Filings.**

(1) Title rate and a supplementary information filing are "File Before Use" filings. Rates and supplementary information shall be filed with the commissioner 30 days prior to use.

(2) Each change or amendment to any schedule of rates shall state the effective date of the change or amendment, which may not be less than 30 days after the date of filing. Any change or amendment remains in force for a period of at least 90 days from its effective date.

(3) Supplementary information and rate filings must be supported and justified by each insurer. Justification must include submission of all factors used in determining initial supplementary information and rates or changes in existing supplementary information and rates along with a complete explanation as to the extent to which each factor has been used.

(4) Rates that vary by risk classification such as extended coverage or standard coverage, and all discount factors, such as refinance, subdivision, or construction for purpose of resale discounts, must be supported by differences in expected losses or expenses.

(5) No rate may be filed or used which would require the title insurer or any title agency or producer to operate at less than the cost of doing business or adequately underwriting the title insurance policies.

#### **R590-225-11. Electronic Filings.**

A filer, submitting an electronic filing, must follow the requirements for both the electronic system and this rule, as applicable.

#### **R590-225-12. Correspondence, Status Request, and Responses.**

(1) Correspondence. When corresponding with the department, provide sufficient information to identify the original filing:

(a) type of insurance;

(b) date of filing;

(c) form numbers; and

(d) copy of the original transmittal.

(2) Status Checks. A filer can request the status of its filing by telephone, or email 60 days after the date of submission.

(3) Response to an Order. A response to an order must include:

(a) a response cover letter identifying the changes made;

(b) a copy of the prohibition letter;

(c) one copy of the revised documents with all changes highlighted; and

(d) return notification materials, which consist of a copy of the response cover letter and a self-addressed stamped envelope.

(4) Rejected Filing.

(a) A rejected filing is NOT considered filed. If resubmitted it is considered a new filing.

(b) If resubmitting a previously rejected filing, the new filing must include a copy of the rejection notice.

#### **R590-225-13. Penalties.**

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

#### **R590-225-14. Enforcement Date.**

The commissioner will begin enforcing the provisions of this rule April 1, 2004.

#### **R590-225-15. Severability.**

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

#### **KEY: property casualty insurance filing**

**2004**

**31A-2-201**

**31A-2-201.1**

**31A-2-202**

**31A-19a-203**

## Natural Resources, Water Rights **R655-13** Stream Alteration

### NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE No.: 26814

FILED: 11/25/2003, 11:04

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to clarify the procedures necessary to obtain approval by the state engineer for any project that proposes to alter a natural stream within the state of Utah.

SUMMARY OF THE RULE OR CHANGE: This rule will help clarify the procedures necessary to obtain approval by the state engineer for any project that proposes to alter a natural stream within the state of Utah.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: The following rule is established under the authority of Section 73-3-29. Additional procedures may be required to comply with other governing state statute, federal law, federal regulation, or local ordinance.

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: None

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: No cost or savings to state government because this rule provides a clarification of procedures and definitions currently used in the stream alteration program. No new state personnel or equipment will be required to implement this rule.

❖ LOCAL GOVERNMENTS: No cost or savings to local government because this rule provides a clarification of procedures and definitions currently used in the stream alteration program. The stream alteration program operates separately from local government programs and no cost sharing agreement exists between the state and any local government entity.

❖ OTHER PERSONS: No cost or savings to other persons because this rule provides a clarification of procedures and definitions currently used in the stream alteration program. Additionally, there is no application fee associated with this process.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No compliance costs for affected persons because this rule provides a clarification of procedures and definitions currently used in the stream alteration program which has no costs associated with this process.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule does not have fiscal impact on businesses because it only provides a clarification of procedures and definitions.

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

NATURAL RESOURCES  
WATER RIGHTS  
Room 220  
1594 W NORTH TEMPLE  
SALT LAKE CITY UT 84116-3154, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gail Nelson at the above address, by phone at 801-538-7370, by FAX at 801-538-7442, or by Internet E-mail at gailnelson@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 01/14/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/2004

AUTHORIZED BY: Jerry Olds, Director

**R655. Natural Resources, Water Rights.**

**R655-13. Stream Alteration.**

**R655-13-1. Authority.**

(1) The following rule is established under the authority of Section 73-3-29. Additional procedures may be required to comply with other governing state statute, federal law, federal regulation, or local ordinance.

**R655-13-2. Purpose.**

(1) The purpose of this rule is to clarify the procedures necessary to obtain approval by the state engineer for any project that proposes to alter a natural stream within the state of Utah.

**R655-13-3. Applicability.**

(1) These rules apply to all stream alteration projects with the state of Utah.

**R655-13-4. Definitions.**

(1) Alteration: To obstruct, diminish, enhance, destroy, alter, modify, relocate, realign, change, or potentially affect the existing condition or shape of a channel, or to change the path or characteristics of water flow within a natural channel. It includes processes and results of removal or placement of material or structures within the jurisdiction delineated in this rule.

(2) Bankfull discharge: The flow corresponding to the elevation of the water surface, in a natural stream, where overflowing onto the floodplain begins.

(3) Bank(s): The confining sides of a natural stream channel, including the adjacent complex that provides stability, erosion resistance, aquatic habitat, or flood capacity.

(4) Bed: The bottom of a natural stream channel.

(5) Canopy: Mature riparian woody vegetation, usually referring to limb and leaf overhang.

(6) Channel: The bed and banks of a natural stream.

(7) Clearance: the vertical distance between a given water surface and the lowest point on any structure crossing a natural channel.

(8) Ecology: A branch of science concerned with the interrelationship of organisms and their environment.

(9) Ecosystem: The assemblage of organisms and their environment functioning as an ecological unit in nature.

(10) Floodplain: The maximum area that will accommodate water when flow exceeds bankfull discharge.

(11) Flowline: The lowest part of a streambed when viewed in cross-section.

(12) Fluvial: 1: Of, relating to, or living in a stream or river. 2: Produced by stream action.

(13) Gradient: Elevation change per unit length.

(14) Natural stream: Any waterway, along with its fluvial system, that receives sufficient water to sustain an ecosystem that distinguishes it from the surrounding upland environment.

(15) Revegetation: The planting of salvaged plants, containerized plants, cuttings, seeds, or other methods to produce a desired plant community.



(16) Riparian corridor: The vegetation zone associated with a natural stream environment.

(17) Riprap: Preferably hard, well-graded, angular rock, sufficient in size to remain stationary during high flows.

(18) State Engineer: Director of the Division of Water Rights.

(19) Waterway: A topographic low that collects and conveys water.

#### **R655-13-5. Jurisdiction.**

(1) For the purposes of determining the need to obtain an approved stream alteration application, it is necessary to review the criteria outlined in Section 73-3-29(4)(a). The items, and thus the adopted jurisdictional limits, must be investigated by the state engineer before making a determination on a proposed stream alteration. The state engineer shall conduct investigations that may be reasonably necessary to determine whether the proposed alteration will:

(a) impair vested water rights. In order to determine if vested water rights could be impaired, it is necessary to determine if: stream flows are being modified; the geometry of the bankfull channel will change; or the proposal will have any effect on the diversion, collection, or distribution appurtenances associated with the water right within the jurisdictional limits presented in sections R655-13-5(1)(b) below. In evaluating a proposed stream alteration, the state engineer must consider the proposal's impact on any diversion, collection or distribution structure associated with the water right. By necessity, the jurisdictional limit must be evaluated on a case-by-case basis and must assess those appurtenances to the actual diversion structure which could be affected even though they are located outside of the channel.

(b) unreasonably or unnecessarily affect any recreational use or the natural stream environment. The natural stream environment consists of the stream, the conveyed water, the adjoining vegetative complex, and the habitat provided by the abutting riparian zone. Evaluation of impacts to recreational use must factor in the hydrology of the stream, manmade structures detrimental to recreational use and the riparian zone's ability to keep the system erosion resistant. The jurisdictional limit to be used to evaluate the impacts on recreational use and the natural stream environment will be the greater of the two as follows:

(i) The observed riparian zone or canopy drip line of a undisturbed reference reach; or

(ii) Two times the bankfull width from the bankfull edge of water in a direction perpendicular to the flow and away from the channel up to a maximum of 30 feet.

(c) unreasonably or unnecessarily endanger aquatic wildlife. Any changes made to a natural stream that affect the geometry, water quality, flows, temperature, and vegetative cover may endanger aquatic wildlife. The jurisdictional limit, when considering the impacts to aquatic wildlife, is taken to be contained within the limit established under R655-13-5(1)(b).

(d) unreasonably or unnecessarily diminish the natural channel's ability to conduct high flows. Changes in cross-sectional geometry, grade, surface roughness, sediment load, in-stream structures, levees, and floodplain development, can have an influence on a channel's ability to conduct high flows. The objective in evaluating a stream's ability to conduct high flows is not to attempt to provide a certain level of protection (i.e. 100 year event), but rather to make sure that the losses in the natural stream's carrying capacity are minimized. It is important to recognize that the hydraulic capability of a natural stream, at a section on the

stream, is a three dimensional problem and alterations at a point can change the carrying capacity of the stream both upstream and downstream of the actual stream alteration. The jurisdictional area, when considering the channels hydraulic capacity, must include the bankfull stream channel and in many cases portions of the floodplain which have been observed conducting or storing water during high flow events or show physical evidence of conducting or storing water during high flows.

(2) Any work proposed in any of the preceding identified jurisdictional limits will require an approved stream alteration application.

#### **R655-13-6. Application Requirements.**

(1) Blank application forms are available through the Division of Water Rights or on the Division of Water Rights website. In addition to the information requested on the application, the following information shall be submitted with the application if applicable:

(a) A rehabilitation plan for areas disturbed during construction activities;

(b) Hydraulic calculations on which the design of the proposed alteration is based;

(c) A description of the construction methods to be employed; and

(d) Any other information the state engineer determines is necessary to evaluate the proposal.

(2) Incomplete applications will be returned to the applicant.

#### **R655-13-7. Specific Stream Alteration Activities.**

(1) The following subsections address specific types of stream alteration activities and the nature of special information that shall be provided to the state engineer. These subsections are not intended to be comprehensive and other requirements may be imposed at the discretion of the state engineer.

(a) Applications that propose to install a utility (sewer, water, fiber-optic cable, etc.) beneath a natural stream will be subject to the following conditions and requirements:

(i) Applicants will be required to explore the utilization of directional drilling or jacking methods where year-round flows exist. Where directional drilling or jacking is not feasible, the applicant will be required to submit detailed plans showing how flow will be diverted away from the area during construction (use of coffer dams, temporary culverts, etc.) and how the channel will be rehabilitated to its pre-alteration state following installation of the utility.

(ii) Bedding and backfill material placed over and around the utility shall not be more free-draining than the adjacent bed, bank, and riparian area materials and shall be compacted to in-place densities at least as great as those of similar adjacent materials. In some circumstances, cutoff collars may be required.

(iii) Utility crossings under natural streams shall be placed with the top of the utility a minimum of three (3) feet below the existing natural elevation of the streambed. In some instances, a greater depth may be required if there is significant evidence of on-going erosion.

(iv) Where utility crossings occur on river bends or areas of significant on-going bank erosion, the utility shall be kept at an elevation below that of the bed of the stream, laterally away from the stream, to a distance where erosion will not expose the utility at a later date.

(b) Applications that propose to span natural streams by way of bridges or other structures will be subject to the following conditions and requirements:

(i) Submission of consideration for the use of existing stream crossings as an alternative to construction of a new bridge or span.

(ii) Construction of the bridge abutments shall not encroach on the bankfull stage of a natural stream.

(iii) Clearance of the lowest part of the span shall be a minimum of four (4) feet above bankfull stage.

(c) Applications that propose installation of a culvert or other similar structure will be subject to the following conditions and requirements:

(i) The applicant shall submit evidence to justify the infeasibility of constructing a bridge crossing.

(ii) The grade and elevation of the bottom (or floor) of the culvert shall not change the profile from that of the original undisturbed streambed, unless the culvert is intended to be used as a fish barrier.

(iii) The bottom of the culvert should contain natural streambed material if the natural stream contains a fishery. This may require installing the culvert flowline below the bed of the channel or installation of an open bottom culvert.

(iv) The culvert shall be sized to allow passage of high flows and in some cases wildlife migration.

(v) The culvert design should include energy dissipation structures or devices when necessary.

(d) Applications that propose to remove or thin-out living riparian vegetation will be considered if:

(i) the existing riparian vegetation consists exclusively or predominantly of non-native plant and tree species, provided that removal or thinning will not jeopardize the stability of the streambed or banks; or

(ii) the existing vegetation represents a significant flood threat to existing buildings or other permanent structures, residential areas, transportation routes, or established utilities.

(e) Dead vegetation within the channel may be removed without written authorization by the state engineer provided that removal can be accomplished by way of manual methods.

(f) Applications that propose to discharge storm water or waste water into a natural stream channel shall include plans for treating the water prior to discharge (debris box, skimmer, or other appropriate method for removing debris or any other pollutant or constituent which will impair the ecosystem health of the receiving channel) when water originates from areas containing potential waste or contaminants. Debris boxes shall be cleaned or otherwise serviced regularly. Outfall structure design shall include methods for reducing water velocities and preventing erosion (keyed-in riprap, flared end-section, baffles, etc).

(g) Applications that propose to relocate a natural stream channel will be considered if:

(i) the existing channel is degraded or impaired and relocating the channel will enhance the natural stream environment; or

(ii) the existing channel location represents a significant hazard to existing permanent structures, residential areas, transportation routes, or established utilities; and other bank stabilization methods can be shown to be inappropriate or infeasible for reducing or eliminating the hazard.

(h) Applications that propose to relocate a natural stream will be required to submit detailed drawings of the new channel (plan, cross-section(s), and profile views) and vegetation plans for the channel and surrounding area. Monitoring of planted vegetation

must be conducted and success reported to the Division of Water Rights.

(i) Applications that propose to remove beaver dams will be considered if:

(i) the dam(s) interferes with the operation or maintenance or threaten the integrity of a bridge, culvert, an authorized man-made dam, or authorized water diversion works; or

(ii) the presence of the dam(s) causes or may reasonably be expected to cause flooding of pre-existing developed areas, buildings, transportation routes, or established utilities; or

(iii) the dam(s) exists in areas of highly erosive soil or recently authorized stream restoration activities.

(j) Removal of established beaver dams for the sole purpose of obtaining impounded water to supplement other water sources will be reviewed critically.

**KEY: stream alterations**

**2004**

**73-3-29**



## Natural Resources, Wildlife Resources

# R657-5

## Taking Big Game

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 26817

FILED: 11/26/2003, 11:32

### 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 big game bucks, bulls, and once-in-a-lifetime limited entry hunts and drawing as approved by the Wildlife Board.

SUMMARY OF THE RULE OR CHANGE: Section R657-5-13 is being amended to add that a person may not discharge a firearm, except a shotgun or muzzleloader, from, upon, or across the Green River located near Jensen, Utah, from the Highway 40 bridge upstream to the Dinosaur National Monument boundary. Section R657-5-21 is being amended to provide that on the dates published in the proclamation a person may purchase, sell, offer or possess for sale, barter, exchange, or trade any big game or their parts. Section R657-5-24 is being amended to provide provisions that applicants applying for permits in the big game drawing must provide any change of mailing address, residency, telephone number, and physical description. Provisions are being amended to eliminate the special limited entry archery elk hunt and the general muzzleloader (ML300) hunt; and add that 15% of general buck deer permits in each region will be reserved for youth hunters. Provisions are being amended to eliminate the remaining drawing and providing that any permits remaining after the initial big game drawing will be available on a first-come, first-served basis over-the-counter. Sections R657-5-38 and R657-5-43 are being amended to add the Ogden

extended archery area and clarify the requirement for completing the extended archery area ethics course prior to hunting the extended seasons. Sections R657-5-41, R657-5-47, R657-5-49, R657-5-52, R657-5-53, R657-5-54, and R657-5-55 are being amended to provide that a person who has obtained a permit under these sections must report hunt information within 30 days after the end of the respective hunting seasons, whether successful or unsuccessful in harvesting a big game animal. A person who fails to comply with the reporting requirement shall be ineligible to apply for any of the respective permits or bonus points in the following year's big game drawing. Section R657-5-70 is being amended to clarify that a person who harvests a deer or elk that is later confirmed to be infected with chronic wasting disease may receive a new permit for the following year. Other provisions are being amended to provide consistency and clarity.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-14-18 and 23-14-19

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: These amendments provide: 1) special restrictions in hunting areas; 2) eliminate the special limited entry archery hunts; 3) eliminate the general muzzleloader ML 300 hunt; clarify requirements for hunting in an extended archery area during the extended archery seasons; 4) require hunters to report hunt information for limited entry big game species; and 5) clarify specific areas, methods of take, requirements and other administrative details. 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 provide: 1) special restrictions in hunting areas; 2) eliminate the special limited entry archery hunts; 3) eliminate the general muzzleloader ML 300 hunt; clarify requirements for hunting in an extended archery area during the extended archery seasons; 4) require hunters to report hunt information for limited entry big game species; and 5) clarify specific areas, methods of take, requirements and other administrative details. The amendments do not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These amendments provide: 1) special restrictions in hunting areas; 2) eliminate the special limited entry archery hunts; 3) eliminate the general muzzleloader ML 300 hunt; clarify requirements for hunting in an extended archery area during the extended archery seasons; 4) require hunters to report hunt information for limited entry big game species; and 5) clarify specific areas, methods of take, requirements and other administrative details. DWR determines 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 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 01/14/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/2004

AUTHORIZED BY: Kevin Conway, Director

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

### **R657-5. Taking Big Game.**

#### **R657-5-13. Areas With Special Restrictions.**

(1)(a) Hunting of any wildlife is prohibited within the boundaries of all park areas, except those designated by the Division of Parks and Recreation in Rule R651-603-5.

(b) Hunting with rifles and handguns in park areas designated open is prohibited within one mile of all park area facilities, including buildings, camp or picnic sites, overlooks, golf courses, boat ramps, and developed beaches.

(c) Hunting with shotguns or archery equipment is prohibited within one-quarter mile of the areas provided in Subsection (b).

(2) Hunting is closed within the boundaries of all national parks and monuments unless otherwise provided by the governing agency.

(3) Hunters obtaining a Utah license, permit or tag to take big game are not authorized to hunt on tribal trust lands. Hunters must obtain tribal authorization to hunt on tribal trust lands.

(4) Military installations, including Camp Williams, are closed to hunting and trespassing unless otherwise authorized.

(5) In Salt Lake County, a person may not:

(a) hunt big game within one-half mile of Silver Lake in Big Cottonwood Canyon;

(b) hunt big game or discharge a shotgun or archery equipment within 600 feet of a road, house, or any other building; or

(c) discharge a rifle, handgun, shotgun firing slug ammunition, or muzzleloader within one mile of a cabin, house, or other building regularly occupied by people, except west of I-15 a muzzleloader may not be discharged within one-half mile of a cabin, house, or other building regularly occupied by people.

(6) Hunting is closed within a designated portion of the town of Alta. Hunters may refer to the town of Alta for boundaries and other information.

(7) Domesticated Elk Facilities and Domesticated Elk Hunting Parks, as defined in Section 4-39-102(2) and Rules R58-18 and R58-20, are closed to big game hunting. This restriction does not apply to the lawful harvest of domesticated elk as defined and allowed pursuant to Rule R58-20.

(8) State waterfowl management areas are closed to taking big game, except as otherwise provided in the proclamation of the Wildlife Board for taking big game.

(9) Hunters are restricted to using archery equipment, muzzleloaders or shotguns on the Matheson Wetlands.

(10) A person may not discharge a firearm, except a shotgun or muzzleloader, from, upon, or across the Green River located near Jensen, Utah from the Highway 40 bridge upstream to the Dinosaur National Monument boundary.

#### **R657-5-21. Purchasing or Selling Big Game or Their Parts.**

(1) A person may only purchase, sell, offer or possess for sale, barter, exchange or trade any big game or their parts as follows:

(a) Antlers, heads and horns of legally taken big game may be purchased or sold only ~~[between February 15 through August 9;]~~ on the dates published in the proclamation of the Wildlife Board for taking big game;

(b) Untanned hides of legally taken big game may be purchased or sold only ~~[between August 20 through February 15;]~~ on the dates published in the proclamation of the Wildlife Board for taking big game;

(c) Inedible byproducts, excluding hides, antlers and horns, or legally possessed big game as provided in Subsection 23-20-3(1)(d), may be purchased or sold at any time;

(d) tanned hides of legally taken big game may be purchased or sold at any time; and

(e) shed antlers and horns may be purchased or sold at any time.

(2)(a) Protected wildlife that is unlawfully taken and seized by the division may be sold at any time by the division or its agent.

(b) A person may purchase protected wildlife, which is sold in accordance with Subsection (2)(a), at any time.

(3) A person selling or purchasing antlers, heads, horns or untanned hides shall keep transaction records stating:

(a) the name and address of the person who harvested the animal;

(b) the transaction date; and

(c) the permit number of the person who harvested the animal.

(4) Subsection (3) does not apply to scouting programs or other charitable organizations using untanned hides.

#### **R657-5-24. Application Process for Premium Limited Entry, Limited Entry, Cooperative Wildlife Management Unit and Once-In-A-Lifetime Permits, and Application Process for General Buck Deer, General Muzzleloader Elk, and Youth General Any Bull Elk Permits.**

(1)(a) A person may obtain only one permit per species of big game, including premium limited entry, limited entry, cooperative wildlife management unit, once-in-a-lifetime, conservation, sportsman, landowner and general permits, except antlerless permits as provided in the Antlerless Addendum and permits as provided in Rule R657-42.

(b) Hunting with a permit where payment has not been received for that permit constitutes a violation of hunting without a valid permit.

(c) A person must notify the division of any change of mailing address, residency, telephone number, and physical description.

(2) Applications are available from license agents, division offices, and through the division's Internet address.

(3) A resident may apply in the big game drawing for the following permits:

(a) only one of the following:

(i) buck deer - premium limited entry, limited entry and cooperative wildlife management unit;

(ii) bull elk - limited entry and cooperative wildlife management unit; or

~~(iii) special limited entry archery elk; or~~

~~(iv) buck pronghorn - limited entry and cooperative wildlife management unit; and~~

(b) only one once-in-a-lifetime permit, including once-in-a-lifetime cooperative wildlife management unit permits, except as provided in Section R657-5-64(2)(b).

(4) A nonresident may apply in the big game drawing for the following permits:

(a) only one of the following:

(i) buck deer - premium limited entry and limited entry; or

(ii) bull elk - limited entry; or

~~(iii) special limited entry archery elk; or~~

~~(iv) buck pronghorn - limited entry; and~~

(b) only one once-in-a-lifetime permit.

(5) A resident or nonresident may apply in the big game drawing for:

(a)(i) a statewide general archery buck deer permit;

(ii) by region for general season buck deer; or

(iii) by region for general muzzleloader buck deer~~[and]~~.

~~(b) a general muzzleloader elk permit.~~

~~(c)~~(b) A youth may apply in the drawing as provided in Subsection (a), and for youth general any bull elk pursuant to Section R657-5-46.

(6) A person may not submit more than one application per species as provided in Subsections (3) and (4), and Subsection (5) in the big game drawing.

(7)(a) Applications must be mailed by the date prescribed in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game. Applications filled out incorrectly or received later than the date prescribed in the Bucks, Bulls and Once-In-A-Lifetime Proclamation may be rejected.

(b) If an error is found on an application, the applicant may be contacted for correction.

(8)(a) Late applications, received by the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation, will not be considered in the drawing, but will be processed, for the purpose of entering data into the division's draw database to provide:

(i) future preprinted applications;

(ii) notification by mail of late application and other draw opportunities; and

(iii) re-evaluation of division or third-party errors.

(b) The \$5 handling fee will be used to process the late application. Any permit fees submitted with the application will be refunded.

(c) Late applications received after the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation shall not be processed and shall be returned to the applicant.

(9) Any person who applies for a hunt that occurs on private land is responsible for obtaining written permission from the landowner to access the property. To avoid disappointment and

wasting the permit and fee if access is not obtained, hunters should get permission before applying. The division does not guarantee access and does not have the names of landowners where hunts occur.

(10) Only a resident may apply for or obtain a resident permit and only a nonresident may apply for or obtain a nonresident permit, except as provided in Subsections R657-5-27(4) [~~and R657-5-29(2)~~].

(12) To apply for a resident permit, a person must establish residency at the time of purchase.

(13) The posting date of the drawing shall be considered the purchase date of a permit.

**R657-5-25. Fees for Premium Limited Entry, Limited Entry, Cooperative Wildlife Management Unit and Once-In-A-Lifetime Permits, and for General Buck Deer, General Muzzleloader Elk and Youth General Any Bull Elk Permits.**

(1) Each premium limited entry, limited entry, cooperative wildlife management unit and once-in-a-lifetime application must include:

- (a) the highest permit fee of any permits applied for;
- (b) a \$5 nonrefundable handling fee for one of the following permits:
  - (i) buck deer;
  - (ii) bull elk; or
  - (iii) buck pronghorn; and
- (c) a \$5 nonrefundable handling fee for a once-in-a-lifetime permit; and
- (d) the \$5 nonrefundable handling fee, if applying only for a bonus point.

(2) Each general buck deer and general muzzleloader elk application must include:

- (a) the permit fee, which includes the \$5 nonrefundable handling fee; or
- (b) the \$5 nonrefundable handling fee per species, if applying only for a preference point.

**R657-5-26. Applying as a Group for Premium Limited Entry, Limited Entry, Cooperative Wildlife Management Unit and Once-In-A-Lifetime Permits, and for General Buck Deer, General Muzzleloader Elk and Youth General Any Bull Elk Permits.**

(1)(a) Up to four people may apply together for premium limited entry, limited entry, and resident cooperative wildlife management unit deer, elk or pronghorn permits in the big game drawing and in the antlerless drawing.

(b) Up to two youth may apply together for youth general any bull elk permits in the big game drawing.

(c) Up to ten people may apply together for general deer permits in the big game drawing.

(d) Youth applicants who wish to participate in the Youth General Buck Deer Drawing Process as provided in Subsection R657-5-27(3), must not apply as part of a group.

(2)(a) Applicants must indicate the number of hunters in the group by filling in the appropriate box on each application form.

(b) If the appropriate box is not filled out with the number of hunters in the group, each hunter in that group shall be entered into the drawing as individual hunters, and not as a group.

(3) Group applicants must submit their applications together in the same envelope.

(4) Residents and nonresidents may apply together.

(5)(a) Group applications shall be processed as one single application.

(b) Any bonus points used for a group application, shall be averaged and rounded down.

(6) When applying as a group:

(a) if the group is successful in the drawing, then all applicants with valid applications in that group shall receive a permit;

(b) if the group is rejected due to an error in fees and only one species is applied for, then the entire group is rejected;

(c) if the group is rejected due to an error in fees and more than one species is applied for, the group will be kept in the drawing for any species with sufficient fees, using the draw order; or

(d) if one or more members of the group are rejected due to an error other than fees, the members with valid applications will be kept in the drawing, unless the group indicates on the application that all members are to be rejected.

(i) The applicant whose application is on the top of all the applications for that group, will be designated the group leader.

(ii) If any group member has an error on their application that is not corrected during the correction process, the reject box on the group leader's application will determine whether the entire group is rejected.

**R657-5-27. Premium Limited Entry, Limited Entry, Cooperative Wildlife Management Unit and Once-In-A-Lifetime and General Buck Deer, General Muzzleloader Elk and Youth General Any Bull Elk Drawings.**

(1)(a) Big game drawing results may be posted at the Lee Kay Center for Hunter Education, Cache Valley Hunter Education Center, division offices and on the division Internet address on the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(b) Applicants shall be notified by mail of draw results by the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2) Permits for the big game drawing shall be drawn in the following order:

(a) premium limited entry, limited entry and cooperative wildlife management unit buck deer;

(b) [~~limited entry, special~~] limited entry and cooperative wildlife management unit bull elk;

(c) limited entry and cooperative wildlife management unit buck pronghorn;

(d) once-in-a-lifetime;

(e) youth general buck deer;

(f) general buck deer; and

~~(g) youth general any bull elk; and~~

[(g) general muzzleloader elk.] (3)(a) Fifteen percent of the general buck deer permits in each region are reserved for youth hunters.

[(3)](b) For purposes of this section, "youth" means any person 18 years of age or younger on the opening day of the general archery buck deer season.

(c) Youth hunters who wish to participate in the youth drawing must:

(i) submit an application in accordance with Section R657-5-24; and

(ii) not apply as a group.

(d) Youth applicants who apply for a general buck deer permit as provided in Subsection (c), will automatically be considered in the youth drawing based upon their birth date.

- (e) Preference points shall be used when applying.
- (f) Any reserved permits remaining and any youth applicants who were not selected for reserved permits shall be returned to the general buck deer drawing.
- (4) Any person who draws one of the following permits is not eligible to draw a once-in-a-lifetime permit:
- a premium limited entry, limited entry or cooperative wildlife management unit buck deer;
  - a limited entry, [~~special limited entry,~~] or cooperative wildlife management unit bull elk; or
  - a limited entry or cooperative wildlife management unit buck pronghorn.
- (4) If any permits listed in Subsection (2)(a) through (2)(d) remain after the big game drawing after all choices have been evaluated separately for residents and nonresidents, a second evaluation will be done allowing cross-over usage of remaining resident and nonresident permit quotas.

**R657-5-28. Premium Limited Entry, Limited Entry, Cooperative Wildlife Management Unit and Once-In-A-Lifetime, and General Buck Deer, General Muzzleloader Elk and Youth General Any Bull Elk Application Refunds.**

- (1)(~~a~~) Unsuccessful applicants who applied in the [~~initial~~] big game drawing and who applied with a check or money order will receive a refund in May.
- (~~b~~) Unsuccessful applicants, who applied for remaining permits in the big game drawing and who applied with a check or money order, will receive a refund in July.
- (2)(a) Unsuccessful applicants, who applied with a credit or debit card, will not be charged for a permit.
- Unsuccessful applicants, who applied as a group, will receive an equally distributed refund of money remaining after the successful applicants' permits are paid for.
  - If group members have other financial arrangements between themselves, group members should be prepared to reallocate each group member's individual refunds among themselves.
- (3) The handling fees are nonrefundable.

**R657-5-29. Permits Remaining After the Drawing.**

- (1) Permits remaining after the big game drawing are sold only by mail or on a first-come, first-served basis beginning and ending on the dates provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game. [~~(2) Residents and nonresidents may apply for any remaining general deer permits. However, permits may only be available if permits remain to be distributed through the cross over procedure as provided in Subsection (5).~~]
- (~~3~~) Applications are available from division offices, through the division's Internet address, and license agents.
- (~~4~~) The same application form used for premium limited entry, limited entry, cooperative wildlife management unit and once in a lifetime permits, and for general buck deer and general muzzleloader elk permits in the big game drawing must be used when applying for remaining permits by mail. The handling fees are nonrefundable.
- (~~5~~) If permits remain after all choices have been evaluated separately for residents and nonresidents, a second evaluation will be done allowing cross over usage of remaining resident and nonresident permit quotas.]

**R657-5-31. Waiting Periods for Elk.**

- (1) A person who obtained a limited entry or cooperative wildlife management unit bull elk permit through the big game drawing process during the preceding four years may not apply in the big game drawing for any of these permits during the current year.
- (2) A person who obtains a limited entry or cooperative wildlife management unit bull elk permit through the big game drawing, may not apply for any of these permits for a period of five years.
- (3) A waiting period does not apply to:
- general archery, general season, general muzzleloader, [~~special limited entry archery bull elk,~~] antlerless elk, cooperative wildlife management unit spike bull elk, conservation, sportsman and poaching-reported reward elk permits; or
  - cooperative wildlife management unit or limited entry landowner bull elk permits obtained through the landowner.

**R657-5-37. Bonus Point System and Preference Point System.**

- (1) Bonus points are used to improve odds for drawing permits.
- (2)(a) A bonus point is awarded for:
- each valid unsuccessful application when applying for permits in the big game drawing; or
  - each valid application when applying for bonus points in the big game drawing.
- (b) Bonus points are awarded by species.
- (c) Bonus points are awarded for:
- premium limited entry, limited entry and cooperative wildlife management unit buck deer;
  - limited entry and cooperative wildlife management unit bull elk;
  - limited entry and cooperative wildlife management unit buck pronghorn; and
  - all once-in-a-lifetime species.
- (~~d~~) Bonus points shall not be awarded for special limited entry archery bull elk.
- (3) A person may apply for a bonus point for:
- only one of the following species:
    - buck deer - premium limited entry, limited entry and Cooperative Wildlife Management unit;
    - bull elk - limited entry and Cooperative Wildlife Management unit; or
    - buck pronghorn - limited entry and Cooperative Wildlife Management unit; and
  - only one once-in-a-lifetime, including once-in-a-lifetime Cooperative Wildlife Management unit.
- (4)(a) A person may not apply in the drawing for both a premium limited entry or limited entry bonus point and a premium limited entry or limited entry permit.
- (b) A person may not apply in the drawing for a once-in-a-lifetime bonus point and a once-in-a-lifetime permit.
- (c) A person may not apply for a bonus point if that person is ineligible to apply for a permit for the respective species.
- (d) A person may only apply for bonus points in the [~~initial~~] big game drawing.
- (e) Group applications will not be accepted when applying for bonus points.
- (5)(a) Fifty percent of the permits for each hunt unit and species will be reserved for applicants with bonus points.

(b) Based on the applicant's first choice, the reserved permits will be designated by a random drawing number to eligible applicants with the greatest number of bonus points for each species.

(c) If reserved permits remain, the reserved permits will be designated by a random number to eligible applicants with the next greatest number of bonus points for each species.

(d) The procedure in Subsection (c) will continue until all reserved permits have been issued or no applications for that species remain.

(e) Any reserved permits remaining and any applicants who were not selected for reserved permits will be returned to the [initial]big game drawing.

(6)(a) Each applicant receives a random drawing number for:

(i) each species applied for; and

(ii) each bonus point for that species.

(7) Bonus points are forfeited if a person obtains a permit through the drawing for that bonus point species as provided in Subsection (2)(c), including any permit obtained after the drawing.

(8) Bonus points are not forfeited if:

(a) a person is successful in obtaining a conservation permit or sportsman permit;

(b) a person obtains a landowner or a cooperative wildlife management unit permit from a landowner; or

(c) a person obtains a poaching-reported reward permit; ~~or~~

~~(d) a person obtains a special limited entry archery elk permit.~~

(9) Bonus points are not transferable.

(10) Bonus points are averaged and rounded down when two or more applicants apply together on a group application.

(11)(a) Bonus points are tracked using social security numbers or division-issued hunter identification numbers.

(b) The Division shall retain paper copies of applications for three years prior to the current big game drawing for the purpose of researching bonus point records.

(c) The Division shall retain electronic copies of applications from 1996 to the current big game drawing for the purpose of researching bonus point records.

(d) Any requests for researching an applicant's bonus point records must be requested within the time frames provided in Subsection (b) and (c).

(e) Any bonus points on the Division's records shall not be researched beyond the time frames provided in Subsection (b) and (c).

(f) The Division may eliminate any bonus points earned that are obtained by fraud or misrepresentation.

(12) Preference points are used in the big game drawing for general buck deer ~~and general muzzleloader elk~~ permits to ensure that applicants who are unsuccessful in the drawing for general buck deer permits ~~and general muzzleloader elk permits~~, will have first preference in the next year's drawing ~~for the respective species~~.

(13) A preference point is awarded for:

(a) each valid unsuccessful application when applying for [:-  
~~(i)~~] a general buck deer permit; or

~~(ii) a general muzzleloader elk permit; or~~

~~(iii)(b) each valid application when applying only for a preference point in the big game drawing.~~ preference points in the initial drawing.

~~(b) Preference points are awarded by species.]~~

(14)(a) A person may not apply in the drawing for both a general buck deer preference point and a general buck deer permit.

(b) A person may not apply ~~[in the drawing for both a general muzzleloader elk preference point and a general muzzleloader elk permit.~~

~~(c) A person may not apply] for a preference point if that person is ineligible to apply for a permit [for the respective species].~~

~~(d)(c) Preference points shall not be used when [applying for or] obtaining remaining permits after the [initial]big game drawing.~~

(15) Preference points are forfeited if [:-

~~(a)] a person obtains a general buck deer [permit through the drawing; or~~

~~(b) a person obtains a general muzzleloader elk] permit through the drawing.~~

(16)(a) Preference points are not transferable.

(b) Preference points shall only be applied to the [initial]big game drawing.

(17) Preference points are averaged and rounded down when two or more applicants apply together on a group application.

(18)(a) Preference points are tracked using social security numbers or division-issued hunter identification numbers.

(b) The Division shall retain paper copies of applications for three years prior to the current big game drawing for the purpose of researching preference point records.

(c) The Division shall retain electronic copies of applications from 2000 to the current big game drawing for the purpose of researching preference point records.

(d) Any requests for researching an applicant's preference point records must be requested within the time frames provided in Subsection (b) and (c).

(e) Any preference points on the Division's records shall not be researched beyond the time frames provided in Subsection (b) and (c).

(f) The Division may eliminate any preference points earned that are obtained by fraud or misrepresentation.

#### **R657-5-38. General Archery Buck Deer Hunt.**

(1) The dates of the general archery buck deer hunt are provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2) A person who has obtained a general archery buck deer permit, or any other permit which allows that person to hunt general archery buck deer may use archery equipment to take:

(a) one buck deer statewide within a general hunt area, except premium limited entry deer, limited entry deer and cooperative wildlife management unit deer areas and specific hunt areas published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game; or

(b) a deer of hunter's choice within the Wasatch Front or Uintah Basin extended archery area as provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(3)(a) A person who obtains a general archery buck deer permit, or any other permit which allows that person to hunt general archery buck deer, may ~~obtain an Extended Archery Area Permit from the division to~~ hunt within the Wasatch Front ~~and~~, Ogden or the Uintah Basin extended archery areas during the extended archery area seasons as provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game and as provided in Subsection (b).

(b) A person must complete an extended archery ~~[orientation]ethics~~ course annually to hunt the Wasatch Front,

Ogden or Uintah Basin extended archery ~~[area]~~ areas during the extended archery season.

(c) A person must possess the ~~[Wasatch Front]~~ extended archery ethics course certificate of completion while hunting.

(4) A person who has obtained a general archery deer permit may not hunt during any other deer hunt or obtain any other deer permit, except antlerless deer.

(5)(a) Any person 18 years of age or younger on the opening day of the general archery buck deer season, may hunt the statewide general archery, or by region the general season and general muzzleloader deer seasons, using the appropriate equipment as provided in Sections R657-5-8 through R657-5-12, respectively, for each respective season, provided that person obtains a general season or general muzzleloader deer permit for a specified region.

(b) If a person 18 years of age or younger purchases a general archery buck deer permit, that person may only hunt during the statewide general archery deer season.

(6) Hunter orange material must be worn if a centerfire rifle hunt is also in progress in the same area as provided in Section 23-20-31. Archers are cautioned to study rifle hunt tables and identify these areas described in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

#### **R657-5-41. Limited Entry Buck Deer Hunts.**

(1) To hunt in a premium limited entry or limited entry area, hunters must obtain the respective limited entry buck permit. Limited entry areas are not open to general archery buck, general season buck, or general muzzleloader buck hunting, except as specified in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2) A limited entry buck deer permit allows a person using the prescribed legal weapon, to take one buck deer within the area and season specified on the permit, except deer cooperative wildlife management units located within the limited entry unit.

(3)(a) A person who has obtained a limited entry buck deer permit must report hunt information within 30 days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a buck deer.

(b) Limited entry buck deer permit holders will receive information on reporting the hunt information with the permit.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or Cooperative Wildlife Management Unit permit or bonus points in the following year.

(4) A person who has obtained a limited entry buck permit may not hunt during any other deer hunt or obtain any other deer permit, except antlerless deer.

#### **R657-5-43. General Archery Elk Hunt.**

(1) The dates of the general archery elk hunt are provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2)(a) A person who has obtained a general archery elk permit may use archery equipment to take:

(i) one elk of hunter's choice on a general any bull elk unit, except on elk cooperative wildlife management units;

(ii) an antlerless elk or spike bull elk on a general spike bull elk unit, except on elk cooperative wildlife management units and the Plateau, Fish Lake-Thousand Lakes;

(iii) only a spike bull elk on the Plateau, Fish Lake-Thousand Lakes; or

(iv) one elk of hunter's choice on the Wasatch Front or Uintah Basin extended archery areas as provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(3)(a) A person who obtains a general archery elk permit may [obtain an Extended Archery Area Permit from the division to] hunt within the Wasatch Front, Uintah Basin, Nebo-West Desert, and Sanpete Valley extended archery areas during the extended archery area seasons as provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game and as provided in Subsection (b).

(b) A person must complete an extended archery [orientation]ethics course annually to hunt the [Wasatch Front] extended archery [area] areas during the extended archery season.

(c) A person must possess the [Wasatch Front] extended archery ethics course certificate of completion while hunting.

(4) A person who has obtained an archery elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsection R657-5-48(3).

(5) Hunter orange material must be worn if a centerfire rifle hunt is also in progress in the same area as provided in Section 23-20-31. Archers are cautioned to study the rifle hunt tables to identify these areas described in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

#### **R657-5-45. General Muzzleloader Elk Hunt.**

(1) The dates of the general muzzleloader elk hunt are provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game within the general season elk units, except in the following closed areas:

(a) Salt Lake County south of I-80 and east of I-15; and

(b) elk cooperative wildlife management units.

(2)(a) [A person may apply for a general muzzleloader elk permit through the drawing, or purchase a general muzzleloader.] General muzzleloader elk hunters may purchase either a spike bull elk permit or an any bull elk permit.

(b) [- (b) A person who has obtained a general muzzleloader elk permit may take one elk of hunter's choice, except:

(i) only a spike bull elk or an antlerless elk in a spike bull elk unit; or

(ii) only a spike bull elk on the Plateau, Fish Lake-Thousand Lakes.

(c) A person who has obtained a general muzzleloader spike bull elk permit may take a spike bull elk on an any general spike bull elk unit. Any bull units are closed to spike bull muzzleloader permittees.

(d) A person who has obtained a general muzzleloader any bull elk permit may take any bull elk on an any bull elk unit. Spike bull units are closed to any bull muzzleloader permittees.

(3) A person who has obtained a general muzzleloader elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsection R657-5-48(3).

#### **R657-5-47. Limited Entry Bull Elk Hunt [and Special Limited Entry Archery Bull Elk Hunt].**

(1) To hunt in a limited entry bull elk area, a hunter must obtain a limited entry elk permit.

(2) A limited entry bull elk permit allows a person, using the prescribed legal weapon, to take one bull elk within the area and season specified on the permit, except elk cooperative wildlife



management units located within a limited entry unit. Spike bull elk restrictions do not apply to limited entry elk permittees.

~~(3)(a) A person who has obtained a limited entry bull elk permit must report hunt information within 30 days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a bull elk.~~

~~(b) Limited entry bull elk permit holders will receive information on reporting the hunt information with the permit.~~

~~(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or Cooperative Wildlife Management Unit permit or bonus points in the following year.~~

~~(4) A person who has obtained a limited entry bull elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsections (4)(a) and R657-5-48(3).~~

~~[(4)(a) A hunter who obtains a limited entry bull elk permit for one of the hunt units listed in Subsection (b), may also purchase an auxiliary permit to hunt within the area specified on the permit using archery equipment during the established general archery elk season, or using muzzleloader equipment during the established general muzzleloader deer season.~~

~~(b)(i) Book Cliffs, Little Creek;~~

~~(ii) Book Cliffs, Bitter Creek South;~~

~~(iii) Box Elder, Grouse Creek;~~

~~(iv) Cache, Meadowville;~~

~~(v) Cache, North;~~

~~(vi) Cache, South;~~

~~(vii) Central Mountains, Manti;~~

~~(viii) Central Mountains, Nebo;~~

~~(ix) LaSal, LaSal Mountains;~~

~~(x) Nine Mile, Anthro;~~

~~(xi) Nine Mile, Range Creek South;~~

~~(xii) Oquirrh Stansbury, North;~~

~~(xiii) Oquirrh Stansbury, South Oquirrh;~~

~~(xiv) South Slope, Diamond Mountain;~~

~~(xv) Wasatch Mountain;~~

~~(xvi) West Desert, Deep Creek; and~~

~~(xvii) North Slope, Three Corners for archery only.~~

~~(c) If an elk is not taken during this period, any legal weapon may be used during the dates specified on the limited entry bull elk permit.~~

~~(d) A person who has obtained a special limited entry archery elk permit may not obtain or purchase an auxiliary permit.~~

~~(5) To hunt in a special limited entry archery elk area, a hunter must obtain a special limited entry archery elk permit.~~

~~(6)(a) A special limited entry archery bull elk permit allows a person, using archery equipment, to take one hunter's choice elk, during the season specified on the permit and within the following units, except cooperative wildlife management units:~~

~~(i) all general any bull elk units;~~

~~(ii) the spike bull elk units as published in the Bucks, Bulls and Once In A Lifetime Proclamation of the Wildlife Board; or~~

~~(iii) the limited entry units as published in the Bucks, Bulls and Once In A Lifetime Proclamation of the Wildlife Board.~~

~~(b) Spike bull elk restrictions do not apply to special limited entry archery elk permittees.~~

~~(7)(a) A person who has obtained a special limited entry archery bull elk permit may not obtain or purchase an auxiliary permit.~~

~~(b) A person who has obtained a special limited entry archery bull elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsection R657-5-48(3).~~

~~(8) Bonus points shall not be awarded or utilized when applying for, or in obtaining, special limited entry archery elk permits.~~

]

#### **R657-5-49. Buck Pronghorn Hunts.**

(1) To hunt buck pronghorn, a hunter must obtain a buck pronghorn permit.

(2) A person who has obtained a buck pronghorn permit may not obtain any other pronghorn permit or hunt during any other pronghorn hunt.

~~(3)(a) A person who has obtained a limited entry buck pronghorn permit must report hunt information within 30 days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a buck pronghorn.~~

~~(b) Limited entry buck pronghorn permit holders will receive information on reporting the hunt information with the permit.~~

~~(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or Cooperative Wildlife Management Unit permit or bonus points in the following year.~~

~~(4) A buck pronghorn permit allows a person using any legal weapon to take one buck pronghorn within the area and season specified on the permit, except during the buck pronghorn archery hunt, only archery equipment may be used.~~

#### **R657-5-52. Bull Moose Hunts.**

(1) To hunt bull moose, a hunter must obtain a bull moose permit.

(2) A person who has obtained a bull moose permit may not obtain any other moose permit or hunt during any other moose hunt.

(3) A bull moose permit allows a person using any legal weapon to take one bull moose within the area and season specified on the permit, except in bull moose cooperative wildlife management units located within a limited entry unit.

~~(4)(a) A person who has obtained a bull moose permit must report hunt information within 30 days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a bull moose.~~

~~(b) Bull moose permit holders will receive information on reporting the hunt information with the permit.~~

~~(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or Cooperative Wildlife Management Unit permit or bonus points in the following year.~~

#### **R657-5-53. Bison Hunts.**

(1) To hunt bison, a hunter must obtain a bison permit.

(2) A person who has obtained a bison permit may not obtain any other bison permit or hunt during any other bison hunt.

(3) The bison permit allows a person using any legal weapon to take a bison within the area and season as specified on the permit.

(4)(a) An orientation course is required for bison hunters who draw an Antelope Island bison permit. Hunters shall be notified of the orientation date, time and location.

(b) The Antelope Island hunt is administered by the Division of Parks and Recreation.

(5) An orientation course is required for bison hunters who draw Henry Mountain cow bison permits. Hunters will be notified of the orientation date, time and location.

(6)(a) A person who has obtained a bison permit must report hunt information within 30 days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a bison.

(b) Bison permit holders will receive information on reporting the hunt information with the permit.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or Cooperative Wildlife Management Unit permit or bonus points in the following year.

#### **R657-5-54. Desert Bighorn and Rocky Mountain Bighorn Sheep Hunts.**

(1) To hunt desert bighorn sheep or Rocky Mountain bighorn sheep, a hunter must obtain the respective permit.

(2) A person who has obtained a desert bighorn sheep or Rocky Mountain bighorn sheep permit may not obtain any other desert bighorn sheep or Rocky Mountain bighorn sheep permit or hunt during any other desert bighorn sheep or Rocky Mountain bighorn sheep hunt.

(3) Desert bighorn sheep and Rocky Mountain big horn sheep permits are considered separate once-in-a-lifetime hunting opportunities.

(4)(a) The desert bighorn sheep permit allows a person using any legal weapon to take one desert bighorn ram within the area and season specified on the permit.

(b) The Rocky Mountain sheep permit allows a person using any legal weapon to take one Rocky Mountain bighorn ram within the area and season specified on the permit.

(5) The permittee may attend a hunter orientation course. The division provides each permittee with the time and location of the course.

(6) All bighorn sheep hunters are encouraged to have a spotting scope with a minimum of 15 power while hunting bighorn sheep. Any ram may be legally taken, however, permittees are encouraged to take a mature ram. The terrain inhabited by bighorn sheep is extremely rugged, making this hunt extremely strenuous.

(7) Successful hunters must deliver the horns of the bighorn sheep to a division office within 72 hours of leaving the hunting area. A numbered seal will be permanently affixed to the horn indicating legal harvest.

(8)(a) A person who has obtained a desert bighorn sheep or Rocky Mountain bighorn sheep permit must report hunt information within 30 days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a desert bighorn sheep or Rocky Mountain bighorn sheep.

(b) Desert bighorn sheep or Rocky Mountain bighorn sheep permit holders will receive information on reporting the hunt information with the permit.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or Cooperative Wildlife Management Unit permit or bonus points in the following year.

#### **R657-5-55. Rocky Mountain Goat Hunts.**

(1) To hunt Rocky Mountain goat, a hunter must obtain a Rocky Mountain goat permit.

(2) A person who has obtained a Rocky Mountain goat permit may not obtain any other Rocky Mountain goat permit or hunt during any other Rocky Mountain goat hunt.

(3) Any goat may be legally taken on a hunter's choice permit, however, permittees are encouraged to take a mature goat. A mature goat is a goat older than two years of age, as determined by counting the annual rings on the horn.

(4) The goat permit allows a person using any legal weapon to take one goat within the area and season specified on the permit.

(5) All goat hunters are encouraged to have a spotting scope with a minimum of 15 power while hunting goats. The terrain inhabited by Rocky Mountain goat is extremely rugged making this hunt extremely strenuous. The goat's pelage may be higher quality later in the hunting season.

(6) An orientation course is required for Rocky Mountain goat hunters who draw female only goat permits. Hunters will be notified of the orientation date, time and location.

(7)(a) A person who has obtained a Rocky Mountain goat permit must report hunt information within 30 days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a Rocky Mountain goat.

(b) Rocky Mountain goat permit holders will receive information on reporting the hunt information with the permit.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or Cooperative Wildlife Management Unit permit or bonus points in the following year.

#### **R657-5-58. Fees for Antlerless Applications.**

Each application must include the permit fee and a nonrefundable handling fee for each species applied for, except when applying with a credit or debit card, the permit fees and handling fees must be paid pursuant to Rule R657-42-8(5).

#### **R657-5-60. Antlerless Application Refunds.**

(1)(a) Unsuccessful applicants, who applied in the initial drawing and who applied with a check or money order will receive a refund in September.

(b) Unsuccessful applicants, who applied for remaining permits and who applied with a check or money order will receive a refund in October.

(2)(a) Unsuccessful applicants, who applied with a credit or debit card, will not be charged for a permit.

(b) Unsuccessful applicants, who applied as a group, will receive an equally distributed refund of money remaining after the successful applicants' permits are paid for in accordance with Section R657-5-26(6).

(3) The handling fees are nonrefundable.

#### **R657-5-62. Application Withdrawal or Amendment.**

(1)(a) An applicant may withdraw their application for premium limited entry, limited entry, cooperative wildlife management unit and once-in-a-lifetime, and general buck deer and general muzzleloader elk permits from the big game drawing, or antlerless drawing by requesting such in writing by the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation or Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(b) The applicant must send their notarized signature with a statement requesting that their application be withdrawn to the Salt Lake Division office.

(c) Handling fees will not be refunded.

(2)(a) An applicant may amend their application for the premium limited entry, limited entry, cooperative wildlife management unit and once-in-a-lifetime, and general buck deer and general muzzleloader elk permits from the big game drawing, or antlerless drawing by requesting such in writing by the ~~initial application deadline~~ date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation or Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(b) The applicant must send their notarized signature with a statement requesting that their application be amended to the Salt Lake Division office.

(c) The applicant must identify in their statement the requested amendment to their application.

(d) Handling fees will not be refunded.

(e) An amendment may cause rejection if the amendment causes an error on the application.

#### **R657-5-65. Fees for Special Hunt Applications.**

(1) Each application must include:

- (a) the permit fee for the species applied for; and
- (b) a \$5 nonrefundable handling fee.

(2)(a) Personal checks, money orders, cashier's checks and credit or debit cards are accepted from residents.

(b) Money orders, cashier's checks and credit or debit cards are accepted from nonresidents. Personal checks are not accepted from nonresidents.

(3)(a) Credit or debit cards must be valid at least 30 days after the drawing results are posted.

(b) If applicants are applying as a group, all fees for all applicants in that group must be charged to one credit or debit card.

(c) Handling fees are charged to the credit or debit card when the application is processed. Permit fees are charged after the drawing, if successful.

(d) Payments to correct an invalid or refused credit or debit card must be made with a cashier's check or money order for the full amount of the application fees plus any permits requested.

(4) An application is voidable if the check is returned unpaid from the bank or the credit or debit card is invalid or refused.

#### **R657-5-67. Special Hunt Application Refunds.**

(1) Unsuccessful applicants, who applied on the initial drawing and who applied with a check or money order will receive a refund within six weeks after posting of the drawing results.

(2) Unsuccessful applicants, who applied with a credit or debit card, will not be charged for a permit.

(3) The handling fees are nonrefundable.

#### **R657-5-70. Chronic Wasting Disease - Infected Animals.**

(1) Any person who under the authority of a permit issued by the division legally takes a deer or elk that is later confirmed to be infected with Chronic Wasting Disease may:

- (a) retain the entire carcass of the animal;
- (b) retain any parts of the carcass, including antlers, and surrender the remainder to the division for proper disposal; or
- (c) surrender all portions of the carcass in their actual or constructive possession, including antlers, to the division and receive a free ~~duplicate~~ new permit the following year for the same hunt.

(2) The ~~duplicate~~ new permit issued pursuant to Subsection (1)(c) shall be for the same species, sex, weapon type, unit, region, and otherwise subject to all the restrictions and conditions imposed on the original permit, except season dates for the permit shall follow the proclamation of the Wildlife Board for taking big game published in the year the ~~duplicate permit is valid~~ new permit is valid.

(3) Notwithstanding other rules to the contrary, private landowners and landowner associations may refuse access to private property to persons possessing new permits issued under Subsection (1)(c).

**KEY: wildlife, game laws, big game seasons**  
**~~June 17, 2003~~2004**

**Notice of Continuation November 30, 2000**

**23-14-18**

**23-14-19**

**23-16-5**

**23-16-6**



## Natural Resources, Wildlife Resources

# R657-17-4

## General Deer Permits and Tags

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 26818

FILED: 11/26/2003, 11:32

### 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 division's Lifetime Hunting and Fishing License program.

**SUMMARY OF THE RULE OR CHANGE:** Section R657-17-4 is being amended to delete references to lifetime license holders applying for remaining general buck deer permits in the big game drawing. Lifetime license holder may obtain an available general deer permit over-the-counter if the deer permit was not issued to them through the Lifetime General Deer questionnaire.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 23-19-17.5

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** This amendment eliminates the option for obtaining a general deer permit through a remaining big game drawing. The Division of Wildlife Resources (DWR) determines that this amendment does 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: This amendment eliminates the option for obtaining a general deer permit through a remaining big game drawing. Therefore, the amendments do 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 eliminates the option for obtaining a general deer permit through a remaining big game drawing. DWR determines that there are no additional 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 01/14/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/2004

AUTHORIZED BY: Kevin Conway, Director

**R657. Natural Resources, Wildlife Resources.  
R657-17. Lifetime Hunting and Fishing License.  
R657-17-4. General Deer Permits and Tags.**

(1)(a) The division shall, prior to the annual bucks, bulls and once-in-a-lifetime application period, send a Lifetime General Deer questionnaire to each lifetime licensee who is eligible to hunt big game.

(b) The lifetime licensee shall correctly fill out the questionnaire indicating the lifetime licensee's choice of general deer permits as provided in Subsection R657-17-3(2) and the region in which the lifetime licensee chooses to hunt.

(c) The questionnaire must be returned by mail to the Salt Lake division office and must be received by April 1 annually.

(2)(a) Except as provided in Subsection (c) and Subsection (d), the division may not issue a permit to any lifetime licensee who was given reasonable notice of the deadline as provided in Subsection (1)(c) and fails to return a complete and accurate Lifetime General Deer questionnaire to the division.

(b) The division shall make a good faith effort to notify any lifetime licensee who has made a material error in completing the questionnaire. However, if the division is unable to contact the lifetime licensee and correct the error, the questionnaire shall be

void and the lifetime licensee may not receive a permit, except as provided in Subsection (d).

(c) The director or his designee may issue a permit to a lifetime licensee who did not receive reasonable notice of the deadline as provided in Subsection (1)(c).

(d) If a lifetime licensee fails to return a Lifetime General Deer questionnaire by the deadline as provided in Subsection (1)(c), the lifetime licensee may obtain an available general deer permit ~~[by applying in the remaining general buck deer drawing, or]~~ on the date these permits are made available over-the-counter to the general public.

(e) As used in this section "reasonable notice" means that a Lifetime General Deer questionnaire was sent within a reasonable time before the deadline as provided in Subsection (1)(c) to the most recent address given to the division by the lifetime licensee.

(3) Lifetime licensees must notify the division of any change of mailing address, residency, address, telephone number, physical description, or driver's license number.

(4)(a) Lifetime licensees may apply for or obtain general deer preference points or permits through the big game general buck deer drawing as provided in Rule R657-5 and the proclamation of the Wildlife Board for taking big game, provided the lifetime licensee waives their choice of general deer permits as provided in Subsection R657-17-3(2) and the region in which the lifetime licensee chooses to hunt.

(b) If a lifetime licensee applies for and does not obtain a general deer permit through the ~~[initial]~~ big game general buck deer drawing, the lifetime licensee may only obtain an available general deer permit ~~[by applying in the remaining drawing or]~~ on the date these permits are made available over-the-counter to the general public.

**KEY: wildlife, game laws, hunting and fishing licenses[±]  
[January 15, 2003]2004  
Notice of Continuation November 30, 2000  
23-19-17.5  
23-19-40  
23-19-11**

▼ ————— ▼

**Natural Resources, Wildlife Resources  
R657-38  
Dedicated Hunter Program**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 26819

FILED: 11/26/2003, 11:34

**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 division's Dedicated Hunter Program.

SUMMARY OF THE RULE OR CHANGE: Subsection R657-38-2(2) is being amended to add the definitions of "program harvest" and "program requirements." Section R657-38-3 is being amended to: 1) add provisions for participants who are

members of the United States Armed Forces or public health or public safety organizations and who is mobilized or deployed on order in the interest of national defense or emergency to request that program requirements be extended, waived, or satisfied due to the mobilization or deployment; and 2) clarify that participants entering or re-entering the Dedicated Hunter Program shall be subject to any changes subsequently made in the program requirements and opportunities during the three-year term of enrollment. Section R657-38-4 is being amended to provide procedures for a participant to obtain a duplicate permit or submit an affidavit for program reporting purposes. Sections R657-38-5, R657-38-6, and R657-38-7 are being amended to clarify the specific program requirements for the wildlife conservation course, wildlife conservation projects, and attending regional advisory council meetings. Section R657-38-10 is being amended to clarify the requirements for participating in the Limited Entry Dedicated Hunter Program drawing. Provisions are being added to allow a participant to surrender a Dedicated Hunter Certificate of Registration, and other changes are being made for consistency and clarity.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-14-18 and 23-14-19

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This amendment clarifies the procedures and requirements applicable to participants in the Dedicated Hunter Program. Therefore, 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: The amendments provide clarification of procedures and requirements applicable to participants in the Dedicated Hunter Program, therefore, the amendments do not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These amendments are for clarification and providing requirements and procedures for participants in the Dedicated Hunter Program. DWR determines that there are no additional 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 01/14/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/2004

AUTHORIZED BY: Kevin Conway, Director

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

**R657-38. Dedicated Hunter Program.**

**R657-38-2. Definitions.**

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Dedicated Hunter Permit" means a general buck deer permit issued to a dedicated hunter participant in the Dedicated Hunter Program, which authorizes the participant to hunt general archery, general season and general muzzleloader in the region specified on the permit.

(b) "Hunt area" means an area prescribed by the Wildlife Board where general archery, general season or general muzzleloader deer hunting is open to permit holders for taking deer.

(c) "Limited Entry Dedicated Hunter Permit" means a limited entry deer permit or limited entry elk permit, for use in an area selected by the Division, which shall be offered through the Dedicated Hunter Program Drawing.

(d) "Participant" means a person who has remitted the appropriate fee and has been issued a certificate of registration for the Dedicated Hunter Program.

(e) "Program" means the Dedicated Hunter Program, a program administered by the division as provided in this rule.

(f) "Program harvest" means tagging a deer with a Dedicated Hunter Permit or Limited Entry Dedicated Hunter Deer Permit, or failing to return the Dedicated Hunter Permit or Limited Entry Dedicated Hunter Deer Permit with an attached, unused tag, while enrolled in the program.

(g) "Program requirements" mean the Wildlife Conservation Course as provided in Section R657-38-5, the Wildlife Conservation Project as provided in Section R657-38-6, and the Regional Advisory Council meeting as provided in Section R657-38-7.

(h) "Wildlife conservation course" means a course of instruction provided by the division on hunter ethics and wildlife conservation philosophies and strategies.

~~(e)~~(i) "Wildlife conservation project" means a project designed by the division, or any other individual or entity and pre-approved by the division, that provides wildlife habitat protection or enhancement on public or private lands, improves hunting or fishing access, or other conservation projects or activities that benefit wildlife or directly benefits the division.

~~(h)~~(j) "Wildlife conservation project manager" means an employee of the division, or person approved by the division, responsible for supervising a wildlife conservation project and maintaining and reporting records of service hours to the division.

**R657-38-3. Certificate of Registration Required.**

(1) A person may not participate in the program if that person has been convicted of or entered a plea in abeyance to any of the following classes of violations of Title 23, Wildlife Resources Code, or any rule or proclamation of the Wildlife Board, or is currently on wildlife license suspension:

- (a) felony;
- (b) Class A misdemeanor in the last five years; or
- (c) three or more Class B or Class C misdemeanors in the past five years.

(2)(a) To participate in the program a person must obtain and sign a certificate of registration from the division.

(b) No more than ten thousand certificates of registration for the program may be in effect at any given time.

(c) ~~Each~~ Certificates of registration are issued on a first-come, first-served basis at division offices.

(d) ~~Each prospective participant must provide [proof]evidence of having [attended]completed a wildlife conservation course before the division may issue the certificate of registration for the program.~~

~~(e)~~ (e) A certificate of registration to participate in the program [may not]shall only be issued [to any person after]January 1 through April 1 annually.

(3) Each certificate of registration is valid for three consecutive general deer hunting seasons.

(4)(a) Any person who is 14 years of age or older may obtain a certificate of registration. A person 13 years of age may obtain a certificate of registration if the date of that person's 14th birthday is before the end of the calendar year in which the certificate of registration is issued.

(b) Any person who is 17 years of age or younger before the beginning date of the annual general archery deer hunt shall pay the youth participant fees.

(c) Any person who is 18 years of age or older on or before the beginning date of the annual general archery deer hunt shall pay the adult participant fees.

(5) A certificate of registration authorizes the participant an opportunity to receive annually a Dedicated Hunter Permit to hunt during the general archery, general season and general muzzleloader deer hunts. The Dedicated Hunter Permit may be used during the dates and within the hunt area boundaries established by the Wildlife Board.

(6)(a) Except as provided in Subsections (b), and R657-38-8(7), a participant entering the program may take two deer within three years of enrollment, but only one deer in any one year.

(b) Participants entering or re-entering the Dedicated Hunter Program ~~[in 2003 and thereafter]~~shall be subject to any changes subsequently made in ~~[the program requirements and opportunities]~~this rule during the three-year term of enrollment~~;~~ including alteration or elimination of the opportunity to hunt multiple seasons or to receive a general buck deer permit in a region of choice.

(c) The harvest of an antlerless deer using a Dedicated Hunter Permit, as authorized under specific hunt choice areas during the general archery deer hunt, shall be considered a program harvest.

(7) The certificate of registration must be signed by the participant~~[and a division representative]~~. The certificate of registration is not valid without the required ~~[signatures]~~signature.

(8) The participant and holder of the certificate of registration must have a valid Dedicated Hunter Permit in possession while hunting. A participant is not required to have the Dedicated Hunter Certificate of Registration in possession while hunting.

(9) The division may issue a duplicate Dedicated Hunter Certificate of Registration pursuant to Section 23-19-10.

~~(10)(9)]~~ Certificates of registration are not transferable and shall expire at the end of a participant's third general deer hunting season.

~~(11)(a)~~ Certificates of registration ~~[will]shall~~ not be issued to any person who ~~[has]~~previously obtained a certificate of registration if that person failed to ~~[provide the]complete~~ program requirements or provide fees until the prior program requirements are met or [fees are paid.]the fees are remitted.

~~(11)(a)(b)~~ A participant who failed to comply with program requirements or pay fees may not apply for, or obtain a Dedicated Hunter Certificate of Registration until prior program requirements are met or the fees are remitted.

(12)(a) The program requirements set forth in Sections R657-38-5, R657-38-6, and R657-38-7 may be waived annually if the participant provides [proof]evidence of leaving the state for a minimum period of one year during the enrollment period for the Dedicated Hunter Certificate of Registration [to serve in the armed forces of the United States, or]for religious or educational purposes.

(b) If the participant requests that the annual requirements be waived in accordance with Subsection (a), and the request is granted, the participant shall not receive a Dedicated Hunter Permit for the year in which the program requirements were waived.

(13)(a) A participant who is a member of the United States Armed Forces or public health or public safety organization and who is mobilized or deployed on order in the interest of national defense or emergency may request that the requirements set forth in Sections R657-38-5 and R657-38-7 be extended, and the requirement in Subsection R657-38-6 be satisfied as provided in Subsections (b) through (e).

(b) The program requirement set forth in Section R657-38-5 may be extended to the second or third year of the program.

(c) The program requirement set forth in Section R657-38-6 may be considered satisfied by a participant that is prevented from completing the requirement due to the mobilization or deployment.

(d) The program requirement set forth in Section R657-38-7 may be:

(i) extended to the third year in the program if the participant is currently in the second year of the program; and

(ii) waived in the third year of the program if the participant remains mobilized or deployed and is unable to reasonably meet the requirement.

(e) A participant must provide evidence of the mobilization or deployment.

(14)(e)] A refund for the Dedicated Hunter Certificate of Registration may not be issued pursuant to Section 23-19-38, except as provided in Section 23-19-38.2.

**R657-38-4. Dedicated Hunter Permits.**

(1) Participants may hunt during the general archery, general season and general muzzleloader deer hunts within the hunt area and during the season dates prescribed in the proclamation of the Wildlife Board for taking big game.

(2)(a) Participants must designate a regional hunt choice upon joining the program.

(b) The regional hunt choice shall remain in effect unless otherwise changed in writing by the participant by January 15 annually, or as modified or rescinded by the Wildlife Board.

(3) Participants must notify the division of any change of mailing address in order to receive a Dedicated Hunter Permit by mail.

(4)(a) Lifetime license holders may participate in the program.

(b) Upon signing the certificate of registration, the lifetime license holder agrees to forego any rights to receive a buck deer permit for the general archery, general season or general muzzleloader deer hunts as provided in Section 23-19-17.5.

(c) A refund or credit is not issued for the general archery, general season or general muzzleloader permit.

(5)(a) A participant may exchange or surrender a Dedicated Hunter Permit in accordance with Rule R657-42.

(b) A participant may not exchange or surrender a Dedicated Hunter Permit for any other buck deer permit once the Dedicated Hunter Permit is issued and the general archery deer hunt has begun.

(6)(a) Dedicated hunter permits may be issued through the mail no sooner than ~~July~~ June 1 of each year, and only upon ~~proof~~ evidence that all annual program requirements have been completed by the participant.

(b)(i) Participants completing annual program requirements later than two weeks prior to the beginning of the general archery deer hunt must obtain their Dedicated Hunter Permit over-the-counter from any division office.

(ii) Over-the-counter dedicated hunter permits shall not be issued sooner than two weeks prior to the beginning of the general archery deer hunt, and only upon ~~proof~~ evidence that all annual program requirements have been completed by the participant.

~~(7)(a) The division may issue a duplicate Dedicated Hunter Permit pursuant to Section 23-19-10.~~

~~(b) If a participant's unused permit and tag is destroyed, lost, or stolen a participant may complete an affidavit verifying the permit was destroyed, lost, or stolen in order to obtain a duplicate.~~

~~(c) A duplicate permit shall not be issued after the closing date of the general season buck deer hunt, however, a participant may complete an affidavit and submit a copy of the affidavit for program reporting purposes as required in Section R657-38-9(3).~~

#### **R657-38-5. Wildlife Conservation Course.**

(1)(a) The division shall provide an annual wildlife conservation course.

(b) Prior to ~~becoming a participant or~~ entering or re-entering the program, and obtaining a certificate of registration ~~for the program, a person~~, a prospective participant must complete ~~one~~ the wildlife conservation course within the current year in which the prospective participant is entering or re-entering the program.

(2) The wildlife conservation course shall explain the program ~~in detail~~ to give a prospective participant a reasonable understanding of the program as well as hunter ethics, the division's Regional Advisory Council and Wildlife Board processes, and wildlife conservation philosophies and strategies.

(3) ~~Wildlife conservation courses are~~ The wildlife conservation course is available through the division's Internet site, and a limited number of classroom courses are available, as scheduled by division offices.

(4)(a) ~~Proof~~ Evidence of completion of the wildlife conservation course shall be provided to the prospective participant upon completion of the wildlife conservation course.

(b) Certificates of registration shall not be issued without verification of the prospective participant having completed the wildlife conservation course.

(c) The division shall keep a record of all participants who ~~attend~~ complete the wildlife conservation course.

#### **R657-38-6. Wildlife Conservation Projects.**

(1) ~~(a)~~ Each participant in the program shall provide a total of 24 ~~hours~~

~~(i) provide no fewer than an average of eight~~ hours of service ~~annually, by working~~ on a wildlife conservation project as provided in Subsections (a) and (b), or pay the approved fee ~~or other division approved program or activity; or~~

~~(ii) pay a fee of \$18.75~~ for each hour not completed as provided in Subsection (c).

(a) A participant must provide no fewer than eight hours of service during the first year of enrollment.

(b) A participant must provide the remaining balance of service hours prior to receiving the second Dedicated Hunter Permit.

~~(c)~~

~~(b)~~ Residents may not substitute more than 16 of the 24 total required service hours. Nonresidents may substitute all of the 24 total required service hours.

~~(e)~~ (d) The division may, upon request, approve a person who is physically unable to provide service by working on a wildlife conservation project to provide other forms of service.

(e) Goods or services provided to the division for wildlife conservation projects by a participant may be, at the discretion of the wildlife conservation project manager, substituted for service hours based upon current market values for the goods or services, and using the approved hourly service buyout rate when applying the credit.

(2) Wildlife conservation projects shall be designed by the division, or any other individual or entity and shall be pre-approved by the division.

(3)(a) Wildlife conservation projects may occur anytime during the year as determined by the division.

(b) The division shall publicize the dates, times, locations and description of approved wildlife conservation projects and activities at division offices.

(4)(a) ~~Prior to being issued an annual Dedicated Hunter Permit, participants must complete eight hours credit on approved wildlife conservation projects in the first year of enrollment, and thereafter the participant must average an additional eight hours credit in each of the two succeeding years.~~

~~(b)~~ Service hours completed in any given year ~~in excess of the annual requirement~~ may be carried over to the following years, however excess service hours shall not be carried over to any year outside of the three-year enrollment period.

~~(e)~~ (b) Dedicated hunter permits issued to participants who fail to make the deadline, two weeks prior to the opening date of the general archery deer hunt annually, shall be issued only as an over-the-counter transaction at division offices.

(5) ~~Proof of the number of hours worked shall be provided to the participant.~~ A participant must request a receipt from the wildlife conservation project manager for service hours worked at the completion of the project, or upon showing evidence that the service hours worked are completed.

(6)(a) If a participant fails to fulfill the annual wildlife conservation project service requirement in any year of participation, as required under Subsection (4), the participant shall not be issued a Dedicated Hunter Permit for that year.

(b) The participant may obtain a Dedicated Hunter Permit for subsequent years upon completion of the wildlife conservation project program requirements due or payment of the fee in lieu thereof.

(7) The wildlife conservation project manager shall keep a record of all participants who attend the wildlife conservation project and the number of hours worked.

#### **R657-38-7. Regional Advisory Council.**

(1) ~~[Each participant]~~ Prior to obtaining a second permit in the program ~~[is required to], a participant must~~ attend one regional advisory council meeting ~~[in its entirety prior to obtaining a permit during the second year of the program].~~

~~[(2) Proof of attendance shall be provided by the division to the participant.]~~ (2) A participant must request a receipt from the division for attending the regional advisory council meeting.

(3) The division shall keep a record of all participants who attend ~~[a]~~ and sign the roll at the regional advisory council meeting ~~[meetings].~~

#### **R657-38-8. Obtaining Other Permits.**

(1)(a) Participants may apply for or obtain premium limited entry, limited entry, cooperative wildlife management unit, limited entry landowner or conservation buck deer permits as provided in Rule R657-5 and the proclamation of the Wildlife Board for taking big game.

(b) Participants may apply for or obtain a Dedicated Hunter Limited Entry Permit as provided under Section R657-38-10.

(c) If the participant obtains a premium limited entry, limited entry, cooperative wildlife management unit, limited entry landowner, conservation, Dedicated Hunter Limited Entry buck deer permit, the Dedicated Hunter Permit becomes invalid and the participant must surrender the Dedicated Hunter Permit prior to the opening day of the general archery deer hunt. A refund may not be issued pursuant to Section 23-19-38.

(d) If the participant obtains a limited entry archery, limited entry any weapon, limited entry muzzleloader, limited entry landowner or conservation buck deer permit, or a Dedicated Hunter Limited Entry Permit, the participant, upon completion of annual program requirements, may use the permit only in the prescribed area during the season dates listed on the permit.

(e) Participants who obtain a cooperative wildlife management unit permit may hunt only within those areas identified on the permit and only during the dates determined by the cooperative wildlife management unit landowner or operator.

(2)(a) Participants may not apply for or obtain general buck deer permits issued by the division through the big game drawing ~~[as provided in Rule R657-5 and the proclamation of the Wildlife Board for taking big game.], license agents, over-the-counter sales, or the Internet during the three-year period of enrollment in the program.~~

(b) In the initial sign-up year for the program, if the participant previously applied for a general buck deer permit through the big game drawing, a participant must withdraw that permit application prior to the application withdrawal date as published in the proclamation of the Wildlife Board for taking big game.

(i) The general buck deer permit fee may be refunded by the division in May, but the handling fee shall not be refunded.

(ii) If the participant fails to withdraw the general buck deer application and the permit is drawn, the general deer permit obtained through the drawing becomes invalid and must be surrendered prior

to the beginning date of the general archery deer hunt. A refund may not be issued pursuant to Section 23-19-38.

(3) Participants may not apply for or obtain general landowner buck deer permits as provided under Rule R657-43.

(4) The division may exclude multiple season opportunities on specific units due to extenuating circumstances on that specific unit.

(5) The permit must be on the person while hunting.

(6)(a) Obtaining a premium limited entry, limited entry, cooperative wildlife management unit, limited entry landowner or conservation buck deer permit does not authorize a participant to take an additional deer.

(b) Any deer harvested by a participant using a premium limited entry, limited entry, cooperative wildlife management unit, limited entry landowner, or conservation buck deer permit shall be considered a program harvest.

(7)(a) Participants may apply for or obtain antlerless deer permits as provided in Rule R657-5 and the Antlerless Addendum to the proclamation of the Wildlife Board for taking big game.

(b) Antlerless permits do not count against the number of permits issued pursuant to this program.

(c) Antlerless harvest ~~of a deer~~ as provided in ~~[Rule R657-5 and]~~ the Antlerless Addendum to the proclamation of the Wildlife Board for taking big game shall not be considered a program harvest.

#### **R657-38-9. Reporting Requirements.**

(1)(a) The division may contact participants to gather annual harvest information and hunting activity information.

(b) Participants are expected to provide harvest information and hunting activity information if contacted by the division.

(2)(a) A participant may specify a change to their regional hunt choice for a Dedicated Hunter Permit by submitting a request in writing to the division by January 15 annually.

(b) If a change is not specified pursuant to Subsection (a), the regional hunt choice selected initially or in the prior year shall be assigned.

(3)(a) ~~[Any]~~ A participant must return the unused Dedicated Hunter Permit and attached tag ~~[that is not used to tag a deer must be returned], or an affidavit as provided in Section R657-38-4(7)(c), to a division office [and received by January 15.]~~ by January 15 annually.

~~[(b) Any]~~ (b) The division shall credit any participant who fails to return the unused Dedicated Hunter Permit and attached tag ~~[that is not returned to the division shall be considered], or an affidavit as provided in Section R657-38-4(7)(c), with a program harvest.~~

#### **R657-38-10. Limited Entry Dedicated Hunter Program Drawing.**

(1) Any unfilled Dedicated Hunter Permit with an unused attached tag, returned to the Division by January 15 annually, may qualify the participant to be entered into the Dedicated Hunter Program Drawing provided:

(a) the participant is currently enrolled in the program; and

(b) the participant has ~~[met all program requirements by July 1 for the current year in which the Limited Entry]~~ returned the Dedicated Hunter Permit ~~[is valid and unused, attached tag, or an affidavit as provided in Section R657-38-4(7)(c)].~~

~~[(2)]~~ (2)(a) One limited entry deer permit and one limited entry elk permit shall be offered through the drawing for each 250 permits received by the Division in accordance with Subsection (1).



(b) The eligible participants and limited entry permits shall be randomly drawn.

(c) The successful participant must meet all program requirements for the current year in which the permit is valid before the issuance of the permit.

(3) The drawing results may be posted at division offices and on the division Internet address on the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(4)(a) ~~[Successful participants]~~The successful participant shall be notified by mail.

(b) The successful participant must submit the appropriate limited entry fee within ten business days of the date on the notification letter.

(c) If the successful participant ~~[designated to receive a Limited Entry Dedicated Hunter Permit already possesses a Utah permit for the same species of animal that year, or is otherwise ineligible or unable to participate in the hunt and utilize the Limited Entry Dedicated Hunter Permit, the available Limited Entry Dedicated Hunter Permit]~~ fails to submit the required limited entry permit fee, the permit may be issued to the next participant, who would have drawn the permit, in accordance with Rule R657-42.

(5)(a) ~~[The successful participant designated to receive a Limited Entry Dedicated Hunter Permit must select one of the following legal weapon choices and hunting season for the Limited Entry Dedicated Hunter Permit:~~

- ~~— (i) limited entry archery;~~
- ~~— (ii) limited entry any weapon; or~~
- ~~— (iii) limited entry muzzleloader.~~

~~(b) The Limited Entry Dedicated Hunter [permits may be used within the specified boundaries of the limited entry hunt] permit allows the recipient to take only the species for which the permit is issued.~~

(b) The species that may be taken shall be printed on the permit.

(c) The species may be taken in the area and during the ~~[dates specified in the proclamation]~~ season specified on the permit.

(d) The species may be taken only with the weapon specified on the permit.

(e) The recipient of a limited entry deer or elk permit is subject to all of the provisions of Title 23, Wildlife Resources Code, and the rules and proclamations of the Wildlife Board for taking ~~[big game]~~ and pursuing wildlife.

~~(6)(a)~~(f) Bonus points shall not be awarded or utilized when applying for or obtaining Limited Entry Dedicated Hunter permits.

~~(b)~~(g) Any participant who obtains a Limited Entry Dedicated Hunter Permit is not subject to the waiting periods set forth in Rule R657-5 and the proclamation of the Wildlife Board for taking big game.

#### **R657-38-11. Certificate of Registration Surrender.**

(1)(a) A participant who has obtained a Dedicated Hunter Certificate of Registration may surrender the certificate of registration to a division office provided the participant does not have two program harvests.

(b) A participant who surrenders the Dedicated Hunter Certificate of Registration may not re-enter the program until the participant's initial certificate of registration has expired.

(2) The division may not issue a refund except as provided in Section 23-19-38.

#### **R657-38-12. Certificate of Registration Suspension.**

(1) A Dedicated Hunter Permit and tag may not be issued to any participant who:

- (a) does not perform the program requirements; or
- (b) violates the terms of this rule or the Dedicated Hunter Certificate of Registration.

(2) The division may revoke or suspend a certificate of registration as provided in Section 23-19-9.

**KEY: wildlife, hunting, recreation, wildlife conservation**  
**[January 15, 2003]2004**

**Notice of Continuation November 30, 2000**  
**23-14-18**



## 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.: 26820  
FILED: 11/26/2003, 11:35

#### **RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is being amended pursuant to Wildlife Board meetings conducted annually for taking public input and reviewing Rule R657-42.

**SUMMARY OF THE RULE OR CHANGE:** Section R657-42-3 is being amended to add that a person who has obtained a limited entry bear any weapon or limited entry bear archery permit may exchange that permit for a limited entry bear archery or limited entry bear any weapon permit, respectively. Section R657-42-8 is being amended to provide that: 1) permit fees may be charged to a credit or debit card prior to the posting date of the drawing if the applicant is successful in obtaining a permit through the drawing; 2) clarification is being made to the Division voiding a permit after making an attempt to contact the successful applicant by phone or mail to collect payment and payment is not received; and 3) a person must notify the Division of any change of a credit or debit card number if the credit or debit card is invalid or refused.

**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 for clarification, and to provide provisions for exchanging limited entry bear permits. 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: This amendment is for clarification, and to provide provisions for exchanging limited entry bear permits. 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 for clarification, and to provide provisions for exchanging limited entry bear permits. A person will be charged a handling fee for exchanging a bear permit, otherwise, 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 01/14/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/2004

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.**

##### **R657-42-3. Permit Exchanges.**

(1)(a) Any person who has obtained a general buck deer or a general bull elk permit may exchange that permit for any other available general permit if both permits are for the same species and sex.

(b) A person must make general buck deer and general bull elk permit exchanges at any division office prior to the season opening date of the permit to be exchanged.

(2) Any person who has obtained a cougar harvest objective unit permit may exchange that permit for any other available cougar harvest objective unit permit as provided in Rule R657-10.

(3) Any person who has obtained a limited entry bear archery permit may exchange that permit for a limited entry bear archery or limited entry bear archery or limited entry bear archery permit, respectively.

(4) The division may charge a handling fee for the exchange of a permit.

##### **R657-42-8. Accepted Payment of Fees.**

(1) Personal checks, business checks, money orders, cashier's checks, and credit or debit 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 or debit cards must be valid at least 30 days after any drawing results are posted.

(b) Checks, and credit or debit 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 or debit card.

(d) Handling fees and donations are charged to the credit or debit card when the application is processed.

~~[Applicable license and permit fees are charged after]~~(e) Permit fees may be charged to the credit or debit card prior to the posting date of the drawings, if successful.

(f) The division shall not be held responsible for bank charges incurred for the use of credit or debit cards.

(6)(a) An application is voidable if the check is returned unpaid from the bank or the credit or debit 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 or debit card is invalid or refused.

(b) The Division may ~~[void a permit after making a reasonable effort]~~make attempt to contact the successful applicant by phone or mail to collect payment ~~[and payment is not received]~~prior to voiding the license or permit.

(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) 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 or debit card is invalid or refused.

(b) A person must notify the division of any change of credit or debit card numbers if the credit or debit 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.

**KEY: wildlife, permits**

**[July 2, 2003]2004**

**Notice of Continuation May 14, 2003**

**23-19-1**

**23-19-38**

▼ ————— ▼

## Public Safety, Fire Marshal R710-6 Liquefied Petroleum Gas Rules

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 26801

FILED: 11/17/2003, 13:51

### 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 purpose of the amendments were to update an incorporated reference, clarify the issuance, renewal or continued validity of a license or certificate of registration, and establish vehicular protection for containers and dispensers.

**SUMMARY OF THE RULE OR CHANGE:** The Utah LP Gas Board proposes to amend the existing rule as follows: 1) in Subsection R710-6-1(1.4), the Board proposes to update the currently adopted 2000 edition of the International Fire Code to the 2003 edition; 2) in Subsection R710-6-5(5.2), the Board proposes to redefine and expand the reasons a person or applicant may have their license or certificate of registration denied, suspended or revoked; 3) in Subsection R710-6-8(8.5.3), the Board proposes to update by IFC amendment, the spacing requirement for LP Gas exchange cabinets making the space the same in all the code applications; and 4) in Subsection R710-6-8(8.6.6), the Board adds specific requirements for the installation of vehicular protection piping around containers and dispensing facilities.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 53-7-305

**THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL:** International Fire Code, 2003 edition, as published by the International Code Council

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** There would be an aggregate anticipated cost to the state budget of \$441 to purchase the LP Gas Board members a copy of the 2003 International Fire Code.

❖ **LOCAL GOVERNMENTS:** There would be no aggregate anticipated cost to local government because it doesn't affect local government.

❖ **OTHER PERSONS:** There is no aggregate anticipated cost to other persons because it doesn't affect other persons.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The only compliance costs for affected persons would be to the state budget to purchase the LP Gas Board members a copy of the 2003 International Fire Code.

**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 rule. The addition of Subsection R710-6-8(8.6.6) has been in effect for many years in the formerly used fire code. With the change to the International Fire Code, this section was no longer listed and has been transferred to this 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](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 01/14/2004.**

**THIS RULE MAY BECOME EFFECTIVE ON: 01/15/2004**

**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, 2002 Edition, except as amended by provisions listed in R710-6-8, et seq.

1.4 International Fire Code (IFC), Chapter 38, ~~[2000]~~2003 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.

#### **R710-6-5. 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 The person or applicant provides [M]material misrepresentation or false statement in the application, whether original or renewal.

5.2.3 The person or applicant refuses[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 by performing their functions and duties.~~ 5.2.7 The person or applicant has been convicted of a violation of one or more federal, state or local laws.

5.2.8 The person or applicant has been convicted of a violation of the adopted rules or been found by a Board administrative proceeding to have violated the adopted rules.

5.2.9 Any offense of finding of unlawful conduct, or there is or may be, a threat to the public's health or safety if the person or applicant were granted a license or certificate of registration.

5.2.10 There are other factors upon which a reasonable and prudent person would rely to determine the suitability of the person or applicant to safely and competently distribute, transfer, dispense or install LP Gas and/or it's appliances.

5.2.[8]11 The person or applicant does not complete the re-examination process by the person or applicants certificate or license expiration date.

5.2.[9]12 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.

#### **R710-6-8. Amendments and Additions.**

The following amendments and additions are hereby adopted by the Board:

8.1 All LP Gas facilities that are located in a public place shall be inspected by a certified LP Gas serviceman every five (5) years for leaks in all buried piping as follows:

8.1.1 All buried piping shall be pressure tested and inspected for leaks as set forth in NFPA Standard 54, Sections 4.1.1 through 4.3.4.

8.1.2 If a leak is detected and repaired, the buried piping shall again be pressure tested for leaks.

8.1.3 The certified LP Gas serviceman shall keep a written record of the inspection and all corrections made to the buried piping located in a public place.

8.1.4 The inspection records shall be available to be inspected on a regular basis by the Division.

8.2 Whenever the Division is required to complete more than two inspections to receive compliance on an LP Gas System, container, apparatus, appliance, appurtenance, tank or tank trailer, or any pertinent equipment for the storage, transportation or dispensation of LP Gas, the Division shall charge to the owner for each additional inspection, the re-inspection fee as stated in R710-6-6.1(e).

8.3 All LP Gas containers of more than 5000 water gallons shall be inspected at least biannually for compliance with the adopted statute and rules. The following containers are exempt from this requirement:

8.3.1 Those excluded from the act in UCA, Section 53-7-303.

8.3.2 Containers under federal control.

8.3.3 Containers under the control of the U.S. Department of Transportation and used for transportation of LP Gas.

8.3.4 Containers located at private residences.

8.4 Those using self-serve key or card services shall be trained in safe filling practices by the licensed dealer providing the services. A letter shall be sent to the Division by the licensed dealer stating that those using the self-serve key or card service have been trained.

8.5 IFC Amendments:

8.5.1 IFC, Section 3801.2 Permits. On line 2 after the word "105.7" add "and the adopted LPG rules".

8.5.2 IFC, Section 3803.1 - General. After the word "Code" on line 2 insert ",NFPA 54.

8.5.3 IFC, Section 3809.12 Location of storage outside of buildings. ~~is deleted and replaced with NFPA, Standard 58, Section 5-4.1-]~~ On line three replace the number "20" with the number "10".

8.6 NFPA, Standard 58 Amendments:

8.6.1 NFPA, Standard 58, Section 2-2.1.3 is amended to add the following section: (c) All new, used or existing containers of 5000 water gallons or less, installed in the State of Utah or relocated within the State of Utah shall meet the requirements listed in ASME, Boiler and Pressure Vessel Code, "Rules for the Construction of Unfired Pressure Vessels". All new, used or existing containers of more than 5000 water gallons, installed in the State of Utah or relocated within the State of Utah shall meet the requirements listed in ASME, Boiler and Pressure Vessel Code, "Rules for the Construction of Unfired Pressure Vessels", Section VIII, and shall either be registered by the National Board of Boiler and Pressure Vessel Inspectors or the Manufacturer's Data Report for Pressure Vessels, Form U-1A, be provided.

8.6.2 NFPA, Standard 58, Section 2-2.1.3 is amended to add the following section: (d) If an existing container is relocated within the State of Utah, and depending upon the container size, does not bear the required ASME construction code and/or National Board Stamping, the new owner may submit to the Division a request for "Special Classification Permit". Material specifications and calculations of the container shall be submitted to the Division by the new owner. Also, the new owner shall insure that a review of the proposed container be completed by a registered professional engineer experienced in pressure vessel container design and construction, and the new owner submit that report to the Division. The Division will approve or disapprove the proposed container. Approval by the Division shall be obtained before the container is set or filled with LP Gas.

8.6.3 NFPA, Standard 58, Section 2-2.1.9 is deleted and rewritten as follows: Repair or alteration of containers shall comply with the latest edition of the National Board Inspection Code or the API Pressure Vessel Inspection Code as applicable. Repairs and alterations shall only be made by those holding a National Board "R" Certificate of Authorization commonly known as an R Stamp.

8.6.4 NFPA, Standard 58, Section 2-2.5.1 is amended to add the following: Skid mounted ASME horizontal containers greater than 2000 water gallons, with non-fireproofed steel mounted attached supports, resting on concrete, pavement, gravel or firm packed earth, may be mounted on the attached supports to a

maximum of 12 inches from the top of the skid to the bottom of the container.

8.6.5 NFPA Standard 58, Sections 2-4.3(3)(a) and (b) are deleted and amended to read as follows:

Type K copper tubing without joints below grade may be used in exterior LP Gas piping systems only.

8.6.6 NFPA, Standard 58, Section 3.2.4.2 is deleted and rewritten as follows: Guard posts or other approved means shall be provided for LP Gas containers, systems, bulk heads, connecting piping, valves and fittings, and dispensing cabinets that would be subject to vehicular damage. When guard posts are installed they shall be installed meeting the following listed requirements:

8.6.6.1 Constructed of steel not less than four inches in diameter and filled with concrete.

8.6.6.2 Set with spacing not more than four feet apart.

8.6.6.3 Buried three feet in the ground in concrete not less than 15 inches in diameter.

8.6.6.4 Set with the tops of the posts not less than three feet above the ground.

8.6.[6] NFPA, Standard 58, Section 5.4.1.1 is deleted and rewritten as follows: At least 10 feet from the doorway or opening frequented by the public.

**KEY: liquefied petroleum gas**  
**~~July 2, 2003~~ January 15, 2004**  
**Notice of Continuation July 5, 2001**  
**53-7-305**



**Public Service Commission,  
 Administration  
 R746-348-6  
 Ancillary Features and Functions**

**NOTICE OF PROPOSED RULE  
 (Amendment)**

DAR FILE NO.: 26826  
 FILED: 12/01/2003, 09:29

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This change is being made to correct a reference from 47 USC Section 702 to the appropriate section, 47 USC Section 222.

**SUMMARY OF THE RULE OR CHANGE:** In Subsection R746-348-6(A)(2) the reference to 47 USC Section 702 is being changed to the appropriate section, 47 USC Section 222.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Sections 54-8b-2.3 and 54-8b-2

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** There is no cost or savings to the State budget because this amendment is only a reference correction.

❖ **LOCAL GOVERNMENTS:** There is no cost or savings to the local government because this amendment is only a reference correction.

❖ OTHER PERSONS: There is no cost or savings to other persons because this amendment is only a reference correction.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no new compliance costs because this amendment is only a reference correction.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact on business because this amendment is only a reference correction.

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

PUBLIC SERVICE COMMISSION  
 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:  
 Barbara Stroud or Sandy Mooy at the above address, by phone at 801-530-6714 or 801-530-6708, by FAX at 801-530-6796 or 801-530-6796, or by Internet E-mail at bstroud@utah.gov or smooy@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 01/14/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/2004

AUTHORIZED BY: Barbara Stroud, Paralegal

**R746. Public Service Commission, Administration.  
 R746-348. Interconnection.  
 R746-348-6. Ancillary Features and Functions.**

A. Compliance -- Incumbent local exchange carriers shall make available to other local exchange service providers the following network features and functions pursuant to 47 USC Section 251 and Subsection 54-8b-2.2.

1. Access to signaling protocols and elements of signaling protocols used to route local and interexchange traffic, including access to signaling links, signal transfer points, and service control points through the incumbent local exchange carrier's signal transfer point.

2. Answer and disconnect supervision as well as the information necessary for customer billing.

a. Telecommunications corporations shall protect customer proprietary network information in compliance with 47 USC Section [702]222 and applicable federal and state rules.

b. Telecommunications corporations shall enter into billing and collection agreements to permit exchange of telephone line number information, use of non-proprietary calling cards, and collect billing of third-party calls to a number served by another provider.

3. Local exchange service providers shall provide the capability for operators on interconnected networks to perform

functions such as completing collect calls, third party calls, busy line verification calls, and busy line interrupt.

4. Local exchange service providers shall develop and implement repair service referral procedures to direct trouble reports to the correct provider.

5. Pursuant to contract or tariff, each local exchange service provider shall offer electronic interfaces to operational support systems to enable other certified local exchange service providers to provide service quality equal to that required by the Commission for incumbent local exchange carriers. These contracts or tariffs shall be approved by the Commission and available for public review.

6. Local exchange service providers shall provide nondiscriminatory access to subscriber information, such as that contained in published "White Pages" telephone directories.

a. Customers of local exchange service providers shall receive directories as part of basic local exchange service.

b. An incumbent local exchange service provider, or its affiliate, shall make available to a new local exchange service provider adequate space in the Customer Guide pages of the directory to allow a new local exchange service provider to provide its customers and prospective customers with information reasonably similar to that provided by an incumbent local exchange service provider for its customers.

B. Emergency Call Networks -- Each local exchange service provider will cooperate to insure the seamless operation of emergency call networks, including 911, E-911 and 0- calls.

1. Incumbent local exchange carriers will permit other local exchange service providers to interconnect at its E-911 tandem so that each local exchange service provider's customers may place calls to public safety answering points by dialing 911.

2. Local exchange service providers shall not charge each other for any service, activity or facility associated with provision of 911 or E-911 services other than call transport and termination charges.

**KEY: interconnection[±], network interconnection[±], telecommunications, telephone utility regulation**

~~October 7, 1997~~2004  
**Notice of Continuation January 30, 2002**  
 54-4-1  
 54-4-8  
 54-4-12  
 54-8b-2



**Transportation, Motor Carrier  
 R909-1  
 Adoption of Federal Regulations**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 26823

FILED: 11/28/2003, 14:34

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The amendments to this rule are the result of changes to federal regulations, changes in insurance requirements, and clarification on which implements of husbandry are required to

have certain safety features. This amendment brings this rule into compliance with those federal changes.

**SUMMARY OF THE RULE OR CHANGE:** The amendments to this rule are the result of changes to federal regulations, changes in insurance requirements, and clarification on which implements of husbandry are required to have certain safety features.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 72-9-103 and 49 CFR Parts 350-399

**THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL:** 49 CFR 350 through 399, and Part 40 (October 1, 2003)

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** There may be some additional, but as yet unknown, increases in the costs of conducting safety audits.

❖ **LOCAL GOVERNMENTS:** This amendment does not affect local governments, so there will be no costs or savings to them.

❖ **OTHER PERSONS:** The industry estimates that the new hours of service rule will increase carrier costs between 4% and 10%. These costs will include additional driver training, vehicle changes, and the hiring of new drivers. There should be no change in costs or savings from the amendment to the private carrier insurance requirement because the change is only a clarification. There may be some additional cost incurred as a result of the "implements of husbandry" rule due to a need to add appropriate equipment to some vehicles, but it is impossible to say what the cost may be.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The industry estimates that the new hours of service rule will increase carrier costs between 4% and 10%. These costs will include additional driver training, vehicle changes, and the hiring of new drivers. There should be no change in costs or savings from the amendment to the private carrier insurance requirement because the change is only a clarification. There may be some additional cost incurred as a result of the "implements of husbandry" rule due to a need to add appropriate equipment to some vehicles, but it is impossible to say what the cost may be.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The department is obligated to impose these new requirements because of federal mandates.

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

TRANSPORTATION  
MOTOR CARRIER  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W  
SALT LAKE CITY UT 84119-5998, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at [jbeadles@utah.gov](mailto:jbeadles@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 02/02/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 02/03/2004

AUTHORIZED BY: John R. Njord, Executive Director

## **R909. Transportation, Motor Carrier.**

### **R909-1. Safety Regulations for Motor Carriers.**

#### **R909-1-1. Adoption of Federal Regulations.**

[A]1. Safety Regulations for Motor Carriers, 49 CFR Parts 350 through 399 and Part 40, as contained in the October 1, 2003[2000 edition and amendments which appear, November 1, 2000 and December 1, 2000, January 1, 2001, February 1, 2001, March 1, 2001, April 1, 2001, May 1, 2001, June 1, 2001, July 1, 2001 and August 1, 2001 as printed by the Regulations Management Corporation Service,] is incorporated by reference, except for Parts 391.11(b)(1), 391.49, 395.1(k), 395.1(l), 395.1(m) and 395.1(n). These requirements apply to all motor carrier(s) as defined in 49 CFR Part 390.5, excluding commercial motor vehicles which are designed or used to transport more than 8 and less than 15 passengers (including the driver) for compensation and UCA 72-9-102(2) engaged in Commerce.

[B]2. In the instance of a driver who is used primarily in the transportation of construction materials and equipment, as defined under 395.2, to and from an active construction site, any period of 7 or 8 consecutive days may end with the beginning of any off-duty period of [36]34 or more successive hours.

[C]3. Exceptions to Part 391.41, Physical Qualification may be granted under the rules of Department of Public Safety, Driver's License Division, UCA 53-3-303.5 for intrastate drivers under R708-34.

[D]4. Drivers involved wholly in intrastate commerce shall be at least 18 years old. [;] [unless] However, if they are transporting placarded amounts of hazardous materials [;] or carrying 16 or more passengers, including the driver, they must be 21 years old.

[E]5. Drivers involved in interstate commerce [; transporting placarded amounts of hazardous materials, or 16 or more passengers including the driver,] shall be at least 21 years old.

#### **R909-1-2. Insurance for Private Intrastate/Interstate Motor Carriers.**

[A]1. [Definitions:—]"Private Motor[motor] Carrier"[carriers] means a person who provides transportation of property or passengers by commercial motor vehicle [;] and is not a for-hire motor carrier.

[B]2. All intrastate private [Private] motor carriers shall have [an MCS 90, MCS 90B, MCS 82 or MCS 828 on file at the principal place of business with] a minimum amount of \$750,000 liability.

**R909-1-3. Implements of Husbandry.**

"Implements of Husbandry" is defined in Utah Code Ann. Section 41-1a-102(23) and must be in compliance with all provisions of Chapter 6, Title 41, Utah Code Annotated. Vehicles meeting this definition are exempt from 49 CFR Part 393 - Parts and Accessories Necessary for Safe Operations.

**KEY: trucks, transportation safety, implements of husbandry**

**~~December 3, 2004~~2004**

**Notice of Continuation March 6, 2002**

**72-9-103**

**72-9-104**





## NOTICES OF CHANGES IN PROPOSED RULES

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After an agency has published a PROPOSED RULE in the *Utah State Bulletin*, it may receive public comment that requires the PROPOSED RULE to be altered before it goes into effect. A CHANGE IN PROPOSED RULE allows an agency to respond to comments it receives.

As with a PROPOSED RULE, a CHANGE IN PROPOSED RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the CHANGE IN PROPOSED RULE including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the RULE ANALYSIS, the text of the CHANGE IN PROPOSED RULE is usually printed. The text shows only those changes made since the PROPOSED RULE was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (e.g., example). Deletions made to the rule appear struck out with brackets surrounding them (e.g., [example]). A row of dots in the text (. . . . .) indicates that unaffected text was removed to conserve space. If a CHANGE IN PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

While a CHANGE IN PROPOSED RULE does not have a formal comment period, there is a 30-day waiting period during which interested parties may submit comments. The 30-day waiting period for CHANGES IN PROPOSED RULES published in this issue of the *Utah State Bulletin* ends January 14, 2004. At its option, the agency may hold public hearings.

From the end of the waiting period through April 13, 2004, the agency may notify the Division of Administrative Rules that it wants to make the CHANGE IN PROPOSED RULE effective. When an agency submits a NOTICE OF EFFECTIVE DATE for a CHANGE IN PROPOSED RULE, the PROPOSED RULE as amended by the CHANGE IN PROPOSED RULE becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file another CHANGE IN PROPOSED RULE in response to additional comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or another CHANGE IN PROPOSED RULE, the CHANGE IN PROPOSED RULE filing, along with its associated PROPOSED RULE, lapses and the agency must start the process over.

CHANGES IN PROPOSED RULES are governed by *Utah Code* Section 63-46a-6 (2001); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

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

**Commerce, Occupational and  
Professional Licensing  
R156-54-302b  
Examination Requirements - Radiology  
Practical Technician**

**NOTICE OF CHANGE IN PROPOSED RULE**

DAR File No.: 26580  
Filed: 11/24/2003, 14:41

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Following a public hearing and further review by the Division and the Radiology Technology Licensing Board, additional changes are being proposed to the examination requirements for a radiology practical technician.

SUMMARY OF THE RULE OR CHANGE: Currently, an applicant for a radiology practical technician license must pass the "core" section of the Limited Scope of Practice in Radiography exam and at least one of six optional exam sections. The proposed amendments to Section R156-54-302b will now allow candidates who pass the American Registry of Radiologic Technologists (ARRT) Bone Densitometry Equipment Operator Examination (BDEO) to satisfy the examination requirement independent of the Limited Scope examination. The Radiologist Technologist Licensing Board has determined that an applicant who passes the newly developed BDEO exam meets the minimum licensing requirements to operate bone density diagnostic equipment. The categorical content of the BDEO exam was reviewed and approved by a Board committee formed to assess the exam's content. Amendments are also made to add minimum scores for the ARRT Limited Scope of Practice in Radiography Examination and the ARRT BDEO examination. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the September 15, 2003, issue of the Utah State Bulletin, on page 4. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-54-1, and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The Division does not anticipate any additional costs to be incurred beyond those previously identified in the original rule filing affecting this section.

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

❖ OTHER PERSONS: The Division does not anticipate any additional costs for radiology practical technician applicants beyond those previously identified in the original rule filing.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Division does not anticipate any additional costs for radiology practical technician applicants beyond those previously identified in the original rule filing.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No additional fiscal impact to businesses is evident from this change in proposed rule filing. Klare Bachman, 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:

Douglas Vilnius at the above address, by phone at 801-530-6621, by FAX at 801-530-6511, or by Internet E-mail at [dvilnius@utah.gov](mailto:dvilnius@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 01/14/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/2004

AUTHORIZED BY: J. Craig Jackson, Director

**R156. Commerce, Occupational and Professional Licensing.  
R156-54. Radiology Technologist and Radiology Practical  
Technician Licensing Act Rules.  
R156-54-302b. Examination Requirements - Radiology  
Practical Technician.**

In accordance with Subsection 58-54-5(3), the examination requirement for licensure as a radiology practical technician requires passing:

(1) the ARRT Limited Scope of Practice in Radiography Examination with a minimum score of 65% for the following:

- (a) core; and
- (b) one or more of the following sections:
  - (i) chest;
  - (ii) extremities;
  - (iii) skull/sinuses;
  - (iv) spine; and
  - (v) podiatric; ~~or[-]~~

(2) ~~[In place of passing one or more of the sections required in Subparagraph (1)(b), an applicant for licensure may substitute passing]~~ the ARRT Bone Densitometry Equipment Operators Examination (BDEO) with a minimum score of 59%.

**KEY: licensing, radiology technologists, radiology practical technicians**  
**[2003]2004**  
**Notice of Continuation April 8, 2002**

**58-54-1**  
**58-1-106(1)(a)**  
**58-1-202(1)(a)**



**End of the Notices of Changes in Proposed Rules Section**

# FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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Within five years of an administrative rule's original enactment or last five-year review, the 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).

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## Insurance, Administration **R590-160** Administrative Proceedings

### FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 26808  
FILED: 11/25/2003, 08:04

### NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The authority for this rule comes from the following subsections of the code: 1) Subsection 31A-2-201(3)(a) gives the insurance commissioner the authority to write rules to implement the provisions of the insurance code; 2) Subsection 63-46b-1(6) gives an agency the authority to enact rules affecting or governing adjudicative proceedings, which is the purpose of this rule; and 3) Subsection 63-46b-5(1) gives an agency the right to designate one or more categories of adjudicative proceedings as informal and to prescribe procedures for these informal hearings. This rule designates the categories for informal hearings in Section R590-160-4 and in Sections R590-160-7 and R590-160-8 sets rules for such proceedings and their review.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has received no written comments regarding this rule in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is important to the department and those we regulate to set fair and equitable standards that govern administrative procedures and should be continued. This helps all involved in the process to know what is expected of them and what to expect of the process.

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)

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 11/25/2003



## Insurance, Administration **R590-163** Filing Quarterly Statements

### FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 26807  
FILED: 11/25/2003, 07:26

### NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is enacted pursuant to Section 31A-2-201 which gives the commissioner the authority to write rules to implement the provisions of Title 31A. Section 31A-2-202 authorizes the commissioner to prescribe reasonable minimum standards and techniques of accounting and data handling. The annual statement forms prescribed by the commissioner in Subsection 31A-2-202(2) are required in this rule to be filed by domestic insurers quarterly on the dates specified in Section R590-163-4.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has received no comments regarding this rule in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary in that it requires domestic insurance companies to file financial annual statements quarterly based on the National Association of Insurance Commissioners' instructions and accounting practices and should be continued. This standard makes it possible for the department to monitor the financial stability of these insurance companies.

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)

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 11/25/2003



**Public Service Commission,  
Administration  
R746-360  
Universal Public Telecommunications  
Service Support Fund**

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE NO.: 26816  
FILED: 11/25/2003, 15:51

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 54-8b-15 requires that the Public Service Commission (PSC) establish rules governing the administration of the fund. This rule governs maintenance of the fund, establishes its revenue sources and disbursement procedures, and eliminates other sources of support for residential local access networks except for the fund and amounts collected through rates and charges paid by service end-users. All qualifying telecommunications

corporations are able to draw from the fund, which collects and distributes funds in a nondiscriminatory, and a competitively and technologically neutral way.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Pursuant to new legislation, the PSC adopted in 1998 the Universal Public Telecommunications Service Support Fund rule, Rule R746-360. That rule established a 1% surcharge on all intrastate telecommunications services to finance the new fund. Most of the independent, incumbent local exchange companies (ILECs) continued to receive funding as per the prior rule; none receive funding according to the specific terms of the new rule. Consistent with the new law, Rule R746-360 called for benefits calculated according to the old rule to cease by the end of calendar year 1999. Like a couple of other incumbent telephone companies, US WEST did not qualify to receive funding under the old rule. It also did not receive funding under the new rule because a proxy model had not been found satisfactory which would have established the high-cost, qualifying areas within US WEST's certificated territory. The Division feared, and was convinced, that suitably verified and readily operable cost proxy models would not be available early enough to enable the timely calculation of funding eligibility for the independent telephone companies.

Consequently, the Division felt compelled to develop an alternative, reformed method based on embedded costs. The PSC held an Informal pre-rulemaking meeting on September 13, 1999, to receive comments on possible changes to Rule R746-360. The Commission filed an amendment on October 1, 1999, based on the comments, discussion and Commission review after the meeting. This amendment was made effective December 6, 1999. More comments were received in November of 1999. The Commission considered the comments and filed an amendment changing the requirement of making annual reviews to periodic reviews. This change (in response to the comments received) also corrected the mismatch of comparing total costs for a designated area with only a portion of revenues received from the designated area.

The mismatch was corrected by revising the rule to compare the appropriate portion of costs with the appropriate portions of revenues. The amendment also clarified that one-time distributions from the Universal Service Fund (USF) may be made whether or not the telecommunications corporation is receiving, or qualifies for, monthly distributions from the Fund.

In October of 2001, the Commission filed an amendment to incorporate current practice and change annual eligibility review of USF recipients to periodic reviews; correct an error in the rule which matched total costs estimated by cost proxy models with a portion of revenues; to delete provisions which were no longer relevant or applicable in the rule; and to make minor stylistic changes in the text of the rule. No comments were received regarding this change. On May 17, 2001, the PSC received a request for revision of this rule from the Division of Public Utilities (DPU) to align the formula for allocating the USF distribution with telephone company tariffs.

The company tariffs required a higher subscriber contribution calculated in the USF one-time distribution formula creating two problems: 1) it disadvantaged the telephone provider by requiring it to pay the majority of the costs to provide service

to subscribers in high cost areas, and 2) subscribers requested USF assistance so that their up-front payment would be lower. This amendment was made effective October 15, 2001. On July 9, 2001, the PSC filed an amendment to lower the amount of the surcharge in Section R746-360-4 of this rule from .067 to .034%, to more accurately reflect the revenue anticipated to support the USF. No comments were received regarding this amendment. The change was made effective September 1, 2001. An amendment which just became effective on December 1, 2003, changed the surcharge in Section R746-360-4 from .034 to .09% because at the current collection rate of .034% the USF will rapidly decline. Therefore, the collection rate needed to be adjusted.

This change was made to balance revenues collection with anticipated disbursement to support the USF. (DAR NOTE: The amendment that became effective on December 1, 2003, was published in the September 1, 2003, Bulletin under DAR No. 26551.)

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary so that the PSC can continue governing the administration and maintenance of the fund and to establishes its revenue sources and disbursement procedures and should be continued.

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

PUBLIC SERVICE COMMISSION  
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:

Barbara Stroud at the above address, by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at [bstroud@utah.gov](mailto:bstroud@utah.gov)

AUTHORIZED BY: Barbara Stroud, Paralegal

EFFECTIVE: 11/25/2003



## Transportation, Operations, Traffic and Safety **R920-7** Public Safety Program Signing

### FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 26815

FILED: 11/25/2003, 14:37

### NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is adopted pursuant to Section 72-7-107, which requires the department to adopt rules so as to allow for public safety signing by permit.

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: The rule is required by statute and has worked well over the past several years as written and should be continued.

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

TRANSPORTATION  
OPERATIONS, TRAFFIC AND SAFETY  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W  
SALT LAKE CITY UT 84119-5998, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at [jbeadles@utah.gov](mailto:jbeadles@utah.gov)

AUTHORIZED BY: John R. Njord, Executive Director

EFFECTIVE: 11/25/2003



## NOTICES OF RULE EFFECTIVE DATES

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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.

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### Abbreviations

AMD = Amendment  
CPR = Change in Proposed Rule  
NEW = New Rule  
R&R = Repeal and Reenact  
REP = Repeal

### Commerce

#### Real Estate

No. 26581 (AMD): R162-6-2. Standards of Practice.  
Published: September 15, 2003  
Effective: November 19, 2003

No. 26595 (AMD): R162-104. Experience Requirement.  
Published: September 15, 2003  
Effective: November 26, 2003

### Health

#### Community and Family Health Services, Children with Special Health Care Needs

No. 26672 (NEW): R398-10. Autism Spectrum Disorders and Mental Retardation Reporting.  
Published: October 15, 2003  
Effective: November 20, 2003

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

No. 26591 (AMD): R414-1-6. Services Available.  
Published: September 15, 2003  
Effective: November 26, 2003

### Human Services

#### Child and Family Services

No. 26600 (REP): R512-25. Child Protective Services Notification and Due Process.  
Published: September 15, 2003  
Effective: November 18, 2003

No. 26578 (AMD): R512-31-5. Foster Parent Conflict Resolution Procedure.  
Published: September 15, 2003  
Effective: November 19, 2003

No. 26673 (AMD): R512-31-5. Foster Parent Conflict Resolution Procedure.  
Published: October 15, 2003  
Effective: November 19, 2003

No. 26465 (REP): R512-70. Composition and Operation of the Consumer Hearing Panel, and the Requirements for Filing a Complaint with the Panel.  
Published: August 1, 2003  
Effective: November 25, 2003

No. 26466 (AMD): R512-75-1. Introductory Provisions.  
Published: August 1, 2003  
Effective: November 18, 2003

No. 26464 (AMD): R512-75-3. Procedures for Filing an Informal Non-adjudicative Complaint With the Office of the Child Protection Ombudsman.  
Published: August 1, 2003  
Effective: November 18, 2003

No. 26462 (AMD): R512-75-5. Filing of a Consumer Complaint with the Panel without a Decision by the Office of Child Protection Ombudsman.  
Published: August 1, 2003  
Effective: November 18, 2003

No. 26461 (AMD): R512-75-6. Request for Panel Action and Appeal of an Ombudsman Decision to the Consumer Hearing Panel.  
Published: August 1, 2003  
Effective: November 18, 2003

No. 26485 (AMD): R512-75-7. Compliance with Recommendations of the Consumer Hearing Panel.  
Published: August 1, 2003  
Effective: November 18, 2003

No. 26463 (AMD): R512-75-8. Judicial Review of a Decision by the Consumer Hearing Panel.  
Published: August 1, 2003  
Effective: November 18, 2003

### Youth Corrections

No. 26460 (AMD): R547-10. Ex-Offender Policy.  
Published: August 1, 2003  
Effective: November 18, 2003

### Insurance

#### Administration

No. 26667 (AMD): R590-172-4. Rule.  
Published: October 15, 2003  
Effective: November 21, 2003

## NOTICES OF RULE EFFECTIVE DATES

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No. 26502 (AMD): R590-176. Health Benefit Plan Enrollment.  
Published: August 15, 2003  
Effective: November 20, 2003

### Pardons (Board Of)

No. 26663 (AMD): R671-312. Commutation Hearings for Death Penalty Cases.  
Published: October 15, 2003  
Effective: November 19, 2003

No. 26661 (AMD): R671-510. Evidence for Issuance of Warrants.  
Published: October 15, 2003  
Effective: November 19, 2003

No. 26622 (REP): R671-511. Warrants of Arrest.  
Published: October 1, 2003  
Effective: November 19, 2003

No. 26662 (AMD): R671-512. Execution of the Warrant.  
Published: October 15, 2003  
Effective: November 19, 2003

No. 26666 (AMD): R671-516. Parole Revocation Hearings.  
Published: October 15, 2003  
Effective: November 19, 2003

No. 26665 (AMD): R671-518. Conduct of Proceedings When a Criminal Charge Results in Conviction.  
Published: October 15, 2003  
Effective: November 19, 2003

No. 26639 (REP): R671-521. Alternative to Re-Incarceration of Parolees.  
Published: October 1, 2003  
Effective: November 19, 2003

No. 26664 (AMD): R671-522. Continuances Due to Pending Charges.  
Published: October 15, 2003  
Effective: November 19, 2003

### School and Institutional Trust Lands

No. 26658 (NEW): R850-61. Native American Grave Protection and Repatriation.  
Published: October 15, 2003  
Effective: November 17, 2003

**End of the Notices of Rule Effective Dates Section**



# RULES INDEX BY AGENCY (CODE NUMBER) AND BY KEYWORD (SUBJECT)

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The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 2003, including notices of effective date received through December 1, 2003, the effective dates of which are no later than December 15, 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/>).

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## RULES INDEX - BY AGENCY (CODE NUMBER)

### ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b>Administrative Services</b>					
<u>Administration</u>					
R13-1	Public Petitions for Declaratory Orders	26614	5YR	09/10/2003	2003-19/67
<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

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R23-7	Utah State Building Board Policy Statement Master Planning (5YR EXTENSION)	25984	NSC	02/04/2003	Not Printed
R23-7	Utah State Building Board Policy Statement Master Planning	25770	REP	02/04/2003	2003-1/5
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
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R23-11	Facilities Allocation and Sale Procedures	25771	REP	02/04/2003	2003-1/7
R23-13	State of Utah Parking Rules for Facilities Managed by the Division of Facilities Construction and Management	26117	5YR	03/25/2003	2003-8/44
R23-14	Management of Roofs on State Buildings	26115	NEW	05/16/2003	2003-8/7
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
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R25-6	Relocation Reimbursement	26206	5YR	05/01/2003	2003-10/146
R25-6	Relocation Reimbursement	26205	NSC	06/01/2003	Not Printed
R25-7	Travel-Related Reimbursements for State Employees	26203	5YR	05/01/2003	2003-10/146
R25-7	Travel-Related Reimbursements for State Employees	26204	AMD	07/01/2003	2003-10/4
R25-8	Meal Allowance	26716	5YR	10/22/2003	2003-22/54
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R27-3	Vehicle Use Standards	26459	AMD	09/17/2003	2003-15/4
R27-7	Safety and Loss Prevention of State Vehicles	26191	AMD	07/08/2003	2003-10/6
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R33-3	Source Selection and Contract Formation	26138	AMD	05/27/2003	2003-8/9
R33-5	Construction and Architect - Engineer Selection	26139	AMD	05/27/2003	2003-8/15
R33-6	Modification and Termination of Contracts for Supplies and Services	26680	5YR	10/03/2003	2003-21/92
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<u>Marketing and Conservation</u>					
R65-2	Utah Cherry Marketing Order	26383	5YR	06/13/2003	2003-13/62
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R65-7	Horse Racing	26083	AMD	06/09/2003	2003-7/5

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R68-14	Quarantine Pertaining to Gypsy Moth - Lymantria Dispar	26388	5YR	06/13/2003	2003-13/64
R68-16	Quarantine Pertaining to Pine Shoot Beetle, Tomicus piniperda	26389	5YR	06/13/2003	2003-13/64
R68-17	Quarantine Pertaining to Necrotic Strain of the Potato Virus Y	26390	5YR	06/13/2003	2003-13/65
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R81-1-17	Advertising	25886	AMD	02/26/2003	2003-2/5
R81-3	Package Agencies	26323	AMD	08/01/2003	2003-12/16
R81-4A	Restaurants	26324	AMD	08/01/2003	2003-12/18
R81-4B	Airport Lounges	26325	AMD	08/01/2003	2003-12/20
R81-4C	Limited Restaurant Licenses	26326	NEW	08/01/2003	2003-12/21
R81-4D	On-Premise Banquet License	26327	NEW	08/01/2003	2003-12/23
R81-5	Private Clubs	26328	AMD	08/01/2003	2003-12/26
R81-5-5	Advertising	25887	AMD	02/26/2003	2003-2/8
R81-5-15	Minors in Lounge or Bar Areas	26496	NSC	08/01/2003	Not Printed
R81-6-4	Public Service Permittee Operating Guidelines	26329	AMD	08/01/2003	2003-12/29
R81-7	Single Event Permits	26330	AMD	08/01/2003	2003-12/30
R81-7-2	Guidelines for Issuing Permits for Outdoor or Large-Scale Public Events	26479	NSC	08/01/2003	Not Printed
R81-7-3	Guidelines for Issuing Permits for Outdoor Public Events	25615	NSC	01/01/2003	Not Printed
R81-7-3	Guidelines for Issuing Permits for Outdoor or Large-Scale Public Events	25650	AMD	01/24/2003	2002-24/6
R81-8-2	Out of State Business	26331	NSC	07/01/2003	Not Printed
R81-10	On-Premise Beer Retailer	26332	AMD	08/01/2003	2003-12/32
R81-10B	Temporary Special Event Beer Permits	26336	NEW	08/01/2003	2003-12/33
R81-12	Manufacturer Representative (Distillery, Winery, Brewery)	26333	AMD	08/01/2003	2003-12/35
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R137-2	Government Records Access and Management Act	26397	5YR	06/18/2003	2003-14/93
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R151-14	New Automobile Franchise Act Rule	25838	NSC	02/01/2003	Not Printed
R151-14	New Automobile Franchise Act Rule	26199	AMD	06/17/2003	2003-10/9
R151-33	Pete Suazo Utah Athletic Commission Act Rule	25649	AMD	01/15/2003	2002-24/7
R151-33	Pete Suazo Utah Athletic Commission Act Rule	26695	AMD	12/02/2003	2003-21/6
R151-33-102	Definitions	26260	AMD	07/23/2003	2003-11/6
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R152-25a	Telephone and Facsimile Solicitation Act Rule	25724	NEW	01/15/2003	2002-24/9
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R154-10	Utah Digital Signature Act Rules	26691	5YR	10/08/2003	2003-21/93
R154-100	Utah Administrative Procedures Act Rules	26761	5YR	10/29/2003	2003-22/55
<u>Occupational and Professional Licensing</u>					
R156-1	General Rules of the Division of Occupational and Professional Licensing	26549	AMD	10/02/2003	2003-17/4
R156-1-109	Presiding Officers	26604	AMD	11/03/2003	2003-19/3
R156-3a	Architect Licensing Act Rules	26174	AMD	06/03/2003	2003-9/3
R156-9	Funeral Service Licensing Act Rules	26451	AMD	09/04/2003	2003-15/6
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
R156-22-303	Examination Requirements for Licensure as a Professional Land Surveyor	25727	NSC	01/01/2003	Not Printed
R156-26a-302a	Qualifications for CPA Licensure - Education Requirements	26297	AMD	07/17/2003	2003-12/37
R156-28	Veterinary Practice Act Rules	26150	AMD	06/03/2003	2003-9/3
R156-31b	Nurse Practice Act Rules	26319	5YR	06/02/2003	2003-12/70
R156-38	Residence Lien Restriction and Lien Recovery Fund Rules	26192	AMD	06/17/2003	2003-10/12
R156-42a	Occupational Therapy Practice Act Rules	26339	AMD	08/04/2003	2003-13/3
R156-46a	Hearing Instrument Specialist Licensing Act Rules	25987	AMD	03/18/2003	2003-4/7
R156-46b	Division Utah Administrative Procedures Act Rules	26605	AMD	11/03/2003	2003-19/5
R156-46b-403	Evidentiary Hearings in Informal Adjudicative Proceedings	25435	NSC	01/01/2003	Not Printed
R156-47b-202	Massage Therapy Education Peer Committee	26126	AMD	05/19/2003	2003-8/17
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
R156-49	Dietitian Certification Act Rules	26668	5YR	09/29/2003	2003-20/43
R156-53	Landscape Architects Licensing Act Rules	26320	5YR	06/02/2003	2003-12/70
R156-55a	Utah Construction Trades Licensing Act Rules	26175	AMD	06/03/2003	2003-9/6
R156-55a-301	License Classifications - Scope of Practice	26338	NSC	07/01/2003	Not Printed
R156-56	Utah Uniform Building Standard Act Rules	25821	NSC	01/01/2003	Not Printed
R156-56	Utah Uniform Building Standard Act Rules	25411	AMD	01/01/2003	2002-20/3
R156-56	Utah Uniform Building Standard Act Rules	26154	AMD	07/01/2003	2003-9/7
R156-56	Utah Uniform Building Standard Act Rules	26153	AMD	07/17/2003	2003-9/33
R156-56	Utah Uniform Building Standard Act Rules	26153	CPR	07/17/2003	2003-12/52
R156-56-707	Statewide Amendments to the IPC	26152	AMD	07/01/2003	2003-9/57
R156-58	Preneed Funeral Arrangement Act Rules	26469	REP	09/04/2003	2003-15/12
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R156-60a	Social Worker Licensing Act Rules	25629	AMD	01/02/2003	2002-23/8
R156-60a	Social Worker Licensing Act Rules	26500	AMD	09/16/2003	2003-/16
R156-60c	Professional Counselor Licensing Act Rules	26284	AMD	07/03/2003	2003-11/7
R156-60c-302b	Qualifications for Licensure - Experience Requirements	26470	NSC	08/01/2003	Not Printed
R156-63	Security Personnel Licensing Act Rules	26193	AMD	08/18/2003	2003-/10
R156-63	Security Personnel Licensing Act Rules	26193	CPR	08/18/2003	2003-/14
R156-68	Utah Osteopathic Medical Practice Act Rules	26321	5YR	06/02/2003	2003-12/71
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R162-6-2	Standards of Practice	26494	NSC	08/01/2003	Not Printed
R162-6-2	Standards of Practice	26581	AMD	11/19/2003	2003-18/5
R162-8-9	Disclosure Requirements	25663	AMD	01/16/2003	2002-24/11
R162-9	Continuing Education	26118	AMD	05/21/2003	2003-8/19
R162-104	Experience Requirement	26595	AMD	11/26/2003	2003-18/8
R162-104-17	Special Circumstances	26342	AMD	08/27/2003	2003-13/4
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
R162-106-7	Sales and Listing History	26427	AMD	08/27/2003	2003-14/3
R162-107	Unprofessional Conduct	25981	5YR	01/21/2003	2003-4/52
R162-210	Examination, Initial Application, and Renewal.	26833	EMR	12/04/2003	Not Printed
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<u>Community Development</u>					
R199-8	Permanent Community Impact Fund Board Review and Approval of Applications for Funding Assistance	26702	AMD	12/08/2003	2003-21/43
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<u>Community Development, Fine Arts</u>					
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R207-2	Policy for Commissions, Purchases, and Donations to, and Loans from, the Utah State Art Collections	26186	AMD	09/12/2003	2003-10/21
<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>					
R251-103	Undercover Roles of Offenders	26832	5YR	12/03/2003	Not Printed
R251-105	Applicant Qualifications for Employment with Department of Corrections	26831	5YR	12/03/2003	Not Printed
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

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<u>Administration</u>					
R277-104	USOE ADA Complaint Procedure	26340	5YR	06/04/2003	2003-13/65
R277-106	Utah Professional Practices Advisory Commission Appointment Process	26687	5YR	10/06/2003	2003-21/94
R277-108	Annual Assurance of Compliance by School Districts	26190	AMD	06/17/2003	2003-10/22
R277-419	Pupil Accounting	26436	AMD	08/15/2003	2003-14/3
R277-436	Gang Prevention and Intervention Programs in the Schools	26341	5YR	06/04/2003	2003-13/65
R277-454	Construction Management of School Building Projects	26438	AMD	08/15/2003	2003-14/8
R277-460	Distribution of Substance Abuse Prevention Account	26593	5YR	08/29/2003	2003-18/47
R277-469	Instructional Materials Commission Operating Procedures	26157	5YR	04/04/2003	2003-9/134
R277-470	Charter Schools	25726	AMD	01/15/2003	2002-24/12
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### ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

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	26628	R671-512	5YR	09/11/2003	2003-19/70
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