

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT

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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, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone (801) 538-3218, FAX (801) 538-1773.

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NOTICES OF PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between March 16, 1998, 5:01 p.m., and April 1, 1998, 5:00 p.m., are included in this, the April 15, 1998, 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 Rules being repealed are completely struck out.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 rules that are 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 May 15, 1998. 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 August 13, 1998, 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 (1996); and UTAH ADMINISTRATIVE CODE Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page.

Administrative Services, Administrative Rules
R15-4-3
Publication Dates and Deadlines

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 20952
FILED: 03/30/98, 08:51
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: Since the 1980s, the filing deadline for rules has been 5 p.m. With electronic filing of rules, it is no longer necessary for a person to be at the Division office to receive filings--the E-mail system records and acknowledges receipt of filings automatically. Some agencies have found it difficult to make the 5 p.m. deadline when board or commission meetings end shortly before 5 p.m. Therefore, the Division proposes to change the filing deadline from 5 p.m. to 11:59:59 p.m.

SUMMARY: The proposed amendment to Section R15-4-3 changes the filing deadline from 5 p.m. to 11:59:59 p.m.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 63-46a-4, 63-46a-6, 63-46a-7, and 63-46a-10

ANTICIPATED COST OR SAVINGS TO:

THE STATE BUDGET: No costs or savings. These changes constitute a convenience to agencies--accommodating flex hour scheduling, and avoiding the rush to file rules at 5 p.m. which has caused some agencies to submit hastily prepared rules to meet deadlines.

LOCAL GOVERNMENTS: None. The Utah Administrative Rulemaking Act (Title 63, Chapter 46a) and the rules promulgated by the Division pursuant to the act do not apply to local governments.

OTHER PERSONS: No costs or savings. Shifting the filing deadline will be transparent to other persons, except that some rules may be published on a more timely basis.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No compliance costs are associated with the changes to Section R15-4-3. Shifting the filing deadline will be transparent to persons who read the Bulletin or Digest.

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

Administrative Services
Administrative Rules
4120 State Office Building
PO Box 141007
Salt Lake City, UT 84114-1007, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Kenneth A. Hansen at the above address, by phone at (801) 538-3777, by FAX at (801) 538-1773, or by Internet E-mail at asitmain.khansen@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/15/98.

THIS FILING MAY BECOME EFFECTIVE ON: 07/01/98

AUTHORIZED BY: Kenneth A. Hansen, Director

R15. Administrative Services, Administrative Rules.
R15-4. Administrative Rulemaking Procedures.
R15-4-3. Publication Dates and Deadlines.

(1) For the purposes of Subsections 63-46a-4(2) and 63-46a-6(1), an agency shall file its rule and rule analysis by [5]11:59:59 p.m. on the fifteenth day of the month for publication in the bulletin and digest issued on the first of the next month, and by [5]11:59:59 p.m. on the first day of the month for publication on the fifteenth of the same month.

(a) If the first or fifteenth day is a Saturday, or a Tuesday, Wednesday, Thursday, or Friday holiday, the agency shall file the rule and rule analysis by [5]11:59:59 p.m. on the previous regular business day.

(b) If the first or fifteenth day is a Sunday or Monday holiday, the agency shall file the rule and rule analysis by [5]11:59:59 p.m. on the next regular business day.

(2) For all purposes, the official date of publication for the bulletin and digest shall be the first and fifteenth days of each month.

KEY: administrative law

[June 1, 1996] July 1, 1998

63-46a-10

Notice of Continuation October 11, 1997

Agriculture and Food, Plant Industry
R68-15
Quarantine Pertaining to Japanese Beetle, (Popillia Japonica)

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 20962
FILED: 04/01/98, 09:10
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: Establish a quarantine for the control of Japanese Beetle, which attacks the roots, leaves, and fruits of many plants.

SUMMARY: In Section R68-15-5 add the phrase "or an area known to be infested", to make the rule more effective.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Subsections 4-2-2(1)(k) and 4-2-2(1)(1)(ii)

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
 - ❖LOCAL GOVERNMENTS: None.
 - ❖OTHER PERSONS: None.
- COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Agriculture and Food
 Plant Industry
 350 North Redwood Road
 PO Box 146500
 Salt Lake City, UT 84114-6500, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
 Dick Wilson at the above address, by phone at (801) 538-7180, by FAX at (801) 538-7126, or by Internet E-mail at agmain.dwilson@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/15/98.

THIS FILING MAY BECOME EFFECTIVE ON: 05/16/98

AUTHORIZED BY: Van Burgess, Deputy Commissioner

R68. Agriculture, Plant Industry.
R68-15. Quarantine Pertaining to Japanese Beetle, (*Popillia Japonica*).

.....

R68-15-3. Areas Under Quarantine.

A. The entire states of Alabama, Connecticut, Delaware, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia.

B. In Canada:

1. In the Province of Ontario: Lincoln, Welland, and Wentworth.

2. In the Province of Quebec: Missiquoi and St. Jean.

[3]C. Any areas not mentioned above and subsequently found to be infested.

.....

R68-15-5. Restrictions.

A. All articles and commodities under quarantine are prohibited entry into Utah from an area under quarantine or an area known to be infested with the following exceptions:

1. Certificate of Treatment. All of the articles and commodities covered are approved for entry into Utah when accompanied by a certificate issued by an authorized state agricultural official at origin stating that the article or shipment was treated for Japanese beetle or grown in accordance with methods and procedures approved and prescribed by the Commissioner of the Utah Department of Agriculture. A Certificate of Treatment must include the date of treatment. Shipment of the articles or commodities must not take place sooner than ten (10) days after the date of treatment.

2. Certificate of Origin. Commercial plant shipments with soil may be shipped from an area under quarantine into Utah provided such shipments are accompanied by a certificate issued by an authorized state agricultural official at origin. Such certificates shall be used only if the shipment confirms fully with either (a), (b), or (c) below:

a. The greenhouse in which the plants were produced was tightly constructed so that adult Japanese beetles would not gain entry, the plants and greenhouses were inspected and found to be free from all stages of Japanese beetle, and the plants and soil were protected from subsequent infestation while being stored, packed and shipped; or

b. The plants were not produced in the regulated area, were transported into the regulated area in a closed conveyance or closed containers and at all times thereafter were protected from becoming infested with Japanese beetle; or

c. States or portions of states listed in the area under quarantine may have counties that are not infested with Japanese beetle. Shipments of articles and commodities covered will be accepted from these noninfested counties if annual surveys are made in such counties and the results of such surveys are negative for Japanese beetle. A list of counties so approved will be maintained by the Commissioner of the Utah Department of Agriculture.

3. Agricultural officials of other states may recommend a noninfested county be placed on the approved county list by writing for such approval and stating how the surveys were made giving the following information:

i. Area surveyed.

ii. How survey was carried out.

iii. Personnel involved.

iv. If county was previously infested, give date of last infestation.

v. The recommendation for approval of such counties will be evaluated by the Division of Plant Industry, Utah Department of Agriculture.

If heavy infestations occur in neighboring counties, approval may be denied. To be maintained on approved list, each county must be reproofed every twelve (12) months. Shipments of articles and commodities under quarantine from noninfested counties will only be allowed entry into Utah if the noninfested county has been placed on the approved list prior to the arrival of the shipment to Utah.

4. Privately owned house plants grown indoors may be inspected and approved for entry by Utah State Plant Quarantine Officers if found free from Japanese beetle.

.....

KEY: quarantine

~~[1993]~~1998

Notice of Continuation March 5, 1998

4-2-2

4-35-9



Commerce, Occupational and Professional Licensing **R156-22**

Professional Engineers and Professional Land Surveyors Licensing Act Rules

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 20940

FILED: 03/24/98, 15:56

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: After Division and Board review, changes are being made. Also, during 1997, the Administrative Rules Review Committee requested the Division to further define and/or clarify the definitions in Subsections R156-22-102(3) and (11) regarding "employee" and "unlicensed employees, subordinates, associates, or drafters of a person licensed under this chapter".

SUMMARY: Amended the following definitions in Section R156-22-102: "employee", "responsible charge", and "unlicensed employees, subordinates, associates, or drafters of a person licensed under this chapter". Deleted the following definitions in Section R156-22-102 as they are no longer necessary since the information is contained in other sections of the rule: "full time", "qualifying experience for licensure as a professional engineer", and "qualifying experience for licensure as a land surveyor". Amendments were made to Section R156-22-201 regarding engineering program criteria. Added that any deficiencies in course work which is noted by the National Council of Examiners for Engineering and Surveying (NCEES) Foreign Evaluations Department may be satisfied by successfully completing the deficiencies in course at a recognized college or university approved by the Division in collaboration with the Board. Amendments were made to Sections R156-22-202, R156-22-203, and R156-22-302 with respect to qualifying experience for licensure as a professional engineer, professional structural engineer and professional land surveyor. Clarifications were made regarding verifications of qualifying experience that are to be submitted to the Division. Defined

qualifying experience for a professional engineer or professional land surveyor applicant who is licensed in another state. Added disciplines for the NCEES Principles and Practice of Engineering (PPE) examination. Revised the Utah Law and Rule examination so it is an open book, take home examination which is completed as a part of the application process. Made additions to Section R156-22-301 regarding equivalent land surveying program. Added course content areas for hours of course work required. Added to Section R156-22-401 additional criteria for waiving the qualifying examination for professional engineers, professional structural engineers and professional land surveyors applying for licensure by endorsement. Deleted requirements that the NCEES PPE Examination and the NCEES Principles and Practice of Land Surveyors (PPLS) Examination can only be taken upon completion of the qualifying experience.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 58-22-101, and Subsections 58-1-106(1) and 58-1-202(1)

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
- ❖LOCAL GOVERNMENTS: None.
- ❖OTHER PERSONS: Savings of \$55 examination fee to applicants for licensure as a professional engineer, professional structural engineer, and professional land surveyor since the Utah Law and Rules examination is now an open book, take home examination.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Savings of \$55 examination fee to applicants for licensure as a professional engineer, professional structural engineer, and professional land surveyor since the Utah Law and Rules examination is now an open book, take home examination.

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

Commerce
Occupational and Professional Licensing
Fourth Floor, Heber M. Wells Building
160 East 300 South
PO Box 146741
Salt Lake City, UT 84114-6741, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

David Fairhurst at the above address, by phone at (801) 530-6621, by FAX at (801) 530-6511, or by Internet E-mail at brdopl.dfairhur@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/15/98; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 04/21/98, 9:00 a.m., Room 428, 160 East 300 South, Salt Lake City, UT.

THIS FILING MAY BECOME EFFECTIVE ON: 05/16/98

AUTHORIZED BY: J. Craig Jackson, Director

R156. Commerce, Occupational and Professional Licensing.
R156-22. Professional Engineers and Professional Land Surveyors Licensing Act Rules.
R156-22-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 22, as used in Title 58, Chapters 1 and 22, or these rules:

(1) "Complete and final" as used in ~~S[ub]section 58-22-603[+]~~ means "complete construction plans" as defined in Subsection 58-22-102(3).

(2) "Direct supervision" as used in Subsection 58-22-102(10) means "supervision" as defined in Subsection 58-22-102(16).

(3) ~~"Employee, subordinate, associate, or drafter of a licensee" as used in Subsections 58-22-102(16), 58-22-603(1)(b) and these rules means one or more individuals [who are working or providing services for compensation paid in the form of wages or salary from which there is withheld or should be withheld income taxes or social security taxes under applicable law]not licensed under this chapter, who are working for, with, or providing professional engineering, professional structural engineering, or professional land surveying services directly to and under the supervision of a person licensed under this chapter.~~

(4) "Engineering surveys" as used in Subsection 58-22-102(9) include all survey activities required to support the sound conception, planning, design, construction, maintenance, and operation of engineered projects, but exclude the surveying of real property for the establishment of land boundaries, rights-of-way, easements, alignment of streets, and the dependent or independent surveys or resurveys of the public land survey system.

(5) ~~["Full time" means a minimum of 30 hours per week for periods of time not less than 10 weeks in length.~~

~~(6) "Qualifying experience for licensure as a professional engineer" as used in Section R156-22-203 means full time professional engineering performed by an applicant for licensure as a professional engineer requiring the application of the engineering sciences in the investigation, planning, design and construction of engineering works and systems performed under the supervision of a licensed professional engineer.~~

~~(7) "Qualifying experience for licensure as a land surveyor" as used in Section R156-22-205 means full time professional land surveying performed by an applicant for licensure as a professional land surveyor requiring actual field and office time spent monumenting property boundaries, platting and laying out lands and subdivisions, recording plats and keeping accurate records and field notes performed under the supervision of a licensed professional land surveyor.~~

(8) "Recognized jurisdiction" as used in Subsection 58-22-302(4)(d)(i), for licensure by endorsement, means any state, district or territory of the United States, or any foreign country who issues licenses for professional engineers, professional structural engineers, or professional land surveyors, and whose licensure requirements include:

(a) Professional Engineer.

(i) a bachelors or post graduate degree in engineering or equivalent education as determined by the NCEES Foreign ~~[Engineering Education]Evaluations Department [Program]~~and four years of full time engineering experience under supervision of one or more licensed engineers; or eight years of full time engineering experience under supervision of one or more licensed professional engineers; and

(ii) passing the NCEES Principles and Practice of Engineering Examination or passing a professional engineering examination that is substantially equivalent to the NCEES Principles and Practice of Engineering Examination.

(b) Professional Structural Engineer.

(i) a bachelors or post graduate degree in engineering or equivalent education as determined by the NCEES Foreign ~~[Engineering Education]Evaluations Department [Program]~~and four years of full time engineering experience under supervision of one or more licensed engineers; or eight years of full time engineering experience under supervision of one or more licensed professional engineers;

(ii) passing the NCEES Principles and Practice of Engineering Examination - Civil or passing a professional engineering examination that is substantially equivalent to the NCEES Principles and Practice of Engineering Examination - Civil;

(iii) passing the NCEES Structural I and II Examination or passing a professional engineering examination that is substantially equivalent to the NCEES Structural I and II Examination; and

(iv) three years of licensed experience in professional structural engineering.

(c) Professional Land Surveyor.

(i) a two or four year degree in land surveying or equivalent education as determined by the NCEES Foreign ~~[Engineering Education]Evaluations Department [Program]~~and four years of full time land surveying experience under supervision of one or more licensed professional land surveyors; or eight years of full time land surveying experience under supervision of one or more licensed professional land surveyors; and

(ii) passing the NCEES Principles and Practice of Land Surveying Examination or passing a professional land surveying examination that is substantially equivalent to the NCEES Principles and Practice of Land Surveying Examination.

~~(9)6~~ "Responsible charge" by a principal as used in Subsections 58-22-102(7) and 58-22-305(7) means that the licensee is assigned to and is personally accountable for the production of specified~~[direct control and management by a principal over the practice of]~~ professional engineering, professional structural engineering or professional land surveying projects within~~[by]~~ an organization.

~~(10)7~~ "TAC/ABET" means Technology Accreditation Commission/Accreditation Board for Engineering and Technology.

~~(11)8~~ "Unlicensed employees, subordinates, associates, or drafters of a person licensed under this chapter" as used in Subsection 58-22-305(4) means persons not licensed as a professional engineer, professional structural engineer, or professional land surveyor, who perform professional engineering or professional land surveying services under the supervision of a licensed professional engineer, professional structural engineer or professional land surveyor, and who do not offer professional engineering or professional land surveying services directly to the public.~~"Under the direction of the licensee" as used in Subsection 58-22-102(16), as part of the definition of "supervision of an employee, subordinate, associate, or drafter of a licensee", means that the unlicensed employee, subordinate, associate, or drafter of a person licensed under this chapter engages in the practice of professional engineering, professional structural engineering, or professional land surveying only on work initiated by a person licensed under this chapter, and only under the administration,~~

charge, control, command, authority, oversight, guidance, jurisdiction, regulation, management, and authorization of a person licensed under this chapter.

(12) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 22, is further defined, in accordance with Subsection 58-1-203(5), in Section R156-22-601.

R156-22-201. Engineering Program Criteria.

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

(1) The bachelors or post graduate engineering program shall be accredited by EAC/ABET or the Canadian Engineering Accrediting Board (CEAB).

(2) The post graduate engineering degree, when not accredited by EAC/ABET or CEAB, is earned from an institution which offers a bachelors or masters degree in an engineering program accredited by EAC/ABET or CEAB in the same specific engineering discipline as the earned post graduate degree.

(3) If the degree was earned in a foreign country, the engineering curriculum shall be determined to be substantially [equivalent to a EAC/ABET accredited program by the NCEES Foreign ~~Engineering Education~~ Evaluations Department ~~Program~~]. Any deficiencies in course work noted by the NCEES Foreign Evaluations Department may be satisfied by successfully completing the deficiencies in course work at a recognized college or university approved by the division in collaboration with the board.

R156-22-202. Qualifying Experience ~~Requirements~~ for Licensure as a Professional Engineer ~~Supervision of Construction Work Not Qualifying Experience Verifications Required~~.

(1) In accordance with Subsection 58-22-302(1)(e), [the qualifying experience requirements for licensure as a professional engineer are established as follows] an applicant for licensure as a professional engineer shall comply with one or more of the following qualifying experience requirements:

(1a) ~~[Each applicant shall complete]~~ Submit verification of qualifying experience on forms available from the division from one or more licensed professional engineers who have provided supervision or who have personal knowledge of the applicant's knowledge, ability, and competence to practice professional engineering documenting completion of a minimum of four calendar years of qualifying experience in professional engineering approved by the division in collaboration with the board in accordance with the following:

(a) Up to one year of qualifying experience may be obtained while enrolled in an engineering program meeting the criteria set forth in Section R156-22-201.

(b) Unlimited qualifying experience may be obtained after meeting the education requirements.

(c) A maximum of three of the four years of qualifying experience may be approved by the board for persons who complete one or more of the following:

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

(B) A maximum of three years of qualifying experience may be granted for conducting research in a college or university offering an engineering curriculum accredited by EAC/ABET.

(C) A maximum of one year of qualifying experience may be granted for completion of a masters degree in engineering ~~from an institution which offers a bachelor of science degree accredited by EAC/ABET, when the degree is the second professional engineering degree conferred~~ provided that both the earned bachelors and masters degree in engineering meet the program criteria set forth in Section R156-22-201.

(D) A maximum of two years of qualifying experience may be granted for completion of a doctorate degree in engineering ~~from an institution which offers a bachelor of science degree accredited by EAC/ABET, when the degree is the second professional engineering degree conferred~~ provided that both the earned bachelors or masters degree and doctorate degree in engineering meet the program criteria set forth in Section R156-22-201; or

(b) Submit documentation of two years of licensed experience in a recognized jurisdiction as a professional engineer.

(2) An applicant who was unsuccessful in obtaining licensure by experience before July 1, 1996, but who passed the NCEES Fundamentals of Engineering Examination and completed four years of qualifying experience before July 1, 1996, and who thereafter completes the education requirements in Section R156-22-201, may receive credit for the qualifying experience obtained before July 1, 1996 regardless of the requirements of Subsection (1).

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

(4) ~~[Each applicant shall submit a minimum of three verifications of qualifying experience on forms available from the division from licensed professional engineers who have provided supervision or who have personal knowledge of the applicant's knowledge, ability and competence to practice professional engineering.] Full or part time employment, research, or teaching for periods of time less than ten weeks in length will not be considered as qualifying experience.~~

R156-22-203. Experience Requirements for Licensure as a Professional Structural Engineer.

(1) In accordance with Subsection 58-22-302(2)(e), each applicant shall submit ~~[a minimum of three]~~ verification[s] of professional structural engineering experience on forms available from the division from one or more licensed professional engineers or professional structural engineers who have personal knowledge of the applicant's knowledge, ability and competence to practice professional structural engineering, which experience is in addition to the qualifying experience required for licensure as a professional engineer.

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

(a) structural design of any building or structure two stories and more, or 45 feet in height, designed in Uniform Building Code (UBC) seismic zones 2, 3, or 4;

(b) structural design for a major seismic retrofit/rehabilitation of an existing building or structure in UBC seismic zones 2, 3, or 4; or

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

(3) Professional structural engineering experience shall include ~~[responsible charge of]~~ structural design in all of the following areas:

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

- (i) steel;
- (ii) concrete;
- (iii) wood; or
- (iv) masonry;

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

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

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

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

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

R156-22-204. Examination Requirements for Licensure as a Professional Engineer.

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

(1) the NCEES Fundamentals of Engineering ("FE") Examination with a passing score as established by the NCEES;

(2) ~~[upon completion of the qualifying experience requirement,]~~the NCEES Principles and Practice of Engineering ("PPE") Examination with a passing score as established by the NCEES in one of the following disciplines: agriculture, chemical, civil, control systems, electrical, environmental, fire protection, industrial, manufacturing, mechanical, metallurgical, mining/mineral, nuclear, and petroleum; and

(3) as part of the application for license, pass all questions on the open book, take home[the] Utah Law and Rules Examination[with a score of at least 75.]

R156-22-205. Examination Requirements for Licensure as a Professional Structural Engineer.

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

(1) the NCEES Fundamentals of Engineering Examination with a passing score as established by the NCEES;

(2) the NCEES Principles and Practice Examination in the ~~[category]~~discipline of civil ~~[or structural]~~ with a passing score as established by the NCEES;

(3) the NCEES Structural I and Structural II Examinations with a passing score as established by the NCEES or the 16 hour

California Structural Examination with a passing score as established by the California engineering board; and

(4) as part of the application for license, pass all questions on the open book, take home[the] Utah Law and Rules Examination [with a passing score of at least 75] except for individuals who may have already passed a previous edition of the same examination for licensure as a professional engineer.

R156-22-301. Equivalent Land Surveying Program for Licensure as a Professional Land Surveyor.

In accordance with Subsection 58-22-302(3)(d), an equivalent land surveying program for licensure as a professional land surveyor is defined as an earned bachelors or masters degree from a curriculum related to land surveying and completion of a minimum of 22 semester hours or 32 quarter hours~~[or equivalent semester hours]~~ of course work in land surveying which shall include the following courses:

(a) successful completion of a minimum of one course in each of the following content areas:

- (i) boundary law;
- (ii) writing legal descriptions;
- (iii) public land survey system;~~[and]~~
- (iv) surveying field techniques; and

(b) the remainder of the 22 semester hours or 32 quarter hours may be made up of successful completion of courses from the following content areas:

- (i) photogrammetry;
- (ii) studies in land records or land record systems;
- (iii) survey instrumentation;
- (iv) global positioning systems;
- (v) geodesy;
- (vi) control systems;
- (vii) land development;
- (viii) drafting, not to exceed six semester hours or eight quarter hours; and
- (ix) algebra, geometry, trigonometry, not to exceed six semester hours or eight quarter hours.

R156-22-302. Qualifying Experience ~~[Requirements]~~ for Licensure as a Professional Land Surveyor~~[-- Verifications Required]~~.

(1) In accordance with Subsections 58-22-302(3)(e) and (f), ~~[qualifying experience for licensure as a professional land surveyor is defined, clarified or established as follows]~~an applicant for licensure as a professional land surveyor shall comply with one or more of the following qualifying experience requirements:

(a) Submit verification of qualifying experience on forms available from the division from one or more licensed professional land surveyors who have provided supervision or who have personal knowledge of the applicant's knowledge, ability, and competence to practice professional land surveying in accordance with the following:

([+]) Applicants who have met the education requirements in Subsection 58-22-302(3)(d) shall document four years of qualifying experience in land surveying which experience may be obtained before, during or after completing the education requirements for licensure.

(2)ii Applicants who did not complete the education requirements in Subsection 58-22-302(3)(d) shall document eight years of qualifying experience in land surveying[-]; or

(b) Submit documentation of two years of licensed experience in a recognized jurisdiction as a professional land surveyor.

~~Each applicant shall submit a minimum of three verifications of qualifying experience on forms available from the division from licensed professional land surveyors who have provided supervision or who have personal knowledge of the applicant's knowledge, ability and competence to practice professional land surveying.~~

(2) Full or part time employment or periods of time less than ten weeks in length will not be considered as qualifying experience.

R156-22-303. Examination Requirements for Licensure as a Professional Land Surveyor.

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

(1) the NCEES Fundamentals of Land Surveying ("FLS") Examination with a passing score as established by the NCEES;

(2) ~~upon completion of the qualifying experience,~~ the NCEES Principles and Practice of Land Surveying ("PPLS") Examination with a passing score as established by the NCEES; and

(3) the Utah Local Practice Examination with a passing score of at least 75.

R156-22-401. Examination Requirements for Licensure by Endorsement.

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

(1) An applicant for licensure as a professional engineer by endorsement shall comply with the examination requirements in Section R156-22-204 except that the board may waive one or more of the following examinations under the following conditions:

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

(b) the NCEES PPE Examination for an applicant who is a principal for five of the last seven years preceding the date of the license application, who has been continuously licensed in good standing for the past 20 years preceding the date of the license application, and who was not required to pass the NCEES PPE Examination for initial licensure from the recognized jurisdiction the applicant was originally licensed.

(2) An applicant for licensure as a professional structural engineer by endorsement shall comply with the examination requirements in Section R156-22-205 except that the board may waive the NCEES FE Examination for an applicant who is a principal for five of the last seven years preceding the date of the license application and who was not required to pass the NCEES FE Examination for initial licensure from the recognized jurisdiction the applicant was originally licensed.

(3) An applicant for licensure as a professional land surveyor by endorsement shall comply with the examination requirements in

Section R156-22-303 except that the board may waive either the NCEES FLS Examination or the NCEES PPLS Examination or both to an applicant who is a principal for five of the last seven years preceding the date of the license application and who was not required to pass the NCEES FLS Examination or the PPLS Examination for initial licensure from the recognized jurisdiction the applicant was originally licensed.

KEY: engineers, surveyors, professional land surveyors*, professional engineers*
[September 17, 1996]1998 58-22-101
Notice of Continuation January 27, 1998 58-1-106(1)
58-1-202(1)



Commerce, Occupational and Professional Licensing
R156-37-605
Emergency Verbal Prescription of Schedule II Controlled Substances

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 20941

FILED: 03/24/98, 15:56

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: Due to changes in federal regulations on emergency filing of Schedule II controlled substances, the Division needs to make this rule consistent with the federal law.

SUMMARY: Change made that a prescriber of Schedule II controlled substances shall furnish to a pharmacy a hard copy of the script within seven working days of the verbal order. The existing rule indicates three days.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Subsections 58-37-6(1) and 58-1-106(1)

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
 - ❖LOCAL GOVERNMENTS: None.
 - ❖OTHER PERSONS: None - The Division has determined there are no costs or savings as a result of this change. The change being made allows the practitioner a longer time to get the hard copy of the script to the pharmacy.
- COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Commerce
Occupational and Professional Licensing
Fourth Floor, Heber M. Wells Building
160 East 300 South

PO Box 146741
Salt Lake City, UT 84114-6741, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Diane Blake at the above address, by phone at (801) 530-6179, by FAX at (801) 530-6511, or by Internet E-mail at brdopl.dblake@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/15/98.

THIS FILING MAY BECOME EFFECTIVE ON: 05/16/98

AUTHORIZED BY: J. Craig Jackson, Director

R156. Commerce, Occupational and Professional Licensing.
R156-37. Controlled Substance Act Rules of the Division of Occupational and Professional Licensing.
R156-37-605. Emergency Verbal Prescription of Schedule II Controlled Substances.

(1) Prescribing practitioners may give a verbal prescription for a Schedule II controlled substance if:

(a) the quantity dispensed is only sufficient to cover the patient for the emergency period, not to exceed 72 hours;

(b) the prescribing practitioner has examined the patient within the past 30 days, the patient is under the continuing care of the prescribing practitioner for a chronic disease or ailment, or the prescribing practitioner is covering for another practitioner and has knowledge of the patient's condition; and

(c) a written prescription is delivered to the pharmacist within ~~three~~seven working days of the verbal order.

(2) A pharmacist may fill an emergency verbal or telephonic prescription from a prescribing practitioner for a Schedule II controlled substance if:

(a) the amount does not exceed a 72 hour supply; and

(b) the filling pharmacist reasonably believes that the prescribing practitioner is licensed to prescribe the controlled substances or makes a reasonable effort to determine that he is licensed.

KEY: controlled substances, licensing

~~[January 16, 1996]~~1998

Notice of Continuation May 29, 1997

58-1-106(1)

58-37-6(1)



Commerce, Occupational and
Professional Licensing
R156-63
Security Personnel Licensing Act Rules

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 20930

FILED: 03/19/98, 13:07

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: After Division and Board review, changes are being made to the rules to provide further clarification.

SUMMARY: Added a definition for "qualifying agent" so as to clarify who can be a qualifying agent for a contract security company. Added that unprofessional conduct includes a judgment on, or a judicial or prosecutorial agreement concerning a felony or misdemeanor crime of moral turpitude, entered against an individual by a federal, state or local court, regardless of whether the court has made a finding of guilt, accepted a plea of guilty or nolo contendere (no contest) by an individual, or an individual has entered into participation in a first offender, deferred adjudication or other program or arrangement where judgment of conviction is withheld.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 58-63-101, and Subsections 58-1-106(1) and 58-1-202(1)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None.

❖LOCAL GOVERNMENTS: None.

❖OTHER PERSONS: None - The Division has determined that there are no costs or savings impact associated with this rule filing as the changes being made are only clarifications.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Commerce
Occupational and Professional Licensing
Fourth Floor, Heber M. Wells Building
160 East 300 South
PO Box 146741
Salt Lake City, UT 84114-6741, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Clyde Ormond at the above address, by phone at (801) 530-6254, by FAX at (801) 530-6511, or by Internet E-mail at brdopl.cormond@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/15/98; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 05/07/98, 9:00 a.m., Room 428, 160 East 300 South, Salt Lake City, UT.

THIS FILING MAY BECOME EFFECTIVE ON: 05/16/98

AUTHORIZED BY: J. Craig Jackson, Director

R156. Commerce, Occupational and Professional Licensing.
R156-63. Security Personnel Licensing Act Rules.
R156-63-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 63, as used in Title 58, Chapters 1 and 63 or these rules:

(1) "Approved basic education and training programs" as used in these rules means basic education and training that meets the standards set forth in Sections R156-63-602, R156-63-603 and R156-63-604 and that is approved by the division.

(2) "Contract security company" includes:

(a) a peace officer who engages in providing security or guard services when acting in a capacity other than as an employee of the law enforcement agency by whom he is employed, or for other than the regular salary, whether at regular pay or overtime pay, from the law enforcement agency by whom he is employed; but does not include:

(b) a company which hires as employees, individuals to provide security or guard services for the purpose of protecting tangible personal property, real property, or the life and well being of personnel employed by, or animals owned by or under the responsibility of the that company, as long as the security or guard services provided by the company do not benefit any person other than the employing company.

(3) "Employee" means an individual providing services in the security guard industry for compensation when the amount of compensation is based directly upon the security guard services provided and upon which the employer is required under law to withhold federal and state taxes, and for whom the employer is required under law to provide worker's compensation insurance coverage and pay unemployment insurance.

(4) "Immediate supervision" means the supervisor is available for immediate voice communication and can be available for in-person consultation within a reasonable period of time with an on-the-job trainee.

(5) "Officer" as used in Subsections 58-63-201(1)(a) and R156-63-302a(1)(b) means a manager, director, or administrator of a contract security company.

(6) "Qualified continuing education" as used in these rules means continuing education that meets the standards set forth in Subsection R156-63-304.

(7) "Qualifying agent" means an individual who is an officer, director, partner, proprietor or manager of a contract security company who exercises material authority in the conduct of the contract security company's business by making substantive technical and administrative decisions relating to the work performed for which a license is required under this chapter.

~~(7)8~~ "Supervised on-the-job training" means training of an armed or unarmed private security officer or alarm response runner, under the immediate supervision of a licensed private security officer who has been assigned to train and develop the on-the-job trainee.

~~(8)9~~ "Unprofessional conduct," as defined in Title 58, Chapters 1 and 63, is further defined, in accordance with Subsection 58-1-203(5), in Section R156-63-502.

R156-63-502. Unprofessional Conduct.

"Unprofessional conduct" includes the following:

(1) making any statement that would reasonably cause another person to believe that a private security officer functions as a law enforcement officer or other official of this state or any of its political subdivisions or any agency of the federal government; ~~and~~

(2) employment of an unarmed or armed private security office or alarm response runner by a contract security company, as an on-the-job trainee pursuant to Section R156-63-307, who has been convicted of a felony or a misdemeanor crime of moral turpitude; and

(3) a judgment on, or a judicial or prosecutorial agreement concerning a felony or misdemeanor crime of moral turpitude, entered against an individual by a federal, state or local court, regardless of whether the court has made a finding of guilt, accepted a plea of guilty or nolo contendere by an individual, or an individual has entered into participation in a first offender, deferred adjudication or other program or arrangement where judgment of conviction is withheld.

KEY: licensing, security guards
~~[August 1, 1996]~~1998

58-1-106(1)
58-1-202(1)
58-63-101

◆ ————— ◆
Health, Community Health Services,
Epidemiology
R386-704
Immunization Rule for Students

NOTICE OF PROPOSED RULE
(Repeal)

DAR FILE NO.: 20958
FILED: 03/31/98, 13:17
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: This rule is being replaced by R396-100, dealing with the same topic. There is a contemporaneous filing for R396-100.

(DAR Note: The proposed new rule for R396-100 is under DAR No. 20959 in this *Bulletin*.)

SUMMARY: This rule is repealed in its entirety.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 53A-11-301 et seq.

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The impact costs for this repeal and the language of the rule that replaces this rule are covered in the filing for the new rule, R396-100.

❖ LOCAL GOVERNMENTS: The impact costs for this repeal and the language of the rule that replaces this rule are covered in the filing for the new rule, R396-100.

❖ OTHER PERSONS: The impact costs for this repeal and the language of the rule that replaces this rule are covered in the filing for the new rule, R396-100.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The impact costs for this repeal and the language of the rule that replaces this rule are covered in the filing for the new rule, R396-100.

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

Health
Community Health Services, Epidemiology
Second Floor, Cannon Health Building
288 North 1460 West
Box 142001
Salt Lake City, UT 84114-2001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Rick Crankshaw at the above address, by phone at (801) 538-9450, by FAX at (801) 538-9440, or by Internet E-mail at rcranksh@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/15/98.

THIS FILING MAY BECOME EFFECTIVE ON: 05/18/98

AUTHORIZED BY: Rod L. Betit, Executive Director

R386. Health, Community Health Services, Epidemiology.

~~R386-704. Immunization Rule for Students.~~

~~R386-704-1. Purpose Statement.~~

~~— (1) The Immunization Rule for Students is adopted under authority of Section 53A-11-303 and lists immunizations which are required for school attendance. This rule also specifies the manner and frequency of vaccine administration and requires the reporting of statistical information.~~

~~R386-704-2. Required Immunizations.~~

~~— (1) The following are the minimum immunization requirements for attending a Utah school (as defined in Section 53A-11-301):~~

~~— (a) Diphtheria, Tetanus, Pertussis (DTP) or Tetanus, Diphtheria (Td), 4 doses. A fifth dose of DTP or Td shall be required if the fourth dose was given prior to the fourth birthday.~~

~~— (b) Polio, Oral (OPV), 3 doses; or inactivated (IPV), 4 doses.~~

~~— (c) Measles. One dose of measles vaccine is required for all students who start school prior to July 1, 1992. Beginning July 1, 1992, every child entering kindergarten, or first grade if the child did not attend kindergarten, must have received two doses of measles vaccine. Measles vaccine should be received at 15 months of age. However, documentation of measles immunization given on or after the first birthday shall be accepted. A child who has received no measles vaccine or only one dose less than one month prior to school entry may be enrolled after receiving the first dose;~~

but must receive the second dose not less than one month nor more than two months after the first dose. Measles vaccine may be given alone or in combination with other vaccines.

~~— (d) Mumps. At least one dose of mumps vaccine is required prior to school entry. Mumps vaccine should be received at 15 months of age. However, documentation of mumps immunization given on or after the first birthday shall be accepted. Mumps vaccine may be given alone or in combination with other vaccines.~~

~~— (e) Rubella. At least one dose of rubella vaccine is required prior to school entry. Rubella vaccine should be received at 15 months of age. However, documentation of rubella immunization given on or after the first birthday shall be accepted. Rubella vaccine may be given alone or in combination with other vaccines.~~

~~— (f) Haemophilus influenzae type b. Beginning July 1, 1992, every child less than 60 months of age shall be adequately immunized, according to age, against Haemophilus influenzae type b.~~

~~— (2) All vaccines shall be administered in accordance with the current recommendations of the United States Public Health Service's Immunization Practices Advisory Committee (ACIP) or the American Academy of Pediatrics (AAP).~~

~~R386-704-3. Official Utah School Immunization Record.~~

~~— (1) The Utah Department of Health shall provide Utah School Immunization Record forms to schools, private physicians, licensed child care facilities, and local health departments. Any immunization record provided by a licensed physician, registered nurse, or public health official may be accepted by the school official as certification of immunization if it contains the following information: (1) name of student; (2) birth date; (3) type of vaccine administered; (4) date of each immunization; and (5) name of physician or agency administering the vaccine. This information shall be transferred to the official Utah School Immunization Record and verified by the school official.~~

~~— (2) Any person claiming an exemption to immunization as allowed by Section 53A-11-302 shall complete the official Utah School Immunization Record with the required signatures. If an exemption is claimed for personal beliefs, a Utah Department of Health Personal Exemption Form shall also be completed as required by Section 53A-11-302.5 and attached to the Utah School Immunization Record.~~

~~— (3) Each school shall maintain on file an official Utah School Immunization Record for each student and a Utah Department of Health Personal Exemption Form if the student claims a personal exemption. The certificate shall be returned to the parent, guardian, legal age brother or sister of a student who is without parent or guardian, or the student if of legal age, when the student withdraws, transfers, is promoted, or otherwise leaves the school, or the school shall transfer the certificate with the student's school record to the new school.~~

~~— (4) The Utah Department of Health or the local health department may examine, audit, and verify immunization records maintained by each school.~~

~~— (5) Each governing school authority, in cooperation with the local health department, shall file a written report of the immunization status of all students under its jurisdiction with the Bureau of Epidemiology by November 30, of each year. The report shall be prescribed by the Utah Department of Health and shall require the reporting of statistical information.~~

R386-704-4. Notification to Parents:

~~(1) With respect to any student for whom a school does not have a Utah School Immunization Record, the school shall notify by mail, telephone or in person the parent, guardian, a legal brother or sister of a student who is without parent or guardian, or the student if of legal age, at least 30 days before school begins that: (1) the school has no Utah School Immunization Record for the student; (2) the school may not admit the student without proof of immunization or evidence that the student qualifies for conditional enrollment or is exempted on medical, personal or religious grounds; (3) the student may be immunized and receive certification by a private physician or public health authority; and (4) immunizations are available from the local health department. Students moving into Utah during the summer shall be notified of these requirements at the time of first registration.~~

R386-704-5. Students Inadequately Immunized or Up-To-Date According to Age:

~~(1) A student who at the time of school enrollment has not been completely immunized against each specific disease or is in the process of receiving immunizations according to the ACIP or AAP recommendations may be allowed a conditional enrollment provided the student has received at least one dose of each specific vaccine prior to enrollment. The student's parent, guardian, a legal age brother or sister of a student who is without parent or guardian, or the student if of legal age, shall ensure that immunizations are completed on schedule and provide satisfactory evidence to the school that the student's immunizations have been obtained. The immunization status of those students enrolled conditionally shall be reviewed by the school every 60 days to ensure continued compliance.~~

R386-704-6. Exclusion of Students Not in Compliance:

~~(1) Students enrolled conditionally shall be excluded from school if the parents, guardians, a legal brother or sister of a student who is without parent or guardian, or the student if of legal age, do not provide to the school appropriate documentation of adequate immunization. Exclusion from school shall begin five days after the conditional enrollment time period expires. Within those five days, the school shall mail to the last known address of the parent or guardian a final written notice of a pending exclusion and of the student's right for filing an exemption.~~

R386-704-7. Exclusion of Exempt and Conditionally Enrolled Children:

~~(1) Whenever there is good cause to believe that a student attending school under an exemption or conditional enrollment has a vaccine-preventable disease, has been exposed to a vaccine-preventable disease or will be exposed to a vaccine-preventable disease as a result of school attendance, the student may be excluded from the school by authority of the local health officer. The student may not attend school until the local health officer is satisfied that the student no longer risks contracting or transmitting the disease.~~

R386-704-8. Penalties:

~~(1) Provisions for enforcement and penalties for the violation of public health rules, including this Immunization Rule for Students, are prescribed under Section 26-23-6.~~

KEY: immunization, rules and procedures

~~1992~~

~~53A-11-303~~

~~Notice of Continuation June 6, 1997]~~

◆ ~~_____~~ ◆
**Health, Community Health Services,
Environmental Services
R392-200-6
Construction and Maintenance of
Physical Facilities**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 20963

FILED: 04/01/98, 16:52

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: Current Subsections R392-200-6(C)(1)(a) and (b) of the rule establishing maximum allowable temperatures in school buildings have been shown to be representative of comfort levels and not of temperature requirements based upon negative health outcomes. The requirements need to be amended to represent health and safety related issues.

SUMMARY: This amendment is to update school classroom temperature requirements during summer months.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Subsection 26-15-2(5)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None.

❖LOCAL GOVERNMENTS: Successful alternatives to air-conditioning during seasonally hot weather will result in savings.

❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The amendment will not result in additional compliance costs. Compliance costs are expected to decrease in many circumstances.

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

Health
Community Health Services,
Environmental Services
Second Floor, Cannon Health Building
288 North 1460 West
PO Box 142874
Salt Lake City, UT 84114-2874, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Ron Ivie at the above address, by phone at (801) 538-6753, by FAX at (801) 538-6036, or by Internet E-mail at hldomain.hlcfhscb.rivie@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/15/98; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 05/07/98, 2:00 p.m., Room 114, Cannon Health Building, 288 North 1460 West, Salt Lake City, UT.

THIS FILING MAY BECOME EFFECTIVE ON: 05/16/98

AUTHORIZED BY: Rod Betit, Executive Director

R392. Health, Community Health Services, Environmental Services.

R392-200. Design, Construction, Operation, Sanitation, and Safety of Schools.

R392-200-6. Construction and Maintenance of Physical Facilities.

A. Floors, Walls, and Ceilings

1. Construction. All buildings shall be of sound construction with floors, walls, and ceilings constructed of nonporous, cleanable material and shall be maintained in good condition.

2. Lighting - General

a. A comfortable lighting environment shall be provided in every classroom with light quality that meets the requirements of all applicable parts of this rule.

b. Permanently fixed artificial light sources shall be installed to provide, at a distance of 30 inches from the floor, sufficient light intensities on instructional surfaces, including chalkboards, without causing excess intensity eyestrain.

c. All light fixtures located in student areas shall be shielded to protect the students from injury in case of bulb breakage.

d. Light intensity ratios shall not exceed levels for surfaces causing excessive eye accommodation. Instructional areas shall have predominantly light colors to obtain low brightness ratios. Instructional areas shall not exceed the following brightness ratios:

(1) Between the task and immediately adjacent surfaces, including between a task and a desk top; ratio 3:1

(2) Between the task and more remote darker surfaces, including between a task and the floor; ratio 3:1

(3) Between the task and the more remote lighter surfaces, including between a task and the ceiling; ratio 1:5

(4) Between windows or other luminous objects and surfaces adjacent to them, except the ratio between windows and adjacent chalkboards may be exceeded; ratio 20:1

(5) Between the chalkboard and the wall or other visually adjacent area; ratio 1:3

e. Reflectance of the finishes in instructional areas shall be within the following range 0:

(1) Percentage of Reflectances

(a) Ceilings - 70 to 90

(b) Walls - 40 to 60

(c) Floors - 30 to 50

(d) Chalkboards - 15 to 20

(e) Desks and equipment - 35 to 50

f. Light fixtures shall be cleaned and repaired, and burned out bulbs or lamps replaced as often as necessary in order to maintain the illumination levels required in this section.

g. Any light fixtures emitting noise at a bothersome level shall be repaired or replaced.

B. Ventilation

1. General

a. Rooms shall be provided with natural or mechanical ventilation that admits fresh air and is sufficient to remove or prevent the accumulation of obnoxious odors, smoke, dust, and fumes. In classrooms where combustible vapors may accumulate, such vapors shall be vented either through a fume hood or by other adequate roomwide ventilation.

b. A minimum clean air replacement of 10 cubic feet per minute per person in classrooms shall be maintained. The lining of ducts with fibrous or asbestos materials is prohibited.

c. Air vents shall be placed so no person becomes chilled or overheated in any occupied room.

2. Special Ventilation

a. Intake and exhaust air ducts shall be maintained to prevent the entrance of dust, dirt, and other contaminating materials.

b. In new or extensively remodeled establishments, all rooms from which obnoxious odors, vapors or fumes originate shall be mechanically vented to the outside of the building.

C. Heating[and Cooling]

1. [General

~~a.]~~ Heating facilities shall be properly installed and vented and shall be maintained in a safe working condition. Unvented space heaters producing products of combustion are prohibited.

[b]2. A temperature of 68-74 degrees F during winter months[and a temperature of 74-79 degrees F during summer months] shall be maintained in classrooms. However, on a temporary basis, during a severe winter energy crisis, the temperature may be reduced to 65 degrees F.[A temperature of 65 degrees F shall be required in gymnasiums. A temperature of 75-80 degrees F shall be maintained in locker or dressing areas and shower rooms.] The temperature in a swimming pool area shall be warmer than the water temperature of the pool.

D. Cooling

1. By June 15, 1998 the school district administrator shall develop a written plan to mitigate adverse health effects of excessive heat to students and staff at each school in his district. The plan for each school shall:

a. include district medical, environmental, engineering and health staff in the development of the plan;

b. cover school days during the period June 15 through September 15; however, annual plans after 1998 shall cover the period May 1 through September 15;

c. specify the method by which the heat health hazard level shall be determined as required in Subsection R392-200-6(D)(6);

(1) the plan must require that the at least one temperature measurement be taken daily;

(2) school areas supplied by a properly operating air conditioning system are exempted from this Subsection R392-200-6(D)(1)(c);

d. identify interventions for the heat health hazard levels listed in tables 1 and 2, and the procedures for assuring their timely implementation;

e. include an emergency plan in individualized health care plans for children with special health care needs as identified by a health assessment of the student population;

f. be filed with the local health officer by June 30, 1998;

g. be updated annually and filed with the local health officer prior to May 1.

2. The school district administrator shall ensure that the plans required in Subsection R392-200-6(D)(1) are executed effectively.

3. The school district administrator shall develop and file the plans required in Subsection R392-200-6(D)(1) with the local health officer prior to the first day of classes for a new school beginning operation after June 15, 1998.

4. The school district administrator shall prepare an annual written evaluation of the implementation of the plan required in Subsection R392-200-6(D)(1) and submit it to the local health officer prior to November 1.

5. The local health officer may require the school district administrator to correct a school plan required in Subsection R392-200-6(D)(1) that he determines is ineffective at preventing adverse health impacts of high heat on the students and staff of the school.

6. The school district administrator shall select one of the following two methods to determine the heat health hazard level in each school:

a. Method 1: Chart the temperature reading taken from a simple wall or hand held dry bulb thermometer into column 2 of table 1. Find the corresponding heat health hazard level in column 1;

b. Method 2: Properly use a sling psychrometer to determine the relative humidity. Chart the relative humidity into column 1 of table 2. Find the temperature reading taken from a simple wall or hand held dry bulb thermometer in one of the columns directly across from the relative humidity reading. Find the corresponding heat health hazard level at the top of the column in which the temperature is found.

TABLE 1
DRY BULB INDEX

Heat Health Hazard Level	Thermometer Temperature
Caution	80-89.9 degrees F
Extreme Caution	90-99.9 degrees F
Danger	greater than or equal to 100 degrees F

TABLE 2
TEMPERATURE-HUMIDITY INDEX

% Relative Humidity	Dry Bulb Temperature (degrees F)	
	Caution	Extreme Caution
0	95.0-112.9	113.0-131.9
10	89.5-107.4	107.5-124.4
20	87.5-103.4	103.5-118.4
30	86.0-99.9	100.0-114.9
40	84.0-97.4	97.5-111.9
50	82.0-95.4	95.5-108.9
60	81.5-93.4	93.5-106.9
70	78.5-91.4	91.5-104.9

80	77.5-89.9	90.0-103.4
90	76.5-88.9	90.0-101.4
100	75.0-87.4	87.5-99.9

% Relative Humidity	Dry Bulb Temperature (degrees F)
	Danger

0	greater than or equal to 132.0
10	greater than or equal to 125.0
20	greater than or equal to 119.0
30	greater than or equal to 115.0
40	greater than or equal to 112.0
50	greater than or equal to 109.0
60	greater than or equal to 107.0
70	greater than or equal to 105.0
80	greater than or equal to 103.5
90	greater than or equal to 101.5
100	greater than or equal to 100.0

7. The school building administrator shall ensure that the local health officer is notified immediately when:

a. the heat health hazard level of Danger is reached anywhere inside the school where students or staff are present for an hour or longer;

b. on the same day two incidents occur in the school where health symptoms, such as heat stroke, cramps and heat exhaustion, may have been caused by heat and a heat health hazard level of Caution, Extreme Caution, or Danger has been recorded in the school.

E. Maintenance of Heating, Ventilation and Air Conditioning Equipment.

1. The school building administrator shall designate a person to be responsible for the operation and maintenance of the heating, ventilation, and air-conditioning system.

2. The school building administrator has final responsibility to ensure that the heating, ventilation, and air-conditioning system inspection and necessary maintenance activities are conducted according to the manufacturer's or design engineer's recommendations. Operating experience may establish that more frequent maintenance activities are required.

[D]E. Cleaning Physical Facilities

1. General

a. Floors shall be cleaned at least daily.

b. Walls, ceilings, and attached equipment shall be kept clean.

c. Hose bibs with back flow prevention devices shall be provided with running water for washing walkways, courts, passageways, and other common use areas.

2. Utility Facility. In new or extensively remodeled facilities at least one utility sink or curbed cleaning facility with a floor drain shall be located on each floor and used for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water or similar liquid wastes. The use of lavatories for this purpose is prohibited.

3. Custodian Closets

a. Custodial closets, equipment and supply storage rooms shall be kept clean and orderly and shall be kept locked if toxic supplies are present.

b. Separate storerooms or cabinets shall be provided for cleaning materials, pesticides, paints, flammables, or other hazardous or toxic chemicals, and for tools and maintenance equipment. These areas shall be kept locked and used for no other purpose and shall comply with the Uniform Fire Code.

c. Oiled mops, dust cloths, rags, and other materials subject to spontaneous combustion shall be properly stored in approved fire resistant containers as required by the Uniform Fire Code.

KEY: public health, schools

[1987]1998

26-15-2

Notice of Continuation October 20, 1997

◆ ————— ◆

Health, Family Health Services, Child Health

R396-100

Immunization Rule for Students

NOTICE OF PROPOSED RULE

(New)

DAR FILE NO.: 20959

FILED: 03/31/98, 13:21

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: This rule replaces R386-704, dealing with the same topic. The changes in the newly written rule are necessary to conform to the most recent recommendations of the United States Public Health Service's Immunization Practices Advisory Committee (ACIP), the American Academy of Pediatrics (AAP), and the American Academy of Family Physicians (AAFP). The new language also clarifies dosage recommendations and outlines alternative schedules for compliance, giving parents and health care providers a choice of different vaccines and schedules.

SUMMARY: The new language of this rule aligns Utah's immunization requirements with the current recommendations of the United States Public Health Service's Immunization Practices Advisory Committee (ACIP), the American Academy of Pediatrics (AAP), and the American Academy of Family Physicians (AAFP). The new language clarifies the different vaccines and doses required for vaccination against diphtheria, tetanus and pertussis with three optional vaccination schedules. It provides a choice of three different schedules for polio vaccination, including a new sequential schedule combining live oral polio vaccine (OPV) and inactivated polio vaccine (IPV). It changes the minimum age for administering measles, mumps, and rubella (MMR) vaccines and changes the measles requirement from one dose to two doses for all students, including those who entered school prior to July 1, 1992. It gives more specific requirements for haemophilus influenza type b and adds a requirement for hepatitis B vaccine.

(DAR Note: The proposed repeal of R386-704 is under DAR No. 20958 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 53A-11-301 et seq.

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** The costs for the additional vaccines required by this rule will likely be covered by additional state appropriations and federal funds, but the proportions are uncertain and incalculable. The legislative fiscal analyst has recommended to the Health and Human Services Appropriations Subcommittee that funds now appropriated for the Salt Lake and Utah county second dose MMR program (which finishes in Fiscal Year 1999) be used for two years thereafter to cover the costs that will be required by this rule.

❖**LOCAL GOVERNMENTS:** Local school districts may need to modify their record review process to ascertain compliance with the rule. Any incremental costs are uncertain but minimal.

❖**OTHER PERSONS:** Assuming that students obtain the additional required vaccinations from public clinics and private physician offices in the same proportions that they now obtain them, the additional costs to the aggregate student population will be \$1,600,000.

COMPLIANCE COSTS FOR AFFECTED PERSONS: An individual who chooses to obtain the additional required immunizations at a public clinic can do so for \$7.50 (average of 1.5 visits at \$5 per dose). An individual who chooses to obtain the additional required immunizations from a private physician or from a private clinic can do so for \$66.71, calculated at an average of 1.5 visits at \$10.50 per visit plus \$50.96 for vaccine costs (1.5 doses Hepatitis B vaccine at \$16.92 per dose and 1 dose MMR vaccine at \$25.58).

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

Health
Family Health Services, Child Health
Second Floor, Cannon Health Building
288 North 1460 West
Box 142001
Salt Lake City, UT 84114-2001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Rick Crankshaw at the above address, by phone at (801) 538-9450, by FAX at (801) 538-9440, or by Internet E-mail at rcranksh@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/15/98.

THIS FILING MAY BECOME EFFECTIVE ON: 05/18/98

AUTHORIZED BY: Rod L. Betit, Executive Director

R396. Health, Family Health Services, Child Health.

R396-100. Immunization Rule for Students.

R396-100-1. Purpose and Authority.

(1) This rule prescribes the:

(a) immunizations required for attendance at a public, private, or parochial kindergarten, elementary, or secondary school through grade 12, nursery school, licensed day care center, child care facility, family care home, or Headstart program in this state;

- (b) required doses and frequency of vaccine administration;
- (c) reporting of statistical data; and
- (d) time periods for conditional enrollment.

(2) This rule is required by Section 53A-11-303 and authorized by Section 53A-11-306.

R396-100-2. Definitions.

(1) "Conditional enrollment" means enrollment according to the provisions of R396-100-6.

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

(3) "Exemption" means a relief from the statutory immunization requirements by reason of qualifying under Sections 53A-11-302 and 302.5.

(4) "Parent" means a biological or adoptive parent who has legal custody of a child, a legal guardian, or a legal age brother or sister of a student who is without a parent or guardian, or a student, if of legal age.

(5) "School" means a public, private, or parochial kindergarten, elementary, or secondary school through grade 12, nursery school, licensed day care center, child care facility, family care home, or Headstart program

(6) "School entry" means a student, at any grade, entering a Utah school for the first time.

(7) "School official" means a director, superintendent, principal, operator, or his designee.

(8) "Student" means an individual enrolled in a school as defined in R396-100-2(5).

R396-100-3. Required Immunizations.

(1) To attend a Utah school, a student must meet the minimum immunization requirements of Sections R396-100-4, 5, 6, 7, 8, and 9.

(2) Persons administering vaccines shall administer them according to the route, dosage, and site recommendations of the United States Public Health Service's Advisory Committee on Immunization Practices, the American Academy of Pediatrics, or the American Academy of Family Physicians.

(a) If a student received a dose of vaccine at less than the recommended age, less than the minimum interval between doses, or less than the recommended dosage, the vaccination must be repeated at the correct dose.

(b) Doses of measles, mumps and rubella vaccines must be repeated if administered before a student's first birthday.

(c) If doses of vaccine are received in a series with a longer interval between doses than recommended, additional doses are not required.

(3) All vaccines required by this rule may be administered alone, or in combination, or concurrently with all other vaccines required by this rule.

R396-100-4. Required Immunizations for Diphtheria, Tetanus, and Pertussis Vaccines.

A student must be immunized for diphtheria, tetanus, and pertussis according to the applicable schedule of the following three schedules:

(1) Schedule No. 1. A student under seven years of age must receive four doses of diphtheria, tetanus and acellular pertussis (DTaP), or diphtheria, tetanus, whole-cell pertussis (DTP), or pediatric diphtheria, tetanus (DT) vaccines. Administer the first

three doses a minimum of one month apart, the fourth dose six months or more after the third dose. If a student started the series late, an interval of four months between the third and fourth doses is acceptable. If the fourth dose is administered before a student's fourth birthday, a fifth dose of DTaP, DTP or DT is required before a student enters kindergarten, or first grade if a student did not attend kindergarten.

(2) Schedule No. 2. A student who is seven or older and who has not completed the series must receive three doses of adult Tetanus, diphtheria (Td). The first two doses must be administered a minimum of one month apart and the third dose six months after receiving the second dose. If the series was started before the student's seventh birthday with DTaP, DTP, or DT, they may be counted toward the three-dose series of Td.

(3) Schedule No. 3. A student who is seven and who has not received any of the tetanus or diphtheria vaccines must receive three doses of adult Td. The first dose must be administered before school entry and the second dose at a minimum of one month, but not more than two months after receiving the first dose. The third dose must be administered six months after the second dose.

R396-100-5. Required Immunizations for Poliomyelitis (Polio).

A student must be immunized for Poliomyelitis (polio) according to one of the following three schedules:

(1) Schedule No. 1. A student must receive sequential administration of two doses of inactivated polio vaccine (IPV) followed by 2 doses of live oral polio vaccine (OPV) for a total of four doses. The first three doses, two IPV and one OPV, must be administered a minimum of one month apart. The second dose of OPV must be administered according to the following three conditions:

(a) on or after a student's fourth birthday;

(b) a minimum of one month after receiving the first dose of OPV;

(c) before a student enters kindergarten, or first grade if a student did not attend kindergarten.

(2) Schedule No. 2. A student must receive four doses of OPV. The first three doses must be administered a minimum of one month apart. The fourth dose of OPV must be administered according to the following four conditions:

(a) on or after a student's fourth birthday;

(b) a minimum of one month after receiving the third dose of OPV;

(c) before a student enters kindergarten, or first grade if a student did not attend kindergarten; and

(d) if the third dose of OPV is administered on or after a student's fourth birthday, the fourth dose of OPV is not required

(3) Schedule No. 3. A student must receive four doses of IPV. The first three doses must be administered a minimum of one month apart. The fourth dose of IPV must be administered according to the following four conditions:

(a) on or after a student's fourth birthday;

(b) a minimum of one month after receiving the third dose of IPV;

(c) before a student enters kindergarten, or first grade if a student did not attend kindergarten; and

(d) if the third dose of IPV is administered on or after a student's fourth birthday, the fourth dose of IPV is not required

R396-100-6. Required Immunizations for Measles.

(1) A student must be immunized for Measles by receiving two doses of measles-containing vaccine. The first dose must be administered on or after the student's first birthday. The second dose must be administered before the student enters kindergarten, or first grade if the student did not attend kindergarten. The interval between doses one and two is a minimum of one month.

(a) If the student received the first dose of measles-containing vaccine less than one month before school entry into any grade, kindergarten through twelfth, the second dose of measles-containing vaccine must be administered at a minimum of one month, but not more than two months after receiving the first dose.

(b) A student one year of age or older entering school must have received one dose of measles-containing vaccine before school entry.

(2) After July 1, 1999, a student attending a school at any grade, kindergarten through twelfth grade, shall provide written documentation of receiving a second dose of measles-containing vaccine before school entry, if previous documentation has not been provided. The minimum interval between the first and second doses is one month.

R396-100-7. Required Immunizations for Mumps and Rubella.

(1) A student must be immunized for mumps by receiving one dose of mumps-containing vaccine on or after the student's first birthday.

(2) A student must be immunized for Rubella by receiving one dose of rubella-containing vaccine on or after the student's first birthday.

R396-100-8. Required Immunizations for Haemophilus Influenza Type b (Hib).

(1) A student must be immunized for Haemophilus influenza type b (Hib) if the student attends a Utah school before his fifth birthday. The minimum required doses of Hib vaccine is age-related depending on the age of a student when starting the Hib vaccine series.

(a) For students less than 12 months of age, a minimum of two doses is required. An additional dose is required on or after the first birthday.

(b) For students 12 to 15 months of age, a minimum of two doses is required, with at least one of the two doses required on or after the first birthday.

(c) For students 15 months through four years of age, a minimum of two doses is required, with one dose given after the first birthday. If the student is 15 months of age or older and has had no doses prior to 15 months of age, then only one dose is required.

(2) The recommended interval between Hib doses is two months. A one-month interval is also acceptable.

(3) Hib vaccine is not required nor recommended after a student's fifth birthday.

R396-100-9. Required Immunizations for Hepatitis B.

After July 1, 1999, a student enrolling for the first time at a Utah school, shall provide written documentation of receiving three

doses of hepatitis B vaccine. The first two doses must be administered a minimum of one month apart. The third dose must be administered according to the following three conditions:

(1) a minimum of two months after receiving the second dose;

(2) the minimum interval between doses one and three is four months;

(3) the student is a minimum of six months of age.

R396-100-10. Official Utah School Immunization Record.

(1) The Department shall provide the official Utah School Immunization Record forms to all schools, private physicians, child care facilities, and local health departments.

(2) A school official shall accept any immunization record provided by a licensed physician, registered nurse, or public health official as certification of immunization, and shall transfer this information to the Utah School Immunization Record with the following information:

(a) name of student;

(b) student's birth date;

(c) type of vaccine administered;

(d) the month, day, and year each dose was administered;

(e) the name of the health care provider administering the vaccine.

(3) A parent claiming an exemption to immunization, as allowed by Section 53A-11-302, shall provide to a school official the Utah School Immunization Record with the required signatures and completion of the exemption information on the back of the School Immunization Record, with the appropriate signatures.

(a) If an exemption is claimed for personal beliefs, a parent shall also provide to a school official, a Personal Exemption Form, as required by Section 53A-11-302.5.

(i) A parent shall fill in the required information on the Personal Exemption Form and sign in the presence of a representative of the local health department in the county where the student resides.

(ii) The health department representative shall witness and sign the Personal Exemption Form and attach the Exemption Form to the Utah School Immunization Record.

(3) A school official shall maintain a file of the Utah School Immunization Record for each student in all grades and a Utah Department of Health Personal Exemption Form for each student in all grades claiming a personal exemption. A school official shall return the Utah School Immunization Record and the Personal Exemption Form to the parent of a student when the student withdraws, transfers, is promoted, or otherwise leaves the school. As an alternative, a school official may transfer the School Immunization Record and the Personal Exemption Form with a student's official school record to the new school.

(4) A representative of the Department or the local health department may examine, audit, and verify immunization records maintained by a school official.

(5) A school official shall provide a written statistical report of the immunization status of all students under the school official's jurisdiction to the Department's Immunization Program before or on November 30 of each year. A school official shall also provide a

written statistical report of the immunization status of all transfer students before or on January 31 of each year. The Department shall prescribe the information needed and the format for the reports.

R396-100-11. Conditional Enrollment and Exclusion.

A school may conditionally enroll a student who is not completely immunized against each specific disease as required in this rule if the student has received at least one dose of each specific vaccine required by this rule for his age. To remain in school, the student must complete the required subsequent doses in each vaccine series on schedule and provide written documentation to the school official.

(1) A school official shall review the immunization status of a conditionally enrolled student every 60 days to ensure continued compliance in completing the required doses of vaccines. If the student has not received a subsequent dose or immunization within one month of the first date that the subsequent dose or immunization can be administered, the student is not in compliance and the school must exclude the student from school attendance.

(2) A student's exclusion from school attendance begins five days after the conditional enrollment period expires. Within these five days, a school official shall mail to the last-known address of the student's parent or guardian, a written notice of the student's pending exclusion from school and of a parent's right to claim an exemption to immunization.

R396-100-12. Notification to Parents.

(1) If a school official has not received a student's School Immunization Record or Certificate of Personal Exemption one month before the start of the school year, the school official shall notify the parent by mail, telephone, or in person that:

(a) The school official does not have a completed Utah School Immunization Record or Certificate of Personal Exemption for an enrolling student.

(b) A school official cannot admit a student without proof of complete immunizations, or evidence that a student qualifies for conditional enrollment, or evidence that a student qualifies for an exemption on medical, personal, or religious grounds.

(c) Immunizations and documentation are available from a licensed medical doctor (M.D.), doctor of osteopathy (D.O.), public health department, or any community clinic.

(2) A school official shall notify the parent of these requirements at the time of first registration.

R396-100-13. Exclusion of Students Who Are Under Exemption and Conditionally Enrolled Status.

(1) A local health officer, may exclude students who are under exemption and conditionally enrolled status from school attendance if there is good cause to believe that a student:

(a) attending school under an exemption or conditional enrollment has a vaccine-preventable disease;

(b) has been exposed to a vaccine-preventable disease;

(c) will be exposed to a vaccine-preventable disease as a result of school attendance.

(2) A student shall not attend school until the local health officer is satisfied that a student is no longer at risk of contracting or transmitting a vaccine-preventable disease.

R396-100-14. Penalties.

Enforcement provisions and penalties for the violation or for the enforcement of public health rules, including this Immunization Rule for Students, are prescribed under Section 26-23-6. A violation is punishable as a class B misdemeanor on the first offense, a class A misdemeanor on the second offense or by civil penalty of up to \$5,000 for each violation.

KEY: immunization, rules and procedures
1998

53A-11-303



Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-39
Home and Community-Based Services
Waiver

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 20935

FILED: 03/23/98, 14:45

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: The rule is outdated and non-essential to Health Care Financing (HCF) and Managed Health Care (MHC). All of the information in the rule is available in a current format either through the approved waiver application document or the Medicaid Provider Manual, making the rule redundant.

SUMMARY: This rule is repealed in its entirety.

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

FEDERAL MANDATE FOR THIS FILING: Subsection 1902(a)(10)(B) of the Act

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None.

❖LOCAL GOVERNMENTS: None.

❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Health
Health Care Financing,
Coverage and Reimbursement Policy
Cannon Health Building
288 North 1460 West
Box 142906
Salt Lake City, UT 84114-2906, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
John Williams at the above address, by phone at (801) 538-9269, by FAX at (801) 538-6099, or by Internet E-mail at jwilliam@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/15/98.

THIS FILING MAY BECOME EFFECTIVE ON: 05/16/98

AUTHORIZED BY: Rod L. Betit, Executive Director

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

~~[R414-39. Home and Community-Based Services Waiver:~~

~~R414-39-0. Policy Statement:~~

~~The waiver offers an array of home and community-based services as an alternative to ICF/MR nursing home care for developmentally disabled/mentally retarded individuals.~~

~~R414-39-1. Authority and Purpose:~~

~~A. Section 1915(c) of the Social Security Act permits States to offer, under a waiver of statutory requirements, an array of home and community-based services to eligible recipients as an alternative to institutional care.~~

~~B. The Health Care Financing Administration (HCFA) approved Utah's request for a home and community-based services waiver effective July 1, 1987 for a period of three years.~~

~~C. Utah's Home and Community-Based Services Waiver includes a waiver of the "comparability" requirements of subsection 1902(a)(10)(B) of the Social Security Act. A waiver of "comparability" requirements allows the State to target Medicaid services to a limited, select group of eligibles, such as the developmentally disabled.~~

~~R414-39-2. Definitions:~~

~~A. "Assessment" means an evaluation of an individual's medical and psychological functioning and an evaluation of the individual's programming needs. It also provides information for the level of care determination, evaluates what waiver services are needed to prevent ICF/MR placement, or whether waiver services constitute an acceptable alternative to ICF/MR care.~~

~~B. "Developmental Disability" means a severe, chronic disability that meets all of the following conditions:~~

~~1. is attributable to: (1) cerebral palsy; (2) epilepsy; or (3) any other condition, other than mental illness, found to be closely related to mental retardation because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons, and requires treatment or services similar to those required for these persons;~~

~~2. is manifest before the person reaches age 22;~~

~~3. is likely to continue indefinitely; and~~

~~4. results in substantial functional impairments in three or more of the specified areas of major life activity (see definition of substantial functional impairment);~~

~~C. "Educational Services" are special education and related services (as defined in subsection 4(a)(4) of the 1975 Amendments~~

~~to the Education of the Handicapped Act) (Public Law 94-142) (20 U.S.C. 1401(16) and (17));~~

~~D. "Health Care Financing Administration (HCFA)" means the federal agency responsible for administering the Medicaid program;~~

~~E. "Individual Program Plan (IPP)" means a treatment plan that includes:~~

~~1. the long-term goals and short-term objectives in major life areas such as self-care, receptive and expressive language, mobility, self-direction, capacity for independent living, and economic self-sufficiency (not including employment, except in the case of supported work);~~

~~2. the specific methodologies employed and frequencies of service;~~

~~3. the staff responsible for implementation of each method; and~~

~~4. the measurement of progress;~~

~~F. "Individual Service Plan (ISP)" means a plan of care for services and life activities to meet the needs of mentally retarded/developmentally disabled individuals. The ISP and attached documents must include an assessment of the recipient to determine services needed to prevent institutionalization and describe the medical and other services to be given, their frequency, and the type of provider to furnish them. The ISP describes all of the services that the recipient needs, including waiver services and non-waiver services. The ISP identifies income source, residential setting, vocational or day treatment placement, generic services, socialization and recreational programs, therapeutic treatment and counseling needs, and transportation services required.~~

~~G. "Level of Care Determination" means the application of the results of the assessment to ascertain whether there is a reasonable indication that individuals might need ICF/MR services in the near future but for the availability of home and community-based services.~~

~~H. "Mental Retardation" means significantly subaverage intellectual functioning resulting in or associated with a concurrent impairment in adaptive behavior and manifest during the developmental period:~~

~~1. "Significantly subaverage intellectual functioning" means a score of two or more standard deviations below the mean on a standardized general intelligence test;~~

~~2. "Developmental period" means the period of time between conception and the individual's 18th birthday.~~

~~I. "Office of Social Services (OSS)" means the local Social Service District Office where an applicant can apply for financial assistance, medical assistance, and ICF/MR or home and community-based waiver services;~~

~~J. "Prevocational Services" mean services aimed at preparing an individual for paid or unpaid employment but which are not job task oriented. These services are limited to those individuals who are deinstitutionalized from a Medicaid certified SNF, ICF, or ICF/MR facility. Services include teaching a client such concepts as compliance, attendance to task, task completion, problem solving and safety and are aimed at a more generalized result. In distinguishing prevocational services coverable under the waiver from noncovered vocational services, the following criteria must be considered:~~

~~1. Prevocational service activities:~~

— a. are provided to persons who are not expected to be able to join the general work force or participate in a transitional sheltered workshop within one year (excluding supported employment programs);

— b. if compensated, are compensated at less than 50 percent of the minimum wage;

— c. include activities which are not primarily directed at teaching specific job skills but at underlying rehabilitative goals (e.g., attention span, motor skills); and

— d. are reflected in a treatment plan as directed to rehabilitative rather than explicit employment objectives consonant with the aims outlined in the preceding criteria.

— K. "Qualified Mental Retardation Professional (QMRP)" means a person who has at least one year of experience working directly with persons with mental retardation or other developmental disabilities and meets the qualifications in R414-39-2K1 or R414-39-2K2:

— 1. Licensure under Title 58 of the Utah Code Annotated 1953 as one of the following:

— a. doctor of medicine or osteopathy;

— b. registered nurse;

— c. occupational therapist;

— d. physical therapist;

— e. psychologist;

— f. social worker or social services worker;

— g. speech language pathologist or audiologist;

— h. therapeutic recreational specialist or master therapeutic recreational specialist;

— i. dietician;

— 2. Education as a human services professional who has at least a bachelor's degree in a human services field, including, but not limited to: sociology, special education, rehabilitation counseling, and psychology;

— L. "Room and Board" means housing-related expenses, including all property costs that are not treatment-related such as rental or purchase of real estate and furnishing, maintenance, utilities and related administrative expenses, and three meals a day or any other full nutritional regimen. Room and board costs are covered only for respite care services.

— M. "Substantial Functional Impairment" means demonstrable limitations which render the recipient incapable of reasonably performing three or more of the following major life activities:

— 1. self-care;

— 2. understanding and use of language;

— 3. learning;

— 4. mobility;

— 5. self-direction (e.g., decision making, goal orientation, exercising civil rights, etc.);

— 6. capacity for independent living;

— N. "Vocational Service" means services relating to, or being trained in a skill or trade to be pursued as, an occupation or career.

R414-39-3. Eligibility Requirements/Coverage:

— A. Home and Community-Based Waiver Services are covered benefits to recipients who are determined by OSS to require the level of care provided in an ICF/MR under Medicaid if they are not furnished these services:

— B. Recipients, once determined to be eligible for ICF/MR services, must be given the choice of receiving services either in an ICF/MR or a community setting;

— C. Inpatients of a hospital, SNF, ICF, or ICF/MR are not eligible for home and community-based waiver services.

R414-39-4. Program Access Requirements:

— A. Recipients will be determined eligible for the Home and Community-Based Waiver by the case manager if all of the following criteria are met:

— 1. The recipient is Medicaid eligible;

— 2. The recipient is certified by a physician as either developmentally disabled or mentally retarded;

— 3. The recipient is evaluated by a qualified mental retardation professional who determines that there is a reasonable indication that the recipient might need nursing home services in the near future, were it not for the availability of home and community-based services.

R414-39-5. Service Coverage:

— A. Reimbursement is not available for waiver services which are furnished without a written plan of care (ISP);

— B. According to Utah's Home and Community-Based Services Waiver approved by the Health Care Financing Administration (HCFA), Utah may serve only a limited number of recipients during each waiver year. When the number of recipients requesting service exceeds the number of recipients approved by HCFA for the waiver year, a waiting list of individuals determined to be eligible for home and community-based waiver services will be established. When vacancies occur, the Office of Social Services case managers will determine who will be the next enrollee in the waiver program through policy established by the Office of Social Services.

— C. The scope of home and community-based waiver services includes the following:

— 1. "Habilitation services" mean residential, day treatment, and supported employment services designed to ameliorate the debilitating effects of handicapping conditions and promote growth and development. These services assist individuals in acquiring, retaining, and improving self-help, socialization, and adaptive skills necessary to reside successfully in home and community-based settings. Habilitation services are provided to individuals as an alternative to institutional care.

— a. "Community residential services" mean services that are provided in a licensed community residential facility, certified professional parent home, or certified living support and training program designed to increase the recipient's independence and promote the recipient's integration into the community. The program may provide up to 24-hour supervision and must provide a minimum number of hours of direct care intervention as described in the provider's contract with the Division of Services to the Handicapped (DSH). Staff intervention must increase the ability of the recipient to acquire skills critical to independent living. Such skills include training in daily living, home management and social skills; money management; community access; behavior management; leisure time management; and personal health maintenance and hygiene. Community residential services do not include costs associated with room and board.

b. "Day treatment" means a day program to assist waiver recipients in the acquisition of independent living skills. The program also provides recipients opportunities to participate in activities that increase attendance to task, elicit appropriate social and emotional interaction, relieve isolation, and encourage independent utilization of community resources. Services also include transportation provided to and from day treatment services and attendant care for individuals who cannot manage their personal care needs. Day treatment programs must be designed to prevent institutional placement by offering mentally retarded and developmentally disabled individuals opportunities for meaningful activities that enhance self-esteem, maximize the recipient's functioning level, and increase their ability to remain with their natural family or in an appropriate community residential placement.

c. "Supported employment" means paid, ongoing employment support services to deinstitutionalized individuals who face severe impediments to employment because of the nature and complexity of their disabilities. These services include assisting individuals in finding paid employment in a regular work setting, and ongoing post-employment support. Services are limited to those for whom competitive employment at or above minimum wage is unlikely and who, because of their disability, need ongoing post-employment support to perform in a work setting.

2. "Family support services" mean direct training or assistance services to increase the family's capabilities to care for the developmentally disabled/mentally retarded family member in the family home. Training must be offered in one or more of the following areas: developmental programming to assist the developmentally disabled/mentally retarded individual in the acquisition of self-care, mobility, communication and social skills; behavior management techniques; specialized interventions for dealing with unique health needs of the individual, or any other training which enables the family to maintain the developmentally disabled/mentally retarded individual at home and enhance growth and well-being.

3. "Respite care services" mean the temporary care of the developmentally disabled/mentally retarded individual, living in the family home, as a means of providing relief to the family caretaker to prevent premature institutionalization or out-of-home placement. Respite care is provided to alleviate the stress and exertion associated with continuous care of the developmentally disabled/mentally retarded family member.

4. "Case management services" mean services to assist waiver recipients to gain access to needed assessment, medical, social and/or treatment services. The case manager must develop the recipient's social history, chair the assessment team meeting, and develop, coordinate, integrate, direct, and assure implementation of the individual program plan (IPP). The case manager also evaluates the effectiveness and appropriateness of the IPP and authorizes the billing for waiver services.

R414-39-6. Standards of Care:

A. Licensing and Certification Standards

1. Home and community-based waiver services for the developmentally disabled/mentally retarded are covered benefits only when delivered through a provider:

a. licensed by the Office of Licensing, Utah Department of Social Services, as a licensed residential treatment facility, licensed day treatment facility, or a licensed child placement agency; or

b. certified by the Division of Services to the Handicapped (DSH), Utah Department of Social Services, as a respite care provider, living support and training provider, professional parent home provider, community residential support and training provider, or a supported employment provider who is not licensed as a day treatment facility; and

c. who has a contract to provide such services with DSH.

2. Application for license may be made to the Office of Licensure in the Utah Department of Social Services.

3. Application for certification may be made to DSH.

B. Service Standards

The Utah Department of Health will hold providers responsible for the standards established in the individual provider contracts with the Division of Services to the Handicapped, Utah Department of Social Services, and for the standards established in the Division of Services to the Handicapped Policy Manual.

C. Level of Care Determination

1. The case manager must consult with the client's physician and other health professionals, as necessary, to thoroughly evaluate the recipient's clinical condition.

2. The case manager must assist the recipient in obtaining a current psychological, medical, and social history, and other needed evaluations.

3. Through the evaluation process, diagnosis(es) is formulated and gathered from the physician and/or psychologist, and a level of care determination is made.

4. The case manager must apply the Division of Health Care Financing's level of care criteria (refer to Appendix 7, Section 7.200 of the Provider Manual) to determine if there is reasonable indication that the individual might need nursing home services in the near future were it not for the availability of home and community-based services.

5. To support a level of care determination, the following information must be documented in the recipient's record:

a. social history - completed by the case manager within one year prior to the date of eligibility determination.

b. Utah Department of Social Services Form 19 - Documentation of Handicapping Condition - completed by a physician or psychologist within one year prior to the date of eligibility determination.

c. medical/nursing evaluation - completed by a physician within one year prior to the date of eligibility determination.

d. psychological evaluation - completed by a psychologist within five years prior to the date of eligibility determination for adult waiver recipients, and three years for children.

6. When a recipient has been determined to require the level of care provided in an ICF/MR in the near future, the recipient or his legal representative must be informed by the case manager of any feasible alternatives under the waiver and be given the choice of either institutional or home and community-based services.

7. Documentation of the service setting (i.e. ICF/MR or home and community-based services) that the client chooses is obtained by the case manager at the individualized service planning meeting. This choice is documented on the Individualized Service Plan (ISP) form.

~~— D. Treatment Plan~~~~— 1. There must be a completed ISP and IPP in the case management record of each waiver recipient.~~~~— 2. All of the services required by the recipient must be identified in the ISP. The case manager must ensure that the recipient receives the services identified in the ISP.~~~~— 3. Since the IPP is a working document for the provision of care, the case manager must coordinate with the provider to update the IPP objectives as they are met or discontinued.~~~~— E. Periodic Review~~~~— 1. The ISP must be reviewed at intervals of approximately 180 days from the effective date of the ISP or at intervals of approximately 180 days from the last ISP review. The IPP must be reviewed at intervals of approximately 180 days from the effective date of the IPP or approximately 180 days from the last IPP review. To constitute an ISP or IPP review, the interval should not exceed 185 days from the effective date of the ISP or IPP, or the last review date of the ISP or IPP. The ISP and IPP must be reviewed by the case manager, recipient, family or legal representative, and the provider. The case manager is responsible to coordinate this review.~~~~— 2. Progress on long and short-term goals must be reviewed, and necessary readjustments to the ISP and IPP must be made at this time.~~~~— F. Recertification~~~~— 1. The case manager must conduct a comprehensive reassessment to determine whether the recipient continues to be eligible for home and community-based waiver services. The purpose of the reassessment is to document the level of care needed and to assure that home and community-based waiver services are a feasible alternative to institutionalization for the recipient and meet the recipient's needs.~~~~— 2. The case manager is responsible for recertifying the need for continued service. The case manager must review the information considered for the initial level of care determination including the Form 19, Medical/Nursing Evaluation, Psychological Evaluation, and the Social History, and provide for an update of this information, or document why an update is not necessary.~~~~— 3. Recertification of the recipient's eligibility for home and community-based waiver services must be completed each subsequent year on or before the date of the last level of care determination (Form 817).~~~~— G. Recordkeeping for Case Management Providers~~~~— 1. The case manager must develop and maintain sufficient written documentation for each unit of case management billed, indicating at least the following:~~

- ~~— a. the specific case management services rendered;~~
- ~~— b. the date the services were rendered;~~
- ~~— c. the case manager who rendered the services;~~
- ~~— d. the setting in which the services were rendered (e.g., OSS office, field visit);~~
- ~~— e. the amount of time it took to deliver the services;~~
- ~~— f. the name of the recipient.~~

~~— 2. The record must be kept on file and made available as requested for State or Federal assessment purposes.~~~~— H. Recordkeeping for Other Providers~~~~— 1. An Individualized Program Plan (IPP) must be maintained in each waiver recipient's record in the provider's facility.~~~~— 2. The provider must update the IPP to reflect changes in recipient condition and treatment needs. The case manager must be informed of these changes and must provide input for the development of the new IPP.~~~~— 3. The home and community-based waiver service provider must develop and maintain sufficient written documentation for each service for which billing is made to indicate at least the following:~~

- ~~— a. the specific services rendered;~~
- ~~— b. the date and hours of attendance;~~
- ~~— c. who rendered the services;~~
- ~~— d. the setting in which the services were rendered (e.g., day treatment facility, recipient's home);~~
- ~~— e. the relationship of the services to the treatment regimen described in the IPP;~~
- ~~— f. updates describing the recipient's progress; and~~
- ~~— g. name of the recipient.~~

~~— 4. The record must be kept on file and made available as requested for State or Federal assessment purposes.~~~~— I. Termination or Reduction of Home and Community-Based Waiver Services~~~~— The case manager will provide to the recipient written notice of termination or reduction in home and community-based waiver services and notice of the right of appeal. The following are reasons for the termination or reduction of home and community-based waiver services:~~

- ~~— 1. death of the individual;~~
- ~~— 2. whereabouts of the individual unknown;~~
- ~~— 3. individual no longer eligible on condition of level of medical care (ICF/MR);~~
- ~~— 4. individual moved out of State;~~
- ~~— 5. voluntary withdrawal of individual from the program;~~
- ~~— 6. home and community-based waiver services not a feasible option;~~
- ~~— 7. change in financial status of the individual;~~
- ~~— 8. change in health/functional status of the individual;~~
- ~~— 9. individual is adjudicated and committed to a public institution.~~

~~— J. Hearings~~~~— 1. The Utah Department of Health will provide an opportunity for a fair hearing to recipients:~~

- ~~— a. who are not given the choice of home and community-based services as an alternative to ICF/MR services or who are not given the choice of ICF/MR services;~~
- ~~— b. who are denied the available service or provider of their choice.~~

~~— 2. The Utah Department of Health will provide an opportunity for a fair hearing to providers who are aggrieved by the Utah Department of Health, Division of Health Care Financing, and who submit a written request for a hearing to the agency (refer to Utah Department of Health Administrative Hearing Procedures for Medicaid/UMAP Recipients, Applicants, and Providers):~~**R414-39-7. Limitations:**~~— A. Community Residential Service Limitations~~~~— 1. Recreational activities may be covered only to the degree that they are not for the purpose of diversion but are used as a context for training on an objective included in the treatment plan.~~

~~2. Vocational and educational services are not covered;~~
~~3. Prevocational services are limited to those individuals who are deinstitutionalized from a Medicaid certified SNF, ICF, or ICF/MR;~~
~~4. Reimbursement for community residential services is limited to those services provided by staff who meet the Division of Services to the Handicapped (DSH) provider qualifications as specified in Utah Department of Social Services contracts;~~
~~5. Specific payment for transportation services, other than those covered under day treatment, are not reimbursable under the waiver program;~~
~~6. Community residential services reimbursed on a daily basis are limited to 31 units per month:~~
~~B. Day Treatment Limitations~~
~~1. Recreational activities may be covered only to the degree that they are not for the purpose of diversion but are used as a context for training on an objective included in the treatment plan;~~
~~2. Vocational and educational services are not covered;~~
~~3. Prevocational services are limited to those individuals who are deinstitutionalized from a Medicaid certified SNF, ICF, or ICF/MR;~~
~~4. Reimbursement for habilitative day treatment services is limited to those services provided by staff who meet the DSH provider qualifications as specified in Utah Department of Social Services contracts;~~
~~C. Supported Employment Limitations: Reimbursement for supported employment services is limited to those services provided by staff who meet the DSH provider qualifications as specified in Utah Department of Social Services contracts;~~
~~D. Family Support Service Limitations: Reimbursement for family support services is limited to those services provided by staff who meet the DSH provider qualifications as specified in Utah Department of Social Services contracts;~~
~~E. Respite Care Service Limitations~~
~~1. Services are limited to 20 hours per month (for care episodes of less than 24 hours an episode) or no more than 20 days per year (for episodes of more than 24 hour duration);~~
~~2. Reimbursement for respite services is limited to those services provided by staff who meet the DSH provider qualifications as specified in Utah Department of Social Services contracts;~~
~~F. Case Management Limitations~~
~~1. Reimbursement for case management services is limited to services provided by a Qualified Mental Retardation Professional (QMRP) employed by OSS;~~
~~2. Case management services are reimbursed on a 15-minute unit basis;~~

R414-39-8. Prior Authorization:

~~A. Prior authorization is required for residential and day treatment services that exceed the established cost ceiling;~~
~~B. The prior authorization request must include sufficient documentation to support the need for service. At a minimum, the prior authorization request must include:~~
~~1. the recipient's name, age, sex, ID number, and address;~~
~~2. the service requested;~~
~~3. the Y code, number of units, and estimated cost for the requested units;~~

~~4. the recipient's Axis II diagnosis, and other applicable diagnoses;~~
~~5. a statement documenting the necessity for service that exceeds the established cost ceiling;~~
~~6. a copy of the current contract for the proposed services;~~
~~C. The request will be reviewed by staff in the Division of Health Care Financing who may request additional documentation to complete the prior authorization process;~~

R414-39-9. Reimbursement for Services:

~~Payment for waiver services is made on a fee-for-service basis.~~

KEY: medicaid

~~1990~~ ~~26-1-5~~
~~Notice of Continuation 1995~~ ~~26-18-3]~~



Health, Health Care Financing,
 Coverage and Reimbursement Policy
R414-42
 Limitations on Scope of Service for
 Inpatient Hospitals and Outpatient
 Hospitals and Limitations on Scope of
 Service for Physician Services

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 20934

FILED: 03/19/98, 14:58

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: The information in this rule indicates that providers must adhere to tables described in the Hospital and Physician Provider Manuals. Since providers are bound by contract to the provider manuals that already contain the information in this rule, the rule then becomes redundant.

SUMMARY: This rule is repealed in its entirety.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 26-1-5

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None.

❖LOCAL GOVERNMENTS: None.

❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Health
 Health Care Financing,

Coverage and Reimbursement Policy
Cannon Health Building
288 North 1460 West
Box 142906
Salt Lake City, UT 84114-2906, or
at the Division of Administrative Rules.

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE No.: 20946
FILED: 03/27/98, 19:32
RECEIVED BY: NL

DIRECT QUESTIONS REGARDING THIS FILING TO:
Urla Jeane Maxfield at the above address, by phone at (801) 538-9144, by FAX at (801) 538-6099, or by Internet E-mail at umaxfiel@email.state.ut.us.

PURPOSE OF OR REASON FOR THIS FILING: The changes proposed in this rule result from the Division reviewing its rules and updating them to address current issues in enhanced oil and/or gas recovery, in coal bed methane operations, and in Oil and Gas Conservation.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/15/98.

SUMMARY: The rule amendments update definitions in use in the Oil and Gas Conservation Program.

THIS FILING MAY BECOME EFFECTIVE ON: 05/16/98

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 40-6-1 et seq.

AUTHORIZED BY: Rod L. Betit, Executive Director

ANTICIPATED COST OR SAVINGS TO:

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.
~~[R414-42. Limitations on Scope of Service for Inpatient Hospitals and Outpatient Hospitals and Limitations on Scope of Service for Physician Services.~~

- ❖THE STATE BUDGET: No impact.
 - ❖LOCAL GOVERNMENTS: No impact.
 - ❖OTHER PERSONS: No impact.
- COMPLIANCE COSTS FOR AFFECTED PERSONS: No compliance costs are anticipated.

~~R414-42-1.~~

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

~~—A. 1. Providers must adhere to the Medical Surgical Procedures code in order to collect Medicaid reimbursement.~~

Natural Resources
Oil, Gas and Mining; Oil and Gas
Suite 1210, Natural Resources Building
1594 West North Temple
PO Box 145801
Salt Lake City, UT 84114-5801, or
at the Division of Administrative Rules.

~~—2. The tables, entitled Medical and Surgical Procedures/Prior Authorization List for Physicians, Podiatrists and Osteopaths and Medical and Surgical Procedures Prior Authorization List for Hospitals - Surgical Centers, list all surgical procedures and requirements by providers.~~

~~—3. The tables may be found in the Medicaid Provider Manual available at the Health Department and will be updated with code changes as required.~~

~~—B. Table entitled Medical and Surgical Procedures/Prior Authorization List for Physicians, Podiatrists and Osteopaths and the table entitled Medical and Surgical Procedures Prior Authorization List for Hospitals - Surgical Centers, are adopted by reference as part of this rule.~~

DIRECT QUESTIONS REGARDING THIS FILING TO:
Ronald W. Daniels at the above address, by phone at (801) 538-5316, by FAX at (801) 359-3940, or by Internet E-mail at nrdomain.rdanields@email.state.ut.us.

~~KEY: medicaid
1987 _____ 26-1-5
Notice of Continuation 1992]~~

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/15/98; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 04/22/98, 10:00 a.m., Suite 1040-A, 1594 West North Temple, Salt Lake City, UT.

THIS FILING MAY BECOME EFFECTIVE ON: 05/16/98

AUTHORIZED BY: Ronald W. Daniels, Coordinator of Minerals Research

◆ _____ ◆
Natural Resources; Oil, Gas and Mining; Oil and Gas
R649-1
Oil and Gas General Rules

R649. Natural Resources; Oil, Gas and Mining; Oil and Gas. R649-1. Oil and Gas General Rules.

R649-1-1. Definitions.

"Authorized Agent" means a representative of the director as authorized by the board.

"Aquifer" means a geological formation including a group of formations or part of a formation which is capable of yielding a significant amount of water to a well or spring.

"Artificial Liner" means a pit liner made of material other than clay or other in situ material and which meets the requirements of R649-9-[5-2.1, 2-2 and 2-3]3, Permitting of Disposal Pits.

"Barrel" means 42 (US) gallons at 60 degrees Fahrenheit at atmospheric pressure.

"Board" means the Board of Oil, Gas and Mining.

"Carrier, Transporter or Taker" means any person moving or transporting oil or gas away from a well or lease or from any pool.

"Casing Pressure" means the pressure within the casing or between the casing and tubing at the wellhead.

"Central Disposal Facility" means a facility which is used by one or more producers for disposal of exempt E and P wastes and for which the operator of the facility receives no monetary remuneration, other than operating cost sharing.

"Class II Injection Well" means a well which is used for:

(a) The disposal of fluids which are brought to the surface in connection with conventional oil or natural gas production and which may be commingled with wastewater produced from the operation of a gas plant that is an integral part of production operations, unless that wastewater is classified as a hazardous waste at the time of injection, or

(b) Enhanced recovery of oil or gas, or

(c) Storage of hydrocarbons which are liquids at standard temperature and pressure conditions.

"Closed System" means but is not limited to, the use of a combination of solids control equipment (i.e., shale shakers, flowline cleaners, desanders, desilters, mud cleaners, centrifuges, agitators, and necessary pumps and piping) incorporated in a series on the rig's steel mud tanks, or a self contained unit that eliminates the use of a reserve pit for the purpose of dumping and dilution of drilling fluids for the removal of entrained drill solids. A closed system for the purpose of these rules may with Division approval include the use of a small pit to receive cuttings, but does not include the use of trenches for the collection of fluids of any kind.

"Coalbed Methane" means natural gas that is produced, or may be produced, from coalbeds and rock strata associated with the coalbed.

"Commercial Disposal Facility" means a disposal well, pit or treatment facility whose owner(s) or operator(s) receives compensation from others for the temporary storage, treatment, and disposal of produced water, drilling fluids, drill cuttings, completion fluids, and any other exempt E and P wastes, and whose primary business objective is to provide these services.

"Completion of a Well" means that the well has been adequately worked to be capable of producing oil or gas or that well testing as required by the division has been concluded.

"Confining Strata" refers to a body of material that is relatively impervious to the passage of liquids or gases and that occurs either below, above, or lateral to a more permeable material in such a way that it confines or limits the movement of liquids or gases that may be present.

"Correlative Rights" means the opportunity of each owner in a pool to produce his just and equitable share of the oil and gas in the pool without waste.

"Cubic Foot" of gas means the volume of gas contained in one cubic foot of space at a standard pressure base of 14.73 psia and a standard temperature base of 60 degrees Fahrenheit.

"Day" means a period of 24 consecutive hours.

"Development Wells" means all oil and gas producing wells other than wildcat wells.

"Director" means the executive and administrative head of the division.

"Disposal Facility" means an injection well, pit, treatment facility or combination thereof which receives E and P Wastes for the purpose of disposal. This includes both commercial and noncommercial facilities.

"Disposal Pit" means a lined or unlined pit approved for the disposal and/or storage of E and P Wastes.

"Division" means the Division of Oil, Gas and Mining.

"Drilling Fluid" means a circulating fluid usually called mud, which is introduced in a drill hole to lubricate the action of the rotary bit, remove the drilling cuttings, and control formation pressures.

"E and P Waste" means those wastes resulting from the drilling of and production from oil and gas wells as determined by the Environmental Protection Agency (EPA), prior to January 1, 1992, to be exempt from Subtitle C of the Resource Conservation and Recovery Act (RCRA).

"Emergency Pit" means a pit used for containing fluids at an operating well during an actual emergency or for a temporary period of time.

"Enhanced Recovery" means the process of introducing fluid or energy into a pool for the purpose of increasing the recovery of hydrocarbons from the pool.

"Enhanced Recovery Project" means the injection of liquids or hydrocarbon or nonhydrocarbon gases directly into a reservoir for the purpose of augmenting reservoir energy, modifying the properties of the fluids or gases in the reservoir, or changing the reservoir conditions to increase the recoverable oil, gas, or oil and gas through the joint use of two or more well bores.

"Entity" means a well or a group of wells that have identical division of interest, have the same operator, produce from the same formation, have product sales from a common tank, LACT meter, gas meter, or are in the same participating area of a properly designated unit. Entity number assignments are made by the division in cooperation with the Division of State Lands and Forestry and the State Tax Commission.

"Field" means the general area underlain by one or more pools.

"Gas" means natural gas or natural gas liquids or other gas or any mixture thereof defined as follows:

"Natural Gas" means those hydrocarbons, other than oil and other than natural gas liquids separated from natural gas, that occur naturally in the gaseous phase in the reservoir and are produced and recovered at the wellhead in gaseous form. Natural gas includes coalbed methane.

"Other Gas" means hydrogen sulfide, carbon dioxide, helium, nitrogen, and other nonhydrocarbon gases that occur naturally in the gaseous phase in the reservoir or are injected into the reservoir in connection with pressure maintenance, gas cycling, or other secondary or enhanced recovery projects.

"Natural Gas Liquids" means those hydrocarbons initially in reservoir natural gas, regardless of gravity, that are separated in gas processing plants from the natural gas as liquids at the surface through the process of condensation, absorption, adsorption, or other methods.

"Gas-Oil Ratio" means the ratio of the number of cubic feet of natural gas produced to the number of barrels of oil concurrently produced during any stated period. The term GOR is synonymous with gas-oil ratio.

"Gas Processing Plant" means a facility in which liquefiable hydrocarbons are removed from natural gas, including wet gas or casinghead gas, and the remaining residue gas is conditioned for delivery for sale, recycling or other use.

"Gas Well" means any well capable of producing gas in substantial quantities that is not an oil well.

"Ground Water" means water in a zone of saturation below the ground surface.

"Hearing" means any matter heard before the board or its designated hearing examiner.

"Horizontal Well" means a well bore drilled laterally at an angle of at least eighty (80) degrees to the vertical or with a horizontal projection exceeding one hundred (100) feet measured from the initial point of penetration into the productive formation through the terminus of the lateral in the same common source of supply.

"Illegal Oil or Illegal Gas" means oil or gas that has been produced from any well within the state in violation of Chapter 6 of Title 40, or any rule or order of the board.

"Illegal Product" means any product derived in whole or in part from illegal oil or illegal gas.

"Incremental Production" means that part of production which is achieved from an enhanced recovery project that would not have economically occurred under the reservoir conditions existing before the project and that has been approved by the division as incremental production.

"Injection or Disposal Well" means any Class II Injection Well used for the injection of air, gas, water or other substance into any underground stratum.

"Interest Owner" means a person owning an interest (working interest, royalty interest, payment out of production, or any other interest) in oil or gas, or in the proceeds thereof.

"Load Oil" means any oil or liquid hydrocarbon which is used in any remedial operation in an oil or gas well.

"Log or Well Log" means the written record progressively describing the strata, water, oil or gas encountered in drilling a well with such additional information as is usually recorded in the normal procedure of drilling including electrical, radioactivity, or other similar conventional logs, a lithologic description of samples and drill stem test information.

"Multiple Zone Completion" means a well completion in which two or more separate zones, mechanically segregated one from the other, are produced simultaneously from the same well.

"Oil" means crude oil or condensate or any mixture thereof, defined as follows:

"Crude Oil" means those hydrocarbons, regardless of gravity, that occur naturally in the liquid phase in the reservoir and are produced and recovered at the wellhead in liquid form.

"Condensate" means those hydrocarbons, regardless of gravity, that occur naturally in the gaseous phase in the reservoir that are

separated from the natural gas as liquids through the process of condensation either in the reservoir, in the well bore or at the surface in field separators.

"Oil and Gas" shall not include gaseous or liquid substances derived from coal, oil shale, tar sands or other hydrocarbons classified as synthetic fuel.

"Oil and Gas Field" means a geographical area overlying an oil and gas pool.

"Oil Well" means any well capable of producing oil in substantial quantities.

"Operator or Designated Agent" means the person who has been designated by the owners or the board to operate a well or unit.

"Owner" means the person who has the right to drill into and produce from a reservoir and to appropriate the oil and gas that he produces, either for himself or for himself and others.

"Person" means and includes any natural person, bodies politic and corporate, partnerships, associations and companies.

"Pit" means an earthen surface impoundment constructed to retain fluids and oil field wastes.

"Pollution" means such contamination or other alteration of the physical, chemical or biological properties of any waters of the state, or the discharge of any liquid, gaseous or solid substance into any waters of the state in such manner as will create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety or welfare; to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses; or to livestock, wild animals, birds, fish or other aquatic life.

"Pool" means an underground reservoir containing a common accumulation of oil or gas or both. Each zone of a general structure that is completely separated from any other zone in the structure is a separate pool. "Common source of supply" and "reservoir" are synonymous with "pool."

"Pressure Maintenance" means the injection of gas, water or other fluids into a reservoir, either to increase or maintain the existing pressure in such reservoir or to retard the natural decline in the reservoir pressure.

"Produced Water" means water produced in conjunction with the conventional production of oil and/or gas.

"Producer" means the owner or operator of a well capable of producing oil or gas.

"Producing Well" means a well capable of producing oil or gas.

"Product" means any commodity made from oil and gas.

"Production Facilities" means all storage, separation, treating, dehydration, artificial lift, power supply, compression, pumping, metering, monitoring, flowline, and other equipment directly associated with oil wells, gas wells or injection wells, prior to any processing plant or refinery.

"Purchaser or Transporter" means any person who, acting alone or jointly with any other person, by means of his own, an affiliated, or designated carrier, transporter or taker, shall directly or indirectly purchase, take or transport by any means whatsoever, or who shall otherwise remove from any well or lease, oil or gas produced from any pool, excepting royalty portions of oil or gas taken in kind by an interest owner who is not the operator.

"Recompletion" means any completion in a new perforated interval or pool within an established wellbore and approved as a recompletion by the division.

"Refinery" means a facility, other than a gas processing plant, where controlled operations are performed by which the physical and chemical characteristics of petroleum or petroleum products are changed.

"Reserve Pit" means a pit used to retain fluid during the drilling, completion, and testing of a well.

"Seismic Operator" means a person who conducts seismic exploration for oil or gas, whether for himself or as a contractor for others.

"Shut-in Well" means a well that is completed, is shown to be capable of production in paying quantities, and is not presently being operated.

"Spud In" means the first boring of a hole in the drilling of a well by any type of rig.

"State" means the State of Utah.

"Stratigraphic Test or Core Hole" means any hole drilled for the sole purpose of obtaining geological information. The general rules applicable to the drilling of a well will apply to the drilling of a stratigraphic test or core hole.

"Temporarily Abandoned Well" means a well that is completed, is not shown capable of production in paying quantities, and is not presently being operated.

"Temporary Spacing Unit" means a specified area of land designated by the board for purposes of determining well density and location. A temporary spacing unit shall not be a drilling unit as provided for in U.C.A. 40-6-6, Drilling Units, and does not provide a basis for pooling the interest therein as does a drilling unit.

"Underground Source of Drinking Water" means a fresh water aquifer or a portion thereof that supplies drinking water for human consumption or that contains less than 10,000 mg/1 total dissolved solids and that is not an exempted aquifer under R649-5-4.

"Waste" means:

The inefficient, excessive or improper use or the unnecessary dissipation of oil or gas or reservoir energy.

The inefficient storing of oil or gas.

The locating, drilling, equipping, operating, or producing of any oil or gas well in a manner that causes reduction in the quantity of oil or gas ultimately recoverable from a reservoir under prudent and economical operations, or that causes unnecessary wells to be drilled, or that causes the loss or destruction of oil or gas either at the surface or subsurface.

The production of oil or gas in excess of:

Transportation or storage facilities.

The amount reasonably required to be produced in the proper drilling, completing, testing, or operating of a well or otherwise utilized on the lease from which it is produced.

Underground or above ground waste in the production or storage of oil or gas.

"Waste Crude Oil Treatment Facility" means any facility or site constructed or used for the purpose of wholly or partially reclaiming, treating, processing, cleaning, purifying or in any manner making nonmerchantable waste crude oil marketable.

"Well" means an oil or gas well, injection or disposal well, or a hole drilled for the purpose of producing oil or gas or both. The definition of well shall not include water wells, or seismic, stratigraphic test, core hole, or other exploratory holes drilled for the purpose of obtaining geological information only.

"Well Site" means the areas which are directly disturbed during the drilling and subsequent use of, or affected by production facilities directly associated with any oil well, gas well or injection well.

"Wildcat Wells" means oil and gas producing wells which are drilled and completed in a pool in which a well has not been previously completed as a well capable of producing in commercial quantities.

"Working Interest Owner" means the owner of an interest in oil or gas burdened with a share of the expenses of developing and operating the property.

"Workover" means any operation designed to sustain, to restore, or to increase the production rate, the ultimate recovery, or the reservoir pressure system of a well or group of wells and approved as a workover, a secondary recovery, a tertiary recovery, or a pressure maintenance project by the division. The definition shall not include operations which are conducted principally as routine maintenance or the replacement of worn or damaged equipment.

KEY: oil and gas law

[1994]1998

40-6-1 et seq.

Notice of Continuation April 30, 1997



Natural Resources; Oil, Gas and
Mining; Oil and Gas
R649-2
General Rules

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 20947

FILED: 03/27/98, 19:32

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: The changes proposed in this rule result from the Division reviewing its rules and updating them to address current issues in the Oil and Gas Conservation Program.

SUMMARY: The rule amendments update procedures used in the Oil and Gas Conservation Program.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 40-6-1 et seq.

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: No impact.

❖LOCAL GOVERNMENTS: No impact.

❖OTHER PERSONS: No impact.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No compliance costs are anticipated.

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

Natural Resources
Oil, Gas and Mining; Oil and Gas
Suite 1210, Natural Resources Building
1594 West North Temple
PO Box 145801
Salt Lake City, UT 84114-5801, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Ronald W. Daniels at the above address, by phone at (801) 538-5316, by FAX at (801) 359-3940, or by Internet E-mail at rrdomain.rdanields@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/15/98; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 04/22/98, 10:00 a.m., Suite 1040-A, 1594 West North Temple, Salt Lake City, UT.

THIS FILING MAY BECOME EFFECTIVE ON: 05/16/98

AUTHORIZED BY: Ronald W. Daniels, Coordinator of Minerals Research

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

R649-2. General Rules.

R649-2-1. Scope of Rules.

The following general rules adopted by the board pursuant to ~~Chapters~~Chapter 6 ~~and 9~~ of Title 40 shall apply to all lands in the state in order to conserve the natural resources of oil and gas in the state, to protect human health and the environment, to prevent waste, to protect the correlative rights of all owners and to realize the greatest ultimate recovery of oil and gas. Special rules and orders have been and will be issued by the board when required and shall prevail as against the general rules and orders of the board if in conflict therewith. Exceptions to the general rules may also be granted by the director or authorized agent for good cause shown and shall prevail as against the general rules. No exceptions granted by the board, director, or authorized agent to the rules applicable to the Underground Injection Control Program will be effective without the consent of the federal Environmental Protection Agency.

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R649-2-5. Right To Inspect.

1. The director or authorized agent shall have the right at all reasonable times to go upon and inspect any oil or gas properties and wells for the purpose of making any investigations or tests reasonably necessary to ensure compliance with the provisions of the statutes, the general rules and orders of the board or any special field rules and orders. The director or authorized agent shall report any observed violation to the board.

2. The documentation of off lease transportation of crude oil required by R649-2-6~~(3)~~, Access to Records, shall be carried in the motor vehicle during transportation and shall be available for

examination and inspection by the director or an authorized agent upon request.

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R649-2-7. ~~[Nomenclature]~~Naming of Oil and Gas Fields or Pools.

The division shall name ~~[a]~~ oil and gas fields or pools within the state~~;~~ in cooperation with a Fields Names Advisory Committee and with due regard and consideration for any ~~[recommendations]~~recommendation from the owners or operators of such fields or pools. The Field Names Advisory Committee shall be composed of a representative of the United States Bureau of Land Management and representatives of appropriate state agencies and the oil and gas industry.

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R649-2-12. Tests and Surveys.

When deemed necessary or advisable the Director or authorized agent is authorized to require that test or surveys be made to determine the presence of waste or oil, gas, water, or reservoir energy; the quantity of oil, gas or water; the amount and direction of deviation of any well from the vertical; formation, casing, tubing, or other pressures; or any other test or survey deemed necessary to carry out the purposes of the Oil and Gas Conservation Act. Directional, deviation, and/or measurements-while-drilling (MWD) surveys must be run on horizontal wells and submitted in accordance with R649-3-21, Well Completion and Filing of Well Logs, as amended for horizontal wells.

KEY: oil and gas law
~~[1993]~~1998 40-6-1 et seq.
Notice of Continuation April 30, 1997



Natural Resources; Oil, Gas and Mining; Oil and Gas
R649-3
Drilling and Operating Practices

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE No.: 20948
FILED: 03/27/98, 19:32
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: The changes proposed in this rule result from the Division reviewing its rules and updating them to address current issues in the Oil and Gas Conservation Program.

SUMMARY: The rule amendments update procedures for spacing horizontal wells, for the filing of well completion logs,

for the reporting shut-in and temporarily abandoned wells, and for the certification of enhanced oil recovery projects.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 40-6-1 et seq.

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: No impact.
- ❖LOCAL GOVERNMENTS: No impact.
- ❖OTHER PERSONS: No impact.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No compliance costs are anticipated.

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

Natural Resources
 Oil, Gas and Mining; Oil and Gas
 Suite 1210, Natural Resources Building
 1594 West North Temple
 PO Box 145801
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 at the Division of Administrative Rules.

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INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/15/98; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 04/22/98, 10:00 a.m., Suite 1040-A, 1594 West North Temple, Salt Lake City, UT.

THIS FILING MAY BECOME EFFECTIVE ON: 05/16/98

AUTHORIZED BY: Ronald W. Daniels, Coordinator of Minerals Research

R649. Natural Resources; Oil, Gas and Mining; Oil and Gas. R649-3. Drilling and Operating Practices.

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R649-3-2. Location And Siting Of Vertical Wells and Statewide Spacing for Horizontal Wells.

1. In the absence of special orders of the board establishing drilling units or authorizing different well density or location patterns for particular pools or parts thereof, each oil and gas well shall be located in the center of a 40 acre quarter-quarter section, or a substantially equivalent lot or tract or combination of lots or tracts as shown by the most recent governmental survey, with a tolerance of 200 feet in any direction from the center location, a "window" 400 feet square. No oil or gas well shall be drilled less than 920 feet from any other well drilling to or capable of producing oil or gas from the same pool, and no oil or gas well shall be completed in a known pool unless it is located more than 920 feet from any other well completed in and capable of producing oil or gas from the same pool.

2. The division shall have the administrative authority to determine the pattern location and siting of wells adjacent to an area for which drilling units have been established or for which a request for agency action ~~has been taken~~ to ~~the~~ establish drilling units has been filed with the board and adjacent to a unitized area, where there is sufficient evidence to indicate that the particular pool underlying the drilling unit or unitized area may extend beyond the boundary of the drilling unit or unitized area and the uniformity of location patterns is necessary to ensure orderly development of the pool.

3. In the absence of special orders of the Board, no portion of the horizontal interval within the potentially productive formation shall be closer than six hundred-sixty (660) feet to a drilling or spacing unit boundary, federally unitized area boundary, uncommitted tract within a unit, or boundary line of a lease not committed to the drilling of such horizontal well.

4. The surface location for a horizontal well may be anywhere on the lease.

5. Any horizontal interval shall be not closer than one thousand three hundred and twenty (1,320) feet to any vertical well completed in and producing from the same formation. Vertical wells drilled to and completed in the same formation as in a horizontal well are subject to applicable drilling unit orders of the board or the other conditions of this rule which do not specifically pertain to horizontal wells and may be drilled and produced as provided therein.

6. A temporary six hundred and forty (640) acre spacing unit, consisting of the governmental section in which the horizontal well is located, is established for the orderly development of the anticipated pool.

7. In addition to any other notice required by the statute or these rules, notice of the Application for Permit to Drill for a horizontal well shall be given by certified mail to all owners within the boundaries of the designated temporary spacing unit.

8. Horizontal wells to be located within federally supervised units are exempt from the above referenced conditions of 5, 6 and 7.

9. Exceptions to any of the above referenced conditions of 3 through 7 may be approved upon proper application pursuant to R649-3-3, Exception to Location and Siting of Wells, or R649-10, Administrative Procedures.

10. Additional horizontal wells may be approved by order of the Board after hearing brought upon by a Request for Agency Action (Petition) filed in accordance with the Board's Procedural Rules.

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R649-3-4. Permitting of Wells to be Drilled, Deepened or Plugged-Back.

1. Prior to the commencement of drilling, deepening or plugging back of any well, exploratory drilling such as core holes and stratigraphic test holes, or any surface disturbance associated with such activity, the operator shall submit Form 3, Application for Permit to Drill, Deepen, or Plug Back and obtain approval. Approval shall be given by the division if it appears that the contemplated location and operations are not in violation of any rule or order of the board for drilling a well.

2. The following information shall be included as part of the complete Application for Permit to Drill, Deepen, or Plug Back.

2.1. The telephone number of the person to contact if additional information is needed.

2.2. Proper identification of the lease as state, federal, Indian, or fee.

2.3. Proper identification of the unit, if the well is located within a unit.

2.4. A plat or map, preferably on a scale of one inch equals 1,000 feet, prepared by a licensed surveyor or engineer, which shows the proposed well location. For directional wells, both surface and bottomhole locations should be marked.

2.5. A copy of the Division of Water Rights approval or the identifying number of the approval for use of water at the drilling site.

2.6. A drilling program containing the following information shall also be submitted as part of a complete APD.

2.6.1. The estimated tops of important geologic markers.

2.6.2. The estimated depths at which the top and the bottom of anticipated water, oil, gas, or other mineral-bearing formations are expected to be encountered, and the owner's or operator's plans for protecting such resources.

2.6.3. The owner's or operator's minimum specifications for pressure control equipment to be used and a schematic diagram thereof showing sizes, pressure ratings or API series, proposed testing procedures and testing frequency.

2.6.4. Any supplementary information more completely describing the drilling equipment and casing program as required by Form 3, Application for Permit to Drill, Deepen, or Plug Back.

2.6.5. The type and characteristics of the proposed circulating medium or mediums to be employed in drilling, the quantities and types of mud and weighting material to be maintained, and the monitoring equipment to be used on the mud system.

2.6.6. The anticipated type and amount of testing, logging, and coring.

2.6.7. The expected bottomhole pressure and any anticipated abnormal pressures or temperatures or potential hazards, such as hydrogen sulfide, expected to be encountered, along with contingency plans for mitigating such identified hazards.

2.6.8. Any other facets of the proposed operation which the lessee or operator desires to point out for the division's consideration of the application.

2.6.9. If an Application for Permit to Drill, Deepen, or Plug Back is for a proposed horizontal well, a horizontal well diagram clearly showing the well bore path from the surface through the terminus of the lateral shall be submitted.

2.7. Form 5, Designation of Agent or Operator shall be filed when the operator is a person other than the owner.

2.8. If located on State or Fee surface, an APD will not be approved until an Onsite Predrill Evaluation is performed as outlined in R649-3-18.

3. Two legible copies, carbon or otherwise, of the APD filed with the appropriate federal agency may be used in lieu of the forms prescribed by the board.

4. Approval of the APD shall be valid for a period of 12 months from the date of such approval. Upon approval of an APD, a well will be assigned an API number by the division. The API number should be used to identify the permitted well in all future correspondence with the division.

5. If a change of location or drilling program is desired, an amended APD shall be filed with the division and its approval

obtained. If the new location is at an authorized location in the approved drilling unit, or the change in drilling program complies with the rules for that area, the change may be approved verbally or by telegraph. Within five days after obtaining verbal or telegraphic authorization, the operator shall file a written change application with the division.

6. After a well has been completed or plugged and abandoned, it shall not be reentered without the operator first submitting a new APD and obtaining the division's approval. Approval shall be given if it appears that a bond has been furnished or waived, as required by R649-3-1, Bonding, and the contemplated work is not in violation of any rule or order of the board.

7. An operator or owner who applies for an APD in an area not subject to a special order of the board establishing drilling units, may contemporaneously or subsequently file a Request for Agency Action to establish drilling units for an area not to exceed the area reasonably projected by the operator or owner to be underlaid by the targeted reservoir.

8. An APD for a well within the area covered by a proper Request for Agency Action which has been filed by an interested person, or the division or the board on its own motion, for the establishment of drilling units or the revision of existing drilling units for the spacing of wells shall be held in abeyance by the division until such time as the matter has been noticed, fully heard and determined.

9. An exception to R649-3-4-8 shall be made and a permit shall be issued by the division if an owner or operator files a sworn statement demonstrating to the division's satisfaction that on and after the date the Request for Agency Action requesting the establishment of drilling units was filed, or the action of the division or board was taken; and

9.1. The owner or operator has the right or obligation under the terms of an existing contract to drill the requested well; or

9.2. The owner or operator has a leasehold estate or right to acquire a leasehold estate under a contract that will be terminated unless he is permitted to commence the drilling of the required well before the matter can be fully heard and determined by the board.

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R649-3-10. Tolerances For Vertical Drilling.

Deviation from the vertical for short distances is permitted in the drilling of a well without special approval to straighten the hole, sidetrack junk, or correct other mechanical difficulties. All wells shall be drilled such that the surface location of the well and all points along the intended well bore shall be within the tolerances allowed by R649-3-2[+], Location and Siting of Vertical Wells and Statewide Spacing for Horizontal Wells, or the appropriate board order.

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R649-3-18. On-site Predrill Evaluation.

1. An on-site predrill evaluation of drilling operations located on state or private land shall be scheduled and conducted by the division prior to approval of an APD and no later than [15 working]30 days after receipt by the division of a complete APD. An on-site predrill evaluation may be performed by the division prior to submittal of a complete APD at the written request of the

operator. The division, the operator, and other ~~interested~~ persons ~~[, e.g.,] associated with the surface management [agencies and the operator's principal dirt and drilling contractors, if known.] or construction of the well site~~ shall attend the predrill evaluation. When appropriate, the operator's surveyor and archaeologist may also participate in the predrill evaluation. When the surface of the land involved is privately owned, the operator shall include in the APD the name, address, and telephone number of the private surface owner as shown on the real property records of the county where the well is located. The surface owner shall be invited by the division to attend the predrill evaluation. The surface owner's inability to attend the predrill evaluation shall not delay the scheduled evaluation.

2. Special stipulations concerning surface use or justifications for well spacing exceptions may be addressed and developed at the predrill evaluations. Special stipulations shall be incorporated as conditions of the approved APD, together with any additional conditions determined by the division to be necessary following a review of the complete application.

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R649-3-21. Well Completion And Filing Of Well Logs.

1. For the purposes of this rule only, a well shall be determined to be completed when the well has been adequately worked to be capable of producing oil or gas or when well testing as required by the division is concluded.

2. Within 30 days after the completion of any well drilled or redrilled for the production of oil or gas, Form 8, Well Completion or Recompletion Report and Log, shall be filed with the division, together with a copy of the electric and radioactivity logs, if run.

3. In addition, one copy of all drillstem test reports, formation water analyses, porosity, permeability or fluid saturation determinations, core analyses and lithologic logs or sample descriptions if compiled, shall be filed with the division.

4. As prescribed under R649-2-12, Test and Surveys, the directional, deviation and/or measurement-while-drilling (MWD) survey for a horizontal well shall be filed within 30 days of being run. Such directional, deviation and/or MWD survey specifically related to well location or well bore path shall not be held confidential. Other MWD survey data which presents well log, or other geological, geophysical, or engineering information may be held confidential as provided in R649-2-11, Confidentiality of Well Log Information.

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R649-3-32. Reporting of Undesirable Events.

1. The division shall be notified of all fires, leaks, breaks, spills, blowouts, and other undesirable events occurring at any oil or gas drilling, producing, or transportation facility, or at any injection or disposal facility.

2. Immediate notification shall be required for all major undesirable events as outlined in R649-3-32-5. Immediate notification shall mean a verbal report submitted to the division as soon as practical but within a maximum of 24 hours after discovery of an undesirable event. A complete written report of the incident shall also be submitted to the division within five days following

the conclusion of an undesirable event. The requirements for written reports are specified in R649-3-32-4.

3. Subsequent notification shall be required for all minor undesirable events as outlined in R649-3-32-6. Subsequent notification shall mean a complete written report of the incident submitted to the division within five days following the conclusion of an undesirable event. The requirements for written reports are specified in R649-3-32-4.

4. Complete written reports of undesirable events may be submitted on Form 9, Sundry Notice and Report on Wells. The report shall include:

4.1. The date and time of occurrence and, if immediate notification was required, the date and time the occurrence was reported to the Division.

4.2. The location where the incident occurred described by section, township, range, and county.

4.3. The specific nature and cause of the incident.

4.4. A description of the resultant damage.

4.5. The action taken, the length of time required for control or containment of the incident, and the length of time required for subsequent cleanup.

4.6. An estimate of the volumes discharged and the volumes not recovered.

4.7. The cause of death if any fatal injuries occurred.

5. Major undesirable events include the following:

5.1. Leaks, breaks or spills of oil, salt water or oil field wastes which result in the discharge of more than 100 barrels of liquid, which are not fully contained on location by a wall, berm, or dike.

5.2. Equipment failures or other accidents which result in the flaring, venting, or wasting of more than 500 Mcf of gas.

5.3. Any fire which consumes the volumes of liquid or gas specified in R649-3-32-5.1 and R649-3-32-5.2.

5.4. Any spill, venting, or ~~fire~~fire, regardless of the volume involved, which occurs in a sensitive area stipulated on the approval notice of the initial APD for a well, e.g., parks, recreation sites, wildlife refuges, lakes, reservoirs, streams, urban or suburban areas.

5.5. Each accident which involves a fatal injury.

5.6. Each blowout, loss of control of a well.

6. Minor undesirable events include the following:

6.1. Leaks, breaks or spills of oil, salt water, or oil field wastes which result in the discharge of more than ten barrels of liquid and are not considered major events in R649-3-32-5.

6.2. Equipment failures or other accidents which result in the flaring, venting or wasting of more than 50 Mcf of gas and are not considered major events in R649-3-32-5.

6.3. Any fire which consumes the volumes of liquid or specified in R649-3-32-6.1 and R649-3-32-6.2.

6.4. Each accident involving a major or life-threatening injury.

R649-3-33. Drilling Procedures in the Great Salt Lake.

1. For all drilling activities proposed within the Great Salt Lake, the APD required by R649-3-4 shall be filed at least 30 days prior to the date on which the operator intends to commence operations. As part of the APD, the operator shall include:

1.1. The name of the drilling contractor and the number and type of rig to be used.

1.2. An illustration of the boundaries of all state or federal parks, wildlife refuges, or waterfowl management areas within one mile of the proposed well location.

1.3. An illustration of the locations of all evaporation pits, producing wells, structures, buildings, and platforms within one mile of the proposed well location.

1.4. An oil spill emergency contingency plan.

2. Unless permitted by the board after notice and hearing, no well shall be drilled which has a surface location:

2.1. Within 1,320 feet from an evaporation pit without the consent of the operator of such pit.

2.2. Within one mile from the boundary of a state or federal park, wildlife refuge, or waterfowl management area without the consent of the appropriate state or federal regulatory agency.

2.3. Within three miles of Gunnison Island during the Pelican nesting season (March 15 through September 30) or within one mile from said island at any other time.

2.4. Within any area south of the Salt Lake Base Meridian Line.

2.5. Within any area north of Township 10 North.

2.6. Within one mile inside of what would be the water's edge if the water level of the Great Salt Lake were at the elevation of 4,193.3 feet above sea level.

3. Well casing and cementing shall be subject to the following special requirements for the purpose of this rule, the several casing strings in order of normal installation are drive or structural casing, conductor casing, surface casing, intermediate casing, and production casing. All depths refer to true vertical depth:

3.1. The drive or structural casing shall be set by drilling, driving or jetting to a minimum depth of 50 feet below the floor of the lake bed or to such greater depth required to support unconsolidated deposits and to provide hole stability for initial drilling operations. If drilled in, the drilling fluid shall be a type that will not pollute the lake; in addition, a quantity of cement sufficient to fill the annular space back to the lake floor with returns circulated, must be used.

3.2. The conductor casing shall be set at a minimum depth of 200 feet below the floor of the lake, and shall be cemented with a quantity sufficient to fill the annular space back to the lake surface with returns circulated.

3.3. The surface casing shall be set at a minimum depth of 500 feet if the proposed depth of the well is less than 7,000 feet; or 1,000 feet if the proposed depth is over 7,000 feet but less than 11,000 feet; or 1,500 feet if the depth is 11,000 feet. The casing shall be cemented with a quantity sufficient to fill the annular space back to the lake surface with returns circulated, and the bottom of the casing shall be in competent rock.

3.4. The intermediate and production casing shall be set at any time when drilling below the surface casing and hole conditions justify setting casing. This casing will be cemented in such a manner that all hydrocarbons, water aquifers, lost-circulation or zones of significant porosity and permeability, significant beds containing priority minerals, and abnormal pressure intervals are covered or isolated.

3.5. Prior to drilling the plug after cementing, all casing strings except the drive or structural casing, shall be pressure tested. This test shall not exceed the rated working pressure of the casing. If the pressure declines more than ten percent in 30 minutes, or if there are other indications of a leak, corrective measures must be taken until a satisfactory test is obtained. All casing pressure tests shall be recorded on the driller's log.

4. Blowout preventers and related well control equipment shall be installed, and tested in a manner necessary to prevent blowouts and shall be subject to the following special conditions:

4.1. Prior to drilling below the surface casing, blowout prevention equipment shall be installed and maintained ready for use until drilling operations are completed.

4.2. An inside blowout preventer assembly and a full opening string safety valve in the open position shall be maintained on the rig floor at all times while drilling operations are being conducted. Valves shall be maintained on the rig floor to fit all pipe in the drill string. A top kelly cock shall be installed below the swivel and another at the bottom of the kelly of such design that it can be run through the blowout preventers.

4.3. Before drilling below the surface casing the blowout prevention equipment shall include a minimum of:

4.3.1. Three remotely and manually controlled, hydraulically operated blowout preventers with a rated working pressure which exceeds the maximum anticipated surface pressure, including one equipped with pipe rams, one with blind rams and one hydril type.

4.3.2. A drilling spool with side outlets, if side outlets are not provided in the blowout preventer body.

4.3.3. A choke manifold.

4.3.4. A kill line.

4.3.5. A fill-up line.

4.4. Ram-type blowout preventers and related control equipment shall be tested to the rated working pressure of the stack assembly or to the working pressure of the casing, whichever is the lesser, at the following times:

4.4.1. When installed.

4.4.2. Before drilling out after each string of casing is set.

4.4.3. Not less than once each week while drilling.

4.4.4. Following repairs that require disconnecting a pressure seal in the assembly.

4.5. The hydril-type blowout preventer shall be tested to 70 percent of the pressure testing requirements of ram-type blowout preventers. The hydril-type blowout preventer shall be actuated on the drill pipe once each week.

4.6. Accumulators or accumulators and pumps shall maintain a reserve capacity at all times to provide for repeated operation of hydraulic preventers.

4.7. A blowout prevention drill shall be conducted weekly for each drilling crew to insure that all equipment is operational and that crews are properly trained to carry out emergency duties. All blowout preventer tests and crew drills shall be recorded on the driller's log.

5. The characteristics and use of drilling mud and the conduct of related drilling procedures shall be such as are necessary to maintain the well in a safe condition to prevent uncontrolled blowouts of any well. Quantities of mud materials sufficient to insure well control shall be maintained and readily accessible for use at all times.

6. Mud testing equipment shall be maintained on the derrick floor at all times, and mud tests consistent with good operating practice shall be performed daily, or more frequently as conditions warrant. The following mud system monitoring equipment must be installed, with derrick floor indicators, and used throughout the period of drilling after setting and cementing the surface casing:

6.1. A recording mud pit level indicator including a visual and audio warning device to determine mud pit volume gains and losses.

6.2. A mud return indicator to determine when returns have been obtained, or when they occur unintentionally, and additionally to determine that returns essentially equal the pump discharge rate.

7. In the conduct of all oil and gas operations, the operator shall prevent pollution of the waters of the Great Salt Lake. The operator shall comply with the following pollution prevention requirements:

7.1. Oil in any form, liquid or solid wastes containing oil, shall not be disposed of into the waters of the lake.

7.2. Liquid or solid waste materials containing substances which may be harmful to aquatic life or wildlife, or injurious in any manner to life and property, or which in any way unreasonably adversely affects the chemicals or minerals in the lake shall not be disposed of into the waters of the lake.

7.3. Waste materials, exclusive of cuttings and drilling media, shall be transported to shore for disposal.

8. All spills or leakage of oil and liquid or solid pollutants shall be immediately reported to the division [~~the Environmental Protection Agency, Division of Environmental Health, and the Division of State Lands and Forestry~~]. A complete written statement of all circumstances, including subsequent clean-up operation, shall be forwarded to said agencies within 72 hours of such occurrences.

9. Standby pollution control equipment consistent with the state of the art, shall be maintained by, and shall be immediately available to, each operator.

R649-3-34. Well Site Restoration.

1. The operator of a well shall upon plugging and abandonment of the well restore the well site in accordance with these rules.

2. [~~The well site means all land disturbed during operations to drill, complete, operate, repair, rework, plug, and abandon a well and all land disturbed to gain access for performing such operations on a well.~~

~~3.]~~ For all land included in the well site for which the surface is federal, Indian, or state ownership, the operator shall meet the well site restoration requirements of the appropriate surface management agency.

[~~4.]~~ 3. For all land included in the well site for which the surface is fee or private ownership, the operator shall meet the well site restoration requirements of the private landowner or the minimum well site restoration requirements established by the division.

4. Well site restoration on lands with fee or private ownership shall be completed within one (1) year following the plugging of a well unless an extension is approved by the division for just and reasonable cause.

5. These rules shall not preclude the opportunity for a private landowner to assume liability for the well as a water well in accordance with R649-3-24.6.

6. The operator shall make a reasonable effort to establish surface use agreements with the owners of land included in the well site prior to the commencement of the following actions on fee or private surface:

6.1 Drilling a new well.

6.2. Reentering an abandoned well.

6.3. Assuming operatorship of existing wells.

7. Upon application to the division to perform any of the aforementioned and prior to approval of such actions by the division, the operator shall submit an affidavit to the division stating whether appropriate surface use agreements have been established with and approved by the surface landowners of the well site.

8. If necessary and upon request by the division, the operator shall submit a copy of the established surface use agreements to the division.

9. If no surface use agreement can be established, the division shall establish minimum well site restoration requirements for any well located on fee or private surface for the purposes of final bond release.

10. Established surface use agreements may be modified or terminated at any time by mutual consent of the involved parties; however, the operator shall notify the division if such is the case and if a surface use agreement is terminated without a new agreement established, the division shall establish minimum well site reclamation requirements.

11. The operator shall be responsible for meeting the requirements of any surface use agreement, and it shall be assumed by the division until notified otherwise that surface use agreements remain in full force and effect until all the requirements of the agreement are satisfied or until the agreement has been terminated by mutual consent of the involved parties.

12. The surface use agreement shall stipulate the minimum well site restoration to be performed by the operator in order to allow final release of the bond.

13. The final bond release by the division shall include a determination by the division whether or not the operator has met the requirements of an established surface use agreement, and the division may suspend final bond release until the operator has completed all the requirements of the surface use agreement.

14. The agreement may state requirements for well site grading, contouring, scarification, reseeding, and abandonment of any equipment or facilities for which the landowner agrees to assume liability.

15. The agreement shall not address operations regulated by the rules and orders of the board such as:

15.1. Disposal of drilling fluid, produced fluid, or other fluid waste associated with the drilling and production of the well.

15.2. Reclamation or treating of waste crude oil.

15.3. Any other operation or condition for which the board has jurisdiction.

16. If the operator cannot establish surface use agreements then the operator shall so notify the division.

17. Within 30 days of the notification or as soon as weather conditions permit, the division shall conduct an inspection and evaluation of the well site in order to establish minimum well site restoration requirements for the purpose of final bond release.

18. The operator shall be given notice by the division of the date and time of the inspection, and if the operator cannot attend the inspection at the scheduled date and time, the division may reschedule the inspection to allow the operator to participate.

19. The surface landowner, agent or lessee shall be given notice by the operator of such inspection and may participate in the inspection; however, if the surface landowner cannot attend the

inspection, the division shall not be required to reschedule the inspection in order to allow the surface landowner to participate.

20. The evaluation shall consider the condition of the land prior to disturbance, the extent of proposed disturbance, the degree of difficulty to conduct complete restoration, the potential for pollution, the requirements for abating pollution, and the possible land use after plugging and restoration are completed.

21. Within 30 days after performing the inspection, the division shall provide the operator with the results of the inspection and the evaluation listing the minimum well site restoration requirements established by the division.

22. The division shall retain a record of the inspection and the evaluation, and if necessary and upon written request by an interested party, the division shall provide a copy of the minimum well site restoration requirements established by the division.

23. If any person disagrees with the results of the inspection and the evaluation and desires a reconsideration of the minimum well site restoration requirements established by the division, such person may submit a request to the board for a hearing and order to modify the requirements.

24. The board, after proper notice and hearing, may issue an order modifying the minimum well site restoration requirements established by the division.

25. The minimum well site restoration requirements established by the division or by board order shall be considered part of any permit granted by the division to conduct operations at a well site, and the inability of the operator to meet such requirements shall be considered grounds for forfeiture of the bond.

26. If the minimum well site restoration requirements suggest to the division that bond coverage for a well should be increased, the division shall take action as stated in R649-3-1.

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R649-3-36. Shut-in and Temporarily Abandoned Wells.

1. Wells may be initially shut-in or temporarily abandoned for a period of twelve (12) consecutive months. ~~[At the end of each twelve month]~~If a well is to be shut-in or temporarily abandoned for a period exceeding twelve (12) consecutive months, the operator [must]shall file a Sundry Notice providing the following information:

1.1. Reasons for shut-in or temporarily abandonment of the well,~~and]~~

1.2. The length of time the well ~~[will]is expected to~~ be shut-in or temporarily abandoned~~[-], and~~

1.3. An explanation and supporting data if necessary, for showing the well has integrity, meaning that the casing, cement, equipment condition, static fluid level, pressure, existence or absence of Underground Sources of Drinking Water and other factors do not make the well a risk to public health and safety or the environment.

~~2. After review the Division will either approve the continued shut-in[2. Proof of casing integrity shall be a requirement to continue the shut-in] or temporarily [abandonment]abandoned status or require remedial action to be taken to establish and maintain the well's integrity.~~

3. After five (5) years of nonactivity or nonproductivity, the well shall be plugged in accordance with R649-3-24, unless approval for extended shut-in time is given by the Division upon a showing of good cause by the operator.

4. If after a five (5) year period the well is ordered plugged by the Division, and the operator does not comply, the operator shall forfeit the drilling and reclamation bond and the well shall be properly plugged and abandoned under the direction of the Division.

R649-3-37. Enhanced Recovery Project Certification.

1. In order for incremental production achieved from an enhanced recovery project to qualify for the severance tax rate reduction provided under Subsection 59-5-102(4), the operator on behalf of the producers shall present evidence demonstrating that the recovery technique or techniques utilized qualify for an enhanced recovery determination and the Board must certify the project as an enhanced recovery project.

2. For enhanced recovery projects certified by the Board after January 1, 1996:

2.1. As part of the process of certifying incremental production which qualifies for a reduction in the severance tax rate under Subsection 59-5-102(4), the operator shall furnish the Division an extrapolation (projection) and tabulation of expected non-enhanced recovery of oil and gas production from the project. The projection shall be for not less than seventy-two (72) months commencing with the first month following the project certification by the Board. The projection shall be based on production history of all wells within the project area for not less than twelve (12) months immediately preceding either certification or commencement of the project; reservoir and production characteristics; and the application of generally accepted petroleum engineering practices. The projected production volumes approved by the division shall serve as the base level production for purposes of determining the incremental oil and gas production which qualifies for a reduction in the severance tax rate.

2.2. The operator shall provide a statement as to all assumptions made in preparing the projection and any other information concerning the project that the division may reasonably require in order to evaluate the operator's projection.

2.3. An operator's request for incremental production certification may be approved administratively by the Director or authorized agent. The Director or authorized agent shall review the request within 30 days after its receipt and advise the operator of the decision. If the operator disagrees with the Director or authorized agent's decision, the operator may request a hearing before the Board at its next regularly scheduled hearing. The Director or authorized agent may also refer the matter to the Board if a decision is in doubt.

2.4. Upon approval of a request for incremental production certification, the Director or authorized agent shall forward a copy of the certification to the Utah Tax Commission.

KEY: oil and gas law

[1994]1998

40-6-1 et seq.

Notice of Continuation April 30, 1997



Natural Resources; Oil, Gas and Mining; Oil and Gas

R649-5

Underground Injection Control of Recovery Operations and Class II Injection Wells

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 20949

FILED: 03/27/98, 19:32

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: The changes proposed in this rule result from the Division reviewing its rules and updating them to address current issues in the Oil and Gas Conservation Program.

SUMMARY: The rule amendments update the information to be submitted in the Underground Injection Control Program.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 40-6-1 et seq.

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: No impact.
❖LOCAL GOVERNMENTS: No impact.
❖OTHER PERSONS: No impact.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No compliance costs are anticipated.

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

Natural Resources
Oil, Gas and Mining; Oil and Gas
Suite 1210, Natural Resources Building
1594 West North Temple
PO Box 145801
Salt Lake City, UT 84114-5801, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Ronald W. Daniels at the above address, by phone at (801) 538-5316, by FAX at (801) 359-3940, or by Internet E-mail at nrdomain.rdaniele@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/15/98; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 04/22/98, 10:00 a.m., Suite 1040-A, 1594 West North Temple, Salt Lake City, UT.

THIS FILING MAY BECOME EFFECTIVE ON: 05/16/98

AUTHORIZED BY: Ronald W. Daniels, Coordinator of Minerals Research

R649. Natural Resources; Oil, Gas and Mining; Oil and Gas. R649-5. Underground Injection Control of Recovery Operations and Class II Injection Wells.

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R649-5-2. Requirements For Class II Injection Wells Including Water Disposal, Storage And Enhanced Recovery Wells.

1. Injection wells shall be completed, equipped, operated, and maintained in a manner that will prevent pollution and damage to any USDW, or other resources and will confine injected fluids to the interval approved.

2. The application for an injection well shall include a properly completed UIC Form 1 and the following:

2.1. A plat showing the location of the injection well, all abandoned or active wells within a one-half mile radius of the proposed well, and the surface owner and the operator of any lands or producing leases, respectively, within a one-half mile radius of the proposed injection well.

2.2. Copies of electrical or radioactive logs, including gamma ray logs, for the proposed well run prior to the installation of casing and indicating resistivity, spontaneous potential, caliper, and porosity.

2.3. A copy of a cement bond or comparable log run for the proposed injection well after casing was set and cemented.

2.4. Copies of logs already on file with the division should be referenced, but need not be refiled.

2.5. A description of the casing or proposed casing program of the injection well and of the proposed method for testing the casing before use of the well.

2.6. A statement as to the type of fluid to be used for injection, its source and estimated amounts to be injected daily.

2.7. Standard laboratory analyses of (1) the fluid to be injected, (2) the fluid in the formation into which the fluid is being injected, and (3) the compatibility of the fluids.

2.8. The proposed average and maximum injection pressures.

2.9. Evidence and data to support a finding that the proposed injection well will not initiate fractures through the overlying strata or a confining interval that could enable the injected fluid or formation fluid to enter the fresh water strata.

2.10. Appropriate geological data on the injection interval and confining beds, and nearby Underground Sources of Drinking Water, including the geologic name, lithologic description, thickness, depth, water quality, and lateral extent; also information relative to geologic structure near the proposed well which may effect the conveyance and/or storage of the injected fluids.

2.11. A review of the mechanical condition of each well within a one-half mile radius of the proposed injection well to assure that no conduit exists that could enable fluids to migrate up or down the wellbore and enter improper intervals.

2.12. An affidavit certifying that a copy of the application has been provided to all operators, owners, and surface owners within a one-half mile radius of the proposed injection well.

2.13. Any other additional information that the board or division may determine is necessary to adequately review the application.

3. Applications for injection wells which are within a recovery project area will be considered for approval:

3.1. Pursuant to R649-5-1-3.

3.2. Subsequent to board approval of a recovery project pursuant to R649-5-1-1.

4. Approval of an injection well is subject to the requirements of R649-5-4, if the proposed injection interval can be classified as an USDW.

5. In addition to the requirements of this section, the provisions of R649-3-1, R649-3-4, R649-3-24, R649-3-32, and R649-8-1 and R649-10 shall apply to all Class II injection wells.

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KEY: oil and gas law
[1994]1998

40-6-1 et seq.

Notice of Continuation April 30, 1997



Natural Resources; Oil, Gas and Mining; Oil and Gas
R649-8
Reporting and Report Forms

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 20950

FILED: 03/27/98, 19:32

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: The changes proposed in this rule result from the Division reviewing its rules and updating them to address current issues in the Oil and Gas Conservation Program.

SUMMARY: The rule amendments update the report information which is required to be filed with the Division.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 40-6-1 et seq.

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: No impact.
- ❖ LOCAL GOVERNMENTS: No impact.
- ❖ OTHER PERSONS: No impact.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No compliance costs are anticipated.

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

Natural Resources
Oil, Gas and Mining; Oil and Gas
Suite 1210, Natural Resources Building
1594 West North Temple
PO Box 145801

Salt Lake City, UT 84114-5801, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Ronald W. Daniels at the above address, by phone at (801) 538-5316, by FAX at (801) 359-3940, or by Internet E-mail at nrdomain.rdaniels@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/15/98; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 04/22/98, 10:00 a.m., Suite 1040-A, 1594 West North Temple, Salt Lake City, UT.

THIS FILING MAY BECOME EFFECTIVE ON: 05/16/98

AUTHORIZED BY: Ronald W. Daniels, Coordinator of Minerals Research

R649. Natural Resources; Oil, Gas and Mining; Oil and Gas. R649-8. Reporting and Report Forms.

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R649-8-10. Form 9, Sundry Notices and Reports on Wells.

1. This report form shall be used to notify the division of the intention to do miscellaneous work on any well for which a specific report form is not provided, and to report the subsequent results of that work. A notice of intention to do work on a well located on lands with state, fee or privately owned minerals or to change plans previously approved shall be submitted in duplicate and must be received and approved by the division before the work is commenced. The operator is responsible for receipt of the notice by the division in ample time for proper consideration and action. In cases of emergency the operator may obtain verbal approval to commence work. Within five days after receiving verbal approval, the operator shall submit a Sundry Notice describing the work and acknowledging the verbal approval.

2. In addition to the types of work listed on the form, a Sundry Notice is required for the following:

2.1. Monthly status report for each drilling well in accordance with R649-3-6.

~~2.2. Annual status report of all drilling wells on which drilling operations have been suspended for more than 30 consecutive days as of December 31 in accordance with R649-3-6.~~

~~2.3. Annual status report for any well that has been shut-in or temporarily abandoned for more than 30 consecutive days as of December 31 in accordance with R649-3-24.~~

2.4. Application for permit to complete a well into more than one pool in accordance with R649-3-22.

2.5. Notice of intent to plug and abandon a well in accordance with R649-3-24.

2.6. Notice of intent to pull casing in accordance with R649-3-24.

2.7. Notice of change of operator. The report form should be submitted by both the previous operator and the new operator.

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~~[R649-8-23. UIC Form 6, Monthly Produced Water Disposition Report:~~

~~1. The operator shall file this report monthly to account for the disposal of any water produced in conjunction with the production of oil and/or gas or any fluids used in connection with the drilling for oil or gas.~~

~~2. All reports are due within 30 days following the end of the month of operations.]~~

KEY: oil and gas conservation, reporting
~~[1994]1998~~ **40-6-1 et seq.**
Notice of Continuation April 30, 1997



Natural Resources; Oil, Gas and Mining; Oil and Gas
R649-9
Waste Management and Disposal

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 20951
FILED: 03/27/98, 19:32
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: The changes proposed in this rule result from the Division reviewing its rules and updating them to address current issues in the waste management and disposal part of the Oil and Gas Conservation Program.

SUMMARY: The rule amendments update the requirements for waste management and disposal.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 40-6-1 et seq.

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: No impact.
- ❖LOCAL GOVERNMENTS: No impact.
- ❖OTHER PERSONS: No impact.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No compliance costs are anticipated.

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

Natural Resources
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Suite 1210, Natural Resources Building
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THIS FILING MAY BECOME EFFECTIVE ON: 05/16/98

AUTHORIZED BY: Ronald W. Daniels, Coordinator of Minerals Research

R649. Natural Resources; Oil, Gas and Mining; Oil and Gas. R649-9. Waste Management and Disposal. R649-9-1. Introduction.

1. Section 40-6-5 UCA authorizes the board to regulate the disposal of salt water and oil-field wastes. It is the intent of the Board and Division to regulate ~~[Exploration and Production Wastes~~ (E and P ~~[w]Wastes[.]~~) and facilities for the disposal of these wastes in a manner which protects the environment, limits liability to producers, and minimizes the volume of waste.

2. These rules specify the informational and procedural requirements for waste management and disposal, the permitting of disposal facilities, and cleanup requirements for E and P related sites.

R649-9-2. General Waste Management.

1. Wastes addressed by these rules are E and P Wastes which are exempt from the RCRA hazardous waste management requirements.

2. Reduction of the amount of material generated which must be disposed of is the preferred practice. Recycling should be used whenever possible and practical. In general, good housekeeping practices shall be used. Operators shall catch leaks and drips, contain spills, and cleanup promptly.

3. The method of disposal used shall be compatible with the waste which is the subject of disposal. RCRA exempt waste shall not be mixed with nonexempt waste. Before using a commercial disposal facility the Division may be contacted to verify the status of the facility.

4. The operator shall file an Annual Waste Management Plan by January 15 of each year to account for the proper disposition of produced water and other E and P Wastes. If changes are made to the plan during the year, then the operator shall notify the division in writing of this change. This plan will include the type and estimated volume of wastes to be generated, the disposal facilities (central and commercial) to be used for disposal, and the description of any waste reduction or minimization procedures and any onsite disposal/treatment to be implemented by the operator. Each site and/or facility used for disposal must be permitted and in good standing with the division.

R649-9-3. Permitting of Disposal Pits.

1. All commercial disposal pits and disposal pits located off of an existing mineral lease shall be bonded in accordance with R649-9-9, Bonding of Disposal Facilities to assure proper operation, maintenance, and closure of the pits.

2. Application shall be made to the Division for approval of any disposal pit. The pit shall be designed appropriately for the intended purpose. Commercial disposal pits shall be designed and constructed under the supervision of a registered professional engineer. The application and site shall meet the following requirements:

2.1 The pit shall be located on level, stable ground, and an acceptable distance away from any established or intermittent drainage.

2.2. The pit shall not be located in a geologically and hydrologically unsuitable area, such as aquifer recharge areas, flood plains, drainage bottoms, and areas near faults.

2.3. The pit shall have adequate storage capacity to safely contain all produced water even during those periods when evaporation rates are at a minimum.

2.4. The pit shall be designed and constructed so as to prevent the entrance of surface water.

2.5. The pit shall be designed, maintained and operated to prevent unauthorized surface or subsurface discharge of water.

2.6. The pit shall be fenced and maintained to prevent access by livestock, wildlife and unauthorized personnel and if required, equipped with flagging or netting to deter entry by birds and waterfowl.

2.7. The pit levees for produced water pits receiving volumes in excess of five barrels per day, shall be constructed so that the inside grade of the levee is no steeper than 3:1 and the outside grade no steeper than 2:1. The top of the levee shall be level and of sufficient width to allow for adequate compaction.

2.8 All approved produced water pits not located at a well site shall be identified with a suitable sign.

2.9. The artificial materials used in lining pits shall be impervious and resistant to weather, sunlight, hydrocarbons, aqueous acids, alkalies, salt, fungi, or other substances which might be contained in the produced water.

3. If rigid materials are used, leak proof expansion joints shall be provided, or the material shall be of sufficient thickness and strength to withstand, without cracking, expansion, contraction and settling movements in the underlying earth.

3.1. If flexible materials are used, they shall be of sufficient thickness and strength to be resistant to tears and punctures. Commercial disposal pits shall be lined with a minimum liner thickness of 40 mils or as approved by the Division.

3.2. Lined pits constructed in relatively impermeable soils shall have an underlying gravel filled sump and lateral system or suitable leak detection system.

3.3 Lined pits constructed in relatively permeable soils shall have a secondary liner underlying the leak detection system, which is graded so as to direct leakages to the observation sump.

3.4. Test borings shall be taken in sufficient quantity and to an adequate depth to satisfactorily define subsurface conditions and assure that the liner will be placed on a firm stable base and to determine the appropriate leak detection system.

4. Requirements for Unlined Disposal Pits.

4.1 An application for disposal of produced water into an unlined pit will be considered if such disposal does not demonstrate significant pollution potential to surface or ground water and meets at least one of the following criteria:

4.2. The water to be disposed of does not have a higher total dissolved solids "TDS" content than ground water that could be affected and provided that the water does not contain objectionable levels of constituents and characteristics including chlorides, sulfates, pH, oil, grease, heavy metals and aromatic hydrocarbons.

4.3. That all, or a substantial part of the produced water is being used for beneficial purposes such as irrigation and livestock or wildlife watering and a water analysis indicates that the water is acceptable for the intended use.

4.4. The volume of water to be disposed of does not exceed five barrels per day on a monthly basis.

5. Application Requirements for Produced Water Pits.

5.1. Applications for disposal of produced water into lined pits shall include the following information:

5.2. A topographic map and drawing of the site on a suitable scale that indicate the pit dimensions, cross section, side slopes, leak detection system and location relative to other site facilities. The drawings shall be of professional quality.

5.3. The maximum daily quantity of water to be disposed of and a representative water analysis of such water that includes the concentrations of chlorides and sulfates, pH, total dissolved solids "TDS", and information regarding any other significant constituents if requested.

5.4. Climatological data indicating the average annual evaporation and precipitation for the area.

5.5. The method and schedule for disposal of precipitated solids.

5.6. Drawings of unloading facilities and explanation of the method for controlling and disposing of any liquid hydrocarbon accumulation so that the evaporation process is not hampered.

5.7. The engineering data and design criteria used to determine the pit size which includes a 2-foot free-board.

5.8. The type, thickness, strength, and life span of material to be used for lining the pit and the method of installation.

5.9. A description of the leak detection method to be utilized and the proposed inspection frequency of the detection system. Also the proposed procedures for repair of the liner should leakage occur.

6. Applications for disposal of produced water into unlined pits shall include the following information:

6.1. A topographic map and drawing of the site on a suitable scale that indicate the pit dimensions, cross section, side slopes, size and location relative to other site facilities.

6.2. The daily quantity of water to be disposed of and a representative water analysis of such water that includes the total dissolved solids "TDS", pH, oil and grease content, the concentrations of chlorides and sulfates, and information regarding any other significant constituents if required.

6.3. Climatological data indicating the average annual evaporation and precipitation for the area.

6.4. The estimated percolation rate based on soil characteristics under and adjacent to the pit.

6.5. Estimated depth and areal extent of any USDW in the area and an indication of any effect or interaction of the produced water with any such water resources present at or near the surface.

6.6. If beneficial use is the basis for the application, written confirmation from the user should be submitted.

6.7. If the application is made on the basis that surface and subsurface waters will not be adversely affected by disposal in an unlined pit, the following additional information is required:

6.7.1. A map showing the location of surface waters, water wells, and existing water disposal facilities within a one mile radius of the proposed disposal facility.

6.7.2. The weighted average concentration of total dissolved solids "TDS" of all surface and subsurface waters within a one mile radius that might be affected by the proposed disposal.

6.7.3. Any reasonable geological and hydrological evidence showing that the proposed disposal method will not adversely affect existing water quality or major uses of such waters.

7. Within 30 days of the submission of an application for disposal of produced water into a commercial disposal pit, the division shall review the application as to its completeness and adequacy for the intended purpose and shall require such changes that are found necessary to assure compliance with the applicable rules. If the application is in order, the Division shall provide for a public notice to be published in a newspaper of general circulation in the county where the pit is to be located.

R649-9-4. Permitting of Other Disposal Facilities.

1. Facilities used for the treatment and disposal of E and P wastes other than evaporation pits shall be permitted by the Division. This would include such activities as landfarming, composting, solidifying, bioremediation, and others.

2. All commercial treatment and disposal facilities must be bonded in accordance with R649-9-9, Bonding of Disposal Facilities, to assure proper operation, maintenance, and closure of the facility.

3. Application Requirements for Treatment and Disposal Facilities. The application shall contain the following:

3.1 A complete description of the proposed facility and processes involved including a complete list of all wastes to be accepted at the facility and products generated.

3.2 Maps and drawings of suitable scale showing all facilities and equipment.

3.3 Materials or products to be applied to the land surface or subsurface shall meet the Division's cleanup levels for contaminated soil and other wastes. If leachability and/or toxicity is of concern due to the type or source(s) of wastes, tests will be required and may utilize the Toxicity Characteristic Leaching Procedure (TCLP).

3.4 The submission of an application to the Division of Water Quality, Department of Environmental Quality, for a discharge permit may be required if it is determined that the facility and associated activity will not have a de minimus actual or potential effect on ground water quality. If the Division determines there is potential for discharge, or if the proposal involves a commercial disposal operation it will be forwarded to the Division of Water Quality for their review.

.....

R649-9-9. Bonding of Disposal Facilities.

1. Disposal facilities, other than injection wells, shall be bonded according to this rule in order to protect the State and oil and gas producers from unnecessary liabilities and cleanup costs in the future. The objectives are to provide the State with adequate security to allow rehabilitation of a site to the point of preventing further or future pollution, and health and safety hazards should a facility owner default.

1.1. The parameters used to calculate the proper bond amount are: pit area, storage capacity, and volume of waste stored.

1.2. Bonds accepted shall be of the same type as those accepted for wells i.e. surety, collateral, or a combination of the two as described in the R649-3-1. In order to assist facility owners in providing bonding, the total bond amount provided may consist of an initial amount as determined by the division and an additional amount collected at a price per barrel and/or price per cubic yard of waste collected until the total bond amount is reached. The total bond will be held by the division or financial institution until the facility has been closed and inspected by the division in accordance with a division approved closure plan.

1.3. Total bond amount is calculated using values for pit area, pit storage capacity, and volume of stock piled waste material. No salvage value of equipment or removal cost is used. This bond will only be used by the State to treat or remove waste from the site and secure the facility to prevent any future contamination should the facility owner default on cleanup responsibilities. Bond amounts will be calculated as follows, and the per volume or per acre figures may be adjusted periodically to compensate for change in cost to perform the necessary cleanup work:

\$14,000 per acre of pit, partial acres will be calculated at the rate of \$14,000 per acre; plus

\$1.00 per barrel of produced water for one-quarter of the total storage capacity of the facility; plus

\$30 per cubic yard of solid or semi-solid waste material stockpiled at the facility.

\$10,000 Minimum bond amount.

1.4 All commercial disposal facilities (except injection wells covered by R649-3-1) will be covered by an adequate and acceptable bond before being permitted to accept any exploration and production waste. The initial and minimum bond payment will be at least \$10,000. The total bond amount will be calculated as described in Subsection R649-9-9(1.3). If requested by the disposal facility owner, the bond beyond the initial amount may be posted at a rate of two cents per barrel of liquid or sixty cents per cubic yard of solid/semi-solid waste material accepted for disposal at the facility.

KEY: oil and gas law

[1994]1998

Notice of Continuation April 30, 1997

40-6-1 et seq.



Natural Resources, Water Rights
R655-5
Maps Submitted to the Division of
Water Rights

NOTICE OF PROPOSED RULE

(New)
DAR FILE NO.: 20955
FILED: 03/31/98, 08:27
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: The 1998 legislature amended Section 73-3-16 to eliminate the standards for maps submitted with Proof of Appropriation and Proof of Change. The amendment provided that such standards will be set by the State Engineer by administrative rule. (DAR Note: H.B. 281 is found at 1998 Utah Laws 33, and will be effective May 4, 1998.)

SUMMARY: These rules are promulgated pursuant to Subsection 73-2-1(3)(b)(i) and Sections 73-3-2, 73-3-3, and 73-3-16. The purpose of these rules is to establish when maps must be submitted to the State Engineer, and the minimum standards that must be met for the maps to be accepted by the State Engineer. Generally, maps will be required when submitting the following to the State Engineer: Application to Appropriate, Application for Permanent Change of Water, Application for Temporary Change of Water, Temporary Application to Appropriate Water, Application to Exchange Water, Proof of Beneficial Use, Diligence Claim, and Evidence of Pre-statutory Water Use. The mapping standards set forth for Proof of Beneficial Use of Water, Diligence Claim, and Evidence of Pre-statutory Water Use are more strict and more demanding than the mapping standards set forth for the applications referred to above.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Subsection 73-2-1(3)(b)(i), and Sections 73-3-2, 73-3-3, and 73-3-16

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
❖LOCAL GOVERNMENTS: None.
❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These costs will vary substantially, depending upon the nature and extent of mapping necessary, and the fees charged by the licensed professional land surveyor or the licensed professional engineer.

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

Natural Resources
Water Rights
Suite 220
1594 West North Temple

PO Box 146300
Salt Lake City, UT 84114-6300, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Glenda McMaster at the above address, by phone at (801) 538-7370, by FAX at (801) 538-7467, or by Internet E-mail at nrwrt.gmcmaste@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/15/98.

THIS FILING MAY BECOME EFFECTIVE ON: 05/18/98

AUTHORIZED BY: Robert L. Morgan, State Engineer

R655. Natural Resources, Water Rights.
R655-5. Maps Submitted to the Division of Water Rights.
R655-5-1. Purpose.

These rules are promulgated pursuant to Subsection 73-2-1(3)(b)(i) and Sections 73-3-2, 73-3-3 and 73-3-16. The purpose of these rules is to establish when maps must be submitted and the minimum standards that must be met for the maps to be accepted by the State Engineer.

R655-5-2. Definitions.

2.1 APPLICATION MAP--a map filed in support of an Application to Appropriate, Temporary Application to Appropriate, Application to Exchange Water, Application for Permanent Change of Water, or Application for Temporary Change of Water.

2.2 COMPETENT SURVEY--a survey performed by or under the direction of either a Utah-licensed professional land surveyor or a Utah-licensed professional engineer. It must be based on measured ties (metes and bounds) to a regularly established and monumented section corner or quarter corner. The survey shall be conducted to produce location specifications within a one-foot positional tolerance. It may be submitted in support of a Proof of Beneficial Use, Diligence Claim, or Evidence of Pre-statutory Water Use.

2.3 HEREAFTER--in an Application for Permanent Change or Application for Temporary Change, the term "hereafter" means the conditions of authorized use of a perfected or approved water right proposed under the application, including point(s) of diversion, place(s) of beneficial use, nature of beneficial use, and period of use.

2.4 HERETOFORE--in an Application for Permanent Change or Application for Temporary Change, the term "heretofore" means the conditions of authorized use of a perfected or approved water right existing prior to the proposed changes, including point(s) of diversion, place(s) of beneficial use, nature of beneficial use, and period of use.

2.5 MUTUAL IRRIGATION COMPANY--an incorporated non-profit entity properly registered with the Department of Commerce, Division of Corporations, specifically established for the purposes of providing construction, operation, maintenance, and administration of water systems designed to deliver water to its shareholders.

2.6 PARCEL OF LAND--a tract or tracts of land held in undivided ownership by one or more persons. Its legal description may be described by a metes and bounds description, as a lot or subdivision of a section, or entire sections. The place of beneficial use of water is located on the parcel of land and may occupy the entire parcel or only a portion of the parcel.

2.7 PLACE OF BENEFICIAL USE--place of beneficial use that must be located on maps as required in the following rules is defined under one of the two following headings:

2.7.1 Specific Location--for most privately owned water rights, the place of beneficial use is the specific location (identified by a legal description by metes and bounds) of the point, facility, or area where water is placed to a recognized type of beneficial use. The area to be located is described below for each type of beneficial use.

Irrigation - specific location where water will be applied on a parcel of land.

Domestic - specific location of the residence(s).

Stockwater - specific location where stock will be watered or area where stock are impounded or grazed.

Instream - specific location of the reach of stream where flows are to occur.

Fish culture - specific location of the pond, lake, reach of stream, or facility.

Mining - specific location or area where water will be used for mining purposes.

Oil well development - specific location of the oil field described in the developing entity's mineral rights or other development authority or the specific location of the facility or area where beneficial use occurs.

Power, commercial, industrial, or other - specific location of the facility or area where beneficial use occurs.

2.7.2 Service Area--in the case of mutual irrigation companies, the federal government, state agencies, municipalities, water conservancy districts, special service districts, and qualifying water companies that serve subdivisions, the place of beneficial use is the water using entity's service area. The service area boundaries shall be described in sections or 40-acre tracts of each section, township, and range. Service areas are not required to be continuous nor consist of entirely contiguous parcels, i.e., there may be tracts within the described service area that are excluded as well as service area "islands" outside the main service area. Because of the changeable nature of their water service areas, municipalities are not required to define their service area boundaries. The boundaries of platted subdivisions would define the service areas for qualifying water companies.

2.8 PROOF MAP--a map submitted in conjunction with the filing of a Proof of Beneficial Use of Water under Section 73-3-16.

2.9 QUALIFYING WATER COMPANY--a mutual non-profit or private for-profit water entity properly registered with the Department of Commerce, Division of Corporations (if a corporation) or with the Division of Public Utilities (either as a regulated utility or as holding a letter of exemption). Such companies shall have been established for the purposes of providing construction, operation, maintenance, and administration of water systems specifically designed to serve one or more legally platted and recorded subdivisions. Such entities shall be bound by their articles of incorporation or bylaws to monitor water use within their

designated service areas and report annually that use to the State Engineer/Division of Water Rights.

R655-5-3. When Maps Must Be Submitted.

3.1 Waiver of Map Requirement. The State Engineer may waive the filing of maps if in his opinion the written application or proof adequately describes the location of the point of diversion, the diverting works, the location of the place of beneficial use, and the nature and extent of beneficial use.

3.2 Application to Appropriate.

3.2.1 General requirements. Application maps must be submitted with applications for new appropriations showing the parcel of land, the proposed place of beneficial use, and the proposed point of diversion.

3.2.2 Application maps are not required for applications for new appropriations filed by mutual irrigation companies, the federal government, state agencies, municipalities, water conservancy districts, special service districts, and qualifying water companies that serve subdivisions. However, if a map is not submitted, the application must include a description of the service area where the water is proposed to be used.

3.3 Application for Permanent Change of Water.

3.3.1 General requirements. Application maps must be submitted with change applications on both perfected and pending water rights. The map must show the parcel of land and the place of beneficial use where the water was used heretofore and the parcel of land and the proposed place of beneficial use where the water will be used hereafter. The map must also show the proposed point of diversion. If the change application is filed on a perfected water right that is inactive under a currently approved Application for Nonuse of Water, no map of the heretofore place of use will be required.

3.3.2 Application maps of the location of the heretofore place of use will not be required on change applications for water rights owned by mutual irrigation companies, the federal government, state agencies, municipalities, water conservancy districts, special service districts, and qualifying water companies that serve subdivisions, provided that the heretofore use was also occurring pursuant to the water right and within the defined place of use of the qualifying applicant. Application maps showing the hereafter place of use will be required only of mutual irrigation companies and qualifying water companies serving subdivisions. The mapping requirement for mutual irrigation companies and qualifying water companies serving subdivisions may be waived if the State Engineer determines the written description of the hereafter place of use is sufficiently clear. If the change application involves a change in the nature of use (e.g., irrigation to domestic), a map of the hereafter place of use will be required even if the hereafter place is within the existing service area.

3.4 Application for Temporary Change of Water and Temporary Application to Appropriate Water.

3.4.1 General Requirements. An application map must be submitted with each temporary change application or application for temporary appropriation. The map shall show the proposed point of diversion, the parcel of land, and the place of beneficial use. For temporary change applications, the map shall also show the parcel of land and the place of beneficial use where the water was used heretofore.

3.4.2 Requirements for mutual irrigation companies. For temporary change applications on irrigation company water shares, the State Engineer may waive the mapping requirements for the heretofore and/or the hereafter place of beneficial use. The determination to allow a waiver will be based on the State Engineer's evaluation of the facts described in the temporary change application.

3.5 Application to Exchange Water. Application maps must be submitted with an application to exchange water showing the parcel of land and the place of beneficial use. The map must also show the proposed point of diversion.

3.6 Proof of Beneficial Use of Water.

3.6.1 General Requirements. Maps are required when a proof is submitted on an approved Application to Appropriate Water (permanent or fixed time), on an approved Application for Permanent Change of Water, or on an approved Application to Exchange Water. Proof maps must show the specific point(s) of diversion, the place of beneficial use, and the extent of use. Proof maps shall also clearly show any specific information required in the approval of the application (e.g., water metering devices) or information necessary to make clear the manner in which water is diverted, measured, conveyed, and used.

3.6.2 Municipalities. Proof maps are not required on water rights issued for municipal uses unless the State Engineer determines that the written description inadequately describes the location of the point of diversion, the diverting works, the location of the place of beneficial use, and the nature and extent of beneficial use.

3.7 Diligence Claims and Evidence of Pre-statutory Water Use. Maps shall accompany the Diligence Claim or Evidence of Pre-Statutory Water Use showing the specific location and/or area where the water was first diverted, conveyed, and placed to beneficial use.

R655-5-4. Mapping Standards.

4.1 Acceptability of Maps. The State Engineer will determine the suitability of any proof map or application map submitted to the Division of Water Rights.

4.2 Standards for Maps to be Submitted with Proof of Beneficial Use of Water, Diligence Claims, or Evidence of Pre-Statutory Water Use.

4.2.1 Maps shall be prepared by a Utah-licensed professional engineer or a Utah-licensed professional land surveyor and must be based on a competent survey. The professional engineer or professional land surveyor shall affix his/her seal and shall sign and date the map.

4.2.2 Standard mapping conventions must be used in completing the map, including the following: there must be a north arrow, the scale must be indicated in both written and graphic form, and there must be a legend describing any symbols used on the map. All information included on the map must be legible. The line quality used on the drawings must be distinct. Shading or hatching may be used to show irrigated acreage; however, the boundary of the irrigated area must be delineated.

4.2.3 All surveys must be tied to a section corner (NE,SE,SW,NW) or a quarter section corner (N1/4,E1/4,S1/4,W1/4) of the section-township-range survey for the area of use, and the map must indicate the basis of bearing for the bearings shown. The survey method must be specified on the map.

Any public roads adjacent to or near the property surveyed should be shown on the map. If within a legally platted subdivision, the subdivision name and lot/block designations of the subject parcels shall also be shown.

4.2.4 The title block must include the following: water right number, application number, date of the survey, name of the applicant, name and license number of the professional engineer/land surveyor, and the section, township, and range where the parcel in question is located.

4.2.5 Maps must be submitted on standard drafting medium that is durable and reproducible. All information shown on the map must be in black permanent drafting ink or other media of equivalent durability and opacity.

4.2.5.1 Small sized maps. The preferred map sizes are 8 1/2 x 11 inches or 8 1/2 x 14 inches. Maps of this size should be used whenever possible and particularly for all irrigated acreage of five acres or less. Small sized maps may be created on material that is translucent or opaque. Maps of small parcels shall be drawn to the largest scale practical. The smallest scale allowable on small maps is 1"=300' (1:3600). There must be a margin of at least 1-1/4 inches at the top and 1/2 inch on the sides and bottom. The title block shall appear on the lower right-hand side of the page (the short side being the bottom). For mailing or transport, smaller maps must not be folded.

4.2.5.2 Large sized maps. If a larger sized map is needed, the dimensions shall be 24 x 36 inches. Maps of this size must be created on a translucent drafting medium. The title block shall appear in the lower right-hand corner (the long side of the map being the bottom). Larger maps shall be rolled for mailing or transport. If mailed, a protective mailing tube or box shall be used.

4.3 Standards for Maps to be Submitted with Applications to Appropriate, Temporary Applications to Appropriate, Applications for Permanent Change of Water, Applications for Temporary Change of Water, or Applications to Exchange Water.

4.3.1 The application map may be based upon any of the following:

- 1) A map based on a competent survey as defined herein;
- 2) All or part of a County Recorder's ownership plat map;
- 3) All or part of a USGS topographic quadrangle map;
- 4) All or part of a recorded subdivision plat map;
- 5) An aerial photograph with adequate land location information (section-township-range).
- 6) All or part of a previously filed proof map;
- 7) All or part of a hydrographic survey map prepared by the Division of Water Rights in a general adjudication;
- 8) Any other type of reference map that adequately depicts the land location and provides the necessary location information (section-township-range).

4.3.2 The water user is responsible for the accuracy of the map. After the map is filed, any corrections or adjustments are the responsibility of the applicant. Amendments may be made at the time proof is filed, or earlier by filing an amended map. Amended maps filed prior to proof shall be prepared in accordance with the standards governing the initial submittal, shall be clearly labeled as "amended," and shall bear the date of amendment.

4.3.3 Standard mapping conventions should be used in completing the map, including the following: there should be a north arrow, the scale should be indicated, and there must be a legend describing any symbols used on the map. All information

included on the map must be legible. The line quality used on the drawings must be distinct. Shading or hatching may be used to show irrigated acreage; however, the boundary of the irrigated area must be delineated.

4.3.4 Any referenced land boundaries must be tied to a section corner (NE,SE,SW,NW) or a quarter section corner (N1/4,E1/4,S1/4,W1/4) of the section-township-range survey for the area of use. Any public roads adjacent to or near the depicted place(s) of beneficial use should be shown on the map. If the place of beneficial use is within a legally platted subdivision, the subdivision name and the lot/block designations of the subject parcels shall also be shown. The map must contain, at minimum, adequate information to determine the quarter-quarter section(s) (i.e., 40-acre tracts) for the places of beneficial use.

4.3.5 A signed applicant's certificate shall be included upon or attached to each application map submitted. The certificate shall read: "I/we....., hereby acknowledge that this map (or, the map attached to this application), consisting ofpages numbered...to.... was prepared in support of Application..... I/we hereby accept and submit this map as a true representation of the facts shown thereon to the best of my/our knowledge and belief."

4.3.6 Map Sizes.

4.3.6.1 Small sized maps. The preferred map sizes are 8 1/2 x 11 inches or 8 1/2 x 14 inches. Maps of this size should be used whenever possible and particularly for all irrigated acreage of five acres or less. Maps of small parcels shall be drawn to the largest scale practical. The smallest scale allowable on small maps is 1"=300' (1:3600).

4.3.6.2 Large sized maps. If a larger sized map is needed, the dimensions shall be 24 x 36 inches.

KEY: water right, proof, maps, application 1998

**73-3-2
73-3-3
73-3-16**

**Natural Resources, Wildlife Resources
R657-33
Taking Bear**

**NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE No.: 20939
FILED: 03/24/98, 15:18
RECEIVED BY: NL**

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: This rule is being amended pursuant to the Wildlife Board meeting conducted for taking public input on the taking and pursuit of bear. In addition, this filing incorporates the emergency changes made by the Wildlife Board.

SUMMARY: Provisions of this rule are being amended to: eliminate the restriction that nonresidents may not obtain or purchase cougar/bear pursuit permits; clarify that when dogs are used to take a bear and there is not an open pursuit season, the owner and handler of dogs must have a valid pursuit permit and be accompanied by a licensed hunter; add clarification of the use of spotlight or artificial light; eliminate tagging provisions that are currently provided in Section 23-20-30; clarification of the application procedure; and makes other technical changes for consistency and clarity.

(DAR Note: A corresponding emergency rule that is effective as of 03/19/98 is under DAR No. 20929 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 23-14-18 and 23-14-19

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: The cost of a pursuit permit is \$25. Thus, the rule may impact the Division of Wildlife Resources budget by increasing revenue for the sale of pursuit permits to nonresidents.
 - ❖LOCAL GOVERNMENTS: None.
 - ❖OTHER PERSONS: None.
- COMPLIANCE COSTS FOR AFFECTED PERSONS: A nonresident may purchase a pursuit permit for a fee of \$25.

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

Natural Resources
Wildlife Resources
Suite 2110
1594 West North Temple
PO Box 146301
Salt Lake City, UT 84114-6301, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Debbie Sundell at the above address, by phone at (801) 538-4707, by FAX at (801) 538-4709, or by Internet E-mail at nrdwr.dsundell@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/15/98.

THIS FILING MAY BECOME EFFECTIVE ON: 05/16/98

AUTHORIZED BY: John Kimball, Director

**R657. Natural Resources, Wildlife Resources.
R657-33. Taking Bear.
R657-33-1. Purpose and Authority.**

- (1) Under authority of Sections 23-14-18 and 23-14-19, of the Utah Code, the Wildlife Board has established this rule for taking and pursuing bear.
- (2) Specific dates, areas, number of permits, limits[;] and other administrative details which may change annually are published in the proclamation of the Wildlife Board for taking and pursuing bear.

R657-33-2. Definitions.

- (1) Terms used in this rule are defined in Section 23-13-2.
- (2) In addition:
 - (a) "Bait" means any lure containing animal, mineral[;] or plant materials.
 - (b) "Baiting" means the placing, exposing, depositing, distributing[;] or scattering of bait to lure, attract[;] or entice bear on or over any area.
 - (c) "Bear" means *Ursus americanus*, commonly known as black bear.
 - (d) "Canned hunt" means that a bear is treed, cornered, held at bay[;] or its ability to escape is otherwise restricted for the purpose of allowing a person who was not a member of the initial hunting party to arrive and take the bear.
 - (e) "Cub" means a bear less than one year of age.
 - (f) "Evidence of sex" means the sex organs of a bear, including a penis, scrotum[;] or vulva.
 - (g) "Green pelt" means the untanned hide or skin of a bear.
 - (h) "Pursue" means to chase, tree, corner[;] or hold a bear at bay.
 - (i) "Waiting period" means a specified period of time that a person who has obtained a bear permit must wait before applying for any other bear permit.
 - (j) "Wildlife Habitat Authorization" means a document granting authority to purchase a license or permit.

R657-33-3. Permits for Taking Bear.

- (1) A wildlife habitat ~~[authorization]~~ authorization and a small game or combination license must be purchased before a person may take or pursue bear.
- (2) To take a bear, a person must first obtain a limited entry bear permit for a specified management unit as provided in the proclamation of the Wildlife Board for taking bear.
- (3) To pursue bear, a person must first obtain a cougar/bear pursuit permit from a division office.
- (4) Any limited entry bear permit purchased after the season opens is not valid until seven days after the date of purchase.
- (5) Residents and nonresidents may apply for limited entry bear permits and purchase cougar/bear pursuit permits.
- ~~[(6) Nonresidents may apply only for limited entry bear permits.~~
- ~~[(7) Nonresidents may not purchase cougar/bear pursuit permits.]~~

R657-33-4. Purchase of License or Permit by Mail.

- (1) A nonresident may purchase a small game license by mail by sending the following information to the Salt Lake division office: full name, complete mailing address, phone number, date of birth, weight, height, sex, color of hair and eyes, driver's license number (if available), proof of hunter education certification[;] and fee.
- (2) A ~~[resident]~~ person may purchase a pursuit permit by mail by sending the following information to the Salt Lake division office: full name, complete mailing address, phone number, ~~[hunting]~~ small game or combination license number[;] and fee.
- (3)(a) Residents may send a personal check, cashier's check[;] or money order.
- (b) Nonresidents must send either a cashier's check or money order. Personal checks are not accepted from nonresidents.

- (c) Checks must be made payable to the Utah Division of Wildlife Resources.

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R657-33-8. State Parks.

- (1) Hunting of any wildlife is prohibited within the boundaries of all state park areas except those designated by the Division of Parks and Recreation in Section R651-603-5.
- (2) Hunting with a rifle, handgun[;] or muzzleloader in park areas designated open is prohibited within one mile of all area park facilities, including buildings, camp or picnic sites, overlooks, golf courses, boat ramps[;] and developed beaches.
- (3) Hunting with shotguns and archery tackle is prohibited within one quarter mile of the above stated areas.

R657-33-9. Prohibited Methods.

- (1) Bear may be taken or pursued only during open seasons and using methods prescribed in this rule and the proclamation of the Wildlife Board for taking and pursuing bear. Otherwise, under the Wildlife Resources Code, it is unlawful for any person to possess, capture, kill, injure, drug, rope, trap, snare, or in any way harm[;] or transport bear.
- (2) After a bear has been pursued, chased, treed, cornered, legally baited[;] or held at bay, a person may not, in any manner, restrict or hinder the animal's ability to escape.
- (3) A person may not engage in a canned hunt.
- (4) A person may not take any wildlife from an airplane or any other airborne vehicle or device or any motorized terrestrial or aquatic vehicle, including snowmobiles and other recreational vehicles.

R657-33-10. Spotlighting.

- (1)~~[-A]~~(a) Except as provided in Section 23-13-17, a person may not use or cast the rays of any spotlight, headlight[;] or other artificial light to locate protected wildlife while having in possession a firearm or other weapon or device that could be used to take or injure protected wildlife[; except as provided in Section 23-13-17].
- (b) The use of a spotlight or other artificial light in a field, woodland or forest where protected wildlife are generally found is prima facie evidence of attempting to locate protected wildlife.
- (2) The provisions of this section do not apply to the use of the headlights of a motor vehicle or other artificial light in a usual manner where there is no attempt or intent to locate protected wildlife.

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R657-33-12. Use of Dogs.

- (1) Dogs may be used to take or pursue bear only during open seasons as provided in the proclamation of the Wildlife Board for taking bear.
- (2) The owner and handler of dogs used to take or pursue bear must have a valid bear permit or cougar/bear pursuit permit in possession while engaged in taking or pursuing bear.
- (3) When dogs are used in the pursuit of a bear, the licensed hunter intending to take the bear must be present when the dogs are

released and must continuously participate in the hunt thereafter until the hunt is completed.

(4) When dogs are used to take a bear and there is not an open pursuit season, the owner and handler of the dogs must have a valid pursuit permit and be accompanied by a licensed hunter as provided in Subsection (3).

R657-33-13. Certificate of Registration Required for Bear Baiting.

(1) A certificate of registration for baiting must be obtained before establishing a bait station.

(2) Certificates of registration are issued only to holders of valid limited entry bear ~~[archery/bait]~~ archery permits.

(3) A certificate of registration may be obtained from the division office within the region where the bait station will be established.

(4) The following information must be provided to obtain a certificate of registration for baiting: township, range, section to the nearest 1/4 section, county, drainage, type of bait used, and written permission from the appropriate landowner or land-managing agency.

(5)(a) The division recommends that any person interested in baiting on any lands administered by the Forest Service or Bureau of Land Management verify that the lands are open to baiting before applying for a limited entry bear ~~[archery/bait]~~ archery permit.

(b) Areas which are open to baiting on National Forests are designated on a map which may be obtained from district offices. Baiting locations and applicable travel restrictions must be verified by the district supervisor prior to applying for a certificate of registration.

(c) Areas generally closed to baiting stations by these federal agencies include:

- (i) designated Wilderness Areas;
- (ii) heavily used drainages or recreation areas; and
- (iii) critical watersheds.

(6) A \$5 handling fee must accompany the application.

(7)~~(a)~~ Only hunters listed on the certificate of registration may hunt over the bait station and the certificate of registration must be in possession while hunting over the bait station.

(8) Any person tending a bait station must be listed on the certificate of registration.

.....

R657-33-15. Use of Bait.

(1)(a) A person who has obtained ~~[an archery/bait]~~ a limited entry bear archery permit may use archery tackle only, even when hunting bear away from the bait station.

(b) A person may establish or use only one bait station. The bait station may be used during both open seasons.

(c) Bear may not be taken with any firearm over bait nor may dogs be run from any bait.

(d) Bait may not be contained in or include any metal, glass, porcelain, plastic, cardboard, or paper.

(e) The bait station must be marked with a sign provided by the division and posted within 10 feet of the bait.

(2)(a) Bait may be placed only in areas open to hunting and only during the open seasons.

(b) All materials used as bait must be removed within 72 hours after the close of the season.

(3) A person may use nongame fish as bait, except those listed as prohibited in Rule R657-13 and the proclamation of the Wildlife Board for Taking Fish and Crayfish. No other species of protected wildlife may be used as bait.

(4)(a) Domestic livestock or its parts, including processed meat scraps, may be used as bait.

(b) A person using domestic livestock or their parts for bait must have in possession:

(i) a certificate from a licensed veterinarian certifying that the domestic livestock or their parts does not have a contagious disease, and stating the cause and date of death; and

(ii) a certificate of brand inspection or other proof of ownership or legal possession.

(5) Bait may not be placed within:

- (a) 100 yards of water or a public road or designated trail; or
- (b) 1/2 mile of any permanent dwelling or campground.

(6) Violations of this rule and the proclamation of the Wildlife Board for taking and pursuing bear concerning baiting on federal lands may be a violation of federal regulations and prosecuted under federal law.

R657-33-16. Tagging Requirements.

(1) The carcass of a bear must be tagged in accordance with Section 23-20-30.

(2) The carcass of a bear must be tagged with a temporary possession tag before the carcass is moved from or the hunter leaves the site of kill.

~~(2) To tag a carcass, a person shall:~~

- ~~(a) completely detach the tag from the license or permit;~~
- ~~(b) completely remove the appropriate notches to correspond with:~~

~~(i) the date the animal was taken; and~~

~~(ii) the sex of the animal; and~~

~~(c) attach the tag to the carcass so that the tag remains securely fastened and visible:~~

~~(3) A person may not:~~

- ~~(a) remove more than one notch indicating date or sex; or~~
- ~~(b) tag more than one carcass using the same tag.~~

~~(4)~~(3) A person may not hunt or pursue bear after the notches have been removed from the tag or the tag has been detached from the permit.

~~(5)~~(4) The temporary possession tag:

(a) must remain attached to the pelt or unskinned carcass until the permanent possession tag is attached; and

(b) is only valid for 48 hours after the date of kill.

~~(6)~~(5) A person may not possess a bear pelt or unskinned carcass without a valid permanent possession tag affixed to the pelt or unskinned carcass. This provision does not apply to a person in possession of a properly tagged carcass or pelt within 48 hours after the kill, provided the person was issued and is in possession of a valid permit.

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R657-33-21. Donating.

(1) A person may donate protected wildlife or their parts to another person in accordance with Section 23-20-9.~~only at the following places:~~

- ~~— (a) the residence of the donor;~~
- ~~— (b) the residence of the person receiving protected wildlife or their parts;~~
- ~~— (c) a meat locker;~~
- ~~— (d) a storage plant; or~~
- ~~— (e) a meat processing facility.]~~

(2) A written statement of donation must be kept with the protected wildlife or parts showing:

- (a) the number and species of protected wildlife or parts donated;
- (b) the date of donation;
- (c) the license or permit number of the donor and the permanent possession tag number; and
- (d) the signature of the donor.

(3) A green pelt of any bear donated to another person must have a permanent possession tag affixed.

(4) The written statement of donation must be retained with the pelt.

R657-33-22. Purchasing or Selling.

(1) Legally obtained~~;~~ tanned bear hides may be purchased or sold.

(2) A person may not purchase, sell, offer for sale~~;~~ or barter a gall bladder, tooth, claw, paw~~;~~ or skull of any bear.

R657-33-23. Waste of Wildlife.

(1) A person may not waste or permit to be wasted or spoiled any protected wildlife or their parts in accordance with Section 23-20-8.

(2) The skinned carcass of a bear may be left in the field and does not constitute waste of wildlife, however, the division recommends that hunters remove the carcass from the field.

R657-33-24. Livestock Depredation.

(1) If a bear is harassing, chasing, disturbing, harming, attacking~~;~~ or killing livestock, or has committed such an act within the past 72 hours:

(a) in depredation cases, the livestock owner, an immediate family member~~;~~ or an employee of the owner on a regular payroll, and not hired specifically to take bear, may kill the bear;

(b) ~~[upon notification of depredation or human health and safety concerns by]~~a landowner or livestock owner~~;~~ ~~the division]~~ may notify the division of the depredation or human health and safety concerns, which shall authorize a local hunter to take the offending bear or notify ~~[an animal damage control]~~ a Wildlife Services specialist; or

(c) the livestock owner may notify ~~[an animal damage control]~~ a Wildlife Services specialist of the depredation who may take the depredating bear.

(2) Depredating bear may be taken at any time by ~~[an animal damage control]~~ a Wildlife Services specialist, supervised by the ~~[animal damage control program]~~ USDA Wildlife Program, while acting in the performance of the person's assigned duties and in accordance with procedures approved by the division.

(3) A depredating bear may be taken with any weapon authorized for taking bear.

(4)(a) Any bear taken pursuant to this section must be delivered to a division office or employee within 72 hours.

(b) ~~[The bear]~~ A bear that is killed in accordance with Subsection (1)(a) shall remain the property of the state, except the division may sell a bear damage permit to a person who has killed a depredating bear ~~[in accordance with this section,]~~ if that person wishes to maintain possession of the bear.

(c) A person may acquire only one bear annually.

(5)(a) Hunters interested in taking depredating bear as provided in Subsection (1)(b) may contact the division.

(b) Hunters will be contacted by the division to take depredating bear as needed.

R657-33-25. Questionnaire.

Each permittee who receives a questionnaire should return the questionnaire to the division regardless of success. Returning the questionnaire helps the division evaluate population trends, harvest success~~;~~ and other valuable information.

R657-33-26. Taking Furbearers.

(1) Furbearers, including badger, beaver, black-footed ferret, bobcat, fisher, red fox, gray fox, kit fox, lynx, marten, mink, otter, ringtail, skunk, weasel, wolf~~;~~ and wolverine may be taken only in accordance with the ~~[furbearer proclamation]~~ Furbearer Proclamation.

(2) A person may not disturb, remove~~;~~ or possess a trap, trapping device~~;~~ or any wildlife held in a trap without first obtaining written permission from the trap owner.

R657-33-27. Taking Bear.

(1) A person may take only one bear during the season and from the area specified on the permit.

(2)(a) A person may not take or pursue a female bear with cubs.

(b) Any bear, except a cub or a sow accompanied by cubs, may be taken during the prescribed seasons.

(3) Permits may be obtained by following the application procedures provided in this rule and the proclamation of the Wildlife Board for taking and pursuing bear.

(4) Season dates, closed areas~~;~~ and limited entry permit areas are published in the proclamation of the Wildlife Board for taking and pursuing bear.

R657-33-28. Cougar/Bear Pursuit.

(1) Bear may be pursued only by persons who have obtained a cougar/bear pursuit permit. The cougar/bear pursuit permit does not allow a person to kill a bear.

(2) A person may not:

(a) take or pursue a female bear with cubs;

(b) repeatedly pursue, chase, tree, corner~~;~~ or hold at bay the same bear during the same day; or

(c) possess a firearm or any device that could be used to kill a bear while pursuing bear.

(3) If eligible, a person who has obtained a cougar/bear pursuit permit may also obtain a limited entry bear permit.

(4) When dogs are used to take a bear and there is not an open pursuit season, the owner and handler of the dogs must have a valid

pursuit permit and be accompanied by a licensed hunter as provided in Section R657-33-12(3).

(5) Season dates, closed areas and cougar/bear pursuit permit areas are published in the proclamation of the Wildlife Board for taking and pursuing bear.

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R657-33-31. Application Procedure.

(1) Applications are available from division offices.

(2)(a) Applicants may select up to three area management unit choices when applying for limited entry bear permits. Area Management unit choices must be listed in order of preference.

(b) Applicants must specify on the application whether they want a limited entry bear permit or a limited entry bear archery/bait permit. archery permit.

~~[(3) Applications may be submitted by mail only]~~(3)(a) Applications must be mailed by the date prescribed in the proclamation of the Wildlife Board for taking and pursuing bear. Applications filled out incorrectly or received later than the date prescribed in the bear proclamation may be rejected. Late applications will be returned unopened.

(b) If an error is found on an application, the applicant may be contacted for correction.

(4) Applications must be sent to: Utah Bear Applications, P.O. Box 168888, Salt Lake City, Utah 84116-8888.

~~[(4) Incomplete applications or applications completed incorrectly or postmarked later than the deadline established by the Wildlife Board are rejected.~~

~~—(5) Dual or party~~(5) Group applications are not accepted. A person may not apply more than once annually.

~~—(6) All applications are final.~~

[(7)(a) A person may apply for a license and a permit at the same time by including the following information: full name, complete mailing address, phone number, date of birth, weight, height, sex, color of hair and eyes, proof of hunter education certification (for hunters born after December 31, 1965), and driver license number if available.](6) A wildlife habitat authorization and small game or combination license may be obtained before applying, or will be issued upon successfully drawing a permit. Fees must be submitted with the application.

~~[(b)]~~(7) Licenses and permits are mailed to successful applicants.

R657-33-32. Fees.

(1)(a) ~~Residents must include a personal check, cashier's check, or money order in the correct amount with the resident application.~~Personal checks, money orders, cashier's checks and credit cards are accepted from residents.

~~(b) Nonresidents must include a cashier's check or money order in the correct amount with the nonresident application.~~(b) Money orders, cashier's checks and credit cards are accepted from nonresidents. Personal checks are not accepted from nonresidents.

(c) Credit cards must be valid at least 30 days after the drawing results are posted.

(d) Handling fees are charged to the credit card when the application is processed. Permit fees are charged after the drawing, if successful.

(2) A \$5 application fee is added to the price of the permit on the application form. The \$5 fee must be included and is nonrefundable.

~~(3) Checks~~An application is voidable if the check is returned unpaid from the bank or the credit card is invalid or refused.~~automatically cancel the application.~~

~~—(4) Credit cards will be accepted.~~

R657-33-33. Drawing.

(1) If more applications are received for limited entry permits than the number of permits available, a drawing will be held. Drawing results will be posted at the Lee Kay Center, Cache Valley Hunter Education Center and division offices on the date published in the proclamation of the Wildlife Board for taking and pursuing bear.

(2)(a) Permits remaining after the drawing are available from the Salt Lake division office by mail-in application and are sold on a first-come, first-served basis as provided in the proclamation of the Wildlife Board for taking and pursuing bear.

~~[(3) Any bear permit purchased after the season opens is not valid until seven days after the date of purchase.]~~(b) The same application form used for the limited entry bear drawing must be used when applying for remaining permits.

~~[(4)]~~(3) Waiting periods do not apply to the purchase of remaining permits after the drawing. However, waiting periods are incurred as a result of purchasing remaining permits after the drawing.

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R657-33-35. Refunds.

(1) Unless a donation is specified, the total amount of the license or permit fee, minus the handling fee, is refunded.

(2) Refunds are mailed within six weeks after the drawing results are posted.

~~(3)~~

~~—(4) Any permit unlawfully applied for or obtained is void and will be seized.~~

KEY: wildlife, bear*, game laws

[April 16, 1997]1998

23-14-18

23-14-19

23-13-2



**Transportation, Program Development
R926-2
Evaluation of Proposed Additions to the
State Highway System**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 20942

FILED: 03/26/98, 15:33

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: To establish the procedure and criteria by which highways shall be considered for inclusion in the state highway system as required by Section 27-12-27.

SUMMARY: The purpose of this rule is to provide a procedure for requesting additions to the state highway system, a procedure for evaluating requested additions to the state highway system, and a set of criteria by which proposed additions shall be consistently checked.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 72-4-102

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
- ❖LOCAL GOVERNMENTS: None.
- ❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Transportation
 Program Development
 Calvin Rampton Building
 4501 South 2700 West
 Box 143600
 Salt Lake City, UT 84114-3600, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO: Richard Manser, P.E. at the above address, by phone at (801) 965-3853, by FAX at (801) 965-4551, or by Internet E-mail at rmanser@mail.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/15/98.

THIS FILING MAY BECOME EFFECTIVE ON: 05/16/98

AUTHORIZED BY: Linda M. Toy, Director

R926. Transportation, Program Development.
R926-2. Evaluation Of Proposed Additions to the State Highway System.

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R926-2-3. Procedure for Requesting an Addition to the State Highway System.

A written request for the addition of a highway to the state highway system shall be made by the government agency currently responsible for the highway, a member of the Utah Transportation Commission or the Department of Transportation. The request shall be conveyed to the Utah Department of Transportation region director responsible for the area where the highway is primarily located.

R926-2-4. Procedure for Evaluating Proposed Additions to the State System.

The procedure for evaluating proposed additions to the state highway system is as follows:

- (1) The region director shall make a preliminary review of the proposed addition and may request the highway be evaluated for inclusion on the state highway system.
- (2) The engineer for statewide planning shall review the request from the region director and shall determine if the road qualifies for inclusion on the state highway system.
- (3) The engineer for statewide planning shall forward the request and evaluation, regardless of the outcome, to the program development director.
- (4) The program development director shall present the evaluation to the Transportation Commission with a recommendation whether the route qualifies for inclusion on the state highway system.
- (5) The Transportation Commission shall review the recommendation and shall approve or reject the route as part of the state highway system.

- (a) Review the recommendation.
- (b) Provide opportunity for the government agency currently responsible for the highway to comment on the proposal during a Transportation Commission meeting, and
- (c) Approve or reject the route as part of the state highway system.

- (6) The Transportation Commission shall, if it approves the route, add the route to the state highway system by resolution.
- (7) The State Legislature shall review the addition to the state highway system and shall approve or disapprove the addition as required by Section 27-12-27.

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KEY: transportation planning, highway planning
April 1, 1997 [27-12-27]72-4-102
Notice of Continuation February 10, 1997



Workforce Services, Administration
R982-301
 Councils

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 20927
 FILED: 03/19/98, 07:42
 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: This filing establishes in rule the bylaws of the state and regional councils on Workforce Services.

SUMMARY: New sections clarify voting procedures and leadership structures in the state and regional councils on Workforce Services.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Subsections 35A-1-206(2)(a)(iv)(A), 35A-1-206(2)(a)(iv)(B), 35A-2-103(2)(a)(i), and 35A-2-103(2)(a)(i)

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
- ❖LOCAL GOVERNMENTS: None.
- ❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Workforce Services
 Administration
 Fifth Floor
 140 East 300 South
 Box 143001
 Salt Lake City, UT 84114-3001, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO: Shawn Potter at the above address, by phone at (801) 531-3783, by FAX at (801) 531-3785, or by Internet E-mail at spotter@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/15/98.

THIS FILING MAY BECOME EFFECTIVE ON: 05/16/98

AUTHORIZED BY: Robert C. Gross, Executive Director

R982. Workforce Services, Administration.

R982-301. Councils.

R982-301-101. General Definitions.

1. Employer. This rule adopts the definition of employer as used in Section 35A-4-203 except that for purposes of this rule, and for purposes of membership on the State Council on Workforce Services or a Regional Council on Workforce Services, an employer shall be a for-profit enterprise.

2. Median sized employer. The median sized employer shall be calculated, based on the previous calendar year, by the Division of Workforce Information and Payment Services each June 30. The median sized employer in a region is determined by arranging the establishments in an array by number of employees including the number of employees in each employer size interval, and choosing the employer in the array that employs the middle employee. The median sized employer in the state is determined similarly.

3. Attendance. Pursuant to Subsection 35A-2-103(6)(b), a council member may be considered present at the meeting when given permission by the council chair to participate in the business of the meeting by videoconference or teleconference.

4. Conflict of Interest. Prior to voting on any matter before a council, a council member must disclose and declare for the council records any direct financial benefit the member would receive from a matter being considered by the council.

R982-301-102. State Council on Workforce Services.

1. Authority. As required by Subsections 35A-1-206(2)(a)(iv)(A) and 35A-1-206(2)(a)(iv)(B), this rule defines Small Employers and Large Employers for membership on the State Council on Workforce Services.

2. Definitions.

a. "Small employer" means[is] an employer who employs fewer employees than the median sized employer in the state.

b. "Large employer" means[is] an employer who employs a number of employees that is greater than or equal to the median sized employer in the state.

c. "Median Sized Employer" as used in R982-301-102(2)(a) and R982-301-102(2)(b) is based solely on the number of employees an employer has in his/her employ in the state during the calendar year.

R982-301-103. Regional Councils on Workforce Services.

1. Authority. As required by Sections 35A-2-103(2)(a)(i) and 35A-2-103(2)(a)(i) this rule defines small employers and large employers for membership on the Regional Councils on Workforce Services.

2. Definitions.

a. "Small employer" means[is] an employer who employs fewer employees than the median sized employer in the region.

b. "Large employer" means[is] an employer who employs a number of employees that is greater than or equal to the median sized employer in the region.

c. "Median Sized Employer" as used in R982-301-103(2)(a) and R982-301-103(2)(b) is based solely on the number of employees an employer has in his/her employ in the region during the calendar year.

3. Voting. A voting member of a regional council must either be present at a council meeting to vote or, if unable to attend a council meeting, may submit to a regional director in writing 24 hours in advance of a council meeting the member's vote on a specific matter or proposal before the council.

4. Council Leadership. A chair of a regional council may, in consultation with the regional director, appoint members of the council to be the vice chair or second vice chair to serve in leadership positions at the direction of the chair. The vice chair and second vice chair shall be representatives of private sector employers.

KEY: councils
[July 21, 1997]1998

35A-1-206(2)(a)(iv)(A)
35A-1-206(2)(a)(iv)(B)
35A-2-103(2)(a)(i)
35A-2-103(2)(a)(i)



[DAR Note: The Division of Employment Deployment, Department of Workforce Services, filed the following proposed amendment on February 3, 1998. This was in time for the March 1, 1998, issue of the *Bulletin*. Due to a clerical error at the Division of Administrative Rules, this rule change was not published in that issue. While the rule change was supposed to become effective on April 1, 1998, because of the provisions of Subsection 63-46a-4(7) the effective date will be delayed until at least May 16, 1998.]

**Workforce Services, Employment
Development
R986-309-901
UMAP General Eligibility Requirements**

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 20960
FILED: 03/31/98, 16:10
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: To implement changes to the alien status eligibility criteria passed by the Balanced Budget Act of 1997.

SUMMARY: This rule incorporates changes made by the Balanced Budget Act of 1997 which added Cuban/Haitian entrants and Amerasian immigrants as aliens who can receive Medicaid without being subject to the five-year bar from the date of entry. The law extends eligibility to qualified aliens who are the unremarried spouse of a veteran. The definition of veteran is being expanded to include Hmong and Highland Lao veterans who fought for the U.S. during the Vietnam conflict which allows these individuals to receive certain welfare benefits including Medicaid. Also, this law adds a provision that American Indians born in Canada are considered Lawful Permanent Residents, but are not subject to the five-year bar from receiving Medicaid benefits which applies to other Lawful Permanent Residents.

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

FEDERAL MANDATE FOR THIS FILING: The Balanced Budget Act of 1997, Pub. L. No. 105-33

THIS FILING INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: The Balanced Budget Act of 1997, Pub. L. No. 105-33, Sections 5302, 5306, 5563, 5571, 5307, 5566, and 5562.

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
- ❖LOCAL GOVERNMENTS: None.
- ❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Workforce Services
Employment Development
Fifth Floor
140 East 300 South
PO Box 45245
Salt Lake City, UT 84145-0249, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Shawn Potter at the above address, by phone at (801) 531-3783, by FAX at (801) 531-3785, or by Internet E-mail at spotter@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/15/98.

THIS FILING MAY BECOME EFFECTIVE ON: 05/16/98

AUTHORIZED BY: Robert C. Gross, Executive Director

**R986. Workforce Services, Employment Development.
R986-309. Utah Medical Assistance Program (UMAP).
R986-309-901. UMAP General Eligibility Requirements.**

1. The department requires compliance with Section 26-18-10. The department adopts Pub. L. No. 104-193 (412), (431), and (435), which is incorporated by reference as amended by Pub. L. No. 105-33(5302)(c)(2) and (3), (5306)(d), (5563) and (5571). The department adopts Pub. L. No. 105-33 (5307)(a), and (5566).

2. The following definitions apply to this section:
- a. "Unearned income" means cash received by an individual for which the individual performs no service.
 - b. "Full-time" employment means an average of 100 or more hours of work per month or an average of 23 hours per week.
 - c. A "bona fide" loan means a loan which has been contracted in good faith without fraud or deceit and genuinely endorsed in writing for repayment.

3. "Disregard" means a portion of income that is not counted. Conditions of eligibility for UMAP:

- a. Medical need is not a requirement for UMAP eligibility.
- b. An individual ineligible for Medicaid because of resources is not eligible for UMAP assistance.
- c. Individuals ineligible for Medicaid because they will not spenddown or because their medical expense is less than the spenddown, are not eligible for UMAP assistance.

4. Citizenship requirements for UMAP:

- a. Temporary entrants into the U.S. and those who have no registration card are not eligible for UMAP assistance. To be eligible for UMAP, the individual must be one of the following:
 - i. U.S. born or a naturalized citizen;
 - ii. An American Indian born in Canada to whom the provisions of section 289 of the Immigration and Nationality Act apply, or who is a member of an Indian tribe as defined in section 4(e) of the Indian Self-determination and Education Assistance Act;
 - iii. Residents from Freely Associated States;
 - iv. A qualified alien, as defined in Pub. L. No. 104-193 (431), as amended by Pub. L. No. 105-33(5302)(c)(3), (5562), and

(5571) who was admitted into the United States prior to August 22, 1996.

[iii]y. A qualified alien, newly admitted into the United States on or after August 22, 1996, is not eligible for UMAP services for five years from the person's date of entry into the United States, unless the person is:

A. A refugee admitted under section 207 of the Immigration and Nationality Act;

B. An individual granted asylum under section 208 of the Immigration and Nationality Act;

C. An individual whose deportation has been withheld under section 243(h) of the Immigration and Nationality Act, (as in effect immediately before the effective date of section 307 of division C of Pub. L. No. 104-208) or section 241(b)(3) of such Act (as amended by section 305(a) of division C of Pub. L. No. 104-208);

D. A Cuban and Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980;

E. An Amerasian immigrant pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Pub. L. No. 100-202 and amended by the 9th proviso under MIGRATION AND REFUGEE ASSISTANCE in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, Pub. L. No. 100-461, as amended);

[D]E. An honorably discharged veteran from the Armed Forces of the United States, ~~[or]~~ the spouse of a United States veteran, or the unmarried spouse of a deceased United States veteran;

[E]G. An individual on active duty in the Armed Forces of the United States or the spouse of such an individual[-];

H. A Hmong or Highland Lao veteran who fought on behalf of the Armed Forces of the United States during the Vietnam conflict who has been lawfully admitted to the United States for permanent residence is considered a veteran for the purpose of determining eligibility.

5. Residence requirements for UMAP:

a. To be eligible for UMAP assistance, an individual must be a Utah resident. To be considered a Utah resident, a person must meet one of the following guidelines:

i. The client must live in Utah for 30 days prior to the need for medical services.

ii. The client must show intent to reside in the state permanently. If a client shows intent to reside in the State permanently, eligibility can begin no earlier than the date the client entered the state.

b. Any person who is a resident of a prison, jail or halfway house is not eligible for UMAP assistance. A person may qualify in the month in which he enters or leaves a prison, jail or halfway house. The program will not pay for services while the person is in custody. It does not matter if the condition was pre-existing. No payment will be made for any medical problems which arise during the commission of a crime or during an arrest.

6. All recipients of General Financial Assistance (GA) are eligible for UMAP assistance.

7. Income eligibility calculation for UMAP:

a. Eligibility for UMAP is based on a best estimate of income as follows:

i. The department shall budget income and determine the best estimate in the same manner as Medicaid in R986-304-407.

- ii. The department shall count all income received except:
 - A. a bona fide loan of money which must be repaid;
 - B. rental subsidies;
 - C. trust funds that are not available on demand;
 - D. GA, AFDC, or Refugee Cash Assistance (RCA) grants;
 - E. HEAT assistance;
 - F. attendant care received by a handicapped person from the Division of Services to the Handicapped if the money is used to pay for attendant care, and the person providing the care is not included in the household's basic maintenance standard (BMS);
 - G. insurance settlements for destroyed property, if the income is actually used to replace the property. If the insurance settlement is more than the replacement cost of the new property, the difference is counted as income.
 - H. unearned income in-kind.
 - I. special payments to American Indians.
- iii. The following deductions are allowed:
 - A. payments for a health or accident insurance policy;
 - B. federal taxes are determined by multiplying the number of exemptions by \$162.50, subtracting that amount from the wages, and comparing the remainder to the appropriate tax tables for a single or married person. Tax computation is as follows:

TABLE

Single Person Including Head of Household.			
Wages		Income Tax	
<\$ 89		\$ 0	
89 - 1,575		0	plus 15% of Excess Over
1,576			
1,576 - 3,683	223.13		plus 28% of Excess Over
3,684			
3,684 - 8,461	831.46		plus 33% of Excess Over
8,462 +			
8,462	2,390.03		plus 28% of Excess Over

Married Person Including Head of Household.			
Wages		Income Tax	
<\$ 255		\$ 0	
255 - \$ 2,733		0	plus 15% of Excess
Over \$ 2,734			
2,734 - 6,246	371.88		plus 28% of Excess
Over 6,247			
6,247 - 15,422	1,355.38		plus 33% of Excess
Over 15,423 +			
Over 15,423	4,383.40		plus 28% of Excess

C. state taxes, as determined by multiplying the federal tax by .45;

D. FICA. If the client is self-employed, this is determined by multiplying monthly earnings by .1503. If the client is not self-employed, this is determined by multiplying monthly earnings by .0765.

iii. Compare the figure derived from the above calculation to the BMS for the household size. This figure is called countable income. Persons with countable income above the BMS may spenddown to the BMS level, if the spenddown amount is \$50.00 or less. The Department will not collect a spenddown for amounts of less than \$1.00.

iv. The UMAP income standard is as follows:

TABLE

Household Size	UMAP Income Standard (BMS)
1	337
2	413
3	516
4	602
5	686
6	756
7	792
8	829
9	868
10	904
11	941
12	978
13	1016
14	1053
15	1090
16	1128

8. When an individual's check amount differs from the entitlement amount, the check amount is used to determine income eligibility only if the reduction is involuntary.

9. Self-employment income:

a. Income from self-employment is counted. Deductions are allowed for the cost of doing business. Allowable deductions include:

- i. labor;
- ii. stock;
- iii. raw materials;
- iv. seed and fertilizer;
- v. taxes and interest paid for income-producing property;
- vi. insurance premiums;
- vii. transportation costs only if the person must move from place to place in the course of business.

b. Deductions for income-producing property include:

- i. property taxes;
- ii. insurance;
- iii. incidental repairs;
- iv. advertising;
- v. landscaping;
- vi. utilities.

c. The cost of an addition or increase in value of the rental property is not allowed as a deduction.

10. UMAP budgeting methods:

a. Income shall be budgeted prospectively. Information provided by the client is used to determine the amount of income the client expects to receive during the eligibility period.

b. Farm and self-employment income is prorated over the number of months in which the money was earned if the income is received less often than monthly. The prorated amount is counted for the same number of months in which the money was earned. The month in which the money was received is counted as the first month, even if the money is not actually earned in that month.

c. Student grants and scholarships are prorated over the number of months the grants or scholarships are intended to cover. The first month it is intended to cover is the first budget month. If it is received after the first month it is intended to cover, the client is not liable for an understated liability based on receipt of this income.

d. Deferred income counts when it is available if it is not deferred by choice. If it is deferred by choice, it is counted for the months it could have been received.

e. Only student income and farm or self-employment income are prorated.

f. Lump sum payments can be earned or unearned income. Lump sums are income in the month received. An overpayment may exist for the month of receipt. Any amount remaining will count as a resource for the month following the month of receipt.

11. Retroactive coverage begins no earlier than the first day of the month prior to the month of application. Coverage begins no later than the first day of the month in which an individual is determined eligible.

12. The income of all individuals included in the BMS is used to determine eligibility.

13. Individuals included in the UMAP BMS:

a. A legally married spouse is included in the BMS if the couple lives together or they have not been separated more than six months. The spouse is not included if the couple is legally separated.

b. An unmarried person of the opposite sex who lives with the client is included in the BMS if the client is emancipated and the couple present themselves to the community as husband and wife.

c. Unemancipated children living with the client are included in the BMS if the client is emancipated. This includes natural, adopted, or stepchildren. Unborn children are not included in the BMS.

d. Parents living with the client are included in the BMS if the client is unemancipated. This includes natural, adopted or stepparents.

e. Unemancipated children of the client's parents are included in the BMS if they live with the parents and the client is unemancipated.

14. The client must report any change which may affect eligibility within ten days of the day the client learns of the change. Clients must report income from a new source within ten calendar days of the date the client receives money from that new source.

15. UMAP resource requirements:

a. The resource limit is \$500 for a BMS of one and \$750 for a BMS of two or more.

b. Countable resources include anything of value that is available to the person. When a person is part owner of property, the property is a resource only if the person has a legal right to sell the property. Only the equity value of the resource is counted.

c. If the resource limit is met at any time in the month, it is met for the entire month.

d. The following resources are exempt and are not counted to determine eligibility:

- i. one home, including a mobile home;
- ii. the lot upon which the home stands if the home is occupied by the client. If the lot on which the home stands exceeds the average size of residential lots in the community where it is, the equity value of the property that is larger than an average size lot is a resource;
- iii. water rights attached to the home or lot occupied by the client;
- iv. Contents of the home worth less than \$1000 that are essential to daily living;
- v. one vehicle;
- vi. an irrevocable burial trust;
- vii. one burial plot or space for any member of the client's immediate family;

viii. funds from a student loan, grant, or scholarship are exempt until the month following the end of the period the loan, grant, or scholarship is intended to cover;

ix. a life estate which serves as the primary residence of the client;

x. Lump sum insurance payments for destroyed property if the available money is used within ninety days to replace the destroyed property. All other lump sums are a resource in the month following the month of receipt.

e. The resources of everyone in the BMS are counted to determine eligibility.

f. Individuals are not sanctioned for transferring resources unless the transfer was made to become eligible for UMAP. If property is transferred in order to meet resource limitations, the person is ineligible for the month the transfer is made, and for the next five months. If the client regains the transferred resource and uses the resource to meet normal expenses, the sanction will be removed.

16. The UMAP clinic in Utah, Weber, Morgan, and Salt Lake Counties shall determine what services they will cover. The worker in all other counties shall determine what services they will cover.

17. Cooperation in collecting third party liability information is an eligibility requirement for UMAP assistance.

KEY: UMAP

[February 1, 1997]1998

26-18



End of the Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

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 May 15, 1998. At its option, the agency may hold public hearings.

From the end of the waiting period through August 13, 1998, 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 (1996); and UTAH ADMINISTRATIVE CODE Rule R15-2, and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

The Changes in Proposed Rules Begin on the Following Page.

Commerce, Occupational and
Professional Licensing
R156-40
Recreational Therapy Practice Act
Rules

NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 20695
FILED: 03/17/98, 17:11
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: After a public hearing, numerous written comments received, and further Division and Recreational Therapy Board review, changes to the proposed rules are being made.

SUMMARY: In the definition for "approved masters degree in recreational therapy or a masters degree with an approved emphasis in recreational therapy" it was added that the course work may be upper division or graduate level course work. Revised the definition of "an approved training program" for licensure as a therapeutic recreational technician (TRT) to add that the 200 hours of education and training may include instruction in the theories and concepts of recreational therapy from recognized colleges or universities, work shops and seminars, and practical experience in a facility. Also, a section was added regarding the qualifications for a temporary license as a therapeutic recreational specialist (TRS).

(DAR Note: The original proposed amendment upon which this change in proposed rule is based was published in the February 15, 1998, issue of the *Utah State Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 58-40-1, and Subsections 58-1-106(1) and 58-1-202(1)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None.
- ❖ LOCAL GOVERNMENTS: None.
- ❖ OTHER PERSONS: Cost of \$50 application fee for a TRS to obtain a temporary license.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Cost of \$50 application fee for a TRS to obtain a temporary license.

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

Commerce
Occupational and Professional Licensing
Fourth Floor, Heber M. Wells Building
160 East 300 South
PO Box 146741
Salt Lake City, UT 84114-6741, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

David Fairhurst at the above address, by phone at (801) 530-6621, by FAX at (801) 530-6511, or by Internet E-mail at brdopl.dfairhur@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/15/98.

THIS FILING MAY BECOME EFFECTIVE ON: 05/16/98

AUTHORIZED BY: J. Craig Jackson, Director

**R156. Commerce, Occupational and Professional Licensing.
R156-40. Recreational Therapy Practice Act Rules.**

R156-40-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 40, as used in Title 58, Chapters 1 and 40 or these rules:

(1) "Approved equivalent experience" for licensure as a MTRS, as used in Subsection 58-40-5(1)(a)(ii), means two years of full time paid experience obtained outside Utah while certified by NCTRC as a CTRS.

(2) "Approved masters degree in recreational therapy or a masters degree with an approved emphasis in recreational therapy", as used in Subsection 58-40-5(1)(a)(i), means an earned masters degree which includes a minimum of nine semester hours or 12 quarter hours of upper division or graduate level course work in recreational therapy.

(3) "An [A] approved training program" for licensure as a TRT, as used in Subsection 58-40-5(3)(a), means [a minimum] 200 hours of education and training [program approved by a MTRS and] under the supervision or direction of a MTRS, which may include instruction in the theories and concepts of recreational therapy from recognized colleges or universities, work shops and seminars, and practical experience in a facility.

(4) "CTRS" means a person certified as a Certified Therapeutic Recreation Specialist by the National Council for Therapeutic Recreation Certification.

(5) "MTRS" means a person licensed as a master therapeutic recreational specialist.

(6) "NCTRC" means the National Council for Therapeutic Recreation Certification.

(7) "Supervision of a therapeutic recreational technician", as used in Subsection 58-40-6(3)(a) and (b), means that the MTRS or TRS supervisor is responsible for the recreational therapy activities performed by the TRT and will review and approve the treatment plans as well as any modifications to the treatment plans as evidenced by the signature of the MTRS or TRS in the treatment plan.

(8) "TRS" means a person licensed as a therapeutic recreational specialist.

(9) "TRT" means a person licensed as a therapeutic recreational technician.

(10) "Unprofessional conduct" is defined in Title 58, Chapters 1 and 40.

R156-40-302c. Qualifications for Temporary License as a TRS - Supervision Required.

(1) In accordance with Section 58-1-303, an applicant for temporary licensure as a TRS shall:

(a) submit an application for temporary license in the form prescribed by the division which includes a verification that the applicant has registered and been approved to take the next available NCTRC examination;

(b) pays a fee determined by the department under Section 63-38-3.2;

(c) meets all the requirements for licensure, except passing the NCTRC examination; and

(d) practices recreational therapy under the supervision of a Utah licensed TRS or MTRS as defined in Subsection R156-40-102(7).

(2) The temporary license will not be issued for a period greater than ten months.

(3) The temporary license will not be renewed or extended for any purpose.

KEY: licensing, recreational therapy*

1998	58-40-1
Notice of Continuation January 27, 1998	58-1-106(1)
	58-1-202(1)



End of the Changes in Proposed Rules Section

NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a 120-DAY (EMERGENCY) RULE when it finds that the regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (UTAH CODE Subsection 63-46a-7(1) (1996)).

As with a PROPOSED RULE, a 120-DAY RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the 120-DAY RULE including the name of a contact person, justification for filing a 120-DAY RULE, anticipated cost impact of the rule, and legal cross-references. A row of dots in the text (••••) indicates that unaffected text was removed to conserve space.

A 120-DAY RULE is effective at the moment the Division of Administrative Rules receives the filing, or on a later date designated by the agency. A 120-DAY RULE is effective for 120 days or until it is superseded by a permanent rule.

Because 120-DAY RULES are effective immediately, the law does not require a public comment period. However, when an agency files a 120-DAY RULE, it usually files a PROPOSED RULE at the same time, to make the requirements permanent. Comment may be made on the proposed rule.

Emergency or 120-DAY RULES are governed by UTAH CODE Section 63-46a-7 (1996); and UTAH ADMINISTRATIVE CODE Section R15-4-8.

Natural Resources, Wildlife Resources **R657-10** Taking Cougar

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE No.: 20928
FILED: 03/19/98, 12:19
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: Division and Board attorneys believe that prohibiting nonresidents from obtaining pursuit permits causes serious legal concerns relating to violation of federal law.

SUMMARY: This rule change eliminates the restriction that nonresidents may not obtain or purchase a cougar/bear pursuit permit.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 23-14-18 and 23-14-19

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The cost of a pursuit permit is \$25. Thus, the rule may impact the Division of Wildlife Resources budget by increasing revenue for the sale of pursuit permits to nonresidents.

❖LOCAL GOVERNMENTS: No impact.

❖OTHER PERSONS: No impact.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Any resident or nonresident may purchase a pursuit permit for a fee of \$25.

EMERGENCY FILING JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

The Division of Wildlife Resources (DWR) Director and the members of the Wildlife Board were sued in the United States District Court for the District of Utah on February 6, 1998 (Archuleta v. Kimball, Civ. No. 2:98CV00095K). The suit was brought to the Defendant's attention on or about March 1. The suit seeks to overturn the prohibition contained in the Utah Administrative Code banning nonresidents from obtaining a permit to pursue cougars in Utah, claiming the prohibition violates the Privileges and Immunities, Commerce, and Equal Protection Clauses of the United States Constitution. The suit seeks injunctive relief and damages. A pursuit permit is needed to guide cougar hunters. The permit for pursuit of cougars also allows pursuit of bears, and vice versa. The current pursuit season for cougars runs until June 7, 1998, for most of the state, and into December for part of the State. Division and Board attorneys believe that prohibiting nonresidents from obtaining pursuit permits causes serious legal concerns related to violation of federal law. Because the cougar pursuit season is currently open, claims to damage and attorney fees from nonresidents that are not able to obtain a pursuit permit to guide clients in Utah arguably increases the longer the prohibition is left in place. Thus, in this case, regular rulemaking would not place DWR in violation of federal law, but would arguably continue the violation of federal law to the detriment of the state as it considers claims for damage

under Archuletta v. Kimball. For this reason the Board believes emergency rulemaking is justified. (DAR Note: A corresponding emergency rule on hunting bear is under R657-33, DAR No. 20929, in this Bulletin.)

THE FULL TEXT OF THIS FILING MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT: Natural Resources Wildlife Resources Suite 2110 1594 West North Temple PO Box 146301 Salt Lake City, UT 84114-6301, or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO: Debbie Sundell at the above address, by phone at (801) 538-4707, by FAX at (801) 538-4709, or by Internet E-mail at nrdrwr.dsundell@email.state.ut.us.

THIS FILING IS EFFECTIVE ON: 03/19/98

AUTHORIZED BY: John Kimball, Director

R657. Natural Resources, Wildlife Resources. R657-10. Taking Cougar. R657-10-3. Permits for Taking Cougar.

(1) To take a cougar, a person must first obtain an annual Wildlife Habitat Authorization and a valid small game or combination license, and a limited entry cougar permit or a harvest objective cougar permit for a specified management unit as provided in the proclamation of the Wildlife Board for taking cougar.

(2) To pursue cougar, a person must first obtain an annual Wildlife Habitat Authorization and, valid small game or combination license, and a cougar/bear pursuit permit from a division office. A cougar/bear pursuit permit does not allow a person to kill a cougar.

(3) A person may not apply for or obtain more than one cougar permit for the same year, except:

- (a) as provided in Subsection R657-10-27(3); or (b) if the person is unsuccessful in the limited entry drawing, the person may purchase a harvest objective permit.

(4) Any cougar permit purchased after the season opens is not valid until seven days after the date of purchase.

[~~(5) Only residents may obtain cougar/bear pursuit permits.~~]

R657-10-27. Cougar/Bear Pursuit.

(1) Cougar may be pursued only by persons who have obtained an annual Wildlife Habitat Authorization, small game or combination license and a cougar/bear pursuit permit. The cougar/bear pursuit permit does not allow a person to kill a cougar.

- (2) A person may not: (a) take or pursue a female cougar with kittens; (b) repeatedly pursue, chase, tree, corner or hold at bay, the same cougar during the same day; or (c) possess a firearm or any device that could be used to kill a cougar while pursuing cougar.

(3) If eligible, a person who has obtained a cougar/bear pursuit permit may also obtain a limited entry cougar permit or harvest objective cougar permit.

(4) Cougar may be pursued only on limited entry units or harvest objective units during the dates provided in the proclamation of the Wildlife Board for taking cougar.

(5) Cougar/bear pursuit permits are valid on a calendar year basis.~~[Nonresidents may not purchase a cougar/bear pursuit permit.]~~

KEY: wildlife, cougar*, game laws March 19, 1998

23-14-18 23-14-19



Natural Resources, Wildlife Resources R657-33 Taking Bear

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 20929 FILED: 03/19/98, 12:19 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: Division and Board attorneys believe that prohibiting nonresidents from obtaining pursuit permits causes serious legal concerns related to violation of federal law.

SUMMARY: This rule change eliminates the restriction that nonresidents may not obtain or purchase a cougar/bear pursuit permit.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 23-14-18 and 23-14-19

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The cost of a pursuit permit is \$25. Thus, the rule may impact the Division of Wildlife Resources budget by increasing revenue for the sale of pursuit permits to nonresidents.

❖LOCAL GOVERNMENTS: No impact.

❖OTHER PERSONS: No impact.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Any resident or nonresident may purchase a pursuit permit for a fee of \$25.

EMERGENCY FILING JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

The Division of Wildlife Resources (DWR) Director and the members of the Wildlife Board were sued in the United States District Court for the District of Utah on February 6, 1998 (Archuletta v. Kimball, Civ. No. 2:98CV00095K). The suit was brought to the Defendant's attention on or about March 1. The suit seeks to overturn the prohibition contained in the Utah Administrative Code banning nonresidents from

obtaining a permit to pursue cougars in Utah, claiming the prohibition violates the Privileges and Immunities, Commerce, and Equal Protection Clauses of the United States Constitution. The suit seeks injunctive relief and damages. A pursuit permit is needed to guide cougar hunters. The permit for pursuit of cougars also allows pursuit of bears, and vice versa. The current pursuit season for cougars runs until June 7, 1998, for most of the state, and into December for part of the State. Division and Board attorneys believe that prohibiting nonresidents from obtaining pursuit permits causes serious legal concerns related to violation of federal law. Because the cougar pursuit season is currently open, claims to damage and attorney fees from nonresidents that are not able to obtain a pursuit permit to guide clients in Utah arguably increases the longer the prohibition is left in place. Thus, in this case, regular rulemaking would not place DWR in violation of federal law, but would arguably continue the violation of federal law to the detriment of the state as it considers claims for damage under *Archuletta v. Kimball*. For this reason the Board believes emergency rulemaking is justified.

(DAR Note: A corresponding emergency rule on hunting cougar is under R657-10, DAR No. 20928, in this *Bulletin*.)

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

Natural Resources
 Wildlife Resources
 Suite 2110
 1594 West North Temple
 PO Box 146301
 Salt Lake City, UT 84114-6301, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
 Debbie Sundell at the above address, by phone at (801) 538-4707, by FAX at (801) 538-4709, or by Internet E-mail at nrdwr.dsundell@email.state.ut.us.

THIS FILING IS EFFECTIVE ON: 03/19/98

AUTHORIZED BY: John Kimball, Director

R657. Natural Resources, Wildlife Resources.

R657-33. Taking Bear.

R657-33-3. Permits for Taking Bear.

(1) A wildlife habitat authorization and a small game or combination license must be purchased before a person may take or pursue bear.

(2) To take a bear, a person must first obtain a limited entry bear permit for a specified management unit as provided in the proclamation of the Wildlife Board for taking bear.

(3) To pursue bear, a person must first obtain a cougar/bear pursuit permit from a division office.

(4) Any bear permit purchased after the season opens is not valid until seven days after the date of purchase.

(5) Residents and nonresidents may apply for limited entry bear permits and purchase cougar/bear pursuit permits.

~~[(6) Nonresidents may apply only for limited entry bear permits.]~~
~~[(7) Nonresidents may not purchase cougar/bear pursuit permits.]~~

KEY: wildlife, bear*, game laws

March 19, 1998

23-14-18

23-14-19

23-13-2



Public Service Commission,
 Administration
R746-360
 Universal Public Telecommunications
 Service Support Fund

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE No.: 20956

FILED: 03/31/98, 13:03

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: The Commission has issued this emergency rule to supersede the emergency rule filed December 30, 1997. This emergency rule is necessary because US West Communications has indicated that it is not able to implement its billing system consistent with the first emergency rule, but will be able to do so after May 1998.

SUMMARY: This emergency rule is identical to the preceding emergency rule with the exception that it changes the beginning billing date from April 1, 1998 to June 1, 1998.

(DAR Note: This emergency rule filing supersedes the emergency rule filing (DAR No. 20598) that was published in the January 15, 1998, *Utah State Bulletin*, that was effective 12/31/97.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 54-1-1 and 54-8b-15

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: No new impact.

❖LOCAL GOVERNMENTS: No new impact.

❖OTHER PERSONS: No new impact.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No new costs.

EMERGENCY FILING JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

This emergency rule is necessary because US West Communications (who does 90% of the billing for this fund) has indicated that it is not able to implement its billing system consistent with the first emergency rule, but will be able to do so after May 1998.

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

Public Service Commission
Administration
Fourth Floor, Heber M. Wells Building
160 East 300 South
Salt Lake City, UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Barbara Stroud at the above address, by phone at (801) 530-6716, by FAX at (801) 530-6796, or by Internet E-mail at pubsc.bstroud@state.ut.us.

THIS FILING IS EFFECTIVE ON: 03/31/98

AUTHORIZED BY: Barbara Stroud, Paralegal

R746. Public Service Commission, Administration.

R746-360. Universal Public Telecommunications Service Support Fund.

R746-360-1. General Provisions.

A. Authorization -- Section 54-8b-15 authorizes the Commission to establish an expendable trust fund, known as the Universal Public Telecommunications Service Support Fund, the "universal service fund," "USF" or the "fund," to promote equitable cost recovery and universal service by ensuring that customers have access to basic telecommunications service at just, reasonable and affordable rates, consistent with the Telecommunications Act of 1996.

B. Purpose -- The purposes of these rules are:

1. to govern the methods, practices and procedures by which:

a. the USF is created, maintained, and funded by end-user surcharges applied to retail rates paid by service end-users;

b. funds are collected for and disbursed from the USF to qualifying telecommunications corporations so that they will provide basic telecommunications service at just, reasonable and affordable rates; and,

2. to govern the relationship between the fund and the trust fund established under 54-8b-12, and establish the mechanism for the phase-out and expiration of the latter fund.

C. Application of the Rules -- The rules apply to all retail providers that provide intrastate public telecommunications services.

R746-360-2. Definitions.

A. Affordable Base Rate (ABR) -- means the monthly per line retail rates, charges or fees for basic telecommunications service which the Commission determines to be just, reasonable, and affordable for a designated support area. The Affordable Base Rate shall be established by the Commission and shall be the rate against which the USF proxy cost model results shall be compared for the purpose of computing USF support. The Affordable Base Rate does not include the applicable USF retail surcharge.

B. Average Revenue Per Line -- means the average revenue for each access line computed by dividing all revenue derived from a telecommunications corporation's provision of public telecommunications services in a designated support area by that

telecommunications corporation's number of access lines in the designated support area. When a telecommunications corporation does not have access lines in a designated support area, the average revenue per line for that telecommunications corporation will be based on the simple average of the average revenue per line determinations of all other telecommunications corporations which have access lines in the designated support area.

C. Basic Telecommunications Service -- means a flat-rated local exchange service consisting of access to the public switched network without additional charge for usage or the number of local calls placed or received; touch-tone, or its functional equivalent; single-party service with telephone number listed free in directories that are received free; access to operator services; access to directory assistance, lifeline and telephone relay assistance; access to 911 and E911 emergency services; access to long-distance carriers; access to toll limitation services; and other services as may be determined by the Commission.

D. Designated Support Area -- means the geographic area used to determine USF support distributions. A designated support area, or "support area," need not be the same as a USF proxy model's geographic unit. The Commission will determine the appropriate designated support areas for determining USF support requirements.

E. Facilities-Based Provider -- means a telecommunications corporation that uses its own facilities, a combination of its own facilities and essential facilities or unbundled network elements purchased from another telecommunications corporation, or a telecommunications corporation which solely uses essential facilities or unbundled network elements purchased from another telecommunications corporation to provide public telecommunications services.

F. Geographic Unit -- means the geographic area used by a USF proxy cost model for calculating costs of basic local exchange service. The Commission will determine the appropriate geographic area to be used in determining basic local exchange service costs.

G. Net Fund Distributions -- means the difference between the gross fund distribution to which a qualifying telecommunications corporation is entitled and the gross fund surcharge revenues generated by that company, when the former amount is greater than the latter amount.

H. Net Fund Contributions -- means the difference between the gross fund distribution to which a qualifying telecommunications corporation is entitled and the gross fund surcharge revenues generated by that company, when the latter amount is greater than the former amount.

I. Qualifying Telecommunications Corporation -- means a telecommunications corporation that the Commission has designated an eligible telecommunications carrier, pursuant to 47 U.S.C. Section 214(e), who may receive monies from the federal and state universal service funds.

J. Retail Provider -- means telecommunications corporations, interexchange carriers, resellers, alternate operator service providers, commercial mobile radio service providers, radio common carriers, aggregators or any other person or entity providing telecommunications services that are used or consumed by an consumer or end-user.

K. Trust Fund -- means the Trust Fund established by 54-8b-12.

L. USF Proxy Model Costs -- means the average total, jurisdictionally unseparated, cost estimate for basic telecommunications service, in a geographic unit, based on the forward-looking, economic cost proxy model(s) chosen by the Commission. The level of geographic cost disaggregation to be used for purposes of assessing the need for and the level of USF support within a geographic unit will be determined by the Commission.

M. Universal Service Fund (USF or fund) -- means the Universal Public Telecommunications Service Support Fund established by 54-8b-15 and set forth by this rule.

R746-360-3. Transition from 54-8b-12 to 54-8b-15.

A. Phase out of 54-8b-12 Trust Fund and Transfer of Trust Fund Funds -- In order to permit telecommunications corporations to make the transition to the fund created by 54-8b-15 and this rule:

1. The 54-8b-12 Trust Fund mechanisms shall continue until May 31, 1998, upon which date they shall cease. Funds derived from these funding mechanisms will be deposited in the USF.

2. Balances remaining in the 54-8b-12 Trust Fund as of June 1, 1998, plus remittances of any funds pursuant to the 54-8b-12 Trust Fund shall be transferred to the USF.

B. Two-Year Continuation of Equivalent Trust Fund Funding -- Upon written notification to the Commission, telecommunications corporations that received 54-8b-12 Trust Fund support in 1997 may elect to receive support equivalent to what they would have received from the 54-8b-12 Trust Fund rather than support pursuant to the 54-8b-15 USF. These companies may continue to receive this Trust Fund equivalent support until December 31, 1999. During this time period, these companies may elect to end this equivalent support and begin to receive support pursuant to the 54-8b-15 USF by submitting a written notification to the Commission 30 days prior to the beginning of the 54-8b-15 USF support. Funds for equivalent Trust Fund support will be provided from the USF.

R746-360-4. Duties of Administrator.

A. Selection of Administrator -- The Division of Public Utilities will be the fund administrator. If the Division is unable to fulfill that responsibility, the administrator, who must be a neutral third party, unaffiliated with any fund participant, shall be selected by the Commission.

B. Cost of Administration -- The cost of administration shall be borne by the fund.

C. Access to Books -- Upon reasonable notice, the administrator shall have access to the books of account of all telecommunications corporations and retail providers, which shall be used to verify the intrastate retail revenue assessed in an end-user surcharge, to confirm the level of eligibility for USF support and to ensure compliance with this rule.

D. Maintenance of Records -- The administrator shall maintain the records necessary for the operation of the USF and this rule.

E. Report Forms -- The administrator shall develop report forms to be used by telecommunications corporations and retail providers to effectuate the provisions of this rule and the USF. An officer of the telecommunications corporation or retail provider shall attest to and sign the reports to the administrator.

F. Administrator Reports -- The administrator shall file reports with the Commission containing information on the average revenue per line calculations, projections of future USF needs, analyses of the end-user surcharges and Affordable Base Rates, and recommendations for calculating them for the following 12-month period. The report shall include recommendations for changes in determining basic telecommunications service, designated support areas, geographic units, USF proxy cost models and ways to improve fund collections and distributions.

G. Annual Review -- The administrator, under the direction of the Commission, shall perform an annual review of fund recipients to verify eligibility for future support and to verify compliance with all applicable state and federal laws and regulations.

H. Proprietary Information -- Information received by the administrator which has been determined by the Commission to be proprietary shall be treated in conformance with Commission practices.

I. Information Requested -- Information requested by the administrator which is required to assure a complete review shall be provided within 45 days of the request. Failure to provide information within the allotted time period may be a basis for withdrawal of future support from the USF or other lawful penalties to be applied.

R746-360-5. Application of Fund Surcharges to Customer Billings.

A. Commencement of Surcharge Assessments -- Commencing June 1, 1998, end-user surcharges shall be the source of revenues to support the fund. Surcharges will be applied to intrastate retail rates, and shall not apply to wholesale services.

B. Surcharge Based on a Uniform Percentage of Retail Rates -- The retail surcharge shall be a uniform percentage rate, determined and reviewed annually by the Commission and billed and collected by all retail providers.

C. Initial Surcharge -- The initial surcharge to be assessed beginning June 1, 1998, shall equal one percent of billed intrastate retail rates.

R746-360-6. Fund Remittances and Disbursements.

A. Remitting Surcharge Revenues -- Retail providers, not eligible for USF support funds, providing telecommunications services subject to USF surcharges shall collect and remit surcharge revenues to the administrator monthly.

1. Prior to the end of each month, the fund administrator shall inform each qualifying telecommunications corporation of the estimated amount of support that it will be eligible to receive from the USF for that month.

2. Net fund contributions shall be remitted to the administrator within 45 calendar days after the end of each month. If the net amount owed is not received by that date, remedies, including withholding future support from the USF, may apply.

3. The administrator will forward remitted revenues to the Utah State Treasurer's Office for deposit in a USF account.

B. Distribution of Funds -- Net Fund distributions to qualifying telecommunications corporations for a given month shall be made 60 days after the end of that month, unless withheld for failure to maintain qualification or failure to comply with Commission orders or rules.

R746-360-7. Eligibility for Fund Distributions.

A. Qualification -- A telecommunications corporation shall be in compliance with Commission orders and rules and have its average revenue per line less than the USF cost proxy model costs for each designated support area in which it desires to qualify to receive support from the fund. Each telecommunications corporation receiving support shall use that support only to provide basic telecommunications service and any other services or purposes approved by the Commission.

B. Retail Rate Ceiling -- To be eligible, a telecommunications corporation may not charge retail rates in excess of the Commission determined Affordable Base Rate for basic telecommunications service or vary from the terms and conditions determined by the Commission for other telecommunications services for which it receives Universal Service Fund support.

C. Lifeline Requirement -- A telecommunications corporation may qualify to receive distributions from the fund only if it offers Lifeline service on terms and conditions prescribed by the Commission.

D. Exclusion of Resale Providers -- Only facilities-based providers, will be eligible to receive support from the fund. Where service is provided through one telecommunications corporation's resale of another telecommunications corporation's service, support may be received by the latter only.

R746-360-8. Calculation of Fund Distributions.

A. Use of Proxy Cost Models -- The USF proxy cost model(s) selected by the Commission, the Affordable Base Rates, and average revenue per line will be used to determine fund distributions within designated support areas.

B. Impact of Other Funding Sources -- The USF proxy cost estimate for a designated support area will be reduced by the amount that basic telecommunication service costs are recovered through interstate cost allocations, from the federal USF, pursuant to 47 U.S.C. Section 254, or from any other mechanism by which intrastate costs are calculated from total costs.

C. Determination of Support Amounts -- Each qualifying telecommunications corporation shall receive funds to support each primary residential line in active service which it furnishes in each designated area for which the monthly intrastate USF proxy model cost exceeds the Affordable Base Rate established for that area. Monies from the fund will equal that numerical difference unless average revenue per line for the designated support area exceeds the USF proxy model cost results.

D. Lifeline Support -- Eligible telecommunications corporations shall receive additional USF funds to recover any discount granted to lifeline customers, participating in a Commission approved Lifeline program, that is not recovered from federal lifeline support mechanisms.

E. Exemptions -- Telecommunications corporations may petition to receive an exemption for any provision of this rule or to receive additional USF support, for use in designated support areas, to support additional services which the Commission determines to be consistent with universal service purposes and permitted by law.

R746-360-9. One-Time Distributions from the Fund.

A. Applications for One-Time Distributions -- Telecommunications corporations or potential customers not presently receiving service may apply to the Commission for one-

time distributions from the fund for extension of service to a customer, or customers, not presently served. These distributions are to be made only in extraordinary circumstances, when traditional methods of funding and service provision are infeasible.

1. In considering the one-time distribution application, the Commission will examine relevant factors including the type and grade of service to be provided, the cost of providing the service, the demonstrated need for the service, whether the customer is within the service territory of a telecommunications corporation, the provisions for service or line extension currently available, and whether the one-time distribution is in the public interest.

B. Maximum Amount -- The maximum one-time distribution will be no more than that required to make the net investment equivalent to the relevant proxy model cost estimate.

C. Impact of Distribution on Rate of Return Companies -- A one-time distribution from the fund shall be recorded on the books of a rate base, rate of return regulated LEC as an aid to construction and treated as an offset to rate base.

D. Notice and Hearing -- Following notice that a one-time distribution application has been filed, a LEC may request a hearing or seek to intervene to protect its interests.

E. Bidding for Unserved Areas -- A telecommunications corporation will be selected to serve in an unserved area on the basis of a competitive bid. The estimated amount of the one-time distribution will be considered in evaluating each bid. Fund distributions in that area will be based on the winning bid.

R746-360-10. Altering the USF Charges and the End-User Surcharge Rates.

The uniform surcharge shall be adjusted periodically to minimize the difference between amounts received by the fund and amounts disbursed.

R746-360-11. Support for Schools, Libraries, and Health Care Facilities. Calculation of Fund Distributions.

The Universal Service Fund rules for schools, libraries and health care providers, as prescribed by the Federal Communications Commission in Docket 96-45, 97-157 Sections X and XI, paragraphs 424 - 749, of Order issued May 8, 1996 and CFR Sections 54.500 through 54.623 inclusive, incorporated by this reference, is the prescribed USF method that shall be employed in Utah. Funding shall be limited to funds made available through the federal universal service fund program.

KEY: public utilities, telecommunications, universal service*
March 31, 1998
54-7-25
54-7-26
54-8b-12
54-8b-15



End of the 120-Day Rules Section

FIVE-YEAR REVIEW NOTICES OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF CONTINUATION; or amend the rule by filing a PROPOSED RULE and by filing a NOTICE OF CONTINUATION. By filing a NOTICE OF CONTINUATION, the agency indicates that the rule is still necessary.

NOTICES OF CONTINUATION 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 OF CONTINUATION are effective when filed.

Five-Year Review NOTICES OF CONTINUATION are governed by UTAH CODE Section 63-46a-9 (1996).

Agriculture and Food, Administration

R51-2

Administrative Procedures for Informal Proceedings Before the Utah Department of Agriculture and Food

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20931
FILED: 03/19/98, 14:46
RECEIVED BY: NL

NOTICE 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 63-46b-5 authorizes the Department of Agriculture and Food to prescribe procedures for informal adjudicative proceedings. The department and its divisions shall comply with the procedures and requirements of Title 63, Chapter 46b.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: These rules establish and govern the administrative proceedings before the Department of Agriculture and Food.

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

Agriculture and Food
Administration
350 North Redwood Road
PO Box 146500
Salt Lake City, UT 84114-6500, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Van Burgess at the above address, by phone at (801) 538-7102, by FAX at (801) 538-7126, or Internet E-mail at agmain.vburgess@state.ut.us.

AUTHORIZED BY: Van Burgess, Deputy Commissioner

EFFECTIVE: 03/19/98



Insurance, Administration

R590-155

Disclosure of Life and Disability Guaranty Association Limitations

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20943
FILED: 03/27/98, 09:38
RECEIVED BY: NL

NOTICE 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 31A-28-119 prohibits advertising the existence of the Life and Disability Guaranty Association in order to market or sell life and health insurance products. Subsection 31A-28-119(4) requires insurers or agents to deliver to the purchaser of a life or disability insurance contract a notice specifically stating that the contract they are purchasing is not covered by the guaranty association. This subsection requires the commissioner to write a rule defining the form and wording to be contained in this disclosure. The specific wording and

formatting of this disclosure is contained in Subsection R590-155-3(C).

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Before the department prepared this rule, it was a fairly common practice for those selling life and health insurance to tell clients that if the insurer on the new policy should go out of business then the Life and Disability Guaranty Association would back their policy 100%. The issues behind the liquidation of an insurance company are too complex and the amounts that the insured would receive for a claim under their policy are unknown until far into a liquidation. Plus, not all insurers were members of the guaranty association and yet these same sales techniques were being used when selling non-association member products. Since putting this rule into effect this deceptive marketing practice has disappeared. There does not appear to be any reason to believe that the previous marketing techniques wouldn't begin again if this rule were repealed.

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

Insurance Administration
3110 State Office Building
Salt Lake City, UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO: Jilene Whitby at the above address, by phone at (801) 538-3803, by FAX at (801) 538-3829, or Internet E-mail at jwhitby@email.state.ut.us.

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 03/27/98



Insurance, Administration
R590-157

Taxation of Surplus Lines Insurance
Premiums

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE NO.: 20944
FILED: 03/27/98, 09:38
RECEIVED BY: NL

NOTICE 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 deals with the imposing of taxes and fees on insurance companies, also called surplus lines companies, that do business in Utah without a certificate of authority. Subsection 31A-3-303(2) requires that the commissioner prescribe by rule the accounting and reporting procedures and forms for the collection of premium taxes from surplus lines insurance companies, as well as how and when these taxes are to be collected. This information can be found in this rule under Section R590-157-5, "Accounting Procedures." Section R590-157-4 of the rule authorizes the Surplus Lines Association to act as the department's authorized agent. The code also allows the commissioner to set the amount of the tax. This is taken care of in Subsection R590-157-3(E) of the rule. Subsection 31A-15-103(11)(d) requires the commissioner to establish a stamping fee by rule. The stamping fee is to be collected by whomever conducts the examination of the transactions of surplus lines insurers. The fee is to be used to pay for the expenses of those performing the examinations. This rule appoints the Surplus Lines Association as the advisory organization responsible for the examination of these transactions and the collection of these fees.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule puts surplus lines companies and licensed insurance companies on the same playing field as far as premium taxes go. Licensed insurers file their annual statement at a certain time each year and pay premium taxes to the Tax Commission. The accuracy of their premium tax payments can be verified by reviewing their annual statements. Surplus lines companies don't file annual statements on a regular basis and some don't file them at all. Therefore, it has been determined that it is easier and more effective to require the payment of premium taxes every time a policy is sold, rather than on a monthly or annual aggregate basis. This is where Sections 31A-15-103 and 31A-3-303, and this rule come in to direct the payment and collection of the premium tax and fee and to verify their accuracy.

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

Insurance Administration
3110 State Office Building
Salt Lake City, UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:
Jilene Whitby at the above address, by phone at (801) 538-3803, by FAX at (801) 538-3829, or Internet E-mail at jwhitby@email.state.ut.us.

1594 West North Temple
PO Box 146301
Salt Lake City, UT 84114-6301, or
at the Division of Administrative Rules.

AUTHORIZED BY: Jilene Whitby, Information Specialist

DIRECT QUESTIONS REGARDING THIS FILING TO:
Debbie Sundell at the above address, by phone at (801) 538-4707, by FAX at (801) 538-4709, or Internet E-mail at nrdwr.dsundell@email.state.ut.us.

EFFECTIVE: 03/27/98

AUTHORIZED BY: John Kimball, Director

EFFECTIVE: 03/24/98



Natural Resources, Wildlife Resources
R657-33
Taking Bear

Public Service Commission,
Administration
R746-330
Rules for Water and Sewer Utilities
Operating in Utah

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE NO.: 20938
FILED: 03/24/98, 15:18
RECEIVED BY: NL

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE NO.: 20957
FILED: 03/31/98, 13:17
RECEIVED BY: NL

NOTICE AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under Sections 23-14-18 and 23-14-19, the Wildlife Board is authorized and required to regulate and prescribe the means by which wildlife may be taken.

NOTICE 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 54-4-1 authorizes the Commission to supervise and regulate all public utilities in Utah. Subsections 54-2-1(18) and (26) define sewerage corporations and water corporations as some of the utilities to be regulated by the Public Service Commission. Section 54-4-7 requires the Commission to, after a hearing, prescribe rules for utility corporations. Section 54-4-18 authorizes the Commission to ascertain and fix just and reasonable standards and practices for the utility corporations under its jurisdiction. Section 54-4-23 gives the Commission the power to establish a system of accounts for utility corporations. R746-330 is the Commission's rule prescribed for those purposes.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Division of Wildlife Resources and the Wildlife Board have received several comments, both in support and opposition to Rule R657-33, Taking Bear. Written comments received in opposition to the rule are resolved using existing policies and procedures or the issue is placed on the Regional Advisory Council's and Wildlife Board's agenda for review and discussion during the annual process for taking public input. The public is welcome to view the Regional Advisory Council minutes, Wildlife Board minutes, and administrative record for this rule at the Division of Wildlife Resources.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No substantive comments received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-33 provides the procedures, standards, and requirements for taking and pursuing bear. The provisions adopted in this rule are effective in providing the standards and requirements for taking and pursuing bear. Continuation of this rule is necessary for continued success of this program.

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 to regulate and supervise the methods and conditions of service of sewer and water utility corporations, such as the purity of water supply, meters, and the system of accounts.

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

Natural Resources
Wildlife Resources
Suite 2110

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

Public Service Commission
Administration
Fourth Floor, Heber M. Wells Building
160 East 300 South
Salt Lake City, UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Barbara Stroud at the above address, by phone at (801) 530-
6716, by FAX at (801) 530-6796, or Internet E-mail at
pupsc.bstroud@state.ut.us.

AUTHORIZED BY: Barbara Stroud, Paralegal

EFFECTIVE: 03/31/98



End of the Five-Year Review Section

NOTICES OF EXPIRED RULES

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (UTAH CODE Section 63-46a-9 (1996)). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file an extension with the Division of Administrative Rules (Division). However, if the agency fails to file either the review or the extension by the five-year anniversary date of the rule, the rule expires. Upon expiration of the rule, the Division is required to remove the rule from the *Utah Administrative Code*. The agency may no longer enforce the rule, and it must follow regular rulemaking procedures to replace the rule if necessary.

The rules listed below were *not* reviewed in accordance with Section 63-46a-9 (1996). These rules have expired and have been removed from the *Utah Administrative Code*.

The expiration of administrative rules for failure to comply with the five-year review requirement is governed by UTAH CODE Subsection 63-46a-9(8) (1996).

Statehood Centennial Commission (Utah)

Administration

No. 20924: R855-1. Functional Baseline: Administration.

Enacted: 03/17/93 (No. 14114, Filed 01/22/93 at 4:00 p.m., Published 02/15/93)

Expired: 03/17/98

No. 20925: R855-2. Disbursement of "Pass-Through" License Plate Revenues for Expenditure by County Centennial Committees.

Enacted: 03/17/93 (No. 14115, Filed 01/22/93 at 4:00 p.m., Published 02/15/93)

Expired: 03/17/98

No. 20926: R855-3. Disbursement of Discretionary Grants for Expenditure by County Centennial Committees, Communities, Other Groups, and Individuals.

Enacted: 03/17/93 (No. 14116, Filed 01/22/93 at 4:00 p.m., Published 02/15/93)

Expired: 03/17/98

NOTICES OF RULE EFFECTIVE DATES

These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. These effective dates are at least 31 days and not more than 120 days after the date the following rules were published.

Abbreviations

AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal and Reenact
REP = Repeal

Commerce

Occupational and Professional Licensing
No. 20778 (AMD): R156-16a. Optometry Practice Act Rules.
Published: March 1, 1998
Effective: April 1, 1998

No. 20776 (AMD): R156-69. Dentist and Dental Hygienist Practice Act Rules.
Published: March 1, 1998
Effective: April 1, 1998

Health

Health Data Analysis
No. 20731 (NEW): R428-13. Health Data Authority. Audit and Reporting of HMO Performance Measures.
Published: March 1, 1998
Effective: April 5, 1998

Human Services

Child and Family Services
No. 20288 (AMD): R512-31. Foster Parent Due Process.
Published: December 15, 1997
Effective: April 1, 1998

Public Service Commission

Administration
No. 20627 (NEW): R746-331. Determination of Exemption of Mutual Water Corporations.
Published: February 1, 1998
Effective: April 6, 1998

No. 20677 (AMD): R746-341. Lifeline Rule.
Published: February 1, 1998
Effective: April 6, 1998

Transportation

Operations, Traffic and Safety
No. 20730 (AMD): R920-5-6. On Premise School Bus Loading Zones.
Published: March 1, 1998
Effective: April 1, 1998

Workforce Services

Employment Development
No. 20769 (AMD): R986-301. Medicaid General Provisions.
Published: March 1, 1998
Effective: April 1, 1998

No. 20739 (AMD): R986-304. Income and Budgeting.
Published: March 1, 1998
Effective: April 1, 1998

No. 20770 (AMD): R986-305. Resources.
Published: March 1, 1998
Effective: April 1, 1998

No. 20777 (AMD): R986-306. Program Benefits.
Published: March 1, 1998
Effective: April 1, 1998

No. 20774 (AMD): R986-307. Eligibility Determination and Redetermination.
Published: March 1, 1998
Effective: April 1, 1998

End of the Rule Effective Dates Section

RULES INDEX BY AGENCY (CODE NUMBER) AND BY KEYWORD (SUBJECT)

The *Rules Index* is a cumulative index that reflects all changes to Utah's administrative rules from January 2, 1998, to the present (current as of April 6, 1998). 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).

NOTE: A copy of the indexes is available for public inspection at the Division of Administrative Rules. The indexes may also be obtained by calling UtahBBS, the State of Utah's Bulletin Board System, at (801) 538-3383, or toll-free within Utah at (800) 882-4638. (**Please note:** the toll-free number to access the bulletin board will be disconnected as of April 15, 1998.) A computer, a modem, and a communications software package are required to access UtahBBS. Set communications software to 8 data bits, no parity, and 1 stop bit. The indexes are located under the "Administrative Rules Conference" (conference 9), in the "Indexes--Current" option (7).

UtahBBS may also be accessed over the Internet with a telnet client (the client must support download capabilities if downloading information is desired), or with a World Wide Web client (such as Mosaic or Netscape). The telnet address is [bbs.state.ut.us](telnet://bbs.state.ut.us); the web address is <http://web.state.ut.us/its/bbs.htm>.

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	* = Text too long to print in <i>Bulletin</i> , or repealed text not printed in <i>Bulletin</i>
5YR = Five-Year Review	
EXD = Expired	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ADMINISTRATIVE SERVICES					
<u>Administration</u>					
R13-3	American With Disabilities Act Grievance Procedures	20631	5YR	01/08/98	98-3/89
<u>Facilities Construction and Management</u>					
R23-4	Suspension/Debarment From Consideration for Award of State Contracts	20702	5YR	01/28/98	98-4/128
R23-5	Contingency Funds	20703	5YR	01/28/98	98-4/128
R23-6	Value Engineering and Life Cycle Costing of State Owned Facilities Rules and Regulations	20704	5YR	01/28/98	98-4/129
R23-7	Utah State Building Board Policy Statement Master Planning	20705	5YR	01/28/98	98-4/129
R23-8	Planning Fund Use	20706	5YR	01/28/98	98-4/130
R23-9	Building Board State/Local Cooperation Policy	20707	5YR	01/28/98	98-4/130

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R23-10	Naming of State Buildings	20708	5YR	01/28/98	98-4/131
R23-11	Facilities Allocation and Sale Procedures	20709	5YR	01/28/98	98-4/131
R23-21	Division of Facilities Construction and Management Lease Procedures	20710	5YR	01/28/98	98-4/132
R23-24	Capital Projects Utilizing Non-appropriated Funds	20711	5YR	01/28/98	98-4/132
AGRICULTURE AND FOOD					
<u>Administration</u>					
R51-2	Administrative Procedures for Informal Proceedings Before the Utah Department of Agriculture and Food	20931	5YR	03/19/98	98-8/63
<u>Animal Industry</u>					
R58-19	Compliance Procedures	20279	NEW	01/05/98	97-24/12
<u>Marketing and Conservation</u>					
R65-11	Utah Sheep Marketing Order	20699	NEW	03/19/98	98-4/8
<u>Plant Industry</u>					
R68-15	Quarantine Pertaining to Japanese Beetle, (Popillia Japonica)	20838	5YR	03/05/98	98-7/72
R68-19	Compliance Procedures	20280	NEW	01/15/98	97-24/13
<u>Regulatory Services</u>					
R70-201	Compliance Procedures	20281	NEW	01/15/98	97-24/14
COMMERCE					
<u>Occupational and Professional Licensing</u>					
R156-3a	Architect Licensing Act Rules	20200	AMD	see CPR	97-23/4
R156-3a	Architect Licensing Act Rules	20200	CPR	02/18/98	98-2/79
R156-16a	Optometry Practice Act Rules	20778	AMD	04/01/98	98-5/4
R156-17a	Pharmacy Practice Act Rules	20492	AMD	02/24/98	98-1/3
R156-22	Professional Engineers and Professional Land Surveyors Licensing Act Rules	20696	5YR	01/27/98	98-4/133
R156-40	Recreational Therapy Practice Act Rules	20697	5YR	01/27/98	98-4/133
R156-54	Radiology Technologist and Radiology Practical Technician Licensing Act Rules	20173	AMD	see CPR	97-22/12
R156-54	Radiology Technologist and Radiology Practical Technician Licensing Act Rules	20173	CPR	02/03/98	98-1/199
R156-55a	Utah Construction Trades Licensing Act Rules	20650	AMD	03/05/98	98-3/23
R156-59	Employee Leasing Company Act Rules	20701	5YR	01/27/98	98-4/134
R156-60b	Marriage and Family Therapist Licensing Act Rules	20581	AMD	02/18/98	98-2/18
R156-60c	Professional Counselor Licensing Act Rules	20359	AMD	02/03/98	98-1/6
R156-60d	Substance Abuse Counselor Act Rules	20273	AMD	01/15/98	97-24/16
R156-61	Psychologist Licensing Act Rules	20342	AMD	02/03/98	98-1/10
R156-69	Dentist and Dental Hygienist Practice Act Rules	20776	AMD	04/01/98	98-5/6

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R162-107	Unprofessional Conduct	20625	NEW	03/04/98	98-2/22
<u>Securities</u>					
R164-4	Licensing Requirements	20679	AMD	03/04/98	98-3/31
R164-5	Broker-Dealer and Investment Adviser Books and Records	20680	AMD	03/04/98	98-3/38
R164-6-1g	Dishonest or Unethical Business Practices	20681	AMD	03/04/98	98-3/40
R164-26-6	Consent to Service	20682	AMD	03/04/98	98-3/44
COMMUNITY AND ECONOMIC DEVELOPMENT					
<u>Community Development, Community Services</u>					
R202-100	Community Services Block Grant Rules	20282	AMD	01/15/98	97-24/17
<u>Community Development, Fine Arts</u>					
R207-1	Utah Arts Council General Program Rules	20811	5YR	02/25/98	98-6/77
R207-2	Policy for Donations and Loans to the State Fine Art Collection	20812	5YR	02/25/98	98-6/77
<u>Community Development, History</u>					
R212-12	Computerized Record of Cemeteries, Burial Locations and Plots, and Granting Matching Funds	20528	NEW	03/10/98	98-2/23
CORRECTIONS					
<u>Administration</u>					
R251-107	Executions	20160	AMD	01/15/98	97-22/16
R251-112	Americans With Disabilities Act Complaint Procedure	20841	5YR	03/06/98	98-7/72
R251-304	Contract Procedure	20843	5YR	03/06/98	98-7/73
R251-703	Vehicle Direction Station	20196	AMD	01/15/98	97-23/6
R251-707	Legal Access	20198	AMD	01/15/98	97-23/8
R251-710	Search	20379	AMD	03/15/98	98-1/14
EDUCATION					
<u>Administration</u>					
R277-508	Employment of Substitute Teachers	20899	5YR	03/13/98	98-7/73
R277-516	Library Media Certificates and Programs	20657	5YR	01/14/98	98-3/89
R277-518	Vocational-Technical Certificates	20658	5YR	01/14/98	98-3/90
R277-600	Student Transportation Standards and Policies	20659	5YR	01/14/98	98-3/90
R277-605	Extracurricular Student Activities	20660	5YR	01/14/98	98-3/91
R277-606	Interschool Competitive Sports in High School	20661	5YR	01/14/98	98-3/91
R277-610	Released-Time Classes for Religious Instruction	20662	5YR	01/14/98	98-3/91
R277-615	Foreign Exchange Students	20663	5YR	01/14/98	98-3/92
R277-700	The Elementary and Secondary School Core Curriculum and High School Graduation Requirements	20664	5YR	01/14/98	98-3/92

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R277-701	Values Education	20665	5YR	01/14/98	98-3/93
R277-702	Procedures for the Utah General Educational Developmental Certificate	20666	5YR	01/14/98	98-3/93
R277-709	Education Programs Serving Youth in Custody	20667	5YR	01/14/98	98-3/94
R277-710	Accelerated Learning Programs	20668	5YR	01/14/98	98-3/94
R277-716	Alternative Language Services (ALS)	20669	5YR	01/14/98	98-3/94
R277-718	Utah Career Teaching Scholarship Program	20670	5YR	01/14/98	98-3/95
R277-721	Deadline for CACFP Sponsor Participation in Food Distribution Program	20671	5YR	01/14/98	98-3/95
R277-722	Withholding Payments and Commodities in the CACFP	20672	5YR	01/14/98	98-3/96
R277-730	Alternative High School Curriculum	20673	5YR	01/14/98	98-3/96
R277-732	Community Education	20674	5YR	01/14/98	98-3/97
R277-740	Subchapter One of the Education Improvement and Consolidation Act of 1981	20900	5YR	03/13/98	98-7/74
R277-746	Driver Education Programs for Utah Schools	20901	5YR	03/13/98	98-7/74
R277-747	Private School Student Driver Education	20902	5YR	03/13/98	98-7/74
R277-751	Special Education Extended School Year	20903	5YR	03/13/98	98-7/75
R277-912	Standards and Procedures for Post-Secondary Applied Technology Education Accreditation	20904	5YR	03/13/98	98-7/75
<u>Applied Technology Education (Board for), Rehabilitation</u>					
R280-200	Rehabilitation	20905	5YR	03/13/98	98-7/76
ENVIRONMENTAL QUALITY					
<u>Air Quality</u>					
R307-1-1	Foreword and Definitions	20096	AMD	01/08/98	97-21/4
R307-1-1	Foreword and Definitions	20202	AMD	01/08/98	97-23/10
R307-1-3	Control of Installations	20219	AMD	02/05/98	97-23/20
R307-1-3	Control of Installations	20740	NSC	02/05/98	Not Printed
R307-2-12	Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide	20099	AMD	01/08/98	97-21/14
R307-8-3	Average Oxygen Content Standard	20100	AMD	01/08/98	97-21/15
<u>Drinking Water</u>					
R309-105	Quantity Requirements	20789	EXD	02/01/98	98-5/80
R309-106	Source Development	20290	REP	03/01/98	97-24/26
R309-107	Disinfection	20291	REP	03/01/98	97-24/33
R309-108	Conventional Complete Treatment	20292	REP	03/01/98	97-24/37
R309-109	Miscellaneous Treatment Methods	20293	REP	03/01/98	97-24/47
R309-110	Pumping Facilities	20294	REP	03/01/98	97-24/56
R309-111	Water Storage	20295	REP	03/01/98	97-24/60
R309-112	Distribution System	20296	REP	03/01/98	97-24/63
<u>Radiation Control</u>					
R313-12	General Provisions	20234	AMD	see CPR	97-23/115
R313-12	General Provisions	20234	CPR	03/20/98	98-4/115

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R313-15	Standards for Protection Against Radiation	20235	CPR	03/20/98	98-4/120
R313-18	Notices, Instructions and Reports to Workers by Licensees or Registrants -- Inspections	20236	AMD	01/23/98	97-23/61
R313-25	License Requirements for Land Disposal of Radioactive Waste - General Provisions	20237	AMD	01/23/98	97-23/62
R313-32	Medical Use of Radioactive Material	20238	AMD	01/23/98	97-23/65
<u>Solid and Hazardous Waste</u>					
R315-1	Utah Hazardous Waste Definitions and References	20382	AMD	02/20/98	98-1/15
R315-2	General Requirements - Identification and Listing of Hazardous Waste	20383	AMD	02/20/98	98-1/17
R315-3	Application and Plan Approval Procedures for Hazardous Waste Treatment, Storage, and Disposal Facilities	20384	AMD	02/20/98	98-1/27
R315-4	Hazardous Waste Manifest	20385	AMD	02/20/98	98-1/35
R315-6-7	Transfer Facility Requirements	20538	AMD	02/20/98	98-2/24
R315-7	Interim Status Requirements for Hazardous Waste Treatment, Storage, and Disposal Facilities	20386	AMD	02/20/98	98-1/36
R315-8	Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities	20387	AMD	02/20/98	98-1/38
R315-13	Land Disposal Restrictions	20388	AMD	02/20/98	98-1/39
R315-14-7	Hazardous Waste Burned in Boilers and Industrial Furnaces	20389	AMD	02/20/98	98-1/40
R315-16	Standards for Universal Waste Management	20390	AMD	02/20/98	98-1/40
R315-50	Appendices	20391	AMD	02/20/98	98-1/50
R315-301-2	Definitions	19876	AMD	see CPR	97-19/23
R315-301-2	Definitions	19876	CPR	01/05/98	97-23/111
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<u>Health Care Financing, Coverage and Reimbursement Policy</u>					
R414-3X	Restriction on Use of CPR-4 Psychiatric Codes	20542	REP	02/20/98	98-2/25
R414-4X	Policy Statement on Denial of Payment to Medicaid Provider When Client Fails to Keep Scheduled Appointment	20648	5YR	01/12/98	98-3/97
R414-10A	Transplant Services Standards	20825	EMR	02/26/98	98-6/64
R414-10A	Transplant Services Standards	20652	AMD	03/19/98	98-3/44
R414-10X	Pharmacy Policy	20612	REP	02/20/98	98-2/26
R414-12	Medical Supplies Durable Medical Equipment-- Prosthetics	20762	5YR	02/09/98	98-5/66
R414-13x	Section V of all Medicaid Provider Manuals: "Provider Compliance"	20922	EXD	03/15/98	98-7/80
R414-15	Patients Personal Needs Fund	20232	AMD	01/13/98	97-23/80
R414-17	Policy on Use of Oxygen Concentrators	20212	REP	01/13/98	97-23/82
R414-22	Administrative Sanction Procedures and Regulations	20653	5YR	01/13/98	98-3/97

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R414-22	Administrative Sanction Procedures and Regulations	20654	AMD	03/19/98	98-3/56
R414-24	Policy Concerning the Time Frame in Which Medicaid Claims Must be Submitted for Payment	20345	REP	02/04/98	98-1/51
R414-25X	Policy Concerning the Time Frame in Which Medicaid Claims Must be Submitted for Payment	20613	REP	02/20/98	98-2/26
R414-26	Implementation and Maintenance of the Health Care Financing Administration Common Procedure Coding System (HCPCS)	20764	5YR	02/09/98	98-5/66
R414-27	Medicare Nursing Facility Certification	20735	5YR	02/04/98	98-5/67
R414-30	Bureau of Facility Management Policy and Procedures Manual Part B, Hospital Preadmission and Continued Stay Review	20655	REP	03/19/98	98-3/60
R414-31x	Hospital Utilization Review	20766	5YR	02/09/98	98-5/67
R414-32	Hospital Record-keeping Policy	20767	5YR	02/09/98	98-5/68
R414-36	Bureau of Facility Management Policy and Procedures Manual	20656	REP	03/19/98	98-3/66
<u>Health Systems Improvement, Community Health Nursing</u>					
R425-1	Nurse Education Financial Assistance	20768	5YR	02/10/98	98-5/68
<u>Health Data Analysis</u>					
R428-11	Health Data Authority Ambulatory Surgical Data Reporting Rule	20192	NEW	03/15/98	97-22/21
R428-13	Health Data Authority. Audit and Reporting of HMO Performance Measures	20731	NEW	04/05/98	98-5/40
<u>Health Systems Improvement, Child Care Licensing</u>					
R430-2	General Licensing Provisions, Child Care Facilities	20264	NEW	02/04/98	97-24/66
R430-3	General Care Facility Rules Inspection and Enforcement	20265	NEW	01/21/98	97-24/69
R430-5	Child Care Facility, General Construction	20266	NEW	02/05/98	97-24/71
R430-6	Background	20267	NEW	01/20/98	97-24/75
R430-10	Notice of Intent to License, Hourly Care Provider	20645	EMR	01/09/98	98-3/86
R430-10	Notice of Intent to License, Hourly Care Provider	20684	EMR	01/20/98	98-4/122
R430-30	Adjudicative Procedure	20268	NEW	01/21/98	97-24/79
R430-100	Child Care Facilities	20269	NEW	02/05/98	97-24/79
<u>Health Systems Improvement, Health Facility Licensure</u>					
R432-16	Hospice Inpatient Facility Construction	20582	NEW	03/04/98	98-2/27
R432-102	Specialty Hospital - Chemical Dependency/Substance Abuse	20558	AMD	02/24/98	98-2/31
R432-151	Mental Disease Facility	20685	5YR	01/20/98	98-4/134
R432-550	Birthing Centers (Five or Less Birth Rooms)	20559	AMD	02/24/98	98-2/34
R432-600	Abortion Clinic Rule	20560	AMD	02/24/98	98-2/39

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R432-750	Hospice Rule	20562	AMD	03/04/98	98-2/49
<u>Laboratory Services, Laboratory Improvement</u>					
R444-14	Rules for the Certification of Environmental Laboratories	20521	R&R	02/19/98	98-1/51
HUMAN SERVICES					
<u>Administration, Administrative Hearings</u>					
R497-100	Adjudicative Proceedings	20248	AMD	01/26/98	97-24/88
<u>Administration, Administrative Services, Licensing</u>					
R501-17	Adult Foster Care Standards	20179	NEW	03/15/98	97-22/24
<u>Administration, Administrative Services, Management Services</u>					
R503-5	Client Notice and Client Hearings	20895	5YR	03/13/98	98-7/76
<u>Aging and Adult Services</u>					
R510-100	Funding Formulas	20634	5YR	01/08/98	98-3/98
R510-101	Carryover Policy for Title III: Grants for State and Community Programs on Aging	20635	5YR	01/08/98	98-3/99
R510-102	Amendments to Area Plan and Management Plan	20636	5YR	01/08/98	98-3/99
R510-103	Use of Senior Centers by Long Term Care Facility Residents and Senior Citizens' Groups Participating in Activities Outside Their Planning and Service Area	20637	5YR	01/08/98	98-3/100
R510-106	Minimum Percentage of Older Americans Act, Title III: Grants for State and Community Programs on Aging Part B: Supportive Services and Senior Centers Funds That an Area Agency on Aging Must Spend on Access, In-home and Legal Assistance	20638	5YR	01/08/98	98-3/100
R510-107	Title V Senior Community Service Employment Program Standards and Procedures	20639	5YR	01/08/98	98-3/101
R510-108	Definition of Rural for Title III: Grants for State and Community Programs on Aging Reporting Under the Older Americans Act	20640	5YR	01/08/98	98-3/101
R510-109	Definition of Significant Population of Older Native Americans	20641	5YR	01/08/98	98-3/102
R510-110	Policy Regarding Contractual Involvements of Area Agencies on Aging for Private Eldercare and Case Management Services	20642	5YR	01/08/98	98-3/102
R510-200	Long-Term Care Ombudsman Program Policy	20643	5YR	01/08/98	98-3/103
R510-400	Home and Community-Based Alternative Services Policy and Procedures	20644	5YR	01/08/98	98-3/103
<u>Child and Family Services</u>					
R512-2	Child Welfare/Aid to Families with Dependent Children (AFDC) Foster Care/Adoption	20245	AMD	02/01/98	97-24/90
R512-31	Foster Parent Due Process	20288	AMD	04/01/98	97-24/91

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>Mental Health, State Hospital</u>					
R525-1	Patient Records	20913	EXD	03/15/98	98-7/80
R525-2	Patient Rights	20914	EXD	03/15/98	98-7/80
R525-3	Treatment Procedures	20915	EXD	03/15/98	98-7/80
R525-4	Patient Management	20916	EXD	03/15/98	98-7/80
R525-5	Patient Services	20917	EXD	03/15/98	98-7/80
<u>Recovery Services</u>					
R527-3	Definitions	20647	5YR	01/12/98	98-3/104
R527-5	Release of Information	20240	AMD	01/05/98	97-23/83
R527-39	Applicant/Recipient Cooperation	20522	NEW	02/05/98	98-1/67
R527-300	Income Withholding	20723	AMD	03/18/98	98-4/77
R527-301	Non IV-D Income Withholding	20724	AMD	03/18/98	98-4/80
R527-430	Administrative Notice of Lien-Levy Procedures	20523	NEW	02/05/98	98-1/68
R527-475	State Tax Refund Intercept	20725	AMD	03/18/98	98-4/82
R527-550	Assessment	20520	AMD	02/11/98	98-1/70
R527-928	Lost Checks	20518	AMD	02/17/98	98-1/71
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R590-124	Loss Information Rule	20816	5YR	02/26/98	98-6/78
R590-132	Insurance Treatment of Human Immunodeficiency Virus (HIV) Infection	18730	AMD	see CPR	97-7/36
R590-132	Insurance Treatment of Human Immunodeficiency Virus (HIV) Infection	18730	CPR (First)	see Second CPR	97-15/102
R590-132	Insurance Treatment of Human Immunodeficiency Virus (HIV) Infection	18730	CPR (Second)	03/01/98	97-22/105
R590-155	Disclosure of Life and Disability Guaranty Association Limitations	20943	5YR	03/27/98	98-8/63
R590-157	Taxation of Surplus Lines Insurance Premiums	20944	5YR	03/27/98	98-8/64
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R595-1-10	Hearing	20527	AMD	02/20/98	98-2/57
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R634-1	Americans With Disabilities Complaint Procedure	20256	NEW	01/15/98	97-24/92
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R636-2	Public Petitions for Declaratory Rulings	20718	EXD	02/01/98	98-4/136
R636-4	Confidential Energy Information	20719	EXD	02/01/98	98-4/136
R636-5	Administrative Procedures	20720	EXD	02/01/98	98-4/136

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R645-100-200	Definitions	20189	AMD	03/15/98	97-22/27
R645-301-500	Engineering	20190	AMD	03/15/98	97-22/38
R645-301-700	Hydrology	20191	AMD	03/15/98	97-22/59
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R653-2	Financial Assistance from the Board of Water Resources	20722	AMD	03/18/98	98-4/85
R653-3	Selecting Private Consultants	20597	AMD	02/18/98	98-2/58
R653-4	Investigation Account	20694	AMD	03/18/98	98-4/88
R653-5	Cloud Seeding	20593	AMD	02/18/98	98-2/60
R653-7	Administrative Procedures for Informal Proceedings	20554	AMD	02/18/98	98-2/63
R653-8	Flaming Gorge Water Right Segregation	20717	NEW	03/23/98	98-4/89
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R657-10	Taking Cougar	20928	EMR	03/19/98	98-8/57
R657-37	Cooperative Wildlife Management Units for Big Game	20243	AMD	01/15/98	97-24/104
R657-33	Taking Bear	20929	EMR	03/19/98	98-8/58
R657-33	Taking Bear	20938	5YR	03/24/98	98-8/65
R657-38	Dedicated Hunter Program	20244	AMD	01/15/98	97-24/105
R657-43	General Season Landowner Deer Permits	20700	AMD	03/18/98	98-4/90
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R671-102	Americans with Disabilities Act Complaint Procedure Rule	20427	AMD	02/18/98	98-1/73
R671-201	Original Parole Grant Hearing Schedule and Notice	20429	AMD	02/18/98	98-1/73
R671-202	Notification of Hearings	20431	AMD	02/18/98	98-1/74
R671-203	Victim Input and Notification	20433	AMD	02/18/98	98-1/75
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R671-205	Credit for Time Served	20486	AMD	02/18/98	98-1/76
R671-206	Competency of Offenders	20437	AMD	02/18/98	98-1/77
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R671-307	Foreign Nationals and Offenders With Detainers	20451	AMD	02/18/98	98-1/84
R671-308	Offender Hearing Assistance	20453	AMD	02/18/98	98-1/84
R671-309	Impartial Hearings	20455	AMD	02/18/98	98-1/85
R671-310	Rescission Hearings	20457	AMD	02/18/98	98-1/86
R671-311	Special Attention Hearings and Reviews	20459	AMD	02/18/98	98-1/87
R671-312	Commutation Hearings for Death Penalty Cases	20489	AMD	02/18/98	98-1/87
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R671-403	Restitution	20490	AMD	02/18/98	98-1/92
R671-405	Parole Termination	20471	AMD	02/18/98	98-1/93
R671-501	Warrants of Arrest	20473	AMD	02/18/98	98-1/93
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R671-504	Timeliness of Parole Revocation Hearings	20477	AMD	02/18/98	98-1/95
R671-505	Parole Revocation Hearings	20479	AMD	02/18/98	98-1/96
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R671-508	Evidentiary Hearings	20483	AMD	02/18/98	98-1/98

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PUBLIC SAFETY

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R708-14	Adjudicative Proceedings For Driver License Actions Involving Alcohol and Drugs	20632	AMD	03/04/98	98-3/76

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R710-4	Buildings Under the Jurisdiction of the State Fire Prevention Board	20714	AMD	03/18/98	98-4/96
R710-6	Liquefied Petroleum Gas Rules	20715	AMD	03/18/98	98-4/99
R710-7	Concerns Servicing Automatic Fire Suppression Systems	20277	AMD	01/15/98	97-24/108
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R728-502	Procedure for POST Instructor Certification	20833	5YR	03/04/98	98-7/78
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R746-331	Determination of Exemption of Mutual Water Corporations	20627	NEW	04/06/98	98-3/78
R746-341	Lifeline Rule	20677	AMD	04/06/98	98-3/78
R746-356-2	Definitions	20592	NSC	01/06/98	Not Printed
R746-360	Universal Public Telecommunications Service Support Fund	20956	EMR	03/31/98	98-8/59
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R884-24P-7	Assessment of Mining Properties Pursuant to Utah Code Ann. Section 59-2-201	20649	AMD	03/10/98	98-3/81
R884-24P-24	Form for Notice of Property Valuation and Tax Changes Pursuant to Utah Code Ann. Sections 59-2-918 through 59-2-924	20394	AMD	02/24/98	98-1/114
R884-24P-58	One-Time Decrease in Certified Rate Based on Estimated County Option Sales Tax Pursuant to Utah Code Ann. Section 59-2-924	20203	AMD	02/24/98	97-23/96
R884-24P-59	One-Time Decrease in Certified Rate Based on Estimated Additional Resort Communities Sales Tax Pursuant to Utah Code Ann. Section 59-2-924	20204	AMD	02/24/98	97-23/96
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R909-4-11	Maximum Towing and Storage Rates	20271	AMD	02/27/98	97-24/112
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R930-1	Installation of New Mailboxes and Correction of Nonconforming Mailboxes	20881	5YR	03/11/98	98-7/78
R930-5	Implementation of Agreements, Participation, Maintenance and Public Notice Responsibilities Relating to Railway-Highway Projects	20544	R&R	03/11/98	98-2/69
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R986-301	Medicaid General Provisions	20743	5YR	02/06/98	98-5/70
R986-301	Medicaid General Provisions	20769	AMD	04/01/98	98-5/48
R986-302	Eligibility Requirements	20224	AMD	01/02/98	97-23/97
R986-302	Eligibility Requirements	20744	5YR	02/06/98	98-5/70
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R986-304	Income and Budgeting	20739	AMD	04/01/98	98-5/49
R986-305	Resources	20726	EMR	02/12/98	98-4/123
R986-305	Resources	20747	5YR	02/06/98	98-5/72
R986-305	Resources	20770	AMD	04/01/98	98-5/55
R986-306	Program Benefits	20748	5YR	02/06/98	98-5/72
R986-306	Program Benefits	20777	AMD	04/01/98	98-5/57
R986-307	Eligibility Determination and Redetermination	20749	5YR	02/06/98	98-5/73
R986-307	Eligibility Determination and Redetermination	20774	AMD	04/01/98	98-5/58
R986-308	Record Management	20750	5YR	02/06/98	98-5/73
R986-309	Utah Medical Assistance Program (UMAP)	20751	5YR	02/06/98	98-5/74
R986-309-901	UMAP General Eligibility Requirements	20732	EMR	02/12/98	98-5/62
R986-310	Demonstration Programs	20752	5YR	02/06/98	98-5/74
R986-412	Conditions of Eligibility	20206	AMD	01/02/98	97-23/98
R986-414	Income	20207	AMD	01/02/98	97-23/99
R986-417	Documentation	20208	AMD	see CPR	97-23/100
R986-417	Documentation	20208	CPR	02/03/98	98-1/120
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R986-420	Maximum Allotments	20210	AMD	01/02/98	97-23/102
R986-421	Demonstration Programs	20211	AMD	01/02/98	97-23/103
R986-421	Demonstration Programs	20753	5YR	02/06/98	98-5/75
R986-701	Child Care Assistance General Provisions	20754	5YR	02/06/98	98-5/75
R986-702	Conditions of Eligibility and Client Payment Amount	20755	5YR	02/06/98	98-5/76
R986-703	Child Care Programs	20756	5YR	02/06/98	98-5/77
R986-704	Income Rules and Eligibility Calculations	20757	5YR	02/06/98	98-5/77
R986-705	Resources	20758	5YR	02/06/98	98-5/78
R986-706	Provider Payment and Contracting	20759	5YR	02/06/98	98-5/78
R986-707	Eligibility	20760	5YR	02/06/98	98-5/79

RULES INDEX - BY KEYWORD (SUBJECT)

ABBREVIATIONS

AMD = Amendment
CPR = Change in proposed rule
EMR = Emergency rule (120 day)
NEW = New rule
5YR = Five-Year Review
EXD = Expired

NSC = Nonsubstantive rule change
REP = Repeal
R&R = Repeal and reenact
* = Text too long to print in *Bulletin*, or
repealed text not printed in *Bulletin*

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	20904	R277-912	5YR	03/13/98	98-7/75
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	20720	R636-5	EXD	02/01/98	98-4/136
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Human Services, Child and Family Services	20245	R512-2	AMD	02/01/98	97-24/90
<u>ADULT EDUCATION</u>					
Education, Administration	20666	R277-702	5YR	01/14/98	98-3/93
<u>AGRICULTURAL LAW</u>					
Agriculture and Food, Animal Industry	20279	R58-19	NEW	01/15/98	97-24/12
Agriculture and Food, Plant Industry	20280	R68-19	NEW	01/15/98	97-24/13
Agriculture and Food, Regulatory Services	20281	R70-201	NEW	01/15/98	97-24/14
<u>AIR POLLUTION</u>					
Environmental Quality, Air Quality	20096	R307-1-1	AMD	01/08/98	97-21/4
	20202	R307-1-1	AMD	01/08/98	97-23/10
	20219	R307-1-3	AMD	02/05/98	97-23/20
	20740	R307-1-3	NSC	02/05/98	Not Printed
	20099	R307-2-12	AMD	01/08/98	97-21/14
	20100	R307-8-3	AMD	01/08/98	97-21/15
<u>ALCOHOL</u>					
Public Safety, Highway Patrol	20698	R714-550	AMD	03/24/98	98-4/104
<u>ALTERNATIVE LANGUAGE SERVICES</u>					
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<u>ALTERNATIVE SCHOOL</u>					
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Community and Economic Development, Community Development, Community Services	20282	R202-100	AMD	01/15/98	97-24/17
<u>APPELLATE PROCEDURES</u>					
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<u>APPLIED TECHNOLOGY EDUCATION</u>					
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<u>APPRAISAL</u>					
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	20394	R884-24P-24	AMD	02/24/98	98-1/114

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	20200	R156-3a	CPR	02/18/98	98-2/79
<u>ART IN PUBLIC PLACES</u>					
Community and Economic Development, Community Development, Fine Arts	20811	R207-1	5YR	02/25/98	98-6/77
	20812	R207-2	5YR	02/25/98	98-6/77
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<u>ART PRESERVATION</u>					
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<u>ARTS</u>					
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<u>ART WORKS</u>					
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Human Services, Recovery Services	20518	R527-928	AMD	02/17/98	98-1/71
<u>BEAR</u>					
Natural Resources, Wildlife Resources	20929	R657-33	EMR	03/19/98	98-8/58
	20938	R657-33	5YR	03/24/98	98-8/65
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	20744	R986-302	5YR	02/06/98	98-5/70
	20208	R986-417	AMD	see CPR	97-23/100
	20208	R986-417	CPR	02/03/98	98-1/120
<u>BIG GAME SEASONS</u>					
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	20700	R657-43	AMD	03/18/98	98-4/90
<u>BRACHYTHERAPY</u>					
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	20738	R986-304	EMR	02/12/98	98-5/60
	20739	R986-304	AMD	04/01/98	98-5/49
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Administrative Services, Facilities Construction and Management	20703	R23-5	5YR	01/28/98	98-4/128
	20708	R23-10	5YR	01/28/98	98-4/131
	20709	R23-11	5YR	01/28/98	98-4/131
	20711	R23-24	5YR	01/28/98	98-4/132
<u>CAPITAL PUNISHMENT</u>					
Pardons (Board of), Administration	20486	R671-205	AMD	02/18/98	98-1/76
	20489	R671-312	AMD	02/18/98	98-1/87
<u>CAREER EDUCATION</u>					
Education, Administration	20670	R277-718	5YR	01/14/98	98-3/95
<u>CARRYOVER FUNDING</u>					
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Statehood Centennial Commission (Utah), Administration	20924	R855-1	EXD	03/17/98	98-8/67
	20925	R855-2	EXD	03/17/98	98-8/67
	20926	R855-3	EXD	03/17/98	98-8/67
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Workforce Services, Employment Development	20754	R986-701	5YR	02/06/98	98-5/75
	20755	R986-702	5YR	02/06/98	98-5/76
	20756	R986-703	5YR	02/06/98	98-5/77
	20757	R986-704	5YR	02/06/98	98-5/77
	20758	R986-705	5YR	02/06/98	98-5/78
	20759	R986-706	5YR	02/06/98	98-5/78
	20760	R986-707	5YR	02/06/98	98-5/79
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	20265	R430-3	NEW	01/21/98	97-24/69
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	20723	R527-300	AMD	03/18/98	98-4/77
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