

Utah Geological Survey Rule

R638. Natural Resources, Geological Survey.

R638-1. Acceptance and Maintenance of Confidential Information.

R638-1-1. Authority, Purpose, and Scope.

a. Authority: This rule is authorized under Subsection 63-73-6(2) UCA.

b. Purpose: This rule enables the Utah Geological Survey to have access to confidential information which it otherwise could not acquire, or which is beyond the financial capability of the Survey to acquire.

c. Scope: This rule provides: (1) guidelines for determining whether or not to accept confidential information, (2) the types of information that will be maintained as confidential, and (3) the process to be used for accepting and maintaining confidential information.

R638-1-2. Definitions.

a. "Information" as used in this rule refers to data, statistics, reports, samples and other facts, whether analyzed or processed or not, pertaining to the geology of Utah.

b. "Internal Records" are preliminary documents and notes compiled by employees of the Survey or its contractors in the process of geologic investigations.

c. "Confidential Information" as used in this rule refers to geologic information given to the Survey or purchased by the Survey with the stipulation that the information be held confidential.

d. "Board" is the Board of the Utah Geological Survey.

e. "Director" is the Director of the Utah Geological Survey, or State Geologist.

f. "Survey" is the Utah Geological Survey.

g. "Geology" refers to the geology and the mineral occurrences of the State.

h. "Source" is the individual, agency, or organization who provides information to the Survey and stipulates that it is confidential information.

R638-1-3. General Provisions.

a. It is the policy of the Survey and the Board that unless otherwise specified herein, this rule shall be interpreted liberally in favor of public disclosure of information maintained by the Survey. Further, all of the Survey's conclusions and recommendations on geological matters will be made available to the public in accordance with this rule.

b. The Director is the custodian of Survey records.

c. The Director will report regularly to the Board concerning the following: the types of information received by the Survey as confidential; the frequency and nature of requests for access/usage of Survey information which has not yet been made public; and determinations including reasons for not accepting information. The Board will hear appeals of decisions made by the Director and may override the Director but no Board action shall in any way jeopardize the level of confidentiality assigned by the source.

d. The Director has the authority to refuse information that

has been offered to the Survey if it appears to be not in the best interest of the State or the Survey. Without disclosing the confidentiality of the offered information, the Director may consult with the Governor of the State of Utah in exercising this authority.

e. Information will be maintained according to the source-designated level of Category B or C. The Director will sign all documents pertaining to confidentiality.

f. Information can be declassified only by written direction from the source or at the expiration period for confidentiality agreed upon by the source and the Survey.

g. Unless otherwise directed by the source, access to confidential information by Survey employees must be approved in writing by the Geologic Program Manager supervising the individual requesting access and by the Director.

h. Requests for information from outside the Survey must be in writing with a description of the records requested. The Survey will have thirty days to respond. If the information requested is determined to be confidential, the Survey must state the reason for the determination. A denial of access to confidential information may be appealed to the Board.

i. For the purpose of obtaining information the Survey deems necessary or desirable from the Federal Government concerning the geology pertaining to the lands of Utah, the Director may establish procedures deemed necessary by the Federal source in order to maintain confidentiality consistent with relevant Federal law.

R638-1-4. Procedures.

a. Geologic information will be categorized as follows:

1. Category A: Information that is public and not maintained as confidential.

(a) Survey publications.

(b) Survey open-file reports.

(c) Samples and core accepted for storage.

(d) Inhouse-generated files and computer information unless otherwise covered in Category B.

2. Category B: Information that is temporarily withheld from the public until made available by open filing or publication of the information.

(a) Predecisional documents leading to a geologic explanation or publication.

(b) Manuscripts received from non-Survey sources.

(c) Geologic information and conclusions drawn by the Survey that have been contracted or legislatively mandated for other state agencies.

(d) Determination for Category B information will be made by the Director based upon:

(1) a likelihood that premature release would result in a competitive advantage or disadvantage to an individual or organization;

(2) a likelihood that premature release would result in misuse or harm the public;

(3) a judgement that premature release would compromise the Survey's ability to analyze data, or complete and make public the conclusions of a project in a timely manner.

(e) Category B information may be open-filed at any time by the Director.

3. Category C: Information that is not to be made available to the public except under terms and conditions agreed upon at the time of its acceptance.

(a) Information given to the Survey by other governmental agencies and classified as confidential by them.

(b) Information given to the Survey by private individuals or organizations and classified as confidential by them.

(c) Information purchased by the Survey with the understanding that it will be maintained as confidential.

b. Geologic information designated confidential will be recorded as received by the Survey at the requested level of confidentiality and maintained in locked files with controlled access.

R638-1-5. Anticipated Impacts Regarding Costs of Compliance.

a. This rule applies to geologic information provided voluntarily by individuals or organizations to the Survey. Therefore, sources of information have no mandated costs in order to comply with these provisions.

b. The Survey will budget sufficient funds from its current budget to accomplish the purposes and objectives of this rule.

KEY: disclosure requirements

Date of Enactment or Last Substantive Amendment: 1993

Notice of Continuation: September 26, 2011

Authorizing, and Implemented or Interpreted Law: 63-73-4(5)