UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT Filed February 2, 2000, 12:00 a.m. through February 15, 2000, 11:59 p.m.

Number 2000-5 March 1, 2000

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

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

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

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EDITOR'S NOTE

2000 EDITION OF THE UTAH ADMINISTRATIVE CODE NOW AVAILABLE

The Division of Administrative Rules is delighted to announce a new edition of the *Utah Administrative Code (Code)*. With the new edition, the Division is pleased to renew its relationship with Michie (part of the LEXIS Publishing family of companies).

The new edition of the *Code* provides many features that make it an invaluable reference tool. History notes and case law annotations are included, as well as all the administrative rules of Utah, but presented in a format that takes up less than one third the shelf-space of the 1995 edition.

The format of the new *Code* is a return to the softbound, annually replaced pre-1995 editions. Instead of four volumes, though, the *Code* is now divided into ten: nine volumes of rule and annotation text, plus one volume of tables and index. More and smaller volumes mean a *Code* that is more accessible. Subscribers will be able to either purchase the entire *Code*, or only those volumes that are needed.

Relying only on annual replacements of the *Code* would render it obsolete very shortly. That is why the *Code* will be supplemented in print in six months. In addition, updating by CD-ROM on a more frequent basis will also be available. The CD-ROM will contain all the materials available in the print *Code*, as well as the added benefits of hypertext linking and sophisticated search capabilities.

Contact LEXIS Publishing for ordering information. Call toll-free at (800) 446-3410; fax toll-free at (800) 643-1280; or send E-mail to: Ilp.customer.support@lexis-nexis.com. State agencies may purchase the *Code* under statewide contract PD-934.

End of the Editor's Notes Section

SPECIAL NOTICE

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT COMMUNITY DEVELOPMENT, LIBRARY

PUBLIC NOTICE OF AVAILABLE UTAH STATE PUBLICATIONS

The Utah State Library Division has made available Utah State Publications List No. 00-04, dated February 18, 2000. For copies of the complete list, contact the Utah State Library Division at: 1950 West 250 North, Suite A, Salt Lake City, UT 84116-7901; phone: (801) 715-6777; or the Division of Administrative Rules, PO Box 141007, Salt Lake City, UT, 84114-1007; phone: (801) 538-3218; FAX: (801) 538-1773. This list is available on the World Wide Web at: http://www.state.lib.ut.us/publicat/publicat.htm.

End of the Special Notices Section

NOTICES OF PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between <u>February 2, 2000, 12:00 a.m.</u>, and <u>February 15, 2000, 11:59 p.m.</u>, are included in this, the <u>March 1, 2000</u>, 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., <u>example</u>). Deletions made to existing rules are struck out with brackets surrounding them (e.g., <u>[example]</u>). 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 March 31, 2000. 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 <u>June 29, 2000</u>, 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.

Agriculture and Food, Plant Industry R68-8-7

Labeling or Agricultural Seed Varieties

NOTICE OF PROPOSED RULE

(Amendment) DAR FILE No.: 22646 FILED: 02/02/2000, 15:32 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The changes are being made to correct the requirements for the labeling of seeds.

SUMMARY OF THE RULE OR CHANGE: Establish a section to list the seeds that shall be labeled to show the variety name.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 4-2-2, 4-16-3, and 4-17-3.

ANTICIPATED COST OR SAVINGS TO:

- ♦THE STATE BUDGET: No cost to state budget--this rule was established to list the requirements for labeling seeds.
- ♦LOCAL GOVERNMENTS: No cost to local government--the cost will be to the manufacturer for the labeling of seeds.
- ♦OTHER PERSONS: The cost would be the price of the seeds being purchased by the consumer. Prices vary according the type and quantity of seeds per package.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The cost to the manufacturer for testing seeds for germination, purity, and TC (Tetracolium), can range from \$6 to \$20, depending on the type of test(s) they request.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on businesses.

THE FULL TEXT OF THIS RULE 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 RULE TO:

Stephen Burningham at the above address, by phone at (801) 538-7183, by FAX at (801) 538-7126, or by Internet Email at agmain.sburning@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 04/14/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 03/22/2000, 10:00 a.m., Department of Agriculture and Food, 350 North Redwood Road, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2000

AUTHORIZED BY: Cary G. Peterson, Commissioner

R68. Agriculture and Food, Plant Industry.

R68-8. Utah Seed Law.

R68-8-7. Labeling o[r]f Agricultural Seed Varieties.

A. The following kinds of agricultural seeds shall be labeled to show the variety name or the words, "Variety Not Stated."

Alfalfa

Bahiagrass[

Barley]

Beans, field

Beets, field

Brome, smooth

Broomcorn

Clover, crimson

Clover, red

Clover, white

Corn, field

Corn, pop

Cotton

Cowpea

Crambe

Fescue, tall

Flax

Lespedeza, striate

Millet, foxtail

Millet, pearl

Oat

Pea, field

Peanut Rice

Rye

Safflower

Sorghum

Sorghum-Sudangrass

Sudangrass hybrid

Soybean

Sudangrass

Sunflower

Tobacco

Trefoil, birdsfoot[

Triticale

Wheat, common

Wheat, durum]

B. The following kinds of agriculture seeds shall be labeled to show the variety name:

Barley

Triticale

Wheat, Common

Wheat, durum

[B]C. When two or more varieties are present in excess of five percent and are named on the label, the name of each variety shall be accompanied by the percentage of each.

KEY: inspections [November 3, 1997]2000 Notice of Continuation January 6, 1997

4-2-2 4-16-3

4-17-3

Agriculture and Food, Regulatory Services

R70-310

Grade A Pasteurized Milk

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE No.: 22658
FILED: 02/10/2000, 09:04
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To adopt the latest version of the Grade A Pasteurized Milk Ordinance.

SUMMARY OF THE RULE OR CHANGE: Adopt the 1999 version of the Grade A Pasteurized Milk Ordinance. There are no significant changes in this version.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 4-2-2(1)(j)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Grade A Pasteurized Milk Ordinance, 1999 Recommendations of the United States Public Health Service/Food and Drug Administration

ANTICIPATED COST OR SAVINGS TO:

- ♦THE STATE BUDGET: No cost to state budget. Dairy owners will be affected if they violate any portion of the Grade A Pasteurized Milk Ordinance.
- ♦LOCAL GOVERNMENTS: No cost to local budget. There will be a cost to dairy owners if any portion of the Grade A Pasteurized Milk Ordinance is violated.
- ♦OTHER PERSONS: A penalty not to exceed \$5,000 per violation in a civil proceeding would apply to dairy owners if any portion of the Ordinance is violated.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Violation of any portion of the Grade A Pasteurized Milk Ordinance recommendation may result in civil or criminal action. A penalty not to exceed \$5,000 per violation in a civil proceeding, and in a criminal proceeding is guilty of a class B misdemeanor.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact on businesses.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Steve Himebaugh at the above address, by phone at (801) 538-7145, by FAX at (801) 538-7126, or by Internet E-mail at agmain.shimbaug@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/01/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2000

AUTHORIZED BY: Cary G. Peterson, Commissioner

R70. Agriculture and Food, Regulatory Services. R70-310. Grade A Pasteurized Milk.

R70-310-1. Authority.

A. Promulgated Under the Authority of Subsection 4-2-2(1)(j).

B. Scope - this rule shall apply to all Grade A pasteurized milk products sold, bought, processed, manufactured or distributed within the State of Utah.

R70-310-2. Adoption of USPHS Ordinance.

The Grade A Pasteurized Milk Ordinance, [1993]1999 Recommendations of the United States Public Health Service/Food and Drug Administration, is hereby adopted and incorporated by reference within this rule.

R70-310-3. Regulatory Agency Defined.

The definition of "regulatory agency" as given in section $\mathbf{1}(x)$ of the Grade A Pasteurized Milk Ordinance shall mean the Commissioner of Agriculture and Food of the State of Utah or his authorized representative(s).

R70-310-4. Penalty.

Violation of any portion of the Grade A Pasteurized Milk Ordinance [1993]1999 recommendation may result in civil or criminal action, pursuant to Section 4-2-15.

KEY: food inspection [1990]2000

Notice of Continuation September 1, 1995

4-2-2

Education, Administration **R277-462**

Comprehensive Guidance Program

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE No.: 22669
FILED: 02/15/2000, 17:12
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule was amended to satisfy legislative directive to provide guidelines on small group definition and size.

(**DAR Note:** H.B. 138 is found at 1997 Utah Laws 310, and was effective May 5, 1997.)

SUMMARY OF THE RULE OR CHANGE: The amendment provides guidelines for schools and districts in scheduling and structuring small group meetings within the SEOP (student educational occupational plan) process.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53A-17a-131.8

ANTICIPATED COST OR SAVINGS TO:

- ♦THE STATE BUDGET: No cost or savings because costs will be borne from existing education funds.
- LOCAL GOVERNMENTS: Some district/school costs are possible (and speculative) depending upon district decisions to schedule and conduct SEOP small group conferences. It is impossible to a provide cost estimate in dollars because school districts and their staffs differ in size from the Tintic School District with 339 students and 24 teachers to the Jordan School District with 73,285 students and 3,147 teachers. Teachers are essential to the SEOP process, but how the teacher's time is allocated for the SEOP process is discretionary with school districts.
- ♦OTHER PERSONS: No cost or savings because costs will be borne from existing education funds.

COMPLIANCE COSTS FOR AFFECTED PERSONS: School districts may have some minimal compliance costs as they make decisions, perhaps by hiring extra temporary staff for small group SEOP meetings.

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

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

Education Administration 250 East 500 South Salt Lake City, UT 84111, or at the Division of Administrative Rules. DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/31/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2000

AUTHORIZED BY: Carol B. Lear, Acting Coordinator, School Law

R277. Education, Administration. R277-462. Comprehensive Guidance Program. R277-462-1. Definitions.

- A. "Comprehensive Guidance Program" means the organization of resources to meet the priority needs of students through four delivery system components:
- (1) guidance curriculum which means providing guidance content to all students in a systematic way;
- (2) student educational and occupational planning component which means individualized education and career planning with all students:
- (3) responsive services component designed to meet the immediate concerns of certain students; and
- (4) system support component which addresses management of the program and the needs of the school system itself.
 - B. "SEOP" means student educational occupational plan.
- C. "Direct services" means time spent on the guidance curriculum, SEOP, and responsive services activities meeting students' identified needs as identified by students, school personnel and parents consistent with district policy.
- D. "WPU" means weighted pupil unit, the basic unit used to calculate the amount of state funds for which a school district is eligible.
- E. "Board" means the Utah State Board of Education and Applied Technology Education.
 - F. "USOE" means the Utah State Office of Education.

R277-462-2. Authority and Purpose.

- A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and authority over public education in the Board, by Section 53A-15-201 which designates the Utah State Board of Education as the Board for Applied Technology Education, and Section 53A-17a-131.8 which directs the Board to establish qualification criteria and distribute Comprehensive Guidance Program funds.
- B. This rule establishes standards and procedures for entities applying for funds appropriated for Comprehensive Guidance Programs administered by the Board.

R277-462-3. Comprehensive Guidance Program Approval and Qualifying Criteria.

A. Comprehensive guidance disbursement criteria:

- (1) For each school which meets the qualifying criteria for a Comprehensive Guidance Program and which enrolls students in grades seven through twelve, districts shall receive from six to twenty-four WPU's based on school enrollment as of October 1 of the current fiscal year (e.g., 1 399 students = 6 WPU's, 400 799 students = 12 WPU's, 800 1,199 students = 18 WPU's, 1,200 students + 24 WPU's).
- (2) If at any time following a school's initial approval of its Comprehensive Guidance Program, the school's enrollment drops below the funding level approved for the school, the school may be held harmless for the change in enrollment for a maximum of two years following the decline in enrollment into the lower funding category, funds permitting.
- (3) Priority for funding shall be given for grades nine through twelve and any remaining funds will be allocated to grades seven and eight for the schools which meet program standards. Grades nine through twelve shall be given priority for funding provided under Section 53A-17a-131.8. Remaining funds shall be allocated to grades seven and eight in those schools that meet program standards. Funds directed to grades seven and eight shall be distributed according to the formula under R277-462-3A(1) following the distribution of funds for grades nine through twelve.
- (4) Comprehensive Guidance Program funds shall be distributed to districts for each school within the district that meets all of the following criteria:
- (a) A school-wide student/parent/teacher needs assessment completed within the last four years prior to the application deadline for funding;
- (b) Documentation that a school advisory and a school steering committee have been organized and are functioning effectively;
- (c) Evidence that eighty percent of aggregate counselors time is devoted to DIRECT services to students;
- (d) A program that reflects a commitment that all students in the school shall benefit from the Comprehensive Guidance Program;
 - (e) Approval of the Program by the local board of education;
- (f) The establishment of the SEOP requirements for all students both as process and product consistent with R277-911, Secondary Applied Technology Education and R277-700, The Elementary and Secondary School Core Curriculum and High School Graduation Requirements;
- (g) Assistance for students in developing job seeking and finding skills and in post-high school placement;
- (h) Inclusion in the guidance curriculum of activities for each of the twelve National Occupational Information Coordination Committee (NOICC) competencies (available from the USOE guidance specialist);
- (i) Distribution to and discussion with feeder schools of the Comprehensive Guidance Program; and
- (j) Sufficient district budget to adequately provide for guidance facilities, material, equipment and clerical support.
- B. All districts may qualify schools for the Comprehensive Guidance Program funds and shall certify in writing that all program standards are being met by each school receiving funds under this rule.
- (1) Procedures for qualifying schools within a district receiving funds shall be provided by the USOE.

- (2) Qualifying schools shall complete the "Self Study for Meeting Comprehensive Guidance Program Standards" form provided by the USOE and supporting documentation, if requested.
- (3) Qualifying schools shall receive on-site review of the program by team members designated by the school district. The on-site review team shall consist of at least five members.
- (4) The district shall submit to the USOE the "Form for Program Approval" which has been completed by the Review Team, signed by the Team Chairperson and school/district personnel as indicated on the form.
- (5) The "Form for Program Approval" shall be received by the USOE not later than May 20 of each year for disbursement of funds the next year.
- (6) Programs approved and forms submitted by December 20 of each year MAY be considered for partial disbursement, if funds are available.

R277-462-4. Guidelines and Objectives for Individual and Small Group SEOP Conferences.

- A. Districts shall provide annual individual SEOP conferences for students in grades 7-12 as directed in Section 53A-1a-106(2)(b)(ii)(C).
- B. Pursuant to Section 53A-1a-106(2)(b)(iii)(A), the USOE provides the following guidelines and expectations:
- (1) A small group SEOP conference should include no more than a classroom sized meeting of students together with the students' parents or guardians and an educator.
- (2) The small group SEOP conference should initially address the purposes of the basic SEOP, including:
- (a) the sharing of information useful for goal setting, problem solving, and planning related to a student's SEOP; and
- (b) the defining of respective roles assumed by the school, the student, and parent(s) in formulating an SEOP for the student.
- C. Parents, guardians and students should be advised that during grades 7 or 8, a small group SEOP conference is most effective when held or scheduled in conjunction with the Technology, Life and Careers course.
- D. Parents, guardians and students should be advised that during grades 9 or 10, the small group SEOP conference is designed to acquaint parents or guardians and students with the course-work, career study, and activity options available to high school students.
- E. Parents, guardians and students should be advised that during the 12th grade year, the small group SEOP conference is most effective when implemented before the end of October, so that parents, guardians and students can focus attention on the necessary decisions and the deadlines during the senior year.

R277-462-[4]5. Use of Funds.

- A. Funds disbursed for this program shall be used by the district at the district secondary schools in grades seven through twelve to provide a guidance curriculum and an SEOP for each student at the school, to provide responsive services, and to provide system support for the Comprehensive Guidance Program. Such costs may include the following:
 - (1) personnel costs;
- (2) career center equipment such as computers, or media equipment;

- (3) career center materials such as computer software, occupational information, SEOP folders, and educational information:
- (4) in-service training of personnel involved in the Comprehensive Guidance Program;
- (5) extended day or year if REQUIRED to run the program; and
 - (6) guidance curriculum materials for use in classrooms.
- B. Funds shall not be used for non-guidance purposes or to supplant funds already being provided for the guidance program except that:
- (1) Districts may pay for the costs incurred in hiring NEW personnel as a means of reducing the pupil/counselor ratio and eliminating time spent on non-guidance activities in order to meet the program criteria.
- (2) Districts may pay other costs associated with a comprehensive guidance program which were incurred as a part of the program during the implementation phase but which WERE NOT a regular part of the program prior to that time.

R277-462-[5]6. Reporting.

- A. The USOE shall monitor the program and provide an annual report on its progress and success.
- B. Districts shall certify on an annual basis that previously qualified schools continue to meet the program criteria and provide the USOE with data and information on the program as required.

KEY: public education, counselors [July 19, 1999]2000 Art X Sec 3 Notice of Continuation September 30, 1999 53A-15-201 53A-17a-131.8

Education, Administration **R277-514**

Board Procedures: Sanctions for Misconduct

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE No.: 22670
FILED: 02/15/2000, 17:12
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide an appeals process from a Utah Professional Practices Advisory Commission (UPPAC) recommendation. The appeal from a UPPAC recommendation or decision goes to the State Superintendent of Public Instruction under certain specific circumstances, and then to the State Board of Education.

(**DAR Note:** A corresponding proposed amendment to Rule R686-100 of the UPPAC is under DAR No. 22761 in this *Bulletin.*)

SUMMARY OF THE RULE OR CHANGE: An appeal from a Utah Professional Practices Advisory Commission (UPPAC) recommendation or final decision goes to the State Superintendent of Public Instruction and then to the State Board of Education or directly to the State Board of Education, depending upon the findings of the decision. There are terminology changes also.

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

ANTICIPATED COST OR SAVINGS TO:

- ♦THE STATE BUDGET: There is a revised appeals procedure provided for individual appellants, but there should be no additional cost or savings because of the amendments. The changes are only procedural. We are not adding or taking away from the procedure, but simply changing the order of the process.
- LOCAL GOVERNMENTS: There is a revised appeals procedure provided for individual appellants, but there should be no additional cost or savings because of the amendments. The changes are only procedural. We are not adding or taking away from the procedure, but simply changing the order of the process.
- ♦OTHER PERSONS: There is a revised appeals procedure provided for individual appellants, but there should be no additional cost or savings because of the amendments. The changes are only procedural. We are not adding or taking away from the procedure, but simply changing the order of the process.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is a revised appeals procedure provided for individual appellants, but there should be no additional cost or savings because of the amendments. The changes are only procedural. We are not adding or taking away from the procedure, but simply changing the order of the process.

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

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

Education Administration 250 East 500 South Salt Lake City, UT 84111, or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/31/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2000

AUTHORIZED BY: Carol B. Lear, Acting Coordinator, School Law

R277. Education. Administration.

R277-514. Board Procedures: Sanctions for <u>Educator</u> Misconduct.

R277-514-1. Definitions.

- A. "Allegation of misconduct" means a written or oral report alleging that an educator has engaged in unprofessional, criminal, or incompetent conduct; is unfit for duty; has lost [certification]licensure in another state due to revocation or suspension, or through voluntary surrender or lapse of a [certificate]license in the face of a claim of misconduct; or has committed some other violation of standards of ethical conduct, performance, or professional competence.
 - B. "Board" means the Utah State Board of Education.
- C. ["Certificate" means a teaching or administrative credential, including endorsements, which is issued by a state to signify authorization for the person holding the certificate to provide professional services in the state's public schools.]"License" means an authorization issued by the Board which permits the holder to serve in a professional capacity in a unit of the public education system or an accredited private school.
- D. "[Certification]Licensure Committee" means a committee of the Board which reviews issues relating to [certification]licensure of educators.
- E. "Commission" means the Utah Professional Practices Advisory Commission.
- F. "Educator" means a person who currently holds a [certificate]license, held a [certificate]license at the time of an alleged offense, is an applicant for a [certificate]license, or is a person in training to obtain a [certificate]license.
 - G. "Party" means the complainant or the respondent.
- H. "Recommended disposition" means a recommendation for resolution of a complaint.
- I. "Serve" or "service," as used to refer to the provision of notice to a person, means delivery of a written document or its contents to the person or persons in question. Delivery may be made in person, by mail or by other means reasonably calculated, under all of the circumstances, to apprise the interested person or persons to the extent reasonably practical or practicable of the information contained in the document.
- J. "Superintendent" means the State Superintendent of Public Instruction.

R277-514-2. Authority and Purpose.

- A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public schools in the Board, Section 53A-6-[104]405 relating to withdrawal or denial of [certification]licensure by the Board for cause, Section 53A-[7-113]6-307 in which the Board retains the power to issue or revoke [certification]licenses, hold hearings or take other disciplinary action as warranted, and Subsection 53A-1-401(3) [relating to adoption by the Board of]which permits the Board to adopt rules in accordance with its responsibilities.
- B. The purpose of this rule is to <u>direct school administrators</u> to refer incidents of educator misconduct to the Commission, provide for a review by the Superintendent of designated

<u>Commission actions and</u> specify the procedures under which the Board may take action against an educator's [certificate]license for misconduct.

R277-514-3. Administrative Review by Superintendent.

- A. If an administrative action is taken by the Commission which results in a recommendation to the Board for:
- (1) suspension of an educator's license for two years or more, or
 - (2) revocation of an educator's license,
- B. Either party may request review by the Superintendent within 15 days from the date that the Commission sends written notice to both parties that the Commission has made its administrative recommendation.
 - C. The request for review shall consist of the following:
 - (1) name, position, and address of appellant;
 - (2) issue(s) being appealed; and
 - (3) signature of appellant.
 - D. If the Superintendent finds:
- (1) that serious procedural errors have occurred which have violated the fundamental fairness of the process, then the Superintendent shall refer the case back to the Commission to correct the errors;
- (2) that the findings or conclusions of the Commission are not supported by a preponderance of the evidence, or that the recommended disposition does not present a reasonable resolution of the case, then the Superintendent may refer the case back to the Commission for further action;
- (3) that fundamental fairness for both parties was satisfied and that the Commission's decision was supported by a preponderance of the evidence, the Superintendent shall provide notice to both parties as provided and refer the matter to the Board for final disposition consistent with this rule.

R277-514-[3]4. [Certification]Licensure Committee Procedures.

- A. Except as provided under Subsection R277-514-4(E), if the Board receives an allegation of misconduct by an educator, the allegation shall be forwarded to the Executive Secretary of the Professional Practices Advisory Commission for action under R686-100
- B. A case referred to the Board by the Commission, <u>following</u> review by the Superintendent, or upon appeal under R686-100-17C, shall be assigned to the [Certification]Licensure Committee.
- C. The [Certification]Licensure Committee shall review the case file and the recommendation of the Commission. If the [Certification]Licensure Committee finds that there have not been serious procedural errors on the part of the Commission, that the findings and conclusions of the Commission are reasonable and supported by a preponderance of the evidence, and that the recommended disposition presents a reasonable resolution of the case, then the [Certification]Licensure Committee shall approve the Commission's action and forward the case to the full Board for its consideration.
- D. If the [Certification]Licensure Committee finds that there is insufficient information in the case file to complete its work, the [Certification]Licensure Committee may direct the parties to appear and present additional evidence or clarification.
- E. If the [Certification]Licensure Committee finds that serious procedural errors have occurred which have violated the

fundamental fairness of the process, then the [Certification]Licensure Committee shall refer the case back to the Commission to correct the errors.

- F. If the [Certification]Licensure Committee determines that the findings or conclusions of the Commission are not supported by a preponderance of the evidence, or that the recommended disposition does not present a reasonable resolution of the case, then the [Certification]Licensure Committee may refer the case back to the Commission for further action or may, in the alternative, prepare its own findings, conclusions, or recommended disposition.
- G. If the [Certification]Licensure Committee prepares its own findings, conclusions, or recommendation, then the [Certification]Licensure Committee shall forward its findings, conclusions, or recommendation to the Board together with the file as received from the Commission.
- H. The Board shall be officially notified in a timely manner of all final actions taken by the Commission which relate to the certification of individuals.

R277-514-[4]5. Board Procedures.

- A. Upon receiving a case from the [Certification]Licensure Committee, the members of the Board [shall]may accept the recommendation of the Licensure Committee or may review the case file, findings, conclusions, and recommended disposition. If the Board finds that there have not been serious procedural errors, that the findings and conclusions are reasonable and supported by a preponderance of the evidence, and that the recommended disposition presents a reasonable resolution of the case, then the Board shall approve the findings and recommended disposition.
- B. If the Board finds that serious procedural errors have occurred which have violated the fundamental fairness of the process, then the Board shall refer the case back to the Commission to correct the errors.
- C. If the Board determines that the findings or conclusions are not supported by a preponderance of the evidence, or that the recommended disposition does not present a reasonable resolution of the case, then the Board may refer the case back to the Commission for further action or may, in the alternative, prepare other findings, conclusions, or disposition.
- D. If the Board finds that there is insufficient information in the case file to complete its work, the Board may direct the parties to appear and present additional evidence or clarification.
- E. If the Board finds it advisable to do so, the Board may initiate investigations or hearings regarding the initial or continued [certification]licensure of an individual and take disciplinary action upon its own volition without referring a given case to the Commission.
- F. The Board shall issue a written order regarding its action which contains its [findings and] conclusions and its disposition of the case, and direct the State Superintendent to serve a copy of the written order upon the parties.
- G. All documents used by the Board in reaching its decision, and a copy of the Board's final order, shall be made part of the permanent case file.
 - H. The decision of the Board is final.

[R277-514-5. Request for Reconsideration.

A. A party may request the Board to reconsider its action by submitting a written request for reconsideration, including the

- reasons for the request, to the Executive Secretary of the Board within 30 days after service of the Board's written order.
- B. The Board shall review the request. If the Board finds that the request raises issues which cause the Board to question the correctness of its action, then the Board shall refer the case to the Commission or to the Certification Committee for further action.
- C. If the Board decides to deny reconsideration, it shall prepare a written order and direct the State Superintendent to serve a copy of the written order upon the parties.
 - D. The decision of the Board is final.

R277-514-6. Notification Requirements and Procedures.

- A. An educator who has reasonable cause to believe that a student may have been physically or sexually abused by a school employee shall immediately report that belief to the school principal, <u>district</u> superintendent, or the Commission. A school administrator receiving such a report shall immediately submit the information to the Commission <u>if the employee is licensed as an</u> educator.
- B. A local superintendent shall notify the Commission if an educator is found, pursuant to an administrative or judicial action, to be guilty of:
- unprofessional conduct or professional incompetence which results in suspension for more than one week or termination, or which otherwise warrants Commission review; or
 - (2) immoral behavior.
- C. Failure to comply with Subsection A or B constitutes unprofessional conduct.
- D. The State Office of Education shall notify the educator's employer of any final action taken by the Board; and shall notify all Utah school districts and the NASDTEC Educator Information Clearinghouse whenever a [certificate]license is revoked or suspended, or if an educator has surrendered a [certificate]license or allowed it to lapse in the face of allegations of misconduct rather than accept an opportunity to defend against the allegations.

KEY: disciplinary actions, professional competency, teacher [certification]licensure*

[April 7, 1998]2000 Notice of Continuation September 12, 1997 Art X Sec 3 53A-6-104 53A-7-113 53A-1-401(3)

Environmental Quality, Air Quality **R307-801**

Asbestos

NOTICE OF PROPOSED RULE

(Repeal and reenact) DAR FILE No.: 22668 FILED: 02/15/2000, 16:12 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The existing rule is awkward and hard to understand, and does not mesh well with the requirements of other agencies such as OSHA. The health and economic implications of every requirement in the rule were reviewed in a series of 20 open meetings over a 15-month period. Participants included division staff; asbestos consultants, contractors, and certification trainers; schools and other owners of regulated properties; and representatives of other agencies such as OSHA. There is a consensus among the interests represented that the new rule is a significant improvement over the existing rule.

SUMMARY OF THE RULE OR CHANGE: Substantive provisions of the existing rule which have been dropped from the new rule:

1) A person seeking certification as an asbestos consultant is no longer required to have experience in the field.

- 2) The existing rule regulates the disturbance of any amount of regulated asbestos-containing material (RACM); the new rule regulates RACM of three square feet or three linear feet or more.
- 3) The existing rule requires five chambers in decontamination units; consistent with OSHA (Occupational Safety and Health Administration) requirements, the new rule requires only three chambers.
- 4) The existing rule includes only one set of procedures and requirements for asbestos removal, and special written permission has been needed for removal in restricted spaces and for removal of scattered small patches of asbestos which together constitute a large National Emission Standards for Hazardous Air Pollutants (NESHAP)-sized project. The new rule specifies the alternative procedures so that no special permission is required.
- 5) The 16-hour course taught presently is not the class originally regulated under this rule; the current 16-hour course will not be regulated under the new rule.
- 6) The requirements that training providers retain certain records and that school districts submit asbestos management plans are deleted because they duplicate federal requirements.

New substantive requirements in the new rule:

- 1) The new rule adds a requirement that the Division of Air Quality (DAQ) be notified for all regulated asbestos removal projects, not just those of NESHAP size or greater. The notification is free of charge and easy to submit and there is no 10-day waiting period for small projects.
- 2) The new rule requires the addition of a viewport (window) to work enclosures so that asbestos work practices can be monitored easily by building owners and compliance inspectors.
- 3) In accordance with OSHA requirements, the new rule requires that continuous pressure measurements be taken of the interior of an asbestos enclosure to ensure that a specific negative pressure (0.02 inches water) is maintained.
- 4) The new rule requires that asbestos inspectors meet minimum thoroughness standards and prepare an asbestos survey report for each inspection.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(d), and Subsections 19-2-104(3)(r) through 19-2-104(3)(t)

FEDERAL REQUIREMENT FOR THIS RULE: 40 CFR 61, Subpart M; 40 CFR 763, Subpart E

ANTICIPATED COST OR SAVINGS TO:

♦THE STATE BUDGET: **COSTS:** DAQ staff will take approximately 5 minutes/application to review approximately 500 applications/year for less-than-NESHAP-sized projects, for a total of approximately 40 hours/year.

SAVINGS:

- 1) DAQ staff are likely to answer more calls for information as users become familiar with the new rule, but after a few months, requests for information should be less frequent because the new rule is clearer and easier to read than the current rule.
- 2) DAQ no longer will process applications to teach the 16-hour class for certified asbestos workers, saving approximately 40 hours/year.
- 3) The new rule no longer requires the asbestos worker to carry certification cards on their persons; DAQ inspectors will save approximately 40 minutes/inspection for 120 projects/year for a total of 80 hours/year, because the inspector does not have to wait for all workers to clean themselves to leave the enclosure to show their cards.
- 4) Requiring all certifications to be renewed at the beginning of the calendar year saves approximately 10 hours due to updating the database less often.
- 5) New Subsection R307-801-14(3) specifies appropriate circumstances for use of alternative work practices; the current rule had only a single set of work practices, thus requiring contractors to get permission from DAQ. This will save DAQ staff review time of approximately 6 hours/project for approximately 50 projects/year for a total of 300 hours/year.

TOTAL COSTS = 40 hours.

TOTAL SAVINGS = (40 + 80 + 10 + 300 hours) = 430 hours.**NET SAVINGS** = 430 hours x approximately \$33/hour (salary + benefits) = \$12,870. The savings will allow DAQ staff to undertake more outreach to educate homeowners, contractors, and companies about safe asbestos practices. ♦LOCAL GOVERNMENTS: Schools particularly will benefit from dropping the requirement that asbestos workers have 1,000 to 4,000 hours (depending upon previous education) of supervised inspecting experience before becoming certified as an inspector, because the school district will be able to arrange training and certification for employees rather than hiring an outside firm to do the inspection. Federal AHERA (Asbestos Hazard Emergency Response Act of 1986) requires reinspection of schools and revisions in the asbestos management plans; approximately 300 to 400 are done each year. Using school district employees for these functions will save \$200 to \$300 each, or \$60,000 to \$120,000/year.

♦OTHER PERSONS: **COSTS:** ADDITIONAL HOURS:

1) New Section R307-801-10 specifies inspection requirements for structures undergoing demolition or renovation; each inspection will require preparation and

posting of an asbestos survey report similar to a report presently required by OSHA. Additional costs to contractors will be approximately 0.5 hours/project for approximately 5,000 projects, or 2,500 hours/year.

- 2) The new rule requires that material be brought in or out of the enclosure only through the decontamination unit or a waste load out; this is expected to add approximately 30 minutes/project for approximately 500 projects/year, or 250 hours/year.
- 3) The new rule requires notifying DAQ one day in advance before undertaking renovations involving asbestos in quantities less than that regulated under NESHAPs (approximately 150 square feet or 260 linear feet). The notification form can be prepared in about 10 minutes and can be sent to DAQ by electronic mail or facsimile. Approximately 1,000 projects/year will be affected, for a total of 167 hours/year.
- 4) Providers of training courses must notify DAQ 10 days in advance of the date, time, place of each class offered, and update the notification if there is a change; the paperwork will cost the provider approximately 0.5 hours/course for 20 courses/year, or 10 hours.

TOTAL ADDITIONAL HOURS = (2,500 + 250 + 167 + 10) = 2,917 hours/year at a cost of approximately \$33/hour salary and benefits = \$96,250.

OTHER COSTS:

- 5) The new rule requires that a viewport be installed where feasible so that work practices can be monitored easily by building owners and compliance inspectors; this is estimated to cost about \$10/project for approximately 500 projects/year, or \$5,000/year.
- 6) The new rule requires contractors to maintain records for certain projects for 5 years instead of 2 years; the records are approximately 15 pages for each project and there are approximately 500 projects/year, requiring an additional 125 linear inches (one 5-drawer file cabinet) of filing space/year at a cost of \$300/filing cabinet every third year, or \$100/year.
- 7) Each worker applying for certification must present personal picture identification at a cost of \$5/worker for each of 200 new applicants/year, or \$1,000.

TOTAL OTHER COSTS = (\$5,000 + 100 + 1,000) = \$6,100. **GRAND TOTAL FOR COSTS** = \$96,250 + 6,100 = \$102,350. **SAVINGS:** HOURS SAVED:

- 1) Site setup requirements are more flexible in the new rule, saving approximately 2 hours/project for approximately 500 projects/year, or 1,000 hours/year.
- 2) More flexible work practices will allow savings of 8 hours/project for approximately 500 projects/year, or 4,000 hours/year.
- 3) Specific asbestos sampling requirements during inspections are deleted at a savings of approximately 1 hour/job for approximately 5,000 jobs/year for a saving of 5,000 hours/year. The new rule requires sampling according to procedures of TSCA Part 763 Subpart E.
- 4) The new rule no longer requires the asbestos worker to be in possession on their persons of the certification card; contractors will save approximately 40 minutes/project for 120 projects/year for a total of 80 hours/year, because all workers will not need to clean themselves to leave the enclosure to show their card.

- 5) The current rule requires continuous cleanup on the site and specifies cleanup methods: the new rule requires cleanup at the end of each work shift and is more flexible about cleanup methods, for a savings of approximately 4 hours/project for approximately 500 projects/year, or 2,000 hours/year.
- 6) The new rule no longer specifies the kind of waste containers to be used, but rather specifies that they must be leak tight and strong enough to be secure. This will save contractors approximately 2 hours/project for approximately 500 projects/year due to increased flexibility, or 1,000 hours/year. Savings items 1 6 above will save contractors approximately (1,000 + 4,000 + 5,000 + 80 + 2,000 + 1,000) = 13,080 hours/year. In addition, a number of smaller changes will lead to savings of approximately 2,267 hours/year for contractors, asbestos waste haulers, building owners, training course providers, and homeowners.

TOTAL HOURS SAVED: (13,080 + 2,267) = 15,347 hours/year x \$33/hour average salary and benefits = \$506,440.

OTHER SAVINGS:

- 7) Existing Subsection R307-801-4e(2)(a)(i) is deleted. Deleting the requirement that asbestos workers have 1,000 -4,000 hours (depending upon previous education) of supervised experience before becoming certified will save in four ways. First, approximately 30 inspectors-in-training can earn higher wages (approximately \$1 - 2/hour for 1,000 hours, or \$30,000) right away because they have already been trained. Second, the consulting company does not have to provide so much supervision of the inspectors-intraining or keep extensive records, saving approximately \$200/project for consultants on approximately 100 projects/year or \$20,000. Third, the owner of a facility with asbestos can arrange training and certification for an employee rather than hiring an outside firm to do the inspection, saving \$300/project for approximately 500 projects/year or \$150,000. Finally, removing the experience requirement is likely to reduce the cost of inspections by \$100/inspection in rural areas for approximately approximately 500 projects/year or \$50,000, because most inspectors currently live in urban areas and charge for the time to drive to outlying areas. Removing the requirement for experience may allow persons to become certified as inspectors and to earn a living in rural areas performing asbestos inspections as well as other part time work.
- 8) Using 3 chambers instead of 5 chambers in decontamination units will save \$40/project for 400 projects/year, or \$16,000.

TOTAL OTHER SAVINGS = (\$30,000 + 20,000 + 150,000 + 50.000 + 16,000) = \$266,000.

GRAND TOTAL FOR SAVINGS = \$506,440 + 266,000 = \$772,440.

NET SAVINGS = GRAND TOTAL SAVINGS - GRAND TOTAL COSTS = \$772,440 - \$102,350 = \$670,090

COMPLIANCE COSTS FOR AFFECTED PERSONS: Each year, approximately 160 inspectors conduct approximately 5,000 inspections of properties to be demolished or renovated. Approximately 2,800 renovations are not regulated further. There are approximately 20 active consultant companies working in Utah who perform inspections and approximately

20 active contractor companies in Utah who remove asbestos. Each project presents its own complex problems and each contractor chooses how to deploy resources to solve them. Therefore it is impossible to estimate how much each contractor can save each year. See the explanation given under "other persons" for aggregate costs and savings for all affected parties.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The point of rewriting the asbestos rule was to more clearly specify the requirements which the regulated community must meet, and to bring the rule into alignment with the requirements of other agencies. Satisfying these requirements reduces costs significantly for the regulated community, allowing savings to be passed along to consumers--Dianne R. Nielson

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

Environmental Quality
Air Quality
150 North 1950 West
PO Box 144820
Salt Lake City, UT 84114-4820, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Miller at the above address, by phone at (801) 536-4042, by FAX at (801) 536-4099, or by Internet E-mail at jmiller@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/31/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 03/21/2000, 1:30 p.m., Department of Environmental Quality (DEQ) Building, 168 North 1950 West, Room 201, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 05/04/2000

AUTHORIZED BY: Rick Sprott, Planning Branch Manager

R307. Environmental Quality, Air Quality. [R307-801. Asbestos. R307-801-1. Definitions.

- The following additional definitions apply to R307-801.
- "Adequately wet" means to sufficiently mix or penetrate with liquid to prevent the release of particulate. If visible emissions are observed coming from asbestos containing material, then that material has not been adequately wetted. However, the absence of visible emissions is not sufficient evidence of being adequately wet.
- "AHERA" means the federal Asbestos Hazard Emergency Response Act of 1986 and the Environmental Protection Agency implementing regulations, 40 CFR Part 763, Subpart E Asbestos-Containing Materials in Schools.
- "Airlock" means a system for allowing access to an area with minimum air movement through the system. The airlock typically consists of two curtained doorways separated by a distance of at least 3 feet such that personnel pass through one doorway into the

- airlock, allowing the doorway sheeting to overlap and close off the opening before proceeding through the second doorway, thereby preventing flow-through of contaminated air.
- "Amended water" means a mixture of water and a chemical surfactant or a wetting agent that provides equivalent control of asbestos fiber release.
- "Asbestos" means the asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite (amosite), anthophyllite, and actinolite-tremolite.
- "Asbestos-containing material" means any material containing more than one percent (1%) asbestos as determined using the method specified in Appendix A, Subpart F, 40 CFR Part 763 Section 1, Polarized Light Microscopy. If the asbestos content is less than 10% as determined by a method other than point counting using polarized light microscopy (PLM), verify the asbestos content by point counting using PLM.
- "Asbestos contractor" means any person who contracts for hire to perform an asbestos project or an asbestos inspection.
- "Asbestos Inspection" means an activity undertaken to determine the presence or location, or to assess the condition of, asbestos-containing material or suspected asbestos-containing material, whether by visual or physical examination, or by taking samples of the material. This term includes reinspections of the type described in AHERA, 40 CFR 763.85(b), of known or assumed asbestos-containing material which has been previously identified. The term does not include the following:
- (1) periodic surveillance of the type described in AHERA, 40 CFR 763.92(b), solely for the purpose of recording or reporting a change in the condition of known or assumed asbestos-containing material:
- (2) inspections performed by employees or agents of federal, state, or local government solely for the purpose of determining compliance with applicable statutes or regulations; or
- (3) visual inspections of the type described in AHERA, 40 CFR 763.90(i), solely for the purpose of determining completion of response actions.
- "Asbestos project" means any activity, involving the removal, encapsulation, enclosure, renovation, repair, demolition, salvage, disposal, or other disturbance of friable asbestos-containing material:
- "Asbestos project operator" means any asbestos contractor, any person responsible for the persons performing an asbestos project in an area to which the general public has unrestrained access, or any LEA responsible for the persons performing an asbestos project in a school building subject to AHERA.
- "Asbestos removal" means the stripping of asbestos-containing materials from surfaces or components of a structure and to take out structural components that contain or are covered with friable asbestos-containing material from a structure.
- "Asbestos waste" means mill tailings or any waste that contains commercial asbestos and is generated by a source subject to R307-801. This term includes filters from control devices, friable asbestos-containing waste material, and bags or other similar packaging contaminated with commercial asbestos. As applied to demolition and renovations, this term includes materials contaminated with asbestos including disposable equipment and clothing.
- "Asbestos worker" means a person who,in a nonsupervisory eapacity, performs an asbestos project.

- "CFR" means Code of Federal Regulations.
- "Certification" means an authorization issued by the executive secretary to persons who engage in asbestos projects or who act as asbestos workers, supervisors, inspectors, project designers, or management planners.
- "Clean room" means an uncontaminated area or room which is part of the worker decontamination system and which has provisions for storage of workers' street clothes and clean protective equipment.
- "Consultant" means a person who acts as an inspector, management planner, project designer, or any combination thereof.
- "Delegated local agency" means a public agency having a memorandum of agreement with the Utah Department of Environmental Quality, Utah Air Quality Board, that assigns designated responsibilities for the administration of NESHAP Subpart M and/or R307-801 to the public agency.
- "Demolition" means the wrecking or removal of any loadsupporting structural member of a structure together with any related handling operations or the intentional burning of any structure.
- "Emergency renovation operation" means any asbestos project which was not planned but results from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard, is necessary to protect equipment from damage, or is necessary to avoid imposing an unreasonable financial burden. This term includes operations necessitated by nonroutine failure of equipment.
- "Encapsulation" means the application of an encapsulating agent to asbestos-containing materials to control the release of asbestos fibers into the air.
- "Encapsulating agent" means a coating applied to the surface of friable asbestos-containing materials for the purpose of preventing the release of asbestos fibers. The encapsulating agent creates a membrane over the surface (bridging encapsulant) or penetrates the material and binds its components together (penetrating encapsulant).
- "Enclosure" means an airtight, impermeable, permanent barrier around asbestos containing material to prevent the release of asbestos fibers into the air.
- "Equipment room" means a contaminated area or room which is part of the asbestos worker decontamination system with provisions for storage of contaminated clothing and equipment.
- "Friable asbestos-containing material" means any asbestos-containing material that hand pressure can crumble, pulverize, or reduce to powder when dry:
- "HEPA filtration" means the high efficiency particulate air filtration found in respirators and vacuum systems capable of filtering particles greater than 0.3 micron in diameter with 99.97% efficiency, for use in asbestos-contaminated environments.
- "Inspector" means a person who performs an asbestos inspection.
- "LEA" means a local education agency as defined in AHERA.

 "Management planner" means a person who prepares a management plan for a school building subject to AHERA.
- "Minor fiber release episode" means any uncontrolled or unintentional disturbance of asbestos-containing material resulting in a visible emission which involves the falling or dislodging of three square or linear feet or less of friable asbestos-containing material.

- "Model Accreditation Plan" means 40 CFR Part 763, Subpart E, Appendix C, Asbestos Model Accreditation Plan.
- "NESHAP" means the National Emission Standards for Hazardous Air Pollutants, 40 CFR Part 61, Subpart M, the National Emission Standard for Asbestos.
- "NESHAP size asbestos project" means any asbestos project that involves at least:
- (1) 260 linear feet (80 meters) of pipe covered with friable asbestos-containing material;
- (2) 160 square feet (15 square meters) of friable asbestoscontaining material used to cover or coat any duct, boiler, tank, reactor, turbine, equipment, structure, structural member, or structural component; or
- (3) 35 cubic feet (one cubic meter) of friable asbestoscontaining material removed from structural members or components where the length and area could not be measured previously.
- -- "OSHA" means Occupational Safety and Health Administration.
- "Planned asbestos project" means asbestos projects in which the amount of asbestos-containing material to be removed, stripped, or otherwise disturbed within a calendar year, January 1 through December 31, is the NESHAP size. This term includes nonscheduled renovation operations necessitated by the routine failure of equipment, which is expected to occur within a given period based on past operating experience.
- "Project designer" means a person who designs an asbestos project other than:
 - (1) a small-scale, short duration asbestos project; or
- (2) an asbestos project necessitated by a minor fiber release episode.
- "Public and commercial building" means the interior space of any building which is not a school building, except that the term does not include any residential apartment building of fewer than 10 units or detached single-family homes.
- "Public agency" means any federal or state department, bureau, institution or agency thereof, any municipal corporation, county, city, or other political or taxing subdivision of the state.
- "Renovation" means altering in any way one or more structural components. Operations in which load-supporting structural members are wrecked or taken out are excluded.
- "Response Action" means a method, including removal, encapsulation, enclosure, repair, and operation and maintenance, that protects human health and the environment from friable asbestos-containing material.
- "Shower room" means a room between the clean room and equipment room in the worker decontamination system with hot and cold or warm running water controllable at the tap and suitably arranged for complete showering during worker decontamination.
- "Single family residential dwelling" means any structure or portion of a structure whose primary use is for housing of one family. Residential portions of multi-unit dwellings such as apartment buildings, condominiums, duplexes and triplexes are also considered to be, for the purposes of R307-801, single family residential dwellings; common areas such as hallways, entryways, and boiler rooms are not single family residential dwellings.
- "Site supervisor" means a person who meets the definition of a "competent person" as cited in 29 CFR 1926.1101 (OSHA) and

has the authority to act as the agent of the asbestos project operator at the asbestos project work site.

- "Small-scale, short-duration asbestos project" means an asbestos project such as, but not limited to:
- (1) removal of asbestos-containing insulation on pipes;
- (2) removal of small quantities of asbestos-containing insulation on beams or above ceilings;
- (3) replacement of an asbestos-containing gasket on a valve;
- (4) installation or removal of a small section of drywall;
- (5) installation of electrical conduits through or proximate to asbestos-containing materials. Small-scale, short-duration asbestos projects can further be defined by the following considerations:
- (6) removal and/or repair of small quantities of asbestoscontaining materials only if required in the performance of another maintenance activity not intended as asbestos abatement;
- (7) removal of asbestos-containing thermal system insulation not to exceed amounts greater than those which can be contained in a single glove bag;
- (8) minor repairs to damaged thermal system insulation which do not require removal;
 - (9) repairs to a piece of asbestos-containing wallboard;
- (10) repairs, involving removal, encapsulation or enclosure, to small amounts of friable asbestos-containing material only if required in the performance of emergency or routine renovation activity not intended solely as asbestos abatement. Such work may not exceed amounts greater than those which can be contained in a single prefabricated mini-enclosure. Such an enclosure shall conform spatially and geometrically to the localized work area, in order to perform its intended containment function.
- "Strip" means to take off asbestos containing material from any part of a structure or structural component.
- "Structural component" means any pipe, duct, boiler, tank, reactor, turbine, or furnace at or in a structure or any structural member of the structure.
- "Structural member" means any load-supporting member of a structure, such as beams and load-supporting walls or any non-loadsupporting member, such as ceilings and non-load-supporting walls.
- "Structure" means, for the purposes of R307-801: any institutional, commercial, residential, or industrial building, equipment, building component, installation, or other construction.
- "Supervisor" means a person who carries out or oversees an asbestos project.
- "TSCA accreditation" means successful completion of training as an inspector, management planner, project designer, contractor/supervisor, or worker, as specified in the Toxic Substances Control Act, Title II.
- "TSCA Title II" means 15 U.S.C. 2641 through 2656, Toxic Substances Control Act, Subchapter II Asbestos Hazard Emergency Response, and 40 CFR Part 763, Subpart E Asbestos-Containing Materials in Schools, including appendices.
- "Waste generator" means any owner or operator of a source covered by R307-801 whose act or process produces asbestos
- "Waste shipment record" means the shipping document, that the waste generator originates and signs, and is used to track and substantiate the disposition of asbestos waste.
- "Worker decontamination system" means an enclosed area, isolated from areas which are not contaminated with asbestos, eonsisting of a clean room, shower room, and equipment room,

each separated from the other by airlocks and accessible through doorways protected with two overlapping polyethylene sheets.

"Working day" means Monday through Friday and includes holidays that fall on any of the days Monday through Friday.

R307-801-2. Implementation and Adoption of TSCA Title II.

- (1) The provisions of TSCA Title II are adopted and incorporated herewith by reference. The accreditation provisions of the Model Accreditation Plan are also adopted and incorporated herewith by reference as mandatory requirements.
- (2) Implementation of the provisions 40 CFR Part 763, Subpart E, except for the Model Accreditation Plan, shall be limited to those provisions for which the EPA has waived its requirements in accordance with 40 CFR Subpart 763.98, Waiver; delegation to State, as published at 52 FR 41826, (October 30, 1987).

R307-801-3. Applicability.

- (1) Certification and Accreditation Requirements.
- (a) Asbestos project in a structure.
- (i) The following persons shall be certified, as specified under R307-801-4a through 4i, prior to conducting an asbestos project in a structure:
- (A) asbestos contractors; and
- (B) inspectors.
- (ii) The asbestos project operator shall ensure the following persons are trained or accredited, as specified in R307-801-5a through 5f, prior to conducting an asbestos project:
- (A) supervisors;
- (B) asbestos workers; and
- (C) persons who disturb any amount of friable asbestoscontaining material in areas to which the general public has unrestrained access.
- (b) Asbestos activity subject to TSCA Title II. The following persons shall be certified, as specified in R307-801-4a through 4i, prior to conducting an asbestos activity subject to TSCA Title II:
- (i) asbestos contractors;
- (ii) supervisors;
- (iii) asbestos workers;
 - (iv) inspectors;
- (v) management planners; and
 - (vi) project designers.
- (2) Work Practice Requirements.
- The work practice requirements of R307-801 apply to any asbestos project operator who performs an asbestos project; persons who disturb any amount of friable asbestos-containing material in an area where the general public has unrestrained access; and to asbestos workers, supervisors, and consultants who perform work on an asbestos project.
- (3) The requirements of R307-214-1 (NESHAP 40 CFR Part 61 Subpart M, the National Emission Standard for Asbestos) apply to asbestos projects subject to R307-801.

R307-801-4a. Asbestos Contractor, Supervisor, and Consultant Certification Requirements.

- (1) Certificate required.
- (a) The following persons shall obtain a certificate:
- (i) Asbestos contractors, prior to engaging in an asbestos project in a structure;

- (ii) inspectors, prior to contracting for hire to perform an asbestos inspection, performing an asbestos inspection in an area to which the general public has unrestrained access, or performing an asbestos inspection in a building subject to TSCA Title II (public and commercial building);
- (iii) supervisors, asbestos workers, and project designers, prior to engaging in an asbestos project subject to the accreditation requirements of TSCA Title II; and
- (iv) management planners, prior to preparing a management plan for a school building subject to AHERA.
- (b) The requirements of (1)(a) above shall not apply to a person who performs an asbestos project on a single family residential dwelling that is his primary residence.
- (2) Application for certification. Asbestos contractors, supervisors, asbestos workers, and consultants required to be certified under (1)(a) above shall:
- (a) submit a completed application to the executive secretary on forms provided by the executive secretary;
- (b) pay the authorized certification fee to the Division of Air Quality; and
- (c) provide evidence that they have complied with the requirements of the applicable Subsections R307-801-4b through 4e below, and any additional information requested by the executive secretary.

R307-801-4b. Asbestos Contractor.

- (1) In order to be certified as required under R307-801-4a(1)(a), an asbestos contractor shall submit:
- (a) a master plan that describes in detail how the contractor will comply with R307-801 during asbestos projects or asbestos inspections, including the setup procedures, work practices, decontamination and cleanup practices, and equipment that will be typically used during asbestos projects;
- (b) copies of medical surveillance records of employees and the contractor's respiratory protection program as required by 29 CFR 1926.1101 (OSHA);
- (c) a list of the other states where the asbestos contractor is licensed or certified for asbestos project work, if applicable; and a list of all previous names used by the asbestos contractor;
- (d) a description of past compliance history relating to asbestos activities, if applicable;
- (e) evidence that all asbestos workers and supervisors who conduct work on an asbestos project:
- (i) subject to TSCA Title II are certified as specified in R307-801-4a through 4e; and
- (ii) in a structure are TSCA accredited or passed a training course approved in accordance with R307-801-5e; and
- (f) evidence that all asbestos inspectors are certified as specified in R307-801-4a through 4i.
- (2) Certificate transfer prohibited. The transfer of an asbestos contractor certificate is prohibited. Whenever there is a change in the controlling interest of the legal entity certified, a new certificate is required.

R307-801-4c. Asbestos Supervisor.

In order to be certified as a supervisor as required under R307-801-4a(1), supervisors shall submit certificates of initial and current contractor/supervisor TSCA accreditation in a state that has a Contractor Accreditation Program that meets the Model

Accreditation Plan or from a training course approved in accordance with R307-801-5e.

R307-801-4d. Asbestos Worker.

In order to be certified as an asbestos worker as required under R307-801-4a(1), asbestos workers shall submit certificates of initial and current asbestos worker TSCA accreditation in a state that has a Contractor Accreditation Program that meets the Model Accreditation Plan or from a training course approved in accordance with R307-801-5e.

R307-801-4e. Consultant and Consultant-in-Training.

- (1) A consultant may be certified to perform asbestos-related activities in one or more of the following disciplines: inspector; management planner; or project designer. A consultant-in-training may be certified in one or more of the following disciplines: inspector in training; management planner in training; or project designer in training.
- (2) Certified Consultant.
- (a) In order to be certified as a consultant, an applicant shall submit:
- (i) evidence from employers of the appropriate hours of experience as specified in (b) through (e) below in performing the duties outlined for the specific discipline in (3) below; and
- (ii) certificates of initial and current TSCA accreditation for the specific discipline in a state that has a Contractor Accreditation Program that meets the Model Accreditation Plan or from a training course approved in accordance with R307-801-5e.
- (b) The experience requirements specified under (a)(i) above may be gained working as a TSCA accredited consultant, by being responsible for persons accredited as consultants, by being under the direct supervision of a TSCA accredited consultant, or by working as a consultant-in-training under the direct supervision of a certified consultant, for the specific discipline.
- (c) An applicant with a bachelor's degree in engineering, architecture, industrial hygiene, science or a related field must have at least 1,000 hours experience as specified under (a)(i) above.
- (d) An applicant with a two year associate degree in a field related to engineering, architecture, industrial hygiene, science, or a similar field must have at least 2,000 hours experience as specified under (a)(i) above.
- (e) An applicant with a high school degree must have at least 4,000 hours experience as specified under (a)(i) above.
- (3) Applicable experience.
- (a) Inspector: experience performing the field work portion of asbestos inspections, including collecting bulk samples, categorizing asbestos containing material, assessing asbestos containing material, and preparing inspection reports;
- (b) Management Planner. In order to be a consultant certified as a management planner, an applicant shall submit evidence from employers of experience evaluating inspection reports, selecting response actions, analyzing the cost of response actions, ranking response actions, preparing operations and maintenance plans, and preparing management plans. The inspector experience requirements as specified under (a) above may be substituted to meet the management planner experience requirements.
- (c) Project Designer: experience designing, preparing, and evaluating specifications for asbestos abatement projects; preparing bidding documents, architectural drawings and schematic drawings

of asbestos project work sites; determining the methods of asbestos abatement; and assessing the health hazards associated with asbestos containing material in structures. Registration as a professional engineer, licensed architect, or certified industrial hygienist may be substituted for experience as a project designer to meet the project designer experience requirements.

- (4) Consultant-in-training Certification. In order to be certified as a consultant-in-training, an applicant shall submit:
- (a) certificates of initial and current TSCA accreditation for the specific discipline in a state that has a Contractor Accreditation Program that meets the Model Accreditation Plan or from a training course approved in accordance with R307-801-5e; and
- (b) the name and certification number of the certified consultant(s) who will directly supervise and review the performance of all duties listed in (3) above for the specific discipline.

R307-801-4f. Exemption of Supervisors from Certification as an Asbestos Worker.

A certified supervisor may perform the duties of an asbestos worker without being certified or accredited as an asbestos worker.

R307-801-4g. Action on an Application.

- (1) Response to Application. Within 30 calendar days after receiving a completed application, including all additional information requested, the executive secretary will issue certification or deny the application.
 - (2) Denial of Application.
- (a) The executive secretary may deny an application if the executive secretary determines that the applicant has not demonstrated compliance and/or the ability to comply with the applicable requirements, procedures, and standards established by R307-801 and R307-214-1, NESHAP Subpart M, the National Emission Standard for Asbestos.
- (b) Upon being denied certification, the applicant may request a hearing before the Utah Air Quality Board as provided by law.

R307-801-4h. Suspension and Revocation.

The executive secretary may revoke or suspend any certification based upon violations of any requirement stated herein or in R307-214-1, NESHAP. Justifications for suspension or revocation may include, but are not limited to: falsification or knowing omission of any written submittals required as part of R307-801, omission or improper use of work practices, improper disposal of friable asbestos-containing materials, spread of asbestos beyond the containment area, use of untrained or unaccredited workers for asbestos projects, or use of improper respirators. Certification may be revoked or suspended if the certified person fails to have his certification at the work site, permits the duplication or use of his own certification or TSCA accreditation by another, performs work for which certification or accreditation has not been received, or obtains TSCA accreditation from a training provider that does not have approval for the specific discipline in accordance with the Model Accreditation Plan.

R307-801-4i. Duration and Renewal.

(1) Duration. Unless revoked or suspended, a certification shall remain in effect:

- (a) for a period of one year from the date of issuance of certification as an asbestos contractor, or
- (b) until the expiration date of the current certificate of TSCA accreditation submitted with an asbestos worker's, supervisor's, or consultant's application for certification or recertification.
- (2) Renewal. The executive secretary shall renew a certification annually if:
 - (a) the asbestos contractor:
- (i) submits a completed application for renewal on forms provided by the executive secretary not sooner than 90 days nor later than 30 days from the date of expiration;
 - (ii) has complied with all applicable requirements and rules.
- (b) the consultant:
- (i) submits a completed application for renewal on a form provided by the executive secretary no later than one year from the date of expiration of previous certification, and
- (ii) submits a certificate of TSCA accreditation for initial or refresher training in the specific discipline.
- (3) Procedure for Obtaining a Duplicate Certificate. The executive secretary may issue a duplicate certificate to replace a lost, stolen, or mutilated certificate. The certificate holder shall submit a completed application for a duplicate certificate on a form provided by the executive secretary. A duplicate certificate shall have "duplicate" stamped on the face and shall bear the same number and expiration date as the original certificate.

R307-801-5a. Asbestos Worker Training.

Each asbestos project operator shall ensure that each asbestos worker assigned to perform work on an asbestos project for the operator has had initial and annual review training at a course approved by the executive secretary. Asbestos workers on projects subject to TSCA Title II must have the appropriate TSCA accreditation. Training courses for TSCA accreditation shall meet the specifications for a worker course in the Model Accreditation Plan, including course length, instructor qualifications, hands-on training, and written examination. Training courses other than TSCA accreditation courses shall cover the following topics:

- (1) Initial Training. The initial training course for asbestos workers shall provide a minimum of 16 hours of training covering the topics specified below:
- (a) physical characteristics of asbestos (fiber size, aerodynamics);
 - (b) methods of recognizing and identifying asbestos;
- (c) health effects of asbestos exposure and methods used to recognize asbestos-related diseases;
- (d) relationship between smoking and asbestos exposure in producing lung cancer;
- (e) use of personal hygiene and protective equipment, storage and laundering of launderable clothing;
- (f) purpose, proper use, fitting instructions, and limitations of respirators in accordance with OSHA 29 CFR 1926.1101;
- (g) state-of-the-art work practices for performing asbestos abatement activities, including the purpose, proper construction, and maintenance of barriers and decontamination enclosure systems; posting of warning signs; electrical and ventilation system lockout, proper working techniques for minimizing fiber release; use of wet methods and surfactants; use of negative pressure ventilation equipment; use of glove bags; use of HEPA vacuums; and proper cleanup and disposal procedures;

- (h) OSHA medical surveillance program requirements;
- (i) OSHA air monitoring procedures and requirements;
- (j) review of R307-801, NESHAP, and OSHA requirements, including information disclosure requirements, and how to contact the agencies responsible for enforcing them;
- (k) individual instruction consisting of an individual qualitative respirator fit test and an opportunity to use respirators;
- (l) additional safety hazards encountered during abatement activities and how to deal with them, including electrical hazards, heat stress, air contaminants other than asbestos, fire and explosion hazards, slips, trips, and falls, and confined spaces.
- (2) Annual Training. Asbestos workers shall attend refresher training annually. The annual refresher course must be approved by a state that has a Contractor Accreditation Program that meets the Model Accreditation Plan or be approved in accordance with R307-801-5e. The training course shall meet the specifications for a worker refresher course in the Model Accreditation Plan.

R307-801-5b. Supervisor Training.

- (1) Initial Training. Supervisors shall complete a contractor/supervisor TSCA accreditation course in a state that has a Contractor Accreditation Program that meets the Model Accreditation Plan or from a training course approved in accordance with R307-801-5e. The training course shall meet the specifications for a contractor/supervisor course in the Model Accreditation Plan, including course length, instructor qualifications, hands-on training, and written examination.
- (2) Annual Training. Supervisors shall attend a 1-day refresher training course annually. The annual refresher course must be approved by a state that has a Contractor Accreditation Program that meets the Model Accreditation Plan or be approved in accordance with R307-801-5e. The training course shall meet the specifications for a contractor/supervisor refresher course in the Model Accreditation Plan.

R307-801-5c. TSCA Accreditation.

Each person seeking TSCA accreditation shall complete the initial and refresher training outlined in the Model Accreditation Plan:

R307-801-5d. Examination Required.

- (1) The asbestos project operator shall ensure that each person who has completed the initial training specified in R307-801-5a has taken and passed a written closed book examination that adequately covers the topics included in the training course. A passing score for the examination is 70 percent or above. The person conducting the training course shall administer the examination.
- (2) Each person seeking TSCA accreditation shall pass a written closed book examination as specified in the Model Accreditation Plan. The accreditation examination required for any course approved under this subsection shall be administered by the person conducting the training course.

R307-801-5e. Approval of Training Courses.

(1) Initial Training Courses: Persons desiring approval of courses conducted for the purpose of providing the initial training required under R307-801 shall submit the following to the executive secretary for review:

- (a) name, address, phone number, and institutional affiliation of person sponsoring the course;
 - (b) a list of States that currently approve the training course;
 - (c) the course curriculum;
- (d) a letter that clearly indicates how the course meets the applicable Model Accreditation Plan and R307-801 requirements for:
- (i) length of training in hours or days, as applicable;
- (ii) amount and type of hands-on training, if applicable;
- (iii) examinations (length, format, example of examination or questions, and passing scores);
 - (iv) topics covered in the course;
- (e) a copy of all course materials (student manuals, instructor notebooks, handouts, etc.);
- (f) a detailed statement about the development of the examination used in the course;
- (g) names and qualifications of all course instructors, who must have academic credentials and/or field experience in asbestos abatement; and
- (h) description and an example of numbered certificates issued to students who attend the course and pass the examination. The numbered certificate shall include a unique certificate number, the name of the student and the course completed, the dates of the course and the examination, an expiration date 1 year from the date the student completed the course and examination, the name, address, and telephone number of the training provider that issued the certificate, and a statement that the person receiving the certificate has completed the requisite training for TSCA accreditation.
- (2) Refresher training. Persons desiring approval of refresher training courses shall send the following information to the executive secretary:
 - (a) length of training;
 - (b) topics covered in the course;
 - (c) a copy of all course materials;
- (d) names and qualifications of all course instructors;
- (e) description and an example of numbered certificates issued to students who attend the course. The numbered certificate shall include a unique number, the name of the student, the course completed, the date of the course, and an expiration date 1 year from the date the student completed the course, the name, address, and telephone number of the training provider that issued the certificate, and a statement that the person receiving the certificate has completed the requisite training for TSCA accreditation.
- (3) The executive secretary shall issue approval of a training course if the person conducting the course:
- (a) submits the written notification required in (1) or (2)
- (b) demonstrates to the satisfaction of the executive secretary that the course provides the minimum training specified in R307-801-5a through 5c;
 - (c) agrees to:
- (i) provide the executive secretary with the names, social security numbers, and certificate numbers of all persons successfully completing the course;
- (ii) provide the executive secretary with an up-to-date course schedule stating all times and locations at which the course will be presented;

- (iii) provide the executive secretary with the name and qualifications of any new course instructor prior to the new instructor presenting a training course;
- (iv) keep the records specified for training providers in the Model Accreditation Plan; and
- (v) permit the executive secretary or his authorized representative to attend, evaluate and monitor any training course without receiving advance notice from the executive secretary and without charge to the executive secretary.
- (4) The executive secretary may revoke or suspend approval of a training course if the course does not provide training that meets the requirements of R307-801 or the Model Accreditation Plan.
- (5) Training courses shall be reviewed annually by the executive secretary to determine their acceptability for continued approval.
- (6) Training obtained from a course which has not been approved by the executive secretary may be accepted if the executive secretary determines that the course provided training equivalent to that required in R307-801. TSCA accreditation courses already approved in a state that has a Contractor Accreditation Program that meets the TSCA Title II Appendix C Model Plan, or approved by EPA under TSCA Title II are considered to be equivalent to the TSCA accreditation training required in R307-801.

R307-801-5f. Approval of New Training Course Instructors.

- (1) Each course provider approved under R307-801-5e shall obtain approval for any course instructor not included in the initial course approval. To obtain approval of an instructor, the course provider shall submit:
- (a) the name and qualifications of the course instructor, who must have academic credentials and/or field experience in the discipline for which they are an instructor; and
- (b) a list of the courses and specific topics which will be taught by the instructor.
- (2) Each course instructor must be approved by the executive secretary before teaching any course for TSCA accreditation purposes:

R307-801-6a. NESHAP Size Asbestos Project.

- (1) After November 20, 1990, an asbestos project operator shall submit a written notification, in accordance with R307-801, for each NESHAP size asbestos project he performs.
- (2) If the NESHAP size asbestos project will be performed at
- (a) that is within the jurisdiction of a delegated local agency, submit the written notification and pay the appropriate notification fee to the delegated local agency; or
- (b) that is not within the jurisdiction of a delegated local agency, submit the written notification to the executive secretary and pay the authorized notification fee to the Division of Air Ouality:
- (3) Send original and revised written notices by U.S. Postal Service, commercial delivery service, or hand delivery.
- (4) Postmark or deliver the written notice within the following time periods:

- (a) If the operation is a NESHAP size asbestos project, notify the appropriate agency at least ten working days before disturbing asbestos containing material.
- (b) If the operation is a planned asbestos project, notify the appropriate agency at least ten working days before the beginning of the calendar year, January 1, during which the project(s) will
- (c) If the operation is an emergency asbestos project, notify the appropriate agency as early as possible, but not later than, the following working day:
- (5) Update the written notice, as necessary, including when the amount of asbestos affected changes by at least 20 percent.
- (6) Written notifications must include the following information:
 - (a) the type of notification: original or revised;
- (b) the name, address, and telephone number of the owner of the structure, removal contractor, and any other contractor working on the project, and the removal contractor identification number;
 - (c) the type of operation: demolition or renovation;
 - (d) a description of the structure that includes:
 - (i) the size (in square feet or square meters);
- (ii) the number of floors;
 - (iii) the age; and
- (iv) the present and prior uses;
- (e) the procedures, including analytical methods, used to inspect for the presence of asbestos containing material when the asbestos project is performed in a structure subject to NESHAP;
- (f) an estimate of the approximate amount of asbestos containing material to be stripped using the appropriate units;
- (g) an estimate of the amount of nonfriable asbestos containing material in the affected part of the structure that will not be removed before demolition;
- (h) the location and address, including building number or name and floor or room number, if appropriate, street address, city, county, state, and zip code of the structure being demolished or renovated;
- (i) the scheduled starting and completion dates of asbestos removal work in a renovation or demolition, with the exception of government ordered demolitions;
- (j) the beginning and ending dates of the report period for planned renovation operations;
- (k) a description of procedures for handling the finding of unexpected asbestos containing material or nonfriable asbestos containing material that has become friable:
- (l) a description of planned demolition or renovation work including the demolition and renovation techniques to be used and a description of the affected structural components;
- (m) a description of work practices and engineering controls to be used to prevent emissions of asbestos at the demolition or renovation work site;
- (n) the name and location of the waste disposal site where the asbestos waste will be deposited, including the name and telephone number of waste disposal site contact; and
- (o) the name, address, person to contact, and telephone number of the waste transporter;
- (p) If the structure will be demolished under an order of a state or local government agency, include in the written notification the

name, title, and authority of the government representative ordering the demolition, the date the order was issued, the date the demolition was ordered to commence. Attach a copy of the order to the notification.

(q) If an emergency asbestos project will be performed, include in the written notification the date and hour the emergency occurred, a description of the event and an explanation of how the event has caused unsafe conditions or would cause equipment damage, or unreasonable financial burden.

R307-801-6b. Other Asbestos Projects.

- (1) If an asbestos project operator performs demolition activities in a structure involving asbestos containing material in a quantity less than the NESHAP size, even if no asbestos is present, submit a written notification in accordance with R307-801-6a(2), (3), (5), (6)(a) through (6)(h), (6)(j), and (6)(k) at least ten days before commencement of the demolition.
- (2) If demolition of a structure is ordered by a state or local government agency because the structure is unsound and in danger of imminent collapse, submit written notification in accordance with R307-801-6a(2), (3) and (6) as early as possible, but not later than, the following working day.

R307-801-6c. Change in Notification Date.

- (1) If a NESHAP size asbestos project, except for a planned asbestos project, will commence on a date other than the date submitted in the original written notification, notify the appropriate agency of the new starting date according to the following schedule:
- (a) If the new starting date is later than the original starting date, provide notice by telephone as soon as possible before the original starting date and submit a revised notice in accordance with R307-801-6a(3) as soon as possible before, but no later than, the original starting date.
- (b) If the new starting date is earlier than the original starting date, submit a written notice in accordance with R307-801-6a(3) at least ten working days before the NESHAP size asbestos project commences.
- (2) If a demolition operation as specified in R307-801-6b(1) commences on a date other than the date submitted in the original written notification, notify the appropriate agency at least ten working days before commencing of the demolition of the structure.

 (3) In no event shall an asbestos project covered by this subsection commence on a date other than the new starting date submitted in the revised written notice.

R307-801-7a. NESHAP Size Projects: Applicability.

NESHAP Size Asbestos Projects. After September 1, 1987 each asbestos project operator conducting a NESHAP size asbestos project shall comply with the work practice requirements outlined in R307-801-7b through R307-801-7i.

R307-801-7b. NESHAP Size Projects: General Requirements.

- (1) Remove friable asbestos-containing materials before commencing any activity which would break up the materials or prevent access to them for subsequent removal.
- (2) Ensure that a site supervisor trained in accordance with R307-801-5a through 5f is responsible for the construction of the containment, supervision, and inspection of each asbestos project conducted by an asbestos project operator.

- (3) Maintain a sufficient inventory of equipment and supplies at the project work site to ensure ability to continuously comply with R307-801.
- (4) Provide barriers to isolate contaminated areas from uncontaminated areas. Barriers shall be constructed of polyethylene sheeting, or equivalent, attached securely in place, and sealed with waterproof tape or equivalent.
- (a) Provide a worker decontamination system. Enter and leave asbestos contaminated work areas only through the worker decontamination system.
 - (b) Repair tears in the isolation barriers immediately.
- (5) Provide protective outerwear to all asbestos workers and others entering asbestos contaminated areas.
- (a) Remove protective outerwear and leave in a contaminated part of the work area, such as the equipment room, before leaving the contaminated area.
- (b) Place nondisposable protective outerwear in a labeled, sealed impermeable plastic bag, or equivalent container, before removing it from the work area.
 - (c) Treat disposable protective outerwear as asbestos waste.
- (6) Provide respiratory protection to all asbestos workers and others entering asbestos contaminated areas. Respiratory protection shall consist of a half-mask air-purifying respirator equipped with HEPA filters, or other appropriate respirator specified in OSHA 29 CFR 1926.1101(h).
- (7) Display caution signs in accordance with OSHA 29 CFR 1926.1101 at all approaches to any location where airborne asbestos fiber levels can be expected to exceed background levels.
- (8) Adequately wet all asbestos waste before sealing into containers for disposal.
- (9) Place asbestos waste in sealed, leak-tight impermeable containers for disposal, using one of the following containment methods:
- (a) If asbestos waste contains sharp edged components, use metal or fiber drums with locking-ring tops.
- (b) Double polyethylene bags, each of at least 6-mil thickness and which can be securely sealed, may be used for asbestos waste, provided it does not contain sharp edged components.
- (c) Large components or structural members covered or coated with friable asbestos-containing materials may be removed intact and wrapped in two layers of 6-mil polyethylene sheeting secured with tape for disposal.
- (d) Alternative containment methods may be used if written approval is obtained in advance from the executive secretary.
- (10) All drums, bags, and wrapped components specified in R307-801-7b(9) shall be labeled as follows:

DANGER
CONTAINS ASBESTOS FIBERS
AVOID CREATING DUST
CANCER AND LUNG DISEASE HAZARD.

- (a) The warning labels as specified above shall be printed in letters of sufficient size and contrast so as to be readily visible and legible; and
- (b) for asbestos waste transported off the structure site, label all drums, bags, and wrapped components with the name of the waste generator and the location where the waste was generated.

- (11) Clean asbestos contamination from the outside of disposal containers before removing them from the work area. Clean asbestos from other objects to be removed from the work area, or contain the objects to prevent release of asbestos fibers when removed from the area.
- (12) Attach permanent asbestos hazard warning labels to salvaged structural components or members which are covered or coated with friable asbestos-containing materials.
- (13) Filter all asbestos containing waste water to five micrometers prior to discharging to a sewer system.
- (14) Apply a coating of encapsulating agent to friable asbestos-containing materials exposed but not removed during renovation, and to porous surfaces that have been stripped of asbestos-containing materials.
- (15) Following asbestos abatement and before dismantling isolation barriers, drop cloths and/or at least one layer of floor and wall sheeting, perform cleanup procedures using HEPA vacuuming and wet cleaning techniques. Perform wet cleaning, using an amended water solution, followed by HEPA vacuuming after the surfaces have been allowed to dry. Repeat the sequence of wet cleaning and HEPA vacuuming until no visible asbestos residue is observed in the work area.

R307-801-7c. NESHAP Size Projects: Asbestos Removal.

- (1) Adequately wet all friable asbestos-containing material prior to removal.
- (2) Whenever practicable, remove structural components which are coated or covered with friable asbestos-containing material intact or in large sections and carefully lower them to the floor or ground.
- (3) Remove asbestos-containing material in small sections and containerize while wet. Do not allow asbestos-containing material to accumulate and become dry before containerizing.
- (4) Wet structural components thoroughly with amended water prior to wrapping in polyethylene sheeting for disposal in accordance with R307-801-7b(9)(c).
- (5) Do not drop or throw asbestos-containing materials to the floor or ground level. Asbestos-containing material may be dropped to a raised scaffold or containerized at elevated levels for disposal. Drop asbestos materials removed at greater than 15 feet above the floor onto inclined chutes or scaffolding or containerize at elevated levels for eventual disposal. If friable asbestos-containing materials are removed or stripped more than 50 feet above floor or ground level, transport to the floor or ground level via dust-tight chutes or containers.

R307-801-7d. NESHAP Size Projects: Renovation.

- (1) Unless specifically excluded, the provisions of this section apply to encapsulation and enclosure projects under R307-801-7e and 7f as well as other renovation projects.
- (2) Remove all movable objects from the work area. Perform cleaning of items and surfaces contaminated with asbestos. Cover all nonmovable objects in the work area with 4-mil polyethylene sheeting secured into place. Seal all openings between the work area and uncontaminated areas, as required in R307-801-7b(4).
- (3) Shut down and lock out all HVAC equipment servicing the work area. Seal all intake and exhaust openings and any seams in system components with 6-mil polyethylene sheeting or equivalent, and/or tape. Replace all system filters at the completion

- of the asbestos project and dispose of old filters as asbestos waste. Clean asbestos-contaminated ventilation system ductwork interiors.
- (4) Cover floors with at least 2 layers of 6-mil polyethylene sheeting or equivalent, securely attached with waterproof duct tape or equivalent. Floor sheeting shall extend up walls at least 12 inches and be sized to minimize seams. No seams shall be located at wall/floor joints.
- (5) Cover walls and other surfaces with at least 2 layers of 4-mil polyethylene sheeting or equivalent, securely attached and sealed with waterproof duct tape or equivalent. Wall sheeting shall be installed to minimize joints and shall overlap the floor sheeting at least 12 inches. No seams shall be located at wall/wall joints.
- (6) Operate negative pressure ventilation units with HEPA filtration in sufficient numbers to provide one workplace air change every 15 minutes continuously from the time barrier construction is completed through the time final cleanup is completed in accordance with R307-801-7b(15) and the barriers can be dismantled. These units shall exhaust filtered air to the outside of the building wherever practicable. Procedures for operation as detailed in EPA document No. EPA 560/5-85-024 "Guidance for Controlling Asbestos-Containing Materials in Buildings" (the purple book) Appendix J, shall be utilized.

R307-801-7e. NESHAP Size Projects: Encapsulation and Enclosures:

- (1) Encapsulation.
- (a) Prior to application of an encapsulating agent, remove loose and hanging friable asbestos-containing material in accordance with R307-801-7c.
- (b) Filler material applied to gaps in existing material shall contain no asbestos, adhere well to the substrate, and provide an adequate base for the encapsulating agent.
- (c) Apply sprayed-on encapsulating agents using airless spray equipment with nozzle pressure adjusted to minimize disturbance of friable asbestos-containing materials.
- (d) After encapsulation, use signs, labels, color coding, or some other mechanism to indicate the presence of encapsulated friable asbestos-containing materials.
- (e) Encapsulating agents shall not be applied to friable asbestos-containing materials which are water damaged or structurally deteriorating, show poor adhesion to the surface to which they are applied, or which are in locations subject to frequent physical damage.
- (2) Enclosures. Enclosures constructed for the purpose of permanently containing and protecting friable asbestos-containing materials shall be specially designated by signs, labels, color coding, or some other mechanism to warn individuals who may be required to enter or disturb the enclosure of the presence of asbestos.

R307-801-7f. NESHAP Size Projects: Demolition.

(1) Remove all friable asbestos-containing materials according to the requirements of R307-801-7b and 7c before demolition of any structure or portion of a structure which contains structural members or components composed of or covered by friable asbestos-containing materials. Friable asbestos-containing materials must be removed before commencing any activity which would break up the materials or preclude access for subsequent removal.

- (2) Before beginning asbestos removal seal off all doors, windows, floor drains, vents, and other openings to the outside of the building, and to areas within the building that do not contain asbestos materials, with 6-mil polyethylene sheeting and waterproof tape or equivalent that is acceptable to the executive secretary.
- (3) If a structure is to be partially demolished, HVAC equipment in the demolition area or passing through it but servicing areas of the building which will remain, shall be shut down and locked out and thoroughly sealed with 6-mil polyethylene sheeting and waterproof tape.
- (4) Use a disposable drop cloth to catch asbestos waste if the physical condition of the ground or other collection surface is such that it cannot be cleaned of visible asbestos residue. Dispose of the drop cloth as asbestos waste.
- (5) Removal of friable asbestos-containing material prior to demolition is not required if:
 - (a) The asbestos is encased in concrete or similar material, or
- (b) A structure is being demolished under an order of a state or local governmental agency issued because the structure is unsound and in danger of imminent collapse:
- (6) If friable asbestos-containing material is not removed before demolition, adequately wet the portion of the structure containing the asbestos before demolition, and keep adequately wet during subsequent demolition, handling, and disposal.

R307-801-7g. NESHAP Size Projects: Outdoor Work.

- (1) The provisions of R307-801-7b and 7c apply to asbestos projects conducted outdoors, with the following exceptions:
- (a) Construction of barriers to isolate asbestos projects performed outdoors is not required if friable asbestos-containing materials are adequately wetted during removal, handling, and disposal.
- (b) In lieu of constructing a worker decontamination system, workers' outerwear may be removed, wet cleaned or HEPA vacuumed before the workers leave the work area. Outerwear removed for cleaning or disposal shall be transported from the work area in a sealed, impermeable plastic bag or equivalent container labeled in accordance with R307-801-7b(10).
- (2) Access to the work area shall be restricted by use of a physical obstruction to limit traffic through the area.
- (3) A disposable drop cloth shall be used to catch asbestos waste if the physical condition of the ground or other collection surface is such that it cannot be cleaned of visible asbestos residue. Dispose of the drop cloth as asbestos waste.

R307-801-7h. NESHAP Size Projects: Disposal.

- (1) Transport and dispose of asbestos waste in a manner that will not permit the release of asbestos fibers into the air.
- (2) Dispose of asbestos waste at a location approved for handling asbestos waste by the appropriate authority having jurisdiction over the chosen landfill.
- (3) Ensure that friable asbestos waste not containerized in accordance with R307-801-7b(9) is buried immediately upon deposit at the disposal site.
- (4) If asbestos waste is transported by vehicle to a disposal site, mark the transport vehicle with clearly visible signs during the loading and unloading of the asbestos waste. The signs shall be securely attached and displayed in such a manner and location that

- a person can easily read the legend. The signs shall conform to the requirements specified in 29 CFR 1910.145(d)(4).
- (5) For off structure site disposal, provide a copy of the waste shipment record as specified under R307-801-13a(5), to the disposal site owner or operator at the same time as the asbestos waste is delivered to the disposal site.

R307-801-7i. NESHAP Size Projects: Planned Asbestos Projects.

Planned asbestos projects for which a NESHAP notification is required, but which consist of individual, nonscheduled abatements each of which is smaller than a NESHAP sized asbestos project, occurring during an extended period of time, may be conducted according to the provisions of R307-801-8 below if approved by the executive secretary.

R307-801-8. Work Practices for Other Asbestos Projects.

- (1) After September 1, 1987 each asbestos project operator shall comply with the following work practices:
- (2) Any asbestos project operator conducting a less than NESHAP size asbestos project shall take precautions to prevent the release of asbestos fibers to the environment. Precautions shall include but not be limited to the following measures:
- (a) Construct barriers to contain asbestos fibers released within the work area.
- (b) Adequately wet friable asbestos-containing materials with amended water prior to and during removal. Keep the asbestos-containing materials adequately wet until containerized.
- (c) Use a disposable drop cloth to collect asbestos waste if the physical condition of the floor or collection surface is such that the work area cannot be cleaned of visible asbestos residue. Dispose of the drop cloth as asbestos waste.
- (d) Glove bags may be used instead of the barriers and drop cloths specified in (a) and (c) above.
- (e) Use HEPA vacuum equipment and wet cleaning techniques to clean up the work area until no visible asbestos residue remains. Perform cleanup before dismantling asbestos fiber containment barriers.
- (f) Promptly place asbestos waste in appropriately labeled sealed impermeable containers (polyethylene sheeting, bags and/or fiber or metal drums).
- (g) Clean visible asbestos residue from the outside of containers before removing them from the work area. Clean asbestos off other objects to be removed from the work area, or contain them to prevent release of asbestos fibers when removed from the area.
- (h) Prevent the discharge of visible amounts of asbestos to any sewer.
- (i) Apply an encapsulating agent to friable asbestos-containing materials exposed but not removed during renovation, and to porous surfaces from which friable asbestos-containing materials have been stripped.
- (j) Remove, wet clean, or HEPA vacuum workers' outerwear before workers leave the work area. Seal outerwear removed in the work area into impermeable plastic bags, labeled in accordance with Subsection R307-1-8.6.1.A(10), before taking away from the work area. Treat disposable outerwear as asbestos waste:
- (k) Transport and dispose of asbestos waste as specified under R307-801-7h.

- (l) If removal of friable asbestos-containing materials is not practicable before demolition, adequately wet the asbestos materials or the structure containing the asbestos materials before demolition and keep it adequately wet during subsequent handling and disposal.
- (m) Permanently attach asbestos hazard warning labels to salvaged structural components which are covered or coated with friable asbestos-containing materials.
- (3) Construction of barriers to contain asbestos fibers is not required for asbestos projects conducted outdoors if the friable asbestos-containing material is adequately wetted and access to the work area is limited to asbestos workers only.
- (4) Asbestos Inspection.
- Persons taking samples for the purpose of identification of asbestos-containing materials shall comply with the following requirements:
- (a) Minimize contamination of the surrounding area by use of a sampling method which will minimize disturbance of friable materials, such as sampling at places where the material is exposed or damaged, wetting the material to be sampled, or using a drop cloth or other provision for catching gross contamination.
- (b) Promptly clean the sampling area using wet methods or HEPA vacuuming so that no visible friable materials remain.
- (c) Apply an encapsulating agent or otherwise seal friable materials exposed during sampling.
- (d) Place samples in containers and tightly seal them. Wet wipe the exterior surfaces of the containers. Place sample containers in plastic bags.
- (e) After sample collection, place protective clothing, wet wipes, rags, cartridge filters, drop cloths, and other disposable equipment in a 6-mil polyethylene bag that is labeled as specified under R307-801-7b(10).
- (f) If laboratory analysis reports one or more samples as asbestos containing material, dispose of all material described in (e) above as asbestos waste at a state approved landfill.
- (g) Ensure that samples are analyzed by a method approved by the executive secretary.
- (h) Any person required to be certified as an inspector in training under R307-801-4a through 4i shall work under the direct supervision of an inspector certified in accordance with R307-801-4e(2).

R307-801-9. Asbestos Projects Subject to TSCA Title II.

Asbestos project operators or other persons who perform an asbestos project subject to TSCA Title II must ensure that at least one certified site supervisor is present at the work site at all times while the asbestos project is in progress. Asbestos workers must have access to certified supervisors throughout the duration of the asbestos project.

R307-801-10. Activities Subject to Certification Requirements.

- (1) Each person required under R307-801-4a through 4i to have TSCA accreditation and to obtain certification shall be in physical possession of their certification card whenever performing work for which the certification is required.
- (2) Any person who does not have current, unexpired certification shall not perform work for which TSCA accreditation and certification under R307-801-4a through 4i is required.

R307-801-11. Asbestos Projects Performed in a Single Family Residential Dwelling.

Persons who perform an asbestos project in a single family residential dwelling which is his primary residence, shall comply with R307-801-7b(9) and (10), and R307-801-7h(1) and (2).

R307-801-12. Alternative Procedures.

- The executive secretary may approve in writing an alternative procedure for control of emissions from an asbestos project provided that:
- (1) the asbestos project operator submits the alternative procedure to the executive secretary in writing;
- (2) the operator demonstrates to the satisfaction of the executive secretary that compliance with the prescribed procedures is not practical or not feasible or that the proposed alternative procedures provide equivalent control of asbestos; and
- (3) the executive secretary determines that the procedure will minimize the emission of asbestos fibers.

R307-801-13a. Asbestos Project Contractor Records.

- Certified asbestos project contractors shall maintain records of all asbestos projects that he performs and shall make these records available to the executive secretary upon request. The records shall be retained for at least two years. Information recorded shall include the following:
- (1) names and social security numbers of the asbestos workers and supervisors who performed the project;
- (2) location and description of the project and amount of friable asbestos-containing material removed or area encapsulated or enclosed:
 - (3) starting and completion dates of the asbestos project;
- (4) summary of the procedures used to comply with applicable requirements including copies of all notifications; and
- (5) waste shipment records maintained in accordance with 40 CFR Part 61, Subpart M, NESHAP.

R307-801-13b. Training Provider Records.

- Each person conducting a training course approved in accordance with R307-801-5e shall maintain records of:
- (1) training course materials: copies of all course materials;
- (2) instructor qualifications: instructor resumes, documents from the executive secretary approving each instructor, and the instructors who taught each particular course and the dates the instructor taught;
- (3) examinations: document that each person who receives initial accreditation has achieved a passing score on the examination, the date of the examination, the training course and discipline for which the examination was given, the name of the person who proctored the exam, a copy of the exam, and the name and test score of each person taking the exam;
- (4) accreditation certificates: document all persons who have been awarded certificates, their certificate numbers, their accredited disciplines, training and expiration dates, and the training location. The records must be maintained in a manner that allows verification by telephone.
- (5) records access: records required in R307-801-13a and 13b shall be made available to the executive secretary upon request. The records shall be retained for at least three years. If a course provider ceases to provide training, the course provider shall

contact the executive secretary and give the executive secretary the opportunity to take possession of all asbestos training records.

R307-801-14. Review and Disapproval of Management Plans.

- (1) Unless a deferral request under (2) below has been approved by the executive secretary, each LEA shall submit the asbestos management plans required by AHERA to the executive secretary on or before October 12, 1988. A "Required Elements for LEA Asbestos Management Plan" shall be completely filled out and submitted by the LEA with each management plan.
- (2) The executive secretary may approve a request by an LEA for deferral of submittal of a management plan until May 9, 1989 if the LEA submits a complete request for deferral as required by AHERA. The executive secretary shall approve or disapprove a deferral request, and explain why any request was disapproved, within 30 days of receipt of a deferral request.
- (3) The executive secretary shall review each management plan and return comments to the LEA within 90 days of receipt of the plan. The executive secretary may disapprove a management plan if the plan does not meet the requirements of AHERA or if the "Required Elements for LEA Asbestos Management Plans" form is not completely filled out and submitted with the plan.
- (4) The LEA shall revise any management plan disapproved by the executive secretary and resubmit the plan within 30 days after receipt of a notice of disapproval. The LEA may request that the Executive Secretary extend the 30-day plan revision period to 90 days, provided the plan is revised and submitted before July 9, 1989:

KEY: air pollution, asbestos, asbestos hazard emergency response*, schools

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	19-2-104(3)(s)
	19-2-104(3)(t) 1

R307-801. Asbestos.

R307-801-1. Purpose and Authority.

Rule R307-801 establishes procedures and requirements for asbestos projects and training programs, procedures and requirements for the certification of persons engaged in asbestos activities, and work practice standards for performing such activities. This rule is promulgated under the authority of 19-2-104(1)(d), (3)(r), (3)(s), (3)(t). Penalties are authorized by 19-2-115.

R307-801-2. Applicability and General Provisions.

- (1) Applicability.
- (a) The following persons are operators and are subject to the requirements of R307-801:
- (i) Persons who contract for hire to conduct renovation of structures or facilities, or to conduct demolition of structures or facilities, except for residential outbuilding structures of less than 100 square feet;
- (ii) Persons who conduct renovation or demolition in areas to which the general public has unrestrained access; or
- (iii) Persons who conduct renovation or demolition in school buildings subject to AHERA or who conduct asbestos inspections in structures subject to TSCA Title II.

- (b) The following persons are subject to certification requirements:
- (i) Persons required by TSCA Title II to be accredited as inspectors, management planners, project designers, supervisors, or workers;
- (ii) Persons who work on an asbestos project as workers, supervisors, inspectors, project designers, or management planners; and
- (iii) Companies that conduct asbestos projects or inspections, create project designs, or prepare management plans in structures or facilities.
- (2) All persons who are required by R307-801 to obtain an approval, certification, determination or notification from the executive secretary must obtain it in writing.
- (3) Persons wishing to deviate from the certification, notification, work practice, or other requirements of R307-801 may do so only after requesting and obtaining the written approval of the executive secretary.

R307-801-3. Definitions.

The following definitions apply to R307-801:

"Adequately Wet" means sufficiently mix or penetrate with liquid to prevent the release of particulates. If visible emissions are observed coming from asbestos-containing material, then that material has not been adequately wetted. However, the absence of visible emissions is not sufficient evidence of being adequately wet.

"Amended Water" means a mixture of water and a chemical wetting agent that provides control of asbestos fiber release.

- "AHERA" means the federal Asbestos Hazard Emergency Response Act of 1986 and the Environmental Protection Agency implementing regulations, 40 CFR Part 763, Subpart E - Asbestos-Containing Materials in Schools.
- "Asbestos" means the asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite (amosite), anthophyllite, and actinolite-tremolite.
- "Asbestos Containing Material (ACM)" means any material containing more than one percent (1%) asbestos by the method specified in Appendix A, Subpart F, 40 CFR Part 763 Section 1, Polarized Light Microscopy (PLM), or, if the asbestos content is less than 10%, the asbestos concentration must be determined by point counting using PLM procedure.
- "Asbestos Inspection" means any activity undertaken to determine the presence or location, or to assess the condition, of asbestos-containing material or suspected asbestos-containing material, whether by visual or physical examination, or by taking samples of the material. This term includes re-inspections of the type described in AHERA, 40 CFR 763.85(b), of known or assumed asbestos-containing material which has been previously identified. The term does not include the following:
- (a) Periodic surveillance of the type described in AHERA, 40 CFR 763.92(b), solely for the purpose of recording or reporting a change in the condition of known or assumed asbestos-containing material;
- (b) Inspections performed by employees or agents of federal, state, or local government solely for the purpose of determining compliance with applicable statutes or regulations; or
- (c) Visual inspections of the type described in AHERA, 40 CFR 763.90(i), solely for the purpose of determining completion of response actions.

"Asbestos Project" means any activity involving the removal, renovation, repair, demolition, salvage, disposal, cleanup, or other disturbance of regulated asbestos-containing material greater than small scale short duration.

"Asbestos Removal" means the stripping of friable asbestoscontaining material from surfaces or components of a structure or taking out structural components that contain or are covered with friable ACM from a structure.

"Asbestos Survey Report" means a written report as specified in R307-801-15(6) describing an asbestos inspection performed by a certified asbestos inspector.

"Asbestos Waste" means mill tailings or any waste that contains asbestos. This term includes filters from control devices, friable asbestos-containing waste material, and bags or other similar packaging contaminated with asbestos. As applied to demolition and renovations, this term includes materials contaminated with asbestos including disposable equipment and clothing.

"Containerized" means sealed in a leak-tight and durable container.

"Debris" means asbestos-containing material that has been dislodged and has fallen from its original substrate and position or which has fallen while remaining attached to substrate sections or fragments, and is friable or regulated in its current condition.

"Demolition" means the wrecking, salvage, or removal of any load-supporting structural member of a structure together with any related handling operations, or the intentional burning of any structure. This includes the moving of an entire building.

"Disturb" means to disrupt the matrix of ACM or regulated asbestos-containing material, crumble or pulverize ACM or regulated asbestos-containing material, or generate visible debris from ACM or regulated asbestos-containing material.

"Division" means the Division of Air Quality.

"Emergency Renovation Operation" means any asbestos project which was not planned and results from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard, is necessary to protect equipment from damage, or is necessary to avoid imposing an unreasonable financial burden as determined by the Division. This term includes operations necessitated by non-routine failure of equipment and does not include situations caused by the lack of planning.

"Encapsulant" means a permanent coating applied to the surface of friable ACM for the purpose of preventing the release of asbestos fibers. The encapsulant creates a membrane over the surface (bridging encapsulant) or penetrates the material and binds its components together (penetrating encapsulant).

"Facility" means any institutional, commercial, public, industrial, or residential structure, installation, or building, including any structure, installation, or building containing condominiums or individual dwelling units operated as a residential co-operative; any ship; and any active or inactive waste disposal site. For purposes of this definition, any building, structure, or installation that contains a loft used as a dwelling is not considered a residential structure, installation, or building. Any structure, installation or building that was previously subject to the NESHAP is not excluded, regardless of its current use or function. Public building and commercial building have the same meanings as they do in TSCA Title II.

"Friable Asbestos Containing Material (Friable ACM)" means any asbestos-containing material that hand pressure can crumble, pulverize, or reduce to powder when dry.

"Glovebag" means an impervious plastic bag-like enclosure, not more than a 60 x 60 inches, affixed around an asbestoscontaining material, with glove-like appendages through which material and tools may be handled.

"HEPA Filtration" means the high efficiency particulate air filtration found in respirators and vacuum systems capable of filtering particles greater than 0.3 micron in diameter with 99.97% efficiency, designed for use in asbestos-contaminated environments.

"Inaccessible" means covered in such a way that detection or removal is prevented or severely hampered.

"Management Plan" means a document that meets the requirements of AHERA for management plans for asbestos in schools.

"Management Planner" means a person who prepares a management plan for a school building subject to AHERA.

"Model Accreditation Plan (MAP)" means 40 CFR Part 763, Subpart E, Appendix C, Asbestos Model Accreditation Plan.

"NESHAP" means the National Emission Standards for Hazardous Air Pollutants, 40 CFR Part 61, Subpart M, the National Emission Standard for Asbestos.

"NESHAP Amount" means combined amounts in a project that total:

(a) 260 linear feet (80 meters) of pipe covered with RACM;

(b) 160 square feet (15 square meters) of RACM used to cover or coat any duct, boiler, tank, reactor, turbine, equipment, structure, structural member, or structural component; or

(c) 35 cubic feet (one cubic meter) of RACM removed from structural members or components where the length and area could not be measured previously.

"NESHAP-Sized Asbestos Project" means any asbestos project that involves at least a NESHAP amount of ACM.

"Regulated Asbestos-Containing Material (RACM)" means friable ACM, Category I nonfriable ACM that has become friable, Category I nonfriable ACM that will be or has been subjected to sanding, grinding, cutting, or abrading, or Category II nonfriable ACM that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations.

"Renovation" means the alteration in any way of one or more structural components, excluding demolition.

"Small-Scale, Short-Duration (SSSD) Asbestos Project" means an asbestos project that removes or disturbs less than 3 square feet or 3 linear feet of RACM in a facility or structure.

"Strip" means to take off ACM from any part of a structure or structural component.

"Structural Component" means any pipe, duct, boiler, tank, reactor, turbine, or furnace at or in a structure, or any structural member of the structure.

"Structural Member" means any load-supporting member of a structure, such as beams and load-supporting walls or any non-load-supporting member, such as ceilings and non-load-supporting walls.

"Structure" means, for the purposes of R307-801, any institutional, commercial, residential, or industrial building, equipment, building component, installation, or other construction.

- "TSCA Accreditation" means successful completion of training as an inspector, management planner, project designer, contractorsupervisor, or worker, as specified in the TSCA Title II.
- "TSCA Title II" means 15 U.S.C. 2601 et seq., Toxic Substances Control Act, Subchapter II Asbestos Hazard Emergency Response, and 40 CFR Part 763, Subpart E Asbestos-Containing Materials in Schools, including appendices, as in effect on July 1, 1999.
- "Unrestrained Access" means without fences, closed doors, personnel, or any other method intended to restrict public entry.
- "Waste Generator" means any owner or operator of an asbestos project covered by R307-801 whose act or process produces asbestos waste.
- "Working Day" means Monday through Friday and includes holidays that fall on any of the days Monday through Friday.

R307-801-4. Adoption and Implementation of TSCA Title II.

- (1) The provisions of TSCA Title II are adopted and incorporated herein by reference.
- (2) Implementation of the provisions of 40 CFR Part 763, Subpart E, except for the Model Accreditation Plan, shall be limited to those provisions for which the EPA has waived its requirements in accordance with 40 CFR Subpart 763.98, Waiver; delegation to State, as published at 52 FR 41826, (October 30, 1987).

R307-801-5. Company Certifications.

- (1) All persons must have an Asbestos Company Certification before contracting for hire to conduct asbestos inspections, create management plans, create project designs, monitor asbestos projects, or to remove or otherwise disturb more than the SSSD amount of asbestos.
- (2) To obtain Utah Asbestos Company Certification, all persons shall submit a completed application for certification on a form provided by the executive secretary.
- (3) Unless revoked or suspended, a company certification shall remain in effect until the end of the calender year in which it was issued.

R307-801-6. Individual Certification.

- (1) To obtain certification as a worker, supervisor, inspector, project designer, or management planner, each person shall first:
 - (a) Provide personal identifying information;
 - (b) Pay the appropriate fee;
- (c) Fill out the appropriate form provided by the executive secretary;
- (d) Provide certificates of initial and current training that demonstrate accreditation in the corresponding discipline. Any of the following TSCA accreditation courses is acceptable unless the executive secretary has determined that the course does not meet the requirements of TSCA accreditation training required by R307-801: courses approved by the executive secretary, approved in a state that has a Contractor Accreditation Program that meets the TSCA Title II Appendix C Model Plan, or approved by EPA under TSCA Title II.
 - (2) Duration and Renewal of Certification.
- (a) Unless revoked or suspended, a certification shall remain in effect until the expiration date of the current certificate of TSCA accreditation for the specific discipline.
 - (b) To renew certification, the individual shall first:

- (i) Submit a completed application for renewal on a form provided by the executive secretary; and
- (ii) Submit a certificate of TSCA accreditation for initial or refresher training in the appropriate discipline.

R307-801-7. Denial and Cause for Suspension and Revocation of Company and Individual Certifications.

- (1) An application for certification may be denied if the individual, applicant company, or any principle officer of the applicant company has a documented history of noncompliance with the requirements, procedures, or standards established by R307-801, R307-214, which incorporates 40 CFR Part 61, Subpart M, the National Emission Standard for Asbestos, AHERA, or with the requirements of any other entity regulating asbestos activities and training programs.
- (2) The executive secretary may revoke or suspend any certification based upon documented violations of any requirement of R307-801, AHERA, or 40 CFR Part 61, Subpart M, including but not limited to:
- (a) Falsification of or knowing omission in any written submittal required by those regulations;
- (b) Permitting the duplication or use of a certificate or TSCA accreditation for the purpose of preparing a falsified written submittal: or
 - (c) Repeated work practice violations.

R307-801-8. Approval of Training Courses.

- (1) To obtain approval of a training course, the course provider shall first provide a written application to the executive secretary that includes:
- (a) Name, address, phone number, and institutional affiliation of person sponsoring the course;
 - (b) The course curriculum;
- (c) A letter that clearly indicates how the course meets the Model Accreditation Plan and R307-801 requirements for length of training in hours or days, amount and type of hands-on training, examinations, including length, format, example of examination or questions, and passing scores, and topics covered in the course;
- (d) A copy of all course materials, including student manuals, instructor notebooks, handouts, etc.;
- (e) Names and qualifications of all course instructors, including all academic credentials and field experience in asbestos abatement; and
- (f) Description and an example of numbered certificates issued to students who attend the course and pass the examination. The certificate shall include a unique certificate number, the name of the student and the course completed, the dates of the course and the examination, an expiration date one year from the date the student completed the course and examination, the name, address, and telephone number of the training provider that issued the certificate, and a statement that the person receiving the certificate has completed the requisite training for TSCA accreditation.
- (2) To maintain approval of a training course, the course provider shall:
- (a) Provide training that meets the requirements of R307-801 and the MAP;
- (b) Provide the executive secretary with the names, social security numbers or government-issued picture identification card

- number, and certificate numbers of all persons successfully completing the course within 30 days of successful completion;
- (c) Keep the records specified for training providers in the MAP for three years;
- (d) Permit the executive secretary or authorized representative to attend, evaluate and monitor any training course without receiving advance notice from the executive secretary and without charge to the executive secretary; and
- (e) Notify the executive secretary of any new course instructor 10 working days prior to the day the new instructor presents or teaches any course for TSCA Accreditation purposes. The notification shall include:
- (i) Name and qualifications of each course instructors, including all academic credentials and field experience in asbestos abatement; and
- (ii) A list of the courses or specific topics that will be taught by the instructor.
- (3) All course providers that provide an AHERA training course or refresher course in the state of Utah shall:
- (a) Notify the executive secretary of the location, date, and time of the course at least ten days before the first day of the course;
- (b) Update the notification as soon as possible, and no later than the original course date, if the course is rescheduled or cancelled before the course is held; and
- (c) Allow the executive secretary to conduct an audit of any course provided to determine whether the course provider meets the requirements of the MAP and of R307-801.

R307-801-9. Renovation and Demolition: Requirement to Inspect.

- (1) Except as described in (2) below, the operator shall ensure that the structure or facility to be demolished or renovated is inspected for ACM by an inspector certified under the provisions of R307-801-6. An asbestos survey report shall be generated according to the provisions of R307-801-10. The operator shall make the asbestos survey report available on site to all persons who have access to the site for the duration of the renovation or demolition activities, and to the executive secretary upon request.
- (2) If the structure has been ordered to be demolished because it is found by a local jurisdiction to be structurally unsound and in danger of imminent collapse, the operator may demolish the structure without having the structure or facility inspected for asbestos. If no asbestos inspection is conducted, the operator shall ensure that all resulting demolition debris is disposed of as asbestos waste, according to R307-801-15. If the demolition debris cannot be containerized, the operator shall obtain approval for an alternative procedure from the executive secretary.

R307-801-10. Renovation and Demolition: Asbestos Inspection Procedures.

Asbestos inspectors shall use the following procedures when conducting an asbestos inspection of facilities to be demolished or renovated.

- (1) Determine the scope of demolition or renovation activities.
- (2) Inspect the affected facility or part of the facility where the demolition or renovation operation will occur.
- (3) Identify all accessible suspect ACM building materials in the affected facility or part of the facility where the demolition or renovation operation will occur.

- (4) Follow the sampling procedures outlined in TSCA Part 763, SubPart E, or follow a method approved by the executive secretary, to demonstrate that suspect ACM does not contain asbestos.
- (5) Assume that unsampled suspect ACM contains asbestos and is ACM; and
- (6) Complete an asbestos survey report containing all of the following information in the following order:
 - (a) A brief description of the affected area;
- (b) A list of all suspect materials identified in the affected area. For each suspect material provide the following information:
- (i) The amount of material in linear feet, square feet, or cubic yards;
- (ii) A clear description of the distribution of the material in the affected area;
- (iii) A statement of whether the material was assumed to contain asbestos, sampled and shown to contain asbestos, or sampled and demonstrated to not contain asbestos; and
- (iv) A determination of whether the material is RACM or may become RACM when subjected to the proposed renovation or demolition activities.
- (c) A list of samples collected from suspect materials in the affected area. For each sample provide the following information:
- (i) Which suspect material, in the above list, the sample represents;
 - (ii) A clear description of the original location of the sample;
 - (iii) The types of analyses performed on the sample;
- (iv) The amounts of each type of asbestos in the sample as indicated by the analytical results.
- (d) A list of potential locations of suspect materials that were not accessible to inspection that may be part of the affected area.
- (7) Floor plans or architectural drawings and similar representations may be used to aid in conveying the location of suspect materials or samples, but must be appended to the asbestos survey report.

R307-801-11. Renovation and Demolition: Notification and Asbestos Removal Requirements.

- (1) Demolitions.
- (a) If the amount of RACM in the structure is less than the SSSD amount, the operator shall submit a notification of demolition at least 10 working days before the start of demolition, and remove the RACM before commencing demolition.
- (b) If the amount of RACM in the structure is greater than or equal to the SSSD amount but less than the NESHAP amount, the operator shall submit an asbestos notification at least 10 working days before the start of demolition and at least one working day before commencing removal, and shall remove the RACM according to the work practice provisions of R307-801 before demolition proceeds.
- (c) If the amount of RACM in the structure is greater than or equal to the NESHAP amount, the operator shall submit an asbestos notification at least 10 working days before the asbestos removal begins. Demolition shall not proceed until after all RACM has been removed from the structure.
- (d) If any structure is to be demolished by intentional burning, the operator, in addition to the notification specified in (a), (b) or (c), shall ensure that all ACM, including non friable ACM and RACM, is removed from the structure before burning.

- (e) If the structure has been ordered to be demolished because it is found by a local jurisdiction to be structurally unsound and in danger of imminent collapse, the operator shall submit a notification of demolition as soon as possible, but no later than the next working day after demolition begins.
 - (2) Renovations.
- (a) If the amount of RACM that would be disturbed or rendered inaccessible by renovation activities is less than the SSSD amount, the operator shall remove the RACM before commencing the renovation.
- (b) If the amount of RACM that would be disturbed or rendered inaccessible by renovation activities is greater than the SSSD amount but smaller than NESHAP amount, the operator shall submit an asbestos notification at least one working day before asbestos removal begins, unless the removal was properly included in an annual asbestos notification submitted pursuant to (d) below, and shall remove RACM according to general work practices of R307-801 before performing renovation activities.
- (c) If the amount of RACM that would be disturbed or rendered inaccessible by renovation activities is greater than or equal to the NESHAP amount, then the operator shall submit an asbestos notification as described below, and shall ensure that RACM that would be disturbed by renovation activities and non-friable ACM that may be rendered friable or regulated by renovation activities is removed according to the work practice and disposal requirements of R307-801. The operator shall not commence renovation activities until the asbestos removal process is completed.
- (i) If the renovation is an emergency renovation operation, then the notification shall be submitted as soon as possible before and no later than the next business day after asbestos removal begins.
- (ii) If the renovation is not an emergency renovation operation, then the notification shall be submitted at least ten working days before asbestos removal begins.
- (d) The operator may submit an annual notification according to the requirements of 40 CFR 61.145(a)(4)(iii) no later than 10 working days before the first day of January of the year during which the work is to be performed in the following circumstances:
- (i) The asbestos projects are unplanned operation and maintenance activities;
 - (ii) The asbestos projects are less than NESHAP-sized; and
- (iii) The total amount of asbestos to be disturbed in a single facility during these asbestos projects is expected to exceed the NESHAP amount in a calendar year.

R307-801-12. Renovation and Demolition: Notification Procedures and Contents.

- (1) All notifications required by R307-801 shall be in writing on the appropriate form provided by the executive secretary and shall be postmarked or received by the Division by the date specified. The type of notification and whether the notification is original or revised shall be indicated.
- (2) If the notification is an original notification of demolition, an original asbestos notification for a NESHAP- sized asbestos project, or an original annual notification, the written notice shall be sent with an original signature by U.S. Postal Service, commercial delivery service, or hand delivery. If U.S. Postal Service is used, the submission date is the postmark date. If other

- service or hand delivery is used, the submission date is the date that the document is received at the Division.
- (3) An original asbestos notification for a less than NESHAPsized asbestos project or any revised notification may be submitted by any of the methods in (2), or by facsimile, by the date specified in R307-801-11. The sender shall ensure that the fax is legible.
- (4) All original notifications shall contain the following information:
- (a) The name, address, and telephone number of the owner of the structure, and of any contractor working on the project;
- (b) Whether the operation is a demolition or a renovation project;
- (c) A description of the structure that includes the size in square feet or square meters, the number of floors, the age, and the present and prior uses of the structure;
- (d) The procedures, including analytical methods, used to inspect for the presence of ACM;
- (e) The location and address, including building number or name and floor or room number, street address, city, county, state, and zip code of the structure being demolished or renovated;
- (f) A description of procedures for handling the discovery of unexpected ACM or of nonfriable ACM that has become friable or regulated;
- (g) A description of planned demolition or renovation work, including the demolition and renovation techniques to be used and a description of the affected structural components.
- (5) In addition to the information in (4) above, an original demolition notification shall contain the following information:
- (a) An estimate of the amount of non-friable and non-regulated ACM that will not become regulated as a result of demolition activities and that will remain in the building during demolition;
- (b) The starting and ending dates of demolition activities; and (c) If the structure will be demolished under an order of a state or local government agency, the name, title, and authority of the government representative ordering the demolition, the date the order was issued, and the date the demolition was ordered to commence. A copy of the order shall be attached to the notification.
- (6) In addition to the information in (4) and (5) above, an original asbestos notification or an annual notification shall contain the following information:
- (a) An estimate of the approximate amount of ACM to be stripped, including which units of measure were used;
- (b) The scheduled starting and completion dates of asbestos removal work in a renovation or demolition;
- (c) The beginning and ending dates for preparation and asbestos removal, and of renovation activities if applicable;
- (d) If an emergency renovation operation will be performed, the date and hour the emergency occurred, a description of the event and an explanation of how the event has caused unsafe conditions or would cause equipment damage or unreasonable financial burden;
- (e) A description of work practices and engineering controls to be used to prevent emissions of asbestos at the demolition or renovation work site;
- (f) The name and location of the waste disposal site where the asbestos waste will be deposited, including the name and telephone number of the waste disposal site contact;

- (g) The name, address, contact person, and phone number of the waste transporters; and
- (h) The name, contact person, and phone number of the person receiving the waste shipment record as required by 40 CFR 61.150(d)(1).
- (7) A revised notification shall contain the following information:
- (a) The name, address, and telephone number of the owner of the structure, and any demolition or asbestos abatement contractor working on the project;
- (b) Whether the operation is a demolition or a renovation project;
 - (c) The date that the original notification was submitted;
- (d) The applicable original start and stop dates for asbestos removal, renovation, or demolition;
- (e) Revised start and stop dates, if applicable, for asbestos removal or demolition activities;
- (f) Changes in amount of asbestos to be removed, if applicable; and
 - (g) All other changes.
- (8) If a NESHAP-sized asbestos project that requires a notification under (4) above or a demolition project that requires a notification under (4) above will commence on a date other than the date submitted in the original written notification, the executive secretary shall be notified of the new starting date by the following deadlines.
- (a) If the new starting date is later than the original starting date, notice by telephone shall be given as soon as possible before the original starting date and a revised notice shall be submitted in accordance with R307-801-12(7) as soon as possible before, but no later than, the original starting date.
- (b) If the new starting date is earlier than the original starting date, submit a written notice in accordance with R307-801-12(7) at least ten working days before beginning the project.
- (c) In no event shall an asbestos project covered by this subsection begin on a date other than the new starting date submitted in the revised written notice.

R307-801-13. Renovation and Demolition: Requirements for Certified Workers.

- (1) A supervisor who has been certified under R307-801 shall be on site during all phases of asbestos project setup, asbestos removal, stripping, or other handling of uncontainerized RACM.
- (2) All persons handling greater than the SSSD amount of uncontainerized RACM shall be workers or supervisors certified under R307-801.

R307-801-14. Renovation and Demolition: Asbestos Work Practices.

- (1) Persons performing any asbestos project shall follow the work practices in this subsection. Where the work practices in R307-801-14(1) and (2) are required, wrap and cut, open top catch bags, glove bags, and mini-enclosures may be used in combination with those work practices.
- (a) Adequately wet RACM with amended water before exposing or disturbing it.
- (b) Install barriers and post warning signs to prevent access to the work area. Warning signs shall conform to the specifications of 29 CFR 1926.1101(k)(7).

- (c) Keep RACM adequately wet until it is containerized and disposed of in accordance with R307-801-15.
- (d) Ensure that RACM that is stripped or removed is immediately containerized; avoid dropping RACM to the ground.
- (e) Remove any RACM debris that falls to the ground promptly; ensure that all RACM is cleared from the floor at the end of each shift.
- (f) Prevent visible particulate matter and uncontainerized asbestos-containing debris and waste originating in the asbestos work area from being released outside of the negative pressure enclosure or designated work area.
- (g) Filter all waste water to 5 microns before discharging it to a sanitary sewer.
- (h) Decontaminate the outside of all persons, equipment and waste bags before they leave the work area.
- (i) Apply encapsulant to RACM that is exposed but not removed during stripping.
- (j) Clean the work area, drop cloths, and other interior surfaces of the enclosure using HEPA vacuum and wet cleaning techniques until there is no visible residue before dismantling barriers.
- (k) After cleaning and before dismantling enclosure barriers, mist the space and surfaces inside of the enclosure with a penetrating encapsulant designed for that purpose.
- (1) Handle and dispose of friable ACM or RACM according to the disposal provisions of R307-801.
- (2) All operators of NESHAP-sized asbestos projects shall install a negative pressure enclosure using the following work practices.
- (a) All openings to the work area shall be covered with at least one layer of 6 mil or thicker polyethylene sheeting sealed with duct tape or an equivalent barrier to air flow.
- (b) If RACM debris is present, the site shall be prepared by removing the debris using the work practice and disposal requirements of R307-801. If the total amount of loose visible RACM debris throughout the entire work area is less than the SSSD amount, then site preparation may begin after notification and before the end of the ten-day waiting period.
- (c) All persons shall enter and leave the negative pressure enclosure or work area only through the decontamination unit.
- (d) All persons subject to R307-801 shall shower before entering the clean-room of the decontamination unit when exiting the enclosure.
- (e) No materials may be removed from the enclosure or brought into the enclosure through any opening other than a waste load-out or a decontamination unit.
- (f) The negative pressure enclosure of the work area shall be constructed with the following specifications:
- (i) Apply at least two layers of 6 mil or thicker polyethylene sheeting or its equivalent to the floor extending at least one foot up every wall and seal in place with duct tape or its equivalent;
- (ii) Apply at least 2 layers of 4 mil or thicker polyethylene sheeting or its equivalent to the walls without locating seams in wall or floor corners;
 - (iii) Seal all seams with duct tape or its equivalent; and
 - (iv) Maintain the integrity of all enclosure barriers.
- (v) Where a wall or floor will be removed, polyethylene sheeting need not be applied to that component.

- (g) View ports shall be installed in the enclosure or barriers where feasible. Viewports shall be:
 - (i) At least one foot tall and one foot wide;
- (ii) Made of clear material that is impermeable to the passage of air, such as an acrylic sheet;
- (iii) Positioned so as to maximize the view of the inside of the enclosure from a position outside the enclosure; and
 - (iv) Accessible to a person outside of the enclosure.
- (h) A decontamination unit shall be constructed according to the following specifications:
 - (i) The unit shall be attached to the enclosure or work area;
- (ii) The decontamination unit shall consist of at least 3 chambers as specified by 29 CFR 1926.1101(j)(1):
- (iii) The clean room, which is the chamber that opens to the outside, shall be no less than 3 feet wide by 3 feet long;
- (iv) The dirty room, which is the chamber that opens to the negative pressure enclosure or the designated work area, shall be no less than 3 feet wide by 3 feet long;
- (v) The dirty room shall be provided with an accessible waste bag at any time that asbestos work is being done.
- (i) A separate waste load-out following the specifications below may be attached to the enclosure for removal of decontaminated waste containers and decontaminated or wrapped tools from the enclosure.
- (i) The waste load-out shall consist of at least one chamber constructed of 6 mil or thicker polyethylene walls and 6 mil or thicker polyethylene flaps or the equivalent on the outside and inside entrances;
- (ii) The waste load-out chamber shall be at least 3 feet long, 3 feet high, and 3 feet wide; and
- (iii) The waste load-out supplies shall be sufficient to decontaminate bags, and may include a water supply with filtered drain, clean rags and clean bags.
- (j) Negative air pressure and flow shall be established and maintained within the enclosure by:
 - (i) Maintaining four air changes per hour in the enclosure;
- (ii) Routing the exhaust from HEPA filtered ventilation units to the outside of the structure whenever possible;
- (iii) Maintaining at least 0.02 column inches of water pressure relative to outside air; and
- (iv) Maintaining a monitoring device to measure the negative pressure in the enclosure.
- (3) In lieu of two layers of polyethylene on the walls and the floors as required by R307-801-(2)(f)(i) and (ii), the following work practices and controls may be used only under the circumstances described below:
- (a) If an asbestos project is conducted in a crawl space or pipe chase and the available space is less that 6 feet high or is less than 3 feet wide, then the following may be used:
- (i) Drop cloths extending at least 6 feet around all RACM to be removed, or extended to a wall and attached with duct tape or equivalent; and
- (ii) Either glovebags, wrap and cut, or the open top catch bag method must be used. The open top catch bag method may be used only if the material to be removed is pre-formed RACM pipe insulation.
- (b) Scattered ACM. If the RACM is scattered in small patches, such as isolated pipe fittings, the following procedures may be used.

- (i) Glovebags, mini-enclosures as described in R307-801-14(5), or wrap and cut methods with drop cloths large enough to capture all RACM fragments that fall from the work area may be used.
- (ii) If all asbestos disturbance is limited to the inside of negative pressure glovebags or mini-enclosure, then openings need not be sealed and negative pressure need not be maintained outside of the glovebags or mini-enclosure during the asbestos removal operation.
- (iii) A remote decontamination unit may be used as described in R307-801-14(5)(d) only if an attached decontamination unit is not feasible.
- (4) During outdoor asbestos projects, the work practices of R307-801-8 shall be followed, with the following modifications:
- (a) Negative pressure need not be maintained if there is not an enclosure;
- (b) Six mil polyethylene or equivalent drop cloth large enough to capture all RACM fragments that fall from the work area shall be used; and
- (c) A remote decontamination unit as described in R307-801-14(5)(d) may be used.
 - (5) Special work practices.
 - (a) If the wrap and cut method is used:
- (i) The component shall be cut at least 6 inches from any RACM on that component;
- (ii) If asbestos will be removed from the component to accommodate cutting, the asbestos removal shall be done using a single glove bag for each cut, and no RACM shall be disturbed outside of a glove bag;
- (iii) The wrapping shall be leak tight and shall consist of two layers of 6 mil polyethylene, each individually sealed with duct tape, and all RACM between the cuts shall be sealed inside wrap; and
- (iv) The wrapping shall remain intact and leak-tight throughout the removal and disposal process.
 - (b) If the open top catch bag method is used:
- (i) Asbestos waste bags that are leak tight and strong enough to hold contents securely shall be used;
- (ii) The bag shall be placed underneath the stripping operation to minimize ACM falling onto the drop cloth;
- (iii) All material stripped from the component shall be placed in the bag;
- (iv) One worker shall hold the bag and another worker shall strip the ACM into the bag; and
- (v) A drop cloth large enough to capture all RACM originating in the work area shall be used.
- (c) If glove bags are used, they shall be negative pressure, and the procedures required by 29 CFR 1926.1101(g)(5) shall be followed.
- (d) A remote decontamination unit may be used under the conditions set forth in R307-801-14(3)(b) or (4), or when approved by the executive secretary. The remote decontamination unit and procedures shall include:
- (i) Outerwear shall be HEPA vacuumed or removed, and additional clean protective outerwear shall be put on;
- (ii) Either polyethylene shall be placed on the path to the decontamination unit and the path shall be blocked or taped off to prevent public access, or workers shall be conveyed to the remote decontamination unit in a vehicle that has been lined with two

layers of 6 mil or thicker polyethelene sheeting or its equivalent; and

- (iii) The polyethylene path or vehicle liner shall be removed at the end of the project, and disposed of as asbestos waste.
- (e) Mini-enclosures, when used under approved conditions, shall conform to the requirements of 29 CFR 1926.1101(g)(5)(vi).

R307-801-15. Disposal and Handling of Asbestos Waste.

- (1) Containerize ACWM while adequately wet.
- (2) Asbestos waste containers shall be leak-tight and strong enough to hold contents securely.
- (3) Containers shall be labeled with the waste generator's name, address, and phone number, and the contractor's name and address, before they are removed from the work area.
- (4) Containerized RACM shall be disposed of at a landfill which complies with 40 CFR 61.150.
- (5) The waste shipment record shall include a list of items and the amount of asbestos waste being shipped. The waste generator originates and signs this document.

R307-801-16. Records.

- (1) Certified asbestos companies shall maintain records of all asbestos projects that they perform and shall make these records available to the executive secretary upon request. The records shall be retained for at least five years. Maintained records shall include the following:
- (a) Names and state certification numbers of the asbestos workers and supervisors who performed the asbestos project;
- (b) Location and description of the asbestos project and amount of Friable ACM removed;
 - (c) Starting and completion dates of the asbestos project:
- (d) Summary of the procedures used to comply with applicable requirements including copies of all notifications; and
- (e) Waste shipment records maintained in accordance with 40 CFR Part 61, Subpart M, NESHAP.
 - (f) Asbestos surveys associated with the asbestos project.
- (2) All other persons subject to the inspection requirements of R307-801-9 shall maintain copies of asbestos survey reports for at least one year after renovation or demolition activities have ceased, and shall make these reports available to the executive secretary upon request.

KEY: air pollution, asbestos, asbestos hazard emergency response*, schools

2000

19-2-104(1)(d)

Notice of Continuation June 2, 1997 19-2-104(3)(r) through (t)
40 CFR Part 61, Subpart M

40 CFR Part 763, Subpart E

Fair Corporation (Utah State), Administration

R325-2-2

Selection of Exhibitors

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE No.: 22647
FILED: 02/04/2000, 09:57
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule will allow the Utah State Fair to procure companies or individuals as corporate sponsors, and in return give them the exclusive right to be the only vendor selling that particular product at events held at the State Fairpark throughout the year and at the annual State Fair.

SUMMARY OF THE RULE OR CHANGE: In the 1995 legislative session, H.B. 343, Subsection 9-4-1103(5)(a)(ii), the Utah State Fairpark is to "seek corporate sponsorships for the state fair park, and for individual buildings or facilities within the Fairpark." In order to procure many sponsorships, the sponsor will ask for the exclusive right to sell their product at a certain event (for example the annual State Fair) or at a particular venue, i.e., the Utah State Fairpark. Bringing a new corporate sponsor on from year-to-year with product exclusivity may require Fairpark Management to exclude other companies or vendors who have participated in events at the Fairpark or annual State Fairs in the past. Since sponsorships may change on a year-to-year basis they will not be governed by Commercial Exhibit rules for renewing exhibitor space leases.

(**DAR Note:** H.B. 343 is found at 1995 Utah Laws 260, and was effective July 1, 1995.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63-46a-3(2)

ANTICIPATED COST OR SAVINGS TO:

- ♦ THE STATE BUDGET: None--this rule change only affects companies or individuals who sign on to become exclusive sponsors. The only cost is the negotiated sponsorship amount.
- ♦LOCAL GOVERNMENTS: None--this rule change only affects companies or individuals who sign on to become exclusive sponsors. The only cost is the negotiated sponsorship amount.
- ♦OTHER PERSONS: None--this rule change only affects companies or individuals who sign on to become exclusive sponsors. The only cost is the negotiated sponsorship amount.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The only cost to affected persons would be the negotiated sponsorship amount made by a company or individual at their own free will and choice.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The only fiscal impact this rule may have on other businesses would be the lost sales on goods or services from not being able to participate in events at the State Fairpark or participate in the annual State Fair.

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

Fair Corporation (Utah State) Administration 155 North 1000 West Salt Lake City, UT 84116, or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kelly West at the above address, by phone at (801) 538-8441, by FAX at (801) 538-8455, or by Internet E-mail at kellyw@fiber.net.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/31/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2000

AUTHORIZED BY: Kelly West, Assistant to the Director

R325. Fair Corporation (Utah State), Administration. R325-2. Utah State Fair Commercial Exhibitor Rules. R325-2-2. Selection of Exhibitors.

- (a) Exhibit space lease agreements shall be negotiated with the Commercial Exhibits Supervisor for the use of Fairpark exhibit space on a year by year basis. Space may be awarded or declined based on a need for variety and best-use determined by the Commercial Exhibits Supervisor, executive director and/or board of directors.
- (b) The Commercial Exhibit Supervisor, executive director and/or board of directors may elect to renew exhibit space lease agreements for space to those exhibitors desiring to participate in the next succeeding year's fair. Application forms for such selected exhibitors shall be made available in February. Such a renewal is conditioned upon the previous year's exhibitor's fulfillment of the exhibit space lease agreement, adherence to the rules and regulations as outlined in the Commercial Exhibitor Handbook and regardless of the number of years an exhibitor may have participated in prior Utah State Fairs.
- (c) Applications from new or prior exhibitors will be accepted after March 20. The Commercial Exhibit Supervisor, executive director and/or board of directors may limit the numbers of similar types of exhibits in order to give Fairpark patrons the most appropriate variety. Such selection decisions shall be unrelated to an exhibitor's products or services involving content of speech matters.
- (d) All commercial exhibit applications shall be considered and accepted on a first-come, first served basis by date received and then alphabetically.
- (e) In accordance with the statutory charge to the Utah State Fair Corporation to seek "financial...self sufficiency" and to "seek Corporate Sponsorships for the State Fairpark", the Utah State Fair Corporation reserves the right to sell exclusive sponsorships which may limit commercial exhibit vendors from previous years from participating in the Fair or other times of the year during the period of such exclusive sponsorship. Sponsorships are not governed by Commercial Exhibit rules for renewing exhibitor space leases.

KEY: fairs, rules and procedures [August 19, 1999]2000 Notice of Continuation October 29, 1996

9-4-1103

Human Services, Administration, Administrative Services, Licensing

R501-13

Core Standards for Adult Day Care Programs

NOTICE OF PROPOSED RULE

(Repeal and reenact) DAR FILE No.: 22661 FILED: 02/14/2000, 13:50 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: When Rule R501-13 was initially established, it was anticipated there would be a "core" component, and additional "categories," of adult day care programs. It has been determined that this division is not needed, so the order of the rules has been rearranged to coincide with other Office of Licensing rules. To update staffing ratio changes (Section R501-13-13), based on provider, division, and Licensing Board input. Old rules were not considered to be realistic, and did not take into account special needs of Alzheimer's patients. Changes from "client" to "consumer" are made to establish consistency with other rules. The general organization is revised to also provide consistency with other rules

SUMMARY OF THE RULE OR CHANGE: The rule changes the staff to consumer ratio, has minor grammatical changes, and a general reorganization of the rule to provide greater consistency with other Office of Licensing rules. It allows more persons that do not have a diagnosis of Alzheimer's or other serious dementia, to be served with one staff. The change allows up to eight consumers instead of the previous six. It then follows a simple formula of an additional staff person for each eight thereafter. The current rule is vague, and unnecessarily complex, with additional staff for seven to ten consumers, 1:10 ratio for 11 or more consumers, with exceptions for consumers with motor impairments or other "needs." The new ratio also takes the consumer with serious problems into account, but sets the limit at six if more than one half have serious problems. It is easier for providers to know what staffing should be used and for divisions to monitor compliance.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 62A-2-101 through 62A-2-121

ANTICIPATED COST OR SAVINGS TO:

♦THE STATE BUDGET: There is no anticipated cost or savings to the state. It was determined that a division of core and categorical rules was not needed for this rule. Therefore the rule has been reorganized and restructured to coincide with other Office of Licensing rules. Staff to consumer ratios have been changed according to division, provider, and Licensing Board input. The basic intent of the rule has not changed.

♦LOCAL GOVERNMENTS: There is no cost or savings to local government as these rules do not apply to local government. ♦OTHER PERSONS: There would be no change in compliance costs for other persons. This rule has been reorganized and restructured to coincide with other Office of Licensing rules. It also has some changes in staff to consumer ratios based on provider, division, and Licensing Board input, which could result in slight savings to providers if staffing ratios are reduced. The basic intent of the rule has not changed.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There should be no change in compliance costs for the affected persons. This rule has been reorganized and restructured to coincide with other Office of Licensing rules. The rule also has some changes in staff to consumer ratios, so there could be slight savings to providers if staffing ratios are reduced. The basic intent of the rule has not been changed.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: It may help business slightly. If there is a large Adult Day Care operation, the multiples of eight compared to six could cause them to have some staff savings.

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

Human Services
Administration, Administrative Services,
Licensing
Room 303
120 North 200 West
Salt Lake City, UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gayle Sedgwick at the above address, by phone at (801) 538-4242, by FAX at (801) 538-4553, or by Internet E-mail at hsadmin2.gsedgwic@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 04/03/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 04/04/2000

AUTHORIZED BY: Reta D. Oram, Director

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

[R501-13. Core Standards for Adult Day Care Programs. R501-13-1. Definition.

Core Standards are the license requirements with which Human Service Programs must comply:

R501-13-2. Program Administration.

- A. There shall be a written statement of purpose to include:
- 1. mission statement,
- 2. description of services provided,
- description of services not provided,
- 4. description of population to be served,
- 5. fees to be charged, and
- 6. participation of clients in activities related to fund raising, publicity, research projects, and work activities that benefit anyone other than the client.
- B. The above statements shall be given to the client and responsible person(s) and shall be available to the Office and the public on request. Notice of such availability and the State license shall be posted.
- C. There shall be a quality assurance plan to include a description of methods and standards used to assure high quality services. Implementation of the plan shall be documented and available for review by the Office, and the client.
- D. There shall be written reports of all client grievances and their conclusion or disposition. Grievance reports shall be maintained on-site.
- E. The program shall have clearly stated guidelines and administrative procedures to ensure:
 - 1. program management,
- 2. maintenance of complete and accurate accounts, books, and records and
- 3. records are maintained in an accessible, standardized order and retained as required by law.
- F. All program staff, consultants, volunteers, interns and other personnel shall read and sign the Department of Human Services Provider Code of Conduct.
- G. Each program shall comply with State and Federal laws regarding abuse, and shall post a copy of State Law (U.C.A. Section 62A-3-301) and provide an informational flyer to each elient/responsible person.
- H. The program shall meet American Disabilities Act (ADA) guidelines and make reasonable accommodation for clients and staff. ADA guidelines and reasonable accommodation shall be determined by the authority having jurisdiction.
- I. The program shall comply with local building code enforcement for disability accessibility.

R501-13-3. Governance.

- A. The program shall have a governing body which has responsibility for and authority over the policies, procedures and activities of the program.
 - B. The governing body shall be one of the following:
- a Board of Directors in a non-profit organization; or
- 2. commissioners or appointed officials of a governmental unit; or
- 3. Board of Directors or individual owner(s) of a for-profit organization.
- C. The program shall have a list of members of the governing body, indicating name, address and term of membership.
- D. The program shall have an organization chart which identifies operating units of the program and their interrelationships. The chart shall define lines of authority and responsibility for all program staff.

- E. When the governing body is composed of more than one person, the governing body shall establish by-laws, and shall hold formal meetings at least twice a year to evaluate quality assurance for the client. A written record of meetings including date, attendance, agenda and actions shall be maintained on-site.
 - F. The responsibilities of the governing body shall be:
- 1. to ensure program policy and procedure compliance,
- 2. to ensure continual compliance with relevant local, state and federal requirements.
- 3. to notify the Office within thirty (30) days of changes in program administration and/or purpose, and
- 4. to ensure that the program is adequately funded and fiscally sound:

R501-13-4. Statutory Authority.

- A. A publicly operated program shall document the statutory basis for existence.
- B. A privately operated program shall document ownership and/or incorporation.

R501-13-5. Record Keeping.

- A. The Director shall maintain the following information onsite:
- organizational chart,
- 2. by-laws of the governing body if applicable,
- 3. minutes of formal meetings,
- 4. daily client attendance records,
- 5. all program related leases, contracts and purchase-of-service agreements to which the governing body is a party,
- 6. annual budgets and audit reports,
- 7. annual fire inspection report and any other inspection reports as required by law, and
- 8. copies of all policies and procedures.
- B. The Director shall have written, individual client records on-site to include:
- demographic information,
 - 2. Medicaid and Medicare number, when appropriate,
- 3. biographical information,
 - pertinent background information;
- a. personal history, including social, emotional, and physical development.
- b. legal status, including consent forms for dependent clients, and
- c. emergency contact(s) with name, address and phone number.
- client health records including;
- a. record of medication including dosage and administration,
- b. a current health assessment signed by a physician, and
 - c. signed consent form,
- 6. intake assessment,
- 7. signed client agreement, and
- 8. copy of clients' individual service plan.
- C. The Director shall have an employment file on-site for each staff nerson.
- D. The Office shall have the authority to review center records at anytime:

R501-13-6. Direct Service Management.

- A. The program shall have a written eligibility, admission and discharge policy and procedure to include:
 - 1. intake process,
- self-admission.
- 3. notification of responsible person(s),
- 4. reasons for admission refusal to include a written, signed statement, and
 - reasons for discharge or dismissal.
 - B. Intake Assessment
- 1. Before a program admits a client, a written assessment shall be completed to evaluate current health and medical history, legal status, social, psychological and, as appropriate, developmental, vocational or educational factors.
- 2. In emergency drop-in care situations which necessitate immediate placement, the assessment shall be completed on the same day of service in all situations.
- 3. All methods used shall consider age, cultural background, dominant language, and mode of communication.
- 4. Client legal status according to State Law shall be determined as relates to responsible person(s) who may have legal authority to make decisions on client's behalf.
- C. Client agreement
- A written agreement, developed with the client, responsible person(s) and the Director or designee, shall be completed, signed by all parties, and kept in the client's record. It shall include:
 - rules of program,
- 2. client and family expectations as appropriate and agreed upon,
- 3. services to be provided and not provided and cost of service, including refunds,
- 4. authorization to serve and to obtain emergency medical care, and
- 5. arrangements regarding absenteeism, visits, vacation, mail, gifts, and telephone calls, as appropriate.
 - D. Individual Client Service Plan
- 1. A program staff member in collaboration with the Director, shall be assigned to each client and have responsibility and authority for development, implementation, and review of the individual client service plan.
- 2. The plan shall include:
- a. findings of the intake assessment and client records,
- b. individualized program plan to enhance client well-being,
- c. specification of daily activities and services,
 - d. methods for evaluation, and
- e. discharge summary.
- 3. Individual service plans shall be developed within three working days of admission and evaluated within 30 days of admission and every 90 days thereafter or as changes occur.
- 4. All persons working directly with the client shall review the individual service plan.
 - E. Incident or Crisis Intervention Reports
- 1. There shall be written reports to document client deaths, injuries, fights, or physical confrontations, situations requiring the use of passive physical restraints, suspected incidents of abuse or neglect, unusual incidents, and other situations or circumstances affecting the health, safety, or well-being of a client(s) while in care.

- 2. The report shall include:
 - a. summary information,
- b. date and time of emergency intervention,
- c. list of referrals if any,
- d. follow-up information, and
- e. signature of person preparing report and other witnesses confirming the contents of the report.
- 3. The report shall be completed within 48 hours of each occurrence and maintained in the individual client record.
- 4. When an incident or crisis involves abuse, neglect or death of a client, the Director or designee shall:
- a. prepare a preliminary written report within 24 hours of the incident, and
- b. immediately notify the Office, the client's legally responsible person(s), the nearest Human Services Office, and as appropriate law enforcement authority.

R501-13-7. Behavior Management.

- A. There shall be a written policy and procedure for methods of behavior management to include:
- 1. definition of appropriate and inappropriate client behaviors, and
- acceptable staff responses to inappropriate behaviors.
- B. The policy shall be provided to all staff prior to working with clients and staff shall receive annual training relative to behavior management.
- C. No staff member shall use, nor permit the use of physical restraint, humiliating or frightening methods of punishment on elients at anytime.
- D. Passive physical restraint shall be used only in behavioral related situations as a temporary means of physical containment to protect the client, other persons, or property from harm. Passive physical restraint shall not be associated with punishment in any way.

R501-13-8. Rights of Clients.

- A. The program shall have a written statement of client rights to include the following:
- 1. confidentiality of information and privacy for both current and closed client records,
- 2. reasons for involuntary termination and criteria for readmission to the program,
 - 3. potential harm or acts of violence to client or others,
- 4. client responsibilities including household tasks, privileges, and rules of conduct;
- service fees and other costs,
 - 6. grievance/complaint procedures,
- 7. freedom from discrimination,
 - 8. the right to be treated with dignity, and
- 9. the right to communicate with family, attorney, physician clergyman, and others.
- B. The client and responsible person shall be informed of the client rights statement to his or her understanding verbally and in writing.

R501-13-9. Personnel Administration.

- A. There shall be written policies and procedures to include:
- staff grievances,
- 2. lines of authority,

- orientation and on-going training,
- 4. performance appraisals, and
- rules of conduct.
- B. Individual staff and the Director shall review policy together:
- C. The program shall have a Director, appointed by the governing body, who shall be responsible for day to day program and facility management.
- D. The Director or designee shall be on-site at all times during program operating hours.
- E. The program shall employ a sufficient number of trained, licensed, and qualified staff in order to meet the needs of the clients, implement the service plan, and comply with licensing standards.
- F. The program shall have a written job description for each position, to include a specific statement of duties and responsibilities and the minimum required level of education, training and work experience.
- G. The governing body shall ensure that all staff are certified or licensed as legally required and appropriate to their assignment.
- H. The program shall have access to a physician licensed to practice medicine in the State of Utah.
- I. The Director shall have a file on-site for each staff person to include:
- 1. application for employment, including record of previous employment with references,
- 2. applicable credentials and certifications,
- 3. initial health evaluation including medical history,
- 4. Tuberculin test,
- food handler permit as required,
- training record, including first aid and CPR,
- 7. performance evaluations, and
- 8. signed copy of Code of Conduct.
- J. The Director shall submit a copy of the personnel or staff application form to the Office of Licensing within 72 hours of their first assignment for the purpose of background screening.
- K. Staff shall have access to his or her staff file and shall be allowed to add written statements to the file.
- L. Staff files shall be retained for at a minimum two years after termination of employment.
- M. A program using volunteers, student interns or other personnel, shall have a written policy to include:
- 1. direct supervision by a paid staff member,
- 2. orientation and training in the philosophy of the program, the needs of clients, and methods of meeting those needs,
 - character reference checks, and
- 4. all personnel shall complete an employment application and shall read and sign the Provider Code of Conduct. The application shall be maintained on-site for two years.
 - N. Staff Training:
- 1. Staff members shall be trained in all program policies and procedures.
- 2. Staff shall have First Aid Training and Food Handler permits as required to fulfill their job description. One staff person with certified First Aid and CPR training shall be on-site at all times.
- 3. The Department may require further specific training, which will be defined in applicable State contracts and categorical standards.

4. Training shall be documented and maintained in individual staff files

R501-13-10. Infectious Disease and Illness.

- A. The program shall have policies and procedures designed to prevent or control infectious and communicable diseases in the facility. (A technical assistance manual is available from the Office.)
- B. If a client shows signs of illness after arrival, staff shall contact the family or guardian immediately. The client shall be isolated:
- C. No client shall be admitted for care or allowed to remain at the center if there are signs of vomiting, diarrhea, fever or unexplained skin rash.
- D. Staff shall follow Department of Health rules in the event of communicable and infectious disease.

R501-13-11. Emergency Plans and General Safety.

- A. Each program shall have a written plan of action for disaster developed in coordination with local emergency planning services and agencies.
- B. Clients and staff shall receive instructions on how to respond to fire warnings and other instructions for life safety.
- C. The program shall have a written plan which staff follow in medical emergencies and in arrangements for medical care, including notification of client's physician and responsible person(s).
- D. Fire drills shall be conducted at least monthly at difference times during hours of operation, and documented. Notation of inadequate response shall be documented.
- E. The program shall have immediate access to 24 hour telephone service. Telephone numbers for emergency assistance shall be posted by the phone.
- F. The program shall have a complete First Aid Kit on-site, appropriate to program size.

R501-13-12. Transportation.

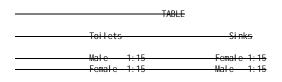
- A. There shall be written policy and procedures for transporting clients.
- B. A list of all passengers and the name, address and phone number of the program shall be maintained in each vehicle.
- C. There shall be a means of transportation in case of emergency.
- D. Vehicle drivers shall have a drivers license valid in Utah and follow safety requirements of State Motor Vehicles and Public Safety. Drivers shall have certified first aid and CPR training.
- E. Each vehicle shall be equipped with a well supplied first aid kit as recommended by the American Red Cross.
- F. A belt cutter shall be kept in all vehicles used to transport clients. The belt cutter shall be located in an easily accessible, safe place.
- G. Loose items shall be secured within the van to reduce the danger of flying objects in an emergency.

R501-13-13. Section C Categorical Standards for Adult Day Care Programs.

A. Definition

- Adult Day Care means the continuous care and supervision of three or more adults 18 years of age and over for at least four but less than 24 hours a day.
 - B. Purpose
- Adult Day Care is designed to meet the needs of functionally impaired adults through a comprehensive program that provides a variety of social, recreational and related support services in a protective setting.
 - C. Administration
- 1. A qualified Director shall be designated by the governing body to be responsible for day to day program operation.
- 2. Records as specified in core and categorical standards shall be maintained on-site.
- 3. Program personnel shall not handle individual client finances.
 - D. Program
- 1. Day Care activity plans shall be prepared to meet individual and group needs and preferences. Daily activity plans may include, community living skills, work activity, recreation, nutrition, personal hygiene, social appropriateness, and recreational activities that provide physical, social, psychological, and emotional development.
- 2. Activity plans shall be written, staff shall be oriented to their use, and shall be maintained on file at the center.
- 3. There shall be a daily schedule, posted and implemented as designed. The schedule shall include but is not limited to items in D.1. above:
- 4. Each client shall have the have the opportunity to use at least four of the following activity areas each day: general activities; sedentary activities; specialized activities; rest area; self-care area, appointed outdoor area; kitchen/nutrition area and reality orientation area.
- 5. A sufficient amount of equipment and materials shall be provided so that clients can participate in a variety of activities simultaneously.
- Clients shall receive direct supervision at all times and be encouraged to participate in activities.
- 7. All clients shall receive the same standard of care regardless of funding source:
- E. Staffing
- 1. Day Care Staffing Ratios
- a. When six or fewer clients are present one staff person shall provide direct supervision at all times with a second person meeting minimum staff requirements immediately available.
- b. When seven to ten clients are present two staff shall provide direct supervision at all times.
- c. A one to ten ratio shall be maintained in programs that provide care for eleven or more clients.
- d. In programs with eleven or more clients where 10% of the clients have motor impairments, the staff to client ratio shall be one
- e. Ratios shall be increased for various program components, depending on the needs of the clients and the particular program demands.
- f. Staff supervision shall be provided continually throughout staff training periods.

- g. For programs with 10 or more clients, Administrative and maintenance staff shall not be included in staff to client ratio.
 - 2. The Director shall meet one of the following credentials:
- a. a licensed nurse.
- b. a licensed social worker.
- c. a licensed psychologist,
- d. a recreational, or physical therapist, properly licensed or certified;
- e. other licensed professional in related fields who have demonstrated competence in working with functionally impaired adults, or
- f. a person that has received verifiable training to work with functionally impaired adults, and is in consultation on an on-going basis with licensed or certified professional(s) with Director credentials.
- 3. Directors shall obtain ten hours of related training on an annual basis.
 - 4. Minimum Staff Requirements:
- a. Staff shall be eighteen years of age or older and demonstrate competency in working with functionally impaired adults.
- b. Staff shall receive eight hours of initial orientation training designed by the Director to meet the needs of the program, plus 10 hours of work related training on a yearly basis.
 - F. Physical Environment
- 1. The governing body shall provide written documentation of compliance with:
 - a. local zoning (new license only),
- b. local business license,
- c. local building codes (new license only),
- d. fire regulations on a yearly basis, and
- e. local and State Health inspections as applicable, including but not limited to Utah Food Service and Sanitation Act.
- 2. In the event of ownership change, structural remodeling or a change in category of service, the Office of Licensing and other regulatory agencies shall be immediately notified.
 - 3. Building and Grounds:
- a. There shall be a minimum of fifty (50) square feet of indoor floor space per client designated specifically for day care during program operational hours. Hallways, office, storage, kitchens, and bathrooms shall not be included in computation.
- b. Outdoor recreational space on or off site and compatible recreational equipment shall be available to facilitate activity plans.
- c. All indoor and outdoor areas shall be maintained in a clean, secure and safe manner.
- d. Areas determined to be unsafe, including steep grades, cliffs, open pits, swimming pools, high voltage boosters, or high speed roads, shall be fenced off.
- e. Space shall be used exclusively for Adult Day Care during designated hours of operation.
 - 4. Bathrooms
- a. There shall be at least one bathroom exclusively for clients use during business hours. For facilities serving more than ten clients there shall be separate male and female bathrooms exclusively for client use.
- b. Adult day care programs shall provide:



- c. Bathrooms shall accommodate physically disabled clients.
- d. Each bathroom shall be properly supplied with toilet paper, individual disposable hand towels or air dryers, soap dispensers, and other items required for personal hygiene. Client personal items shall be labeled and stored separately for each client.
- e. Toilet rooms shall be ventilated by mechanical means or equipped with an operable screened window. Rest rooms shall be maintained in good operating order and a sanitary manner.
- f. Each toilet shall be individually stalled with closing doors for privacy.
 - G. Safety
- 1. All furniture and equipment shall be maintained in a clean and safe manner. Equipment shall be operated and maintained as specified by manufacturer instructions:
- 2. Grade level entrance, approved ramps, handrails and other safety features shall be provided as determined by local, State and federal regulations and fire authorities in order to facilitate safe movement.
- 3. Provisions of the Utah Clean Air Act shall be followed if smoking is allowed in the building:
- 4. Use of restrictive barriers shall be approved by fire authorities.
 - 5. Use of throw rugs is prohibited.
- 6. Hot water accessible to client shall be maintained at a temperature that does not exceed 110 Fahrenheit.
- 7. Secured storage area inaccessible to clients shall be used for volatile and toxic substances.
- 8. Heating, ventilation, and lighting shall be adequate to protect the health of the clients. Indoor temperature shall be maintained at a minimum of 70 Fahrenheit.
 - H. Food Service
 - 1. Meals provided by program:
- a. Kitchens used for meal preparation shall be provided with the necessary equipment for the preparation, storage, serving and clean-up of all meals. All equipment shall be maintained in working order. Food preparation areas shall be maintained in sanitary condition.
 - b. One person shall be responsible for food service.
- c. The person responsible for food service shall maintain a current list of clients with special nutritional needs and/or allergies; records of the clients special nutritional needs shall be kept in the client's service records. Food shall be prepared and served in accordance with special nutritional needs.
- 2. Food Activities in which clients participate shall be directly supervised by staff with a food handlers permit.
- 3. Catered foods and beverages provided from outside sources shall have adequate on-site storage and refrigeration as well as a method to maintain adequate temperature control.

- 4. Dining space shall be designated and maintained in a sanitary manner.
- 5. Menus shall be approved by a registered dictitian unless the facility is participating in the Federal Adult and Child Nutrition program administrated through the State Office of Education.
- 6. Clients shall receive meals and/or snacks according to the following:

	TABLE
Hours in Care	Meals/Snacks That Shall Be Served
8 or more hours	1 meal and 2 snacks or 2 meals and 1 snack
4 hours but less than 8 hours	1 meal and 2 snacks
4 hours or less	

- Sufficient food shall be available for second servings.
- 8. There shall be no more than three hours between snack/meal service:
 - 9. Powdered milk shall be used for cooking only.
 - I. Medication
- 1. All prescribed and over the counter medication shall be provided by the client, responsible person(s) or by special arrangement with a licensed pharmacy.
- 2. All medications shall be clearly labeled. Medication shall be stored in a locked storage area. Refrigeration shall be provided as needed with medication stored in a separate container.
- 3. There shall be written policy and procedure to include self administered medication, medication administered by persons with legal authority to do so and the storage, control, release, and disposal of drugs in accordance with federal and state law.
- 4. Any assisted administration of medication shall be documented daily by the Director or designee.

KEY: licensing, human services

1992 62A-4

Notice of Continuation November 7, 1997]

R501-13. Adult Day Care.

R501-13-1. Authority.

Pursuant to 62A-2-101 et seq., the Office of Licensing, hereinafter referred to as Office, shall license adult day care programs according to the following rules.

R501-13-2. Purpose.

Adult day care is designed to meet the needs of functionally impaired adults through a comprehensive program that provides a variety of social, recreational and related support services in a protective setting.

R501-13-3. Definition.

Pursuant to 62A-2-101(1) adult day care means continuous care and supervision for three or more adults 18 years of age and over for at least four but less than 24 hours a day, that meets the needs of functionally impaired adults through a comprehensive program that provides a variety of health, social, recreational, and related support services in a protective setting.

R501-13-4. Governance.

- A. The program shall have a governing body which has responsibility for and authority over the policies, procedures and activities of the program.
 - B. The governing body shall be one of the following:
 - 1. a Board of Directors in a nonprofit organization; or
- 2. commissioners or appointed officials of a governmental unit; or
- 3. Board of Directors or individual owners of a for-profit organization.
- C. The program shall have a list of members of the governing body, indicating name, address and term of membership.
- D. The program shall have an organization chart which identifies operating units of the program and their interrelationship. The chart shall define lines of authority and responsibility for all program staff.
- E. When the governing body is composed of more than one person, the governing body shall establish bylaws, and shall hold formal meetings at least twice a year to evaluate quality assurance. A written record of meetings including date, attendance, agenda and actions shall be maintained on-site.
- F. The responsibilities of the governing body shall be as follows:
 - 1. to ensure program policy and procedure compliance,
- 2. to ensure continual compliance with relevant local, state and federal requirements,
- 3. to notify the Office within thirty days of changes in program administration or purpose, and
 - 4. to ensure that the program is fiscally sound.

R501-13-5. Statutory Authority.

- A. A publicly operated program shall document the statutory basis for existence.
- B. A privately operated program shall document ownership or incorporation.

R501-13-6. Program Administration.

- A. A qualified Director shall be designated by the governing body to be responsible for day to day program operation.
 - B. Records as specified shall be maintained on-site.
 - C. Program personnel shall not handle consumer finances.
- <u>D. There shall be a written statement of purpose to include the following:</u>
 - 1. mission statement,
 - description of services provided,
 - 3. description of services not provided,
 - 4. description of population to be served,
 - 5. fees to be charged, and
- 6. participation of consumers in activities related to fund raising, publicity, research projects, and work activities that benefit anyone other than the consumer.
- E. The statement of purpose shall be provided to the consumer and the responsible person and shall be available to the Office, upon request. Notice of such availability shall be posted.
- F. There shall be a quality assurance plan to include a description of methods and standards used to assure high quality services. Implementation of the plan shall be documented and available for review by the Office, the consumer, and the responsible person.

- G. There shall be written reports of all grievances and their conclusion or disposition. Grievance reports shall be maintained on-site.
- H. The program shall have clearly stated guidelines and administrative procedures to ensure the following:
 - 1. program management,
- maintenance of complete and accurate accounts, books, and records, and
- 3. maintenance of records in an accessible, standardized order and retained as required by law.
- I. All program staff, consultants, volunteers, interns and other personnel shall read, understand, and sign the current Department of Human Services, hereinafter referred to as DHS, Provider Code of Conduct.
- J. The program shall post their license in a conspicuous place on the premises.
- K. Each program shall comply with State and Federal laws regarding abuse, shall post a copy of State Law 62A-3-301, and provide an informational flyer to each consumer and the responsible person.
- L. The program shall meet American Disabilities Act,(ADA) guidelines and make reasonable accommodation for consumers and staff. ADA guidelines and reasonable accommodation shall be determined by the authority having jurisdiction.
- M. The program shall comply with local building code enforcement for disability accessibility.

R501-13-7. Record Keeping.

- A. The Director shall maintain the following information onsite at all times:
 - 1. organizational chart,
 - 2. bylaws of the governing body if applicable,
 - 3. minutes of formal meetings,
 - 4. daily consumer attendance records,
- 5. all program related leases, contracts and purchase-ofservice agreements to which the governing body is a party,
 - 6. annual budgets and audit reports,
- 7. annual fire inspection report and any other inspection reports as required by law, and
 - 8. copies of all policies and procedures.
- B. The Director shall have written records onsite for each consumer, to include the following:
 - 1. demographic information,
 - 2. Medicaid and Medicare number, when appropriate,
 - 3. biographical information,
 - 4. pertinent background information,
- a. personal history, including social, emotional, and physical development,
- b. legal status, including consent forms for dependent consumers, and
- c. an emergency contact with name, address and telephone number,
 - 5. consumer health records including the following,
 - a. record of medication including dosage and administration,
 - b. a current health assessment signed by a physician, and
 - c. signed consent form,
 - 6. intake assessment,
 - 7. signed consumer agreement, and
 - 8. copy of consumers' service plan.

- C. The Director shall have an employment file on-site for each staff person.
- D. The Office shall have the authority to review program records at anytime.

R501-13-8. Direct Service Management.

- A. The program shall have a written eligibility, admission and discharge policy and procedure to include the following:
 - 1. intake process,
 - 2. self-admission,
 - 3. notification of the responsible person,
- 4. reasons for admission refusal which includes a written, signed statement, and
 - 5. reasons for discharge or dismissal.
 - B. Intake Assessment
- 1. Before a program admits a consumer, a written assessment shall be completed to evaluate current health and medical history, legal status, social, psychological and, as appropriate, developmental, vocational or educational factors.
- 2. In emergency drop-in care situations which necessitate immediate placement, the assessment shall be completed on the same day of service in all situations.
- 3. All methods used during intake shall consider age, cultural background, dominant language, and mode of communication.
- 4. During intake, the consumer's legal status, according to State Law, shall be determined as it relates to the responsible person who may have legal authority to make decisions on the consumer's behalf.
 - C. Consumer Agreement
- A written agreement, developed with the consumer, the responsible person and the Director or designee, shall be completed, signed by all parties, and kept in the consumer's record. It shall include the following:
 - 1. rules of program,
- 2. consumer and family expectations as appropriate and agreed upon,
- 3. services to be provided and not provided and cost of service, including refunds,
- 4. authorization to serve and to obtain emergency medical care, and
- 5. arrangements regarding absenteeism, visits, vacation, mail, gifts, and telephone calls, as appropriate.
 - D. Individual Consumer Service Plan
- 1. A program staff member in collaboration with the Director, shall be assigned to each consumer and have responsibility and authority for development, implementation, and review of the individual consumer service plan.
 - 2. The plan shall include the following:
 - a. findings of the intake assessment and consumer records,
- b. individualized program plan to enhance consumer well-being,
 - c. specification of daily activities and services,
 - d. methods for evaluation, and
 - e. discharge summary.
- 3. Individual consumer service plans shall be developed within three working days of admission and evaluated within 30 days of admission and every 90 days thereafter or as changes occur.
- 4. All persons working directly with the consumer shall review the individual consumer service plan.

- E. Incident or Crisis Intervention Reports
- 1. There shall be written reports to document consumer death, injuries, fights, or physical confrontations, situations requiring the use of passive physical restraints, suspected incidents of abuse or neglect, unusual incidents, and other situations or circumstances affecting the health, safety, or well-being of a consumer while in care.
 - 2. The report shall include the following:
 - a. summary information,
 - b. date and time of emergency intervention,
 - c. list of referrals if any,
 - d. follow-up information, and
- e. signature of person preparing report and other witnesses confirming the contents of the report.
- 3. The report shall be completed within 48 hours of each occurrence and maintained in the individual consumer's record.
- 4. When an incident or crisis involves abuse, neglect or death of a consumer, the Director or designee shall document the following:
- a. a preliminary written report within 24 hours of the incident, and
- b. immediate notification to the Office, the consumer's legally responsible person, the nearest Human Services office, and as appropriate a law enforcement authority.

R501-13-9. Direct Service.

- A. Adult day care activity plans shall be prepared to meet individual consumer and group needs and preferences. Daily activity plans may include, community living skills, work activity, recreation, nutrition, personal hygiene, social appropriateness, and recreational activities that facilitate physical, social, psychological, and emotional development.
- B. Activity plans shall be written, staff shall be oriented to their use, and shall be maintained on file at the program.
- C. There shall be a daily schedule, posted and implemented as designed.
- D. Each consumer shall have the opportunity to use at least four of the following activity areas each day: general activities, sedentary activities, specialized activities, rest area, self care area, appointed outdoor area, kitchen and nutrition area, and reality orientation area.
- E. A sufficient amount of equipment and materials shall be provided so that consumers can participate in a variety of activities simultaneously.
- F. Consumers shall receive direct supervision at all times and be encouraged to participate in activities.
- G. All consumers shall receive the same standard of care regardless of funding source.

R501-13-10. Behavior Management.

- A. There shall be a written policy and procedure for methods of behavior management to include the following:
- 1. definition of appropriate and inappropriate consumer behaviors, and
 - 2. acceptable staff responses to inappropriate behaviors.
- B. The policy shall be provided to all staff prior to working with consumers and staff shall receive annual training relative to behavior management.

- C. No staff member shall use, nor permit the use of physical restraint, humiliating or frightening methods of punishment on consumers at anytime.
- D. Passive physical restraint shall be used only in behavioral related situations as a temporary means of physical containment to protect the consumer, other persons, or property from harm. Passive physical restraint shall not be associated with punishment in any way.

R501-13-11. Rights of Consumers.

- A. The program shall have a written statement of consumers' rights to include the following:
- 1. privacy of information and privacy for both current and closed consumers' records,
- <u>2. reasons for involuntary termination and criteria for readmission to the program,</u>
 - 3. potential harm or acts of violence to consumers or others,
- 4. consumers' responsibilities including household tasks, privileges, and rules of conduct,
 - 5. service fees and other costs,
 - 6. grievance and complaint procedures,
 - 7. freedom from discrimination,
 - 8. the right to be treated with dignity, and
- 9. the right to communicate with family, attorney, physician clergyman, and others.
- B. The consumer and the responsible person shall be informed of the consumer rights statement to his or her understanding verbally and in writing.

R501-13-12. Personnel Administration.

- A. There shall be written policies and procedures to include the following:
 - 1. staff grievances,
 - 2. lines of authority,
 - 3. orientation and ongoing training,
 - 4. performance appraisals, and
 - 5. rules of conduct.
- B. Individual staff and the Director shall review policy together.
- C. The program shall have a Director, appointed by the governing body, who shall be responsible for day to day program and facility management.
- <u>D. The Director or designee shall be on-site at all times during program operating hours.</u>
- E. The program shall employ a sufficient number of trained, licensed, and qualified staff in order to meet the needs of the consumers, implement the service plan, and comply with licensing rules.
- F. The program shall have a written job description for each position, to include a specific statement of duties and responsibilities and the minimum required level of education, training and work experience.
- G. The governing body shall ensure that all staff are certified or licensed as legally required and appropriate to their assignment.
- H. The program shall have access to a physician licensed to practice medicine in the State of Utah.
- <u>I.</u> The Director shall have a file on-site for each staff person to include the following:

- 1. application for employment, including record of previous employment with references,
 - 2. applicable credentials and certifications,
 - 3. initial health evaluation including medical history,
 - 4. Tuberculin test,
 - 5. food handler permit as required,
 - 6. training record, including first aid and CPR,
 - 7. performance evaluations, and
 - 8. signed copy of Code of Conduct.
 - J. Provisions of R501-14 and R501-18 shall be met.
- K. Staff shall have access to his or her staff file and shall be allowed to add written statements to the file.
- L. Staff files shall be retained for a minimum of two years after termination of employment.
- M. A program using volunteers, student interns or other personnel, shall have a written policy to include the following:
 - 1. direct supervision by a paid staff member,
- 2. orientation and training in the philosophy of the program, the needs of consumers, and methods of meeting those needs,
 - 3. character reference checks, and
- 4. all personnel shall complete an employment application and shall read and sign the current Provider Code of Conduct. The application shall be maintained on-site for two years.
 - N. Staff Training:
- 1. Staff members shall be trained in all program policies and procedures.
- 2. Staff shall have Food Handler permits as required to fulfill their job description. The program shall have a staff person trained, by a certified instructor, in first aid and CPR on duty with the consumers at all times.
- 3. DHS may require further specific training, which will be defined in applicable State contracts.
- 4. Training shall be documented and maintained in individual staff files.

R501-13-13. Staffing.

- A. Adult Day Care Staffing Ratios
- 1. When eight or fewer consumers are present, one staff person shall provide direct supervision at all times with a second staff person meeting minimum staff requirements immediately available.
- 2. When nine to 16 consumers are present, two staff shall provide direct supervision at all times. The ratio of one staff person per eight consumers will continue progressively.
- 3. In all programs where one-half or more of the consumers are diagnosed by a physician's assessment with Alzheimer, or related dementia, the ratio shall be one staff for each six consumers.
- 4. Staff supervision shall be provided continually throughout staff training periods.
- 5. For programs with nine or more consumers, administrative and maintenance staff shall not be included in staff to consumer ratio.
 - B. The Director shall meet one of the following credentials:
 - 1. a licensed nurse,
 - 2. a licensed social worker,
 - 3. a licensed psychologist,

- 4. a recreational, or physical therapist, properly licensed or certified,
- 5. other licensed professionals in related fields who have demonstrated competence in working with functionally impaired adults, or
- 6. a person that has received verifiable training to work with functionally impaired adults, and is in consultation on an ongoing basis with a licensed or certified professional with Director credentials.
- C. Directors shall obtain 10 hours of related training on an annual basis.
 - D. Minimum Staff Requirements
- 1. Staff shall be 18 years of age or older and demonstrate competency in working with functionally impaired adults.
- 2. Staff shall receive eight hours of initial orientation training designed by the Director to meet the needs of the program, plus 10 hours of work related training on a yearly basis.

R501-13-14. Physical Facility.

- A. The governing body shall provide written documentation of compliance with the following:
 - 1. local zoning,
 - 2. local business license,
 - 3. local building codes,
 - 4. local fire safety regulations, and
- 5. local health codes, as applicable, including but not limited to Utah Food Service and Sanitation Act.
- B. In the event of ownership change, structural remodeling or a change in category of service, the Office and other regulatory agencies shall be immediately notified.
 - C. Building and Grounds
- 1. The program shall ensure that the appearance and cleanliness of the building and grounds are maintained.
- 2. The program shall take reasonable measures to ensure a safe physical environment for its consumers and staff.

R501-13-15. Physical Environment.

- A. There shall be a minimum of fifty square feet of indoor floor space per consumer designated specifically for adult day care during program operational hours. Hallways, office, storage, kitchens, and bathrooms shall not be included in computation.
- B. Outdoor recreational space on or off site and compatible recreational equipment shall be available to facilitate activity plans.
- C. All indoor and outdoor areas shall be maintained in a clean, secure and safe condition.
- D. Areas determined to be unsafe, including steep grades, cliffs, open pits, swimming pools, high voltage boosters, or high speed roads, shall be fenced off.
- E. Space shall be used exclusively for adult day care during designated hours of operation.
 - F. Bathrooms
- 1. There shall be at least one bathroom exclusively for consumers use during business hours. For facilities serving more than ten consumers there shall be separate male and female bathrooms exclusively for consumer use.
 - 2. Adult day care programs shall provide the following:

TABLE 1

 Toi l ets		Si nks
Mal e	1: 15	Female 1:15
Female	1: 15	Male 1:15

- Bathrooms shall accommodate physically disabled consumers.
- 4. Each bathroom shall be properly supplied with toilet paper, individual disposable hand towels or air dryers, soap dispensers, and other items required for personal hygiene. Consumers' personal items shall be labeled and stored separately for each consumer.
- 5. Toilet rooms shall be ventilated by mechanical means or equipped with a screened window that opens. Toilet rooms shall be maintained in good operating order and in a clean and safe condition.
- 6. Each toilet shall be individually stalled with closing doors for privacy.
 - G. Safety
- All furniture and equipment shall be maintained in a clean and safe condition. Equipment shall be operated and maintained as specified by manufacturer instructions.
- 2. Grade level entrance, approved ramps, handrails and other safety features shall be provided as determined by local, state and federal regulations and fire authorities in order to facilitate safe movement.
- 3. Provisions of the Utah Clean Air Act shall be followed if smoking is allowed in the building.
- 4. Use of restrictive barriers shall be approved by fire authorities.
 - 5. Use of throw rugs is prohibited.
- <u>6. Hot water accessible to consumers shall be maintained at a temperature that does not exceed 110 Fahrenheit.</u>
- 7. A secured storage area, inaccessible to consumers, shall be used for volatile and toxic substances.
- 8. Heating, ventilation, and lighting shall be adequate to protect the health of the consumers. Indoor temperature shall be maintained at a minimum of 70 Fahrenheit.
 - H. Food Service
 - 1. Meals provided by program:
- a. Kitchens used for meal preparation shall be provided with the necessary equipment for the preparation, storage, serving and clean up of all meals. All equipment shall be maintained in working order. Food preparation areas shall be maintained in a clean and safe condition.
 - b. One person shall be responsible for food service.
- c. The person responsible for food service shall maintain a current list of consumers with special nutritional needs or allergies. Records of consumer special nutritional needs shall be kept in the consumer's service records. Food shall be prepared and served in accordance with special nutritional needs.
- 2. Food activities in which consumers participate shall be directly supervised by staff with a food handlers permit.
- 3. Catered foods and beverages provided from outside sources shall have adequate on-site storage and refrigeration as well as a method to maintain adequate temperature control.
- Dining space shall be designated and maintained in a clean and safe condition.

- 5. Menus shall be approved by a registered dietitian unless the program is participating in the Federal Adult and Child Nutrition program administrated through the State Office of Education.
- <u>6. Consumers shall receive meals or snacks according to the following:</u>

TABLE 2

Hours in Care	Meals/Snacks That Shall Be Served
8 or more hours	1 meal and 2 snacks or 2 meals and 1 snack
4 hours but less than 8 hours	1 meal and 2 snacks
4 hours or less	1 snack

- 7. Sufficient food shall be available for second servings.
- 8. There shall be no more than three hours between snack or meal service.
 - 9. Powdered milk shall be used for cooking only.
 - I. Medication
- 1. All prescribed and over the counter medication shall be provided by the consumer, the responsible person or by special arrangement with a licensed pharmacy.
- 2. All medications shall be clearly labeled. Medication shall be stored in a locked storage area. Refrigeration shall be provided as needed with medication stored in a separate container.
- 3. There shall be written policy and procedure to include self administered medication, medication administered by persons with legal authority to do so and the storage, control, release, and disposal of medication in accordance with federal and state law.
- 4. Any assisted administration of medication shall be documented daily by the Director or designee.

R501-13-16. Infectious Disease and Illness.

- A. The program shall have policies and procedures designed to prevent or control infectious and communicable diseases in the facility.
- B. If a consumer shows signs of illness after arrival, staff shall contact the family or the responsible person immediately. The consumer shall be isolated.
- C. No consumer shall be admitted for care or allowed to remain at the program if there are signs of vomiting, diarrhea, fever or unexplained skin rash.
- <u>D. Staff shall follow Department of Health rules in the event of suspected communicable and infectious disease.</u>

R501-13-17. Emergency Plans and General Safety.

- A. Each program shall have a written plan of action for disaster developed in coordination with local emergency planning services and agencies.
- B. Consumers and staff shall receive instructions on how to respond to fire warnings and other instructions for life safety.
- C. The program shall have a written plan which staff follow in medical emergencies and in arrangements for medical care, including notification of consumers' physician and the responsible person.

- D. Fire drills shall be conducted at least monthly at different times during hours of operation, and documented. Notation of inadequate response shall be documented.
- E. The program shall have immediate access to 24 hour telephone service. Telephone numbers for emergency assistance shall be posted by the telephone.
- F. The program shall have an adequately supplied first aid kit on-site, appropriate to program size.

R501-13-18. Transportation.

- A. There shall be written policy and procedures for transporting consumers.
- B. A list of all occupants or consumers, and the name, address and phone number of the program shall be maintained in each vehicle.
- C. There shall be a means of transportation in case of emergency.
- D. Vehicle drivers shall have a drivers license valid in the State of Utah and follow safety requirements of State Motor Vehicles and Public Safety. Drivers shall have certified first aid and CPR training.
- E. Each vehicle shall be equipped with an adequately supplied first aid kit.
- F. A belt cutter shall be kept in all vehicles used to transport consumers. The belt cutter shall be located in an easily accessible, safe place.
- G. Loose items shall be secured within the vehicle to reduce the danger of flying objects in an emergency.

KEY: human services, licensing

April 4, 2000

62A-2-101 et seq.

Notice of Continuation November 7, 1997

62A-4

Human Services, Aging and Adult Services

R510-302

Adult Protective Services

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE No.: 22659
FILED: 02/10/2000, 13:15
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The fiveyear review was due on this rule and the proposed amendments update the rule to reflect current statute and policy.

SUMMARY OF THE RULE OR CHANGE: State statute changed to include the term "elder adult" (Subsection 62A-3-301(8)). One of the forms discussed in the rule changed names. Adult Protective Services (APS) now has a central intake to

take telephone calls. APS is now using a fee schedule to assess fees on protective payee cases.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-3-301

ANTICIPATED COST OR SAVINGS TO:

- ♦THE STATE BUDGET: There will be no impact on the state budget. These changes are for clarification of existing statute and policy and do not reflect a change in cost or savings to the state.
- LOCAL GOVERNMENTS: This program does not involve local government operations and does not result in a cost or savings to local government.
- ♦OTHER PERSONS: These changes do not result in a cost or savings to other persons. These changes are for clarification of existing statute and policy and do not reflect a change in cost or savings to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule amendment does not impact the costs to affected persons. The responsibility to pay costs and fees are established in statute. This amendment does not change or modify existing policy or procedure regarding costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This change does not have any fiscal impact on businesses. This rule change does not increase costs or savings.

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

Human Services
Aging and Adult Services
Room 325, Department of Human Services
120 North 200 West
PO Box 45500
Salt Lake City, UT 84145-0500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

C. Ronald Stromberg at the above address, by phone at (801) 538-4591, by FAX at (801) 538-4395, or by Internet E-mail at rstrombe@email.state.ut.us.

Interested persons may present their views on this rule by submitting written comments to the address above no later than 5:00 p.m. on 03/31/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2000

AUTHORIZED BY: C. Ronald Stromberg, Associate Director

R510. Human Services, Aging and Adult Services. R510-302. Adult Protective Services. R510-302-1. Authority and Purpose.

1.1 This rule is promulgated in accordance with the provisions of Section 62A-3-301, et seq. This purpose is to define services provided by the Office of Adult Protective Services in the Division of Aging and Adult Services, which may be provided to eligible clients.

- 1.2 Definitions:
- A. "Abuse, neglect or exploitation" as defined in Section 62A-3-301, et seq.
- B. "Adult Day Care" means providing daily care and supervision designed to meet the needs of functionally impaired adults through a comprehensive program that provides a variety of social, recreational and related support services in a protective setting which allows for the maximum functioning of disabled adults.
- C. "Adult Foster Care" means the provision of family-based care for disabled adults who are unable to live independently.
- D. "Family Support" means the provision of services or payments to increase the capabilities of families to care for disabled or elder adults in the natural home setting.
- E. "Office" means the Office of Adult Protective Services in the Division of Aging and Adult Services within the Department of Human Services.
- F. "Protective Payee" means a person who is eligible for adult protective services, is having difficulty managing their own funds, and voluntarily requests assistance in managing those funds.
- G. "Protective Supervision" means the provision of services to assist a disabled or elder adult to remain in a safe community setting through coordination with concerned agencies, families, or individuals, and may include such services as short-term counseling or crisis intervention.
 - 1.3 Procedure, Services and Assistance:
- A. Pursuant to Section 62A-3-301, et seq., this rule establishes the procedure by which the Division of Aging and Adult Services will operate the adult-protective-service program as authorized by law
- B. The Office of Adult Protective Services shall accept referrals from any person who has reason to believe that a disabled or elder adult (as defined in Section 62A-3-301) has been harmed or threatened with harm, including abuse, neglect or exploitation.
- C. Adult Protective Services' aid and assistance is available, on a voluntary basis, to all eligible disabled or elder adults who are being or have been abused, neglected, or exploited, but shall be limited to the availability of budgetary resources being sufficiently allocated to the office.
- D. The office of Adult Protective Services shall, [-either] through [personal contact, or]their intake system by telephone communication, accept referrals which are intended to enlist the office to provide the client with protection from abuse, neglect, or exploitation. Adult Protective Services may be accessed for and in behalf of any eligible citizen of the State.
- E. In order for the office of Adult Protective Services to take action, those persons supplying appropriate referrals, shall include the following information:
- 1) The approximate age of the alleged victim. (Note: a victim must be 18 years of age, or older, to be eligible.)
- 2) A description or specific name of the disabling condition which the victim appears to have.
- 3) A statement of a specific allegation of abuse, neglect or exploitation being perpetrated or inflicted upon the victim.
- F. The Office of Adult Protective Services shall make a record of each referral received. The office shall then evaluate each referral for possible follow-up and investigation. Some referrals may not be approved for further investigation if other relevant conditions are determined to be non existent.

- G. Adult Protective Services investigations will be conducted on all screened and approved referrals. Under normal conditions, investigations will begin within 3 working days of receipt of the referral. Investigations will be completed within 60 days unless an extension waiver has been obtained.
 - H. To obtain an extension waiver:
- 1) The caseworker shall, with or without being requested by the client, submit a ["Request-for-Investigation-Extension"]"Investigation Policy Waiver" form to the Supervisor for approval
- 2) The form shall document the reasons for the extension request, and how the extension will assist in protecting the client.
- I. Eligible Adult Protective Services clients may receive emergency placements in a safe environment until a resolution of the immediate problem/crisis can be made.
- J. Private homes used as emergency shelter homes must meet the same standards as Adult Foster Care providers. Facilities used as emergency shelter placements shall be either certified or licensed as a residential facility or have a current business license.
- K. If the victim has lost or stands to lose a significant level of such activities as are involved in daily living, the protective service staff may determine that the victim is eligible to receive Adult Protective Supervision to assure that a reasonable amount of the activities of daily living are maintained. Nevertheless, the person receiving these services must be capable of voluntarily consenting to and accepting the services. If consent is withdrawn by the person, the services will cease unless a court order is obtained for such services to continue.
- L. Eligible Adult Protective Services clients may receive Protective Payee services to assure that basic living needs are being met and money management skills are being learned at a level appropriate to the client's level of functioning. Protective payee services may be provided to clients who:
- 1) Have a protective need and a disabling condition which directly relates to the need for payee services, and are assessed by the worker to be incapable of handling their own funds.
- 2) Have no other person/institution to assume payee responsibility.
- 3) Are capable of consenting to the obtaining of services, and are then able to accept the services. (Note: If consent is withdrawn, the payee services will cease unless court ordered.)
- 4) Do not reside in a health care facility, residential treatment program, or other facility that is capable of providing payee services.[
- 5) Do not have assets worth over \$25,000, or own real property other than their place of residence: Have an income which falls within the Adult Services income guidelines. The Client may be assessed a fee for services based on the Adult Protective Services Payment Schedule.
- M. Eligible Adult Protective Services clients may receive an immediate payment of funds in emergency situations. These funds will be issued through an Over-the-Counter-Check and may be issued for such purposes as shelter, food, clothing, medicine or other emergencies which are needed immediately and cannot be funded from any other source. The worker is authorized to request that an agreement-for-repayment of the funds document be signed by the client, if appropriate.
- N. Eligible Adult Protective Services clients may receive Adult Day Care to assist them in improving their ability to

personally function and provide self-care. Adult Day Care may also be provided as respite for eligible caregivers. Clients may qualify for Adult Day Care if they require one or more of the following:

- 1) Assistance with activities of daily living.
- 2) 24 hour supervision.
- 3) Assistance due to significant loss of memory or cognitive function.
 - 4) Assistance due to developmental disabilities.
- 5) Assistance in overcoming isolation related to their disability or to support the transition from independent living to group care or vice versa.
 - 6) Assistance to prevent premature institutionalization.
- O. Eligible Adult Protective Services clients may receive Adult Foster Care to enable them to remain in a community setting and prevent premature institutionalization. Individuals who are unable to live alone or whose mental, emotional and physical conditions are such that the care given by a foster care provider will meet the person's needs may be appropriate for adult foster care. Individuals with the following medical, mental and behavioral problems will not be normally considered appropriate for Adult Foster Care assistance:
- Require medication which they are unable to manage and administer themselves.
- Are considered by the Office to be a danger to themselves of others.
 - 3) Are incontinent, unless they are capable of self care.
- 4) Are bedridden or confined to wheelchairs without having sufficient transfer skills from the wheelchair.
- 5) Have mental or neurological problems requiring professional supervision and treatment.
- 6) Require constant assistance with toileting, dressing, grooming, hygiene or bathing.
- 7) Exhibit destructive verbal and behavioral problems under normal living conditions.
- 8) Require supervision at night time due to wandering or agitated behavior.
- P. Adult Foster Care services will only be provided in homes which are licensed in accordance with State standards.
- Q. Eligible Adult Protective Services clients may receive Family Support payments to increase the capabilities of families to care for them in the natural home setting when no other services are available. These services are intended to help maintain the individual in a family member's home and prevent premature institutionalization. Disabled adult clients are eligible for this service when:
- 1) The client is unable to live unassisted due to mental, emotional and physical conditions and requires assistance or care in order to be able to remain safely in the community.
- 2) A Physician's statement indicates that the disabled adult is able to remain in his own home or the home of a relative and would benefit from Family Support Services.
- 3) The disabled adult meets income eligibility guidelines established by the Division.
- R. The Office of Adult Protective Services may petition the courts for legal authority to intervene when it has determined that the disabled adult cannot be protected in any less restrictive manner and there is evidence that the disabled adult lacks the capacity to consent to services.

- S. Services provided by Adult Protective Services will be terminated when:
- 1) the circumstances which directly or indirectly caused, or were primary reasons for the abuse, neglect or exploitation, no longer exist; and the disabled or elder adult is protected, or
- 2) when the disabled or elder adult receiving voluntary services requests that those services be terminated.

KEY: elderly, domestic violence, shelter care facilities, adult protective services

[April 1, 1995]2000 Notice of Continuation January 24, 2000 62A-3-301 et seq.

Notice of Continuation January 24, 2000

Natural Resources, Wildlife Resources

R657-13-12

Bait

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 22648
FILED: 02/07/2000, 16:52
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended to allow anglers to use dead yellow perch as bait on Deer Creek Reservoir.

SUMMARY OF THE RULE OR CHANGE: This amendment adds Deer Creek Reservoir to Subsection R657-13-12(3)(b) as a water in which a person is allowed to use dead yellow perch as bait.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-14-18 and 23-14-19

ANTICIPATED COST OR SAVINGS TO:

- ♦ THE STATE BUDGET: This amendment allows an additional baiting opportunity on Deer Creek Reservoir. Therefore, the amendment does not create a cost or savings impact to the state budget or the Division of Wildlife Resources' (DWR) budget.
- ♦LOCAL GOVERNMENTS: None--this filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments. ♦OTHER PERSONS: This amendment provides additional baiting opportunities. Therefore, the amendment does not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment provides additional baiting opportunities. Therefore, the amendment does not impose any compliance costs to affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment does not create a fiscal impact to businesses.

THE FULL TEXT OF THIS RULE 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 RULE 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 RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/31/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2000

AUTHORIZED BY: John Kimball, Director

R657. Natural Resources, Wildlife Resources. R657-13. Taking Fish and Crayfish. R657-13-12. Bait.

- (1)(a) Fishing is permitted with any bait, except corn, hominy, or live fish.
- (b) Possession or use of corn or hominy while fishing is unlawful.
- (2) Use or possession of any bait while fishing on waters designated artificial fly and lure only is unlawful.
- (3) Game fish or their parts may not be used, except for the following:
- (a) Dead Bonneville cisco may be used as bait only in Bear Lake.
- (b) Dead yellow perch may be used as bait only in: <u>Deer Creek</u>, Fish Lake, Gunnison, Hyrum, Newton, Pineview, Rockport, Sevier Bridge (Yuba), and Willard Bay reservoirs.
 - (c) Dead white bass may be used as bait only in Utah Lake.
 - (d) The eggs of any species of fish may be used.
- (4) Use of live crayfish for bait is legal only on the water where the crayfish is captured. It is unlawful to transport live crayfish away from the water where captured.
- (5) Manufactured, human-made items that may not be digestible, that are chemically treated with food stuffs, chemical fish attractants, or feeding stimulants may not be used on waters where bait is prohibited.

KEY: fish, fishing, wildlife, wildlife law

[January 3,]2000 23-14-18 Notice of Continuation September 26, 1997 23-14-19 23-19-1 23-22-3

Natural Resources, Wildlife Resources **R657-38**

Dedicated Hunter Program

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE No.: 22649
FILED: 02/07/2000, 16:52
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended to change the requirements for participants in the dedicated hunter program.

SUMMARY OF THE RULE OR CHANGE: This amendment requires dedicated hunter participants to attend one Wildlife Regional Advisory Council meeting during the three-year enrollment period and eliminates the requirement that participants attend a Wildlife Regional Advisory Council meeting annually. The amendment also requires that a participant attend two educational courses during the three-year enrollment period, an ethics course and a wildlife management principles course.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-14-18

ANTICIPATED COST OR SAVINGS TO:

- ♦THE STATE BUDGET: This amendment changes the requirements of participants attending Wildlife Regional Advisory Council meetings, hunter ethics courses, and wildlife management principle courses, which are required to be involved in the dedicated hunter program. This amendment may create a cost to the Division of Wildlife Resources' (DWR) budget by administering the additional educational course.
- ♦LOCAL GOVERNMENTS: None--this filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

♦OTHER PERSONS: This amendment changes the requirements of participants attending Wildlife Regional Advisory Council meetings, hunter ethics courses, and wildlife management principle courses, which are required to be involved in the dedicated hunter program. Therefore, the amendment does not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment changes the requirements of participants attending Wildlife Regional Advisory Council meetings, hunter ethics courses, and wildlife management principle courses, which are required to be involved in the dedicated hunter program. These changes will not require additional costs to dedicated hunter participants, therefore, the amendment does not impose any compliance costs to affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment does not create a fiscal impact on businesses.

THE FULL TEXT OF THIS RULE 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 RULE 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 RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/31/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2000

AUTHORIZED BY: John Kimball, Director

R657. Natural Resources, Wildlife Resources. R657-38. Dedicated Hunter Program. R657-38-1. Purpose and Authority.

- (1) Under the authority of Section 23-14-18, this rule provides the standards and requirements for obtaining a certificate of registration to:
 - (a) maximize opportunity for recreational deer hunting;
- (b) increase public participation in wildlife management programs and projects that are beneficial to wildlife and the division; and
- (c) provide courses in hunter ethics and wildlife management principles.

R657-38-2. Definitions.

- (1) Terms used in this rule are defined in Section 23-13-2.
- (2) In addition:
- (a) "Education course" means a course of instruction provided by the division in hunter ethics and wildlife management principles.
- (b) "Hunt area" means an area prescribed by the Wildlife Board where general archery, general season or general muzzleloader deer hunting is open to permit holders for taking deer.
- (c) "Participant" means a person who has obtained and signed a certificate of registration for the Dedicated Hunter Program.
- (d) "Program" means the Dedicated Hunter Program, a program administered by the division as provided in this rule.
- (e) "Wildlife project" means a project designed by the division, or any other individual or entity and pre-approved by the division, that provides wildlife habitat protection or enhancement on public or private lands, improves hunting or fishing access, or other projects or activities that benefit wildlife or directly benefits the division.
- (f) "Wildlife Project manager" means an employee of the division, or person approved by the division, responsible for supervising a wildlife project and maintaining and reporting records of service hours to the division.

R657-38-3. Certificate of Registration Required.

- (1) A person may not participate in the dedicated hunter program if that person has been convicted of any of the following violations of Title 23, Wildlife Resources Code, or any rule or proclamation of the Wildlife Board, or is currently on wildlife license revocation:
 - (a) a felony;
 - (b) a Class A misdemeanor in the last five years; or
- (c) three or more Class B or Class C misdemeanors in the past five years.
- (2)(a) To participate in the program a person must sign and obtain a certificate of registration from the division.
- (b) No more than ten thousand certificates of registration for the program may be in effect at any given time.
- (c) Each participant must provide proof of having attended an education course before the division may issue the certificate of registration for the program.
- (d) A certificate of registration to participate in the program may not be issued to any person after April 1 annually.
- (3) Each certificate of registration is valid for a three-year period.
- (4)(a) Any person who is 14 years of age or older may obtain a certificate of registration. A person 13 years of age may obtain a certificate of registration if the date of that person's 14th birthday is before the end of the annual muzzleloader season set for the calendar year in which the certificate of registration is issued.
- (b) Any person who is 17 years of age or younger before the beginning date of the annual archery deer hunt shall pay the youth participant fees.
- (c) Any person who is 18 years of age or older on or before the beginning date of the annual archery deer hunt shall pay the adult participant fees.

- (5) A certificate of registration authorizes the participant an opportunity to receive annually a dedicated hunter permit to hunt during the general archery, general season and general muzzleloader deer hunts. The dedicated hunter permit may be used during the dates and within the hunt area boundaries established annually by the Wildlife Board in the proclamation for taking big game.
- (6) Except as provided in Subsection R657-38-7(8), a participant entering the program may take two deer within three years.
- (7) A participant may take only one deer in any one year, except as provided in Subsection R657-38-7(8).
- (8)(a) In addition to the certificate of registration, the participant must purchase a wildlife habitat authorization each year.
- (b) Lifetime license holders are not required to purchase an annual wildlife habitat authorization pursuant to Section 23-19-42.
- (9) The certificate of registration must be signed by the participant and a division representative. The certificate of registration is not valid without the required signatures.
- (10) The participant and holder of the certificate of registration must have a valid dedicated hunter permit in possession while hunting.
- (11) Certificates of registration are not transferable and expire three years from the date of issuance.
- (12) Certificates of registration will not be issued to any person who has previously obtained a certificate of registration if that person has failed to provide the service requirements or fees.

R657-38-4. Dedicated Hunter General Permits.

- (1) Participants may hunt during the general archery, general season and general muzzleloader deer hunts within the hunt area and during the season dates prescribed in the proclamation of the Wildlife Board for taking big game.
- (2) Participants must designate a regional hunt choice on joining the program.
- (3)(a) The division shall, prior to the annual bucks, bulls and once-in-a lifetime application period, send a form to each participant.
- (b) The participant shall fill out this form indicating the participant's regional general buck deer hunt choice.
- (c) The form must be returned by mail to the Salt Lake Division office and must be received prior to the posting of the bucks, bulls and once-in-a-lifetime drawing as provided in the proclamation of the Wildlife Board for taking big game.
- (d) If the form is not received by the division prior to the posting of the bucks, bulls and once-in-a-lifetime drawing and the participant has not obtained a permit by mail, the participant must obtain a permit from a division office beginning on the date general deer permits are made available to the general public.
- (4) Participants must notify the division of any change of mailing address in order to receive a permit by mail.
- (5) Except as provided in Subsection R657-38-7(8), only one deer may be taken in any one year.
- (6)(a) Lifetime license holders may participate in the dedicated hunter program.
- (b) Upon signing the certificate of registration, the lifetime license holder agrees to forego any rights to receive a general archery, general season or general muzzleloader permit as provided in Section 23-19-17.5.

- (c) A refund or credit is not issued for the general archery, general season or general muzzleloader permit.
- (d) Lifetime license holders may join the dedicated hunter program at half of the original cost of the program.
- (7) A participant may not exchange or surrender dedicated hunter permits for any other buck deer permits once the dedicated hunter permit is issued and any of the specified general hunts have begun.

R657-38-5. Education Course.

- (1)(a) The division shall provide an annual education course.
- (b) The participant must attend two education courses during the three-year period.
- (c) Completion of an education course is mandatory prior to obtaining a certificate of registration for the program.
- (2)(a) The education course shall explain the program in detail to give a prospective participant a reasonable understanding of the program as well as hunter ethics and wildlife management principles.
- (3) Education courses are scheduled by regional division offices.
- (4) Proof of having completed the education course is provided to the prospective participant upon completion of the education course. Certificates of registration are not issued without verification of having completed the education course.

R657-38-6. Wildlife Projects.

- (1)(a) Each participant in the program shall:
- (i) provide no fewer than eight hours of service by August 1 annually working on a wildlife project or other division approved program or activity; or
 - (ii) pay a fee of \$18.75 for each hour not completed.
- (b) Residents may not substitute more than 16 of the 24 total required service hours. Nonresidents may substitute all of the 24 total required service hours.
- (c) The division may, upon request, approve a person who is physically unable to provide service by working on a wildlife project to provide other forms of service.
- (2) Wildlife projects shall be designed by the division, or any other individual or entity and pre-approved by the division.
- (3)(a) Wildlife projects may occur anytime during the year as determined by the division.
- (b) The division shall publicize the dates, times, locations and description of approved projects and activities at regional offices.
- (4) Participants shall sign up at least two weeks before the date of the wildlife project or activity by notifying a regional division office.
- (5) Proof of the number of hours worked shall be provided to the participant.
- (6) If a participant fails to fulfill the service requirement for any year of participation, the participant will not be issued a dedicated hunter permit for that year. The participant may obtain a permit for subsequent years upon completion of the service requirements due or payment of the fee in lieu thereof.
- (7) The wildlife project manager shall keep a receipt of all participants who attend the wildlife project and the number of hours worked. A copy of the receipt shall be returned by the participant for record keeping purposes.

R657-38-7. Obtaining Other Permits.

- (1) Participants may apply for or obtain limited entry, cooperative wildlife management unit or area conservation buck deer permits as provided in Rule R657-5 and the proclamation of the Wildlife Board for taking big game.
- (2) If the participant obtains a limited entry, cooperative wildlife management unit or area conservation general season buck deer permit, the participant may use the permit in the prescribed area:
- (a) provided the participant surrenders any dedicated hunter permit prior to the opening day of the general archery buck deer season:
 - (b) during the season dates listed on the permit; and
- (c) during the dates prescribed for the general archery, general season and general muzzleloader hunts.
- (3) The division may exclude multiple season opportunities on specific units due to extenuating circumstances on that specific unit.
- (4) If the participant is successful in drawing a limited entry archery or muzzleloader buck deer permit, the participant may use the permit in the prescribed area during the season dates listed on the permit.
 - (5) The permit must be on the person while hunting.
- (6) Obtaining a limited entry, cooperative wildlife management unit or area conservation buck deer permit does not authorize a participant to take an additional deer.
- (7) Participants who draw a cooperative wildlife management unit permit may hunt on the cooperative wildlife management unit only during the dates determined by the landowner/operator.
- (8)(a) Participants may apply for or obtain antlerless deer permits as provided in Rule R657-5 and the Antlerless Addendum to the proclamation of the Wildlife Board for taking big game.
- (b) Antlerless permits do not count against the number of tags issued pursuant to this program.

R657-38-8. Reporting Requirements.

- (1) Each participant must annually report to the division:
- (a) whether a deer was taken; and
- (b) any other information requested by the division.
- (2) The report must be submitted to the division annually by January 1.
- (3) Any dedicated hunter buck deer permit and tag that is not used to tag a deer must be returned to the division with the report. If the unused tag is not submitted with the report, the permit shall be considered to have been filled.
- (4) The division shall make report forms available to participants.

R657-38-9. Contractual Obligations.

- (1) In addition to incorporating the provisions of this rule, the certificate of registration shall expressly state the terms of the program including the following:
- (a) The participant shall agree to perform the required service hours working for the division or other organizations as approved by the division. The hours shall be completed during the times prescribed by the division. If the participant is unable to perform the required service hours, a fee of \$18.75 shall be paid for each

- hour not completed. Residents may not substitute more than 16 of the 24 total required service hours. Nonresidents may substitute all of the 24 total required service hours. The service hours shall be performed or a fee paid even in the event the certificate of registration is revoked or the participant withdraws from the program. The participant shall also agree to pay court costs and attorney fees associated with collecting any unpaid balance;
- (b) The participant shall agree to attend two education courses during the three-year period, one of which must be completed before the division may issue the certificate of registration for the program;
- (c) The participant shall agree to attend at least one regional advisory council meeting [annually; and]during the three-year period of participation in the dedicated hunter program; and
- [(c)](d) The participant shall agree not to purchase or obtain, or attempt to purchase or obtain, any buck deer permit in Utah, except as allowed under the provisions of this rule until after the expiration date of the certificate of registration.
- (2) In addition to the terms provided in Subsection (1), the division may require the participant to agree to other provisions consistent with this rule for the administration of this program.

R657-38-10. Dedicated Hunter Program Drawing.

- (1) Any unfilled dedicated hunter permit may be entered into a drawing.
- (2) One limited entry deer permit and one limited entry elk permit shall be offered through the drawing for each 250 permits entered.
- (3) The results of the drawing shall be published at division offices.
- (4)(a) Participants shall be notified by mail of the date and location of the drawing.
 - (b) Successful participants are notified by mail.
- (5)(a) The limited entry deer permits may be used within the boundaries of the limited entry deer hunt area and during the dates specified in the proclamation of the Wildlife Board for taking big game.
- (b) The limited entry elk permits may be used within the boundaries of the limited entry hunt area and during the dates specified in the proclamation of the Wildlife Board for taking big game.
- (6)(a) Successful participants shall incur the appropriate waiting period for the species drawn as provided in Rule R657-5 and the proclamation of the Wildlife Board for taking big game.
- (b) Successful participants will not forfeit any bonus points as a result of drawing a permit through the dedicated hunter drawing.

R657-38-11. Revocation.

- (1) A permit and tag may not be issued to any participant who:
- (a) does not perform the annual service requirement;
- (b) does not attend a regional advisory council meeting pursuant to Subsection R657-38-9(1)(b); or
 - (c) violates the terms of the certificate of registration.
- (2) The division may revoke or suspend a certificate of registration as provided in Section 23-19-9.
- (3) Dedicated hunters are subject to all rules and proclamations of the Wildlife Board.

KEY: wildlife, hunting, recreation, ethics [January 18,]2000

23-14-18

Natural Resources, Wildlife Resources **R657-41-2**

Definitions

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE No.: 22650
FILED: 02/07/2000, 16:52
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended to clarify the definition of "Statewide Conservation Permit" and provide season dates for specific wildlife species.

SUMMARY OF THE RULE OR CHANGE: This amendment clarifies that a conservation permit allows a permittee to hunt: a) turkey on any open unit from April 1 through May 31; b) bear on any open unit during the season authorized by the Wildlife Board for that unit; and c) cougar on any open unit during the season authorized by the Wildlife Board for that unit, and during the season dates authorized by the Wildlife Board on any harvest objective unit that has been closed by meeting its objective.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-14-18 and 23-14-19

ANTICIPATED COST OR SAVINGS TO:

♦THE STATE BUDGET: This rule is being amended to clarify the definition of "Statewide Conservation Permit" and provide season dates for specific wildlife species. Therefore, this amendment does not create a cost or savings impact to the state budget or the Division of Wildlife Resources' (DWR) budget.

♦LOCAL GOVERNMENTS: None--this filing does not create any direct cost or saving impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments. ♦OTHER PERSONS: No impact because these amendments do not impose any requirements on persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule is being amended to clarify the definition of "Statewide Conservation Permit" and provide season dates for specific wildlife species. Therefore, the amendment does not impose any compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule does not create an impact on businesses.

THE FULL TEXT OF THIS RULE 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 RULE 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 RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/31/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2000

AUTHORIZED BY: John Kimball, Director

R657. Natural Resources, Wildlife Resources. R657-41. Conservation and Sportsman Permits. R657-41-2. Definitions.

- (1) Terms used in this rule are defined in Section 23-13-2.
- (2) In addition:
- (a) "Area Conservation Permit" means a permit issued for a specific unit or hunt area for a specific species, and may include an extended season, or legal weapon choice, or both, beyond the general season.
- (b) "Conservation Organization" means a nonprofit chartered institution, foundation, or association founded for the purpose of promoting wildlife conservation and has established tax exempt status under Internal Revenue Code, Section 501C-3 as amended.
- (c) "Conservation Permit" means any harvest permit authorized by the Wildlife Board and issued by the division to generate revenue for the benefit of the species for which the permit is authorized and issued.
- (d) "Sportsman Permit" means a harvest permit authorized by the Wildlife Board and issued by the division in a general drawing, requiring all applicants to pay an application fee and the successful applicant the cost of the permit.
- (e) "Statewide Conservation Permit" means a permit which allows a permittee to hunt:
- (i) big game species on any open unit from September 1 through December 31, except pronghorn and moose from September 1 through October 31; [and]
 - (ii) turkey on any open unit from April 1 through May 31;
- [(iii)](iii) any other small game species on any open unit during the season authorized by the Wildlife Board;
- (iv) bear on any open unit during the season authorized by the Wildlife Board for that unit; and
- (v) cougar on any open unit during the season authorized by the Wildlife Board for that unit and during the season dates authorized by the Wildlife Board on any harvest objective unit that has been closed by meeting its objective.

KEY: wildlife, wildlife permits [May 18, 1999]2000

23-14-18 23-14-19

Natural Resources, Wildlife Resources

R657-46

The Use of Game Birds in Dog Field Trials and Training

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 22651
FILED: 02/07/2000, 16:52
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended to clarify requirements of using pen-reared game birds during dog field trials and training, which is based upon input received from professional dog trainers.

SUMMARY OF THE RULE OR CHANGE: This amendment reduces the length of streamer required to be attached to any pheasant before being released and killed during dog training from 24 inches to 12 inches. Provisions of this rule are being amended to allow more than four dogs for training provided: 1) any dogs exceeding four in number are eight months of age or younger; and 2) no live ammunition is in the trainer's possession while engaged in training dogs using pen-reared game birds. In addition, the rule is being amended to allow three firearms during training, except four may be used when training retrievers using the American Kennel Club quad flyer test. Finally, the amendment adds a definition for the "quad flyer test," which is frequently used in training dogs using pen-reared game birds.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-14-18, 23-14-19, and 23-17-9

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: This rule is being amended to clarify requirements of using pen-reared game birds during dog field trials and training. Therefore, these amendments do not create a cost or savings impact to the state budget or the Division of Wildlife Resources' (DWR) budget.
- ♦LOCAL GOVERNMENTS: None--this filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments. ♦OTHER PERSONS: This rule is being amended to clarify requirements of using pen-reared game birds during dog field trials and training. Therefore, the amendments do not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule is being amended to clarify requirements of using pen-reared game birds during dog field trials and training. These changes will not impose any compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment does not create a fiscal impact on businesses.

THE FULL TEXT OF THIS RULE 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 RULE 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 RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/31/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2000

AUTHORIZED BY: John Kimball, Director

R657. Natural Resources, Wildlife Resources.
R657-46. The Use of Game Birds in Dog Field Trials and Training.

R657-46-1. Purpose and Authority.

Under authority of Sections 23-14-18, 23-14-19 and 23-17-9 this rule provides the requirements, standards, and application procedures for the use of game birds in dog field trials and training.

R657-46-2. Definitions.

- (1) Terms used in this rule are defined in Section 23-13-2.
- (2) In addition:
- (a) "Field trial" means an organized event where the abilities of dog handlers and their dogs and are evaluated, including the ability of the dogs to hunt or retrieve game birds.
 - (b) "Game bird" means:
 - (i) crane;
 - (ii) blue, ruffed, sage, sharp-tailed, and spruce grouse;
 - (iii) chukar, red-legged, and Hungarian partridges;
 - (iv) pheasant;
 - (v) band-tailed pigeon;
- (vi) bobwhite, California, Gambel's, harlequin, mountain, and scaled quail:
 - (vii) waterfowl;
- (viii) common ground, Inca, mourning, and white-winged dove;
- (ix) wild or pen-reared wild turkey of the following subspecies:

- (A) Eastern:
- (B) Florida or Osceola;
- (C) Gould's:
- (D) Merriam's:
- (E) Ocellated: and
- (F) Rio Grande; and
- (x) ptarmigan.
- (c) "Quad flyer test" means throwing pen-reared game birds by hand from four fixed stations and shooting of the pen-reared game birds one immediately after the other.
- (d) "Train" or "training" means the informal handling, exercising, teaching, instructing, and disciplining of dogs in the skills and techniques of hunting and retrieving game birds characterized by absence of fees, judging, or awards.

R657-46-3. Application for a Field Trial Certificate of Registration.

- (1)(a) A person may conduct a field trial using pen-reared game birds provided that person applies for and obtains a certificate of registration from the Division of Wildlife Resources, except as provided in Subsection (b).
- (b) A person may conduct a field trial using pen-reared game birds on a commercial hunting area without obtaining a certificate of registration.
 - (2) Applications are available at any division office.
- (3) The application must include written permission from the owner, lessee, or land management agency of the property where the field trial is to be conducted.
- (4)(a) Applications must be submitted to the appropriate regional division office where the field trial is being held.
- (b) Applications must be received at least 45 days prior to the date of the field trial.
- (5) The division will not approve any application for an area where, in the opinion of the division, the field trial or the release of pen-reared game birds interferes with wildlife, wildlife habitat or wildlife nesting periods.
- (6) Field trials may be held only during the dates and within the area specified on the field trial certificate of registration.

R657-46-4. Use of Pen-Reared Game Birds for Field Trials.

- (1) Legally acquired pen-reared game birds may be possessed or used for field trials.
- (2) Any person using pen-reared game birds must have an invoice or bill of sale in their possession showing lawful personal possession or ownership of such birds.
- (3) Pen-reared game birds may not be imported into Utah without a valid veterinary health certificate as required in Rules R58-1 and R657-4.
- (4)(a) Each pen reared game bird must be marked with an aluminum leg band or other permanent marking before being released in the field trial, except as provided in Subsection (d).
- (b) Aluminum leg bands may be purchased at any division office.
- (c) The aluminum leg band or other permanent marking must remain attached to the pen-reared game bird.
- (d) Each pen-reared game bird used in a field trial that is conducted on a commercial hunting area may be released without marking each pen-reared game bird, as with an aluminum leg band.

- (5) Pen-reared game birds used for a field trial may be released only on the property specified in the certificate of registration where the field trial is conducted.
 - (6) After release, pen-reared game birds may be taken:
- (a) by the person who released the pen-reared game birds, or by any person participating in the field trial; and
- (b) only during the dates of the field trial event as specified in the certificate of registration.
- (7) Wild game birds may be taken only during legal hunting seasons as specified in the Upland Game or Waterfowl proclamations of the Wildlife Board.
- (8) Pen-reared game birds acquired for a field trial that are not released may be held in possession:
 - (a) no longer than 60 days; or
- (b) longer than 60 days provided the person possessing the pen-reared game birds first obtains a private aviculture certificate of registration as provided in Rule R657-4.
- (9) Pen-reared game birds that leave the property where the field trial is held at the end of the field trial shall become the property of the state of Utah and may not be taken, except during legal hunting seasons as specified in the Upland Game or Waterfowl proclamations of the Wildlife Board.

R657-46-5. Use of Pen-Reared Game Birds for Dog Training.

(1)[(a)] A person may train a dog using legally acquired penreared game birds provided:

[(i)](a) the person using the pen-reared game birds has an invoice or bill of sale in their possession showing lawful personal possession or ownership of the pen-reared game birds;

[(ii)](b) each pen-reared game bird must be marked with an aluminum leg band or other permanent marking before being released for training, except as provided in Subsection [(c)](3)(a); and

- [(iii)](c) any pheasant[, which is intended to be killed] released during training[,] must be marked with a visible streamer or tape at least [24 inches in length while in the field.]12 inches in length before being released, and any pheasant killed during training must have the streamer or tape attached when killed.
- [(b)](2) Aluminum leg bands may be purchased at any division office.
- [(e)](3)(a) Each pen-reared game bird used for dog training that is conducted on a commercial hunting area may be released without marking each pen-reared game bird with an aluminum leg band or other permanent marking.
- (b) Any pheasant released during training on a commercial hunting area may be released without marking as provided in Subsections (1)(b) and (1)(c).
- (4)[(2)(a)] The training may not consist of more than four dogs [in the field at any time.] at any time, except the training may consist of more than four dogs provided:
- [\(\frac{(\text{tb})}{(a)}\) the dogs exceeding four in number are eight months of age or younger; and
- (b) no live ammunition is in possession of the person or persons engaged in training the dogs.
- (5) A person or group of persons may not release more than ten pen-reared game birds per day[, except a professional dog trainer may release more than ten] or three pen-reared game birds per [day provided that person applies for and obtains a certificate of

registration from the Division of Wildlife Resources.]dog per day, whichever is greater.

[(e)](6) A person or group of persons may not use more than [two firearms in the field at any time.]three firearms at any time, except four firearms may be used when training retrievers using the American Kennel Club quad flyer test.

[(3)](7) Pen-reared game birds acquired for training that are not released may be held in possession:

- (a) no longer than 60 days; or
- (b) longer than 60 days provided the person possessing the pen-reared game birds first obtains a private aviculture certificate of registration as provided in Rule R657-4.

[(4)](8) Pen-reared game birds that are not recovered on the day of the training or pen-reared game birds that escape shall become property of the state of Utah and may not be recaptured or taken, except during legal hunting seasons as specified in the Upland Game and Waterfowl proclamations of the Wildlife Board.

[(5)](9) A person training dogs on official dog training areas, designated by the division, is not required to comply with Subsection [(1)(a)(iii) or Subsection (2)](1)(c) or Subsections (4), (5) or (6).

R657-46-6. Use of Wild Game Birds for Dog Training.

- (1) A person may train a dog on wild game birds provided:
- (a) the dog, or the person training the dog, may not harass, catch, capture, kill, injure, or at any time, possess any wild game birds, except during legal hunting seasons as provided in the Upland Game or Waterfowl proclamations of the Wildlife Board;
- (b) the dogs are not on any state wildlife management or waterfowl management areas as specified in Rule R657-6, except during open hunting seasons or as posted by the division;
- (c) the person training a dog on wild game birds, except during legal hunting seasons:
- (i) must not possess a firearm, except a pistol firing blank cartridges;
- (ii) must comply with city and county ordinances pertaining to the discharge of any firearm;
- (iii) must obtain written permission from the landowner for training on properly posted private property.

KEY: wildlife, birds, dogs, training [October 16, 1999]2000

23-14-18 23-14-19

Professional Practices Advisory Commission, Administration

R686-100

Professional Practices Advisory Commission, Rules of Procedure: Complaints and Hearings

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE No.: 22671
FILED: 02/15/2000, 17:12
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to make the appeals process from a Utah Professional Practices Advisory Commission (UPPAC) decision or recommendation consistent with Rule R277-514 under the Office of Education.

(**DAR Note:** The proposed amendment to R277-514 is under DAR No. 22670 in this *Bulletin*.)

SUMMARY OF THE RULE OR CHANGE: An appeal from a Utah Professional Practices Advisory Commission (UPPAC) recommendation or final decision goes to the State Superintendent of Public Instruction and then to the State Board of Education or directly to the State Board of Education, depending upon the findings of the decision.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-6-306(1)(a)

ANTICIPATED COST OR SAVINGS TO:

- ♦ THE STATE BUDGET: There is a revised appeals procedure provided for individual appellants, but there should be no additional cost or savings because of the amendments. The changes are only procedural. We are not adding or taking away from the procedure, but simply changing the order of the process.
- ♦LOCAL GOVERNMENTS: There is a revised appeals procedure provided for individual appellants, but there should be no additional cost or savings because of the amendments. The changes are only procedural. We are not adding or taking away from the procedure, but simply changing the order of the process.
- ♦OTHER PERSONS: There is a revised appeals procedure provided for individual appellants, but there should be no additional cost or savings because of the amendments. The changes are only procedural. We are not adding or taking away from the procedure, but simply changing the order of the process.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is a revised appeals procedure provided for individual appellants, but there should be no additional cost or savings because of the amendments. The changes are only procedural. We are not adding or taking away from the procedure, but simply changing the order of the process.

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

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

Professional Practices Advisory Commission Administration

250 East 500 South Salt Lake City, UT 84111, or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/31/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2000

AUTHORIZED BY: Carol B. Lear, Acting Coordinator, School Law

R686. Professional Practices Advisory Commission, Administration.

R686-100. Professional Practices Advisory Commission, Rules of Procedure: Complaints and Hearings. R686-100-1. Definitions.

- A. "Allegation of misconduct" means a written or oral report alleging that an educator has engaged in unprofessional, criminal, or incompetent conduct; is unfit for duty; has lost certification in another state due to revocation or suspension, or through voluntary surrender or lapse of a license in the face of a claim of misconduct; or has committed some other violation of standards of ethical conduct, performance, or professional competence.
- B. "Applicant for a license" means a person seeking a new license or seeking reinstatement of an expired, surrendered, suspended, or revoked license.
 - C. "Board" means the Utah State Board of Education.
- D. "License" means a teaching or administrative credential, including endorsements, which is issued by a state to signify authorization for the person holding the license to provide professional services in the state's public schools.
- E. "Commission" means the Professional Practices Advisory Commission as defined and authorized under Section 53A-6-301 et seq.
 - F. "Chair" means the Chair of the Commission.
- G. "Complaint" means a written allegation or charge against an educator.
 - H. "Complainant" means the Utah State Office of Education.
- I. "Days": in calculating any period of time prescribed or allowed by these rules, the day of the act, event, or default from which the designated period of time begins to run shall not be included; the last day of the period shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday. Saturdays, Sundays and legal holidays shall not be included in calculating the period of time if the period prescribed or allowed is less than seven days, but shall be included in calculating periods of seven or more days.
- J. "Educator" means a person who currently holds a license, held a license at the time of an alleged offense, is an applicant for a license, or is a person in training, to obtain a license.

- K. "Executive Committee" means a subcommittee of the Commission consisting of the Executive Secretary, Chair, Vice-Chair, and one member of the Commission at large. All Executive Committee members, excluding the Executive Secretary, shall be selected by the Commission. Substitutes may be appointed from within the Commission by the Executive Secretary as needed.
- L. "Executive Secretary" means an employee of the Utah State Office of Education who is appointed by the State Superintendent of Public Instruction to serve as the executive officer, and a nonvoting member, of the Commission.
- M. "Hearing" means a proceeding in which allegations made in a complaint are examined, where each party has the opportunity to present witnesses and evidence relevant to the complaint and respond to witnesses or evidence presented by the other party. At the conclusion of a hearing the hearing officer, after consulting with members of the Commission assigned to assist in the hearing, prepares a hearing report and submits it to the Executive Secretary.
- N. "Hearing Officer" means a person who is experienced in matters relating to administrative procedures, education and education law and is either a member of the Utah State Bar Association or a person not a member of the bar who has received specialized training in conducting administrative hearings, and is appointed by the Executive Secretary at the request of the Commission to manage the proceedings of a hearing. The hearing officer may not be an acting member of the Commission. The hearing officer has broad authority to regulate the course of the hearing and dispose of procedural requests but shall not have a vote as to the recommended disposition of a case.
- O. "Hearing Panel" means a hearing officer and three or more members of the Commission agreed upon by the Commission to assist the hearing officer in conjunction with the hearing panel in conducting a hearing and preparing a hearing report.
- P. "Hearing report" means a report prepared by the hearing officer with the assistance of the hearing panel at the conclusion of a hearing. The report includes a recommended disposition, detailed findings of fact and conclusions of law based upon the evidence presented in the hearing, relevant precedent, and applicable law and rule.
- Q. "Informant" means a person who submits information to the Commission concerning alleged misconduct by a person who may be subject to the jurisdiction of the Commission.
- R. "Investigator" means a person who is knowledgeable about matters which could properly become part of a complaint before the Commission, as well as investigative procedures and rules and laws governing confidentiality, who is appointed by the Utah State Office of Education's Investigations Unit at the request of the Executive Secretary to investigate an allegation of misconduct.
- S. "Jurisdiction" means the legal authority to hear and rule on a complaint.
- T. "National Association of State Directors of Teacher Education and Certification (NASDTEC) Educator Information Clearinghouse" means a database maintained by NASDTEC for its members regarding persons whose licenses have been suspended or revoked.
 - U. "Office" means the Utah State Office of Education.
 - V. "Party" means the complainant or the respondent.
- W. "Recommended disposition" means a recommendation for resolution of a complaint.

- X. "Request for agency action" means a document prepared by the Executive Secretary containing one or more allegations of misconduct by an educator, a recommended course of action, and related information.
- Y. "Respondent" means the party against whom a complaint is filed.
- Z. "Serve" or "service," as used to refer to the provision of notice to a person, means delivery of a written document or its contents to the person or persons in question. Delivery may be made in person, by mail or by other means reasonably calculated, under all of the circumstances, to apprise the interested person or persons to the extent reasonably practical or practicable of the information contained in the document. Service of a complaint upon an educator shall be by mail to the address of the educator as shown upon the records of the Commission.
- AA. "State" means the United States or one of the United States; a foreign country or one of its subordinate units occupying a position similar to that of one of the United States; or a territorial unit, of the United States or a foreign country, with a distinct general body of law.
- BB. "Stipulated agreement" means an agreement between a respondent and the Board or a respondent and the Commission under which disciplinary action against an educator's certification status has been taken, in lieu of a hearing.

R686-100-2. Authority and Purpose.

- A. This rule is authorized by Section 53A-6-306(1)(a) which directs the Commission to adopt rules to carry out its responsibilities under the law.
- B. The purpose of this rule is to establish procedures regarding complaints against educators and certification hearings for the Commission to follow. The standards and procedures of the Utah Administrative Procedures Act do not apply to this rule under the exemption of Section 63-46b-1(2)(d). However, the Commission reserves the right to invoke and use sections or provisions of the Utah Administrative Procedures Act as found in Section 63-46b as necessary to adjudicate an issue.

R686-100-3. Receipt of Allegations of Misconduct.

- A. Initiating Proceedings Against an Educator: The Executive Secretary may initiate proceedings against an educator upon receiving an allegation of misconduct or upon the Executive Secretary's own initiative.
- (1) An informant may be asked to submit information in writing, including the following:
- (a) Name, position (e.g. administrator, teacher, parent, student), telephone number and address of the informant;
- (b) Name, position (e.g. administrator, teacher, candidate), and if known, the address and telephone number of the educator against whom the allegations are made;
 - (c) The allegations and supporting information;
 - (d) A statement of the relief or action sought from the agency;
 - (e) Signature of the informant and date.
- (2) If an informant submits a written allegation of misconduct as provided in Section R686-100-3A(1) above, the informant shall be told he may receive notification of final actions taken by the Commission or the Board regarding the allegations by filing a written request for information with the Executive Secretary.

(3) Allegations received through telephone calls, letters, newspaper articles, notices from other states or other means may also form the basis for initiating proceedings against an educator.

R686-100-4. Review of Request for Agency Action.

- A. Initial Review: Upon reviewing the request, the Executive Secretary or the Executive Committee or both shall recommend one of the following to the Commission:
- B. Dismiss: If the Executive Committee determines that the Commission lacks jurisdiction or that the request for agency action does not state a cause of action which the Commission should address, the Executive Committee shall recommend that the Commission dismiss the request. The informant shall be served with notice of the action. If the informant believes that the dismissal has been made in error, the informant may request review by the State Superintendent of Public Instruction within 10 days of the mailing date of the Notice of Dismissal. The Superintendent's decision relative to the dismissal is final.
- C. Initiate an Investigation: If the Executive Secretary and the Executive Committee determine that the Commission has jurisdiction and that the request states a cause of action which may be appropriately addressed by the Commission, the Executive Secretary shall ask the Investigations Unit to appoint an investigator to gather evidence relating to the allegations. The investigator shall review relevant documentation and interview individuals who may have knowledge of the allegations, including to the extent reasonably practicable all persons specifically named in the request for agency action, and prepare a written report of the findings of the investigation. Should the investigator discover evidence of any additional allegation which should have been included in the original request, it may be included in the investigation report. The completed report shall be submitted to the Executive Secretary, who shall review the report with the Commission. The investigation report shall become part of the permanent case file.
- D. Prior to the initiation of any investigation, the Executive Secretary shall send a letter to the educator to be investigated and a copy of the letter to the employing school district or to the district of most recent employment, with information that an investigation has been initiated.
- E. Secondary Review: The Executive Committee shall review the investigation report and upon completing its review shall recommend one of the following to the Commission:
- (1) Dismiss: If the Executive Committee determines no further action should be taken, the Executive Committee shall recommend to the Commission to dismiss the request for agency action as provided in Section R686-100-4B, above; or
- (2) Prepare and Serve COMPLAINT: If the Executive Committee determines further action is appropriate, the Executive Committee shall recommend to the Commission to direct the Executive Secretary to prepare and serve a complaint and a copy of these rules upon the respondent. The complaint shall have a heading similar to that used for the request for agency action, and shall include in the body:
- (a) A statement of the legal authority and jurisdiction under which the action is being taken;
- (b) A statement of the facts and allegations upon which the complaint is based;

- (c) Other information which the Commission believes to be necessary to enable the respondent to understand and address the allegations;
- (d) A statement of the potential consequences should the allegations be found to be true;
- (e) A statement that, if the respondent wishes to respond to the complaint or request a hearing, or discuss a stipulated agreement, a written response shall be filed with the Executive Secretary of the Professional Practices Advisory Commission, 250 East 500 South, Salt Lake City, Utah 84111 within 30 days of the date when the complaint was mailed to the respondent, and the potential consequences should the respondent default by failing to respond to the complaint within the designated time;
- (f) Notice that, if a hearing is requested, the hearing shall be scheduled not less than 25 days, nor more than 180 days, after receipt of the respondent's response and hearing request by the Executive Secretary, unless a different date is approved by the Commission for good cause shown or is agreed upon by both parties in writing.
 - (3) Provide the Commission with notice of the action taken.
- F. RESPONSE to the complaint: If the respondent wishes to respond to the complaint, the respondent shall submit a written response signed by the respondent or his representative to the Executive Secretary within 30 days of the mailing date of the complaint. The response may include a request for a hearing or a stipulated agreement and shall include:
 - (1) The file number of the complaint;
 - (2) The names of the parties;
 - (3) A statement of the relief that the respondent seeks; and
- (4) A statement of the reasons that the relief requested should be granted.
- (5) Final Review: As soon as reasonably practicable after receiving the response, or following the passage of the 30 day response period if no response is received, the Executive Secretary shall review any response received, the investigative report, and other relevant information with the Executive Committee. The Executive Committee shall then recommend one of the following to the Commission:
- (a) Enter a Default: If the respondent fails to file a response, fails to request a hearing, fails to request a stipulated agreement within 30 days after service of the complaint, or surrenders a license in the face of allegations of misconduct without benefit of a stipulated agreement, the Executive Committee shall recommend to the Commission to enter the respondent's default and direct the Executive Secretary to prepare findings in default and a recommended disposition for submission to the Commission in accordance with Section R686-100-16.
- (b) Dismiss the Complaint: If the Executive Committee determines that there are insufficient grounds to proceed with the complaint, the Executive Committee shall recommend to the Commission that the complaint be dismissed. If the Commission votes to uphold the dismissal, the informant and respondent shall each be served with notice of the dismissal. If the informant believes that the dismissal has been made in error the informant may request review by the State Superintendent of Public Instruction within 10 days of service of notice of the dismissal. The Superintendent's decision concerning the dismissal is final.

- (c) Schedule a Hearing: If the respondent requests a hearing, the Commission shall direct the Executive Secretary to schedule a hearing as provided in Section R686-100-5.
- (d) Respond to a request for a stipulated agreement: If the respondent requests to enter into a stipulated agreement, the Executive Secretary shall inform the Commission that the Commission may reject the request or authorize the Executive Secretary to meet with the respondent to prepare recommendations for a stipulated agreement.
- (i) A stipulated agreement shall, at minimum, include the following:
- (A) A summary of the facts, the allegations, the evidence relied upon by the Commission in its decision, and the respondent's response:
- (B) A statement that the respondent has chosen to surrender his license rather than contest the charges in a hearing;
- (C) A commitment that the respondent shall not provide professional services in a public school in any state or otherwise seek to obtain or use a license in any state unless or until the respondent first obtains a valid Utah license or clearance from the Board to obtain such a license;
 - (D) Provision for surrender of respondent's license;
- (E) Acknowledgment that the surrender and the stipulated agreement will be reported to other states through the NASDTEC Educator Information Clearinghouse; and
- (F) Other relevant provisions applicable to the case, such as remediation, counseling, and conditions--if any--under which the respondent could seek restoration of certification.
- (ii) The stipulated agreement shall be forwarded to the Commission for consideration.
- (iii) If the Commission rejects the request or the stipulated agreement, the respondent shall be served with notice of the decision, which shall be final, and the proceedings shall continue from the point under these procedures at which the request was made, as if the request had not been submitted.
- (iv) If the Commission accepts the stipulated agreement, the agreement shall be forwarded to the Board for consideration.
- (v) If the Board rejects the agreement, the Executive Secretary shall notify the parties of the decision and the proceedings shall continue from the point under these procedures at which the request was made, as if the request had not been submitted.
- (e) Recommend that the Commission direct the Executive Secretary to take appropriate disciplinary action against an educator which may include: an admonishment, a letter of warning, or a written reprimand. Documentation of this disciplinary action shall be sent to the respondent's employing school district or to a district where the respondent finds employment. This disciplinary action may be appealed to the Superintendent of Public Instruction, consistent with R686-100-18.
 - G. Surrender:
- (1) Should an educator surrender his license, the surrender shall have the effect of revocation unless otherwise designated by the Commission:
- (2) The Board shall receive official notification of the surrender at an official Board meeting; and
- (3) The Executive Secretary shall enter findings in the educator's certification file explaining the circumstances of the surrender.

(4) Surrender of an educator's license is not a final disposition. Surrender shall include a stipulated agreement or findings of fact to complete the educator's misconduct file. The Board shall also take action to suspend or revoke a license following a surrender.

R686-100-5. Hearing Procedures.

- A. Scheduling the Hearing: The Commission shall agree upon Commission panel members, and the Executive Secretary shall appoint a hearing officer from among a list of hearing officers approved by the Commission, and schedule the date, time, and place for the hearing. The date for the hearing shall be scheduled not less than 25 days nor more than 180 days from the date the response is received by the Executive Secretary. If exceptional circumstances exist which make it impracticable for a party to be present in person, the Executive Secretary may, with the consent of the parties, permit participation by electronic means. The required scheduling periods may be waived by mutual written consent of the parties or by the Commission for good cause shown.
 - B. Change of Hearing Date:
- (1) A request for change of hearing date shall be submitted in writing and received by the Executive Secretary at least five days prior to the scheduled date of the hearing. The request may originate from either party and shall show cause.
- (2) The Executive Secretary shall make the determination of whether the cause stated in the request is sufficient to warrant a change of hearing date.
- (a) If the cause is found to be sufficient, the Executive Secretary shall promptly notify all parties of the new time, date, and place for the hearing.
- (b) If the cause is found to be insufficient, the Executive Secretary shall immediately notify the party making the request and the hearing shall proceed as originally scheduled.
- (c) The Executive Secretary and the parties may waive the time period required for requesting a change of hearing date for exceptional circumstances.

R686-100-6. Appointment and Duties of the Hearing Panel.

- A. Hearing Officer: The Executive Secretary shall appoint a hearing officer at the request of the Commission to chair the hearing panel and conduct the hearing. The hearing officer:
- (1) May require the parties to submit briefs and lists of witnesses prior to the hearing;
- (2) Shall preside at the hearing and regulate the course of the proceedings:
- (3) May administer oaths to witnesses as follows: "Do you swear or affirm that the testimony you will give is the truth?";
- (4) May take testimony, rule on questions of evidence, and ask questions of witnesses to clarify specific issues;
- (5) Shall prepare a hearing report at the conclusion of the proceedings in consultation with other panel members.
- B. Commission Panel Members: The Commission shall agree upon three or more Commission members to serve as Commission members of the hearing panel. As directed by the Commission, former Commission members who have served on the Commission within the three years prior to the date set for the hearing may be used as panel members. The majority of panel members shall be current Commission members.
 - (1) The majority of a panel shall be educators.

- (2) If the respondent is a teacher, at least one panel member shall be a teacher. If the respondent is an administrator, at least one panel member shall be an administrator unless the respondent objects to the configuration of the panel.
 - (3) Duties of the Commission panel members include:
- (a) Assisting the hearing officer by providing information concerning common standards and practices of educators in the respondent's particular field of practice and in the situations alleged;
 - (b) Asking questions of all witnesses to clarify specific issues;
 - (c) Reviewing all briefs and evidence presented at the hearing;
- (d) Assisting the hearing officer in preparing the hearing report.
- (4) The panel members shall receive for review relevant written materials including the initial complaint and briefs if ordered by the hearing officer, at least 30 minutes prior to the hearing.
- (5) The Executive Secretary may make an emergency substitution of a Commission panel member for cause with the agreement of the parties. The agreement should be in writing but if time does not permit written communication of the agreement to reach the Executive Secretary prior to the scheduled time of the hearing, an Acceptance of Substituted Hearing Panel Member shall be signed by the parties prior to commencement of the hearing.
 - C. Disqualification of a panel member:
 - (1) Hearing Officer:
- (a) A party may seek disqualification of a hearing officer by submitting a written request for disqualification to the Executive Secretary, which request must be received not less than 15 days before a scheduled hearing. The Executive Secretary shall review the request and supporting evidence and, upon a finding that the reasons for the request are substantial and sufficient, shall appoint a new hearing officer and, if necessary, reschedule the hearing.
- (b) If the Executive Secretary denies the request, the party requesting the disqualification shall be notified not less than ten days prior to the date of the hearing. The requesting party may submit a written appeal of the denial to the State Superintendent, which request must be received not less than five days prior to the hearing date. If the State Superintendent finds that the appeal is justified, he shall direct the Executive Secretary to appoint a new hearing officer and, if necessary, reschedule the hearing.
 - (c) The decision of the State Superintendent is final.
- (d) Failure of a party to meet the time requirements of Section R686-100-6C(1) shall result in denial of the request or appeal; if the Executive Secretary fails to meet the time requirements, the request or appeal shall be approved.
 - (2) Commission panel member:
- (a) A party may seek disqualification of a Commission panel member by submitting a written request for disqualification to the hearing officer, which request must be received not less than 15 days before a scheduled hearing. The hearing officer shall review the request and supporting evidence and, upon a finding that the reasons for the request are substantial and compelling, shall disqualify the panel member. If the disqualification leaves the hearing panel with fewer than three Commission panel members, the Commission shall appoint a replacement and the hearing officer shall, if necessary, reschedule the hearing.
- (b) If the hearing officer denies the request, the party requesting the disqualification shall be notified not less than ten days prior to the date of the hearing. The requesting party may

submit a written appeal of the denial to the State Superintendent, which request must be received not less than five days prior to the hearing date. If the State Superintendent finds that the appeal is justified, he shall direct the hearing officer to disqualify the panel member.

- (c) If a disqualification leaves the hearing panel with fewer than three Commission panel members, the Commission shall agree upon a replacement and the hearing officer shall, if necessary, reschedule the hearing.
 - (d) The decision of the State Superintendent is final.
- (e) Failure of a party to meet the time requirements of Section R686-100-7C(2) shall result in denial of the request or appeal; if the hearing officer fails to meet the time requirements, the request or appeal shall be approved.

R686-100-7. Preliminary Instructions to Parties to a Hearing.

- A. Not less than 20 days before the date of a hearing the Executive Secretary shall provide the parties with the following information:
 - (1) Date, time, and location of the hearing;
- (2) Names and school district affiliations of the Commission members on the hearing panel, and the name of the hearing officer;
- (3) Procedures for objecting to any member of the hearing panel; and
 - (4) Procedures for requesting a change in the hearing date.
- B. Not less than 15 days before the date of the hearing, the hearing officer may direct the respondent and the complainant to serve the following upon the other party and submit a copy and proof of service to the hearing officer:
- (1) A brief setting forth that party's position regarding the allegations, including relevant laws, rules, and precedent;
- (2) The name of the person who will represent the party at the hearing, a list of witnesses who will be called, a summary of the testimony which each witness is expected to present, and a summary of documentary evidence which will be submitted. If either party fails to comply with identification of witnesses or documentary evidence in a fair and timely manner and consistent with the provisions of this rule, the hearing officer may limit either party's presentation of witnesses and documentary evidence at the hearing.
- C. If the hearing officer requests and receives any of the above documents, he shall provide a copy of the documents to each of the Commission panel members for review at least one hour prior to the hearing.
- D. If a party fails to comply in good faith with a directive of the hearing officer under Section R686-100-7A, including time requirements for service, the hearing officer may prohibit introduction of the testimony or evidence or take other steps reasonably appropriate under the circumstances including, in extreme cases of noncompliance, entry of a default against the offending party.
- E. Parties shall provide materials to the hearing officer, panel members and Commission as directed under this rule. Materials shall not be provided directly to panel members until and unless parties are so directed by the hearing officer.

R686-100-8. Hearing Parties' Representation.

A. Complainant: The Complainant shall be represented by a person appointed by the Investigations Unit of the Utah State Office of Education.

- B. Respondent: A respondent may represent himself or be represented, at his own cost, by another person of his choosing.
- C. The informant has no right to individual representation at the hearing or to be present or heard at the hearing unless called as a witness.

R686-100-9. Discovery Prior to a Hearing.

- A. Discovery shall be permitted to the extent necessary to obtain relevant information necessary to support claims or defenses, as determined by the appointed hearing officer.
- B. Discovery, especially burdensome or unduly legalistic discovery, may not be used to delay a hearing.
- C. Discovery may be limited by the hearing officer at his discretion or upon a motion by either party. The hearing officer makes the final determination as to the scope of discovery.
- D. Subpoenas and other orders to secure the attendance of witnesses or the production of evidence shall be issued upon request at least five working days prior to the hearing by the Executive Secretary in accordance with Section 53A-6-603 when requested by either party or any of the panel members.
- E. Either party or its representative may request the names of witnesses who have been asked to testify for the opposing party and to receive a copy of or examine all documents and exhibits that the opposing party intends to present as evidence during the hearing.
- F. No witness or evidence may be presented at the hearing if the opposing party has requested to be notified of such information and has not been fairly apprised at least five days prior to the hearing. The parties may waive such time period only by written agreement.
- G. No expert witness report or testimony may be presented at the hearing unless the requirements of Section R686-100-13 have been met.

R686-100-10. Burden and Standard of Proof for Commission Proceedings.

- A. In matters other than those involving applicants for certification, and excepting the presumptions under Section R686-100-14G, the complainant shall have the burden of proving that action against the license is appropriate.
- B. An applicant for certification shall bear the burden of proving that certification is appropriate.
- C. Standard of proof: The standard of proof in all Commission hearings is a preponderance of the evidence.

R686-100-11. Deportment.

- A. Parties, their representatives, witnesses, and other persons present during a hearing shall conduct themselves in an appropriate manner during hearings, giving due respect to members of the hearing panel and complying with the instructions of the hearing officer. The hearing officer may expel persons from the hearing room who fail to conduct themselves in an appropriate manner and may, in response to extreme instances of noncompliance, disallow testimony or declare an offending party to be in default.
- B. Parties, attorneys for parties, or other participants in the professional practices investigation and hearing process shall not harass, intimidate or pressure witnesses or other hearing participants, nor shall they direct others to harass, intimidate or pressure witnesses or participants.

R686-100-12. Hearing Record.

- A. The hearing shall be tape recorded at the Commission's expense, and the tapes shall become part of the permanent case record, unless otherwise agreed upon by all parties.
- B. Individual parties may not make recordings of the proceedings without notice to and consent of the Executive Secretary.
- C. Any party, at his own expense, may have a person approved by the Commission prepare a transcript of the hearing.
- D. If an exhibit is admitted as evidence, the record shall reflect the contents of the exhibit.
- E. All evidence and statements presented at a hearing shall become part of the permanent case file and shall not be removed except by order of the Board.
- F. Taped proceedings may be reviewed upon request of a party under supervision of the Executive Secretary and only at the State Office of Education.

R686-100-13. Expert Witnesses in Commission Proceedings.

- A. A party may call an expert witness at its own expense. Notice of intent of a party to call an expert witness, the identity and qualifications of such expert witness and the purpose for which the expert witness is to be called shall be provided to the hearing officer and the opposing party at least 20 days prior to the hearing date.
- B. The hearing officer may appoint any expert witness agreed upon by the parties or of the hearing officer's own selection. An expert so appointed shall be informed of his duties by the hearing officer in writing, a copy of which shall become part of the permanent case file. The expert shall advise the hearing panel and the parties of his findings and may thereafter be called to testify by the hearing panel or by any party. He shall be subject to cross-examination by each party or by any of the hearing panel members.
- C. Defects in the qualifications of expert witnesses, once a minimum threshold of expertise is established, go to the weight to be given their testimony and not to its admissibility.
- D. Experts who are members of the Complainant's staff or a school district staff may testify and have their testimony considered as part of the record along with that of any other expert.
- E. Any report of an expert witness which a party intends to introduce into evidence shall be provided to the opposing party at least 10 days prior to the hearing date.

R686-100-14. Evidence and Participation in Commission Proceedings.

- A. The hearing officer may not exclude evidence solely because it is hearsay.
- B. The hearing officer shall afford each party the opportunity to produce witnesses, present evidence, argue, respond, cross-examine witnesses who testify in person at the hearing, and submit rebuttal evidence.
- C. If a party intends to submit documentary evidence, the party intending to present such evidence shall provide one copy to each member of the hearing panel at least one hour prior to the hearing, and one copy to the opposing party.
- D. All testimony presented at the hearing, if offered as evidence to be considered in reaching a decision on the merits, shall be given under oath.
- E. In any case involving allegations of child abuse or of a sexual offense against a child, upon request of either party or by a

- member of the hearing panel, the hearing officer may determine whether a significant risk exists that the child would suffer serious emotional or mental harm if required to testify in the respondent's presence, or whether a significant risk exists that the child's testimony would be inherently unreliable if required to testify in the respondent's presence. If the hearing officer determines either to be the case, then the child's testimony may be admitted in one of the following ways:
- (1) An oral statement of a victim or witness younger than 18 years of age which is recorded prior to the filing of a complaint shall be admissible as evidence in a hearing regarding the offense if:
- (a) No attorney for either party is in the child's presence when the statement is recorded;
- (b) The recording is visual and aural and is recorded on film or videotape or by other electronic means;
- (c) The recording equipment is capable of making an accurate recording, the operator of the equipment is competent, and the recording is accurate and has not been altered; and
 - (d) Each voice in the recording is identified.
- (2) The testimony of any witness or victim younger than 18 years of age may be taken in a room other than the hearing room, and be transmitted by closed circuit equipment to another room where it can be viewed by the respondent. All of the following conditions shall be observed:
- (a) Only the hearing panel members, attorneys for each party, persons necessary to operate equipment, and a person approved by the hearing officer whose presence contributes to the welfare and emotional well-being of the child may be with the child during his testimony.
- (b) The respondent may not be present during the child's testimony;
- (c) The hearing officer shall ensure that the child cannot hear or see the respondent;
- (d) The respondent shall be permitted to observe and hear, but not communicate with, the child; and
- (e) Only hearing panel members and the attorneys may question the child.
- (3) The testimony of any witness or victim younger than 18 years of age may be taken outside the hearing room and recorded if the provisions of Sections R686-100-14E(2)(a)(b)(c) and (e) and the following are observed:
- (a) The recording is both visual and aural and recorded on film or videotape or by other electronic means;
- (b) The recording equipment is capable of making an accurate recording, the operator is competent, and the recording is accurate and is not altered:
 - (c) Each voice on the recording is identified; and
- (d) Each party is given an opportunity to view the recording before it is shown in the hearing room.
- (4) If the hearing officer determines that the testimony of a child will be taken under Section R686-100-14E(1)(2) or (3) above, the child may not be required to testify in any proceeding where the recorded testimony is used.
- F. On his own motion or upon objection by a party, the hearing officer:
- (1) May exclude evidence that the hearing officer determines to be irrelevant, immaterial, or unduly repetitious;

- (2) Shall exclude evidence that is privileged under law applicable to administrative proceedings in Utah unless waived;
- (3) May receive documentary evidence in the form of a copy or excerpt if the copy or excerpt contains all pertinent portions of the original document;
- (4) May take official notice of any facts that could be judicially noticed under judicial or administrative laws of Utah, or from the record of other proceedings before the agency.
 - G. Presumptions:
- (1) A rebuttable evidentiary presumption exists that a person has committed a sexual offense against a minor child if the person has:
- (a) Been found, pursuant to a criminal, civil, or administrative action to have committed a sexual offense against a minor;
- (b) Failed to defend himself against such a charge when given a reasonable opportunity to do so; or
- (c) Voluntarily surrendered a license or allowed a license to lapse in the face of a charge of having committed a sexual offense against a minor.
- (2) A rebuttable evidentiary presumption exists that a person is unfit to serve as an educator if the person has:
 - (a) Been convicted of a felony;
- (b) Been charged with a felony and subsequently convicted of a lesser related charge pursuant to a plea bargain or plea in abeyance; or
- (c) Lost certification in another state through revocation or suspension, or through surrender of certification or allowing a license to lapse in the face of an allegation of misconduct, if the person would not currently be eligible to regain certification in that state
- H. The Hearing Officer may confer with the Executive Secretary or the panel members or both while preparing the Hearing Report. The Hearing Officer may request the Executive Secretary to confer with the Hearing Officer and panel following the hearing.

R686-100-15. Hearing Report.

- A. Within 20 days after the hearing, or within 20 days after the deadline imposed for the filing of any post-hearing materials permitted by the hearing officer, the hearing officer shall prepare, sign and issue a Hearing Report consistent with the recommendations of the panel that includes:
- (1) A detailed findings of fact and conclusions of law based upon the evidence of record or on facts officially noted. Findings of fact may not be based solely upon hearsay, and conclusions shall be based upon competent evidence;
 - (2) A statement of relevant precedent;
 - (3) A statement of applicable law and rule;
- (4) A recommended disposition of the Commission panel members which shall be one of the following:
- (a) Dismissal of the Complaint: The hearing report shall indicate that the complaint should be dismissed and that no further action should be taken.
- (b) Warning: The hearing report shall indicate that respondent's conduct is deemed unprofessional and that the hearing report should constitute an official warning. The hearing report shall indicate that no further action concerning the complaint should be taken, but that the complaint and disposition could be considered should the respondent's conduct be brought into question in the future.

- (c) Reprimand: The hearing report shall indicate that the respondent's conduct is deemed unprofessional and that the hearing report should constitute an official reprimand. The hearing report shall indicate that the employing school board shall be notified of the reprimand and that record of the reprimand shall be made on all Utah State Board of Education Certification records maintained in the certification file on the respondent. The hearing report should also include a recommendation for how long the reprimand shall be maintained in the respondent's file and conditions under which it could be removed.
- (d) Probation: The hearing report shall determine that the respondent's conduct was unprofessional, that the respondent shall not lose his certification, but that a probationary period is appropriate. If the report recommends probation, the report shall designate:
 - (i) a probationary time period;
 - (ii) conditions that can be monitored;
 - (iii) a person or entity to monitor a respondent's probation;
 - (iv) a statement providing for costs of probation.
- (v) whether or not the respondent may work in any capacity in education during the probationary period.

A probation may be stated as a plea in abeyance: The respondent's penalty is stayed subject to the satisfactory completion of probationary conditions. The decision shall provide for discipline should the probationary conditions not be completed.

- (e) Suspension: The hearing report shall recommend to the State Board of Education that the license of the respondent be suspended for a specific period of time and until specified reinstatement conditions have been met before respondent may petition for reinstatement of certification. The hearing report shall indicate that, should the Board confirm the recommended decision, the respondent shall return the printed suspended license to the State Office of Education and that the Certification Section of the Utah State Office of Education will notify the employing school district, all other Utah school districts, and all other state, territorial, and national certification offices or clearing houses of the suspension in accordance with R277-514.
- (f) Revocation: The hearing report shall recommend to the State Board of Education that the license of the respondent be revoked for a period of not less than five years. The hearing report shall indicate that should the Board confirm the recommended decision, the respondent shall return the revoked license to the State Office of Education and that the Certification Section of the Utah State Office of Education will notify the employing school district, all other Utah school districts, and all other state, territorial, and national certification offices or clearing houses of the revocation in accordance with R277-514.
- (5) The hearing report may recommend that the warning letter or that the reprimand remain permanently in the certification file. The hearing report shall also provide that the substance of the warning letter or reprimand or terms of probation may be communicated by designated USOE employees to prospective employers upon request.
 - (6) Notice of the right to appeal; and
 - (7) Time limits applicable to appeal.
 - B. Processing the Hearing Report:
- (1) The hearing officer shall circulate the draft report to hearing panel members prior to the 20 day completion deadline of the hearing report.

- (2) Hearing panel members shall notify the hearing officer of any changes to the report as soon as possible after receiving the report and prior to the 20 day completion deadline of the hearing report.
- (3) The hearing officer shall file the completed hearing report with the Executive Secretary, who shall review the report with the Commission.
- (4) If the Commission, upon review of the hearing report, finds by majority vote, that there have been significant procedural errors in the hearing process or that the weight of the evidence does not support the conclusions of the hearing report, the Commission as a whole may direct the Executive Secretary to prepare an alternate hearing report and follow procedures under R686-100-15B(2).
- (5) If the Commission finds that there have not been significant procedural errors or that recommendations are based upon a reasonable interpretation of the evidence presented at the hearing, the Commission shall vote to uphold the hearing officer's report and do one of the following:
- (a) If the recommendation is for final action to be taken by the Commission, the Commission shall direct the Executive Secretary to prepare a corresponding final order and serve all parties with a copy of the order and hearing report. A copy of the order and the hearing report shall be placed in and become part of the permanent case file. The order shall be effective upon approval by the Commission.
- (b) If the recommendation is for final action to be taken by the Board, the Executive Secretary shall forward a copy of the hearing report to the State Board of Education for its further action. A copy of the hearing report shall also be placed in and become part of the permanent case file.
- (6) If the Commission determines that procedural errors or that the hearing officer's report is not based upon a reasonable interpretation of the evidence presented at the hearing to the extent that an amended hearing report cannot be agreed upon, the Commission shall direct the Executive Secretary to schedule the matter for rehearing before a new hearing officer and panel.
- C. Consistent with Section 63-2-301(1)(c), the final administrative disposition of all administrative proceedings, the Recommended Disposition section of the Hearing Report, of the Commission shall be public. The hearing findings/report of suspensions and expulsions shall be public information and shall be provided consistent with Section 63-2-301(1)(c). The Recommended Disposition portion of the Hearing Report of warnings, reprimands and probations (including the probationary conditions) shall be public information. All references to individuals and personally identifiable information about individuals not parties to the hearing shall be redacted prior to making the disposition public.
- D. Deadlines within this section may be waived by the Commission for good cause shown.

R686-100-16. Default Procedures.

- A. An order of default may be issued against a respondent under any of the following circumstances:
- (1) The Executive Secretary may enter an order of default by preparing a report of default including the order of default, a statement of the grounds for default, and a recommended disposition if the respondent fails to file a response to a complaint

- for an additional 20 days following the time period allowed for response to a complaint under R686-100-5E.
- (2) The hearing officer may enter an order of default against a respondent by preparing a hearing report including the order of default, a statement of the grounds for default and the recommended disposition if:
- (a) The respondent fails to attend or participate in a properly scheduled hearing after receiving proper notice. The hearing officer may determine that the respondent has failed to attend a properly scheduled hearing if the respondent has not appeared within 30 minutes of the appointed time for the hearing to begin.
- (b) The respondent or the respondent's representative is guilty of serious misconduct during the course of the hearing process as provided under Section R686-100-8D.
- B. The report of default or hearing report shall be forwarded to the Commission by the Executive Secretary for further action under Section R686-100-16B.

R686-100-17. Appeal.

[A. Either party may appeal a final action by the Commission or the Board by requesting review by the State Superintendent of Public Instruction, 250 East 500 South, Salt Lake City, Utah 84111, within 30 days of the date that the final order was postmarked.

- (1) The appeal shall consist of the following:
- (a) Name, position, and address of appellant;
- (b) Issue(s) being appealed;
- (c) Signature of appellant.
- (2) The State Superintendent shall review the record and information and hearing report upon which the decision was based, and issue a written order regarding his findings and disposition of the matter. A copy of the order or a notice of extension of time to respond shall be served upon the parties by the State Superintendent within 30 days after receiving the appeal.
 - (3) The State Superintendent's decision is final.
- B. Either party may appeal a final action of the Board by following the procedures set forth under R277-514-]A. Either party may appeal a final action or recommendation of the Commission by requesting review following the procedures of R277-514-3 or R277-514-4.
- B. If the appeal is from a Commission recommendation for a suspension of two years or more or revocation, the appellant shall follow the procedures of R277-514-3.
- C. If the appeal is from a Commission recommendation or for a suspension of less than two years or for any other issue, dismissal, or failure to discipline, the appeal shall be made directly to the Board under R277-514-4B.
 - D. The request for appeal shall consist of the following:
 - (1) name, position, and address of appellant;
 - (2) issue(s) being appealed; and
 - (3) signature of appellant.

R686-100-18. Remedies for Individuals Beyond Commission Actions.

Despite Commission or Board actions, informants or other injured parties who feel that their rights have been compromised, impaired or not addressed by the provisions of this rule, may appeal directly to district court.

R686-100-19. Application for Certification Following Denial or Loss of Certification.

- A. An individual who has been denied certification or lost certification through revocation or suspension, or through surrender of a license or allowing a license to lapse in the face of an allegation of misconduct, may request review to consider the possibility of a grant or reinstatement of a license.
- (1) The request for review shall be in writing and addressed to the Executive Secretary, Professional Practices Advisory Commission, 250 East 500 South, Salt Lake City, Utah 84111, and shall have the following heading:

Jane Doe, Petitioner VS Utah State Office of Education Respondent. TABLE 1) Request for Agency Action Pollowing Denial or Loss of License Villeno: Villen

- B. The body of the request shall contain the following information:
 - (1) Name and address of the individual requesting review;
 - (2) Action being requested;
- (3) Evidence of compliance with terms and conditions of any remedial or disciplinary requirements or recommendations;
 - (4) Reasons for reconsideration of past disciplinary action;
 - (5) Signature of person requesting review.
- C. The Executive Secretary shall review the request with the Commission.
- (1) If the Commission determines that the request is invalid, the person requesting reinstatement shall be notified by certified mail of the denial
- (2) If the Commission determines that the request is valid, a hearing shall be scheduled and held as provided under Section R686-100-6.
- D. Burden of Proof: The burden of proof for granting or reinstatement of certification shall fall on the individual seeking the license.
- (1) Individuals requesting reinstatement of a suspended license must show sufficient evidence of compliance with any conditions imposed in the past disciplinary action as well as undergo a criminal background check in accordance with Utah law.
- (2) Individuals requesting certification following revocation shall show sufficient evidence of compliance with any conditions imposed in the past disciplinary action as well as providing evidence of qualifications for certification as if the individual had never been licensed in Utah or any other state.
- (3) Individuals requesting certification following denial shall show sufficient evidence of completion of a rehabilitation or remediation program, if applicable.

R686-100-20. Reinstatement Hearing Procedures.

- A. The individual seeking reinstatement of his license shall be the petitioner.
- B. The petitioner shall have the responsibility of presenting the background of the case.

- C. The petitioner shall present documentation or evidence that supports reinstatement.
- D. The respondent (the State) shall present any evidence or documentation that would not support reinstatement.
- E. Other evidence or witnesses shall be presented consistent with R686-100-14.
- F. The appointed hearing officer shall rule on other procedural issues in a reinstatement hearing in a timely manner as they arise.

R686-100-21. Temporary Suspension of Certification Pending a Hearing.

- A. If the Executive Secretary determines, after affording respondent an opportunity to discuss allegations of misconduct, that reasonable cause exists to believe that the charges will be proven to be correct and that permitting the respondent to retain certification prior to hearing would create unnecessary and unreasonable risks for children, then the Executive Secretary may order immediate suspension of the respondent's license pending final Board action.
- B. Evidence of the temporary suspension may not be introduced at the hearing.
- C. Notice of the temporary suspension shall be provided to other states under R277-514.

KEY: teacher certification, conduct*, hearings* [January 5,]2000 53A-6-306(1)(a)

Transportation, Motor Carrier **R909-1**

Safety Regulations for Motor Carriers

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE No.: 22652
FILED: 02/08/2000, 07:25
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes have been made to 393.5 and 393.86 of the Federal Motor Carrier Regulations, which this rule incorporates by reference. The regulations have added a requirement that trailers with a gross vehicle weight rating of 10,000 pounds or greater have rear impact guards and maintain the underride protection devices. This will also incorporate nonsubstantive changes.

SUMMARY OF THE RULE OR CHANGE: 393.86 adds a requirement that trailers with a gross vehicle weight rating of 10,000 pounds or greater, and manufactured on or after January 26, 1998, be equipped with rear impact guards that meet the requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 223 and No. 224. This is to ensure that the regulations are consistent with FMVSS and to improve the safety of operation of commercial motor vehicles

by reducing the incidence of passenger compartment intrusion during underride accidents in which the passenger vehicle strikes the rear of the trailer. Trailers and semitrailers manufactured before January 26, 1998, are not required to retrofit the rear impact guard. However motor carriers operating those trailers and semitrailers are required to comply with the Federal Highway Administration's (FHWA) requirements for rear end protection not covered by FMVSS Nos. 223 and 224. There are additional definitions added to 393.5 for the purpose of clarifying the regulations.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 72-17-103

FEDERAL REQUIREMENT FOR THIS RULE: 49 CFR 350-399 (1999)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Regulations Management Corporation, 49 CFR 350-399, October 1, 1999

ANTICIPATED COST OR SAVINGS TO:

- ♦THE STATE BUDGET: There will be no additional costs associated to state government agencies. The agencies involved are currently inspecting these vehicles and this requirement will not impose an additional burden on their inspection process.
- ♦LOCAL GOVERNMENTS: There will be no additional costs associated to local government agencies. The agencies involved are currently inspecting these vehicles and this requirement will not impose an additional burden on their inspection process.
- ♦OTHER PERSONS: National Highway Transportation Safety Act requires manufactures to equip new trailers and semitrailers with rear impact guards. This rule requires motor carriers to maintain the improved underride protection devices. If a motor carrier has replaced this with a device not meeting FMVSS Nos. 223 or 224, there will be a cost to retrofit the vehicle. This anticipated coss could be between \$128 to \$148 per trailer or semitrailer.

COMPLIANCE COSTS FOR AFFECTED PERSONS: National Highway Transportation Safety Act requires manufactures to equip new trailers and semitrailers with rear impact guards. This rule requires motor carriers to maintain the improved underride protection devices. If a motor carrier has replaced this with a device not meeting FMVSS Nos. 223 or 224, there will be a cost to retrofit the vehicle. This anticipated costs could be between \$128 to \$148 per trailer or semitrailer.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be little or no impact for vehicles currently equipped with the rear impact guards. Otherwise, the expense will be \$128 to \$148 per vehicle.

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

Transportation Motor Carrier Calvin Rampton 4501 South 2700 West PO Box 148240 Salt Lake City, UT 84114-8240, or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Tamy L. Scott at the above address, by phone at (801) 965-4752, by FAX at (801) 965-4847, or by Internet E-mail at tscott@dot.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/31/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2000

AUTHORIZED BY: Tamy L. Scott, Safety Investigator

R909. Transportation, Motor Carrier. R909-1. Safety Regulations for Motor Carriers. R909-1-1. Adoption of Federal Regulations.

A. Safety Regulations for Motor Carriers, 49 CFR Parts 350 through 399, as contained in the October 1, 1999[1998] edition and amendments which appear, November 1, [1998]1999, December 1, [1998]2000, January 1, [1999]2000, February 1, 1999, March 1, 1999, April 1, 1999, May 1, 1999, June 1, 1999, July 1, 1999, August 1, 1999 and September 1, 1999,] as printed by the Regulations Management Corporation Service, is incorporated by reference, except for Parts 391.11(b)(1), 395.1([t]k), 395.1([tm]l), 395.1([tm]m) and 395.1([to]n). These requirements apply to all motor carrier(s) as defined in 49 CFR Part 390.5 and UCA 72-9-102(4) engaged in Commerce.

- B. In the instance of a driver who is used primarily in the transportation of construction materials and equipment, as defined under 395.2, to and from an active construction site, any period of 7 or 8 consecutive days may end with the beginning of any off-duty period of 36 or more successive hours.
- C. Exceptions to Part 391.41, Physical Qualification may be granted under the rules of Department of Public Safety, Driver's License Division, UCA 53-3-303.5 for intrastate drivers under R708-34.
- D. Drivers involved wholly in intrastate commerce shall be at least 18 years old; unless transporting placarded amounts of hazardous materials; or 16 or more passengers including the driver.
- E. Drivers in involved in interstate commerce shall be at least 21 years old.

KEY: trucks, transportation safety [December 15, 1999] April 1, 2000 Notice of Continuation March 31, 1997

72-9-103 72-9-104 54-6-9

63-49-4

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by *Utah Code* Section 63-46a-9 (1996).

Agriculture and Food, Regulatory Services

R70-310

Grade A Pasteurized Milk

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 22657 FILED: 02/10/2000, 09:04 RECEIVED BY: NL

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 4-2-2(1)(j) authorizes the Department of Agriculture and Food to make and enforce rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is established to set standards and procedures for the processing of Grade A pasteurized milk products sold, bought, processed, manufactured, or distributed within the state of Utah.

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

Agriculture and Food Regulatory Services 350 North Redwood Road PO Box 146500 Salt Lake City, UT 84114-6500, or at the Division of Administrative Rules. DIRECT QUESTIONS REGARDING THIS RULE TO: Steve Himebaugh at the above address, by phone at (801) 538-7145, by FAX at (801) 538-7126, or Internet E-mail at agmain.shimbaug@state.ut.us.

AUTHORIZED BY: Cary G. Peterson, Commissioner

EFFECTIVE: 02/10/2000

Health, Health Systems Improvement, Health Facility Licensure

R432-270

Assisted Living Facilities

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 22655 FILED: 02/09/2000, 14:37 RECEIVED BY: NL

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21, "Health Facility Licensure and Inspection Act" authorizes the Utah Department of Health to promulgate rules for health care facilities. The Assisted Living Facilities rule adopts the current codes for operating Assisted Living Type I and Type II facilities. Without the authority provided, standards for operating an assisted living facility would not be available.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Health Facility Committee established a subcommittee that consists

of the Utah Assisted Living Association, licensed providers and interested parties to review the Assisted Living Facilities rule. Amendments to the rule may be made after the subcommittee completes their review of the rule. Some of the comments that have been received regarding this rule are: 1) change the reference to the Utah Nurse Practice Act, which is not cited correctly; 2) require that AL (Assisted Living) Type I facilities have a consultant arrangement with a RN (register nurse) if the residents have medication changes or care needs that require an RN assessment and delegation; 3) clarify the section on "Medication Administration"; 4) some AL II's have a secure unit for dementia/alzheimer's patients, amend the rule to include a section if the facility has a "controlled environment or secure unit" to meet the needs of the residents, include a definition of "controlled environment or secure unit," add specific staffing requirements for staffing a "controlled environment or secure unit"; 5) change the term used in service planning from "annual review" to "annual assessment" for consistency and clarification; 6) add "that the service plan must be implemented and followed by staff"; 7) add requirement that "medication administration" (self, family, or facility staff) shall be included on the assessment form; 8) add the requirement for assessments to include the "date of admission and date of assessment or reassessment."

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is required by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. There are currently 118 Type I and 26 Type II assisted living facilities licensed in the state and, without the authority provided, the assisted living facilities would not be regulated or licensed. The Health Facility Committee has appointed a subcommittee to review the rules and an amendment will be filed to the rule following their review.

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

Health
Health Systems Improvement,
Health Facility Licensure
Cannon Health Building
288 North 1460 West
PO Box 142003
Salt Lake City, UT 84114-2003, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO: Debra Wynkoop-Green at the above address, by phone at (801) 538-6152, by FAX at (801) 538-6325, or Internet E-mail at dwynkoop@doh.state.ut.us.

AUTHORIZED BY: Rod L. Betit, Executive Director

EFFECTIVE: 02/09/2000

Human Services, Recovery Services

R527-40

Retained Support

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 22656 FILED: 02/10/2000, 08:43 RECEIVED BY: NL

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 62A-11-107 gives the Office of Recovery Services (ORS) the authority to adopt, amend, and enforce rules necessary to carry out its responsibilities under state law. Under Section 62A-11-304.1, an obligor (person or entity owing a duty of support) must make support payments directly to ORS if the support has been assigned to ORS for periods of time financial public assistance was granted to the obligor's children. Subsection 62A-11-307.1(3) allows ORS to issue an administrative order and take necessary collection action against an obligee (a person or entity to whom a duty of support is owed) who has received and retained assigned Under Subsection 62A-11-307.2(3), when an obligee makes an agreement to allow the obligor to pay support in a manner or amount different than what was ordered, this does not affect the right of ORS to collect the full amount of assigned support. These laws support this rule, which was adopted to give a clear definition of "retained support," to specify which ORS team has the responsibility to process "retained support" referrals received from child support agents, and to explain how and when credit for \$50 pass through payments may be given.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received during and since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because the laws and policies dealing with retained support are still in effect and the rule gives essential clarification, procedure, and explanation relating to those laws and policies.

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

Human Services Recovery Services Fourteenth Floor, Eaton/Kenway Building 515 East 100 South PO Box 45011 Salt Lake City, UT 84145-0011, or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO: Wayne Braithwaite at the above address, by phone at (801) 536-8986, by FAX at (801) 536-8509, or Internet E-mail at hsadmin.hsorsslc.wbraithw@email.state.ut.us.

AUTHORIZED BY: Emma Chacon, Director

EFFECTIVE: 02/10/2000

Insurance, Administration **R590-88**

Prohibited Transactions Between Agents and Unauthorized Multiple Employer Trusts

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 22665 FILED: 02/15/2000, 10:52 RECEIVED BY: NL

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 31A-2-201(3) allows the commissioner to make rules to implement the provisions of the Insurance Code. Section 31A-23-302 gives the commissioner the authority to write a rule after findings have been made that an unfair or deceptive practice exists in the marketplace. Findings were made by the commissioner that multiple employer groups that were not sponsored by self-insured employers or legitimate unions were illegally operating in the insurance marketplace.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has not received any written comments for or against this rule in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is not uncommon to find someone posing as a multiple employer trust (MET), trying to sell an insurance-like product that is called a trust, to a group, such as a group of plumbers, electricians, etc. The problem is that often those selling

METs are not licensed and there is no backing for the trust, like a legitimate self-insurance program or an insurance company. Once the insurance is sold, the person then skips with the premium, leaving the group without coverage. This rule gives guidelines for what is an authorized and unauthorized MET, what are prohibited transactions by a MET, and what sanctions the department can take against them.

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 RULE TO: Jilene Whitby at the above address, by phone at (801) 538-3803, by FAX at (801) 538-3829, or Internet E-mail at idmain.jwhitby@state.ut.us.

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 02/15/2000

Insurance, Administration **R590-128**

Unfair Discrimination Based on the Failure to Maintain Automobile Insurance. (Revised.)

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 22666 FILED: 02/15/2000, 10:52 RECEIVED BY: NL

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 31A-23-302 gives the commissioner the authority to write a rule after findings have been made that an unfair or deceptive practice exists in the marketplace. Findings were made by the commissioner that auto insurers were unfairly charging insureds higher auto insurance premiums solely because they had dropped insurance coverage on their vehicles for a period of time. The rule requires that if insurers increase rates because of failure to maintain insurance, that it be in addition to a poor driving record or statement from the insured that they were in violation of the law while they were without insurance coverage; for example, driving without a license.

against this rule in the past five years.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE

THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED

department has not received any written comments for or

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE,

INCLUDING REASONS WHY THE AGENCY DISAGREES WITH

COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule was

promulgated to identify and restrict certain underwriting,

classification, or declination practices that are sometimes used in the industry to unfairly discriminate against those with

HIV infection. It also sets standards for the confidentiality

and disclosure of HIV test results. This is still a valid issue in

the insurance marketplace today with AIDS on the increase

PERSONS SUPPORTING OR OPPOSING THE RULE:

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has not received any written comments for or against this rule in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is still fairly common for insurers to violate the provisions of this rule. It is not uncommon for us to get calls from insureds with complaints against insurers for rating their premium high because they have been without coverage for a valid reason such as selling their vehicle and not replacing it for a time, having it out of commission due to mechanical problems, military duty, missionary service, etc.

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 RULE TO: Jilene Whitby at the above address, by phone at (801) 538-3803, by FAX at (801) 538-3829, or Internet E-mail at idmain.jwhitby@state.ut.us.

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 02/15/2000

and the fact that a cure has still not been found and medical costs for this disease are very high.

ECTED, DURING

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 RULE TO: Jilene Whitby at the above address, by phone at (801) 538-3803, by FAX at (801) 538-3829, or Internet E-mail at idmain.jwhitby@state.ut.us.

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 02/15/2000

Insurance, Administration **R590-132**

Insurance Treatment of Human Immunodeficiency Virus (HIV) Infection

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 22667 FILED: 02/15/2000, 10:52 RECEIVED BY: NL

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsections 31A-2-201(3) and 31A-2-301(4) allow the commissioner to make rules to implement the provisions of the Insurance Code.

End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. These effective dates are at least 31 days and not more than 120 days after the date the following rules were published.

Abbreviations

AMD = Amendment

CPR = Change in Proposed Rule

NEW = New Rule

R&R = Repeal and Reenact

REP = Repeal

Commerce

Occupational and Professional Licensing

No. 22587 (AMD): R156-1-205. Advisory Peer Committees - Director to Appoint with Concurrence of Board - Terms of Office - Vacancies in Office - Removal from Office - Quorum Requirements - Appointment of Chairman - Division to Provide Secretary - Compliance with Open and Public Meetings Act - Compliance with Utah Administrative Procedures Act - No Provision for Per Diem and Expenses.

Published: January 15, 2000

Effective: February 15, 2000

No. 22318 (CPR): R156-17a. Pharmacy Practice

Act Rules.

Published: January 15, 2000 Effective: February 15, 2000

No. 22576 (AMD): R156-31b-304. Quality Review

Program.

Published: January 15, 2000 Effective: February 15, 2000

No. 22577 (AMD): R156-31c-201. Issuing a

License.

Published: January 15, 2000 Effective: February 15, 2000

No. 22398 (CPR): R156-56. Utah Uniform Building

Standard Act Rules.

Published: January 15, 2000 Effective: February 15, 2000

No. 22478 (CPR): R156-56-602. Factory Built

Housing Dealer Bonds.

Published: January 15, 2000 Effective: February 15, 2000

No. 22588 (AMD): R156-61. Psychologist Licensing

Act Rules.

Published: January 15, 2000 Effective: February 15, 2000 No. 22589 (AMD): R156-66. Utah Professional

Boxing Regulation Act Rules. Published: January 15, 2000 Effective: February 15, 2000

Environmental Quality

Air Quality

No. 22553 (AMD): R307-110-19. Section XI, Other

Control Measures for Mobile Sources.

Published: January 1, 2000 Effective: February 10, 2000

Regents (Board of)

Administration

No. 22052 (CPR): R765-604. New Century

Scholarship.

Published: October 15, 1999 Effective: February 4, 2000

Transportation

Motor Carrier, Ports of Entry

No. 22531 (AMD): R912-14. Changes in Utah's Oversize/Overweight Permit Program - Semitrailer

Exceeding 48 Feet Length. Published: January 1, 2000 Effective: February 15, 2000

> End of the Notices of Rule Effective Dates Section

RULES INDEX BY AGENCY (CODE NUMBER) AND BY KEYWORD (SUBJECT)

The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 2000, including notices of effective date received through February 15, 2000, the effective dates of which are no later than March 1, 2000. 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).

A copy of the *Rules Index* is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (http://www.rules.state.ut.us/).

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 *Bulletin*, or

5YR = Five-Year Review repealed text not printed in *Bulletin* EXD = Expired

CODE FILE **EFFECTIVE** BULLETIN REFERENCE TITLE NUMBER **ACTION** DATE ISSUE/PAGE **AGRICULTURE AND FOOD** Regulatory Services R70-310 Grade A Pasteurized Milk 22657 5YR 02/10/2000 2000-5/64 R70-630 Water Vending Machine 22596 5YR 01/11/2000 2000-3/91 COMMERCE Occupational and Professional Licensing R156-1-205 Advisory Peer Committees - Direct to Appoint 22587 **AMD** 02/15/2000 2000-2/8 with Concurrence of Board - Terms of Office -Vacancies in Office - Removal from Office -Quorum Requirements - Appointment of Chairman - Division to Provide Secretary -Compliance with Open and Public Meetings Act - Compliance with Utah Administrative Procedures Act - No Provision for Per Diem and Expenses R156-17a Pharmacy Practice Act Rules 22318 AMD see CPR 99-17/10 Pharmacy Practice Act Rules **CPR** R156-17a 22318 02/15/2000 2000-2/17 Quality Review Program 2000-2/10 R156-31b-304 22576 AMD 02/15/2000 R156-31c-201 22577 **AMD** 02/15/2000 2000-2/11 Issuing a License

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R156-56	Utah Uniform Building Standard Act Rules	22398	AMD	see CPR	99-20/15
R156-56	Utah Uniform Building Standard Act Rules	22398	CPR	02/15/2000	2000-2/21
R156-56-602	Factory Built Housing Dealer Bonds	22478	AMD	see CPR	99-22/7
R156-56-602	Factory Built Housing Dealer Bonds	22478	CPR	02/15/2000	2000-2/24
R156-56-706	Amendments to the IPC	22449	AMD	see CPR	99-21/7
R156-56-706	Amendments to the IPC	22449	CPR	01/18/2000	99-24/47
R156-57	Respiratory Care Practices Act Rules	22482	AMD	01/04/2000	99-23/13
R156-61	Psychologist Licensing Act Rules	22588	AMD	02/15/2000	2000-2/12
R156-66	Utah Professional Boxing Regulation Act Rules	22589	AMD	02/15/2000	2000-2/14
R156-71	Naturopathic Physician Practice Act Rules	22507	AMD	01/04/2000	99-23/14
Real Estate					
R162-6	Licensee Conduct	22514	AMD	01/27/2000	99-24/10
EDUCATION					
Administration					
R277-404	Year-Round School and Effective Facility Use Program	22563	REP	02/01/2000	2000-1/8
R277-430	Capital Outlay Equalization Qualification	22564	REP	02/01/2000	2000-1/10
R277-472	Reading Performance Improvement Awards Program	22593	NSC	01/25/2000	Not Printed
R277-507	Driver Education Endorsement	22528	AMD	02/01/2000	2000-1/11
ENVIRONMENT	AL QUALITY				
Air Quality					
R307-110-19	Section XI, Other Control Measure for Mobile Sources	22553	AMD	02/10/2000	2000-1/14
R307-403-8	Offsets: Banking of Emission Offset Credit	22607	NSC	01/25/2000	Not Printed
Solid and Hazard	dous Waste				
R315-1-1	Utah Hazardous Waste Definitions and References	22537	NSC	01/25/2000	Not Printed
R315-2	General Requirements - Identification and Listing of Hazardous Waste	22538	NSC	01/25/2000	Not Printed
R315-3	Application and Plan Approval Procedures for Hazardous Waste Treatment, Storage, and Disposal Facilities	22539	NSC	01/25/2000	Not Printed
R315-5	Hazardous Waste Generator Requirements	22541	NSC	01/25/2000	Not Printed
R315-7	Interim Status Requirements for Hazardous Waste Treatment, Storage, and Disposal Facilities	22541	NSC	01/25/2000	Not Printed
R315-8	Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities	22543	NSC	01/25/2000	Not Printed
R315-13	Land Disposal Restrictions	22544	NSC	01/25/2000	Not Printed
R315-16	Standards for Universal Waste Management	22545	NSC	01/25/2000	Not Printed
R315-50	Appendices	22546	NSC	01/25/2000	Not Printed
R315-101	Cleanup Action and Risk-Based Closure Standards	22547	NSC	01/25/2000	Not Printed

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
HEALTH					
	ancing, Coverage and Reimbursement Policy				
R414-1	Utah Medicaid Program	22512	AMD	01/26/2000	99-24/13
R414-303	Coverage Groups	22378	AMD	see CPR	99-19/25
R414-303	Coverage Groups	22378	CPR	01/26/2000	99-24/52
Health Systems	Improvement, Health Facility Licensure				
R432-7	Specialty Hospital - Psychiatric Hospital Construction	22630	5YR	02/01/2000	2000-4/70
R432-8	Specialty Hospital - Chemical Dependency/Substance Abuse Construction	22631	5YR	02/01/2000	2000-4/70
R432-9	Specialty Hospital - Rehabilitation Construction Rule	22632	5YR	02/01/2000	2000-4/71
R432-10	Specialty Hospital - Chronic Disease Construction Rule	22633	5YR	02/01/2000	2000-4/72
R432-11	Orthopedic Hospital Construction	22634	5YR	02/01/2000	2000-4/72
R432-12	Small Health Care Facility (Four to Sixteen Beds) Construction Rule	22635	5YR	02/01/2000	2000-4/73
R432-13	Freestanding Ambulatory Surgical Center Construction Rule	22636	5YR	02/01/2000	2000-4/73
R432-14	Birthing Center Construction Rule	22637	5YR	02/01/2000	2000-4/74
R432-30	Adjudicative Procedure	22638	5YR	02/01/2000	2000-4/74
R432-270	Assisted Living Facilities	22655	5YR	02/09/2000	2000-5/64
HUMAN SERVIC	CES				
Aging and Adult	<u>Services</u>				
R510-302	Adult Protective Services	22619	5YR	01/24/2000	2000-4/75
Recovery Service	<u>es</u>				
R527-5	Release of Information	22555	AMD	02/01/2000	2000-1/33
R527-24	Good Cause	22487	REP	01/10/2000	99-23/86
R527-40	Retained Support	22656	5YR	02/10/2000	2000-5/65
R527-200	Administrative Procedures	22556	AMD	02/01/2000	2000-1/37
R527-475	State Tax Refund Intercept	22488	AMD	01/10/2000	99-23/87
INSURANCE					
Administration					
R590-88	Prohibited Transactions Between Agents and Unauthorized Multiple Employer Trusts	22665	5YR	02/15/2000	2000-5/66
R590-128	Unfair Discrimination Based on the Failure to Maintain Automobile Insurance. (Revised.)	22666	5YR	02/15/2000	2000-5/66
R590-132	Insurance Treatment of Human Immunodeficiency Virus (HIV) Infection	22667	5YR	02/15/2000	2000-5/67
R590-196	Bail Bond Surety Fee Standards, Collateral Standards, and Disclosure Form	22417	NEW	see CPR	99-20/28
R590-196	Bail Bond Surety Fee Standards, Collateral Standards, and Disclosure Form	22417	CPR	02/01/2000	99-24/53
R590-197	Treatment of Guaranty Association Assessments as Qualified Assets	22416	NEW	01/25/2000	99-20/30

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
D-00 /00				0.1/0.1/0.00	
R590-198	Valuation of Life Insurance Policies Rule	22506	NEW	01/04/2000	99-23/90
R590-198	Valuation of Life Insurance Policies Rule	22595	NSC	01/25/2000	Not Printed
LABOR COMMI	SSION				
Antidiscrimination	n and Labor, Fair Housing				
R608-1-3	Reliance on Federal Law	22591	NSC	01/25/2000	Not Printed
Industrial Accide	nts				
R612-8	Designation of the Initial Assessment of Noncompliance Penalties as an "Informal" Proceeding	22592	5YR	01/03/2000	2000-3/91
Occupational Sa	fety and Health				
R614-1-4	Incorporation of Federal Standards	22524	NSC	01/25/2000	Not Printed
LIEUTENANT G	<u>OVERNOR</u>				
Elections					
R623-1	Lieutenant Governor's Procedure for Regulation of Lobbyist Activities	22590	NSC	01/25/2000	Not Printed
NATURAL RES	DURCES				
Oil, Gas and Min	ing; Coal				
R645-301-500	Engineering	22214	AMD	see CPR	99-16/32
R645-301-500	Engineering	22214	CPR	02/01/2000	2000-1/64
Parks and Recre	ation				
R651-611	Fee Schedule	22474	AMD	01/03/2000	99-22/17
Wildlife Resource	es				
R657-5	Taking Big Game	22519	AMD	see CPR	99-24/25
R657-5	Taking Big Game	22519	CPR	02/01/2000	2000-1/66
R657-6	Taking Upland Game	22520	AMD	01/18/2000	99-24/35
R657-13	Taking Fish and Crayfish	22392	AMD	01/03/2000	99-20/31
R657-38	Dedicated Hunter Program	22521	AMD	01/18/2000	99-24/38
R657-47	Trust Fund Permits	22562	NEW	02/01/2000	2000-1/40
PROFESSIONA	L PRACTICES ADVISORY COMMISSION				
Administration					
R686-100	Professional Practices Advisory Commission, Rules of Procedure: Complaints and Hearings	22504	AMD	01/05/2000	99-23/96
R686-103	Professional Practices and Conduct for Utah Educators	22505	AMD	01/05/2000	99-23/105
PUBLIC SAFET	<u>Y</u>				
<u>Driver License</u>					
R708-14	Adjudicative Proceedings For Driver License Actions Involving Alcohol and Drugs	22536	AMD	02/01/2000	2000-1/43

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Fire Marshal					
R710-1	Concerns Servicing Portable Fire Extinguishers	22557	AMD	02/01/2000	2000-1/44
R710-2	Rules Pursuant to the Utah Fireworks Act	22558	AMD	02/01/2000	2000-1/50
R710-6	Liquefied Petroleum Gas Rules	22559	AMD	02/01/2000	2000-1/52
R710-7	Concerns Servicing Automatic Fire Suppression Systems	22560	AMD	02/01/2000	2000-1/54
R710-8	Day Care Rules	22561	AMD	02/01/2000	2000-1/57
PUBLIC SERVICE	CE COMMISSION				
<u>Administration</u>					
R746-360-2	Definitions	22530	NSC	01/25/2000	Not Printed
R746-401	Rules Governing Reporting of Construction, Purchase, Acquisition, Sale, Transfer or Disposition of Assets by Certain Utilities	22550	NSC	01/25/2000	Not Printed
REGENTS (BOA	ARD OF)				
Administration					
R765-604	New Century Scholarship	22052	NEW	see CPR	99-11/63
R765-604	New Century Scholarship	22052	CPR	02/04/2000	99-20/53
SCHOOL AND I	NSTITUTIONAL TRUST LANDS				
Administration					
R850-10	Expedited Rulemaking	22594	5YR	01/04/2000	2000-3/92
TAX COMMISSI	ON				
Property Tax					
R884-24P-44	Farm Machinery and Equipment Exemption Pursuant to Utah Code Ann. Sections 59-2-102 and 59-2-1101	22508	AMD	01/20/2000	99-23/107
R884-24P-62	Valuation of State Assessed Utility and Transportation Properties Pursuant to Utah Code Ann. Section 59-2-201	22522	AMD	01/20/2000	99-24/40
TRANSPORTAT	TION				
Motor Carrier, Po	orts of Entry				
R912-14	Changes in Utah's Oversize/Overweight Permit Program - Semitrailer Exceeding 48 Feet Length	22531	AMD	02/15/2000	2000-1/59
WORKFORCE S	SERVICES				
Workforce Inform	nation and Payment Services				
R994-202-103	Employee Leasing Companies	22548	AMD	02/02/2000	2000-1/60

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*

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ACADEMIC PERFORMANCE					
Education, Administration	22593	R277-472	NSC	01/25/2000	Not Printed
ADJUDICATIVE PROCEEDINGS					
Public Safety, Driver License	22536	R708-14	AMD	02/01/2000	2000-1/43
ADMINISTRATIVE LAW					
Human Services, Recovery Services	22556	R527-200	AMD	02/01/2000	2000-1/37
ADMINISTRATIVE PROCEDURES					
School and Institutional Trust Lands, Administration	22594	R850-10	5YR	01/04/2000	2000-3/92
ADULT PROTECTIVE SERVICES					
Human Services, Aging and Adult Services	22619	R510-302	5YR	01/24/2000	2000-4/75
AFDC (Aid to Families with Dependent	Children)				
Human Services, Recovery Services	22487	R527-24	REP	01/10/2000	99-23/86
AIR POLLUTION					
Environmental Quality, Air Quality	22553	R307-110-19	AMD	02/10/2000	2000-1/14
AIR QUALITY					
Environmental Quality, Air Quality	22607	R307-403-8	NSC	01/25/2000	Not Printed
<u>APPRAISAL</u>					
Tax Commission, Property Tax	22508	R884-24P-44	AMD	01/20/2000	99-23/107
	22522	R884-24P-62	AMD	01/20/2000	99-24/40
BIG GAME SEASONS					
Natural Resources, Wildlife Resources	22519	R657-5	AMD	see CPR	99-24/25
	22519	R657-5	CPR	02/01/2000	2000-1/66
<u>BIRDS</u>					
Natural Resources, Wildlife Resources	22520	R657-6	AMD	01/18/2000	99-24/35
<u>BOXING</u>					
Commerce, Occupational and Professional Licensing	22589	R156-66	AMD	02/15/2000	2000-2/14
BUILDING CODES					
Commerce, Occupational and Professional Licensing	22398	R156-56	AMD	see CPR	99-20/15
	22398	R156-56	CPR	02/15/2000	2000-2/21
	22478	R156-56-602	AMD	see CPR	99-22/7
	22478	R156-56-602	CPR	02/15/2000	2000-2/24

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
	22449	R156-56-706	AMD	see CPR	99-21/7
	22449	R156-56-706	CPR	01/18/2000	99-24/47
BUILDING INSPECTION					
Commerce, Occupational and Professional Licensing	22398	R156-56	AMD	see CPR	99-20/15
	22398	R156-56	CPR	02/15/2000	2000-2/21
	22478	R156-56-602	AMD	see CPR	99-22/7
	22478	R156-56-602	CPR	02/15/2000	2000-2/24
	22449	R156-56-706	AMD	see CPR	99-21/7
	22449	R156-56-706		01/18/2000	99-24/47
CAPITAL OUTLAY EQUALIZATION					
Education, Administration	22564	R277-430	REP	02/01/2000	2000-1/10
CHILD SUPPORT					
Human Services, Recovery Services	22555	R527-5	AMD	02/01/2000	2000-1/33
	22487	R527-24	REP	01/10/2000	99-23/86
	22656	R527-40	5YR	02/10/2000	2000-5/65
	22556	R527-200	AMD	02/01/2000	2000-1/37
	22488	R527-475	AMD	01/10/2000	99-23/87
COAL MINES					
Natural Resources; Oil, Gas and Mining; Coal	22214	R645-301-500	AMD	see CPR	99-16/32
	22214	R645-301-500	CPR	02/01/2000	2000-1/64
CONDUCT					
Professional Practices Advisory Commission, Administration	22504	R686-100	AMD	01/05/2000	99-23/96
CONFIDENTIALITY					
Human Services, Recovery Services	22555	R527-5	AMD	02/01/2000	2000-1/33
<u>CONTESTS</u>					
Commerce, Occupational and Professional Licensing	22589	R156-66	AMD	02/15/2000	2000-2/14
CONTRACTORS					
Commerce, Occupational and Professional Licensing	22398	R156-56	AMD	see CPR	99-20/15
	22398	R156-56	CPR	02/15/2000	2000-2/21
	22478	R156-56-602	AMD	see CPR	99-22/7
	22478	R156-56-602	CPR	02/15/2000	2000-2/24
	22449	R156-56-706	AMD	see CPR	99-21/7
	22449	R156-56-706	CPR	01/18/2000	99-24/47
<u>CONTRACTS</u>					
Public Service Commission, Administration	22550	R746-401	NSC	01/25/2000	Not Printed
COVERAGE GROUPS					
Health, Health Care Financing, Coverage and Reimbursement Policy	22378	R414-303	AMD	see CPR	99-19/25
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DAY CARE					
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DISCIPLINARY ACTIONS					
Professional Practices Advisory Commission, Administration	22505	R686-103	AMD	01/05/2000	99-23/105
DISCRIMINATION					
Labor Commission, Antidiscrimination and Labor, Fair Housing	22591	R608-1-3	NSC	01/25/2000	Not Printed
DIVERSION PROGRAMS					
Commerce, Occupational and Professional Licensing	22587	R156-1-205	AMD	02/15/2000	2000-2/8
DOMESTIC VIOLENCE					
Human Services, Aging and Adult Services	22619	R510-302	5YR	01/24/2000	2000-4/75
DRIVER EDUCATION					
Education, Administration	22528	R277-507	AMD	02/01/2000	2000-1/11
EDUCATION FACILITIES					
Education, Administration	22563	R277-404	REP	02/01/2000	2000-1/8
EDUCATOR LICENSURE					
Education, Administration	22528	R277-507	AMD	02/01/2000	2000-1/11
EDUCATORS					
Professional Practices Advisory Commission, Administration	22505	R686-103	AMD	01/05/2000	99-23/105
ELDERLY					
Human Services, Aging and Adult Services	22619	R510-302	5YR	01/24/2000	2000-4/75
<u>EMPLOYMENT</u>					
Workforce Services, Workforce Information and Payment Services	22548	R994-202-103	AMD	02/02/2000	2000-1/60
<u>ETHICS</u>					
Natural Resources, Wildlife Resources	22521	R657-38	AMD	01/18/2000	99-24/38
<u>EXTINGUISHERS</u>					
Public Safety, Fire Marshal	22557	R710-1	AMD	02/01/2000	2000-1/44
FAIR HOUSING					
Labor Commission, Antidiscrimination and Labor, Fair Housing	22591	R608-1-3	NSC	01/25/2000	Not Printed
<u>FEES</u>					
Natural Resources, Parks and Recreation	22474	R651-611	AMD	01/03/2000	99-22/17
FIRE PREVENTION					
Public Safety, Fire Marshal	22557	R710-1	AMD	02/01/2000	2000-1/44
	22560	R710-7	AMD	02/01/2000	2000-1/54
	22561	R710-8	AMD	02/01/2000	2000-1/57
<u>FIREWORKS</u>					
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Agriculture and Food, Regulatory Services	22657	R70-310	5YR	02/10/2000	2000-5/64
	22596	R70-630	5YR	01/11/2000	2000-3/91
GAME LAWS					
Natural Resources, Wildlife Resources	22519	R657-5	AMD	see CPR	99-24/25
	22519	R657-5	CPR	02/01/2000	2000-1/66
	22520	R657-6	AMD	01/18/2000	99-24/35
GOOD CAUSE					
Human Services, Recovery Services HAZARDOUS WASTE	22487	R527-24	REP	01/10/2000	99-23/86
Environmental Quality, Solid and Hazardous Waste	22537	R315-1-1	NSC	01/25/2000	Not Printed
	22538	R315-2	NSC	01/25/2000	Not Printed
	22539	R315-3	NSC	01/25/2000	Not Printed
	22541	R315-5	NSC	01/25/2000	Not Printed
	22542	R315-7	NSC	01/25/2000	Not Printed
	22543	R315-8	NSC	01/25/2000	Not Printed
	22544	R315-13	NSC	01/25/2000	Not Printed
	22545	R315-16	NSC	01/25/2000	Not Printed
	22546	R315-50	NSC	01/25/2000	Not Printed
	22547	R315-101	NSC	01/25/2000	Not Printed
HEALTH FACILITIES					
Health, Health Systems Improvement, Health Facility Licensure	22630	R432-7	5YR	02/01/2000	2000-4/70
	22631	R432-8	5YR	02/01/2000	2000-4/70
	22632	R432-9	5YR	02/01/2000	2000-4/71
	22633	R432-10	5YR	02/01/2000	2000-4/72
	22634	R432-11	5YR	02/01/2000	2000-4/72
	22635	R432-12	5YR	02/01/2000	2000-4/73
	22636	R432-13	5YR	02/01/2000	2000-4/73
	22637	R432-14	5YR	02/01/2000	2000-4/74
	22638	R432-30	5YR	02/01/2000	2000-4/74
	22655	R432-270	5YR	02/09/2000	2000-5/64
<u>HEARINGS</u>					
Professional Practices Advisory Commission, Administration	22504	R686-100	AMD	01/05/2000	99-23/96
HIGHER EDUCATION	22252	D705 004	NIENA	000	00.44/00
Regents (Board of), Administration	22052	R765-604	NEW	see CPR	99-11/63
Hallana	22052	R765-604	CPR	02/04/2000	99-20/53
HOUSING Labor Commission, Antidiscrimination and Labor, Fair Housing	22591	R608-1-3	NSC	01/25/2000	Not Printed

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<u>HUNTING</u>					
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INFORMAL ADJUDICATIVE PROCEEDI	NGS				
Labor Commission, Industrial Accidents	22592	R612-8	5YR	01/03/2000	2000-3/91
INSURANCE					
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	22417	R590-196	CPR	02/01/2000	99-24/53
INSURANCE COMPANIES					
Insurance, Administration	22506	R590-198	NEW	01/04/2000	99-23/90
	22595	R590-198	NSC	01/25/2000	Not Printed
	22666	R590-128	5YR	02/15/2000	2000-5/66
INSURANCE LAW					
Insurance, Administration	22665	R590-88	5YR	02/15/2000	2000-5/66
	22667	R590-132	5YR	02/15/2000	2000-5/67
	22416	R590-197	NEW	01/25/2000	99-20/30
LICENSING					
Commerce, Occupational and Professional Licensing	22587	R156-1-205	AMD	02/15/2000	2000-2/8
	22318	R156-17a	AMD	see CPR	99-17/10
	22318	R156-17a	CPR	02/15/2000	2000-2/17
	22576	R156-31b-304	AMD	02/15/2000	2000-2/10
	22577	R156-31c-201	AMD	02/15/2000	2000-2/11
	22398	R156-56	AMD	see CPR	99-20/15
	22398	R156-56	CPR	02/15/2000	2000-2/21
	22478	R156-56-602	AMD	see CPR	99-22/7
	22478	R156-56-602	CPR	02/15/2000	2000-2/24
	22449	R156-56-706	AMD	see CPR	99-21/7
	22449	R156-56-706	CPR	01/18/2000	99-24/47
	22482	R156-57	AMD	01/04/2000	99-23/13
	22588	R156-61	AMD	02/15/2000	2000-2/12
	22589	R156-66	AMD	02/15/2000	2000-2/14
	22507	R156-71	AMD	01/04/2000	99-23/14
LIQUEFIED PETROLEUM GAS					
Public Safety, Fire Marshal LOBBYIST	22559	R710-6	AMD	02/01/2000	2000-1/52
Lieutenant Governor, Elections	22590	R623-1	NSC	01/25/2000	Not Printed
MEDICAID	-				
Health, Health Care Financing, Coverage and Reimbursement Policy	22512	R414-1	AMD	01/26/2000	99-24/13

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Commerce, Occupational and Professional Licensing	22507	R156-71	AMD	01/04/2000	99-23/14
<u>NONATTAINMENT</u>					
Environmental Quality, Air Quality NURSES	22607	R307-403-8	NSC	01/25/2000	Not Printed
Commerce, Occupational and	22576	R156-31b-304	AMD	02/15/2000	2000-2/10
Professional Licensing					
	22577	R156-31c-201	AMD	02/15/2000	2000-2/11
OCCUPATIONAL LICENSING Commerce, Occupational and Professional Licensing	22587	R156-1-205	AMD	02/15/2000	2000-2/8
<u>OFFSET</u>					
Environmental Quality, Air Quality	22607	R307-403-8	NSC	01/25/2000	Not Printed
OVERPAYMENT					
Human Services, Recovery Services	22556	R527-200	AMD	02/01/2000	2000-1/37
<u>OZONE</u>					
Environmental Quality, Air Quality	22553	R307-110-19	AMD	02/10/2000	2000-1/14
<u>PARKS</u>					
Natural Resources, Parks and Recreation	22474	R651-611	AMD	01/03/2000	99-22/17
PARTICULATE MATTER					
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<u>PENALTIES</u>					
Labor Commission, Industrial Accidents PERMITS	22592	R612-8	5YR	01/03/2000	2000-3/91
Transportation, Motor Carrier, Ports of	22531	R912-14	AMD	02/15/2000	2000-1/59
Entry	22331	K912-14	AIVID	02/13/2000	2000-1/59
PERSONAL PROPERTY					
Tax Commission, Property Tax	22508	R884-24P-44	AMD	01/20/2000	99-23/107
	22522	R884-24P-62	AMD	01/20/2000	99-24/40
PHARMACIES	00040	D450.47	4445	000	00.47/40
Commerce, Occupational and Professional Licensing	22318	R156-17a	AMD	see CPR	99-17/10
	22318	R156-17a	CPR	02/15/2000	2000-2/17
PHARMACISTS					
Commerce, Occupational and Professional Licensing	22318	R156-17a	AMD	see CPR	99-17/10
	22318	R156-17a	CPR	02/15/2000	2000-2/17
PRIVACY LAW					
Human Services, Recovery Services	22555	R527-5	AMD	02/01/2000	2000-1/33
PROFESSIONAL EDUCATION					
Education, Administration	22528	R277-507	AMD	02/01/2000	2000-1/11

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DDODEDTY TAY					
PROPERTY TAX Tax Commission, Property Tax	22508	R884-24P-44	AMD	01/20/2000	99-23/107
Tax Commission, Froperty Tax	22522	R884-24P-62	AMD	01/20/2000	99-24/40
PSYCHOLOGISTS					
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PUBLIC SCHOOLS					
Education, Administration	22564	R277-430	REP	02/01/2000	2000-1/10
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Public Service Commission, Administration	22530	R746-360-2	NSC	01/25/2000	Not Printed
	22550	R746-401	NSC	01/25/2000	Not Printed
RABBITS	00500	D057.0	4145	04/40/6555	00.04/0-
Natural Resources, Wildlife Resources	22520	R657-6	AMD	01/18/2000	99-24/35
READING	22502	D077 470	NCC	04/25/2000	Not Drintod
Education, Administration REAL ESTATE BUSINESS	22593	R277-472	NSC	01/25/2000	Not Printed
Commerce, Real Estate	22514	R162-6	AMD	01/27/2000	99-24/10
RECLAMATION	22014	1(102 0	AIVID	01/21/2000	33 24/10
Natural Resources; Oil, Gas and Mining; Coal	22214	R645-301-500	AMD	see CPR	99-16/32
	22214	R645-301-500	CPR	02/01/2000	2000-1/64
RECREATION					
Natural Resources, Wildlife Resources	22521	R657-38	AMD	01/18/2000	99-24/38
RESPIRATORY CARE					
Commerce, Occupational and Professional Licensing	22482	R156-57	AMD	01/04/2000	99-23/13
RULEMAKING PROCEDURES					
School and Institutional Trust Lands, Administration	22594	R850-10	5YR	01/04/2000	2000-3/92
RULES AND PROCEDURE					
Public Service Commission, Administration	22550	R746-401	NSC	01/25/2000	Not Printed
SAFETY					
Labor Commission, Occupational Safety and Health	11524	R614-1-4	NSC	01/25/2000	Not Printed
SCHOLARSHIP					
Regents (Board of), Administration	22052	R765-604	NEW	see CPR	99-11/63
SECONDARY EDUCATION	22052	R765-604	CPR	02/04/2000	99-20/53
SECONDARY EDUCATION Pagents (Reard of) Administration	22052	R765-604	NE\A/	see CPR	99-11/63
Regents (Board of), Administration	22052	R765-604	NEW CPR	02/04/2000	99-11/63
SHELTER CARE FACILITIES		00 007	O1 10	32,0-1,2000	30 20/00
Human Services, Aging and Adult Services	22619	R510-302	5YR	01/24/2000	2000-4/75
SMALL BUSINESS ASSISTANCE PROG	RAM				
Environmental Quality, Air Quality	22553	R307-110-19	AMD	02/10/2000	2000-1/14

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<u>SYSTEMS</u>					
Public Safety, Fire Marshal	22560	R710-7	AMD	02/01/2000	2000-1/54
<u>TAXATION</u>					
Tax Commission, Property Tax	22508	R884-24P-44	AMD	01/20/2000	99-23/107
	22522	R884-24P-62	AMD	01/20/2000	99-24/40
TEACHER CERTIFICATION					
Professional Practices Advisory Commission, Administration	22504	R686-100	AMD	01/05/2000	99-23/96
<u>TELECOMMUNICATIONS</u>					
Public Service Commission, Administration	22530	R746-360-2	NSC	01/25/2000	Not Printed
<u>TIME</u>					
Labor Commission, Antidiscrimination and Labor, Fair Housing	22591	R608-1-3	NSC	01/25/2000	Not Printed
TRUCKS					
Transportation, Motor Carrier, Ports of Entry	22531	R912-14	AMD	02/15/2000	2000-1/59
UNEMPLOYMENT COMPENSATION					
Workforce Services, Workforce Information and Payment Services	22548	R994-202-103	AMD	02/02/2000	2000-1/60
UNINSURED EMPLOYERS					
Labor Commission, Industrial Accidents	22592	R612-8	5YR	01/03/2000	2000-3/91
UNIVERSAL SERVICE					
Public Service Commission, Administration	22530	R746-360-2	NSC	01/25/2000	Not Printed
WELFARE FRAUD					
Human Services, Recovery Services	22556	R527-200	AMD	02/01/2000	2000-1/37
<u>WILDLIFE</u>					
Natural Resources, Wildlife Resources	22519	R657-5	AMD	see CPR	99-24/25
	22519	R657-5	CPR	02/01/2000	2000-1/66
	22520	R657-6	AMD	01/18/2000	99-24/35
	22392	R657-13	AMD	01/03/2000	99-20/31
	22521	R657-38	AMD	01/18/2000	99-24/38
	22562	R657-47	NEW	02/01/2000	2000-1/40
WILDLIFE LAW					
Natural Resources, Wildlife Resources WILDLIFE PERMITS	22392	R657-13	AMD	01/03/2000	99-20/31
Natural Resources, Wildlife Resources WORKER'S COMPENSATION	22562	R657-47	NEW	02/01/2000	2000-1/40
Labor Commission, Industrial Accidents	22592	R612-8	5YR	01/03/2000	2000-3/91
YEAR-ROUND SCHOOLS Education, Administration	22563	R277-404	REP	02/01/2000	2000-1/8

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