UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
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Nancy L. Lancaster, Editor
Kenneth A. Hansen, Director
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The *Utah State Bulletin (Bulletin)* is an official noticing publication of the executive branch of Utah state government. The Division of Administrative Rules, part of the Department of Administrative Services, produces the *Bulletin* under authority of Section 63G-3-402.

The Portable Document Format (PDF) version of the *Bulletin* is the official version. The PDF version of this issue is available at http://www.rules.utah.gov/publicat/bulletin.htm. Any discrepancy between the PDF version and other versions will be resolved in favor of the PDF version.

Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Division of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-538-3764. Additional rulemaking information and electronic versions of all administrative rule publications are available at http://www.rules.utah.gov/.

The information in this *Bulletin* is summarized in the *Utah State Digest (Digest)* of the same volume and issue number. The *Digest* is available by e-mail subscription or online. Visit http://www.rules.utah.gov/publicat/digest.htm for additional information.

Division of Administrative Rules, Salt Lake City 84114

Utah state bulletin.
Semimonthly.
1. Delegated legislation--Utah--Periodicals. 2. Administrative procedure--Utah--Periodicals.
I. Utah. Division of Administrative Rules.

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SPECIAL NOTICES

Health
Health Care Financing, Coverage and Reimbursement Policy

Medicaid Telehealth Equipment Funding Opportunity

The 2014 Utah Legislature approved one-time funding for telehealth equipment for Medicaid. Funding will be available, through this application process, for telehealth equipment and infrastructure accessible to target Medicaid populations to facilitate the use of telehealth and telemedicine in the delivery of healthcare. There is potential for a federal match. The Utah Department of Health has contracted with the Utah Telehealth Network (UTN), University of Utah, to procure, deploy, manage, and support equipment purchased using these funds.

Details on the criteria and process can be found in the document for "Medicaid Telehealth Equipment Funding Process and Criteria" at https://medicaid.utah.gov and http://utn.org/

The window for submitting proposals will be open May 16, 2015, through June 22, 2015, on the UTN website (http://utn.org/). Please note that equipment purchased through the University of Utah remains the property of the University. There is a healthcare organization/provider match of approximately 15% of actual total cost, which will go towards the cost of vendor maintenance for the equipment.

UTN staff (http://utn.org/about/staff.shtml) are available to assist with equipment or infrastructure selection, including room design and technical recommendations. UTN has an expert technical and clinical team, which provides customized consultative services to assist you in your program development for network design, mobile technologies, and interactive videoconferencing for educational and administrative meetings, special events and clinical telemedicine.

For more information, please contact:
Patricia Carroll, RN MS, Telehealth Development, Utah Telehealth Network
Phone: 801-587-6075
Email: Patricia.Carroll@utn.org
Website: http://utn.org/
UTN Main Office at 801-585-2426 --Option 1

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 substantive change to an existing rule. With a **Notice of Proposed Rule**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between April 02, 2015, 12:00 a.m., and April 15, 2015, 11:59 p.m. are included in this, the May 01, 2015, 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 (example). Deletions made to existing rules are struck out with brackets surrounding them ([~~example~~]). Rules being repealed are completely struck out. A row of dots in the text between paragraphs (**. . . . . .**) indicates that unaffected text from within a section was removed to conserve space. Unaffected sections are not usually printed. If a **Proposed Rule** is too long to print, the Division of Administrative Rules may include only the **Rule Analysis**. A copy of each rule that is too long to print is available from the filing agency or from the Division of Administrative Rules.

The law requires that an agency accept public comment on **Proposed Rules** published in this issue of the *Utah State Bulletin* until at least June 1, 2015. The agency may accept comment beyond this date and will indicate 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 hold a hearing on a specific **Proposed Rule**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through August 29, 2015, 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 seven calendar days after the close of the public comment period 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** lapses.

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 Section 63G-3-301, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5a, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page

Administrative Services, Purchasing and General Services
R33-26
State Surplus Property

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 39271
FILED: 04/14/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to clarify the rules for the disposal of state-owned surplus electronic data devices.

SUMMARY OF THE RULE OR CHANGE: This rule is to ensure that the security risk to the state is minimized when disposing of electronic devices.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 63A, Chapter 2

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no known fiscal impact. This is simply a clarification of the current rules in place.
♦ LOCAL GOVERNMENTS: There is no known fiscal impact. This is simply a clarification of the current rules in place.
♦ SMALL BUSINESSES: There is no known fiscal impact. This is simply a clarification of the current rules in place.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no known fiscal impact. This is simply a clarification of the current rules in place.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no known fiscal impact. This is simply a clarification of the current rules in place.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no known fiscal impact. This is simply a clarification of the current rules in place.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ADMINISTRATIVE SERVICES
PURCHASING AND GENERAL SERVICES
ROOM 3150 STATE OFFICE BLDG
450 N STATE ST
SALT LAKE CITY, UT 84114-1201
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Paul Mash by phone at 801-538-3138, by FAX at 801-538-3882, or by Internet E-mail at pmash@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 06/09/2015

AUTHORIZED BY: Kent Beers, Director

R33. Administrative Services, Purchasing and General Services.
R33-26. State Surplus Property.
R33-26-202. [~~Information Technology Equipment~~|Disposal of State-Owned Surplus Electronic Data Devices.

(1) For the purpose of this rule, Electronic Data Device means an electronic device capable of downloading, storing or transferring State-owned data. Electronic Data Devices include:

(a) Computers;

(b) Tablets (iPads, Surface Pro, Google Nexus, Samsung Galaxy, etc.);

(c) Smart phones;

(d) Personal Digital Assistants (PDAs);

(e) Digital copiers and multifunction printers;

(f) Flash drives and other portable data storage devices; and

(g) Other similar devices.

(2) The State has determined that the security risk of a potential data breach resulting from the improper disposal or sale of an electronic data device, as defined in this rule, outweigh the potential revenue that may be received by the State from the sale of an electronic data device deemed surplus property. Therefore, the State has adopted this Administrative Rule regarding the proper disposal of State-owned surplus electronic data devices:

(a) Each State agency shall ensure that all surplus State-owned electronic data devices are disposed of in accordance with the following procedures.

(b) Surplus State-owned electronic devices defined under this Rule may not be sold or gifted via on-line auction or any other means.

(c) Surplus State-owned electronic data devices must be disposed of through the vendor under contract with the State, unless a separate contractual agreement has been entered into with the manufacturer or supplier of the device for proper destruction and disposal.

(d) The Division of Purchasing shall enter into a contract with a vendor for the destruction and proper disposal of all State-owned surplus electronic data devices.

(e) Proper disposal includes:

(i) Recycling components and parts after the State-owned electronic data device has been destroyed to the point that State-owned data cannot be retrieved;

(ii) Disposal in a landfill approved for electronic waste after the State-owned electronic data device has been destroyed to the point that State-owned data cannot be retrieved; or

(iii) Computers, digital copiers and multifunction printers that have had the hard drive destroyed may be resold by the contractor.

(f) State agencies shall request assistance from the Department of Technology Services (DTS) to destroy the hard drives of computers and other State-owned surplus electronic data devices purchased through DTS prior to the agency transferring the devices to the vendor under contract with the State.

(g) State agencies shall contact the vendor under contract with the State to destroy and properly dispose of all other State-owned surplus electronic data communication devices.

R33-26-203. Information Technology Equipment.

([~~3~~]1) Subject to [~~s~~]Subsections R33-26-202(1) and (2), State-owned information technology equipment may be transferred directly to public institutions, such as schools and libraries, by the owning agency.

([~~4~~]2) Subject to [~~s~~]Subsections R33-26-202(1) and (2), pursuant to the provisions of Section 63A-2-407, state-owned information technology equipment may be transferred directly to non-profit entities for distribution to, and use by, persons with a disability as defined in Subsection 62A-5-101(9). However, interagency transfers and sales of surplus property to state and local agencies shall have priority over transfers under this subsection.

(3) Prior to submitting information technology equipment to the state surplus property contractor, another department or agency, or donating it directly to public institutions or non-profit entities, agencies shall comply with the provisions of Section R33-26-202.

([~~5~~]4) Subject to [~~s~~]Subsections R33-26-202(1) and (2), except as it relates to a vehicle or federal surplus property, the transfer of surplus property from one agency directly to another does not require approval by the division, the director of the division, or any other person.

R33-26-20[~~3~~]4. Federal Surplus Property.

(1) Federal Surplus Property is not available for sale to the general public. Donation of federal surplus property shall be administered in accordance with the procedures identified in the State Plan of Operation for the Federal Property Assistance Program.

(2) Public auctions of federal surplus property are authorized under certain circumstances and conditions. The division shall coordinate such auctions when deemed necessary or appropriate. Federal surplus property auctions are primarily conducted online, but are regulated and accomplished by the U.S. General Services Administration.

R33-26-20[4]5. Related Party Transactions.

(1) The division has a duty to the public to ensure that State-owned surplus property is disposed of in accordance with Section 63A-2. A conflict of interest may exist or appear to exist when a related party attempts to purchase surplus property.

(2) A related party is defined as someone who may fit into any of the following categories pertaining to the surplus property in question:

(a) has purchasing authority;

(b) has maintenance authority;

(c) has disposition or signature authority;

(d) has authority regarding the disposal price;

(e) has access to restricted information; and

(f) has perceived to be a related party using other criteria which may prohibit independence.

R33-26-20[5]6. Priorities.

(1) Public agencies are given priority for the purchase of state-owned surplus property.

(2) Property that is determined by the Division to be unique, in short supply or in high demand by public agencies may be held for a period of up to 30 days before being offered for sale to the general public through the state surplus property contractor.

(3) For this Rule, the entities listed below, in priority order, are considered to be public agencies:

(a) state Agencies;

(b) state Universities, Colleges, and Community Colleges;

(c) other tax supported educational agencies or political subdivisions in the State of Utah including cities, towns, counties and local law enforcement agencies;

(d) other tax supported educational entities; then

(e) non-profit health and educational institutions.

(4) State-owned personal property that is not purchased by or transferred to public agencies may be offered for public sale.

(5) The division shall make the determination as to whether property is subject to hold period. The decision shall consider the following:

(a) the cost to the state;

(b) the potential liability to the state;

(c) the overall best interest of the state.

KEY: government purchasing, procurement rules, state surplus property, general procurement provisions
Date of Enactment or Last Substantive Amendment: [~~March 31, ~~]2015
Authorizing, and Implemented or Interpreted Law: 63A-2

Commerce, Consumer Protection
R152-1
Utah Division of Consumer Protection: "Buyer Beware List"

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 39273
FILED: 04/14/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is: to clarify existing provisions; to eliminate from the rule definitions that are duplicative of statutory provisions or are otherwise unnecessary; and to eliminate from the rule language that is informational, but that does not create a duty or prohibition for regulated persons.

SUMMARY OF THE RULE OR CHANGE: The rule is renumbered. Existing provisions are edited for concision and clarity. Definitions that duplicate statutory provisions and are otherwise unnecessary are deleted. Existing provisions are deleted where: 1) the language describes how the Division will interact with persons who are identified for inclusion in the buyer beware list; and 2) the language does not set forth a substantive obligation or prohibition governing a regulated person. Finally, the circumstances that constitute failure to respond to a Division deadline are expanded, as are the circumstances that warrant a person's being removed from the buyer beware list.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 13-11-8(2) and Subsection 13-15-3(1) and Subsection 13-2-5(1)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The Division has the budget in place to maintain the buyer beware list. This amendment does not change or add administrative duties. No fiscal impact to the state budget is anticipated.
♦ LOCAL GOVERNMENTS: Local governments are not required to maintain the buyer beware list and are not included in it. No fiscal impact to local governments is anticipated.
♦ SMALL BUSINESSES: The substance of this rule has been in place for some time. The changes proposed in this filing are primarily for clarity and concision. No new duties or obligations are imposed on small businesses. Therefore, no fiscal impact to small businesses is anticipated.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The substance of this rule has been in place for some time. The changes proposed in this filing are primarily for clarity and concision. No new duties or obligations are imposed on affected persons. Therefore, no fiscal impact to affected persons is anticipated.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Affected persons are placed on the buyer beware list for failure to comply with a Division subpoena or order. Once placed on the list, no new form of compliance is required. Persons that wish to be removed from the list must comply with the outstanding subpoena or order, which generally includes payment of an administrative fine. However, this rule in and of itself does not require any form of compliance and, therefore, does not create compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This filing updates and clarifies the circumstances in which a person may be included in the Utah buyer beware list and the circumstances in which a person may request to be removed from the list. In order to be removed, a business must pay any outstanding fines that have been assessed through an administrative proceeding. Otherwise, no fiscal impact to businesses is anticipated.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
COMMERCE
CONSUMER PROTECTION
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Jennie Jonsson by phone at 801-530-6706, by FAX at 801-526-4387, or by Internet E-mail at jjonsson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 06/08/2015

AUTHORIZED BY: Daniel O'Bannon, Director

R152. Commerce, Consumer Protection.
R152-1. Utah Division of Consumer Protection[~~:~~~~"~~]_Buyer Beware List[~~"~~].
R152-1-1. [~~Purposes, Policies and Rules of Construction.~~]Buyer Beware List.

[~~A.~~](1) Authority and purpose.

(a) [~~These rules are~~]This rule is promulgated pursuant to:

(i) the Division's general authority as set forth in Utah Code Section [~~Subsection~~]13-2-5[~~(1) to assist the orderly administration of the statutes listed in Utah Code Section 13-2-1.~~

~~B.(1) These substantive rules are adopted by the Director of the Division of Consumer Protection pursuant to general authority of Utah Code Section 13-2-5,~~]; and

(ii) specific authority granted to the Division in[~~of the following statutory sections~~]:

[~~(a)~~](A) Utah Code Section[~~Subsection~~] 13-11-8(2); and

[~~(b)~~](B) Utah Code Section[~~Subsection~~] 13-15-3(1)[~~; and~~

~~(c) Utah Code Section Section 13-16-12~~].

[~~(2)~~](b) [~~Without limiting the scope of any statute or rule, this rule is intended to promote its stated purposes and policies.~~]The purposes[~~and policies~~] of this rule are to:

[~~(a)~~](i) protect consumers from individuals and businesses who have engaged in and committed deceptive acts or practices, or have engaged in and committed unconscionable acts or practices[~~.~~];

[~~(b)~~](ii) supply consumers with pertinent information [~~on~~]about the nature of deceptive acts or practices committed or engaged in by certain persons against whom the Division has taken action; and[~~those individuals or businesses who may be engaging in and committing deceptive acts or practices, or may be engaging in and committing unconscionable acts or practices, so as to aid consumers in their decision making.~~]

[~~(c)~~](iii) encourage the development of fair consumer sales practices and wise decision making by consumers[~~ in all their consumer purchase decisions~~].

[

~~**R152-1-2. Definitions.**~~

~~A. For the purposes of this rule:~~

~~(1) "Buyer Beware List" means the list of individuals or business compiled by the Division in accordance with this rule.~~

~~(2) "Department" means the Utah Department of Commerce.~~

~~(3) "Director" means the director of the Utah Department of Commerce, Division of Consumer Protection.~~

~~(4) "Division" means the Utah Department of Commerce, Division of Consumer Protection.~~

~~(5) "Emergency" means facts known or presented to the Utah Department of Commerce, Division of Consumer Protection that show:~~

~~(a) an immediate and significant danger to the public health, safety, or welfare exists with respect to the statutes listed in Utah Code Section 13-2-1; and~~

~~(b) the threat requires immediate action by the Division.~~

~~(6) "Executive Director" means the executive director of the Utah Department of Commerce.~~

~~(7) "Order" means an order of adjudication or a final order by default issued by the Utah Department of Commerce, Division of Consumer Protection after proper notice and hearing, as applicable, in accordance with Utah Code Title 63G, Chapter 4, Administrative Procedures Act.~~

~~R152-1-3. Placement on "Buyer Beware List".~~

~~A.(1) The Division shall place the name of an individual or business on the "Buyer Beware List" if the Division concludes through issuance of an order that the individual or business has violated any of the statutes listed in Utah Code Section 13-2-1.~~

~~(2) The Division shall provide fifteen (15) business days written notice by certified mail prior to placing an individual or business on the Buyer Beware List unless notice has otherwise been given by a previously issued Division subpoena or written inquiry or unless the Director finds that an emergency exists. All individuals and businesses placed on the Buyer Beware List shall be notified in writing of the reasons for the proposed inclusion on the list. They will also be advised of what actions, if any, they can take to remove their name from the list.~~

~~B. (1) When the Director finds the public interest would be served, the Division may place the name of an individual or business on the "Buyer Beware List" for:~~]

(2) Placement on the Buyer Beware List.

(a) The following circumstances warrant a person's being placed on the Buyer Beware List:

([~~a~~]i) failure or refusal to respond to an administrative subpoena of the Division;[~~or~~]

([~~b~~]ii) after notification and opportunity to respond, failure or refusal to respond to a consumer complaint on file with the Division [~~alleging violation of one or more of the acts administered by the Division after the business or individual has received notification from the Division and had an opportunity to respond to the Division and address the complaint.~~]establishing a reasonable basis from which the Division may assert jurisdiction;

(iii) failure to comply with an order issued by the Division, including a default order; or

(iv) breach of a settlement agreement, stipulation, assurance of voluntary compliance, or similar instrument entered into with the Division.

([~~2~~]b) Failure or refusal to respond is evidenced:

(i) where certified mail, properly addressed, is returned to the Division as [~~U~~]unclaimed[~~, returned~~] or refused;[~~certified mail properly addressed to the individual or business that is received back by the Division shall constitute proof of failure or refusal to respond.~~]

(ii) where the person who is responsible to respond:

(A) allows a compliance deadline, as set forth in a statute, rule, or in a properly served order, citation, or notice, to pass without taking action or communicating with the Division; or

(B) indicates to the Division that the person does not intend to comply; or

(iii) in any circumstances comparable to those set forth in this subsection (2)(b)(i)-(ii).

[~~C.(1) Prior to placement on the Buyer Beware List for any reason set forth in R152-1-3B the Division shall, upon receipt of a consumer complaint, make reasonable efforts to communicate with an individual or business identified in the complaint including:~~

~~(a) at least one (1) initial written notice by certified mail or facsimile transmission;~~

~~(b) at least one (1) initial telephone call; and~~

~~(c) if the individual or business identified in the complaint is a Utah resident at least one initial (1) face to face contact by a Division representative either at the Division's offices or at the individual's or business' Utah address.~~

~~(2)(a) If the initial efforts set forth at R152-1-3C(1) have proven unsuccessful the Division shall provide fifteen (15) business days written notice by certified mail prior to placing an individual or business on the Buyer Beware List unless:~~

~~(i) notice has otherwise been given by a previously issued Division subpoena or written inquiry properly addressed; or~~

~~(ii) the Director finds that an emergency exists.~~

~~(b) All individuals and businesses placed on the Buyer Beware List shall be notified in writing of the reasons for the proposed inclusion on the list. They will also be advised of what actions, if any, they can take to remove their name from the list.~~

~~D. Each listing on the Buyer Beware List shall contain a listing of the individual's or businesses:~~

~~(1) name(s), including "doing businesses as";~~

~~(2) address(es);~~

~~(3) phone number(s); and~~

~~(4) a detailed basis for the individual or business being placed on the list, including whether:~~

~~(a) an administrative fine has been assessed and if so what amount; and~~

~~(b) a cease and desist order has been issued in accordance with Utah Code Section 13-2-6(1).~~

~~E. The Buyer Beware List is a public document under Utah Code Title 63G, Chapter 2, Government Records Access and Management Act.~~

~~R152-1-4. Removal from "Buyer Beware List".~~

~~A. The Division of Consumer Protection shall remove the name of the business or individual from the Buyer Beware List if~~]

(3) Removal from Buyer Beware List.

A person whose name is included in the Buyer Beware List may qualify to have the listing removed by:

[~~(1) the individual or business:~~

]([a]i) demonstrating that the person has had no [~~other~~] complaints [~~with respect to a statute listed in Utah Code Section 13-2-~~

~~1~~]filed against the person with the Division for a period of 90 consecutive days after being placed on the list; and

[~~(b) otherwise complies~~](ii) complying with all aspects of the order entered against the [~~individual or business~~]person by the Division, including [~~the~~]full payment of any administrative fines assessed;

[~~(2) pursuant to R152-1-3B(1)(a), when~~](b) providing a sufficient response [~~is provided~~]to an outstanding Division subpoena;[~~or~~]

[~~(3) pursuant to R152-1-3B(1)(b), when~~](c) providing a satisfactory response [~~is made~~]to outstanding Division inquiries[~~to which the individual or business previously failed or refused to respond.~~]; or

(d) entering into a stipulated settlement with the Division that:

(i) resolves all allegations raised by the Division in its action; and

(ii) supersedes any previous order issued by the Division in the action.

KEY: consumer protection, buyer beware list
Date of Enactment or Last Substantive Amendment: [~~January 21, 2010~~]2015
Notice of Continuation: April 28, 2010
Authorizing, and Implemented or Interpreted Law: 13-2-5(1); 13-11-8(2); 13-15-3(1); 13-16-12

Commerce, Occupational and Professional Licensing

R156-71-102

Definitions

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 39267
FILED: 04/09/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and Acupuncture Licensing Board reviewed the rule and determined the term "provision", as used in Subsection 58-72-102(4)(b)(ii), needs to be defined in the rule.

SUMMARY OF THE RULE OR CHANGE: A new Subsection R156-72-102(7) was added to define "provision" as used in Subsection 58-7-2-102(4)(b)(ii).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-72-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The Division will incur minimal costs of approximately $75 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.
♦ LOCAL GOVERNMENTS: The proposed amendment applies only to licensed acupuncturists. As a result, the proposed amendments do not apply to local governments.
♦ SMALL BUSINESSES: The proposed amendment applies only to licensed acupuncturists. Licensees may work in a small business; however, the proposed amendments would not directly affect the business.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The proposed amendment applies only to licensed acupuncturists. The Division anticipates the proposed amendment will not result in additional encumbrances for any party beyond what is currently identified by statute and rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendment applies only to licensed acupuncturists. The Division does not anticipate the proposed amendment will result in any increase in costs for those affected.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As stated in the rule analysis, this filing defines the term "provision" in order to clarify a statutory provision. No fiscal impact to businesses is anticipated.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
COMMERCE
OCCUPATIONAL AND PROFESSIONAL LICENSING
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ April Ellis by phone at 801-530-6254, by FAX at 801-530-6511, or by Internet E-mail at aprilellis@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/16/2015

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 06/16/2015 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 402, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 06/23/2015

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.
R156-71. Naturopathic Physician Practice Act Rule.
R156-71-202. Naturopathic Physician Formulary.

(1) In accordance with Subsections 58-71-102(8) and (12)(a) and Section 58-71-202, the naturopathic physician formulary which consists of noncontrolled substance legend medications deemed appropriate for the primary health care of patients within the scope of practice of naturopathic physicians, the prescription of which is approved by the Division in collaboration with the Naturopathic Formulary Advisory Peer Committee, consists of the following legend drugs, listed by category, with reference numbers identified in the American Hospital Formulary Service (AHFS), published by the American Society of Health System Pharmacists, 2008 edition; including the monographs available on AHFS Drug Information website, which is http://www.ahfsdruginformation.com:

4:00 Antihistamines

8:08 Antihelminthics

8:12 Antibacterials, limited to oral, [~~and~~]topical and intramuscular administration[~~forms only~~]

8:14 Antifungals, oral and topical forms

8:16.92 Miscellaneous Antimycobacterials

8:18 Antivirals limited to oral and topical dosage forms, excluding:

8:18:08 Antiretrovirals

8:18:20 Interferons

8:18:24 Monoclonal Antibodies

8:18:32 Nucleosides and Nucleotides

8:30.04 Amebicides

8:30.92 Miscellaneous Antiprotozoals excluding those whose primary indication is the treatment of infection in immunosuppressed patients (i.e. Pentamidine and Trimetrexate)

8:36 Urinary anti-infectives

12:12.08.12 Selective Beta 2 Adrenergic Agonists

12:12.12 Alpha and Beta Adrenergic Agonists

12:16 Sympatholytic (Adrenergic Blocking) Agents, limited to ergot derivatives

12:20 Skeletal Muscle Relaxants, excluding scheduled medications

20:12.04.16 Heparins

20:24 Hemorrheologic Agents

24:04.08 Cardiotonic Agents - limited to Digoxin

24:06 Antilipemic Agents

24:08 Hypotensive Agents - limited to oral dosage forms

24:20 Alpha Adrenergic Blocking Agents

24:24 Beta Adrenergic Blocking Agents - limited to oral dosage forms

24:28 Calcium Channel Blocking Agents - limited to oral dosage forms

24:32 Renin-Angiotensive-Aldosterone System Inhibitors - limited to oral dosage forms

28:08 Analgesics and Antipyretics, excluding scheduled medications

28:16.04.16 Selective Serotonin - and Norepinephrine-Reuptake Inhibitors

28:16.04.20 Selective-Serotonin Reuptake Inhibitors

28:16.04.24 Serotonin Modulators

28:16.04.28 Tricyclics and Other Norepinephrine-Reuptake Inhibitors

28:16.04.92 Antidepressants, Miscellaneous

40:00 Electrolytic, Caloric, and Water Balance

40:28 Diuretics

44:00 Enzymes, limited to digestive and proteolytic

48:10.24 Leukotriene Modifiers

48:10.32 Mast-Cell Stabilizers

48:16 Expectorants

52:08 Corticosteroids (oral, topical, and injectable), Anti-Inflammatory Agents [~~except Ophthmologic Preparations,~~]and DMARDS

52:24 Mydriatics

56:22 Antiemetics

56:28 H2 Blockers, Anti-ulcer Agents and Acid Suppressants

56:36 Anti-inflammatory Agents

64:00 Heavy Metal Antagonists, limited to Dimercaprol, Edetate Calcium Disodium and Succimer

68:12 Contraceptives, except implants and injections

68:16.04 Estrogens

68:18 Gonadotropins; limited to Gonadotropin, Chorionic

68:20.02 Alpha-Glucosidase Inhibitors

68:20.04 Biguanides

68:20.08 Insulins

68:20.20 Sulfonylureas

68:24 Parathyroid

68:32 Progestins

68:36[~~.04~~] Thyroid and Antithyroid Agents, including Thyroid of glandular extract

72:00 Local Anesthetics

76:00 Oxytocics, limited to Oxytocin

80:00 Serums, Toxoids, Vaccines

84:00 Skin and Mucous Membrane Agents, excluding Depigmenting and Pigmenting Agents (reference number 84:50)

84:92 Skin and Mucous Membrane Agents, Miscellaneous, excluding Isotretinoin

88:00 Vitamins

92:00 Miscellaneous Therapeutic Agents, limited to Antigout, and Bone-Resorption Inhibitors (limited to Raloxifene), and Botulinum Toxin type A (limited to superficial injections)

(2) In addition, the following items or substances, although not listed in Subsection (1), are approved for primary health care:

(a) Amino Acids;

(b) Minerals;

(c) Oxygen;

(d) Silver Nitrate;

(e) DHEA (dihydroepiandrosterone);

(f) Pregnenolone; and

(g) Allergy Testing Agents.

(3) In accordance with Subsections 58-71-102(8) and (12)(a) and Section 58-71-202, the naturopathic physician formulary includes a single controlled substance with the reference number identified in the AHFS, published by the American Society of Health System Pharmacists, 2008 edition:

68:08 Testosterone.

(4) New categories or classes of drugs will need to be approved as part of the formulary prior to prescribing/administering.

(5) The licensed naturopathic physician has the responsibility to be knowledgeable about the medication being prescribed or administered.

KEY: licensing, naturopaths, naturopathic physician
Date of Enactment or Last Substantive Amendment: [~~August 16, 2010~~]2015
Notice of Continuation: October 20, 2011
Authorizing, and Implemented or Interpreted Law: 58-71-101; 58-1-106(1)(a); 58-1-202(1)(a)

Education, Administration
R277-114
Corrective Action and Withdrawal or Reduction of Program Funds

NOTICE OF PROPOSED RULE
(Repeal and Reenact)
DAR FILE NO.: 39285
FILED: 04/15/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Rule R277-114 is repealed and reenacted because changes to the rule are significant.

SUMMARY OF THE RULE OR CHANGE: The repealed version of Rule R277-114 provides a section on USOE responsibilities; the reenacted version of Rule R277-114 changes responsibilities to the State Superintendent and is rewritten to more clearly define those responsibilities. The repealed version of Rule R277-114 does not have appeals language; the reenacted version of Rule R277-114 provides a new section on recipient appeals.

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

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The reenacted version of Rule R277-114 provides restructure of procedures and responsibilities which likely will not result in a cost or savings to the state budget.
♦ LOCAL GOVERNMENTS: The reenacted version of Rule R277-114 provides restructure of procedures and responsibilities which likely will not result in a cost or savings to local government.
♦ SMALL BUSINESSES: The reenacted version of Rule R277-114 provides restructure of procedures and responsibilities which likely will not result in a cost or savings to the small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The reenacted version of Rule R277-114 provides restructure of procedures and responsibilities which likely will not result in a cost or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs resulting from corrective action and withholding of funds is present in both the repealed and reenacted versions of Rule R277-114 so there is likely no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I believe that there is likely no fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Angela Stallings by phone at 801-538-7656, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 06/08/2015

AUTHORIZED BY: Angela Stallings, Associate Superintendent, Policy and Communication

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R277. Education, Administration.
[~~R277-114. Corrective Action and Withdrawal or Reduction of Program Funds.~~
~~R277-114-1. Definitions.~~
~~A. "Board" means the Utah State Board of Education.~~
~~B. "Program" for purposes of the rule means a public education project or plan under the direction of the Board, with a specific goal or outcome for which public education funding is provided.~~
~~C. "Recipient" means a school district or school district program, charter school or charter school program, contractor, or any other entity that receives program funding as defined in this rule.~~
~~D. "State Superintendent" means the State Superintendent of Public Instruction as defined under Section 53A-1-301.~~
~~E. "USOE" means the Utah State Office of Education.~~

~~R277-114-2. Authority and Purpose.~~
~~A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board and by Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.~~

~~B. The purpose of the rule is to provide procedures for public education program monitoring and corrective action for noncompliance with identified program requirements, program accountability standards, and financial propriety.~~

~~R277-114-3. USOE Responsibilities.~~

~~A. USOE Directors, coordinators and program specialists shall act as designees of the State Superintendent and shall review compliance with program outcomes and financial propriety.~~

~~B. Designated program reviewers shall act and carry out responsibilities consistent with federal requirements, state law and administrative rules.~~

~~C. The following minimum procedures shall be followed prior to reducing or withholding funds from a recipient:~~

~~(1) The USOE, with assistance from directors, coordinators and program specialists, shall draft and implement a consistent monitoring procedure that includes standards for both recipient program outcomes and financial compliance. This monitoring program shall be communicated to the recipient regularly, and proper documentation of monitoring and compliance procedures conducted by USOE staff shall be maintained at the USOE.~~

~~(2) Recipients that do not demonstrate satisfactory outcomes, demonstrate noncompliance with program requirements or allowable program expenditures, or those that do not comply with requests to provide accurate and complete program or financial information enabling determination of compliance may be placed on corrective action.~~

~~(3) All courses of action should be discussed with the USOE deputy/associate superintendent who supervises the program, prior to placing recipients on a corrective action plan as follows:~~

~~(a) Corrective action plans shall clearly outline all areas of noncompliance and establish a reasonable time frame for the recipient to correct identified issues.~~

~~(b) Notification and a copy of the corrective action plan shall be communicated in writing to a program administrator as well as the superintendent/CEO and business administrator of the school district or school district program, charter school or charter school program, contractor, other recipient in question, the USOE deputy/associate superintendent over the program, the USOE internal auditor, and the State Superintendent.~~

~~(4) Directors, coordinators and program specialists shall follow up with the recipient to clarify questions and assist the recipient in establishing appropriate corrective measures to further compliance.~~

~~(5) If a recipient does not respond or does not satisfy the requirements of the corrective action plan by established deadline(s), the program director, coordinator, or supervisor shall notify the Internal Auditor, who will notify the State Superintendent.~~

~~(6) Verification of noncompliance and contact with the recipient to discuss and investigate the issues addressed in the corrective action plan shall be left to the discretion of the State Superintendent, Board Audit Committee and Internal Auditor.~~

~~(7) The Board shall determine if and at what level funding for programs may be withheld or terminated by the State Superintendent and when the Board should withhold or terminate a program or validate the State Superintendent's recommendation for withholding or termination of funding.~~]

R277-114. Corrective Action and Withdrawal or Reduction of Program Funds.

R277-114-1. Definitions.

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

B. "Program" means a public education project or plan under the direction of the Board.

C. "Recipient" means an LEA or a school.

D. "State Superintendent" means the State Superintendent of Public Instruction as defined under Section 53A-1-301, or his or her designee.

R277-114-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board and by Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of the rule is to provide procedures for public education Program monitoring and corrective action for noncompliance with identified Program requirements, Program accountability standards, and financial propriety.

R277-114-3. State Superintendent Responsibilities.

A. Program Monitoring

(1) For each Program, the State Superintendent shall design and implement a consistent monitoring program that includes standards for both Program outcomes and Program financial compliance.

(2) The State Superintendent shall notify all Recipients of the initiation of or changes to any monitoring program.

(3) The State Superintendent shall monitor compliance with Program outcomes, reporting requirements, and financial compliance.

B. Corrective Action Plans

(1) The State Superintendent shall place a Recipient on a corrective action plan when a Recipient does not demonstrate satisfactory Program outcomes, demonstrates noncompliance with Program requirements or allowable Program expenditures, or does not comply with requests to provide accurate and complete Program or financial information.

(2) The State Superintendent shall clearly outline in a corrective action plan all areas of noncompliance and establish a reasonable time frame for the Recipient to correct identified issues.

(3) The State Superintendent shall give notice and copy of the corrective action plan in writing to the Recipient administrators and respective LEA board.

C. The State Superintendent may withhold, reduce or terminate funding for Recipient noncompliance.

D. The State Superintendent shall report to the Board monthly about the status of noncompliant Program Recipients.

R277-114-4. Recipient Appeals.

A Recipient may file an appeal to the Board of any adverse decision of the State Superintendent resulting from a corrective action plan or withholding of funds. An appeal must be made in writing and within 30 days of the date of the State Superintendent's action.

KEY: programs, noncompliance, corrective action
Date of Enactment or Last Substantive Amendment: [~~May 12, 2010~~]2015
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3)

Education, Administration
R277-459
Classroom Supplies Appropriation

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 39286
FILED: 04/15/2015

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide updated definitions, to clarify the funding process for the teacher supplies and materials appropriation, and to provide minor terminology and technical changes.

SUMMARY OF THE RULE OR CHANGE: The amendments include: adding and revising definitions and changing terminology throughout the rule to reflect the new definition of local education agency (LEA); and providing new language that clarifies the funding process to be followed in the event that the teacher supplies and materials appropriation is not sufficient to provide each teacher the full amount allowed by law and by intent language from H.B. 2 (2015 Legislative Session), Public Education Budget Amendments.

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

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The amendments to rule clarify the funding process for the teacher supplies and materials appropriation for eligible public school teachers which likely will not result in a cost or savings to the state budget.
♦ LOCAL GOVERNMENTS: The amendments to rule clarify the funding process for the teacher supplies and materials appropriation for eligible public school teachers. This will likely not result in a cost or savings to local government because the appropriation will only be administered to the extent of the appropriation.
♦ SMALL BUSINESSES: The amendments to rule clarify the funding process for the teacher supplies and materials appropriation for eligible public school teachers which likely will not result in a cost or savings to small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The amendments to rule clarify the funding process for the teacher supplies and materials appropriation which may result in some eligible public school teachers not receiving the full amount allowed by law. A teacher may receive less money than the teacher previously received for teacher supplies and materials. The appropriation is an estimate and funding impacts are speculative and difficult to assess as this time.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The amendments to rule clarify the funding process for the teacher supplies and materials appropriation for eligible public school teachers which likely will not result in any compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I believe that there is likely no fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Angela Stallings by phone at 801-538-7656, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 06/08/2015

AUTHORIZED BY: Angela Stallings, Associate Superintendent, Policy and Communication

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R277. Education, Administration.
R277-459. [~~Classroom~~]Teacher Supplies and Materials Appropriation.
R277-459-1. Definitions.

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

B. "Classroom teacher" definition criteria:

(1) Eligible teachers shall be in a permanent teacher position filled by one teacher or two or more job-sharing teachers employed by a school district, the Utah Schools for the Deaf and the Blind, or charter schools.

(2) Eligible teachers are licensed personnel, and paid on a school district's salary schedule or a charter school's salary schedule.

(3) Teachers shall be employed for an entire contract period.

(4) The teacher's primary responsibility shall be to provide instructional or a combination of instructional and counseling services to students in public schools.

C. "Comprehensive Administration of Credentials for Teachers in Utah Schools (CACTUS)" means the electronic file

maintained on all licensed Utah educators. The file includes such as:

(1) personal directory information;

(2) educational background;

(3) endorsements;

(4) employment history;

(5) professional development information; and

(6) a record of disciplinary action taken against the educator. All information contained in an individual's CACTUS file is available to the individual, but is classified private or protected under Section 63G-2-302 or 305 and is accessible only to specific designated individuals.

D. "Field trip" means a district, or school authorized excursion for educational purposes.

E. "LEA" means a local education agency, including local school boards/public school districts, charter schools, and, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

[~~E~~]F. "Teaching supplies and materials" means both [~~expendable and nonexpendable~~]consumable and nonconsumable items that are used for educational purposes by teachers in classroom activities and may include such items as:

(1) paper, pencils, workbooks, notebooks, supplementary books and resources;

(2) laboratory supplies, e.g. photography materials, chemicals, paints, bulbs (both light and flower), thread, needles, bobbins, wood, glue, sandpaper, nails and automobile parts;

(3) laminating supplies, chart paper, art supplies, and mounting or framing materials;

(4) The definition of teaching supplies and materials should be broadly construed in so far as the materials are used by the teacher for instructional purposes or to protect the health of teachers in instructional or lab settings, or in conjunction with field trips.

[~~F~~]G. "USOE" means the Utah State Office of Education.

R277-459-2. Authority and Purpose.

A. This rule is authorized under Utah Constitution Article X, Section 3 which gives general control and supervision of the public school system to the Board, by Section 53A-1-402(1)(b) which directs the Board to establish rules and minimum standards for school programs, and by state legislation which provides a designated appropriation for teacher[~~-classroom~~] supplies and materials.

B. The purpose of this rule is to distribute money through [~~school districts, the Utah Schools for the Deaf and the Blind, or charter schools~~]LEAs to classroom teachers for school materials, supplies, field trips, and purposes or equipment that protect the health of teachers in instructional or lab settings or in conjunction with field trips.

R277-459-3. Distribution of Funds.

A. The Board [~~shall~~]may distribute funds to [~~school districts, charter schools and the Utah Schools for the Deaf and the Blind~~]LEAs based on data submitted to the CACTUS database.

B. [~~School districts, charter schools and the Utah Schools for the Deaf and the Blind~~]LEAs shall distribute funds for classroom supplies consistent with the amounts for salary schedule steps and teaching assignments as appropriated.

C. Individual teachers shall designate the uses for their allocations consistent with the criteria of this rule. [~~School districts/charter schools~~]LEAs and other eligible schools may develop policies, procedures and timelines to facilitate the intent of the appropriation.

D. Each [~~school district/charter school~~]LEA shall ensure that each eligible individual has the opportunity to receive the proportionate share of the appropriation. If the appropriation is not sufficient to provide each teacher the full amount allowed by law, teachers on salary steps one through three shall receive the full amount allowed with the remaining money apportioned to all other teachers.

E. If a teacher has not spent or committed to spend the individual allocation by April 1, the school or [~~district~~]LEA may make the excess funds available to other teachers or may reserve the money for use by eligible teachers the following year.

F. These funds shall supplement, not supplant, existing funds for identified purposes.

G. These funds shall be accounted for by the [~~school district/charter school~~]LEA or eligible school using state and school district procurement and accounting policies.

H. The funds and supplies purchased with the funds are the property of the [~~school district, the Utah Schools for the Deaf and the Blind, or charter schools~~]LEA.

(1) Employees do not personally own materials purchased with designated public funds.

(2) [~~A school district or charter school~~]An LEA may by policy allow individual teachers to use supply funds to protect teacher health with consumable materials that may not be able to be reused by the school.

R277-459-4. Other Provisions.

A. [~~Districts, the Utah Schools for the Deaf and the Blind, or charter schools~~]LEAs shall allow, but not require, teachers to jointly use their allocations.

B. [~~School districts, the Utah Schools for the Deaf and the Blind, and charter schools~~]LEAs may carry over these funds, if necessary.

KEY: teachers, supplies
Date of Enactment or Last Substantive Amendment: [~~July 11, 2011~~]2015
Notice of Continuation: July 1, 2010
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-402(1)(b)

Education, Administration
R277-474
School Instruction and Human Sexuality

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 39287
FILED: 04/15/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide a new definition and make terminology changes, and to change procedures when a student is exempted from course materials required by the board-approved core standards.

SUMMARY OF THE RULE OR CHANGE: The amendments include: adding a new definition and changing terminology throughout the rule to reflect the new definition; and changing the procedures for a student exempt from certain human sexuality related course material required by the board-approved core standards.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53A-13-101.2 and Subsection 53A-1-401(3) and Subsection 53A-13-101(1)(c)(ii)(B)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The amendments to the rule provide procedures for a school when a student is exempt from course material required by the board-approved core standards which likely will not result in a cost or savings to the state budget.
♦ LOCAL GOVERNMENTS: The amendments to the rule provide procedures for a school when a student is exempt from course material required by the board-approved core standards which likely will not result in a cost or savings to local government.
♦ SMALL BUSINESSES: The amendments to the rule provide procedures for a school when a student is exempt from course material required by the board-approved core standards which likely will not result in a cost or savings to small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The amendments to the rule provide procedures for a school when a student is exempt from course material required by the board-approved core standards which likely will not result in a cost or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The amendments to the rule provide procedures for a school when a student is exempt from course material required by the board-approved core standards which likely will not result in any compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I believe that there is likely no fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Angela Stallings by phone at 801-538-7656, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 06/08/2015

AUTHORIZED BY: Angela Stallings, Associate Superintendent, Policy and Communication

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R277. Education, Administration.
R277-474. School Instruction and Human Sexuality.
R277-474-1. Definitions.

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

B. "Curriculum materials review committee (committee)" means a committee formed at the district or school level, as determined by the local board of education or local charter board, that includes parents, health professionals, school health educators, and administrators, with at least as many parents as school employees. The membership of the committee shall be appointed and reviewed annually by August 1 of each year by the local board, shall meet on a regular basis as determined by the membership, shall select its own officers and shall be subject to Sections 52-4-1 through 52-4-10.

C. "Family Educational Rights and Privacy Act" is a state statute, Sections 53A-13-301 and 53A-13-302, that protects the privacy of students, their parents, and their families, and supports parental involvement in the public education of their children.

D. "Human sexuality instruction or instructional programs" means any course, unit, class, activity or presentation that provides instruction or information to students about sexual abstinence, human reproduction, reproductive anatomy, physiology, pregnancy, marriage, childbirth, parenthood, contraception, or HIV/AIDS and other sexually transmitted diseases. While these topics are most likely discussed in such courses as health education, health occupations, human biology, physiology, parenting, adult roles, psychology, sociology, child development, and biology, this rule applies to any course or class in which these topics are the focus of discussion.

E. "Instructional Materials Commission" means an advisory commission authorized under Section 53A-14-101.

F. "LEA" means a local education agency, including local school boards/public school districts, charter schools, and, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

[~~F~~]G. "Maturation education" means instruction and materials used to provide fifth or sixth grade students with age appropriate, accurate information regarding the physical and emotional changes associated with puberty, to assist in protecting students from abuse and to promote hygiene and good health practices.

[~~G~~]H. "Medically accurate" means verified or supported by a body of research conducted in compliance with scientific

methods and published in journals that have received peer-review, where appropriate, and recognized as accurate and objective by professional organizations and agencies with expertise in the relevant field, such as the American Medical Association.

[~~H~~]I. "Parental notification form" means a form developed by the USOE and used exclusively by [~~Utah public school districts~~]LEAs or Utah public schools for parental notification of subject matter identified in this rule. Students may not participate in human sexuality instruction, maturation education, or instructional programs as identified in R277-474-[~~1~~]2D without prior affirmative parent/guardian response on file. The form:

(1) shall explain a parent's right to review proposed curriculum materials in a timely manner;

(2) shall request the parent's permission to instruct the parent's student in identified course material related to human sexuality or maturation education;

(3) shall allow the parent to exempt the parent's student from attendance for class period(s) while identified course material related to human sexuality or maturation education is presented and discussed;

(4) shall be specific enough to give parents fair notice of topics to be covered;

(5) shall include a brief explanation of the topics and materials to be presented and provide a time, place and contact person for review of the identified curricular materials;

(6) shall be on file with affirmative parent/guardian response for each student prior to the student's participation in discussion of issues protected under Section 53A-13-101; and

(7) shall be maintained at the school for a reasonable period of time.

[~~I~~]J. "Professional development" means training in which Utah educators may participate to renew a license, receive information or training in a specific subject area, teach in another subject area or teach at another grade level.

[~~J~~]K. "Utah educator" means an individual such as an administrator, teacher, counselor, teacher's assistant, or coach, who is employed by a unit of the Utah public education system and who provides teaching or counseling to students.

[~~K~~]L. "Utah Professional Practices Advisory Commission ([~~Commission~~]UPPAC)" means a Commission authorized under 53A-6-301 and designated to review allegations against educators and recommend action against educators' licenses to the Board.

[~~L~~]M. "USOE" means the Utah State Office of Education.

R277-474-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution, Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-13-101(1)(c)(ii)(B) which directs the Board to develop a rule to allow local boards to adopt human sexuality education materials or programs under Board rules and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purposes of this rule are:

(1) to provide requirements for the Board, [~~school districts, charter schools,~~]LEAs and individual educators to select instructional materials about human sexuality and maturation;

(2) to provide notice to parents/guardians of proposed human sexuality and maturation discussions and instruction; and

(3) to provide direction to public education employees regarding instruction and discussion of maturation and human sexuality with students.

R277-474-3. General Provisions.

A. The following may not be taught in Utah public schools through the use of instructional materials, direct instruction, or online instruction:

(1) the intricacies of intercourse, sexual stimulation or erotic behavior;

(2) the advocacy of homosexuality;

(3) the advocacy or encouragement of the use of contraceptive methods or devices; or

(4) the advocacy of sexual activity outside of marriage.

B. Educators are responsible to teach the values and information identified under Section 53A-13-101(4).

C. Utah educators shall follow all provisions of state law including parent/guardian notification and prior written parental consent requirements under Sections 76-7-322 and 76-7-323 in teaching any aspect of human sexuality.

D. Course materials and instruction shall be free from religious, racial, ethnic, and gender bias.

R277-474-4. State Board of Education Responsibilities.

The Board shall:

A. develop and provide professional development and assistance with training for educators on law and rules specific to human sexuality instruction and related issues.

B. develop and provide a parental notification form and timelines for use by [~~school districts and charter schools~~]LEAs.

C. establish a review process for human sexuality instructional materials and programs using the Instructional Materials Commission and requiring final Board approval of the Instructional Materials Commission's recommendations.

D. approve only medically accurate human sexuality instruction programs.

E. receive and track parent and community complaints and comments received from [~~school districts and charter schools~~]LEAs related to human sexuality instructional materials and programs.

R277-474-5. [~~School District and Charter School~~]LEA Responsibilities.

A. Annually each [~~school district and charter school~~]LEA shall require all newly hired or newly assigned Utah educators with responsibility for any aspect of human sexuality instruction to attend state-sponsored professional development outlining the human sexuality curriculum and the criteria for human sexuality instruction in any courses offered in the public education system.

B. Each [~~school district and charter school~~]LEA shall provide training consistent with R277-474-5A at least once during every three years of employment for Utah educators.

C. Local school boards and local charter boards shall form curriculum materials review committees (committee) at the district or school level as follows:

(1) The committee shall be organized consistent with R277-474-[~~1~~]2B.

(2) Each committee shall designate a chair and procedures.

(3) The committee shall review and approve all guest speakers and guest presenters and their respective materials relating to human sexuality instruction in any course and maturation education prior to their presentations.

(4) The committee shall not authorize the use of any human sexuality instructional program or maturation education program not previously approved by the Board, approved consistent with R277-474-6, or approved under Section 53A-13-101(1)(c)(ii).

(5) The district superintendent or charter school administrator shall report educators who willfully violate the provisions of this rule to the Commission for investigation and possible discipline.

(6) The [~~district or charter school~~]LEA shall use the common parental notification form or a form that satisfies all criteria of the law and Board rules, and comply with timelines approved by the Board.

(7) Each [~~district or charter school~~]LEA shall develop a logging and tracking system of parental and community complaints and comments resulting from student participation in human sexuality instruction, to include the disposition of the complaints, and provide that information to the USOE upon request.

D. If a student is exempted from course material required by the Board-approved Core Standards [~~Curriculum, the parent shall take responsibility, in cooperation with the teacher and the school, for the student learning the required course material~~] consistent with Sections 53A-13-101.2(1), (2) and (3), the school shall:

(1) waive the participation requirement; or

(2) provide a reasonable alternative to the requirement.

R277-474-6. Local Board or Local Charter Board Adoption of Human Sexuality Education and Maturation Education Instructional Materials.

A. A local board may adopt instructional materials under Section 53A-13-101(1)(c)(iii).

B. Materials that are adopted shall comply with the criteria of Section 53A-13-101(1)(c)(iii) and:

(1) shall be medically accurate as defined in R277-474-[~~1G~~]2H.

(2) shall be approved by a majority vote of the local board members or local charter board members present at a public meeting of the board.

(3) shall be available for reasonable review opportunities to residents of the district or parents/guardians of charter school students prior to consideration for adoption.

C. The [~~local board or local charter board~~]LEA shall comply with the reporting requirement of Section 53A-13-101(1)(c)(iii)(D). The report to the Board shall include:

(1) a copy of the human sexuality instructional materials and maturation education materials not approved by the Instructional Materials Commission that the local board or local charter board seeks to adopt;

(2) documentation of the materials' adoption in a public board meeting;

(3) documentation that the materials or program meets the medically accurate criteria of R277-474-[~~1G~~]2H;

(4) documentation of the recommendation of the materials by the committee; and

(5) a statement of the local board's or local charter board's rationale for selecting materials not approved by the Instructional Materials Commission.

D. The local board's or local charter board's adoption process for human sexuality instructional materials and maturation education materials shall include a process for annual review of the board's decision.

R277-474-7. Utah Educator Responsibilities.

A. Utah educators shall participate in training provided under R277-474-5A.

B. Utah educators shall use the common parental notification form or a form approved by their employing [~~school district or charter school~~]LEA, and timelines approved by the Board.

C. Utah educators shall individually record parent and community complaints, comments, and the educators' responses regarding human sexuality instructional programs.

D. Utah educators may respond to spontaneous student questions for the purposes of providing accurate data or correcting inaccurate or misleading information or comments made by students in class regarding human sexuality.

KEY: schools, sex education
Date of Enactment or Last Substantive Amendment: [~~August 8, 2011~~]2015
Notice of Continuation: July 1, 2010
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-13-101(1)(c)(ii)(B); 53A-1-401(3)

Education, Administration
R277-475
Patriotic, Civic and Character Education

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 39288
FILED: 04/15/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to change the language from passive to active voice throughout the rule, and to make minor wording and technical changes.

SUMMARY OF THE RULE OR CHANGE: The amendments include: changing language in the rule from passive to active voice and making minor wording and technical changes.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53A-13-101.6 and Subsection 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: Changing language from passive to active voice and making minor wording and technical changes will likely not result in a cost or savings to the state budget.
♦ LOCAL GOVERNMENTS: Changing language from passive to active voice and making minor wording and technical changes will likely not result in a cost or savings to local government.
♦ SMALL BUSINESSES: Changing language from passive to active voice and making minor wording and technical changes will likely not result in a cost or savings to small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Changing language from passive to active voice and making minor wording and technical changes will likely not result in a cost or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Changing language from passive to active voice and making minor wording and technical changes will likely not result in any compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I believe that there is likely no fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Angela Stallings by phone at 801-538-7656, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 06/08/2015

AUTHORIZED BY: Angela Stallings, Associate Superintendent, Policy and Communication

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R277. Education, Administration.
R277-475. Patriotic, Civic and Character Education.
R277-475-1. Definitions.

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

B. "Character education" means reaffirming values and qualities of character which promote an upright and desirable citizenry.

C. "Civic education" means the cultivation of informed, responsible participation in political life by competent citizens committed to the fundamental values and principles of representative democracy in Utah and the United States.

D. "LEA" means a local education agency, including local school boards/public school districts, charter schools, and, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

E. "Patriotic" means having love of and dedication to one's country.

F. "Patriotic education" means the educational and systematic process to help students identify, acquire, and act upon a dedication to one's country.

R277-475-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of the public school system under the Board, by Section 53A-13-101.6 which directs the Board to provide a rule for a program of instruction within the public schools relating to the flag of the United States, and by Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to provide direction for patriotic education programs in the public schools.

R277-475-3. Patriotic Education.

An LEA shall teach [~~P~~]patriotic education[~~ shall be included and primarily taught~~] in the social studies curricula of kindergarten through grade twelve. All educators shall have responsibility for patriotic, civic and character education taught in an integrated school curriculum and in the regular course of school work.

R277-475-4. School Responsibilities and Required Instruction.

A. Patriotic, civic and character education programs shall meet the requirements of Sections 53A-13-101.4, 53A-13-101.6, and 53A-13-109.

B. An LEA shall teach [~~S~~]students [~~shall be taught~~]the history of the flag, etiquette, customs pertaining to the display and use of the flag, and other patriotic exercises consistent with Section 53A-13-101.6(2).

C. The school shall provide the setting and opportunities to teach by example and role modeling patriotic values associated with the flag of the United States.

D. The USOE shall, under the direction of the Board, provide [~~a model curriculum~~]guidelines for both elementary age students and secondary students about the flag and patriotic exercises.

E. Instruction in United States history and government shall include:

(1) a study of forms of government including:
(a) a republic;
(b) a pure democracy;
(c) a monarchy; and
(d) an oligarchy.

(2) political philosophies and economic systems including:

(a) socialism;

(b) individualism; and

(c) free market capitalism.

(3) the United States' form of government, a compound constitutional republic.

R277-475-5. Requirements.

A. Education about the flag and the Pledge of Allegiance to the Flag shall be taught and modeled following the plan of the social studies Core Curriculum in grades kindergarten through six.

B. The Pledge of Allegiance to the Flag shall be recited by students at the beginning of each school day in each public school classroom in the state, consistent with Section 53A-13-101.6(3).

C. At least once a year students shall be instructed that:

(1) participation in the Pledge of Allegiance is voluntary and not compulsory;

(2) it is acceptable for an individual to choose not to participate in the Pledge of Allegiance for religious or other reasons; and

(3) students should show respect for individuals who participate and individuals who choose not to participate.

D. A public school teacher shall strive to maintain an atmosphere among students in the classroom that is consistent with the principles described in R277-475-5C.

R277-475-6. Parental Responsibilities.

A. An LEA shall adequately notify [~~S~~]students and parents [~~shall be adequately notified by LEAs~~]of lawful exemptions to the requirement to participate in reciting the Pledge.

B. A school may require an annual written request from a student's parent or legal guardian [~~I~~]if a student or the student's parent or legal guardian requests [~~to~~]that the student be excused from reciting the Pledge[~~, a school may require an annual written request from the student's parent or legal guardian~~].

R277-475-7. Civic Engagement.

A. [~~Consistent with Section 53A-13-101.4(6), ~~]A public school[**s**] shall display IN GOD WE TRUST, the national motto of the United States, in one or more prominent places in each school building, consistent with Section 53A-13-101.4(6).

B. Civic and character education shall be achieved through an integrated school curriculum and in the regular course of school work.

C. Instruction in United States history and government shall be taught consistent with the Utah social studies core curriculum and Section 53A-13-101.4.

D. [~~Consistent with available resources, ~~]An LEA[**s**] shall make information about the flag, respect for the flag and civility toward all during patriotic activities available on the LEA's website[**s**].

R277-475-8. Reporting Requirements.

A. The Board shall submit a report to the Education Interim Committee consistent with Section 53A-13-109(7).

B. Each school district and the State Charter School Board shall submit a report to the Lieutenant Governor and the Commission on Civic and Character Education consistent with Section 53A-13-109(6).

KEY: curricula, patriotic education, civic education, character education
Date of Enactment or Last Substantive Amendment: [~~October 9, 2012~~]2015
Notice of Continuation: July 1, 2010
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-13-101.6; 53A-1-401(3)

Education, Administration
R277-516-3
Licensed Public Education Employee Personal Reporting of Arrests

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 39289
FILED: 04/15/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section R277-516-3 is amended to provide expanded requirements and broaden the list of specified offenses for licensed educator self-reporting.

SUMMARY OF THE RULE OR CHANGE: The amendments to Section R277-516-3 provide expanded requirements and broaden the list of specified offenses for licensed educator self-reporting.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-301(3)(a) and Subsections 53A-1-402(1)(a)(i) and (iii)

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: Providing expanded requirements and additional specified offenses for licensed educator self-reporting will likely not result in a cost or savings to the state budget.

♦ LOCAL GOVERNMENTS: Providing expanded requirements and additional specified offenses for licensed educator self-reporting will likely not result in a cost or savings to local government.

♦ SMALL BUSINESSES: Providing expanded requirements and additional specified offenses for licensed educator self-reporting will likely not result in a cost or savings to small businesses.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Providing expanded requirements and additional specified offenses for licensed educator self-reporting will likely not result in a cost or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Providing expanded requirements and additional specified offenses for licensed educator self-reporting will likely not result in any compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I believe that there is likely no fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Angela Stallings by phone at 801-538-7656, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 06/08/2015

AUTHORIZED BY: Angela Stallings, Associate Superintendent, Policy and Communication

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R277. Education, Administration.
R277-516. Education Employee Required Reports of Arrests and Required Background Check Policies for Non-licensed Employees.
R277-516-3. Licensed Public Education Employee Personal Reporting of Arrests.

A. A licensed educator who is arrested, cited or charged [~~for~~]with the following alleged offenses shall report the arrest, citation, or charge within 48 hours or as soon as possible to the licensed educator's district superintendent, charter school director or designee:

(1) any matters involving [~~arrests for~~]an alleged sex offense[~~s~~];

(2) any matters involving [~~arrests for~~]an alleged drug-related offense[~~s~~];

(3) any matters involving [~~arrests for~~]an alleged alcohol-related offense[~~s~~];[~~and~~]

(4) any matters involving [~~arrests for~~]an alleged offense[~~s~~] against the person under Title 76, Chapter 5, Offenses Against the Person[~~.~~];

(5) any matters involving an alleged felony offense under Title 76, Chapter 6, Offenses Against Property;

(6) any matters involving an alleged crime of domestic violence under Title 77, Chapter 36, Cohabitant Abuse Procedures Act; and

(7) any matters involving an alleged crime under federal law or the laws of another state comparable to the violations listed in R277-516-3A(1)-(6).

B. A licensed educator shall report convictions, including pleas in abeyance and diversion agreements within 48 hours or as soon as possible upon receipt of notice of the conviction, plea in abeyance or diversion agreement.

C. The district superintendent, charter school director or designee shall report conviction, arrest or offense information received from licensed educators to the USOE within 48 hours of receipt of information from licensed educators. The USOE shall develop an electronic reporting process on the USOE website.

D. The licensed educator shall report for work following the arrest and notice to the employer unless directed not to report for work by the employer, consistent with school district or charter school policy.

KEY: school employees, self reporting
Date of Enactment or Last Substantive Amendments: [~~December 8, 2009~~]2015
Notice of Continuation: June 10, 2014
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-301(3)(a); 53A-1-301(3)(d)(x); 53A-1-402(1)(a)(i); 53A-1-402(1)(a)(iii)

Education, Administration
R277-517-5
Board Disciplinary Actions

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 39290
FILED: 04/15/2015

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section R277-517-5 is amended to provide updated language for Utah State Board of Education (Board) action against an educator.

SUMMARY OF THE RULE OR CHANGE: The amendments provide language for Board action, which may include revocation or suspension, against an educator's license for failure to respond to a complaint and failure to appear for a disciplinary hearing.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3) and Subsection 53A-1-402(1)(a)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The changes to Section R277-517-5 are procedural and will likely not result in a cost or savings to the state budget.

♦ LOCAL GOVERNMENTS: The changes to Section R277-517-5 are procedural and will likely not result in a cost or savings to local government.
♦ SMALL BUSINESSES: The changes to Section R277-517-5 are procedural and will likely not result in a cost or savings to small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The changes to Section R277-517-5 are procedural and will likely not result in a cost or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The changes to Section R277-517-5 are procedural and will likely not result in any compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I believe that there is likely no fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Angela Stallings by phone at 801-538-7656, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 06/08/2015

AUTHORIZED BY: Angela Stallings, Associate Superintendent, Policy and Communication

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R277. Education, Administration.
R277-517. Board and UPPAC Disciplinary Definitions and Actions.
R277-517-5. Board Disciplinary Actions.

A. Board disciplinary actions:

(1) The Board may suspend an educator's license consistent with R277-517-1G:

(a) A suspension may be recommended by a Stipulated Agreement negotiated between UPPAC and an educator; or

(b) A suspension may be recommended following an administrative hearing under the provisions of R686-100;

(c) A suspension may include specific conditions which shall be satisfied by the educator prior to requesting a reinstatement hearing from UPPAC under R686-100;

[~~(d) If a complaint is filed against an educator and the educator fails to respond to the complaint, the Board may suspend the educator's license. This action may be taken only if UPPAC has documentation of attempts to contact the educator, consistent with 686-100.~~

] ([e]d) A suspension shall provide a minimum time period after which the educator may request a reinstatement hearing from UPPAC.

(2) The Board may revoke an educator's license:

(a) A revocation is permanent, except as provided under R277-517-5A(2)(c) below;

(b) A revocation is required under Section 53A-6-405(2);

(c) An individual whose license has been revoked may seek reinstatement of his license only in the following limited circumstances:

(i) the individual provides evidence of mistake or false information that was critical to the revocation action;

(ii) the individual identifies material procedural UPPAC or Board error in the revocation process.

(3) If a complaint is filed against an educator and the educator fails to respond to the complaint or fails to appear for a hearing before the Board or UPPAC, the Board may revoke or suspend the educator's license. This action may be taken only if UPPAC has documentation of attempts to contact the educator, consistent with R686-100.

([~~3~~]4) The Board may reinstate an educator's license:

(a) An educator may request a reinstatement hearing following a license suspension. The reinstatement request shall be made consistent with R686-100.

(b) An educator has a reasonable expectation of a reinstatement hearing, consistent with due process and reinstatement hearing conditions set by UPPAC, but no expectation of license reinstatement by the Board.

(c) An educator whose license has been suspended and the reinstatement denied by the Board may request an additional reinstatement hearing once every 24 months unless otherwise directed by the Board.

(d) An educator requesting a reinstatement hearing shall have a criminal background check, that was conducted not more than six months prior to the requested hearing, on file with the USOE. The background check and review of any offenses must be completed prior to reinstatement.

(e) Prior to sending a reinstatement recommendation to the Board for its consideration, UPPAC shall provide evidence to the Board of its consideration of Board-identified criteria central to the Board's authority to reinstate an educator's license.

D. The Board has sole discretion in final administrative decisions.

E. The Board shall send written notice to an educator of Board action no more than 30 days following the Board's final action.

F. The Board shall send written notice of an educator's license suspension or revocation to an educator's former employer if the employer was a public or private school.

KEY: educator, professional, standards
Date of Enactment or Last Substantive Amendments: [~~February 21, 2013~~]2015

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-402(1)(a); 53A-6; 53A-1-401(3)

Environmental Quality, Radiation Control
R313-12-3
Definitions

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 39277
FILED: 04/14/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The State of Utah entered into an agreement with the U.S. Nuclear Regulatory Commission (NRC) to establish and maintain a compatible program for the control of radioactive material in Utah. To maintain compatibility with NRC requirements, the State of Utah is required to modify the Utah Radiation Control Rules in order to incorporate the appropriate regulations published by the NRC in 77 FR 43666.

SUMMARY OF THE RULE OR CHANGE: This rulemaking addresses the adoption of appropriate requirements found in 79 FR 43666. This rule change amends regulations in Rule R313-12 to make requirements for distributors of radioactive material clearer, less prescriptive, and more risk-informed and up to date. This amendment also redefines categories of devices to be used under exemptions, adding explicit provisions regarding the sealed source and device registration process, and adding flexibility to the licensing of users of sealed sources and devices. This amendment is primarily intended to make the licensing process more efficient and effective. The definition for "sealed source and device registry" is being added to Section R313-12-3.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-3-104 and Section 19-3-108

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no anticipated cost or savings to the state budget. The proposed changes do not add or remove significant requirements that affect radiation. The proposed rule changes are adopting required federal regulations to maintain compatibility as an agreement state. These changes do not add new requirements that would cause the state budget to incur any changes in compliance costs beyond those identified by the Nuclear Regulatory Commission.
♦ LOCAL GOVERNMENTS: There is no anticipated cost or savings to the local government. The proposed changes do not add or remove significant requirements that affect radiation. The proposed rule changes are adopting required federal regulations to maintain compatibility as an agreement state. These changes do not add new requirements that would cause local government to incur any changes in compliance costs beyond those identified by the Nuclear Regulatory Commission.
♦ SMALL BUSINESSES: Small businesses may hold a radioactive material license, but there is no anticipated cost or savings for small businesses. The proposed rule changes are adopting required federal regulations to maintain compatibility as an agreement state. These changes do not add new requirements that would cause small businesses to incur any changes in compliance costs beyond those identified by the Nuclear Regulatory Commission.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Small businesses and persons other than businesses may hold a radioactive material license, but there is no anticipated cost or savings for small businesses and persons other than businesses. The proposed rule changes are adopting required federal regulations to maintain compatibility as an agreement state. These changes do not add new requirements that would cause local government to incur any changes in compliance costs beyond those identified by the Nuclear Regulatory Commission.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated costs for affected persons since the proposed rule changes are adopting required federal regulations to maintain compatibility as an agreement state. These changes do not add new requirements that would cause affected persons to incur any changes in compliance costs beyond those identified by the Nuclear Regulatory Commission.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed changes to the rule are necessary for the Utah Radiation Control Rules to be compatible with NRC requirements, and to ensure that the Division's program activities are adequate to protect the public health and safety. The Division is not aware of any business that would be impacted fiscally due to the proposed rule changes.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
RADIATION CONTROL
THIRD FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Spencer Wickham by phone at 801-536-0082, by FAX at 801-533-4097, or by Internet E-mail at swickham@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 06/16/2015

AUTHORIZED BY: Rusty Lundberg, Director

R313. Environmental Quality, Radiation Control.
R313-12. General Provisions.
R313-12-3. Definitions.

As used in these rules, these terms shall have the definitions set forth below. Additional definitions used only in a certain rule will be found in that rule.

"A1" means the maximum activity of special form radioactive material permitted in a Type A package.

"A2" means the maximum activity of radioactive material, other than special form radioactive material, low specific activity, and surface contaminated object material permitted in a Type A package. These values are either listed in 10 CFR 71, Appendix A, which is incorporated by reference in Section R313-19-100 or may be derived in accordance with the procedures prescribed in 10 CFR 71, Appendix A, which is incorporated by reference in Section R313-19-100.

"Absorbed dose" means the energy imparted by ionizing radiation per unit mass of irradiated material. The units of absorbed dose are the gray (Gy) and the rad.

"Accelerator produced radioactive material" means material made radioactive by a particle accelerator.

"Act" means Utah Radiation Control Act, Title 19, Chapter 3.

"Activity" means the rate of disintegration or transformation or decay of radioactive material. The units of activity are the becquerel (Bq) and the curie (Ci).

"Adult" means an individual 18 or more years of age.

"Address of use" means the building or buildings that are identified on the license and where radioactive material may be received, used or stored.

"Advanced practice registered nurse" means an individual licensed by this state to engage in the practice of advanced practice registered nursing. See Sections 58-31b-101 through 58-31b-801, Nurse Practice Act.

"Agreement State" means a state with which the United States Nuclear Regulatory Commission or the Atomic Energy Commission has entered into an effective agreement under Section 274 b. of the Atomic Energy Act of 1954, as amended (73 Stat. 689).

"Airborne radioactive material" means a radioactive material dispersed in the air in the form of dusts, fumes, particulates, mists, vapors, or gases.

"Airborne radioactivity area" means: a room, enclosure, or area in which airborne radioactive material exists in concentrations:

(a) In excess of the derived air concentrations (DACs), specified in Rule R313-15, or

(b) To such a degree that an individual present in the area without respiratory protective equipment could exceed, during the hours an individual is present in a week, an intake of 0.6 percent of the annual limit on intake (ALI), or 12 DAC hours.

"As low as reasonably achievable" (ALARA) means making every reasonable effort to maintain exposures to radiation as far below the dose limits as is practical, consistent with the purpose for which the licensed or registered activity is undertaken, taking into account the state of technology, the economics of improvements in relation to state of technology, the economics of improvements in relation to benefits to the public health and safety, and other societal and socioeconomic considerations, and in relation to utilization of nuclear energy and licensed or registered sources of radiation in the public interest.

"Area of use" means a portion of an address of use that has been set aside for the purpose of receiving, using, or storing radioactive material.

"Background radiation" means radiation from cosmic sources; naturally occurring radioactive materials, including radon, except as a decay product of source or special nuclear material, and including global fallout as it exists in the environment from the testing of nuclear explosive devices or from past nuclear accidents such as Chernobyl that contribute to background radiation and are not under the control of the licensee. "Background radiation" does not include sources of radiation from radioactive materials regulated by the Department under the Radiation Control Act or Rules.

"Becquerel" (Bq) means the SI unit of activity. One becquerel is equal to one disintegration or transformation per second.

"Bioassay" means the determination of kinds, quantities or concentrations, and in some cases, the locations of radioactive material in the human body, whether by direct measurement (in vivo counting) or by analysis and evaluation of materials excreted or removed from the human body. For purposes of these rules, "radiobioassay" is an equivalent term.

"Board" means the Radiation Control Board created under Section 19-1-106.

"Byproduct material" means:

(a) a radioactive material, with the exception of special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material;

(b) the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from uranium solution extraction processes. Underground ore bodies depleted by these solution extraction operations do not constitute "byproduct material" within this definition;

(c) (i) a discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; or

(ii) material that

(A) has been made radioactive by use of a particle accelerator; and

(B) is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; and

(d) a discrete source of naturally occurring radioactive material, other than source material, that

(i) The Commission, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate Federal agency, has determined would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and

(ii) Before, on, or after August 8, 2005, is extracted or converted after extraction for use in a commercial, medical, or research activity.

"Calibration" means the determination of:

(a) the response or reading of an instrument relative to a series of known radiation values over the range of the instrument; or

(b) the strength of a source of radiation relative to a standard.

"CFR" means Code of Federal Regulations.

"Chelating agent" means a chemical ligand that can form coordination compounds in which the ligand occupies more than one coordination position. The agents include beta diketones, certain proteins, amine polycarboxylic acids, hydroxycarboxylic acids, gluconic acid, and polycarboxylic acids.

"Chiropractor" means an individual licensed by this state to engage in the practice of chiropractic. See Sections 58-73-101 through 58-73-701, Chiropractic Physician Practice Act.

"Collective dose" means the sum of the individual doses received in a given period of time by a specified population from exposure to a specified source of radiation.

"Commencement of construction" means taking any action defined as "construction" or any other activity at the site of a facility subject to these rules that have a reasonable nexus to radiological health and safety.

"Commission" means the U.S. Nuclear Regulatory Commission.

"Committed dose equivalent" (HT,50), means the dose equivalent to organs or tissues of reference (T), that will be received from an intake of radioactive material by an individual during the 50-year period following the intake.

"Committed effective dose equivalent" (HE,50), is the sum of the products of the weighting factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to each of these organs or tissues.

"Consortium" means an association of medical use licensees and a PET radionuclide production facility in the same geographical area that jointly own or share in the operation and maintenance cost of the PET radionuclide production facility that produces PET radionuclides for use in producing radioactive drugs within the consortium for noncommercial distributions among its associated members for medical use. The PET radionuclide production facility within the consortium must be located at an educational institution, a Federal facility, or a medical facility.

"Construction" means the installation of wells associated with radiological operations; for example, production, injection, or monitoring well networks associated with in-situ recovery or other facilities; the installation of foundations, or in-place assembly, erection, fabrication, or testing for any structure, system, or component of a facility or activity subject to these rules that are related to radiological safety or security. The term "construction" does not include:

(a) changes for temporary use of the land for public recreational purposes;

(b) site exploration, including necessary borings to determine foundation conditions or other preconstruction monitoring to establish background information related to the suitability of the site, the environmental impacts of construction or operation, or the protection of environmental values;

(c) preparation of the site for construction of the facility, including clearing of the site, grading, installation of drainage, erosion and other environmental mitigation measures, and construction of temporary roads and borrow areas;

(d) erection of fences and other access control measures that are not related to the safe use of, or security of, radiological materials subject to this part;

(e) excavation;

(f) erection of support buildings; for example, construction equipment storage sheds, warehouse and shop facilities, utilities, concrete mixing plants, docking and unloading facilities, and office buildings; for use in connection with the construction of the facility;

(g) building of service facilities; for example, paved roads, parking lots, railroad spurs, exterior utility and lighting systems, potable water systems, sanitary sewerage treatment facilities, and transmission lines;

(h) procurement or fabrication of components or portions of the proposed facility occurring at other than the final, in-place location at the facility; or

(i) taking any other action that has no reasonable nexus to radiological health and safety.

"Controlled area" means an area, outside of a restricted area but inside the site boundary, access to which can be limited by the licensee or registrant for any reason.

"Critical group" means the group of individuals reasonably expected to receive the greatest exposure to residual radioactivity for any applicable set of circumstances.

"Curie" means a unit of measurement of activity. One curie (Ci) is that quantity of radioactive material which decays at the rate of 3.7 x 1010 disintegrations or transformations per second (dps or tps).

"Cyclotron means a particle accelerator in which the charged particles travel in an outward spiral or circular path. A cyclotron accelerates charged particles at energies usually in excess of 10 megaelectron volts and is commonly used for production of short half-life radionuclides for medical use.

"Decommission" means to remove a facility or site safely from service and reduce residual radioactivity to a level that permits:

(a) release of property for unrestricted use and termination of the license; or

(b) release of the property under restricted conditions and termination of the license.

"Deep dose equivalent" (H_d), which applies to external whole body exposure, means the dose equivalent at a tissue depth of one centimeter (1000 mg/cm^2).

"Dentist" means an individual licensed by this state to engage in the practice of dentistry. See sections 58-69-101 through 58-69-805, Dentist and Dental Hygienist Practice Act.

"Department" means the Utah State Department of Environmental Quality.

"Depleted uranium" means the source material uranium in which the isotope uranium-235 is less than 0.711 weight percent of the total uranium present. Depleted uranium does not include special nuclear material.

"Diffuse source" means a radionuclide that has been unintentionally produced or concentrated during the processing of materials for use for commercial, medical, or research activities.

"Director" means the Director of the Division of Radiation Control.

"Discrete source" means a radionuclide that has been processed so that its concentration within a material has been purposely increased for use for commercial, medical, or research activities.

"Distinguishable from background" means that the detectable concentration of a radionuclide is statistically different from the background concentration of that radionuclide in the vicinity of the site or, in the case of structures, in similar materials using adequate measurement technology, survey, and statistical techniques.

"Dose" is a generic term that means absorbed dose, dose equivalent, effective dose equivalent, committed dose equivalent, committed effective dose equivalent, or total effective dose equivalent. For purposes of these rules, "radiation dose" is an equivalent term.

"Dose equivalent" (H_T), means the product of the absorbed dose in tissue, quality factor, and other necessary modifying factors at the location of interest. The units of dose equivalent are the sievert (Sv) and rem.

"Dose limits" means the permissible upper bounds of radiation doses established in accordance with these rules. For purpose of these rules, "limits" is an equivalent term.

"Effective dose equivalent" (H_E), means the sum of the products of the dose equivalent to each organ or tissue (H_T), and the weighting factor (w_T) applicable to each of the body organs or tissues that are irradiated.

"Embryo/fetus" means the developing human organism from conception until the time of birth.

"Entrance or access point" means an opening through which an individual or extremity of an individual could gain access to radiation areas or to licensed or registered radioactive materials. This includes entry or exit portals of sufficient size to permit human entry, irrespective of their intended use.

"Explosive material" means a chemical compound, mixture, or device which produces a substantial instantaneous release of gas and heat spontaneously or by contact with sparks or flame.

"EXPOSURE" when capitalized, means the quotient of dQ by dm where "dQ" is the absolute value of the total charge of the ions of one sign produced in air when all the electrons, both negatrons and positrons, liberated by photons in a volume element of air having a mass of "dm" are completely stopped in air. The special unit of EXPOSURE is the roentgen (R). See Section R313-12-20 Units of exposure and dose for the SI equivalent. For purposes of these rules, this term is used as a noun.

"Exposure" when not capitalized as the above term, means being exposed to ionizing radiation or to radioactive material. For purposes of these rules, this term is used as a verb.

"EXPOSURE rate" means the EXPOSURE per unit of time, such as roentgen per minute and milliroentgen per hour.

"External dose" means that portion of the dose equivalent received from a source of radiation outside the body.

"Extremity" means hand, elbow, arm below the elbow, foot, knee, and leg below the knee.

"Facility" means the location within one building, vehicle, or under one roof and under the same administrative control

(a) at which the use, processing or storage of radioactive material is or was authorized; or

(b) at which one or more radiation-producing machines or radioactivity-inducing machines are installed or located.

"Former United States Atomic Energy Commission (AEC) or United States Nuclear Regulatory Commission (NRC) licensed facilities" means nuclear reactors, nuclear fuel reprocessing plants, uranium enrichment plants, or critical mass experimental facilities where AEC or NRC licenses have been terminated.

"Generally applicable environmental radiation standards" means standards issued by the U.S. Environmental Protection Agency under the authority of the Atomic Energy Act of 1954, as amended, that impose limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material.

"Gray" (Gy) means the SI unit of absorbed dose. One gray is equal to an absorbed dose of one joule per kilogram.

"Hazardous waste" means those wastes designated as hazardous by the U.S. Environmental Protection Agency rules in 40 CFR Part 261.

"Healing arts" means the disciplines of medicine, dentistry, osteopathy, chiropractic, and podiatry.

"High radiation area" means an area, accessible to individuals, in which radiation levels from radiation sources external to the body could result in an individual receiving a dose equivalent in excess of one mSv (0.1 rem), in one hour at 30 centimeters from the source of radiation or from a surface that the radiation penetrates. For purposes of these rules, rooms or areas in which diagnostic x-ray systems are used for healing arts purposes are not considered high radiation areas.

"Human use" means the intentional internal or external administration of radiation or radioactive material to human beings.

"Individual" means a human being.

"Individual monitoring" means the assessment of:

(a) dose equivalent, by the use of individual monitoring devices or, by the use of survey data; or

(b) committed effective dose equivalent by bioassay or by determination of the time weighted air concentrations to which an individual has been exposed, that is, DAC-hours.

"Individual monitoring devices" means devices designed to be worn by a single individual for the assessment of dose equivalent. For purposes of these rules, individual monitoring equipment and personnel monitoring equipment are equivalent terms. Examples of individual monitoring devices are film badges, thermoluminescence dosimeters (TLD's), pocket ionization chambers, and personal air sampling devices.

"Inspection" means an official examination or observation including, but not limited to, tests, surveys, and monitoring to determine compliance with rules, orders, requirements and conditions applicable to radiation sources.

"Interlock" means a device arranged or connected requiring the occurrence of an event or condition before a second condition can occur or continue to occur.

"Internal dose" means that portion of the dose equivalent received from radioactive material taken into the body.

"Lens dose equivalent" (LDE) applies to the external exposure of the lens of the eye and is taken as the dose equivalent at a tissue depth of 0.3 centimeter (300 mg/cm^2).

"License" means a license issued by the Director in accordance with the rules adopted by the Board.

"Licensee" means a person who is licensed by the Department in accordance with these rules and the Act.

"Licensed or registered material" means radioactive material, received, possessed, used or transferred or disposed of under a general or specific license issued by the Director.

"Licensing state" means a state which, prior to November 30, 2007, was provisionally or finally designated as such by the Conference of Radiation Control Program Directors, Inc., which reviewed state regulations to establish equivalency with the Suggested State Regulations and ascertained whether a State has an effective program for control of natural occurring or accelerator produced radioactive material.

"Limits". See "Dose limits".

"Lost or missing source of radiation" means licensed or registered sources of radiation whose location is unknown. This definition includes, but is not limited to, radioactive material that has been shipped but has not reached its planned destination and whose location cannot be readily traced in the transportation system.

"Major processor" means a user processing, handling, or manufacturing radioactive material exceeding Type A quantities as unsealed sources or material, or exceeding four times Type B quantities as sealed sources, but does not include nuclear medicine programs, universities, industrial radiographers, or small industrial programs. Type A and B quantities are defined in 10 CFR 71.4.

"Member of the public" means an individual except when that individual is receiving an occupational dose.

"Minor" means an individual less than 18 years of age.

"Monitoring" means the measurement of radiation, radioactive material concentrations, surface area activities or quantities of radioactive material, and the use of the results of these measurements to evaluate potential exposures and doses. For purposes of these rules, radiation monitoring and radiation protection monitoring are equivalent terms.

"Natural radioactivity" means radioactivity of naturally occurring nuclides.

"Nuclear Regulatory Commission" (NRC) means the U.S. Nuclear Regulatory Commission or its duly authorized representatives.

"Occupational dose" means the dose received by an individual in the course of employment in which the individual's assigned duties for the licensee or registrant involve exposure to sources of radiation, whether or not the sources of radiation are in the possession of the licensee, registrant, or other person. Occupational dose does not include doses received from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material and released in accordance with Rule R313-32, from voluntary participation in medical research programs, or as a member of the public.

"Package" means the packaging together with its radioactive contents as presented for transport.

"Particle accelerator" means a machine capable of accelerating electrons, protons, deuterons, or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of one megaelectron volt. For purposes of these rules, "accelerator" is an equivalent term.

"Permit" means a permit issued by the Director in accordance with the rules adopted by the Board.

"Permitee" means a person who is permitted by the Department in accordance with these rules and the Act.

"Person" means an individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, or another state or political subdivision or agency thereof, and a legal successor, representative, agent or agency of the foregoing.

"Personnel monitoring equipment," see individual monitoring devices.

"Pharmacist" means an individual licensed by this state to engage in the practice of pharmacy. See Sections 58-17a-101 through 58-17a-801, Pharmacy Practice Act.

"Physician" means both physicians and surgeons licensed under Section 58-67-301, Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under Section 58-68-301, Utah Osteopathic Medical Practice Act.

"Physician assistant" means an individual licensed by this state to engage in practice as a physician assistant. See Sections 58-70a-101 through 58-70a-504, Physician Assistant Act.

"Podiatrist" means an individual licensed by this state to engage in the practice of podiatry. See Sections 58-5a-101 through 58-5a-501, Podiatric Physician Licensing Act.

"Practitioner" means an individual licensed by this state in the practice of a healing art. For these rules, only the following are considered to be a practitioner: physician, dentist, podiatrist, chiropractor, physician assistant, and advanced practice registered nurse.

"Protective apron" means an apron made of radiation-attenuating materials used to reduce exposure to radiation.

"Public dose" means the dose received by a member of the public from exposure to radiation or to radioactive materials released by a licensee, or to any other source of radiation under the control of a licensee or registrant. Public dose does not include occupational dose or doses received from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material and released in accordance with Rule R313-32, or from voluntary participation in medical research programs.

"Pyrophoric material" means any liquid that ignites spontaneously in dry or moist air at or below 130 degrees Fahrenheit (54.4 degrees Celsius) or any solid material, other than one classed as an explosive, which under normal conditions is liable to cause fires through friction, retained heat from manufacturing or processing, or which can be ignited and, when ignited, burns so vigorously and persistently as to create a serious transportation, handling, or disposal hazard. Included are spontaneously combustible and water-reactive materials.

"Quality factor" (Q) means the modifying factor, listed in Tables 1 and 2 of Section R313-12-20 that is used to derive dose equivalent from absorbed dose.

"Rad" means the special unit of absorbed dose. One rad is equal to an absorbed dose of 100 erg per gram or 0.01 joule per kilogram

"Radiation" means alpha particles, beta particles, gamma rays, x-rays, neutrons, high speed electrons, high speed protons, and other particles capable of producing ions. For purposes of these rules, ionizing radiation is an equivalent term. Radiation, as used in these rules, does not include non-ionizing radiation, like radiowaves or microwaves, visible, infrared, or ultraviolet light.

"Radiation area" means an area, accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 0.05 mSv (0.005 rem), in one hour at 30 centimeters from the source of radiation or from a surface that the radiation penetrates.

"Radiation machine" means a device capable of producing radiation except those devices with radioactive material as the only source of radiation.

"Radiation safety officer" means an individual who has the knowledge and responsibility to apply appropriate radiation protection rules and has been assigned such responsibility by the licensee or registrant. For a licensee authorized to use radioactive materials in accordance with the requirements of Rule R313-32,

(1) the individual named as the "Radiation Safety Officer" must meet the training requirements for a Radiation Safety Officer as stated in Rule R313-32; or

(2) the individual must be identified as a "Radiation Safety Officer" on

(a) a specific license issued by the Director, the U.S. Nuclear Regulatory Commission, or an Agreement State that authorizes the medical use of radioactive materials; or

(b) a medical use permit issued by a U.S. Nuclear Regulatory Commission master material licensee.

"Radiation source". See "Source of radiation."

"Radioactive material" means a solid, liquid, or gas which emits radiation spontaneously.

"Radioactivity" means the transformation of unstable atomic nuclei by the emission of radiation.

"Radiobioassay". See "Bioassay".

"Registrant" means any person who is registered with respect to radioactive materials or radiation machines with the Director or is legally obligated to register with the Director pursuant to these rules and the Act.

"Registration" means registration with the Department in accordance with the rules adopted by the Board.

"Regulations of the U.S. Department of Transportation" means 49 CFR 100 through 189.

"Rem" means the special unit of any of the quantities expressed as dose equivalent. The dose equivalent in rem is equal to the absorbed dose in rad multiplied by the quality factor. One rem equals 0.01 sievert (Sv).

"Research and development" means:

(a) theoretical analysis, exploration, or experimentation; or

(b) the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes. Research and development does not include the internal or external administration of radiation or radioactive material to human beings.

"Residual radioactivity" means radioactivity in structures, materials, soils, groundwater, and other media at a site resulting from activities under the licensee's control. This includes radioactivity from all licensed and unlicensed sources used by the licensee, but excludes background radiation. It also includes radioactive materials remaining at the site as a result of routine or accidental releases of radioactive material at the site and previous burials at the site, even if those burials were made in accordance with the provisions of Rule R313-15.

"Restricted area" means an area, access to which is limited by the licensee or registrant for the purpose of protecting individuals against undue risks from exposure to sources of radiation. A "Restricted area" does not include areas used as residential quarters, but separate rooms in a residential building may be set apart as a restricted area.

"Roentgen" (R) means the special unit of EXPOSURE. One roentgen equals 2.58 x 10-4 coulombs per kilogram of air. See EXPOSURE.

"Sealed source" means radioactive material that is permanently bonded or fixed in a capsule or matrix designed to prevent release and dispersal of the radioactive material under the most severe conditions which are likely to be encountered in normal use and handling.

"Sealed source and device registry" means the national registry that contains all the registration certificates, generated by both NRC and the Agreement States, that summarize the radiation safety information for the sealed sources and devices and describe the licensing and use conditions approved for the product.

"Shallow dose equivalent" (Hs) which applies to the external exposure of the skin of the whole body or the skin of an extremity, is taken as the dose equivalent at a tissue depth of 0.007 centimeter (seven mg per cm2).

"SI" means an abbreviation of the International System of Units.

"Sievert" (Sv) means the SI unit of any of the quantities expressed as dose equivalent. The dose equivalent in sievert is equal to the absorbed dose in gray multiplied by the quality factor. One Sv equals 100 rem.

"Site boundary" means that line beyond which the land or property is not owned, leased, or otherwise controlled by the licensee or registrant.

"Source container" means a device in which sealed sources are transported or stored.

"Source material" means:

(a) uranium or thorium, or any combination thereof, in any physical or chemical form, or

(b) ores that contain by weight one-twentieth of one percent (0.05 percent), or more of, uranium, thorium, or any combination of uranium and thorium. Source material does not include special nuclear material.

"Source material milling" means any activity that results in the production of byproduct material as defined by (b) of "byproduct material".

"Source of radiation" means any radioactive material, or a device or equipment emitting or capable of producing ionizing radiation.

"Special form radioactive material" means radioactive material which satisfies the following conditions:

(a) it is either a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;

(b) the piece or capsule has at least one dimension not less than five millimeters (0.197 inch); and

(c) it satisfies the test requirements specified by the U.S. Nuclear Regulatory Commission in 10 CFR 71.75. A special form encapsulation designed in accordance with the U.S. Nuclear Regulatory Commission requirements in effect on June 30, 1983, and constructed prior to July 1, 1985, may continue to be used. A special form encapsulation designed in accordance with the requirements of Section 71.4 in effect on March 31, 1996, (see 10 CFR 71 revised January 1, 1983), and constructed before April 1, 1998, may continue to be used. Any other special form encapsulation must meet the specifications of this definition.

"Special nuclear material" means:

(a) plutonium, uranium-233, uranium enriched in the isotope 233 or in the isotope 235, and other material that the U.S. Nuclear Regulatory Commission, pursuant to the provisions of section 51 of the Atomic Energy Act of 1954, as amended, determines to be special nuclear material, but does not include source material; or

(b) any material artificially enriched by any of the foregoing but does not include source material.

"Special nuclear material in quantities not sufficient to form a critical mass" means uranium enriched in the isotope U-235 in quantities not exceeding 350 grams of contained U-235; uranium-233 in quantities not exceeding 200 grams; plutonium in quantities not exceeding 200 grams or a combination of them in accordance with the following formula: For each kind of special nuclear material, determine the ratio between the quantity of that special nuclear material and the quantity specified above for the same kind of special nuclear material. The sum of such ratios for all of the kinds of special nuclear material in combination shall not exceed one. For example, the following quantities in combination would not exceed the limitation and are within the formula:

((175(Grams contained U-235)/350) + (50(Grams U-233/200) + (50(Grams Pu)/200)) is equal to one.

"Survey" means an evaluation of the radiological conditions and potential hazards incident to the production, use, transfer, release, disposal, or presence of sources of radiation. When appropriate, such evaluation includes, but is not limited to, tests, physical examinations and measurements of levels of radiation or concentrations of radioactive material present.

"Test" means the process of verifying compliance with an applicable rule.

"These rules" means "Utah Radiation Control Rules".

"Total effective dose equivalent" (TEDE) means the sum of the effective dose equivalent for external exposures and the committed effective dose equivalent for internal exposures.

"Total organ dose equivalent" (TODE) means the sum of the deep dose equivalent and the committed dose equivalent to the organ receiving the highest dose as described in Subsection R313-15-1107(1)(f).

"U.S. Department of Energy" means the Department of Energy established by Public Law 95-91, August 4, 1977, 91 Stat. 565, 42 U.S.C. 7101 et seq., to the extent that the Department exercises functions formerly vested in the U.S. Atomic Energy Commission, its Chairman, members, officers and components and transferred to the U.S. Energy Research and Development Administration and to the Administrator thereof pursuant to sections 104(b), (c), and (d) of Public Law 93-438, October 11, 1974, 88 Stat. 1233 at 1237, effective January 19, 1975 known as the Energy Reorganization Act of 1974, and retransferred to the Secretary of Energy pursuant to section 301(a) of Public Law 95-91, August 14, 1977, 91 Stat. 565 at 577-578, 42 U.S.C. 7151, effective October 1, 1977 known as the Department of Energy Organization Act.

"Unrefined and unprocessed ore" means ore in its natural form prior to processing, like grinding, roasting, beneficiating or refining.

"Unrestricted area" means an area, to which access is neither limited nor controlled by the licensee or registrant. For purposes of these rules, "uncontrolled area" is an equivalent term.

"Waste" means those low-level radioactive wastes containing radioactive material that are acceptable for disposal in a land disposal facility. For the purposes of this definition, low-level radioactive waste means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in paragraphs (b), (c), and (d) of the definition of byproduct material found in Section R313-12-3.

"Week" means seven consecutive days starting on Sunday.

"Whole body" means, for purposes of external exposure, head, trunk including male gonads, arms above the elbow, or legs above the knees.

"Worker" means an individual engaged in work under a license or registration issued by the Director and controlled by a licensee or registrant, but does not include the licensee or registrant.

"Working level" (WL), means any combination of short-lived radon daughters in one liter of air that will result in the ultimate emission of 1.3×10^5 MeV of potential alpha particle energy. The short-lived radon daughters are, for radon-222: polonium-218, lead-214, bismuth-214, and polonium-214; and for radon 220: polonium-216, lead-212, bismuth-212, and polonium-212.

"Working level month" (WLM), means an exposure to one working level for 170 hours. 2,000 working hours per year divided by 12 months per year is approximately equal to 170 hours per month.

"Year" means the period of time beginning in January used to determine compliance with the provisions of these rules. The licensee or registrant may change the starting date of the year used to determine compliance by the licensee or registrant provided that the decision to make the change is made not later than December 31 of the previous year. If a licensee or registrant changes in a year, the licensee or registrant shall assure that no day is omitted or duplicated in consecutive years.

KEY: definitions, units, inspections, exemptions
Date of Enactment or Last Substantive Amendment: [~~October 21, 2014~~]2015
Notice of Continuation: July 7, 2011
Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-3-108

Environmental Quality, Radiation Control
R313-19-13
Exemptions

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 39280
FILED: 04/14/2015

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The State of Utah entered into an agreement with the U.S. Nuclear Regulatory Commission (NRC) to establish and maintain a compatible program for the control of radioactive material in Utah. To maintain compatibility with NRC requirements, the State of Utah is required to modify the Utah Radiation Control Rules in order to incorporate the appropriate regulations published by the NRC in 77 FR 43666.

SUMMARY OF THE RULE OR CHANGE: This rulemaking addresses the adoption of appropriate requirements found in 79 FR 43666. This rule change amends regulations in Rule R313-19 to make requirements for distributors of radioactive material clearer, less prescriptive, and more risk-informed and up to date. This amendment also redefines categories of devices to be used under exemptions, adding explicit provisions regarding the sealed source and device registration process, and adding flexibility to the licensing of users of sealed sources and devices. This amendment is primarily intended to make the licensing process more efficient and effective.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-3-104 and Section 19-3-108

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no anticipated cost or savings to the state budget. The proposed changes do not add or remove significant requirements that affect radiation. The proposed rule changes are adopting required federal regulations to maintain compatibility as an agreement state. These changes do not add new requirements that would cause the state budget to incur any changes in compliance costs beyond those identified by the Nuclear Regulatory Commission.
♦ LOCAL GOVERNMENTS: There is no anticipated cost or savings to the local government. The proposed changes do not add or remove significant requirements that affect radiation. The proposed rule changes are adopting required federal regulations to maintain compatibility as an agreement state. These changes do not add new requirements that would cause local government to incur any changes in compliance costs beyond those identified by the Nuclear Regulatory Commission.
♦ SMALL BUSINESSES: Small businesses may hold a radioactive material license, but there is no anticipated cost or savings for small businesses. The proposed rule changes are adopting required federal regulations to maintain compatibility as an agreement state. These changes do not add new requirements that would cause small businesses to incur any changes in compliance costs beyond those identified by the Nuclear Regulatory Commission.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Small businesses and persons other than businesses may hold a radioactive material license, but there is no anticipated cost or savings for small businesses and persons other than businesses. The proposed rule changes are adopting required federal regulations to maintain compatibility as an agreement state. These changes do not add new requirements that would cause local government to incur any changes in compliance costs beyond those identified by the Nuclear Regulatory Commission.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated costs for affected persons since the proposed rule changes are adopting required federal regulations to maintain compatibility as an agreement state. These changes do not add new requirements that would cause affected persons to incur any changes in compliance costs beyond those identified by the Nuclear Regulatory Commission.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed changes to the rule are necessary for the Utah Radiation Control Rules to be compatible with NRC requirements, and to ensure that the Division's program activities are adequate to protect the public health and safety. The Division is not aware of any business that would be impacted fiscally due to the proposed rule changes.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
RADIATION CONTROL
THIRD FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Spencer Wickham by phone at 801-536-0082, by FAX at 801-533-4097, or by Internet E-mail at swickham@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 06/16/2015

AUTHORIZED BY: Rusty Lundberg, Director

R313. Environmental Quality, Radiation Control.
R313-19. Requirements of General Applicability to Licensing of Radioactive Material.
R313-19-13. Exemptions.

(1) Source material.

(a) A person is exempt from Rules R313-19, R313-21, and R313-22 to the extent that the person receives, possesses, uses, owns, or transfers source material in a chemical mixture, compound, solution or alloy in which the source material is by weight less than 1/20 of one percent (0.05 percent) of the mixture, compound, solution, or alloy.

(b) A person is exempt from Rules R313-19, R313-21, and R313-22 to the extent that the person receives, possesses, uses or transfers unrefined and unprocessed ore containing source material; provided, that, except as authorized in a specific license, such person shall not refine or process the ore.

(c) A person is exempt from Rules R313-19, R313-21, and R313-22 to the extent that the person receives, possesses, uses or transfers:

(i) any quantities of thorium contained in:

(A) incandescent gas mantles,

(B) vacuum tubes,

(C) welding rods,

(D) electric lamps for illuminating purposes: provided that, each lamp does not contain more than 50 milligrams of thorium,

(E) germicidal lamps, sunlamps, and lamps for outdoor or industrial lighting provided that each lamp does not contain more than two grams of thorium,

(F) rare earth metals and compounds, mixtures, and products containing not more than 0.25 percent by weight thorium, uranium, or any combination of these, or

(G) personnel neutron dosimeters provided that each dosimeter does not contain more than 50 milligrams of thorium;

(ii) source material contained in the following products:

(A) glazed ceramic tableware, provided that the glaze contains not more than 20 percent by weight source material,

(B) piezoelectric ceramic containing not more than two percent by weight source material, or

(C) glassware containing not more than ten percent by weight source material, but not including commercially manufactured glass brick, pane glass, ceramic tile, or other glass or ceramic used in construction;

(iii) photographic film, negatives and prints containing uranium or thorium;

(iv) a finished product or part fabricated of, or containing, tungsten-thorium or magnesium-thorium alloys, provided that the thorium content of the alloy does not exceed four percent by weight and that this exemption shall not be deemed to authorize the chemical, physical, or metallurgical treatment or processing of the product or part;

(v) uranium contained in counterweights installed in aircraft, rockets, projectiles, and missiles, or stored or handled in connection with installation or removal of the counterweights, provided that:

(A) the counterweights are manufactured in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission authorizing distribution by the licensee pursuant to 10 CFR Part 40,

(B) each counterweight has been impressed with the following legend clearly legible through any plating or other covering: "DEPLETED URANIUM",

(C) each counterweight is durably and legibly labeled or marked with the identification of the manufacturer and the statement: "UNAUTHORIZED ALTERATIONS PROHIBITED",

(D) The requirements specified in Subsections R313-19-13(1)(c)(v)(B) and (C) need not be met by counterweights manufactured prior to December 31, 1969, provided that such counterweights are impressed with the legend, "CAUTION - RADIOACTIVE MATERIAL - URANIUM", as previously required by the rules, and

(E) the exemption contained in Subsection R313-19-13(1)(c)(v) shall not be deemed to authorize the chemical, physical, or metallurgical treatment or processing of counterweights other than repair or restoration of any plating or other covering;

(vi) natural or depleted uranium metal used as shielding constituting part of a shipping container which is conspicuously and legibly impressed with the legend "CAUTION - RADIOACTIVE SHIELDING - URANIUM" and the uranium metal is encased in mild steel or equally fire resistant metal of minimum wall thickness of one eighth inch (3.2 mm);

(vii) thorium contained in finished optical lenses, provided that each lens does not contain more than 30 percent by weight of thorium, and that this exemption shall not be deemed to authorize either:

(A) the shaping, grinding, or polishing of a lens or manufacturing processes other than the assembly of such lens into optical systems and devices without alteration of the lens, or

(B) the receipt, possession, use, or transfer of thorium contained in contact lenses, or in spectacles, or in eyepieces in binoculars or other optical instruments;

(viii) uranium contained in detector heads for use in fire detection units, provided that each detector head contains not more than 0.005 microcurie (185.0 Bq) of uranium; or

(ix) thorium contained in a finished aircraft engine part containing nickel-thoria alloy, provided that:

(A) the thorium is dispersed in the nickel-thoria alloy in the form of finely divided thoria (thorium dioxide), and

(B) the thorium content in the nickel-thoria alloy does not exceed four percent by weight.

(d) The exemptions in Subsection R313-19-13(1)(c) do not authorize the manufacture of any of the products described.

(2) Radioactive material other than source material.

(a) Exempt concentrations.

(i) Except as provided in Subsection R313-19-13(2)(a)(iii) a person is exempt from Rules R313-19, R313-21 and R313-22 to the extent that the person receives, possesses, uses, transfers, owns or acquires products or materials containing:

(A) radioactive material introduced in concentrations not in excess of those listed in Section R313-19-70, or

(B) diffuse sources of natural occurring radioactive materials containing less than 15 picocuries per gram radium-226.

(ii) A manufacturer, processor, or producer of a product or material is exempt from the requirements for a license set forth in Rules R313-19, R313-21 and R313-22 and Rules R313-32, R313-34, R313-36, and R313-38 to the extent that the person transfers:

(A) radioactive material contained in a product or material in concentrations not in excess of those specified in R313-19-70; and

(B) introduced into the product or material by a licensee holding a specific license issued by the U.S. Nuclear Regulatory Commission authorizing the introduction.

(C) The exemption in R313-19-13-2(a)(ii)(A) and R313-19-13-2(a)(ii)(B) does not apply to the transfer of radioactive material contained in any food, beverage, cosmetic, drug, or other commodity or product designed for ingestion or inhalation by, or application to, a human being.

(iii) A person may not introduce radioactive material into a product or material knowing or having reason to believe that it will be transferred to persons exempt under Subsection R313-19-13(2)(a)(i) or equivalent regulations of a Licensing State, the U.S. Nuclear Regulatory Commission or an Agreement State, except in accordance with a specific license issued pursuant to Subsection R313-22-75(1).

(b) Exempt quantities.

(i) Except as provided in Subsections R313-19-13(2)(b)(ii) through (iv) a person is exempt from these rules to the extent that the person receives, possesses, uses, transfers, owns, or acquires radioactive material in individual quantities which do not exceed the applicable quantity set forth in Section R313-19-71.

(ii) Subsection R313-19-13(2)(b) does not authorize the production, packaging or repackaging of radioactive material for purposes of commercial distribution, or the incorporation of radioactive material into products intended for commercial distribution.

(iii) A person may not, for purposes of commercial distribution, transfer radioactive material in the individual quantities set forth in Section R313-19-71, knowing or having reason to believe that the quantities of radioactive material will be transferred to persons exempt under Subsection R313-19-13(2)(b) or equivalent regulations of a Licensing State, the U.S. Nuclear Regulatory Commission or an Agreement State, except in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission, pursuant to 10 CFR Part 32 or by the Director pursuant to Subsection R313-22-75(2), which license states that the radioactive material may be transferred by the licensee to persons exempt under Subsection R313-19-13(2)(b) or the equivalent regulations of a Licensing State, the U.S. Nuclear Regulatory Commission or an Agreement State.

(iv) A person who possesses radioactive material received or acquired prior to September 25, 1971, under the general license formerly provided in 10 CFR Part 31.4 or equivalent regulations of a State is exempt from the requirements for a license set forth in Rule R313-19 to the extent that the person possesses, uses, transfers or owns radioactive material. This exemption does not apply for diffuse sources of radium-226.

(v) No person may, for purposes of producing an increased radiation level, combine quantities of radioactive material covered by this exemption so that the aggregate quantity exceeds the limits set forth in R313-19-71, except for radioactive material combined within a device placed in use before May 3, 1999, or as otherwise provided by these rules.

(c) Exempt items.

(i) Certain items containing radioactive material. Except for persons who apply radioactive material to, or persons who incorporate radioactive material into the following products, a person is exempt from these rules to the extent that person receives, possesses, uses, transfers, owns or acquires the following products:

(A) Timepieces or hands or dials containing not more than the following specified quantities of radioactive material and not exceeding the following specified levels of radiation:

(I) 25 millicuries (925.0 MBq) of tritium per timepiece;

(II) five millicuries (185.0 MBq) of tritium per hand;

(III) 15 millicuries (555.0 MBq) of tritium per dial. Bezels when used shall be considered as part of the dial;

(IV) 100 microcuries (3.7 MBq) of promethium-147 per watch or 200 microcuries (7.4 MBq) of promethium-147 per any other timepiece;

(V) 20 microcuries (0.74 MBq) of promethium-147 per watch hand or 40 microcuries (1.48 MBq) of promethium-147 per other timepiece hand;

(VI) 60 microcuries (2.22 MBq) of promethium-147 per watch dial or 120 microcuries (4.44 MBq) of promethium-147 per other timepiece dial. Bezels when used shall be considered as part of the dial;

(VII) the radiation dose rate from hands and dials containing promethium-147 will not exceed, when measured through 50 milligrams per square centimeter of absorber:

for wrist watches, 0.1 millirad (1.0 uGy) per hour at ten centimeters from any surface;

for pocket watches, 0.1 millirad (1.0 uGy) per hour at one centimeter from any surface;

for other timepieces, 0.2 millirad (2.0 uGy) per hour at ten centimeters from any surface;

(VIII) one microcurie (37.0 kBq) of radium-226 per timepiece in timepieces manufactured prior to November 30, 2007.

(B)(I) Static elimination devices which contain, as sealed source or sources, radioactive material consisting of a total of not more than 18.5 MBq (500 uCi) of polonium-210 per device.

(II) Ion generating tubes designed for ionization of air that contain, as a sealed source or sources, byproduct material consisting of a total of not more than 18.5 MBq (500 uCi) of polonium-210 per device or of a total of not more than 1.85 GBq (50 mCi) of hydrogen-3 (tritium) per device.

(III) Such devices authorized before October 23, 2012 for use under the general license then provided in R313-21-22(1)(a) or equivalent regulations of the Commission or an Agreement State and manufactured, tested, and labeled by the manufacturer in accordance with the specifications contained in a specific license issued by the Commission or Agreement State.

[~~(B)~~](C) Precision balances containing not more than one millicurie (37.0 MBq) of tritium per balance or not more than 0.5 millicurie (18.5 MBq) of tritium per balance part manufactured before June 9, 2010.

[~~(C)~~](D) Marine compasses containing not more than 750 millicuries (27.8 GBq) of tritium gas and other marine navigational instruments containing not more than 250 millicuries (9.25 GBq) of tritium gas manufactured before June 9, 2010.

[~~(D)~~](E) Ionization chamber smoke detectors containing not more than 1 microcurie (37 kBq) of americium-241 per detector in the form of a foil and designed to protect life and property from fires.

[~~(E)~~](F) Electron tubes, including spark gap tubes, power tubes, gas tubes including glow lamps, receiving tubes, microwave tubes, indicator tubes, pick-up tubes, radiation detection tubes, and other completely sealed tubes that are designed to conduct or control electrical currents; provided that each tube does not contain more than one of the following specified quantities of radioactive material:

(I) 150 millicuries (5.55 GBq) of tritium per microwave receiver protector tube or ten millicuries (370.0 MBq) of tritium per any other electron tube;

(II) one microcurie (37.0 kBq) of cobalt-60;

(III) five microcuries (185.0 kBq) of nickel-63;

(IV) 30 microcuries (1.11 MBq) of krypton-85;

(V) five microcuries (185.0 kBq) of cesium-137;

(VI) 30 microcuries (1.11 MBq) of promethium-147;

(VII) one microcurie (37.0 kBq) of radium-226;

and provided further, that the radiation dose rate from each electron tube containing radioactive material will not exceed one millirad (10.0 uGy) per hour at one centimeter from any surface when measured through seven milligrams per square centimeter of absorber.

[~~(F)~~](G) Ionizing radiation measuring instruments containing, for purposes of internal calibration or standardization, one or more sources of radioactive material, provided that:

(I) each source contains no more than one exempt quantity set forth in Section R313-19-71; and

(II) each instrument contains no more than ten exempt quantities. For purposes of this requirement, an instrument's source(s) may contain either one type or different types of radionuclides and an individual exempt quantity may be composed of fractional parts of one

or more of exempt quantities in Section R313-19-71, provided that the sum of the fractions shall not exceed unity;

(III) for purposes of Subsection R313-19-13(2)(c)(i)[~~(F)~~] (G), 0.05 microcurie (1.85 kBq) of americium-241 is considered an exempt quantity under Section R313-19-71.

(ii) Self-luminous products containing radioactive material.

[~~(A) Tritium, krypton-85 or promethium-147. Except for persons who manufacture, process or produce self-luminous products containing tritium, krypton-85 or promethium-147, a person is exempt from these rules to the extent that the person receives, possesses, uses, transfers, owns, or acquires tritium, krypton-85 or promethium-147 in self-luminous products manufactured, processed, produced, imported or transferred in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to 10 CFR Part 32.22, which license authorizes the transfer of the product to persons who are exempt from regulatory requirements. The exemption in Subsection R313-19-13(2)(c)(ii) does not apply to tritium, krypton-85, or promethium-147 used in products for frivolous purposes or in toys or adornments.~~

] (A) Except for persons who manufacture, process, produce, or initially transfer for sale or distribution self-luminous products containing tritium, krypton-85, or promethium-147, and except as provided in R313-19-13(2)(c)(ii)(C), any person is exempt from the requirements for a license set forth in Section 274 b. of the Atomic Energy Act of 1954 and from the regulations in R313-15, R313-19, R313-32, R313-34, R313-36, R313-37, and R313-38 to the extent that such a person receives, possesses, uses, transfers, owns, or acquires tritium, krypton-85, or promethium-147 in self-luminous products manufactured, processed, produced, or initially transferred in accordance with a specific license issued pursuant to 10 CFR 32.22 (2015), which license authorizes the initial transfer of the product for use.

(B) Any person who desires to manufacture, process, or produce, or initially transfer for sale or distribution self-luminous products containing tritium, krypton-85, or promethium-147 for use under R313-19-13(2)(c)(ii)(A), should apply for a license under 10 CFR 32.22 (2015) and for a certificate of registration in accordance with 10 CFR 32.210 (2015).

(C) The exemption in R313-19-13(2)(c)(ii)(A) does not apply to tritium, krypton-85, or promethium-147 used in products primarily for frivolous purposes or in toys or adornments.

[~~(B)~~](D) Radium-226. A person is exempt from these rules, to the extent that such person receives, possesses, uses, transfers, or owns articles containing less than 0.1 microcurie (3.7 kBq) of radium-226 which were acquired prior to the effective date of these rules.

(iii) Gas and aerosol detectors containing radioactive material.

[~~(A) Except for persons who manufacture, process, produce, or initially transfer for sale or distribution gas and aerosol detectors containing radioactive material, a person is exempt from these rules to the extent that the person receives, possesses, uses, transfers, owns, or acquires radioactive material in gas and aerosol detectors designed to protect life or property from fires and airborne hazards, provided that detectors containing radioactive material shall have been manufactured, processed, produced, or initially transferred in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to 10 CFR Part 32.26, or manufactured or distributed before November 30, 2007 in accordance with a specific license issued by an Agreement State or Licensing State under comparable provisions to 10 CFR 32.26 (2010) authorizing distribution to persons who are exempt from regulatory requirements.~~

] (A) Except for persons who manufacture, process, produce, or initially transfer for sale or distribution gas and aerosol detectors containing radioactive material, any person is exempt from the requirements for a license set forth in Section 274 b. of the Atomic Energy Act of 1954 and from the regulations in parts R313-18, R313-15, R313-19, R313-21, R313-22, R313-32, R313-34, R313-36, R313-37, and R313-38 to the extent that such person receives, possesses, uses, transfers, owns, or acquires byproduct material in gas and aerosol detectors designed to protect health, safety, or property, and manufactured, processed, produced, or initially transferred in accordance with a specific license issued under 10 CFR 32.26 (2015), which license authorizes the initial transfer of the product for use under this section. This exemption also covers gas and aerosol detectors manufactured or distributed before November 30, 2007, in accordance with a specific license issued by a State under comparable provisions to 10 CFR 32.26 (2015) authorizing distribution to persons exempt from regulatory requirements.

(B) Any person who desires to manufacture, process, or produce gas and aerosol detectors containing byproduct material, or to initially transfer such products for use under paragraph (a)of this section, should apply for a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to 10 CFR Part 32.26 (2015) and for a certificate of registration in accordance with R313-22-210 or equivalent regulations of an Agreement State.

(iv) Capsules containing carbon-14 urea for "in vivo" diagnostic use for humans.

(A) Except as provided in Subsection R313-19-13(2)(c)(iv)(B), any person is exempt from the requirements in Rules R313-19 and R313-32 provided that the person receives, possesses, uses, transfers, owns, or acquires capsules containing 37 kBq (1 uCi) carbon-14 urea (allowing for nominal variation that may occur during the manufacturing process) each, for "in vivo" diagnostic use for humans.

(B) Any person who desires to use the capsules for research involving human subjects shall apply for and receive a specific license pursuant to Rule R313-32.

(C) Nothing in Subsection R313-19-13(2)(c)(iv) relieves persons from complying with applicable United States Food and Drug Administration, other Federal, and State requirements governing receipt, administration, and use of drugs.

(v) Certain industrial devices.

(A) Except for persons who manufacture, process, produce, or initially transfer for sale or distribution industrial devices containing radioactive material designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation, leakage, or qualitative or quantitative chemical composition, or for producing an ionized atmosphere, any person is exempt from the requirements for a license set forth in Section 274 b. of the Atomic Energy Act of 1954 and from the regulations in parts R313-18, R313-15, R313-18, R313-15, R313-19, R313-21, R313-22, R313-32, R313-34, R313-36, R313-37, and R313-38 to the extent that such person receives, possesses, uses, transfers, owns, or acquires radioactive material, in these certain detecting, measuring, gauging, or controlling devices and certain devices for producing an ionized atmosphere, and manufactured, processed, produced, or initially transferred in accordance with a specific license issued under 10 CFR 32.30 (2015), which license authorizes the initial transfer of the device for use under this rule. This exemption does not

cover sources not incorporated into a device, such as calibration and reference sources.

(B) Any person who desires to manufacture, process, produce, or initially transfer for sale or distribution industrial devices containing byproduct material for use under R313-19-13(2)(c)(v)(A), should apply for a license under 10 CFR 32.30 (2015) and for a certificate of registration in accordance with R313-22-210.

[~~(v)~~](vi) With respect to Subsections R313-19-13(2)(b)(iii), R313-19-13(2)(c)(i), (iii) and (iv), the authority to transfer possession or control by the manufacturer, processor, or producer of equipment, devices, commodities, or other products containing byproduct material whose subsequent possession, use, transfer, and disposal by other persons is exempted from regulatory requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

KEY: license, reciprocity, transportation, exemptions
Date of Enactment or Last Substantive Amendment: [~~February 17,~~]2015
Notice of Continuation: September 23, 2011
Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-3-108

Environmental Quality, Radiation Control
R313-19-34
Terms and Conditions of Licenses

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 39274
FILED: 04/14/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This filing changes the requirements of general applicability to licensing of radioactive material.

SUMMARY OF THE RULE OR CHANGE: Subsection R313-19-34(5)(b) is revised to remove the reference "11 U.S.C. 101(14)" and add, in its place, the reference "11 U.S.C 101(15)."

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-3-104 and Section 19-3-108

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no anticipated cost or savings to the state budget. The proposed changes do not add or remove significant requirements that affect radiation. The proposed rule changes are adopting required federal regulations to maintain compatibility as an agreement state. These changes do not add new requirements that would cause the state budget to incur any changes in compliance costs beyond those identified by the Nuclear Regulatory Commission.
♦ LOCAL GOVERNMENTS: There is no anticipated cost or savings to the local government. The proposed changes do not add or remove significant requirements that affect radiation. The proposed rule changes are adopting required federal regulations to maintain compatibility as an agreement state. These changes do not add new requirements that would cause local government to incur any changes in compliance costs beyond those identified by the Nuclear Regulatory Commission.
♦ SMALL BUSINESSES: Small businesses may hold a radioactive material license, but there is no anticipated cost or savings for small businesses. The proposed rule changes are adopting required federal regulations to maintain compatibility as an agreement state. These changes do not add new requirements that would cause small businesses to incur any changes in compliance costs beyond those identified by the Nuclear Regulatory Commission.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Small businesses and persons other than businesses may hold a radioactive material license, but there is no anticipated cost or savings for small businesses and persons other than businesses. The proposed rule changes are adopting required federal regulations to maintain compatibility as an agreement state. These changes do not add new requirements that would cause local government to incur any changes in compliance costs beyond those identified by the Nuclear Regulatory Commission.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated costs for affected persons since the proposed rule changes are adopting required federal regulations to maintain compatibility as an agreement state. These changes do not add new requirements that would cause affected persons to incur any changes in compliance costs beyond those identified by the Nuclear Regulatory Commission.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed changes to the rule are necessary for the Utah Radiation Control Rules to be compatible with NRC requirements, and to ensure that the Division's program activities are adequate to protect the public health and safety. The Division is not aware of any business that would be impacted fiscally due to the proposed rule changes.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
RADIATION CONTROL
THIRD FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Spencer Wickham by phone at 801-536-0082, by FAX at 801-533-4097, or by Internet E-mail at swickham@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 06/16/2015

AUTHORIZED BY: Rusty Lundberg, Director

R313. Environmental Quality, Radiation Control.
R313-19. Requirements of General Applicability to Licensing of Radioactive Material.
R313-19-34. Terms and Conditions of Licenses.

(1) Licenses issued pursuant to Rule R313-19 shall be subject to provisions of the Act, now or hereafter in effect, and to all rules, and orders of the Director.

(2) Licenses issued or granted under Rules R313-21 and R313-22 and rights to possess or utilize radioactive material granted by a license issued pursuant to Rules R313-21 and R313-22 shall not be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of a license to a person unless the Director shall, after securing full information find that the transfer is in accordance with the provisions of the Act now or hereafter in effect, and to all rules, and orders of the Director, and shall give his consent in writing.

(3) Persons licensed by the Director pursuant to Rules R313-21 and R313-22 shall confine use and possession of the material licensed to the locations and purposes authorized in the license.

(4) Licensees shall notify the Director in writing and request termination of the license when the licensee decides to terminate activities involving materials authorized under the license.

(5) Licensees shall notify the Director in writing immediately following the filing of a voluntary or involuntary petition for bankruptcy under any Chapter of Title 11, Bankruptcy, of the United States Code by or against:

(a) the licensee;

(b) an entity, as that term is defined in 11 USC 101[~~(14)~~](15), controlling the licensee or listing the license or licensee as property of the estate; or

(c) an affiliate, as that term is defined in 11 USC 101(2), of the licensee.

(6) The notification specified in Subsection R313-19-34(5) shall indicate:

(a) the bankruptcy court in which the petition for bankruptcy was filed; and

(b) the date of the filing of the petition.

(7) Licensees required to submit emergency plans pursuant to Subsection R313-22-32(8) shall follow the emergency plan approved by the Director. The licensee may change the approved plan without the Director's approval only if the changes do not decrease the effectiveness of the plan. The licensee shall furnish the change to the Director and to affected off-site response organizations within six months after the change is made. Proposed changes that decrease, or potentially decrease, the effectiveness of the approved emergency plan may not be implemented without prior application to and prior approval by the Director.

(8) Each licensee preparing technetium-99m radiopharmaceuticals from molybdenum-99/technetium-99m generators or rubidium-82 from strontium-82/rubidium-82 generators shall test the generator eluates for molybdenum-99 breakthrough or strontium-82 and strontium-85 contamination, respectively, in accordance with Rule R313-32 (incorporating 10 CFR 35.204 by reference). The licensee shall record the results of each test and retain each record for three years after the record is made.

(9) Each portable gauge licensee shall use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal, whenever portable gauges are not under the control and constant surveillance of the licensee.

(10) (a) Authorization under Subsection R313-22-32(9) to produce Positron Emission Tomography (PET) radioactive drugs for noncommercial transfer to medical use licensees in its consortium does not relieve the licensee from complying with applicable FDA, other Federal, and State requirements governing radioactive drugs.

(b) A licensee authorized under Subsection R313-22-32(9) to produce PET radioactive drugs for noncommercial transfer to medical use licensees in its consortium shall:

(i) Satisfy the labeling requirements in Subsection R313-22-75(9)(a)(iv) for each PET radioactive drug transport radiation shield and each syringe, vial, or other container used to hold a PET radioactive drug intended for noncommercial distribution to members of its consortium.

(ii) Possess and use instrumentation to measure the radioactivity of the PET radioactive drugs intended for noncommercial distribution to members of its consortium and meet the procedural, radioactivity measurement, instrument test, instrument check, and instrument adjustment requirements in Subsection R313-22-75(9)(c).

(c) A licensee that is a pharmacy authorized under Subsection R313-22-32(9) to produce PET radioactive drugs for noncommercial transfer to medical use licensees in its consortium shall require that any individual that prepares PET radioactive drugs shall be:

(i) an authorized nuclear pharmacist that meets the requirements in Subsection R313-22-75(9)(b)(ii); or

(ii) an individual under the supervision of an authorized nuclear pharmacist as specified in Rule R313-32 (incorporating 10 CFR 35.27 by reference).

(d) A pharmacy authorized under Subsection R313-22-32(9) to produce PET radioactive drugs for noncommercial transfer to medical use licensees in its consortium that allows an individual to work as an authorized nuclear pharmacist, shall meet the requirements of Subsection R313-22-75(9)(b)(v).

KEY: license, reciprocity, transportation, exemptions
Date of Enactment or Last Substantive Amendment: [~~February 17,~~]2015
Notice of Continuation: September 23, 2011
Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-3-108

Environmental Quality, Radiation Control
R313-21-22
General Licenses*--Radioactive Material Other Than Source Material

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 39278
FILED: 04/14/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The State of Utah entered into an agreement with the U.S. Nuclear Regulatory Commission (NRC) to establish and maintain a compatible program for the control of radioactive material in Utah. To maintain compatibility with NRC requirements, the State of Utah is required to modify the Utah Radiation Control Rules in order to incorporate the appropriate regulations published by the NRC in 77 FR 43666.

SUMMARY OF THE RULE OR CHANGE: This rulemaking addresses the adoption of appropriate requirements found in 79 FR 43666. This rule change amends regulations in Section R313-21-22 to make requirements for distributors of radioactive material clearer, less prescriptive, and more risk-informed and up to date. This amendment also redefines categories of devices to be used under exemptions, adding explicit provisions regarding the sealed source and device registration process, and adding flexibility to the licensing of users of sealed sources and devices. This amendment is primarily intended to make the licensing process more efficient and effective.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-3-104

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no anticipated cost or savings to the state budget. The proposed changes do not add or remove significant requirements that affect radiation. The proposed rule changes are adopting required federal regulations to maintain compatibility as an agreement state. These changes do not add new requirements that would cause the state budget to incur any changes in compliance costs beyond those identified by the Nuclear Regulatory Commission.
♦ LOCAL GOVERNMENTS: There is no anticipated cost or savings to the local government. The proposed changes do not add or remove significant requirements that affect radiation. The proposed rule changes are adopting required federal regulations to maintain compatibility as an agreement state. These changes do not add new requirements that would cause local government to incur any changes in compliance costs beyond those identified by the Nuclear Regulatory Commission.
♦ SMALL BUSINESSES: Small businesses may hold a radioactive material license, but there is no anticipated cost or savings for small businesses. The proposed rule changes are adopting required federal regulations to maintain compatibility as an agreement state. These changes do not add new requirements that would cause small businesses to incur any changes in compliance costs beyond those identified by the Nuclear Regulatory Commission.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Small businesses and persons other than businesses may hold a radioactive material license, but there is no anticipated cost or savings for small businesses and persons other than businesses. The proposed rule changes are adopting required federal regulations to maintain compatibility as an agreement state. These changes do not add new requirements that would cause local government to incur any changes in compliance costs beyond those identified by the Nuclear Regulatory Commission.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated costs for affected persons since the proposed rule changes are adopting required federal regulations to maintain compatibility as an agreement state. These changes do not add new requirements that would cause affected persons to incur any changes in compliance costs beyond those identified by the Nuclear Regulatory Commission.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed changes to the rule are necessary for the Utah Radiation Control Rules to be compatible with NRC requirements, and to ensure that the Division's program activities are adequate to protect the public health and safety. The Division is not aware of any business that would be impacted fiscally due to the proposed rule changes.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
RADIATION CONTROL
THIRD FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Spencer Wickham by phone at 801-536-0082, by FAX at 801-533-4097, or by Internet E-mail at swickham@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 06/16/2015

AUTHORIZED BY: Rusty Lundberg, Director

R313. Environmental Quality, Radiation Control.
R313-21. General Licenses.
R313-21-22. General Licenses*--Radioactive Material Other Than Source Material.

NOTE: *Different general licenses are issued in this section, each of which has its own specific conditions and requirements.

(1) [~~Certain devices and equipment. A general license is hereby issued to transfer, receive, acquire, own, possess, and use radioactive material incorporated in the following devices or equipment which have been manufactured, tested and labeled by the manufacturer in accordance with a specific license issued to the manufacturer by the Director, the Nuclear Regulatory Commission, an Agreement State, or a Licensing State for use pursuant to 10 CFR 31.3. This general license is subject to the provisions of R313-12-51 through R313-12-70, R313-14, R313-15, R313-18 and R313-19 as applicable.~~]Reserved.

(a) Static Elimination Devices. Devices designed for use as static eliminators which contain, as a sealed source or sources, radioactive material consisting of a total of not more than 18.5 megabecquerel (500 uCi) of polonium-210 per device.

(b) Ion Generating Tube. Devices designed for ionization of air which contain, as a sealed source or sources, radioactive material consisting of a total of not more than 18.5 megabecquerel (500 uCi) of polonium-210 per device or a total of not more than 1.85 gigabecquerel (50 mCi) of hydrogen-3 (tritium) per device.

(2) Certain items and self-luminous products containing radium-226.

(a) A general license is hereby issued to a person to acquire, receive, possess, use, or transfer, in accordance with the provisions of Subsections R313-21-22(2)(b), R313-21-22(2)(c), and R313-21-22(2)(d), radium-226 contained in the following products manufactured prior to November 30, 2007.

(i) Antiquities originally intended for use by the general public. For the purposes of Subsection R313-21-22(2)(a), antiquities mean products originally intended for use by the general public and distributed in the late 19th and early 20th centuries, such as radium emanator jars, revigators, radium water jars, radon generators, refrigerator cards, radium bath salts, and healing pads.

(ii) Intact timepieces containing greater than 37 kilobecquerels (1 uCi), nonintact timepieces, and timepiece hands and dials no longer installed in timepieces.

(iii) Luminous items installed in air, marine, or land vehicles.

(iv) All other luminous products provided that no more than 100 items are used or stored at the same location at one time.

(v) Small radium sources containing no more than 37 kilobecquerels (1 uCi) of radium-226. For the purposes of Subsection R313-21-22(2)(a), "small radium sources" means discrete survey instrument check sources, sources contained in radiation measuring instruments, sources used in educational demonstrations such as cloud chambers and spinthariscopes, electron tubes, static eliminators, or as designated by the Director.

(b) Persons who acquire, receive, possess, use, or transfer radioactive material under the general license issued in Subsection R313-21-22(2)(a) are exempt from the provisions of Rules R313-15, R313-18, and Sections R313-12-51 and R313-19-50, to the extent that the receipt, possession, use, or transfers of radioactive material is within the terms of the general license; provided, however, that this exemption shall not be deemed to apply to a person specifically licensed under Rule R313-22.

(c) A person who acquires, receives, possesses, uses, or transfers radioactive material in accordance with the general license in Subsection R313-21-22(2)(a):

(i) Shall notify the Director should there be an indication of possible damage to the product so that it appears it could result in a loss of the radioactive material. A report containing a brief description of the event, and the remedial action taken, must be furnished to the Director within 30 days.

(ii) Shall not abandon products containing radium-226. The product, and radioactive material from the product, may only be disposed of according to Section R313-15-1008 or by transfer to a person authorized by a specific license to receive the radium-226 in the product or as otherwise approved by the Director.

(iii) Shall not export products containing radium-226 except in accordance with 10 CFR Part 110.

(iv) Shall dispose of products containing radium-226 at a disposal facility authorized to dispose of radioactive material in accordance with Federal or State solid or hazardous waste laws, inluding the Solid Waste Disposal Act, as authorized under the Energy Policy Act of 2005, by transfer to a person authorized to receive radium-226 under Rule R313-22 or equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State or as otherwise approved by the Director.

(v) Shall respond to written requests from the Director to provide information relating to the general license within 30 calendar days of the date of the request, or other time specified in the request. If the general licensee cannot provide the requested information within the allotted time, it shall, within that same time period, request a longer period to supply the information by providing the Director a written justification using the method stated in Section R313-12-110.

(d) The general license in R313-21-22(2)(a) does not authorize the manufacture, assembly, disassembly, repair, or import of products containing radium-226, except that timepieces may be disassembled and repaired.

(3) RESERVED.

(4) Certain detecting, measuring, gauging or controlling devices and certain devices for producing light or an ionized atmosphere.*

NOTE: *Persons possessing radioactive material in devices under a general license in R313-21-22(4) before January 15, 1975, may continue to possess, use, or transfer that material in accordance with the labeling requirements of R313-21-22(4) in effect on January 14, 1975.

(a) A general license is hereby issued to commercial and industrial firms and research, educational and medical institutions, individuals in the conduct of their business, and state or local government agencies to own, acquire, receive, possess, use or transfer, in accordance with the provisions of R313-21-22(4)(b), (c) and (d), radioactive material, excluding special nuclear material, contained in devices designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation, leakage, or qualitative or quantitative chemical composition, or for producing light or an ionized atmosphere.

(b)(i) The general license in R313-21-22(4)(a) applies only to radioactive material contained in devices which have been

manufactured or initially transferred and labeled in accordance with the specifications contained in:

(A) a specific license issued by the Director pursuant to R313-22-75(4); or

(B) an equivalent specific license issued by the Nuclear Regulatory Commission or an Agreement State; or

(C) An equivalent specific license issued by a State with provisions comparable to R313-22-75.*

NOTE: *Regulations under the Federal Food, Drug, and Cosmetic Act authorizing the use of radioactive control devices in food production require certain additional labeling thereon which is found in 21 CFR 179.21.

(ii) The devices must have been received from one of the specific licensees described in R313-21-22(4)(b)(i) or through a transfer made under R313-21-22(4)(c)(ix).

(c) Any person who owns, acquires, receives, possesses, uses or transfers radioactive material in a device pursuant to the general license in R313-21-22(4)(a):

(i) shall assure that all labels affixed to the device at the time of receipt and bearing a statement that removal of the label is prohibited are maintained thereon and shall comply with all instructions and precautions provided by the labels;

(ii) shall assure that the device is tested for leakage of radioactive material and proper operation of the on-off mechanism and indicator, if any, at no longer than six-month intervals or at other intervals as are specified in the label; however:

(A) Devices containing only krypton need not be tested for leakage of radioactive material, and

(B) Devices containing only tritium or not more than 3.7 megabecquerel (100 uCi) of other beta, gamma, or both, emitting material or 0.37 megabecquerel (10 uCi) of alpha emitting material and devices held in storage in the original shipping container prior to initial installation need not be tested for any purpose;

(iii) shall assure that other testing, installation, servicing, and removal from installation involving the radioactive materials, its shielding or containment, are performed:

(A) in accordance with the instructions provided by the labels; or

(B) by a person holding a specific license pursuant to R313-22 or from the Nuclear Regulatory Commission, an Agreement State, or a Licensing State to perform such activities;

(iv) shall maintain records showing compliance with the requirements of R313-21-22(4)(c)(ii) and (iii). The records shall show the results of tests. The records also shall show the dates of performance of, and the names of persons performing, testing, installation, servicing, and removal from the installation the radioactive material and its shielding or containment. The licensee shall retain these records as follows:

(A) Each record of a test for leakage of radioactive material required by R313-21-22(4)(c)(ii) shall be retained for three years after the next required leak test is performed or until the sealed source is transferred or disposed of;

(B) Each record of a test of the on-off mechanism and indicator required by R313-21-22(4)(c)(ii) shall be retained for three years after the next required test of the on-off mechanism and indicator is performed or until the sealed source is transferred or disposed of;

(C) Each record that is required by R313-21-22(4)(c)(iii) shall be retained for three years from the date of the recorded event or until the device is transferred or disposed of;

(v) shall immediately suspend operation of the device if there is a failure of, or damage to, or any indication of a possible failure of or damage to, the shielding of the radioactive material or the on-off mechanism or indicator, or upon the detection of 185 becquerel (0.005 uCi) or more removable radioactive material. The device may not be operated until it has been repaired by the manufacturer or other person holding a specific license to repair the device that was issued by the Director, the Nuclear Regulatory Commission, an Agreement State, or a Licensing State. The device and any radioactive material from the device may only be disposed of by transfer to a person authorized by a specific license to receive the radioactive material in the device or as otherwise approved by the Director, the Nuclear Regulatory Commission, an Agreement State, or a Licensing State. A report containing a brief description of the event and the remedial action taken; and, in the case of detection of 185 becquerel (0.005 uCi) or more removable radioactive material or failure of or damage to a source likely to result in contamination of the premises or the environs, a plan for ensuring that the premises and environs are acceptable for unrestricted use, must be furnished to the Director within 30 days. Under these circumstances, the criteria set out in R313-15-402 may be applicable, as determined by the Director on a case-by-case basis;

(vi) shall not abandon the device containing radioactive material;

(vii) shall not export the device containing radioactive materials except in accordance with 10 CFR 110;

(viii)(A) shall transfer or dispose of the device containing radioactive material only by export as provided by R313-21-22(4)(c)(vii), by transfer to another general licensee as authorized in R313-21-22(4)(c)(ix), to a person authorized to receive the device by a specific license issued under R313-22, to an authorized waste collector under R313-25, or equivalent regulations of the Nuclear Regulatory Commission, an Agreement State, or a Licensing State , or as otherwise approved under R313-21-22(4)(c)(viii)(C);

(B) shall furnish a report to the Director within 30 days after transfer of a device to a specific licensee or export. The report must contain:

(I) the identification of the device by manufacturer's or initial transferor's name, model number, and serial number;

(II) the name, address, and license number of the person receiving the device, the license number is not applicable if exported; and

(III) the date of the transfer;

(C) shall obtain written approval from the Director before transferring the device to any other specific licensee not specifically identified in R313-21-22(4)(c)(viii)(A); however, a holder of a specific license may transfer a device for possession and use under its own specific license without prior approval, if the holder:

(I) verifies that the specific license authorizes the possession and use, or applies for and obtains an amendment to the license authorizing the possession and use;

(II) removes, alters, covers, or clearly and unambiguously augments the existing label (otherwise required by R313-21-22(4)(c)(i)) so that the device is labeled in compliance with R313-15-904; however, the manufacturer, model number, and serial number must be retained;

(III) obtains the manufacturer's or initial transferor's information concerning maintenance that would be applicable under the specific license (such as leak testing procedures); and

(IV) reports the transfer under R313-21-22(4)(c)(viii)(B);

(ix) shall transfer the device to another general licensee only if:

(A) the device remains in use at a particular location. In this case, the transferor shall give the transferee a copy of R313-21-22(4), R313-12-51, R313-15-1201, and R313-15-1202, and any safety documents identified in the label of the device. Within 30 days of the transfer, the transferor shall report to the Director:

(I) the manufacturer's or initial transferor's name;

(II) the model number and serial number of the device transferred;

(III) the transferee's name and mailing address for the location of use; and

(IV) the name, title, and phone number of the responsible individual identified by the transferee in accordance with R313-21-22(4)(c)(xii) to have knowledge of and authority to take actions to ensure compliance with the appropriate regulations and requirements; or

(B) the device is held in storage by an intermediate person in the original shipping container at its intended location of use prior to initial use by a general licensee;

(x) shall comply with the provisions of R313-15-1201 and R313-15-1202 for reporting radiation incidents, theft or loss of licensed material, but shall be exempt from the other requirements of R313-15 and R313-18;

(xi) shall respond to written requests from the Director to provide information relating to the general license within 30 calendar days of the date of the request, or other time specified in the request. If the general licensee cannot provide the requested information within the allotted time, it shall, within that same time period, request a longer period to supply the information by submitting a letter to the Director and provide written justification as to why it cannot comply;

(xii) shall appoint an individual responsible for having knowledge of the appropriate regulations and requirements and the authority for taking required actions to comply with appropriate regulations and requirements. The general licensee, through this individual, shall ensure the day-to-day compliance with appropriate regulations and requirements. This appointment does not relieve the general licensee of any of its responsibility in this regard;

(xiii)(A) shall register, in accordance with R313-21-22(4)(c)(xiii)(B) and (C), devices containing at least 370 megabecquerel (ten mCi) of cesium-137, 3.7 megabecquerel (0.1 mCi) of strontium-90, 37 megabecquerel (one mCi) of cobalt-60, 3.7 megabecquerel (0.1 mCi) of radium-226, or 37 megabecquerel (one mCi) of americium-241 or any other transuranic, (elements with atomic number greater than uranium-92), based on the activity indicated on the label. Each address for a location of use, as described under R313-21-22(4)(c)(xiii)(C)(IV) represents a separate general licensee and requires a separate registration and fee;

(B) if in possession of a device meeting the criteria of R313-21-22(4)(c)(xiii)(A), shall register these devices annually with the Director and shall pay the fee required by R313-70. Registration shall include verifying, correcting, or adding, as appropriate, to the information provided in a request for registration received from the Director. The registration information must be submitted to the Director within 30 days of the date of the request for registration or as otherwise indicated in the request. In addition, a general licensee holding devices meeting the criteria of R313-21-22(4)(c)(xiii)(A) is subject to the bankruptcy notification requirement in R313-19-34(5) and (6);

(C) in registering devices, the general licensee shall furnish the following information and any other information specifically requested by the Director:

(I) name and mailing address of the general licensee;

(II) information about each device: the manufacturer or initial transferor, model number, serial number, the radioisotope and activity as indicated on the label;

(III) name, title, and telephone number of the responsible person designated as a representative of the general licensee under R313-21-22(4)(c)(xii);

(IV) address or location at which the device(s) are used, stored, or both. For portable devices, the address of the primary place of storage;

(V) certification by the responsible representative of the general licensee that the information concerning the device(s) has been verified through a physical inventory and checking of label information; and

(VI) certification by the responsible representative of the general licensee that they are aware of the requirements of the general license; and

(D) persons generally licensed by the Nuclear Regulatory Commission, an Agreement State, or Licensing State with respect to devices meeting the criteria in R313-21-22(4)(c)(xiii)(A) are not subject to registration requirements if the devices are used in areas subject to Division jurisdiction for a period less than 180 days in any calendar year. The Director will not request registration information from such licensees;

(xiv) shall report changes to the mailing address for the location of use, including changes in the name of a general licensee, to the Director within 30 days of the effective date of the change. For a portable device, a report of address change is only required for a change in the device's primary place of storage; and

(xv) may not hold devices that are not in use for longer than 2 years. If devices with shutters are not being used, the shutter must be locked in the closed position. The testing required by R313-21-22(4)(c)(ii) need not be performed during the period of storage only. However, when devices are put back into service or transferred to another person, and have not been tested within the required test interval, they must be tested for leakage before use or transfer and the shutter tested before use. Devices kept in standby for future use are excluded from the two-year time limit if the general licensee performs quarterly physical inventories of these devices while they are in standby.

(d) The general license in R313-21-22(4)(a) does not authorize the manufacture or import of devices containing radioactive material.

(e) The general license provided in R313-21-22(4)(a) is subject to the provisions of R313-12-51 through R313-12-53, R313-12-70, R313-14, R313-19-34, R313-19-41, R313-19-61, and R313-19-100.

(5) Luminous safety devices for aircraft.

(a) A general license is hereby issued to own, receive, acquire, possess and use tritium or promethium-147 contained in luminous safety devices for use in aircraft, provided:

(i) each device contains not more than 370.0 gigabecquerel (10 Ci) of tritium or 11.1 gigabecquerel (300 mCi) of promethium-147; and

(ii) each device has been manufactured, assembled or initially transferred in accordance with a specific license issued by the Nuclear Regulatory Commission or an Agreement State, or each device has been manufactured or assembled in accordance with the specifications contained in a specific license issued by the Director or an Agreement State to the manufacturer or assembler of the device pursuant to licensing requirements equivalent to those in R313-22-75(5).

(b) Persons who own, receive, acquire, possess or use luminous safety devices pursuant to the general license in R313-21-22(5) are exempt from the requirements of R313-15 and R313-18, except that they shall comply with the provisions of R313-15-1201 and R313-15-1202.

(c) This general license does not authorize the manufacture, assembly, repair, or import of luminous safety devices containing tritium or promethium-147.

(d) This general license does not authorize the export of luminous safety devices containing tritium or promethium-147.

(e) This general license does not authorize the ownership, receipt, acquisition, possession or use of promethium-147 contained in instrument dials.

(f) This general license is subject to the provisions of R313-12-51 through R313-12-70, R313-14, R313-19-34, R313-19-41, R313-19-61, and R313-19-100.

(6) Ownership of radioactive material. A general license is hereby issued to own radioactive material without regard to quantity. Notwithstanding any other provisions of R313-21, this general license does not authorize the manufacture, production, transfer, receipt, possession, use, import, or export of radioactive material except as authorized in a specific license.

(7) Calibration and reference sources.

(a) A general license is hereby issued to own, receive, acquire, possess, use and transfer, in the form of calibration or reference sources, americium-241, plutonium or radium-226 in accordance with the provisions of Subsections R313-21-22(7)(b) and (c), to a person who holds a specific license issued by the Director which authorizes that person to receive, possess, use and transfer radioactive material.

(b) The general license in Subsection R313-21-22(7)(a) applies only to calibration or reference sources which have been manufactured or initially transferred in accordance with the specifications contained in a specific license issued by the Nuclear Regulatory Commission pursuant to 10 CFR 32.57 or 10 CFR 70.39 or which have been manufactured in accordance with the specifications contained in a specific license issued to the manufacturer by the Director, or an Agreement State which authorizes manufacture of the sources for distribution to persons generally licensed, or in accordance with a specific license issued by a State with requirements equivalent to 10 CFR 32.57 or 10 CFR 70.39.

(c) The general license provided in Subsection R313-21-22(7)(a) is subject to the provisions of Sections R313-12-51 through R313-12-53, R313-12-70, and Rules R313-14, R313-19-34, R313-19-41, R313-19-61, R313-19-100, R313-15 and R313-18. In addition, persons who own, receive, acquire, possess, use or transfer one or more calibration or reference sources pursuant to the general license in Subsection R313-21-22(7)(a):

(i) shall not possess at any one time, at any one location of storage or use, more than 185.0 kilobecquerel (5 uCi) of americium-241, 185.0 kilobecquerel (5 uCi) of plutonium, or 185.0 kilobecquerel (5 uCi) of radium-226 in such sources;

(ii) shall not receive, possess, use or transfer a source unless the source, or the storage container, bears a label which includes one of the following statements or a substantially similar statement which contains the information called for in the following statement:

The receipt, possession, use and transfer of this source, Model No. ....., Serial No. ....., are subject to a general license and the regulations of the United States Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority. Do not remove this label.

CAUTION - RADIOACTIVE MATERIAL

THIS SOURCE CONTAINS (AMERICIUM-241) (PLUTONIUM)(RADIUM-226)*

DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE.

.....

Typed or printed name of the manufacturer or initial transferor

NOTE: *Show the name of the appropriate material.

(iii) shall not transfer, abandon, or dispose of a source except by transfer to a person authorized by a license issued by the Director, the Nuclear Regulatory Commission, or an Agreement State to receive the source;

(iv) shall store a source, except when the source is being used, in a closed container adequately designed and constructed to contain americium-241, plutonium, or radium-226 which might otherwise escape during storage; and

(v) shall not use a source for any purpose other than the calibration of radiation detectors or the standardization of other sources.

(d) A general license issued pursuant to Subsection R313-21-22(7)(a) does not authorize the manufacture, import, or export of calibration or reference sources containing americium-241, plutonium, or radium-226.

(8) RESERVED.

(9) General license for use of radioactive material for certain in vitro clinical or laboratory testing.*

NOTE: *The New Drug provisions of the Federal Food, Drug and Cosmetic Act also govern the availability and use of any specific diagnostic drug in interstate commerce.

(a) A general license is hereby issued to any physician, veterinarian in the practice of veterinary medicine, clinical laboratory or hospital to receive, acquire, possess, transfer or use, for the following stated tests, in accordance with the provisions of R313-21-22(9) (b), (c), (d), (e), and (f) the following radioactive materials in prepackaged units for use in in-vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals:

(i) iodine-125, in units not exceeding 370.0 kilobecquerel (10 uCi) each;

(ii) iodine-131, in units not exceeding 370.0 kilobecquerel (10 uCi) each;

(iii) carbon-14, in units not exceeding 370.0 kilobecquerel (10 uCi) each;

(iv) hydrogen-3 (tritium), in units not exceeding 1.85 megabecquerel (50 uCi) each;

(v) iron-59, in units not exceeding 740.0 kilobecquerel (20 uCi) each;

(vi) cobalt-57, in units not exceeding 370.0 kilobecquerel (10 uCi) each;

(vii) selenium-75, in units not to exceed 370.0 kilobecquerel (10 uCi) each; or

(viii) mock iodine-125, reference or calibration sources, in units not exceeding 1.85 kilobecquerel (0.05 uCi) of iodine-129 and 185.0 becquerel (0.005 uCi) of americium-241 each.

(b) A person shall not receive, acquire, possess, use or transfer radioactive material pursuant to the general license established by R313-21-22(9)(a) until that person has filed form DRC-07, "Registration Form-In Vitro Testing with Radioactive Material Under General License," with the Director and received a Certificate of Registration signed by the Director, or until that person has been authorized pursuant to R313-32 to use radioactive material under the general license in R313-21-22(9). The physician, veterinarian, clinical laboratory or hospital shall furnish on form DRC-07 the following information and other information as may be required by that form:

(i) name and address of the physician, veterinarian, clinical laboratory or hospital;

(ii) the location of use; and

(iii) a statement that the physician, veterinarian, clinical laboratory or hospital has appropriate radiation measuring instruments to carry out in vitro clinical or laboratory tests with radioactive material as authorized under the general license in Subsection R313-21-22(9)(a) and that the tests will be performed only by personnel competent in the use of radiation measuring instruments and in the handling of the radioactive material.

(c) A person who receives, acquires, possesses or uses radioactive material pursuant to the general license established by Subsection R313-21-22(9)(a) shall comply with the following:

(i) The general licensee shall not possess at any one time, pursuant to the general license in Subsection R313-21-22(9)(a) at any one location of storage or use, a total amount of iodine-125, iodine-131, selenium-75, iron-59, cobalt-57, or any combination, in excess of 7.4 megabecquerel (200 uCi).

(ii) The general licensee shall store the radioactive material, until used, in the original shipping container or in a container providing equivalent radiation protection.

(iii) The general licensee shall use the radioactive material only for the uses authorized by Subsection R313-21-22(9)(a).

(iv) The general licensee shall not transfer the radioactive material except to a person authorized to receive it pursuant to a license issued by the Director, the Nuclear Regulatory Commission, an Agreement State or Licensing State, nor transfer the radioactive material in a manner other than in the unopened, labeled shipping container as received from the supplier.

(v) The general licensee shall dispose of the Mock Iodine-125 reference or calibration sources described in Subsection R313-21-22(9)(a)(viii) as required by Section R313-15-1001.

(vi) The general licensee shall pay annual fees pursuant to Rule R313-70.

(d) The general licensee shall not receive, acquire, possess, or use radioactive material pursuant to Subsection R313-21-22(9)(a):

(i) Except as prepackaged units which are labeled in accordance with the provision of a specific license issued pursuant to R313-22-75(7) or in accordance with the provisions of a specific license issued by the Nuclear Regulatory Commission, or an Agreement State, or before November 30, 2007, in accordance with the provisions of a specific license issued by a State with comparable provisions to 10 CFR 32.71 (2010) which authorizes the manufacture and distribution of iodine-125, iodine-131, carbon-14, hydrogen-3(tritium), iron-59, selenium-75, cobalt-57, or Mock Iodine-125 to persons generally licensed under Subsection R313-21-22(9) or its equivalent, and

(ii) Unless the following statement, or a substantially similar statement which contains the information called for in the following statement, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure which accompanies the package:

"This radioactive material shall be received, acquired, possessed and used only by physicians, veterinarians in the practice of veterinary medicine, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of the United States Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority.

.....

Name of Manufacturer"

(e) The physician, veterinarian, clinical laboratory or hospital possessing or using radioactive material under the general license in Subsection R313-21-22(9)(a) shall report in writing to the Director, changes in the information previously furnished in the "Registration Form-In Vitro Testing with Radioactive Material Under General License", form DRC -07. The report shall be furnished within 30 days after the effective date of the change.

(f) Any person using radioactive material pursuant to the general license of Subsection R313-21-22(9)(a) is exempt from the requirements of Rules R313-15 and R313-18 with respect to radioactive material covered by that general license, except that persons using the Mock Iodine-125 described in Subsection R313-21-22(9)(a)(viii) shall comply with the provisions of Sections R313-15-1001, R313-15-1201 and R313-15-1202.

(10) Ice Detection Devices.

(a) A general license is hereby issued to own, receive, acquire, possess, use and transfer strontium-90 contained in ice detection devices, provided each device contains not more than 1.85 megabecquerel (50 uCi) of strontium-90 and each device has been manufactured or initially transferred in accordance with a specific license issued by the Nuclear Regulatory Commission, or each device has been manufactured in accordance with the specifications contained in a specific license issued by the Director, an Agreement State, or a Licensing State to the manufacturer of the device pursuant to licensing requirements equivalent to those in 10 CFR 32.61.

(b) Persons who own, receive, acquire, possess, use or transfer strontium-90 contained in ice detection devices pursuant to the general license in Subsection R313-21-22(10)(a):

(i) shall, upon occurrence of visually observable damage, such as a bend or crack or discoloration from over-heating to the device, discontinue use of the device until it has been inspected, tested for leakage and repaired by a person holding a specific license from the Director, the Nuclear Regulatory Commission, an Agreement State, or a Licensing State to manufacture or service the device; or shall dispose of the device pursuant to the provisions of Section R313-15-1001;

(ii) shall assure that all labels affixed to the device at the time of receipt, and which bear a statement which prohibits removal of the labels, are maintained thereon; and

(iii) are exempt from the requirements of Rules R313-15 and R313-18 except that the persons shall comply with the provisions of Sections R313-15-1001, R313-15-1201 and R313-15-1202.

(c) This general license does not authorize the manufacture, assembly, disassembly, repair, or import of strontium-90 in ice detection devices.

(d) This general license is subject to the provision of Sections R313-12-51 through R313-12-53, R313-12-70, R313-14, R313-19-34, R313-19-41, R313-19-61, and R313-19-100 of these rules.

KEY: radioactive materials, general licenses, source materials
Date of Enactment or Last Substantive Amendment: [~~October 13, 2010~~]2015
Notice of Continuation: October 4, 2013
Authorizing, and Implemented or Interpreted Law: 19-3-104

Environmental Quality, Radiation Control
R313-22
Specific Licenses

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 39279
FILED: 04/14/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The State of Utah entered into an agreement with the U.S. Nuclear Regulatory Commission (NRC) to establish and maintain a compatible program for the control of radioactive material in Utah. To maintain compatibility with NRC requirements, the State of Utah is required to modify the Utah Radiation Control Rules in order to incorporate the appropriate regulations published by the NRC in 77 FR 43666.

SUMMARY OF THE RULE OR CHANGE: This rulemaking addresses the adoption of appropriate requirements found in 79 FR 43666. This rule change amends regulations in Rule R313-22 to make requirements for distributors of radioactive material clearer, less prescriptive, and more risk-informed and up to date. This amendment also redefines categories of devices to be used under exemptions, adding explicit provisions regarding the sealed source and device registration process, and adding flexibility to the licensing of users of sealed sources and devices. This amendment is primarily intended to make the licensing process more efficient and effective.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-3-104 and Section 19-3-108

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no anticipated cost or savings to the state budget. The proposed changes do not add or remove significant requirements that affect radiation. The proposed rule changes are adopting required federal regulations to maintain compatibility as an agreement state. These changes do not add new requirements that would cause the state budget to incur any changes in compliance costs beyond those identified by the Nuclear Regulatory Commission.
♦ LOCAL GOVERNMENTS: There is no anticipated cost or savings to the local government. The proposed changes do not add or remove significant requirements that affect radiation. The proposed rule changes are adopting required federal regulations to maintain compatibility as an agreement state. These changes do not add new requirements that would cause local government to incur any changes in compliance costs beyond those identified by the Nuclear Regulatory Commission.
♦ SMALL BUSINESSES: Small businesses may hold a radioactive material license, but there is no anticipated cost or savings for small businesses. The proposed rule changes are adopting required federal regulations to maintain compatibility as an agreement state. These changes do not add new requirements that would cause small businesses to incur any changes in compliance costs beyond those identified by the Nuclear Regulatory Commission.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Small businesses and persons other than businesses may hold a radioactive material license, but there is no anticipated cost or savings for small businesses and persons other than businesses. The proposed rule changes are adopting required federal regulations to maintain compatibility as an agreement state. These changes do not add new requirements that would cause local government to incur any changes in compliance costs beyond those identified by the Nuclear Regulatory Commission.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated costs for affected persons since the proposed rule changes are adopting required federal regulations to maintain compatibility as an agreement state. These changes do not add new requirements that would cause affected persons to incur any changes in compliance costs beyond those identified by the Nuclear Regulatory Commission.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed changes to the rule are necessary for the Utah Radiation Control Rules to be compatible with NRC requirements, and to ensure that the Division's program activities are adequate to protect the public health and safety.

The Division is not aware of any business that would be impacted fiscally due to the proposed rule changes.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
RADIATION CONTROL
THIRD FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Spencer Wickham by phone at 801-536-0082, by FAX at 801-533-4097, or by Internet E-mail at swickham@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 06/16/2015

AUTHORIZED BY: Rusty Lundberg, Director

R313. Environmental Quality, Radiation Control.
R313-22. Specific Licenses.
R313-22-32. Filing Application for Specific Licenses.

(1) Applications for specific licenses shall be filed on a form prescribed by the Director.

(2) The Director may, after the filing of the original application, and before the expiration of the license, require further statements in order to enable the Director to determine whether the application should be granted or denied or whether a license should be modified or revoked.

(3) Applications shall be signed by the applicant or licensee or a person duly authorized to act for and on the applicant's behalf.

(4) An application for a license may include a request for a license authorizing one or more activities.

(5) In the application, the applicant may incorporate by reference information contained in previous applications, statements, or reports filed with the Director, provided the references are clear and specific.

[~~(6) An application for a specific license to use radioactive material in the form of a sealed source or in a device that contains the sealed source shall identify the source or device by manufacturer and model number as registered with the U.S. Nuclear Regulatory Commission under 10 CFR 32.210 (2010),the equivalent regulations of an Agreement State, or with a State under provisions comparable to 10 CFR 32.210.~~

](6)(i) Except as provided in paragraphs (g)(2), (3), and (4) of this section, an application for a specific license to use byproduct material in the form of a sealed source or in a device that contains the sealed source must either---

(A) Identify the source or device by manufacturer and model number as registered with the sealed source and device registry under R313-22-210; or

(B) Contain the information identified in R313-22-210.

(ii) For sources or devices manufactured before October 23, 2012 that are not registered with sealed source and device registry under R313-22-210 and for which the applicant is unable to provide all categories of information specified in R313-22-210, the application must include:

(A) All available information identified in R313-22-210 concerning the source, and, if applicable, the device; and

(B) Sufficient additional information to demonstrate that there is reasonable assurance that the radiation safety properties of the source or device are adequate to protect health and minimize danger to life and property. Such information must include a description of the source or device, a description of radiation safety features, the intended use and associated operating experience, and the results of a recent leak test.

(iii) For sealed sources and devices allowed to be distributed without registration of safety information in accordance with 10 CFR 32.210(g)(1) (2015), the applicant may supply only the manufacturer, model number, and radionuclide and quantity.

(iv) If it is not feasible to identify each sealed source and device individually, the applicant may propose constraints on the number and type of sealed sources and devices to be used and the conditions under which they will be used, in lieu of identifying each sealed source and device.

(7) As provided by Section R313-22-35, certain applications for specific licenses filed under these rules shall contain a proposed decommissioning funding plan or a certification of financial assurance for decommissioning. In the case of renewal applications submitted before January 1, 1995, this submittal may follow the renewal application but shall be submitted on or before January 1, 1995.

(8)(a) Applications to possess radioactive materials in unsealed form, on foils or plated sources, or sealed in glass in excess of the quantities in Section R313-22-90, "Quantities of Radioactive Materials Requiring Consideration of the Need for an Emergency Plan for Responding to a Release", shall contain either:

(i) An evaluation showing that the maximum dose to a individual off-site due to a release of radioactive materials would not exceed one rem effective dose equivalent or five rems to the thyroid; or

(ii) An emergency plan for responding to a release of radioactive material.

(b) One or more of the following factors may be used to support an evaluation submitted under Subsection R313-22-32(8)(a)(i):

(i) The radioactive material is physically separated so that only a portion could be involved in an accident;

(ii) All or part of the radioactive material is not subject to release during an accident because of the way it is stored or packaged;

(iii) The release fraction in the respirable size range would be lower than the release fraction shown in Section R313-22-90 due to the chemical or physical form of the material;

(iv) The solubility of the radioactive material would reduce the dose received;

(v) Facility design or engineered safety features in the facility would cause the release fraction to be lower than shown in Section R313-22-90;

(vi) Operating restrictions or procedures would prevent a release fraction as large as that shown in Section R313-22-90; or

(vii) Other factors appropriate for the specific facility.

(c) An emergency plan for responding to a release of radioactive material submitted under Subsection R313-22-32(8)(a)(ii) shall include the following information:

(i) Facility description. A brief description of the licensee's facility and area near the site.

(ii) Types of accidents. An identification of each type of radioactive materials accident for which protective actions may be needed.

(iii) Classification of accidents. A classification system for classifying accidents as alerts or site area emergencies.

(iv) Detection of accidents. Identification of the means of detecting each type of accident in a timely manner.

(v) Mitigation of consequences. A brief description of the means and equipment for mitigating the consequences of each type of accident, including those provided to protect workers on-site, and a description of the program for maintaining equipment.

(vi) Assessment of releases. A brief description of the methods and equipment to assess releases of radioactive materials.

(vii) Responsibilities. A brief description of the responsibilities of licensee personnel should an accident occur, including identification of personnel responsible for promptly notifying off-site response organizations and the Director; also responsibilities for developing, maintaining, and updating the plan.

(viii) Notification and coordination. A commitment to and a brief description of the means to promptly notify off-site response organizations and request off-site assistance, including medical assistance for the treatment of contaminated injured on-site workers when appropriate. A control point shall be established. The notification and coordination shall be planned so that unavailability of some personnel, parts of the facility, and some equipment will not prevent the notification and coordination. The licensee shall also commit to notify the Director immediately after notification of the appropriate off-site response organizations and not later than one hour after the licensee declares an emergency.

NOTE: These reporting requirements do not supersede or release licensees of complying with the requirements under the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Public Law 99-499 or other state or federal reporting requirements, including 40 CFR 302, 2010.

(ix) Information to be communicated. A brief description of the types of information on facility status, radioactive releases, and recommended protective actions, if necessary, to be given to off-site response organizations and to the Director.

(x) Training. A brief description of the frequency, performance objectives and plans for the training that the licensee will provide workers on how to respond to an emergency including special instructions and orientation tours the licensee would offer to fire, police, medical and other emergency personnel. The training shall familiarize personnel with site-specific emergency procedures. Also, the training shall thoroughly prepare site personnel for their responsibilities in the event of accident scenarios postulated as most probable for the specific site including the use of team training for the scenarios.

(xi) Safe shutdown. A brief description of the means of restoring the facility to a safe condition after an accident.

(xii) Exercises. Provisions for conducting quarterly communications checks with off-site response organizations and biennial on-site exercises to test response to simulated emergencies. Quarterly communications checks with off-site response organizations shall include the check and update of all necessary telephone numbers. The licensee shall invite off-site response organizations to participate in the biennial exercises. Participation of off-site response organizations in biennial exercises although recommended is not required. Exercises shall use accident scenarios postulated as most probable for the specific site and the scenarios shall not be known to most exercise participants. The licensee shall critique each exercise using individuals not having direct implementation responsibility for the plan. Critiques of exercises shall evaluate the appropriateness of the plan, emergency procedures, facilities, equipment, training of personnel, and overall effectiveness of the response. Deficiencies found by the critiques shall be corrected.

(xiii) Hazardous chemicals. A certification that the applicant has met its responsibilities under the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Public Law 99-499, if applicable to the applicant's activities at the proposed place of use of the radioactive material.

(d) The licensee shall allow the off-site response organizations expected to respond in case of an accident 60 days to comment on the licensee's emergency plan before submitting it to the Director. The licensee shall provide any comments received within the 60 days to the Director with the emergency plan.

(9) An application from a medical facility, educational institution, or Federal facility to produce Positron Emmission Tomography (PET) radioactive drugs for non-commercial transfer to licensees in its consortium authorized for medical use under Rule R313-32 shall include:

(a) A request for authorization for the production of PET radionuclides or evidence of an existing license issued pursuant to 10 CFR Part 30 or equivalent Agreement State requirements for a PET radionuclide production facility within its consortium from which it receives PET radionuclides.

(b) Evidence that the applicant is qualified to produce radioactive drugs for medical use by meeting one of the criteria in Subsection R313-22-75(9)(a)(ii).

(c) Identification of the individual(s) authorized to prepare the PET radioactive drugs if the applicant is a pharmacy, and documentation that each individual meets the requirements of an authorized nuclear pharmacist as specified in Rule R313-32.

(d) Information identified in Subsection R313-22-75(9)(a)(iii) on the PET drugs to be noncommercially transferred to members of its consortium.

R313-22-75. Special Requirements for a Specific License to Manufacture, Assemble, Repair, or Distribute Commodities, Products, or Devices Which Contain Radioactive Material.

(1) Licensing the introduction of radioactive material in exempt concentrations into products or materials, and transfer of ownership or possession of the products and materials.

(a) The authority to introduce radioactive material in exempt concentrations into equipment, devices, commodities or other products may be obtained only from the Nuclear Regulatory Commission, Washington, D.C. 20555; and

(b) The manufacturer, processor or producer of equipment, devices, commodities or other products containing exempt concentrations of radioactive materials may obtain the authority to transfer possession or control of the equipment, devices, commodities, or other products containing exempt concentrations to persons who are

exempt from regulatory requirements only from the Nuclear Regulatory Commission, Washington, D.C. 20555.

(2) Licensing the distribution of radioactive material in exempt quantities. Authority to transfer possession or control by the manufacturer, processor or producer of equipment, devices, commodities or other products containing byproduct material whose subsequent possession, use, transfer, and disposal by other persons who are exempted from regulatory requirements may be obtained only from the Nuclear Regulatory Commission, Washington, D.C. 20555.

(3) Reserved

(4) Licensing the manufacture and distribution of devices to persons generally licensed under Subsection R313-21-22(4).

(a) An application for a specific license to manufacture or distribute devices containing radioactive material, excluding special nuclear material, to persons generally licensed under Subsection R313-21-22(4) or equivalent regulations of the Nuclear Regulatory Commission, an Agreement State or a Licensing State will be approved if:

(i) the applicant satisfies the general requirements of Section R313-22-33;

(ii) the applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control, labels, proposed uses, installation, servicing, leak testing, operating and safety instructions, and potential hazards of the device to provide reasonable assurance that:

(iii) the device has been registered in the Sealed Source and Device Registry.

(A) the device can be safely operated by persons not having training in radiological protection,

(B) under ordinary conditions of handling, storage and use of the device, the radioactive material contained in the device will not be released or inadvertently removed from the device, and it is unlikely that a person will receive in one year, a dose in excess of ten percent of the annual limits specified in Subsection R313-15-201(1), and

(C) under accident conditions, such as fire and explosion, associated with handling, storage and use of the device, it is unlikely that a person would receive an external radiation dose or dose commitment in excess of the following organ doses:

. . . . . .

(iii) each device bears a durable, legible, clearly visible label or labels approved by the Director, which contain in a clearly identified and separate statement:

(A) instructions and precautions necessary to assure safe installation, operation and servicing of the device; documents such as operating and service manuals may be identified in the label and used to provide this information,

(B) the requirement, or lack of requirement, for leak testing, or for testing an "on-off" mechanism and indicator, including the maximum time interval for testing, and the identification of radioactive material by radionuclide, quantity of radioactivity, and date of determination of the quantity, and

(C) the information called for in one of the following statements, as appropriate, in the same or substantially similar form:

(I) "The receipt, possession, use and transfer of this device, Model No. ....., Serial No. ....., are subject to a general license or the equivalent, and the regulations of the Nuclear Regulatory Commission or a state with which the Nuclear Regulatory Commission has entered into an agreement for the exercise of regulatory authority. This label shall be maintained on the device in a legible condition. Removal of this label is prohibited." The label shall be printed with the words "CAUTION -RADIOACTIVE MATERIAL" and the name of the manufacturer or distributor shall appear on the label. The model, serial number, and name of the manufacturer or distributor may be omitted from this label provided the information is elsewhere specified in labeling affixed to the device.

(II) "The receipt, possession, use and transfer of this device, Model No. ....., Serial No. ....., are subject to a general license or the equivalent, and the regulations of a Licensing State. This label shall be maintained on the device in a legible condition. Removal of this label is prohibited." The label shall be printed with the words "CAUTION - RADIOACTIVE MATERIAL" and the name of the manufacturer or distributor shall appear on the label. The model, serial number, and name of the manufacturer or distributor may be omitted from this label provided the information is elsewhere specified in labeling affixed to the device.

(D) Each device having a separable source housing that provides the primary shielding for the source also bears, on the source housing, a durable label containing the device model number and serial number, the isotope and quantity, the words, "Caution-Radioactive Material," the radiation symbol described in Section R313-15-901, and the name of the manufacturer or initial distributor.

(E) Each device meeting the criteria of Subsection R313-21-22(4)(c)(xiii)(A), bears a permanent label, for example, embossed, etched, stamped, or engraved, affixed to the source housing if separable, or the device if the source housing is not separable, that includes the words, "Caution-Radioactive Material," and, if practicable, the radiation symbol described in Section R313-15-901.

(b) In the event the applicant desires that the device be required to be tested at intervals longer than six months, either for proper operation of the "on-off" mechanism and indicator, if any, or for leakage of radioactive material or for both, the applicant shall include in the application sufficient information to demonstrate that a longer interval is justified by performance characteristics of the device or similar devices and by design features which have a significant bearing on the probability or consequences of leakage of radioactive material from the device or failure of the "on-off" mechanism and indicator. In determining the acceptable interval for the test for leakage of radioactive material, the Director will consider information which includes, but is not limited to:

(i) primary containment, or source capsule;

(ii) protection of primary containment;

(iii) method of sealing containment;

(iv) containment construction materials;

(v) form of contained radioactive material;

(vi) maximum temperature withstood during prototype tests;

(vii) maximum pressure withstood during prototype tests;

(viii) maximum quantity of contained radioactive material;

(ix) radiotoxicity of contained radioactive material; and

(x) operating experience with identical devices or similarly designed and constructed devices.

(c) In the event the applicant desires that the general licensee under Subsection R313-21-22(4), or under equivalent regulations of the Nuclear Regulatory Commission, an Agreement State or a Licensing State be authorized to install the device, collect the sample to be analyzed by a specific licensee for leakage of radioactive

material, service the device, test the "on-off" mechanism and indicator, or remove the device from installation, the applicant shall include in the application written instructions to be followed by the general licensee, estimated calendar quarter doses associated with this activity or activities, and basis for these estimates. The submitted information shall demonstrate that performance of this activity or activities by an individual untrained in radiological protection, in addition to other handling, storage, and use of devices under the general license, is unlikely to cause that individual to receive a dose in excess of ten percent of the annual limits specified in Subsection R313-15-201(1).

(d)(i) If a device containing radioactive material is to be transferred for use under the general license contained in Subsection R313-21-22(4), each person that is licensed under Subsection R313-22-75(4) shall provide the information specified in Subsections R313-22-75(4)(d)(i)(A) through (E) to each person to whom a device is to be transferred. This information must be provided before the device may be transferred. In the case of a transfer through an intermediate person, the information must also be provided to the intended user prior to initial transfer to the intermediate person. The required information includes:

(A) a copy of the general license contained in Subsection R313-21-22(4); if Subsections R313-21-22(4)(c)(ii) through (iv) or R313-21-22(4)(c)(xiii) do not apply to the particular device, those paragraphs may be omitted;

(B) a copy of Sections R313-12-51, R313-15-1201, and R313-15-1202;

(C) a list of services that can only be performed by a specific licensee;

(D) Information on acceptable disposal options including estimated costs of disposal; and

(E) An indication that the Division's policy is to issue civil penalties for improper disposal.

(ii) If radioactive material is to be transferred in a device for use under an equivalent general license of the Nuclear Regulatory Commission, an Agreement State, or Licensing State, each person that is licensed under Subsection R313-22-75(4) shall provide the information specified in Subsections R313-22-75(4)(d)(ii)(A) through (D) to each person to whom a device is to be transferred. This information must be provided before the device may be transferred. In the case of a transfer through an intermediate person, the information must also be provided to the intended user prior to initial transfer to the intermediate person. The required information includes:

(A) A copy of an Agreement State's or Licensing State's regulations equivalent to Sections R313-12-51, R313-15-1201, R313-15-1202, and Subsection R313-21-22(4) or a copy of 10 CFR 31.5, 10 CFR 31.2, 10 CFR 30.51, 10 CFR 20.2201, and 10 CFR 20.2202. If a copy of the Nuclear Regulatory Commission regulations is provided to a prospective general licensee in lieu of the Agreement State's or Licensing State's regulations, it shall be accompanied by a note explaining that use of the device is regulated by the Agreement State or Licensing State; if certain paragraphs of the regulations do not apply to the particular device, those paragraphs may be omitted;

(B) A list of services that can only be performed by a specific licensee;

(C) Information on acceptable disposal options including estimated costs of disposal; and

(D) The name or title, address, and phone number of the contact at the Nuclear Regulatory Commission, Agreement State, or Licensing State from which additional information may be obtained.

(iii) An alternative approach to informing customers may be proposed by the licensee for approval by the Director.

(iv) Each device that is transferred after February 19, 2002 must meet the labeling requirements in Subsection R313-22-75(4)(a)(iii).

(v) If a notification of bankruptcy has been made under Section R313-19-34 or the license is to be terminated, each person licensed under Subsection R313-22-75(4) shall provide, upon request, to the Director, the Nuclear Regulatory Commission, or an appropriate Agreement State or Licensing State, records of final disposition required under Subsection R313-22-75(4)(d)(vii)(H).

(vi) Each person licensed under Subsection R313-22-75(4) to initially transfer devices to generally licensed persons shall comply with the requirements of Subsections R313-22-75(4)(d)(vi) and (vii).

(A) The person shall report all transfers of devices to persons for use under the general license under Subsection R313-21-22(4) and all receipts of devices from persons licensed under Subsection R313-21-22(4) to the Director. The report must be submitted on a quarterly basis on Form 653, "Transfers of Industrial Devices Report" as prescribed by the Nuclear Regulatory Commission, or in a clear and legible report containing all of the data required by the form.

(B) The required information for transfers to general licensees includes:

(I) The identity of each general licensee by name and mailing address for the location of use; if there is no mailing address for the location of use, an alternative address for the general licensee shall be submitted along with information on the actual location of use.

(II) The name, title, and phone number of the person identified by the general licensee as having knowledge of and authority to take required actions to ensure compliance with the appropriate regulations and requirements;

(III) The date of transfer;

(IV) The type, model number, and serial number of device transferred; and

(V) The quantity and type of radioactive material contained in the device.

(C) If one or more intermediate persons will temporarily possess the device at the intended place of use before its possession by the user, the report must include the same information for both the intended user and each intermediate person, and clearly designate the intermediate persons.

(D) For devices received from a Subsection R313-21-22(4) general licensee, the report must include the identity of the general licensee by name and address, the type, model number, and serial number of the device received, the date of receipt, and, in the case of devices not initially transferred by the reporting licensee, the name of the manufacturer or initial transferor.

(E) If the licensee makes changes to a device possessed by a Subsection R313-21-22(4) general licensee, such that the label must be changed to update required information, the report must identify the general licensee, the device, and the changes to information on the device label.

(F) The report must cover each calendar quarter, must be filed within 30 days of the end of the calendar quarter, and must clearly indicate the period covered by the report.

(G) The report must clearly identify the specific licensee submitting the report and include the license number of the specific licensee.

(H) If no transfers have been made to or from persons generally licensed under Subsection R313-21-22(4) during the reporting period, the report must so indicate.

(vii) The person shall report all transfers of devices to persons for use under a general license in the Nuclear Regulatory Commission's, an Agreement State's, or Licensing State's regulations that are equivalent to Subsection R313-21-22(4) and all receipts of devices from general licensees in the Nuclear Regulatory Commission's, Agreement State's, or Licensing State's jurisdiction to the Nuclear Regulatory Commission, or to the responsible Agreement State or Licensing State agency. The report must be submitted on Form 653, "Transfers of Industrial Devices Report" as prescribed by the Nuclear Regulatory Commission, or in a clear and legible report containing all of the data required by the form.

(A) The required information for transfers to general licensee includes:

(I) The identity of each general licensee by name and mailing address for the location of use; if there is no mailing address for the location of use, an alternative address for the general licensee shall be submitted along with information on the actual location of use.

(II) The name, title, and phone number of the person identified by the general licensee as having knowledge of and authority to take required actions to ensure compliance with the appropriate regulations and requirements;

(III) The date of transfer;

(IV) The type, model number, and serial number of the device transferred; and

(V) The quantity and type of radioactive material contained in the device.

(B) If one or more intermediate persons will temporarily possess the device at the intended place of use before its possession by the user, the report must include the same information for both the intended user and each intermediate person, and clearly designate the intermediate persons.

(C) For devices received from a general licensee, the report must include the identity of the general licensee by name and address, the type, model number, and serial number of the device received, the date of receipt, and, in the case of devices not initially transferred by the reporting licensee, the name of the manufacturer or initial transferor.

(D) If the licensee makes changes to a device possessed by a general licensee, such that the label must be changed to update required information, the report must identify the general licensee, the device, and the changes to information on the device label.

(E) The report must cover each calendar quarter, must be filed within 30 days of the end of the calendar quarter, and must clearly indicate the period covered by the report.

(F) The report must clearly identify the specific licensee submitting the report and must include the license number of the specific licensee.

(G) If no transfers have been made to or from a Nuclear Regulatory Commission licensee, or to or from a particular Agreement State or Licensing State licensee during the reporting period, this information shall be reported to the Nuclear Regulatory Commission or the responsible Agreement State or Licensing State agency upon request of the agency.

(H) The person shall maintain all information concerning transfers and receipts of devices that supports the reports required by Subsection R313-22-75(4)(d)(vii). Records required by Subsection R313-22-75(4)(d)(vii)(H) must be maintained for a period of three years following the date of the recorded event.

(5) Special requirements for the manufacture, assembly or repair of luminous safety devices for use in aircraft. An application for a specific license to manufacture, assemble or repair luminous safety devices containing tritium or promethium-147 for use in aircraft for distribution to persons generally licensed under Subsection R313-21-22(5) will be approved if:

(a) the applicant satisfies the general requirements of Section R313-22-33; and

(b) the applicant satisfies the requirements of 10 CFR 32.53 through 32.56 [~~and 32.101 (2010)~~](2015) or their equivalent.

(6) Special requirements for license to manufacture or initially transfer calibration sources containing americium-241, plutonium or radium-226 for distribution to persons generally licensed under Subsection R313-21-22(7). An application for a specific license to manufacture calibration and reference sources containing americium-241, plutonium or radium-226 to persons generally licensed under Subsection R313-21-22(7) will be approved if:

(a) the applicant satisfies the general requirements of Section R313-22-33; and

(b) the applicant satisfies the requirements of 10 CFR 32.57 through 32.59, [~~32.102~~]and 10 CFR 70.39 [~~(2010)~~](2015), or their equivalent.

(7) Manufacture and distribution of radioactive material for certain in vitro clinical or laboratory testing under general license. An application for a specific license to manufacture or distribute radioactive material for use under the general license of Subsection R313-21-22(9) will be approved if:

(a) the applicant satisfies the general requirements specified in Section R313-22-33;

(b) the radioactive material is to be prepared for distribution in prepackaged units of:

(i) iodine-125 in units not exceeding 370 kilobecquerel (ten uCi) each;

(ii) iodine-131 in units not exceeding 370 kilobecquerel (ten uCi) each;

(iii) carbon-14 in units not exceeding 370 kilobecquerel (ten uCi) each;

(iv) hydrogen-3 (tritium) in units not exceeding 1.85 megabecquerel (50 uCi) each;

(v) iron-59 in units not exceeding 740.0 kilobecquerel (20 uCi) each;

(vi) cobalt-57 in units not exceeding 370 kilobecquerel (ten uCi) each;

(vii) selenium-75 in units not exceeding 370 kilobecquerel (ten uCi) each; or

(viii) mock iodine-125 in units not exceeding 1.85 kilobecquerel (0.05 uCi) of iodine-129 and 1.85 kilobecquerel (0.05 uCi) of americium-241 each;

(c) prepackaged units bear a durable, clearly visible label:

(i) identifying the radioactive contents as to chemical form and radionuclide, and indicating that the amount of radioactivity does not exceed 370 kilobecquerel (ten uCi) of iodine-125, iodine-131, carbon-14, cobalt-57, or selenium-75; 1.85 megabecquerel (50 uCi) of hydrogen-3 (tritium); 740.0 kilobecquerel (20 uCi) of iron-59; or Mock Iodine-125 in units not exceeding 1.85 kilobecquerel (0.05 uCi) of iodine-129 and 1.85 kilobecquerel (0.05 uCi) of americium-241 each; and

(ii) displaying the radiation caution symbol described in Section R313-15-901 and the words, "CAUTION, RADIOACTIVE MATERIAL", and "Not for Internal or External Use in Humans or Animals";

(d) one of the following statements, as appropriate, or a substantially similar statement which contains the information called for in one of the following statements, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure which accompanies the package:

(i) "This radioactive material shall be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of the Nuclear Regulatory Commission or of a state with which the Nuclear Regulatory Commission has entered into an agreement for the exercise of regulatory authority.

.....

Name of Manufacturer"

(ii) "This radioactive material shall be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of a Licensing State.

.....

Name of Manufacturer"

(e) the label affixed to the unit, or the leaflet or brochure which accompanies the package, contains adequate information as to the precautions to be observed in handling and storing radioactive material. In the case of the Mock Iodine-125 reference or calibration source, the information accompanying the source shall also contain directions to the licensee regarding the waste disposal requirements set out in Section R313-15-1001.

(8) Licensing the manufacture and distribution of ice detection devices. An application for a specific license to manufacture and distribute ice detection devices to persons generally licensed under Subsection R313-21-22(10) will be approved if:

(a) the applicant satisfies the general requirements of Section R313-22-33; and

(b) the criteria of 10 CFR 32.61, 32.62, [~~32.103, 2006~~]2015 ed. are met.

(9) Manufacture, preparation, or transfer for commercial distribution of radioactive drugs containing radioactive material for medical use under R313-32.

(a) An application for a specific license to manufacture and distribute radiopharmaceuticals containing radioactive material for use by persons licensed pursuant to Rule R313-32 will be approved if:

(i) the applicant satisfies the general requirements specified in Section R313-22-33;

(ii) the applicant submits evidence that the applicant is at least one of the following:

(A) registered with the U.S. Food and Drug Administration (FDA) as the owner or operator of a drug establishment that engages in the manufacture, preparation, propagation, compounding, or processing of a drug under 21 CFR 207.20(a);

(B) registered or licensed with a state agency as a drug manufacturer;

(C) licensed as a pharmacy by a State Board of Pharmacy; or

(D) operating as a nuclear pharmacy within a medical institution; or

(E) registered with a State Agency as a Positron Emission Tomography (PET) drug production facility.

(iii) the applicant submits information on the radionuclide; the chemical and physical form; the maximum activity per vial, syringe, generator, or other container of the radioactive drug; and the shielding provided by the packaging to show it is appropriate for the safe handling and storage of the radioactive drugs by medical use licensees; and

(iv) the applicant satisfies the following labeling requirements:

(A) A label is affixed to each transport radiation shield, whether it is constructed of lead, glass, plastic, or other material, of a radioactive drug to be transferred for commercial distribution. The label must include the radiation symbol and the words "CAUTION, RADIOACTIVE MATERIAL" or "DANGER, RADIOACTIVE MATERIAL"; the name of the radioactive drug or its abbreviation; and the quantity of radioactivity at a specified date and time. For radioactive drugs with a half life greater than 100 days, the time may be omitted.

(B) A label is affixed to each syringe, vial, or other container used to hold a radioactive drug to be transferred for commercial distribution. The label must include the radiation symbol and the words "CAUTION, RADIOACTIVE MATERIAL" or "DANGER, RADIOACTIVE MATERIAL" and an identifier that ensures that the syringe, vial, or other container can be correlated with the information on the transport radiation shield label.

(b) A licensee described by Subsections R313-22-75(9)(a)(ii)(C) or (D):

(i) May prepare radioactive drugs for medical use, as defined in Rule R313-32 (incorporating 10 CFR 35.2 by reference), provided that the radioactive drug is prepared by either an authorized nuclear pharmacist, as specified in Subsections R313-22-75(9)(b)(ii) and (iv), or an individual under the supervision of an authorized nuclear pharmacist as specified in Rule R313-32 (incorporating 10 CFR 35.27 by reference).

(ii) May allow a pharmacist to work as an authorized nuclear pharmacist if:

(A) this individual qualifies as an authorized nuclear pharmacist as defined in Rule R313-32 (incorporating 10 CFR 35.2 by reference);

(B) this individual meets the requirements specified in Rule R313-32 (incorporating 10 CFR 35.55(b) and 10 CFR 35.59 by reference) and the licensee has received an approved license amendment identifying this individual as an authorized nuclear pharmacist; or

(C) this individual is designated as an authorized nuclear pharmacist in accordance with Subsection R313-22-75(9)(b)(iv).

(iii) The actions authorized in Subsections R313-22-75(9)(b)(i) and (ii) are permitted in spite of more restrictive language in license conditions.

(iv) May designate a pharmacist, as defined in Rule R313-32 (incorporating 10 CFR 35.2 by reference), as an authorized nuclear pharmacist if:

(A) The individual was a nuclear pharmacist preparing only radioactive drugs containing accelerator produced radioactive material, and

(B) The individual practiced at a pharmacy at a Government agency or Federally recognized Indian Tribe before November 30, 2007, or at all other pharmacies before August 8, 2009, or an earlier date as noticed by the NRC.

(v) Shall provide to the Director:

(A) a copy of each individual's certification by a specialty board whose certification process has been recognized by the Nuclear Regulatory Commission or Agreement State as specified in Rule R313-32 (incorporating 10 CFR 35.55(a) by reference) with the written attestation signed by a preceptor as required by Rule R313-32 (incorporating 10 CFR 35.55(b)(2) by reference); or

(B) the Nuclear Regulatory Commission or Agreement State license; or

(C) the permit issued by a licensee or Commission master materials permittee of broad scope or the authorization from a commercial nuclear pharmacy authorized to list its own authorized nuclear pharmacist; or

(D) the permit issued by a U.S. Nuclear Commission master materials licensee; or

(E) documentation that only accelerator produced radioactive materials were used in the practice of nuclear pharmacy at a Government agency or Federally recognized Indian Tribe before November 30, 2007 or at all other locations of use before August 8, 2009, or an earlier date as noticed by the NRC; and

(F) a copy of the state pharmacy licensure or registration, no later than 30 days after the date that the licensee allows, pursuant to Subsections R313-22-75(9)(b)(ii)(A) and R313-22-75(9)(b)(ii)(C), the individual to work as an authorized nuclear pharmacist.

(c) A licensee shall possess and use instrumentation to measure the radioactivity of radioactive drugs. The licensee shall have procedures for use of the instrumentation. The licensee shall measure, by direct measurement or by combination of measurements and calculations, the amount of radioactivity in dosages of alpha-, beta-, or photon-emitting radioactive drugs prior to transfer for commercial distribution. In addition, the licensee shall:

(i) perform tests before initial use, periodically, and following repair, on each instrument for accuracy, linearity, and geometry dependence, as appropriate for the use of the instrument; and make adjustments when necessary; and

(ii) check each instrument for constancy and proper operation at the beginning of each day of use.

(d) Nothing in Subsection R313-22-75(9) relieves the licensee from complying with applicable FDA, or Federal, and State requirements governing radioactive drugs.

(10) Manufacture and distribution of sources or devices containing radioactive material for medical use. An application for a specific license to manufacture and distribute sources and devices containing radioactive material to persons licensed under Rule R313-32 for use as a calibration, transmission, or reference source or for the uses listed in Rule R313-32 (incorporating 10 CFR 35.400, 10 CFR 35.500, 10 CFR 35.600, and 35.1000 by reference) will be approved if:

(a) the applicant satisfies the general requirements in Section R313-22-33;

(b) the applicant submits sufficient information regarding each type of source or device pertinent to an evaluation of its radiation safety, including:

(i) the radioactive material contained, its chemical and physical form and amount,

(ii) details of design and construction of the source or device,

(iii) procedures for, and results of, prototype tests to demonstrate that the source or device will maintain its integrity under stresses likely to be encountered in normal use and accidents,

(iv) for devices containing radioactive material, the radiation profile of a prototype device,

(v) details of quality control procedures to assure that production sources and devices meet the standards of the design and prototype tests,

(vi) procedures and standards for calibrating sources and devices,

(vii) legend and methods for labeling sources and devices as to their radioactive content, and

(viii) instructions for handling and storing the source or device from the radiation safety standpoint, these instructions are to be included on a durable label attached to the source or device or attached to a permanent storage container for the source or device; provided that instructions which are too lengthy for a label may be summarized on the label and printed in detail on a brochure which is referenced on the label;

(c) the label affixed to the source or device, or to the permanent storage container for the source or device, contains information on the radionuclide, quantity and date of assay, and a statement that the source or device is licensed by the Director for distribution to persons licensed pursuant to Rule R313-32 (incorporating 10 CFR 35.18, 10 CFR 35.400, 10 CFR 35.500, and 10 CFR 35.600 by reference) or under equivalent regulations of the Nuclear Regulatory Commission, an Agreement State or a Licensing State; provided that labeling for sources which do not require long term storage may be on a leaflet or brochure which accompanies the source;

(d) [~~in the event the applicant desires that the source or device be required to be tested for leakage of radioactive material at intervals longer than six months, the applicant shall include in the application sufficient information to demonstrate that a longer interval is justified by performance characteristics of the source or device or similar sources or devices and by design features that have a significant bearing on the probability or consequences of leakage of radioactive material from the source; and~~]the source or device has been registered in the Sealed Source and Device Registry.

(e) in the event the applicant desires that the source or device be required to be tested for leakage of radioactive material at intervals longer than six months, the applicant shall include in the application sufficient information to demonstrate that a longer interval is justified by performance characteristics of the source or device or similar sources or devices and by design features that have a significant bearing on the probability or consequences of leakage of radioactive material from the source; and

[~~(e)~~](f) in determining the acceptable interval for test of leakage of radioactive material, the Director shall consider information that includes, but is not limited to:

(i) primary containment or source capsule,

(ii) protection of primary containment,

(iii) method of sealing containment,

(iv) containment construction materials,

(v) form of contained radioactive material,

(vi) maximum temperature withstood during prototype tests,

(vii) maximum pressure withstood during prototype tests,

(viii) maximum quantity of contained radioactive material,

(ix) radiotoxicity of contained radioactive material, and

(x) operating experience with identical sources or devices or similarly designed and constructed sources or devices.

(11) Requirements for license to manufacture and distribute industrial products containing depleted uranium for mass-volume applications.

(a) An application for a specific license to manufacture industrial products and devices containing depleted uranium for use pursuant to Subsection R313-21-21(5) or equivalent regulations of the Nuclear Regulatory Commission or an Agreement State will be approved if:

(i) the applicant satisfies the general requirements specified in Section R313-22-33;

(ii) the applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control procedures, labeling or marking, proposed uses and potential hazards of the industrial product or device to provide reasonable assurance that possession, use or transfer of the depleted uranium in the product or device is not likely to cause an individual to receive a radiation dose in excess of ten percent of the annual limits specified in Subsection R313-15-201(1); and

(iii) the applicant submits sufficient information regarding the industrial product or device and the presence of depleted uranium for a mass-volume application in the product or device to provide reasonable assurance that unique benefits will accrue to the public because of the usefulness of the product or device.

(b) In the case of an industrial product or device whose unique benefits are questionable, the Director will approve an application for a specific license under Subsection R313-22-75(11) only if the product or device is found to combine a high degree of utility and low probability of uncontrolled disposal and dispersal of significant quantities of depleted uranium into the environment.

(c) The Director may deny an application for a specific license under Subsection R313-22-75(11) if the end use of the industrial product or device cannot be reasonably foreseen.

(d) Persons licensed pursuant to Subsection R313-22-75(11)(a) shall:

(i) maintain the level of quality control required by the license in the manufacture of the industrial product or device, and in the installation of the depleted uranium into the product or device;

(ii) label or mark each unit to:

(A) identify the manufacturer of the product or device and the number of the license under which the product or device was manufactured, the fact that the product or device contains depleted uranium, and the quantity of depleted uranium in each product or device; and

(B) state that the receipt, possession, use and transfer of the product or device are subject to a general license or the equivalent and the regulations of the Nuclear Regulatory Commission or an Agreement State;

(iii) assure that the uranium before being installed in each product or device has been impressed with the following legend clearly legible through a plating or other covering: "Depleted Uranium";

(iv) furnish to each person to whom depleted uranium in a product or device is transferred for use pursuant to the general license contained in Subsection R313-21-21(5) or its equivalent:

(A) a copy of the general license contained in Subsection R313-21-21(5) and a copy of form DRC-12; or

(B) a copy of the general license contained in the Nuclear Regulatory Commission's or Agreement State's regulation equivalent to Subsection R313-21-21(5) and a copy of the Nuclear Regulatory Commission's or Agreement State's certificate, or alternatively, furnish a copy of the general license contained in Subsection R313-21-21(5) and a copy of form DRC-12 with a note explaining that use of the product or device is regulated by the Nuclear Regulatory Commission or an Agreement State under requirements substantially the same as those in Subsection R313-21-21(5);

(v) report to the Director all transfers of industrial products or devices to persons for use under the general license in Subsection R313-21-21(5). The report shall identify each general licensee by name and address, an individual by name or position who may constitute a point of contact between the Director and the general licensee, the type and model number of device transferred, and the quantity of depleted uranium contained in the product or device. The report shall be submitted within thirty days after the end of the calendar quarter in which the product or device is transferred to the generally licensed person. If no transfers have been made to persons generally licensed under Subsection R313-21-21(5) during the reporting period, the report shall so indicate;

(vi) provide certain other reports as follows:

(A) report to the Nuclear Regulatory Commission all transfers of industrial products or devices to persons for use under the Nuclear Regulatory Commission general license in 10 CFR 40.25 (2010);

(B) report to the responsible state agency all transfers of devices manufactured and distributed pursuant to Subsection R313-22-75(11) for use under a general license in that state's regulations equivalent to Subsection R313-21-21(5),

(C) reports shall identify each general licensee by name and address, an individual by name or position who may constitute a point of contact between the agency and the general licensee, the type and model number of the device transferred, and the quantity of depleted uranium contained in the product or device. The report shall be submitted within thirty days after the end of each calendar quarter in which a product or device is transferred to the generally licensed person,

(D) if no transfers have been made to Nuclear Regulatory Commission licensees during the reporting period, this information shall be reported to the Nuclear Regulatory Commission, and

(E) if no transfers have been made to general licensees within a particular Agreement State during the reporting period, this information shall be reported to the responsible Agreement State agency upon the request of that agency; and

(vii) records shall be kept showing the name, address and point of contact for each general licensee to whom the person transfers depleted uranium in industrial products or devices for use pursuant to the general license provided in Subsection R313-21-21(5) or equivalent regulations of the Nuclear Regulatory Commission or an Agreement State. The records shall be maintained for a period of two years and shall show the date of each transfer, the quantity of depleted

uranium in the product or device transferred, and compliance with the report requirements of Subsection R313-22-75(11).

R313-22-210. Registration of Product Information.

Licensees who manufacture or initially distribute a sealed source or device containing a sealed source whose product is intended for use under a specific license or general license are deemed to have provided reasonable assurance that the radiation safety properties of the source or device are adequate to protect health and minimize danger to life and the environment if the sealed source or device has been evaluated in accordance with 10 CFR 32.210 [~~(2010)~~](2015) or equivalent regulations of an Agreement State.

R313-22-211. Inactivation of Certificates of Registration of Sealed Sources and Devices.

Licensees who no longer manufacture or initially transfer any of the sealed sources or devices covered by a particular certificate issued in accordance with the requirements of R313-22-210 shall request inactivation of the registration certificate in accordance with 10 CFR 32.211 (2015) or equivalent regulations of an Agreement State.

KEY: specific licenses, decommissioning, broad scope, radioactive materials
Date of Enactment or Last Substantive Amendment: [~~October 21, 2014~~]2015
Notice of Continuation: September 23, 2011
Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-3-108

Environmental Quality, Radiation Control
R313-24-4
Clarifications or Exceptions

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 39275
FILED: 04/14/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This filing changes the uranium mills and source material mill tailings disposal facility requirements.

SUMMARY OF THE RULE OR CHANGE: The proposed changes to Section R313-24-4 would: update the incorporation of the outdated 2002 version of Title 10, Code of Federal Regulations (CFR) Part 40, with the current 2015 version of 10 CFR 40.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 10 CFR 40 and Section 19-3-104 and Section 19-3-108

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no anticipated cost or savings to the state budget. The proposed changes do not add or remove significant requirements that affect radiation. The proposed rule changes are adopting required federal regulations to maintain compatibility as an agreement state. These changes do not add new requirements that would cause the state budget to incur any changes in compliance costs beyond those identified by the Nuclear Regulatory Commission.
♦ LOCAL GOVERNMENTS: There is no anticipated cost or savings to the local government. The proposed changes do not add or remove significant requirements that affect radiation. The proposed rule changes are adopting required federal regulations to maintain compatibility as an agreement state. These changes do not add new requirements that would cause local government to incur any changes in compliance costs beyond those identified by the Nuclear Regulatory Commission.
♦ SMALL BUSINESSES: Small businesses may hold a radioactive material license, but there is no anticipated cost or savings for small businesses. The proposed rule changes are adopting required federal regulations to maintain compatibility as an agreement state. These changes do not add new requirements that would cause small businesses to incur any changes in compliance costs beyond those identified by the Nuclear Regulatory Commission.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Small businesses and persons other than businesses may hold a radioactive material license, but there is no anticipated cost or savings for small businesses and persons other than businesses. The proposed rule changes are adopting required federal regulations to maintain compatibility as an agreement state. These changes do not add new requirements that would cause local government to incur any changes in compliance costs beyond those identified by the Nuclear Regulatory Commission.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated costs for affected persons since the proposed rule changes are adopting required federal regulations to maintain compatibility as an agreement state. These changes do not add new requirements that would cause affected persons to incur any changes in compliance costs beyond those identified by the Nuclear Regulatory Commission.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed changes to the rule are necessary for the Utah Radiation Control Rules to be compatible with NRC requirements, and to ensure that the Division's program activities are adequate to protect the public health and safety. The Division is not aware of any business that would be impacted fiscally due to the proposed rule changes.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
RADIATION CONTROL
THIRD FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Spencer Wickham by phone at 801-536-0082, by FAX at 801-533-4097, or by Internet E-mail at swickham@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 06/16/2015

AUTHORIZED BY: Rusty Lundberg, Director

R313. Environmental Quality, Radiation Control.
R313-24. Uranium Mills and Source Material Mill Tailings Disposal Facility Requirements.
R313-24-4. Clarifications or Exceptions.

For the purposes of Rule R313-24, 10 CFR 40.2a through 40.4; 40.12; 40.20(a); 40.21; 40.26(a) through (c); 40.31(h); 40.41(c); the introduction to 40.42(k) and 40.42(k)(3)(i); 40.61(a) and (b); 40.65; and Appendix A to Part 40 (20[~~02~~]15) are incorporated by reference with the following clarifications or exceptions:

(1) The exclusion and substitution of the following:

(a) Exclude 10 CFR 40.26(c)(1) and replace with "(1) The provisions of Sections R313-12-51, R313-12-52, R313-12-53, R313-19-34, R313-19-50, R313-19-61, R313-24-1, Rules R313-14, R313-15, R313-18, and R313-24 (incorporating 10 CFR 40.2a, 40.3, 40.4, and 40.26 by reference)";

(b) In Appendix A to 10 CFR 40, exclude Criterion 5B(1) through 5H, Criterion 7A, Criterion 13, and replace the excluded Criterion with "Utah Administrative Code, R317-6, Ground Water Quality Protection"; and

(c) In Appendix A to 10 CFR 40, exclude Criterion 11A through 11F and Criterion 12;

(2) The substitution of the following:

(a) "10 CFR 40" for reference to "this part" as found throughout the incorporated text;

(b) "Director" for reference to "Commission" in the first and fourth references contained in 10 CFR 40.2a, in 10 CFR 40.3, 40.20(a), 40.26, 40.41(c), 40.61, and 40.65;

(c) "Rules R313-19, R313-21, or R313-22" for "Section 62 of the Act" as found in 10 CFR 40.12(a);

(d) "Rules R313-21 or R313-22" for reference to "the regulations in this part" in 10 CFR 40.41(c);

(e) "Section R313-19-100" for reference to "part 71 of this chapter" as found in 10 CFR 40.41(c);

(f) In 10 CFR 40.42(k)(3)(i), "R313-15-401 through R313-15-406" for reference to "10 CFR part 20, subpart E";

(g) "source material milling" for reference to "uranium milling, in production of uranium hexafluoride, or in a uranium enrichment facility" as found in 10 CFR 40.65(a);

(h) "Director" for reference to "appropriate NRC Regional Office shown in Appendix D to 10 CFR part 20 of this chapter, with copies to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555," as stated in 10 CFR 65(a)(1);

(i) "require the licensee to" for reference to "require to" in 10 CFR 40.65(a)(1); and

(j) In Appendix A to 10 CFR part 40, the following substitutions:

(i) "R313-12-3" for reference to "Sec. 20.1003 of this chapter" as found in the first paragraph of the introduction to Appendix A;

(ii) "Utah Administrative Code, Rule R317-6, Ground Water Quality Protection" for ground water standards in "Environmental Protection Agency in 40 CFR part 192, subparts D and E" as found in the Introduction, paragraph 4; or "Environmental Protection Agency in 40 CFR part 192, subparts D and E (48 FR 45926; October 7, 1983)" as found in Criterion 5;

(iii) "Director as defined in Subsection 19-5-102(6)" for reference to "Commission" in the definition of "compliance period," in paragraph five of the introduction and in Criterion 5A(3);

(iv) "Director" for reference to "Commission" in the definition of "closure plan", in paragraph five of the introduction, and in Criterions 6(2), 6(4), 6(6), 6A(2), 6A(3), 9, and 10 of Appendix A;

(v) "license issued by the Director" for reference to "Commission license" in the definition of "licensed site," in the introduction to Appendix A;

(vi) "Director" for reference to "NRC" in Criterion 4D;

(vii) "representatives of the Director" for reference to "NRC staff" in Criterion 6(6);

(viii) "Director-approved" for reference to "Commission-approved" in Criterion 6A(1) and Criterion 9;

(ix) "Director" for reference to "appropriate NRC regional office as indicated in Criterion 8A" as found, Criterion 8, paragraph 2 or for reference to "appropriate NRC regional office as indicated in Appendix D to 10 CFR part 20 of this chapter, or the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555," as stated in Criterion 8A; and

(x) "Director" for reference to "the Commission or the State regulatory agency" in Criterion 9, paragraph 2.

KEY: environmental analysis, uranium mills, tailings, byproduct material
Date of Enactment or Last Substantive Amendment: [~~March 19, 2013~~]2015
Notice of Continuation: May 24, 2012
Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-3-108

Environmental Quality, Radiation Control
R313-27
Medical Use Advisory Committee

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 39283
FILED: 04/15/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Creation of a new Medical Use Advisory Committee will ensure that, before initiating rulemaking relating to the medical use of radiation, the Radiation Control Board and its successor the Waste Management and Radiation Control Board will have appropriate technical advice from individuals representing areas of medical use affected by the rulemaking action.

SUMMARY OF THE RULE OR CHANGE: The proposed rule would require the board to create a new Medical Use Advisory Committee that will provide recommendations to the board before the board takes action on any rule or other policy matter that affects the medical use of radiation. The proposed rule adds this procedural step but does not in any other way change the board's authority to make a rule. There is an exception in the proposed rule for emergency rulemaking.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-3-103.5 and Subsection 19-3-104(4)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: Any costs would be insignificant and will be managed within existing budgets.
♦ LOCAL GOVERNMENTS: The proposed rule does not govern or regulate local government in any way, so there will be no impact on local government.
♦ SMALL BUSINESSES: The proposed rule does not govern or regulate small business in any way, so there will be no impact on small business.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The proposed rule does not govern or regulate other persons in any way, so there will be no impact on other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed rule does not impose any compliance requirements on any person, so there will be no compliance costs for any person.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed rule does not govern or regulate any business in any way, so there will be no impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
RADIATION CONTROL
THIRD FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Laura Lockhart by phone at 801-536-0283, by FAX at 801-366-0292, or by Internet E-mail at llockhart@utah.gov
♦ Philip Griffin by phone at 801-536-4261, by FAX at 801-533-4097, or by Internet E-mail at pgriffin@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 06/09/2015

AUTHORIZED BY: Amanda Smith, Executive Director

R313. Environmental Quality, Radiation Control.
R313-27. Medical Use Advisory Committee.
R313-27-1. Formation and Role of Medical Use Advisory Committee.

(1) The board shall appoint a Medical Use Advisory Committee to review and make recommendations prior to a board action for any rule or other policy matter that affects the medical use of radiation. Committee members shall be appointed after considering recommendations from affected groups or individuals.

(2) The Medical Use Advisory Committee shall consist of at least three members, with the majority of members from an area of medical use affected by the rulemaking action.

(3) Members may include non-physician professionals if the member's professional credentials are applicable to the scope of the matter being considered.

(4) Members may include board members.

(5) The Medical Use Advisory Committee shall, by majority vote, provide recommendations and, as appropriate, suggested rule language to the board. Minority recommendations and suggested rule language, if any, shall also be provided to the board.

(6) This rule shall not apply to emergency rulemaking under Section 63G-3-304.

KEY: medical use advisory committee, medical use of radiation
Date of Enactment or Last Substantive Amendment: 2015
Authorizing, and Implemented or Interpreted Law: 19-3-103.5; 19-3-104(4)

Environmental Quality, Radiation Control
R313-36-3
Clarifications or Exceptions

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 39276
FILED: 04/14/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This filing changes the requirements for industrial radiographic operations.

SUMMARY OF THE RULE OR CHANGE: The proposed changes to Section R313-36-3 would: update the incorporation of the outdated 2011 version of Title 10, Code of Federal Regulations (CFR) Part 34, with the current 2015 version of 10 CFR 34.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 10 CFR 34 and Section 19-3-104 and Section 19-3-108

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no anticipated cost or savings to the state budget. The proposed changes do not add or remove significant requirements that affect radiation. The proposed rule changes are adopting required federal regulations to maintain compatibility as an agreement state. These changes do not add new requirements that would cause the state budget to incur any changes in compliance costs beyond those identified by the Nuclear Regulatory Commission.
♦ LOCAL GOVERNMENTS: There is no anticipated cost or savings to the local government. The proposed changes do not add or remove significant requirements that affect radiation. The proposed rule changes are adopting required federal regulations to maintain compatibility as an agreement state. These changes do not add new requirements that would cause local government to incur any changes in compliance costs beyond those identified by the Nuclear Regulatory Commission.
♦ SMALL BUSINESSES: Small businesses may hold a radioactive material license, but there is no anticipated cost or savings for small businesses. The proposed rule changes are adopting required federal regulations to maintain compatibility as an agreement state. These changes do not add new requirements that would cause small businesses to incur any changes in compliance costs beyond those identified by the Nuclear Regulatory Commission.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Small businesses and persons other than businesses may hold a radioactive material license, but there is no anticipated cost or savings for small businesses and persons other than businesses. The proposed rule changes are adopting required federal regulations to maintain compatibility as an agreement state. These changes do not add new requirements that would cause local government to incur any changes in compliance costs beyond those identified by the Nuclear Regulatory Commission.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated costs for affected persons since the proposed rule changes are adopting required federal regulations to maintain compatibility as an agreement state. These changes do not add new requirements that would cause affected persons to incur any changes in compliance costs beyond those identified by the Nuclear Regulatory Commission.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed changes to the rule are necessary for the Utah Radiation Control Rules to be compatible with NRC requirements, and to ensure that the Division's program activities are adequate to protect the public health and safety. The Division is not aware of any business that would be impacted fiscally due to the proposed rule changes.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
RADIATION CONTROL
THIRD FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Spencer Wickham by phone at 801-536-0082, by FAX at 801-533-4097, or by Internet E-mail at swickham@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 06/16/2015

AUTHORIZED BY: Rusty Lundberg, Director

R313. Environmental Quality, Radiation Control.
R313-36. Special Requirements for Industrial Radiographic Operations.
R313-36-3. Clarifications or Exceptions.

For purposes of R313-36, 10 CFR 34.3; 34.13; 34.20(a)(1); 34.20(b) through 34.41(b); 34.42(a) through 34.42(c); 34.43(a)(1); 34.43(b) through 34.45(a)(8); 34.45(a)(10) through 34.101 (20[~~11~~]15), are incorporated by reference with the following clarifications or exceptions:

(1) The exclusion of the following:

(a) In 10 CFR 34.3, exclude definitions for "Lay-barge radiography," "Offshore platform radiography," and "Underwater radiography";

(b) In 10 CFR 34.27(d), exclude "A copy of the report must be sent to the Administrator of the appropriate Nuclear Regulatory Commission's Regional Office listed in appendix D of 10 CFR part 20 of this chapter "Standards for Protection Against Radiation."; and

(c) In 10 CFR 34.27(e), exclude "Licensees will have until June 27, 1998, to comply with the DU leak-testing requirements of this paragraph."

(2) The substitution of the following wording:

(a) "radioactive materials" for references to "byproduct materials";

(b) "Utah Radiation Control Rules" for references to:

(i) "Commission's regulations";

(ii) "Federal regulations";

(iii) "NRC regulations"; and

(iv) "Commission regulations.";

(c) "Director" for references to:

(i) "Commission";

(ii) "appropriate NRC regional office listed in Section 30.6(a)(2)";

(iii) "Director, Office of Federal and State Materials and Environmental Management Programs" except as used in 10 CFR 34.43(a)(1); and

(iv) "NRC's Office of Federal and State Materials and Environmental Management Programs";

(d) "Director, the U.S. Nuclear Regulatory Commission, or an Agreement State" for references to:

(i) "NRC or an Agreement State"; and

(ii) "Commission or an Agreement State";

(e) "Director, the U.S. Nuclear Regulatory Commission, or by an Agreement State" for references to "Commission or by an Agreement State";

(f) "License(s)" for references to "NRC license(s)";

(g) "NRC or Agreement State License" for references to "Agreement State license"; and

(h) "the Utah Radiation Control Rules" for references to "this chapter, such as Section 21.21."

(3) The substitution of the following rule references:

(a) In 10 CFR 34.51, "R313-12" for references to "10 CFR part 20 of this chapter";

(b) "R313-15" for references to "10 CFR part 20" and "10 CFR part 20 of this chapter" except as found in 10 CFR 34.51;

(c) "R313-15-601(1)(a)" for references to "Section 20.1601(a)(1) of this chapter";

(d) "R313-15-902(1) and (2)" for references to "10 CFR 20.1902(a) and (b) of this chapter";

(e) "R313-15-903" for references to "Section 20.1903 of this chapter";

(f) "R313-15-1203" for references to "10 CFR 20.2203" and "Section 20.2203 of this chapter";

(g) "R313-12-110" for references to "Section 30.6(a) of this chapter" except as used in 10 CFR 34.43(a)(1);

(h) "R313-19-30" for references to "Section 150.20 of this chapter";

(i) "R313-19-50" for references to "Section 30.50";

(j) "R313-19-100" for references to "10 CFR part 71", and "49 CFR parts 171 - 173";

(k) "R313-22-33" for references to "Section 30.33 of this chapter";

(l) "R313-36" for references to "NRC regulations contained in this part";

(m) "R313-19-100(5)" for references to "Section 71.5 of this chapter"

(n) "R313-19-5" for references to "Sections 30.7, 30.9, and 30.10 of this chapter."

KEY: industry, radioactive material, licensing, surveys
Date of Enactment or Last Substantive Amendment: [~~January 16, 2012~~]2015
Notice of Continuation: September 23, 2011
Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-3-108

Governor, Economic Development
R357-8
Allocation of Private Activity Bond Volume Cap

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 39263
FILED: 04/06/2015

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is created to outline the process by which applicant's request for bonding authority will be reviewed and the formula that is utilized to determine the allocation award given to the applicant.

SUMMARY OF THE RULE OR CHANGE: This rule provides definitions in addition to those provided for in statute. This rule outlines the formula utilized by the Private Activity Bonds Board to determine the allocation of the federally-provided volume cap amount. The considerations and formula include: distribution being considered on a first come first serve basis, illustrative lists of typical considerations made for each type of applicant, overall community need and impact, applicant's past ability to utilize the activity bonds allocated, etc.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63M-1-3004(7)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: This program is a self-funded program through fees. This rule does not alter the amount of fees received by the program and therefore there is no new cost or savings to the state.

♦ LOCAL GOVERNMENTS: This program does not deal directly with or impact local governments. This rule does not change the non-existence of any interaction and therefore does not affect local governments. A small positive impact could be felt in increased local tax revenue provided by the applicants when utilizing bonds to create or grow their housing or manufacturing project in any given local municipality.
♦ SMALL BUSINESSES: The impact to small business is minimal and positive as this provides a more streamlined and transparent process in an applicant ascertaining the viability of their application. Otherwise, there is no impact to small business because this rule does not address any general small business practices outside of offering a different financing mechanism.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Other persons impacted will most likely be housing developers. This rule will outline how their applications for allocation volume cap amount will be reviewed and how their allocation will be calculated.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule does not address fees, which is the only source for compliance costs. Thus, this rule will not create any new compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The agency is excited to continue to offer an alternative financing source for specific industries in the state. The fiscal impact to businesses as a result of this rule is only positive in regards to the potential financing that some businesses can qualify for.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
GOVERNOR
ECONOMIC DEVELOPMENT
60 E SOUTH TEMPLE
THIRD FLOOR
SALT LAKE CITY, UT 84111
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Jeffrey Van Hulten by phone at 801-538-8694, by FAX at 801-538-8888, or by Internet E-mail at jeffreyvan@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 06/08/2015

AUTHORIZED BY: Val Hale, Executive Director

R357. Governor, Economic Development.
R357-8. Allocation of Private Activity Bond Volume Cap.
R357-8-1. Purpose.

The purpose of this rule is to establish a formula for determining the amount of volume cap to be allocated to an applicant applying for an allocation of private activity bond volume cap.

R357-8-2. Authority.

UCA 63M-1-3004 requires the Private Activity Bond Review Board to promulgate rules for the allocation of volume cap for private activity bonds.

R357-8-3. Definitions.

(1) "Applicant" means an issuing authority submitting an application for an allocation of volume cap or a project sponsor submitting an application on behalf of an issuing authority for an allocation of volume cap.
(2) "Available Volume Cap" means the unencumbered volume cap.
(3) "Application" means:
(a) the State of Utah Federal Low-Income Housing Credit Consolidated Application Form for multi-family applicants;
(b) the Private Activity Bond Authority Manufacturing Facility Application for the manufacturing, redevelopment or exempt facility applicants; or
(c) the Private Activity Bond Authority Application for Single Family or Student Loan applicants.
(4) "Project" or "Program" means the applicant's plan for which the private activity bonds are being sought.
(5) All other terms are used as defined by UCA 63M-1-3002.

R357-8-4. Formula for Allocating Volume Cap.

(1) Allocations of the volume cap will be made during each calendar year based upon available volume cap. Availability shall depend upon the date an applicant submits a completed application.
(2) The decision to allocate volume cap to an applicant shall be determined by the board of review.
(a) When deciding to allocate volume cap to an applicant, the board of review shall consider the criteria outlined in UCA 63M-1-3005 and shall consider the following additional criteria.
(i) Multi-Family Housing applicants:
(A) Bond amount per unit;
(B) Percentage of private activity bonds per percentage of total cost;
(C) Bond amount per number of households served;
(D) Percentage of public financing;
(E) Total cost per unit;
(F) Percentage of developer fee contributed to project;
(G) Average rent as a percentage of Area Median Income;
(H) Number of special needs units;
(I) Cash flow per unit;
(J) Percentage of taxable bonds;
(K) Project location--stronger consideration is given to projects located in:

(I) Underserved areas;
(II) Communities without projects; and
(III) Difficult to develop areas as defined by HUD.
(L) Project characteristics including:
(I) Day Care;
(II) Education center;
(III) Applicant's experience with bonds; and
(IV) Size of project developed.
(M) Other considerations deemed appropriate by the board of review.
(ii) Manufacturing Facility, Redevelopment and Exempt Facilities applicants:
(A) New job creation;
(B) Retention of jobs;
(C) Training and education of employees;
(D) Bond amount to jobs ratio;
(E) Jobs created and/or retained that provide above average wages when compared to the community average wage;
(F) Demonstrated need for tax-exempt financing;
(I) Show of realistic cash flow for the first three years of operation; and
(II) Explanation for selecting variable or fixed rates.
(G) Community Support;
(I) Financial support;
(II) Zoning approval;
(III) Tax increment financing; and
(IV) Deferral of fees.
(H) Competitive costs for construction and equipment related expenses;
(I) Ready-to-go Status;
(I) Manufacturing Facility zoned for use;
(II) Proximity of infrastructure to site;
(III) Need for special infrastructure;
(IV) Environmental study, if required by lender;
(V) Current title report and site plan of project; and
(VI) Building description.
(J) Status of project's financing at time of application;
(K) Selection of bond counsel;
(L) Letter from bond counsel opining the project qualifies for private activity bonds;
(M) Selection of investment banker or, if private placement, buyer of the bonds;
(N) Detailed commitment letters from financial entities involved;
(O) Ability to cause bonds to be issued within the calendar year of allocation; and
(P) Other considerations deemed appropriate by the board of review.
(iii) Student Loan and Single Family Housing applicants:
(A) Completed application; and
(B) Payment of all mandatory fees.
(iv) All applicants:
(A) Overall community need and impact of the project or program;
(B) Applicant's past and current experience and utilization of private activity bonds; and
(C) Other considerations deemed appropriate by the board of review.

(b) When considering multiple applications at a meeting, the board of review may choose to award each applicant an equal share, pro rata share, or other division of available volume cap determined by the Board, provided that each applicant shall have submitted its application prior to the deadline posted on the website of the board of review.

(c) The staff of the board of review will work with each applicant prior to each board of review meeting to ensure that all materials necessary to be considered by the board of review are completed and available at such meeting. Forms of applications and other materials shall be made available on the website of the board of review. Applications will not be considered unless and until all materials are provided and complete.

KEY: allocation, private activity bond; volume cap
Date of Enactment or Last Substantive Amendment: 2015
Authorizing, and Implemented or Interpreted Law: 63M-1-3004

Health, Family Health and Preparedness, Emergency Medical Services
R426-8
Emergency Medical Services Ambulance Rates and Charges

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 39265
FILED: 04/08/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Health by order has authorized agencies to adjust rates according to the agency's fiscal data as reviewed by the Department. Currently, the published ambulance rates in rule need to be adjusted. Rule R426-8 is revised to reflect the 07/01/2015 revised ambulance rates. The last rule change was 03/24/2014.

SUMMARY OF THE RULE OR CHANGE: Fiscal Reporting Guides (FRGs) are financial and statistical data collected from all emergency medical services (EMS) agencies statewide. The data collected showed EMS rates need to be increased at 6.25% so agencies statewide will have revenues matching expenses. Rule R426-8 is amended to reflect these ground ambulance transport changes.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-8a-403

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The state budget will not be impacted as this is a user fee.

♦ LOCAL GOVERNMENTS: Local government budgets will not be impacted significantly. The rates listed in the rule are increased 6.25%. The EMS agency billings increase by 6.25% which will offset declining collections, wage increases, and the increased equipment costs.
♦ SMALL BUSINESSES: EMS budgets will not be impacted. The ambulance transport rate increase is 6.25% from current ambulance rates to offset declining collections, wage increases, and the increased equipment costs.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: EMS budgets will not be impacted. The ambulance transport rate increase is 6.25% from current ambulance rates to offset declining collections, wage increases, and the increased equipment costs. Individuals who are transported by ambulance will be impacted slightly with this 6.25% rate increase.

COMPLIANCE COSTS FOR AFFECTED PERSONS: EMS agencies are allowed to bill the rates listed in the proposed rule and there are no costs to the agency for compliance.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I approve the publication of the amendment to Rule R426-8.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HEALTH
FAMILY HEALTH AND PREPAREDNESS,
EMERGENCY MEDICAL SERVICES
3760 S HIGHLAND DR
SALT LAKE CITY, UT 84106
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Guy Dansie by phone at 801-273-6671, by FAX at 801-273-4165, or by Internet E-mail at gdansie@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 06/08/2015

AUTHORIZED BY: David Patton, PhD, Executive Director

R426. Health, Family Health and Preparedness, Emergency Medical Services.
R426-8. Emergency Medical Services Ambulance Rates and Charges.
R426-8-1. Authority and Purpose.

(1) This rule is established under Title 26, Chapter 8a.

(2) The purpose of this rule is to provide for the establishment of maximum ambulance transportation and rates to be charged by licensed ambulance services in the State of Utah.

R426-8-2. Ambulance Transportation Rates and Charges.

(1) Licensed services operating under R426-3 shall not charge more than the rates described in this rule. In addition, the net income of licensed services, including subsidies of any type, shall not exceed the net income limit set by this rule.

(a) The net income limit shall be the greater of eight percent of gross revenue or 14 percent return on average assets.

(b) Licensed Services may change rates at their discretion after notifying the Department, provided that the rates do not exceed the maximums specified in this rule.

(c) An agency may not charge a transportation fee for patients who are not transported.

(2) The initial regulated rates established in this rule shall be adjusted annually on July 1, based on financial data as delineated by the department to be submitted as detailed under R426-8-2(9). This data shall then be used as the basis for the annual rate adjustment.

(3) Base Rates for ground transport to care facility -

(a) Ground Ambulance - $[~~655.00~~]696.00 per transport.

(b) Advanced EMT and EMT-IA Ground Ambulance - $[~~865.00~~]919.00 per transport.

(c) Paramedic Ground Ambulance - $[~~1,265.00~~]1,344.00 per transport.

(d) Ground Ambulance with Paramedic on-board - $[~~1,265.00~~]1,344.00 per transport if:

(i) a dispatch agency dispatches a paramedic licensee to treat the individual;

(ii) the paramedic licensee has initiated advanced life support;

(iii) on-line medical control directs that a paramedic remain with the patient during transport; and

(iv) an ambulance service that interfaces with a paramedic rescue service and has an interlocal or equivalent agreement in place, dealing with reimbursing the paramedic agency for services provided up to a maximum of $[~~269.82~~]286.68 per transport.

(4) Mileage Rate-

(a) $31.65 per mile or fraction thereof.

(b) In all cases mileage shall be computed from the point of pickup to the point of delivery.

(c) A fuel fluctuation surcharge of $0.25 per mile may be added when diesel fuel prices exceed $5.10 per gallon or gasoline exceeds $4.25 as invoiced.

(5) Surcharge-

(a) If the ambulance is required to travel for ten miles or more on unpaved roads, a surcharge of $1.50 per mile may be assessed.

(6) Special Provisions -

(a) If more than one patient is transported from the same point of origin to the same point of delivery in the same ambulance, the charges to be assessed to each individual will be determined as follows:

(i) Each patient will be assessed the transportation rate.

(ii) The mileage rate will be computed as specified, the sum to be divided equally between the total number of patients.

(b) A round trip may be billed as two one-way trips.

(c) An ambulance shall provide 15 minutes of time at no charge at both point of pickup and point of delivery, and may charge $22.05 per quarter hour or fraction thereof thereafter. On round trips,

30 minutes at no charge will be allowed from the time the ambulance reaches the point of delivery until starting the return trip. At the expiration of the 30 minutes, the ambulance service may charge $22.05 per quarter hour or fraction thereof thereafter.

(7) Supplies and Medications -

(a) An ambulance licensee may charge for supplies and providing supplies, medications, and administering medications used on any response if:

(i) supplies shall be priced fairly and competitively with similar products in the local area;

(ii) the individual does not refuse services; and

(iii) the ambulance personnel assess or treats the individual.

(8) Uncontrollable Cost Escalation -

(a) In the event of a temporary escalation of costs, an ambulance service may petition the Department for permission to make a temporary service-specific surcharge. The petition shall specify the amount of the proposed surcharge, the reason for the surcharge, and provide sufficient financial data to clearly demonstrate the need for the proposed surcharge. Since this is intended to only provide temporary relief, the petition shall also include a recommended time limit.

(b) The Department will make a final decision on the proposed surcharge within 30 days of receipt of the petition.

(9) Operating report -

(a) The licensed service shall file with the Department within 90 days of the end of each licensed service's fiscal year, an operating report in accordance with the instructions, guidelines and review criteria as specified by the Department. The Department shall provide a summary of operating reports received during the previous state fiscal year to the EMS Committee in the October quarterly meeting.

(10) Fiscal audits -

(a) Upon receipt of licensed service fiscal reports, the Department shall review them for compliance to standards established.

(b) Where the Department determines that the audited service is not in compliance with this rule, the Department shall proceed in accordance with Section 26-8a-504.

R426-8-3. Penalty for Violation of Rule.

As required by Subsection 63G-3-201(5): Any person that violates any provisions of this rule may be assessed a civil money penalty as provided in Section 26-23-6.

KEY: emergency medical services
Date of Enactment or Last Substantive Amendment: [~~March 24, 2014~~]2015
Notice of Continuation: January 5, 2011
Authorizing, and Implemented or Interpreted Law: 26-8a

Human Services, Administration
R495-820
Institutional Review Board

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 39270
FILED: 04/14/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to set forth procedures and standards that are in compliance with the federal requirements for the review and approval of research activities that propose to target or recruit the Department's clients or employees and/or access data from the Department's publicly-funded client population or the Department's employees, including additional requirements specific or unique to the Department.

SUMMARY OF THE RULE OR CHANGE: This rule establishes the Department Institutional Review Board (IRB).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-1-111

MATERIALS INCORPORATED BY REFERENCES:

- Adds 21 CFR 56, published by Government Printing Office, 04/01/2014
- Adds 21 CFR 312, published by Government Printing Office, 04/01/2014
- Adds 45 CFR 46, published by Government Printing Office, 01/15/2009
- Adds 21 CFR 50, published by Government Printing Office, 04/01/2014
- Adds 21 CFR 812, published by Government Printing Office, 04/01/2014
- Adds 45 CFR 164, published by Government Printing Office, 10/01/2007

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: There will be no increase in cost or savings to the state budget because this proposed rule will not increase workload that would require additional staff or other costs.

♦ LOCAL GOVERNMENTS: Local governments have no responsibility for the Department's IRB and are therefore not affected by this rule and will have no fiscal impact.

♦ SMALL BUSINESSES: Small businesses have no responsibility for the Department's IRB and are therefore not affected by this rule and will have no fiscal impact.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no expected fiscal impact for individuals in the category of "persons other than small businesses, businesses, or local government entities."

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no cost to affected persons because they will only need to follow the existing guidelines which have no fiscal impact.

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

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

HUMAN SERVICES
ADMINISTRATION
DHS ADMINISTRATIVE OFFICE
MULTI STATE OFFICE BUILDING
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Frank Rees by phone at 801-344-4203, by FAX at 801-538-3942, or by Internet E-mail at frees@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 06/08/2015

AUTHORIZED BY: Ann Williamson, Executive Director

R495. Human Services, Administration.
R495-820. Institutional Review Board.
R495-820-1. Purpose.

(1) The purpose of this rule is to set forth procedures and standards that are in compliance with the federal requirements of 45 CFR 46, 21 CFR 50, 21 CFR 56, 21 CFR 312, 21 CFR 812, 45 CFR 164.508, and 45 CFR 164.512 for the review and approval of research activities that propose to target or recruit the Department's clients or employees and/or access data from the Department's publicly-funded client population or the Department's employees, including additional requirements specific or unique to the Department.

(2) The DHS IRB serves as the Institutional Review Board for the Department.

R495-820-2. Authority.

(1) This rule establishes procedures and standards for the review of research proposals, as authorized under Section 62A-1-111.

R495-820-3. Definitions.

(1) The definitions found in the United States federal regulations at 45 CFR 46(January 15, 2009), 21 CFR 50(April 1, 2014), 21 CFR 56 (April 1, 2014), 21 CFR 312 (April 1, 2014), 21 CFR 812 (April 1, 2014) , and 45 CFR 164 (October 1, 2007) are incorporated by reference, including by not limited to:

(a) "Human subject" defined in 45 CFR 46.102.

(b) "Legally Authorized Representative" defined in 45 CFR 46.102.

(c) "Minimal risk" defined in 45 CFR 46.102.

(d) "Phase I study" defined in 21 CFR 312.21.

(e) "Phase II study" defined in 21 CFR 312.21.

(f) "Phase III study" defined in 21 CFR 312.21.

(g) "Research" defined in 45 CFR 46.102.

(2) The following are defined for purposes of this section.

(a) "Adverse Event" means any unfavorable incident or unintended sign (including abnormal laboratory finding), symptom, or disease temporally associated with enrollment in a research study, whether or not considered related to the product, intervention, or treatment being tested. An adverse event also means any emotional distress, psychological trauma, invasion of privacy, embarrassment, loss of social status or employment, or economic impact that may be related to participation in the research.

(b) "Serious Adverse Event" means an adverse event that results in any of the following:

(i) Death, or a life threatening event;

(ii) Inpatient hospitalization or prolongation of existing hospitalization;

(iii) Significant, persistent, or permanent harm or disability either physically or psychologically;

(iv) A congenital anomaly or a birth defect; or

(v) Any medically significant event that may jeopardize the subject and may require medical or surgical intervention to prevent one of the outcomes listed in this definition.

(c) "Conflict of Interest" means any situation where the researcher has financial, economic, social, political, familial, legal or other interests which interfere with, or have the potential to interfere with, their judgment in connection with the research.

(d) "Department" means the Utah State Department of Human Services, also referred to as DHS.

(e) "Department's employee" means anyone who has been hired into a full or part-time position whether merit or non-merit with the Department, and for the purposes of this Rule includes any volunteer, student intern, or individual serving a field practicum with the Department.

(f) "DHS IRB" means the Department's Institutional Review Board.

(g) "Division" means any of the Department's divisions, offices, or agencies.

(h) "Foreseeable Risk" means any risk the researcher or sponsor knew, or should have known, would pose a risk to human research subjects.

(i) "Gatekeeper" means the Division Representative on the IRB who serves as the primary reviewer and liaison between researchers and the Department.

(j) "Guardian" means a person who is legally qualified as a guardian of a minor or incapacitated person, but excludes a Guardian ad Litem.

(k) "Less than minimal risk" research refers to research in which the researcher will not contact the human subject in person, but may request access to client or employee data maintained by the Department or its contractors, and the risk of harm or discomfort to the human subject is less than minimal risk as defined in 45 CFR 46.102.

(l) "Serious mental illness" means Major Depression, Bipolar Disorder, Schizophrenia, Dissociative Disorder, other psychotic illnesses, Attention-Deficit Hyperactivity Disorder, Post Traumatic Stress Disorder, Borderline Personality Disorder, Reactive Attachment Disorder, and Panic Disorder.

(m) "Proposal" means the application completed by the researcher and submitted to the division gatekeeper for consideration.

(n) "Publicly-funded client population" means individuals receiving services funded directly or indirectly by the Department, including clients' family members, clients' victims, or local community mental health, substance abuse, and aging and adult service consumers where the local agency receives pass-through funds from the Department to provide services to the community.

(o) "Researcher" means anyone seeking to access data or recruit clients or employees of the Department for research purposes, and anyone proposing or conducting research activities. This may include the researcher's employees, staff, or assistants.

(p) "Review Determination" means the outcome of an IRB review which may be any of the following:

(i) "Final Approval" means the determination of the DHS IRB that the research has been reviewed and may be conducted within the constraints set forth by the DHS IRB.

(ii) "Conditional approval" means the DHS IRB requires specific revisions or verifications before final approval will be granted. Conditional approval does not authorize research activities, including but not limited to subject contact or recruitment, to proceed.

(iii) "Deferred Decision" means the DHS IRB did not have sufficient information to complete a review. The DHS IRB may review the research proposal at a future time after the DHS IRB receives sufficient information.

(iv) "Disapproval" means the DHS IRB denies the proposal and will not approve the proposal, with or without changes.

(v) "Exempt" means the proposal does not qualify as research as defined in 45 CFR 46.102 and in accordance with 45 CFR 46.101 and is not subject to ongoing DHS IRB oversight. Exempt status is determined by the DHS IRB or gatekeeper.

(q) "Vulnerable adult" is as defined in UCA 62A-3-301.

R495-820-4. Administrative Support.

(1) The DHS IRB has limited resources and cannot review proposals that are not supported by the facility or program administrators who have authority over the publicly-funded client population or client data. To submit a research proposal, a researcher must acquire:

(a) Prior written approval of the proposal from the facility and program administrator of each program where a member of the client population receives services funded directly or indirectly by the Department;

(i) the proposal must clearly describe what administrative or other support, if any, the facility, program, or staff may be asked to provide;

(ii) approval of a proposal does not obligate DHS to provide a researched with any requested administrative or other support; and

(b) Approval from the applicable division director or gatekeeper. The gatekeepers will only process and submit to the DHS IRB proposals that they have approved.

(2) In the sole discretion of DHS, if the volume of research requests becomes too great for the Divisions to process, the Division directors or designees reserve the right to suspend or postpone their review of study requests. DHS cannot guarantee responses or reviews within any particular timeframe. The Division director or designee also reserves the right, in their sole discretion and based upon their professional judgment, to deny any study request that conflicts or interferes with the best interest of programs or the safety of the publicly-funded client population.

R495-820-5. Research Involving Human Subjects.

(1) The requirements of the United States regulations at 45 CFR 46, 21 CFR 50, 21 CFR 56, 45 CFR 164.508, and 45 CFR 164.512 are incorporated by reference.

(2) In addition to the federal regulations incorporated by reference, the Department requires standard procedures for all research involving human subjects. Researchers are required to complete and electronically submit all forms in the application section of the DHS IRB website and to comply with these rules.

(3) Final approval from the DHS IRB must be granted before the researcher begins any research involving human subjects.

(4) Informed consent must follow requirements outlined in 45 CFR 46.116. In addition the researchers must adhere to the following:

(a) The researcher must consult with the division gatekeeper to determine who has legal authority to grant consent for their clients. If a minor's or vulnerable adult's guardianship changes then research shall be suspended until the researcher obtains an updated consent from the new guardian.

(b) The research participant (human subject) must give written informed consent. Depending on the participant population, the DHS IRB may require a written determination by the proposed participant's health care provider of capacity to consent, or require questions to assess comprehension. Where minors or vulnerable adults are involved as human subjects, provisions must be made for obtaining the informed assent of the minors or vulnerable adults, in addition to the written informed consent of their parents, guardians, or legally authorized representatives, in accordance with 45 CFR 46.408.

(c) Utah is a mandatory reporting state pursuant to UCA 62A-4a-403 and 62A-3-305; mandatory reporting requirements must be disclosed to potential participants during the consent/assent process and reflected in consent/assent documents. Mandatory reporting IS NOT REQUIRED when the survey or intervention is done anonymously with no means of identifying the respondent.

(d) The informed consent document must contain the DHS IRB gatekeeper's name and contact information as a person whom the participants can contact to gather more information regarding their rights as research participants.

(e) The informed consent document must contain a statement that the DHS IRB may review the researcher's records as part of the oversight authority referenced in section R495-820-14.

(5) Placebo research is restricted, see Utah Administrative Code R495-820-6.

(6) Remuneration for participation in the study must not be coercive, have the appearance or effect of being coercive, or be offered to entice individuals to participate in the study rather than receive traditional treatment. Compensation to research participants must be restricted to fair and reasonable remuneration. The DHS IRB reserves the right to determine whether proposed compensation is coercive or fair and reasonable.

(7) In addition to the restrictions in federal regulations, the DHS IRB will not approve the following:

(a) Studies which, in the discretion and professional judgment of the DHS IRB, involve a greater-than-minimal risk, and provide no benefit to the human subject, or provide no generalizable or program knowledge.

(b) Phase I and II studies.

(8) The DHS IRB will not review or approve medical research that includes pregnant women or fetuses as part of its target subject population where there is any foreseeable risk to a pregnant woman or her unborn fetus. Medical research studies shall include precautions to avoid enrollment of pregnant women, including requiring a pregnancy test prior to enrollment and requiring that women have a birth control plan they will follow while enrolled in the study.

(9) The DHS IRB shall require a written assurance from the researcher that upon completion of the study, the researcher will provide final closure information and findings to the DHS IRB. Study results shall be provided to DHS IRB and shall either be in a written report, an electronic format, or in a Clinical Trial Registration, and must have data analyzed and presented in a comprehensible and meaningful manner.

(a) Industry sponsors of and researchers involved in research studies, must commit in writing to publicly sharing final study results on or before the date that all sites have been closed, or all data analysis and report writing is completed.

(b) If a researcher or sponsor fails to make the study results public, the DHS IRB may refuse to consider future proposals from that researcher or sponsor.

(c) If a researcher or sponsor fails to provide study results to the DHS IRB, the DHS IRB may refuse to consider future proposals from that researcher or sponsor.

(10) Greater than minimal risk studies must address requirements outlined in 45 CFR 46.405 and 45 CFR 46.406.

R495-820-6. Research Involving Placebos.

(1) When the use of placebos is proposed, the Department imposes the following restrictions to protect participants from studies that would withhold active treatment:

(a) The DHS IRB shall not approve placebo studies that target individuals having:

(i) Any pending criminal case;

(ii) Who are incarcerated or in detention; or

(iii) Who have a pending competency evaluation or commitment procedure.

(iv) No minor or vulnerable adult under the guardianship or custody of any division of the Department may be recruited, enrolled, or participate in any research study that involves the use of a placebo.

(v) A serious medical or mental illness.

(b) If an individual has entered a study prior to involvement with civil or criminal legal proceedings, and subsequently becomes involved in any such action, the researcher shall report the event to:

(i) The DHS IRB;

(ii) The agency or entity that has assumed guardianship or responsibility for that person, if any.

(ii) If a minor or vulnerable adult has entered a study involving placebos prior to entrance into state guardianship or legal custody, then a referral will be made to the division gatekeeper or entity that has guardianship or custody, to determine whether the minor's or vulnerable adult's continued participation in the study is appropriate. That determination shall consider:

(A) The opinions of medical or psychological experts who have provided care for the minor or vulnerable adult prior to and during the study;

(B) If the placebo research involves a minor in the custody of the Division of Child and Family Services, the minor's Guardian ad Litem, if one has been appointed, shall be notified and that notification shall be documented in Department records and sent to the DHS IRB.

(C) If the minor's parent(s), prior to the minor's entrance into state custody or guardianship, had agreed to and signed an informed consent form prior to the minor's participation in the study.

(D) If the placebo research involves a vulnerable adult who is a ward of the Office of Public Guardian, the Office of Public Guardian shall be notified and that notification shall be documented in Department records and sent to the DHS IRB.

(c) Placebos may only be used in studies where no proven or known effective standard of care, prophylactic, diagnostic, or therapeutic method exists. If a proven or known effective standard of care or treatment exists, whether or not the standard of care has been subjected to empirical testing, that treatment shall not be withheld unless the participant is also receiving another known effective standard of care or treatment during the duration of his/her study participation. The IRB may consider for review placebo studies as long as participants continue to receive a known pharmaceutical and/or psychotherapeutic standard of care.

(d) Recruitment for the placebo study shall not be limited exclusively to subjects who are receiving services that are either partially or fully funded by monies allocated through the Department.

(e) If the minor or adult has a current diagnosis of serious mental illness at the beginning of a proposed study, the individual will be excluded from participation in placebo studies, unless the participant is also receiving, and continues to receive during the study participation, another active known effective standard of pharmaceutical or non-pharmaceutical care or treatment intervention.

(f) Frequent and close clinical monitoring, as dictated by the medical need of each client, is required in order to assure the ongoing safety and well-being of each human subject. Monitoring shall be documented by the researchers and medical personnel in each client's clinical record.

(g) Any individual with active homicidal or suicidal ideations, or who poses a foreseeable threat to themselves or others, is prohibited from participation in any study that involves the use of a placebo.

R495-820-7. Pre-Review.

(1) All research proposals submitted for DHS IRB review must first be reviewed by the division gatekeeper and have all concerns addressed and resolved to the satisfaction of the division gatekeeper no later than the last business day of the month preceding the DHS IRB meeting.

(2) Some research may be exempt from DHS IRB review as provided in 45 CFR 46.101(b). Division gatekeepers, alone or in consultation with the IRB chair, shall determine if the proposed

research is exempt from DHS IRB review. If proposed research is exempt, the division gatekeeper or chair will issue an exempt letter to the researcher. If the research is not exempt, the research proposal will be submitted for either expedited review or full board review by the DHS IRB.

R495-820-8. DHS IRB Reviews.

(1) DHS IRB reviews may be expedited in accordance with 45 CFR 46.110, in which case the division gatekeeper, alone or in consultation with the DHS IRB chair, may find research to be exempt, may defer a decision, grant conditional approval, or grant final approval of the research.

(2) Mandatory review by a convened quorum of the DHS IRB is required for the following:

(a) Research involving any interaction or intervention as defined in 45 CFR 46.102 with minors.

(b) Research involving any interaction or intervention as defined in 45 CFR 46.102 with vulnerable adults.

(c) Research involving prisoners or detainees.

(d) Research that is greater than minimal risk.

(e) Research involving the use of pharmaceuticals or biomedical devices.

(3) The DHS IRB meets on a monthly basis to review proposed research.

(4) The determinations of the DHS IRB will be submitted to the researcher in writing and may include the following:

(a) Final Approval for a timeframe not to exceed 12 months.

(b) Conditional Approval, including conditions that must be met to get final approval.

(c) Deferred decision including the information that will be needed in order to complete the review.

(d) Disapproval, including reasons for the disapproval.

(e) Exempt from DHS IRB review

(5) DHS IRB review may make recommendations on research methodology that is unlikely to yield clear results.

(6) In accordance with 45 CFR 46.109 it is the IRB that has authority to approve, require modifications to, or disapprove research. As stated in 45 CFR 46.112 agency officials may not approve research that has not been approved by the IRB. Researchers who disagree with the IRB determination may submit a revised protocol to address the IRB concerns or ask to meet with the IRB for further discussion.

R495-820-9. Ongoing Review.

(1) The DHS IRB has the authority to set the timeframe for ongoing review of research. The timeframe will be no greater than 12 months from the date of approval.

(2) The researcher is responsible to submit the ongoing review request form 60 days prior to the DHS IRB approval expiration date.

(3) The researcher cannot continue with any research activities past the approval expiration date unless renewal is granted as the result of an ongoing review, in which case a new expiration date will be given.

(4) Data collected after expiration of DHS IRB approval may be required to be destroyed.

R495-820-10. Amendments.

(1) If the researcher desires to deviate from the approved research proposal, including but not limited to changes in research design, procedures, or instruments, the researcher must submit an amendment request form to the DHS IRB detailing the proposed changed to the research proposal.

(2) The DHS IRB will review the proposed changes and send a determination to the researcher. The researcher may not proceed with the proposed change unless final approval of the amendment is granted.

(3) Data collected from a proposal change that was not approved by the DHS IRB may be required to be destroyed.

R495-820-11. Research Misconduct.

(1) Allegations of research misconduct by researchers shall be reported to the DHS IRB chair or the DHS Deputy Director. Upon receipt of research misconduct the DHS IRB chair may initiate an investigation which includes:

(a) Request a report of related adverse events.

(b) Request an audit of the research by the Department of Human Services Bureau of Internal Review and Audit.

(c) Review research records.

(d) Suspend or terminate DHS IRB approval during investigation in accordance with 45 CFR 46.113.

(e) Review findings with DHS IRB board at which time approval may be revoked.

(f) Report research misconduct to the U.S. Department of Health and Human Services, Office of Human Research Protections.

(g) Set up more frequent ongoing reviews.

(h) Require changes to the protocol.

(i) Suspend research until changes have been made, approved, or determination that research is following approved proposals.

(2) Research misconduct by the Department's providers is also subject to Rule R495-876, Provider Code of Conduct.

R495-820-12. Conflicts of Interest.

(1) Conflicts of interest by the researcher shall be reported to the DHS IRB in the proposal forms.

(2) Any concerns of conflicts of interest by DHS IRB members shall be reported to the DHS IRB chair.

R495-820-13. Oversight.

(1) Researchers must report Serious Adverse Events immediately to the DHS IRB. The DHS IRB will review and may impose additional conditions for continued approval of the research.

(2) Adverse events must be reported during ongoing review.

(3) In accordance with 45 CFR 46.103 (4), the DHS IRB is responsible to ensure research is being conducted as written in the proposal and that material changes have not occurred since previous DHS IRB review. To do this the DHS IRB may:

(a) Conduct an audit of the research with the assistance of the Department of Human Services Bureau of Internal Review and Audit.

(b) Inspect research records.

(c) Visit research site.
(d) Observe consent process or research.
(e) If any of the above activities indicate research has deviated from the approved proposal the DHS IRB may suspend or terminate DHS IRB approval. Researchers would be required to submit an updated proposal and received final approval of the updated proposal before continuing their research.

R495-820-14. Records Management.
(1) IRB records are kept in accordance with 45 CFR 46.115 and Utah State Archives retention schedule series 27250.
(2) Records have a primary designation of public and a secondary designation of protected under UCA 63G-2-305 (1) and (4) or controlled under UCA 63G-2-304.

KEY: Institutional Review Board, research
Date of Enactment or Last Substantive Amendment: 2015
Authorizing, and Implemented or Interpreted Law: 62A-1-111

Human Services, Aging and Adult Services
R510-100
Funding Formulas

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 39272
FILED: 04/14/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division, the State Board on Aging, and the twelve area agencies that receive funding via the formulas in this rule have spent the past year and a half reviewing and updating the Alternatives Program's funding formula. The Board voted on 04/08/2015 to change the formula and this amendment reflects the changes that were approved.

SUMMARY OF THE RULE OR CHANGE: The Alternatives Program's funding formula has been changed to take out an old hold harmless clause, update the base amount each area agency on aging receives to operate the program, and the weighting of the demographic elements of the formula. The changes are made to reflect changes in Utah's aging population and to better distribute funds to agencies based on mutually agreed upon principles of the program. The state board has the responsibility to approve changes to the funding formula. The Division and area agencies worked through multiple meetings to develop these changes which were then ratified by the Board.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-3-108

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The changes are cost neutral to the state. The same funds will be appropriated and distributed following these changes.
♦ LOCAL GOVERNMENTS: The approved changes will alter the way funds are distributed to the twelve area agencies on aging, which operate within county governments. These agencies may see increases or decreases in funding based on the changes to the funding formula. These changes were made in consultation with the area agencies and upon the approval of the state board on Aging which has statutory authority to approve these changes.
♦ SMALL BUSINESSES: The funding formula determines how funds are distributed to county government area agencies on aging. These agencies in turn contract with small business providers. The formula changes could potentially increase or decrease the amount of business these providers receive from the area agencies.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Funding determines the number of clients an area agency on aging can serve under the Alternatives Program. The formula changes being proposed may increase or decrease funds received by these agencies and in turn have an effect on the number of clients served in a particular area.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with these formula changes.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: With the change in the allocation methodology, some of the urban areas will lose funding, which will impact providers serving the elderly. In contrast, some of the rural areas will see a greater demand for services due to an increased allocation. The urban areas are better resourced to manage the change though there will still be a significant impact.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HUMAN SERVICES
AGING AND ADULT SERVICES
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Nels Holmgren by phone at 801-538-3921, by FAX at 801-538-4395, or by Internet E-mail at nholmgren@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 06/08/2015

AUTHORIZED BY: Nels Holmgren, Director

R510. Human Services, Aging and Adult Services.
R510-100. Funding Formulas.
R510-100-1. Older Americans Act.

(1) Compliance with State and Federal Law for Older Americans Act (OAA).

(a) The Division of Aging and Adult Services (Division) shall develop an intrastate funding formula for distribution of OAA, Title III: Grants for State and Community Programs on Aging funds and State general funds for social and nutrition services which complies with 45 CFR, Subchapter C, Part 1321.37 and with Section 62A-3-108.

(b) The formula shall be reviewed whenever a new State Plan on Aging is required to be submitted.

(2) Affected Funding Sources for OAA.

(a) The funding formula shall include:

(i) All federal funds received under Title III of the OAA with the exception of:

(A) Allowable State Division administrative funds, and

(B) Funds allocated to the State-delivered Long-Term Care Ombudsman Program.

(ii) All state funds appropriated for Title III social and nutrition services.

(b) The funding formula shall not include state or federal funds appropriated for:

(i) The Alternatives Program,

(ii) Adult Services under the Division, or

(iii) Funds identified under Section 62A-3-108(2).

(3) Funding Formula Factors for OAA.

(a) The funding formula shall incorporate the following factors:

(i) Base factor divided equally among the twelve Area Agencies on Aging (AAA) in existence on July 1, 1986;

(ii) Population factor comprised of each AAA's proportion of the State's weighted elderly population; and

(iii) Land area factor consisting of each AAA's proportion of the State's total adjusted square miles.

(b) Weighted elderly population shall consist of:

(i) The number of persons age 60 and over who have annual incomes below 125% of the poverty level, plus

(ii) The number of persons age 75 and over weighted two times, plus

(iii) The number of minority persons, as defined by the Governor's Office of Planning and Budget, age 60 and over.

(c) All population figures utilized shall reflect the most recent U.S. census figures adjusted on an annual basis based on available population estimates from the Governor's Office of Planning and Budget.

(4) Base Restrictions for OAA.

(a) If any AAA in existence on July 1, 1986, should in the future sub-divide into two or more AAAs, the base amount allocated to the original AAA shall be divided proportionally among the new AAAs.

(5) Base Factor Funds.

(a) Base factor funds shall consist of those federal Title III and state funds appropriated for Title III social and nutrition services and allocated as base funds in FY 2003.

(6) Funding Distribution for OAA.

(a) Distribution of funds under the formula shall be as follows:

(i) Base factor funds;

(ii) 7.5% of total remaining formula funds allocated to the land area factor; and

(iii) 92.5% of total remaining formula funds allocated to the population factor.

R510-100-2. In-Home Services.

(1) Affected Funding Sources for In-Home Services.

(a) The funding formula shall include all federal and state funds appropriated for use by local area agencies on aging to be used for in-home services with the exception of:

(i) funds allocated under Section R510-100-1 and

(ii) funds identified under Section 62A-3-108(2), and

(iii) Adult Services funded under the Division pursuant to Section 62A-3-301 et seq.

(2) Funding Formula Factors for In-Home Services.

(a) The funding formula shall include the following factors:

(i) Land area factor consisting of each AAA's proportion of the state's total adjusted square miles.

(ii) Population factor comprised of each AAA's proportion of the designated population factors.

(iii) Base amount of $35,000[~~$16,000~~] allocated to each Area Agency on Aging.

(b) Designated population factors shall consist of the following five categories and the percentage that the number from each category represents of the total combined number of all five categories:

(i) The number of minority persons, as defined by the Governor's Office of Planning and Budget, age 60 and over [~~weighted 10%~~]and at or below the federal poverty level,

(ii) The number of [~~all~~]persons [~~age 18-59 weighted 5%,~~] with a disability 60 years of age and older and at or below the federal poverty level,

(iii) The number of [~~all~~]persons 60 to 74 years of age [~~and over weighted 55%~~]at or below the federal poverty level calculated as its proportion of the total clients 60 years of age and older served by the In-Home Services program for the previous state fiscal year, and

(iv) The number of [~~all~~]persons 75 to 84 years of age [~~and over weighted 30%.~~]at or below the federal poverty level calculated as its proportion of total clients 60 years of age and older served by the In-Home Services program for the previous state fiscal year, and,

(v) The number of persons 85 years of age and older at or below the federal poverty level calculated as its proportion of the total clients 60 years of age and older served by the In-Home Services program for the previous state fiscal year.

(c) All population figures utilized shall reflect the most recent U.S. census figures adjusted on an annual basis based on available population estimates from the Governor's Office of Planning and Budget.

(3) Funding Distribution for In-Home Services.

(a) Distribution of funds under the formula will be as follows:

(i) [~~10%~~]7% of total formula funds allocated to the land area factor; and

(ii) [~~90%~~]93% of total formula funds allocated to the population factor.

(4) Funding Formula Phase-In for In-Home Services.

[~~(a) Funds allocated in fiscal year 1993 shall be held harmless.~~

~~(b) New funds above the fiscal year 1993 level shall be allocated by the in-home services funding formula.~~

~~(5) The following is the funding formula adjustment phase-in period for In-Home Services:~~

] (a) The Division is authorized to apply an adjustment to the allocation calculated in accord with funding formula contained in paragraph (2) of this section for five fiscal years beginning with FY [~~2004~~]2016.

(b) Each adjustment shall be applied to the allocation to all area agencies calculated in accord with the funding formula contained in paragraph (2) of this section and shall represent 20% of the difference [~~between the~~]in funds compared with the fiscal year 2015 funding [~~allocated~~]in accord with paragraph (2) of this section[~~and the allocation for FY 2004~~].

R510-100-3. Long-Term Care Ombudsman Program.

(1) Affected funding sources for the Long-Term Care Ombudsman (LTCO) Program.

(a) All Federal and State funds received for delivery of the LTCO Program with the exception of State Division administrative funds.

(i) Funding Formula for the LTCO Program.

The funding formula for the LTCO Program shall allocate dollars to each designated AAA based on the following factors:

(A) Federal Funds.

Using the base allocation of federal funds available for the LTCO program during State Fiscal Year 1993, each designated AAA will receive an equal share of the dollars available.

Additional funds that may become available above the base allocation will be distributed based on each AAA proportion of long-term care beds in the State as reported by the State Department of Health and the Division for the preceding year. Long-term care beds shall include licensed nursing facility beds, licensed residential care beds, and approved adult foster care beds.

(B) State General Funds.

A base allocation of $60,000 shall be distributed equally to each designated AAA.

State General funds in excess of this base allocation shall be distributed based on each AAA's proportion of long-term care beds in the State, as reported by the State Department of Health and the Division for the preceding year.

KEY: elderly, funding formula, long-term care ombudsman
Date of Enactment or Last Substantive Amendment: [~~September 11, 2003~~]2015
Notice of Continuation: July 11, 2012
Authorizing, and Implemented or Interpreted Law: 62A-3-108

Human Services, Aging and Adult Services
R510-400
Home and Community Based Alternatives Program

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 39269
FILED: 04/14/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The amendment will clarify the process for transferring clients in the Home and Community Based Alternatives Program and eliminate repetitive working and procedures.

SUMMARY OF THE RULE OR CHANGE: The amendment is to clarify the client care plan and eliminate repetitiveness of "goals and objectives" contained in the rule and the care plan. The amendment will change the need for an entrance interview under contract compliance and fix spelling errors.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 62A-3-101 through 62A-3-312

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: This amendment clarifies procedure on home and community based alternatives programs and does not require any resources that would impact state or local government.
♦ LOCAL GOVERNMENTS: This amendment clarifies procedure on home and community based alternatives programs and does not require any resources that would impact state or local government.
♦ SMALL BUSINESSES: This amendment clarifies procedure on home and community based alternatives programs and does not require any additional resources or staff.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This amendment clarifies procedure on home and community based alternatives programs and does not require any changes or resources that would impact persons other than small businesses, businesses, or local government.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment clarifies procedure on home and community based alternatives programs and does not require any changes or resources that would impact affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule has no impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HUMAN SERVICES
AGING AND ADULT SERVICES
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Michael Styles by phone at 801-538-4641, by FAX at 801-538-4395, or by Internet E-mail at mstyles@utah.gov
♦ Nels Holmgren by phone at 801-538-3921, by FAX at 801-538-4395, or by Internet E-mail at nholmgren@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 06/08/2015

AUTHORIZED BY: Nels Holmgren, Director

R510. Human Services, Aging and Adult Services.
R510-400. Home and Community Based Alternatives Program.
R510-400-1. Purpose.

(1) The Home and Community Based Alternatives program provides a comprehensive array of quality, client centered services. The services are delivered in a variety of community settings designed to provide a choice of service delivery options to the eligible client who can continue to live in their own home, if their needs for social and medical services can be met. Home and Community Based Alternatives services contribute to improving the quality of life and help to preserve the independence and dignity of the recipient. This rule is intended to clarify the obligations and options available to administrators of the program and to ensure compliance with state and federal regulations.

(2) The objective of the Older Americans Act Title IIIB Services is to provide services to frail older clients, including the older client who is a victim of Alzheimer disease and related disorders with neurological and organic brain dysfunction, and to their family.

R510-400-2. Authority.

(1) The Division of Aging and Adult Services is given rulemaking authority by Section 62A-3-104. The Home and Community Based Alternatives program is provided by the Older Americans Act Title IIIB. The Utah State Department of Human Services is the umbrella agency with oversight responsibility provided by the Division of Aging and Adult Services (DAAS). The Home and Community Based Alternatives program is funded from several sources and administered by the Division of Aging and Adult Services.

R510-400-3. Definitions.

(1) Adult means an individual who is 18 years of age or older.

(2) Aging and Aged means an individual who is 60 years of age or older.

(3) Agency means the designated Area Agency on Aging or other sub-contracting agency which may be selected by the Division, if the designated Area Agency on Aging declines to be a contractor or has been determined to be out of compliance with the contract.

(4) Assessment means a complete review of an individual's current strengths and deficits, living environment, social resources and care giving needs.

(5) Assessment Instrument means a document that meets minimum assessment criteria, as approved by DAAS, for documenting the needs of individuals.

(6) Caregiver means an individual who has the primary responsibility of providing care and/or supervision to an adult, three or more times a week.

(7) Care Plan means a written plan which contains a description of the needs of the client, the services necessary to meet those needs, the provider of those services, the funding source, and the goals to be achieved.

(8) Case Management means assessment, reassessment, determination of eligibility, development of a care plan, on-going documentation, arranging client specific services, case recording, client monitoring and follow-up.

(9) Chore Services consists of heavy household chores such as washing floors, windows and walls, tacking down loose rugs and tiles, and moving heavy furniture.

(10) Department means the Utah State Department of Human Services.

(11) Director means the Director of the Agency.

(12) Division means the Utah State Division of Aging and Adult Services.

(13) Emergency means that a vulnerable adult is at risk of death or immediate and serious harm to self or others. Section 62A-3-301(6) through (12).

(14) Equipment, Rent or Purchase means rental or purchase of equipment deemed necessary for the client's care.

(15) Home means an individual's place of residence.

(16) Home Health Aid means basic assistance and health maintenance by an Aide to individuals in a home setting under the direction of appropriate health professionals.

(17) Homemaker Services mean services which provide assistance in maintaining the client's home environment and home management. This includes, but is not limited to, assistance with vacuuming, laundry, dish washing, dusting, cleaning bathroom, changing bed linen (unoccupied bed), cleaning stove and refrigerator, ironing, and garbage disposal; which relate to the client's well being.

(18) Home and Community Based Alternatives Services means a comprehensive array of services that are provided to an individual which enable him to increase self-sufficiency and to maintain their functional independence.

(19) Protective Services means services provided by the Division, including the services of guardian and conservator provided in accordance with Title 75, Utah Uniform Probate Code, to assist persons in need of protection to prevent or discontinue abuse, neglect, or exploitation until that condition no longer requires intervention. The services shall be consistent, if at all possible, with the accustomed lifestyle of the vulnerable adult as provided by Section 62A-3-301(12).

(20) Personal Attendant Services are defined as personal and non-medical supportive services specific to the needs of a medically stable adult experiencing chronic physical or cognitive functional impairments who is capable of directing their own care or who has a surrogate available to direct the care.

(21) Personal Care means assistance with activities of daily living in a home setting to an individual who is unable to perform activities of daily living independently or when the care giver is temporarily absent or requires respite.

(22) Respite means a rest or relief for the primary Caregiver from care giving tasks and responsibilities, to maintain the Caregiver as the primary person delivering care-giving activities.

(23) Risk Score means a score that reflects the amount of risk an individual has of premature institutionalization. Risk score is

determined using a DAAS approved assessment instrument that reflects a moderate to high risk of functional, environmental, social resource and care giving needs of an individual.

(24) Screening Tool means an instrument that initially determines the client's level of functioning to determine the need for long-term Home and Community Based Services.

(25) Vulnerable Adult means an elder adult, or an adult who has a mental or physical impairment which substantially affects that person's ability to:

(a) Provide personal protection;

(b) Provide necessities such as food, shelter, clothing, or mental or other health care;

(c) Obtain services necessary for health, safety, or welfare;

(d) Carry out the activities of daily living;

(e) Manage the adult's own resources; or

(f) Comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation. Section 62A-3-301(26).

R510-400-4. Funding Sources.

(1) The Home and Community Based Alternatives program is funded by a variety of Federal, State and local community dollars, program fees, voluntary and public contributions.

(2) The Older Americans Act Title IIIB Services Programs are funded by Federal dollars allocated by Congress, State matching funds, local matching funds and voluntary contributions.

(3) PROCEDURES-Funding Limitations:

(a) Within each Agency at least 75% of the program funding shall be used to serve clients aged 60 or older.

(b) The Division shall establish the program expenditure limit per client, prior to July 1 of each year.

(c) At the discretion of the Director or designee, waivers of the expenditure limit can be approved using the Expenditure Limit Waiver Process outlined below.

(4) PROCEDURES-Expenditure Limit Waiver Process:

(a) Waivers of the allowed expenditure limit may be granted on an individual basis.

(b) Requests for a waiver must be in writing and approved by the Agency Director or their designee.

(c) Waiver requests, documentation, and accompanying approval or denial must be maintained in the Client's file.

(d) The waiver must be re-approved with each Eligibility Declaration determination.

R510-400-5. Eligibility.

(1) Services may be provided as funds permit to eligible adults as determined by DAAS Policy and Procedures for Home and Community Based Alternatives services.

(2) Older Americans Act Title IIIB Services may be provided to eligible Aging and Aged Adults.

(3) PROCEDURES-Home and Community Based Alternatives Program Eligibility:

(a) The DAAS Eligibility Declaration form shall be used to determine financial eligibility.

(b) Eligibility is determined by the Agency using the following criteria:

(i) Age: Clients must meet the definition of an Adult.

(ii) Income and Assets:

(A) Income and asset guidelines shall be established by the Division prior to July 1 of each year and shall remain in effect until suspended.

(B) The Client's and their spouse's income and assets will be considered in determining eligibility using the DAAS Eligibility Declaration form.

(iii) Frailty level:

(A) The Client's Assessment Risk Score must be at a moderate to high level as measured by a DAAS approved assessment instrument.

(iv) Payer of last resort:

(A) Payer of last resort is the term used to denote that the Alternatives program is liable for payment for care and services only after all other liable third parties have met their legal obligation to pay.

(4) PROCEDURES-Older American Act Titles IIIB Services Program eligibility:

(a) Clients are determined eligible based on age and need. Income and Assets will not be used as a basis for providing services under Older Americans Act Service Programs.

(b) Eligibility is determined by the Agency using the following criteria:

(i) Age: Clients must be 60 years of age or older.

(ii) Need Criterion: The Client must have an Assessment Risk Score at a moderate to high level as measured by a DAAS approved assessment instrument.

R510-400-6. Authorized Services.

(1) The Agency may provide or arrange for an array of Home and Community Based Alternatives services, determined by assessment to be essential to maintain the individual's independence in order for him to remain in the home.

(2) PROCEDURES-Authorized Services:

(a) The Home and Community Based Alternatives services program may also provide an additional array of services based upon client need and which program funding permits that allows clients to remain in their own home. These services include case management and other services such as homemaker, personal care, home health, skilled health care, respite, equipment rental or purchase, emergency response systems or other services as needed. Case Managers, in providing case management and other services as appropriate, are encouraged to use innovation to efficiently and effectively meet client needs.

(b) Older Americans Act Title IIIB Program Services shall be provided as specified in the Older Americans Act 1965 as amended (Sections 306(a)(2)).

R510-400-7. Fees and Voluntary Contributions.

(1) Fees shall be assessed for all clients receiving Home and Community Based Alternatives services. Fees are based on the client's and spouse's adjusted income as determined by the DAAS Eligibility Declaration form and calculated against the Department's Fee Schedule.

(2) Older Americans Act Title IIIB Program participants shall not be assessed fees for receiving Older Americans Act Title IIIB funded services. Clients receiving Title IIIB services shall be given the opportunity to make a confidential donation to the program.

(3) PROCEDURES-Fees:

(a) The Agency shall establish procedures for fee collection. Every reasonable effort shall be made to collect the required fee. Services may be terminated for refusal to pay the required service program fee.

(b) Clients whose income and/or assets are above the maximum eligibility guideline, may purchase Home and Community Based Alternative services at cost.

(c) Waivers for full or partial fees may be granted on an individual basis using the following process:

(i) Case Managers will document the circumstances which necessitate a waiver of the fees.

(ii) The request must be made in writing.

(iii) The Agency Director or their designee must approve the waiver.

(iv) The documentation must be maintained in the Client's files at all times.

(v) All fee waivers must be re-approved with each new request by the Case Manager or on an annual basis.

(A) Clients shall be informed as to the cost of the services they receive under the Home and Community Based Alternatives program and Older American Act Title IIIB Program.

(4) PROCEDURES-Voluntary Contributions:

(a) Each client and family shall be given the opportunity to voluntarily contribute toward the cost of the service program.

R510-400-8. Service Provider Requirements.

(1) Home and Community Based Alternatives Services shall be provided through a public agency, a private licensed Service Provider Agency with at least one year experience in providing home support or home health services, or by an individual providing personal attendant services with demonstrated skills and abilities in providing the required services. The one-year experience requirement may be waived by the AAA Director or designee provided there is adequate documented justification.

(2) PROCEDURES-Service Provider Requirements:

(a) The service provider may be a public or private social service or health care agency.

(b) The agency must have one year of experience in providing in-home services.

(c) The service provider must be appropriately licensed.

(d) The service provider must maintain liability insurance and bonding of all employees.

(e) It is the responsibility of the service provider to:

(i) provide all employees with written instructions based upon the client's Care Plan;

(ii) instruct employees as needed in performing the required tasks

(iii) provide supervision of employees

(iv) inform employees regarding personal liability.

(3) PROCEDURES-Case Load Requirements:

(a) A Case Manager shall be assigned for each Client. Average case load size across all programs the case manager may work shall not exceed fifty (50) clients per available Full Time Equivalent and should be proportionate to the Agency's Case Managers time, case mix, and situation. Exceptions may be made only upon written request to the Division. The Division will review the request and if appropriate, approve a temporary waiver.

(b) Case Manager Qualifications:

(i) Case Management shall be performed by a person with a Bachelor Degree in a social science, health science, or other related field. Exceptions to this requirement may be made for individuals who have year for year experience in these fields, or substitutions on a year for year basis as follows:

(A) additional related education for the experience,

(B) additional full time paid related employment for the education.

(ii) State licensure as a Social Service Worker is recommended as a minimal qualification.

(4) Personal Attendant Services:

(a) Where appropriate, agencies and clients can make use of a Personal Attendant to provide services to clients. Personal Attendant Services are defined as: Personal care and non-medical supportive services, specific to the needs of a medically stable elderly person experiencing chronic physical or cognitive functional impairments, who is capable of directing their own care or who has a surrogate available to direct the care.

(5) Eligibility:

(a) To be eligible for the Personal Attendant Service the individual must be an active consumer on the Home and Community Based Alternatives Program.

(b) The client and their designated Personal Attendant must:

(i) Understand that Personal Attendant services is a service delivery model designed to benefit the designated client.

(ii) Be able to provide management of the employee (personal attendant) to include recruitment, scheduling, discipline and termination, if needed, of individuals eighteen (18) or more years of age.

(iii) Be willing and capable of training and directing the employee.

(iv) Follow-up with the employee regarding First Aid training/certification and provide documentation of such to the Case Manager.

(v) Personal attendant service is available to those clients for whom eligibility has been established and who have an established care plan. Preferably, the client has been receiving services from the Home and Community Based Alternatives program.

(vi) Receive, sign and copy all employee time sheets and submit them to the designated organization by the established deadline. The consumer or the personal representative will be responsible for the verification and accuracy of hours billed by the employee, not to exceed the agreed upon and approved hours on the care plan.

(vii) Complete, maintain and file with the payroll agent all necessary tax information required by the U.S. Internal Revenue Service.

(viii) Demonstrate the skills necessary to supervise direct service employees.

(ix) Provide training to their employee(s) in the areas of confidentiality and services to be provided related to the individual's plan of care. If additional training is needed, the consumer or personal representative will request this from their Case Manager.

(x) Actively participate with the Case Manager in the monitoring and revision of the consumer Care Plan.

(xi) Provide a back-up service plan to the Case Manager that states clearly the manner in which services will be provided as a back-up when the employee is not able to provide services. Back-up services may be provided by individuals who are not employees and who will not be eligible for payment for services provided.

(xii) Develop and maintain in the home of the consumer a notebook that includes a copy of:

(A) The current Care Plan;

(B) The Employee Agreement;

(C) The Consumer/Personal representative Letter of Agreement;

(D) All payroll agent's forms and time sheets;

(E) The Back-up Plan; and

(F) The Training Plan, as needed.

(xiii) Provide periodic feedback to the Case Manager regarding the quality of service being provided by the employee and how effectively the service meets the needs identified in the Care Plan. The consumer or personal representative will report immediately to the Case Manager any abuse or exploitation of the consumer by the employee.

(xiv) Notify the Case Manager when consumer needs change in order to adjust the Care Plan as appropriate.

(xv) Obtain prior authorization for services from the Case Manager.

(xvi) Follow applicable sections of the Home and Community Based Alternatives Program policies and procedures as provided by the Case Manager.

(xvii) Furnish requested copies of all documents related to employment or services that are collected by the consumer and/or the personal representative to the Case Manager and/or payroll agent.

(xviii) Report issues of non-compliance, consumer or personal representative and employee(s) conflict, and/or other significant occurrences to the Case Manager.

R510-400-9. Client Assessment.

(1) The initiation of a DAAS approved Screening Assessment to establish a risk score shall be ten working days or less from the initial referral. Enough information shall be gathered with the client, family or referral source to determine potential eligibility and whether they shall be referred for an Assessment or referred to another agency or community resource.

(2) PROCEDURES-Assessment:

The DAAS approved Assessment shall be completed by the Case Manager to confirm and identify the need for services(s).

(a) Nursing Assessment: An additional assessment or file review by a Registered Nurse may be completed to identify the appropriate level of intervention necessary.

(b) Reassessment: Annually, the Case Manager will complete the areas indicated in the DAAS approved Assessment Instrument for reassessment of the client's service need(s) during the same calendar month as the original assessment whenever possibly.

(c) PROCEDURES-Family and Other Support System Involvement:

(i) The client's family and/or personal support systems shall be encouraged to participate in the Assessment unless the client and case manager determine that they not be included or it is the client's request that they not be included.

R510-400-10. Care Planning.

(1) The client Care Plan shall be developed based upon their current situation and needs as identified in the DAAS approved Assessment.

(2) PROCEDURES-Care Planning:

(a) A standardized Care Plan form designated by the Division shall be used.

(b) The Care Plan will be developed with the client's input.

(c) The Care Plan shall include [~~goals, objectives,~~]methods, services to be provided, [~~discharge or termination goals, time frames,~~] amount and frequency of services being authorized, together with the payment source.

(d) The Care Plan will be signed and dated by the Client or their legal representative, the Case Manager and when applicable, the Registered Nurse.

(e) The Care Plan shall be updated annually at the time of the reassessment or more frequently when changes occur with the service need(s).

(f) All support systems, both formal and informal shall be included as part of the Care Plan.

(g) A copy of the Care Plan shall be given to the client with the original maintained in the client's case file.

(h) Service(s) shall be authorized in the care Plan at the minimum level and for the least amount of service hours that will adequately meet the client's needs.

(i) Home and Community Based Alternatives services shall supplement, but not replace or duplicate, support systems that are in place in sufficient quantity to meet client's needs.

(j) Case Managers should be aware of available agency and community services and should be responsible for coordination of services provided to the client.

(3) PROCEDURES-Service Authorization:

(a) An Agency Service Authorization Form or the Care Plan must be sent to the Serviced Provider requesting specific services for the client.

R510-400-11. Case Management.

(1) Case Management shall be provided to all recipients of Home and Community Based Alternatives services.

(2) PROCEDURES-Case Management:

(a) Case Management shall include an assessment, annual reassessment, three quarterly review and monthly contacts. Other visits or contacts shall be made and documented in accordance with the client's need or as directed in the Care Plan.

(b) A monthly or more frequent contact shall be made with the client, service provider, and/or the client's family.

(c) Assessment and quarterly review, reduction and/or termination of service should be done face to face when possible, with the exception of when the client moves out of the area, enters a nursing facility or dies. Telephone and electronic contacts can be used to communicate adjustments to care plans or service orders, or changes of status.

(d) The Case Manager will record all client contacts and significant changes with a progress note.

(e) The Case [~~Manger~~]Manager is expected to maximize the client's informal support systems.

(f) The Case Manager shall make quarterly reviews during the third month following the Assessment and every third month thereafter. Quarterly Reviews shall be conducted in the client's home and will document the following:

(i) A review of the services being delivered.

(ii) Changes in the client's condition.

(A) Progress toward Care Plan objectives and goals.

(B) Appropriateness of services.

(3) The client's satisfaction and concerns with the service provision.

(4) Status of rental/purchased equipment.

R510-400-12. Record Keeping.

(1) The recipient of Home and Community Based Alternatives program shall have an individual case file that include client eligibility, assessment of the client's needs, care plan, quarterly reviews, progress notes, and when applicable legal documents addressing guardianship, advanced directives or powers of attorney.

(2) PROCEDURES-Confidentiality of Records:

(a) All information and records generated within the Home and Community Based Alternatives Program and Older American Act Title IIIB Programs shall be retained and released in accordance with the Government Records Management Act (GRAMA), pursuant to Section 63G-2-101, et seq.

(b) Information that pertains to Home and Community Based Alternatives program and Older Americans Act Title IIIB Programs shall be classified as "private."

(c) Information that is medical, psychiatric, or psychological in content shall be classified as "controlled."

(d) Clients' case files and service authorizations must be secured in a locked file at the Agency or designated Service Provider.

(e) Home and Community Based Alternatives program and Older Americans Act Title IIIB Programs case records, files, authorizations, and supporting program documentation, shall be kept for five years following termination of services or until all audits initiated within the five years have been completed, whichever is later. After the end of the specified retention period, the documents shall be destroyed according to GRAMA document destruction requirements.

(3) PROCEDURES-Sharing of Records:

(a) The Case Manager shall provide a copy of the completed Care Plan to the client. The completed Assessment may be provided to the Service Provider.

R510-400-13. Client Rights and Responsibilities.

(1) The Agency shall have the responsibility to develop a method to inform all eligible clients of their rights and responsibilities. This shall be evidenced by a signed Clients Rights and Responsibilities Form in the case file.

(2) PROCEDURES-Client Rights:

Client rights shall include:

(a) To be fully informed of their rights and responsibilities governing personal conduct while participating in the programs. This shall be evidenced by a signed and dated Clients Rights and Responsibilities form in the client's file.

(b) To be fully informed of services and related fees for which the Client may be responsible and to be informed of all changes in fees.

(c) To be afforded self-determination through participation in the development of the Care Plan. This includes the right to refuse service(s), referrals to health care institutions or other agencies, and to refuse to participate in research studies.

(d) To be assured confidential treatment and maintenance of records. Clients have the right to approve or refuse the release of their records. However, all information and records generated in these Programs shall be shared pursuant to GRAMA, Section 63G-2-101, et seq.

(e) To be treated with consideration, respect, dignity and individuality, including privacy in care for personal needs.

(f) To be assured that personnel who provide services, are either licensed, certified or registered with the appropriate governmental entity and that they have demonstrated the ability to correctly implement the services for which they are responsible.

(g) To receive proper identification from the individual providing services.

(3) PROCEDURES-Client Responsibilities:

Client Responsibilities shall include:

(a) The Client has the responsibility to report to the Case Manager, any changes in their circumstance that may impact eligibility or need for services.

(b) The Client is responsible for keeping appointments and when unable to do so for any reason, to notify the Case Manager or Service Provider.

(c) The Client is responsible for their actions and their consequences. If she refuses service of does not follow the instructions in the Care Plan, future service may be withheld until she agrees to correct any identified problem(s).

R510-400-14. Grievance Procedures.

(1) The Agency shall have the responsibility to develop procedures for Client Grievance and Fair Hearing.

(2) PROCEDURES-Client Grievance:

Agency Grievance and Fair Hearing Procedures shall address the following process:

(a) An eligible client or clients who has made application for Program Services, whose service has been denied, reduced, or terminated shall be given the opportunity to grieve through a fair hearing when he believes that their interests in laws, regulations, standards or criteria related to the program were violated. Grievance and Fair Hearing procedures shall follow the Agency's contractual agreement with the Division.

(b) The Agency shall assist the client in following the correct procedures to grieve any adverse decision and request a fair hearing.

(c) Any client shall be given the opportunity to appeal to the State level, when she believes that laws, regulations, standards or criteria related to the programs were violated and have not been resolved the Agency process.

R510-400-15. Applicant Lists.

(1) The Agency shall maintain an active applicant list when funding dictates that services cannot be provided for all who have been identified as needing services.

(2) PROCEDURES-Applicant Lists:

(a) The applicant list will be comprised of those persons who have been screened using the DAAS approved Demographic Intake and Risk Screening form and have at least a moderate risk score at the time of screening.

(b) Prioritization of the applicant list shall be ranked by a high to moderate risk score, and the clients with the highest risk are provided services first as funding becomes available.

(c) The applicant list will be re-prioritized with each new potential client added.

(d) For applicants who do not meet applicant list criteria, information will be provided on other community resources that may be available.

R510-400-16. Termination of Services.

(1) The Agency shall allow for the interruption, transfer and for termination for the client receiving Home and Community-based Alternatives Services or Older Americans Act Title IIIB Services as changes in client needs, Agency Provider, circumstances or conditions occur.

(2) PROCEDURE-Temporary Interruption of Service:

(a) Program Services may be interrupted for temporary periods (e.g. Hospitalization, out-of-state visiting, etc.): Such discontinuance of service shall not exceed 90 consecutive days. After this period, the case will either be closed and reopened as a new case with no priority other than Risk Score, or will be reviewed by the agency to determine a resumption of services.

(b) Waivers of time limit of the temporary interruption may be granted on an individual basis.

(c) Requests for a waiver must be in writing and approved by the Agency Director or his designee.

(d) Waiver requests, documentation and accompanying approval or denial must be maintained in the client's file.

(3) PROCEDURE-Termination of Service:

(a) When a client terminates service, the Case Manager will document in the case file the circumstances that precipitated the termination.

(b) Services may be terminated due to the following circumstances:

(i) When health and safety needs can no longer be met.

(ii) Death of the client.

(iii) Program funding does not allow services to continue.

(iv) The client transfers out of the original planning and service area. The client may re-apply at the new planning and service area and services may be provided as funds permit to eligible adults as determined by DAAS Policy and Procedures for the Home and Community Based Alternatives program services.

(v) The client's financial situation improves beyond eligibility criteria, in which case agencies are encouraged to investigate options for transferring the client to other appropriate programs when discontinuing services. However, in this transfer, the client should not be given special preferences that would place them ahead of other potential clients in an applicant list situation.

(vi) Client chooses to leave the program.

(vii) Client refuses to comply with the care plan, exhibits inappropriate behaviors, or does not pay monthly fees.

R510-400-17. Purchase and Rental of Equipment.

(1) Equipment may be purchased or rented if it is deemed necessary for the client's care, providing no other funding source is available.

(2) Purchased equipment is the property of the Agency. The Agency will develop policy and procedures that address the disposition, inventory and repair of equipment.

(3) PROCEDURE-Purchase or Rental of Equipment:

(a) The Case Manager shall have the client and/or the client's representative sign an agreement if the equipment is to be returned to the Agency when it is no longer needed.

(b) The agency's policy will address the disposition, inventory and repair of equipment.

(c) Equipment shall be reviewed quarterly as part of the quarterly review to assess the need for continued use and condition of equipment.

R510-400-18. Contract Compliance.

(1) The Division is responsible for monitoring Home and Community Based Alternatives Services and Older Americans Act Title IIIB Programs. Each Agency shall be monitored annually.

(2) PROCEDURE-Scheduling:

(a) The Agency shall be notified at least 10 working days prior to an annual monitoring review. The Division will notify the Agency of the procedures, scheduling, monitoring standards and any other relevant information concerning the monitoring visit.

(3) PROCEDURE- Division Monitoring Procedures:

(a) In preparation for the monitoring visit, the Division shall review any corrective action reports, correspondence identifying technical assistance needs, and other pertinent information.

[~~(b) The Division will conduct an entrance interview with the Agency Director or designee.~~

] [~~(c)~~](b) The Division will monitor service program activities, case records, service expenditures, caseloads and contractual provisions.

[~~(d)~~](c) The Division will review randomly selected case records and interview the clients and Agency Case Managers as necessary to complete the monitoring process.

[~~(e)~~](d) A minimum of 10% or ten case records (whichever is the largest of the case load) will be reviewed. At times more records, up to 100% of program records, may be reviewed if the Division finds significant program inconsistencies, errors in documentation, inadequate provision of service, or any other aspect that the Division deems necessary.

[~~(f)~~](e) An exit interview will be conducted with the Agency Director or designee. The purpose of this interview is to present findings of the monitoring visit. The findings shall include:

(i) Overall evaluation of the performance of the Home and Community Based Alternatives Services Program.

(ii) Contractual, Policy and Procedure deficiencies.

(iii) Situations where additional review of case files of other documentation is necessary.

(iv) Areas where a plan of correction will be needed.

(v) Identify and recognize positive or innovative aspects of the Agency's service program.

(vi) Client comments.

(g) The Division may request a Department fiscal/contract audit of the Agency. This audit may be requested when the Division documents problems concerning:

(i) Budget balance

(ii) Agency Service Provider sub-contract monitoring.

(iii) Case Management supervision.

(iv) Provider/Client complaints.

(v) Timely payment for service.

(vi) Intake and referral.

(vii) Access problems.

(viii) Eligibility problems.

(h) PROCEDURE-Division Monitoring Report:

(a) The Division shall provide the Agency with a written report of its formal findings within 10 working days of the monitoring visit.

(b) The report will include contractual, policy and procedural compliance status and areas of special concern.

(c) The Division will require a corrective action plan that addresses noncompliance issues as needed.

(4) PROCEDURE-Responding to Reports:

(a) The Agency may appeal issues of disagreement to the Division within 10 working days from receipt of the report. If the Division, upon appeal, concludes that a corrective action must take place, the Agency will implement the action.

(b) A correction action plan will be implemented in accordance with an agreed upon time schedule, but will not exceed 90 days from the time the Division approves the plan.

(c) The Division will provide technical assistance to the Agency, as requested, to complete the correction action plan. The Agency will notify the Division upon implementation of the corrective action plan. The Division may make additionally monitoring visits to the Agency to review records and assure that the corrective action plan requirements were met.

(d) The Division may enact the termination clause of the DHS contract if a corrective action plan is not implemented by the Agency.

R510-400-19. Emergency Interim Service.

(1) Home and Community Based Alternatives Services may be provided to clients when circumstances warrant the emergency provision of service.

(2) PROCEDURES-Emergency Interim Service:

(a) The existing emergency will be identified and documented.

(b) Services may begin immediately and will continue until assessment determines appropriate service needs and levels for the client.

(c) The DAAS approved Assessment will be completed within 5 working days from the initiation of the Emergency Interim Service.

(3) PROCEDURES-Adult Protective Services clients:

(a) Emergency Interim Services may be provided to Adult Protective Services clients when abuse, neglect or exploitation has been substantiated and Home and Community Based Alternatives Services would help eliminate the abuse, neglect or exploitation.

(b) Emergency Interim Services may be provided for up to sixty (60) days under Protective Eligibility. Client financial eligibility, waiting list and fee criterion may be waived or disregarded with substantiated Adult Protective Service Cases.

(c) When as Adult Protective Services Worker determines that the Emergency Interim Services are needed, she will contact the Agency.

(d) As soon as possible, the client shall be assessed for eligibility according to the Home and Community Based Alternatives Services program standards. If during the 60 days the client is determined to no longer meet the Protective Eligibility, the APS Worker shall make referrals in collaboration with the Agency Case Manager to other appropriate agencies for services.

(e) The Agency will ascertain whether it is able to meet the emergency needs relating to the client's disability and/or protective need.

(f) Emergency Interim Services are considered an intermediate step while the Adult Protective Services Worker, works with the client to resolve their current crisis and/or problem. The client's case will remain with the Adult Protective Service Worker during the Emergency Interim Service period. Services will be coordinated between the APS Worker and Agency Case Manager.

(4) PROCEDURES-Protective Eligibility:

(a) The client's situation is an emergency and requires immediate intervention.

(b) The client is capable of consenting to and accepts services.

(c) The client in unable to consent and the Department has a court order authorizing the service referral.

KEY: elderly, home care services, long-term care alternatives
Date of Enactment or Last Substantive Amendment: [~~October 8, 2014~~]2015
Notice of Continuation: July 11, 2012
Authorizing, and Implemented or Interpreted Law: 62A-3-101 through 62A-3-312

Human Services, Child and Family Services
R512-1
Description of Division Services, Eligibility, and Service Access

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 39284
FILED: 04/15/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule modification is to bring the rule in line with current statute and practice.

SUMMARY OF THE RULE OR CHANGE: This rule change is intended to clarify the services offered by Child and Family Services, as well as explain the eligibility service access requirements.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-4a-102 and Section 62A-4a-103 and Section 62A-4a-105

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There will be no increase in cost or savings to the state budget because these proposed changes do not increase workload that would require additional staff or other costs.
♦ LOCAL GOVERNMENTS: Local governments have no responsibility for services offered by Child and Family Services and are therefore not affected by this rule and will have no fiscal impact.
♦ SMALL BUSINESSES: Small businesses have no responsibility for services offered by Child and Family Services and are therefore not affected by this rule and will have no fiscal impact.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no expected fiscal impact for "persons other than small businesses, businesses, or local government entities" because funding requests for services offered by Child and Family Services come out of already-existing budgets.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Child and Family Services determined that there will be no compliance costs for affected persons because there are no specific costs involved with the changes being made to this rule.

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

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HUMAN SERVICES
CHILD AND FAMILY SERVICES
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Carol Miller by phone at 801-557-1772, by FAX at 801-538-3993, or by Internet E-mail at carolmiller@utah.gov
♦ Julene Robbins by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjonesrobbins@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 06/08/2015

AUTHORIZED BY: Brent Platt, Director

R512. Human Services, Child and Family Services.
R512-1. Description of Division Services, Eligibility, and Service Access.
R512-1-1. Purpose and Authority.

(1) The purpose of this rule is to clarify the scope of services the Division of Child and Family Services (Child and Family Services) provides to families in Utah.

(2) This rule is authorized by Section 62A-4a-102.

R512-1-2. Introduction.

(1) Pursuant to Sections 62A-4a-103 and 62A-4a-105, Child and Family Services is authorized to provide programs and services [~~which~~]that support the strengthening of family values, including services [~~which~~]that preserve and enhance family life and relationships; protect children, youth, and families; and advocate and defend family values established by public policy and advocacy and education.

(2) Child Welfare Services shall be made available for children who are abused, neglected, exploited, abandoned; for those whose parents are unable to care for them; and for the assisting of youth who are ungovernable or who are runaways. Domestic violence services shall be made available to assist adult victims who have been abused or threatened by their partners.

(3) Child and Family Services shall provide protective services, services given in the family home, short-term temporary crisis placement services, out-of-home placements, and adoption services. The "Best Interest of the Child" shall be the guiding principle used in making decisions for those served by Child and Family Services.

(4) The programs administered by Child and Family Services have been established to help children remain with their families, to solve problems in their homes, and, if that is not possible, to place them in out-of-home care for as short a time as possible. When Child and Family Services finds that return of a child to the family will never be possible, adoption or guardianship shall be sought to [~~i~~]ensure a permanent family for the child. Domestic violence services shall provide comprehensive assistance to adult victims of domestic violence, their dependent children, and in some cases, to the abusive partner so that families can be restored to harmony or helped to develop new, more productive ways of life.

(5) Child and Family Services shall provide its services through local offices situated throughout the state. These offices are listed in telephone directories under Utah State Department of Human Services, Division of Child and Family Services and also on Child and Family Services' website.

(6) The State Office of Child and Family Services located in Salt Lake City shall operate as the central office to administer Child Welfare programs, which include:

(a) Program planning,

(b) Practice guideline development,

(c) Training and consultation,

(d) Program financing,

(e) Administration of the Interstate Compact on Placement of Children (ICPC) and the Interstate Compact on Adoption and Medical Assistance (ICAMA),

(f) Legislative and federal liaison, and

(g) Information and referral.

R512-1-3. Prevention Services.

Child and Family Services will either provide for, or contract for, any of several child abuse and neglect prevention services. Most prevention services shall be provided and funded according to the requirements of Section 62A-4a-309, known as the Children's [~~Trust~~] Account legislation.

R512-1-4. Intervention Services.

(1) Protective Services. Child abuse and neglect investigation and services shall be provided to eligible clients. All referrals received alleging child abuse and neglect will be screened for assessment and/or investigation in accordance with the provisions of Section 62A-4a-409. Child and Family Services' caseworkers recognize that parents have the right, obligation, responsibility, and authority to raise, manage, train, educate, provide for, and reasonably discipline their children. They also recognize that removal affects these rights, creating a long-term impact on children. Child and Family Services' caseworkers are dedicated to maintaining children with their family when circumstances and services can make it safe for the children to remain home. Child and Family Services will

determine whether or not a child has been abused or neglected, or is in danger thereof, and shall take necessary action to protect the child from potential danger. Temporary care of children in crisis placements may be provided when children cannot be returned home due to the likelihood of further abuse or neglect. The parents of a child in a crisis placement will be kept informed of the child's health and safety and will be involved in developing plans for themselves and their child. If parents desire to visit their child in a crisis placement, staff will arrange, as appropriate, visits with the child at the location designated by staff. Assessment and treatment services will be provided to victims of child sexual abuse and their families.

(a) Access. Investigations and/or assessments will be conducted using all appropriate referrals of alleged child abuse or neglect.

(b) Eligibility. A report of occurrence of child abuse or that a child is at risk thereof will constitute sufficient eligibility.

(2) Youth Services. Short-term crisis counseling services and shelter to runaway, homeless, and ungovernable youth and their families may be provided in order to stabilize the family.

(a) Access. Any youth, family, or other agency can access services defined in this rule, as long as the child is determined to be homeless, ungovernable, or a runaway.

(b) Eligibility. Youth who are either homeless or ungovernable or who have run away shall be eligible.

R512-1-5. In-Home Services.

(1) In-Home Services. Child and Family Services may offer services to families whose children are in their own homes, yet who are at [~~a~~]risk of or who have suffered from abuse or neglect. Services will be voluntary or court ordered, and shall be intensive to avoid unnecessary placement of children in protective custody. These services may include[~~:~~] child day care, protective supervision, and services for the preservation of families.

[~~(a) Homemaker,~~
~~(b) Child day care,~~
~~(c) Day treatment for preschool children,~~
~~(d) Treatment for children who have been sexually abused,~~
~~(e) Protective supervision, and~~
~~(f) Family preservation services.~~
] (a) Access. [~~Only families referred by Child and Family Services staff shall be provided these services.~~]Referrals can be made from Child Protective Services or from Juvenile Court and other agencies.

(b) Eligibility. A family must be determined to be in a state of crisis and children shall be at risk of abuse or neglect. [~~Clients receiving treatment for preschool children and sexual abuse treatment may be required to pay a fee based on the family's ability to pay. Fees shall be calculated as a percentage of family income up to the total cost of the service. Clients receiving child care as a protective service shall not be assessed a fee; however, if the family is receiving child care and paying a fee prior to protective services, they will continue to pay day care fees.~~

~~(2) Custody Studies. Upon an order of the District Court, Child and Family Services may engage in and complete child custody studies.~~

~~(a) Access. Access shall be authorized by receipt of a District Court Order.~~

~~(b) Eligibility. A District Court Order will provide eligibility. The parties to the action shall be assessed a fee based upon income. Fees shall be determined from the Department fee schedule #1 for low income families. A separate fee schedule shall provide for parents to pay up to the total cost of the study based upon income for families above 150% of the median income.~~]

[~~(3)~~](2) Domestic Violence Services. For adult victims of domestic violence and their minor children, shelter care facilities may be provided in order to protect the adult victim and their children from further violence. Short-term counseling may be provided to the family while in shelter, and treatment services may be offered to the perpetrator of the abuse in order to stop the violence and maintain the family as a unit. Children of abused partners eligible for domestic violence services may receive child care without a fee as part of the protective services provided to the family.

(a) Access. The adult victim of family violence shall have access to the services listed above by requesting protection or by referral.

(b) Eligibility. The only eligibility factor is that the adult victim shall have been abused by their partner or some other member of the family. The perpetrator may be assessed, through court order, for the costs of Child and Family Services providing these services.

R512-1-6. Out-of-Home Care Services.

(1) The following definitions apply to this section:

(a) "Cohabiting" means residing with another person and being involved in a sexual relationship.

(b) "Involved in a sexual relationship" means any sexual activity and conduct between persons.

(c) "Residing" means living in the same household on an uninterrupted or an intermittent basis.

(2) Foster care and group care. Child placement services may be provided when parents are unable to meet their children's needs within the family. Child and Family Services has authority to place a child when the state has been granted custody through a court order, or when a voluntary agreement has been signed by the parents, or when the child is from another state and is covered by the ICPC. The intent of foster care or group care is to insure a permanent home for each child. This may be achieved through a return to the home, or through adoption, guardianship, or individualized permanency services. A permanency plan for each foster child, defining the goal and steps to be taken to achieve permanency, shall be formulated. Periodic reviews shall be held at least once every six months to assess progress achieved within the permanency plan, and to project a likely date for returning the child to the family home or to another permanent home arrangement. A dispositional hearing shall be held every 12 months from the date of placement to determine the future status of the child. Foster care shall be provided in licensed family homes. [~~A foster parent or foster parents must complete a declaration of compliance with Section 78B-6-117 that they are not cohabiting with another person in a sexual relationship. Child and Family Services gives priority for foster care placements to families in which both a man and a woman are legally married or valid proof that a court or administrative order has established a valid common law marriage, Section 30-1-4.5. An individual who is not cohabiting may also be a foster parent if the region director determines it is in the best interest of the child.~~]Legally married couples and individuals who are not cohabiting and are blood relatives of the child in the custody of Child and Family Services may be foster parents. Group care shall be provided in licensed facilities which offer a more structured treatment environment than a family home. Foster homes are licensed in

accordance with Rule R501-12. Residential Treatment Programs, also known as group homes, are licensed in accordance with Rule R501-19.

(a) Access. Referrals can be made from Child Protective Services or from Juvenile Court and other agencies. Parents can request placement services by contacting the local Child and Family Services office. Referrals for foster care or group care may be screened to determine whether placement is the best option. In most cases, services [~~which~~]that are intended to prevent placement must [~~be~~]first be provided, before foster care or group care will be considered by Child and Family Services.

(b) Eligibility. Temporary child custody must be given to the state by court order, or by voluntary agreement, and most parents shall be obligated to pay support while their child is in foster care. Youth can be served in foster care or group care until age 18 years, or until age 21 years when ordered by the court.

(3) Transition to Adult Living. Services may be given to older teenage foster children to teach self-sufficiency skills in order to increase their ability to be self-reliant in the future. Some who do not return to living with their parents upon leaving foster care will be allowed to live on their own. All foster children age 14 years and older shall be required to be working toward at least one objective in developing independent living skills in their permanency plans.

(a) Access. Access shall be given only by a referral from the foster care caseworker.

(b) Eligibility. Foster children who are at least 14 years old and who are in the custody of the state shall be eligible.

(4) Adoption. This service provides adoptive homes for children in custody of the state who are legally available because the birth parents have been permanently deprived of parental rights by court action, or who have voluntarily relinquished their children for adoption.

(a) The choice of an adoptive home is based on the best interests of the child.

(b) Adults who are residents of Utah who wish to adopt a child in Utah State custody [~~in Utah~~]may apply to the Utah Foster Care Foundation for consideration.

(c) Adults who are residents of other states who wish to adopt a child in Utah State custody [~~in Utah~~]must meet the standards to adopt a child in their state custody as well as to comply with ICPC requirements.

(d) Children whose special needs make it more difficult to find appropriate adoptive homes may be eligible for adoption assistance, [~~that~~]which may include Medicaid and a monthly subsidy payment based on federal qualifying factors.

(e) To be eligible, the child must be in custody of the state and be legally freed for adoption, and the court must determine that adoption is the best permanency option for the child. Persons approved to be adoptive parents must meet certain standards before approval based on Rule R512-41. Authorization of adoption assistance for children with special needs shall be determined by Child and Family Services based on federal law.

(5) Provider Services. Persons applying to be foster care or emergency care parents shall be given information and a home study will be completed. For those approved as meeting program standards, basic training will be provided, as well as any additional training [~~which~~]that may be required for some types of care. Annual reapproval is required.

(a) Access. Persons interested in becoming foster parents or who wish to provide emergency care, such as crisis placements, may apply at the Utah Foster Care Foundation.

(b) Eligibility. Any adult may apply for consideration. Persons approved to be providers must meet certain standards before approval is granted.

R512-1-7. Collection of Fees.

Child and Family Services' regional office staff shall collect any assessed fees for services. Failure of a family to pay the assessed fee may result in the termination of the service and a referral to the Office of Recovery Services for collection. For hardship situations, a fee reduction can be considered by the director of Child and Family Services.

R512-1-8. Civil Rights and Due Process.

Child and Family Services shall comply with the Department of Human Services policy of Civil Rights. Child and Family Services seeks to provide equal opportunity and to insure due process in all actions taken pursuant to these rules. Consumers have the right to be notified about decisions made about their eligibility for any service [~~which~~]that is requested and received through Child and Family Services, and to request a hearing if they disagree with any decision. Notice of a decision shall be sent by Child and Family Services when an application for service or a service payment is denied, or if a service is reduced or terminated. Consumers must make a request for any hearings regarding services and decisions specified in this rule in writing.

KEY: social services, child welfare, domestic violence, eligibility
Date of Enactment or Last Substantive Amendment: [~~September 15, 2010~~]2015
Notice of Continuation: February 23, 2012
Authorizing, and Implemented or Interpreted Law: 62A-4a-102; 62A-4a-103; 62A-4a-105

Human Services, Recovery Services
R527-254
Limitations on Collection of Arrears

NOTICE OF PROPOSED RULE

(New Rule)
DAR FILE NO.: 39262
FILED: 04/03/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 62A-11-107 authorizes the Office of Recovery Services/Child Support Services (ORS/CSS) to adopt, amend, and enforce administrative rules. The purpose of this rule is to clarify that the parents bear the responsibility for maintaining records of support balances due and paid when there is no case open with the state IV-D agency

(ORS/CSS), to define the circumstances in which ORS/CSS will collect support arrears which accrue during timeframes when no ORS/CSS IV-D services case is open for the parties, and to outline the procedures that ORS/CSS will follow when confirming the remaining balance due on an arrears debt. All Utah orders issued on or after 01/01/1994 are subject to income withholding, either through a IV-D services case or through a non-IV-D case pursuant to Section 62A-11-502. The responsibility to maintain records of support due and support paid during time periods when neither a IV-D services case nor a non-IV-D services case is open with ORS/CSS lies with both parents. ORS/CSS is not a record keeper for amounts due and paid during time periods that there is no IV-D/non-IV-D services case open, and as a result, has no knowledge of any payments exchanged between the parties during those time periods. In the past, as cases reopened with ORS/CSS, ORS/CSS has attempted to gather evidence from both parties and to reconcile the balance that accrued and remained due; these attempts often involve sorting through conflicting information from the parties. ORS/CSS is unable to be the primary finder of fact for child support arrears which accrue when there is not an open IV-D services or Non-IV-D services case. By placing this responsibility on the parents to have an adjudicated amount of arrears due pursuant to the child support order prior to ORS commencing collection efforts toward those arrears, ORS/CSS will no longer be placed in the role of finder of fact. ORS/CSS will be able to limit the number of hours that workers spend each year in reconciling arrears balances that accrued during timeframes when ORS/CSS did not have a IV-D/non-IV-D services case open, as well as limit the Attorney General's Office's (AGO) time spent in court resolving matters of arrears balances between the parents.

SUMMARY OF THE RULE OR CHANGE: The first section of this rule provides the authority (Section 62A-11-107) and purpose of the rule, which is to define the circumstances when the Office of Recovery Services (ORS/CSS) will collect support arrears that accrue during time periods when there is not an open IV-D case with ORS/CSS. The second section defines certain terms specific to the purpose of this rule. The third section identifies when ORS/CSS is responsible to maintain accurate records of support due and payments made and when the parents are responsible for maintaining those records. The fourth section describes when ORS/CSS will enforce current support and arrears that are owed under the valid child support order. The fifth section identifies the applicant's responsibilities for providing the office with a judicial determination of the support arrears and a history of all payments made towards that debt. The last section identifies the obligor's responsibilities for disputing the arrears balance and for providing ORS/CSS with copies of proof of payments.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 45 CFR 303.11 and Section 62A-11-107 and Section 62A-11-502 and Section 78B-12-113

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: There will be a savings to the state budget because of the decrease in the number of payment reviews that will be completed by the Office of Recovery Services (ORS/CSS) staff, as well as the number of hours spent by the AGO in not having to go to court to resolve arrears balance disputes judicially. During state fiscal year 2014, the following payment reviews were completed by ORS/CSS staff: 1,708 cases were reviewed, with a total of 9,716 payments reviewed. Each case that is reviewed consists of the following steps: compilation of the proof of payment, reviewing the evidence received, making an assessment of whether or not each payment was for child support, generating and sending required letters, monitoring the cases for additional information requested from the parents, etc. This process takes at least one hour to complete the assessment, generate the appropriate letters, and deal with the responses when the review only involves one or two payments (the time increases with each additional payment involved in a review). This equals a minimum of 1,708 hours of CSS workers' time each year reviewing proof of payments and trying to make a determination of the balances owed for those time periods on a case when there was not an active IV-D case open with the office. An average ORS employee completing this process receives approximately $32.69 an hour in compensation (wages and benefits), which means that the minimum current cost to ORS for this one singular type of review each year is $55,834.52. (1708 X $32.69 = $55,834.52). In addition, there will be a small savings to the state in postage. This change would no longer require that workers send letters to the parents requesting proof of payments and the results of a worker's decision. Each time a review is completed, a minimum of two letters are sent, one to each parent. Using the same cases reviewed in fiscal year 2014, 1,708 cases were reviewed, which means 3,416 letters were sent. The current price of postage is $0.49 for a first class letter, which would result in a savings to the state of $1,673.84. (3416 X $0.49 = $1,673.84). Any savings outlined above will help alleviate the effects of budget and staffing cuts absorbed by ORS over the past five years. These amounts do not include any of the time or money spent by the AGO division assigned to ORS each year in resolving the same type of issues judicially. While there is no way to identify a quantifiable amount for the time spent by the attorneys on these specific cases, the AGs report that some of these cases have remained in litigation for multiple years, which means there could be a substantial savings to the state by no longer providing this service.

♦ LOCAL GOVERNMENTS: Administrative rules of ORS/CSS do not apply to local government; therefore, there are no anticipated costs or savings for any local businesses due to this amendment.

♦ SMALL BUSINESSES: There are no anticipated costs for small businesses because the changes only affect internal procedures of ORS/CSS.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There may be minimal savings to the non-custodial parent by no longer having to mail in proof of payments made directly to the custodial parent during those time periods when there was not an open IV-D case with the office. There may be other costs that the parents will incur should one of the parents decide to have the matter resolved judicially. Some of those costs may include filing fees with the district court. If the initial child support order was issued by a Utah district court, there would be no filing fees incurred to have the arrears balance adjudicated. If the initial order was not issued in Utah or it is a Utah administrative order, the parents will incur a minimum filing fee of $310 if they file pro se. However, there is no way to know how many parents will take advantage of this process or if they will choose to file pro se or hire an attorney, so the total costs are not quantifiable. There may be other costs associated with adjudicating the arrears balance, but ORS has no way to identify those costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There may be minimal costs to affected persons if one of the parents decides to adjudicate his/her arrears judicially. Some of those costs may include filing fees with the district court. If the initial child support order was issued by a Utah district court, there would be no filing fees incurred to have the arrears balance adjudicated. If the initial order was not issued in Utah or it is a Utah administrative order, the parents will incur a minimum filing fee of $310 if they file pro se. However, there is no way to know how many parents will take advantage of this process or if they will choose to file pro se or hire an attorney, so the total costs are not quantifiable. There may be other costs associated with adjudicating the arrears balance, but ORS/CSS has no way to identify those costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated fiscal impacts to businesses as a result of this rule.

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

HUMAN SERVICES
RECOVERY SERVICES
515 E 100 S
SALT LAKE CITY, UT 84102-4211
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Andrew Clement by phone at 801-741-7434, by FAX at 801-536-8509, or by Internet E-mail at aclement@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/02/2015

THIS RULE MAY BECOME EFFECTIVE ON: 06/09/2015

AUTHORIZED BY: Liesa Stockdale, Director

R527. Human Services, Recovery Services.
R527-254. Limitations on Collection of Arrears.
R527-254-1. Authority and Purpose.

(1) Section 62A-11-107 authorizes the Office of Recovery Services/Child Support Services (ORS/CSS) to adopt, amend and enforce rules.

(2) The purpose of this rule is to define the circumstances in which ORS/CSS will collect support arrears which accrue during timeframes when no ORS/CSS IV-D services case is open, and to outline the procedures ORS/CSS will follow when confirming the remaining balance due on an arrears debt.

R527-254-2. Definitions.

(1) "Arrears" means the past-due support debt created by the nonpayment of current support when it is due.

(2) "Current support" means the tribunal-ordered support amount due and payable within the current month or other tribunal-specified time period.

(3) "ORSIS" means the Office of Recovery Services Information System. ORSIS is used to maintain records of support due and support received on open IV-D support services cases.

R527-254-3. Responsibility to Maintain Records of Support Due and Paid.

(1) ORS/CSS will maintain a record of support due and payments received while there is an open IV-D support services case.

(2) ORS/CSS will not maintain records of support due and support paid during timeframes when there is not an open IV-D services case with ORS/CSS. It is the responsibility of both parents to maintain their own records regarding child support when no IV-D case is open.

R527-254-4. Limitation on Collection of Arrears.

(1) ORS/CSS will enforce tribunal-ordered current support commencing with the month that one of the following occurs:

(a) ORS receives an Application for Child Support Services containing sufficient information to open a IV-D services case;

(b) A parent or guardian begins receiving IV-A cash assistance or Medicaid benefits for a child in his or her care; or,

(c) An intergovernmental transmittal is received requesting enforcement services on behalf of an intergovernmental agency.

(2) ORS/CSS will enforce arrears which accrue while there is an open IV-D services case. Enforcement of accrued arrears will continue until the IV-D services case is closed in accordance with federal regulations found in 45 CFR 303.11 or closed at the request of the applicant for child support services. When the IV-D services case is closed, ORS/CSS will remove any remaining debt balances from ORSIS.

(3) ORS/CSS will enforce support arrears that are determined by a judicial court in the following circumstances:

(a) If a determination of arrears is issued while there is an open IV-D services case and submitted to ORS/CSS for enforcement on the existing case;

(b) If a determination of arrears is issued within one year (365 days) prior to the date the ORS/CSS office receives an Application for Child Support Services which contains sufficient information to open a IV-D services case, ORS will enforce the arrears balance remaining due as reported by the applicant for services.

(c) If a determination of arrears is issued during a time period when there is not an open IV-D case with ORS/CSS and more than one year (more than 365 days) has elapsed prior to the application timeframe described above, ORS/CSS will not enforce on any remaining balance of those arrears. The amount remaining due on those arrearages must be adjudicated and determined before ORS/CSS will begin enforcement actions.

R527-254-5. Record of Payments -- Applicant.

(1) If an applicant for IV-D services wishes to submit a determination of support arrears by a judicial court to ORS/CSS for collection, the applicant must provide a copy of that order.

(2) The applicant must also provide a record of all payments received toward that debt as a remaining balance on the debt. The record of payments received must include the date and the amount of each payment.

R527-254-6. Proof of Payments -- Obligated Parent.

(1) The obligated parent may dispute the remaining arrears balance that ORS/CSS is enforcing or other arrears being collected by ORS/CSS by providing proof of payments made toward the balance. ORS/CSS will consider the following items as proof of payment:

(a) Copies of cancelled checks, front and back;

(b) Payment receipts from the ordered recipient of the payments;

(c) A notarized statement from the ordered recipient acknowledging additional payments, including the amount of the payments and the date of the payments; and,

(d) With ORS/CSS Director (or designee) approval, other forms of payment documentation which clearly show the amount paid, the date of the payment, proof that the payment was received by the ordered recipient, and clear documentation of the purpose of the payment.

(2) ORS/CSS will not consider the following items as proof of payment:

(a) Receipts for purchases in lieu of payments;

(b) Agreements for services provided in lieu of payments;

(c) Receipts for payments made to a third-party in lieu of payments to the recipient;

(d) Statements showing bank transfers where the recipient's account is not clearly identifiable as the ordered recipient; or,

(e) Any form of documentation including those identified in subsection (1) that does not clearly show the amount paid, the date of the payment, proof that the payment was received by the ordered recipient, and clear documentation of the purpose of the payment.

(3) If the obligated parent provides additional proof of payments, an updated list of the payments will be provided to both parties.

(4) If either party wishes to contest the arrears balance further, the matter must be adjudicated judicially by the parties. ORS/CSS will continue to enforce the amount due based on the proof provided by the parties according to the above guidelines unless directed otherwise by a court or tribunal.

KEY: arrears, past-due support, child support
Date of Enactment or Last Substantive Amendment: 2015
Authorizing, and Implemented or Interpreted Law: 45 CFR 303.11; 62A-11-107; 62A-11-502; 78B-12-113

End of the Notices of Proposed Rules Section

NOTICES OF
CHANGES IN PROPOSED RULES

After an agency has published a **Proposed Rule** in the *Utah State Bulletin*, it may receive comment that requires the **Proposed Rule** to be altered before it goes into effect. A **Change in Proposed Rule** allows an agency to respond to comments it receives.

As with a **Proposed Rule**, a **Change in Proposed Rule** is preceded by a **Rule Analysis**. This analysis provides summary information about the **Change in Proposed Rule** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

While the law does not designate a comment period for a **Change in Proposed Rule**, it does provide for a 30-day waiting period. An agency may accept additional comments during this period and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for **Changes in Proposed Rules** published in this issue of the *Utah State Bulletin* ends June 1, 2015.

Following the **Rule Analysis**, the text of the **Change in Proposed Rule** is usually printed. The text shows only those changes made since the **Proposed Rule** was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (example). Deletions made to the rule appear struck out with brackets surrounding them ([~~example~~]). A row of dots in the text between paragraphs (**. . . . . .**) indicates that unaffected text, either whole sections or subsections, was removed to conserve space. If a **Change in Proposed Rule** is too long to print, the Division of Administrative Rules may include only the **Rule Analysis**. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

From the end of the 30-day waiting period through August 29, 2015, an agency may notify the Division of Administrative Rules that it wants to make the **Change in Proposed Rule** effective. When an agency submits a **Notice of Effective Date** for a **Change in Proposed Rule**, the **Proposed Rule** as amended by the **Change in Proposed Rule** becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of the **Change in Proposed Rule**. If the agency designates a public comment period, the effective date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date. Alternatively, the agency may file another **Change in Proposed Rule** in response to additional comments received. If the Division of Administrative Rules does not receive a **Notice of Effective Date** or another **Change in Proposed Rule** by the end of the 120-day period after publication, the **Change in Proposed Rule** filing, along with its associated **Proposed Rule**, lapses.

Changes in Proposed Rules are governed by Section 63G-3-303, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5b, R15-4-7, R15-4-9, and R15-4-10.

The Changes in Proposed Rules Begin on the Following Page

Commerce, Occupational and Professional Licensing
R156-61
Psychologist Licensing Act Rule

NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 38957
FILED: 04/09/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Following a rule hearing and further review by the Division and Psychologist Licensing Board, sections of the rule with respect to examinations required for licensure as a psychologist are being added back in since at this point the Division is not able to make the changes associated with having those sections deleted.

SUMMARY OF THE RULE OR CHANGE: Subsections R156-61-302c(2), (6) and (7) are added back into the rule as the Division, at the present time, is not able to make the changes anticipated earlier with respect to examinations required for psychologist licensure. (DAR NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the December 15, 2014, issue of the Utah State Bulletin, on page 19. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-61-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: No additional costs or savings are anticipated as a result of these additional proposed amendments beyond those previously identified in the proposed rule filing DAR No. 38957, except for the information about the examinations will no longer apply since those subsections are being added back into the rule.

♦ LOCAL GOVERNMENTS: No additional costs or savings are anticipated as a result of these additional proposed amendments beyond those previously identified in the proposed rule filing DAR No. 38957.

♦ SMALL BUSINESSES: No additional costs or savings are anticipated as a result of these additional proposed amendments beyond those previously identified in the proposed rule filing DAR No. 38957.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: No additional costs or savings are anticipated as a result of these additional proposed amendments beyond those previously identified in the proposed rule filing DAR No. 38957, except for the information about the examinations will no longer apply since those subsections are being added back into the rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No additional costs or savings are anticipated as a result of these additional proposed amendments beyond those previously identified in the proposed rule filing DAR No. 38957, except for the information about the examinations will no longer apply since those subsections are being added back into the rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This filing clarifies a previous filing that has not yet gone into effect. No fiscal impact to businesses is anticipated to result from these clarifications.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Dane Ishihara by phone at 801-530-7632, by FAX at 801-530-6511, or by Internet E-mail at dishihara@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 06/01/2015

THIS RULE MAY BECOME EFFECTIVE ON: 06/08/2015

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.
R156-61. Psychologist Licensing Act Rule.
R156-61-302c. Qualifications for Licensure - Examination Requirements.

(1) The examination requirements which shall be met by an applicant for licensure as a psychologist under Subsection 58-61-304(1)(g) are:

(a) passing the Examination for the Professional Practice of Psychology (EPPP) developed by the American Association of State Psychology Board (ASPPB) with a passing score as recommended by the ASPPB; and

(b) passing the Utah Psychologist Law and Ethics Examination with a score of not less than 75%.

(2) A person may be admitted to the EPPP and Utah Psychologist Law and Ethics examinations in Utah only after

meeting the requirements under Section 58-61-305, and after receiving written approval from the Division.

([~~2~~]3) If an applicant is admitted to an EPPP examination based upon substantive information that is incorrect and furnished knowingly by the applicant, the applicant shall automatically be given a failing score and shall not be permitted to retake the examination until the applicant submits fees and a correct application demonstrating the applicant is qualified for the examination and adequately explains why the applicant knowingly furnished incorrect information. If an applicant is inappropriately admitted to an EPPP examination because of a Division or Board error and the applicant receives a passing score, the results of the examination may not be used for licensure until the deficiency which would have barred the applicant for admission to the examination is corrected.

([~~3~~]4) An applicant who fails the EPPP examination three times will only be allowed subsequent admission to the examination after the applicant has appeared before the Board, developed with the Board a plan of study in appropriate subject matter, and thereafter completed the planned course of study to the satisfaction of the Board.

([~~4~~]5) An applicant who is found to be cheating on the EPPP examination or in any way invalidating the integrity of the examination shall automatically be given a failing score and shall not be permitted to retake the examination for a period of at least three years or as determined by the Division in collaboration with the Board.

(6) In accordance with Section 58-1-203 and Subsection 58-61-304(1)(g), an applicant for the EPPP or the Utah Psychologist Law and Ethics Examination shall pass the examinations within one year from the date of the psychologist application for licensure. If the applicant does not pass the examinations within one year, the pending psychologist application shall be denied. The applicant may continue to register to take the EPPP examination under the procedures outlined in Subsection R156-61-302c(4).

(7) In accordance with Section 58-1-203 and Subsection 58-61-304(2)(d), an applicant for psychologist licensure by endorsement shall pass the Utah Psychologist Law and Ethics Examination within six months from the date of the psychologist application for licensure. If the applicant does not pass the examination in six months, the pending psychologist application shall be denied.

KEY: licensing, psychologists
Date of Enactment or Last Substantive Amendment: 2015
Notice of Continuation: January 13, 2014
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-61-101

End of the Notices of Changes in Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **Proposed Rule**; continue the rule as it is by filing a **Five-Year Notice of Review and Statement of Continuation (Review)**; or amend the rule by filing a **Proposed Rule** and by filing a **Review**. By filing a **Review**, the agency indicates that the rule is still necessary.

A **Review** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at http://www.rules.utah.gov/publicat/code.htm. The rule text may also be inspected at the agency or the Division of Administrative Rules. **Reviews** are effective upon filing.

Reviews are governed by Section 63G-3-305.

Commerce, Consumer Protection
R152-1
Utah Division of Consumer Protection: "Buyer Beware List"

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 39281
FILED: 04/15/2015

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 13-5-1(1) gives the director of the Division of Consumer Protection (DCP) general rulemaking authority. In addition, Subsection 13-11-8(2) requires the DCP to adopt rules specifying the acts that constitute deceptive sales practices. Rule R152-1 responds to this requirement by creating the Buyer Beware List, through which consumers and businesses may educate themselves regarding the grounds on which the DCP has taken administrative actions to address deceptive practices.

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 THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule creates a resource that consumers can use to research suppliers and businesses in order to make informed purchasing decisions. The rule also creates a mechanism through which the DCP can incentivize a supplier or business to voluntarily adopt and maintain fair and ethical business practices. The Buyer Beware List is a very effective regulatory tool. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
COMMERCE
CONSUMER PROTECTION
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Jennie Jonsson by phone at 801-530-6706, by FAX at 801-526-4387, or by Internet E-mail at jjonsson@utah.gov

AUTHORIZED BY: Daniel O'Bannon, Director

EFFECTIVE: 04/15/2015

Commerce, Consumer Protection
R152-39
Child Protection Registry Rules

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 39282
FILED: 04/15/2015

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 13-39-203 requires the Division of Consumer Protection (DCP) to makes rules establishing procedures for placing a contact point (e-mail address, instant message identity, telephone or fax number, or electronic address) in the Child Protection Registry (CPR) and for removing a contact from the CPR. Subsection 13-39-201(4) requires the DCP to make rules creating a mechanism through which a person may seek authorization to send a message to a contact point that is contained in the CPR. Rule R152-39 complies with these statutory mandates to create 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 THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The CPR was created by statute in an effort to shield minors from being targeted by advertisers who are selling products that are illegal for children or otherwise inappropriate. Rule R152-39 is necessary because it creates the processes through which the CPR is maintained and used. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Jennie Jonsson by phone at 801-530-6706, by FAX at 801-526-4387, or by Internet E-mail at jjonsson@utah.gov

AUTHORIZED BY: Daniel O'Bannon, Director

EFFECTIVE: 04/15/2015

Health, Health Care Financing, Coverage and Reimbursement Policy
R414-19A
Coverage for Dialysis Services by a Free-Standing State Licensed Dialysis Facility

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 39264
FILED: 04/07/2015

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 26-18-3(2)(a) requires the Department to implement the Medicaid program through administrative rules. In addition, Section 26-1-5 grants the Department the authority to adopt, amend, or rescind rules as necessary to implement the Medicaid program, and 42 CFR 440.90 authorizes dialysis services at a facility furnished by or under the direction of a physician.

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 did not receive any written or oral comments regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Department will continue this rule because it facilitates the administration of dialysis services to Medicaid clients for at least 90 days, and continues coverage for clients who do not qualify for dialysis under Medicare.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

AUTHORIZED BY: David Patton, PhD, Executive Director

EFFECTIVE: 04/07/2015

Judicial Performance Evaluation Commission, Administration
R597-2
Administration of the Commission

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 39268
FILED: 04/13/2015

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 78A-12-203(7) gives the commission the authority to make rules "as necessary to administer the evaluation". Insuring that the evaluation process is free of bias and influence is an integral part of administering the evaluation. Thus, Rule R597-2, which ensures the unbiased action of the commission in administering the evaluation, is authorized by Subsection 78A-12-203(7).

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 THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The ongoing unbiased operation of the commission is both integral and critical to the integrity of its work product. For this reason, the rule should be continued.

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

JUDICIAL PERFORMANCE EVALUATION
COMMISSION
ADMINISTRATION
ROOM B-330 SENATE BUILDING
420 N STATE ST
SALT LAKE CITY, UT 84114
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Joanne Slotnik by phone at 801-538-1652, by FAX at 801-538-1024, or by Internet E-mail at jslotnik@utah.gov

AUTHORIZED BY: John Ashton, Chair

EFFECTIVE: 04/13/2015

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

NOTICES OF
FIVE-YEAR EXPIRATIONS

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (Section 63G-3-305). The Division of Administrative Rules (Division) is required to notify agencies of rules due for review at least 180 days prior to the anniversary date. If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file a **Notice of Five-Year Extension** (**Extension**) with the Division. However, if the agency fails to file either the **Five-Year Notice of Review and Statement of Continuation** or the **Extension** by the date provide by the Division, the rule expires.

Upon expiration of the rule, the Division files a **Notice of Five-Year Expiration** (**Expiration**) to document the action. The Division is required to remove the rule from the *Utah Administrative Code*. The agency may no longer enforce the rule and it must follow regular rulemaking procedures to replace the rule if it is still needed.

The Division has filed **Expirations** for each of the rules listed below which were not reviewed in accordance with Section 63G-3-305. These rules have expired and have been removed from the *Utah Administrative Code*.

The expiration of administrative rules for failure to comply with the five-year review requirement is governed by Subsection 63G-3-305(8).

Capitol Preservation Board (State), Administration
R131-9
Art and Exhibits

FIVE-YEAR REVIEW EXPIRATION
DAR FILE NO.: 39266
FILED: 04/08/2015

SUMMARY: The five-year review and statement of continuation was not submitted by the deadline so this rule expired 04/08/2015 and will be removed from the administrative code.

EFFECTIVE: 04/08/2015

End of the Notices of Notices of Five Year Expirations Section

NOTICES OF
RULE EFFECTIVE DATES

State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **Proposed Rules** or **Changes in Proposed Rules** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **Changes in Proposed Rules** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **Notice of Effective Date** within 120 days from the publication of a **Proposed Rule** or a related **Change in Proposed Rule** the rule lapses.

Agencies have notified the Division of Administrative Rules that the rules listed below have been made effective.

Notices of Effective Date are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

Abbreviations
AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal & Reenact
REP = Repeal

Auditor
Administration
No. 39136 (AMD): R123-6. Allocation of Money in the Property Tax Valuation Agency Fund
Published: 03/01/2015
Effective: 04/08/2015

Commerce
Administration
No. 39144 (AMD): R151-4-109. Extension of Time and Continuance of Hearing
Published: 03/01/2015
Effective: 04/10/2015

Occupational and Professional Licensing
No. 39055 (AMD): R156-26a-501. Unprofessional Conduct
Published: 02/01/2015
Effective: 04/02/2015

No. 39132 (AMD): R156-31b. Nurse Practice Act Rule
Published: 03/01/2015
Effective: 04/07/2015

Governor
Economic Development
No. 39094 (R&R): R357-3. Refundable Economic Development Tax Credit
Published: 02/15/2015
Effective: 04/13/2015

Health
Health Care Financing, Coverage and Reimbursement Policy
No. 39142 (AMD): R414-14A. Hospice Care
Published: 03/01/2015
Effective: 04/07/2015

No. 39131 (AMD): R414-38. Personal Care Service
Published: 03/01/2015
Effective: 04/07/2015

Pardons (Board Of)
Administration
No. 39107 (AMD): R671-303-1. Information Received, Maintained or Used by the Board
Published: 03/01/2015
Effective: 04/07/2015

No. 39137 (AMD): R671-305-1. Board Decisions and Orders
Published: 03/01/2015
Effective: 04/07/2015

School and Institutional Trust Fund Board of Trustees
Administration
No. 39143 (NEW): R849-1. Appeal Rule
Published: 03/01/2015
Effective: 04/15/2015

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, 2015 through April 15, 2015. The Rules Index is published in the Utah State Bulletin and in the annual Utah Administrative Rules 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).

Questions regarding the index and the information it contains should be addressed to the Division of Administrative Rules (801-538-3764).

A copy of the **Rules Index** is available for public inspection at the Division of Administrative Rules (5110 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (http://www.rules.utah.gov/).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment (Proposed Rule)
CPR = Change in Proposed Rule
EMR = 120-Day (Emergency) Rule
EXD = Expired Rule
EXP = Expedited Rule
EXT = Five-Year Review Extension
GEX = Governor's Extension
LNR = Legislative Nonreauthorization
NEW = New Rule (Proposed Rule)
NSC = Nonsubstantive Rule Change
R&R = Repeal and Reenact (Proposed Rule)
REP = Repeal (Proposed Rule)
5YR = Five-Year Notice of Review and Statement of Continuation

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ADMINISTRATIVE SERVICES					
Facilities Construction and Management					
R23-1	Procurement of Construction	39033	R&R	03/03/2015	2015-2/4
R23-2	Procurement of Architect-Engineer Services	39061	REP	03/16/2015	2015-3/4
Purchasing and General Services					
R33-1-1	Definitions	38974	AMD	01/28/2015	2014-24/4
R33-6-101	Competitive Sealed Bidding; Multiple Stage Bidding; Reverse Auction	38975	AMD	01/28/2015	2014-24/5
R33-7	Request for Proposals	38976	AMD	01/28/2015	2014-24/6
R33-12	Terms and Conditions, Contracts, Change Orders and Costs	38977	AMD	01/28/2015	2014-24/9
R33-16-401	Protest Officer May Correct Noncompliance, Errors and Discrepancies	38978	AMD	01/28/2015	2014-24/12
R33-26	State Surplus Property	39084	NSC	01/28/2015	Not Printed
R33-26-202	Information Technology Equipment	39042	AMD	03/31/2015	2015-2/33
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Animal Industry					
R58-7	Livestock Markets, Satellite Video Livestock Auction Market, Livestock Sales, Dealers, and Livestock Market Weighpersons	39075	5YR	01/13/2015	2015-3/67
R58-11	Slaughter of Livestock and Poultry	39073	5YR	01/13/2015	2015-3/67
R58-17	Aquaculture and Aquatic Animal Health	39074	5YR	01/13/2015	2015-3/68
R58-21	Trichomoniasis	39086	5YR	01/21/2015	2015-4/37
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R105-1	Attorney General's Selection of Outside Counsel, Expert Witnesses and Other Litigation Support Services	39099	AMD	03/26/2015	2015-4/4

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R152-39	Child Protection Registry Rules	39282	5YR	04/15/2015	Not Printed
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R156-17b	Pharmacy Practice Act Rule	39018	AMD	02/24/2015	2015-2/51
R156-24b-302b	Qualifications for Licensure - Examination Requirements	39092	AMD	03/24/2015	2015-4/9
R156-26a-501	Unprofessional Conduct	39055	AMD	04/02/2015	2015-3/7
R156-31b	Nurse Practice Act Rule	39132	AMD	04/07/2015	2015-5/10
R156-31b-202	Advisory Peer Education Committee Created -- Membership - Duties	38981	AMD	01/22/2015	2014-24/13
R156-31b-609	Standards for Out-of-State Programs Providing Clinical Experiences in Utah	38980	AMD	01/22/2015	2014-24/14
R156-37	Utah Controlled Substances Act Rule	39015	AMD	02/24/2015	2015-2/80
R156-37f-102	Definitions	39020	AMD	02/24/2015	2015-2/84
R156-60a	Social Worker Licensing Act Rule	38979	AMD	01/22/2015	2014-24/15
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R162-2c-201	Licensing and Registration Procedures	38999	AMD	02/10/2015	2015-1/8
R162-2e-401	Unprofessional Conduct	38971	AMD	01/28/2015	2014-24/26
R162-2f-206	Certification of Continuing Education Course	38972	AMD	01/21/2015	2014-24/28
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R277-419-9	Provisions for Maintaining Student Membership and Enrollment Documentation and Documentation of Student Education Services Provided by Third Party Vendors	39080	EMR	01/15/2015	2015-3/63
R277-468	Parent/Guardian Review of Public Education Curriculum and Review of Complaint Process	39079	NEW	03/10/2015	2015-3/14
R277-487	Public School Data Confidentiality and Disclosure	38956	AMD	01/07/2015	2014-23/6
R277-497	School Grading System	39007	AMD	02/09/2015	2015-1/11
R277-504	Early Childhood, Elementary, Secondary, Special Education (K-12), and Preschool Special Education (Birth-Age 5) Licensure	39008	AMD	02/09/2015	2015-1/13

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R307-120	General Requirements: Tax Exemption for Air Pollution Control Equipment	38998	AMD	03/05/2015	2015-1/17
R307-165	Emission Testing	39110	5YR	02/05/2015	2015-5/102
R307-201	Emission Standards: General Emission Standards	39111	5YR	02/05/2015	2015-5/103
R307-202	Emission Standards: General Burning	39113	5YR	02/05/2015	2015-5/103
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R307-204	Emission Standards: Smoke Management	39114	5YR	02/05/2015	2015-5/104
R307-205	Emission Standards: Fugitive Emissions and Fugitive Dust	39115	5YR	02/05/2015	2015-5/105
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R307-302	Solid Fuel Burning Devices in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah, and Weber Counties	38842	CPR	02/04/2015	2015-1/48
R307-305	Nonattainment and Maintenance areas for PM10: Emission Standards	39118	5YR	02/05/2015	2015-5/107
R307-306	PM10 Nonattainment and Maintenance Areas: Abrasive Blasting	39119	5YR	02/05/2015	2015-5/107
R307-307	Road Salting and Sanding	39120	5YR	02/05/2015	2015-5/108
R307-309	Nonattainment and Maintenance Areas for PM10 and PM2.5: Fugitive Emissions and Fugitive Dust	39121	5YR	02/05/2015	2015-5/108
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R307-311	Utah County: Trading of Emission Budgets for Transportation Conformity	38997	NEW	03/05/2015	2015-1/22
R307-401-19	General Approval Order	38901	AMD	02/05/2015	2014-21/16
R307-841	Residential Property and Child Occupied Facility Renovation	39123	5YR	02/05/2015	2015-5/109
R307-842	Lead-Based Paint Activities	39124	5YR	02/05/2015	2015-5/110

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R309-105	Administration: General Responsibilities of Public Water Systems	39197	5YR	03/13/2015	2015-7/58
R309-110	Administration: Definitions	39198	5YR	03/13/2015	2015-7/59
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R309-220	Monitoring and Water Quality: Public Notification Requirements	39204	5YR	03/13/2015	2015-7/62
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R309-300	Certification Rules for Water Supply Operators	39206	5YR	03/13/2015	2015-7/63
R309-305	Certification Rules for Backflow Technicians	39207	5YR	03/13/2015	2015-7/63
R309-400	Water System Rating Criteria	39208	5YR	03/13/2015	2015-7/64
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R309-500	Facility Design and Operation: Plan Review, Operation and Maintenance Requirements	39184	5YR	03/13/2015	2015-7/65
R309-505	Facility Design and Operation: Minimum Treatment Requirements	39185	5YR	03/13/2015	2015-7/65
R309-510	Facility Design and Operation: Minimum Sizing Requirements	39186	5YR	03/13/2015	2015-7/66
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R309-515	Facility Design and Operation: Source Development	39188	5YR	03/13/2015	2015-7/67
R309-520	Facility Design and Operation: Disinfection	39189	5YR	03/13/2015	2015-7/67
R309-525	Facility Design and Operation: Conventional Surface Water Treatment	39190	5YR	03/13/2015	2015-7/68
R309-530	Facility Design and Operation: Alternative Surface Water Treatment Methods	39191	5YR	03/13/2015	2015-7/68
R309-535	Facility Design and Operation: Miscellaneous Treatment Methods	39192	5YR	03/13/2015	2015-7/69
R309-540	Facility Design and Operation: Pump Stations	39193	5YR	03/13/2015	2015-7/69
R309-545	Facility Design and Operation: Drinking Water Storage Tanks	39194	5YR	03/13/2015	2015-7/70
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R309-600	Source Protection: Drinking Water Source Protection for Ground Water Sources	39213	5YR	03/13/2015	2015-7/71
R309-605	Source Protection: Drinking Water Source Protection for Surface Water Sources	39214	5YR	03/13/2015	2015-7/71
R309-700	Financial Assistance: State Drinking Water State Revolving Fund (SRF) Loan Program	39210	5YR	03/13/2015	2015-7/72
R309-705	Financial Assistance: Federal Drinking Water State Revolving Fund (SRF) Loan Program	39211	5YR	03/13/2015	2015-7/72
R309-800	Capacity Development Program	39212	5YR	03/13/2015	2015-7/73
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R311-500	Illegal Drug Operations Site Reporting and Decontamination Act, Decontamination Specialist Certification Program	39146	5YR	02/18/2015	2015-6/45
Radiation Control					
R313-15-1208	Reports of Leaking or Contaminated Sealed Sources	39082	AMD	03/17/2015	2015-3/21
R313-17-4	Special Procedures for Decisions Associated with Licenses for Uranium Mills and Disposal of Byproduct Material	38770	AMD	02/17/2015	2014-17/95

R313-17-4	Special Procedures for Decisions Associated with Licenses for Uranium Mills and Disposal of Byproduct Material	38770	CPR	02/17/2015	2014-24/40
R313-19	Requirements of General Applicability to Licensing of Radioactive Material	38907	AMD	02/17/2015	2014-21/18
R313-24-1	Purpose and Authority	39149	NSC	03/06/2015	Not Printed
R313-28-31	General and Administrative Requirements	39016	AMD	03/24/2015	2015-2/85
R313-38-3	Clarifications or Exceptions	39083	AMD	03/17/2015	2015-3/22
Water Quality					
R317-4	Onsite Wastewater Systems	39106	5YR	02/03/2015	2015-5/111
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Criminal and Juvenile Justice (State Commission on)					
R356-1	Procedures for the Calculation and Distribution of Funds to Reimburse County Correctional Facilities Housing State Probationary Inmates or State Parole Inmates	39053	EXT	01/02/2015	2015-3/75
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R357-3	Refundable Economic Development Tax Credit	39094	R&R	04/13/2015	2015-4/12
R357-11	Technology Commercialization and Innovation Program (TCIP)	38944	NEW	03/23/2015	2014-23/14
R357-12	Fiscal Emergency Contingent Management of Federal Lands	38945	NEW	03/20/2015	2014-23/17
Energy Development (Office of)					
R362-3	Energy Efficiency Fund	38931	AMD	01/07/2015	2014-22/24
HEALTH					
Administration					
R380-40	Local Health Department Minimum Performance Standards	39173	5YR	03/06/2015	2015-7/74
Center for Health Data, Health Care Statistics					
R428-15	Health Data Authority Health Insurance Claims Reporting	39247	NSC	04/07/2015	Not Printed
Children's Health Insurance Program					
R382-10	Eligibility	39102	AMD	04/01/2015	2015-4/15
Disease Control and Prevention, Environmental Services					
R392-600	Illegal Drug Operations Decontamination Standards	39159	EXD	02/26/2015	2015-6/49
Disease Control and Prevention, Epidemiology					
R386-800	Immunization Coordination	39108	5YR	02/05/2015	2015-5/111
Disease Control and Prevention, Health Promotion					
R384-300	Parkinson's Disease Reporting Rule	39052	NEW	03/12/2015	2015-3/24
Disease Control and Prevention, Immunization					
R396-100	Immunization Rule for Students	39171	NSC	03/24/2015	Not Printed
Family Health and Preparedness, Licensing					
R432-2-6	Application	38982	AMD	02/06/2015	2014-24/33
R432-35	Background Screening -- Health Facilities	38954	AMD	01/27/2015	2014-23/23
Family Health and Preparedness, Maternal and Child Health					
R433-1	Very Low Birth Weight Infant Reporting	38802	NEW	02/12/2015	2014-18/20
R433-1	Very Low Birth Weight Infant Reporting	38802	CPR	02/12/2015	2015-1/50
Health Care Financing, Coverage and Reimbursement Policy					
R414-1-5	Incorporations by Reference	39040	AMD	03/02/2015	2015-2/90

R414-6	Reduction in Certain Targeted Case Management Services	39087	REP	03/24/2015	2015-4/18
R414-11	Podiatric Services	38952	AMD	01/13/2015	2014-23/22
R414-14A	Hospice Care	39142	AMD	04/07/2015	2015-5/53
R414-19A	Coverage for Dialysis Services by a Free-Standing State Licensed Dialysis Facility	39005	AMD	02/18/2015	2015-1/24
R414-19A	Coverage for Dialysis Services by a Free-Standing State Licensed Dialysis Facility	39264	5YR	04/07/2015	Not Printed
R414-38	Personal Care Service	39131	AMD	04/07/2015	2015-5/54
R414-309	Medicare Drug Benefit Low-Income Subsidy Determination	39145	5YR	02/18/2015	2015-6/45
R414-310-7	Household Composition and Income Provisions	38984	AMD	02/01/2015	2014-24/32

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R501-20	Day Treatment Programs	39259	5YR	04/01/2015	2015-8/35
R501-21	Outpatient Treatment Programs	39260	5YR	04/01/2015	2015-8/35
R501-22	Residential Support Programs	39257	5YR	04/01/2015	2015-8/36

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R590-140	Reference Filings of Rate Service Organization Prospective Loss Costs	39147	5YR	02/18/2015	2015-6/46
R590-142	Continuing Education Rule	38934	AMD	01/12/2015	2014-23/25
R590-164	Uniform Health Billing Rule	39174	5YR	03/10/2015	2015-7/74
R590-173	Credit For Reinsurance	39030	NSC	01/15/2015	Not Printed
R590-194	Coverage of Dietary Products for Inborn Errors of Amino Acid or Urea Cycle Metabolism	39038	NSC	01/15/2015	Not Printed
R590-226-14	Responses	39031	NSC	01/15/2015	Not Printed
R590-244	Individual and Agency Licensing Requirements	38935	AMD	01/12/2015	2014-23/31
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R595-2	Administration	39049	5YR	01/02/2015	2015-3/72
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R595-4	Sanctions	39051	5YR	01/02/2015	2015-3/73

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R652-160	Department of Natural Resources Wilderness Rules	38942	NEW	01/27/2015	2014-23/36
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R649-3	Drilling and Operating Practices	39028	AMD	02/26/2015	2015-2/95
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R651-101	Adjudicative Proceedings	39139	5YR	02/12/2015	2015-5/112
R651-207	Registration Fee	39006	AMD	02/11/2015	2015-1/25
R651-214	Temporary Registration	38970	AMD	01/22/2015	2014-24/34
R651-223	Vessel Accident Reporting	39090	5YR	01/23/2015	2015-4/38
R651-409	Minimum Amounts of Liability Insurance Coverage for an Organized Practice or Sanctioned Race	39140	5YR	02/12/2015	2015-5/113
R651-412	Curriculum Standards for OHV Education Programs Offered by Non-Division Entities	39088	5YR	01/22/2015	2015-4/38
R651-634	Nonresident OHV User Permits and Fees	39089	5YR	01/22/2015	2015-4/39
R651-635	Commercial Use of Division Managed Park Areas	39141	5YR	02/12/2015	2015-5/113
Water Rights					
R655-14	Administrative Procedures for enforcement Proceedings Before the Division of Water Rights	39153	5YR	02/24/2015	2015-6/47
R655-16	Administrative Procedures for Declaring Beneficial Use Limitations for Supplemental Water Rights	39152	5YR	02/24/2015	2015-6/47
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R657-5	Taking Big Game	38996	AMD	02/09/2015	2015-1/26
R657-5	Taking Big Game	39062	AMD	03/16/2015	2015-3/30
R657-15	Closure of Gunnison, Cub and Hat Islands	39162	5YR	03/03/2015	2015-7/75
R657-21	Cooperative Wildlife Management Units for Small Game and Waterfowl	39163	5YR	03/03/2015	2015-7/76
R657-33	Taking Bear	39063	AMD	03/16/2015	2015-3/31
R657-38	Dedicated Hunter Program	39064	AMD	03/16/2015	2015-3/39
R657-41	Conservation and Sportsman Permits	39065	AMD	03/16/2015	2015-3/40
R657-42	Fees, Exchanges, Surrenders, Refunds and Reallocation of Wildlife Documents	39066	AMD	03/16/2015	2015-3/42
R657-43	Landowner Permits	38995	AMD	02/09/2015	2015-1/33
R657-55	Wildlife Convention Permits	39067	AMD	03/16/2015	2015-3/43
R657-57	Division Variance Rule	39068	AMD	03/16/2015	2015-3/48
R657-59	Private Fish Ponds	39069	AMD	03/16/2015	2015-3/50
R657-62	Drawing Application Procedures	39070	AMD	03/16/2015	2015-3/52
R657-68	Trial Hunting Authorization	39071	AMD	03/16/2015	2015-3/54
R657-69	Turkey Depredation	38949	AMD	01/08/2015	2014-23/39
PARDONS (BOARD OF)					
Administration					
R671-201	Original Parole Grant Hearing Schedule and Notice	39093	AMD	03/24/2015	2015-4/20
R671-303-1	Information Received, Maintained or Used by the Board	39107	AMD	04/07/2015	2015-5/90
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R722-310	Regulation of Bail Bond Recovery and Enforcement Agents	39057	5YR	01/07/2015	2015-3/73
R722-330	Licensing of Private Investigators	38947	AMD	01/07/2015	2014-23/40
R722-330	Licensing of Private Investigators	39058	5YR	01/07/2015	2015-3/74
R722-370	Firearm Safety Program	39019	NEW	02/24/2015	2015-2/100
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R708-7	Functional Ability in Driving: Guidelines for Physicians	39072	AMD	03/10/2015	2015-3/55
R708-32	Uninsured Motorist Identification Database	39179	5YR	03/10/2015	2015-7/77
R708-36	Disclosure of Personal Identifying Information in MVRs	39178	5YR	03/10/2015	2015-7/77
R708-37	Certification of Licensed Instructors of Commercial Driver Training Schools or Testing Only Schools to Administer Driving Skills Tests	39180	5YR	03/10/2015	2015-7/78
R708-40	Driving Simulators	39181	5YR	03/10/2015	2015-7/78
R708-41	Requirements for Acceptable Documentation, Storage and Maintenance	39182	5YR	03/10/2015	2015-7/79
R708-50	Vehicle Impound Fee Reimbursement	39003	NEW	02/09/2015	2015-1/38
R708-51	Mobility Vehicle Permit	39043	NEW	02/25/2015	2015-2/97

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R728-506	Canine Body Armor Restricted Account	38983	NEW	01/26/2015	2014-24/36

PUBLIC SERVICE COMMISSION

Administration

R746-341-5	Duties of ETCs	38936	AMD	01/07/2015	2014-23/43

REGENTS (BOARD OF)

Administration

R765-609	Regents' Scholarship	39157	5YR	02/25/2015	2015-6/48
R765-611	Veterans Tuition Gap Program	39023	NEW	02/25/2015	2015-2/101

SCHOOL AND INSTITUTIONAL TRUST FUND BOARD OF TRUSTEES

Administration

R849-1	Appeal Rule	39143	NEW	04/15/2015	2015-5/92

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R850-22	Bituminous-Asphaltic Sands and Oil Shale Resources	39251	5YR	04/01/2015	2015-8/37
R850-23	Sand, Gravel and Cinders Permits	39252	5YR	04/01/2015	2015-8/38
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R850-25	Mineral Leases and Materials Permits	39254	5YR	04/01/2015	2015-8/39
R850-26	Coal Leases	39255	5YR	04/01/2015	2015-8/39
R850-27	Geothermal Steam	39256	5YR	04/01/2015	2015-8/40

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R916-4	Construction Manager/General Contractor Contracts	39183	EXT	03/10/2015	2015-7/81

R916-4	Construction Manager/General Contractor Contracts	39101	AMD	03/27/2015	2015-4/26
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R918-7	Highway Sponsorship Programs	39004	NEW	02/20/2015	2015-1/42
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R920-4	Special Road Use or Event	39095	EMR	01/29/2015	2015-4/33
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Administration					
R982-700	Employment Opportunities Website	38938	NEW	01/29/2015	2014-23/44
Employment Development					
R986-700-719	Job Search Child Care (JS CC)	38953	AMD	02/01/2015	2014-23/45
R986-700-775	High Quality School Readiness Grant Program	38939	AMD	01/29/2015	2014-23/46
Housing and Community Development					
R990-8	Permanent Community Impact Fund Board Review and Approval of Applications for Funding Assistance	39085	AMD	03/10/2015	2015-3/58
Unemployment Insurance					
R994-204	Covered Employment	39239	5YR	03/25/2015	2015-8/40
R994-205	Exempt Employment	39240	5YR	03/25/2015	2015-8/41
R994-206	Agricultural Labor	39241	5YR	03/25/2015	2015-8/41
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RULES INDEX - BY KEYWORD (SUBJECT)

ABBREVIATIONS

AMD = Amendment (Proposed Rule)
CPR = Change in Proposed Rule
EMR = 120-Day (Emergency) Rule
EXD = Expired Rule
EXP = Expedited Rule
EXT = Five-Year Review Extension
GEX = Governor's Extension
LNR = Legislative Nonreauthorization
NEW = New Rule (Proposed Rule)
NSC = Nonsubstantive Rule Change
R&R = Repeal and Reenact (Proposed Rule)
REP = Repeal (Proposed Rule)
5YR = Five-Year Notice of Review and Statement of Continuation

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
abrasive blasting					
Environmental Quality, Air Quality	39116	R307-206	5YR	02/05/2015	2015-5/105
	39119	R307-306	5YR	02/05/2015	2015-5/107
acceptable documents					
Public Safety, Driver License	39182	R708-41	5YR	03/10/2015	2015-7/79
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Natural Resources, Parks and Recreation	39090	R651-223	5YR	01/23/2015	2015-4/38
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Commerce, Occupational and Professional Licensing	39055	R156-26a-501	AMD	04/02/2015	2015-3/7

	39068	R657-57	AMD	03/16/2015	2015-3/48
	39069	R657-59	AMD	03/16/2015	2015-3/50
	39070	R657-62	AMD	03/16/2015	2015-3/52
	39071	R657-68	AMD	03/16/2015	2015-3/54
	38949	R657-69	AMD	01/08/2015	2014-23/39
wildlife law					
Natural Resources, Wildlife Resources	39163	R657-21	5YR	03/03/2015	2015-7/76
wildlife management					
Natural Resources, Wildlife Resources	39162	R657-15	5YR	03/03/2015	2015-7/75
wildlife permits					
Natural Resources, Wildlife Resources	39065	R657-41	AMD	03/16/2015	2015-3/40
	39067	R657-55	AMD	03/16/2015	2015-3/43
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