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Inquiries concerning administrative rules or other contents of the *Bulletin* may be addressed to the responsible agency or to: Division of Administrative Rules, 4120 State Office Building, Salt Lake City, Utah 84114, telephone (801) 538-3218, FAX (801) 538-1773. To view rules information, and on-line versions of the division's publications, visit: <http://www.rules.utah.gov/>

The information in this *Bulletin* is summarized in the *Utah State Digest (Digest)*. The *Digest* is available by E-mail or over the Internet. Visit <http://www.rules.utah.gov/publicat/digest.htm> for additional information.

Division of Administrative Rules, Salt Lake City 84114

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NOTICES OF PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between March 2, 2005, 12:00 a.m., and March 15, 2005, 11:59 p.m. are included in this, the April 1, 2005, issue of the *Utah State Bulletin*.

In this publication, each PROPOSED RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the PROPOSED RULE including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the RULE ANALYSIS, the text of the PROPOSED RULE is usually printed. New rules or additions made to existing rules are underlined (e.g., example). Deletions made to existing rules are struck out with brackets surrounding them (e.g., [~~example~~]). Rules being repealed are completely struck out. A row of dots in the text (· · · · ·) indicates that unaffected text was removed to conserve space. If a PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of each rule that is too long to print is available from the filing agency or from the Division of Administrative Rules.

The law requires that an agency accept public comment on PROPOSED RULES published in this issue of the *Utah State Bulletin* until at least May 2, 2005. The agency may accept comment beyond this date and will list the last day the agency will accept comment in the RULE ANALYSIS. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency to hold a hearing on a specific PROPOSED RULE. Section 63-46a-5 (1987) requires that a hearing request be received "in writing not more than 15 days after the publication date of the PROPOSED RULE."

From the end of the public comment period through July 30, 2005, the agency may notify the Division of Administrative Rules that it wants to make the PROPOSED RULE effective. The agency sets the effective date. The date may be no fewer than 31 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a CHANGE IN PROPOSED RULE in response to comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing lapses and the agency must start the process over.

The public, interest groups, and governmental agencies are invited to review and comment on PROPOSED RULES. *Comment may be directed to the contact person identified on the RULE ANALYSIS for each rule.*

PROPOSED RULES are governed by *Utah Code* Section 63-46a-4 (2001); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page.

Environmental Quality, Air Quality **R307-101-2** Definitions

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE No.: 27755
FILED: 03/15/2005, 16:16

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment makes revisions to specific definitions related to the PM10 Maintenance Plan (see separate filing on Section R307-110-10, in this issue). Utah will seek redesignation of Salt Lake and Utah Counties and Ogden City from nonattainment to attainment of the PM10 health standard following the final adoption of the plan. The revisions in this rule are in anticipation of this redesignation. (DAR NOTE: The proposed amendment to Section R307-110-10 is under DAR No. 27768 in this issue.)

SUMMARY OF THE RULE OR CHANGE: This amendment includes deletions, revisions, and additions to several definitions that will bring those definitions in alignment with the new PM 10 Maintenance Plan under Section R307-110-10.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** Because these revisions do not create any new requirements, no change in costs is expected to the state budget.
- ❖ **LOCAL GOVERNMENTS:** Because these revisions do not create any new requirements, no change in costs is expected for local governments.
- ❖ **OTHER PERSONS:** Because these revisions do not create any new requirements, no change in costs is expected for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because these revisions do not create any new requirements, no change in cost is expected for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Because these revisions do not create new requirements, no change to costs is expected for businesses. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mat E. Carlile or Jan Miller at the above address, by phone at 801-536-4136 or 801-536-4042, by FAX at 801-536-0085 or 801-536-4099, or by Internet E-mail at MCARLILE@utah.gov or janmiller@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/02/2005

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 4/19/2005 at 10:00 AM, DEQ Bldg, 168 N 1950 W, Room 101, Salt Lake City, UT; 4/20/2005 at 1:30 PM, Utah County Administration Bldg, 100 E Center Street, Suite 2300, Provo, UT; and 4/21/2005 at 6:00 PM, Weber County Bldg, 2380 Washington Blvd, Breakout Room, Ogden, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 07/30/2005

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.

R307-101. General Requirements.

R307-101-2. Definitions.

Except where specified in individual rules, definitions in R307-101-2 are applicable to all rules adopted by the Air Quality Board.

~~["Actual Area of Nonattainment" means an area which is shown by monitored data or modeling actually to exceed the National Ambient Air Quality Standards (Boundaries are established in the Utah State Implementation Plan).~~

—"Actual Emissions" means the actual rate of emissions of a pollutant from an emissions unit determined as follows:

(1) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operations. The Executive Secretary shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(2) The Executive Secretary may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(3) For any emission unit, other than an electric utility steam generating unit specified in (4), which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

(4) For an electric utility steam generating unit (other than a new unit or the replacement of an existing unit) actual emissions of the unit following the physical or operational change shall equal the representative actual annual emissions of the unit, provided the source owner or operator maintains and submits to the executive secretary, on an annual basis for a period of 5 years from the date the unit resumes regular operation, information demonstrating that the physical or operational change did not result in an emissions

increase. A longer period, not to exceed 10 years, may be required by the executive secretary if the executive secretary determines such a period to be more representative of normal source post-change operations.

"Acute Hazardous Air Pollutant" means any noncarcinogenic hazardous air pollutant for which a threshold limit value - ceiling (TLV-C) has been adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, pages 15 - 72 (2000)."

"Air Contaminant" means any particulate matter or any gas, vapor, suspended solid or any combination of them, excluding steam and water vapors (Section 19-2-102(1)).

"Air Contaminant Source" means any and all sources of emission of air contaminants whether privately or publicly owned or operated (Section 19-2-102(2)).

"Air Pollution" means the presence in the ambient air of one or more air contaminants in such quantities and duration and under conditions and circumstances, as is or tends to be injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or use of property as determined by the standards, rules and regulations adopted by the Air Quality Board (Section 19-2-104).

"Air Quality Related Values" means, as used in analyses under R307-401-4(1), Public Notice, those special attributes of a Class I area, assigned by a federal Land Manager, that are adversely affected by air quality.

"Allowable Emissions" means the emission rate of a source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both) and the emission limitation established pursuant to R307-401-6.

"Ambient Air" means the surrounding or outside air (Section 19-2-102(4)).

"Appropriate Authority" means the governing body of any city, town or county.

"Asphalt or Asphalt Cement" means the dark brown to black cementitious material (solid, semisolid, or liquid in consistency) of which the main constituents are bitumens which occur naturally or as a residue of petroleum refining.

"Atmosphere" means the air that envelops or surrounds the earth and includes all space outside of buildings, stacks or exterior ducts.

"Authorized Local Authority" means a city, county, city-county or district health department; a city, county or combination fire department; or other local agency duly designated by appropriate authority, with approval of the state Department of Health; and other lawfully adopted ordinances, codes or regulations not in conflict therewith.

"Baseline Date"[-]

(1) Major source baseline date means:

(a) [F]in the case of particulate matter: ~~and sulfur dioxide, January 6, 1975, and~~

(i) for Davis, Salt Lake, Utah, and Weber Counties, the date that EPA approves the PM10 maintenance plan that was adopted by the Board on June 1, 2005;

(ii) for all other areas of the state, January 6, 1975;

(b) in the case of sulfur dioxide:

(i) for Salt Lake County, the date that EPA approves the Sulfur Dioxide maintenance plan that was adopted by the Board on January 5, 2005;

(ii) for all other areas of the state, January 6, 1975; and
~~(b)(c)~~ [F]in the case of nitrogen dioxide, February 8, 1988.

(2) Minor source baseline date means the earliest date after the trigger date on which the first complete application under 40 CFR 52.21 or R307-405 is submitted by a major source or major modification subject to the requirements of 40 CFR 52.21 or R307-405. The minor source baseline is the date after which emissions from all new or modified sources consume or expand increment, including emissions from major and minor sources as well as any or all general commercial, residential, industrial, and other growth. The trigger date is:

(a) In the case of particulate matter and sulfur dioxide, August 7, 1977, and

(b) In the case of nitrogen dioxide, February 8, 1988.

"Best Available Control Technology (BACT)" means an emission limitation and/or other controls to include design, equipment, work practice, operation standard or combination thereof, based on the maximum degree or reduction of each pollutant subject to regulation under the Clean Air Act and/or the Utah Air Conservation Act emitted from or which results from any emitting installation, which the Air Quality Board, on a case-by-case basis taking into account energy, environmental and economic impacts and other costs, determines is achievable for such installation through application of production processes and available methods, systems and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of each such pollutant. In no event shall applications of BACT result in emissions of any pollutants which will exceed the emissions allowed by Section 111 or 112 of the Clean Air Act.

"Board" means Air Quality Board. See Section 19-2-102(6)(a).

"Breakdown" means any malfunction or procedural error, to include but not limited to any malfunction or procedural error during start-up and shutdown, which will result in the inoperability or sudden loss of performance of the control equipment or process equipment causing emissions in excess of those allowed by approval order or Title R307.

"BTU" means British Thermal Unit, the quantity of heat necessary to raise the temperature of one pound of water one degree Fahrenheit.

.....

"Enforceable" means all limitations and conditions which are enforceable by the Administrator, including those requirements developed pursuant to 40 CFR Parts 60 and 61, requirements within the State Implementation Plan and R307, any permit requirements established pursuant to 40 CFR 52.21 or R307-401.

"EPA" means Environmental Protection Agency.

"EPA Method 9" means "Visual Determination of Opacity of Emissions from Stationary Sources." 40 CFR Part 60, Appendix A, effective July 1, 2004.

"Executive Director" means the Executive Director of the Utah Department of Environmental Quality. See Section 19-1-103(2).

"Executive Secretary" means the Executive Secretary of the Board.

"Existing Installation" means an installation, construction of which began prior to the effective date of any regulation having application to it.

"Facility" means machinery, equipment, structures of any part or accessories thereof, installed or acquired for the primary purpose

of controlling or disposing of air pollution. It does not include an air conditioner, fan or other similar device for the comfort of personnel.

"Fireplace" means all devices both masonry or factory built units (free standing fireplaces) with a hearth, fire chamber or similarly prepared device connected to a chimney which provides the operator with little control of combustion air, leaving its fire chamber fully or at least partially open to the room. Fireplaces include those devices with circulating systems, heat exchangers, or draft reducing doors with a net thermal efficiency of no greater than twenty percent and are used for aesthetic purposes.

"Fugitive Dust" means particulate, composed of soil and/or industrial particulates such as ash, coal, minerals, etc., which becomes airborne because of wind or mechanical disturbance of surfaces. Natural sources of dust and fugitive emissions are not fugitive dust within the meaning of this definition.

"Fugitive Emissions" means emissions from an installation or facility which are neither passed through an air cleaning device nor vented through a stack or could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

"Garbage" means all putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food, including wastes attendant thereto.

"Gasoline" means any petroleum distillate, used as a fuel for internal combustion engines, having a Reid vapor pressure of 4 pounds or greater.

"Hazardous Air Pollutant (HAP)" means any pollutant listed by the EPA as a hazardous air pollutant in conformance with Section 112(b) of the Clean Air Act. A list of these pollutants is available at the Division of Air Quality.

"Heavy Fuel Oil" means a petroleum product or similar material with a boiling range higher than that of diesel fuel.

"Household Waste" means any solid or liquid material normally generated by the family in a residence in the course of ordinary day-to-day living, including but not limited to garbage, paper products, rags, leaves and garden trash.

"Incinerator" means a combustion apparatus designed for high temperature operation in which solid, semisolid, liquid, or gaseous combustible wastes are ignited and burned efficiently and from which the solid and gaseous residues contain little or no combustible material.

"Indirect Source" means a building, structure or installation which attracts or may attract mobile source activity that results in emission of a pollutant for which there is a national standard.

"Installation" means a discrete process with identifiable emissions which may be part of a larger industrial plant. Pollution equipment shall not be considered a separate installation or installations.

"LPG" means liquified petroleum gas such as propane or butane.

"Maintenance Area" means an area that is subject to the provisions of a maintenance plan that is included in the Utah state implementation plan, and that has been redesignated by EPA from nonattainment to attainment of any National Ambient Air Quality Standard.

(a) The following areas are considered maintenance areas for ozone:

(i) Salt Lake County, effective August 18, 1997; and

(ii) Davis County, effective August 18, 1997.

(b) The following areas are considered maintenance areas for carbon monoxide:

(i) Salt Lake City, effective March 22, 1999;

(ii) Ogden City, effective May 8, 2001; and

(iii) Provo City, effective on the date that EPA approves the maintenance plan that was adopted by the Board on March 31, 2004.

(c) The following areas are considered maintenance areas for PM10:

(i) Salt Lake County, effective on the date that EPA approves the maintenance plan that was adopted by the Board on June 1, 2005; and

(ii) Utah County, effective on the date that EPA approves the maintenance plan that was adopted by the Board on June 1, 2005; and

(iii) Ogden City, effective on the date that EPA approves the maintenance plan that was adopted by the Board on June 1, 2005.

(d) The following areas are considered maintenance areas for sulfur dioxide:

(i) Salt Lake County, effective on the date that EPA approves the maintenance plan that was adopted by the Board on January 5, 2005.

"Major Modification" means any physical change in or change in the method of operation of a major source that would result in a significant net emissions increase of any pollutant. A net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone. Within Salt Lake and Davis Counties or any nonattainment area for ozone, a net emissions increase that is significant for nitrogen oxides shall be considered significant for ozone. Within areas of nonattainment for PM10, a significant net emission increase for any PM10 precursor is also a significant net emission increase for PM10. A physical change or change in the method of operation shall not include:

(1) routine maintenance, repair and replacement;

(2) use of an alternative fuel or raw material by reason of an order under section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(3) use of an alternative fuel by reason of an order or rule under section 125 of the federal Clean Air Act;

(4) use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(5) use of an alternative fuel or raw material by a source:

(a) which the source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any enforceable permit condition; or

(b) which the source is otherwise approved to use;

(6) an increase in the hours of operation or in the production rate unless such change would be prohibited under any enforceable permit condition;

(7) any change in ownership at a source

(8) the addition, replacement or use of a pollution control project at an existing electric utility steam generating unit, unless the executive secretary determines that such addition, replacement, or use renders the unit less environmentally beneficial, or except:

(a) when the executive secretary has reason to believe that the pollution control project would result in a significant net increase in representative actual annual emissions of any criteria pollutant over levels used for that source in the most recent air quality impact analysis in the area conducted for the purpose of Title I of the Clean Air Act, if any, and

(b) the executive secretary determines that the increase will cause or contribute to a violation of any national ambient air quality standard or PSD increment, or visibility limitation.

(9) the installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:

(a) the Utah State Implementation Plan; and

(b) other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

.....

"New Installation" means an installation, construction of which began after the effective date of any regulation having application to it.

"Nonattainment Area" means ~~[for any pollutant, "an area which is shown by monitored data or which is calculated by air quality modeling (or other methods determined by the Administrator, EPA to be reliable) to exceed any National Ambient Air Quality Standard for such pollutant" (Section 171, Clean Air Act). Such term includes any]an area designated by the Environmental Protection Agency as nonattainment under Section 107, Clean Air Act for any National Ambient Air Quality Standard. The designations for Utah are listed in 40 CFR 81.345.~~

"Offset" means an amount of emission reduction, by a source, greater than the emission limitation imposed on such source by these regulations and/or the State Implementation Plan.

"Opacity" means the capacity to obstruct the transmission of light, expressed as percent.

"Open Burning" means any burning of combustible materials resulting in emission of products of combustion into ambient air without passage through a chimney or stack.

"Owner or Operator" means any person who owns, leases, controls, operates or supervises a facility, an emission source, or air pollution control equipment.

"PSD" Area means an area designated as attainment or unclassifiable under section 107(d)(1)(D) or (E) of the federal Clean Air Act.

~~["PM10 Nonattainment Area" means Salt Lake County, Utah County, or Ogden City.~~

—] "PM10[Particulate Matter]" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by an EPA reference or equivalent method.

"PM10 Precursor" means any chemical compound or substance which, after it has been emitted into the atmosphere, undergoes chemical or physical changes that convert it into particulate matter, specifically PM10.~~[It includes sulfur dioxide and nitrogen oxides.]~~

.....

"Residence" means a dwelling in which people live, including all ancillary buildings.

"Residential Solid Fuel Burning" device means any residential burning device except a fireplace connected to a chimney that burns solid fuel and is capable of, and intended for use as a space heater, domestic water heater, or indoor cooking appliance, and has an air-to-fuel ratio less than 35-to-1 as determined by the test procedures prescribed in 40 CFR 60.534. It must also have a useable firebox volume of less than 6.10 cubic meters or 20 cubic feet, a minimum burn rate less than 5 kilograms per hour or 11 pounds per hour as

determined by test procedures prescribed in 40 CFR 60.534, and weigh less than 800 kilograms or 362.9 pounds. Appliances that are described as prefabricated fireplaces and are designed to accommodate doors or other accessories that would create the air starved operating conditions of a residential solid fuel burning device shall be considered as such. Fireplaces are not included in this definition for solid fuel burning devices.

"Road" means any public or private road.

"Salvage Operation" means any business, trade or industry engaged in whole or in part in salvaging or reclaiming any product or material, including but not limited to metals, chemicals, shipping containers or drums.

"Secondary Emissions" means emissions which would occur as a result of the construction or operation of a major source or major modification, but do not come from the major source or major modification itself.

Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the source or modification which causes the secondary emissions. Secondary emissions include emissions from any off-site support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

Fugitive emissions and fugitive dust from the source or modification are not considered secondary emissions.

"Significant" means:

(1) In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

- Carbon monoxide: 100 ton per year (tpy);
- Nitrogen oxides: 40 tpy;
- Sulfur dioxide: 40 tpy;
- PM10~~[Particulate matter]~~: 15 tpy;
- Particulate matter: 25 tpy;
- Ozone: 40 tpy of volatile organic compounds;
- Lead: 0.6 tpy.

(2) For purposes of R307-405 it shall also additionally mean for:

(a) A rate of emissions that would equal or exceed any of the following rates:

- Asbestos: 0.007 tpy;
- Beryllium: 0.0004 tpy;
- Mercury: 0.1 tpy;
- Vinyl Chloride: 1 tpy;
- Fluorides: 3 tpy;
- Sulfuric acid mist: 7 tpy;
- Hydrogen Sulfide: 10 tpy;
- Total reduced sulfur (including H2S): 10 tpy;
- Reduced sulfur compounds (including H2S): 10 tpy;

.....

KEY: air pollution, definitions
~~[December 31, 2003]2005~~
Notice of Continuation June 5, 2003
19-2-104



Environmental Quality, Air Quality
R307-110-10
 Section IX, Control Measures for Area
 and Point Sources, Part A, Fine
 Particulate Matter

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE NO.: 27768
 FILED: 03/15/2005, 16:25

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to add a new Subsection IX.A.10 to the PM10 state implementation plan that is incorporated by reference by Section R307-110-10 (see separate filings on Section R307-110-17 and other rules in this issue.) (DAR NOTE: The other filings that are affected by this rule change are: the proposed amendment to Section R307-101-2 under DAR No. 27755, the proposed amendment to Rule R307-165 under DAR No. 27756, the proposed amendment to Rule R307-201 under DAR No. 27757, the proposed new Rule R307-207 under DAR No. 27760, the proposed amendment to Rule R307-302 under DAR No. 27761, the proposed amendment to Rule R307-305 under DAR No. 27762, the proposed new Rule R307-306 under DAR No. 27763, the proposed amendment to Rule R307-205 under DAR No. 27764, the proposed amendment to Rule R307-309 under DAR No. 27765, the proposed amendment to Section R307-310-5 under DAR No. 27766, the proposed new Rule R307-421 under DAR No. 27767, and the proposed amendment to Section R307-110-17 under DAR No. 27769 all in this issue.)

SUMMARY OF THE RULE OR CHANGE: This amendment revises Section R307-110-10 to change the date of last adoption by the Air Quality Board, and adds a new Subsection IX.A.10 to the PM10 state implementation plan that is incorporated by reference by Section R307-110-10. The measures in the original PM10 plan adopted in 1991 brought all areas of the state into compliance; there have been no violations since 1995 in Salt Lake County, and since 1996 in Utah County. The new subsection is a maintenance plan demonstrating that there will be no violations in Utah through 2017. In addition, the new subsection proposes two alternative sets of motor vehicle emissions budgets for PM10 for Salt Lake County, Utah County, and Ogden City; the Air Quality Board seeks comment on whether a part of the safety margin should be allocated to the Motor Vehicle Emission Budget or retained by the Board. As proposed, the document includes language to implement either alternative, and the Board seeks comment on which alternative should be included in the final Plan. The plan makes no changes in the measures already in place to control emissions from industrial sources; the only other change is to add residential woodburning controls in northern Davis County and Weber County west of the Wasatch Mountain range where voluntary controls have been in place since 1992. Utah will seek redesignation of Salt Lake and

Utah Counties and Ogden City from nonattainment to attainment of the PM10 health standard following the final adoption of the plan. The full text of the existing PM10 plan, as well as the proposed addition, are available at <http://airquality.utah.gov/SIP/PM10SIP/index.htm>.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(3)(e)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: State Implementation Plan Section IX, Control Measures for Area and Point Sources, Part A.10, PM10 Maintenance Provisions for Salt Lake and Utah Counties and Ogden City

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The only change in control measures is to add residential woodburning controls in Northern Davis County and Weber County west of the Wasatch Mountain range. Little new cost is expected to result, as compliance is already high with the voluntary program instituted in those areas in 1992.

❖ LOCAL GOVERNMENTS: The only change in control measures is to add residential woodburning controls in Northern Davis County and Weber County west of the Wasatch Mountain range. No new costs are expected to result, as compliance is already high with the voluntary program instituted in those areas in 1992.

❖ OTHER PERSONS: Redesignation of these areas from nonattainment to attainment will result in different permitting requirements for large sources. It is difficult to estimate the costs and benefits for individual companies seeking a permit because they will vary by company. A company modifying its existing operation or building a new one may save because the company will be required to install Best Available Control Technology (BACT), not the more stringent technology needed to achieve the Lowest Achievable Emission Rate (LAER). Also, the company would need to purchase offset credits (under the new Rule R307-421) only for nitrogen oxides and sulfur dioxide, but not for PM10 as is required under the current Plan. The Plan institutes woodburning controls on residential fireplaces and woodstoves in Northern Davis county and Weber County west of the Wasatch Mountain range, but no change in costs are expected, as those areas have had a voluntary woodburning program since 1992 and compliance has been high.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Redesignation of these areas from nonattainment to attainment will result in different permitting requirements for large sources. It is difficult to estimate the costs and benefits for individual companies seeking a permit because they will vary by company. A company modifying its existing operation or building a new one may save, because the company will be required to install Best Available Control Technology (BACT), not the more stringent technology needed to achieve the Lowest Achievable Emission Rate (LAER). Also, the company would need to purchase offset credits (under the new Rule R307-421) only for nitrogen oxides and sulfur dioxide, but not for PM10, as is required under the current Plan. The Plan institutes woodburning controls on residential

fireplaces and woodstoves in Northern Davis county and Weber County west of the Wasatch Mountain range, but no change in costs are expected, as those areas have had a voluntary woodburning program since 1992 and compliance has been high.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There have been no violations of the PM10 health standard in Utah since 1996, and none are expected in the future. The control measures in the original PM10 SIP in 1990 required substantial reductions in emissions, and those reductions brought us into compliance with the health standard by 1996. We have maintained the health standard even in the face of rapid growth in population, vehicle travel, and industrial expansion. This new plan demonstrates that further growth in years to come will not bring violations of the health standard, and changes in costs for businesses are minimal. Dianne R. Nielson, Executive Director

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ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at janmiller@utah.gov

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INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 4/19/2005 at 10:00 AM, DEQ Bldg, 168 N 1950 W, Room 101, Salt Lake City, UT; 4/20/2005 at 1:30 PM, Utah County Administration Bldg, 100 E Center Street, Suite 2300, Provo, UT; and 4/21/2005 at 6:00 PM, Weber County Bldg, 2380 Washington Blvd, Breakout Room, Ogden, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 07/30/2005

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.

R307-110. General Requirements: State Implementation Plan. R307-110-10. Section IX, Control Measures for Area and Point Sources, Part A, Fine Particulate Matter.

The Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part A, Fine Particulate Matter, as most recently amended by the Utah Air Quality Board on [July 3, 2002] July 6, 2005, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

KEY: air pollution, PM10, PM2.5, ozone
[January 4,] 2005
Notice of Continuation March 27, 2002
19-2-104(3)(e)



Environmental Quality, Air Quality **R307-110-17** Section IX, Control Measures for Area and Point Sources, Part H, Emission Limits

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 27769
FILED: 03/15/2005, 16:35

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section R307-110-17 incorporates by reference emission limits for specific sources of air pollution in Utah, Salt Lake, and Davis Counties; these limits are required by the PM10 Plan that is incorporated by reference by Section R307-110-10. The purpose of this change is to update the emission limits to match the new PM10 Maintenance Plan that is also proposed for public comment in this issue (see separate filing on Section R307-110-10 in this issue). (DAR NOTE: The proposed amendment to Section R307-110-10 is under DAR No. 27768 in this issue.)

SUMMARY OF THE RULE OR CHANGE: In Section R307-110-17, the date of adoption by the Air Quality Board is amended to reflect the latest amendments to the emission limits required by the PM10 Maintenance Plan that is incorporated by reference by Section R307-110-10. The plan with the emission limits that is incorporated by Section R307-110-17 is entirely deleted and replaced by a new document. The new document includes general provisions that apply to all sources with limits specified in the plan, and specifies new limits for those sources. The new plan includes emission limits for all sources that were identified by computer modeling of emissions, meteorology, and atmospheric chemistry as being important contributors to potential violations of the health standard for PM10. Some sources included in the existing plan are deleted from the new plan; the only source added to the plan is the Payson City electricity generating unit. The limits included in the new plan are those already found in permits and approval orders that the sources already follow.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(3)(e)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: State Implementation Plan Section IX, Control Measures for Area and Point Sources, Part H, Emission Limits

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There is no change in costs for the state because the emission limits for sources included in the plan are already included in approval orders and Air Quality staff conduct inspections to ensure that those conditions are met.
- ❖ LOCAL GOVERNMENTS: The cities included in the plan are already meeting the specified emission limits because the limits already are included in their permits and approval orders. Therefore, there are no costs or savings for them.
- ❖ OTHER PERSONS: There are no additional costs for sources included in the plan because their emission limits are already included in their permits and approval orders. There are no savings for sources that are no longer included in the plan because emission limits in their current permits and approval orders must still be followed.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no additional costs for sources included in the plan because their emission limits are already included in their permits and approval orders. There are no savings for sources that are no longer included in the plan because emission limits in their current permits and approval orders must still be followed.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no direct costs or savings for sources due to adoption of the new plan and emission limits. Dianne R. Nielson, Executive Director

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THIS RULE MAY BECOME EFFECTIVE ON: 07/30/2005

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.

R307-110. General Requirements: State Implementation Plan. R307-110-17. Section IX, Control Measures for Area and Point Sources, Part H, Emissions Limits.

The Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part H, Emissions Limits, as most recently amended by the Utah Air Quality Board on ~~June 5~~ July 6, 2002, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

KEY: air pollution, PM10, PM2.5, ozone
[January 4,] 2005
Notice of Continuation March 27, 2002
19-2-104(3)(e)

▼ ————— ▼

Environmental Quality, Air Quality

R307-165

Emission Testing

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27756

FILED: 03/15/2005, 16:16

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment removes duplicate and outdated requirements to help clarify and align requirements with the new PM10 Maintenance Plan (see separate filing on Section R307-110-10 in this issue). Utah will seek redesignation of Salt Lake and Utah Counties and Ogden City from nonattainment to attainment of the PM10 health standard following the final adoption of the plan. The revisions in this rule are in anticipation of this redesignation. (DAR NOTE: The proposed amendment to Section R307-110-10 is under DAR No. 27768 in this issue.)

SUMMARY OF THE RULE OR CHANGE: This amendment removes duplicate and outdated requirements to help clarify and align requirements with the new PM10 Maintenance Plan under Section R307-110-10.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: Because these revisions do not create new requirements, no change in cost is expected for the state budget.
- ❖ LOCAL GOVERNMENTS: Because these revisions do not create new requirements, no change in cost is expected for local governments.
- ❖ OTHER PERSONS: Because these revisions do not create new requirements, no change in cost is expected for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment does not change current requirements; therefore, no change in cost is expected.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment does not create new requirements. Therefore, no additional costs are expected. Dianne R. Nielson, Executive Director

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DIRECT QUESTIONS REGARDING THIS RULE TO:

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THIS RULE MAY BECOME EFFECTIVE ON: 07/30/2005

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.

R307-165. Emission Testing.

R307-165-1. Purpose.

R307-165 establishes the frequency of emission testing requirements for all areas in the state.

R307-165-2. Testing Every 5 Years.

[(4)]Emission testing [will be]is required at least once every five years of all sources with established emission limitations specified in approval orders issued under R307-401 or in section IX, Part H of the Utah state implementation plan. [at least once every five years. For sources located in nonattainment areas, emission testing will be required at least once every five years or more frequently as specified in Section IX, Part H of the Utah State Implementation Plan (SIP) adopted by the Air Quality Board, or by the Executive Secretary if he has reason to believe that the source is not meeting its emission limitation. Sources approved in accordance with R307-401 will be tested within six months of start-up. Sources for which emission limitations are established by R307-305-5 which do not require modification will be tested within one year of the effective date of these regulations.] In addition, if the [E]executive

[S]secretary has reason to believe that an applicable emission limitation is being exceeded[~~(i.e., through visible emission observations and monitoring data, etc.)~~he], the executive secretary may require the owner or operator to perform such emission testing as is necessary to determine actual compliance status. The Board may grant exceptions to the mandatory testing requirements of R307-165-[4]2 [which]that are [not in]consistent with the purposes of R307.

R307-165-[2]3. Notification of DAQ.

At least 30 days prior to conducting any emission testing required under any part of R307, the owner or operator shall notify the [E]executive [S]secretary of the date, time and place of such testing and, if determined necessary by the [E]executive [S]secretary, the owner or operator shall attend a pretest conference.

R307-165-[3]4. Test Conditions.

All tests shall be conducted while the source is operating at the maximum production or combustion rate at which such source will be operated. During the tests, the source shall burn fuels or ~~combustion~~combinations of fuels, use raw materials, and maintain process conditions representative of normal operations. ~~[, and]~~ In addition, the source shall operate under such other relevant conditions as the [E]executive [S]secretary shall specify.

R307-165-[4]5. Rejection of Test Results.

The [E]executive [S]secretary may reject emissions test data if they are determined to be incomplete, inadequate, not representative of operating conditions specified for the test, or if the ~~[State]executive secretary~~ was not provided an opportunity to have an observer present at the test.

KEY: air pollution, emission testing[±]

[September 15, 1998]2005

Notice of Continuation June 11, 2003

19-2-104(1)



Environmental Quality, Air Quality

R307-201

Emission Standards: General Emission Standards

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27757

FILED: 03/15/2005, 16:17

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to clarify the applicability of this rule and remove obsolete requirements. This amendment is part of the overall revisions to rules related to the new PM10 Maintenance Plan (see separate filing on R307-110-10, in this issue). Utah will seek redesignation of Salt Lake and Utah Counties and Ogden City from nonattainment to attainment of the PM10 health standard following the final adoption of the plan. The revisions in this rule are in anticipation of this

redesignation. (DAR NOTE: The proposed amendment to Section R307-110-10 is under DAR No. 27768 in this issue.)

SUMMARY OF THE RULE OR CHANGE: This amendment revises the applicability of this rule to apply outside of nonattainment and maintenance areas. Currently, this rule applies statewide and is part of the federally enforceable State Implementation Plan. Upon adoption by the board, Rule R307-201 will only apply outside the nonattainment and maintenance areas and the state will request the EPA to retract Rule R307-201. Another rule, R307-305 (see separate filing on R307-305, in this issue), will apply within the nonattainment and maintenance areas. This amendment also removes requirements for residential fireplaces and stoves, which are moved to Rule R307-207 (see separate filing on R307-207, in this issue). In addition, some exemptions from the opacity standard were deleted. (DAR NOTE: The proposed amendment to Rule R307-305 is under DAR No. 27762, and the proposed amendment to Rule R307-207 is under DAR No. 27760 in this issue.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-2-104 and 41-6-147

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** Although some exemptions were deleted, no costs or savings to the state budget are expected because these exemptions are obsolete.
- ❖ **LOCAL GOVERNMENTS:** Although some exemptions were deleted, no costs or savings to local government are expected because these exemptions are obsolete.
- ❖ **OTHER PERSONS:** Although some exemptions were deleted, no costs or savings to other persons are expected because these exemptions are obsolete.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No new costs for affected persons are associated with this amendment because the exemptions that are being deleted are obsolete.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Although some obsolete opacity standard exemptions are being deleted from this rule, these revisions will not fiscally impact businesses. Other revisions of this rule do not create new requirements; therefore, no additional costs are expected. Dianne R. Nielson, Executive Director

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THIS RULE MAY BECOME EFFECTIVE ON: 07/30/2005

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.

R307-201. Emission Standards: General Emission Standards.

R307-201-1. Purpose.

R307-201 establishes emission standards for all areas of the state except for sources listed in section IX, Part H of the state implementation plan or located in a PM10 nonattainment or maintenance area.

R307-201-2. Applicability.

R307-201 applies statewide to any sources of emissions except for sources listed in section IX, Part H of the state implementation plan or located in a PM10 nonattainment or maintenance area.

R307-201-3. Visible Emissions Standards.

~~[Other provisions of R307 may require more stringent controls than listed herein, in which case those requirements must be met.~~

~~(1) Visible Emissions. Opacity limitations in R307-201-1 and R307-305-1 shall not apply to any sources for which emission limitations are assigned pursuant to R307-305-2 through 7 and R307-307. The provisions of (7) through (9) below shall apply to such sources except as otherwise provided in R307-305-2 through 7 and R307-307.]~~(1) Visible emissions from installations constructed on or before April 25, 1971, except diesel engines, shall be of a shade or density no darker than 40% opacity, except as otherwise provided in these rules.

~~(2) Visible emissions from installations constructed after April 25, 1971, except diesel[internal combustion] engines[or any incinerator] shall be of a shade or density no darker than 20% opacity, except as otherwise provided in these [regulations]rules.~~

~~(3) Visible emissions for all incinerators, no matter when constructed, shall be of shade or density no darker than 20% opacity.~~

~~[(3)](4) No owner or operator of a gasoline powered engine or vehicle shall allow, cause or permit [the emissions of]visible emissions.[contaminants except for starting motion no farther than 100 yards, or for stationary operation not exceeding 3 minutes in any hour.]~~

~~[(4)](5) Emissions from diesel engines manufactured after January 1, 1973, shall be of a shade or density no darker than 20% opacity, except for starting motion no farther than 100 yards or for stationary operation not exceeding [3]three minutes in any hour.~~

~~[(5)](6) Emissions from diesel engines manufactured before January 1, 1973, shall be of a shade or density no darker than 40% opacity, except for starting motion no farther than 100 yards or for stationary operation not exceeding [3]three minutes in any hour.~~

~~[(6) Upon application, exceptions to (4) and (5) above may be granted by the Board on a case by case basis for diesel locomotives operating above 6000 feet MSL.~~

~~—](7) Visible emissions exceeding the opacity standards for short time periods as the result of initial warm-up, soot blowing, cleaning of grates, building of boiler fires, cooling, etc., caused by start-up or shutdown of a facility, installation or operation, or unavoidable combustion irregularities [which]that do not exceed three minutes in length[~~(unavoidable combustion irregularities which exceed three minutes in length must be handled in accordance with R307-107)~~], shall not be deemed in violation provided that the executive secretary finds that adequate control technology has been applied. Unavoidable combustion irregularities that exceed three minutes in length must be addressed in accordance with R307-107. The owner or operator shall minimize visible and non-visible emissions during start-up or shutdown of a facility, installation, or operation through the use of adequate control technology and proper procedures.~~

(8) Compliance Method. Emissions shall be brought into compliance with these requirements by reduction of the total weight of contaminants discharged per unit of time rather than by dilution of emissions with clean air.

(9) Opacity Observation. Opacity observations of emissions from stationary sources shall be conducted in accordance with EPA Method 9[~~,"Visual Determination of Opacity of Emissions from Stationary Sources", 40 CFR Part 60, Appendix A~~]. Opacity observers of mobile sources and intermittent sources shall use procedures similar to Method 9, but the requirement for observations to be made at 15 second intervals over a 6-minute period shall not apply.

R307-201-~~2~~4. Automobile Emission Control Devices.

Any person owning or operating any motor vehicle or motor vehicle engine registered or principally operated in the State of Utah on which is installed or incorporated a system or device for the control of crankcase emissions or exhaust emissions in compliance with the Federal motor vehicle rules, shall maintain the system or device in operable condition and shall use it at all times that the motor vehicle or motor vehicle engine is operated. No person shall remove or make inoperable [~~within the State of Utah~~]the system or device or any part thereof, except for the purpose of installing another system or device, or part thereof, which is equally or more effective in reducing emissions from the vehicle to the atmosphere.[

~~R307-201-3. Opacity for Residential Heating.~~

~~Visible emissions from residential solid fuel burning devices and fireplaces shall be limited to a shade or density no darker than 20% opacity as measured by EPA Method 9, except for the following:~~

- ~~— (1) An initial fifteen minute start up period, and
— (2) A period of fifteen minutes in any three hour period in which emissions may exceed the 20% opacity limitation for refueling, and
— (3) during the no burn periods required by R307-302-1.]~~

**KEY: air pollution, [woodburning*, fireplace*, stove*]PM10 [September 15, 1998]2005
Notice of Continuation June 11, 2003
19-2-101
19-2-104**



Environmental Quality, Air Quality **R307-204-3** Definitions

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE No.: 27758
FILED: 03/15/2005, 16:17

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to remove a definition that is being moved to Section R307-101-2 (see separate filing on R307-101-2, in this issue). (DAR NOTE: The proposed amendment to Section R307-101-2 is under DAR No. 27755 in this issue.)

SUMMARY OF THE RULE OR CHANGE: A definition is being moved to Section R307-101-2. No other changes are proposed in this rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** No impact on the state budget is expected due to this revision because it does not create any new requirements.
- ❖ **LOCAL GOVERNMENTS:** Because this revision does not create any new requirements, no change in cost is expected for local government.
- ❖ **OTHER PERSONS:** Because this revision does not create any new requirements, no change in cost is expected for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because this revision does not create any new requirements, no change in cost is expected for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment does not create any new requirements. Therefore, no additional costs are expected. Dianne R. Nielson, Executive Director

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THIS RULE MAY BECOME EFFECTIVE ON: 07/30/2005

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.

R307-204. Emission Standards: Smoke Management.

R307-204-3. Definitions.

The following additional definitions apply only to R307-204.

"Annual Emissions Goal" means the annual establishment of a planned quantitative value of emissions reductions from prescribed fire.

"Best Management Practices" means smoke management and dispersion techniques used during a prescribed fire or a wildland fire used for resource benefit that affect the direction, duration, height or density of smoke.

"Burn Plan" means the plan required for each fire ignited by managers or allowed to burn.

"Burn Window" means the period of time during which the prescribed fire is scheduled for ignition.

"Emission Reduction Techniques (ERT)" mean techniques for controlling emissions from prescribed fires to minimize the amount of emission output per unit or acre burned.

"Federal Class I Area" means any Federal land that is federally classified or reclassified Class I.

"Fire Prescription" means the measurable criteria that define conditions under which a prescribed fire may be ignited, guide selection of appropriate management responses, and indicate other required actions. Prescription criteria may include safety, economic, public health, environmental, geographic, administrative, social, or legal considerations.

"Land Manager" means any federal, state, local or private entity that owns, administers, directs, oversees or controls the use of public or private land, including the application of fire to the land.

~~["Maintenance Area" means an area that has been redesignated by EPA from nonattainment to attainment of any National Ambient Air Quality Standard.~~

—"Non-burning Alternatives to Fire" means non-burning techniques that are used to achieve a particular land management objective, including but not limited to reduction of fuel loading, manipulation of fuels, enhancement of wildlife habitat, and ecosystem restructuring. These alternatives are designed to replace the use of fire for at least the next five years.

"Prescribed Fire or Prescribed Burn" means any fire ignited by management actions to meet specific objectives, such as achieving resource benefits.

"Particulate Matter" means the liquid or solid particles such as dust, smoke, mist, or smog found in air emissions.

"Smoke Sensitive Receptors" means population centers such as towns and villages, campgrounds and trails, hospitals, nursing homes, schools, roads, airports, Class I areas, nonattainment and maintenance areas, areas whose air quality monitoring data indicate pollutant levels that are close to health standards, and any other areas where smoke and air pollutants can adversely affect public health, safety and welfare.

"Wildland" means an area in which development is essentially non-existent, except for pipelines, power lines, roads, railroads, or other transportation or conveyance facilities.

"Wildland Fire" means any non-structure fire, other than prescribed fire, that occurs in the wildland.

"Wildland Fire Used for Resource Benefits (WFURB)" means naturally ignited wildland fire that is managed to accomplish specific predated resource management objectives in predefined geographic areas.

"Wildland Fire Implementation Plan" means the plan required for each fire that is allowed to burn.

KEY: air quality, fire, smoke, land manager

~~December 31, 2003~~ 2005

19-2-104(1)(a)

Environmental Quality, Air Quality

R307-205

Emission Standards: Fugitive Emissions and Fugitive Dust

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27764

FILED: 03/15/2005, 16:20

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to clarify the applicability of this rule and to delete obsolete requirements. This amendment is part of the overall revisions to the rules related to the new PM10 Maintenance Plan (see separate filing on Section R307-110-10, in this issue). Utah will seek redesignation of Salt Lake and Utah Counties and Ogden City from nonattainment to attainment of the PM10 health standard following final adoption of the plan. The revisions in this rule are in anticipation of this redesignation. (DAR NOTE: The proposed amendment to Section R307-110-10 is under DAR No. 27768 in this issue.)

SUMMARY OF THE RULE OR CHANGE: Currently, this rule applies statewide and is part of the federally enforceable State Implementation Plan. Upon adoption by the board, Rule R307-205 will only apply outside the nonattainment and maintenance areas and the state will request EPA to retract Rule R307-205. Another rule, 307-309 (see separate filing on Rule R307-309 in this issue), will apply within the nonattainment and maintenance areas. This amendment also

includes deletion of outdated requirements. (DAR NOTE: The proposed amendment to Rule R307-309 is under DAR No. 27765 in this issue.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-2-101, 19-2-104, and 19-2-109

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: Because this revision does not create any new requirements, no change in cost is expected to the state budget.
- ❖ LOCAL GOVERNMENTS: Because this revision does not create any new requirements, no change in cost is expected for local government.
- ❖ OTHER PERSONS: Because this revision does not create any new requirements, no change in cost is expected for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because this revision does not create any new requirements, no change in cost is expected for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment does not create new requirements. Therefore, no additional costs are expected. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mat E. Carlile or Jan Miller at the above address, by phone at 801-536-4136 or 801-536-4042, by FAX at 801-536-0085 or 801-536-4099, or by Internet E-mail at MCARLILE@utah.gov or janmiller@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/02/2005

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 4/19/2005 at 10:00 AM, DEQ Bldg, 168 N 1950 W, Room 101, Salt Lake City, UT; 4/20/2005 at 1:30 PM, Utah County Administration Bldg, 100 E Center Street, Suite 2300, Provo, UT; and 4/21/2005 at 6:00 PM, Weber County Bldg, 2380 Washington Blvd, Breakout Room, Ogden, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 07/30/2005

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.

R307-205. Emission Standards: Fugitive Emissions and Fugitive Dust.

R307-205-1. Purpose.

R307-205 establishes minimum work practices and emission standards for sources of fugitive emissions and fugitive dust for sources located in all areas in the state except those listed in section IX, Part H of the state implementation plan or located in a PM10 nonattainment or maintenance area.

R307-205-2. Applicability.

~~[(1) Except where otherwise specified,]~~R307-205 applies statewide to all sources of fugitive emissions and fugitive dust, except for agricultural or horticultural activities specified in 19-2-114(1)-(3) and any source listed in section IX, Part H of the state implementation plan or located in a PM10 nonattainment or maintenance area.

~~— (2) The provisions of R307-205 shall not apply to any sources for which limitations for fugitive dust or fugitive emissions are assigned pursuant to R307-401, R307-305, or R307-307 nor shall they apply to agricultural or horticultural activities.]~~

R307-205-3. Definitions.

~~[(3)]~~The following definition[s] applies[es] throughout R307-205:

"Material" means sand, gravel, soil, minerals or other matter ~~[which]~~that may create fugitive dust.

~~— "Road" means any public or private road.]~~

R307-205-~~2~~4. Fugitive Emissions.

Fugitive emissions from sources ~~[in areas outside Davis, Salt Lake and Utah Counties, Ogden City and any nonattainment area for PM10 and]~~which were constructed on or before April 25, 1971, shall not exceed 40% opacity. Fugitive emissions from sources constructed or modified after April 25, 1971, shall not exceed 20% opacity.

R307-205-~~3~~5. Fugitive Dust.

(1) Storage and Handling of ~~[Aggregate]~~Materials. Any person owning, operating or maintaining a new or existing material storage, handling or hauling operation shall minimize fugitive dust from such an operation. Such control may include the use of enclosures, covers, stabilization or other equivalent methods or techniques as approved by the executive secretary.

(2) Construction and Demolition Activities.

(a) Any person engaging in clearing or leveling of land greater than one-quarter acre in size, earthmoving, excavation, or movement of trucks or construction equipment over cleared land greater than one-quarter acre in size or access haul roads shall take steps to minimize fugitive dust from such activities. Such control may include watering and chemical stabilization of potential fugitive dust sources or other equivalent methods or techniques approved by the executive secretary.

(b) The owner or operator of any land area greater than one-quarter acre in size that has been cleared or excavated shall take measures to prevent fugitive particulate matter from becoming airborne. Such measures may include:

- (i) planting vegetative cover,
- (ii) providing synthetic cover,
- (iii) watering,
- (iv) chemical stabilization,
- (v) wind breaks, or
- (vi) other equivalent methods or techniques approved by the executive secretary.

(c) Any person engaging in demolition activities including razing homes, buildings, or other structures or removing paving material from roads or parking areas shall take steps to minimize fugitive dust from such activities. Such control may include watering and chemical stabilization or other equivalent methods or techniques approved by the executive secretary.

R307-205-[4]6. Roads.

(1) ~~[Any person planning to construct or operate a new unpaved road which is anticipated to have an average daily traffic volume of 150 vehicle trips per day or greater, averaged over a consecutive five day period, shall submit a notice of intent to construct or operate such a road to the executive secretary pursuant to R307-401. Such notice shall include proposed action to minimize fugitive dust emissions from the road.~~

~~—(2)—~~The executive secretary may require persons owning, operating or maintaining any new or existing road, or having right-of-way easement or possessory right to use the same, to supply traffic count information as determined necessary to ascertain whether or not control techniques are adequate or additional controls are necessary.

~~(3)~~(2) Any person who deposits materials ~~[which]that~~ may create fugitive dust on a public or private paved road shall clean the road promptly.

R307-205-[5]7. Mining Activities.

(1) Fugitive dust, construction activities, and roadways associated with mining activities are regulated under the provisions of R307-205-[5]7 and not by R307-205-[3]5 and [4]6.

(2) Any person who owns or operates a mining operation shall minimize fugitive dust as an integral part of site preparation, mining activities, and reclamation operations.

(3) The fugitive dust control measures to be used may include:

- (a) periodic watering of unpaved roads,
- (b) chemical stabilization of unpaved roads,
- (c) paving of roads,
- (d) prompt removal of coal, rock minerals, soil, and other dust-forming debris from roads and frequent scraping and compaction of unpaved roads to stabilize the road surface,
- (e) restricting the speed of vehicles in and around the mining operation,
- (f) revegetating, mulching, or otherwise stabilizing the surface of all areas adjoining roads that are a source of fugitive dust,
- (g) restricting the travel of vehicles on other than established roads,
- (h) enclosing, covering, watering, or otherwise treating loaded haul trucks and railroad cars, to minimize loss of material to wind and spillage,
- (i) substitution of conveyor systems for haul trucks and covering of conveyor systems when conveyed loads are subject to wind erosion,
- (j) minimizing the area of disturbed land,
- (k) prompt revegetation of regraded lands,

(l) planting of special windbreak vegetation at critical points in the permit area,

(m) control of dust from drilling, using water sprays, hoods, dust collectors or other controls approved by the executive secretary,

(n) restricting the areas to be blasted at any one time,

(o) reducing the period of time between initially disturbing the soil and revegetating or other surface stabilization,

(p) restricting fugitive dust at spoil and coal transfer and loading points,

(q) control of dust from storage piles through use of enclosures, covers, or stabilization and other equivalent methods or techniques as approved by the executive secretary, or

(r) other techniques as determined necessary by the executive secretary.[]

~~—(4)— Any person owning or operating an existing mining operation in an actual area of nonattainment for particulate or an existing mining operation outside an actual area of nonattainment from which fugitive dust impacts an actual area of nonattainment for particulate shall submit plans for control of fugitive dust from such operations to the executive secretary for approval no later than September 29, 1981, 180 days after the effective date of this regulation.~~

R307-205-[6]8. Tailings Piles and Ponds.

(1) Fugitive dust, construction activities, and roadways associated with tailings piles and ponds are regulated under the provisions of R307-205-[6]8 and not by R307-205-[3 and 4]5 and 6.

(2) Any person owning or operating an existing tailings operation where fugitive dust results from grading, excavating, depositing, or natural erosion or other causes in association with such operation shall take steps to minimize fugitive dust from such activities. Such controls may include:

- (a) watering,
- (b) chemical stabilization,
- (c) synthetic covers,
- (d) vegetative covers,
- (e) wind breaks,
- (f) minimizing the area of disturbed tailings,
- (g) restricting the speed of vehicles in and around the tailings operation, or

(h) other equivalent methods or techniques which may be approvable by the executive secretary.[]

~~—(3)— Any person owning or operating an existing tailings operation in a nonattainment area for particulate or an existing mining operation outside an actual area of nonattainment from which fugitive dust impacts an actual area of nonattainment for particulate shall submit plans for control of fugitive dust from such operations to the executive secretary for approval no later than September 29, 1981, 180 days after the effective date of this regulation.~~

**KEY: air pollution, fugitive emissions[[±]], mining[[±]], tailings[[±]]
[May 4, 1999]2005**

Notice of Continuation August 2, 2000

19-2-101

19-2-104

19-2-109



Environmental Quality, Air Quality
R307-206
Emission Standards: Abrasive Blasting

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE NO.: 27759
 FILED: 03/15/2005, 16:18

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to clarify existing abrasive blasting requirements and the applicability of this rule. This amendment is part of the overall revisions to the rules related to the new PM10 Maintenance Plan (see separate filing on Section R307-110-10, in this issue). Utah will seek redesignation of Salt Lake and Utah Counties and Ogden City from nonattainment to attainment of the PM10 health standard following final adoption of the plan. These revisions are in anticipation of this redesignation. (DAR NOTE: The proposed amendment to Section R307-110-10 is under DAR No. 27768 in this issue.)

SUMMARY OF THE RULE OR CHANGE: Currently, this rule applies statewide and is part of the federally enforceable State Implementation Plan. Upon adoption by the board, Rule R307-206 will only apply outside the nonattainment and maintenance areas and the state will request EPA to retract Rule R307-206. Another rule, R307-306 (see separate filing on R307-306 in this issue), will apply within the nonattainment and maintenance areas. In addition, revisions of R307-206 help clarify the current abrasive blasting requirements. (DAR NOTE: The proposed amendment to Rule R307-306 is under DAR No. 27763 in this issue.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: Because this revision does not create any new requirements, no change in cost is expected for state government.
- ❖ LOCAL GOVERNMENTS: Because this revision does not create any new requirements, no change in cost is expected for local government.
- ❖ OTHER PERSONS: Because this revision does not create any new requirements, no change in cost is expected for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because this revision does not create any new requirements, no change in cost is expected for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment does not create new requirements. Therefore, no additional costs are expected. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
 AIR QUALITY
 150 N 1950 W
 SALT LAKE CITY UT 84116-3085, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mat E. Carlile or Jan Miller at the above address, by phone at 801-536-4136 or 801-536-4042, by FAX at 801-536-0085 or 801-536-4099, or by Internet E-mail at MCARLILE@utah.gov or janmiller@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/02/2005

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 4/19/2005 at 10:00 AM, DEQ Bldg, 168 N 1950 W, Room 101, Salt Lake City, UT; 4/20/2005 at 1:30 PM, Utah County Administration Bldg, 100 E Center Street, Suite 2300, Provo, UT; and 4/21/2005 at 6:00 PM, Weber County Bldg, 2380 Washington Blvd, Breakout Room, Ogden, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 07/30/2005

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.
R307-206. Emission Standards: Abrasive Blasting.
R307-206-1. Purpose.

R307-206 establishes work practice and emission standards for abrasive blasting operations for sources located statewide except for those sources listed in section IX, Part H of the state implementation plan or located in a PM10 nonattainment or maintenance area.

R307-206-2. Definitions.

(1) The following additional definitions apply to R307-206:

"Abrasive Blasting" means the operation of cleaning or preparing a surface by forcibly propelling a stream of abrasive material against the surface.

"Abrasive Blasting Equipment" means any equipment utilized in abrasive blasting operations.

~~["Abrasives" means any material used in abrasive blasting operations including but not limited to sand, slag, steel shot, garnet or walnut shells.~~

—]"Confined Blasting" means any abrasive blasting conducted in an enclosure which significantly restricts air contaminants from being emitted to the ambient atmosphere, including but not limited to shrouds, tanks, drydocks, buildings and structures.

~~["Hydroblasting" means any abrasive blasting using high pressure liquid as the propelling force.~~

—]"Multiple Nozzles" means a group of two or more nozzles being used for abrasive cleaning of the same surface in such close proximity that their separate plumes are indistinguishable.

"Unconfined Blasting" means any abrasive blasting which is not confined blasting as defined above.].

— "Wet Abrasive Blasting" means any abrasive blasting using compressed air as the propelling force and sufficient water to minimize the plume.]

R307-206-3. Applicability.

R307-206 applies statewide to any abrasive blasting operation, except for any source that is listed in Section IX, Part H of the state implementation plan or that is located in a PM10 nonattainment or maintenance area.

R307-206-[2]4. Visible Emission Standards.

[~~(1)~~] Visible emissions from abrasive blasting operations shall not exceed 40% opacity, except for an aggregate period of three minutes in any one hour. [No person shall, if he complies with performance standards outlined in R307-206-4 or if he is not located in an area of nonattainment for particulates, discharge into the atmosphere from any abrasive blasting any air contaminant for a period or periods aggregating more than three minutes in any one hour which is a shade or density darker than 40% opacity.

— (2) No person shall, if he is not complying with an applicable performance standard in R307-206-4 and is in an area of nonattainment, discharge into the atmosphere from any abrasive blasting any air contaminant for a period or periods aggregating more than three minutes in any one hour which is of a shade or density no darker than 20% opacity.]

R307-206-[3]5. Visible Emission Evaluation Techniques.

[Visible emission evaluation of abrasive blasting operations shall be conducted in accordance with the following provisions:] (1) Visible emissions shall be measured using EPA Method 9. Visible emissions from intermittent sources shall use procedures similar to Method 9, but the requirement for observations to be made at 15 second intervals over a six-minute period shall not apply.

[~~(4)~~](2) Visible e[E]missions from unconfined blasting shall be [read]measured at the densest point of the emission after a major portion of the spent abrasive has fallen out, at a point not less than five feet nor more than twenty-five feet from the impact surface from any single abrasive blasting nozzle.

[~~(2)~~](3) An unconfined blasting operation that uses [Emissions from unconfined blasting employing] multiple nozzles shall be [judged as]considered a single source unless it can be demonstrated by the owner or operator that each nozzle, [evaluated]measured separately, meets the emission and performance standards provided [for]in R307-206-2 through 4.

[~~(3)~~](4) Visible e[E]missions from confined blasting shall be [read]measured at the densest point after the air contaminant leaves the enclosure.]

R307-206-4. Performance Standards.

— (1) To satisfy the requirements of R307-206-2, any abrasive blasting operation may use at least one of the following performance standards:

- (a) Confined blasting;
 - (b) Wet abrasive blasting;
 - (c) Hydroblasting; or
 - (d) Unconfined blasting using abrasives as defined in (2) below.
- (2) Abrasives:
- (a) Abrasives used for dry unconfined blasting referenced in (1) above shall comply with the following performance standards:

— (i) Before blasting the abrasive shall not contain more than 1% by weight material passing a #70 U.S. Standard sieve.

— (ii) After blasting the abrasive shall not contain more than 1.8% by weight material 5 micron or smaller.

— (b) Abrasives reused for dry unconfined blasting are exempt from (a)(ii) above, but must conform with (a)(i) above.

— (3) Abrasive Certification. Sources using the performance standard of (1)(d) above to meet the requirements of R307-206-2 must demonstrate they have obtained abrasives from persons which have certified (submitted test results) to the executive secretary at least annually that such abrasives meet the requirements of (2) above.

R307-206-5. Emissions Standards.

— Other provisions of R307 may require more stringent controls than listed herein, in which case those requirements must be met.]

KEY: air pollution, abrasive blasting[²], PM10

[September 15, 1998]2005

Notice of Continuation June 19, 2003

19-2-104(1)(a)

Environmental Quality, Air Quality **R307-207** Emission Standards: Residential Fireplaces and Stoves

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 27760

FILED: 03/15/2005, 16:18

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this new rule is to make it easier to find specific provisions for residential fireplaces and stoves and to clarify applicability of these provisions. This rule is part of overall revisions to rules related to new PM10 Maintenance Plan (see separate filing on Section R307-110-10, in this issue). Utah will seek redesignation of Salt Lake and Utah Counties and Ogden City from nonattainment to attainment of the PM10 health standard following final adoption of the plan. This new rule is in anticipation of this redesignation. (DAR NOTE: The proposed amendment to Section R307-110-10 is under DAR No. 27768 in this issue.)

SUMMARY OF THE RULE OR CHANGE: In order to make the requirements for residential fireplaces and stoves easier to find, they are being moved from Rule R307-201 (see separate filing on R307-201, in this issue) to this new rule. Currently, provisions in this rule apply statewide and are part of the federally enforceable State Implementation Plan. Upon adoption by the board, Rule R307-207 will only apply outside the nonattainment and maintenance areas and the state will request EPA to retract Rule R307-201. (DAR NOTE: The proposed amendment to Rule R307-201 is under DAR No. 27757 in this issue.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-2-101, 19-2-104, and 19-2-109

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: No impact on the state budget is expected due to these revisions because it does not create any new requirements.
- ❖ LOCAL GOVERNMENTS: Because this new rule does not create any new requirements, no change in cost is expected for local government.
- ❖ OTHER PERSONS: Because this new rule does not create any new requirements, no change in cost is expected for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because this new rule does not create any new requirements, no change in cost is expected for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Because this new rule is simply adopting the residential fireplaces and stoves provisions from Rule R307-201, no additional costs are expected. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mat E. Carlile or Jan Miller at the above address, by phone at 801-536-4136 or 801-536-4042, by FAX at 801-536-0085 or 801-536-4099, or by Internet E-mail at MCARLILE@utah.gov or janmiller@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/02/2005

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 4/19/2005 at 10:00 AM, DEQ Bldg, 168 N 1950 W, Room 101, Salt Lake City, UT; 4/20/2005 at 1:30 PM, Utah County Administration Bldg, 100 E Center Street, Suite 2300, Provo, UT; and 4/21/2005 at 6:00 PM, Weber County Bldg, 2380 Washington Blvd, Breakout Room, Ogden, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 07/30/2005

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.

R307-207. Emission Standards: Residential Fireplaces and Stoves.

R307-207-1. Purpose.

R307-201 establishes emission standards for all areas of the state except for sources listed in section IX, Part H of the state

implementation plan or located in a PM10 nonattainment or maintenance area.

R307-207-2. Applicability.

R307-207 applies statewide except for the following areas: all regions of Utah County north of the southernmost border of Payson City, all of Salt Lake County, all of Davis County, and in all regions of Weber County west of the Wasatch Mountain Range.

R307-207-3. Opacity for Residential Heating.

Visible emissions from residential solid fuel burning devices and fireplaces shall be limited to a shade or density no darker than 20% opacity as measured by EPA Method 9, except for the following:

- (1) An initial fifteen minute start-up period, and
- (2) A period of fifteen minutes in any three-hour period in which emissions may exceed the 20% opacity limitation for refueling.

KEY: woodburning, fireplaces, stoves, PM10 2005

19-2-101

19-2-104

▼ ————— ▼

Environmental Quality, Air Quality
R307-302
Davis, Salt Lake, Utah Counties:
Residential Fireplaces and Stoves

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 27761
FILED: 03/15/2005, 16:18

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to formalize the woodburning control program that has been previously implemented on a voluntary basis in parts of Weber and Davis County. Extending woodburning controls to Weber and Davis Counties is an important part of the attainment demonstration for the new PM10 Maintenance Plan (see separate filing on Section R307-110-10, in this issue). Utah will seek redesignation of Salt Lake and Utah Counties and Ogden City from nonattainment to attainment of the PM10 health standard following the final adoption of the plan. The revisions in this rule are in anticipation of this redesignation. This Plan will affect only Davis, Salt Lake, Utah, and Weber Counties west of the Wasatch Mountain range. (DAR NOTE: The proposed amendment to Section R307-110-10 is under DAR No. 27768 in this issue.)

SUMMARY OF THE RULE OR CHANGE: For areas outside the nonattainment and maintenance areas, the requirements for residential fireplaces and stoves will be moved from Rule R307-201 (see separate filing on Rule R307-201 in this issue) to the new Rule R307-207 (see separate filing on Rule R307-

207 in this issue). Upon adoption by the board, Rule R307-207 will only apply outside the nonattainment and maintenance areas and Rule R307-302 will apply within the nonattainment and maintenance areas and be part of the federally enforceable State Implementation Plan. This amendment will expand woodburning controls to areas of Weber County west of the Wasatch Mountain range and all of Davis County. Residents in these areas will have until November 2006 to register their stoves as a sole source of heat if they qualify. (DAR NOTE: The proposed amendment to Rule R307-201 is under DAR No. 27757, and the proposed new Rule R307-207 is under DAR No. 27760 in this issue.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-2-101 and 19-2-104

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The woodburning program has been successfully implemented on a voluntary basis in areas of Weber County and all of Davis County impacted by this modification. Therefore, no new costs are expected for the state budget because of this amendment.

❖ LOCAL GOVERNMENTS: The woodburning program has already been successfully implemented on a voluntary basis in the affected areas. Therefore, no new costs are expected for local governments because of this amendment.

❖ OTHER PERSONS: It is anticipated that this change will not bring additional costs because the woodburning program has been successfully implemented as a voluntary measure in the areas impacted by this amendment for a number of years. Further, residents in these areas will have until November 2006 to register their stoves as a sole source of heat if they qualify.

COMPLIANCE COSTS FOR AFFECTED PERSONS: It is anticipated that this change will not bring additional costs because the woodburning program has been successfully implemented as a voluntary measure in areas impacted by this amendment for a number of years. Further, residents in these areas will have until November 2006 to register their stoves as a sole source of heat if they qualify.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule applies only to residential woodburning; businesses are not affected. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mat E. Carlile or Jan Miller at the above address, by phone at 801-536-4136 or 801-536-4042, by FAX at 801-536-0085 or 801-536-4099, or by Internet E-mail at MCARLILE@utah.gov or janmiller@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/02/2005

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 4/19/2005 at 10:00 AM, DEQ Bldg, 168 N 1950 W, Room 101, Salt Lake City, UT; 4/20/2005 at 1:30 PM, Utah County Administration Bldg, 100 E Center Street, Suite 2300, Provo, UT; and 4/21/2005 at 6:00 PM, Weber County Bldg, 2380 Washington Blvd, Breakout Room, Ogden, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 07/30/2005

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.

R307-302. Davis, Salt Lake, Utah, Weber Counties: Residential Fireplaces and Stoves.

R307-302-1. Definitions.

The following additional definition applies to R307-302:

"Sole Source of Heat" means the residential solid fuel burning device is the only available source of heat for the entire residence, except for small portable heaters.

R307-302-2. Applicability.

(1) R307-302-3 shall apply in all regions of Utah County north of the southernmost border of Payson City and east of State Route 68, all of Salt Lake County, all of Davis County, and in all regions of Weber County west of the Wasatch Mountain Range.

(2) R307-302-4 shall apply only within the city limits of Provo in Utah County.

(3) R307-302-5 shall apply in both areas.

R307-302-[2]3. No-Burn Periods for Fine Particulate.

(1) R307-302-2 shall apply only in areas in Utah County which are north of the southernmost border of Payson City, and east of State Route 68, all of Salt Lake County, and areas in Davis County which are south of the southern most border of Kaysville.

(2)(1) Sole source of residential heating.

(a) [By September 1, 1992, all] Previously registered sole source residential solid fuel burning devices in areas described in (i), (ii), and (iii) below must continue to be registered with the [E]xecutive [S]ecretary or local health district office in order to be exempt during mandatory no-burn periods as detailed below. No new registrations will be accepted in these areas.

(i) Areas of Utah County north of the southernmost border of Payson City and east of State Route 68,

(ii) all of Salt Lake County, and

(iii) areas in Davis County that are south of the southernmost border of Kaysville.

(b) By November 1, 2006, all sole source residential solid fuels burning devices in Weber County west of the Wasatch Mountain Range and areas north of the southernmost border of Kaysville must be registered with the executive secretary or local health district office in order to be exempt during mandatory no-burn periods as detailed below.

(3)(2) [After September 1, 1992, w]When the ambient concentration of PM10 measured by the monitors in Salt Lake, Davis, Weber, or Utah Counties reaches the level of 120 micrograms

per cubic meter and the forecasted weather for the specific area includes a temperature inversion which is predicted to continue for at least 24 hours, the ~~[E]xecutive [S]ecretary~~ will issue a public announcement and will distribute such announcement to the local media notifying the public that a mandatory no-burn period for residential solid fuel burning devices and fireplaces is in effect. The mandatory no-burn periods will only apply to those areas or counties impacting the real-time monitoring site registering the 120 micrograms per cubic meter concentration. Residents of the affected areas ~~[Salt Lake County or the affected areas of Davis and Utah Counties]~~ shall not use residential solid fuel burning devices or fireplaces except those ~~[which]that~~ are the sole source of heat for the entire residence and registered with the ~~[E]xecutive [S]ecretary~~ or the local health district office, or those having no visible emissions.

~~[(4)](3)~~ PM10 Contingency Plan. If the PM10 Contingency Plan described in Section IX, Part A, of the ~~[S]tate [I]mplementation [P]lan~~ has been implemented, the following actions will be implemented immediately:

(a) The trigger level for no-burn periods as specified in ~~[(3)](2)~~ above will be 110 micrograms per cubic meter for that area where the PM10 Contingency Plan has been implemented; and

(b) In the regions of Utah County north of the southernmost border of Payson City and east of State Route 68, Salt Lake County, Davis County, and all regions of Weber County west of the Wasatch Mountain Range ~~[Salt Lake, Davis and Utah County nonattainment areas and in any other nonattainment area]~~, it shall be unlawful to sell or install for use as a solid fuel burning device any used solid fuel burning device that is not approved by the Environmental Protection Agency.

~~[(5)](4)~~ After January 1, 1999, when the ambient concentration of PM2.5 measured by the monitors in Salt Lake, Davis, Weber, or Utah Counties reaches the level of 52 micrograms per cubic meter and the forecasted weather for the specific area includes a temperature inversion which is predicted to continue for at least 24 hours, the executive secretary will issue a public announcement and will distribute such announcement to the local media notifying the public that a mandatory no-burn period for residential solid fuel burning devices and fireplaces is in effect. The mandatory no-burn periods will only apply to those areas or counties impacting the real-time monitoring site registering the 52 micrograms per cubic meter concentration. Residents of Salt Lake County, Davis County, or the affected areas of Utah and Weber Counties ~~[Salt Lake County or the affected areas of Davis and Utah Counties]~~ shall not use residential solid fuel burning devices or fireplaces except those ~~[which]that~~ are the sole source of heat for the entire residence and registered with the ~~[E]xecutive [S]ecretary~~ or the local health district office, or those having no visible emissions.

R307-302-~~3~~4. No-Burn Periods for Carbon Monoxide.

~~[(1)]~~ ~~R307-302-3 shall apply only within the city limits of Provo and Orem in Utah County.~~

~~[(2)](1)~~ Beginning on November 1 and through March 1 ~~[in any years after 1993]~~, the executive secretary will issue a public announcement and will distribute such announcement to the local media notifying the public that a mandatory no-burn period for residential solid fuel burning devices and fireplaces is in effect when the running eight-hour average carbon monoxide concentration as monitored by the state at 4:00 PM reaches a value of 6.0 ppm or more.

~~[(3)](2)~~ In addition to the conditions contained in ~~[(2)](1)~~ above, the executive secretary may use meteorological conditions to initiate a no-burn period. These conditions are:

(a) a national weather service forecasted clearing index value of 250 or less;

(b) forecasted wind speeds of three miles per hour or less;

(c) passage of a vigorous cold front through the Wasatch Front; or

(d) arrival of a strong high pressure system into the area.

~~[(4)](3)~~ During the no-burn periods specified in ~~[(2)](1)~~ and ~~[(3)](2)~~ above, residents of Provo ~~[and Orem]~~ ~~[Cit[ies]y]~~ shall not use residential solid fuel burning devices or fireplaces except those ~~[which]that~~ are the sole source of heat for the entire residence and are registered with the executive secretary or the local health district office, or those having no visible emissions.

R307-302-5. Opacity for Residential Heating.

Except during no-burn periods as required by R307-302-3 and 4, visible emissions from residential solid fuel burning devices and fireplaces shall be limited to a shade or density no darker than 20% opacity as measured by EPA Method 9, except for the following:

(1) An initial fifteen minute start-up period, and

(2) A period of fifteen minutes in any three-hour period in which emissions may exceed the 20% opacity limitation for refueling.

~~R307-302-4. Violations.~~

~~It shall be a violation of R307-302 for any person to operate a residential solid fuel burning device or fireplace during the mandatory no-burn periods except as stated in R307-302-2 or 3.~~

KEY: air pollution, woodburning^[#], fireplaces^[#], stoves^[#]
[January 7, 1999]2005

Notice of Continuation June 19, 2003

19-2-101

19-2-104



Environmental Quality, Air Quality **R307-305** Davis, Salt Lake, and Utah Counties and Ogden City and Nonattainment Areas for PM10: Particulates

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27762

FILED: 03/15/2005, 16:19

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to clarify the rule by deleting obsolete language and adding language to align the rule with the new PM10 Maintenance Plan (see separate filing on Section R307-110-10, in this issue). Utah will seek

redesignation of Salt Lake and Utah Counties and Ogden City from nonattainment to attainment of the PM10 health standard following final adoption of the plan. The revisions to this rule are in anticipation of this redesignation. (DAR NOTE: The proposed amendment to Section R307-110-10 is under DAR No. 27768 in this issue.)

SUMMARY OF THE RULE OR CHANGE: Currently, Rule R307-201 (see separate filing on R307-201 in this issue) applies statewide and is part of the federally enforceable State Implementation Plan. Upon adoption by the board, Rule R307-201 will only apply outside the nonattainment and maintenance areas and the state will request EPA to retract Rule R307-201. Rule R307-305 will then apply within the nonattainment and maintenance areas and be part of the federally enforceable State Implementation Plan. This amendment also deletes obsolete language and requirements. (DAR NOTE: The proposed amendment to Rule R307-201 is under DAR No. 27757 in this issue.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: Because these revisions do not create any new requirements, no change in cost is expected to the state budget.
- ❖ LOCAL GOVERNMENTS: Because these revisions do not create any new requirements, no change in cost is expected for local government.
- ❖ OTHER PERSONS: Because these revisions do not any create new requirements, no change in cost is expected for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These revisions do not change current requirements; therefore, no change in cost is expected.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Because these revisions do not create new requirements, no change in cost is expected for businesses. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mat E. Carlile or Jan Miller at the above address, by phone at 801-536-4136 or 801-536-4042, by FAX at 801-536-0085 or 801-536-4099, or by Internet E-mail at MCARLILE@utah.gov or janmiller@utah.gov

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INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 4/19/2005 at 10:00 AM, DEQ Bldg, 168 N 1950 W, Room 101, Salt Lake City, UT; 4/20/2005 at 1:30 PM, Utah County Administration Bldg, 100 E Center Street, Suite 2300, Provo, UT; and 4/21/2005 at 6:00 PM, Weber County Bldg, 2380 Washington Blvd, Breakout Room, Ogden, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 07/30/2005

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.

R307-305. ~~[Davis, Salt Lake and Utah Counties and Ogden City, and]~~Nonattainment and Maintenance Areas for PM10: ~~[Particulates]~~Emission Standards.

R307-305-1. Purpose.

This rule establishes emission standards and work practices for sources located in PM10 nonattainment and maintenance areas to meet the reasonably available control measures requirement in section 189(a)(1)(C) of the Act.

R307-305-2. Applicability.

The requirements of R307-305 apply to the owner or operator of any source that is listed in Section IX, Part H of the state implementation plan or located in a PM10 nonattainment or maintenance area.

R307-305-~~[4]~~3. Visible Emissions.

(1) ~~[In PM10 Nonattainment Areas, v]~~Visible emissions from existing installations except ~~diesel~~~~[gasoline powered internal combustion]~~ engines~~[-]~~ shall be of a shade or density no darker than 20% opacity. Visible emissions shall be measured using EPA Method 9.~~[Installations in other areas of the State which were constructed before April 25, 1971, except internal combustion engines, shall be of a shade or density no darker than 40% opacity except as provided in these regulations.~~

~~—(2) Emissions Standards. Other provisions of R307 may require more stringent controls than R307-305, in which case those requirements must be met.]~~

(2) No owner or operator of a gasoline engine or vehicle shall allow, cause or permit the emissions of visible contaminants.

(3) Emissions from diesel engines shall be of a shade or density no darker than 20% opacity, except for starting motion no farther than 100 yards or for stationary operation not exceeding three minutes in any hour.

R307-305-~~[2]~~4. Particulate Emission Limitations and Operating Parameters (PM10).

~~[A4]Any source[s] with emission[s] limits included in Section IX, Part H, of the Utah state implementation plan[~~of 25 tons per year or more (combinations of sulfur dioxide, oxides of nitrogen, and PM10) in areas located in or affecting PM10 Nonattainment Areas in Salt Lake and Utah Counties]~~ shall ~~[meet the]~~comply with those emission limitations and operating parameters. ~~[contained in Section IX, Part H, of the Utah State Implementation Plan (SIP). Existing sources located in or affecting PM10 Nonattainment Areas shall use reasonably available control measures to the extent necessary to insure the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS). The emission limitations specified in~~~~

~~the SIP constitute, in the judgment of the Board, reasonably available control measures necessary to insure attainment and maintenance of the NAAQS not later than December 31, 1994. Specific limitations for installations within a source listed in the SIP which are not specified will be set by order of the Board.] Specific limitations will be set by the executive secretary, through an approval order issued under R307-401, for installations within a source that do not have limitations specified in the state implementation plan. [Specific limitations for installations within a source may be adjusted by order of the Board provided the adjustment does not adversely affect achieving the applicable NAAQS.]~~

R307-305-3[5]. Compliance Testing (PM10).

Compliance testing for ~~the~~ PM10, sulfur dioxide, and oxides of nitrogen emission limitations shall be done in accordance with Section IX, Part H of the ~~SIP~~ state implementation plan. PM10 compliance shall be determined from the results of EPA test method 201 or 201a. A backhalf analysis shall be performed for inventory purposes for each PM10 compliance test in accordance with a method approved by the ~~E~~ executive ~~S~~ secretary. ~~for inventory purposes. For sources not requiring changes to their process or air pollution control devices to achieve compliance with the emission limitations contained in these regulations, compliance testing shall be scheduled with the Executive Secretary within three months after promulgation of R307-305-3. For Utah County sources listed in Section IX, Part H.1, of the SIP which need to make major changes to comply, a construction/installation schedule for demonstration of compliance with limitations contained in the SIP, shall be submitted by the owner/operator by February 15, 1991. Those sources located in Salt Lake and Davis County listed in Section IX, Part H.2, of the SIP which need to make major changes to comply shall submit to the Executive Secretary a construction/installation schedule for demonstration of compliance with limitations contained in the SIP within three months after the effective date of R307-305-3 for approval. Those sources making major changes of process equipment or air pollution control equipment shall submit a notice in accordance with R307-401, for the purpose of meeting the emissions limitations contained in Section IX, Part H of the SIP and receive approval from the Executive Secretary. The schedule indicated above shall result in demonstration of compliance with the limitations by December 31, 1992, unless an alternate schedule has been approved by the Executive Secretary. The alternate schedule shall be approved by the Executive Secretary if the owner/operator demonstrates that the schedule or implementation of control measures is as expeditious as practicable, but extends beyond December 31, 1992. Any submittal requesting an alternate schedule shall be done in accordance with the requirements of the Federal Clean Air Act, and shall be consistent with the SIP demonstration of attainment by December 31, 1994.~~

R307-305-4. Compliance Schedule (PM10).

~~The owner or operator of an existing installation listed in the SIP is required to achieve the emission limitation or other requirements established by the SIP as expeditiously as practicable, but no later than December 31, 1992. For those sources granted an alternate schedule in accordance with R307-305-3, compliance with the limitations shall be demonstrated as provided in the approved schedule. Until the time a source is required to demonstrate compliance with the limitations in the SIP, the source shall comply with the applicable provisions of the existing total suspended~~

particulate (TSP) limitations and operating parameters listed in the Utah Air Conservation Regulations dated April 1, 1990, or existing approval orders.

R307-305-5. Particulate Emission Limitations and Operating Parameters (TSP):

~~(1) Existing sources located in or affecting areas of nonattainment shall use reasonably available control measures to the extent necessary to insure the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS). The emission limitations specified in this paragraph constitute, in the judgment of the Board, reasonably available control measures necessary to insure attainment and maintenance of the NAAQS as of the date of promulgation of these regulations. Specific limitations for installations within a source listed below which are not specified will be set by order of the Board. Specific limitations for installations within a source listed below may be adjusted by order of the Board provided the adjustment does not adversely affect achieving the applicable NAAQS.~~

~~(2) The owner or operator of any source listed in this paragraph shall not allow exceedance of the emission limitation or violation of any other listed requirement (See schedule for compliance listed in R307-305-6). The requirements listed for the sources in Weber County apply unless modified by an approval order or compliance order issued after February 16, 1982.~~

TABLE

IDENTIFICATION OF SOURCE (SOURCES 25 TONS/YEAR OR GREATER ACTUAL EMISSIONS)	EMISSION LIMITATIONS
WEBER COUNTY (TSP)	
1. Farmers Grain Coop	20% opacity each stack/vent
unloading/loading/ cleaning and grinding stacks/vents	
2. Fife Rock Products	0.040 gr/dscf, 20% opacity
Asphalt Plant (Hot mix dryer)	(stack and fugitive emissions)
3. Interpace	20% opacity (vents and
Corporation 4/2/81	fugitive emissions)
Grinding and screening	
4. Parsons Asphalt Plant	0.040 gr/dscf, 20% opacity
	(stack and fugitive emissions)
5. Pillsbury Co.	20% opacity each vent
Loading, milling, unloading	
6. Teledyne Incinerator	0.080 gr/dscf, 20% opacity
7. Gibbons and Reed	0.030 gr/dscf, 20% opacity
Asphalt Plant 4/2/81	

R307-305-6. Compliance Schedule (TSP):

~~The owner or operator of an existing installation which is a source of a pollutant in a nonattainment area for the pollutant, or which has significant impact (Based on the increment levels in R307-403-3(1)) upon a nonattainment area, is required to achieve the established emission limitation or other requirements established by these regulations as expeditiously as practicable but no later than December 31, 1982, or such later date as may be specified by~~

~~Congress or EPA under the Clean Air Act. Within 180 days after the effective date of a regulation establishing a standard of pollutant control pursuant to an emission limitation under R307-305-1 or 5, the owner or operator of an existing installation not meeting these requirements must submit a notice of intent as outlined in R307-401 together with a compliance schedule. The compliance schedule shall contain proposed interim measures to control and identify the degree of emission reduction to be achieved by each such interim measure of control.~~

R307-305-7. Compliance Testing (TSP).

~~—(1) Testing Methodology.~~

~~—(a) Except as otherwise provided in R307-305-7, compliance testing for gravimetric emission limitations for particulate shall be pursuant to EPA reference Method 5 or EPA reference Method 17 where appropriate and approved by the Executive Secretary. Where EPA reference Method 5 is used for compliance testing, determination of compliance with gravimetric emission limitations shall be made through the use of front half catch. The Executive Secretary may require that Method 5 full train analysis be conducted and that back half data also be submitted but only for information purposes. Such information shall not be used to determine compliance with gravimetric emission limitations. EPA reference Method 1 shall be used to select the sampling site and number of traverse sampling points. Where necessary for determination of stack gas velocities, EPA reference Method 2 shall be used. Where necessary for determination of dry molecular weight, EPA reference Method 3 shall be used. Where necessary for determination of moisture content in stack gases EPA reference Method 4 shall be used. All EPA reference methods referred to in R307-305-7 are those found in 40 CFR 60, Appendix A.~~

~~—(b) Except as provided below in these regulations any alternate test methods or sampling methods may be used with the approval of the Executive Secretary, provided, however, that if such reference tests or sampling methods are used to test compliance with federal law they may be used only if approved, in writing, by the Administrator of EPA or his representative.~~

~~—(2) Special Sampling and Compliance Testing Requirements for Fossil Fuel Fired Power Plants. Method 5 or EPA reference Method 17 where appropriate (only when stack temperatures do not exceed 320 degrees F) and approved by the Executive Secretary shall be run for fossil fuel fired power plants as modified by 40 CFR 60, subpart D or Da whichever is applicable. Method 9 shall be run for opacity.~~

~~—(3) Exceptions for Special Sampling and Testing Conditions for Performance for Incinerators. Method 5 shall be run for incinerators as modified by 40 CFR 60, Subpart E.~~

~~—(4) Special Conditions for Sampling for Portland Cement Plants. Method 5 or EPA Reference Method 17 where appropriate and approved by the Executive Secretary shall be run for Portland Cement Plants. If compliance is tested by use of Method 5, Method 5 shall be modified as provided in 40 CFR 60, Subpart F.]~~

R307-305-6. Automobile Emission Control Devices.

~~Any person owning or operating any motor vehicle or motor vehicle engine registered in the State of Utah on which is installed or incorporated a system or device for the control of crankcase emissions or exhaust emissions in compliance with the Federal motor vehicle rules, shall maintain the system or device in operable condition and shall use it at all times that the motor vehicle or motor vehicle engine is operated. No person shall remove or make~~

~~inoperable within the State of Utah the system or device or any part thereof, except for the purpose of installing another system or device, or part thereof, which is equally or more effective in reducing emissions from the vehicle to the atmosphere.~~

R307-305-7. Compliance Schedule for New Nonattainment Areas.

~~The provisions of R307-305 shall apply to the owner or operator of a source that is located in any new PM10 nonattainment area 180 days after the area is officially designated a nonattainment area for PM10 by the Environmental Protection Agency.~~

KEY: air pollution, particulate matter[±], PM10[±], PM2.5 [September 15, 1998]2005

Notice of Continuation June 19, 2003

19-2-104 (1)(a)



Environmental Quality, Air Quality

R307-306

PM10 Nonattainment and Maintenance Areas: Abrasive Blasting

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 27763

FILED: 03/15/2005, 16:19

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Current abrasive blasting requirements from Rule R307-206 (see separate filing on Rule R307-206 in this issue) are included in this new rule that applies only in nonattainment and maintenance areas. The development of this rule is part of the overall revisions to the rules related to the new PM10 Maintenance Plan (see separate filing on Section R307-110-10, in this issue). Utah will seek redesignation of Salt Lake and Utah Counties and Ogden City from nonattainment to attainment of the PM10 health standard following final adoption of the plan. This new rule is in anticipation of this redesignation. (DAR NOTE: The proposed amendment to Rule R307-206 is under DAR No. 27759, and the proposed amendment to Section R307-110-10 is under DAR No. 27768 in this issue.)

SUMMARY OF THE RULE OR CHANGE: Currently, Rule R307-206 applies statewide and is part of the federally enforceable State Implementation Plan. Upon adoption by the board, Rule R307-206 will only apply outside the nonattainment and maintenance areas and the state will request EPA to retract Rule R307-206. Rule R307-306 will then apply within the PM10 nonattainment and maintenance areas and be part of the federally enforceable State Implementation Plan.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-101(1)(a)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: No impact on the state budget is expected due to this new rule because it adopts existing requirements and does not create any new requirements.
- ❖ LOCAL GOVERNMENTS: Because this new rule adopts existing requirements and does not create any new requirements, no change in cost is expected for local government.
- ❖ OTHER PERSONS: Because this new rule adopts existing requirements and does not create any new requirements, no change in cost is expected for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because this new rule adopts existing requirements and does not create any new requirements, no change in cost is expected for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Because this new rule helps clarify existing abrasive blasting requirements and does not create any new requirements, no fiscal impacts are expected for businesses. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Miller or Mat E. Carlile at the above address, by phone at 801-536-4042 or 801-536-4136, by FAX at 801-536-4099 or 801-536-0085, or by Internet E-mail at janmiller@utah.gov or MCARLILE@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/02/2005

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 4/19/2005 at 10:00 AM, DEQ Bldg, 168 N 1950 W, Room 101, Salt Lake City, UT; 4/20/2005 at 1:30 PM, Utah County Administration Bldg, 100 E Center Street, Suite 2300, Provo, UT; and 4/21/2005 at 6:00 PM, Weber County Bldg, 2380 Washington Blvd, Breakout Room, Ogden, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 07/30/2005

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.**R307-306. PM10 Nonattainment and Maintenance Areas: Abrasive Blasting.****R307-306-1. Purpose.**

This rule establishes requirements that apply to abrasive blasting operations in PM10 nonattainment and maintenance areas.

R307-306-2. Definitions.

The following additional definitions apply to R307-306.

"Abrasive Blasting" means the operation of cleaning or preparing a surface by forcibly propelling a stream of abrasive material against the surface.

"Abrasive Blasting Equipment" means any equipment used in abrasive blasting operations.

"Abrasives" means any material used in abrasive blasting operations including but not limited to sand, slag, steel shot, garnet or walnut shells.

"Confined Blasting" means any abrasive blasting conducted in an enclosure that significantly restricts air contaminants from being emitted to the ambient atmosphere, including but not limited to shrouds, tanks, drydocks, buildings and structures.

"Hydroblasting" means any abrasive blasting using high pressure liquid as the propelling force.

"Multiple Nozzles" means a group of two or more nozzles used for abrasive cleaning of the same surface in such close proximity that their separate plumes are indistinguishable.

"Unconfined Blasting" means any abrasive blasting that is not confined blasting as defined above.

"Wet Abrasive Blasting" means any abrasive blasting using compressed air as the propelling force and sufficient water to minimize the plume.

R307-306-3. Applicability.

R307-306 applies to any person who operates abrasive blasting equipment in a PM10 nonattainment or maintenance area.

R307-306-4. Visible Emission Standard.

(1) Except as provided in (2) below, visible emissions from abrasive blasting operations shall not exceed 20% opacity except for an aggregate period of three minutes in any one hour.

(2) If the abrasive blasting operation complies with the performance standards in R307-306-6, visible emissions from the operation shall not exceed 40% opacity, except for an aggregate period of 3 minutes in any one hour.

R307-306-5. Visible Emission Evaluation Techniques.

(1) Visible emissions shall be measured using EPA Method 9. Visible emissions from intermittent sources shall use procedures similar to Method 9, but the requirement for observations to be made at 15 second intervals over a six minute period shall not apply.

(2) Visible emissions from unconfined blasting shall be measured at the densest point of the emission after a major portion of the spent abrasive has fallen out at a point not less than five feet nor more than twenty-five feet from the impact surface from any single abrasive blasting nozzle.

(3) An unconfined blasting operation that uses multiple nozzles shall be considered a single source unless it can be demonstrated by the owner or operator that each nozzle, measured separately, meets the visible emission standards in R307-306-4.

(4) Emissions from confined blasting shall be measured at the densest point after the air contaminant leaves the enclosure.

R307-306-6. Performance Standards.

(1) To satisfy the requirements of R307-306-4(2), the abrasive blasting operation shall use at least one of the following performance standards:

- (a) confined blasting;
- (b) wet abrasive blasting;
- (c) hydroblasting; or
- (d) unconfined blasting using abrasives as defined in (2) below.

(2) Abrasives.

(a) Abrasives used for dry unconfined blasting referenced in (1) above shall comply with the following performance standards:

(i) Before blasting, the abrasive shall not contain more than 1% by weight material passing a #70 U.S. Standard sieve.

(ii) After blasting the abrasive shall not contain more than 1.8% by weight material 5 microns or smaller.

(b) Abrasives reused for dry unconfined blasting are exempt from (a)(ii) above, but must conform with (a)(i) above.

(3) Abrasive Certification. Sources using the performance standard of (1)(d) above to meet the requirements of R307-306-4(2) must demonstrate they have obtained abrasives from a supplier who has certified (submitted test results) to the executive secretary at least annually that such abrasives meet the requirements of (2) above.

R307-306-7. Compliance Schedule.

The provisions of R307-306 shall apply in any new PM10 nonattainment area 180 days after the area is officially designated a nonattainment area for PM10 by the Environmental Protection Agency.

KEY: air pollution, abrasive blasting, PM10

2005

19-2-101(1)(a)



Environmental Quality, Air Quality
R307-309
 Davis, Salt Lake and Utah Counties,
 Ogden City and Any Nonattainment
 Area for PM10: Fugitive Emissions and
 Fugitive Dust

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27765

FILED: 03/15/2005, 16:20

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to clarify provisions of this rule. This amendment is part of the overall revisions to the rules related to new PM10 Maintenance Plan (see separate filing on Section R307-110-10, in this issue). Utah will seek redesignation of Salt Lake and Utah Counties and Ogden City from nonattainment to attainment of the PM10 health standard following final adoption of the plan. The revisions to this rule are in anticipation of this redesignation. (DAR NOTE: The proposed amendment to Section R307-110-10 is under DAR No. 27768 in this issue.)

SUMMARY OF THE RULE OR CHANGE: Currently, Rule R307-205 (see separate filing on Rule R307-205 in this issue) applies statewide and is part of the federally enforceable State Implementation Plan. Upon adoption by the board, Rule R307-205 will only apply outside the nonattainment and maintenance areas and the state will request EPA to retract Rule R307-205. Rule R307-309 will then apply within the PM10 nonattainment and maintenance areas and be part of the federally enforceable State Implementation Plan. In Subsection R307-309-5(3), a new provision specifies modifications to Method 9 to determine compliance by mobile and intermittent sources. This provision has been included in emission limitations for sources regulated by the PM10 SIP since 1991. (DAR NOTE: The proposed amendment to Rule R307-205 is under DAR No. 27764 in this issue.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-2-101, 19-2-104, and 19-2-109

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The changes in the rule do not change the duties of state staff; thus, there is no change in costs. No other costs are expected in the state budget because other revisions do not create any new requirements.

❖ LOCAL GOVERNMENTS: Each source is required to carry out all control measures specified in its dust control plan, whatever the wind speed, but will be expected to meet opacity regulations at 30 mph or less instead of the current 25 mph. Approximately 4.5 days per year have wind speeds of 26-30 mph, and each source may have to apply more controls to remain in compliance on those days. The cost of controls will vary by source, depending upon the measures each source has included in its dust control plan.

❖ OTHER PERSONS: Each source is required to carry out all control measures specified in its dust control plan, whatever the wind speed, but will be expected to meet opacity regulations at 30 mph or less instead of the current 25 mph. Approximately 4.5 days per year have wind speeds of 26-30 mph, and each source may have to apply more controls to remain in compliance on those days. The cost of controls will vary by source, depending upon the measures each source has included in its dust control plan.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Each source is required to carry out all control measures specified in its dust control plan, whatever the wind speed, but will be expected to meet opacity regulations at 30 mph or less instead of the current 25 mph. Approximately 4.5 days per year have wind speeds of 26-30 mph, and each source may have to apply more controls to remain in compliance on those days. The cost of controls will vary by source, depending upon the measures each source has included in its dust control plan.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: While this amendment may have some fiscal impact on businesses, these costs will be minimal because companies prepare their own fugitive dust control plans using measures they believe will meet the opacity requirements in their specific situations. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Miller or Mat E. Carlile at the above address, by phone at 801-536-4042 or 801-536-4136, by FAX at 801-536-4099 or 801-536-0085, or by Internet E-mail at janmiller@utah.gov or MCARLILE@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/02/2005

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 4/19/2005 at 10:00 AM, DEQ Bldg, 168 N 1950 W, Room 101, Salt Lake City, UT; 4/20/2005 at 1:30 PM, Utah County Administration Bldg, 100 E Center Street, Suite 2300, Provo, UT; and 4/21/2005 at 6:00 PM, Weber County Bldg, 2380 Washington Blvd, Breakout Room, Ogden, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 07/30/2005

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.

R307-309. ~~[Davis, Salt Lake and Utah Counties, Ogden City and Any]~~ Nonattainment and Maintenance Areas for PM10: Fugitive Emissions and Fugitive Dust.

R307-309-1. Purpose.

This rule establishes minimum work practices and emission standards for sources of fugitive emissions and fugitive dust listed in Section IX, Part H of the state implementation plan or located in PM10 nonattainment and maintenance areas to meet the reasonably available control measures for PM10 required in section 189(a)(1)(C) of the Act.

R307-309-2. Definitions.

The following addition definition applies to R307-309:

"Material" means sand, gravel, soil, minerals other matter that may create fugitive dust.

R307-309-[1]3. Applicability and Definitions].

(1) Applicability. R307-309 applies to all sources of fugitive dust and fugitive emissions listed in Section IX, Part H of the state implementation plan or located in [Davis, Salt Lake and Utah Counties, Ogden City, and any] a nonattainment or maintenance area for PM10, except as specified in (2) below. [~~Any source located in those areas for which limitations for fugitive dust or fugitive emissions are assigned pursuant to R307-401 is subject to R307-309 on May 4, 1999, unless the source has an operating permit issued under R307-415 prior to that date. If the source has an operating permit, the source is subject to R307-309 on the date of permit renewal or permit reopening as specified in R307-415, whichever occurs first.~~]

(2) Exemptions.

(a) The provisions of R307-309 do not apply to agricultural or horticultural activities specified in 19-2-114 (1)-(3).

(b) Any ~~[source]activity [which is]~~ subject to ~~[R307-305-2 through 7 or]~~ R307-307 is exempt from ~~[all provisions of]~~ R307-309-7. ~~[except for R307-309-4.~~

~~— (c) Any source regulated by R307-205-5 or R307-205-6 is exempt from all provisions of R307-309 except for R307-309-4.~~

~~— (3) The following additional definitions apply to R307-309:~~

~~— "Material" means sand, gravel, soil, minerals or other matter which may create fugitive dust.~~

~~— "Road" means any public or private road.]~~

(3) Compliance Schedule. Any source located in a new nonattainment area for PM10 is subject to R307-309 180 days after the area is designated nonattainment by the Environmental Protection Agency.

R307-309-[2]4. Fugitive Emissions.

Fugitive emissions from any source shall not exceed 15% opacity. Opacity observations of emissions from stationary sources shall be conducted in accordance with EPA Method 9. For intermittent sources and mobile sources, opacity observations shall use Method 9 except the requirement for observations to be made at 15-second intervals over a six-minute period shall not apply and any time interval with no visible emissions shall not be included.

R307-309-[3]5. General Requirements for Fugitive Dust.

(1) Except as provided in (2) below, [Ø]opacity caused by fugitive dust shall not exceed:

(a) 10% at the property boundary; and

(b) 20% on site ~~[unless an approval order issued under R307-401 or a dust control plan specifies a lower level; except]~~

(2) Opacity in (1) above shall not apply when the wind speed exceeds [25]30 miles per hour and the owner or operator is taking appropriate actions to control fugitive dust.

(a) If the source has a fugitive dust control plan approved by the executive secretary, control measures in the plan are considered appropriate.

(b) Wind speed may be measured by a hand-held anemometer or equivalent device. [

~~— (2) Any source with a dust control plan approved by the executive secretary prior to March 4, 1999, shall review and revise the plan in accordance with R307-309-4 below. The revised plan shall be submitted to the executive secretary no later than May 4, 1999.]~~

(3) Opacity observations of emissions from stationary sources shall be conducted in accordance with EPA Method 9. For intermittent sources and mobile sources, opacity observations shall use Method 9 except the requirement for observations to be made at 15-second intervals over a six-minute period shall not apply and any time interval with no visible emissions shall not be included.

R307-309-[4]6. Fugitive Dust Control Plan.

(1) Any person owning or operating a new or existing source of fugitive dust, including storage, hauling or handling operations, or engaging in clearing or leveling of land one-quarter acre or greater in size, earthmoving, excavation, or movement of trucks or construction equipment over cleared land one-quarter acre or greater in size or access haul roads, or engaging in demolition activities including razing homes, buildings or other structures shall submit a plan to control fugitive dust to the executive secretary no later than

30 days after the source becomes subject to ~~[the rule]~~ R307-309. The plan shall address fugitive dust control strategies for the following operations as applicable:

- (a) Material Storage;
- (b) Material handling and transfer;
- (c) Material processing;
- (d) Road ways and yard areas;
- (e) Material loading and dumping;
- (f) Hauling of materials;
- (g) Drilling, blasting and pushing operations;
- (h) Clearing and leveling;
- (i) Earth moving and excavation;
- (j) Exposed surfaces;
- (k) Any other source of fugitive dust.
- (2) Strategies to control fugitive dust may include:
 - (a) Wetting or watering;
 - (b) Chemical stabilization;
 - (c) Enclosing or covering operations;
 - (d) Planting vegetative cover;
 - (e) Providing synthetic cover;
 - (f) Wind breaks;
 - (g) Reducing vehicular traffic;
 - (h) Reducing vehicular speed;
 - (i) Cleaning haul trucks before leaving loading area;
 - (j) Limiting pushing operations to wet seasons;
 - (k) Paving or cleaning road ways;
 - (l) Covering loads;
 - (m) Conveyor systems;
 - (n) Boots on drop points;
 - (o) Reducing the height of drop areas;
 - (p) Using dust collectors;
 - (q) Reducing production;
 - (r) Mulching;
 - (s) Limiting the number and power of blasts;
 - (t) Limiting blasts to non-windy days and wet seasons;
 - (u) Hydro drilling;
 - (v) Wetting materials before processing;
 - (w) Using a cattle guard before entering a paved road;
 - (x) Washing haul trucks before leaving the loading site; ~~[or]~~
 - (y) Terracing[-];
 - (z) Cleaning the materials that may create fugitive dust on a public or private paved road promptly; or
 - (aa) Preventing, to the maximum extent possible, material from being deposited onto any paved road other than a designated deposit site.

(3) Each source shall comply with all provisions of the fugitive dust control plan as approved by the executive secretary.

~~R307-309-5. Storage, Hauling and Handling of Aggregate Materials.~~

~~Any person owning, operating or maintaining a new or existing material storage, handling or hauling operation shall prevent, to the maximum extent possible, material from being deposited onto any paved road other than a designated deposit site. Any such person who deposits materials which may create fugitive dust on a public or private paved road shall clean the road promptly.~~

~~R307-309-6. Construction and Demolition Activities.~~

~~Any person engaging in clearing or leveling of land with an area of one quarter acre or more, earthmoving, excavating, construction, demolition, or moving trucks or construction~~

~~equipment over cleared land or access haul roads shall prevent, to the maximum extent possible, material from being deposited onto any paved road other than a designated deposit site. Any such person who deposits materials which may create fugitive dust on a public or private paved road shall clean the road promptly.~~

~~JR307-309-7. Roads.~~

~~(1) Any person responsible for construction or maintenance of any existing road or having right-of-way easement or possessing the right to use the same whose activities result in fugitive dust from the road shall minimize fugitive dust to the maximum extent possible. Any such person who deposits materials ~~[which]~~that may create fugitive dust on a public or private paved road shall clean the road promptly.~~

~~(2) Unpaved Roads. [~~

~~—(a) When unpaved roads have an average daily traffic volume of less than 150 vehicle trips per day, averaged over a consecutive 5-day period, fugitive dust shall be minimized to the maximum extent possible.~~

~~—(b) When unpaved roads have an average daily traffic volume of 150 vehicle trips per day or greater, averaged over a consecutive 5 day period, control techniques shall be used which are equal to or better than 2-inch bituminous surface.~~

~~—(e) Any person responsible for construction or maintenance of any new or existing unpaved road shall prevent, to the maximum extent possible, the deposit of material from the unpaved road onto any intersecting paved road during construction or maintenance. Any person who deposits materials ~~[which]~~that may create fugitive dust on a public or private paved road shall clean the road promptly.~~

~~R307-309-8. Mining Activities.~~

~~(1) Fugitive dust, construction activities, and roadways associated with mining activities are regulated under the provisions of R307-309-8 and not by R307-309-7 and 9.~~

~~(2) Any person who owns or operates a mining operation shall minimize fugitive dust as an integral part of site preparation, mining activities, and reclamation operations.~~

~~(3) The fugitive dust control measures to be used may include:~~

~~(a) periodic watering of unpaved roads,~~

~~(b) chemical stabilization of unpaved roads,~~

~~(c) paving of roads,~~

~~(d) prompt removal of coal, rock minerals, soil, and other dust-forming debris from roads and frequent scraping and compaction of unpaved roads to stabilize the road surface,~~

~~(e) restricting the speed of vehicles in and around the mining operation,~~

~~(f) revegetating, mulching, or otherwise stabilizing the surface of all areas adjoining roads that are a source of fugitive dust,~~

~~(g) restricting the travel of vehicles on other than established roads,~~

~~(h) enclosing, covering, watering, or otherwise treating loaded haul trucks and railroad cars, to minimize loss of material to wind and spillage,~~

~~(i) substitution of conveyor systems for haul trucks and covering of conveyor systems when conveyed loads are subject to wind erosion,~~

~~(j) minimizing the area of disturbed land,~~

~~(k) prompt revegetation of regraded lands,~~

~~(l) planting of special windbreak vegetation at critical points in the permit area.~~

(m) control of dust from drilling, using water sprays, hoods, dust collectors or other controls approved by the executive secretary.

(n) restricting the areas to be blasted at any one time.

(o) reducing the period of time between initially disturbing the soil and revegetating or other surface stabilization.

(p) restricting fugitive dust at spoil and coal transfer and loading points.

(q) control of dust from storage piles through use of enclosures, covers, or stabilization and other equivalent methods or techniques as approved by the executive secretary, or

(r) other techniques as determined necessary by the executive secretary.

R307-309-9. Tailings Piles and Ponds.

(1) Fugitive dust, construction activities, and roadways associated with tailings piles and ponds are regulated under the provisions of R307-309-9 and not by R307-309 7 and 8.

(2) Any person owning or operating an existing tailings operation where fugitive dust results from grading, excavating, depositing, or natural erosion or other causes in association with such operation shall take steps to minimize fugitive dust from such activities. Such controls may include:

(a) watering.

(b) chemical stabilization.

(c) synthetic covers.

(d) vegetative covers.

(e) wind breaks.

(f) minimizing the area of disturbed tailings.

(g) restricting the speed of vehicles in and around the tailings operation, or

(h) other equivalent methods or techniques which may be approvable by the executive secretary.

KEY: air pollution, dust[[±]], PM10

[May 4, 1999]2005

Notice of Continuation June 8, 2004

19-2-101

19-2-104

19-2-109

Environmental Quality, Air Quality

R307-310-5

Transition Provision

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27766

FILED: 03/15/2005, 16:20

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment to Rule R307-310 adds a new Section R307-310-5 that removes the option to trade between the PM10 and NOx conformity budgets for Salt Lake County after the new conformity budget is approved. The new conformity budget is part of the new PM10 Maintenance Plan (see separate filing in Section R307-110-10, in this issue). (DAR NOTE: The

proposed amendment to Section R307-110-10 is under DAR No. 27768 in this issue.)

SUMMARY OF THE RULE OR CHANGE: Because the 1991 PM10 SIP did not establish a conformity budget for Salt Lake County, Rule R307-310 was written in 2002. Rule R307-310 also provides a mechanism to trade PM10 for NOx to demonstrate that the Salt Lake County transportation plan conforms to PM10 SIP. The new maintenance plan (see separate filing in Section R307-110-10 in this issue) contains conformity budgets for Salt Lake County. These new conformity budgets use the latest transportation and mobile emission models. Because of improvements in the methods used to develop the proposed conformity budgets, it is no longer necessary to allow trading between the PM10 and NOx budgets. Further, the technical analysis for the proposed maintenance plan does not provide the information needed to establish a trading ratio between pollutants. As a result of these factors, new language was added to provide a mechanism to remove the trading option after a new conformity budget is approved.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Because this revision does not create any new requirements, no costs or savings are expected to the state budget. The conformity budget will now be part of the new PM10 maintenance plan (see Section R307-110-10).

❖ LOCAL GOVERNMENTS: Because this revision does not create any new requirements, no costs or savings are expected for local government. The conformity budget will now be part of the new PM10 maintenance plan.

❖ OTHER PERSONS: There will be no change in costs for individuals because trading between PM10 and NOx budgets is not needed to demonstrate conformity under the new PM10 maintenance plan, and therefore transportation funding is not vulnerable.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no change in costs for individuals because trading between PM10 and NOx budgets is not needed to demonstrate conformity under the new PM10 maintenance plan, and therefore transportation funding is not vulnerable.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Because this revision does not regulate any businesses, no fiscal impact is expected for businesses. The conformity budget for Salt Lake County will now be located within the PM10 maintenance plan. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY

AIR QUALITY

150 N 1950 W

SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Miller or Mat E. Carlile at the above address, by phone at 801-536-4042 or 801-536-4136, by FAX at 801-536-4099 or 801-536-0085, or by Internet E-mail at janmiller@utah.gov or MCARLILE@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/02/2005

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 4/19/2005 at 10:00 AM, DEQ Bldg, 168 N 1950 W, Room 101, Salt Lake City, UT; 4/20/2005 at 1:30 PM, Utah County Administration Bldg, 100 E Center Street, Suite 2300, Provo, UT; and 4/21/2005 at 6:00 PM, Weber County Bldg, 2380 Washington Blvd, Breakout Room, Ogden, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 07/30/2005

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

**R307. Environmental Quality, Air Quality.
R307-310. Salt Lake County: Trading of Emission Budgets for Transportation Conformity.
R307-310-5. Transition Provision.**

R307-310, sections 1-4 will remain in effect until the day that EPA approves the conformity budget in the PM10 maintenance plan adopted by the board on June 1, 2005.

**KEY: air pollution, transportation conformity, PM10
[May 13, 2002]2005
19-2-104**



**Environmental Quality, Air Quality
R307-421**

Permits: PM10 Offset Requirements in Salt Lake County and Utah County

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 27767

FILED: 03/15/2005, 16:21

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this new rule is to maintain the health standards for particulate pollution while allowing continued economic growth of sources of emissions. The rule will apply to sources in Salt Lake and Utah Counties.

SUMMARY OF THE RULE OR CHANGE: Presently, Rule R307-403 requires a source in Salt Lake or Utah County to offset emissions of PM10, nitrogen oxides, and sulfur dioxide by decreasing emissions from another source within the nonattainment area. These provisions have allowed new

sources to come into the area without significantly increasing emissions overall. After Salt Lake and Utah Counties are redesignated to attainment for PM10 (see separate filing on Section R307-110-10 in this issue), Rule R307-421 will continue the offset requirements, with the modification that the 25 tons-per-year threshold that triggers the offset requirement will apply separately to sulfur dioxide and nitrogen oxides, instead of applying to the sum of PM10, sulfur dioxide and nitrogen oxides. No offset requirement for PM10 will be required because new sources can calculate the effect of PM10 emissions through the modeling that will be required after redesignation. This rule will not become part of the PM10 State Implementation Plan and will not be federally enforceable. (DAR NOTE: The proposed amendment to Section R307-110-10 is under DAR No. 27768 in this issue.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-101(1)(a), and Sections 19-2-104 and 19-2-108

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There will be no change in cost for state government, as no new requirements are added.
- ❖ LOCAL GOVERNMENTS: There will be no change in cost for local governments, as no new requirements are added.
- ❖ OTHER PERSONS: Costs for sources may decline slightly as the threshold for triggering the requirement to obtain offset will be 25 tons per year of sulfur dioxide or nitrogen oxides individually, instead of the current trigger of 25 tons per year of the three pollutants combined.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Costs for sources may decline slightly, as the threshold for triggering the requirement to obtain offset will be 25 tons per year of sulfur dioxide or nitrogen oxides individually, instead of the current trigger of 25 tons per year of the three pollutants combined.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This provision is similar to the provisions put in place in the early 1990s to maintain the ozone standard when the State of Utah sought redesignation to attainment for ozone. It is expected that maintaining the offset provisions will allow continued economic growth while still protecting public health. Dianne R. Nielson, Executive Director

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**ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.**

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THIS RULE MAY BECOME EFFECTIVE ON: 07/30/2005

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.

R307-421. Permits: PM10 Offset Requirements in Salt Lake County and Utah County.

R307-421-1. Purpose.

The purpose of R307-421 is to require emission reductions from existing sources to offset emission increases from new or modified sources of PM10 precursors in Salt Lake and Utah Counties. The emission offset will minimize growth of PM10 precursors to ensure that these areas will continue to maintain the PM10 and PM2.5 national ambient air quality standards.

R307-421-2. Applicability.

(1) This rule applies to new or modified sources of sulfur dioxide or oxides of nitrogen that are located in or impact Salt Lake County or Utah County.

(2) A new or modified source shall be considered to impact an area if the modeled impact is greater than 1.0 microgram/cubic meter for a one-year averaging period or 3.0 micrograms/cubic meter for a 24-hour averaging period for sulfur dioxide or nitrogen dioxide.

R307-421-3. Offset Requirements.

(1) The owner or operator of any new source that has the potential to emit, or any modified source that would increase sulfur dioxide or oxides of nitrogen in an amount equal to or greater than the levels in (a) and (b) below shall obtain an enforceable emission offset as defined in (a) and (b) below.

(a) For a total of 50 tons/year or greater, an emission offset of 1.2:1 of the emission increase is required.

(b) For a total of 25 tons/year or greater but less than 50 tons/year, an emission offset of 1:1 of the emission increase is required.

R307-421-4. General Requirements.

(1) All emission offsets shall meet the general requirements for calculating and banking emission offsets that are established in R307-403-4, R307-403-7 and R307-403-8.

(2) Emission offsets shall be used only in the county where the credits are generated. In the case of sources located outside of Salt Lake or Utah Counties, the offsets shall be generated in the county where the modeled impact in R307-421-2(2) occurs.

(3) Emission offsets shall not be traded between pollutants.

R307-421-5. Transition Provision.

This rule will become effective in each county on the day that the EPA redesignates the county to attainment for PM10. The PM10 nonattainment area offset provisions in R307-403 will continue to apply until the EPA redesignates each county to attainment for PM10.

KEY: air pollution, offset, PM10, PM2.5

2005

19-2-101(1)(a)

19-2-104

19-2-108

Environmental Quality, Radiation Control **R313-12** General Provisions

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27746

FILED: 03/11/2005, 16:33

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for the change is to modify Utah's Radiation Control Rules to be compatible with the federal requirements found in 10 CFR 20 and 10 CFR 35.

SUMMARY OF THE RULE OR CHANGE: Correction of references to Title 19 and Title 63 are made. Modifications and clarifications to definitions affected by changes to 10 CFR 35 and 10 CFR 20 are made. Major definition changes include "radiation safety officer," "public dose," and "shallow dose equivalent."

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: No additional regulatory requirements will need to be implemented by the state. Therefore, the rule changes will not result in a cost or savings to the state budget.

❖ LOCAL GOVERNMENTS: The rule modification does not affect the local governments presently licensed under the rules under R313. Therefore, there will be no cost or savings for local governments.

❖ OTHER PERSONS: No additional regulatory requirements will need to be implemented by affected persons due to the modifications and clarifications to the definitions. Therefore, there will be no cost or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No additional regulatory requirements will need to be implemented by affected persons due to the modifications and clarifications to the definitions. Therefore, there will be no cost or savings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change will have no fiscal impact on businesses. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
RADIATION CONTROL
Room 212
168 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gwyn Galloway at the above address, by phone at 801-536-4258, by FAX at 801-533-4097, or by Internet E-mail at ggalloway@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/02/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 05/13/2005

AUTHORIZED BY: Dane Finerfrock, Director

R313. Environmental Quality, Radiation Control.

R313-12. General Provisions.

R313-12-1. Authority.

The rules set forth herein are adopted pursuant to the provisions of Subsections 19-3-104(~~3~~4) and 19-3-104(~~6~~8) and Section 63-38-3.2.

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 material" means a 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 [is]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; and

(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 or thorium solution extraction processes. Underground ore bodies depleted by these solution extraction operations do not constitute "byproduct material" within this definition.

"Calendar quarter" means not less than 12 consecutive weeks nor more than 14 consecutive weeks. The first calendar quarter of the year shall begin in January, and subsequent calendar quarters shall be arranged so that no day is included in more than one calendar quarter and no day in any one year is omitted from inclusion within a calendar quarter. The method observed by the licensee or registrant for determining calendar quarters shall only be changed at the beginning of a year.

"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.

"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.

"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 3.7×10^{10} disintegrations or transformations per second (dps or tps).

.....

"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 [~~Section R313-32-75~~],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 MeV.

"Permit" means a permit issued by the Executive Secretary 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 [~~sources of]exposure to radiation [from licensed or registered operations]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 [~~Section R313-32-75~~]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 Executive Secretary, 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 Executive Secretary or is legally obligated to register with the Executive Secretary 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 2.58×10^{-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.

"Shallow dose equivalent" (Hs) which applies to the external exposure of the skin of the whole body or the skin of an extremity, ~~[means]~~ is taken as the dose equivalent at a tissue depth of 0.007 centimeter (seven mg per cm²) ~~[-averaged over an area of one square centimeter].~~

"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.

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R313-12-52. Inspections.

(1) A licensee or registrant shall afford representatives of the Executive Secretary, at reasonable times, opportunity to inspect sources of radiation and the premises and facilities wherein those sources of radiation are used or stored.

(2) A licensee or registrant shall make available to representatives of the Executive Secretary for inspection, ~~[upon reasonable notice]~~ at any reasonable time, records maintained pursuant to these rules.

KEY: definitions, units, inspections, exemptions

~~[March 14, 2003]~~ **2005**

Notice of Continuation July 23, 2001

19-3-104

19-3-108



Environmental Quality, Radiation
Control
R313-15
Standards for Protection Against
Radiation

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27744

FILED: 03/11/2005, 16:32

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for this change is to modify Utah's Radiation Control Rules to be compatible with Federal requirements found in 10 CFR 20 and 10 CFR 35.

SUMMARY OF THE RULE OR CHANGE: This rule change clarifies how deep dose equivalents and shallow dose equivalents are measured and determined. In addition, the changes allow medical facilities to let visitors receive radiation exposures higher than the limits set in Section R313-15-502 if certain criteria have been met.

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

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** No additional regulatory requirements will need to be implemented by the state. Therefore, the rule changes will not result in a cost or savings to the state budget.
- ❖ **LOCAL GOVERNMENTS:** The rule modification does not affect the local governments presently licensed under the rules under R313. Therefore, there will be no cost or savings for local governments.
- ❖ **OTHER PERSONS:** No additional regulatory requirements will need to be implemented by affected persons due to the rule changes. Therefore, there will be no cost or savings for affected persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No additional regulatory requirements will need to be implemented by affected persons due to the rule changes. Therefore, there will be no cost or savings for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change will have no fiscal impact on businesses. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
RADIATION CONTROL
Room 212
168 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gwyn Galloway at the above address, by phone at 801-536-4258, by FAX at 801-533-4097, or by Internet E-mail at ggalloway@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/02/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 05/13/2005

AUTHORIZED BY: Dane Finerfrock, Director

R313. Environmental Quality, Radiation Control.

R313-15. Standards for Protection Against Radiation.

R313-15-1. Purpose, Authority and Scope.

(1) Rule R313-15 establishes standards for protection against ionizing radiation resulting from activities conducted pursuant to licenses issued by the Executive Secretary. These rules are issued pursuant to ~~Subs[Sections]~~ 19-3-104(~~3~~4) and 19-3-104(~~6~~8).

(2) The requirements of Rule R313-15 are designed to control the receipt, possession, use, transfer, and disposal of sources of radiation by any licensee or registrant so the total dose to an individual, including doses resulting from all sources of radiation other than background radiation, does not exceed the standards for protection against radiation prescribed in Rule R313-15. However, nothing in Rule R313-15 shall be construed as limiting actions that may be necessary to protect health and safety.

(3) Except as specifically provided in other sections of these rules, Rule R313-15 applies to persons licensed or registered by the Executive Secretary to receive, possess, use, transfer, or dispose of sources of radiation. The limits in Rule R313-15 do not apply to doses due to background radiation, to exposure of patients to radiation for the purpose of medical diagnosis or therapy, to exposure from individuals administered radioactive material and released in accordance with ~~[Section R313-32-75]~~ Rule R313-32 (incorporating 10 CFR 35.75 by reference), or to exposure from voluntary participation in medical research programs.

R313-15-201. Occupational Dose Limits for Adults.

(1) The licensee or registrant shall control the occupational dose to individual adults, except for planned special exposures pursuant to Section R313-15-206, to the following dose limits:

- (a) An annual limit, which is the more limiting of:
 - (i) The total effective dose equivalent being equal to 0.05 Sv (5 rem); or
 - (ii) The sum of the deep dose equivalent and the committed dose equivalent to any individual organ or tissue other than the lens of the eye being equal to 0.50 Sv (50 rem).

(b) The annual limits to the lens of the eye, to the skin of the whole body, and to the skin of the extremities which are:

- (i) A lens dose equivalent of 0.15 Sv (15 rem), and
- (ii) A shallow dose equivalent of 0.50 Sv (50 rem) to the skin of the whole body or to the skin of any extremity.

(2) Doses received in excess of the annual limits, including doses received during accidents, emergencies, and planned special exposures, shall be subtracted from the limits for planned special exposures that the individual may receive during the current year and during the

individual's lifetime. See Subsections R313-15-206(5)(a) and R313-15-206(5)(b).

(3) The assigned deep dose equivalent must be for the part of the body receiving the highest exposure. ~~[and] The assigned shallow dose equivalent [shall be for the part of the body]~~ must be the dose averaged over the contiguous ten square centimeters of skin receiving the highest exposure.

(a) The deep dose equivalent, lens dose equivalent and shallow dose equivalent may be assessed from surveys or other radiation measurements for the purpose of demonstrating compliance with the occupational dose limits, if the individual monitoring device was not in the region of highest potential exposure, or the results of individual monitoring are unavailable; or

(b) When a protective apron is worn while working with medical fluoroscopic equipment and monitoring is conducted as specified in Subsection R313-15-502(1)(d), the effective dose equivalent for external radiation shall be determined as follows:

(i) When only one individual monitoring device is used and it is located at the neck outside the protective apron, and the reported dose exceeds 25 percent of the limit specified in Subsection R313-15-201(1), the reported deep dose equivalent value multiplied by 0.3 shall be the effective dose equivalent for external radiation; or

(ii) When individual monitoring devices are worn, both under the protective apron at the waist and outside the protective apron at the neck, the effective dose equivalent for external radiation shall be assigned the value of the sum of the deep dose equivalent reported for the individual monitoring device located at the waist under the protective apron multiplied by 1.5 and the deep dose equivalent reported for the individual monitoring device located at the neck outside the protective apron multiplied by 0.04.

(4) Derived air concentration (DAC) and annual limit on intake (ALI) values are specified in Table I of Appendix B of 10 CFR 20.1001 to 20.2402, 2001 ed., which is incorporated by reference, and may be used to determine the individual's dose and to demonstrate compliance with the occupational dose limits. See Section R313-15-1107.

(5) Notwithstanding the annual dose limits, the licensee shall limit the soluble uranium intake by an individual to ten milligrams in a week in consideration of chemical toxicity. See footnote 3, of Appendix B of 10 CFR 20.1001 to 20.2402, 2001 ed., which is incorporated by reference.

(6) The licensee or registrant shall reduce the dose that an individual may be allowed to receive in the current year by the amount of occupational dose received while employed by any other person. See Subsection R313-15-205(5).

R313-15-301. Dose Limits for Individual Members of the Public.

(1) Each licensee or registrant shall conduct operations so that:

(a) ~~[Except as provided in Subsection R313-15-301(1)(c), †]~~ The total effective dose equivalent to individual members of the public from the licensed or registered operation does not exceed one mSv (0.1 rem) in a year, exclusive of the dose contributions from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material and released [in accordance with Section R313-32-75], under Rule R313-32 (incorporating 10 CFR 35.75 by reference), from voluntary participation in medical research programs, and from the licensee's or registrant's disposal of radioactive material into sanitary sewerage in accordance with Section R313-15-1003; and

(b) The dose in any unrestricted area from external sources, exclusive of the dose contributions from patients administered radioactive material and released in accordance with ~~[Section R313-32-~~

~~75]~~ Rule R313-32 (incorporating 10 CFR 35.75 by reference), does not exceed 0.02 mSv (0.002 rem) in any one hour; and

(c) Notwithstanding Subsection R313-15-301(1)(a), a licensee may permit visitors to an individual who cannot be released, under R313-32 (incorporating 10 CFR 35.75 by reference), to receive a radiation dose greater than one mSv (0.1 rem) if:

(i) The radiation dose received does not exceed five mSv (0.5 rem); and

(ii) The authorized user, as defined in R313-32, has determined before the visit that it is appropriate.; and

~~[(e)]~~ (d) The total effective dose equivalent to individual members of the public from infrequent exposure to radiation from radiation machines does not exceed 5 mSv (0.5 rem) in a year.

(2) If the licensee or registrant permits members of the public to have access to controlled areas, the limits for members of the public continue to apply to those individuals.

(3) A licensee, registrant, or an applicant for a license or registration may apply for prior Executive Secretary authorization to operate up to an annual dose limit for an individual member of the public of five mSv (0.5 rem). This application shall include the following information:

(a) Demonstration of the need for and the expected duration of operations in excess of the limit in Subsection R313-15-301(1); and

(b) The licensee's or registrant's program to assess and control dose within the five mSv (0.5 rem) annual limit; and

(c) The procedures to be followed to maintain the dose ALARA.

(4) In addition to the requirements of R313-15, a licensee subject to the provisions of the United States Environmental Protection Agency's generally applicable environmental radiation standards in 40 CFR 190 shall comply with those standards.

(5) The Executive Secretary may impose additional restrictions on radiation levels in unrestricted areas and on the total quantity of radionuclides that a licensee or registrant may release in effluents in order to restrict the collective dose.

KEY: radioactive material, contamination, waste disposal, safety
~~[August 8, 2003]~~ **2005**

Notice of Continuation January 14, 2003

19-3-104

19-3-108



Environmental Quality, Radiation Control

R313-19

Requirements of General Applicability to Licensing of Radioactive Material

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27745

FILED: 03/11/2005, 16:32

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for this change is to modify Utah's Radiation Control Rules to be compatible with the federal requirements found in 10 CFR 30.34(g).

SUMMARY OF THE RULE OR CHANGE: Corrections to references to Title 19 are made. In addition, the rule change requires regulated persons to perform a test for molybdenum contamination on particular radiopharmaceuticals that they produce.

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

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** No additional regulatory requirements will need to be implemented by the state. Therefore, the rule changes will not result in a cost or savings to the state budget.
- ❖ **LOCAL GOVERNMENTS:** The rule modification does not affect the local governments presently licensed under the rules under R313. Therefore, there will be no cost or savings for local governments.
- ❖ **OTHER PERSONS:** Since the affected persons are presently performing this test, no additional regulatory requirements will need to be implemented by affected persons due to the rule changes. Therefore, there will be no cost or savings for affected persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since the affected persons are presently performing this test, no additional regulatory requirements will need to be implemented by affected persons due to the rule changes. Therefore, there will be no cost or savings for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change will have no fiscal impact on businesses. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
RADIATION CONTROL
Room 212
168 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gwyn Galloway at the above address, by phone at 801-536-4258, by FAX at 801-533-4097, or by Internet E-mail at ggalloway@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/02/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 05/13/2005

AUTHORIZED BY: Dane Finerfrock, Director

R313. Environmental Quality, Radiation Control.

R313-19. Requirements of General Applicability to Licensing of Radioactive Material.

R313-19-1. Purpose and Authority.

(1) The purpose of this rule is to prescribe requirements governing the licensing of radioactive material. This rule also gives notice to all persons who knowingly provide to any licensee, applicant, certificate of registration holder, contractor, or subcontractor, components, equipment, materials, or other goods or services, that relate to a licensee's, applicant's or certificate of registration holder's activities subject to these rules, that they may be individually subject to Executive Secretary enforcement action for violation of Section R313-19-5.

(2) The rules set forth herein are adopted pursuant to the provisions of Sections 19-3-104(3) and 19-3-104(6).

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 Executive Secretary.

(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 Executive Secretary 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 Executive Secretary, and shall give his consent in writing.

(3) Persons licensed by the Executive Secretary 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 Executive Secretary 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 Executive Secretary 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 U.S.C.101(14), 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 U.S.C.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 Executive Secretary. The licensee may change the approved plan without the Executive Secretary's approval only if the changes do not decrease the effectiveness of the plan. The licensee shall furnish the change to the Executive Secretary 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 Executive Secretary.

(8) Each licensee preparing technetium-99m radiopharmaceuticals from molybdenum-99/technetium-99m generators shall test the generator eluates for molybdenum-99 breakthrough 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.

KEY: license, reciprocity, transportation, exemptions
[December 12, 2003]2005
Notice of Continuation October 10, 2001
19-3-104
19-3-108



**Environmental Quality, Radiation
 Control**
R313-22
Specific Licenses

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 27747
 FILED: 03/11/2005, 16:33

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for this change is to modify Utah's Radiation Control Rules to be compatible with the federal requirements found in 10 CFR 32.

SUMMARY OF THE RULE OR CHANGE: This rule change modifies references to Rule R313-32 which is being modified in its entirety. Specifically, it corrects references to the training and experience criteria for persons preparing radioactive drugs for medical use and corrects references to specific medical uses. (DAR NOTE: The proposed amendment to Rule R313-32 is under DAR No. 27748 in this issue.)

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 10 CFR 35

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: No additional regulatory requirements will need to be implemented by the state. Therefore, the rule changes will not result in a cost or savings to the state budget.
- ❖ LOCAL GOVERNMENTS: The rule modification does not affect the local governments presently licensed under the rules under R313. Therefore, there will be no cost or savings for local governments.
- ❖ OTHER PERSONS: No additional regulatory requirements will need to be implemented by affected persons due to the rule changes. Therefore, there will be no cost or savings for affected persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No additional regulatory requirements will need to be implemented by affected persons due to the rule changes. Therefore, there will be no cost or savings for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change will have no fiscal impact on businesses. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
 RADIATION CONTROL
 Room 212
 168 N 1950 W
 SALT LAKE CITY UT 84116-3085, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Gwyn Galloway at the above address, by phone at 801-536-4258, by FAX at 801-533-4097, or by Internet E-mail at ggalloway@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/02/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 05/13/2005

AUTHORIZED BY: Dane Finerfrock, Director

R313. Environmental Quality, Radiation Control.
R313-22. Specific Licenses.
R313-22-1. Purpose and Authority.

- (1) The purpose of this rule is to prescribe the requirements for the issuance of specific licenses.
- (2) The rules set forth herein are adopted pursuant to the provisions of Subsections 19-3-104(~~3~~4) and 19-3-104(~~6~~8).

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 into products in exempt concentrations.

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- (9) Manufacture and distribution of radiopharmaceuticals containing radioactive material for medical use under group licenses.
 - (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 or licensed with the U.S. Food and Drug Administration (FDA) as a drug manufacturer;

(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.

(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 ~~[Section R313-32-2]~~ 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 ~~[(iii)]~~ (iv), or an individual under the supervision of an authorized nuclear pharmacist as specified in ~~[Section R313-32-25]~~ 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 ~~[Section R313-32-2]~~ Rule R313-32 (incorporating 10 CFR 35.2 by reference);

(B) this individual meets the requirements specified in ~~[Subsection R313-32-980(2) and Section R313-32-972]~~ 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)~~[(iii)]~~ (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 ~~[Section R313-32-2]~~ Rule R313-32 (incorporating 10 CFR 35.2 by reference), as an authorized nuclear pharmacist if the individual is identified as of January 1, 1997 as an "authorized user" on a nuclear pharmacy license issued by the Executive Secretary under Subsection R313-22-75(9).

(v) Shall provide to the Executive Secretary a copy of each individual's certification by the Board of Pharmaceutical Specialties, the Nuclear Regulatory Commission or Agreement State license, or the

permit issued by a licensee of broad scope, and 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 (B), 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 pursuant to ~~[Section R313-32-18]~~ Rule R313-32 (incorporating 10 CFR 35.18) for use as a calibration or reference source or for the uses listed in ~~[Sections R313-32-400 and R313-32-500]~~ Rule R313-32 (incorporating 10 CFR 35.400, 10 CFR 35.500, and 10 CFR 35.600 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 Executive Secretary for distribution to persons licensed pursuant to ~~[Sections R313-32-18, R313-32-400, and R313-32-500]~~ 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

(e) in determining the acceptable interval for test of leakage of radioactive material, the Executive Secretary 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.

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KEY: specific licenses, decommissioning, broad scope, radioactive materials
~~[December 12, 2003]~~2005
Notice of Continuation October 10, 2001
19-3-104
19-3-108



**Environmental Quality, Radiation
Control
R313-32
Medical Use of Radioactive Material**

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE No.: 27748
FILED: 03/11/2005, 16:34

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for this change is to modify Utah's Radiation Control Rules to be compatible with Federal requirements found in 10 CFR 35.

SUMMARY OF THE RULE OR CHANGE: Corrections to references to Title 19 are made. In general, the rule change allows regulated persons to have more flexibility in methods used to

comply with the rule by replacing prescriptive requirements with risk informed, performance-based requirements. In addition, the changes specifically include some medical modalities that have been previously regulated through the use of license conditions and include a mechanism to regulate new medical modalities as they emerge. There is now a definition for authorized medical physicists and particular training and experience requirements for these individuals. The prescriptive requirements for a quality management program have been removed and replaced with certain essential requirements. The rule change also modifies some requirements for calibration of instrumentation used to measure actual patient doses.

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 10 CFR 35

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** With the adoption of risk informed, performance-based regulations, no additional regulatory requirements will need to be implemented by the state. Therefore, changes in the rules will not result in a cost or savings to the state budget.

❖ **LOCAL GOVERNMENTS:** The rule modification does not affect the local governments presently licensed under the rules under R313. Therefore, there will be no cost or savings for local governments.

❖ **OTHER PERSONS:** Because the proposed changes allow affected persons more flexibility in methods used to attain compliance with the rule, overall costs or savings to most affected persons will depend on their business practices and are difficult to determine. There are approximately six affected facilities that may incur additional costs due to requirements for calibration of instrumentation used to measure the radiation output of certain radiation sources used in medical therapies, but actual costs will be determined by the method each facility uses to be compliant.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because the proposed changes allow affected persons more flexibility in methods used to attain compliance with the rules, overall costs or savings to most affected persons will depend on their business practices and are difficult to determine. There are approximately six affected facilities that may incur additional costs due to requirements for calibration of instrumentation used to measure the radiation output of certain radiation sources used in medical therapies, but actual costs will be determined by the method each facility uses to be compliant.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Overall, the increased flexibility of the rules allows businesses to determine the most cost effective way to obtain compliance with requirements. Actual costs or savings are dependant on the business practices used and therefore cannot be determined. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
RADIATION CONTROL
Room 212
168 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gwyn Galloway at the above address, by phone at 801-536-4258, by FAX at 801-533-4097, or by Internet E-mail at galloway@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/02/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 05/13/2005

AUTHORIZED BY: Dane Finerfrock, Director

R313. Environmental Quality, Radiation Control.

R313-32. Medical Use of Radioactive Material.

R313-32-1. Purpose and Authority.

(1) The purpose of this rule is to prescribe requirements and provisions for the medical use of radioactive material and for issuance of specific licenses authorizing the medical use of this material. These requirements and provisions provide for the protection of the public health and safety. The requirements and provisions of Rule R313-32 are in addition to, and not in substitution for, other sections of Title R313.

(2) The rules set forth herein are adopted pursuant to the provisions of Subsections 19-3-104(4) and 19-3-104(8).

R313-32-2. Clarifications or Exceptions.

For the purposes of Rule R313-32, 10 CFR 35.2 through 35.7; and 35.10 through 35.3067 (2004) are incorporated by reference with the following clarifications or exceptions:

(1) The exclusion of the following:

(a) In 10 CFR 35.2, exclude definitions for "Address of Use," "Agreement State," "Area of Use," "Dentist," "Pharmacist," "Physician," "Podiatrist," and "Sealed Source"; and

(b) In 10 CFR 35.3067, exclude "with a copy to the Director, Office of Nuclear Material Safety and Safeguards."

(2) The substitution of the following date references:

(a) "October 25, 2006" for "October 25, 2004";

(b) "October 24, 2006" for "October 24, 2004"; and

(c) "the effective date of this rule" for "October 24, 2002";

(3) The substitution of the following rule references:

(a) "Rule R313-15" for reference to "10 CFR Part 20" or for reference to "Part 20 of this chapter";

(b) "Rule R313-19" for reference to "Part 30 of this chapter" or for reference to "10 CFR Part 30" except for the reference to "Part 30 of this chapter" found in 10 CFR 35.65(d);

(c) "10 CFR 30" for reference to "Part 30 of this chapter" found in 10 CFR 35.65(d);

(d) "Rules R313-15 and R313-19" for reference to "parts 20 and 30 of this chapter";

(e) "Section R313-12-110" for reference to "Sec. 30.6 of this chapter" or for reference to "Sec. 30.6(a)" or for reference to "Sec. 30.6(a) of this chapter";

(f) "Section R313-15-101" for reference to "Sec. 20.1101 of this chapter";

(g) "Subsection R313-15-301(1)(a)" for reference to "Sec. 20.1301(a)(1) of this chapter";

(h) "Subsection R313-15-301(1)(c)" for reference to "Sec. 20.1301(c) of this chapter";

(i) "Section R313-15-501" for reference to "Sec. 20.1501 of this chapter";

(j) "Section R313-18-12" for reference to "Sec. 19.12 of this chapter";

(k) "Subsection R313-22-75(10) or equivalent U.S. Nuclear Regulatory Commission or Agreement State regulations" for reference to "Sec. 32.74 of this chapter." found in 10 CFR 35.65(b);

(l) "Subsection R313-22-75(10)" for reference to "10 CFR 32.74 of this chapter," or for reference to "Sec. 32.74 of this chapter" except for the reference to "Sec. 32.74 of this chapter" found in 10 CFR 35.65(b);

(m) "Rule R313-70" for reference to "Part 170 of this chapter";

(n) "Section R313-19-34(2)" for reference to "Sec. 30.34(b) of this chapter";

(o) "Rule R313-22" for reference to "Part 33 of this chapter";

(p) "Subsection R313-22-50(2)" for reference to "Sec. 33.13 of this chapter";

(q) "Subsection R313-22-75(9)(b)(iv)" for reference to "Sec. 32.72(b)(4); and

(r) "Subsection R313-22-75(9)" for reference to "Sec. 32.72 of this chapter."

(4) The substitution of the following terms:

(a) "radioactive material" for reference to "byproduct material";

(b) "final" for "draft";

(c) "original" for "original and one copy";

(d) "(801) 536-4250 or after hours, (801) 536-4123" for "(301) 951-0550";

(e) "Form DRC-02, 'Application for Medical Use of Radioactive Material License'" for reference to "NRC Form 313, 'Application for Material License';

(f) "State of Utah radioactive materials" for reference to "NRC" in 10 CFR 35.6(c);

(g) "the Executive Secretary, the U.S. Nuclear Regulatory Commission, or an Agreement State" for reference to "the Commission or Agreement State" or for reference to "the Commission or an Agreement State";

(h) "an Executive Secretary, the U.S. Nuclear Regulatory Commission, or an Agreement State" for reference to "a Commission or Agreement State";

(i) "Equivalent U.S. Nuclear Regulatory Commission or Agreement State" for reference to "equivalent Agreement State" as found in 10 CFR 35.63(b)(2)(i), 10 CFR 35.63(c)(3), 10 CFR 35.65(a), 10 CFR 35.100(a), 10 CFR 35.200(a), and 10 CFR 35.300(a);

(j) "Executive Secretary" for reference to "NRC Operations Center" in 10 CFR 3045(c) and 10 CFR 3047(c);

(k) "Utah Division of Radiation Control" for reference to "NRC Operations Center" in Footnote 3 to 10 CFR 35.3045;

(l) "Executive Secretary" for reference to "appropriate NRC Regional Office listed in Sec. 30.6 of this chapter";

(m) "Utah Radiation Control Board" for reference to "Commission" in 10 CFR 35.18(a)(3)(second instance) and 10 CFR 35.19;

(n) "Executive Secretary" for reference to "Commission" in 10 CFR 35.12(d)(2), 10 CFR 35.14(a)(first instance), 10 CFR 35.14(b), 10 CFR 35.18(a), 10 CFR 35.18(a)(3)(first instance), 10 CFR 35.18(b), 10 CFR 35.24(a)(1), 10 CFR 35.24(c), 10 CFR 35.26(a), and 10 CFR 35.1000(b);

(o) "the Executive Secretary" for reference to "NRC" in 10 CFR 35.13(b)(4)(i), 10 CFR 35.3045(g)(1), and 10 CFR 35.3047(f)(1);

(p) "the U.S. Nuclear Regulatory Commission or an Agreement State" for reference to "an Agreement State" in 10 CFR 35.49(a) and 10 CFR 35.49(c); and

(q) "Executive Secretary, a U.S. Nuclear Regulatory Commission, or Agreement State" for reference to "NRC or Agreement State" in 10 CFR 35.63(b)(2)(ii), 10 CFR 35.100(c), 10 CFR 35.200(c), and 10 CFR 35.300(c). [4] The purpose of this rule is to prescribe requirements and provisions for the medical use of radioactive material and for issuance of specific licenses authorizing the medical use of this material. These requirements and provisions provide for the protection of the public health and safety. The requirements and provisions of R313-32 are in addition to, and not in substitution for, other sections of R313.

(2) The rules set forth herein are adopted pursuant to the provisions of Sections 19-3-104(3) and 19-3-104(6).

R313-32-2. Definitions.

"Authorized nuclear pharmacist" means a pharmacist who is:

(a) board certified as a nuclear pharmacist by the Board of Pharmaceutical Specialties;

(b) identified as an authorized nuclear pharmacist on a Nuclear Regulatory Commission or Agreement State license that authorizes the use of radioactive material in the practice of nuclear pharmacy; or

(c) identified as an authorized nuclear pharmacist on a permit issued by a Nuclear Regulatory Commission or Agreement State specific licensee of broad scope that is authorized to permit the use of radioactive material in the practice of nuclear pharmacy.

"Authorized user" means a physician, dentist, or podiatrist who is:

(a) board certified by at least one of the boards listed in Paragraph (1) of R313-32-910, R313-32-920, R313-32-930, R313-32-940, R313-32-950, or R313-32-960;

(b) identified as an authorized user on a Nuclear Regulatory Commission or Agreement State license that authorizes the medical use of radioactive material; or

(c) identified as an authorized user on a permit issued by a Nuclear Regulatory Commission or Agreement State specific licensee of broad scope that is authorized to permit the medical use of radioactive material.

"Brachytherapy source" means an individual sealed source or a manufacturer assembled source train that is not designed to be disassembled by the user.

"Dedicated check source" means a radioactive source that is used to assure the constant operation of a radiation detection or measurement device over several months or years.

"Dental use" means the intentional external administration of the radiation from radioactive material to human beings in the practice of dentistry in accordance with a license issued by this state.

"Dentist" means an individual licensed by this state to practice dentistry.

"Diagnostic clinical procedures manual" means a collection of written procedures that describes each method, other instructions, and precautions, by which the licensee performs diagnostic clinical procedures; where each diagnostic clinical procedure has been approved by the authorized user and includes the radiopharmaceutical, dosage, and route of administration.

"Management" means the chief executive officer or that person's delegate.

"Medical institution" means an organization in which several medical disciplines are practiced.

"Medical use" means the intentional internal or external administration of radioactive material, or the radiation therefrom, to patients or human research subjects under the supervision of an authorized user.

"Ministerial change" means a change that is made, after ascertaining the applicable requirements, by persons in authority in conformance with the requirements and without making a discretionary judgement about whether those requirements should apply in the case at hand.

"Misadministration" means the administration of:

(a) A radiopharmaceutical dosage greater than 1.11 MBq (30 uCi) of either sodium iodide I-125 or I-131:

(i) involving the wrong individual, or wrong radiopharmaceutical; or

(ii) when both the administered dosage differs from the prescribed dosage by more than 20 percent of the prescribed dosage and the difference between the administered dosage and prescribed dosage exceeds 1.11 MBq (30 uCi);

(b) A therapeutic radiopharmaceutical dosage, other than sodium iodide I-125 or I-131:

(i) involving the wrong individual, wrong radiopharmaceutical, or wrong route of administration; or

(ii) when the administered dosage differs from the prescribed dosage by more than 20 percent of the prescribed dosage.

(c) A gamma stereotactic radiosurgery radiation dose:

(i) involving the wrong individual or wrong treatment site; or

(ii) when the calculated total administered dose differs from the total prescribed dose by more than ten percent of the total prescribed dose.

(d) A teletherapy radiation dose:

(i) involving the wrong individual, wrong mode of treatment, or wrong treatment site;

(ii) when the treatment consists of three or fewer fractions and the calculated total administered dose differs from the total prescribed dose by more than ten percent of the total prescribed dose;

(iii) when the calculated weekly administered dose exceeds the weekly prescribed dose by 30 percent or more of the weekly prescribed dose; or

(iv) when the calculated total administered dose differs from the total prescribed dose by more than 20 percent of the total prescribed dose.

(e) A brachytherapy radiation dose:

(i) involving the wrong individual, wrong radionuclide, or wrong treatment site (excluding, for permanent implants, seeds that were implanted in the correct site but migrated outside the treatment site);

(ii) involving a sealed source that is leaking;

(iii) when, for a temporary implant, one or more sealed sources are not removed upon completion of the procedure; or

(iv) when the calculated administered dose differs from the prescribed dose by more than 20 percent of the prescribed dose.

— (f) A diagnostic radiopharmaceutical dosage, other than quantities greater than 1.11 MBq (30 uCi) of either sodium iodide I-125 or I-131, or both:

— (i) involving the wrong individual, wrong radiopharmaceutical, wrong route of administration, or when the administered dosage differs from the prescribed dosage; and

— (ii) when the dose to the individual exceeds 0.05 Sv (five rems) effective dose equivalent or 0.5 Sv (50 rems) dose equivalent to any individual organ.

— "Mobile nuclear medicine service" means the transportation and medical use of radioactive material.

— "Output" means the exposure rate, dose rate, or a quantity related in a known manner to these rates from a teletherapy unit for a specified set of exposure conditions.

— "Pharmacist" means an individual licensed by a State or Territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to practice pharmacy.

— "Podiatric use" means the intentional external administration of the radiation from radioactive material to human beings in the practice of podiatry in accordance with a license issued by this State.

— "Podiatrist" means an individual licensed by this State to practice podiatry.

— "Prescribed dosage" means the quantity of radiopharmaceutical activity as documented:

— (a) in a written directive; or

— (b) either in the diagnostic clinical procedures manual or in an appropriate record in accordance with the directions of the authorized user for diagnostic procedures.

— "Prescribed dose" means:

— (a) for gamma stereotactic radiosurgery, the total dose as documented in the written directive;

— (b) for teletherapy, the total dose and dose per fraction as documented in the written directive; or

— (c) for brachytherapy, either the total source strength and exposure time or the total dose, as documented in the written directive.

— "Radiation Safety Officer" means the individual identified as the Radiation Safety Officer on a license issued by the Executive Secretary.

— "Recordable event" means the administration of:

— (a) a radiopharmaceutical or radiation without a written directive where a written directive is required;

— (b) a radiopharmaceutical or radiation where a written directive is required without daily recording of each administered radiopharmaceutical dosage or radiation dose in the appropriate record;

— (c) a radiopharmaceutical dosage greater than 1.11 MBq (30 uCi) of either sodium iodide I-125 or I-131 when both:

— (i) the administered dosage differs from the prescribed dosage by more than ten percent of the prescribed dosage, and

— (ii) the difference between the administered dosage and prescribed dosage exceed 555 kBq (15 uCi);

— (d) A therapeutic radiopharmaceutical dosage, other than sodium iodide I-125 or I-131, when the administered dosage differs from the prescribed dosage by more than ten percent of the prescribed dosage;

— (e) A teletherapy radiation dose when the calculated weekly administered dose exceeds the weekly prescribed dose by 15 percent or more of the weekly prescribed dose; or

— (f) A brachytherapy radiation dose when the calculated administered dose differs from the prescribed dose by more than ten percent of the prescribed dose.

— "Teletherapy" means therapeutic irradiation in which the source of radiation is at a distance from the body.

— "Teletherapy physicist" means the individual identified as the teletherapy physicist on a license issued by the Executive Secretary.

— "Visiting authorized user" means an authorized user who is not identified as an authorized user on the license of the licensee being visited.

— "Written directive" means an order in writing for a specific patient or human research subject, dated and signed by an authorized user prior to the administration of a radiopharmaceutical or radiation, except as specified in paragraph (f) of this definition, containing the following information:

— (a) for any administration of quantities greater than 1.11 MBq (30 uCi) of either sodium iodide I-125 or I-131: the dosage;

— (b) for a therapeutic administration of a radiopharmaceutical other than sodium iodide I-125 or I-131: the radiopharmaceutical, dosage, and route of administration;

— (c) for gamma stereotactic radiosurgery: target coordinates, collimator size, plug pattern, and total dose;

— (d) for teletherapy: the total dose, dose per fraction, treatment site, and overall treatment period;

— (e) for high dose rate remote afterloading brachytherapy: the radioisotope, treatment site, and total dose; or

— (f) for all other brachytherapy:

— (i) prior to implantation: the radionuclide, number of sources, and source strengths; and

— (ii) after implantation but prior to completion of the procedure: the radionuclide, treatment site, and total source strength and exposure time, or equivalently, the total dose.

R313-32-6. Provisions for Research Involving Human Subjects.

— A licensee may conduct research involving human subjects using radioactive material provided that the research is conducted, funded, supported, or regulated by a Federal Agency which has implemented the Federal Policy for the Protection of Human Subjects. Otherwise, a licensee shall apply for and receive approval of a specific amendment to its Utah license before conducting such research. Both types of licensees shall, at a minimum, obtain informed consent from the human subjects and obtain prior review and approval of the research activities by an "Institutional Review Board" in accordance with the meaning of these terms as defined and described in the Federal Policy for the Protection of Human Subjects.

R313-32-7. FDA, other Federal, and State Requirements.

— Nothing in R313-32 relieves the licensee from complying with applicable FDA, other Federal, and State requirements governing radioactive drugs or devices.

R313-32-11. License Required.

— (1) A person shall not manufacture, produce, acquire, receive, possess, use, or transfer radioactive material for medical use except in accordance with a specific license issued by the Executive Secretary, the Nuclear Regulatory Commission, or an Agreement State, or as allowed in R313-32-11(2) or (3).

— (2) An individual shall receive, possess, use, or transfer radioactive material in accordance with the Utah Radiation Control Rules under the supervision of an authorized user as provided in R313-32-25, unless prohibited by license condition.

— (3) An individual may prepare unsealed radioactive material for medical use in accordance with R313-32 under the supervision of an authorized nuclear pharmacist or authorized user as provided in R313-32-25, unless prohibited by license condition.

R313-32-12. Application for License, Amendment, or Renewal.

—(1) If the application is for medical use sited in a medical institution, only the institution's management may apply. If the application is for medical use not sited in a medical institution, any person may apply.

—(2) An application for a license for medical use of radioactive material as described in R313-32-100, R313-32-200, R313-32-300, R313-32-400, and R313-32-500 must be made by filing of Form DRC-02, "Application for Materials License." For guidance in completing the form, refer to the instructions in the most current versions of the appropriate Regulatory Guides. A request for a license amendment or renewal may be submitted in a letter format.

—(3) An applicant that satisfies the requirements specified in R313-22-50(2) may apply for a Type A specific license of broad scope.

R313-32-13. License Amendment.

— A licensee shall apply for and receive a license amendment:

—(1) before it receives or uses radioactive material for a clinical procedure permitted under R313-32 but not permitted by the license issued pursuant to R313-32;

—(2) before it permits anyone to work as an authorized user or authorized nuclear pharmacist under the license, except an individual who is:

—(a) an authorized user certified by the organizations specified in paragraph (1) of R313-32-910, R313-32-920, R313-32-930, R313-32-940, R313-32-950, or R313-32-960;

—(b) an authorized nuclear pharmacist certified by the organization specified in paragraph (1) of R313-32-980;

—(c) identified as an authorized user or an authorized nuclear pharmacist on a Nuclear Regulatory Commission or an Agreement State license that authorizes the use of radioactive material in medical use or in the practice of nuclear pharmacy, respectively, or

—(d) identified as an authorized user or an authorized nuclear pharmacist on a permit issued by the Executive Secretary, the Nuclear Regulatory Commission or an Agreement State specific licensee of broad scope that is authorized to permit the use of radioactive material in medical use or in the practice of nuclear pharmacy, respectively.

—(3) before it changes Radiation Safety Officers or Teletherapy Physicists;

—(4) before it orders radioactive material in excess of the amount, or radionuclide or form different than authorized on the license; and

—(5) before it adds to or changes the address or addresses of use identified on the license.

R313-32-14. Notifications.

—(1) A licensee shall provide to the Executive Secretary a copy of the board certification, the Nuclear Regulatory Commission or Agreement State license, or the permit issued by a licensee of broad scope for each individual no later than 30 days after the date that the licensee permits the individual to work as an authorized user or an authorized nuclear pharmacist pursuant to R313-32-13(2)(a) through (2)(d).

—(2) A licensee shall notify the Executive Secretary by letter no later than 30 days after:

—(a) an authorized user, an authorized nuclear pharmacist, Radiation Safety Officer, or teletherapy physicist permanently discontinues performance of duties under the license or has a name change; or

—(b) the licensee's mailing address changes.

—(3) The licensee shall mail the documents required in R313-32-14 to the address identified in R313-12-110.

R313-32-15. Exemptions Regarding Type A Specific Licenses of Broad Scope.

— A licensee possessing a Type A specific license of broad scope for medical use is exempt from the following:

—(1) The provisions of R313-32-13(2);

—(2) The provisions of R313-32-13(5) regarding additions to or changes in the areas of use only at the addresses specified in the license;

—(3) The provisions of R313-32-14(1); and

—(4) The provisions of R313-32-14(2)(a) for an authorized user or an authorized nuclear pharmacist.

R313-32-18. License Issuance.

— The Executive Secretary shall issue a license for the medical use of radioactive material for a term of five years provided the following requirements are met:

—(1) The applicant has filed form DRC-02 "Application for Materials License—Medical" in accordance with the instructions in R313-22-32.

—(2) The applicant has paid any applicable fee as provided in R313-70.

—(3) The Executive Secretary finds the applicant equipped and committed to observe the safety standards established in R313-15 for the protection of the public health and safety.

—(4) In addition to the requirements set forth in R313-22-33 a specific license for human use of radioactive material in institutions will be issued if:

—(a) the applicant has appointed a radiation safety committee to coordinate the use of radioactive material throughout that institution and to maintain surveillance over the institution's radiation safety program; and

—(b) if the application is for a license to use unspecified quantities or multiple types of radioactive material, the applicant's staff has training and experience in the use of a variety of radioactive materials for a variety of human uses, and meets the training and experience requirements of R313-32.

—(5) A specific license for the human use of radioactive material will be issued to an individual physician if the following are complied with:

—(a) The applicant has access to a hospital possessing adequate facilities to hospitalize and monitor the applicant's radioactive patients whenever it is advisable.

—(b) The applicant has training and experience as required by R313-32, in the handling and administration of radioactive material and, where applicable, the clinical management of radioactive patients.

—(c) The application is for use in the applicant's practice in an office outside a medical institution.

—(d) The Executive Secretary shall not approve an application by an individual physician or group of physicians for a specific license to receive, possess or use radioactive material on the premises of a medical institution unless:

—(i) the use of radioactive material is limited to:

—(A) the administration of radiopharmaceuticals for diagnostic or therapeutic purposes;

—(B) the performance of diagnostic studies on patients to whom a radiopharmaceutical has been administered;

—(C) the performance of in vitro diagnostic studies;

—(D) the calibration and quality control checks of radioactive assay instrumentation, radiation safety instrumentation and diagnostic instrumentation;

— (ii) the physician brings the radioactive material with him and removes the radioactive material when he departs. The institution cannot receive, possess or store radioactive material other than the amount of material remaining in the patient; or

— (iii) the medical institution does not hold a radioactive material license issued pursuant to the provisions of R313-32-18(4).

R313-32-19. Specific Exemptions.

— The Board may, upon application of any interested person or upon its own initiative, grant exemptions from the rules in R313-32 as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest. The Board will review requests for exemptions from training and experience requirements with the assistance of the Executive Secretary.

R313-32-20. ALARA Program.

— (1) The licensee shall develop and implement a written radiation protection program that includes provisions for keeping doses ALARA.

— (2) To satisfy the requirement of R313-32-20(1) one of the following shall be implemented:

— (a) At a medical institution, management, the Radiation Safety Officer, and authorized users shall participate in the program as requested by the Radiation Safety Committee.

— (b) For licensees that are not medical institutions, management and authorized users shall participate in the program as requested by the Radiation Safety Officer.

— (3) The program shall include notice to workers of the program's existence and workers' responsibility to help keep dose equivalents ALARA, a review of summaries of the types and amounts of radioactive material used, occupational doses, changes in radiation safety procedures and safety measures, and continuing education and training for personnel who work with or in the vicinity of radioactive material. The purpose of the review is to ensure that licensees make a reasonable effort to maintain individual and collective occupational doses ALARA.

R313-32-21. Radiation Safety Officer.

— (1) A licensee shall appoint a Radiation Safety Officer responsible for implementing the radiation safety program. The licensee, through the Radiation Safety Officer, shall ensure that radiation safety activities are being performed in accordance with approved procedures and regulatory requirements in the daily operation of the licensee's radioactive material program.

— (2) The Radiation Safety Officer shall:

— (a) investigate overexposures, accidents, spills, losses, thefts, unauthorized receipts, uses, transfers, disposals, misadministrations, and other deviations from approved radiation safety practices and implement corrective actions as necessary;

— (b) establish, collect in one binder or file, and implement written policy and procedures for:

— (i) authorizing the purchase of radioactive material;

— (ii) receiving and opening packages of radioactive material;

— (iii) storing radioactive material;

— (iv) keeping an inventory record of radioactive material;

— (v) using radioactive material safely;

— (vi) taking emergency action if control of radioactive material is lost;

— (vii) performing periodic radiation surveys;

— (viii) performing checks of survey instruments and other safety equipment;

— (ix) disposing of radioactive material;

— (x) training personnel who work in or frequent areas where radioactive material is used or stored;

— (xi) keeping a copy of all records and reports required by the Utah Radiation Control Rules, a copy of these rules, a copy of each licensing request, license and amendment, and written policy and procedures required by the rules;

— (c) brief management once a year on the radioactive material program;

— (d) establish personnel exposure investigational levels that, when exceeded, will initiate an investigation by the Radiation Safety Officer of the cause of the exposure;

— (e) establish personnel exposure investigational levels that, when exceeded, will initiate a prompt investigation by the Radiation Safety Officer of the cause of the exposure and a consideration of actions that might be taken to reduce the probability of recurrence;

— (f) for medical use not at a medical institution, approve or disapprove radiation safety program changes with the advice and consent of management; and

— (g) for medical use at a medical institution, assist the Radiation Safety Committee in the performance of its duties.

R313-32-22. Radiation Safety Committee.

— The medical institution licensee shall establish a Radiation Safety Committee to oversee the use of radioactive material.

— (1) The Committee shall meet the following administrative requirements:

— (a) Membership shall consist of at least three individuals and shall include an authorized user of each type of use permitted by the license, the Radiation Safety Officer, a representative of the nursing service, and a representative of management who is neither an authorized user nor a Radiation Safety Officer. Other members may be included as the licensee deems appropriate.

— (b) The Committee shall meet at least quarterly.

— (c) To establish a quorum and to conduct business, at least one-half of the Committee's membership shall be present, including the Radiation Safety Officer and the management's representative.

— (d) The minutes of each Radiation Safety Committee meeting shall include:

— (i) the date of the meeting;

— (ii) members present;

— (iii) members absent;

— (iv) summary of deliberations and discussions;

— (v) recommended actions and the numerical results of all ballots; and

— (vi) ALARA program reviews described in R313-32-20.

— (e) The Committee shall promptly provide the members with copies of the meeting minutes, and retain one copy for the duration of the license.

— (2) To oversee the use of licensed material, the Committee shall:

— (a) review recommendations on ways to maintain individual and collective doses ALARA;

— (b)(i) review, on the basis of safety and with regard to the training and experience standards in R313-32-900 through R313-32-981, and approve or disapprove any individual who is to be listed as an authorized user, an authorized nuclear pharmacist, the Radiation Safety Officer, or a Teletherapy Physicist before submitting a license application or request for amendment or renewal; or

— (ii) review, pursuant to R313-32-13(2)(a) through (2)(d), on the basis of the board certification, the license, or the permit identifying an individual, and approve or disapprove any individual prior to allowing

that individual to work as an authorized user or authorized nuclear pharmacist;

— (e) review on the basis of safety, and approve with the advice and consent of the Radiation Safety Officer and the management representative, or disapprove minor changes in radiation safety procedures that are not potentially important to safety and are permitted under R313-32-31;

— (d) review quarterly, with the assistance of the Radiation Safety Officer, a summary of the occupational radiation dose records of personnel working with radioactive material;

— (e) review quarterly, with the assistance of the Radiation Safety Officer, incidents involving radioactive material with respect to cause and subsequent actions taken; and

— (f) review annually, with the assistance of the Radiation Safety Officer, the radiation safety program.

R313-32-23. Statements of Authority and Responsibilities.

— (1) A licensee shall provide the Radiation Safety Officer, and at a medical institution the Radiation Safety Committee, sufficient authority, organizational freedom, and management prerogative, to:

— (a) identify radiation safety problems;

— (b) initiate, recommend, or provide corrective actions; and

— (c) verify implementation of corrective actions.

— (2) A licensee shall establish and state in writing the authorities, duties, responsibilities, and radiation safety activities of the Radiation Safety Officer, and at a medical institution the Radiation Safety Committee, and retain the current edition of these statements as a record until the Executive Secretary terminates the license.

R313-32-25. Supervision.

— (1) A licensee that permits the receipt, possession, use or transfer of radioactive material by an individual under the supervision of an authorized user as allowed by R313-32-11(2) shall:

— (a) instruct the supervised individual in the principles of radiation safety appropriate to that individual's use of radioactive material and in the licensee's written quality management program;

— (b) require the supervised individual to follow the instructions of the supervising authorized user, follow the written radiation safety and quality management procedures established by the licensee, and comply with the Utah Radiation Control Rules and the license conditions with respect to the use of radioactive material; and

— (c) periodically review the supervised individual's use of radioactive material and the records kept to reflect this use.

— (2) A licensee that permits the preparation of radioactive material for medical use by an individual under the supervision of an authorized nuclear pharmacist or physician who is an authorized user, as allowed by R313-32-11(3), shall:

— (a) instruct the supervised individual in the preparation of radioactive material for medical use and the principles of and procedures for radiation safety and in the licensee's written quality management program, as appropriate to that individual's use of radioactive material;

— (b) require the supervised individual to follow the instructions given pursuant to R313-32-25(2)(a) and to comply with these rules and license conditions; and

— (c) require the supervising authorized nuclear pharmacist or physician who is an authorized user to periodically review the work of the supervised individual as it pertains to preparing radioactive material for medical use and the records kept to reflect that work.

— (3) A licensee that supervises an individual is responsible for the acts and omissions of the supervised individual.

R313-32-29. Administrative Requirements that Apply to the Providers of Mobile Nuclear Medicine Service.

— (1) The Executive Secretary will license mobile nuclear medicine service only in accordance with R313-32-100, R313-32-200, and R313-32-500.

— (2) Mobile nuclear medicine service licensees shall obtain a letter signed by the management of each client for which services are rendered that authorizes use of radioactive material at the client's address of use. The mobile nuclear medicine service licensee shall retain the letter for three years after the last provision of service.

— (3) If a mobile nuclear medicine service provides services that the client is also authorized to provide, the client is responsible for assuring that services are conducted in accordance with the rules while the mobile nuclear medicine service is under the client's direction.

— (4) A mobile nuclear medicine service shall not order radioactive material to be delivered directly from the manufacturer or distributor to the client's address of use.

R313-32-31. Radiation Safety Program Changes.

— (1) A licensee may make minor changes in radiation safety procedures that are not potentially important to safety, i.e., ministerial changes, that were described in the application for license, renewal, or amendment except for those changes in R313-32-13 and R313-32-606. A licensee is responsible for assuring that any change made is in compliance with the requirements of the rules and the license.

— (2) A licensee shall retain a record of each change until the license has been renewed or terminated. The record shall include the effective date of the change, a copy of the old and new radiation safety procedures, the reason for the change, a summary of radiation safety matters that were considered before making the change, the signature of the Radiation Safety Officer, and the signatures of the affected authorized users and of management or, in a medical institution, the Radiation Safety Committee's chairman and the management representative.

R313-32-32. Quality Management Program.

— (1) The applicant or licensee shall establish and maintain a written quality management program to provide high confidence that radioactive material or radiation from radioactive material will be administered as directed by the authorized user. The quality management program shall include written policies and procedures to meet the following specific objectives:

— (a) that, prior to administration, a written directive is prepared for:

— (i) teletherapy radiation doses;

— (ii) gamma stereotactic radiosurgery radiation doses;

— (iii) brachytherapy radiation doses;

— (iv) administration of quantities greater than 1.11 MBq (30 uCi) of either sodium iodide I-125 or I-131;

— (v) therapeutic administration of a radiopharmaceutical, other than sodium iodide I-125 or I-131;

— (b) that the following are exceptions to the written directive:

— (i) if, because of the patient's condition, a delay in order to provide a written revision to an existing written directive would jeopardize the patient's health, an oral revision to an existing written directive will be acceptable, provided that the oral revision is documented immediately in the patient's record and a revised written directive is signed by the authorized user within 48 hours of the oral revision;

— (ii) also, a written revision to an existing written directive may be made for a diagnostic or therapeutic procedure provided that the revision is dated and signed by an authorized user prior to the

administration of the radiopharmaceutical dosage, the brachytherapy dose, the gamma stereotactic radiosurgery dose, the teletherapy dose, or the next teletherapy fractional dose; or

— (iii) if, because of the emergent nature of the patient's condition, a delay in order to provide a written directive would jeopardize the patient's health, an oral directive will be acceptable, provided that the information contained in the oral directive is documented immediately in the patient's record and a written directive is prepared within 24 hours of the oral directive;

— (c) that, prior to each administration, the patient's or human research subject's identity is verified by more than one method as the individual named in the written directive;

— (d) that final plans of treatment and related calculations for brachytherapy, teletherapy, and gamma stereotactic radiosurgery are in accordance with the respective written directives;

— (e) that each administration is in accordance with the written directive; and

— (f) that each unintended deviation from the written directive is identified and evaluated, and appropriate action is taken.

— (2) The licensee shall:

— (a) develop procedures for and conduct a review of the quality management program including, since the last review, an evaluation of:

— (i) a representative sample of patient and human research subject administrations;

— (ii) all recordable events; and

— (iii) all misadministrations to verify compliance with each aspect of the quality management program; these reviews shall be conducted at intervals no greater than 12 months;

— (b) evaluate these reviews to determine the effectiveness of the quality management program and, if required, make modifications to meet the objectives of R313-32-32(1); and

— (c) retain records of the review, including the evaluations and findings of the review, in an auditable form for three years.

— (3) The licensee shall evaluate and respond, within 30 days after discovery of the recordable event, to each recordable event by:

— (a) assembling the relevant facts including the cause;

— (b) identifying what, if applicable, corrective action is required to prevent recurrence; and

— (c) retaining a record, in an auditable form, for three years, of the relevant facts and what corrective action, if applicable, was taken.

— (4) The licensee shall retain:

— (a) a written directive; and

— (b) a record of each administered radiation dose or radiopharmaceutical dosage where a written directive is required in R313-32-32(1)(a), in an auditable form, for three years after the date of administration.

— (5) The licensee may make modifications to the quality management program to increase the program's efficiency provided the program's effectiveness is not decreased. The licensee shall furnish the modification to the Executive Secretary within 30 days after the modification has been made.

— (6)(a) Applicants for a new license, as applicable, shall submit to the Executive Secretary in accordance with R313-12-110 a quality management program as part of the application for a license and implement the program upon issuance of the license by the Executive Secretary.

— (b) Existing licensees, as applicable, shall submit to the Executive Secretary in accordance with R313-12-110, prior to March 1, 1995, a written certification that the quality management program has been implemented along with a copy of the program.

~~R313-32-33. Notifications, Reports and Records of Misadministrations.~~

— (1) For a misadministration:

— (a) the licensee shall notify the Executive Secretary by telephone no later than the next calendar day after discovery of the misadministration.

— (b) the licensee shall submit a written report to the Executive Secretary within 15 days after discovery of the misadministration. The written report shall include the licensee's name; the prescribing physician's name; a brief description of the event; why the event occurred; the effect on the individual who received the misadministration; what improvements are needed to prevent recurrence; actions taken to prevent recurrence; whether the licensee notified the individual (or the individual's responsible relative or guardian), and if not, why not; and if there was notification, what information was provided. The report must not include the individual's name or any other information that could lead to identification of the individual. To meet the requirements of R313-32-33, the notification of the individual receiving the misadministration may be made instead to that individual's responsible relative or guardian, when appropriate.

— (c) the licensee shall notify the referring physician and also notify the individual receiving the misadministration of the misadministration no later than 24 hours after its discovery, unless the referring physician personally informs the licensee either that he will inform the individual or that, based on medical judgment, telling the individual would be harmful. The licensee is not required to notify the individual without first consulting the referring physician. If the referring physician or the individual receiving the misadministration cannot be reached within 24 hours, the licensee shall notify the individual as soon as possible thereafter. The licensee may not delay any appropriate medical care for the individual, including any necessary remedial care as a result of the misadministration, because of any delay in notification.

— (d) if the individual was notified, the licensee shall also furnish, within 15 days after discovery of the misadministration, a written report to the individual by sending either:

— (i) a copy of the report that was submitted to the Executive Secretary; or

— (ii) a brief description of both the event and the consequences as they may affect the individual, provided a statement is included that the report submitted to the Executive Secretary can be obtained from the licensee.

— (2) The licensee shall retain a record of each misadministration for five years. The record shall contain the names of all individuals involved (including the prescribing physician, allied health personnel, the individual who received the misadministration, and that individual's referring physician, if applicable), the individual's social security number or other identification number if one has been assigned, a brief description of the misadministration, why it occurred, the effect on the individual, improvements needed to prevent recurrence, and the actions taken to prevent recurrence.

— (3) Aside from the notification requirement, nothing in R313-32-33 affects any rights or duties of licensees and physicians in relation to each other, to individuals receiving misadministrations, or to that individual's responsible relative or guardian.

~~R313-32-49. Suppliers for Sealed Sources or Devices for Medical Use.~~

— A licensee may use for medical use only:

— (1) Sealed sources or devices manufactured, labeled, packaged, and distributed in accordance with a license issued pursuant to the rules

in R313-22 and R313-22-75(10) or the equivalent requirements of the Nuclear Regulatory Commission or an Agreement State; or

— (2) Teletherapy sources manufactured and distributed in accordance with a license issued pursuant to R313-22 or the equivalent requirements of the Nuclear Regulatory Commission or an Agreement State.

R313-32-50. Possession, Use, Calibration, and Check of Dose Calibrators.

— (1) A licensee shall possess and use a dose calibrator to measure the activity of dosages of photon-emitting radionuclides prior to administration to each patient or human research subject.

— (2) A licensee shall:

— (a) check each dose calibrator for constancy with a dedicated check source at the beginning of each day of use. To satisfy this requirement, the check shall be done on a frequently used setting with a sealed source of not less than 370 kBq (ten uCi) of radium-226 or 1.85 MBq (50 uCi) for a photon-emitting radionuclide;

— (b) test each dose calibrator for accuracy upon installation and at least annually thereafter by assaying at least two sealed sources containing different radionuclides whose activity the manufacturer has determined within five percent of its stated activity, whose activity is at least 370 kBq (ten uCi) for radium-226 and 1.85 MBq (50 uCi) for a photon-emitting radionuclide, and at least one of which has a principal photon energy between 100 keV and 500 keV;

— (c) test each dose calibrator for linearity upon installation and at least quarterly thereafter over a range from the highest dosage that will be administered to a patient or human research subject to 1.1 MBq (30 uCi); and

— (d) test each dose calibrator for geometry dependence upon installation over the range of volumes and volume configurations for which it will be used. The licensee shall keep a record of this test for the duration of the use of the dose calibrator.

— (3) A licensee shall also perform appropriate checks and tests required by R313-32-50 following adjustment or repair of the dose calibrator.

— (4) A licensee shall mathematically correct dosage readings for geometry or linearity errors that exceed ten percent if the dosage is greater than 370 kBq (ten uCi) and shall repair or replace the dose calibrator if the accuracy or constancy error exceeds ten percent.

— (5) A licensee shall retain a record of each check and test required by R313-32-50 for three years unless directed otherwise. The records required in R313-32-50(2)(a) through (2)(d) shall include:

— (a) for R313-32-50(2)(a), the model and serial number of the dose calibrator, the identity of the radionuclide contained in the check source, the date of the check, the activity measured, and the initials of the individual who performed the check;

— (b) for R313-32-50(2)(b), the model and serial number of the dose calibrator, the model and serial number of each source used, the identity of the radionuclide contained in the source and its activity, the date of the test, the results of the test, and the identity of the individual performing the test;

— (c) for R313-32-50(2)(c), the model and serial number of the dose calibrator, the calculated activities, the measured activities, the date of the test, and the identity of the individual performing the test; and

— (d) for R313-32-50(2)(d), the model and serial number of the dose calibrator, the configuration of the source measured, the activity measured for each volume measured, the date of the test, and the identity of the individual performing the test.

R313-32-51. Calibration and Check of Survey Instruments.

— (1) A licensee shall calibrate the survey instruments used to show compliance with R313-32 before first use, annually, and following repair. The licensee shall:

— (a) calibrate all scales with readings up to ten mSv (1000 mrem) per hour with a radiation source;

— (b) calibrate two separated readings on each scale that shall be calibrated. The readings shall be separated by 50 percent of the scale reading; and

— (c) conspicuously note on the instrument the apparent exposure rate from a dedicated check source as determined at the time of calibration, and the date of calibration.

— (2) When calibrating a survey instrument, the licensee shall consider a point as calibrated if the indicated exposure rate differs from the calculated exposure rate by not more than 20 percent, and shall conspicuously attach a correction chart or graph to the instrument.

— (3) A licensee shall check each survey instrument for proper operation with the dedicated check source each day of use. A licensee is not required to keep records of these checks.

— (4) A licensee shall retain a record of each survey instrument calibration for three years. The record shall include:

— (a) a description of the calibration procedure; and

— (b) the date of the calibration, a description of the source used and the certified exposure rates from the source, and the rates indicated by the instrument being calibrated, the correction factors deduced from the calibration data, and the signature of the individual who performed the calibration.

R313-32-52. Possession, Use, Calibration, and Check of Instruments to Measure Dosages or Alpha or Beta-emitting Radionuclides.

— (1) R313-32-52 does not apply to unit dosages of alpha or beta-emitting radionuclides that are obtained from a manufacturer or preparer licensed pursuant to R313-22-75(9) or equivalent requirements of the Nuclear Regulatory Commission or an Agreement State.

— (2) For other than unit dosages obtained pursuant to R313-32-52(1), a licensee shall possess and use instrumentation to measure the radioactivity of alpha or beta-emitting radionuclides. 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 or beta-emitting radionuclides prior to administration to each patient or human research subject. In addition, the licensee shall:

— (a) 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

— (b) check each instrument for constancy and proper operation at the beginning of each day of use.

R313-32-53. Measurement of Dosages of Unsealed Radioactive Material for Medical Use.

— A licensee shall:

— (1) measure the activity of each dosage of a photon-emitting radionuclide prior to medical use;

— (2) measure, by direct measurement or by combination of measurements and calculations, the activity of each dosage of an alpha or beta-emitting radionuclide prior to medical use, except for unit dosages obtained from a manufacturer or preparer licensed pursuant to R313-22-75(9) or equivalent requirements of the Nuclear Regulatory Commission or an Agreement State; and

— (3) retain a record of the measurements required by R313-32-53 for three years. To satisfy this requirement, the record shall contain the following:

— (a) ~~generic name, trade name, or abbreviation of the radiopharmaceutical, its lot number, and expiration dates and the radionuclide;~~

— (b) ~~patient's or human research subject's name, and identification number if one has been assigned;~~

— (c) ~~prescribed dosage and activity of the dosage at the time of measurement, or a notation that the total activity is less than 1.1 MBq (30 uCi);~~

— (d) ~~date and time of the measurement; and~~

— (e) ~~initials of the individual who made the record.~~

R313-32-57. Authorization for Calibration and Reference Sources.

— Persons authorized by R313-32-11 for medical use of radioactive material may receive, possess, and use the following radioactive material for check, calibration, and reference use:

— (1) sealed sources manufactured and distributed by a person licensed pursuant to R313-22-75(10) or equivalent Nuclear Regulatory Commission or Agreement State regulations and that do not exceed 555 MBq (15 mCi) each;

— (2) radioactive material listed in R313-32-100 or R313-32-200 with a half life not longer than 100 days in individual amounts not to exceed 555 MBq (15 mCi);

— (3) radioactive material listed in R313-32-100 or R313-32-200 with a half life longer than 100 days in individual amounts not to exceed 7.4 MBq (200 uCi); and

— (4) technetium-99m in individual amounts not to exceed 1.85 GBq (50 mCi).

R313-32-59. Requirements for Possession of Sealed Sources and Brachytherapy Sources.

— (1) A licensee in possession of sealed sources or brachytherapy sources shall follow the radiation safety and handling instructions supplied by the manufacturer, and shall maintain the instructions for the duration of source use in a legible form convenient to users.

— (2) A licensee in possession of a sealed source shall:

— (a) test the source for leakage before its first use unless the licensee has a certificate from the supplier indicating that the source was tested within six months before transfer to the licensee; and

— (b) test the source for leakage at intervals not to exceed six months or at other intervals approved by the Executive Secretary, the Nuclear Regulatory Commission or an Agreement State and described in the label or brochure that accompanies the source.

— (3) To satisfy the leak test requirements of R313-32-59, the licensee must:

— (a) take a wipe sample from the sealed source or from the surfaces of the device in which the sealed source is mounted or stored on which radioactive contamination might be expected to accumulate or wash the source in a small volume of detergent solution and treat the entire volume as the sample;

— (b) take teletherapy and other device source test samples when the source is in the "off" position; and

— (c) measure the sample so that the leakage test can detect the presence of 185 Bq (0.005 uCi) of radioactive material on the sample.

— (4) A licensee shall retain leakage test records for five years. The records shall contain the model number, the serial number if assigned, of each source tested, the identity of each source radionuclide and its estimated activity, the measured activity of each test sample expressed in becquerels or microcuries, a description of the method used to

measure each test sample, the date of the test, and the signature of the Radiation Safety Officer.

— (5) If the leakage test reveals the presence of 185 Bq (0.005 uCi) or more of removable contamination, the licensee shall:

— (a) immediately withdraw the sealed source from use and store it in accordance with the requirements in R313-15; and

— (b) file a report within five days of the leakage test with the Executive Secretary describing the equipment involved, the test results, and the action taken.

— (6) A licensee need not perform a leakage test on the following sources:

— (a) sources containing only radioactive material with a half life of less than 30 days;

— (b) sources containing only radioactive material as a gas;

— (c) sources containing 3.7 MBq (100 uCi) or less of beta or gamma emitting material or 370 kBq (ten uCi) or less of alpha emitting material;

— (d) sources stored and not being used. The licensee shall, however, test each source for leakage before use or transfer unless it has been leakage tested within six months before the date of use or transfer; and

— (e) seeds of iridium-192 encased in nylon ribbon.

— (7) A licensee in possession of a sealed source or brachytherapy source shall conduct a quarterly physical inventory of all sources in its possession. The licensee shall retain inventory records for five years. The inventory records shall contain the model number of each source, and serial number if one has been assigned, the identity of each source radionuclide and its nominal activity, the location of each source, and the signature of the Radiation Safety Officer.

— (8) A licensee in possession of a sealed source or brachytherapy source shall measure the ambient dose rates quarterly in all areas where sources are stored. This does not apply to teletherapy sources in teletherapy units or sealed sources in diagnostic devices.

— (9) A licensee shall retain a record of each survey required in R313-32-59(8) for three years. The record shall include the date of the survey, a plan of each area that was surveyed, the measured dose rate at several points in each area expressed in microsieverts or millirem per hour, the survey instrument used, and the signature of the Radiation Safety Officer.

R313-32-60. Syringe Shields and Labels.

— (1) A licensee shall keep syringes that contain radioactive material to be administered in a radiation shield.

— (2) To identify its contents, a licensee shall conspicuously label each syringe or syringe radiation shield that contains a syringe with a radiopharmaceutical. The label shall show the radiopharmaceutical name or its abbreviation, the clinical procedure to be performed, or the patient's or the human research subject's name.

— (3) A licensee shall require each individual who prepares a radiopharmaceutical kit to use a syringe radiation shield when preparing the kit and shall require each individual to use a syringe radiation shield when administering a radiopharmaceutical by injection unless the use of the shield is contraindicated for that patient or human research subject.

R313-32-61. Vial Shields and Labels.

— (1) A licensee shall require each individual preparing or handling a vial that contains a radiopharmaceutical to keep the vial in a vial radiation shield.

~~—(2) To identify its contents, a licensee shall conspicuously label each vial radiation shield that contains a vial of a radiopharmaceutical. The label shall show the radiopharmaceutical name or its abbreviation.~~

R313-32-70. Surveys for Contamination and Ambient Radiation Exposure Rate.

~~—(1) A licensee shall survey with a radiation detection survey instrument at the end of each day of use all areas where radiopharmaceuticals are routinely prepared for use or administered.~~

~~—(2) A licensee shall survey with a radiation detection survey instrument at least once each week all areas where radiopharmaceuticals or radiopharmaceutical waste is stored.~~

~~—(3) A licensee shall conduct the surveys required by R313-32-70(1) and (2) so as to be able to detect dose rates as low as one uSv (0.1 mrem) per hour.~~

~~—(4) A licensee shall establish radiation dose rate trigger levels for the surveys required by R313-32-70(1) and (2). A licensee shall require that the individual performing the survey immediately notify the Radiation Safety Officer if a dose rate exceeds a trigger level.~~

~~—(5) A licensee shall survey for removable contamination once each week all areas where radiopharmaceuticals are routinely prepared for use, administered, or stored.~~

~~—(6) A licensee shall conduct the survey required by R313-32-70(5) so as to be able to detect contamination on each wipe sample of 2200 disintegrations per minute, (0.001 uCi or 37 Bq).~~

~~—(7) A licensee shall establish removable contamination trigger levels for the surveys required by R313-32-70(5). A licensee shall require that the individual performing the survey immediately notify the Radiation Safety Officer if contamination exceeds the trigger level.~~

~~—(8) A licensee shall retain a record of each survey for three years. The record shall include the date of the survey, a plan of each area surveyed, the trigger level established for each area, the detected dose rate at several points in each area expressed in microsieverts or millirem per hour or the removable contamination in each area expressed in disintegrations per minute (becquerels or curies) per 100 square centimeters, the instrument used to make the survey or analyze the samples, and the initials of the individual who performed the survey.~~

R313-32-75. Release of Individuals Containing Radiopharmaceuticals or Permanent Implants.

~~—(1) The licensee may authorize the release from its control of any individual who has been administered radiopharmaceuticals or permanent implants containing radioactive material if the total effective dose equivalent to any other individual from exposure to the released individual is not likely to exceed 5 mSv (0.5 rem).~~

~~NOTE: The Nuclear Regulatory Commission Regulatory Guide 8.39, "Release of Patients Administered Radioactive Materials," describes methods for calculating doses to other individuals and contains tables of activities not likely to cause doses exceeding 5 mSv (0.5 rem).~~

~~—(2) The licensee shall provide the released individual with instructions, including written instructions, on actions recommended to maintain doses to other individuals as low as is reasonably achievable if the total effective dose equivalent to any other individual is likely to exceed 1 mSv (0.1 rem). If the dose to a breast-feeding infant or child could exceed 1 mSv (0.1 rem) assuming there were no interruption of breast-feeding, the instructions shall also include:~~

~~—(a) guidance on the interruption or discontinuation of breast-feeding, and~~

~~—(b) information on the consequences of failure to follow the guidance.~~

~~—(3) The licensee shall maintain a record of the basis for authorizing the release of an individual, for three years after the date of release, if the total effective dose equivalent is calculated by:~~

~~—(a) using the retained activity rather than the activity administered;~~

~~—(b) using an occupancy factor less than 0.25 at 1 meter;~~

~~—(c) using the biological or effective half life, or~~

~~—(d) considering the shielding by tissue.~~

~~—(4) The licensee shall maintain a record, for three years after the date of release, that instructions were provided to a breast-feeding woman if the radiation dose to the infant or child from continued breast-feeding could result in a total effective dose equivalent exceeding 5 mSv (0.5 rem).~~

R313-32-80. Technical Requirements that Apply to the Providers of Mobile Nuclear Medicine Service.

~~—A licensee providing mobile nuclear medicine service shall:~~

~~—(1) transport to each address of use only syringes or vials containing prepared radiopharmaceuticals or radiopharmaceuticals that are intended for reconstitution of radiopharmaceutical kits;~~

~~—(2) bring into each address of use all radioactive material to be used and, before leaving, remove all unused radioactive material and all associated waste;~~

~~—(3) secure or keep under constant surveillance and immediate control all radioactive material when in transit or at an address of use;~~

~~—(4) check survey instruments and dose calibrators as described in R313-32-50 and R313-32-51 and check all other transported equipment for proper function before medical use at each address of use;~~

~~—(5) carry a radiation detection survey meter in each vehicle that is being used to transport radioactive material, and, before leaving a client address of use, survey all radiopharmaceutical areas of use with a radiation detection survey meter to ensure that all radiopharmaceuticals and all associated waste have been removed; and~~

~~—(6) retain a record of each survey required in R313-32-80(5) for three years. The record shall include the date of the survey, a plan of each area that was surveyed, the measured dose rate at several points in each area of use expressed in microsieverts or millirems per hour, the instrument used to make the survey, and the initials of the individual who performed the survey.~~

R313-32-90. Storage of Volatiles and Gases.

~~—A licensee shall store volatile radiopharmaceuticals and radioactive gases in the shipper's radiation shield and container. A licensee shall store a multi-dose container in a fume hood after drawing the first dosage from it.~~

R313-32-92. Decay-In-Storage.

~~—(1) A licensee may hold radioactive material with a physical half-life of less than 65 days for decay-in-storage before disposal in ordinary trash and is exempt from the requirements of R313-15-1001 if it:~~

~~—(a) holds radioactive material for decay a minimum of ten half-lives;~~

~~—(b) monitors radioactive material at the container surface before disposal as ordinary trash and determines that its radioactivity cannot be distinguished from the background radiation level with a radiation detection survey meter set on its most sensitive scale and with no interposed shielding;~~

— (e) removes or obliterates all radiation labels; and
 — (d) separates and monitors each generator column individually with radiation shielding removed to ensure that it has decayed to background radiation level before disposal.

— (2) A licensee shall retain a record of each disposal permitted under R313-32-92(1) for three years. The record shall include the date of the disposal, the date on which the radioactive material was placed in storage, the radionuclides disposed, the survey instrument used, the background dose rate, the dose rate measured at the surface of each waste container, and the name of the individual who performed the disposal.

R313-32-100. Use of Unsealed Radioactive Material for Uptake, Dilution, and Excretion Studies.

— A licensee may use for uptake, dilution, or excretion studies any unsealed radioactive material prepared for medical use that is either:

— (1) obtained from a manufacturer or preparer licensed pursuant to R313-22-75(9) or equivalent requirements of the Nuclear Regulatory Commission or an Agreement State; or

— (2) prepared by an authorized nuclear pharmacist, a physician who is an authorized user and who meets the requirements specified in R313-32-920, or an individual under the supervision of either as specified in R313-32-25.

R313-32-120. Possession of Survey Instrument.

— A licensee authorized to use radioactive material for uptake, dilution, and excretion studies shall have in its possession a portable radiation detection survey instrument capable of detecting dose rates over the range one μSv (0.1 mrem) per hour to one mSv (100 mrem) per hour.

R313-32-200. Use of Unsealed Radioactive Material for Imaging and Localization Studies.

— A licensee may use for imaging and localization studies any unsealed radioactive material prepared for medical use that is either:

— (1) obtained from a manufacturer or preparer licensed pursuant to R313-22-75(9) or equivalent requirements of the Nuclear Regulatory Commission or an Agreement State; or

— (2) prepared by an authorized nuclear pharmacist, a physician who is an authorized user and who meets the requirements specified in R313-32-920, or an individual under the supervision of either as specified in R313-32-25.

R313-32-204. Permissible Molybdenum-99 Concentration.

— (1) A licensee shall not administer to humans a radiopharmaceutical containing more than 5.55 kBq (0.15 μCi) of molybdenum-99 per 37.0 MBq (one mCi) of technetium-99m.

— (2) A licensee that uses molybdenum-99/technetium-99m generators for preparing a technetium-99m radiopharmaceutical shall measure the molybdenum-99 concentration in each elute or extract.

— (3) A licensee that is required to measure molybdenum concentration shall retain a record of each measurement for three years. The record shall include, for each elution or extraction of technetium-99m, the measured activity of the technetium expressed in megabecquerels or millicuries, the measured activity of the molybdenum expressed in kilobecquerels or microcuries, the ratio of the measures expressed as kilobecquerels or microcuries of molybdenum per megabecquerels or millicuries of technetium, the time and date of the measurement, and the initials of the individual who made the measurement.

R313-32-205. Control of Aerosols and Gases.

— (1) A licensee that administers radioactive aerosols or gases shall do so in a room with a system that will keep airborne concentrations within the limits prescribed in R313-15-201(4) and R313-15-301. The system shall either be directly vented to the atmosphere through an air exhaust or provide for collection and decay or disposal of the aerosol or gas in a shielded container.

— (2) A licensee shall administer radioactive gases in rooms that are at negative pressure compared to surrounding rooms.

— (3) Before receiving, using, or storing a radioactive gas, the licensee shall calculate the amount of time needed after a spill to reduce the concentration in the room to the occupational limit as specified in R313-15-201. The calculation shall be based on the highest activity of gas handled in a single container, the air volume of the room, and the measured available air exhaust rate.

— (4) A licensee shall make a record of the calculations required in R313-32-205(3) that includes the assumptions, measurements, and calculations made and shall retain the record for the duration of use of the area. A licensee shall also post the calculated time and safety measures to be instituted in case of a spill at the area of use.

— (5) A licensee shall check the operation of reusable collection systems each month, and measure the ventilation rates available in areas of radioactive gas use each six months. Records of the measurement shall be kept for three years.

R313-32-220. Possession of Survey Instruments.

— A licensee authorized to use radioactive material for imaging and localization studies shall have in its possession a portable radiation detection survey instrument capable of detecting dose rates over the range of one μSv (0.1 mrem) per hour to one mSv (100 mrem) per hour, and a portable radiation measurement survey instrument capable of measuring dose rates over the range ten μSv (one mrem) per hour to ten mSv (1000 mrem) per hour.

R313-32-300. Use of Unsealed Radioactive Material for Therapeutic Administration.

— A licensee may use for therapeutic administration any unsealed radioactive material prepared for medical use that is either:

— (1) obtained from a manufacturer or preparer licensed pursuant to R313-22-75(9) or equivalent requirements of the Nuclear Regulatory Commission or an Agreement State; or

— (2) prepared by an authorized nuclear pharmacist, a physician who is an authorized user and who meets the requirements specified in R313-32-920, or an individual under the supervision of either as specified in R313-32-25.

R313-32-310. Safety Instruction.

— (1) A licensee shall provide radiation safety instruction for all personnel caring for the patient or the human research subject receiving radiopharmaceutical therapy and hospitalized for compliance with R313-32-75. To satisfy this requirement, the instruction shall describe the licensee's procedures for:

— (a) patient or human research subject control;

— (b) visitor control;

— (c) contamination control;

— (d) waste control; and

— (e) notification of the Radiation Safety Officer in case of the patient's or the human research subjects's death or medical emergency.

— (2) A licensee shall keep for three years a list of individuals receiving instruction required by R313-32-310(1), a description of the

instruction, the date of instruction, and the name of the individual who gave the instruction.

R313-32-315. Safety Precautions.

—(1) For each patient or human research subject receiving radiopharmaceutical therapy and hospitalized for compliance with R313-32-75, a licensee shall:

- (a) provide a private room with a private sanitary facility;
 - (b) post the patient's or the human research subject's door with a "Radioactive Materials" sign and note on the door or in the patient's or the human research subject's chart where and how long visitors may stay in the patient's or the human research subject's room;
 - (c) authorize visits by individuals under age 18 only on a case-by-case basis with the approval of the authorized user after consultation with the Radiation Safety Officer;
 - (d) promptly after administration of the dosage, measure the dose rates in contiguous restricted and unrestricted areas with a radiation measurement survey instrument to demonstrate compliance with the requirements of R313-15, and retain for three years a record of each survey that includes the time and date of the survey, a plan of the area or list of points surveyed, the measured dose rate at several points expressed in microsieverts or millirem per hour, the instrument used to make the survey, and the initials of the individual who made the survey;
 - (e) either monitor material and items removed from the patient's or the human research subject's room to determine that their radioactivity cannot be distinguished from the natural background radiation level with a radiation detection survey instrument set on its most sensitive scale and with no interposed shielding, or handle them as radioactive waste;
 - (f) survey the patient's or the human research subject's room and private sanitary facility for removable contamination with a radiation detection survey instrument before assigning another patient or human research subject to the room. The room shall not be reassigned until removable contamination is less than 200 disintegrations per minute per 100 square centimeters; and
 - (g) measure the thyroid burden of each individual who helped prepare or administer a dosage of iodine 131 within three days after administering the dosage, and retain for the period required by R313-15-1107 a record of each thyroid burden measurement, its date, the name of the individual whose thyroid burden was measured, and the initials of the individual who made the measurements.
- (2) A licensee shall notify the Radiation Safety Officer immediately if the patient or the human research subject dies or has a medical emergency.

R313-32-320. Possession of Survey Instruments.

—A licensee authorized to use radioactive material for radiopharmaceutical therapy shall have in its possession a portable radiation detection survey instrument capable of detecting dose rates over the range one μSv (0.1 mrem) per hour to one mSv (100 mrem) per hour, and a portable radiation measurement survey instrument capable of measuring dose rates over the range ten μSv (one mrem) per hour to ten mSv (1000 mrem) per hour.

R313-32-400. Use of Sources for Brachytherapy.

—A licensee shall use the following sources in accordance with the manufacturer's radiation safety and handling instructions:

- (1) Cesium 137 as a sealed source in needles and applicator cells for topical, interstitial, and intracavitary treatment of cancer;

- (2) Cobalt 60 as a sealed source in needles and applicator cells for topical, interstitial, and intracavitary treatment of cancer;

- (3) Gold 198 as a sealed source in seeds for interstitial treatment of cancer;

- (4) Iridium 192 as seeds encased in nylon ribbon for interstitial and intracavitary treatment of cancer and as seeds for topical treatment of cancer;

- (5) Strontium 90 as a sealed source in an applicator for treatment of superficial eye conditions;

- (6) Iodine 125 as a sealed source in seeds for topical, interstitial and intracavitary treatment of cancer;

- (7) Palladium 103 as a sealed source in seeds for interstitial treatment of cancer.

R313-32-404. Release of Patients or Human Research Subjects Treated With Temporary Implants.

—(1) Immediately after removing the last temporary implant source from a patient or a human research subject, the licensee shall make a radiation survey of the patient or the human research subject with a radiation detection survey instrument to confirm that all sources have been removed. The licensee shall not release from confinement for medical care a patient or a human research subject treated by temporary implant until all sources have been removed.

—(2) A licensee shall retain a record of patient or human research subject surveys for three years. Each record shall include the date of the survey, the name of the patient or the human research subject, the dose rate from the patient or the human research subject expressed as microsieverts per hour or millirem per hour and measured at one meter from the patient or the human research subject, the survey instrument used, and the initials of the individual who made the survey.

R313-32-406. Brachytherapy Sources Inventory.

—(1) Promptly after removing them from a patient or a human research subject, a licensee shall return brachytherapy sources to the storage area, and count the number returned to ensure that all sources taken from the storage area have been returned.

—(2) A licensee shall make a record of brachytherapy source use which shall include:

- (a) the names of the individuals permitted to handle the sources;
- (b) the number and activity of sources removed from storage, the patient's or the human research subject's name and room number, the time and date they were removed from storage, the number and activity of the sources in storage after the removal, and the initials of the individual who removed the sources from storage; and
- (c) the number and activity of sources returned to storage, the patient's or the human research subject's name and room number, the time and date they were returned to storage, the number and activity of sources in storage after the return, and the initials of the individual who returned the sources to storage.

—(3) Immediately after implanting sources in a patient or a human research subject the licensee shall make a radiation survey of the patient or the human research subject and the area of use to confirm that no sources have been misplaced. The licensee shall make a record of each survey.

—(4) A licensee shall retain the records required in R313-32-406(2) and (3) for three years.

R313-32-410. Safety Instruction.

—(1) The licensee shall provide radiation safety instruction to all personnel caring for the patient or the human research subject

undergoing implant therapy. To satisfy this requirement, the instruction shall describe:

- (a) size and appearance of the brachytherapy sources;
 - (b) safe handling and shielding instructions in case of a dislodged source;
 - (c) procedures for patient or human research subject control;
 - (d) procedures for visitor control; and
 - (e) procedures for notification of the Radiation Safety Officer if the patient or the human research subject dies or has a medical emergency.
- (2) A licensee shall retain for three years a record of individuals receiving instruction required by R313-32-410(1), a description of the instruction, the date of instruction, and the name of the individual who gave the instruction.

R313-32-415. Safety Precautions.

— (1) For each patient or human research subject receiving implant therapy and not released from licensee control pursuant to R313-32-75, a licensee shall:

- (a) not quarter the patient or the human research subject in the same room with an individual who is not receiving radiation therapy;
 - (b) post the patient's or human research subject's door with a "Radioactive Materials" sign and note on the door or in the patient's or human research subject's chart where and how long visitors may stay in the patient's or human research subject's room;
 - (c) authorize visits by individuals under age 18 only on a case-by-case basis with the approval of the authorized user after consultation with the Radiation Safety Officer;
 - (d) promptly after implanting the material, survey the dose rates in contiguous restricted and unrestricted areas with a radiation measurement survey instrument to demonstrate compliance with the requirements of R313-15, and retain for three years a record of each survey that includes the time and date of the survey, a plan of the area or list of points surveyed, the measured dose rate at several points expressed in microsieverts or millirem per hour, the instrument used to make the survey, and the initials of the individual who made the survey; and
 - (e) provide the patient or the human research subject with radiation safety guidance that will help to keep radiation dose to household members and the public as low as reasonably achievable before releasing the individual if the individual was administered a permanent implant.
- (2) A licensee shall notify the Radiation Safety Officer immediately if the patient or the human research subject dies or has a medical emergency.

R313-32-420. Possession of Survey Instrument.

— A licensee authorized to use radioactive material for implant therapy shall have in its possession a portable radiation detection survey instrument capable of detecting dose rates over the range one uSv (0.1 mrem) per hour to one mSv (100 mrem) per hour, and a portable radiation measurement survey instrument capable of measuring dose rates over the range ten uSv (one mrem) per hour to ten mSv (1000 mrem) per hour.

R313-32-500. Use of Sealed Sources for Diagnosis.

— A licensee shall use the following sealed sources in accordance with the manufacturer's radiation safety and handling instructions:

- (1) iodine-125, americium-241, or gadolinium-153 as a sealed source in a device for bone mineral analysis; and
- (2) iodine-125 as a sealed source in a portable imaging device.

R313-32-520. Availability of Survey Instrument.

— A licensee authorized to use radioactive material as a sealed source for diagnostic purposes shall have available for use a portable radiation detection survey instrument capable of detecting dose rates over the range one uSv (0.1 mrem) per hour to one mSv per hour to (100 mrem) per hour or a portable radiation measurement survey instrument capable of measuring dose rates over the range ten uSv (one mrem) per hour to ten mSv (1000 mrem) per hour. The instrument shall be calibrated in accordance with R313-32-51.

R313-32-600. Use of a Sealed Source in a Teletherapy Unit.

— The rules and provisions of R313-32-600 through R313-32-647 govern the use of teletherapy units for medical use that contain a sealed source of cobalt-60 or cesium-137.

R313-32-605. Maintenance and Repair Restrictions.

— Only a person specifically licensed by the Executive Secretary, the Nuclear Regulatory Commission, or an Agreement State to perform teletherapy unit maintenance and repair shall:

- (1) install, relocate, or remove a teletherapy sealed source or a teletherapy unit that contains a sealed source; or
- (2) maintain, adjust, or repair the source drawer, the shutter or other mechanism of a teletherapy unit that could expose the source, reduce the shielding around the source, or result in increased radiation levels.

R313-32-606. License Amendments.

— In addition to the changes specified in R313-32-13, a licensee shall apply for and shall receive a license amendment before:

- (1) making any change in the treatment room shielding;
- (2) making any change in the location of the teletherapy unit within the treatment room;
- (3) using the teletherapy unit in a manner that could result in increased radiation levels in areas outside the teletherapy treatment room;
- (4) relocating the teletherapy unit; or
- (5) allowing an individual not listed on the licensee's license to perform the duties of the teletherapy physicist.

R313-32-610. Safety Instruction.

— (1) A licensee shall post instructions at the teletherapy unit console. To satisfy this requirement, these instructions shall inform the operator of:

- (a) the procedure to be followed to ensure that only the patient or the human research subject is in the treatment room before turning the primary beam of radiation on to begin a treatment or after a door interlock interruption; and
- (b) the procedure to be followed if:
 - (i) the operator is unable to turn the primary beam of radiation off with controls outside the treatment room or any other abnormal operation occurs; and
 - (ii) the names and telephone numbers of the authorized users and Radiation Safety Officer to be immediately contacted if the teletherapy unit or console operates abnormally.
- (2) A licensee shall provide instruction in the topics identified in R313-32-610(1) to individuals who operate a teletherapy unit.
- (3) A licensee shall retain for three years a record of individuals receiving instruction required by R313-32-610(2), a description of the instruction, the date of instruction, and the name of the individual who gave the instruction.

R313-32-615. Safety Precautions.

—(1) A licensee shall control access to the teletherapy room by a door at each entrance.

—(2) A licensee shall equip each entrance to the teletherapy room with an electrical interlock system that will:

—(a) prevent the operator from turning the primary beam of radiation on unless each treatment room entrance door is closed;

—(b) turn the primary beam of radiation off immediately when an entrance door is opened; and

—(c) prevent the primary beam of radiation from being turned on following an interlock interruption until all treatment room entrance doors are closed and the beam on-off control is reset at the console.

—(3) A licensee shall equip each entrance to the teletherapy room with a beam condition indicator light.

—(4) A licensee shall install in each teletherapy room a permanent radiation monitor capable of continuously monitoring beam status.

—(a) A radiation monitor shall provide visible notice of a teletherapy unit malfunction that results in an exposed or partially exposed source, and shall be observable by an individual entering the teletherapy room.

—(b) A radiation monitor shall be equipped with a backup power supply separate from the power supply to the teletherapy unit. This backup power supply may be a battery system.

—(c) A radiation monitor shall be checked with a dedicated check source for proper operation each day before the teletherapy unit is used for treatment of patients or human research subjects.

—(d) A licensee shall maintain a record of the check required by R313-32-615(4)(c) for three years. The record shall include the date of the check, notation that the monitor indicates when its detector is and is not exposed, and the initials of the individual who performed the check.

—(e) If a radiation monitor is inoperable, the licensee shall require individuals entering the teletherapy room to use a survey instrument or audible alarm personal dosimeter to monitor for malfunction of the source exposure mechanism that may result in an exposed or partially exposed source. The instrument or dosimeter shall be checked with a dedicated check source for proper operation at the beginning of each day of use. The licensee shall keep a record as described in R313-32-615(4)(d).

—(f) A licensee shall promptly repair or replace the radiation monitor if it is inoperable.

—(5) A licensee shall construct or equip each teletherapy room to permit continuous observation of the patient or the human research subject from the teletherapy unit console during irradiation.

R313-32-620. Possession of Survey Instrument.

—A licensee authorized to use radioactive material in a teletherapy unit shall have in its possession either a portable radiation detection survey instrument capable of detecting dose rates over the range one μSv (0.1 mrem) per hour to one mSv (100 mrem) per hour or a portable radiation measurement survey instrument capable of measuring dose rates over the range ten μSv (one mrem) per hour to ten mSv (1000 mrem) per hour.

R313-32-630. Dosimetry Equipment.

—(1) A licensee shall have a calibrated dosimetry system available for use. To satisfy this requirement, one of the following two conditions shall be met:

—(a) The system shall be calibrated by the National Institute of Standards and Technology or by a calibration laboratory accredited by the American Association of Physicists in Medicine (AAPM). The

calibration shall have been performed within the previous two years and after any servicing that may have affected system calibration.

—(b) The system shall have been calibrated within the previous four years; eighteen to thirty months after that calibration, the system shall have been intercompared at an intercomparison meeting with another dosimetry system that was calibrated within the past twenty-four months by the National Bureau of Standards or by a calibration laboratory accredited by the AAPM. The intercomparison meeting shall be sanctioned by a calibration laboratory or radiologic physics center accredited by the AAPM. The results of the intercomparison meeting shall have indicated that the calibration factor of the licensee's system had not changed by more than two percent. The licensee shall not use the intercomparison result to change the calibration factor. When intercomparing dosimetry systems to be used for calibrating cobalt-60 teletherapy units, the licensee shall use a teletherapy unit with a cobalt-60 source. When intercomparing dosimetry systems to be used for calibrating cesium-137 teletherapy units, the licensee shall use a teletherapy unit with a cesium-137 source.

—(2) The licensee shall have available for use a dosimetry system for spot check measurements. To satisfy this requirement, the system may be compared with a system that has been calibrated in accordance with R313-32-630(1). This comparison shall have been performed within the previous year and after each servicing that may have affected system calibration. The spot check system may be the same system used to meet the requirement in R313-32-630(1).

—(3) The licensee shall retain a record of each calibration, intercomparison, and comparison for the duration of the license. For each calibration, intercomparison, or comparison, the record shall include the date, the model numbers and serial numbers of the instruments that were calibrated, intercompared, or compared as required by R313-32-630(1) and (2), the correction factor that was determined from the calibration or comparison or the apparent correction factor that was determined from an intercomparison, the names of the individuals who performed the calibration, intercomparison, or comparison, and evidence that the intercomparison meeting was sanctioned by a calibration laboratory or radiologic physics center accredited by AAPM.

R313-32-632. Full Calibration Measurements.

—(1) A licensee authorized to use a teletherapy unit for medical use shall perform full calibration measurements on each teletherapy unit:

—(a) before the first medical use of the unit; and

—(b) before medical use under the following conditions:

—(i) whenever spot check measurements indicate that the output differs by more than five percent from the output obtained at the last full calibration corrected mathematically for radioactive decay;

—(ii) following replacement of the source or following reinstallation of the teletherapy unit in a new location; or

—(iii) following any repair of the teletherapy unit that includes removal of the source or major repair of the components associated with the source exposure assembly; and

—(c) at intervals not exceeding one year.

—(2) To satisfy the requirement of R313-32-632(1), full calibration measurements shall include determination of:

—(a) the output within plus or minus three percent for the range of field sizes and for the distance or range of distances used for medical use;

—(b) the coincidence of the radiation field and the field indicated by the light beam localizing device;

—(c) the uniformity of the radiation field and its dependence on the orientation of the useful beam;

- (d) timer constancy and linearity over the range of use;
 - (e) on-off error; and
 - (f) the accuracy of all distance measuring and localization devices in medical use.
- (3) A licensee shall use the dosimetry system described in R313-32-630(1) to measure the output for one set of exposure conditions. The remaining radiation measurements required in R313-32-632(2)(a) may be made using a dosimetry system that indicates relative dose rates.
- (4) A licensee shall make full calibration measurements required by R313-32-632(1) in accordance with either the procedures recommended by the Scientific Committee on Radiation Dosimetry of the American Association of Physicists in Medicine that are described in *Physics in Medicine and Biology* Vol. 16, No. 3, 1971, pp. 379-396, or by Task Group 21 of the Radiation Therapy Committee of the American Association of Physicists in Medicine that are described in *Medical Physics* Vol. 10, No. 6, 1983, pp. 741-744, and Vol. 11, No. 2, 1984, p. 213.
- (5) A licensee shall correct mathematically the outputs determined in R313-32-632(2)(a) for physical decay for intervals not exceeding one month for cobalt 60 or six months for cesium 137.
- (6) Full calibration measurement required in R313-32-632(1) and physical decay corrections required by R313-32-632(5) shall be performed by the licensee teletherapy physicist.
- (7) A licensee shall retain a record of each calibration for the duration of the teletherapy unit source. The record shall include the date of the calibration, the manufacturer's name, model number, and serial number for both the teletherapy unit and the source, the model numbers and serial numbers of the instruments used to calibrate the teletherapy unit, tables that describe the output of the unit over the range of field sizes and for the range of distances used in radiation therapy, a determination of the coincidence of the radiation field and the field indicated by the light beam localizing device, an assessment of timer linearity and constancy, the calculated on-off error, the estimated accuracy of each distance measuring or localization device, and the signature of the teletherapy physicist.

R313-32-634. Periodic Spot Checks.

- (1) A licensee authorized to use teletherapy units for medical use shall perform output spot checks on each teletherapy unit once in each calendar month that include determination of:
- (a) timer constancy, and timer linearity over the range of use;
 - (b) on-off error;
 - (c) the coincidence of the radiation field and the field indicated by the light beam localizing device;
 - (d) the accuracy of all distance measuring and localization devices used for medical use;
 - (e) the output for one typical set of operating conditions measured with the dosimetry system described in R313-32-630(2); and
 - (f) the difference between the measurement made in R313-32-634(2)(c) and the anticipated output, expressed as a percentage of the anticipated output (the value obtained at last full calibration corrected mathematically for physical decay).
- (2) A licensee shall perform measurements required by R313-32-634(1) in accordance with procedures established by the teletherapy physicist. That individual need not actually perform the spot check measurements.
- (3) A licensee shall have the teletherapy physicist review the results of each spot check within 15 days. The teletherapy physicist shall promptly notify the licensee in writing of the results of each spot

check. The licensee shall keep a copy of each written notification for three years.

- (4) A licensee authorized to use a teletherapy unit for medical use shall perform safety spot checks for each teletherapy facility once in each calendar month that assure proper operation of:
- (a) electrical interlocks at each teletherapy room entrance;
 - (b) electrical or mechanical stops installed for the purpose of limiting use of the primary beam of radiation (restriction of source housing angulation or elevation, carriage or stand travel and operation of the beam on-off mechanism);
 - (c) beam condition indicator lights on the teletherapy unit, on the control console, and in the facility;
 - (d) viewing systems;
 - (e) treatment room doors from inside and outside the treatment room; and
 - (f) electrically assisted treatment room doors with the teletherapy unit electrical power turned off.
- (5) A licensee shall arrange for prompt repair of any system identified in R313-32-634(4) that is not operating properly, and shall not use the teletherapy unit following door interlock malfunction until the interlock system has been repaired.
- (6) A licensee shall retain a record of each spot check required by R313-32-634(1) and (4) for three years. The record shall include the date of the spot check, the manufacturer's name, model number, and serial number for both the teletherapy unit and source, the manufacturer's name, model number and serial number of the instrument used to measure the output of the teletherapy unit, an assessment of linearity and constancy, the calculated on-off error, a determination of the coincidence of the radiation field and the field indicated by the light beam localizing device, the calculated on-off error, the determined accuracy of each distance measuring or localization device, the difference between the anticipated output and the measured output, notations indicating the operability of each entrance door electrical interlock, each electrical or mechanical stop, each beam condition indicator light, the viewing system and doors, and the signature of the individual who performed the periodic spot check.

R313-32-636. Safety Checks for Teletherapy Facilities.

- (1) A licensee shall promptly check all systems listed in R313-32-634(4) for proper function after each installation of a teletherapy source and after making any change for which an amendment is required by R313-32-606(1) through (4).
- (2) If the results of the checks required in R313-32-636(1) indicate the malfunction of a system specified in R313-32-634(4), the licensee shall lock the control console in the off position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.
- (3) A licensee shall retain for three years a record of the facility checks following installation of a source. The record shall include notations indicating the operability of each entrance door interlock, each electrical or mechanical stop, each beam condition indicator light, the viewing system, and doors, and the signature of the Radiation Safety Officer.

R313-32-641. Radiation Surveys for Teletherapy Facilities.

- (1) Before medical use, after each installation of a teletherapy source, and after making any change for which an amendment is required by R313-32-606(1) through (4), the licensee shall perform radiation surveys with a portable radiation measurement survey instrument calibrated in accordance with R313-32-51 to verify that:

—(a) the maximum and average dose rates at one meter from the teletherapy source with the source in the off position and the collimators set for a normal treatment field do not exceed 100 uSv (ten mrem) per hour and 20 uSv (two mrem) per hour, respectively;

—(b) with the teletherapy source in the on position with the largest clinically available treatment field and with a scattering phantom in the primary beam of the radiation, that:

—(i) radiation dose rates in restricted areas are not likely to cause any occupationally exposed individual to receive a dose in excess of the limits specified in R313-15-201; and

—(ii) radiation dose rates in controlled or unrestricted areas are not likely to cause any individual member of the public to receive a dose in excess of the limits specified in R313-15-301.

—(2) If the results of the surveys required in R313-32-641(1) indicate any radiation dose quantity per unit time in excess of the respective limit specified in R313-32-641(1), the licensee shall lock the control in the off position and not use the unit:

—(a) except as may be necessary to repair, replace, or test the teletherapy unit shielding or the treatment room shielding; or

—(b) until the licensee has received a specific exemption pursuant to R313-12-54.

—(3) A licensee shall retain a record of the radiation measurements made following installation of a source for the duration of the license. The record shall include the date of the measurements, the reason the survey is required, the manufacturer's name, model number and serial number of the teletherapy unit, the source, the instrument used to measure radiation levels, each dose rate measured around the teletherapy source while in the off position and the average of all measurements, a plan of the areas surrounding the treatment room that were surveyed, the measured dose rate at several points in each area expressed in microseverts or millirem per hour, the calculated maximum quantity of radiation over a period of one week for each restricted and unrestricted area, and the signature of the Radiation Safety Officer.

R313-32-643. Modification of Teletherapy Unit or Room Before Beginning a Treatment Program.

—(1) If the survey required by R313-32-641 indicates that an individual member of the public is likely to receive a dose in excess of the limits specified in R313-15-301, the licensee shall, before beginning the treatment program:

—(a) either equip the unit with stops or add additional radiation shielding to ensure compliance with R313-15-301(3);

—(b) perform the survey required by R313-32-641 again; and

—(c) include in the report required by R313-32-645 the results of the initial survey, a description of the modification made to comply with R313-32-643(1)(a), and the results of the second survey.

—(2) As an alternative to the requirements set out in R313-32-643(1), a licensee may request a license amendment under R313-15-301(3) that authorizes radiation levels in unrestricted areas greater than those permitted by R313-15-301(1). A licensee shall not begin the treatment program until the license amendment has been issued.

R313-32-645. Reports of Teletherapy Surveys, Checks, Tests and Measurements.

—A licensee shall mail a copy of the records required in R313-32-636, R313-32-641, R313-32-643, and the output from the teletherapy source expressed as coulombs/kilogram (roentgens) or gray (rad) per hour at one meter from the source and determined during the full calibration required in R313-32-632 to the Executive Secretary within

thirty days following completion of the action that initiated the record requirement.

R313-32-647. Five-Year Inspection.

—(1) A licensee shall have each teletherapy unit fully inspected and serviced during teletherapy source replacement or at intervals not to exceed five years, whichever comes first, to assure proper functioning of the source exposure mechanism.

—(2) This inspection and servicing shall only be performed by persons specifically licensed to do so by the Executive Secretary, the Nuclear Regulatory Commission, or an Agreement State.

—(3) A licensee shall keep a record of the inspection and servicing for the duration of the license. The record shall contain the inspector's name, the inspector's license number, the date of inspection, the manufacturer's name and model number and serial number for both the teletherapy unit and source, a list of components inspected, a list of components serviced and the type of service, a list of components replaced, and the signature of the inspector.

R313-32-900. Radiation Safety Officer.

—Except as provided in R313-32-901, the licensee shall require an individual fulfilling the responsibilities of the Radiation Safety Officer as provided in R313-32-21 to be an individual who:

—(1) is certified by:

—(a) American Board of Health Physics in comprehensive health physics;

—(b) American Board of Radiology;

—(c) American Board of Nuclear Medicine;

—(d) American Board of Science in nuclear medicine;

—(e) Board of Pharmaceutical Specialties in nuclear pharmacy;

—(f) American Board of Medical Physics in radiation oncology physics;

—(g) Royal College of Physicians and Surgeons of Canada in nuclear medicine;

—(h) American Osteopathic Board of Radiology; or

—(i) American Osteopathic Board of Nuclear Medicine; or

—(2) has had classroom and laboratory training and experience as follows:

—(a) 200 hours of classroom and laboratory training that includes:

—(i) radiation physics and instrumentation;

—(ii) radiation protection;

—(iii) mathematics pertaining to the use and measurement of radioactivity;

—(iv) radiation biology; and

—(v) radiopharmaceutical chemistry; and

—(b) one year of full time experience as a radiation safety technologist at a medical institution under the supervision of the individual identified as the Radiation Safety Officer on a license issued by the Executive Secretary, Nuclear Regulatory Commission or Agreement State license that authorizes the medical use of radioactive material; or

—(3) be an authorized user identified on the licensee's license.

R313-32-901. Training for Experienced Radiation Safety Officer.

—An individual identified as a Radiation Safety Officer on a license issued by the Executive Secretary, Nuclear Regulatory Commission or Agreement State before January 1, 1989, need not comply with the training requirements of R313-32-900.

~~R313-32-910. Training for Uptake, Dilution, and Excretion Studies.~~

~~Except as provided in R313-32-970 and R313-32-971, the licensee shall require the authorized user of a radiopharmaceutical in R313-32-100(1) to be a physician who:~~

~~(1) is certified in:~~

~~(a) nuclear medicine by the American Board of Nuclear Medicine;~~

~~(b) diagnostic radiology by the American Board of Radiology;~~

~~(c) diagnostic radiology or radiology by the American Osteopathic Board of Radiology;~~

~~(d) nuclear medicine by the Royal College of Physicians and Surgeons of Canada; or~~

~~(e) American Osteopathic Board of Nuclear Medicine in nuclear medicine; or~~

~~(2) has had classroom and laboratory training in basic radioisotope handling techniques applicable to the use of prepared radiopharmaceuticals, and supervised clinical experience as follows:~~

~~(a) 40 hours of classroom and laboratory training that includes:~~

~~(i) radiation physics and instrumentation;~~

~~(ii) radiation protection;~~

~~(iii) mathematics pertaining to the use and measurement of radioactivity;~~

~~(iv) radiation biology; and~~

~~(v) radiopharmaceutical chemistry; and~~

~~(b) 20 hours of supervised clinical experience under the supervision of an authorized user and that includes:~~

~~(i) examining patients or human research subjects and reviewing their case histories to determine their suitability for radioisotope diagnosis, limitations, or contraindications;~~

~~(ii) selecting the suitable radiopharmaceuticals and calculating and measuring the dosages;~~

~~(iii) administering dosages to patients or human research subjects and using syringe radiation shields;~~

~~(iv) collaborating with the authorized user in the interpretation of radionuclide test results; and~~

~~(v) patient or human research subject follow-up; or~~

~~(3) has successfully completed a six-month training program in nuclear medicine as part of a training program that has been approved by the Accreditation Council for Graduate Medical Education and that included classroom and laboratory training, work experience, and supervised clinical experience in the topics identified in R313-32-910(2).~~

~~R313-32-920. Training for Imaging and Localization Studies.~~

~~Except as provided in R313-32-970 or R313-32-971, the licensee shall require the authorized user of a radiopharmaceutical, generator, or reagent kit in R313-32-200(1) to be a physician who:~~

~~(1) is certified in:~~

~~(a) nuclear medicine by the American Board of Nuclear Medicine;~~

~~(b) diagnostic radiology by the American Board of Radiology;~~

~~(c) diagnostic radiology or radiology by the American Osteopathic Board of Radiology;~~

~~(d) nuclear medicine by the Royal College of Physicians and Surgeons of Canada; or~~

~~(e) American Osteopathic Board of Nuclear Medicine in nuclear medicine; or~~

~~(2) has had classroom and laboratory training in basic radioisotope handling techniques applicable to the use of prepared~~

~~radiopharmaceuticals, generators, and reagent kits, supervised work experience, and supervised clinical experience as follows:~~

~~(a) 200 hours of classroom and laboratory training that includes:~~

~~(i) radiation physics and instrumentation;~~

~~(ii) radiation protection;~~

~~(iii) mathematics pertaining to the use and measurement of radioactivity;~~

~~(iv) radiopharmaceutical chemistry; and~~

~~(v) radiation biology; and~~

~~(b) 500 hours of supervised work experience under the supervision of an authorized user that includes:~~

~~(i) ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;~~

~~(ii) calibrating dose calibrators and diagnostic instruments and performing checks for proper operation of survey meters;~~

~~(iii) calculating and safely preparing patient or human research subject dosages;~~

~~(iv) using administrative controls to prevent the misadministration of radioactive material;~~

~~(v) using procedures to contain spilled radioactive material safely and using proper decontamination procedures; and~~

~~(vi) eluting technetium 99m from generator systems, measuring and testing the elute for molybdenum 99 and alumina contamination, and processing the elute with reagent kits to prepare technetium 99m labeled radiopharmaceuticals; and~~

~~(c) 500 hours of supervised clinical experience under the supervision of the authorized user that includes:~~

~~(i) examining patients or human research subjects and reviewing their case histories to determine their suitability for radioisotope diagnosis, limitations, or contraindications;~~

~~(ii) selecting the suitable radiopharmaceuticals and calculating and measuring the dosages;~~

~~(iii) administering dosages to patients or human research subjects and using syringe radiation shields;~~

~~(iv) collaborating with the authorized user in the interpretation of radioisotope test results; and~~

~~(v) patient or human research subject follow-up; or~~

~~(3) has successfully completed a six-month training program in nuclear medicine that has been approved by the Accreditation Council for Graduate Medical Education and that included classroom and laboratory training, work experience, and supervised clinical experience in the topics identified in R313-32-920(2).~~

~~R313-32-930. Training for Therapeutic Use of Unsealed Radioactive Material.~~

~~Except as provided in R313-32-970, the licensee shall require the authorized user of radiopharmaceuticals in R313-32-300 to be a physician who:~~

~~(1) is certified by:~~

~~(a) the American Board of Nuclear Medicine;~~

~~(b) the American Board of Radiology in radiology, therapeutic radiology, or radiation oncology;~~

~~(c) nuclear medicine by the Royal College of Physicians and Surgeons of Canada; or~~

~~(d) the American Osteopathic Board of Radiology after 1984; or~~

~~(2) has had classroom and laboratory training in basic radioisotope handling techniques applicable to the use of therapeutic radiopharmaceuticals, and supervised clinical experience as follows:~~

~~(a) 80 hours of classroom and laboratory training that includes:~~

~~(i) radiation physics and instrumentation;~~

- (ii) radiation protection;
- (iii) mathematics pertaining to the use and measurement of radioactivity; and
- (iv) radiation biology; and
- (b) supervised clinical experience under the supervision of an authorized user at a medical institution that includes:
 - (i) use of iodine 131 for diagnosis of thyroid function and the treatment of hyperthyroidism or cardiac dysfunction in ten individuals; and
 - (ii) use of iodine 131 for treatment of thyroid carcinoma in three individuals.

R313-32-932. Training for Treatment of Hyperthyroidism.

— Except as provided in R313-32-970, the licensee shall require the authorized user of only iodine 131 for the treatment of hyperthyroidism to be a physician with special experience in thyroid disease who has had classroom and laboratory training in basic radioisotope handling techniques applicable to the use of iodine 131 for treating hyperthyroidism, and supervised clinical experience as follows:

- (1) 80 hours of classroom and laboratory training that includes:
 - (a) radiation physics and instrumentation;
 - (b) radiation protection;
 - (c) mathematics pertaining to the use and measurement of radioactivity; and
 - (d) radiation biology; and
- (2) Supervised clinical experience under the supervision of an authorized user that includes the use of iodine 131 for diagnosis of thyroid function, and the treatment of hyperthyroidism in ten individuals.

R313-32-934. Training for Treatment of Thyroid Carcinoma.

— Except as provided in R313-32-970, the licensee shall require the authorized user of only iodine 131 for the treatment of thyroid carcinoma to be a physician with special experience in thyroid disease who has had classroom and laboratory training in basic radioisotope handling techniques applicable to the use of iodine 131 for treating thyroid carcinoma, and supervised clinical experience as follows:

- (1) 80 hours of classroom and laboratory training that includes:
 - (a) radiation physics and instrumentation;
 - (b) radiation protection;
 - (c) mathematics pertaining to the use and measurement of radioactivity; and
 - (d) radiation biology; and
- (2) Supervised clinical experience under the supervision of an authorized user that includes the use of iodine 131 for the treatment of thyroid carcinoma in three individuals.

R313-32-940. Training for Use of Brachytherapy Sources.

— Except as provided in R313-32-970 the licensee shall require the authorized user of a brachytherapy source listed in R313-32-400 for therapy to be a physician who:

- (1) is certified in:
 - (a) radiology, therapeutic radiology, or radiation oncology by the American Board of Radiology;
 - (b) radiation oncology by the American Osteopathic Board of Radiology;
 - (c) radiology, with specialization in radiotherapy, as a British "Fellow of the Faculty of Radiology" or "Fellow of the Royal College of Radiology"; or
 - (d) therapeutic radiology by the Canadian Royal College of Physicians and Surgeons; or

- (2) is in the active practice of therapeutic radiology, has had classroom and laboratory training in radioisotope handling techniques applicable to the therapeutic use of brachytherapy sources, supervised work experience, and supervised clinical experience as follows:
 - (a) 200 hours of classroom and laboratory training that includes:
 - (i) radiation physics and instrumentation;
 - (ii) radiation protection;
 - (iii) mathematics pertaining to the use and measurement of radioactivity; and
 - (iv) radiation biology;
 - (b) 500 hours of supervised work experience under the supervision of an authorized user at a medical institution that includes:
 - (i) ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;
 - (ii) checking survey meters for proper operation;
 - (iii) preparing, implanting, and removing sealed sources;
 - (iv) maintaining running inventories of material on hand;
 - (v) using administrative controls to prevent the misadministration of radioactive material; and
 - (vi) using emergency procedures to control radioactive material; and
 - (c) three years of supervised clinical experience that includes one year in a formal training program approved by the Residency Review Committee for Radiology of the Accreditation Council for Graduate Medical Education or the Committee on Postdoctoral Training of the American Osteopathic Association, and an additional two years of clinical experience in therapeutic radiology under the supervision of an authorized user at a medical institution that includes:
 - (i) examining individuals and reviewing their case histories to determine their suitability for brachytherapy treatment, and any limitations or contraindications;
 - (ii) selecting the proper brachytherapy sources and dose and method of administration;
 - (iii) calculating the dose; and
 - (iv) post administration follow up and review of case histories in collaboration with the authorized user.

R313-32-941. Training for Ophthalmic Use of Strontium 90.

— Except as provided in R313-32-970, the licensee shall require the authorized user of only strontium 90 for ophthalmic radiotherapy to be a physician who is in the active practice of therapeutic radiology or ophthalmology, and has had classroom and laboratory training in basic radioisotope handling techniques applicable to the use of strontium 90 for ophthalmic radiotherapy, and a period of supervised clinical training in ophthalmic radiotherapy as follows:

- (1) 24 hours of classroom and laboratory training that includes:
 - (a) radiation physics and instrumentation;
 - (b) radiation protection;
 - (c) mathematics pertaining to the use and measurement of radioactivity; and
 - (d) radiation biology;
- (2) Supervised clinical training in ophthalmic radiotherapy under the supervision of an authorized user at a medical institution that includes the use of strontium 90 for the ophthalmic treatment of five individuals that includes:
 - (a) examination of each individual to be treated;
 - (b) calculation of the dose to be administered;
 - (c) administration of the dose; and
 - (d) follow up and review of each individual's case history.

R313-32-950. Training for Use of Sealed Sources for Diagnosis.

— Except as provided in R313-32-970, the licensee shall require the authorized user of a sealed source in a device listed in R313-32-500 to be a physician, dentist, or podiatrist who:

- (1) is certified in
 - (a) radiology, diagnostic radiology, therapeutic radiology, or radiation oncology by the American Board of Radiology;
 - (b) nuclear medicine by the American Board of Nuclear Medicine;
 - (c) diagnostic radiology or radiology by the American Osteopathic Board of Radiology; or
 - (d) nuclear medicine by the Royal College of Physicians and Surgeons of Canada; or
- (2) has had eight hours of classroom and laboratory training in basic radioisotope handling techniques specifically applicable to the use of the device that includes:
 - (a) radiation physics, mathematics pertaining to the use and measurement of radioactivity, and instrumentation;
 - (b) radiation biology;
 - (c) radiation protection; and
 - (d) training in the use of the device for the uses requested.

R313-32-960. Training for Teletherapy.

— Except as provided in R313-32-970, the licensee shall require the authorized user of a sealed source listed in R313-32-600 in a teletherapy unit to be a physician who:

- (1) is certified in:
 - (a) radiology, therapeutic radiology, or radiation oncology by the American Board of Radiology;
 - (b) radiation oncology by the American Osteopathic Board of Radiology;
 - (c) radiology, with specialization in radiotherapy, as a British "Fellow of the Faculty of Radiology" or "Fellow of the Royal College of Radiology"; or
 - (d) therapeutic radiology by the Canadian Royal College of Physicians and Surgeons; or
- (2) is in the active practice of therapeutic radiology, and has had classroom and laboratory training in basic radioisotope techniques applicable to the use of a sealed source in a teletherapy unit, supervised work experience, and supervised clinical experience as follows:
 - (a) 200 hours of classroom and laboratory training that includes:
 - (i) radiation physics and instrumentation;
 - (ii) radiation protection;
 - (iii) mathematics pertaining to the use and measurement of radioactivity; and
 - (iv) radiation biology;
 - (b) 500 hours of supervised work experience under the supervision of an authorized user at a medical institution that includes:
 - (i) review of the full calibration measurements and periodic spot checks;
 - (ii) preparing treatment plans and calculating treatment times;
 - (iii) using administrative controls to prevent misadministrations;
 - (iv) implementing emergency procedures to be followed in the event of the abnormal operation of a teletherapy unit or console; and
 - (v) checking and using survey meters; and
 - (c) three years of supervised clinical experience that includes one year in a formal training program approved by the Residency Review Committee for Radiology of the Accreditation Council for Graduate Medical Education or the Committee on Postdoctoral Training of the American Osteopathic Association and an additional two years of

clinical experience in therapeutic radiology under the supervision of an authorized user at a medical institution that includes:

- (i) examining individuals and reviewing their case histories to determine their suitability for teletherapy treatment, and any limitations or contraindications;
- (ii) selecting the proper dose and how it is to be administered;
- (iii) calculating the teletherapy doses and collaborating with the authorized user in the review of patients' or human research subjects' progress and consideration of the need to modify originally prescribed doses as warranted by patients' or human research subjects' reaction to radiation; and
- (iv) post-administration follow-up and review of case histories.

R313-32-961. Training for Teletherapy Physicist.

— The licensee shall require the teletherapy physicist to be an individual who:

- (1) is certified by the American Board of Radiology in:
 - (a) therapeutic radiological physics;
 - (b) roentgen ray and gamma ray physics;
 - (c) x-ray and radium physics; or
 - (d) radiological physics; or
- (2) is certified by the American Board of Medical Physics in radiation oncology physics; or
- (3) holds a master's or doctor's degree in physics, biophysics, radiological physics, or health physics, and has completed one year of full-time training in therapeutic radiological physics and an additional year of full-time work experience under the supervision of a teletherapy physicist at a medical institution that includes the tasks listed in R313-32-59, R313-32-632, R313-32-634 and R313-32-641.

R313-32-970. Training for Experienced Authorized Users.

— Physicians, dentists, or podiatrists identified as authorized users for the medical, dental, or podiatric use of radioactive material on a license issued by the Executive Secretary, Nuclear Regulatory Commission, or Agreement State license issued before January 1, 1989, who perform only those methods of use for which they were authorized on that date need not comply with the training requirements of R313-32-900 to R313-32-961.

R313-32-971. Physician Training in a Three Month Program.

— A physician who, before October 1, 1988, began a three-month nuclear medicine training program approved by the Accreditation Council for Graduate Medical Education and has successfully completed the program need not comply with the requirements of R313-32-910 or R313-32-920.

R313-32-972. Recency of Training.

— The training and experience specified in R313-32-900 through R313-32-981 shall have been obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.

R313-32-980. Training for an Authorized Nuclear Pharmacist.

— The licensee shall require the authorized nuclear pharmacist to be a pharmacist who:

- (1) has current board certification as a nuclear pharmacist by the Board of Pharmaceutical Specialties; or
- (2)(a) has completed 700 hours in a structured educational program consisting of both:

- (i) didactic training in the following areas:
 - (A) radiation physics and instrumentation;
 - (B) radiation protection;
 - (C) mathematics pertaining to the use and measurement of radioactivity;
 - (D) chemistry of radioactive material for medical use; and
 - (E) radiation biology; and
- (ii) supervised experience in a nuclear pharmacy involving the following:
 - (A) shipping, receiving, and performing related radiation surveys;
 - (B) using and performing checks for proper operation of dose calibrators, survey meters, and, if appropriate, instruments used to measure alpha- or beta-emitting radionuclides;
 - (C) calculating, assaying, and safely preparing dosages for patients or human research subjects;
 - (D) using administrative controls to avoid mistakes in the administration of radioactive material;
 - (E) using procedures to prevent or minimize contamination and using proper decontamination procedures; and
- (b) has obtained written certification, signed by a preceptor authorized nuclear pharmacist, that the above training has been satisfactorily completed and that the individual has achieved a level of competency sufficient to independently operate a nuclear pharmacy.

~~R313-32-981. Training for Experienced Nuclear Pharmacists.~~

— A licensee may apply for and must receive a license amendment identifying an experienced nuclear pharmacist as an authorized nuclear pharmacist before it allows this individual to work as an authorized nuclear pharmacist. A pharmacist who has completed a structured educational program as specified in R313-32-980(2)(a) before January 1, 1998 and who is working in a nuclear pharmacy would qualify as an experienced nuclear pharmacist. An experienced nuclear pharmacist need not comply with the requirements on preceptor statement (See R313-32-980(2)(b)) and recentness of training (See R313-32-972) to qualify as an authorized nuclear pharmacist.

~~R313-32-999. Resolution of Conflicting Requirements During Transition Period.~~

— If the rules in R313-32 conflict with the licensee's radiation safety program as identified in its license, and if that license was approved by the Bureau of Radiation Control, Department of Health, before January 1, 1989, and has not been renewed since January 1, 1989, then the requirements in the license will apply. However, if the licensee exercises its privilege to make minor changes in its radiation safety procedures that are not potentially important to safety under R313-32-31, the portion changed shall comply with the requirements of R313-32. At the time of license renewal and thereafter, these amendments to R313-32 shall apply.]

KEY: radioactive material, radiopharmaceutical, brachytherapy, nuclear medicine

[September 14, 2001] 2005

Notice of Continuation October 10, 2001

19-3-104

19-3-108



Human Services, Services for People with Disabilities **R539-4** Quality Assurance

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 27753

FILED: 03/15/2005, 12:03

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The change is proposed after a comprehensive revision and consolidation of the Division's rules.

SUMMARY OF THE RULE OR CHANGE: The changes involve repealing the current rule and replacing it with a new rule. This rule is repealed in its entirety.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 62A-5-102 and 62A-5-103

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** None--This revision does not alter the basic operations or functions of the Division. Therefore, there is cost or savings to the state.

❖ **LOCAL GOVERNMENTS:** None--Local government funding is not used. Therefore, there is no cost to local governments.

❖ **OTHER PERSONS:** None--This revision does not alter the basic operations or functions of the Division. Therefore, there is no cost or savings to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This revision does not alter the basic operations or functions of the Division. Therefore, there is no cost to affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None--This revision does not alter the basic operations or functions of the Division. Therefore, there is no impact on businesses. Lisa-Michele Church, Executive Director

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

HUMAN SERVICES
SERVICES FOR PEOPLE WITH DISABILITIES
Room 411
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzie Totten at the above address, by phone at 801-538-4197, by FAX at 801-538-4279, or by Internet E-mail at stotten@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/02/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 05/03/2005

AUTHORIZED BY: Lisa-Michele Church, Executive Director

R539. Human Services, Services for People with Disabilities.

~~R539 4. Quality Assurance.~~

~~R539 4 1. Quality Assurance Survey.~~

~~— A. Policy.~~

~~— The purpose of the Quality Assurance survey is to ensure that recipients of Division of Services for People with Disabilities funded programs are receiving services that support them in participating fully in community life and an enhanced quality of life.~~

~~— B. Procedures.~~

~~— 1. The Quality Assurance team will survey quality of life outcomes for the identified individual by observation, interviews, and a review of records.~~

~~— 2. Deficiencies identified in the report require a provider to submit a plan of correction within 15 working days from the final survey report date. The Provider must respond to each identified deficiency, including proposed method of correction, task assignments, and supervision.~~

~~— 3. The Quality Assurance team leader will determine if the submitted plan of correction is acceptable and if not, notify the Provider by certified mail within ten working days of receipt. The Provider must submit a revised plan of correction within five working days. If a revised plan of correction is unsatisfactory, the Division and Regional Director may initiate sanctions.~~

~~— 4. A follow-up survey will be scheduled by Division staff within 60-90 days after receipt of the accepted plan of correction. The purpose of the follow up is to:~~

~~— a. determine and certify if the deficiencies have been corrected as specified in the plan of correction;~~

~~— b. if deficiencies have not been corrected as specified, initiate corrective actions which include the following:~~

~~— (1) provide additional time for the Provider to complete corrections;~~

~~— (2) request a revised plan of correction to be submitted to the Division within five days, or~~

~~— (3) recommend the Division and Regional Director initiate formal sanctions;~~

~~— 5. The Division and Regional Director may initiate sanctions by providing written notice of the action to be taken to the Provider in instances when:~~

~~— a. Revised plan of corrections is unsatisfactory;~~

~~— b. Imminent danger and health violations exist or other significant deficiencies are present.~~

~~— c. The Provider has failed to implement an approved plan of correction.~~

~~— 6. A Provider who disagrees with the proposed sanctions may pursue an appeal through the Department of Human Services (R495-100).~~

R539 4 2. Volunteer Monitoring.

~~— A. Policy.~~

~~— Volunteer Monitoring is an integral part of the Division's Quality Assurance system. Volunteer monitors are interested individuals not otherwise paid to provide services. The goal of the Volunteer Monitoring Services Committee is to help children and adults with disabilities be assured of an enhanced quality of life. In order to accomplish this goal, the Volunteers conduct facility and program reviews. Corrective activities may be undertaken for problems identified by the Volunteer Monitoring Services Committee.~~

~~— B. Procedures.~~

~~— 1. A Plan of Correction may be requested if the review indicates that the program is not in compliance with Division policy and procedures.~~

~~— a. A written response is required within 20 days to correct any deficiencies and respond to concerns (see R539 4 1.B.2).~~

~~— b. The Plan of Correction will be submitted to the Division and the Executive Committee of the Volunteer Monitoring Services Committee for review and follow up. In addition, at the Division Director's request, the Division may conduct a Quality Assurance review (in accordance with R539 4 1).~~

R539 4 3. Residential Site.

~~— A. Policy.~~

~~— It is the policy of the Division that acquisition of residential sites for the purpose of providing services to people with disabilities should conform to state and local zoning requirements and shall not violate the Federal Fair Housing Law. The Division shall make a formal determination, where an individual history warrants, that the individual being considered for placement does not pose a direct threat to the health and safety of other individuals.~~

R539 4 4. Informal Quality Assurance Reconsideration Process.

~~— A. Policy.~~

~~— A Provider with the Division of Services for People with Disabilities is entitled to a review of any individual's quality assurance outcomes survey.~~

~~— B. Procedures.~~

~~— 1. A provider of services may request informal reconsideration by submitting a written request to the Division Director of Quality Assurance within 15 working days of receipt of the outcomes survey report. The letter should include a description of the standards or items on the survey for which review is requested.~~

~~— 2. The informal reconsideration will be performed within ten working days of receipt of the request. The results of the reconsideration will be submitted in writing to the provider and the Division Director within ten working days of the completion of the informal reconsideration.~~

~~— 3. The provider may exercise any further formal appeals afforded them in contract or state policy.~~

R539 4 5. Contracts for Services.

~~— A. Policy~~

~~— The State Office will coordinate on behalf of the Regional Offices the review of contracts, the call for statewide proposals for services, promulgation of rates, and the development of the contract Objectives and Evaluations attachment. The Regions shall arrange for contracts with Providers on behalf of service recipients, shall establish and manage budgets for signed contracts, and shall conduct contract compliance monitoring activities. The State Office and Regional Offices shall collaborate on the resolution of problems occurring around contracting, which will include promoting an environment of fair competition among providers.~~

- B. Procedures
- 1. A contract may be terminated immediately:
- a. If the individuals served are in clear and imminent danger.
- b. If a purchase of service provider cannot demonstrate proper licensing/certification.
- 2. A contract may be terminated without cause upon 30 days prior written notice under the following circumstances:
- a. division funding inadequacies;
- b. there is no further need for the contract.
- 3. A contract may be terminated with cause with a 30 day written notice for:
- a. continued contractual violations;
- b. continued violations of Department or Division policy;
- c. mismanagement of personal, state, or federal funds;
- d. failure to correct continuing deficiencies identified in quality assurance surveys;
- e. and other situations where the Division determines it is in the best interest of the persons served.
- 4. Contractors may avail themselves of all remedies available for termination with cause under the provisions of the Utah State Procurement Code, Section 63-56-1.

KEY: social services, disabled persons*
1994

Notice of Continuation December 18, 2002
62A-5-103]

▼ ————— ▼

**Money Management Council,
Administration
R628-15**

Certification as an Investment Adviser

NOTICE OF PROPOSED RULE
(New Rule)

DAR FILE NO.: 27743
FILED: 03/11/2005, 14:31

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to establish a uniform standard to evaluate the financial condition and the standing of an investment adviser to determine if investment transactions with public treasurers by investment advisers would expose public funds to undue risk.

SUMMARY OF THE RULE OR CHANGE: This rule requires that an investment adviser who intends to provide investment advisory services to a public treasurer become certified; provides for the application process; and the information required from the investment adviser to become certified. The rule also requires that investment advisers renew their certification annually and contains post-certification requirements and provides qualification criteria for the use of non-certified broker/dealers by investment advisers. The rule also requires that the Money Management Council mail the list of certified investment advisers out to public treasurers at least semiannually. The rule also provides grounds and

procedures for denial, suspension, and termination of status as a certified investment adviser.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 51-7-3(3); and Subsections 51-7-18(2)(b)(vi), 51-7-18(2)(b)(vii), 51-7-11.5(2)(b), and 51-7-11.5(2)(c)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The fee for certification is \$500 per each firm. It is not known how many investment advisers will become certified. Using the certified dealers list as an example, the fee process could generate up to \$10,000 annually. Currently, the Council is aware of three investment advisory firms that may become certified.

❖ **LOCAL GOVERNMENTS:** The local public treasurers will not have any costs associated with this rule. If they choose to utilize investment advisers to manage their money, any fees paid should in theory be offset by earnings on those funds under management.

❖ **OTHER PERSONS:** The certified investment adviser fee is \$500 annually; these fees would be offset by potential income from managing public funds. There is also a requirement that insurance coverage be maintained based on how many public funds are under management. Additionally, errors and omissions insurance is required. It is assumed that firms carry some if not all of the required insurance already so the exact cost cannot be determined, however, the cost is averaged out at about 1% of the amount of the bond on errors and omissions insurance. Fidelity coverage was approximately the same cost.

COMPLIANCE COSTS FOR AFFECTED PERSONS: It will cost an investment firm \$500 annually to become certified and if they need additional insurance to meet the requirement it is estimated that it will cost 1% of the amount of the bond on errors and omissions insurance and the same on fidelity insurance.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Investment advisers seeking certification must pay a \$500 annual certification fee established by Section 51-7-18.4. Compliance with this rule requires certified investment advisers to provide copies of certain documents and to give notices which may result in nominal, incremental costs for duplication and delivery. Federal covered investment advisers may incur additional legal fees and other administrative and registration costs as a result of the requirement for licensing in Utah. Larry Richardson, Chair

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

MONEY MANAGEMENT COUNCIL
ADMINISTRATION
Room E315 EAST OFFICE BLDG
STATE CAPITOL COMPLEX
PO BOX 142315

SALT LAKE CITY UT 84114-2315, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ann Pedroza at the above address, by phone at 801-538-1883, by FAX at 801-538-1465, or by Internet E-mail at apedroza@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/02/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 05/03/2005

AUTHORIZED BY: Larry Richardson, Chair

R628. Money Management Council, Administration.

R628-15. Certification as an Investment Adviser.

R628-15-1. Authority.

This rule is issued pursuant to Sections 51-7-3(3), 51-7-18(2)(b)(vi) and (vii), and 51-7-11.5(2)(b) and (c).

R628-15-2. Scope.

This rule establishes the criteria applicable to all investment advisers and investment adviser representatives for certification by the Director as eligible to provide advisory services to public treasurers under the State Money Management Act (the "Act"). It further establishes the application contents and procedures, and the criteria and the procedures for denial, suspension, termination and reinstatement of certification. Additionally, the qualification of non-certified dealers and the use of these qualified dealers by certified investment advisers is provided for.

R628-15-3. Purpose.

This rule establishes a uniform standard to evaluate the financial condition and the standing of an investment adviser to determine if investment of public funds by investment advisers would expose said public funds to undue risk.

R628-15-4. Definitions.

A. The following terms are defined in Section 51-7-3 of the Act, and when used in this rule, have the same meaning as in the Act:

1. "Certified investment adviser";
2. "Council";
3. "Director";
4. "Public treasurer"; and
5. "Investment adviser representative".

B. For purposes of this rule the following terms are defined:

1. "Investment adviser" means either a federal covered adviser as defined in Section 61-1-13 or an investment adviser as defined in Section 61-1-13.

2. "Qualified dealer" means a non-certified broker/dealer that is licensed by the Division and is qualified by the Council to conduct investment transactions on behalf of a public treasurer pursuant to an investment adviser contract not inconsistent with the Act or Rules of the Council between the public treasurer and a certified investment adviser.

3. "Realized rate of return" means yield calculated by combining interest earned, discounts accreted and premiums amortized, plus any gains or losses realized during the month, less all fees, divided by the average daily balance during the reporting period. The realized return should then be annualized.

4. "Soft dollar" means the value of research services and other benefits, whether tangible or intangible, provided to a certified investment adviser in exchange for the certified investment adviser's business.

R628-15-5. General Rule.

Before an investment adviser or investment adviser representative provides investment advisory services to any public treasurer, the investment adviser or investment adviser representative must submit and receive approval of an application to the Division, pay to the Division a non-refundable fee as described in Section 51-7-18.4(2), and become a Certified investment adviser or Investment adviser representative under the Act.

R628-15-6. Criteria for Certification of an Investment Adviser.

To be certified by the Director as a Certified investment adviser or Investment adviser representative under the Act, an investment adviser or investment adviser representative shall:

A. Submit an application to the Division on Form 628-15 clearly designating:

(1) the investment adviser;

(2) its designated official as defined in R164-4-2 of the Division; and

(3) any investment adviser representative who provides investment advisory services to public treasurers in the state.

B. Pay to the Division the non-refundable fee described in Section 51-7-18.4(2).

C. Have a current Certificate of Good Standing dated within 30 days of application from the state in which the applicant is incorporated or organized.

D. Have net worth as of its most recent fiscal year-end of not less than \$150,000 documented by financial statements prepared by an independent certified public accountant in accordance with generally accepted accounting principles.

E. Allow the public treasurer to select the forum and method for dispute resolution, whether that forum be arbitration, mediation or litigation in any state or federal court. No agreement, contract, or other document that the applicant requires or intends to require to be signed by the public treasurer to establish an investment advisory relationship shall require or propose to require that any dispute between the applicant and the public treasurer must be submitted to arbitration.

F. Agree to the jurisdiction of the Courts of the State of Utah and applicability of Utah law, where relevant, for litigation of any dispute arising out of transactions between the applicant and the public treasurer.

G. All Investment adviser representatives who have any contact with a public treasurer or its account, must sign and have notarized a statement that the representative:

(1) is familiar with the authorized investments as set forth in the Act and the rules of the Council;

(2) is familiar with the investment objectives of the public treasurer, as set forth in Section 51-7-17(2).

(3) acknowledges, understands, and agrees that all investment transactions conducted for the benefit of the public treasurer must fully comply with all requirements set forth in Section 51-7-7 and that the Certified investment adviser and any Investment adviser representative is prohibited from receiving custody of any public funds or investment securities at any time.

R628-15-7. Certification.

A. The initial application for certification must be received on or before the last day of the month for approval at the following month's Council meeting.

B. All certifications shall be effective upon acceptance by the Council.

C. All certifications not otherwise terminated shall expire on June 30 of each year, unless renewed.

R628-15-8. Renewal of Application.

A. Certified investment advisers shall apply annually, on or before April 30 of each year, for certification to be effective July 1 of each year.

B. The application must contain all of the documents and meet all of the requirements as set forth above with respect to initial applications.

C. The application must be accompanied by an annual certification fee as described in Section 51-7-18.4(2).

D. A Certified investment adviser whose certification has expired as of June 30 may not function as a Certified investment adviser until the investment adviser's certification is renewed.

R628-15-9. Post Certification Requirements.

A. Certified investment advisers shall notify the Division of any changes to any items or information contained in the original application within 30 calendar days of the change. The notification shall provide copies, where necessary, of relevant documents.

B. Certified investment advisers shall maintain a current application on Form 628-15 with the Division throughout the term of any agreement or contract with any public treasurer. Federal covered advisers shall maintain registration as an investment adviser under the Investment Advisers Act of 1940 throughout the term of any agreement or contract with any public treasurer.

C. Certified investment advisers shall provide written evidence of insurance coverage and shall maintain insurance coverage as follows:

(1) fidelity coverage based on the following schedule:

TABLE

Utah Public funds under management	Percent for Bond
<u>\$0 to \$25,000,000</u>	<u>10% but not less than \$1,000,000</u>
<u>\$25,000,001 to \$50,000,000</u>	<u>8% but not less than \$2,500,000</u>
<u>\$50,000,001 to \$100,000,000</u>	<u>7% but not less than \$4,000,000</u>
<u>\$100,000,001 to \$500,000,000</u>	<u>5% but not less than \$7,000,000</u>
<u>\$500,000,001 to \$1.250 billion</u>	<u>4% but not less than \$25,000,000</u>
<u>\$1,250,000,001 and higher</u>	<u>Not less than \$50,000,000</u>

(2) errors and omissions coverage equal to five percent (5%) of Utah public funds under management, but not less than \$1,000,000 nor more than \$10,000,000 per occurrence.

D. Certified investment advisers shall provide to the public treasurer the SEC Form ADV Part II prior to contract execution.

E. Certified investment advisers shall file annual audited financial statements with all public treasurers with whom they are doing business and with the Division.

F. Certified investment advisers shall fully disclose all conflicts of interest and all economic interests in qualified dealers and other affiliates, consultants and experts used by the Investment adviser in providing investment advisory services.

G. Certified investment advisers shall act with the degree of care, skill, prudence, and diligence that a person having special skills or expertise acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

H. Certified investment advisers shall exercise good faith in allocating transactions to qualified dealers in the best interest of the account and in overseeing the completion of transactions and performance of qualified dealers used by the Investment adviser in connection with investment advisory services.

I. Certified investment advisers shall fully disclose to the public treasurer any self-dealing with subsidiaries, affiliates or partners of the Investment adviser and any soft dollar benefits to the Investment adviser for transactions placed on behalf of the public treasurer.

J. Certified investment advisers shall fully and completely disclose to all public treasurers with whom they do business the basis for calculation of fees, whether and how fees may be adjusted during the term of any agreement, and any other costs chargeable to the account. If performance-based fees are proposed, the disclosure shall include a clear explanation of the amount of the fee at specific levels of performance and how prior losses are handled in calculation of the performance-based fee.

K. Certified investment advisers shall not assign any contract or agreement with a public treasurer without the written consent of the public treasurer.

L. Certified investment advisers shall provide immediate written notification to any public treasurer to whom advisory services are provided and to the Division upon conviction of any crime involving breach of trust or fiduciary duty or securities law violations.

M. Not less than once each calendar quarter and as often as requested by the public treasurer, Certified investment advisers shall timely deliver to the public treasurer:

(1) copies of all trade confirmations for transactions in the account;

(2) a summary of all transactions completed during the reporting period;

(3) a listing of all securities in the portfolio at the end of each reporting period, the market value and cost of each security, and the credit rating of each security;

(4) performance reports for each reporting period showing the total return on the portfolio as well as the realized rate of return, when applicable, and the net return after calculation of all fees and charges permitted by the agreement; and

(5) a statistical analysis showing the portfolio's weighted average maturity and duration, if applicable, as of the end of each reporting period.

R628-15-10. Notification of Certification.

The Director shall provide a list of Certified investment advisers and Investment adviser representatives to the Council at least semiannually. The Council shall mail this list to each public treasurer.

R628-15-11. Criteria for Qualification of a Non-certified Dealer.

A. Before a Certified investment adviser uses a non-certified dealer to conduct investment transactions on behalf of a public treasurer, the investment adviser must submit an application for each non-certified dealer for qualification by the Division.

B. The application must include:

(1) Proof of licensing with the Division under its laws and rules, effective as of the date of the application, of the following:

(a) the broker-dealer;

(b) any agents of a firm doing business in the state.

(2) A Certificate of Good Standing, obtained from the state in which the applicant is incorporated or organized.

(3) With respect to applicants who are not primary reporting dealers, financial statements, prepared by an independent certified public accountant in accordance with generally accepted accounting principles, indicating that the applicant has, as of its most recent fiscal year end:

(a) Minimum net capital, as calculated under rule 15c3-1 of the Securities and Exchange Act of 1934 (17 CFR 240.15c3-1(2004)), of at least 5% of the applicant's aggregate debt balances, as defined in the rule, and;

(b) Total capital as follows:

(i) of at least \$10 million or;

(ii) of at least \$25 million, calculated on a consolidated basis, with respect to an applicant which is a wholly-owned subsidiary.

R628-15-12. Grounds for Denial, Suspension or Termination of Status as a Certified investment adviser.

Any of the following constitutes grounds for denial, suspension, or termination of status as a Certified investment adviser:

A. Denial, suspension or termination of the Certified investment adviser's license by the Division.

B. Failure to maintain a license with the Division by the firm or any of its Investment adviser representatives conducting investment transactions with a public treasurer.

C. Failure to maintain the required minimum net worth and the required bond.

D. Requiring the public treasurer to sign any documents, contracts, or agreements which require that disputes be submitted to mandatory arbitration.

E. Failure to pay the annual certification fee.

F. Making any false statement or filing any false report with the Division.

G. Failure to comply with any requirement of section R628-15-9.

H. Engaging in any material act in negligent or willful violation of the Act or Rules of the Council.

I. Failure to respond to requests for information from the Division or the Council within 15 days after receipt of a request for information.

J. Engaging in a dishonest or unethical practice. "Dishonest or unethical practice" includes but is not limited to those acts and practices enumerated in Rule R164-6-1g.

K. Being the subject of:

(1) an adjudication or determination, within the past five years by a securities or commodities agency or administrator of another state, Canadian province or territory, or a court of competent jurisdiction that the person has willfully violated the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Commodity Exchange Act, or the securities or commodities law of any other state; or

(2) an order entered within the past five years by the securities administrator of any state or Canadian province or territory or by the Securities and Exchange Commission denying or revoking license as an investment adviser, or investment adviser representative or the substantial equivalent of those terms or is the subject of an order of the Securities and Exchange Commission suspending or expelling the person from a national securities exchange or national securities association registered under the Securities Exchange Act of 1934, or is the subject of a United States post office fraud order.

R628-15-13. Procedures for Denial, Suspension, or Termination and Reinstatement of Status.

A. Where it appears to the Division or to the Council that grounds may exist to deny, suspend, or terminate status as a Certified investment adviser, the Council shall proceed under the Utah Administrative Procedures Act, Chapter 46b, Title 63 ("UAPA").

B. All proceedings to suspend a Certified investment adviser or to terminate status as a certified investment adviser are designated as informal proceedings under ("UAPA").

C. In any hearings held, the Chair of the Council shall be the presiding officer, and that person may act as the hearing officer, or may designate another person from the Council or the Division to be the hearing officer. After the close of the hearing, other members of the Council may make recommendations to the hearing officer.

D. The Notice of Agency Action as set forth under UAPA, or any petition filed in connection with it, shall include a statement of the grounds for suspension or termination, and the remedies required to cure the violation.

E. A Certified investment adviser and its Investment adviser representative who has received a Notice of Agency Action alleging violations of the Act or these rules, may continue, in the discretion of the public treasurer, to conduct investment transactions with the public treasurer until the violations asserted by the Money Management Council in the Notice of Agency Action becomes subject to a written order of the Council or Agency against the adviser or adviser representative, or until the Council enters an emergency order indicating that public funds will be jeopardized by continuing investment transactions with the adviser or adviser representative.

F. The Council may issue an emergency order to cease and desist operations or specified actions with respect to public treasurers or public funds. Further, the Council may issue an emergency suspension of certification if the Council determines that public funds will be jeopardized by continuing investment transactions or other specified actions with the adviser or adviser representative.

G. Within ten business days after the conclusion of a hearing on an emergency order, the Council shall lift this prohibition upon a finding that the Certified investment adviser and its investment adviser representative may maintain certification.

KEY: cash management, public investments, securities regulation, investment advisers

2005

51-7-3(3)

51-7-18(2)(b)(vi)

51-7-18(2)(b)(vii)

51-7-11.5(2)(b)

51-7-11.5(2)(c)

▼ ————— ▼

Money Management Council, Administration

R628-19

Requirements for the Use of Investment Advisers by Public Treasurers

NOTICE OF PROPOSED RULE

(Repeal and Reenact)
DAR FILE NO.: 27742
FILED: 03/11/2005, 13:16

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The original rule was written before The Money Management Act, Title 51 Chapter 7, was changed to specifically state that investment advisers were an option and the use of them was governed by Council rule. In the process of drafting rules to do so, several requirements in the rule were moved to the rule that will "certify" investment advisers. The language in this rule will now deal only with what a public treasurer must do. The requirements for investment advisers are covered in another rule.

SUMMARY OF THE RULE OR CHANGE: The minimum requirements of providing fee information, report formats, how much the funds under management are earning and providing descriptions of securities, have all been moved to Rule R628-15 of the Council as requirements for the investment adviser. Some definitions of terms have been added and are noted as defined in the Act. These terms were not noted in the original rule. Before the statute was changed, there were not certified investment advisers, so the term has been added to this rule and the requirement to use only certified investment advisers has been added. The statement in the purpose paragraph of the notion that these were minimum requirements has been removed because it was felt that this was not a "purpose" for the rule. The requirement of using licensed investment advisers has been removed and is dealt with in Rule R628-15. Public treasurers may now use only certified investment advisers if they choose to use this option to invest. (DAR NOTE: The proposed new Rule R628-15 is under DAR No. 27743 in this issue.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 51-7-18(2)(b)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--There is not a requirement to use investment advisers, this rule only provides requirements to follow if a public entity chooses to use advisers. If that is the case, there are costs incurred in fees, which would hopefully be offset by earnings.

❖ LOCAL GOVERNMENTS: None--There is not a requirement to use investment advisers, this rule provides requirements to follow if a public entity chooses to use advisers. If they do, there are costs incurred in fees based on the amount of funds under management which is difficult to cost out. These fees would hopefully be offset by earnings on the funds being managed.

❖ OTHER PERSONS: None--This rule deals only with the potential use of investment advisers by public treasurers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are none. This rule only provides requirements for use of investment advisers by public treasurers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no direct impact. The proposed rule requires use of certified investment advisers pursuant to Rule R628-15. Any impact on businesses will ensue from compliance with Rule R628-15. Certified investment advisers who provide services to public treasurers will presumably earn advisory fees. Larry Richardson, Chair

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

MONEY MANAGEMENT COUNCIL
ADMINISTRATION
Room E315 EAST OFFICE BLDG
STATE CAPITOL COMPLEX
PO BOX 142315
SALT LAKE CITY UT 84114-2315, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ann Pedroza at the above address, by phone at 801-538-1883, by FAX at 801-538-1465, or by Internet E-mail at apedroza@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/02/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 05/03/2005

AUTHORIZED BY: Larry Richardson, Chair

**R628. Money Management Council, Administration.
R628-19. Requirements for the Use of Investment Advisers by
Public Treasurers.**

~~R628-19-1. Authority.~~

~~— This rule is issued pursuant to Section 51-7-18(2)(b).~~

R628-19-2. Scope.

— This rule establishes basic requirements for public treasurers when using investment advisers.

R628-19-3. Purpose.

— The purpose of this rule is to outline requirements for public treasurers who are considering utilizing investment advisers to invest public funds. These are minimum requirements and not exhaustive criteria to be used when choosing an adviser.

R628-19-4. Definitions.

— (1) For purposes of this rule:

— (a) Investment adviser as used in this rule has the same meaning as defined in Section 61-1-13(15).

— (b) Investment adviser representative as used in this rule has the same meaning as defined in Section 61-1-13(16).

— (c) Realized rate of return means: yield calculated by combining interest earned, discounts accreted and premiums amortized, plus any gains or losses realized during the month, less all fees, divided by the average daily balance during the reporting period. The realized return should then be annualized.

R628-19-5. General Rule.

— When considering and using an investment adviser the public treasurer shall follow these minimum requirements:

— (1) A person offering investment advisory services to a public treasurer shall at all times be licensed as an investment adviser or an investment adviser representative with the Utah Securities Division.

— (2) The public treasurer shall request and the investment adviser shall furnish, a clear and concise written explanation of any and all fees and the fee structure.

— (3) The public treasurer shall request and the investment adviser shall furnish, examples of report formats which shall reflect at a minimum the following information:

— (a) the realized rate of return on the funds under the advisers management reported monthly on an actual over 360 day basis; and

— (b) a description of the security including the name, interest rate, maturity date and purchase date of the security.

— (4) All transactions must be in full compliance with all aspects of the Money Management Act and Rules of the Council particularly those requirements governing safekeeping, utilizing certified dealers, qualified depositories and purchasing only the types of securities listed in 51-7-11., 51-7-12. and 51-7-13. as applicable.

— (5) Transaction confirmations shall be provided on every trade transacted for the public entity, within five business days of trade date by the certified dealer, to the public treasurer.

R628-19-6. Reporting to the Council.

— When a public treasurer has contracted with an investment adviser for the management of public funds, the public treasurer shall provide the detail of those investments to the Council, pursuant to Section 51-7-18.2.

KEY: securities, investment adviser, public funds

February 10, 2004

51-7-18(2)(b)

61-1-13]

R628-19-1. Authority.

— This rule is issued pursuant to Section 51-7-18(2)(b).

R628-19-2. Scope.

This rule establishes basic requirements for public treasurers when using investment advisers.

R628-19-3. Purpose.

The purpose of this rule is to outline requirements for public treasurers who are considering utilizing investment advisers to invest public funds.

R628-19-4. Definitions.

(1) The following terms are defined in Section 51-7-3 of the Act, and when used in this rule, have the same meaning as in the Act:

(a) "Certified investment adviser";

(b) "Council";

(c) "Director"; and

(d) "Investment adviser representative".

(2) For purposes of this rule:

(a) "Investment adviser" means either a federal covered adviser as defined in Section 61-1-13 or an investment adviser as defined in Section 61-1-13.

R628-19-5. General Rule.

1. A public treasurer may use an investment adviser to conduct investment transactions on behalf of the public treasurer as permitted by statute, rules of the Council, and local ordinance or policy.

2. A public treasurer using an investment adviser to conduct investment transactions on behalf of the public treasurer is responsible for full compliance with the Act and rules of the Council.

3. Due diligence in the selection of an investment adviser and in monitoring compliance with the Act and Rules of the Council and the performance of investment advisers is the responsibility of the public treasurer. (The Council advises public treasurers that reliance on certification by the Director may not be sufficient to fully satisfy prudent and reasonable due diligence.)

4. The public treasurer shall assure compliance with the following minimum standards:

(a) A public treasurer may use a Certified investment adviser properly designated pursuant to R628-15.

(b) A public treasurer's use of a Certified investment adviser shall be governed by a written investment advisory services agreement between the public treasurer and the Certified investment adviser. Terms of the agreement shall conform to the requirements of R628-15, and shall be adopted pursuant to all procurement requirements of statute and local ordinance or policy.

(c) Prior to entering into an investment advisory services agreement with a Certified investment adviser, the public treasurer shall request and the investment adviser shall furnish, the SEC Form ADV Part II for review and consideration by the public treasurer.

(d) All investment transactions and activities of the public treasurer and the Certified investment adviser must be in full compliance with all aspects of the Money Management Act and Rules of the Council particularly those requirements governing criteria for investments, safekeeping, utilizing only certified dealers or qualified dealers, and purchasing only the types of securities listed in 51-7-11., 51-7-12. and 51-7-13. as applicable.

(e) Prior to entering into an investment advisory services agreement with a Certified investment adviser, the public treasurer shall request and the investment adviser shall furnish a clear and concise explanation of the investment adviser's program, objectives, management approach and strategies used to add value to the portfolio and return, including the methods and securities to be employed.

5. If selection of a Certified investment adviser to provide investment advisory services to a public treasurer is based upon the investment adviser's representation of special skills or expertise, the investment advisory services agreement shall require the Certified investment adviser to act with the degree of care, skill, prudence, and diligence that a person having special skills or expertise acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

6. The public treasurer is advised to review and consider standards of practice recommended by other sources, such as the Government Finance Officers Association, in the selection and management of investment adviser services.

R628-19-6. Reporting to the Council.

When a public treasurer has contracted with an investment adviser for the management of public funds, the public treasurer shall provide the detail of those investments to the Council, pursuant to Section 51-7-18.2.

KEY: securities, investment advisers, public funds
2005
51-7-18(2)(b)
61-1-13



Natural Resources, Forestry, Fire and
 State Lands
R652-70-1900
 Camping and Motor Vehicles

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27750

FILED: 03/14/2005, 15:13

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule, as currently written, restricts camping on lands "lying between the low water mark and the ordinary high water mark." The locations of these two "marks" are not only difficult or impossible to ascertain, but have not been determined on all sovereign lands of the State. Changing the wording to "the beds of navigable lakes and rivers" will create less confusion for the public, as well as the enforcement agencies. Additionally, under the current rule, "motorized vehicles are restricted from driving or parking on these lands." The rule needs to be amended to assure consistency with another proposed rule amendment governing use of sovereign lands at Bear Lake, where extended drought has resulted in low water levels and increased interest in motor vehicle use on the exposed beach.

SUMMARY OF THE RULE OR CHANGE: The proposed rule change clarifies the portions of sovereign lands along navigable lakes and rivers where restrictions on camping and use of motor vehicles may be in effect to protect the public, as well as natural, cultural, and archeological resources. It also provides that motor vehicles may operate on the shoreline of Bear Lake with certain restrictions. (DAR NOTE: The proposed amendment to Section R652-70-2300 dealing with Bear Lake is under DAR No. 27740 in this issue.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 65A-1-4(2)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: This proposed change can be implemented without impact upon current state budgets.
- ❖ LOCAL GOVERNMENTS: Affected counties are aware of the proposed rule and will be able to enforce the rule with current staffing and budgets.
- ❖ OTHER PERSONS: Those found using or occupying state lands in violation of this rule will be charged with a class B misdemeanor, as provided in Subsection 65A-3-1(1)(b) and Section 76-3-204. A bail schedule has not yet been set with a court administrator's office, so fines are to be determined by the local magistrate. The division is not aware of any other cost or savings to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The public has use of sovereign lands with certain restrictions just as any other public land. The division is not aware of any compliance costs other than fines for violators as referenced under Other persons above.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The rule provides for use of sovereign lands while accommodating public safety and protection to natural resources, as well as cultural and archeological resources. The rule provides for safe, orderly use of the beach by the public, which is expected to benefit local business. Michael Styler, Executive Director

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

NATURAL RESOURCES
 FORESTRY, FIRE AND STATE LANDS
 Room 3520
 1594 W NORTH TEMPLE
 SALT LAKE CITY UT 84116-3154, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jennifer Gregerson at the above address, by phone at 801-538-5418, by FAX at 801-533-4111, or by Internet E-mail at jennifergregerson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/02/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 05/03/2005

AUTHORIZED BY: Karl Kappe, FFSL Strategic Planner

R652. Natural Resources; Forestry, Fire and State Lands.

R652-70. Sovereign Lands.

R652-70-1900. Camping and Motor Vehicles.

1. ~~The division may restrict camping on [lands lying between the low water mark and the ordinary high water mark]the beds of navigable lakes and rivers. Except as provided elsewhere in this rule, [M]motor vehicles are prohibited from driving or parking on these lands at all times, except that those areas supervised by the Division of Parks and Recreation or other enforcement entity, and posted as open to vehicle use, will be open to vehicle use.~~

2. ~~In accordance with Subsections 65A-3-1(1)(b) and 76-3-204, those found in violation of this rule will be charged with a class B misdemeanor, with sentence, fine, or both to be determined by the local magistrate.~~

KEY: sovereign lands, permits, administrative procedures [June 11, 2001]2005

**Notice of Continuation April 2, 2002
65A-10-1**



**Natural Resources, Forestry, Fire and
State Lands**

R652-70-2300

**Management of Bear Lake Sovereign
Lands**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27740

FILED: 03/10/2005, 11:00

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: With several consecutive years of drought, the low water level of Bear Lake has exposed large areas of beach (sovereign land) that experience high levels of recreational use. This has led to concern for sanitation, public safety, and protection of sovereign land resources. There have been confrontations between private landowners and the public as they access and use the beach. In the past, attempts to educate the public as to voluntary guidelines for use of the beach have proven unsuccessful. Attempts to cite violators were likewise unsuccessful because the guidelines were not enforceable. During public meetings held this year in Salt Lake City and Garden City, public concern was expressed about unsafe use of off-road vehicles regarding speed and proximity to other users, vehicle use too close to the water's edge, and the lack of a law enforcement presence on the beach. The purpose of this change is to provide for effective management of public use on the exposed sovereign land.

SUMMARY OF THE RULE OR CHANGE: This proposed rule establishes speed limits for vehicle use on sovereign lands, specifies when and where motor vehicle use can occur, establishes a 100-foot safety zone around the water's edge, restricts camping and picnicking to certain hours of the day, and specifies that no campfires or fireworks are allowed on the beach.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 65A-1-4(2)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The proposed change can be implemented within existing agency budget and staff. There will be no impact on the state budget.

❖ LOCAL GOVERNMENTS: Local government has advised it will assist the division in enforcing the rule as time, staff and budget allow; therefore, there is no additional cost to local government.

❖ OTHER PERSONS: This change specifies the conditions of use of the sovereign land by the public and does not force them to purchase any permits or incur any additional costs. However, those found using or occupying state lands in violation of this rule will be charged with a class B misdemeanor, as provided in Subsection 65A-3-1(1)(b) and Section 76-3-204. A bail schedule has not yet been set with a court administrator's office, so fines are to be determined by the local magistrate.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Public use of sovereign land is voluntary. The division has not identified any compliance costs other than the fines for violators as referenced under Other persons above.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The rule provides for orderly, safe use of the beach by the public. This is expected to be of benefit to local businesses. Michael Styler, Executive Director

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

**NATURAL RESOURCES
FORESTRY, FIRE AND STATE LANDS
Room 3520
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.**

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jennifer Gregerson at the above address, by phone at 801-538-5418, by FAX at 801-533-4111, or by Internet E-mail at jennifergregerson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/02/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 05/03/2005

AUTHORIZED BY: Karl Kappe, FFSL Strategic Planner

R652. Natural Resources; Forestry, Fire and State Lands.**R652-70. Sovereign Lands.****R652-70-2300. Management of Bear Lake Sovereign Lands.**

(1) Lands lying below the ordinary high water mark of Bear Lake as of the date of statehood are owned by the state of Utah and shall be administered by the division as sovereign lands.

(2) Upon application for a specific use of state lands near the boundary of Bear Lake, or in the event of a dispute as to the ownership of the sovereign character of the lands near the boundary of Bear Lake, the division may evaluate all relevant historical evidence of the lake elevation, the water erosion along the shoreline, the topography of the land, and other relevant information to determine the relationship of the land in question to the ordinary high water mark.

(3) In the absence of evidence establishing the ordinary high water mark as of the date of statehood, the division shall administer all the lands within the bed of Bear Lake and lying below the level of 5,923.68 feet above mean sea level, Utah Power and Light datum, as being sovereign lands.

(4) The division, after notice to affected state agencies and any person with an ownership in the land, may enter into agreements to establish boundaries with owners of land adjoining the bed of Bear Lake; provided that the agreements shall not set a boundary for sovereign lands below the level of 5,923.68 feet above mean sea level.

(5) From October 1 through April 30, motor vehicle use and camping or picnicking will be allowed on the exposed lake bed with the following restrictions:

(a) Motor vehicles will not be allowed on lands administered by the Division of Parks and Recreation.

(b) The established speed limit is 20 miles per hour.

(c) Except as necessary to launch or retrieve watercraft, motor vehicles are not allowed within 100 feet of the water's edge. Travel parallel to the water's edge is allowed, outside of the 100 foot zone.

(d) Camping and use of motorized vehicles are prohibited between the hours of 10 p.m. and 6 a.m.

(e) No campfires or fireworks are allowed.

(6) From May 1 through September 30, motor vehicle use and camping or picnicking will be allowed on the exposed lake bed with the following restrictions:

(a) Areas posted by the division are off limits to motorized vehicles.

(b) The established speed limit is 15 miles per hour.

(c) Except as necessary to launch or retrieve watercraft, motor vehicles are not allowed within 100 feet of the waters edge.

(d) Unless posted otherwise, or to access a camping or picnicking spot, no motor vehicles may travel parallel to the waters edge.

(e) Camping and use of motorized vehicles are prohibited between the hours of 10 p.m. and 7 a.m.

(f) No campfires or fireworks are allowed.

(7) In accordance with Subsections 65A-3-1(1)(b) and 76-3-204, those found in violation of this rule will be charged with a class B misdemeanor, with sentence, fine, or both to be determined by the local magistrate.

**KEY: sovereign lands, permits, administrative procedures
[June 11, 2001]2005**

**Notice of Continuation April 2, 2002
65A-10-1**

Public Safety, Fire Marshal
R710-9-6
Amendments and Additions

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE No.: 27754

FILED: 03/15/2005, 13:06

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Fire Prevention Board met on March 8, 2005, in a regularly scheduled Board meeting and voted by motion to Section R710-9-6 by adding an exception that allows storage on shelves to be placed to the ceiling in certain applications.

SUMMARY OF THE RULE OR CHANGE: In Subsection R710-9-6(6.3.3), the Board proposes to add an exception that allows storage to be placed to the ceiling on wall mounted shelves protected with an automatic fire sprinkler system in light and ordinary hazard occupancies.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-7-204

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no anticipated cost or savings to the state budget because the proposed amendment is an allowance for shelf storage on wall shelving systems and will not affect the state budget.

❖ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government because the proposed amendment is an allowance for shelf storage on wall mounted shelving systems and will not affect local government.

❖ OTHER PERSONS: There is no anticipated cost to other persons but there is an anticipated savings to other persons. The proposed rule amendment will allow storage on wall-mounted shelves to go to the ceiling rather than be required to maintain an 18-inch clearance. This will allow more storage space usage and save having to build more shelves. The aggregate anticipated savings is unknown due to the unknown number of occupancies that will be affected and the unknown number of shelves affected in each occupancy.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no compliance cost for affected persons with the enactment of this rule amendment. The proposed rule amendment will benefit businesses with the allowance to use more storage shelving to the ceiling on wall-mounted shelves rather than build more shelving.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact to businesses for the enactment of this proposed rule amendment. There is a fiscal savings for businesses allowed in buildings that are fire sprinklered to be allowed more shelving space than before. Robert Flowers, Commissioner

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

PUBLIC SAFETY
FIRE MARSHAL
Room 302
5272 S COLLEGE DR
MURRAY UT 84123-2611, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Brent Halladay at the above address, by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at bhallada@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/02/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 05/03/2005

AUTHORIZED BY: Gary A. Wise, State Fire Marshal

**R710. Public Safety, Fire Marshal.
R710-9. Rules Pursuant to the Utah Fire Prevention Law.
R710-9-6. Amendments and Additions.**

The following amendments and additions are hereby adopted by the Board for application statewide:

6.1 Administration

6.1.1 IFC, Chapter 1, Section 102.3 is deleted and rewritten as follows: No change shall be made in the use or occupancy of any structure that would place the structure in a different division of the same group or occupancy or in a different group of occupancies, unless such structure maintains a reasonable level of fire and life safety and the change to use or occupancy does not create a distinct hazard to life or property as determined by the AHJ.

6.1.2 IFC, Chapter 1, Section 102.4 is deleted and rewritten as follows: The design and construction of new structures shall comply with the International Building Code. Repairs, alterations and additions to existing structures are allowed when such structure maintains a reasonable level of fire and life safety and the change does not create a distinct hazard to life or property as determined by the AHJ.

6.1.3 IFC, Chapter 1, Section 102.5 is deleted and rewritten as follows: The construction, alteration, repair, enlargement, restoration, relocation or movement of existing buildings or structures that are designated as historic buildings are allowed when such historic structures maintains a reasonable level of fire and life safety and the change does not create a distinct hazard to life or property as determined by the AHJ.

6.1.4 IFC, Chapter, 1, Section 102.4 is amended as follows: On line three after the words "Building Code." add the following sentence: "The design and construction of detached one- and two-family dwellings and multiple single-family dwellings (town houses) not more than three stories above grade plane in height with a separate means of egress and their accessory structures shall comply with the International Residential Code."

6.1.5 IFC, Chapter 1, Section 109.2 is amended as follows: On line three after the words "is in violation of this code," add the following "or other pertinent laws or ordinances".

6.2 Definitions

6.2.1 IFC, Chapter 2, Section 202, Educational Group E, Day care is amended as follows: On line three delete the word "five" and replace it with the word "four".

6.2.2 IFC, Chapter 2, Section 202, Institutional Group I, Group I-1 is amended to add the following: Add "Type 1" in front of the words "Assisted living facilities".

6.2.3 IFC, Chapter 2 Section 202, Institutional Group I, Group I-2 is amended as follows: On line three delete the word "five" and replace it with the word "three". After "Detoxification facilities" delete the rest of the paragraph, and add the following: "Ambulatory surgical centers with two or more operating rooms where care is less than 24 hours, Outpatient medical care facilities for ambulatory patients (accommodating more than five such patients in each tenant space) which may render the patient incapable of unassisted self-preservation, and Type 2 assisted living facilities. Type 2 assisted living facilities with five or fewer persons shall be classified as a Group R-4. Type 2 assisted living facilities with at least six and not more than 16 residents shall be classified as a Group I-1 facility.

6.2.4 IFC, Chapter 2, Section 202, Institutional Group I, Group I-4, day care facilities, Child care facility is amended as follows: On line three delete the word "five" and replace it with the word "four". Also on line two of the Exception after Child care facility delete the word "five" and replace it with the word "four".

6.2.5 IFC, Chapter 2, Section 202 General Definitions, Occupancy Classification, Residential Group R-1 is amended to add the following: Exception: Boarding houses accommodating 10 persons or less shall be classified as Residential Group R-3.

6.2.6 IFC, Chapter 2, Section 202 General Definitions, Occupancy Classification, Residential Group R-2 is amended to add the following: Exception: Boarding houses accommodating 10 persons or less shall be classified as Residential Group R-3.

6.3 General Precautions Against Fire

6.3.1 IFC, Chapter 3, Section 304.1.2 is amended to delete the following sentence: "Vegetation clearance requirements in urban-wildland interface areas shall be in accordance with the International Urban/Wildland Interface Code."

6.3.2 IFC, Chapter 3, Section 311.1.1 is amended as follows: On line ten delete the words "International Property Maintenance Code and the" from this section.

6.3.3 IFC, Chapter 3, Section 315.2.1 is amended to add the following: Exception: Where storage is not directly below the sprinkler heads, storage is allowed to be placed to the ceiling on wall mounted shelves that are protected by fire sprinkler heads in occupancies meeting classification as light or ordinary hazard.

6.4 Elevator Recall and Maintenance

6.4.1 IFC, Chapter 6, Section 607.3 is deleted and rewritten as follows: Firefighter service keys shall be kept in a "Supra-Stor-a-key" elevator key box or similar box with corresponding key system that is adjacent to the elevator for immediate use by the fire department. The key box shall contain one key for each elevator and one key for lobby control.

6.5 Building Services and Systems

6.5.1 IFC, Chapter 6, Section 610.1 is amended to add the following: On line three after the word "Code" add the words "and NFPA 96".

6.6 Record Drawings

6.6.1 IFC, Chapter 9, Section 901.2.1 is amended to add the following: The code official has the authority to request record drawings ("as built") to verify any modifications to the previously approved construction documents.

6.6.2 IFC, Chapter 9, Section 902.1 Definitions, RECORD DRAWINGS is deleted and rewritten as follows: Drawings ("as built") that document all aspects of a fire protection system as installed.

6.7 Fire Protection Systems

6.7.1 Inspection and Testing of Automatic Fire Sprinkler Systems

The owner or administrator of each building shall insure the inspection and testing of water based fire protection systems as required in IFC, Chapter 9, Section 901.6.

6.7.2 IFC, Chapter 9, Section 903.2.7 Group R, is amended to add the following: Exception: Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) constructed in accordance with the International Residential Code for one- and two-family dwellings.

6.7.3 IFC, Chapter 9, Section 903.2.7 is amended to add the following: Exception: Group R-4 fire areas not more than 4500 gross square feet and not containing more than 16 residents, provided the building is equipped throughout with an approved fire alarm system that is interconnected and receives its primary power from the building wiring and a commercial power system.

6.7.4 IFC, Chapter 9, Section 903.6 is amended to add the following subsection: 903.6.2 Commercial cooking operation suppression. Automatic fire sprinkler systems protecting commercial kitchen exhaust hood and duct systems with appliances that generate appreciable depth of cooking oils shall be replaced with a UL300 listed system by May 1, 2004.

6.7.5 IFC, Chapter 9, Section 903.6 is amended to add the following subsection: 903.6.3 Dry chemical hood system suppression. Existing automatic fire-extinguishing systems using dry chemical that protect commercial kitchen exhaust hood and duct systems shall be removed and replaced with a UL300 listed system by January 1, 2006 or before that date when any of the following occurs: 1) Six year internal maintenance service; 2) Recharge; 3) Hydrostatic test date as indicated on the manufacturers date of the cylinders; or 4) Reconfiguration of the system piping.

6.7.6 IFC, Chapter 9, Section 903.6 is amended to add the following subsection: 903.6.4 Wet chemical hood system suppression. Existing wet chemical fire-extinguishing systems not UL300 listed and protecting commercial kitchen exhaust hood and duct systems shall be removed, replaced or upgraded to a UL300 listed system by January 1, 2006 or before that date when any of the following occurs: 1) Six year internal maintenance service; 2) Recharge; 3) Hydrostatic test date as indicated on the manufacturer date of the cylinder; or 4) Reconfiguration of the system piping.

6.7.7 IFC, Chapter 9, Section 903.6 is amended to add the following subsection: 903.6.5 Group A-2 occupancies. An automatic fire sprinkler system shall be provided throughout Group A-2 occupancies where indoor pyrotechnics are used.

6.7.8 NFPA, Standard 10, Section 6.2.1 is amended to add the following sentence: The use of a supervised listed electronic monitoring system shall be permitted to satisfy the 30 day fire extinguisher interval inspection requirement.

6.8 Backflow Protection

6.8.1 The potable water supply to automatic fire sprinkler systems and standpipe systems shall be protected against backflow in accordance with the International Plumbing Code as amended in the Utah Administrative Code, R156-56-707.

6.9 Retroactive Installations of Automatic Fire Alarm Systems in Existing Buildings

6.9.1 IFC, Chapter 9, Sections 907.3.1.1, 907.3.1.2, 907.3.1.3, 907.3.1.4, 907.3.1.5, 907.3.1.6, 907.3.1.7, and 907.3.1.8 are deleted.

6.10 Smoke Alarms

6.10.1 IFC, Chapter 9, Section 907.3.2 is amended to add the following: On line three after the word "occupancies" add "and detached one- and two-family dwellings and multiple single-family dwellings (townhouses)".

6.10.2 IFC, Chapter 9, Section 907.3.2.3 is amended to add the following: On line one after the word "occupancies" add "and detached one- and two-family dwellings and multiple single-family dwellings (townhouses)".

6.11 Means of Egress

6.11.1 IFC, Chapter 10, Section 1008.1.8.3 is amended to add the following: 5. Doors in Group I-1 and I-2 occupancies, where the clinical needs of the patients require specialized security, approved access controlled egress may be installed when all the following are met: 5.1 The controlled egress doors shall unlock upon activation of the automatic fire sprinkler system or the automatic fire detection system. 5.2 The facility staff can unlock the controlled egress doors by either sensor or keypad. 5.3 The controlled egress doors shall unlock upon loss of power. 6. Doors in Group I-1 and I-2 occupancies, where the clinical needs of the patients require approved, listed delayed egress locks, they shall be installed on doors as allowed in IFC, Section 1008.1.8.6.

6.11.2 IFC, Chapter 10, Section 1009.3 is amended as follows: On line six of Exception 5 delete "7.75" and replace it with "8". On line seven of Exception 5 delete "10" and replace it with "9".

6.11.3 IFC, Chapter 10, Section 1009.11, Exception 4 is deleted and replaced with the following: 4. In occupancies in Group R-3, as applicable in Section 101.2 and in occupancies in Group U, which are accessory to an occupancy in Group R-3, as applicable in Section 101.2, handrails shall be provided on at least one side of stairways consisting of four or more risers.

6.11.4 IFC, Chapter 10, Section 1009.11.3 is amended to add the following: Exception: Non-circular handrails serving an individual unit in a Group R-1, Group R-2 or Group R-3 occupancy shall be permitted to have a maximum cross sectional dimension of 3.25 inches (83 mm) measured 2 inches (51mm) down from the top of the crown. Such handrail is required to have an indentation on both sides between 0.625 inch (16mm) and 1.5 inches (38mm) down from the top or crown of the cross section. The indentation shall be a minimum of 0.25 inch (6mm) deep on each side and shall be at least 0.5 (13mm) high. Edges within the handgrip shall have a minimum radius of 0.0625 inch (2mm). The handrail surface shall be smooth with no cusps so as to avoid catching clothing or skin.

6.11.5 IFC, Chapter 10, Section 1012.2 is amended to add the following exception: 3. For occupancies in Group R-3 and within individual dwelling units in occupancies in Group R-2, as applicable in Section 101.2, guards shall form a protective barrier not less than 36 inches (914mm).

6.11.6 IFC, Chapter 10, Section 1027.2 is amended to add the following: On line five after the word "fire" add the words "and building".

6.12 Fireworks

6.12.1 IFC, Chapter 33, Section 3301.1.3 is amended to add the following Exception: 10. The use of fireworks for display and retail sales is allowed as set forth in UCA 53-7-220 and UCA 11-3-1.

6.13 Flammable and Combustible Liquids

6.13.1 IFC, Chapter 34, Section 3404.4.3 is amended as follows: Delete 3403.6 on line three and replace it with 3403.4.

6.14 Liquefied Petroleum Gas

6.14.1 IFC, Chapter 38, Section 3809.12, is amended as follows: Delete 20 from line three and replace it with 10.

6.14.2 IFC, Chapter 38, Section 3809.14 is amended as follows: Delete 20 from line three and replace it with 10.

KEY: fire prevention, law

~~March 4, 2005~~ **May 3, 2005**

Notice of Continuation June 12, 2002

53-7-204

▼ ————— ▼

**Workforce Services, Employment
Development
R986-200-214
Assistance for Specified Relatives**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 27771

FILED: 03/15/2005, 18:27

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to change eligibility requirements for specified relatives.

SUMMARY OF THE RULE OR CHANGE: Stepparents will now be required to qualify as a household under family employment program rules and will not be eligible as specified relatives. Also the amendment requires that the dependent children in the household be related by blood to the specified relative.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 35A-3-101 et seq. and 35A-3-301 et seq.

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** This is a federally-funded program so there are no costs or savings to the state budget.

❖ **LOCAL GOVERNMENTS:** This rule does not apply to local government so therefore there are no costs or savings to local governments. Local governments do not contribute to the costs of this program. This rule change merely requires that individuals who care for dependent children be related by blood to those dependent children. It also requires that stepparents who are caring for dependent children meet the income and asset eligibility requirements of the financial assistance program.

❖ **OTHER PERSONS:** There are no costs or savings to any other persons as there are no fees associated with this program and it is federally funded.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no costs or savings to any affected persons as there are no fees associated with this program and it is federally funded. Stepparents caring for dependent children will now have to meet the income and asset eligibility requirements and will no longer qualify as specified relatives. All specified relatives will

also be required to be related by blood to the dependent children receiving financial assistance. It will not cost these individuals anything to comply with this rule but a small number of specified relatives may lose financial assistance if they cannot meet the income and asset limits.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no compliance costs associated with this change. There are no fees associated with this change. It will not cost anyone any sum to comply with these changes. Tani Downing, Executive Director

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

WORKFORCE SERVICES
EMPLOYMENT DEVELOPMENT
140 E 300 S
SALT LAKE CITY UT 84111-2333, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/02/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 05/03/2005

AUTHORIZED BY: Tani Downing, Executive Director

—————

**R986. Workforce Services, Employment Development.
R986-200. Family Employment Program.
R986-200-214. Assistance for Specified Relatives.**

(1) Specified relatives include:

- (a) grandparents;
- (b) brothers and sisters;[
- ~~(c) stepparents;]~~

([d]c) stepbrothers and stepsisters;

([e]d) aunts and uncles;

([f]e) first cousins;

([g]f) first cousins once removed;

([h]g) nephews and nieces;

([i]h) people of prior generations as designated by the prefix grand, great, great-great, or great- great-great;

([j]i) a natural parent whose parental rights were terminated by court order;

([k]j) brothers and sisters by legal adoption;

([l]k) the spouse of any person listed above;

([m]l) the former spouse of any person listed above; and[

~~(n) persons who meet any of the above relationships by means of a step relationship even if the marriage has been terminated; and]~~

([o]m) individuals who can prove they met one of the above mentioned relationships via a blood relationship even though the legal relationship has been terminated.

(2) The Department shall require compliance with Section 30-1-4.5

(3) A specified relative may apply for financial assistance for the child. If the child is otherwise eligible, the FEP rules apply with the following exceptions:

(a) The child must have a blood or a legal relationship to the specified relative even if the legal relationship has been terminated.

(b) Both parents must be absent from the home where the child lives; and

(c) The child must be currently living with, and not just visiting, the specified relative; and

(d) The parents' obligation to financially support their child will be enforced and the specified relative must cooperate with child support enforcement; and

(e) If the parent(s) state they are willing to support the child if the child would return to live with the parent(s), the child is ineligible unless there is a court order removing the child from the parent(s)' home.

(4) If the specified relative is currently receiving FEP or FEPTP, the child must be included in that household assistance unit.

(5) The income and resources of the specified relative are not counted unless the specified relative requests inclusion in the household assistance unit.

(6) If the specified relative is not currently receiving FEP or FEPTP, and the specified relative does not want to be included in the financial assistance payment, the specified relative shall be paid, on behalf of the child, the full standard financial assistance payment for one person. The size of the financial assistance payment shall be increased accordingly for each additional eligible child in the household assistance unit excluding the dependent child(ren) of the specified relative. Since the specified relative is not included in the household assistance unit, the income and assets of the specified relative, or the relative's spouse, are not counted.

(7) The specified relative may request to be included in the household assistance unit. If the specified relative is included in the household assistance unit, the household must meet all FEP eligibility requirements including participation requirements and asset limits.

(8) Income eligibility for a specified relative who wants to be included in the household assistance unit is calculated according to R986-200-241.

KEY: family employment program
[April 1, 2004]2005
35A-3-301 et seq.



**Workforce Services, Workforce
Information and Payment Services**
R994-304
**Special Provisions Regarding Transfers
of Unemployment Experience and
Assigning Rates**

NOTICE OF PROPOSED RULE
(New Rule)

DAR FILE NO.: 27770
FILED: 03/15/2005, 18:13

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this new rule is to assist and explain enforcement of H.B. 10 passed in the 2005 General Session of the Utah State Legislature. (DAR NOTE: H.B. 10 is found at UT L 2005 Ch 12, and was effective 03/15/2005.)

SUMMARY OF THE RULE OR CHANGE: H.B. 10 as passed in the 2005 General Session of the Utah State Legislature, prohibits employers from transferring ownership, management, and/or control of a company to another company to obtain a lower experience rate calculation. This rule is intended to assist in the enforcement of that new law.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-4-304

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** This is a federally funded program and there will be no cost or savings to the state budget. Even though the state pays unemployment benefits, since the state has never been able to change "ownership" to achieve a lower experience rating, this rule change will not represent a cost or savings to the state.

❖ **LOCAL GOVERNMENTS:** This is a federally funded state-run program and there will be no cost or savings to any local governmental entity. Even though local governments pay unemployment benefits, since local governments have never been able to change "ownership" to avoid a higher experience rating, this rule change will represent no costs of savings to local governmental entities.

❖ **OTHER PERSONS:** There will be no cost or savings to other persons not anticipated by the legislation. Only those employers attempting to transfer interest in a company to another company in an effort to avoid unemployment liability will be affected. The legislation provides that the "higher" experience rating will "follow" the transfer to the new company.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for any persons. This rule makes no substantive change to the legislation passed in the 2005 General Session as H.B. 10. An employer that transferred ownership in a business to avoid a higher experience rating prior to passage of H.B. 10 will be unable to illegally avoid that experience rating now but the change was made by the legislation, not this rule. This rule merely defines the procedure for effectuating the legislative change and carries no compliance costs independent of that legislation.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no impact on businesses as a result of this rule. Employers will no longer be able to avoid an experience rating by transferring ownership to a new employer as a result of the legislation. This new rule simply follows the legislation. Tani Downing, Executive Director

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

WORKFORCE SERVICES
 WORKFORCE INFORMATION AND
 PAYMENT SERVICES
 140 E 300 S
 SALT LAKE CITY UT 84111-2333, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/02/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 05/03/2005

AUTHORIZED BY: Tani Downing, Executive Director

R994. Workforce Services, Workforce Information and Payment Services.

R994-304. Special Provisions Regarding Transfers of Unemployment Experience and Assigning Rates.

R994-304-101. Transfer of a Trade or Business, or Portion Thereof, with Common Ownership, Management, or Control.

(1) The term "person" includes but is not limited to an individual, trust, estate, partnership, association, limited liability company, corporation, government entity, or Indian tribe. The "predecessor employer" is the employer that transfers its trade or business, or a portion of its trade of business, to another employer. The "successor employer" is the employer that acquires the trade or business, or a portion of the trade or business.

(2) Common ownership exists if an employer transfers a trade or business, or a portion of a trade or business, to another employer and at the time of the transfer:

(a) the predecessor employer owns 50% or more of the of the trade or business of the successor employer. For entities that issue shares of stock ownership, 50% or more of the "voting shares" of stock interest must be common to both; or

(b) an individual with a controlling interest in the predecessor trade or business, transfers that controlling interest to an individual in the successor trade or business and the parties are related in one of the following ways:

- (i) spouse;
- (ii) parent;
- (iii) step parent;
- (iv) child;
- (v) step child;
- (vi) sibling; or
- (vii) step sibling.

(3) The Department will determine common management or control using the best available evidence.

(a) Common management will be found if the predecessor and successor employers have the same or similar:

- (i) managers, officers, board of directors;
 - (ii) personnel and human resource policies;
 - (iii) operating procedures;
 - (iv) sales and pricing policies;
 - (v) collection procedures;
 - (vi) financing policies;
 - (vii) accounting practices; or
 - (viii) purchasing practices.
- (b) common control will be found where the predecessor and successor employers have the same or similar:
- (i) control of the assets used to conduct the business enterprise;
 - (ii) financing and/or leasing arrangements;
 - (iii) contracts; or
 - (iv) business, professional, and regulatory licenses of the business enterprise.
- (4) The factors listed in subsections 3(a) and (3)(b) of this section are not exclusive and are intended as aids for analyzing the facts of each case. The degree of importance of each factor in those subsections varies depending on the nature of the trade or business transferred. Some do not apply to certain trades or businesses and, therefore, should not be given any weight. The Department will scrutinize the facts in each case to assure that the form of the transfer does not obscure the substance of the transfer.

R994-304-102. Notification Requirements.

(1) All parties to a transfer described in Section 35A-4-304(3)(a) must provide the following information to the Department within 30 days of the transfer date:

- (a) the effective date of the transfer;
- (b) the percentage of the assets, trade or business, and workforce transferred;
- (c) the reason for the transfer;
- (d) the following information for both the predecessor and the successor employers:
 - (i) name;
 - (ii) street address;
 - (iii) Utah Unemployment Insurance Registration Numbers, if one has been assigned; and
 - (iv) Federal Employer Identification Numbers (FEIN), if one has been assigned;
 - (e) the name and Social Security number (SSN) or FEIN of any successor employer who was also a predecessor employer, or any individual who is related to the predecessor. Related means to have a family relationship as described in Section R994-304-101(2)(b).
 - (f) Common management and control practices that were retained from the predecessor employer.
 - (g) Any other information requested by the Department.

R994-304-103. Recalculation and Effective Date of Contribution Rates.

Any employer that is a party to a transfer of an employer's trade or business described in Section 35A-4-304(3)(a) shall have its contribution rate recalculated. The effective date of the recalculation shall be the first day of the calendar quarter following the actual date of the transfer, unless the actual transfer occurred on the first day of a calendar quarter, in which case the recalculation takes effect on that day.

R994-304-104. Identification of the Transfer or Acquisition of an Employer's Workforce.

The Department will develop and implement programs to aid in the detection and identification of employers that transfer or acquire all or a portion of another employer's workforce.

KEY: unemployment experience rating
2005
35-A-4-304



End of the Notices of 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 responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

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

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by *Utah Code* Section 63-46a-9 (1998).

Commerce, Occupational and Professional Licensing **R156-38** Residence Lien Restriction and Lien Recovery Fund Rules

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 27752
FILED: 03/15/2005, 08:31

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 38, Chapter 11, provides for the Residence Lien Recovery Fund. Section 38-11-103 provides that this chapter is to be administered by the Division of Occupational and Professional Licensing. Section 38-11-105 and Subsection 38-11-108(2) provide that the Division shall establish procedures by rule with respect to the Fund. This rule was enacted to clarify the provisions of Title 38, Chapter 11, with respect to the Residence Lien Recovery Fund.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since this rule was last reviewed in April 2000, it has been amended six times. The rule was amended on July 26, 2004, February 3, 2004, June 17, 2003, July 3, 2002, September 17, 2001, and July 17, 2001. Most of the amendments which were proposed were the result of legislative changes made to Title 38, Chapter 11, during the years since April 2000. No written comments have been received with respect to any of the proposed rule filings.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued for several reasons. First, the rule sets forth the

evidentiary requirements for Lien Recovery Fund applications. Without those requirements the processing of applications would decay into a chaotic morass. Second, the rule codifies years of decisions so the public has a single, convenient reference for guidance on taking advantage of the Residence Lien Restriction and Lien Recovery Fund Act. Finally, the rule is the repository of instructions for all Fund activities. Without that guidance, the Fund's workings would become mired in inefficiency and contradiction.

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:
Earl Webster or Rich Oborn at the above address, by phone at 801-530-7632 or 801-530-6104, by FAX at 801-530-6511 or 801-530-6511, or by Internet E-mail at ewebster@utah.gov or roborn@utah.gov

AUTHORIZED BY: J. Craig Jackson, Director

EFFECTIVE: 03/15/2005



Commerce, Occupational and Professional Licensing **R156-60c** Professional Counselor Licensing Act Rules

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 27749
FILED: 03/14/2005, 13:42

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 58, Chapter 60, Part 4, provides for the licensure of professional counselors and certified professional counselor interns. Subsection 58-1-106(1)(a) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-60-403(3) provides that the Professional Counselor Licensing Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1)(a) provides that one of the duties of each board is to recommend appropriate rules to the division director. This rule was enacted to clarify the provisions of Title 58, Chapter 60, Part 4, with respect to professional counselors and certified professional counselor interns.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since this rule was last reviewed in April 2000, it has been amended three times. In June 2003, amendments were proposed to clarify the educational requirements so that they were consistent with national accrediting requirements for mental health therapy. The Division received no written comments with respect to this rule filing. In December 2001, an amendment was proposed to update the ethical standards to the current edition. The Division received no written comments with respect to this rule filing. In June 2001, amendments were proposed as a result of legislative changes made in the respective statute in 2001. The statute amendments created a new license classification of certified professional counselor intern. Amendments were proposed to the rule regarding the new classification of licensure. The Division received one written comment from Sheila Bittle in June 2001 regarding the continuing education requirements for certified professional counselor interns. The Division and Professional Counselor Licensing Board reviewed Ms. Bittle's written comments regarding lessening the number of continuing education hours required for certified professional counselor interns and determined that the number of continuing education hours should remain at 40 continuing education hours every two years to ensure that the certified professional counselor intern was as up to date with continuing education as a licensed professional counselor.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 60, Part 4, with respect to professional counselors and certified professional counselor interns. The rule should also be continued as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements.

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:

Debra Hendren at the above address, by phone at 801-530-6621, by FAX at 801-530-6511, or by Internet E-mail at debhendren@utah.gov

AUTHORIZED BY: J. Craig Jackson, Director

EFFECTIVE: 03/14/2005

▼ ————— ▼

**Environmental Quality, Radiation
Control
R313-34
Requirements for Irradiators**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 27738
FILED: 03/08/2005, 14:06

**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 19-1-106(1) created the Radiation Control Board within the Department of Environmental Quality. Subsection 19-3-104(4) provides that the Board may make rules necessary for controlling exposure to sources of radiation that constitute a significant health hazard and to meet the requirements of federal law relating to radiation control.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: This has not been a controversial rule, as there have been no comments received during and since the last five-year review of the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Radiation Control Board recommends the continuation of this rule. This rule must be continued because it establishes the requirements for the possession and use of radioactive sealed sources in

irradiators. These devices use gamma radiation for irradiation of objects or materials. The rule provides for protection of public health and safety by controlling panoramic irradiators that have either dry or wet storage of the radioactive sealed sources; underwater irradiators in which both the source and object being irradiated are underwater; and irradiators whose dose rate exceeds 500 rads per hour at one meter from the radioactive source in air or in water.

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

ENVIRONMENTAL QUALITY
RADIATION CONTROL
Room 212
168 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Craig Jones at the above address, by phone at 801-536-4264, by FAX at 801-533-4097, or by Internet E-mail at cwjones@utah.gov

AUTHORIZED BY: Dane Finerfrock, Director

EFFECTIVE: 03/08/2005



Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-61
Home and Community Based Waivers

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 27741
FILED: 03/11/2005, 12:13

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Section 26-1-5 that grants the Utah Department of Health the power to adopt, amend, or rescind rules that shall have the force and effect of law. In addition, Section 26-18-3 requires the Department to administer the Medicaid program. Furthermore, 42 USC 1396n(c) authorizes the Department to administer home and community based services by waiver.

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 or oral comments have been received that support or oppose this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because it implements all home and community based waivers that provide community based alternatives to institutional care; currently enables over 5,000 Medicaid clients to either postpone or prevent the need to go into nursing homes; and provides a financial cost savings to the state.

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 at the above address, by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 03/11/2005



Tax Commission, Auditing
R865-16R
Severance Tax

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 27739
FILED: 03/08/2005, 15:38

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 59-2-203 indicates how taxable value shall be determined for purposes of imposing the mining severance tax of 2.6% of taxable value. This section also requires the Tax Commission to establish a rule setting forth an established authority for market prices of metals; and a process for determining the value of metals sold between affiliates where a bona fide sale has not taken place.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received in the last five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule establishes authority and promulgates processes both required by statute and is necessary in the determination of fair market value. The rule is necessary to ensure that the measurement of taxable value is consistent among the different tax payers, thereby ensuring that all pay their fair share of tax. Therefore, this rule should be continued.

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

TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

AUTHORIZED BY: Pam Hendrickson, Commissioner

EFFECTIVE: 03/08/2005



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

NOTICES OF RULE EFFECTIVE DATES

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

Abbreviations

AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal and Reenact
REP = Repeal

Administrative Services

Facilities Construction and Management

No. 27603 (AMD): R23-1. Procurement of Construction.

Published: January 15, 2005

Effective: March 15, 2005

No. 27605 (AMD): R23-2. Procurement of Architect-Engineer Services.

Published: January 15, 2005

Effective: March 15, 2005

No. 27615 (AMD): R23-3. Planning and Programming for Capital Projects.

Published: January 15, 2005

Effective: March 15, 2005

No. 27610 (AMD): R23-4. Suspension/Debarment and Contract Performance Review Committee.

Published: January 15, 2005

Effective: March 15, 2005

No. 27614 (NEW): R23-26. Dispute Resolution.

Published: January 15, 2005

Effective: March 15, 2005

Records Committee

No. 27621 (NEW): R35-1a. State Records Committee Definitions.

Published: January 15, 2005

Effective: March 8, 2005

No. 27625 (AMD): R35-2. Declining Appeal Hearings.

Published: January 15, 2005

Effective: March 4, 2005

No. 27622 (AMD): R35-3. Prehearing Conferences.

Published: January 15, 2005

Effective: March 4, 2005

No. 27624 (AMD): R35-4. Compliance with State Records Committee Decisions and Orders.

Published: January 15, 2005

Effective: March 4, 2005

No. 27623 (AMD): R35-5. Subpoenas Issued by the Records Committee.

Published: January 15, 2005

Effective: March 4, 2005

No. 27620 (AMD): R35-6. Expedited Hearing.

Published: January 15, 2005

Effective: March 4, 2005

Capitol Preservation Board (State)

Administration

No. 27631 (NEW): R131-8. CPB Facilities and Grounds: Maintenance of Aesthetics.

Published: January 15, 2005

Effective: March 3, 2005

No. 27632 (NEW): R131-9. State Capitol Preservation Board Art Program and Policy.

Published: January 15, 2005

Effective: March 3, 2005

Commerce

Occupational and Professional Licensing

No. 27548 (AMD): R156-47b. Massage Therapy Practice Act Rules.

Published: December 15, 2004

Effective: March 7, 2005

No. 27548 (CPR): R156-47b. Massage Therapy Practice Act Rules.

Published: February 1, 2005

Effective: March 7, 2005

Environmental Quality

Air Quality

No. 27429 (AMD): R307-110-11. Section IX, Control Measures for Area and Point Sources, Part B, Sulfur Dioxide.

Published: October 1, 2004

Effective: March 4, 2005

No. 27429 (CPR): R307-110-11. Section IX, Control Measures for Area and Point Sources, Part B, Sulfur Dioxide.

Published: February 1, 2005

Effective: March 4, 2005

NOTICES OF RULE EFFECTIVE DATES

Governor

Planning and Budget, Chief Information Officer
No. 27545 (NEW): R365-101. Utah Geographic Information Systems Advisory Council.
Published: December 1, 2004
Effective: March 9, 2005

Human Services

Substance Abuse and Mental Health
No. 27638 (AMD): R523-1. Policies and Procedures.
Published: February 1, 2005
Effective: March 7, 2005

Recovery Services

No. 27648 (AMD): R527-40. Retained Support.
Published: February 1, 2005
Effective: March 14, 2005

No. 27647 (AMD): R527-255. Substantial Change in Circumstances.
Published: February 1, 2005
Effective: March 14, 2005

Services for People with Disabilities

No. 27651 (REP): R539-2. Civil Rights.
Published: February 1, 2005
Effective: March 12, 2005

No. 27626 (NEW): R539-2. Service Coordination.
Published: January 15, 2005
Effective: March 12, 2005

No. 27627 (NEW): R539-3. Rights and Protections.
Published: January 15, 2005
Effective: March 12, 2005

No. 27652 (REP): R539-3. Service Coordination.
Published: February 1, 2005
Effective: March 12, 2005

Labor Commission

Safety

No. 27616 (AMD): R616-2-3. Safety Codes and Rules for Boilers and Pressure Vessels.
Published: January 15, 2005
Effective: March 7, 2005

Natural Resources

Wildlife Resources

No. 27649 (AMD): R657-33. Taking Bear.
Published: February 1, 2005
Effective: March 4, 2005

No. 27639 (REP): R657-47. Trust Fund Permits.
Published: February 1, 2005
Effective: March 4, 2005

Public Safety

Fire Marshal

No. 27654 (AMD): R710-3-3. Amendments and Additions.
Published: February 1, 2005
Effective: March 4, 2005

No. 27653 (AMD): R710-4-3. Amendments and Additions.
Published: February 1, 2005
Effective: March 4, 2005

No. 27655 (AMD): R710-9-6. Amendments and Additions.
Published: February 1, 2005
Effective: March 4, 2005

School and Institutional Trust Lands

Administration

No. 27611 (REP): R850-20. Mineral Resources.
Published: January 15, 2005
Effective: April 1, 2005

No. 27612 (NEW): R850-21. Oil, Gas and Hydrocarbon Resources.
Published: January 15, 2005
Effective: April 1, 2005

No. 27613 (NEW): R850-22. Bituminous-Asphaltic Sands and Oil Shale Resources.
Published: January 15, 2005
Effective: April 1, 2005

No. 27609 (NEW): R850-23. Sand, Gravel and Cinders Permits.
Published: January 15, 2005
Effective: April 1, 2005

No. 27607 (NEW): R850-24. General Provisions: Mineral and Material Resources, Mineral Leases and Material Permits.
Published: January 15, 2005
Effective: April 1, 2005

No. 27606 (NEW): R850-25. Mineral Leases and Materials Permits.
Published: January 15, 2005
Effective: April 1, 2005

No. 27604 (NEW): R850-26. Coal Leases.
Published: January 15, 2005
Effective: April 1, 2005

No. 27601 (NEW): R850-27. Geothermal Steam.
Published: January 15, 2005
Effective: April 1, 2005

No. 27602 (REP): R850-130. Materials Permits.
Published: January 15, 2005
Effective: April 1, 2005

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 1, 2005, including notices of effective date received through March 15, 2005, the effective dates of which are no later than April 1, 2005. The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

DAR NOTE: The index may contain inaccurate page number references. Also the index is incomplete in the sense that index entries for Changes in Proposed Rules (CPRs) are not preceded by entries for their parent Proposed Rules. Bulletin issue information and effective date information presented in the index are, to the best of our knowledge, complete and accurate. If you have any questions regarding the index and the information it contains, please contact Nancy Lancaster (801 538-3218), Mike Broschinsky (801 538-3003), or Kenneth A. Hansen (801 538-3777).

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

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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<u>Facilities Construction and Management</u>					
R23-1	Procurement of Construction	27603	AMD	03/15/2005	2005-2/2
R23-2	Procurement of Architect-Engineer Services	27605	AMD	03/15/2005	2005-2/7
R23-3	Planning and Programming for Capital Projects	27615	AMD	03/15/2005	2005-2/9
R23-4	Suspension/Debarment and Contract Performance Review Committee	27610	AMD	03/15/2005	2005-2/10
R23-26	Dispute Resolution	27614	NEW	03/15/2005	2005-2/12
<u>Fleet Operations</u>					
R27-1-2	Definitions	27546	AMD	01/10/2005	2004-23/3
R27-3-6	Application for Commute or Take Home Use	27599	NSC	02/01/2005	Not Printed
R27-4	Vehicle Replacement and Expansion of State Fleet	27543	AMD	01/10/2005	2004-23/5
R27-4-1	Authority	27594	NSC	02/01/2005	Not Printed
R27-6	Fuel Dispensing Program	27544	AMD	01/10/2005	2004-23/7

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R35-2	Declining Appeal Hearings	27625	AMD	03/04/2005	2005-2/18
R35-3	Prehearing Conferences	27622	AMD	03/04/2005	2005-2/19
R35-4	Compliance with State Records Committee Decisions and Orders	27624	AMD	03/04/2005	2005-2/20
R35-5	Subpoenas Issued by the Records Committee	27623	AMD	03/04/2005	2005-2/21
R35-6	Expedited Hearing	27620	AMD	03/04/2005	2005-2/22
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R58-1-7	Swine	27687	AMD	03/18/2005	2005-4/8
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R58-7	Livestock Markets, Satellite Video Livestock Auction Market, Livestock Sales, Dealers, and Livestock Market Weighpersons	27688	5YR	02/01/2005	2005-4/47
R58-10	Meat and Poultry Inspection	27693	5YR	02/03/2005	2005-5/28
R58-17	Aquaculture and Aquatic Animal Health	27696	5YR	02/03/2005	2005-5/28
R58-21	Trichomoniasis	27694	5YR	02/03/2005	2005-5/29
R58-22	Equine Infectious Anemia (EIA)	27695	5YR	02/03/2005	2005-5/29
<u>Plant Industry</u>					
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R68-20	Utah Organic Standards	27697	5YR	02/04/2005	2005-5/30
<u>Regulatory Services</u>					
R70-440	Egg Products Inspection	27514	NSC	01/01/2005	Not Printed
R70-440-2	Adopt by Reference	27628	AMD	02/15/2005	2005-2/23
R70-440-2	Adopt by Reference	27667	NSC	03/01/2005	Not Printed
R70-540-14	Exemptions	27569	AMD	03/18/2005	2004-24/7
R70-960-7	Registration Certificate Displayed	27523	NSC	01/01/2005	Not Printed
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R131-1	Procurement of Architectural and Engineering Services	27711	5YR	02/16/2005	2005-6/33
R131-2	Capitol Hill Facility Use	27712	5YR	02/16/2005	2005-6/33
R131-7	State Capitol Preservation Board Master Planning Policy	27713	5YR	02/16/2005	2005-6/34
R131-8	CPB Facilities and Grounds: Maintenance of Aesthetics	27631	NEW	03/03/2005	2005-2/24
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<u>Administration</u>					
R151-1	Department of Commerce General Provisions	27633	NEW	02/15/2005	2005-2/29
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<u>Occupational and Professional Licensing</u>					
R156-1	General Rules of the Division of Occupational and Professional Licensing	27499	NSC	01/01/2005	Not Printed

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R156-31b	Nurse Practice Act Rules	27600	AMD	02/17/2005	2005-2/36
R156-38	Residence Lien Restriction and Lien Recovery Fund Rules	27752	5YR	03/15/2005	2005-7/75
R156-47b	Massage Therapy Practice Act Rules	27548	CPR	03/07/2005	2005-3/51
R156-47b	Massage Therapy Practice Act Rules	27548	AMD	03/07/2005	2004-24/7
R156-50	Private Probation Provider Licensing Act Rules	27435	CPR	01/18/2005	2004-24/58
R156-50	Private Probation Provider Licensing Act Rules	27435	AMD	01/18/2005	2004-20/12
R156-56	Utah Uniform Building Standard Act Rules	27489	AMD	01/01/2005	2004-21/6
R156-56-704	Statewide Amendments to the IBC	27490	AMD	01/01/2005	2004-21/11
R156-60c	Professional Counselor Licensing Act Rules	27749	5YR	03/14/2005	2005-7/76
R156-61-502	Unprofessional Conduct	27538	AMD	01/04/2005	2004-23/40
R156-71-202	Naturopathic Physician Formulary	27533	AMD	01/04/2005	2004-23/41
<u>Securities</u>					
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Community and Economic Development					
<u>Community Development, Community Services</u>					
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R202-203-324	Income Deductions	27421	AMD	01/12/2005	2004-19/25
R202-203-328	Self-Employment Income	27419	AMD	01/12/2005	2004-19/26
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R277-400	School Emergency Response Plans	27539	NSC	01/01/2005	Not Printed
R277-422	State Supported Voted Leeway, Local Board-Approved Leeway and Local Board Leeway for Reading Improvement Programs	27702	NSC	03/01/2005	Not Printed
R277-473	Testing Procedures	27547	AMD	01/04/2005	2004-23/43
R277-501	Educator Licensing Renewal, Highly Qualified and Timelines	27722	5YR	02/23/2005	2005-6/35
R277-713	Concurrent Enrollment of High School Students in College Courses	27662	AMD	03/21/2005	2005-4/14
R277-725	Electronic High School	27507	NSC	01/01/2005	Not Printed
R277-733	Adult Education Programs	27592	AMD	02/01/2005	2005-1/10
R277-746	Driver Education Programs for Utah Schools	27520	NSC	01/01/2005	Not Printed
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<u>Air Quality</u>					
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R307-110-11	Section IX, Control Measures for Area and Point Sources, Part B, Sulfur Dioxide	27429	CPR	03/04/2005	2005-3/52
R307-110-12	Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide	27343	CPR	01/04/2005	2004-23/53
R307-110-12	Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide	27343	AMD	01/04/2005	2004-17/12
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R380-40	Local Health Department Minimum Performance Standards	27571	AMD	02/02/2005	2004-24/9
<u>Health Care Financing, Coverage and Reimbursement Policy</u>					
R414-1B	Prohibition of Payment for Certain Abortion Services	27582	NSC	02/01/2005	Not Printed
R414-7D	Intermediate Care Facility for the Mentally Retarded Transition Project	27505	NEW	01/03/2005	2004-22/15
R414-10A-6	Prior Authorization	27486	NSC	01/01/2005	Not Printed
R414-34-6	Qualified Providers	27589	AMD	02/01/2005	2005-1/21
R414-36-6	Qualified Providers	27591	AMD	02/01/2005	2005-1/22
R414-61	Home and Community Based Waivers	27741	5YR	03/11/2005	2005-7/77
R414-61-2	Incorporation by Reference	27586	AMD	02/01/2005	2005-1/23
R414-63	Medicaid Policy for Pharmacy Reimbursement	27549	AMD	01/26/2005	2004-24/13
R414-90	Diabetes Self-Management Training	27557	AMD	01/19/2005	2004-24/15
R414-200	Non-Traditional Medicaid Health Plan Services	27588	AMD	02/01/2005	2005-1/24
R414-507	Medicaid Long Term Care Managed Care	27629	NEW	02/15/2005	2005-2/42
<u>Health Systems Improvement, Emergency Medical Services</u>					
R426-12	Emergency Medical Services Training and Certification Standards	27519	AMD	02/01/2005	2004-22/26
R426-13	Emergency Medical Services Provider Designations	27521	AMD	02/01/2005	2004-23/47
R426-14-303	Ambulance Service and Paramedic Service Licensure	27584	NSC	02/01/2005	Not Printed
R426-15	Licensed and Designated Provider Operations	27522	AMD	02/01/2005	2004-23/48
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R432-8	Specialty Hospital - Chemical Dependency/Substance Abuse Construction	27675	5YR	01/28/2005	2005-4/48
R432-9	Specialty Hospital - Rehabilitation Construction Rule	27676	5YR	01/28/2005	2005-4/48
R432-10	Specialty Hospital - Long-Term Acute Care Construction Rule	27677	5YR	01/28/2005	2005-4/49
R432-11	Specialty Hospital - Orthopedic Hospital Construction	27678	5YR	01/28/2005	2005-4/49
R432-12	Small Health Care Facility (Four to Sixteen Beds) Construction Rule	27679	5YR	01/28/2005	2005-4/50
R432-13	Freestanding Ambulatory Surgical Center Construction Rule	27680	5YR	01/28/2005	2005-4/50
R432-14	Birthing Center Construction Rule	27681	5YR	01/28/2005	2005-4/51
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R527-40	Retained Support	27648	AMD	03/14/2005	2005-3/30
R527-210	Guidelines for Setting Child Support Awards	27534	REP	01/04/2005	2004-23/49
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R539-2	Service Coordination	27626	NEW	03/12/2005	2005-2/45
R539-3	Service Coordination	27652	REP	03/12/2005	2005-3/34
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R590-132	Insurance Treatment of Human Immunodeficiency Virus (HIV) Infection	27686	5YR	01/31/2005	2005-4/54
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R590-196	Bail Bond Surety Fee Standards, Collateral Standards, and Disclosure Form	27644	5YR	01/07/2005	2005-3/60
R590-196	Bail Bond Surety Fee Standards, Collateral Standards, and Disclosure Form	27558	AMD	02/10/2005	2004-24/25
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Money Management Council					
<u>Administration</u>					
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Natural Resources					
<u>Oil, Gas and Mining; Coal</u>					
R645-105	Blaster Training, Examination and Certification	27778	5YR	03/25/2005	Not Printed
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ABBREVIATIONS

AMD = Amendment
 CPR = Change in proposed rule
 EMR = Emergency rule (120 day)
 NEW = New rule
 EXD = Expired

NSC = Nonsubstantive rule change
 REP = Repeal
 R&R = Repeal and reenact
 5YR = Five-Year Review

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	27332	R595-3	NEW	02/01/2005	2004-17/24
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	27490	R156-56-704	AMD	01/01/2005	2004-21/11
	27749	R156-60c	5YR	03/14/2005	2005-7/76
	27538	R156-61-502	AMD	01/04/2005	2004-23/40
	27533	R156-71-202	AMD	01/04/2005	2004-23/41
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