

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
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The *Utah State Bulletin (Bulletin)* is an official noticing publication of the executive branch of Utah State Government. The Department of Administrative Services, Division of Administrative Rules produces the *Bulletin* under authority of Section 63G-3-402, *Utah Code Annotated* 1953.

Inquiries concerning administrative rules or other contents of the *Bulletin* may be addressed to the responsible agency or to: Division of Administrative Rules, 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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SPECIAL NOTICES

Governor's Executive Order 2009-0004: Wildland Fire Management

EXECUTIVE ORDER

Wildland Fire Management

WHEREAS, the danger from wildland fires is extremely high throughout the State of Utah;

WHEREAS, wildland fires are burning and continue to burn in various areas statewide and present a serious threat to public safety, property, natural resources, and the environment;

WHEREAS, some of the areas are extremely remote and inaccessible and the situation has the potential to greatly worsen if left unattended;

WHEREAS, immediate action is required to suppress the fires and mitigate post-burn flash floods to protect public safety, property, natural resources and the environment;

WHEREAS, these conditions do create a disaster emergency within the intent of the Disaster Response and Recovery Act of 1981,

NOW THEREFORE, I, Jon M. Huntsman, Jr., Governor of the State of Utah by virtue of the power vested in me by the constitution and the laws of the State of Utah, do hereby order that:

It is found, determined and declared that a "State of Emergency" exists statewide due to the threat to public safety, property, natural resources and the environment for thirty days, effective as of June 10, 2009 requiring aid, assistance and relief available pursuant to the provisions of state statutes, and the State Emergency Operations Plan, which is hereby activated.

IN WITNESS, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah this 10th day of June 2009.

(State Seal)

Jon M. Huntsman
Governor

ATTEST:

Gary R. Herbert
Lieutenant Governor

2009/0004

**Health
Health Care Financing, Coverage and Reimbursement Policy**

Notice for July 2009 Medicaid Rate Changes

Effective July 1, 2009, Utah Medicaid will adjust its rates consistent with legislative intent and appropriations. Rate adjustments include new codes priced consistent with approved Medicaid methodologies, as well as potential adjustments to existing codes. Nursing home rate changes will include adjustments to the flat rate, fair rental value, and case mix components consistent with adopted payment methodology. All rate changes are posted to the web and can be viewed at: <http://health.utah.gov/medicaid/stplan/bcrp.htm>

**Health
Health Care Financing, Coverage and Reimbursement Policy**

Medical Care Advisory Committee Public Hearing

The Medical Care Advisory Committee (MCAC) will hold a public hearing to discuss the Fiscal Year 2011 Medicaid and Primary Care Network budgets. The hearing will be held on June 18, 2009, from 4 pm to 6 pm, in Room 114 of the Cannon Health Building, 288 North 1460 West, Salt Lake City, Utah.

Individuals requiring an accommodation to fully participate in this meeting should contact John Strong, 801-538-6587, before June 18, 2009.

Written comments may also be sent to the following mailing address: MCAC, Box 143101, Salt Lake City, UT 84114-3101.

End of the Special Notices Section

NOTICES OF PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between May 16, 2009, 12:00 a.m., and June 1, 2009, 11:59 p.m. are included in this, the June 15, 2009, 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 between paragraphs (.) indicates that unaffected text from within a section was removed to conserve space. Unaffected sections are not printed. 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 July 15, 2009. 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 63G-3-302 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 October 13, 2009, the agency may notify the Division of Administrative Rules that it wants to make the PROPOSED RULE effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a CHANGE IN PROPOSED RULE in response to comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE 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 Section 63G-3-301; and Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page.

Administrative Services, Records
Committee
R35-1-1
Scheduling Committee Meetings

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 32684

FILED: 05/19/2009, 16:53

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to update notification procedures for Committee meetings to utilize the public meeting notice website.

SUMMARY OF THE RULE OR CHANGE: Change the procedure from send a notice of the meeting to a newspaper to post a notice on the public meeting notice website.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63G-2-403

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--Announcing the scheduling of meetings of the State Records Committee through the public meeting notice website will not change the cost of making public notifications.

❖ LOCAL GOVERNMENTS: None--Local governments can access the public meeting notice website for no cost.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--This method of notification through the public meeting notice website will not affect small business costs but should be a convenient way of accessing information about public meetings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--This method of notification of meetings will not affect costs to individuals. It is available to anyone who has access to the internet.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no cost to the state, local government, or to small business. Kimberly K. Hood, Executive Director

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

ADMINISTRATIVE SERVICES
RECORDS COMMITTEE
ARCHIVES BUILDING
346 S RIO GRANDE
SALT LAKE CITY UT 84101-1106, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Susan Mumford at the above address, by phone at 801-531-3861, by FAX at 801-531-3867, or by Internet E-mail at smumford@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 07/15/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2009

AUTHORIZED BY: Patricia Smith-Mansfield, Director

R35. Administrative Services, Records Committee.**R35-1. State Records Committee Appeal Hearing Procedures.****R35-1-1. Scheduling Committee Meetings.**

(1) The Executive Secretary shall respond in writing to the notice of appeal within five business days.

(2) Two weeks prior to the Committee meeting or appeal hearing the Executive Secretary shall post[send] a notice of the meeting on the Public Meeting Notice Web site. [to at least one newspaper of general circulation within the geographic jurisdiction.]

(3) One week prior to the Committee meeting or appeal hearing the Executive Secretary shall post a notice of the meeting indicating the agenda, date, time and place of the meeting at the building where the meeting is to be held and at the Utah State Archives.

KEY: government documents, state records committee, records appeal hearings

Date of Enactment or Last Substantive Amendment: [~~August 9, 2006~~]2009

Notice of Continuation: July 2, 2004

Authorizing, and Implemented or Interpreted Law: 63G[G]-2-502(2)(a)

Administrative Services, Records
Committee
R35-1-2
Procedures for Appeal Hearings

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 32685

FILED: 05/19/2009, 16:53

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is the addition of options for Committee chair to handle repeated postponements of hearings and timeliness of appeals.

SUMMARY OF THE RULE OR CHANGE: The amendment adds the option for Committee chair to handle repeated postponements of hearings and timeliness of appeals.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63G-2-403

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--The procedures for scheduling hearings will not affect the cost of these processes but will facilitate participation of volunteer committee members and avoid long delays in hearing appeals.
- ❖ LOCAL GOVERNMENTS: None--Local governmental agencies who are respondents in appeal hearings will have the benefit of clarification of procedures, but no cost changes other than those associated with representation at hearings are affected.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--No costs associated with the procedure changes would accrue to small businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The procedural changes will not affect individuals involved in the hearings of the committee.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no cost to the state, local government, or to small business.
Kimberly K. Hood, Executive Director

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

ADMINISTRATIVE SERVICES
RECORDS COMMITTEE
ARCHIVES BUILDING
346 S RIO GRANDE
SALT LAKE CITY UT 84101-1106, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Susan Mumford at the above address, by phone at 801-531-3861, by FAX at 801-531-3867, or by Internet E-mail at smumford@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 07/15/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2009

AUTHORIZED BY: Patricia Smith-Mansfield, Director

R35. Administrative Services, Records Committee.**R35-1. State Records Committee Appeal Hearing Procedures.****R35-1-2. Procedures for Appeal Hearings.**

- (1) The meeting shall be called to order by the Committee Chair.
- (2) Opening statements will be presented by the petitioner and the governmental entity. Each party shall be allowed five minutes to present their opening statements before the Committee.
- (3) Testimony shall be presented by the petitioner and the governmental entity. Each party shall be allowed thirty minutes to present testimony and evidence and to call witnesses.
- (4) Witnesses providing testimony shall be sworn in by the Committee Chair.
- (5) Questioning of the witnesses and parties by Committee members is permitted.

(6) The governmental entity must bring the disputed records to the hearing to allow the Committee to view records in camera if it deems an in camera inspection necessary. If the records withheld are voluminous or the governmental entity contends they have not been identified with reasonable specificity, the governmental entity shall notify the Committee and the adverse party at least two days before the hearing and obtain approval from the Committee Chair to bring a representative sample of the potentially responsive records to the hearing, if it is possible to do so.

(7) Third party presentations shall be permitted. At the conclusion of the testimony presented, the Committee Chair shall ask for statements from any third party. Third party presentations shall be limited to ten minutes.

(8) Closing arguments may be presented by the petitioner and the governmental entity. Each party shall be allowed five minutes to present a closing argument and make rebuttal statements.

(9) After presentation of the evidence, the Committee shall commence deliberations. A Committee Member shall make a motion to grant or to deny the petitioner's request in whole or in part. Following discussion of the motion, the Chair shall call for the question. The motion shall serve as the basis for the Committee Decision and Order. The Committee shall vote and make public the decision of the Committee during the hearing.

(10) The Committee may adjourn, reschedule, continue, or reopen a hearing on the motion of a member.

(11) Except as expressly authorized by law, there shall be no communication between the parties and the members of the Committee concerning the subject matter of the appeal before the hearing or prior to the issuance of a final Decision And Order. Any other oral or written communication from the parties to the members of the Committee, or from the members of the Committee to the parties, shall be directed to the Executive Secretary for transmittal.

(12) The following provisions govern any meeting at which one or more members of the Committee or a party appears telephonically or electronically pursuant to Utah Code Section 52-4-207[~~52-4-7.8~~].

(a) The anchor location is the physical location from which the electronic meeting originates or from which the participants are connected. The anchor location, unless otherwise designated in the notice, shall be at the offices of the Division of State Archives, Salt Lake City, Utah.

(b) If one or more members of the Committee or a party may participate electronically or telephonically, public notices of the meeting shall so indicate. In addition, the notice shall specify the anchor location where the members of the Committee not participating electronically or telephonically will be meeting and where interested persons and the public may attend and monitor the open portions of the meeting.

(c) When notice is given of the possibility of a member of the Committee appearing electronically or telephonically, any member of the Committee may do so and shall be counted as present for purposes of a quorum and may fully participate and vote on any matter coming before the Committee. At the commencement of the meeting, or at such time as any member of the Committee initially appears electronically or telephonically, the Chair shall identify for the record all those who are appearing telephonically or electronically. Votes by members of the Committee who are not at the physical location of the meeting shall be confirmed by the Chair.

(13)(a) If the petitioner wishes to postpone the hearing or withdraw the appeal, the petitioner shall notify the Committee and the governmental entity in writing no later than two days prior to the

scheduled hearing date. Failure to comply with this provision may result in a Committee order requiring that the petitioner pay the governmental entity's reasonable costs and expenses. The Committee will ordinarily deny a governmental entity's request to postpone the hearing, unless the governmental entity has obtained the petitioner's prior consent to reschedule the hearing date.

(b) The Committee Chair has the discretion to grant or deny a petitioner's request to postpone a hearing based upon: (i) the reasons given by the petitioner in his or her request; (ii) the timeliness of the request; (iii) whether petitioner has previously requested and received a postponement; (iv) any other factor determined to protect the equitable interests of the parties.

(c) The Committee will ordinarily deny a governmental entity's request to postpone the hearing, unless the governmental entity has obtained the petitioner's prior consent to reschedule the hearing date.

KEY: government documents, state records committee, records appeal hearings

Date of Enactment or Last Substantive Amendment: [~~August 9, 2006~~2009]

Notice of Continuation: July 2, 2004

Authorizing, and Implemented or Interpreted Law: 63G[G]-2-502(2)(a)



Administrative Services, Records
Committee
R35-3-2
Scheduling Prehearing Conferences

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32686
FILED: 05/19/2009, 16:53

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to define purpose and procedures for prehearing conferences.

SUMMARY OF THE RULE OR CHANGE: The amendment defines purpose and procedures for prehearing conferences.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63G-2-403

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** None--Having members of the committee other than the chair able to handle prehearing conferences conducted by members of the committee other than the chair will distribute the work load to distribute among members but will not affect cost except for those members who may travel or participate in such conferences.

❖ **LOCAL GOVERNMENTS:** None--Prehearing conferences may resolve some records issues before a hearing, but will not affect the cost to a governmental entity unless a hearing is unnecessary and they are saved the cost of representation.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** None--There will not be a change in cost to small businesses in this procedural change unless they are involved in a hearing. A prehearing conference could resolve an issue before a hearing and thereby save the time involved in a hearing.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Prehearing conferences could save the time necessary for a hearing or refine the issues to be dealt with in a hearing and thereby save time and expense for those involved.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no cost to the state, local government, or to small business.

Kimberly K. Hood, Executive Director

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

ADMINISTRATIVE SERVICES
RECORDS COMMITTEE
ARCHIVES BUILDING
346 S RIO GRANDE
SALT LAKE CITY UT 84101-1106, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Susan Mumford at the above address, by phone at 801-531-3861, by FAX at 801-531-3867, or by Internet E-mail at smumford@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 07/15/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2009

AUTHORIZED BY: Patricia Smith-Mansfield, Director



**R35. Administrative Services, Records Committee.
R35-3. Prehearing Conferences.
R35-3-2. Scheduling Prehearing Conferences.**

(a) In the process of planning and organizing efforts to execute appeals which are filed pursuant to Section 63G-2-403, the chair of the state records committee or another member of the state records committee assigned by the state records committee chair, at his or her discretion, may direct the disputing parties to appear before him or her, in person or telephonically, for a prehearing conference, to be held before any official appeals hearing, for such purposes as:

- (1) encouraging exploration of areas of agreement, including stipulations;[~~or~~]
- (2) facilitating settlement of the appeal; or
- (3) discussion of the issues raised by the parties on the appeal.

(b) In the event that the issue, or issues scheduled for an appeals hearing are resolved at a prehearing conference, the committee chair shall report the settlement to the entire records committee at the next scheduled meeting for the purposes of creating a public record. Any stipulations shall be written and presented to the members of the records committee at the hearing.

KEY: government documents, state records committee, records appeal hearings
Date of Enactment or Last Substantive Amendment: ~~March 4, 2005~~2009
Notice of Continuation: July 2, 2004
Authorizing, and Implemented or Interpreted Law: 63G-2-502(2)(a)

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

◆ ————— ◆

Commerce, Consumer Protection **R152-11-12** Negative Options

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 32687

FILED: 05/21/2009, 14:23

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to eliminate inconsistent and confusing Utah requirements at a time when more transactions cross state boundaries.

SUMMARY OF THE RULE OR CHANGE: This amendment makes Utah requirements for negative options consistent with federal requirements. If there are changes to the federal requirements, Utah requirements will automatically reflect those changes.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 63G-3-201 and 13-2-5, and Title 13, Chapter 11

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** No change in status quo. The Division of Consumer Protection will continue to enforce this rule.
- ❖ **LOCAL GOVERNMENTS:** This rule is not applicable to local governments and, therefore, does not impact such budgets.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** A cost savings would be realized by small businesses in Utah who now only have to meet the federal standards governing negative options.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs for suppliers that operate negative options may be reduced now that they will not have to meet federal, as well as state standards which may differ.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing could result in a cost savings to businesses as suppliers would now only have the federal standard to meet regarding negative options. Francine Giani, Executive Director

DIRECT QUESTIONS REGARDING THIS RULE TO:

Angela Hendricks at the above address, by phone at 801-530-6035, by FAX at 801-538-6001, or by Internet E-mail at ahendricks@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 07/15/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2009

AUTHORIZED BY: Kevin V Olsen, Director

R152. Commerce, Consumer Protection.

R152-11. Utah Consumer Sales Practices Act.

R152-11-12. Negative Options.

[A. Definitions:

1. A "negative option plan" means a contract under which a supplier either:

a. sends or offers to a consumer an announcement, advertisement or notice that:

i. the supplier proposes to send goods or provide services to the consumer (other than periodic supplements to previously acquired merchandise), and

ii. the consumer is required to pay for those goods or services unless the consumer affirmatively communicates that he refuses to accept the goods or services; or

b. sends or offers to a consumer a notice accompanying goods or services provided to the consumer that requires or purports to require that the consumer pay for those goods or services unless the customer affirmatively communicates that he refuses to accept the goods or services.

2. "Contract" includes, but is not limited to, any contract, marketing plan, arrangement or agreement between a supplier and a consumer.

B. Except as provided in paragraph C herein, the following acts or practices constitute a deceptive or unconscionable act or practice:

1. a supplier sends or offers goods or provides services to a consumer pursuant to a negative option plan;

2. a supplier interrupts, terminates, cancels or denies delivery of or provision of goods or services previously contracted for to a consumer solely on the basis that the consumer has not paid for or returned to the supplier goods or services which the consumer has not ordered, requested or authorized from the supplier.

C. Negative option plans do not constitute deceptive or unconscionable acts or practices if:

1. the supplier first receives specific approval, in writing and signed by the consumer, to send goods or services pursuant to a negative option plan:

a. The "specific approval" referred to in subparagraph B.1. of this rule shall be in writing and shall include the signature of the consumer.

b. The supplier shall maintain the original signed written consent of the consumer for a period of at least five (5) years after the date of signing or two (2) years after termination of the contract or agreement, whichever is longer; and

2. The following disclosures, or disclosures substantially similar to the following, are on the face of the contract or document evidencing the negative option plan and provided to the consumer before the consumer approves of the plan:

a. in bolded type which is 10 points or larger, that the transaction includes a "NEGATIVE OPTION PLAN"; and

b. the terms and conditions under which the negative option may be exercised, clearly and understandably stated; and

c. near the signature of the person entering into the consumer transaction, in bold type which is 10 points or larger: "I UNDERSTAND THAT THIS CONSUMER TRANSACTION INVOLVES A NEGATIVE OPTION, AND THAT I MAY BE LIABLE FOR PAYMENT OF FUTURE GOODS AND SERVICES UNDER THE TERMS OF THIS AGREEMENT IF I FAIL TO NOTIFY THE SUPPLIER NOT TO SUPPLY THE GOODS OR SERVICES DESCRIBED."

[A. A negative option, as defined in 16 C.F.R. 425.1, is a deceptive act or practice only if the negative option violates 16 C.F.R. 425.1.

KEY: advertising, bait and switch, consumer protection, negative options

Date of Enactment or Last Substantive Amendment: [December 22, 2006]2009

Notice of Continuation: February 1, 2007

Authorizing, and Implemented or Interpreted Law: 63G-3-201; 13-2-5; 13-11

◆ ————— ◆

Commerce, Occupational and Professional Licensing **R156-60c** Professional Counselor Licensing Act Rules

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 32690

FILED: 05/26/2009, 09:08

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Professional Counselor Licensing Board reviewed this rule and determined that changes needed to be made.

SUMMARY OF THE RULE OR CHANGE: Throughout the rule the term "rules" has been changed to "rule" where applicable. Also, some minor grammatical changes are made throughout the rule. In Section R156-60c-102, the proposed amendment

clarifies the setting where supervision in an internship can occur and clarifies the type of site supervisor that a student in an internship course must have. The proposed amendment makes requirements in the school internship experience consistent with those for the 4,000 hours of supervised experience requirement and deletes outdated language. In Subsection R156-60c-302a(1), by adding the words "or an equivalent degree", the Division and Board wish to clarify the fact that the literal title of the degree is not required to be "Mental Health Counseling". Titles of the degree could vary. It is the coursework required to complete the degree that is important. Reference to the "Marriage, Couple, and Family Counseling or Mental Health Counseling degree" is deleted because it is redundant. Also, adding the Council for Higher Education Accreditation of the American Council on Education (CHEA) as a possible accreditation of an acceptable degree is needed to allow for consistency with requirements in other states. In Subsection R156-60c-302a(2)(a), the proposed change specifies the standards upon which an acceptable ethical standards course should be based. The Board and Division have always upheld the expectation that the course would be based on the standards of the American Counseling Association (ACA), American Mental Health Counselors Association (AMHCA), or the National Board of Certified Counselors (NBCC) because these are relevant to the practice of a professional counselor. In Subsection R156-60c-302a(2)(b), the addition of the phrase "of a mental health counselor" is needed to clarify the emphasis needed in a course meeting this requirement. Without the language, some assume the course can be specific to the roles of an art therapist, community counselor, or school counselor rather than those of a mental health counselor. In Subsection R156-60c-302a(2)(c), the proposed change is needed to specify that the course must review several predominant theories of "individual therapy", rather than just one or two. Humanistic, behavioral, and cognitive theories are given as examples to help the public understand what is expected to be reviewed in the course. In Subsection R156-60c-302a(2)(d), the purpose of this change is to identify group development and theories regarding group therapy as required elements of any course that meets this requirement. In Subsections R156-60c-302a(2)(e), (f), and (g), the current rule includes courses in career development as part of the human growth and development category. However, the Council for Accreditation of Counseling and Related Educational Programs (CACREP) accreditation separates them into separate categories. The proposed amendments makes the requirement in rule consistent with CACREP accreditation. The number of credit hours needed in the human growth and development category is decreased due to career development becoming its own category. Also, the proposed change deletes some of the examples of subjects that fall within requirements (e) and (g) because they are covered within the scope of other examples. In Subsection R156-60c-302a(2)(h), the language "lab not to exceed four semester or six quarter hours" is removed because work in a lab would count toward the practicum or internship course, not a course in individual and group therapy. The reference to a lab in this section is confusing. In Subsection R156-60c-302a(2)(i), the addition of "multi-axial diagnosis" is needed to more accurately identify what is expected to be in the course. In

Subsection R156-60c-302a(2)(k), the proposed change is needed to identify content that has always been expected to be a part of the test and measurement theory course. Including this language helps applicants better understand what is expected. In Subsection R156-60c-302a(2)(l), the proposed change is needed to specify content that is expected to be in a course that meets this requirement. In Subsection R156-60c-302a(4), the phrase "subsequently return to college and" is deleted because if someone with one of the degrees identified in this section completed coursework in mental health counseling while completing their degree, that coursework would count toward the requirement. Reference to the Marriage, Couple and Family Counseling/Therapy degree should be deleted because someone with that degree should be pursuing licensure as a marriage and family therapist and not as a professional counselor. The word "substantially" is being added to emphasize the fact that a degree in one of the related fields is not required to be literally equivalent to a degree in mental health counseling. Reference to the temporary professional counselor license at the end of the section is deleted because the extern license is addressed in Subsection R156-60c-302a(5). In Subsection R156-60c-302a(5), the purpose of this change is to communicate a precedent that the Board and Division have upheld regarding approval of certified professional counselor extern licenses. If an application includes education deficiencies in ethics, psychopathology, advanced mental status, practicum or internship, the Board and Division have not issued a license. In Section R156-60c-302b, including a reference to the definition of an employee found in a separate administrative rule is needed because some licensees are not aware of how the definition requires that certified professional counselor interns had to be W-2 employees rather than contract employees. In Section R156-60c-304, the proposed amendments clarify continuing education requirements for professional counselors. One proposed change will require the completion of a minimum of 6 hours of continuing education in ethics/law out of the 40 continuing education hours already required. In Subsection R156-60c-401(2), clarified mental health licensees. Subsection R156-60c-401(3) is being added to prohibit a conflict of interest that arises in some mental health agencies.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-60-401 and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The Division will incur minimal costs of approximately \$100 to print and distribute the rule once the proposed amendments are made effective. The addition of CHEA as an acceptable type of education accreditation may lead to a minimal increase in the number of applicants and licensees requiring action and regulation by the Division, which will cause a minimal increase in workload. Any costs incurred will be absorbed in the Division's current budget.

❖ LOCAL GOVERNMENTS: There could be a few employees of local government working in the mental health field that will pursue licensure as a professional counselor now that CHEA is an acceptable type of education accreditation. Once licensed, these employees may seek promotions or

employment elsewhere in positions where they could practice mental health therapy. This is expected to have little, if any, impact on local government.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The proposed amendments only apply to licensed professional counselor classifications and applicants for licensure in those professional counselor classifications. Licensees and applicants for licensure may work in a small business; however, the proposed amendments would not directly affect the business. There could be a few employees of small mental health agencies that will pursue licensure as a professional counselor now that CHEA is an acceptable type of education accreditation. Once licensed, these employees may seek promotions or employment elsewhere in positions where they could practice mental health therapy. This is expected to have little, if any, cost or saving impact on small businesses. The inclusion of CHEA as an acceptable type of education accreditation will result in additional people applying for and obtaining a professional counselor license. As a result, the number of therapists in the state that will be available to provide mental health therapy to the public may increase. However, the increase, if any, is expected to be minimal. As a result of the proposed amendment requiring that licensed professional counselors complete a minimum of six hours of continuing education in ethics/law, licensees may see minimal costs or savings as courses on this subject may cost more or less than current continuing education courses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only apply to licensed professional counselor classifications and applicants for licensure in those professional counselor classifications. The inclusion of CHEA as an acceptable type of education accreditation will result in additional people applying for and obtaining a professional counselor license. As a result, the number of therapists in the state that will be available to provide mental health therapy to the public may increase. However, the increase, if any, is expected to be minimal. As a result of the proposed amendment requiring that licensed professional counselors complete a minimum of six hours of continuing education in ethics/law, licensees may see minimal costs or savings as courses on this subject may cost more or less than current continuing education courses.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing clarifies definitions and adopts standards for education, continuing education, and supervisor requirements. No fiscal impact to businesses is anticipated from such clarification and adoption of standards. To meet national standards, this rule filing expands acceptable degree programs to include equivalent degrees from programs accredited by the CHEA. This change could be a cost savings to potential license applicants. Francine A. Giani, Executive Director

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:

Rich Oborn at the above address, by phone at 801-530-6767,
by FAX at 801-530-6511, or by Internet E-mail at
roborn@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 07/15/2009

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING
THIS RULE: 6/22/2009 at 10:30 AM, Heber Wells Bldg, 160 E
300 S, Conference Room 474 (fourth floor), Salt Lake City,
UT.

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2009

AUTHORIZED BY: Thad LeVar, Deputy Director

R156. Commerce, Occupational and Professional Licensing.

R156-60c. Professional Counselor Licensing Act Rule[s].

R156-60c-101. Title.

~~[These rules are]~~ This rule is known as the "Professional
Counselor Licensing Act Rule[s]".

R156-60c-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 60, as
used in Title 58, Chapters 1 and 60, or th[ese] rule[s]:

(1) "Internship" means:

(a) 900 clock hours of supervised counseling experience of
which 360 hours must be in the provision of mental health therapy; ~~[-
If an applicant completed the internship prior to October 31, 2003,
the 600 hour internship under the prior rule shall be acceptable.]~~

(i) in a public or private agency engaged in the clinical practice
of mental health therapy as defined in Subsection 58-60-102(7); and

(ii) from a supervisor licensed as a mental health therapist as
defined in Section R156-60c-401.

(2) "Practicum" means a supervised counseling experience in
an appropriate setting of at least three semester or four and 1/2
quarter hours duration for academic credit.

(3) "Unprofessional conduct" as defined in Title 58, Chapters 1
and 60 is further defined, in accordance with Subsection 58-1-
203(5), in Section R156-60c-502.

R156-60c-103. Authority - Purpose.

~~[These rules are]~~ This rule is adopted by the division under the
authority of Subsection 58-1-106(1) to enable the division to
administer Title 58, Chapter 60, Part 4.

**R156-60c-302a. Qualifications for Licensure - Education
Requirements.**

(1) Pursuant to Subsection 58-60-405(1)(d)(i), the degree and
educational program which prepares one to competently engage in
mental health therapy is established and clarified to be a masters or
doctorate degree in Mental Health Counseling or an equivalent
~~degree [with the classification of a Marriage, Couple and Family
Counseling/Therapy degree or Mental Health Counseling degree,~~

~~which degree is received]~~ from an institution accredited by the
Council for Accreditation of Counseling and Related Educational
Programs (CACREP) or the Council for Higher Education
Accreditation of the American Council on Education (CHEA), at the
time the applicant obtained the education, which includes a
minimum of 60 semester (90 quarter) hours of graduate studies and
includes the specific course requirements as specified in Subsection
(2).

(2) The core curriculum in Subsection 58-60-405(1)(d) shall
consist of the following courses:

(a) a minimum of two semester or three quarter hours shall be
in ethical standards, issues, behavior and decision-making based on
the standards of the American Counseling Association (ACA),
American Mental Health Counselors Association (AMHCA), or
National Board of Certified Counselors (NBCC);

(b) a minimum of two semester or three quarter hours shall be
in professional roles and functions of a mental health counselor,
trends and history, professional preparation standards and
credentialing;

(c) a minimum of two semester or three quarter hours shall be
in individual theory and shall include several of the predominant
theories, which may include humanistic, behavioral or cognitive
theories of individual therapy;

(d) a minimum of two semester or three quarter hours shall be
in group theory and shall include understanding of group
development and multiple theories regarding group therapy;

(e) a minimum of ~~[six]~~three semester or ~~[nine]~~four and 1/2
quarter hours shall be in human growth and development across the
life span, which may include ~~[- Examples are]:~~

(i) physical, social and psychosocial development;

(ii) personality development;

(iii) learning theory and cognitive development;

(iv) emotional development; [

~~— (v) life span development;~~

~~— (vi) enhancing wellness;~~

~~— (vii) human sexuality; and~~

~~— (viii) career development;]~~

(f) a minimum of three semester or four and 1/2 quarter hours
shall be in career development;

~~[(f)g]~~ a minimum of three semester or four and 1/2 quarter
hours shall be in cultural foundations. Examples are:

(i) human diversity;

(ii) multicultural issues and trends;

(iii) gender issues;

(iv) exceptionality;

(v) disabilities; and

(vi) aging; ~~[- and~~

~~— (vii) discrimination;]~~

[(g)h] a minimum of six semester or nine quarter hours shall be
in the application of individual and group therapy and other
therapeutic methods and interventions. Examples are:

(i) building, maintaining and terminating relationships;

(ii) solution-focused and brief therapy;

(iii) crisis intervention;

(iv) prevention of mental illness;

(v) treatment of specific syndromes;

(vi) case conceptualization; and

(vii) referral, supportive and follow-up services; ~~[- and~~

~~— (viii) lab not to exceed four semester or six quarter hours;]~~

[(h)j] a minimum of two semester or three quarter hours shall
be in psychopathology and multi-axial diagnosis DSM classification;

(~~h~~i) a minimum of two semester or three quarter hours shall be in dysfunctional behaviors. Examples are:

- (i) addictions;
- (ii) substance abuse;
- (iii) cognitive dysfunction;
- (iv) sexual dysfunction; and
- (v) abuse and violence;

(~~j~~k) a minimum of two semester or three quarter hours shall be in a foundation course in test and measurement theory including the theory of test development, variety of test types and introduction to several tests used in mental health assessment;

(~~k~~l) a minimum of two semester or three quarter hours shall be in an advanced course in assessment of mental status including the assessment of DSM personality diagnosis;

(~~l~~m) a minimum of three semester or four and 1/2 quarter hours shall be in research and evaluation. This shall not include a thesis, dissertation, or project, but may include:

- (i) statistics;
- (ii) research methods, qualitative and quantitative;
- (iii) use and interpretation of research data;
- (iv) evaluation of client change; and
- (v) program evaluation;

(~~m~~n) a minimum of three semester or four and 1/2 quarter hours of practicum as defined in Subsection R156-60c-102(2);

(~~n~~o) a minimum of six semester or nine quarter hours of internship as defined in Subsection R156-60c-102(1); and

(~~o~~p) a minimum of 17 semester or 25.5 quarter hours of course work in the behavioral sciences. No more than six semester or nine quarter hours of credit for thesis, dissertation or project hours shall be counted toward the required core curriculum hours in this subsection.

(3) The supplemental course work shall consist of formal graduate level work meeting the requirements of Subsections (1) and (2) in regularly offered and scheduled classes. University based directed reading courses may be approved at the discretion of the board.

(4) The following degrees do not prepare a person to competently engage in mental health therapy: Career Counseling, College Counseling, Community Counseling, Gerontological Counseling, School Counseling, Student Affairs, Rehabilitation Counseling, Music Therapy, Art Therapy, or Dance Therapy. Applicants who have one of these degrees or comparable degrees and who ~~[subsequently return to college and]~~ complete the classes which have been included in the ~~[Marriage, Couple and Family Counseling/Therapy degree or the]~~ Mental Health Counseling degree and as outlined in Subsection (1) and (2), may request the Division and the Board to consider their education as equivalent to the requirements for licensure. Upon completion of this substantially equivalent education requirement, the applicant may be granted a license as a certified professional counselor intern under Subsection 58-60-405(2) ~~[or a temporary professional counselor license under Section 58-60-117]~~.

(5) An applicant who has met the degree requirements under Subsection (1) or (4) which prepares one to competently engage in mental health therapy, but who is ~~[deficit]~~ deficient in one or more, but no more than three of the courses provided in Subsection (2), may be granted a temporary professional counselor license as a certified professional counselor extern under Section 58-60-117. Furthermore, the deficient courses may not include ethics, psychopathology, advanced mental status, practicum, or internship.

R156-60c-302b. Qualifications for Licensure - Experience Requirements.

(1) The professional counselor and mental health therapy training qualifying an applicant for licensure as a professional counselor under Subsections 58-60-405(1)(e) and (f) shall:

(a) be completed in not less than two years;

(b) be completed while the applicant is an employee, as defined in Subsection R156-60-102(3), of a public or private agency engaged in mental health therapy under the supervision of a qualified professional counselor, psychiatrist, psychologist, clinical social worker, registered psychiatric mental health nurse specialist, or marriage and family therapist; and

(c) be completed under a program of supervision by a mental health therapist meeting the requirements under Sections R156-60c-401 and R156-60c-402.

(2) An applicant for licensure as a professional counselor, who is not seeking licensure by endorsement based upon licensure in another jurisdiction, who has completed all or part of the professional counselor and mental health therapy training requirements under Subsection (1) outside the state may receive credit for that training completed outside of the state if it is demonstrated by the applicant that the training completed outside the state is equivalent to and in all respects meets the requirements for training under Subsections 58-60-405(1)(e) and (f), and Subsections R156-60c-302b(1). The applicant shall have the burden of demonstrating by evidence satisfactory to the division and board that the training completed outside the state is equivalent to and in all respects meets the requirements under this Subsection.

R156-60c-302c. Qualifications for Licensure - Examination Requirements.

(1) ~~[An]~~ Under Subsection 58-60-405(1)(g), an applicant for licensure as a professional counselor ~~[under Subsection 58-60-405(1)(g)]~~ must pass the following examinations:

(a) the Utah Professional Counselor Law, Rules and Ethics Examination;

(b) the National Counseling Examination of the National Board for Certified Counselors; and

(c) the National Clinical Mental Health Counseling Examination of the National Board of Certified Counselors.

R156-60c-303. Renewal Cycle - Procedures.

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to licenses under Title 58, Chapter 60, is established by rule in Section R156-1-308a.

(2) Renewal procedures shall be in accordance with Section R156-1-308c.

R156-60c-304. Continuing Education.

(1) There is hereby established a continuing ~~[professional]~~ education requirement for all individuals licensed under Title 58, Chapter 60, Part 4, as a professional counselor and certified professional counselor intern.

(2) During each two year period commencing September 30th of each even numbered year, a professional counselor or certified professional counselor intern shall be required to complete not less than 40 hours of ~~[qualified professional]~~ continuing education directly related to the licensee's professional practice of which a minimum of six hours must be completed in ethics/law.

(3) The required number of hours of ~~[professional]~~continuing education for an individual who first becomes licensed during the two year period shall be decreased in a pro-rata amount equal to any part of that two year period preceding the date on which that individual first became licensed.

(4) ~~[Qualified professional]~~Continuing education under this ~~[S]~~section shall:

~~—(a) have an identifiable clear statement of purpose and defined objective for the educational program directly related to the practice of a mental health therapist professional counselor;~~

~~—(b) be relevant to the licensee's professional practice;~~

~~—(c) be presented in a competent, well organized, and sequential manner consistent with the stated purpose and objective of the program;~~

~~—(d) be prepared and presented by individuals who are qualified by education, training, and experience; and~~

~~—(e) have associated with it a competent method of registration of individuals who actually completed the professional education program and records of that registration and completion are available for review.~~

(a) be relevant to the licensee's professional practice;

(b) be prepared and presented by individuals who are qualified by education, training and experience to provide continuing education regarding mental health therapy professional counseling;
and

(c) have a method of verification of attendance and completion.

(5) Credit for ~~[professional]~~continuing education shall be recognized in accordance with the following:

(a) unlimited hours shall be recognized for ~~[professional]~~continuing education completed in blocks of time of not less than one hour in formally established classroom courses, seminars, or conferences;

(b) a maximum of 10 hours per two year period may be recognized for teaching in a college or university, teaching qualified continuing ~~[professional]~~education courses in the field of mental health therapy professional counseling, or supervision of an individual completing his experience requirement for licensure in a mental health therapist license classification; and

(c) a maximum of six hours per two year period may be recognized for clinical readings or internet-based courses directly related to practice as a mental health therapist professional counselor.

(6) A licensee shall be responsible for maintaining competent records of completed ~~[qualified]~~continuing professional education for a period of four years after close of the two year period to which the records pertain. It is the responsibility of the licensee to maintain such information with respect to ~~[qualified professional]~~continuing education to demonstrate it meets the requirements under this ~~[S]~~section.

(7) A licensee who documents he is engaged in full-[-]time activities or is subjected to circumstances which prevent that licensee from meeting the continuing ~~[professional]~~education requirements established under this Section may be excused from the requirement for a period of up to three years. However, it is the responsibility of the licensee to document the reasons and justify why the requirement could not be met.

R156-60c-401. Requirements to be Qualified as a Professional Counselor Training Supervisor and Mental Health Therapist Training Supervisor.

In accordance with Subsections 58-60-405(1)(e) and (f), in order for an individual to be qualified as a professional counselor training supervisor or mental health therapist trainer, the individual shall have the following qualifications:

(1) be currently licensed in good standing in a profession set forth for a supervisor under Subsection 58-60-405(1)(e) in the state in which the supervised training is being performed; ~~and~~

(2) have engaged in lawful practice of mental health therapy as a ~~[licensee]~~professional counselor, psychiatrist, psychologist, clinical social worker, registered psychiatric mental health nurse specialist, or marriage and family therapist ~~[engaged in the practice of mental health therapy]~~ for not less than 4,000 hours in a period of not less than two years prior to beginning supervision activities; and

(3) be employed by or have a contract with the mental health agency that employs the supervisee, but not be employed by the supervisee, nor be employed by an agency owned in total or in part by the supervisee, or in which the supervisee has any controlling interest.

R156-60c-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) acting as a supervisor or accepting supervision duties of a supervisor without complying with or ensuring the compliance with the requirements of Sections R156-60c-401 and R156-60c-402;

(2) engaging in the supervised practice of mental health therapy when not in compliance with Subsections R156-60c-302b(3) and R156-60c-402(7);

(3) engaging in and aiding or abetting conduct or practices which are dishonest, deceptive or fraudulent;

(4) engaging in or aiding or abetting deceptive or fraudulent billing practices;

(5) failing to establish and maintain appropriate professional boundaries with a client or former client;

(6) engaging in dual or multiple relationships with a client or former client in which there is a risk of exploitation or potential harm to the client;

(7) engaging in sexual activities or sexual contact with a client with or without client consent;

(8) engaging in sexual activities or sexual contact with a former client within two years of documented termination of services;

(9) engaging in sexual activities or sexual contact at any time with a former client who is especially vulnerable or susceptible to being disadvantaged because of the client's personal history, current mental status, or any condition which could reasonably be expected to place the client at a disadvantage recognizing the power imbalance which exists or may exist between the professional counselor and the client;

(10) engaging in sexual activities or sexual contact with client's relatives or other individuals with whom the client maintains a relationship when that individual is especially vulnerable or susceptible to being disadvantaged because of his personal history, current mental status, or any condition which could reasonably be expected to place that individual at a disadvantage recognizing the

power imbalance which exists or may exist between the professional counselor and that individual;

(11) engaging in physical contact with a client when there is a risk of exploitation or potential harm to the client resulting from the contact;

(12) engaging in or aiding or abetting sexual harassment or any conduct which is exploitive or abusive with respect to a student, trainee, employee, or colleague with whom the licensee has supervisory or management responsibility;

(13) failing to render impartial, objective, and informed services, recommendations or opinions with respect to custodial or parental rights, divorce, domestic relationships, adoptions, sanity, competency, mental health or any other determination concerning an individual's civil or legal rights;

(14) exploiting a client for personal gain;

(15) ~~use of~~using a professional client relationship to exploit a person that is known to have a personal relationship with a client for personal gain;

(16) failing to maintain appropriate client records for a period of not less than ten years from the documented termination of services to the client;

(17) failing to obtain informed consent from the client or legal guardian before taping, recording or permitting third party observations of client care or records;

(18) ~~failure~~failing to cooperate with the Division during an investigation; and

(19) ~~failure~~failing to abide by the provisions of the American Counseling Association's Code of Ethics, 2005, which is adopted and incorporated by reference.

KEY: licensing, counselors, mental health, professional counselors

Date of Enactment or Last Substantive Amendment: ~~[June 1, 2006]~~2009

Notice of Continuation: March 14, 2005

Authorizing, and Implemented or Interpreted Law: 58-60-401; 58-1-106(1)(a); 58-1-202(1)(a)



**Commerce, Occupational and
Professional Licensing
R156-70a
Physician Assistant Practice Act Rules**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 32680

FILED: 05/18/2009, 15:11

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Physician Assistant Licensing Board reviewed this rule and determined that changes needed to be made.

SUMMARY OF THE RULE OR CHANGE: Throughout the rule the term "rules" has been changed to "rule" where applicable. In Section R156-70a-304, amendments are made in this section with respect to continuing education to clarify the expectations

and requirements for obtaining continuing education. The Division of Occupational and Professional Licensing is also added as an approved provider for continuing education.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-70a-101 and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The Division will incur minimal costs of approximately \$50 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.

❖ LOCAL GOVERNMENTS: The proposed amendments only apply to licensed physician assistants and applicants for licensure as a physician assistant. As a result, the proposed amendments do not apply to local governments.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The proposed amendments only apply to licensed physician assistants and applicants for licensure in that classification. Licensees and applicants for licensure may work in a small business; however, the proposed amendments would not directly affect the business. As a result of the proposed amendments, licensees will now have an additional option with respect to obtaining required continuing education hours as a result of the Division being added as an approved continuing education provider. Licensees may see minimal savings in continuing education costs as a result of the Division now providing continuing education training for the profession. However, any exact amount of savings is unable to be determined.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only apply to licensed physician assistants and applicants for licensure in that classification. As a result of the proposed amendments, licensees will now have an additional option with respect to obtaining required continuing education hours as a result of the Division being added as an approved continuing education provider. Licensees may see minimal savings in continuing education costs as a result of the Division now providing continuing education training for the profession. However, any exact amount of savings is unable to be determined.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing permits the Division to provide continuing education and clarifies the continuing education standards. As discussed in the rule summary, these changes will likely result in a cost savings to licensees. No other fiscal impact to businesses is anticipated.
Francine A. Giani, Executive Director

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:

Noel Taxin at the above address, by phone at 801-530-6621, by FAX at 801-530-6511, or by Internet E-mail at ntaxin@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 07/15/2009

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 6/17/2009 at 9:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 475 (fourth floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2009

AUTHORIZED BY: Thad LeVar, Deputy Director

R156. Commerce, Occupational and Professional Licensing.

R156-70a. Physician Assistant Practice Act Rule[s].

R156-70a-101. Title.

~~[These rules are]~~ This rule is known as the "Physician Assistant Practice Act Rule[s]".

R156-70a-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 70a, as used in ~~th[ese rules]~~ is rule:

- (1) "Full time equivalent" or "FTE" means the equivalent of 2,080 hours of staff time for a one-year period.
- (2) "Locum tenens" means a medical practice situation in which one physician assistant acts as a temporary substitute for the physician assistant who regularly will or does practice in that particular setting.
- (3) "On-site supervision", as used in Section R156-70a-501, means the physician assistant will be working in the same location as the supervising physician.

R156-70a-103. Authority - Purpose.

~~[These rules are]~~ This rule is adopted by the division under the authority of Subsection 58-1-106(1)(a) to enable the division to administer Title 58, Chapter 70a.

R156-70a-303. Renewal Cycle - Procedures.

- (1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to licensees under Title 58, Chapter 70a is established by rule in Section R156-1-308a.
- (2) Renewal procedures shall be in accordance with Section R156-1-308c.

R156-70a-304. Continuing Education.

In accordance with Subsection 58-70a-304(1)(a), the requirements for qualified continuing professional education (CPE) are as follows:

- (1) CPE shall consist of 40 hours in each preceding two year licensure cycle ~~[---]~~.

~~(a)2~~ A minimum of 34 hours shall be in category 1 offerings as established by the Accreditation Council for Continuing Medical Education (ACCME)[?].

(3) Approved providers for ACCME offerings include the following:

- (b)a approved programs sponsored by the American Academy of Physician Assistants (AAPA); or
- (e)b programs approved by other health-related continuing education approval organizations, provided the continuing education is nationally recognized by a healthcare accredited agency and the education is related to the practice as a physician assistant.

(4) A maximum of six hours may be recognized for non-ACCME offerings of continuing education provided by the Division of Occupational and Professional Licensing.

(5) Where a licensee submits documentation to the Division of current national certification by NCCPA, such certification shall be deemed to meet the requirements in Subsection (1).

(6) Continuing education under this section shall:

- (a) be relevant to the licensee's professional practice;
- (b) be prepared and presented by individuals who are qualified by education, training and experience to provide medical continuing education; and
- (c) have a method of verification of attendance and completion.

(7) Credit for continuing education shall be recognized in 50 minute hour blocks of time for education completed in formally established classroom courses, seminars, lectures, conferences or training sessions which meet the criteria listed in Subsection (6) above).

~~[(2) If requested, the licensee shall provide documentation of completed qualified continuing professional education by any of the following means:~~

- ~~— (a) certificates from sponsoring agencies;~~
- ~~— (b) transcripts of participation on applicable institutions letterhead; or~~
- ~~— (c) copy of current national certification by NCCPA.~~

~~]~~ (4)8 A licensee shall be responsible for maintaining competent records of completed continuing professional education for a period of four years after close of the two year period to which the records pertain. It is the responsibility of the licensee to maintain such information with respect to continuing professional education and to demonstrate it meets the requirements under this section. If requested, the licensee shall provide documentation of completed continuing education.

~~(3)9~~ Continuing professional education for licensees who have not been licensed for the entire two year period will be prorated from the date of licensure.

KEY: licensing, physician assistants
Date of Enactment or Last Substantive Amendment: [October 11, 2006]2009
Notice of Continuation: February 27, 2007
Authorizing, and Implemented or Interpreted Law: 58-70a-101; 58-1-106(1)(a); 58-1-202(1)(a)



**Commerce, Occupational and
Professional Licensing
R156-71
Naturopathic Physician Practice Act
Rule**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 32675

FILED: 05/18/2009, 09:33

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division, Naturopathic Formulary Advisory Peer Committee, and the Naturopathic Physicians Licensing Board reviewed the rule and determined that amendments need to be made. This rule filing includes several noncontrolled substances that need to be added to the formulary and adds testosterone, a controlled substance, to the formulary in accordance with the change in the Naturopathic Physician Practice Act, Title 58, Chapter 71, made during the 2009 Legislative Session in H.B. 108. An amendment is also filed with respect to continuing education qualifications. (DAR NOTE: H.B. 108 (2009) is found at Chapter 42, Laws of Utah 2009, and was effective 05/12/2009.)

SUMMARY OF THE RULE OR CHANGE: In Section R156-71-202, the naturopathic formulary medications have been based on providing primary health care using the reference numbers identified in the American Hospital Formulary Service (AHFS), published by the American Society of Health System Pharmacists, 2006 edition. The AHFS is being updated to now reference the 2008 edition. Several new noncontrolled substance medications are being added to the formulary: Leukotriene Modifiers, Serums, limited to RhoGam, Toxoids, limited to DTP, and DtaP. Also, one controlled substance, testosterone, is being added to the formulary as provided in H.B. 108. In Subsection R156-71-304(2), an amendment is added that indicates a minimum of 10 of the 20 hours of continuing education specific to pharmacy or pharmacology must be recognized as category 1 credit hours as established by the Accreditation Council of Continuing Medical Education (ACCME) in each preceding 2-year licensure cycle.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-71-101 and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The Division will incur minimal costs of approximately \$100 to print the rule and distribute it once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget. The Division investigators should not require any additional training as a result of the proposed amendments. A possible increase in costs to the Division may occur if complaints regarding the prescribing practices of naturopathic physicians are reported to the Division. However, there are fewer than

30 licensed naturopathic physicians in Utah so any potential fiscal impact to the Division would be minimal.

❖ **LOCAL GOVERNMENTS:** The proposed amendments only apply to licensed naturopathic physicians and applicants for licensure in that classification. As a result, no costs or savings are anticipated for local governments.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** It should be noted that a licensed naturopathic physician's office may qualify as a small business if the naturopathic physician owns or works in a small clinic. The proposed amendments will create a possible savings for the public and insurance carriers resulting in possible loss to secondary prescribing practitioners. Patients currently must schedule additional visits with a secondary prescribing practitioner at a cost of approximately \$100 per patient. The addition of several noncontrolled substance medications indicated above and a controlled substance, testosterone, to the permitted medications also allows patients seen by a naturopathic physician to receive treatment from them instead of requiring the patient to schedule another office visit with another type of prescribing practitioner resulting in a similar cost savings. The Division is unable to determine the number of patients seen by naturopathic physicians. Also, if a licensed naturopathic physician wishes to prescribe the controlled substance testosterone, a \$90 controlled substance application fee will be required and a renewal fee of \$68 will be due every 2 years.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments will create a possible savings for the public and insurance carriers resulting in possible loss to secondary prescribing practitioners. Patients currently must schedule additional visits with a secondary prescribing practitioner at a cost of approximately \$100 per patient. The addition of several noncontrolled substance medications indicated above and a controlled substance, testosterone, to the permitted medications also allows patients seen by a naturopathic physician to receive treatment from them instead of requiring the patient to schedule another office visit with another type of prescribing practitioner resulting in a similar cost savings. Also, if a licensed naturopathic physician wishes to prescribe the controlled substance testosterone, a \$90 controlled substance application fee will be required and a renewal fee of \$68 will be due every 2 years.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing amends the naturopathic formulary to include "testosterone" which is now required by statute; the filing includes various substances that were inadvertently left out of a prior amendment to the formulary; updates references to the current edition of the American Society of Health System Pharmacists; and makes other technical corrections. No fiscal impact to businesses is anticipated beyond those addressed in the rule summary. Francine A. Giani, Executive Director

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:

Sally Stewart at the above address, by phone at 801-530-6179, by FAX at 801-530-6511, or by Internet E-mail at SStewart@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 07/15/2009

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 6/22/2009 at 9:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2009

AUTHORIZED BY: Thad LeVar, Deputy Director

R156. Commerce, Occupational and Professional Licensing.

R156-71. Naturopathic Physician Practice Act Rule.

R156-71-202. Naturopathic Physician Formulary.

(1) In accordance with Subsections 58-71-102(8), 58-71-102(12)(a) and 58-71-202, the naturopathic physician formulary which consists of noncontrolled substance legend medications deemed appropriate for the primary health care of patients within the scope of practice of naturopathic physicians, the prescription of which is approved by the Division in collaboration with the Naturopathic Formulary Advisory Peer Committee, consists of the following legend drugs, listed by category, with reference numbers identified in the American Hospital Formulary Service (AHFS), published by the American Society of Health System Pharmacists, [2006]2008 edition:

- 4:00 Antihistamines
- 8:08 Anthelmintics
- 8:12 Antibacterials, oral and topical forms only
- 8:14 Antifungals, oral and topical forms
- 8:18 Antivirals limited to oral and topical dosage forms, excluding:
 - 8:18:08 Antiretrovirals
 - 8:18:20 Interferons
 - 8:18:24 Monoclonal Antibodies
 - 8:18:32 Nucleosides and Nucleotides
 - 8:30:04 Amebicicides
 - 8:30:92 Miscellaneous Antiprotozoals excluding those whose primary indication is the treatment of infection in immunosuppressed patients (i.e. Pentamidine and Trimetrexate)
 - 8:36 Urinary anti-infectives
 - 12:12:08:12 Selective Beta 2 Adrenergic Agonists
 - 12:12:12 Alpha and Beta Adrenergic Agonists
 - 12:16 Sympatholytic (Adrenergic Blocking) Agents, limited to ergot derivatives
 - 12:20 Skeletal Muscle Relaxants, excluding scheduled medications
 - 20:24 Hemorrhologic Agents
 - 24:04:08 Cardiotoxic [a]Agents - limited to Digoxin

- 24:06 Antilipemic Agents
- 24:08 Hypotensive Agents - limited to oral dosage forms
- 24:20 Alpha Adrenergic Blocking Agents
- 24:24 Beta Adrenergic Blocking Agents - limited to oral dosage forms
- 24:28 Calcium Channel Blocking Agents - limited to oral dosage forms
- 24:32 Renin-Angiotensin-Aldosterone System Inhibitors - limited to oral dosage forms
- 28:08 Analgesics and Antipyretics, excluding scheduled medications
- 28:16.04.20 Selective-Serotonin Reuptake Inhibitors
- 28:16.04.24 Serotonin Modulators
- 28:16.04.28 Tricyclics and Other Norepinephrine-Reuptake Inhibitors
- 40:00 Electrolytic, [e]Caloric, and [w]Water [b]Balance
- 40:28 Diuretics
- 44:00 Enzymes, limited to digestive and proteolytic
- 48:10:24 Leukotriene Modifiers
- 52:08 Corticosteroids (oral, topical, and injectable), Anti-Inflammatory Agents except Ophthalmologic Preparations, and DMARDS[
 - 52:16 Local Anesthetics]
 - 56:22 Antiemetics
 - 56:28 H2 Blockers, Anti-ulcer [a]Agents and Acid Suppressants
 - 68:12 Contraceptives, except implants and injections
 - 68:16.04 Estrogen
 - 68:20.02 Alpha-Glucosidase Inhibitors
 - 68:20.08 Insulins and Biguanides
 - 68:20.20 Sulfonyleureas
 - 68:24 Parathyroid
 - 68:32 Progestin
 - 68:36[-];04 Thyroid [a]Agents, including [t]Thyroid of glandular extract
 - 72:00 Local Anesthetics
 - 80:00 Serums, limited to RhoGam
 - 80:08 Toxoids, limited to DTP and DTaP
 - 80:12 Vaccines
 - 88:28 Multivitamin preparations
 - 92:00 Miscellaneous Therapeutic Agents, limited to Antigout, and Bone-Resorption Inhibitors[7] (limited to Raloxifene), and botulinum toxin type A[7] (limited to superficial injections)
- (2) In addition, [a]Amino [a]Acids, [m]Minerals, [o]Oxygen and [s]Silver [n]Nitrate, although not listed in Subsection (1), are approved for primary health care.
- (3) In accordance with Subsections 58-71-102(8), 57-71-102(12)(a) and Section 58-71-202, the naturopathic physician formulary includes a single controlled substance with the reference number identified in the AHFS, published by the American Society of Health System Pharmacists, 2008 edition:
 - 68:08 Testosterone.
 - ([3]4) New categories or classes of drugs will need to be approved as part of the formulary prior to prescribing/administering.
 - ([4]5) The licensed naturopathic physician has the responsibility to be knowledgeable about the medication being prescribed or administered.

R156-71-304. Qualified Continuing Education.

(1) To be qualified continuing education, a continuing education course shall meet the following standards:

(a) the course shall consist of clinically oriented seminars, lectures, conferences, workshops, mediated instruction, or programmed learning provided by one of the following:

(i) a professional health care licensing agency, hospital, or institution accredited by the Accreditation Council of Continuing Medical Education (ACCME);

(ii) a program sponsored by the American Council of Pharmaceutical Education (ACPE);

(iii) an accredited college or university;

(iv) a professional association or organization representing a licensed profession whose program objectives are related to naturopathic training; or

(v) any other provider providing a program related to naturopathic education, if the provider has submitted an application to and received approval from the Utah Naturopathic Physicians Licensing Board;

(b) the learning objectives of the course shall be reasonably and clearly stated;

(c) the teaching methods shall be clearly stated and appropriate;

(d) the faculty shall be qualified both in experience and in teaching expertise;

(e) there shall be a written post course or program evaluation;

(f) the documentation of attendance shall be provided; and

(g) the content of the course shall be relevant to naturopathic practice and consistent with the laws and rules of this state.

(2) In accordance with Section 58-71-304, qualified continuing education shall consist of 48 hours of qualified continuing professional education in each preceding two year period of licensure, 20 hours of which shall be specific to pharmacy or pharmacology as it pertains to the Naturopathic Physician Formulary, Section R156-71-202. A minimum of ten of the 20 hours of continuing education specific to pharmacy or pharmacology must be recognized as category 1 credit hours as established by the ACCME in each preceding two year licensure cycle. No more than 20 hours of continuing education in each two-year period of licensure may be through distance learning.

(3) If a licensee allows his license to expire and the application for reinstatement is received by the division within two years after the expiration date the applicant shall:

(a) submit documentation of having completed 48 hours of qualified continuing professional education required for the previous renewal period. The required hours shall meet the criteria set forth in Subsection (2); and

(b) submit documentation of having completed a pro rata amount of qualified continuing professional education based upon one hour of qualified continuing professional education for each month the license was expired for the current renewal period.

(4) If the application for reinstatement is received by the division more than two years after the date the license expired, the applicant shall complete a minimum of 48 hours of qualified continuing professional education and additional hours as determined by the board to clearly demonstrate the applicant is currently competent to engage in naturopathic medicine. The required hours shall meet the criteria set forth in Subsection (2).

(5) Audits of a licensee's continuing education hours may be done on a random basis by the division in collaboration with the board.

(6) A licensee shall be responsible for maintaining competent records of completed qualified professional education for a period of two years after close of the two year period to which the records

pertain. It is the responsibility of the licensee to maintain this information with respect to qualified professional education to demonstrate it meets the requirements under this section.

(7) The division in collaboration with the board may grant a waiver of continuing education requirements to a waiver applicant who documents he is engaged in full time activities or is subjected to circumstances which prevent the licensee from meeting the continuing professional education requirements established under this section. A waiver may be granted for a period of up to four years. However, it is the responsibility of the licensee to document the reasons and justify why the requirement could not be met.

KEY: licensing, naturopaths, naturopathic physician

Date of Enactment or Last Substantive Amendment:

~~November 24, 2008~~ 2009

Notice of Continuation: January 8, 2007

Authorizing, and Implemented or Interpreted Law: 58-71-101; 58-1-106(1)(a); 58-1-202(1)(a)



Environmental Quality, Environmental Response and Remediation

R311-201

Underground Storage Tanks: Certification Programs

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 32696

FILED: 05/28/2009, 14:23

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Subsection R311-201-6(e)(9) is changed so it agrees with the wording and intent of Subsection R311-203-3(a), which was changed in 2008. Section R311-201-12 is added to implement the "Operator Training" requirement of the Federal Energy Policy Act of 2005. This Act requires that state underground storage tank (UST) programs establish and implement a program for training of UST operators.

SUMMARY OF THE RULE OR CHANGE: Subsection R311-201-6(e)(9) is changed to modify the time frame in which a certified UST installer must notify the Executive Secretary (UST) before installing or upgrading an underground storage tank. Subsection R311-201-6(e)(9) will refer to the time frame stated in Subsection R311-203-3(a), which is 10 days or another time period approved by the Executive Secretary. Section R311-201-12, the new Operator Training section, creates three classes of trained and registered UST operators: A, B, and C. Each UST facility must have Class A, B, and C operators by 01/01/2012. A Class A operator is a person who has primary responsibility to oversee the broader aspects of statutory and regulatory requirements and standards necessary to operate the UST system. A Class B operator is a person who oversees the daily aspects of operation, maintenance, and recordkeeping for the UST system. A

Class C operator is a person who has primary responsibility to respond to overfills or other emergency conditions that may occur with the UST system. The rule specifies the duties and responsibilities of each operator class. Most UST facilities will have an operator inspection every 30 days. The Class B operator or a designee will conduct the inspection, which will involve checking various parts of the UST system for proper function and prevention and detection of product releases from the system. The Executive Secretary will provide an inspection form to be used for these inspections. The form is incorporated by reference into the rule. Exceptions to the 30-day inspection requirements may be granted for specific situations. All classes of operators are required to be trained and registered. Class A and B operators will attend an approved training course and pass a registration examination.

Class A and B operators may pass a nationally-recognized UST operator examination and a Utah-specific rules and regulations examination instead of taking the training course and registration examination. UST owners may provide their own training if it is approved by the Executive Secretary. Class A and B operators of UST facilities found to be significantly out of compliance for specified violations will attend an approved re-training course. Reciprocity is allowed for Class A and B operators from another state if that state's operator training program is determined to be equivalent to Utah's program.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105, 19-6-402, and 19-6-403, and 42 USC Section 6991i of the Solid Waste Disposal Act as amended by the Energy Policy Act of 2005

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: UST Operator Inspection - Utah, dated April 30, 2009

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: A state agency acting as an underground storage tank owner could incur a cost of approximately \$250 per individual for initial registration as a Class A or B operator, a re-registration cost of approximately \$25 per individual, and a re-training cost of approximately \$200 per re-training instance. The aggregate cost would depend on the number of people registering as Class A or B operators and the number of re-training instances that occur. The state may also realize savings to the Petroleum Storage Tank Fund, as UST operators more carefully inspect their tank systems and find releases sooner. Costs to the Fund should be reduced because leaks may be found more quickly or prevented by increased diligence on the part of UST operators. The total savings would depend on the reduced number and severity of releases.

❖ LOCAL GOVERNMENTS: A local government acting as an underground storage tank owner could incur a cost of approximately \$250 per individual for initial registration as a Class A or B operator, a re-registration cost of approximately \$25 per individual, and a re-training cost of approximately \$200 per re-training instance. The aggregate cost would depend on the number of people registering as Class A or B operators and the number of re-training instances that occur.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: A small business or other affected person acting as an underground storage tank owner/operator will incur an estimated cost of approximately \$250 for training and registration of a Class A or Class B operator. An individual who registers as both a Class A and Class B operator is required to take only one class and pay only one registration fee. The Division estimates that approximately 700 to 800 individuals will register as class A and/or B operators for an approximate aggregate cost of \$175,000 to \$200,000 during the initial registration phase, which will occur over a period of approximately 2 years. After initial registration, operators will pay a registration fee of approximately \$25 to re-register every 3 years. Re-training cost is expected to be approximately \$200 per individual, with the aggregate cost depending on the number of individuals who need re-training. Training of Class C operators is expected to be done as part of general employee training, and would incur no additional cost. No registration fee will be charged for Class C operators.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Anticipated cost of the operator training program and registration for Class A or B operator is approximately \$250 per person registered. An individual may register as both classes, but would take only one course and pay only one fee. An individual who contracts to be a B operator for an UST owner is required to certify as an UST inspector under the UST certification program, at a cost of approximately \$400.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses will have to pay employees to attend an all-day class, and have to pay class and registration fees. There may also be cost for travel time involved. Either the owner or an employee will have to perform the extra duties required by the rule: inspections, training others, specifically the Class C operators, which usually have a high turn-over rate, maintaining new forms, etc.

In the event the facility fails a state compliance inspection, the owner or designated representative will have to take a day and attend re-training. This extra time, training, and effort translates into an additional financial burden for the UST owners. On a positive note, this additional time, training and efforts by the owners should provide great dividends in the long term. Having these additional people trained in UST operations should reduce the number of releases into the environment. Releases that do occur will be caught early to minimize their impact. Trained individuals will be able to clean up spills and overfills in a timely manner. Although there are costs and time up front, in the long run it will save owners time and money and help protect the environment. William J. Sinclair, Acting Executive Director

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

ENVIRONMENTAL QUALITY
ENVIRONMENTAL RESPONSE AND REMEDIATION
168 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gary Astin at the above address, by phone at 801-536-4103, by FAX at 801-359-8853, or by Internet E-mail at gastin@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 07/15/2009

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 6/16/2009 at 10:00 AM, Grand Center, Room 4, 182 N 500 W, Moab, UT; 6/17/2009 at 10:00 AM, TriCounty Health Dept., 133 S 500 E, Vernal, UT; 6/23/2009 at 2:00 PM, Bear River Health Dept., Environmental Health, 85 E 1800 N, Logan, UT; 6/25/2009 at 2:00 PM, Iron County Tourism Bureau, 581 N Main St., Cedar City, UT; and 7/07/2009 at 2:00 PM, Department of Environmental Quality, Room 101, 168 N 1950 W, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/17/2009

AUTHORIZED BY: Brad T Johnson, Director

R311. Environmental Quality, Environmental Response and Remediation.

R311-201. Underground Storage Tanks: Certification Programs and UST Operator Training.

R311-201-6. Standards of Performance.

(a) Certified UST Consultant. An individual who provides UST consulting services in the State of Utah:

- (1) shall display the certificate upon request;
- (2) shall comply with all local, state and federal laws, rules and regulations regarding UST release-related consulting in this state;
- (3) shall provide, or shall associate appropriate personnel in order to provide a high level of experience and expertise in release abatement, investigation, or corrective action;
- (4) shall perform, or take steps to ensure that work is performed with skill, care, and diligence consistent with a high level of experience and expertise in release abatement, investigation, or corrective action;
- (5) shall perform work and submit documentation in a timely manner as determined by the Executive Secretary and in a format established by the Division of Environmental Response and Remediation, as outlined in the most recent Consultant's Day Seminar Handbook;
- (6) shall review and certify by signature any documentation submitted to the Executive Secretary in accordance with UST release-related compliance;
- (7) shall ensure and certify by signature all pertinent release abatement, investigation, and corrective action work performed under the direct supervision of a Certified UST Consultant;
- (8) shall report the discovery of any release caused by or encountered in the course of performing environmental sampling for compliance with Utah underground storage tank rules, or report the results indicating that a release may have occurred, to the local health district, local public safety office and the Executive Secretary within twenty-four hours;
- (9) shall not participate in fraudulent, unethical, deceitful or dishonest activity with respect to performance of work for which certification is granted; and,

(10) shall not participate in any other activities regulated under Rule R311-201 without meeting all requirements of that certification program.

(b) UST Inspector. An individual who performs underground storage tank inspecting for the Division of Environmental Response and Remediation:

- (1) shall display his certificate upon request;
- (2) shall comply with all local, state and federal laws, rules and regulations regarding underground storage tank inspecting in this state;
- (3) shall report the discovery of any release caused by or encountered in the course of performing tank inspecting to the local health district, local public safety office and the Executive Secretary within twenty-four hours;
- (4) shall conduct inspections of USTs and records to determine compliance with this rule only as authorized by the Executive Secretary.
- (5) shall not participate in fraudulent, unethical, deceitful or dishonest activity with respect to any certificate application;
- (6) shall not participate in fraudulent, unethical, deceitful or dishonest activity with respect to performance of work for which certification is granted; and,
- (7) shall not participate in any other regulated certification program activities without meeting all requirements of that certification program.

(c) UST Tester. An individual who performs UST testing in the State of Utah:

- (1) shall display his certificate upon request;
- (2) shall comply with all local, state and federal laws, rules and regulations regarding UST testing in this state;
- (3) shall perform all work in a manner that there is no release of the contents of the tank;
- (4) shall report the discovery of any release caused by or encountered in the course of performing tank testing to the local health district, local public safety office and the Executive Secretary within twenty-four hours;
- (5) shall assure that all operations of UST testing which are critical to the integrity of the system and to the protection of the environment shall be supervised by a certified person;
- (6) shall not participate in fraudulent, unethical, deceitful or dishonest activity with respect to any certificate application;
- (7) shall not participate in fraudulent, unethical, deceitful or dishonest activity with respect to performance of work for which certification is granted where the manner of the activity would increase the possibility of a release or suspected release from an underground storage tank or which would falsify UST testing results of the underground storage tank system;
- (8) shall perform work in a manner that the integrity of the underground storage tank system is maintained; and,
- (9) shall not participate in any other regulated certification program activities without meeting all requirements of that certification program.

(d) Groundwater and soil sampler. An individual who performs environmental sampling for compliance with Utah underground storage tank rules:

- (1) shall display his certificate upon request;
- (2) shall comply with all local, state and federal laws, rules and regulations regarding underground storage tank sampling in this state;
- (3) shall report the discovery of any release caused by or encountered in the course of performing groundwater or soil sampling or report the results indicating that a release may have occurred to the

local health district, local public safety office and the Executive Secretary within twenty-four hours;

(4) shall not participate in fraudulent, unethical, deceitful or dishonest activity with respect to any certificate application;

(5) shall not participate in fraudulent, unethical, deceitful or dishonest activity with respect to performance of work for which certification is granted; and,

(6) shall not participate in any other regulated certification program activities without meeting all requirements of that certification program.

(e) UST Installer. An individual who performs underground storage tank installation in the State of Utah:

(1) shall display his certificate upon request;

(2) shall comply with all local, state and federal laws, rules and regulations regarding underground storage tank installation in this state;

(3) shall perform all work in a manner that there is no release of the contents of the tank;

(4) shall report the discovery of any release caused by or encountered in the course of performing tank installation to the local health district, local public safety office and the Executive Secretary within twenty-four hours;

(5) shall assure that all operations of tank installation which are critical to the integrity of the system and to the protection of the environment which includes preinstallation tank testing, tank site preparation including anchoring, tank placement, backfilling, cathodic protection installation, service, or repair, vent and product piping assembly, fill tube attachment, installation of tank manholes, pump installation, secondary containment construction, and UST repair shall be supervised by a certified person;

(6) shall not participate in fraudulent, unethical, deceitful or dishonest activity with respect to any certificate application;

(7) shall not participate in fraudulent, unethical, deceitful or dishonest activity with respect to performance of work for which certification is granted where the manner of the activity would increase the possibility of a release from an underground storage tank; and

(8) shall not participate in any other regulated certification program activities without meeting all requirements of that certification program.

(9) shall notify the Executive Secretary ~~[30 days]~~ as required by R311-203-3(a) before installing or upgrading an UST.

(f) UST Remover. An individual who performs underground storage tank removal in the State of Utah:

(1) shall display his certificate upon request;

(2) shall comply with all local, state and federal laws and regulations regarding underground storage tank removal in this state;

(3) shall perform all work in a manner that there is no release of the contents of the tank;

(4) shall report the discovery of any release caused by or encountered in the course of performing tank removal to the local health district, local public safety office and the Executive Secretary within twenty-four hours;

(5) shall assure that all operations of tank removal which are critical to safety and to the protection of the environment which includes removal of soil adjacent to the tank, disassembly of pipe, final removal of product and sludges from the tank, cleaning of the tank, purging or inerting of the tank, removal of the tank from the ground, and removal of the tank from the site shall be supervised by a certified person;

(6) shall not proceed to close a regulated UST without an approved closure plan, except as outlined in Subsection R311-204-2(b);

(7) shall not participate in fraudulent, unethical, deceitful or dishonest activity with respect to any certificate application;

(8) shall not participate in fraudulent, unethical, deceitful or dishonest activity with respect to performance of work for which certification is granted where the manner of the activity would increase the possibility of a release from an underground storage tank; and

(9) shall not participate in any other regulated certification program activities without meeting all requirements of that certification program, except as outlined in Subsection R311-204-5(b).

R311-201-12. UST Operator Training and Registration.

(a) To meet the Operator Training requirement (42 USC Section 6991i) of the Solid Waste Disposal Act as amended by the Energy Policy Act of 2005, each UST facility shall, by January 1, 2012, have UST facility operators that are trained and registered according to the requirements of this section. Each facility shall have three classes of operators: A, B, and C.

(1) A facility may have more than one person designated for each operator class.

(2) An individual acting as a Class A or B operator may do so for more than one facility.

(b) The UST owner or operator shall provide documentation to the Executive Secretary to identify the Class A, B, and C operators for each facility. If an owner or operator does not register and identify Class A, B, and C operators for a facility, the certificate of compliance for the facility may be revoked for failure to demonstrate substantial compliance with all state and federal statutes, rules and regulations.

(c) After January 1, 2012, new Class A and B operators shall be trained and registered within 30 days of assuming responsibility for an UST facility. New Class C operators shall be trained before assuming the responsibilities of a Class C operator.

(d) The Class A operator shall be an owner or employee who has primary responsibility for the broader aspects of the statutory and regulatory requirements and standards necessary to operate and maintain the UST system. The Class A operator shall:

(1) have a general knowledge of UST systems;

(2) ensure that UST records are properly maintained according to 40 CFR 280;

(3) ensure that yearly UST fees are paid;

(4) ensure proper response to and reporting of emergencies caused by releases or spills from USTs;

(5) make financial responsibility documents available to the Executive Secretary as required; and

(6) ensure that Class B and Class C operators are trained and registered.

(e) The Class B operator shall implement routine daily aspects of operation, maintenance, and recordkeeping for UST systems. The Class B operator shall be an owner, employee, or contractor working for the UST owner or operator. The Class B operator shall:

(1) ensure that on-site UST operator inspections are conducted according to the requirements of Subsection R311-201-12(h);

(2) ensure that UST release detection is performed according to 40 CFR 280 subpart D;

(3) ensure that the status of the UST system is monitored every seven days for alarms and unusual operating conditions that may indicate a release;

(4) document the reason for an alarm or unusual operating condition identified in Subsection R311-201-12(e)(3), if it is not reported as a suspected release according to 40 CFR 280.50;

(5) ensure that appropriate release detection and other records are kept according to 40 CFR 280.34 and 280.45, and are made available for inspection;

(6) ensure that spill prevention, overfill prevention, and corrosion protection requirements are met;

(7) be on site for facility compliance inspections, or designate another individual to be on site for inspections;

(8) ensure that suspected releases are reported according to the requirements of 40 CFR 280.50; and

(9) ensure that Class C operators are trained and registered, and are on-site during operating hours.

(f) An individual who contracts to act as a Class B operator for an UST owner or operator, or performs UST operator inspections according to Subsection R311-201-12(h), and is not the owner or operator, or an employee of the owner or operator, shall be certified as an UST inspector according to Section R311-201-2, and shall meet all requirements of an UST inspector.

(g) The Class C operator is an employee and is generally the first line of response to events indicating emergency conditions. A Class C operator shall:

(1) be present at the facility at all times during normal operating hours;

(2) monitor product transfer operations according to 40 CFR 280.30(a), to ensure that spills and overfills do not occur;

(3) properly respond to alarms, spills, and overfills;

(4) notify Class A and/or Class B operators and appropriate emergency responders when necessary; and

(5) act in response to emergencies and other situations caused by spills or releases from an UST system that pose an immediate danger or threat to the public or to the environment, and that require immediate action.

(h) UST Operator Inspections.

(1) Each UST facility shall have an on-site operator inspection conducted every 30 days, or as approved under Subsection R311-201-12(h)(4) or (5). The inspection shall be performed by or under the direction of the designated Class B operator. The Class B operator shall ensure that documentation of each inspection is kept and made available for review by the Executive Secretary.

(2) The UST operator inspection shall document that:

(A) release detection systems are properly operating and maintained;

(B) spill, overfill, vapor recovery, and corrosion protection systems are in place and operational;

(C) tank top manways, tank and dispenser sumps, secondary containment sumps, and under-dispenser containment are intact, and are properly maintained to be free of water, product, and debris;

(D) the tag or other identifying method issued under Subsection 19-6-411(7) is properly in place on each tank;

(E) alarm conditions that could indicate a release are properly investigated and corrected, and are reported as suspected releases according to 40 CFR 280.50 or documented to show that no release has occurred; and

(F) unusual operating conditions and other indications of a release or suspected release indicated in 40 CFR 280.50 are properly reported.

(3) The individual conducting the inspection shall use the form "UST Operator Inspection- Utah" to conduct on-site operator inspections. The form, dated April 30, 2009, and including information required to be completed during the inspection, is hereby incorporated by reference.

(4) The Executive Secretary may allow operator inspections to be performed less frequently in situations where it is impractical to conduct an inspection every 30 days. The owner or operator shall request the exemption, justify the reason for the exemption, and submit a plan for conducting operator inspections at the facility.

(5) An UST facility whose tanks are properly temporarily closed according to 40 CFR 280.70 and R311-204-4 shall have an operator inspection every 90 days.

(i) A facility that normally has no employee or other responsible person on site, or is open to dispense fuel at times when no employee or other responsible person is on site, shall have:

(1) a sign posted in a conspicuous place, giving the name and telephone number of the facility owner, operator, or local emergency responders, and

(2) an emergency shutoff device, if the facility dispenses fuel.

(j) Operator Training and Registration

(1) Training and testing.

(A) Applicants for Class A and B operator registration shall successfully complete an approved operator training course within the six-month period prior to application.

(B) The training course shall be approved by the Executive Secretary, and shall include instruction in the following: notification, temporary and permanent closure, installation permitting, underground tank requirements of the 2005 Energy Policy Act, Class A, B, and C operator responsibilities, spill prevention, overfill prevention, UST release detection, corrosion protection, record-keeping requirements, emergency response, product compatibility, Utah UST rules and regulations, UST financial responsibility, and delivery prohibition.

(C) Applicants for Class A and B operator registration shall successfully pass a registration examination authorized by the Executive Secretary. The Executive Secretary shall determine the content of the examination.

(D) An individual applying for Class A or B operator registration may be exempted from meeting the requirements of Subsections R311-201-12(j)(1)(A) and (C) by completing the following within the six-month period prior to application:

(i) successfully passing a nationally recognized UST operator examination approved by the Executive Secretary, and

(ii) successfully passing a Utah UST rules and regulations examination authorized by the Executive Secretary. The Executive Secretary shall determine the content of the examination.

(E) Class C operators shall receive instruction in product transfer procedures, emergency response, and initial response to alarms and releases.

(2) Registration application.

(A) Applicants for Class A and B operator registration shall submit a registration application to the Executive Secretary, shall document proper training, and shall pay any applicable fees.

(B) Class C operators shall be designated by a Class B operator. The Class B operator shall maintain a list identifying the Class C operators for each UST facility. The list shall identify each Class C operator, the date of training, and the trainer. Identification on the list shall serve as the operator registration for Class C operators.

(C) A registered Class A or B operator may act as a Class C operator by meeting the training and registration requirements for a Class C operator.

(D) Class A and B registration shall be effective for a period of three years, and shall not lapse or expire if the registered operator leaves the employment of the company under which the registration was obtained.

(3) Renewal of registration.
(A) Class A and B operators shall apply for renewal of registration not more than six months prior to the expiration of the registration by:
(i) submitting a completed application form;
(ii) paying any applicable fees; and
(iii) documenting successful completion of any re-training required by Subsection R311-201-12(k).
(B) If the Executive Secretary determines that the operator meets all the requirements for registration, the Executive Secretary shall renew the applicant's registration for a period equal to the initial registration.
(C) Any applicant for renewal who has a registration that has been expired for more than two years prior to submitting a renewal application shall successfully satisfy the training and examination requirements for initial registration under Subsection R311-201-12(j)(1) before receiving the renewal registration.
(k) Re-training.
(1) A Class A operator shall be subject to re-training requirements if any facility for which the Class A operator has oversight is found to be out of compliance due to:
(A) lapsing of certificate of compliance;
(B) failure to provide acceptable financial responsibility; or
(C) failure to ensure that Class B and C operators are trained and registered.
(2) A Class B operator shall be subject to re-training requirements if a facility for which the Class B operator has oversight is found to be out of compliance due to:
(A) failure to document significant operational compliance, as determined by the EPA Release Prevention Compliance Measures Matrix and Release Detection Compliance Measures Matrix, both dated September 30, 2003, and incorporated by reference in Subsection R311-206-10(b)(1);
(B) failure to perform UST operator inspections required by Subsection R311-201-12(h);
(C) failure to have the tag or other identifying method issued under Subsection 19-6-411(7) properly in place on each tank; or
(D) failure to ensure that Class C operators are trained and registered, and are on-site during operating hours.
(3) To be re-trained, Class A and Class B operators shall successfully complete the appropriate Class A or B operator training course and examination, or shall complete an equivalent re-training course and examination approved by the Executive Secretary.
(4) Class A and B operators shall be re-trained within 90 days of the date of the determination of non-compliance, and shall submit documentation showing successful completion of the re-training to the Executive Secretary within 30 days of the re-training. If the documentation is not received, the Executive Secretary may revoke the certificate of compliance for the facility for failure to demonstrate substantial compliance with all state and federal statutes, rules and regulations.
(5) If the documentation of re-training is not received by the Executive Secretary within six months of the date of determination of non-compliance, the Class A or B operator's registration will lapse. To re-register, the operator shall meet the requirements of Subsection R311-201-12(j)(1) and (2).
(6) If a facility for which a Class A or B operator has oversight is found to be out of compliance under Subsections R311-201-12(k)(1) or (2), re-training shall not be required if the Class A or B operator successfully completes and documents re-training under Subsections

R311-201-12(k)(3) and (4) for a prior determination of non-compliance that occurred during the previous nine months.

(l) Reciprocity.
(1) If the Executive Secretary determines that another state's operator training program is equivalent to the operator training program provided in this rule, he may accept an applicant's Class A or Class B registration application, provided that the applicant:
(A) submits a completed application form;
(B) passes the Utah UST rules and regulations examination referenced in Subsection R311-201-12(j)(1)(D)(ii), and
(C) submits payment of any applicable registration fees.
(2) The Class A or Class B registration shall be valid until the Utah registration expiration described in Subsection R311-201-12(j)(2)(D).

KEY: hazardous substances, petroleum, underground storage tanks

Date of Enactment or Last Substantive Amendment: [September 9, 2004]2009

Notice of Continuation: April 18, 2007

Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-402; 19-6-403



Health, Health Care Financing, Coverage and Reimbursement Policy **R414-7D** Intermediate Care Facility for the Mentally Retarded Transition Project

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 32688

FILED: 05/21/2009, 16:05

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is no longer necessary because the criteria for the Intermediate Care Facility/Mental Retardation (ICF/MR) Transition Program for persons with mental retardation is already contained in Rule R414-510.

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.

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

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There is no budget impact because this rule repeal does not affect payments or services for Medicaid clients in ICF/MRs.

❖ **LOCAL GOVERNMENTS:** There is no budget impact because local governments do not fund or provide ICF/MR services for Medicaid clients.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** There is no budget impact to other persons and small businesses because this rule repeal does not affect payments or services for Medicaid clients in ICF/MRs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because this rule repeal does not affect payments or services for Medicaid clients in ICF/MRs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule is redundant and unnecessary. These services are governed by Rule R414-510. No change for providers and no fiscal impact. David N. Sundwall, MD Executive Director

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2009

AUTHORIZED BY: David N. Sundwall, Executive Director

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

~~R414-7D. Intermediate Care Facility for the Mentally Retarded Transition Project.~~

~~R414-7D-1. Transition Project Authorized.~~

~~— (1) Medical or hospital services available under the Medical Assistance Program are generally limited by federal guidelines as set forth under Title XIX of the federal Social Security Act and Title 42 of the Code of Federal Regulations.~~

~~— (2) A Medicaid recipient residing in an Intermediate Care Facility for the Mentally Retarded (ICF/MR) may at any time apply for enrollment to the Medicaid 1915c Home and Community Based Waiver for Individuals with Developmental Disabilities or Mental Retardation (DD/MR Waiver) through the application process established in the federally approved waiver implementation plan. ICF/MR resident applications are processed consistent with all waiver applications.~~

~~— (3) The Department, through an ICF/MR Transition Project, makes funds available to a limited number of ICF/MR residents to move from their current ICF/MR placement to community services through the Medicaid 1915c Home and Community Based Waiver for~~

~~Individuals with Developmental Disabilities or Mental Retardation. This funding is available to Medicaid recipients who have resided for 12 or more continuous months in a Medicaid certified ICF/MR. The Department makes the ICF/MR Transition Project available to eligible individuals during a specified time period up to the number of individuals authorized for the project by the Utah Legislature through appropriation for that time period.~~

~~R414-7D-2. ICF/MR Transition Project Open Enrollment.~~

~~— (1) Based on a legislative appropriation enabling ICF/MR transition for a specified fiscal year, the Department determines the number of Medicaid recipients to be transitioned from ICFs/MR to the 1915c DD/MR Waiver during that fiscal year.~~

~~— (a) The Department apportions the legislative appropriation so that approximately 50% of the available funds are targeted to applicants based on their continuous time as an ICF/MR resident and 50% of the available funds are targeted to applicants on a statistical process that ranks individuals based on random number tables.~~

~~— (b) The Department ranks each individual who applies for participation in the ICF/MR transition project using length of continuous stay in an ICF/MR and a priority ranking assigned through a random numbering process.~~

~~— (c) The Department allocates the legislative appropriation to individual applicants in accordance with R414-7D-2(1)(a) and in the order of priority ranking as determined in R414-7D-2(1)(b). The amount allocated to each individual is based on a State conducted needs assessment and individualized service plan for DD/MR Waiver services at the point of initial enrollment. At the point the available funds have been fully allocated to the highest ranking individuals, the Department completes no further needs assessments and individualized service plans for the remaining applicants.~~

~~— (2) The Department conducts an outreach campaign leading to an application period during which interested Medicaid recipients residing in Utah ICFs/MR may apply for transition to the DD/MR Waiver.~~

~~— (a) The Department advertises the pending application period to all Medicaid recipients residing in Utah ICFs/MR for 30 days before taking applications.~~

~~— (b) The application period will be open for 14 calendar days.~~

~~— (c) The Department accepts applications in either electronic format or hard copy format. Electronic applications must be completed during the 14 day application period and hard copy applications must be postmarked during the 14 day application period.~~

~~— (3) The Department of Human Services contacts applicants receiving a preliminary transition allocation through R414-7D-2(1)(c) to confirm their desire to participate.~~

~~— (a) The Department retains the list of applicants remaining after available funds are fully allocated, if any, and their priority ranking for use in selecting alternate individuals in the event one or more of the initial selected persons withdraws prior to becoming enrolled in the DD/MR Waiver.~~

~~— (b) In consultation with the Department of Human Services, the Department starts evaluations for enrollment as soon as possible after the close of the Legislative session. The Department coordinates the actual start date with the Department of Human Services enrollment workload resulting from new monies for increased DD/MR Waiver community enrollment to assure the individual transitions, once started, are completed in a timely manner.~~

~~— (4) The Department submits a waiver amendment to the federal Centers for Medicare and Medicaid Services as necessary to increase the declared capacity of the DD/MR Waiver by the number of new enrollees.~~

~~—(5) When the Department has allocated all appropriated funds to new enrollees in the DDMR Waiver, the Department concludes the transition project for the fiscal year. There are no carryover of applications received during a specific fiscal year into future years for purposes of the ICF/MR transition project.~~

KEY: Medicaid

~~**Date of Enactment or Last Substantive Amendment: January 3, 2005**~~

~~**Authorizing, and Implemented or Interpreted Law: 26-18]**~~

◆ ————— ◆

Health, Health Systems Improvement, Emergency Medical Services **R426-12** Emergency Medical Services Training and Certification Standards

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 32689

FILED: 05/26/2009, 08:37

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: A number of changes were passed through the Training Subcommittee and the Emergency Medical Services (EMS) Committee. The changes were needed to update the rules with current practices.

SUMMARY OF THE RULE OR CHANGE: The amendment: 1) clarifies TB (tuberculosis) test requirements and what happens if a person has a positive test; 2) changes the wording regarding CPR courses to be consistent with American Heart Association (AHA) Guidelines and CPR certification must be current during EMS certification; 3) changes the number of continuing medical education (CME) hours for EMS personnel; 4) changes all required CME hours for EMS personnel to match the new National EMS Education Standards; 5) deletes the methodologies for obtaining CME in the rules and states that a certain number of hours must be practical hands on training; 6) states that all levels (except for Dispatch), must complete and document the psychomotor skills listed in the current National EMS Education Standards; 7) deletes the 12-month field experience requirement that a person must have to go to a higher level of certification; 8) adds adult and pediatric advanced life support courses to EMT-Intermediate certification; 9) clarifies how long a person has to complete the recertification requirements at a lower level if that person fails three written tests at the higher level; 10) adds a CPR course requirement to EMT-I, EMT-IA, and paramedic; 11) states that CPR, Advanced Cardiac Life Support (ACLS), and Pediatric Advanced Life Support/Pediatric Education for Prehospital Providers (PALS/PEPP) must be current during certification; 12) adds requirements for a new certification, Emergency Medical Responder (EMR); 13) deletes the time period requirement that a person must be

certified to be able to certify as an EMS Instructor, Training Officer, and Course Coordinator; and 14) states that an official EMS agency representative may receive information pertaining to Department actions about an employee or potential employee if a Criminal History Non-Disclosure Agreement has been signed.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 8a

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The changes impose no additional costs on state government and do not relieve state government from any responsibilities. The new certification EMR will require that the state write test questions and prepare a practical test. These items are currently being written. A lot of the questions can be taken from the current EMT Basic test questions and the practical test will be patterned after the current EMT Basic test. Staff will have to spend some time getting this project complete, but certification fees will offset the cost for staff to complete the tests. The Division will have outside EMS personnel test the examinations and get input from them, but this will be volunteer time. The TB requirement will mean that if someone is tested positive for TB the State EMS Medical Director will need to review the records. However, this will be very seldom, and will only be time that he spends reviewing the records.

❖ LOCAL GOVERNMENTS: The proposed changes have a number of efficiencies built into the continuing medical education hours. There are no longer unique topic areas for the different certification levels. The new hours bring all the levels of certification together so that agencies with more than one level of personnel can have training sessions together. The Intermediate Advanced (IA) and paramedic levels were already doing CPR training, so this is not an increase for them. The Intermediate level agencies will need to start having ACLS and PALS/PEPP certification before and during EMS certification. This will be a charge to agencies who have Intermediate personnel. However, AHA regulates the ACLS and PALS/PEPP training and they offer free training for one person from each agency, who can then train others in the agency. This will be additional time for these agencies, but the additional eight hours has been built into the CME hourly requirement. There may be a cost to local government if they decide to have training at the EMR level. The agencies that may utilize the EMR training are law enforcement agencies and possibly first responder agencies in small cities and towns. Law enforcement agencies who desire this certification will pay approximately \$300 for a course and \$180 certification and testing fees. If first responder agencies that are already designated by the EMS Bureau desire to go to EMR certification from EMT certification, the savings to them could average \$1,000 per person.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Small businesses and persons other than businesses will have the same anticipated costs as local government per person.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are compliance costs for people who are presently Intermediate

certified. They will have the rest of their certification period to become ACLS and PALS/PEPP certified. The cost of that training would range from \$0 to \$150 for the training, depending on where they get that training.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Efforts have been made to anticipate possible impact on business, especially small business. Changes in requirements were made to minimize the cost of compliance. David N. Sundwall, MD, Executive Director

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

HEALTH
HEALTH SYSTEMS IMPROVEMENT,
EMERGENCY MEDICAL SERVICES
3760 S HIGHLAND DR
SALT LAKE CITY UT 84106, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Leslie Johnson at the above address, by phone at 801-273-6636, by FAX at 801-273-0744, or by Internet E-mail at lesliejohnson@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 07/15/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2009

AUTHORIZED BY: David N. Sundwall, Executive Director

R426. Health, Health Systems Improvement, Emergency Medical Services.

R426-12. Emergency Medical Services Training and Certification Standards.

R426-12-104. TB Test Requirements.

All levels of certification and recertification must submit a statement from a physician or other health care provider, confirming the applicant's negative results of a Tuberculin Skin Test or equivalent (TB test) examination conducted within the prior year, or complete the following requirements:

(1) If the test is positive, and there is no documented history of prior Latent TB Infection (LTBI) treatment, the applicant must see his primary care physician for a chest x-ray (CXR) in accordance with current Center for Disease Control and Prevention (CDC) guidelines and further evaluation. Results of CXR and medical history must be submitted to the Bureau.

(a) If the CXR is negative, the applicant's medical history will be reviewed by the State EMS Medical Director. For individuals at high risk for developing active TB, treatment will be strongly recommended.

(b) If the CXR is positive, the applicant is considered to be suspect Active TB. Should the diagnosis be confirmed, completion of treatment or release by an appropriate physician will be required prior to certification. Each such case will be reviewed by the State EMS Medical Director.

(c) In the event that an applicant who is required to get treatment refuses the treatment, BEMS may deny certification.

(2) A TB test should not be performed on a person who has a documented history of either a prior positive TB test or prior treatment for tuberculosis. The applicant must instead have a CXR in accordance with current CDC guidelines and provide documentation of negative CXR results to the Bureau.

(3) If the applicant has had prior treatment for active TB or LTBI, the applicant must provide documentation of this treatment prior to certification. Documentation of this treatment will be maintained by the Bureau, and needs only to be provided once. Each such case will be reviewed by the State EMS Medical Director.

R426-12-200. Emergency Medical Technician-Basic (EMT-B) Requirements and Scope of Practice.

(1) The Department may certify as an EMT-B an individual who meets the initial certification requirements in R426-12-201.

(2) The Committee adopts as the standard for EMT-Basic training and competency in the state, the following affective, cognitive and psychomotor objectives for patient care and treatment from the 1994 United States Department of Transportation's "EMT-Basic Training Program: National Standard Curriculum" (EMT-B Curriculum), which is incorporated by reference, with the exceptions of Module 8: Advanced Airway and Appendices C, D, J, and K.

(3) An EMT-B may perform the skills as described in the EMT-B Curriculum, as adopted in this section.

R426-12-201. EMT-B Initial Certification.

(1) The Department may certify an EMT-B for a four year period.

(2) An individual who wishes to become certified as an EMT-B must:

(a) successfully complete a Department-approved EMT-B course as described in R426-12-200(2);

(b) be able to perform the functions listed in the objectives of the EMT-B Curriculum adopted in R426-12-200(2) as verified by personal attestation and successful accomplishment during the course of all cognitive, affective, and psychomotor skills and objectives listed in the adopted EMT-B Curriculum;

(c) achieve a favorable recommendation from the course coordinator and course medical director stating technical competence during field and clinical training and successful completion of all training requirements for EMT-B certification;

(d) be 18 years of age or older;

(e) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(f) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years;

(g) maintain and submit documentation of having completed ~~[within the prior two years]~~ a CPR course ~~[offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater]~~ within the prior two years that is consistent with the most current version of the American Heart Association Guidelines for Cardiopulmonary Resuscitation (CPR) and Emergency Cardiac Care (ECC);

(h) submit to the Department a statement from a physician, confirming the applicant's results of a TB examination conducted within one year prior to completing the EMT-B course;

(i) within 120 days after the official course end date the applicant must successfully complete the Department written and practical EMT-B examinations, or reexaminations, if necessary.

(3) The Department may extend the time limit in Subsection (2)(i) for an individual who demonstrates that the inability to meet the requirements within the 120 days was due to circumstances beyond the applicant's control, such as for documented medical circumstances that prevent completion of testing, military deployment out of the state, extreme illness in the immediate family, or the like.

R426-12-202. EMT-B Certification Challenges.

(1) The Department may certify as an EMT-B, a registered nurse licensed in Utah, a physician assistant licensed in Utah, or a physician licensed in Utah who:

(a) is able to demonstrate knowledge, proficiency and competency to perform all the functions listed in the EMT-B Curriculum as verified by personal attestation and successful demonstration to a currently certified course coordinator and an off-line medical director of all cognitive, affective, and psychomotor skills and objectives listed in the EMT-B Curriculum;

(b) has a knowledge of:

(i) medical control protocols;

(ii) state and local protocols; and

(iii) the role and responsibilities of an EMT-B;

(c) ~~[maintains and submits documentation of having completed within the prior two years, a CPR course offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater]~~ maintain and submit documentation of having completed a CPR course within the prior two years that is consistent with the most current version of the American Heart Association Guidelines for CPR and ECC; and

(d) is 18 years of age or older.

(2) To become certified, the applicant must:

(a) submit three letters of recommendation from health care providers attesting to the applicant's patient care skills and abilities;

(b) submit a favorable recommendation from a currently certified course coordinator attesting to competency of all knowledge and skills contained within the EMT-B Curriculum.

(c) submit the applicable fees and a completed application, including social security number, signature, and, proof of current Utah license as a Registered Nurse, a Physician Assistant, or a Medical Doctor;

(d) within 120 days after submitting the challenge application, successfully complete the Department written and practical EMT-B examinations, or reexaminations, if necessary;

(e) The Department may extend the time limit in Subsection (2)(i) for an individual who demonstrates that the inability to meet the requirements within 120 days was due to circumstances beyond the applicants control, such as for documented medical circumstances that prevent completion of testing, military deployment out of the state, extreme illness in the immediate family, or the like.

(f) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years; and

(g) submit a statement from a physician, confirming the applicant's results of a TB examination conducted within one year prior to submitting the application.

R426-12-203. EMT-B Reciprocity.

(1) The Department may certify an individual as an EMT-B an individual certified outside of the State of Utah if the applicant can demonstrate the applicant's out-of-state training and experience requirements are equivalent to or greater than what is required in Utah.

(2) An individual seeking reciprocity for certification in Utah based on out-of-state training and experience must:

(a) submit the applicable fees and a completed application, including social security number and signature, to the Department and complete all of the following within 120 days of submitting the application;

(b) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years;

(c) maintain and submit documentation of having completed ~~[within the prior two years,] a CPR course [offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater]~~ within the prior two years that is consistent with the most current version of the American Heart Association Guidelines for CPR and ECC;

(d) submit a statement from a physician, confirming the applicant's results of a TB examination conducted within the prior year;

(e) successfully complete the Department written and practical EMT-B examinations, or reexaminations, if necessary;

(f) submit a current certification from one of the states of the United States or its possessions, or current registration and the name of the training institution if registered with the National Registry of EMTs; and

(g) provide documentation of completion of 25 hours of continuing medical education (CME) within the prior year.

R426-12-204. EMT-B Recertification Requirements.

(1) The Department may recertify an EMT-B for a four year period or for a shorter period as modified by the Department to standardize recertification cycles.

(2) An individual seeking recertification must:

(a) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(b) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years;

(c) maintain and submit documentation of having completed ~~[within the prior two years,] a CPR course [offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater]~~ within the prior two years that is consistent with the most current version of the American Heart Association Guidelines for CPR and ECC. CPR must be kept current during certification;

(d) submit a statement from the applicant's EMS provider organization or a physician, confirming the applicant's results of a TB examination; and

(e) successfully complete the Department applicable written and practical recertification examinations, or reexaminations if necessary, within one year prior to expiration;

(f) provide documentation of completion of ~~[400]98~~ hours of Department-approved CME meeting the requirements of subsections (3), (4), and (5) ~~[(6), and (7)]~~.

(3) ~~[The EMT-B must complete the CME throughout each of the prior four years.~~

~~—(4)—[The EMT-B must take [at least 25 elective hours and]the following [75-]required CME hours by subject in accordance with the National EMS Education Standards. The hours must be completed throughout the prior four years:~~

- ~~—(a) [Well being of the EMT— 2 hours;~~
- ~~—(b) Infection Control— 2 hours;~~
- ~~—(c) Airway— 4 hours;~~
- ~~—(d) Patient Assessment— 10 hours;~~
- ~~—(e) Communications and Documentation— 4 hours;~~
- ~~—(f) Pharmacology and Patient Assisted Medications— 8 hours;~~
- ~~—(g) Medical Emergencies: Cardiac and Automatic External Defibrillation— 6 hours;~~
- ~~—(h) Medical Emergencies— 7 hours;~~
- ~~—(i) Trauma (must include simulated bleeding, shock, soft tissue, burns, kinetics, musculoskeletal, head and spine, eyes, face, chest, splinting and bandaging— 12 hours;~~
- ~~—(j) Pediatric Patients— 8 hours;~~
- ~~—(k) Obstetrics and Gynecology— 4 hours;~~
- ~~—(l) Operations (must include lifting and moving, ambulance operations, extrication, triage— 4 hours; and~~
- ~~—(m) HAZMAT awareness— 4 hours.]Preparatory - 4 hours;~~
- ~~—(b) Anatomy and Physiology - 2 hours;~~
- ~~—(c) Medical Terminology - 2 hours;~~
- ~~—(d) Pathophysiology - 4 hours;~~
- ~~—(e) Life Span Development - 2 hours;~~
- ~~—(f) Public Health - 1 hour;~~
- ~~—(g) Pharmacology - 3 hours;~~
- ~~—(h) Airway Management, Respiration and Artificial Ventilation - 2 hours;~~
- ~~—(i) Assessment - 12 hours;~~
- ~~—(j) Medicine - 20 hours;~~
- ~~—(k) Shock and Resuscitation - 2 hours;~~
- ~~—(l) Trauma - 22 hours;~~
- ~~—(m) Special Patient Populations - 7 hours;~~
- ~~—(n) EMS Operations - 7 hours;~~
- ~~—(o) CPR - 8 hours (two CPR renewal courses fulfill this requirement. CPR refresher courses can only be counted towards the CPR CME requirement.)~~

~~[(5)4] An EMT-B may complete CME hours through [the]methodologies[listed in this subsection], but 30 of the CME hours must be practical hands-on training. All CME must be related to the required skills and knowledge of an EMT. Instructors need not be EMS instructors, but must be knowledgeable in the field of instruction. [Limitations and special requirements are listed with each methodology.~~

~~—(a) Workshops and seminars related to the required skills and knowledge of an EMT and approved for CME credit by the Department or the Continuing Education Coordinating Board for EMS (CECBEMS).~~

- ~~—(b) Local medical training meetings.~~
- ~~—(c) Demonstration or practice sessions.~~
- ~~—(d) Medical training meetings where a guest speaker presents material related to emergency medical care.~~
- ~~—(e) Actual hours the EMT-B is involved in community emergency exercise and disaster drills. Up to 20 hours are creditable during a recertification period for participation in exercises and drills.~~
- ~~—(f) Teaching the general public (schools, scouts, clubs, or church groups) on any topic within the scope of the EMT-B practice. Up to 15 hours are creditable during a certification period for teaching classes.~~

~~—(g) Viewing audiovisuals (films, videotapes, etc.) which illustrate and review proper emergency care procedures. The EMT-B must view the audiovisual material in the presence of a training officer. Up to 10 hours are creditable during a certification period using audiovisuals.~~

~~—(h) Completing college courses in topics such as biology, chemistry, anatomy and physiology. Other college courses relating to the scope and practice of an EMT-B may be creditable, but only with the approval of the Department. If in doubt, the EMT-B should contact the Department. Up to 10 hours are creditable during a certification period for college courses.~~

~~—(i) Up to 16 hours of CPR training are creditable during a certification period.~~

~~—(j) Computer and internet based training that illustrates, drills, provides interactive use, or demonstrates proper emergency care procedures. The training must be approved by the CECBEMS or the Department. Up to 25 hours are creditable during a certification period using computer and internet based training.~~

~~—(k) Completing tests related to the EMT-B scope of practice in EMS related journals or publications. Up to five hours are creditable during a certification period for completing tests from journals and publications.]~~

~~[(6)5] The EMT-B must complete and document the psychomotor skills listed in the current National EMS Education Standards, on[the following skills] at least two separate occasions,[times as part of the CME training listed in subsections (4) and (5):~~

- ~~—(a) bandaging of the arm, elbow, shoulder, neck, top of head, cheek, protruding eye, ear, and open chest wound;~~
- ~~—(b) splinting using hare traction or sager splint (choice based upon availability of equipment);~~
- ~~—(c) splinting of at least one upper and lower extremity;~~
- ~~—(d) cervical and spinal immobilization using e collar, long board, head stabilization equipment (utilize available equipment) and straps;~~
- ~~—(e) patient assisted medications: nitroglycerin, pre loaded epinephrine, inhaler, glucose, activated charcoal, and aspirin;~~
- ~~—(f) pediatric immobilization: in a car seat and backboard;~~
- ~~—(g) insertion of nasopharyngeal and oropharyngeal airways; and~~
- ~~—(h) defibrillation of a simulated patient in cardiac arrest using an AED.]~~

~~[(7)6] An EMT-B who is affiliated with an EMS organization should have the training officer from the EMS organization submit a letter verifying the EMT-B's completion of the recertification requirements. An EMT-B who is not affiliated with an agency must submit verification of all recertification requirements directly to the Department.~~

~~[(8)7] Each EMT-B is individually responsible to complete and submit the required recertification material to the Department. Each EMT-B should submit all recertification materials to the Department at one time, no later than 30 days and no earlier than one year prior to the EMT-B's current certification expiration date. If the Department receives incomplete or late recertification materials, the Department may not be able to process the recertification before the certification expires. The Department processes recertification material in the order received.~~

~~[(9)8] An EMS provider or an entity that provides CME may compile and submit recertification materials on behalf of an EMT-B; however, the EMT-B remains responsible for a timely and complete submission.~~

~~[(10)9] The Department may shorten recertification periods. An EMT-B whose recertification period is shortened must meet the CME~~

requirements in each of the required and elective subdivisions on a prorated basis by the expiration of the shortened period.

(H)10 The Department may not lengthen certification periods more than the four year certification, unless the individual is a member of the National Guard or reserve component of the armed forces and is on active duty when certification expired. If this happens, the individual shall recertify in accordance with Utah Code 39-1-64.

R426-12-300. Emergency Medical Technician-Intermediate (EMT-I) Requirements and Scope of Practice.

(1) The Department may certify as an EMT-I, an EMT-B who[~~—(a)—~~]meets the initial certification requirements in R426-12-301;[~~and~~

~~—(b) has 12 months of field experience as a certified EMT-B, six months of which the Department may waive upon a written request from the off line medical director showing that there is a shortage of EMT-Is to serve the area.]~~

(2) The Committee adopts as the standard for EMT-I training and competency in the state the following affective, cognitive, and psychomotor objectives for patient care and treatment from the 1998 United States Department of Transportation's "Emergency Medical Technician-Intermediate Training Program: National Standard Curriculum" (EMT-I Curriculum): 1-1, 1-3, 1-4, 2-1, 3-2, 3-3, 3-5, 4-2, 5-1, 5-2, 5-3, 5-4, 5-5, 6-3, which is incorporated by reference, with the exception of the following objectives: 1-1.18-24, 1-1.54, 1-3.14-15, 1-3.17, 1-4.18, 1-4.24-25, 1-4.38, 2-1.7-8, 2-1.21, 2-1.33, 2-1.82-83, 2-1.92, 2-1.94, 2-1.96, 4-2.14-16, 5-1.3-5, 5-2.6-11, 5-2.13-14, 5-2.16-18, 5-2.20, 5-2.22-33, 5-2.39, 5-2.41, 5-2.44-46, 5-3.5-16, 5-4.3-5, 5-4.8-11, 5-5.3, 5-5.8-9, and 5-5.13,

(3) In addition to the skills that an EMT-B may perform, an EMT-I may perform the adopted skills described in section R426-12-300(2).

R426-12-301. EMT-I Initial Certification.

(1) The Department may certify an EMT-I for a four year period.

(2) An individual who wishes to become certified as an EMT-I must:

(a) successfully complete a Department-approved EMT-I course as described in R426-12-300(2);

(b) be able to perform the functions listed in the objectives of the EMT-I Curriculum adopted in R426-12-300(2) as verified by personal attestation and successful accomplishment during the course of all cognitive, affective, and psychomotor skills and objectives.

(c) achieve a favorable recommendation from the course coordinator and course medical director stating technical competence during field and clinical training and successful completion of all training requirements for EMT-I certification;

(d) be currently certified as an EMT-B prior to the start of the Intermediate course;

(e) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(f) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years;

(g) maintain and submit ~~[documentation of having completed within the prior two years a CPR course offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater]~~verification of completion of a Department-approved course in CPR, adult and pediatric advanced life support and maintain current status as set by the entity sponsoring the course;

(h) submit to the Department a statement from a physician, confirming the applicant's results of a TB examination conducted within one year prior to completing the EMT-I course; and

(i) within 120 days after the official course end date the applicant must, successfully complete the Department written and practical EMT-I examinations, or reexaminations, if necessary.

(3) The Department may extend the time limit in Subsection (2)(i) for an individual who demonstrates that the inability to meet the requirements within the 120 days was due to circumstances beyond the applicant's control, such as for documented medical circumstances that prevent completion of testing, military deployment out of the state, extreme illness in the immediate family, or the like.

(4) If an individual's basic EMT certification lapses before he has completed all course requirements for an EMT-I, the individual must recertify as an EMT-B, including a practical test and CME documentation, before he can certify as an EMT-I. The individual may take the EMT-I written certification test to satisfy the written EMT-Basic recertification and EMT-I written certification requirements.

R426-12-302. EMT-I Reciprocity.

(1) The Department may certify as an EMT-I an individual certified outside of the State of Utah if the applicant can demonstrate the applicant's out-of-state training and experience requirements are equivalent to or greater to than what is required in Utah.

(2) An individual seeking reciprocity for certification in Utah based on out-of-state training and experience must:

(a) submit the applicable fees and a completed application, including social security number and signature, to the Department and complete all of the following within 120 days of submitting the application;

(b) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years;

(c) maintain and submit ~~[documentation of having completed within the prior two years, a CPR course offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater]~~verification of completion of a Department-approved course in CPR, adult and pediatric advanced life support and maintain current status as set by the entity sponsoring the course;

(d) submit a statement from a physician, confirming the applicant's results of a TB examination conducted within the prior year;

(e) successfully complete the Department written and practical examinations, or reexaminations, if necessary;

(f) submit a current certification from one of the states of the United States or its possessions, or current registration and the name of the training institution if registered with the National Registry of EMTs;

(g) provide documentation of completion of 25 hours of continuing medical education (CME) within the prior year.

R426-12-303. EMT-I Recertification Requirements.

(1) The Department may recertify an EMT-I for a four year period or for a shorter period as modified by the Department to standardize recertification cycles.

(2) An individual seeking recertification must:

(a) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(b) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years;

(c) maintain and submit ~~documentation of having completed within the prior two years, a CPR course offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater;~~ verification of completion of a Department-approved course in CPR, adult and pediatric advanced life support and maintain current status as set by the entity sponsoring the course. CPR, ACLS, and PEPP or PALS must be kept current during certification.

(d) submit a statement from the EMS provider organization or a physician, confirming the applicant's results of a TB examination

(e) successfully complete the Department applicable written and practical recertification examinations, or reexaminations if necessary, within one year prior to expiration;

(f) submit a letter from a certified off-line medical director recommending the individual for recertification and verifying the individual's demonstrated proficiency in the following EMT-I skills:

- (i) initiating and terminating intravenous infusion;
- (ii) completion of pediatric vascular access skills station;
- (iii) insertion and removal of intraosseous needle;
- (iv) insertion and removal of endotracheal tube;
- (v) administration of medications via intramuscular, subcutaneous, and intravenous routes; and
- (vi) EKG rhythm recognition; and

(g) provide documentation of completion of 100 hours of Department-approved CME meeting the requirements of subsections (3), (4), and (5) ~~[(6), (7) and (8)]~~.

(3) ~~[The EMT-I must complete the CME throughout each of the prior four years.~~

~~(4) [The EMT-I must take [at least 25 elective hours and] the following [75]-required CME hours by subject in accordance with the National EMS Education Standards. The hours must be completed throughout the prior four years[-].~~

- ~~(a) [Foundations of EMT Intermediate—4 hours;~~
- ~~(b) Pharmacology—5;~~
- ~~(c) Venous Access and Medication Administration—5 hours;~~
- ~~(d) Airway—8 hours;~~
- ~~(e) Techniques of Physical Examination—4 hours;~~
- ~~(f) Patient Assessment—2 hours;~~
- ~~(g) Clinical Decision Making—4 hours~~
- ~~(h) Trauma Systems and Mechanism of Injury—3 hours;~~
- ~~(i) Hemorrhage and Shock—4 hours;~~
- ~~(j) Burns—3 hours;~~
- ~~(k) Thoracic Trauma—3 hours;~~
- ~~(l) Respiratory—2 hours;~~
- ~~(m) Cardiac—6 hours;~~
- ~~(n) Diabetic—2 hours;~~
- ~~(o) Allergic Reactions—2 hours;~~
- ~~(p) Poisoning—2 hours;~~
- ~~(q) Environmental Emergencies—2 hours;~~
- ~~(r) Gynecology—2 hours;~~
- ~~(s) Obstetrics—2 hours;~~
- ~~(t) Neonatal resuscitation—4 hours; and~~
- ~~(u) Pediatrics—6 hours.~~

~~(5) The Department strongly suggests that the 25 elective hours be in the following topics:~~

- ~~(a) Anatomy and Physiology;~~
- ~~(b) Assessment Based Management;~~
- ~~(c) Behavioral Emergencies;~~
- ~~(d) Communication;~~
- ~~(e) Documentation;~~
- ~~(f) Geriatrics;~~

- ~~(g) HAZMAT;~~
- ~~(h) History Taking;~~
- ~~(i) Mass Casualty Incident;~~
- ~~(j) Medical Incident Command;~~
- ~~(k) Neurological Emergencies;~~
- ~~(l) Non-Traumatic Abdominal Emergencies; and~~
- ~~(m) Trauma Practical Lab.] Preparatory - 5 hours;~~
- ~~(b) Anatomy and Physiology - 2 hours;~~
- ~~(c) Medical Terminology - 1 hours;~~
- ~~(d) Pathophysiology - 3 hours;~~
- ~~(e) Life Span Development - 1 hours;~~
- ~~(f) Public Health - 1 hour;~~
- ~~(g) Pharmacology - 2 hours;~~
- ~~(h) Airway Management, Respiration and Artificial Ventilation - 2 hours;~~
- ~~(i) Assessment - 10 hours;~~
- ~~(j) Medicine - 12 hours;~~
- ~~(k) Shock and Resuscitation - 2 hours;~~
- ~~(l) Trauma - 17 hours;~~
- ~~(m) Special Patient Populations - 3 hours;~~
- ~~(n) EMS Operations - 7 hours;~~
- ~~(o) Pediatric Advanced Life Support (PALS) or Pediatric Emergency Preparedness Program (PEPP) Course - 16 hours;~~
- ~~(p) Advanced Cardiac Life Support Course - 16 hours;~~
- ~~(q) CPR - 8 hours (two CPR renewal courses fulfill this requirement. CPR refresher courses can only be counted towards the CPR CME requirement.)~~

~~(6)4 An EMT-I may complete CME hours through [the different methodologies, but 35 of the CME hours must be practical hands-on training. All CME must be approved by the Department or CECBEMS] listed in this subsection]. All CME must be related to the required skills and knowledge of an EMT. Instructors need not be EMS instructors, but must be knowledgeable in the field of instruction. [Limitations and special requirements are listed with each methodology.~~

~~(a) Workshops and seminars related to the required skills and knowledge of an EMT and approved for CME credit by the Department or the CECBEMS.~~

~~(b) Local medical training meetings.~~

~~(c) Demonstration or practice sessions.~~

~~(d) Medical training meetings where a guest speaker presents material related to emergency medical care.~~

~~(e) Actual hours the EMT-I is involved in community emergency exercise and disaster drills. Up to 20 hours are creditable during a recertification period for participation in exercises and drills.~~

~~(f) Teaching the general public (schools, scouts, clubs, or church groups) on any topic within the scope of the EMT-I practice. Up to 15 hours are creditable during a certification period for teaching classes.~~

~~(g) Viewing audiovisuals (films, videotapes, etc.) which illustrate and review proper emergency care procedures. The EMT-I must view the audiovisual material in the presence of a training officer. Up to 10 hours are creditable during a certification period using audiovisuals.~~

~~(h) Completing college courses in topics such as biology, chemistry, anatomy and physiology. Other college courses relating to the scope and practice of an EMT-I may be creditable, but only with the approval of the Department. If in doubt, the EMT-I should contact the Department. Up to 10 hours are creditable during a certification period for college courses.~~

~~(i) Up to 16 hours of CPR training are creditable during a certification period.~~

~~—(j) Computer and internet based training that illustrates, drills, provides interactive use, or demonstrates proper emergency care procedures. The training must be approved by the CECBEMS or the Department. Up to 25 hours are creditable during a certification period using computer and internet based training.~~

~~—(k) Completing tests related to the EMT-I scope of practice in EMS related journals or publications. Up to five hours are creditable during a certification period for completing tests from journals and publications.]~~

([7]5) The EMT-I must complete and document the psychomotor skills listed in the current National EMS Education Standards on [the following skills] at least two separate occasions. [times as part of the CME training listed in subsections (4) and (6):

—(a) bandaging of the arm, elbow, shoulder, neck, top of head, cheek, protruding eye, ear, and open chest wound;

—(b) splinting using hare traction or sager splint (choice based upon availability of equipment);

—(c) splinting of at least one upper and lower extremity;

—(d) cervical and spinal immobilization using c-collar, long board, head stabilization equipment (utilize available equipment) and straps;

—(e) patient assisted medications: nitroglycerin, pre-loaded epinephrine, inhaler, glucose, activated charcoal, and aspirin;

—(f) pediatric immobilization: in a car seat and backboard;

—(g) insertion of nasopharyngeal and oropharyngeal airways; and

—(h) defibrillation of a simulated patient in cardiac arrest using an AED.]

([8]6) An EMT-I who is affiliated with an EMS organization should have the training officer from the EMS organization submit a letter verifying the EMT-I's completion of the recertification requirements. An EMT-I who is not affiliated with an agency must submit verification of all recertification requirements directly to the Department.

([9]7) Each EMT-I is individually responsible to complete and submit the required recertification material to the Department. Each EMT-I should submit all recertification materials to the Department at one time, no later than 30 days and no earlier than one year prior to the EMT-I's current certification expiration date. If the Department receives incomplete or late recertification materials, the Department may not be able to process the recertification before the certification expires. The Department processes recertification material in the order received.

([10]8) An EMS provider or an entity that provides CME may compile and submit recertification materials on behalf of an EMT-I; however, the EMT-I remains responsible for a timely and complete submission.

([11]9) The Department may shorten recertification periods. An EMT-I whose recertification period is shortened must meet the CME requirements in each of the required and elective subdivisions on a prorated basis by the expiration of the shortened period.

([12]10) The Department may not lengthen recertification periods more than the four year certification, unless the individual is a member of the National Guard or reserve component of the armed forces and is on active duty when certification expires. If this happens, the individual shall recertify following Utah Code 39-1-64.

R426-12-305. EMT-I Testing Failures.

(1) An individual who fails any part of the EMT-I certification or recertification written or practical examination may retake the EMT-I examination twice without further course work.

(2) If the individual fails both re-examinations, he must take a complete EMT-I training course to be eligible for further examination.

(3) The individual may retake the course as many times as he desires, but may only take the examinations three times for each completed course. If an individual retakes the course because of failure to pass the examinations, the individual must pass both the practical and written test administered after completion of the new course.

(4) If an EMT-I fails the recertification written test three times or the practical tests three times, he may request in writing, within 30 days of the date of the third failure notification letter, that he be allowed to apply for EMT-Basic recertification. The failed EMT-I cannot retake the EMT-I course until the failed EMT-I recertifies as an EMT-B. If he applies for EMT-Basic recertification in this circumstance, he has three opportunities to test to that level. [He has 120 days from the date of his request to complete recertification requirements at the EMT-Basic level.] The failed EMT-I must complete all recertification requirements at the EMT-B level within one year of the lapse of the EMT-I certification. If the requirements for the EMT-B certification are not completed within one year of the lapse of the EMT-I certification, the applicant must retake a complete EMT-Basic course.

R426-12-400. Emergency Medical Technician-Intermediate Advanced (EMT-IA) Requirements and Scope of Practice.

(1) The Department may certify as an EMT-IA, an EMT-B or an EMT-I who[:

—(a)] meets the initial certification requirements in R426-12-401; [and

—(b) has 12 months of field experience as a certified EMT-B or EMT-I, six months of which the Department may waive upon a written request from the off-line medical director showing that there is a shortage of EMT-IAs to serve the area.]

(2) The Committee adopts as the standard for EMT-IA training and competency in the state the following affective, cognitive, and psychomotor objectives for patient care and treatment from the 1998 United States Department of Transportation's "Emergency Medical Technician-Intermediate Training Program: National Standard Curriculum" (EMT-I Curriculum) which is incorporated by reference, with the exception of the following objectives: 1-1.18-24,1-1.54,2-1.8, 2-1.31(f), 2-1.33, 2-1.75(c), (e), and (f), 6-3.1, 6-3.102-106.

(3) In addition to the skills that an EMT-B and an EMT-I may perform, an EMT-IA may perform the adopted skills described in section R426-12-400(2).

R426-12-401. EMT-IA Initial Certification.

(1) The Department may certify an EMT-IA for a four-year period.

(2) An individual who wishes to become certified as an EMT-IA must:

(a) successfully complete a Department-approved EMT-IA course as described in R426-12-400(2);

(b) be able to perform the functions listed in the objectives of the EMT-I Curriculum adopted in R426-12-400(2) as verified by personal attestation and successful accomplishment during the course of all cognitive, affective, and psychomotor skills and objectives;

(c) achieve a favorable recommendation from the course coordinator and course medical director stating technical competence during field and clinical training and successful completion of all training requirements for EMT-IA certification;

(d) be currently certified as an EMT-B or EMT-I prior to the start of the course;

(e) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(f) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years;

(g) maintain and submit verification of completion of a Department-approved course in CPR, adult and pediatric advanced cardiac life support and maintain current status as set by the entity sponsoring the course;

(h) submit a statement from a physician, confirming the applicant's results of a TB examination conducted within the prior year; and

(i) within 120 days after the official course end, the applicant must, successfully complete the Department written and practical EMT-IA examinations, or reexaminations, if necessary;

(3) The Department may extend the time limit in Subsection (2)(i) for an individual who demonstrates that the inability to meet the requirements within the 120 days was due to circumstances beyond the applicant's control, such as for documented medical circumstances that prevent completion of testing, military deployment out of the state, extreme illness in the immediate family, or the like.

(4) If an individual's basic EMT or intermediate EMT certification lapses before he has completed all course requirements for an EMT-IA, the individual must recertify at his current certification level, including a practical test and CME documentation, before he can certify as an EMT-IA. The individual may take the EMT-IA written certification test to satisfy the written EMT-Basic or EMT-Intermediate recertification and EMT-IA written certification requirements.

R426-12-402. EMT-IA Reciprocity.

(1) The Department may certify as an EMT-IA an individual certified outside of the State of Utah if the applicant can demonstrate the applicant's out-of-state training and experience requirements are equivalent to or greater than what is required in Utah.

(2) An individual seeking reciprocity for certification in Utah based on out-of-state training and experience must:

(a) submit the applicable fees and a completed application, including social security number and signature, to the Department and complete all of the following within 120 days of submitting the application;

(b) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years;

(c) maintain and submit verification of completion of a Department-approved course in CPR, adult and pediatric advanced cardiac life support and maintain current status as set by the entity sponsoring the course;

(d) submit a statement from a physician, confirming the applicant's results of a TB examination conducted within the prior year;

(e) successfully complete the Department written and practical EMT-IA examinations, or reexaminations, if necessary;

(f) submit a current certification from one of the states of the United States or its possessions, or current registration and the name of the training institution if registered with the National Registry of EMTs; and

(g) provide documentation of completion of 25 hours of continuing medical education (CME) within the prior year.

R426-12-403. EMT-IA Recertification Requirements.

(1) The Department may recertify an EMT-IA for a four year period or for a shorter period as modified by the Department to standardize recertification cycles.

(2) An individual seeking recertification must:

(a) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(b) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years;

(c) maintain and submit verification of completion of a Department-approved course in CPR, adult and pediatric advanced cardiac life support and maintain current status as set by the entity sponsoring the course; CPR, ACLS, and PALS/PEPP must be current during certification.

(d) submit a statement from the applicant's EMS provider organization or a physician, confirming the applicant's results of a TB examination;

(e) successfully complete the Department applicable written and practical EMT-IA recertification examinations, or reexaminations, if necessary within one year prior to expiration;

(f) submit a letter from a certified off-line medical director recommending the individual for recertification and verifying the individual's demonstrated proficiency in the following EMT-IA skills:

(i) initiating and terminating intravenous infusion;

(ii) completion of pediatric vascular access skills station;

(iii) insertion and removal of intraosseous needle;

(iv) insertion and removal of endotracheal tube;

(v) administration of medications via intramuscular, subcutaneous, and intravenous routes; and

(vi) EKG rhythm recognition; and

(g) provide documentation of completion of [400]108 hours of Department-approved CME meeting the requirements of subsections (3), (4), and (5) [; (6), (7) and (8)].

(3) ~~The EMT-IA must complete the CME throughout each of the prior four years.~~

~~— (4) —]The EMT-IA must [have]take[n at least 25 elective hours and] the following [75—]required CME hours by subject[=] in accordance with the National EMS Education Standards. The hours must be completed throughout the prior four years.~~

~~(a) [Foundations of EMT Intermediate — 4 hours;~~

~~(b) Pharmacology — 5;~~

~~(c) Venous Access and Medication Administration — 5 hours;~~

~~(d) Airway — 8 hours;~~

~~(e) Techniques of Physical Examination — 4 hours;~~

~~(f) Patient Assessment — 2 hours;~~

~~(g) Clinical Decision Making — 4 hours~~

~~(h) Trauma Systems and Mechanism of Injury — 3 hours;~~

~~(i) Hemorrhage and Shock — 4 hours;~~

~~(j) Burns — 3 hours;~~

~~(k) Thoracic Trauma — 3 hours;~~

~~(l) Respiratory — 2 hours;~~

~~(m) Cardiac — 6 hours;~~

~~(n) Diabetic — 2 hours;~~

~~(o) Allergic Reactions — 2 hours;~~

~~(p) Poisoning — 2 hours;~~

~~(q) Environmental Emergencies — 2 hours;~~

~~(r) Gynecology — 2 hours;~~

~~(s) Obstetrics — 2 hours;~~

~~(t) Neonatal resuscitation — 4 hours; and~~

~~(u) Pediatrics — 6 hours.~~

~~(5) The Department strongly suggests that the 25 elective hours be in the following topics:~~

~~(a) Anatomy and Physiology;~~

~~—(b) Assessment Based Management;~~
~~—(c) Behavioral Emergencies;~~
~~—(d) Communication;~~
~~—(e) Documentation;~~
~~—(f) Geriatrics;~~
~~—(g) HAZMAT;~~
~~—(h) History Taking;~~
~~—(i) Mass Casualty Incident;~~
~~—(j) Medical Incident Command;~~
~~—(k) Neurological Emergencies;~~
~~—(l) Non-Traumatic Abdominal Emergencies; and~~
~~—(m) Trauma Practical Lab.]Preparatory - 5 hours;~~
(b) Anatomy and Physiology - 2 hours;
(c) Medical Terminology - 1 hours;
(d) Pathophysiology - 3 hours;
(e) Life Span Development - 1 hours;
(f) Public Health - 1 hour;
(g) Pharmacology - 2 hours;
(h) Airway Management, Respiration and Artificial Ventilation - 2 hours;
(i) Assessment - 10 hours;
(j) Medicine - 12 hours;
(k) Shock and Resuscitation - 2 hours;
(l) Trauma - 17 hours;
(m) Special Patient Populations - 3 hours;
(n) EMS Operations - 7 hours;
(o) Pediatric Advanced Life Support (PALS) or Pediatric Emergency Preparedness Program (PEPP) Course - 16 hours;
(p) Advanced Cardiac Life Support Course - 16 hours;
(q) CPR - 8 hours (two CPR renewal courses fulfill this requirement. CPR refresher courses can only be counted towards the CPR CME requirement.)
 ([6]4) An EMT-IA may complete CME hours through[the] different methodologies, but 35 of the CME hours must be practical hands-on training. All CME must be approved by the Department or CECBEMS.[listed in this subsection.] All CME must be related to the required skills and knowledge of an EMT-IA. Instructors need not be EMS instructors, but must be knowledgeable in the field of instruction.[Limitations and special requirements are listed with each methodology:
~~—(a) Workshops and seminars related to the required skills and knowledge of an EMT-IA and approved for CME credit by the Department or the CECBEMS.~~
~~—(b) Local medical training meetings.~~
~~—(c) Demonstration or practice sessions.~~
~~—(d) Medical training meetings where a guest speaker presents material related to emergency medical care.~~
~~—(e) Actual hours the EMT-IA is involved in community emergency exercise and disaster drills. Up to 20 hours are creditable during a recertification period for participation in exercises and drills.~~
~~—(f) Teaching the general public (schools, scouts, clubs, or church groups) on any topic within the scope of the EMT-IA practice. Up to 15 hours are creditable during a certification period for teaching classes.~~
~~—(g) Viewing audiovisuals (films, videotapes, etc.) which illustrate and review proper emergency care procedures. The EMT-IA must view the audiovisual material in the presence of a training officer. Up to 10 hours are creditable during a certification period using audiovisuals.~~
~~—(h) Completing college courses in topics such as biology, chemistry, anatomy and physiology. Other college courses relating to the scope and practice of an EMT-IA may be creditable, but only with~~

the approval of the Department. If in doubt, the EMT-IA should contact the Department. Up to 10 hours are creditable during a certification period for college courses.

~~—(i) Up to 16 hours of CPR training are creditable during a certification period.~~

~~—(j) Computer and internet based training that illustrates, drills, provides interactive use, or demonstrates proper emergency care procedures. The training must be approved by the CECBEMS or the Department. Up to 25 hours are creditable during a certification period using computer and internet based training.~~

~~—(k) Completing tests related to the EMT-IA scope of practice in EMS related journals or publications. Up to five hours are creditable during a certification period for completing tests from journals and publications.]~~

([7]5) The EMT-IA must complete and document the psychomotor skills listed in the current National EMS Education Standards on[the following skills] at least two separate occasions.[times as part of the CME training listed in subsections (4) and (6):

~~—(a) bandaging of the arm, elbow, shoulder, neck, top of head, cheek, protruding eye, ear, and open chest wound;~~

~~—(b) splinting using hare traction or sager splint (choice based upon availability of equipment);~~

~~—(c) splinting of at least one upper and lower extremity;~~

~~—(d) cervical and spinal immobilization using c collar, long board, head stabilization equipment (utilize available equipment) and straps;~~

~~—(e) patient assisted medications: nitroglycerin, pre-loaded epinephrine, inhaler, glucose, activated charcoal, and aspirin;~~

~~—(f) pediatric immobilization: in a car seat and backboard;~~

~~—(g) insertion of nasopharyngeal and oropharyngeal airways; and~~

~~—(h) initiating and terminating intravenous infusion;~~

~~—(i) completion of pediatric vascular access skills station;~~

~~—(j) insertion and removal of intraosseous needle;~~

~~—(k) insertion and removal of endotracheal tube;~~

~~—(l) administration of medications via intramuscular, subcutaneous, and intravenous routes;~~

~~—(m) transectaneous pacing;~~

~~—(n) synchronized cardioversion;~~

~~—(o) insertion and removal of a nasal gastric tube;~~

~~—(p) external jugular vein cannulation;~~

~~—(q) needle decompression of a chest;~~

~~—(r) administration of the following medications: adenosine, activated charcoal, aspirin, atropine, albuterol, D50, diazepam, epinephrine 1:1000, epinephrine 1:10,000, furosemide, lidocaine, morphine, naloxone, and nitroglycerin; and;~~

~~—(s) EKG rhythm recognition of the following rhythms: ventricular fibrillation, ventricular tachycardia, atrial flutter, atrial fibrillation, sinus tachycardia, paroxysmal supraventricular tachycardia, pulseless electrical activity, asystole, premature ventricular contraction, atrioventricular blocks: 1st degree, 2nd degree types I and II, and 3rd degree.]~~

([8]6) An EMT-IA who is affiliated with an EMS organization should have the training officer from the EMS organization submit a letter verifying the EMT-IA's completion of the recertification requirements. An EMT-I who is not affiliated with an agency must submit verification of all recertification requirements directly to the Department.

([9]7) Each EMT-IA is individually responsible to complete and submit the required recertification material to the Department. Each EMT-IA should submit all recertification materials to the Department at one time, no later than 30 days and no earlier than one year prior to the EMT-IA's current certification expiration date. If the Department

receives incomplete or late recertification materials, the Department may not be able to process the recertification before the certification expires. The Department processes recertification material in the order received.

(~~(14)~~8) An EMS provider or an entity that provides CME may compile and submit recertification materials on behalf of an EMT-IA; however, the EMT-IA remains responsible for a timely and complete submission.

(~~(14)~~9) The Department may shorten recertification periods. An EMT-IA whose recertification period is shortened must meet the CME requirements in each of the required and elective subdivisions on a prorated basis by the expiration of the shortened period.

(~~(12)~~10) The Department may not lengthen recertification periods more than the four year certification, unless the individual is a member of the National Guard or reserve component of the armed forces and is on active duty when certification expires. If this happens, the individual shall recertify following Utah Code 39-1-64.

R426-12-404. EMT-IA Lapsed Certification.

(1) An individual whose EMT-IA certification has lapsed for less than one year, and who wishes to become recertified as an EMT-IA must complete all recertification requirements and pay a recertification late fee to become certified. The individual's new expiration date will be four years from the old expiration date.

(2) An individual whose EMT-IA certification has expired for more than one year, and who wishes to become recertified as a EMT-IA must:

(a) submit a completed application, including social security number and signature to the Department;

(b) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years;

(c) submit to the Department evidence of having completed 100 hours of Department-approved continuing medical education within the prior four years following R426-12-403 EMT-IA Recertification Requirements;

(d) submit a statement from a physician, confirming the applicant's results of a TB examination;

(e) submit verification of current completion of a Department-approved course in CPR, adult and pediatric advanced life support and maintain current status as set by the entity sponsoring the course;

(f) submit a letter of recommendation including results of an oral examination, from a certified off-line medical director, verifying proficiency in EMT-IA skills;

(g) successfully complete the applicable Department written and practical examinations; and

(h) pay all applicable fees.

(3) The individual's new expiration date will be four years from the completion of all recertification materials.

(4) An Individual whose certification has lapsed is not authorized to provide care as an EMT-IA until the individual completes the recertification process.

R426-12-405. EMT-IA Testing Failures.

(1) An individual who fails any part of the EMT-IA written or practical certification or recertification examination may retake the EMT-IA examination twice without further course work.

(2) If the individual fails on both re-examinations, he must take a complete EMT-IA training course to be eligible for further examination at the EMT-IA level.

(3) The individual may retake the course as many times as he desires, but may only take the examinations three times for each completed course. If an individual retakes the course because of failure to pass the examinations, the individual must pass both the practical and written tests administered after completion of the new course.

(4) If an EMT-IA fails the recertification written ~~test three times~~ or the practical test three times, he may request in writing, within 30 days of the date of the third failure notification letter, that he be allowed to apply for EMT-I or EMT-B recertification. The failed EMT-IA cannot retake the EMT-IA course until the failed EMT-IA recertifies as an EMT-I or EMT-B. If he applies for EMT-Basic recertification in this circumstance, he has three opportunities to test to that level. [He has 120 days from the date of his request to complete recertification requirements at a lower level.] The failed EMT-IA must complete all recertification requirements at the EMT-B or EMT-I level within one year of the lapse of the EMT-IA certification. If the requirements for the EMT-Basic or EMT-Intermediate recertification are not completed within one year of the lapse of the EMT-IA certification, the applicant must retake a complete EMT-Basic course.

R426-12-500. Paramedic Requirements and Scope of Practice.

(1) The Department may certify as a paramedic, an EMT-B, an EMT-I or an EMT-IA who:

~~—(a)—~~ meets the initial certification requirements in R426-12-501; ~~and~~

~~—(b)— has 12 months of field experience as a certified EMT-B, EMT-I or EMT-IA, six months of which the Department may waive upon a written request from the off line medical director showing that there is a shortage of paramedics to serve the area;~~

(2) The Committee adopts as the standard for paramedic training and competency in the state the following affective, cognitive and psychomotor objectives for patient care and treatment from the 1998 United States Department of Transportation's "EMT-Paramedic Training Program: National Standard Curriculum" (Paramedic Curriculum) which is incorporated by reference.

(3) In addition to the skills that an EMT-B, an EMT-I and an EMT-IA may perform, a Paramedic may perform the adopted skills described in section R426-12-500(2).

R426-12-501. Paramedic Initial Certification.

(1) The Department may certify a paramedic for a four year period.

(2) An individual who wishes to become certified must:

(a) successfully complete a Department-approved Paramedic course as described in R426-12-500(2);

(b) be able to perform the functions listed in the objectives of the Paramedic Curriculum adopted in R426-12-500(2) as verified by personal attestation and successful accomplishment during the course of all cognitive, affective, and psychomotor skills and objectives;

(c) achieve a favorable recommendation from the course coordinator and course medical director stating technical competence during field and clinical training and successful completion of all training requirements for paramedic certification;

(d) be currently certified as an EMT-B, EMT-I, or EMT-IA prior to the start of the course;

(e) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(f) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years;

(g) maintain and submit verification of completion of a Department-approved course in CPR, adult and pediatric advanced cardiac life support and maintain current status as set by the entity sponsoring the course;

(h) submit a statement from a physician, confirming the applicant's results of a TB examination conducted within the prior year; and

(i) within 120 days after the official end date, the applicant must, successfully complete the Department-approved written and practical paramedic examinations, or reexaminations, if necessary.

(3) The Department may extend the time limit in Subsection (2)(i) for an individual who demonstrates that the inability to meet the requirements within the 120 days was due to circumstances beyond the applicant's control, such as for documented medical circumstances that prevent completion of testing, military deployment out of the state, extreme illness in the immediate family, or the like.

(4) If an individual's EMT-B, EMT-I, or EMT-IA certification lapses before he has completed all course requirements for a paramedic, the individual must recertify at his current certification level, including a practical test and CME documentation, before he can be certified as a paramedic. The individual may take the paramedic written test to satisfy the written EMT-Basic, EMT-Intermediate, or EMT-Intermediate Advanced recertification and paramedic written certification requirements.

R426-12-502. Paramedic Reciprocity.

(1) The Department may certify as a Paramedic an individual certified outside of the State of Utah if the applicant can demonstrate the applicant's out-of-state training and experience requirements are equivalent to or greater than what is required in Utah.

(2) An individual seeking reciprocity for certification in Utah based on out-of-state training and experience must:

(a) submit the applicable fees and a completed application, including social security number and signature, to the Department and complete all of the following within 120 days of submitting the application;

(b) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years;

(c) maintain and submit verification of completion of a Department-approved course in CPR, adult and pediatric advanced cardiac life support and maintain current status as set by the entity sponsoring the course and maintain current status as set by the entity sponsoring the course;

(d) submit a statement from a physician, confirming the applicant's results of a TB examination conducted within the prior year;

(e) successfully complete the Department written and practical Paramedic examinations, or reexaminations, if necessary;

(f) submit a current certification from one of the states of the United States or its possessions, or current registration and the name of the training institution if registered with the National Registry of EMTs; and

(g) provide documentation of completion of 25 hours of continuing medical education (CME) within the prior year.

(3) A candidate for paramedic reciprocity who fails the written or practical tests three times can request further consideration of reciprocity after five years if the candidate has worked for an out of state EMS provider and can verify steady employment as a paramedic for at least three of the five years.

R426-12-503. Paramedic Recertification Requirements.

(1) The Department may recertify a paramedic for a four year period or for a shorter period as modified by the Department to standardize recertification cycles.

(2) An individual seeking recertification must:

(a) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(b) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years;

(c) maintain and submit verification of completion of a Department-approved course in Adult and Pediatric Advanced Cardiac Life Support;

(d) submit a statement from the applicant's EMS provider organization or a physician, confirming the applicant's results of a TB examination;

(e) successfully complete the applicable Department paramedic recertification examinations, or reexaminations if necessary, within one year prior to expiration;

~~(f)~~ submit a letter from a certified off-line medical director recommending the individual for recertification and verifying the individual's demonstrated proficiency in the following paramedic skills:~~[- and]~~

(i) initiating and terminating intravenous infusion;

(ii) completion of pediatric vascular access skills station;

(iii) insertion and removal of intraosseous needle;

(iv) insertion and removal of endotracheal tube;

(v) administration of medications via intramuscular, subcutaneous, and intravenous routes; and

(vi) EKG rhythm recognition; and

~~(h)~~g provide documentation of completion of ~~[400]~~128 hours of Department-approved CME meeting the requirements of subsections (3), (4), and (5)~~[- (6), (7), and (8)]~~.

~~(3) [The Paramedic must complete the CME throughout each of the prior four years.~~

~~(4)]The Paramedic must take [at least 20 elective hours and] the following [80] required CME hours by subject in accordance with the National EMS Education Standards. The hours must be completed throughout the prior four years.[-]~~

~~(a) [EMS system roles and responsibilities—2 hours;~~

~~(b) Well being of the paramedic—2 hours;~~

~~(c) Pathophysiology—1 hour;~~

~~(d) Medical legal—1 hour;~~

~~(e) Pharmacology—1 hour;~~

~~(f) Venous access and medication administration—1 hour;~~

~~(g) Airway management and ventilation—5 hours;~~

~~(h) Patient assessment—3 hours;~~

~~(i) Communication—1 hour;~~

~~(j) Documentation—1 hour;~~

~~(k) Trauma Systems and Mechanism of injury—1 hour;~~

~~(l) Hemorrhage and shock—2 hours;~~

~~(m) Burns—3 hours;~~

~~(n) Head and facial—3 hours;~~

~~(o) Spinal trauma—1 hour;~~

~~(p) Thoracic trauma—2 hours;~~

~~(q) Abdominal trauma—2 hours;~~

~~(r) Pulmonary—1 hour;~~

~~(s) Cardiology—9 hours;~~

~~(t) Neurology—4 hours;~~

~~(u) Endocrinology—3 hours;~~

~~— (v) Allergies and anaphylaxis – 1 hour;~~
~~— (w) Gastroenterology – 4 hours;~~
~~— (x) Toxicology – 2 hours;~~
~~— (y) Environmental emergencies – 4 hours;~~
~~— (z) Infectious and communicable diseases – 3 hours;~~
~~— (aa) Behavioral/psychiatric disorders – 1 hour;~~
~~— (bb) Obstetrics and gynecology – 2 hours;~~
~~— (cc) Neonatology – 3 hours;~~
~~— (dd) Pediatrics – 5 hours;~~
~~— (ee) Geriatrics – 2 hours;~~
~~— (ff) Assessment based management – 1 hour;~~
~~— (gg) Medical incident command – 2 hours; and~~
~~— (hh) Hazardous materials incidents – 1 hour;~~
~~— (5) The Department strongly suggests that the 20 elective hours~~
~~be in the following topics:~~

~~— (a) Ethics, illness and injury prevention;~~
~~— (b) Therapeutic communications;~~
~~— (c) Life span development;~~
~~— (d) Clinical decision making;~~
~~— (e) Soft tissue trauma;~~
~~— (f) Renal/urology;~~
~~— (g) Hematology;~~
~~— (h) Abuse and assault;~~
~~— (i) Patients with special challenges;~~
~~— (j) Acute intervention for chronic care patients;~~
~~— (k) Ambulance operations;~~
~~— (l) Rescue awareness and operations; and~~
~~— (m) Crime scene awareness;]Preparatory - 5 hours;~~
~~— (b) Anatomy and Physiology - 3 hours;~~
~~— (c) Medical Terminology - 2 hours;~~
~~— (d) Pathophysiology - 3 hours;~~
~~— (e) Life Span Development - 1 hour;~~
~~— (f) Public Health - 1 hour;~~
~~— (g) Pharmacology - 2 hours;~~
~~— (h) Airway Management, Respiration and Artificial Ventilation -~~
~~2 hours;~~
~~— (i) Assessment - 10 hours;~~
~~— (j) Medicine - 23 hours;~~
~~— (k) Shock and Resuscitation - 3 hours;~~
~~— (l) Trauma - 23 hours;~~
~~— (m) Special Patient Populations - 3 hours;~~
~~— (n) EMS Operations - 7 hours;~~
~~— (o) Pediatric Advanced Life Support (PALS) or Pediatric~~
~~Emergency Preparedness Program (PEPP) Course - 16 hours;~~
~~— (p) Advanced Cardiac Life Support Course - 16 hours;~~
~~— (q) CPR - 8 hours (two CPR renewal courses fulfill this~~
~~requirement. CPR refresher courses can only be counted towards the~~
~~CPR CME requirement.)~~

~~([6]4) A Paramedic may complete CME hours through [the~~
~~]different methodologies, but 42 of the CME hours must be practical~~
~~hands-on training. All CME must be approved by the Department or~~
~~CECBEMS[listed in this subsection]. All CME must be related to the~~
~~required skills and knowledge of a paramedic. Instructors need not be~~
~~EMS instructors, but must be knowledgeable in the field of instruction.[~~
~~Limitations and special requirements are listed with each~~
~~methodology:~~

~~— (a) Workshops and seminars related to the required skills and~~
~~knowledge of a paramedic and approved for CME credit by the~~
~~Department or the CECBEMS.~~
~~— (b) Local medical training meetings.~~
~~— (c) Demonstration or practice sessions.~~

~~— (d) Medical training meetings where a guest speaker presents~~
~~material related to emergency medical care.~~

~~— (e) Actual hours the Paramedic is involved in community~~
~~emergency exercise and disaster drills. Up to 20 hours are creditable~~
~~during a recertification period for participation in exercises and drills.~~

~~— (f) Teaching the general public (schools, scouts, clubs, or church~~
~~groups) on any topic within the scope of the Paramedic practice. Up to~~
~~15 hours are creditable during a certification period for teaching~~
~~classes.~~

~~— (g) Viewing audiovisuals (films, videotapes, etc.) which illustrate~~
~~and review proper emergency care procedures. The Paramedic must~~
~~view the audiovisual material in the presence of a training officer. Up~~
~~to 10 hours are creditable during a certification period using~~
~~audiovisuals.~~

~~— (h) Completing college courses in topics such as biology,~~
~~chemistry, anatomy and physiology. Other college courses relating to~~
~~the scope and practice of a paramedic may be creditable, but only with~~
~~the approval of the Department. If in doubt, the Paramedic should~~
~~contact the Department. Up to 10 hours are creditable during a~~
~~certification period for college courses.~~

~~— (i) Up to 16 hours of CPR training are creditable during a~~
~~certification period.~~

~~— (j) Computer and internet based training that illustrates, drills,~~
~~provides interactive use, or demonstrates proper emergency care~~
~~procedures. The training must be approved by the Continuing~~
~~Education Coordinating Board of Emergency Medical Services or the~~
~~Department. Up to 25 hours are creditable during a certification period~~
~~using computer and internet based training.~~

~~— (k) Completing tests related to the Paramedic scope of practice in~~
~~EMS related journals or publications. Up to five hours are creditable~~
~~during a certification period for completing tests from journals and~~
~~publications.]~~

~~(5) The paramedic must complete and document the psychomotor~~
~~skills listed in the current National EMS Education Standards on at~~
~~least two separate occasions.~~

~~([7]6) A Paramedic who is affiliated with an EMS organization~~
~~should have the training officer from the EMS organization submit a~~
~~letter verifying the Paramedic's completion of the recertification~~
~~requirements. A Paramedic who is not affiliated with an agency must~~
~~submit verification of all recertification requirements directly to the~~
~~Department.~~

~~([8]7) Each Paramedic is individually responsible to complete~~
~~and submit the required recertification material to the Department.~~
~~Each Paramedic should submit all recertification materials to the~~
~~Department at one time, no later than 30 days and no earlier than one~~
~~year prior to the Paramedic's current certification expiration date. If the~~
~~Department receives incomplete or late recertification materials, the~~
~~Department may not be able to process the recertification before the~~
~~certification expires. The Department processes recertification material~~
~~in the order received.~~

~~([9]8) An EMS provider or an entity that provides CME may~~
~~compile and submit recertification materials on behalf of a Paramedic;~~
~~however, the Paramedic remains responsible for a timely and complete~~
~~submission.~~

~~([40]9) The Department may shorten recertification periods. A~~
~~paramedic whose recertification period is shortened must meet the~~
~~CME requirements in each of the required and elective subdivisions on~~
~~a prorated basis by the expiration of the shortened period.~~

~~([44]10) The Department may not lengthen recertification periods~~
~~more than the four year certification, unless the individual is a member~~
~~of the National Guard or reserve component of the armed forces and is~~

on active duty when certification expires. If this happens, the individual shall recertify following Utah Code 39-1-64.

R426-12-504. Paramedic Lapsed Certification.

(1) An individual whose paramedic certification has lapsed for less than one year, and who wishes to become recertified as a paramedic must complete all recertification requirements and pay a recertification late fee.

(2) An individual whose paramedic certification has expired for more than one year, and who wishes to become recertified as a paramedic must:

(a) submit a completed application, including social security number and signature to the Department;

(b) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years;

(c) submit to the Department evidence of having completed ~~[400]~~128 hours of Department-approved continuing medical education within the prior four years, following R426-12-503 Paramedic Recertification Requirements;

(d) submit a statement from a physician, confirming the applicant's results of a TB examination;

(e) submit verification of current completion of a Department-approved course in CPR, adult and pediatric advanced life support;

(f) submit a letter of recommendation including results of an oral examination, from a certified off-line medical director, verifying proficiency in paramedic skills;

(g) successfully complete the applicable Department written and practical examinations; and

(h) pay all applicable fees.

(3) The individual's new expiration date will be four years from the completion of all recertification materials.

(4) An individual whose certification has lapsed is not authorized to provide care as a paramedic until the individual completes the recertification process.

R426-12-601. EMD Initial Certification.

(1) The Department may certify an EMD for a four year period.

(2) An individual who wishes to become certified as an EMD must:

(a) successfully complete a Department-approved EMD course as described in R426-12-600(2);

(b) be able to perform the functions listed in the objectives of the EMD Curriculum adopted in R426-12-600(2) as verified by personal attestation and successful accomplishment during the course of all cognitive, affective and psychomotor skills and objectives listed in the EMD Curriculum;

(c) achieve a favorable recommendation from the course coordinator and course medical director stating technical competence and successful completion of all training requirements for EMD certification;

(d) be 18 years of age or older;

(e) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(f) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years; and;

(g) maintain and submit documentation of having completed ~~[within the prior two years]~~ a CPR course ~~[offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the~~

~~Department to be equivalent or greater]~~ that is consistent with the most current version of the American Heart Association Guidelines for CPR and ECC; and

(h) within 120 days after the official course end date, the applicant must successfully complete the Department written and practical EMD examinations, or reexaminations, if necessary.

(3) The Department may extend the time limit in Subsection (2)(h) for an individual who demonstrates that the inability to meet the requirements within the 120 days was due to circumstances beyond the applicant's control, such as for documented medical circumstances that prevent completion of testing, military deployment out of the state, extreme illness in the immediate family, or the like.

R426-12-602. EMD Reciprocity.

(1) The Department may certify as an EMD an individual certified outside of the State of Utah if the applicant can demonstrate the applicant's out-of-state training and experience requirements are equivalent to or greater than what is required in Utah.

(2) An individual seeking reciprocity for certification in Utah based on out-of-state training and experience must:

(a) submit the applicable fees and a completed application, including social security number and signature, to the Department and complete all of the following within 120 days of submitting the application;

(b) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years;

(c) maintain and submit documentation of having completed ~~[within the prior two years,]~~ a CPR course ~~[offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater]~~ within the prior two years that is consistent with the most current version of the American Heart Association Guidelines for CPR and ECC;

(d) successfully complete the Department written and practical EMD examination, or re-examinations, if necessary;

(e) submit a current certification from one of the states of the United States or its possessions; and

(f) provide documentation of completion of 12 hours of continuing medical education within the prior year.

(3) The Department may certify as an EMD an individual certified by the National Academy of Emergency Medical Dispatch (NAEMD). An individual seeking reciprocity for certification in Utah based on NAEMD certification must:

(a) submit the applicable fees and a completed application, including social security number and signature, to the Department and complete all of the following within one year of submitting the application;

(b) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years;

(c) maintain and submit documentation of having completed within the prior two years:

(i) a CPR course ~~[offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater]~~ that is consistent with the most current version of the American Heart Association Guidelines for CPR and ECC; and

(ii) a minimum of a two-hour course in critical incident stress management (CISM);

(d) submit documentation of current NAEMD certification.

R426-12-603. EMD Recertification.

(1) The Department may recertify an EMD for a four year period or for a shorter period as modified by the Department to standardize recertification cycles.

(2) An individual seeking recertification must:

(a) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(b) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years;

(c) maintain and submit documentation of having completed ~~within the prior two years~~ a CPR course ~~offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater~~ within the prior two years that is consistent with the most current version of the American Heart Association Guidelines for CPR and ECC. CPR must be current during certification;

(d) successfully complete the applicable Department recertification examinations, or reexaminations if necessary, within one year prior to expiration of the certification to be renewed; and

(e) provide documentation of completion of 48 hours of Department-approved CME meeting the requirements of subsections (3), (4), and (5).

(3) ~~The EMD must complete the CME throughout each of the prior four years.~~

~~(4)~~ The EMD must take ~~at least eight elective hours and~~ the following ~~40 required~~ CME hours by subject throughout each of the prior four years:

- (a) Roles and Responsibilities - 5 hours;
- (b) Obtaining Information from callers - 7 hours;
- (c) Resource allocation - 4 hours;
- (d) Providing emergency care instruction - 2 hours;
- (e) Legal and Liability Issues - 5 hours;
- (f) Critical Incident Stress Management - 5 hours;
- (g) Basic Emergency Medical Concepts - 5 hours; and
- (h) Chief complaint types - 7 hours.

(i) CPR 8 hours. Two CPR courses fulfill this requirement. CPR refresher courses can only be counted towards CPR CME requirements.

~~(5)~~ An EMD may complete CME hours through ~~the~~ different methodologies, but 16 hours of the CME must be practical hands-on training. All CME must be approved by the Department or CECBEMS ~~listed in this subsection~~. All CME must be related to the required skills and knowledge of an EMD. Instructors need not be EMS instructors, but must be knowledgeable in the field of instruction. ~~Limitations and special requirements are listed with each methodology.~~

~~(a) Workshops and seminars related to the required skills and knowledge of an EMD and approved for CME credit by the Department or the CECBEMS.~~

~~(b) Local medical training meetings.~~

~~(c) Demonstration or practice sessions.~~

~~(d) Medical training meetings where a guest speaker presents material related to emergency medical care.~~

~~(e) Actual hours the EMD is involved in community emergency exercise and disaster drills. Up to eight hours are creditable during a recertification period for participation in exercises and drills.~~

~~(f) Teaching the general public (schools, scouts, clubs, or church groups) on any topic within the scope of the EMD practice.~~

~~(g) Viewing audiovisuals (films, videotapes, etc.) which illustrate and review proper emergency care procedures. The EMD must view the audiovisual material in the presence of a training officer. Up to 10 hours are creditable during a certification period using audiovisuals.~~

~~(h) Completing college courses relating to the scope and practice of an EMD may be creditable, but only with the approval of the Department. Up to eight hours are creditable during a certification period for college courses.~~

~~(i) Telephone scenarios of practical training and role playing.~~

~~(j) Riding with paramedic or ambulance units to understand the EMS system as a whole. Up to six hours are creditable during a certification period for ride alongs.~~

~~(k) Computer and internet based training that illustrates, drills, provides interactive use, or demonstrates proper emergency care procedures. The training must be approved by the Continuing Education Coordinating Board of Emergency Medical Services or the Department. Up to 12 hours are creditable during a certification period using computer and internet based training.~~

~~(6)~~ Notwithstanding the provisions of subsections (2), (3), and (4), ~~and (5)~~ an EMD who has been certified or recertified by the National Academy of Emergency Medical Dispatch (NAEMD) may be recertified by the Department upon the following conditions:

(a) the EMD must, as part of meeting the EMD's continuing medical education requirements, take a minimum of a two-hour course in critical incident stress management (CISM);

(b) an individual who takes a NAEMD course offered in Utah must successfully pass a class that follows the CISM section of the Department-established EMD curriculum; and

(c) the individual must:

(i) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(ii) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years;

(iii) maintain and submit documentation of having completed ~~within the prior two years~~ a CPR course ~~offered by the National Safety Council, the American Red Cross, or the American Heart Association or a course that the applicant can demonstrate to the Department to be equivalent or greater~~ within the prior two years that is consistent with the most current version of the American Heart Association Guidelines for CPR and ECC; and

(iv) submit documentation of current NAEMD certification.

~~(7)~~ An ~~individual~~ EMD who is affiliated with an EMS organization should have the training officer from the EMS organization submit a letter verifying the EMD's completion of the recertification requirements. An EMD who is not affiliated with an EMS agency must submit verification of all recertification requirements directly to the Department.

~~(8)~~ Each EMD is individually responsible to complete and submit the required recertification material to the Department. Each EMD should submit all recertification materials to the Department at one time and no later than 30 days and no earlier than one year prior to the EMD's current certification expiration date. If the Department receives incomplete or late recertification materials, the Department may not be able to process the recertification before the certification expires. The Department processes recertification material in the order received.

~~(9)~~ An EMS provider or an entity that provides CME may compile and submit recertification materials on behalf of an EMD; however, the EMD remains responsible for a timely and complete submission.

~~(f)~~(9) The Department may shorten recertification periods. An EMD whose recertification period is shortened must meet the CME requirements in each of the required and elective subdivisions on a prorated basis by the expiration of the shortened period.

~~(g)~~(10) The Department may not lengthen recertification periods more than the four year certification, unless the individual is a member of the National Guard or reserve component of the armed forces and is on active duty when certification expired. If this happens, the individual shall recertify in accordance with Utah Code 39-1-64.

R426-12-700. Emergency Medical Responder (EMR) Requirements and Scope of Practice.

(1) The Department may certify as an EMR an individual who meets the initial certification requirements in R426-12-701.

(2) The Committee adopts as the standard for EMR training and competency in the state, the following affective, cognitive and psychomotor objectives for patient care and treatment from the current National Highway Traffic Safety Administration's National EMS Education Standards for EMR's, which is incorporated by reference.

(3) An EMR may perform the skills as described in the EMR Educational Standards, as adopted in this section.

R426-12-701. EMR Initial Certification.

(1) The Department may certify an EMR for a four year period.

(2) An individual who wishes to become certified as an EMR must:

(a) successfully complete a Department-approved EMR course as described in R426-12-700(2);

(b) be able to perform the functions listed in the objectives of the EMR Educational Standards adopted in R426-12-700(2) as verified by personal attestation and successful accomplishment during the course of all cognitive, affective, and psychomotor skills and objectives listed in the current National Highway Traffic Safety Administration's National EMS Education Standards for EMR's.

(c) achieve a favorable recommendation from the course coordinator and course medical director stating technical competence during field and clinical training and successful completion of all training requirements for EMR certification;

(d) be 16 years of age or older;

(e) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(f) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years;

(g) maintain and submit documentation of having completed a CPR provider course within the prior two years that is consistent with the most current version of the American Heart Association guidelines for CPR and Emergency Cardiac Care;

(h) submit to the Department a statement from a physician, confirming the applicant's results of a TB examination conducted within one year prior to completing the EMR course;

(i) within 120 days after the official course end date the applicant must successfully complete the Department written and practical EMR examinations, or reexaminations, if necessary.

(3) The Department may extend the time limit in Subsection (2)(i) for an individual who demonstrates that the inability to meet the requirements within the 120 days was due to circumstances beyond the applicant's control, such as for documented medical circumstances that prevent completion of testing, military

deployment out of the state, extreme illness in the immediate family, or the like.

R426-12-702. EMR Reciprocity.

(1) The Department may certify an individual as an EMR an individual certified outside of the State of Utah if the applicant can demonstrate the applicant's out-of-state training and experience requirements are equivalent to or greater than what is required in Utah.

(2) An individual seeking reciprocity for certification in Utah based on out-of-state training and experience must:

(a) submit the applicable fees and a completed application, including social security number and signature, to the Department and complete all of the following within 120 days of submitting the application;

(b) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years;

(c) maintain and submit documentation of having completed a CPR provider course within the prior two years that is consistent with the most current version of the American Heart Association Guidelines for CPR and Emergency Cardiac Care;

(d) submit a statement from a physician, confirming the applicant's results of a TB examination conducted within the prior year;

(e) successfully complete the Department written and practical EMR examinations, or reexaminations, if necessary;

(f) submit a current certification from one of the states of the United States or its possessions, or current registration and the name of the training institution if registered with the National Registry of EMTs; and

(g) provide documentation of completion of 15 hours of continuing medical education (CME) within the prior year.

R426-12-703. EMR Recertification Requirements.

(1) The Department may recertify an EMR for a four year period or for a shorter period as modified by the Department to standardize recertification cycles.

(2) An individual seeking recertification must:

(a) submit the applicable fees and a completed application, including social security number and signature, to the Department;

(b) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years;

(c) maintain and submit documentation of having completed a CPR provider course within the prior two years that is consistent with the most current version of the American Heart Association Guidelines for CPR and ECC (Emergency Cardiac Care). CPR must be current during certification.

(d) submit a statement from the applicant's EMS provider organization or a physician, confirming the applicant's results of a TB examination; and

(e) successfully complete the Department applicable recertification examinations, or reexaminations if necessary, within one year prior to expiration;

(f) provide documentation of completion of 58 hours of Department-approved CME meeting the requirements of subsections (3), (4), (5), and (6).

(3) The EMR must take at least the following required CME hours by subject in accordance with the National EMS Education Standards. The hours must be throughout the prior four years.

- (a) Preparatory - 3 hours;
- (b) Anatomy and Physiology - 1 hour;
- (c) Medical Terminology - 1 hour;
- (d) Pathophysiology - 2 hours;
- (e) Life Span Development - 1 hour;
- (f) Public Health - 30 minutes;
- (g) Pharmacology - 2 hours;
- (h) Airway Management, Respiration and Artificial Ventilation - 2 hours 30 minutes;
- (i) Assessment - 4 hours 30 minutes;
- (j) Medicine - 8 hours;
- (k) Shock and Resuscitation - 1 hour;
- (l) Trauma - 13 hours;
- (m) Special Patient Populations - 4 hours;
- (n) EMS Operations - 6 hours 30 minutes.

(4) An EMR may complete CME hours through different methodologies, but 17 of the CME hours must be practical hands-on training. All CME must be approved by the Department or the Continuing Education Coordinating Board for EMS (CECBEMS). All CME must be related to the required skills and knowledge of an EMR. Instructors need not be EMS instructors, but must be knowledgeable in the field of instruction.

(5) The EMR must complete and document the psychomotor skills listed in the current National EMS Education Standards at least two times as part of the CME training.

(6) An EMR who is affiliated with a Department-recognized organization should have a certified training officer from the organization submit a letter verifying the EMR's completion of the recertification requirements. An EMR who is not affiliated with a Department recognized agency must submit verification of all recertification requirements directly to the Department.

(7) Each EMR is individually responsible to complete and submit the required recertification material to the Department. Each EMR should submit all recertification materials to the Department at one time, no later than 30 days and no earlier than one year prior to the EMR's current certification expiration date. If the Department receives incomplete or late recertification materials, the Department may not be able to process the recertification before the certification expires. The Department processes recertification material in the order received.

(8) A Department-recognized organization or an entity that provides CME may compile and submit recertification materials on behalf of an EMR; however, the EMR remains responsible for a timely and complete submission.

(9) The Department may shorten recertification periods. An EMR whose recertification period is shortened must meet the CME requirements in each of the required subdivisions on a prorated basis by the expiration of the shortened period.

(10) The Department may not lengthen certification periods more than the four year certification, unless the individual is a member of the National Guard or reserve component of the armed forces and is on active duty when certification expired. If this happens, the individual shall recertify in accordance with Utah Code 39-1-64.

R426-12-704. EMR Lapsed Certification.

(1) An individual whose EMR certification has expired for less than one year may, within one year after expiration, complete all recertification requirements and pay a late recertification fee to become certified. The individual's new expiration date will be four years from the old expiration date.

(2) An individual whose certification has expired for more than one year must take an EMR course and reapply for initial certification.

(3) An individual whose certification has lapsed, is not authorized to provide care as an EMR until the individual has current certification.

R426-12-705. EMR Testing Failures.

(1) An individual who fails any part of the EMR certification or recertification written or practical examination may retake the EMR examination twice without further course work.

(2) If the individual fails both re-examinations, he must take a complete EMR training course to be eligible for further examination.

(3) The individual may retake the course as many times as he desires, but may only take the examinations three times for each completed course. If an individual retakes the course because of failure to pass the examinations, the individual must pass both the practical and written test administered after completion of the new course.

R426-12-[7]800. Emergency Medical Services Instructor Requirements.

(1) The Department may certify as an EMS Instructor an individual who:

(a) meets the initial certification requirements in R426-12-[7]801; and

(b) is currently certified in Utah [~~and has been certified~~] as an EMR, EMT-B, EMT-I, EMT-IA, Paramedic, or Dispatcher [~~for 12 months~~].

(2) The Committee adopts the 1995 United States Department of Transportation's "EMS Instructor Training Program: National Standard Curriculum" (EMS Instructor Curriculum) as the standard for EMS Instructor training and competency in the state, which is adopted and incorporated by reference.

(3) An EMS instructor may only teach up to the certification level to which the instructor is certified. An EMS instructor who is only certified as an EMD may only teach EMD courses.

(4) An EMS instructor must abide by the terms of the "EMS Instructor Contract," teach according to the contract, and comply with the teaching standards and procedures in the EMS Instructor Manual or EMD Instructor Manual as incorporated into the respective "EMS Instructor Contract" or "EMD Instructor Contract."

(5) An EMS instructor must maintain the EMS certification for the level that the instructor is certified to teach. If an individual's EMS certification lapses, the instructor certification is invalid until EMS certification is renewed.

(6) The Department may waive a particular instructor certification requirement if the applicant can demonstrate that the applicant's training and experience requirements are equivalent or greater to what are required in Utah.

R426-12-[7]801. EMS Instructor Certification.

(1) The Department may certify an individual who is an EMR, EMT-B, EMT-I, EMT-IA, Paramedic, or EMD as an EMS Instructor for a two year period.

(2) An individual who wishes to become certified as an EMS Instructor must:

(a) submit an application and pay all applicable fees;

(b) submit three letters of recommendation regarding EMS skills and teaching abilities;

(c) submit documentation of 15 hours of teaching experience;

- (d) successfully complete all required examinations;
 - (e) submit biennially a completed and signed "EMS Instructor Contract" to the Department agreeing to abide by the standards and procedures in the current EMS Instructor Manual or EMD Instructor Manual; and
 - (f) successfully complete the Department-sponsored initial EMS instructor training course.
- (3) An individual who wishes to become certified as an EMS Instructor to teach EMR, EMT-B, EMT-I, EMT-IA, or paramedic courses must also:
- (a) provide documentation of 30 hours of patient care within the prior year; and
 - (b) submit verification that the individual is recognized as a CPR instructor by the National Safety Council, the American Red Cross, or the American Heart Association; and
 - (4) An individual who wishes to become certified as an EMS Instructor to teach EMD courses must also successfully complete the Department-sponsored initial EMS instructor training course.
 - (5) The Department may waive portions of the initial EMS instructor training courses for previously completed Department-approved instructor programs.

R426-12-[7]802. EMS Instructor Recertification.

- An EMS instructor who wishes to recertify as an instructor must:
- (1) maintain current EMS certification;
 - (2) attend the required Department-approved recertification training;
 - (3) submit verification of 30 hours of EMS teaching experience in the prior two years;
 - (4) submit verification that the instructor is currently recognized as a CPR instructor by the National Safety Council, the American Red Cross, or the American Heart Association, if teaching an EMR, EMT-B, EMT-I, EMT-IA, or Paramedic course;
 - (5) submit an application and pay all applicable fees;
 - (6) successfully complete any Department-required examination; and
 - (7) submit biennially a completed and signed "EMS Instructor Contract" to the Department agreeing to abide by the standards and procedures in the current EMS Instructor Manual.

R426-12-[7]803. EMS Instructor Lapsed Certification.

- (1) An EMS instructor whose instructor certification has expired for less than two years may again become certified by completing the recertification requirements in R426-12-702.
- (2) An EMS instructor whose instructor certification has expired for more than two years must complete all initial instructor certification requirements and reapply as if there were no prior certification.

R426-12-[8]900. Emergency Medical Services Training Officer Requirements.

- (1) The Department may certify as an EMS Training Officer an individual who:
 - (a) meets the initial certification requirements in R426-12-[8]901; and
 - (b) is currently certified in Utah and has been certified as an EMR, EMT-B, EMT-I, EMT-IA, Paramedic, or Dispatcher for 12 months.
- (2) An EMS training officer must abide by the terms of the Training Officer Contract, and comply with the standards and procedures in the Training Officer Manual as incorporated into the respective Training Officer Contract.

R426-12-[8]901. EMS Training Officer Certification.

- (1) The Department may certify an individual who is certified as an EMR, EMT-B, EMT-I, EMT-IA, Paramedic, or EMD as a training officer for a two year period.
- (2) An individual who wishes to become certified as an EMS Training officer must:
 - (a) be currently certified as an EMS instructor;
 - (b) successfully complete the Department's course for new training officers;
 - (c) successfully complete any Department examinations;
 - (d) submit an application and pay all applicable fees; and
 - (e) submit biennially a completed and signed "Training Officer Contract" to the Department agreeing to abide by the standards and procedures in the then current Training Officer Manual.
- (3) A training officer must maintain EMS instructor certification to retain training officer certification.

R426-12-[8]902. EMS Training Officer Recertification.

- A training officer who wishes to recertify as a training officer must:
- (1) attend a training officer seminar every two years;
 - (2) maintain current EMS instructor and EMR, EMT-B, EMT-I, EMT-IA, Paramedic, or EMD certification;
 - (3) submit an application and pay all applicable fees;
 - (4) successfully complete any Department-examination requirements; and
 - (5) submit biennially a completed and signed new "Training Officer Contract" to the Department agreeing to abide by the standards and procedures in the current training officer manual.

R426-12-[8]903. EMS Training Officer Lapsed Certification.

- (1) An individual whose training officer certification has expired for less than one year may again become certified by completing the recertification requirements in R426-12-[8]902. The individuals new expiration date will be two years from the old expiration date.
- (2) An individual whose training officer certification has expired for more than one year must complete all initial training officer certification requirements and reapply as if there were no prior certification.

R426-12-[9]1000. Course Coordinator Certification.

- (1) The Department may certify as a course coordinator an individual who:
 - (a) meets the initial certification requirements in R426-12-[9]1001; and
 - (b) ~~has been~~ is certified in Utah as an EMS Instructor and as an EMR, EMT-B, EMT-I, EMT-IA, Paramedic or Dispatcher ~~for 12 months~~.
- (2) A Course Coordinator may only coordinate courses up to the certification level to which the course coordinator is certified. A ~~an~~ course coordinator who is only certified as an EMD, may only coordinate EMD courses.
- (3) A course coordinator must abide by the terms of the "Course Coordinator Contract" and comply with the standards and procedures in the Course Coordinator Manual as incorporated into the "Course Coordinator Contract."
- (4) A Course Coordinator must maintain an EMS Instructor certification and the EMS certification for the level that the course coordinator is certified to coordinate. If an individual's EMS certification lapses, the Course Coordinator certification is invalid until EMS certification is renewed.

R426-12-[9]1001. Course Coordinator Certification.

The Department may certify an individual who is an EMR, EMT-B, EMT-I, EMT-IA, Paramedic, or EMD as a course coordinator for a two year period. An individual who wishes to certify as a course coordinator must:

- (1) be certified as an EMS instructor for one year;
- (2) be an instructor of record for at least one Department-approved course;
- (3) have taught a minimum of 15 hours in a Department-approved course;
- (4) have co-coordinated one Department-approved course with a certified course coordinator;
- (5) submit a written evaluation and recommendation from the course coordinator in the co-coordinated course;
- (6) complete certification requirements prior to application to the Department's course for new course coordinators;
- (7) submit an application and pay all applicable fees;
- (8) complete the Department's course for new course coordinators;
- (9) successfully complete all examination requirements;
- (10) sign and submit annually the "Course Coordinator Contract" to the Department agreeing to abide to the standards and procedures in the then current Course Coordinator Manual; and
- (11) maintain EMS instructor certification.

R426-12-[9]1002. Course Coordinator Recertification.

A course coordinator who wishes to recertify as a course coordinator must:

- (1) maintain current EMS instructor and EMR, EMT-B, EMT-I, EMT-IA, Paramedic, or EMD certification;
- (2) coordinate or co-coordinate at least one Department-approved course every two years;
- (3) attend a course coordinator seminar every two years;
- (4) submit an application and pay all applicable fees;
- (5) successfully complete all examination requirements; and
- (6) sign and submit biennially a Course Coordinator Contract to the Department agreeing to abide by the policies and procedures in the then current Course Coordinator Manual.

R426-12-[9]1003. Emergency Medical Services Course Coordinator Lapsed Certification.

(1) An individual whose course coordinator certification has expired for less than one year may again become certified by completing the recertification requirements in R426-12-[8]1002. The individual's new expiration date will be two years from the old expiration date.

(2) An individual whose course coordinator certification has expired for more than one year must complete all initial course coordinator certification requirements and reapply as if there were no prior certification.

R426-12-1100[0]. Paramedic Training Institutions Standards Compliance.

(1) A person must be authorized by the Department to provide training leading to the certification of a paramedic.

(2) To become authorized and maintain authorization to provide paramedic training, a person must:

- (a) enter into the Department's standard paramedic training contract; and
- (b) adhere to the terms of the contract, including the requirement to provide training in compliance with the Course Coordinator Manual

and the Utah Paramedic Training Program Accreditation Standards Manual.

R426-12-1[4]200. Course Approvals.

A course coordinator offering EMS training to individuals who wish to become certified as an EMR, EMT-B, EMT-I, EMT-IA, Paramedic, or EMD, must obtain Department approval prior to initiating an EMS training course. The Department shall approve a course if:

- (1) the applicant submits the course application and fees no earlier than 90 days and no later than 30 days prior to commencing the course;
- (2) the applicant has sufficient equipment available for the training or if the equipment is available for rental from the Department;
- (3) the Department finds that the course meets all the Department rules and contracts governing training;
- (4) the course coordinators and instructors hold current respective course coordinator and EMS instructor certifications; and
- (5) the Department has the capacity to offer the applicable examinations in a timely manner after the conclusion of the course.

R426-12-1[2]300. Off-line Medical Director Requirements.

(1) The Department may certify an off-line medical director for a four year period.

(2) An off-line medical director must be:

- (a) a physician actively engaged in the provision of emergency medical care;
- (b) familiar with the Utah EMS Systems Act, Title 26, Chapter 8a, and applicable state rules; and
- (c) familiar with medical equipment and medications required under "R426 Equipment, Drugs and Supplies List."

R426-12-1[2]301. Off-line Medical Director Certification.

(1) An individual who wishes to certify as an off-line medical director must:

(a) have completed an American College of Emergency Physicians or National Association of Emergency Medical Services Physicians medical director training course or the Department's medical director training course within twelve months of becoming a medical director;

- (b) submit an application and;
- (c) pay all applicable fees.

(2) An individual who wishes to recertify as an off-line medical director must:

- (a) retake the medical director training course every four years;
- (b) submit an application; and
- (c) pay all applicable fees.

R426-12-1[3]400. Refusal, Suspension or Revocation of Certification.

(1) The Department shall exclude from EMS certification an individual who may pose an unacceptable risk to public health and safety, as indicated by his criminal history. The Department shall conduct a background check on each individual who seeks to certify or recertify as an EMS personnel, including an FBI background investigation if not a Utah resident for the past consecutive five years;

(a) An individual convicted of certain crimes presents an unreasonable risk and the Department shall deny all applications for certification or recertification from individuals convicted of any of the following crimes:

(i) sexual misconduct if the victim's failure to affirmatively consent is an element of the crime, such as forcible rape;

(ii) sexual or physical abuse of children, the elderly or infirm, such as sexual misconduct with a child, making or distributing child pornography or using a child in a sexual display, incest involving a child, assault on an elderly or infirm person;

(iii) abuse, neglect, theft from, or financial exploitation of a person entrusted to the care or protection of the applicant, if the victim is an out-of-hospital patient or a patient or resident of a health care facility; and

(iv) crimes of violence against persons, such as aggravated assault, murder or attempted murder, manslaughter except involuntary manslaughter, kidnapping, robbery of any degree; or arson; or attempts to commit such crimes;

(b) Except in extraordinary circumstances, established by clear and convincing evidence that certification or recertification will not jeopardize public health and safety, the Department shall deny applicants for certification or recertification in the following categories:

(i) persons who are convicted of any crime not listed in (a) and who are currently incarcerated, on work release, on probation or on parole;

(ii) conviction of crimes in the following categories, unless at least three years have passed since the conviction or at least three years have passed since release from custodial confinement, whichever occurs later:

(A) crimes of violence against persons, such as assault;

(B) crimes defined as domestic violence under Section 77-36-1;

(C) crimes involving controlled substances or synthetics, or counterfeit drugs, including unlawful possession or distribution, or intent to distribute unlawfully, Schedule I through V drugs as defined by the Uniform Controlled Dangerous Substances Act; and

(D) crimes against property, such as grand larceny, burglary, embezzlement or insurance fraud.

(c) The Department may deny certification or recertification to individuals convicted of crimes, including DUIs, but not including minor traffic violations chargeable as infractions after consideration of the following factors:

(i) the seriousness of the crime;

(ii) whether the crime relates directly to the skills of pre-hospital care service and the delivery of patient care;

(iii) the amount of time that has elapsed since the crime was committed;

(iv) whether the crime involved violence to or abuse of another person;

(v) whether the crime involved a minor or a person of diminished capacity as a victim;

(vi) whether the applicant's actions and conduct since the crime occurred are consistent with the holding of a position of public trust;

(vii) the total number of arrests and convictions; and

(viii) whether the applicant was truthful regarding the crime on his or her application.

(2) Certified EMS personnel must notify the Department of any arrest, charge, or conviction within ~~[30]~~seven days of the arrest, charge or conviction. If the person works for a licensed or designated EMS agency, the agency is also responsible to inform the Bureau of the arrest, charge or conviction.

(3) An official EMS agency representative verified by the Supervisor of the agency, may receive information pertaining to Department actions about an employee or a potential employee of the agency if a Criminal History Non-Disclosure Agreement is signed by the EMS agency representative.

~~(3)~~4 The Department may require EMS personnel to submit to a background examination or a drug test upon Department request.

~~(4)~~5 The Department may refuse to issue a certification or recertification, or suspend or revoke a certification, or place a certification on probation, for any of the following causes:

(a) any of the reasons for exclusion listed in Subsection (1);

(b) a violation of Subsection (2);

(c) a refusal to submit to a background examination pursuant to Subsection (3);

(d) habitual or excessive use or addiction to narcotics or dangerous drugs;

(e) refusal to submit to a drug test administered by the individual's EMS provider organization or the Department;

(f) habitual abuse of alcoholic beverages or being under the influence of alcoholic beverages while on call or on duty as an EMS personnel or while driving any Department-permitted vehicle;

(g) failure to comply with the training, certification, or recertification requirements for the certification;

(h) failure to comply with a contractual agreement as an EMS instructor, a training officer, or a course coordinator;

(i) fraud or deceit in applying for or obtaining a certification;

(j) fraud, deceit, incompetence, patient abuse, theft, or dishonesty in the performance of duties and practice as a certified individual;

(k) unauthorized use or removal of narcotics, drugs, supplies or equipment from any emergency vehicle or health care facility;

(l) performing procedures or skills beyond the level of certification or agency licensure;

(m) violation of laws pertaining to medical practice, drugs, or controlled substances;

(n) conviction of a felony, misdemeanor, or a crime involving moral turpitude, excluding minor traffic violations chargeable as infractions;

(o) mental incompetence as determined by a court of competent jurisdiction;

(p) demonstrated inability and failure to perform adequate patient care;

(q) inability to provide emergency medical services with reasonable skill and safety because of illness, drunkenness, use of drugs, narcotics, chemicals, or any other type of material, or as a result of any other mental or physical condition, when the individual's condition demonstrates a clear and unjustifiable threat or potential threat to oneself, coworkers, or the public health, safety, or welfare that cannot be reasonably mitigated; and

(r) misrepresentation of an individual's level of certification;

(s) failure to display a state-approved emblem with level of certification during an EMS response, and

(t) other or good cause, including conduct which is unethical, immoral, or dishonorable to the extent that the conduct reflects negatively on the EMS profession or might cause the public to lose confidence in the EMS system.

~~(5)~~6(a) The Department may suspend an individual for a felony or misdemeanor arrest or charge pending the resolution of the charge if the nature of the charge is one that, if true, the Department could revoke the certification under subsection (1); and

(b) The Department may order EMS personnel not to practice when an active criminal or administrative investigation is being conducted.

R426-12-1[4]500. Penalties.

As required by Subsection 63G-3-201(5): Any person that violates any provision of this rule may be assessed a civil money

penalty not to exceed the sum of \$5,000 or be punished for violation of a class B misdemeanor for the first violation and for any subsequent similar violation within two years for violation of a class A misdemeanor as provided in Section 26-23-6.

KEY: emergency medical services

Date of Enactment or Last Substantive Amendment: ~~August 8, 2007~~ 2009

Notice of Continuation: September 20, 2004

Authorizing, and Implemented or Interpreted Law: 26-8a-302



Human Services, Recovery Services **R527-301** Non-IV-D Income Withholding

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 32676

FILED: 05/18/2009, 10:30

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change is to add an authority and purpose statement outlining the Office of Recovery Services' authority to create, amend, and enforce administrative rules.

SUMMARY OF THE RULE OR CHANGE: The change is to add an authority and purpose section to the existing rule. Section 62A-11-107 authorizes the Office of Recovery Services (ORS) to adopt, amend, and enforce rules as necessary. A purpose section was added to provide specific information in regards to who may request Non-IV-D Income Withholding and the office limitations concerning income withholding.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 62A-11-107, 62A-11-502, 62A-11-504, 62A-11-506, and 62A-11-508

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The proposed changes to the rule are for clarification purposes only and do not affect the current procedures. There is no anticipated change in cost or savings due to this amendment.

❖ **LOCAL GOVERNMENTS:** There is no anticipated change in cost of savings due to this amendment since administrative rules of the Office of Recovery Services/Child Support Services (ORS/CSS) do not apply to local government.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** There will be no financial impact for small businesses due to the amendment of this rule since the basic requirements of the current rule will not change. There will be no financial impact to persons other than businesses due to the amendment of this rule since the basic requirements of the current rule will not change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no change in compliance costs due to this amendment since the

procedures are not changing with the amendment of the current rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses are not addressed in the proposed changes, and it is not anticipated that the changes will create any fiscal impact on them. Lisa-Michele Church, Executive Director

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

HUMAN SERVICES
RECOVERY SERVICES
515 E 100 S
SALT LAKE CITY UT 84102-4211, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Shancie Lawton at the above address, by phone at 801-536-8191, by FAX at 801-536-8833, or by Internet E-mail at shancielaawton@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 07/15/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2009

AUTHORIZED BY: Mark Brasher, Director

R527. Human Services, Recovery Services.

R527-301. Non-IV-D Income Withholding.

R527-301-1. Authority and Purpose.

1. The Office of Recovery Services is authorized to adopt, amend, and enforce rules as necessary by Section 62A-11-107.

2. The purpose of this rule is to provide information about the requirements of the Office of Recovery Services in regards to Non-IV-D Income Withholding. The rule states who can request income withholding and the proper procedures to pursue income withholding.

R527-301-2. Responsibility of the Office of Recovery Services.

The responsibility[ies] of the Office of Recovery Services in regard to Non-IV-D Income Withholding are[is] limited to receiving the income withholding, processing the payment, issuing a payment to the custodial parent, and maintaining a payment record. Modifications to the support order or withholding amounts are the responsibility of the parents.

R527-301-[2]3. Child Support Order Does Not Require Immediate Income Withholding.

Either party to the support order may pursue income withholding by filing for an Order/Notice to Withhold in the court, by applying for IV-D child support enforcement services, or by receiving IV-A assistance.

R527-301-[3]4. Collection of Child Care Expenses Through Income Withholding.

Child care expenses shall not be collected through Non-IV-D Income Withholding.

R527-301-[4]5. Enforcement of Notice to Withhold When Payor Fails to Comply.

If a payor fails to comply with the Notice to Withhold, either the custodial parent or the non-custodial parent may proceed with judicial action against the employer to enforce the Notice to Withhold and to obtain a judgment in accordance with Subsections 62A-11-506 (1)(f), (j) and (k).

R527-301-[5]6. Modification of Income Withholding Amount.

If the Notice to Withhold needs to be modified for any reason, the parent must apply for IV-D services or file for an Order/Notice to Withhold in the court that issued the support order.

R527-301-[6]7. Custodial Parent's Failure to Keep Office Notified of Mailing Address.

The office shall hold income withholding payments for 60 calendar days after the office determines that the custodial parent's address is unknown. During this 60-day period, the office shall make one attempt to locate the custodial parent, using resources available to the office. If the custodial parent's address is still unknown at the end of 60 calendar days, the office shall refund the support to the non-custodial parent. The support shall not accrue interest during the time it is being held to locate the custodial parent.

R527-301-[7]8. Termination of Income Withholding.

At any time after the date income withholding begins, a party to the child support order may request a judicial hearing to determine whether income withholding should be terminated. If the court orders that income withholding should be terminated, the obligee will provide written notice of termination to each payor of income.

KEY: child support

Date of Enactment or Last Substantive Amendment: ~~March 18, 1998~~ 2009

Notice of Continuation: August 21, 2008

Authorizing, and Implemented or Interpreted Law: 62A-11-107; 62A-11-502; 62A-11-504; 62A-11-506; 62A-11-508



Insurance, Administration
R590-79
Life Insurance Disclosure Rule

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 32697
FILED: 06/01/2009, 15:48

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The changes to this rule update the rule to comply with the National Association of Insurance Commissioners' (NAIC) Life Insurance Disclosure Model Regulation #580. The rule also replaces reference to "agent" with "producer" to follow terminology in Title 31A of the Utah Code.

SUMMARY OF THE RULE OR CHANGE: Throughout the rule the reference to "agent" is changed to "producer". Additional

references have been added to Section R590-79-1. Subsection R590-79-4(A) updates the incorporation edition date of the Life Insurance Buyers Guide. Also, the requirement for Cost Comparison Indexes has been eliminated here and throughout the rule. Section R590-79-5 includes requirements applicable to existing policies. Section R590-79-6 removed the requirement of maintaining agent's sales kits and marketing materials. A subsection has also been added regarding disclosure of non-guaranteed elements.

A disclosure must be made for policies under \$15,000 where the premium paid exceeds the death benefit. Also, a disclosure is required to warn that a higher premium may be necessary to avoid termination of the policy. Two new sections have been added to the rule, Penalties (R590-79-9) and Enforcement Date (R590-79-10).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-22-425

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 2005 Life Insurance Buyers Guide

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** These changes will have no effect on the department or state budgets. Life insurers will not be required to make additional filings with the department. Revenues should not be impacted by these changes.

❖ **LOCAL GOVERNMENTS:** Since this rule deals with the relationship between the department and its licensees, the changes to this rule will have no effect on local governments.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** The newly revised buyers guide is already being used by all life insurers, large and small. Insurers are no longer being required to do the cost comparison index when they provide a life policy summary. This will save them a little in cost for paper and time in preparing the index. Most insurers are already following these changes because they are being required to do so in other states.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The newly revised buyers guide is already being used by all life insurers, large and small. Insurers are no longer being required to do the cost comparison index when they provide a life policy summary. This will save them a little in cost for paper and time in preparing the index. Most insurers are already following these changes because they are being required to do so in other states.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These changes will have minimal if any fiscal impact on businesses in Utah. D. Kent Michie, Commissioner

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

INSURANCE
ADMINISTRATION
Room 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@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 07/15/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2009

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.**R590-79. Life Insurance Disclosure Rule.****R590-79-1. Authority.**

This rule is adopted and promulgated pursuant to Section 31A-2-201(3), ~~which empowers the Commissioner of Insurance to make reasonable rules necessary for, or as an aid to, the effectuation of any provision of the Insurance Code]wherein the commissioner may make rules to implement the provisions of Title 31A, and Section 31A-22-425(1) wherein the commissioner may make rules to establish standards for buyer's guides and disclosures.~~

R590-79-2. Purpose.

The purpose of this rule is to require insurers to deliver to purchasers of life insurance, information which will improve the purchaser's ability to select a plan of life insurance most appropriate for the purchaser's needs, ~~and improve the purchaser's understanding of the basic features of the policy being purchased or under consideration for purchase, and to improve the ability of the purchaser to evaluate the relative costs of similar plans of life insurance].~~

This rule does not prohibit the use of additional material which is not in violation of this rule or any other statute or rule.

R590-79-3. Scope.

Except as hereinafter exempted, this rule shall apply to any solicitation, negotiation or procurement of life insurance occurring within this state. This rule shall apply to any issuer of life insurance contracts including fraternal benefit societies.

Unless otherwise specifically included, this rule shall not apply to:

A. Annuities.

B. Credit life insurance.

C. Group life insurance (except for disclosures relating to ~~non-term group life insurance and]preneed funeral contracts or prearrangements; [as provided herein. These]these~~ disclosure requirements shall extend to the issuance or delivery of certificates as well as to the master policy).

D. Life insurance policies issued in connection with pension and welfare plans as defined by and which are subject to the federal Employee Retirement Income Security Act of 1974 (ERISA), as amended.

E. Variable life insurance under which the amount and duration of the death benefits and cash values vary according to the investment experience of a separate account, ~~and which is subject to regulation by the Securities and Exchange Commission.~~

~~F. The provisions of this rule will take effect January 1, 1997].~~

R590-79-4. Definitions.

~~In addition to the definitions in Section 31A-1-301, [For the purposes of this rule,]the following definitions shall apply for the purposes of this rule:~~

A. Buyer's Guide. A Buyer's Guide is a document which contains, and is limited to, the language contained in the "[1996]Life Insurance Buyer's Guide," as ~~[published]~~adopted and amended by, and available from the National Association of Insurance Commissioners, ~~[1996 edition,]~~which is incorporated in this rule by reference.

~~[B. Guaranteed Rate Schedule. The Guaranteed Rate Schedule is a schedule showing the maximum premiums that will be charged or the minimum cash values or death or other benefits that will be available, if there is no change in the basis of these items as guaranteed in the policy at the time of issue.~~

~~C. Equivalent Level Death Benefit. The Equivalent Level Death Benefit of a policy or term life insurance rider is an amount calculated as follows:~~

~~1. Accumulate the amount payable upon death, regardless of the cause of death, at the beginning of each policy year for ten and 20 years at 5% interest compounded annually to the end of the tenth and twentieth policy years respectively.~~

~~2. Divide each accumulation of Step 1 by an interest factor that converts it into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in Step 1 over the respective periods stipulated in Step 1. If the period is ten years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.]B. Current Scale of Nonguaranteed Elements. A formula or other mechanism that produces values for an illustration as if there is no change in the basis of those values after the time of illustration.~~

~~[B]C. Generic Name. Generic [N]name means a short title which is descriptive of the premium and benefit patterns of a policy or a rider.~~

~~D. Nonguaranteed Elements. The premiums, credited interest rates including any bonus, benefits, values, non-interest based credits, charges or elements of formulas used to determine any of these, that are subject to company discretion and are not guaranteed at issue. An element is considered non-guaranteed if any of the underlying non-guaranteed elements are used in its calculation.~~

~~[E. Cost Comparison Indexes:~~

~~1. Surrender Cost Comparison Index - Guaranteed Basis. The Surrender Cost Comparison Index - Guaranteed Basis is calculated by applying the following steps, assuming that the company charges the maximum premiums and provides the minimum cash values and, provides the minimum death benefits allowed by the policy, and, if the policy is participating, pays no dividends.~~

~~a. Determine the cash surrender value, if any, available at the end of the tenth and twentieth policy years, based on the company's Guaranteed Rate Schedule.~~

~~b. Divide the result of Step a by an interest factor that converts it into an equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in Step a over the respective periods stipulated in Step a. If the period is ten years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.~~

~~c. Determine the equivalent level premium by accumulating each annual premium payable for the basic policy or rider, based on the company's Guaranteed Rate Schedule, at 5% interest compounded annually to the end of the period stipulated in Step a and dividing the result by the respective factors stated in Step b. (This amount is the annual premium payable for a level premium plan.)~~

~~— d. Subtract the result of Step b from Step c.~~
~~— e. Divide the result of Step d by the number of thousands of the Equivalent Level Death Benefit, using the company's Guaranteed Rate Schedule to determine the amount payable upon death, to arrive at the Surrender Cost Comparison Index—Guaranteed Basis.~~
~~— (2) Net payment Cost Comparison Index—Guaranteed Basis. The Net Payment Cost Comparison Index—Guaranteed Basis is calculated in the same manner as the comparable Surrender Cost Comparison Index—Guaranteed Basis, except that the cash surrender value and any terminal dividend are set at zero.]E. Policy Data. A display or schedule of numerical values, both guaranteed and nonguaranteed for each policy year or a series of designated policy years of the following information: illustrated annual, other periodic, and terminal dividends; premiums; death benefits; cash surrender values; and endowment benefits.~~

F. Policy Summary.

(1) ~~[For the purposes of this rule,]Policy [S]summary means a written statement describing only the guaranteed elements of the policy.[If an illustration subject to the requirements of R590-177, Life Insurance Illustrations Rule, is used in the sale of a policy, a policy summary does not have to be provided].~~ A policy summary must include the following information:

(a) A prominently placed title as follows: STATEMENT OF POLICY COST AND BENEFIT INFORMATION.

(b) The name and address of the insurance ~~[agent]producer~~, or, if no ~~[agent]producer~~ is involved, a statement of the procedure to be followed in order to receive responses to inquiries regarding the policy summary.

(c) The full name and home office or administrative office address of the company in which the life insurance policy is to be or has been written.

(d) The ~~[G]generic [N]name~~ of the basic policy and each rider.

(e) The following amounts, where applicable, for the first five policy years and representative policy years thereafter sufficient to clearly illustrate the premium and benefit patterns, including, but not necessarily limited to, the tenth and twentieth policy years, and at least one age from 60 through 65 or maturity, which ever is earlier.

(i) The annual premium for the basic policy.

(ii) The annual premium for each optional rider.

(iii) Guaranteed amount payable upon death, at the beginning of the policy year regardless of the cause of death other than suicide, or other specifically enumerated exclusions, which is provided by the basic policy and each optional rider, with benefits provided under the basic policy and each rider shown separately.

(iv) Total guaranteed cash surrender values at the end of the year with values shown separately for the basic policy and each rider.

(v) Guaranteed endowment amounts payable under the policy which are not included under guaranteed cash surrender values above.

(f) The effective policy loan annual percentage interest rate, if the policy contains this provision, specifying whether this rate is applied in advance or in arrears. If the policy loan interest rate is adjustable, the policy summary shall indicate the maximum annual percentage rate, and shall also indicate that the annual percentage rate will be determined by the company in accordance with the provisions of the policy and the applicable law.

~~[(g) The Cost Comparison Indexes for ten and 20 years but in no case beyond the premium paying period. Indexes shall be shown on the Guaranteed Basis. Separate indexes shall be displayed for the basic policy and for each optional term life insurance rider. Such indexes need not be included for optional riders which are limited to benefits such as accidental death benefits, disability waiver of premium,~~

~~preliminary term life insurance coverage of less than 12 months and guaranteed insurability benefits nor for the basic policies or optional riders covering more than one life.~~

~~— (h) A statement in close proximity to the Cost Comparison Indexes that an explanation of the intended use of the indexes is provided in the Life Insurance Buyer's Guide.~~

~~—]([i]g) The date on which the policy summary is prepared.~~

(2) The policy summary must consist of a separate document. All information required to be disclosed must be set out in such a manner as not to minimize or render any portion thereof obscure. Any amounts which remain level for two or more years of the policy may be represented by a single number if it is clearly indicated what amounts are applicable for each policy year. Amounts in item F.(1)(e) of this section shall be listed in total, not on a per thousand nor per unit basis. If more than one insured is covered under one policy or rider, death benefits shall be displayed separately for each insured or for each class of insureds if death benefits do not differ within the class. Zero amounts shall be displayed as zero and may not be displayed as a blank space.

~~— (3) If an illustration subject to the requirements of R590-177, Life Insurance Illustrations Rule, is used in the sale of a policy, a policy summary is not required.~~

G. Preneed Funeral Contract or Prearrangement. An agreement by or for an individual before that individual's death relating to the purchase or provisions of specific funeral or cemetery merchandise or services.

R590-79-5. Disclosure Requirements.

A. The insurer shall provide, to all prospective purchasers, a Buyer's Guide and either a policy summary or a life illustration~~[-]~~ that is in compliance with Rule R590-177, Life Insurance Illustrations Rule, when the policy is delivered or prior to delivery of the policy if so requested.

B. The insurer shall provide a Buyer's Guide and a policy summary to any prospective purchaser upon request.

C. Flexible Premium and Benefit Policies. For policies commonly called "universal life insurance policies," which:

(1) Permit the policy owner to vary, independently of each other, the amount or timing of premium payments, or the amount payable on death; and

(2) Provide for a cash value that is based on separately identified interest credits and mortality and expense charges made to the policy.

All indexes and other data shall be displayed assuming specific schedules of anticipated premiums and death benefits at issue.

In addition to all other information required by this rule, the policy summary shall indicate when the policy will expire based on the interest rates and mortality rates and other charges guaranteed in the policy and the anticipated or assumed annual premiums shown in the policy summary.

D. Requirements applicable to existing policies.

Upon request by the policyholder, the insurer shall furnish either policy data or an in force illustration as follows:

(1) For policies issued prior to January 1, 1997, the effective date of R590-177, Life Insurance Illustrations Rule, the insurer shall furnish policy data, or at its option, an in force illustration meeting the requirements of R590-177, Life Insurance Illustrations Rule.

(2) For policies issued on or after January 1, 1997 that were declared not to be used with an illustration, the insurer shall furnish policy data, limited to guaranteed values, if it has chosen not to furnish an in force illustration meeting the requirements of R590-177, Life Insurance Illustrations Rule.

(3) If the policy was issued on or after January 1, 1997, and declared to be used with an illustration, an in force illustration shall be provided.

(4) Unless otherwise requested, the policy data shall be provided for 20 consecutive years beginning with the previous policy anniversary. The statement of policy data shall include nonguaranteed elements according to the current scale, the amount of outstanding policy loans, and the current policy loan interest rate. Policy values shown shall be based on the current application of nonguaranteed elements in effect at the time of the request. The insurer may charge a reasonable fee for the preparation of the statement after providing one annually without charge.

[D]E. Preneed Funeral Contracts or Prearrangements. The following information shall be adequately disclosed at the time an application is made prior to accepting the applicant's initial premium or deposit, for a preneed funeral contract or prearrangement [as defined in Section 4(G) above] which is funded or to be funded by a life insurance policy:

(1) The fact that a life insurance policy is involved or being used to fund a prearrangement;

(2) The nature of the relationship among the soliciting [agent]producer or [agents]producers, the provider of the funeral or cemetery merchandise or services, the administrator and any other person;

(3) The relationship of the life insurance policy to the funding of the prearrangement and the nature and existence of any guarantees relating to the prearrangement;

(4) The impact on the prearrangement;

(a) of any changes in the life insurance policy including but not limited to changes in the assignment, beneficiary designation or use of the proceeds;

(b) of any penalties to be incurred by the policyholder as a result of failure to make premium payments; and

(c) of any penalties to be incurred or monies to be received as a result of cancellation or surrender of the life insurance policy;

(5) A list of the merchandise and services which are applied or contracted for in the prearrangement and all relevant information concerning the price of the funeral services, including an indication that the purchase price is either guaranteed at the time of purchase or to be determined at the time of need;

(6) All relevant information concerning what occurs and whether any entitlements or obligations arise if there is a difference between the proceeds of the life insurance policy and the amount actually needed to fund the prearrangement;

(7) Any penalties or restrictions, including but not limited to geographic restrictions or the inability of the provider to perform, on the delivery of merchandise, services or the prearrangement guarantee;

(8) The fact that a sales commission or other form of compensation is being paid and if so, the identity of such individuals or entities to whom it is paid.

R590-79-6. General Requirements.

A. Each insurer shall maintain at its home office or principal office, a complete file containing one copy of each document authorized by the insurer for use pursuant to this rule [and also to include the agent sales kit and all other sales promotion and marketing material]. Such file shall contain one copy of each authorized form for a period of three years following the date of its last authorized use.

B. [An agent]A producer shall inform the prospective purchaser, prior to commencing a life insurance sales presentation, that he or she is

acting as a life insurance [agent]producer and inform the prospective purchaser of the full name of the insurance company which the [agent]producer is representing to the buyer. In sales situations in which [an agent]a producer is not involved, the insurer shall identify its full name. A presentation commences with an initial contact with a prospective purchaser in person, by telephone, by electronic communication, or by way of printed materials, particularly where rates or values are quoted or when policy or contract representations are made.

C. Terms such as financial planner, investment advisor, financial consultant, or financial counseling shall not be used unless properly licensed if required or in such a way as to imply that the insurance [agent]producer is generally engaged in an advisory business in which compensation is unrelated to sales unless such is actually the case and represented by way of required disclosure.

[D.] A statement regarding the use of the Cost Comparison Indexes shall include an explanation to the effect that the indexes are useful only for the comparison of the relative costs of two or more similar policies.

[E.] A system or presentation which does not recognize the time value of money through the use of appropriate interest adjustments shall not be used for comparing the cost of two or more life insurance policies. Such a system may be used for the purpose of demonstrating the cash flow pattern of a policy if such presentation is accompanied by a statement disclosing that the presentation does not recognize that, because of interest, a dollar in the future has less value than a dollar today.

[D.] Any reference to nonguaranteed elements shall include a statement that the item is not guaranteed and is based on the company's current scale of nonguaranteed elements (use appropriate special term such as "current dividend" or "current rate" scale.) If a nonguaranteed element would be reduced by the existence of a policy loan, a statement to that effect shall be included in any reference to nonguaranteed elements. A presentation or depiction of a policy issued on or after January 1, 1997, that includes nonguaranteed elements over a period of years shall be governed by R590-177, Life Insurance Illustrations Rule.

[F]E. For a life insurance [policies]policy or certificate with a death benefit not exceeding [\$10,000]\$15,000, the insurer shall provide disclosure of the following:

(1) limited death benefits whenever a policy limits death benefits during a period following the inception date of coverage;

(2) the possibility that premiums paid over several years may exceed the death benefit whenever that possibility exists.

The disclosure shall be provided to the applicant no later than delivery of the policy or certificate.

[G]E. The policy summary, the life illustration that is subject to the requirements of R590-177, Life Insurance Illustrations Rule, and all other sales materials must be complete, consistent, and not misleading. If asterisks are used to reference footnotes, the asterisk must be clear and easily seen.

[H]G. For the purposes of this rule, the annual premium for a basic policy or rider, for which the company reserves the right to change the premium, shall be the maximum annual premium.

H. If the policy will lapse under the guaranteed assumptions unless a premium higher than the planned premium is paid, that fact must be disclosed and the date, policy duration, or attained age of lapse must be disclosed in the policy summary and any periodic report.

R590-79-8. Severability.

If any provision of this rule or application to any person or circumstance is for any reason held to be invalid, the remainder of the

rule and the application of this provision to other persons or circumstances ~~may~~shall not be affected.

R590-79-9. Penalties.

A person found to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

R590-79-10. Enforcement Date.

The commissioner will begin enforcing this revised rule 45 days after its effective date.

KEY: insurance law

Date of Enactment or Last Substantive Amendment: ~~May 1, 1998~~2009

Notice of Continuation: September 27, 2004

Authorizing, and Implemented or Interpreted Law: 31A-2-201



Insurance, Administration
R590-177
Life Insurance Illustrations Rule

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 32698

FILED: 06/01/2009, 16:06

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes are being made to this rule to update it to comply with the National Association of Insurance Commissioners' (NAIC) Life Insurance Illustration Model Regulation #582. The term "agent" and "broker" are being replaced with "producer" to comply with terminology in Title 31A of the Utah Code.

SUMMARY OF THE RULE OR CHANGE: Throughout the rule the term "agent" is being replaced with "producer". Section R590-177-1 has added two new authority sections. The date used throughout the rule when referencing "effective date" is being changed to the actual effective date. The use of "may" in the rule is being changed to "shall". In Section R590-177-7, adds wording requiring that life illustrations be complete, not misleading and be consistent. In Section R590-177-11, removed the reference to the obtaining of the Actuarial Standard of Practice document from the department, the NAIC, or Actuarial Standards Board. The requirement for life insurers to file their annual certification with the department is being replaced with the requirement that they maintain the certification in their offices for five years. The requirement to send the department a separate notification of change in their illustration actuary is no longer required. This is to be sent with the annual report. Section R590-177-14, Enforcement Date, has been added to the rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201, 31A-22-425, and 31A-23a-402

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** These changes will have no effect on the department or state budgets. Life insurers will not be required to make additional filings with the department. The department's Life Division staff will save time and work with the elimination of the need to review approximately 200 annual certifications. This will also save the companies work and a \$25 SERFF filing fee. This fee does not come to the state or the department. In addition, department staff will no longer need to review and file the notification regarding a change in the illustration actuary.

❖ **LOCAL GOVERNMENTS:** Since this rule deals with the relationship between the department and its licensees, the changes to this rule will have no effect on local governments.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** The changes to this rule affect large and small life insurance companies the same. The only cost would be to those insurers who will need to replace illustrations that are currently not complete, are misleading or are not consistent. It will also save insurers \$25 for every annual certification they would have had to make with SERFF.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The changes to this rule affect large and small life insurance companies the same. The only cost would be to those insurers who will need to replace illustrations that are currently not complete, are misleading or are not consistent. The consumer will have added protection with the requirement to have company illustrations complete and consistent and not misleading.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes to this rule will have little if any effect on life insurers doing business in Utah. Those insurers doing business in other states are already following the NAIC Model Life Insurance Illustration Regulation and will not need to make any changes to the way they are doing business. D. Kent Michie, Commissioner

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

INSURANCE
ADMINISTRATION
Room 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@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 07/15/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2009

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.**R590-177. Life Insurance Illustrations Rule.****R590-177-1. Authority.**

This rule is issued based upon the authority granted the commissioner under ~~Section~~;

A. Subsection 31A-2-201(3)(a) to implement the provisions of Title 31A;

B. Subsection 31A-22-425(1)(c) to establish standards for illustrations; and

C. Subsection 31A-23a-402(8) to define unfair methods of competition and unfair or deceptive acts or practices in the business of insurance.

R590-177-3. Applicability and Scope.

A. This rule applies to all group and individual life insurance policies and certificates except:

~~(1)~~ variable life insurance;

~~(2)~~ individual and group annuity contracts;

~~(3)~~ credit life insurance; or

~~(4)~~ life insurance policies with no illustrated death benefits on any individual exceeding ~~\$40,000~~ \$15,000.

B. The provisions of this rule ~~will take effect January 1, 1997 and shall~~ apply to policies sold on or after ~~the effective date~~ January 1, 1997.

R590-177-4. Definitions.

In addition to definitions in Section 31A-1-301, the following definitions shall apply for ~~For~~ the purposes of this rule:

A. "Actuarial Standards Board" means the board established by the American Academy of Actuaries to develop and promulgate standards of actuarial practice.

B. "Contract premium" means the gross premium that is required to be paid under a fixed premium policy, including the premium for a rider for which benefits are shown in the illustration.

C. "Currently payable scale" means a scale of non-guaranteed elements in effect for a policy form as of the preparation date of the illustration or declared to become effective within the next 95 days.

D. "Disciplined current scale" means a scale of non-guaranteed elements constituting a limit on illustrations currently being illustrated by an insurer that is reasonably based on actual recent historical experience, as certified annually by an illustration actuary designated by the insurer. Further guidance in determining the disciplined current scale as contained in standards established by the Actuarial Standards Board may be relied upon if the standards:

(1) are consistent with all provisions of this rule;

(2) limit a disciplined current scale to reflect only actions that have already been taken or events that have already occurred;

(3) do not permit a disciplined current scale to include any projected trends of improvements in experience or any assumed improvements in experience beyond the illustration date; and

(4) do not permit assumed expenses to be less than minimum assumed expenses.

E. "Generic name" means a short title descriptive of the policy being illustrated such as "whole life," "term life" or "flexible premium adjustable life."

F. "Guaranteed elements" and "non-guaranteed elements"

(1) "Guaranteed elements" means the premiums, benefits, values, credits or charges under a policy of life insurance that are guaranteed and determined at issue.

(2) "Non-guaranteed elements" means the premiums, benefits, values, credits or charges under a policy of life insurance that are not guaranteed or not determined at issue.

G. "Illustrated scale" means a scale of non-guaranteed elements currently being illustrated that is not more favorable to the policy owner than the lesser of:

(1) the disciplined current scale; or

(2) the currently payable scale.

H. "Illustration" means a presentation or depiction that includes non-guaranteed elements of a policy of life insurance over a period of years and that is one of the three types defined below:

(1) "Basic illustration" means a ledger or proposal used in the sale of a life insurance policy that shows both guaranteed and non-guaranteed elements.

(2) "Supplemental illustration" means an illustration furnished in addition to a basic illustration that meets the applicable requirements of this rule, and that may be presented in a format differing from the basic illustration, but may only depict a scale of non-guaranteed elements that is permitted in a basic illustration.

(3) "In force illustration" means an illustration furnished at any time after the policy that it depicts has been in force for one year or more.

I. "Illustration actuary" means an actuary meeting the requirements of Section 11 who certifies to illustrations based on the standard of practice promulgated by the Actuarial Standards Board.

J. "Lapse-supported illustration" means an illustration of a policy form failing the test of self-supporting as defined in this rule, under a modified persistency rate assumption using persistency rates underlying the disciplined current scale for the first five years and 100% policy persistency thereafter.

K.(1) "Minimum assumed expenses" means the minimum expenses that may be used in the calculation of the disciplined current scale for a policy form. The insurer may choose to designate each year the method of determining assumed expenses for all policy forms from the following:

(a) fully allocated expenses;

(b) marginal expenses; and

(c) a generally recognized expense table based on fully allocated expenses representing a significant portion of insurance companies and approved by the National Association of Insurance Commissioners or by the commissioner.

(2) Marginal expenses may be used only if greater than a generally recognized expense table. If no generally recognized expense table is approved, fully allocated expenses must be used.

L. "Non-term group life" means a group policy or individual policies of life insurance issued to members of an employer group or other permitted group where:

(1) every plan of coverage was selected by the employer or other group representative;

(2) some portion of the premium is paid by the group or through payroll deduction; and

(3) group underwriting or simplified underwriting is used.

M. "Policy owner" means the owner named in the policy or the certificate holder in the case of a group policy.

N. "Premium outlay" means the amount of premium assumed to be paid by the policy owner or other premium payer out-of-pocket.

O. "Self-supporting illustration" means an illustration of a policy form for which it can be demonstrated that, when using experience assumptions underlying the disciplined current scale, for all illustrated

points in time on or after the fifteenth policy anniversary or the twentieth policy anniversary for second-or-later-to-die policies, or upon policy expiration if sooner, the accumulated value of all policy cash flows equals or exceeds the total policy owner value available. For this purpose, policy owner value will include cash surrender values and any other illustrated benefit amounts available at the policy owner's election.

R590-177-5. Policies to Be Illustrated.

A. Each insurer marketing policies to which this rule is applicable shall notify the commissioner whether a policy form is to be marketed with or without an illustration. For all policy forms being actively marketed on ~~[the effective date of this rule]~~ January 1, 1997, the insurer shall identify in writing those forms and whether or not an illustration will be used with them. For policy forms filed after ~~[the effective date of this rule]~~ January 1, 1997, the identification shall be made at the time of filing. Any previous identification may be changed by notice to the commissioner.

B. If the insurer identifies a policy form as one to be marketed without an illustration, any use of an illustration for any policy using that form prior to the first policy anniversary is prohibited.

C. If a policy form is identified by the insurer as one to be marketed with an illustration, a basic illustration prepared and delivered in accordance with this rule is required, except that a basic illustration need not be provided to individual members of a group or to individuals insured under multiple lives coverage issued to a single applicant unless the coverage is marketed to these individuals. The illustration furnished an applicant for a group life insurance policy or policies issued to a single applicant on multiple lives may be either an individual or composite illustration representative of the coverage on the lives of members of the group or the multiple lives covered.

D. Potential enrollees of non-term group life subject to this rule shall be furnished a quotation with the enrollment materials. The quotation shall show potential policy values for sample ages and policy years on a guaranteed and non-guaranteed basis appropriate to the group and the coverage. This quotation ~~[may]~~ shall not be considered an illustration for purposes of this rule, but all information provided shall be consistent with the illustrated scale. A basic illustration shall be provided at delivery of the certificate to enrollees for non-term group life who enroll for more than the minimum premium necessary to provide pure death benefit protection. In addition, the insurer shall make a basic illustration available to any non-term group life enrollee who requests it.

R590-177-6. General Rules and Prohibitions.

A. An illustration used in the sale of a life insurance policy shall satisfy the applicable requirements of this rule, be clearly labeled "life insurance illustration" and contain the following basic information:

- (1) name and address of insurer;
- (2) name and business address of ~~[agent, broker]~~ producer or insurer's authorized representative, if any;
- (3) name, age and sex of proposed insured, except where a composite illustration is permitted under this rule;
- (4) underwriting or rating classification upon which the illustration is based;
- (5) generic name of policy, the company product name, if different, and form number;
- (6) initial death benefit; and
- (7) dividend option election or application of non-guaranteed elements, if applicable.

B. When using an illustration in the sale of a life insurance policy, an insurer or its ~~[agent, broker]~~ producers or other authorized representatives ~~[may]~~ shall not:

- (1) represent the policy as anything other than a life insurance policy;
- (2) use or describe non-guaranteed elements in a manner that is misleading or has the capacity or tendency to mislead;
- (3) state or imply that the payment or amount of non-guaranteed elements is guaranteed;
- (4) use an illustration that does not comply with the requirements of this rule;
- (5) use an illustration that at any policy duration depicts policy performance more favorable to the policy owner than that produced by the illustrated scale of the insurer whose policy is being illustrated;
- (6) provide an applicant with an incomplete illustration;
- (7) represent in any way that premium payments will not be required for each year of the policy in order to maintain the illustrated death benefits, unless that is the fact;
- (8) use the term "vanish" or "vanishing premium," or a similar term that implies the policy becomes paid up, to describe a plan for using non-guaranteed elements to pay a portion of future premiums;
- (9) except for policies that can never develop nonforfeiture values, use an illustration that is "lapse-supported"; or
- (10) use an illustration that is not "self-supporting."

C. If an interest rate used to determine the illustrated non-guaranteed elements is shown, it ~~[may]~~ shall not be greater than the earned interest rate underlying the disciplined current scale.

R590-177-7. Standards for Basic Illustrations.

A. Format. A basic illustration shall conform with the following requirements:

- (1) The illustration shall be labeled with the date on which it was prepared.
- (2) Each page, including any explanatory notes or pages, shall be numbered and show its relationship to the total number of pages in the illustration, e.g., the fourth page of a seven-page illustration shall be labeled "page 4 of 7 pages".
- (3) The assumed dates of payment receipt and benefit pay-out within a policy year shall be clearly identified.
- (4) If the age of the proposed insured is shown as a component of the tabular detail, it shall be issue age plus the numbers of years the policy is assumed to have been in force.
- (5) The assumed payments on which the illustrated benefits and values are based shall be identified as premium outlay or contract premium, as applicable. For policies that do not require a specific contract premium, the illustrated payments shall be identified as premium outlay.
- (6) Guaranteed death benefits and values available upon surrender, if any, for the illustrated premium outlay or contract premium shall be shown and clearly labeled guaranteed.
- (7) If the illustration shows any non-guaranteed elements, they cannot be based on a scale more favorable to the policy owner than the insurer's illustrated scale at any duration. These elements shall be clearly labeled non-guaranteed.
- (8) The guaranteed elements, if any, shall be shown before corresponding non-guaranteed elements and shall be specifically referred to on any page of an illustration that shows or describes only the non-guaranteed elements, e.g., "see page one for guaranteed elements."
- (9) The account or accumulation value of a policy, if shown, shall be identified by the name this value is given in the policy being

illustrated and shown in close proximity to the corresponding value available upon surrender.

(10) The value available upon surrender shall be identified by the name this value is given in the policy being illustrated and shall be the amount available to the policy owner in a lump sum after deduction of surrender charges, policy loans and policy loan interest, as applicable.

(11) Illustrations may show policy benefits and values in graphic or chart form in addition to the tabular form.

(12) Any illustration of non-guaranteed elements shall be accompanied by a statement indicating that:

(a) the benefits and values are not guaranteed;

(b) the assumptions on which they are based are subject to change by the insurer; and

(c) actual results may be more or less favorable.

(13) If the illustration shows that the premium payer may have the option to allow policy charges to be paid using non-guaranteed values, the illustration must clearly disclose that a charge continues to be required and that, depending on actual results, the premium payer may need to continue or resume premium outlays. Similar disclosure shall be made for premium outlay of lesser amounts or shorter durations than the contract premium. If a contract premium is due, the premium outlay display ~~may~~ shall not be left blank or show zero unless accompanied by an asterisk or similar mark to draw attention to the fact that the policy is not paid up.

(14) If the applicant plans to use dividends or policy values, guaranteed or non-guaranteed, to pay all or a portion of the contract premium or policy charges, or for any other purpose, the illustration may reflect those plans and the impact on future policy benefits and values.

(15) The illustration shall be complete, not misleading, and the narrative summary, numeric summary, and tabular detail shall be consistent.

B. Narrative Summary. A basic illustration shall include the following:

(1) a brief description of the policy being illustrated, including a statement that it is a life insurance policy;

(2) a brief description of the premium outlay or contract premium, as applicable, for the policy. For a policy that does not require payment of a specific contract premium, the illustration shall show the premium outlay that must be paid to guarantee coverage for the term of the contract, subject to maximum premiums allowable to qualify as a life insurance policy under the applicable provisions of the Internal Revenue Code;

(3) a brief description of any policy features, riders or options, guaranteed or non-guaranteed, shown in the basic illustration and the impact they may have on the benefits and values of the policy;

(4) identification and a brief definition of column headings and key terms used in the illustration; and

(5) a statement containing in substance the following: "This illustration assumes that the currently illustrated nonguaranteed elements will continue unchanged for all years shown. This is not likely to occur, and actual results may be more or less favorable than those shown."

C. Numeric Summary.

(1) Following the narrative summary, a basic illustration shall include a numeric summary of the death benefits and values and the premium outlay and contract premium, as applicable. For a policy that provides for a contract premium, the guaranteed death benefits and values shall be based on the contract premium. This summary shall be shown for at least policy years 5, 10 and 20 and at age 70, if applicable, on the three bases shown below. For multiple life policies the summary

shall show at least policy years 5, 10, 20 and 30 on the three bases shown below.

(a) Policy guarantees;

(b) Insurer's illustrated scale;

(c) Insurer's illustrated scale used but with the non-guaranteed elements reduced as follows:

(i) dividends at 50% of the dividends contained in the illustrated scale used;

(ii) non-guaranteed credited interest at rates that are the average of the guaranteed rates and the rates contained in the illustrated scale used; and

(iii) all non-guaranteed charges, including term insurance charges, and mortality and expense charges, at rates that are the average of the guaranteed rates and the rates contained in the illustrated scale used.

(2) In addition, if coverage would cease prior to policy maturity or age 100, the year in which coverage ceases shall be identified for each of the three bases.

D. Statements. Statements substantially similar to the following shall be included on the same page as the numeric summary and signed by the applicant, or the policy owner in the case of an illustration provided at time of delivery, as required in this rule.

(1) A statement to be signed and dated by the applicant or policy owner reading as follows: "I have received a copy of this illustration and understand that any non-guaranteed elements illustrated are subject to change and could be either higher or lower. The ~~agent~~ producer has told me they are not guaranteed."

(2) A statement to be signed and dated by the insurance ~~agent, broker~~ producer or other authorized representative of the insurer reading as follows: "I certify that this illustration has been presented to the applicant and that I have explained that any non-guaranteed elements illustrated are subject to change. I have made no statements that are inconsistent with the illustration."

E. Tabular Detail.

(1) A basic illustration shall include the following for at least each policy year from one to ten and for every fifth policy year thereafter ending at age 100, policy maturity or final expiration; and except for term insurance beyond the twentieth year, for any year in which the premium outlay and contract premium, if applicable, is to change:

(a) the premium outlay and mode the applicant plans to pay and the contract premium, as applicable;

(b) the corresponding guaranteed death benefit, as provided in the policy; and

(c) the corresponding guaranteed value available upon surrender, as provided in the policy.

(2) For a policy that provides for a contract premium, the guaranteed death benefit and value available upon surrender shall correspond to the contract premium.

(3) Non-guaranteed elements may be shown if described in the contract. In the case of an illustration for a policy on which the insurer intends to credit terminal dividends, they may be shown if the insurer's current practice is to pay terminal dividends. If any non-guaranteed elements are shown they must be shown at the same durations as the corresponding guaranteed elements, if any. If no guaranteed benefit or value is available at any duration for which a non-guaranteed benefit or value is shown, a zero shall be displayed in the guaranteed column.

R590-177-9. Delivery of Illustration and Record Retention.

A.(1) If a basic illustration is used by an insurance ~~agent, broker~~ producer or other authorized representative of the insurer in the sale of a life insurance policy and the policy is applied for as illustrated, a copy of that illustration, signed in accordance with this rule, shall be

submitted to the insurer at the time of policy application. A copy also shall be provided to the applicant.

(2) If the policy is issued other than as applied for, a revised basic illustration conforming to the policy as issued shall be sent with the policy. The revised illustration shall conform to the requirements of this rule, shall be labeled "Revised Illustration" and shall be signed and dated by the applicant or policy owner and ~~agent, broker~~ producer or other authorized representative of the insurer no later than the time the policy is delivered. A copy shall be provided to the insurer and the policy owner.

B.(1) If no illustration is used by an insurance ~~agent, broker~~ producer or other authorized representative in the sale of a life insurance policy or if the policy is applied for other than as illustrated, the ~~agent, broker~~ producer or representative shall certify to that effect in writing on a form provided by the insurer. On the same form, the applicant shall acknowledge that no illustration conforming to the policy applied for was provided and shall further acknowledge an understanding that an illustration conforming to the policy as issued will be provided no later than at the time of policy delivery. This form shall be submitted to the insurer at the time of policy application.

(2) If the policy is issued, a basic illustration conforming to the policy as issued shall be sent with the policy and signed no later than the time the policy is delivered. A copy shall be provided to the insurer and the policy owner.

C. If the basic illustration or revised illustration is sent to the applicant or policy owner by mail from the insurer, it shall include instructions for the applicant or policy owner to sign the duplicate copy of the numeric summary page of the illustration for the policy issued and return the signed copy to the insurer. The insurer's obligation under this subsection shall be satisfied if it can demonstrate that it has made a diligent effort to secure a signed copy of the numeric summary page. The requirement to make a diligent effort shall be deemed satisfied if the insurer includes in the mailing a self-addressed postage prepaid envelope with instructions for the return of the signed numeric summary page.

D. A copy of the basic illustration and a revised basic illustration, if any, signed as applicable, along with any certification that either no illustration was used or that the policy was applied for other than as illustrated, shall be retained by the insurer until three years after the policy is no longer in force. A copy need not be retained if no policy is issued.

R590-177-10. Annual Report; Notice to Policy Owners.

A. In the case of a policy designated as one for which illustrations will be used, the insurer shall provide each policy owner with an annual report on the status of the policy that shall contain at least the following information:

(1) for universal life policies, the report shall include the following:

- (a) the beginning and end date of the current report period;
- (b) the policy value at the end of the previous report period and at the end of the current report period;
- (c) the total amounts that have been credited or debited to the policy value during the current report period, identifying each by type e.g., interest, mortality, expense and riders;
- (d) the current death benefit at the end of the current report period on each life covered by the policy;
- (e) the net cash surrender value of the policy as of the end of the current report period;
- (f) the amount of outstanding loans, if any, as of the end of the current report period; and

(g) for fixed premium policies: if, assuming guaranteed interest, mortality and expense loads and continued scheduled premium payments, the policy's net cash surrender value is such that it would not maintain insurance in force until the end of the next reporting period, a notice to this effect shall be included in the report; or

(h) for flexible premium policies: if assuming guaranteed interest, mortality and expense loads, the policy's net cash surrender value will not maintain insurance in force until the end of the next reporting period unless further premium payments are made, a notice to this effect shall be included in the report.

(2) For all other policies, where applicable:

- (a) current death benefit;
- (b) annual contract premium;
- (c) current cash surrender value;
- (d) current dividend;
- (e) application of current dividend; and
- (f) amount of outstanding loan.

(3) Insurers writing life insurance policies that do not build nonforfeiture values shall only be required to provide an annual report with respect to these policies for those years when a change has been made to nonguaranteed policy elements by the insurer.["]

B. If the annual report does not include an in force illustration, it shall contain the following notice displayed prominently:

"IMPORTANT POLICY OWNER NOTICE: You should consider requesting more detailed information about your policy to understand how it may perform in the future. You should not consider replacement of your policy or make changes in your coverage without requesting a current illustration. You may annually request, without charge, such an illustration by calling (insurer's phone number), writing to (insurer's name) at (insurer's address) or contacting your ~~agent~~ producer. If you do not receive a current illustration of your policy within 30 days from your request, you should contact your state insurance department."

The insurer may vary the sequential order of the methods for obtaining an in force illustration.

C. Upon the request of the policy owner, the insurer shall furnish an in force illustration of current and future benefits and values based on the insurer's present illustrated scale. This illustration shall comply with the requirements of Section 6A, 6B, 7A and 7E. No signature or other acknowledgment of receipt of this illustration ~~may~~ shall be required.

D. If an adverse change in non-guaranteed elements that could affect the policy has been made by the insurer since the last annual report, the annual report shall contain a notice of that fact and the nature of the change prominently displayed.

R590-177-11. Annual Certifications.

A. The board of directors of each insurer shall appoint one or more illustration actuaries.

B. The illustration actuary shall certify that the disciplined current scale used in illustrations is in conformity with the ["]Actuarial Standard of Practice No. 24, ~~for~~ Compliance with the NAIC Life Insurance Illustrations Model Regulation ~~Adopted~~ promulgated by the Actuarial Standards Board,["] and that the illustrated scales used in insurer-authorized illustrations meet the requirements of this rule. ~~The Actuarial Standard of Practice may be obtained from the Insurance Department, the NAIC or the Actuarial Standards Board.]~~

C. The illustration actuary shall:

- (1) be a member in good standing of the American Academy of Actuaries;

(2) be familiar with the standard of practice regarding life insurance policy illustrations;

(3) not have been found by the commissioner, following appropriate notice and hearing, to have:

(a) violated any provision of, or any obligation imposed by, the insurance law or other law in the course of ~~his or her~~ dealings as an illustration actuary;

(b) been found guilty of fraudulent or dishonest practices;

(c) demonstrated ~~his or her~~ incompetence, lack of cooperation, or untrustworthiness to act as an illustration actuary; or

(d) resigned or been removed as an illustration actuary within the past five years as a result of acts or omissions indicated in any adverse report on examination or as a result of a failure to adhere to generally acceptable actuarial standards;

(4) not fail to notify the commissioner of any action taken by a commissioner of another state similar to that under Subsection (3) above;

(5) disclose in the annual certification whether, since the last certification, a currently payable scale applicable for business issued within the previous five years and within the scope of the certification has been reduced for reasons other than changes in the experience factors underlying the disciplined current scale. If nonguaranteed elements illustrated for new policies are not consistent with those illustrated for similar in force policies, this shall be disclosed in the annual certification. If nonguaranteed elements illustrated for both new and in force policies are not consistent with the nonguaranteed elements actually being paid, charged or credited to the same or similar forms, this shall be disclosed in the annual certification; and

(6) disclose in the annual certification the method used to allocate overhead expenses for all illustrations:

(a) fully allocated expenses;

(b) marginal expenses; or

(c) a generally recognized expense table based on fully allocated expenses representing a significant portion of insurance companies and approved by the commissioner.

D.(1) The illustration actuary shall file a certification with the board ~~and with the commissioner~~:

(a) annually for all policy forms for which illustrations are used; and

(b) before a policy form is illustrated.

(2) If an error in a previous certification is discovered, the illustration actuary shall notify the board of directors of the insurer and the commissioner promptly.

E. If an illustration actuary is unable to certify the scale for any policy form illustration the insurer intends to use, the actuary shall notify the board of directors of the insurer and the commissioner promptly of ~~his or her~~ the inability to certify.

F. A responsible officer of the insurer, other than the illustration actuary, shall certify annually:

(1) that the illustration formats meet the requirements of this rule and that the scales used in insurer-authorized illustrations are those scales certified by the illustration actuary; and

(2) that the company has provided its ~~agents~~ producers with information about the expense allocation method used by the company in its illustrations and disclosed as required in Subsection C(6) of this section.

G. The annual certifications shall be ~~provided to the commissioner~~ completed each year by a date determined by the insurer. The certifications shall be maintained by the insurer for a period of 5 years and be available for inspection by the commissioner.

H. If an insurer changes the illustration actuary responsible for all or a portion of the company's policy forms, the insurer shall notify the commissioner ~~of that fact promptly~~ and disclose the reason for the change. The notification shall be included as a supporting document with the insurer's next submitted form filing.

R590-177-12. Penalties.

An insurer or ~~agent or broker~~ producer that violates this rule ~~is engaging in an unfair or deceptive act or practice in the business of insurance and~~ is subject to the penalties provided for in Sections 31A-23a-111, 31A-23a-112, and 31A-2-308 in addition to any other penalties provided by the laws of the state.

R590-177-13. ~~Separability~~ Severability.

If any provision of this rule or its application to any person or circumstance is for any reason held to be invalid by any court of law, the remainder of the rule and its application to other persons or circumstances may not be affected.

R590-177-14. Enforcement Date.

The commissioner will begin enforcing the revised provisions of this rule 45 days from the effective date of the revised rule.

KEY: insurance

Date of Enactment or Last Substantive Amendment: ~~November 20, 1997~~ 2009

Notice of Continuation: March 31, 2006

Authorizing, and Implemented or Interpreted Law: 31A-23-302



Insurance, Title and Escrow Commission **R592-2**

Title Insurance Administration Hearings and Penalty Imposition

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 32701

FILED: 06/01/2009, 17:47

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being changed to set procedures for the commissioner and commission when an informal adjudicative procedure is used to resolve a title insurance matter. The rule also sets procedures for an administrative hearing.

SUMMARY OF THE RULE OR CHANGE: Section R592-2-1 notes that Subsections 31A-2-404(2)(e) and (h) provide the process for conducting a hearing or delegating it rather than for the making of rules dealing with hearings. Section R592-2-2 has been rewritten with new definitions for "Commission", "Commissioner", and "Title insurance matters". Two new sections have been added, Section R592-2-4, Title Insurance Matters Referred for Enforcement, and Section R592-2-5,

Imposition of a Penalty When an Informal Adjudicative Proceeding is Used to Resolve a Title Insurance Matter. The rule eliminates the reference to "department's administrative law judge" and adds "commissioner's administrative law judge". Section R592-2-5 also adds a penalty matrix for informal adjudication proceedings. The new renumbered Section R592-2-6 explains the process of going to an administrative hearing. It clarifies the rules of the commissioner and the commission. The new renumbered Section R592-2-7 sets the procedure for the commission to impose penalties in the case of an informal adjudicative proceeding, a stipulation and order, an administrative hearing conducted by the administrative law judge, and an administrative hearing conducted by the commissioner. Section R592-2-6 in now Section R592-2-8, and Section R592-2-7 is now Section R592-2-9.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-2-404

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: This rule will have no fiscal impact on the department. It sets procedures and penalties to be used by the commission in an informal adjudicative proceeding. The penalties set by the commission must then be approved or disapproved by the commissioner.
- ❖ LOCAL GOVERNMENTS: This rule will have no effect on local governments since it deals solely with the relationship between the department and their insurers.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: This rule will have no fiscal impact on small businesses. It will let those who are involved in an informal adjudication know what the penalties will be for various violations.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule will have no fiscal impact on individuals, insurers, agencies, etc. It will let those who are involved in an informal adjudication know what the penalties will be for various violations. The rule sets procedures to be followed and penalties to be set in informal adjudicative proceedings and administrative hearings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will have no fiscal impact on Utah businesses. D. Kent Michie, Commissioner

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

INSURANCE
TITLE AND ESCROW COMMISSION
Room 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@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 07/15/2009

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 7/13/2009 at 9:00 AM, East Building (behind the Capitol), 420 N State Street, Copper Room, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2009

AUTHORIZED BY: Jilene Whitby, Information Specialist

R592. Insurance, Title and Escrow Commission.

R592-2. Title Insurance Administrative Hearings and Penalty Imposition.

R592-2-1. Authority.

This rule is promulgated pursuant to Subsections 31A-2-404(2)(e) and (h), to provide the process for ~~which direct the Title and Escrow Commission to make rules pertaining to the conduct of title administrative hearings, the delegation of~~ conducting or delegating a title administrative hearing~~s,~~ and ~~the imposition of~~ imposing a penalty ~~penalties~~ for a violation~~s~~ of statute or rule.

R592-2-2. Purpose and Scope.

- (1) The purposes of this rule are: ~~is~~
 - (a) to establish procedures for the ~~Commission~~ commission:
 - (i) to delegate ~~authority~~ to the commissioner's administrative law judge ~~department's administrative law judge to~~ the conduct of an administrative hearing to resolve a title insurance matter; or
 - (ii) to conduct an administrative hearing to resolve a title insurance matter; and
 - (b) to establish procedures for the ~~Commission~~ commission, ~~after an investigation by the commissioner,~~
 - (i) to impose penalties; and
 - (ii) for the commissioner to concur with the penalties imposed.
- (2) This rule applies to all title licensees, applicants for a title insurance license, unlicensed persons doing the business ~~as a title licensee~~ of title insurance, and continuing education providers submitting title continuing education programs for approval.

R592-2-3. Definitions.

For purposes of this rule, the commission adopts the definitions set forth in Utah Code Annotated (U.C.A.) Title 31A and the following: ~~"Title licensee" has the same meaning as found in Section 31A-2-402(3);~~

- (1) "Commission" means the Title and Escrow Commission.
- (2) "Commissioner" means Utah's insurance commissioner.
- (3) "Title insurance matter" means a matter related to:
 - (a) title insurance; and
 - (b) an escrow conducted by a title producer.

R592-2-4. Title Insurance Matters Referred for Enforcement.

- (1) A title insurance matter referred for enforcement will be resolved by:
 - (i) an informal adjudicative action pursuant to R592-2-5;

- (ii) a stipulation and order issued by the commissioner; or
- (iii) an administrative hearing conducted either by the commission or the commissioner's administrative law judge pursuant to R592-2-6.

R592-2-5. Imposition of a Penalty When an Informal Adjudicative Proceeding Is Used to Resolve a Title Insurance Matter.

(1) If the commissioner uses an informal adjudicative proceeding as set forth in 63G-4-203 and R590-160 to resolve a violation listed in Table 1 below, the commissioner shall use the penalties imposed by the commission in this Section.

(2) The commission shall impose the following penalties on title licensees for the violations listed in Table 1 below when resolved through an informal adjudicative proceeding.

Table 1

Violation	1 st Proceeding	2 nd Proceeding
<u>Failure to complete required continuing education hours.</u>	<u>Individual: \$1,000; Agency: n/a</u>	<u>Individual: \$2,000; Agency: n/a</u>
<u>Failure to respond to an inquiry of the commissioner.</u>	<u>Individual: \$500; Agency: \$750</u>	<u>Individual: \$1,000; Agency: \$1,500</u>
<u>Failure to file a required rate, form, or report.</u>	<u>Individual: n/a; Agency: \$1,000</u>	<u>Individual: n/a; Agency: \$2,000</u>
<u>Late filing of a required rate, form, or report.</u>	<u>Individual: n/a; Agency: \$750</u>	<u>Individual: n/a; Agency: \$1,500</u>
<u>Failure to charge or collect a correct premium or a correct filed fee.</u>	<u>Individual: \$1,000; Agency: \$2,500</u>	<u>Individual: \$2,000; Agency: \$5,000</u>
<u>Charging or collecting a non-filed required fee.</u>	<u>Individual: \$1,000; Agency: \$2,500</u>	<u>Individual: \$2,000; Agency: \$5,000</u>
<u>Failure to pay assessment when due.</u>	<u>Individual: \$500; Agency: \$750</u>	<u>Individual: \$1,000; Agency: \$1,500</u>

R592-2-[4]6. Use of an Administrative Hearing[s] to Resolve a Title Insurance Matter.

(1) When the commissioner sets a date for an administrative hearing to resolve a title insurance matter, the commissioner shall inform the commission of the hearing date. [When an investigation involving title insurance or escrow is concluded and the commissioner or the respondent request an administrative hearing, the commissioner will report to the Commission the commissioner's conclusion and recommended disposition of the matter under investigation.]

(2) After being informed of a hearing date, the [The Commission]commission shall [will review the report at each meeting and, either]:

(a) delegate the conduct of the [requested] administrative hearing to the [department's administrative law judge]commissioner's administrative law judge; or

(b) [determine that the Commission will]conduct the [requested] administrative hearing.

(3) For an administrative hearing conducted by the [Commission]commission, the [Commission]commission shall [will]:

(a) accept the date, time and place set by the commissioner or set a different [the] date, time, and place [of]for the administrative hearing;

(b) [notify the title license applicant, the title licensee, or the continuing education program]cause notification to be sent to the respondent(s), the commissioner's administrative law judge, and the commissioner's enforcement attorney of the date, time, and place of the administrative hearing;

(c) conduct the hearing[.]pursuant to R590-160;

[(i) hear the evidence; and

(ii) make a decision based on the evidence presented;

] (d) impose penalties[with the concurrence of the commissioner,] in accordance with Sections 31A-2-308, 31A-23a-111, 31A-23a-112, 31A-26-213, and 31A-26-214, subject to the concurrence of the commissioner; and

(e) issue an Order on Hearing.

(4) The [department's]commissioner's administrative law judge [will]shall assist the [Commission]commission in its conduct of an administrative hearing[as required].

R592-2-[5]7. Imposition of Penalties.

(4)-]The commission shall impose a penalty as follows:

(1) for an informal adjudicative proceeding, a penalty shall be imposed in accordance with Table 1 in R592-2-5;

(2) for a stipulation and order issued by the commissioner, the commission shall impose the recommended penalty or a different penalty, subject to the concurrence of the commissioner;

(a)(i) If the commission imposes a penalty other than that recommended by the commissioner, the respondent may:

(A) accept the commission's penalty; or

(B) reject the commission's penalty;

(b) if a respondent rejects the penalty imposed by the commission, the stipulation and order shall be rescinded and returned to the commissioner for resolution;

(3) for an administrative hearing conducted by the commissioner's administrative law judge pursuant to R592-2-6 (2)(a), the commission shall impose the recommended penalty or a different penalty, subject to the concurrence of the commissioner; or [If the resolution of the investigation is other than an administrative hearing or is an administrative hearing conducted by the department's administrative law judge, and the administrative proceeding imposes a penalty, the Commission must concur with the penalty imposed, prior to the imposition of the penalty.]

(4)[(2) If the resolution of the investigation is]for an administrative hearing conducted by the [Commission]commission, [and the administrative hearing imposes]the commission shall impose a penalty, subject to the concurrence of the commissioner[the commissioner must concur with the penalty imposed, prior to the imposition of the penalty].

R592-2-[6]8. Severability.

If any provision or clause of this rule or its application to any person or situation is held invalid, that invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable. [If any section, term, or provision of this rule shall be adjudged invalid for any reason, such judgment shall not affect, impair or invalidate any other section, term, or provision of this rule and the remaining sections, terms, and provisions shall be and remain in full force.]

R592-2-[7]9. Enforcement Date.

The commissioner will begin enforcing this rule upon the rule's effective date.

KEY: title insurance**Date of Enactment or Last Substantive Amendment:** ~~[December 13, 2006]~~2009**Authorizing, and Implemented or Interpreted Law:** 31A-2-402

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Natural Resources, Wildlife Resources R657-5 Taking Big Game

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 32677

FILED: 05/18/2009, 11:22

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Regional Advisory Council meetings and the Wildlife Board meeting conducted for taking public input and reviewing the big game rule.

SUMMARY OF THE RULE OR CHANGE: The proposed revisions to the above listed rule remove all references to the process and procedure for obtaining Big Game permits. All application procedures are now outlined in Rule R657-62, Drawing Application Procedures.

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

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** This amendment only moves the drawing application procedure to a different rule, it does not make any changes to the process therefore, the Division of Wildlife Resources (DWR) determines that these amendments do not create a cost or savings impact to the state budget or DWR's budget, since the changes will not increase workload and can be carried out with existing budget.

❖ **LOCAL GOVERNMENTS:** Since this amendment has no impact on individual hunters or the local governments, the division finds that this filing does not create any direct cost or savings impact to local governments. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** This amendment places the application procedures for all permits issued by the Division into the same rule (Rule R657-62) to reduce repetition in many rules and therefore does not have the potential to generate a cost or savings impact to sportsmen or other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DWR determines that this amendment will not create additional costs for those who participate in wildlife related activities in Utah.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule have a potential to create an impact on businesses. Michael R. Styler, Executive Director

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

NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Staci Coons at the above address, by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@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 07/15/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2009

AUTHORIZED BY: James F Karpowitz, Director

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R657. Natural Resources, Wildlife Resources. R657-5. Taking Big Game.

R657-5-24. ~~[Application Process for Premium Limited Entry, Limited Entry, Cooperative Wildlife Management Unit, Once In A Lifetime Permits and Management Bull Elk, and Application Process for General Buck Deer, General Muzzleloader Elk and Youth General Any Bull Elk Permits.~~

— (1) a person must possess or obtain a valid hunting or combination license to apply for or obtain a big game permit.

— (2)(a) A person may obtain only one permit per species of big game, including premium limited entry, limited entry, cooperative wildlife management unit, once in a lifetime, conservation, sportsman, landowner and general permits, except antlerless permits as provided in the Antlerless Addendum and permits as provided in Rule R657-42.

— (b) Hunting with a permit where payment has not been received for that permit constitutes a violation of hunting without a valid permit.

— (c) A person who applies for, or obtains a permit must notify the division of any change in mailing address, residency, telephone number, and physical description.

— (3) Applications are available through the division's Internet address.

— (4) A resident may apply in the big game drawing for the following permits:

— (a) only one of the following:

— (i) buck deer premium limited entry, limited entry and cooperative wildlife management unit;

— (ii) bull elk premium limited entry, limited entry and cooperative wildlife management unit; or

— (iii) buck pronghorn limited entry and cooperative wildlife management unit; and

— (b) only one once in a lifetime permit, including once in a lifetime cooperative wildlife management unit permits, except as provided in Section R657-5-64(2)(b).

— (5) A nonresident may apply in the big game drawing for the following permits:

— (a) any of the following:

— (i) buck deer premium limited entry and limited entry;

— (ii) bull elk premium limited entry and limited entry; or

— (iii) buck pronghorn limited entry; and

— (b) any once in a lifetime permit.

— (6) A resident or nonresident may apply in the big game drawing for:

— (a)(i) a general archery buck deer permit;

— (ii) by region for general any weapon buck deer; or

— (iii) by region for general muzzleloader buck deer.

— (b) A youth may apply in the drawing as provided in Subsection (a) or Subsection R657-5-27(4), and for youth general any bull elk pursuant to Section R657-5-46.

— (7) A person may not submit more than one application per species as provided in Subsections (3) and (4), and Subsection (5) in the big game drawing.

— (8)(a) Applications must be submitted online by the date prescribed in the Bucks, Bulls and Once In A Lifetime Proclamation of the Wildlife Board for taking big game.

— (b) If an error is found on an application, the applicant may be contacted for correction.

— (9) Any person who applies for a hunt that occurs on private land is responsible for obtaining written permission from the landowner to access the property. To avoid disappointment and wasting the permit and fee if access is not obtained, hunters should get permission before applying. The division does not guarantee access and does not have the names of landowners where hunts occur.

— (10) Only a resident may apply for or obtain a resident permit and only a nonresident may apply for or obtain a nonresident permit, except as provided in Subsections R657-5-27(4).

— (11) To apply for a resident permit, a person must be a resident at the time of purchase.

— (12) The posting date of the drawing shall be considered the purchase date of a permit.

~~R657-5-25. Fees for Premium Limited Entry, Limited Entry, Cooperative Wildlife Management Unit, Once In A Lifetime, Management Bull Elk, Management Buck Deer Permits, and for General Buck Deer, General Muzzleloader Elk and Youth General Any Bull Elk Permits.~~

— (1) The permit fees and handling fees must be paid pursuant to Rule R657-42-8(5).

~~R657-5-26. Applying as a Group for Premium Limited Entry, Limited Entry, Cooperative Wildlife Management Unit, Once In A Lifetime, Management Bull Elk, Management Buck Deer Permits, and for General Buck Deer, General Muzzleloader Elk and Youth General Any Bull Elk Permits.~~

— (1)(a) Up to four people may apply together for premium limited entry, limited entry, and resident cooperative wildlife management unit deer, elk or pronghorn permits in the big game drawing and in the antlerless drawing.

— (b) People may not apply together for management bull elk permits or management buck deer permits in the big game drawing as provided in R657-5-71(2)(b).

— (c) Up to two youth may apply together for youth general any bull elk permits in the big game drawing.

— (d) Up to ten people may apply together for general deer permits in the big game drawing.

— (e) Youth applicants who wish to participate in the youth general buck deer drawing process as provided in Subsection R657-5-27(4), or the youth antlerless drawing process as provided in Subsection R657-5-59(3), must not apply as part of a group.

— (2)(a) Applicants must indicate the hunters in the group by marking the appropriate box on the application form.

— (b) If the appropriate box is not marked indicating the hunters in the group, each hunter in that group shall be entered into the drawing as individual hunters, and not as a group.

— (3) Residents and nonresidents may apply together.

— (4)(a) Group applications shall be processed as one single application.

— (b) Any bonus points used for a group application, shall be averaged and rounded down.

— (5) When applying as a group:

— (a) if the group is successful in the drawing, then all applicants with valid applications in that group shall receive a permit;

— (b) if the group is rejected due to an error in fees and only one species is applied for, then the entire group is rejected;

— (c) if the group is rejected due to an error in fees and more than one species is applied for, the group will be kept in the drawing for any species with sufficient fees, using the draw order; or

— (d) if one or more members of the group are rejected due to an error other than fees, the members with valid applications will be kept in the drawing, unless the group indicates on the application that all members are to be rejected.

~~R657-5-27. Premium Limited Entry, Limited Entry, Cooperative Wildlife Management Unit, Once In A Lifetime, Management Bull Elk, Management Buck Deer Drawings, and General Buck Deer, General Muzzleloader Elk and Youth General Any Bull Elk Drawings.~~

— (1) Applicants shall be notified by mail of draw results by the date published in the Bucks, Bulls and Once In A Lifetime Proclamation of the Wildlife Board for taking big game.

— (2) Permits for the big game drawing shall be drawn in the following order:

— (a) premium limited entry, limited entry and cooperative wildlife management unit buck deer;

— (b) premium limited entry, limited entry and cooperative wildlife management unit bull elk;

— (c) limited entry and cooperative wildlife management unit buck pronghorn;

— (d) once in a lifetime;

— (e) youth general buck deer;

— (f) general buck deer; and

— (g) youth general any bull elk.

— (3) Any person who draws one of the following permits is not eligible to draw a once in a lifetime permit:

— (a) a premium limited entry, limited entry or Cooperative Wildlife Management unit buck deer;

— (b) a premium limited entry, limited entry, or Cooperative Wildlife Management unit elk; or

—(c) a limited entry or Cooperative Wildlife Management unit buck pronghorn.

—(4)(a) Twenty percent of the general buck deer permits in each region are reserved for youth hunters.

—(b) For purposes of this section, "youth" means any person 18 years of age or younger on the opening day of the general archery buck deer season.

—(c) Youth hunters who wish to participate in the youth drawing must:

—(i) submit an application in accordance with Section R657-5-24; and

—(ii) not apply as a group.

—(d) Youth applicants who apply for a general buck deer permit as provided in Subsection (c), will automatically be considered in the youth drawing based upon their birth date.

—(e) Preference points shall be used when applying.

—(f) Any reserved permits remaining and any youth applicants who were not selected for reserved permits shall be returned to the general buck deer drawing.

—(5) If any permits listed in Subsection (2)(a) through (2)(d) remain after the big game drawing after all choices have been evaluated separately for residents and nonresidents, a second evaluation will be done allowing cross-over usage of remaining resident and nonresident permit quotas.

~~R657-5-28. Premium Limited Entry, Limited Entry, Cooperative Wildlife Management Unit, Once In A Lifetime, Management Bull Elk and Management Buck Deer Application Refunds, and General Buck Deer, General Muzzleloader Elk and Youth General Any Bull Elk Application Refunds.~~

—(1) Unsuccessful applicants will not be charged for a permit.

—(2) The handling fees and Utah hunting or combination license fees are nonrefundable.

~~R657-5-29. Permits Remaining After the Drawing.~~

—(1) Permits remaining after the big game drawing are sold only by mail or on a first come, first served basis beginning and ending on the dates provided in the Bucks, Bulls and Once In A Lifetime Proclamation of the Wildlife Board for taking big game.

~~R657-5-30. Waiting Periods for Deer.~~

—(1) A person who obtained a premium limited entry buck, limited entry buck, cooperative wildlife management unit buck deer, or management buck deer permit through the big game drawing process during the preceding two years may not apply in the big game drawing for any of these permits during the current year.

—(2) A person who obtains a premium limited entry buck, limited entry buck, cooperative wildlife management unit buck, or management buck deer permit through the big game drawing process, may not apply for any of these permits again for a period of two years.

—(3) A waiting period does not apply to:

—(a) general archery, general any weapon, general muzzleloader, antlerless deer, conservation, sportsman, poaching reported reward and dedicated hunter limited entry deer permits; or

—(b) cooperative wildlife management unit or limited entry landowner buck deer permits obtained through the landowner.

~~R657-5-31. Waiting Periods for Elk.~~

—(1) A person who obtained a premium limited entry, limited entry, management bull elk or cooperative wildlife management unit

bull elk permit through the big game drawing process during the preceding four years may not apply in the big game drawing for any of these permits during the current year.

—(2) A person who obtains a premium limited entry, limited entry or cooperative wildlife management unit bull elk permit through the big game drawing, may not apply for any of these permits for a period of five years.

—(3) A waiting period does not apply to:

—(a) general archery, general any weapon, general muzzleloader, antlerless elk, cooperative wildlife management unit spike bull elk, conservation, sportsman, poaching reported reward and dedicated hunter limited entry elk permits; or

—(b) cooperative wildlife management unit or limited entry landowner bull elk permits obtained through the landowner.

~~R657-5-32. Waiting Periods for Pronghorn.~~

—(1) A person who obtained a buck pronghorn permit through the big game drawing process in the preceding two years, may not apply in the big game drawing for a buck pronghorn permit during the current year.

—(2) A person who obtains a buck pronghorn or cooperative wildlife management unit buck pronghorn permit through the big game drawing, may not apply for any of these permits for a period of two years.

—(3) A waiting period does not apply to:

—(a) doe pronghorn, pronghorn conservation, sportsman and poaching reported reward permits; or

—(b) cooperative wildlife management unit or limited entry landowner buck pronghorn permits obtained through the landowner.

~~R657-5-33. Waiting Periods for Antlerless Moose.~~

—(1) A person who obtained an antlerless moose permit or a cooperative wildlife management unit antlerless moose permit through the antlerless drawing process during the preceding four years, may not apply for an antlerless moose permit during the current year.

—(2) A person who obtains an antlerless moose permit or a cooperative wildlife management unit antlerless moose permit through the antlerless drawing process in the current year, may not apply for an antlerless moose permit for a period of five years.

—(3) A waiting period does not apply to cooperative wildlife management unit antlerless moose permits obtained through the landowner.

~~R657-5-34. Waiting Periods for Once In A Lifetime Species.~~

—(1) Any person who has obtained a permit for any bull moose, bison, Rocky Mountain bighorn sheep, desert bighorn sheep, or Rocky Mountain goat may not apply for a once in a lifetime permit for the same species in the big game drawing or sportsman permit drawing.

—(2) A person who has been convicted of unlawfully taking a once in a lifetime species may not apply for or obtain a permit for that species.

~~R657-5-35. Waiting Periods for Permits Obtained After the Drawing.~~

—(1) Waiting periods provided in Sections R657-5-30 through R657-5-34 do not apply to the purchase of the remaining permits sold over the counter.

—(2) However, waiting periods are incurred as a result of purchasing remaining permits after the drawing. Therefore, if a

remaining permit is purchased in the current year, waiting periods will be in effect when applying in the drawing in following years.

~~R657-5-36. Waiting Periods for Cooperative Wildlife Management Unit Permits and Landowner Permits.~~

~~(1)(a) A waiting period or once in a lifetime status does not apply to purchasing limited entry landowner or cooperative wildlife management unit permits obtained through a landowner, except as provided in Subsection (b).~~

~~(b) Waiting periods are incurred for the purpose of applying in the big game drawing as a result of obtaining a cooperative wildlife management unit bull moose permit through a landowner.~~

~~R657-5-37A. Bonus Point System.~~

~~(1) Bonus points are used to improve odds for drawing permits.~~

~~(2)(a) A bonus point is awarded for:~~

~~(i) each valid unsuccessful application when applying for limited entry permits in the big game drawing or moose in the antlerless drawing; or~~

~~(ii) each valid application when applying for bonus points in the big game drawing or moose in the antlerless drawing.~~

~~(b) Bonus points are awarded by species for:~~

~~(i) premium limited entry, limited entry, management buck deer, and cooperative wildlife management unit buck deer;~~

~~(ii) premium limited entry, limited entry, management bull elk, and cooperative wildlife management unit bull elk;~~

~~(iii) limited entry and cooperative wildlife management unit buck pronghorn; (iv) all once in a lifetime species; and~~

~~(v) antlerless moose.~~

~~(3) A resident may apply for a bonus point for:~~

~~(a) only one of the following species:~~

~~(i) buck deer premium limited entry, limited entry and cooperative wildlife management unit;~~

~~(ii) bull elk limited entry, management and cooperative wildlife management unit; or~~

~~(iii) buck pronghorn limited entry and cooperative wildlife management unit;~~

~~(iv) antlerless moose, and~~

~~(b) only one once in a lifetime, including once in a lifetime cooperative wildlife management unit.~~

~~(4) A nonresident may apply for a bonus point for:~~

~~(a) any of the following species:~~

~~(i) buck deer premium limited entry, limited entry and management unit;~~

~~(ii) bull elk limited entry and management unit; or~~

~~(iii) buck pronghorn limited entry;~~

~~(iv) antlerless moose, and~~

~~(b) any once in a lifetime.~~

~~(5)(a) A resident may not apply in the drawing for both a premium limited entry or limited entry bonus point and a premium limited entry or limited entry permit.~~

~~(b) A resident may not apply in the drawing for a once in a lifetime bonus point and a once in a lifetime permit.~~

~~(c) A resident may not apply in the drawing for an antlerless moose bonus point and an antlerless moose permit.~~

~~(6)(a) An applicant may not apply in the drawing for an antlerless moose bonus point and an antlerless moose permit.~~

~~(b) An applicant may not apply for a bonus point if that person is ineligible to apply for a permit for the respective species.~~

~~(c) An applicant may only apply for bonus points during the big game and antlerless drawing application periods.~~

~~(d) Group applications will not be accepted when applying for bonus points.~~

~~(7)(a) Fifty percent of the permits for each hunt unit and species will be reserved for applicants with bonus points.~~

~~(b) Based on the applicant's first choice, the reserved permits will be designated by a random drawing number to eligible applicants with the greatest number of bonus points for each species.~~

~~(c) If reserved permits remain, the reserved permits will be designated by a random number to eligible applicants with the next greatest number of bonus points for each species.~~

~~(d) The procedure in Subsection (c) will continue until all reserved permits have been issued or no applications for that species remain.~~

~~(e) Any reserved permits remaining and any applicants who were not selected for reserved permits will be returned to the big game drawing.~~

~~(8)(a) Each applicant receives a random drawing number for:~~

~~(i) each species applied for; and~~

~~(ii) each bonus point for that species.~~

~~(9) Bonus points are forfeited if a person obtains a permit through the drawing for that bonus point species as provided in Subsection (2)(c), including any permit obtained after the drawing.~~

~~(10) Bonus points are not forfeited if:~~

~~(a) a person is successful in obtaining a conservation permit or sportsman permit;~~

~~(b) a person obtains a landowner or a cooperative wildlife management unit permit from a landowner; or~~

~~(c) a person obtains a poaching reported reward permit.~~

~~(11) Bonus points are not transferable.~~

~~(12) Bonus points are averaged and rounded down when two or more applicants apply together on a group application.~~

~~(12)(a) Bonus points are tracked using social security numbers or division issued customer identification numbers.~~

~~(b) The division shall retain paper copies of applications for three years prior to the current big game and antlerless drawings for the purpose of researching bonus point records.~~

~~(c) The division shall retain electronic copies of applications from 1996 to the current big game drawing for the purpose of researching bonus point records.~~

~~(d) Any requests for researching an applicant's bonus point records must be requested within the time frames provided in Subsection (b) and (c).~~

~~(e) Any bonus points on the division's records shall not be researched beyond the time frames provided in Subsection (b) and (c).~~

~~(f) The division may eliminate any bonus points earned that are obtained by fraud or misrepresentation.~~

~~R657-5-37B. Preference Point System.~~

~~(1) Preference points are used in the big game and antlerless drawings to ensure that applicants who are unsuccessful in the drawing will have first preference in the next year's drawing.~~

~~(2)(a) A preference point is awarded for:~~

~~(i) each valid unsuccessful application of the first choice hunt when applying for a general buck deer permit; or~~

~~(ii) each valid unsuccessful application when applying for an antlerless deer, antlerless elk, or doe pronghorn permit; or~~

~~(iii) each valid application when applying only for a preference point in the big game or antlerless drawing.~~

- ~~—(b) Preference points are awarded by species for:~~
- ~~—(i) general buck deer;~~
- ~~—(ii) antlerless deer;~~
- ~~—(iii) antlerless elk; and~~
- ~~—(iv) doe pronghorn.~~
- ~~—(3)(a) A person may not apply in the drawing for both a preference point and permit for the species listed in (2)(b).~~
- ~~—(b) A person may not apply for a preference point if that person is ineligible to apply for a permit.~~
- ~~—(c) Preference points shall not be used when obtaining remaining permits after the big game or antlerless drawing.~~
- ~~—(4) Preference points are forfeited if a person obtains a general buck deer, antlerless deer, antlerless elk or doe pronghorn permit through the drawing.~~
- ~~—(5)(a) Preference points are not transferable.~~
- ~~—(b) Preference points shall only be applied to the big game and antlerless drawing.~~
- ~~—(6) Preference points are averaged and rounded down when two or more applicants apply together on a group application.~~
- ~~—(7)(a) Preference points are tracked using social security numbers or division issued hunter identification numbers.~~
- ~~—(b) The division shall retain copies of paper applications for three years prior to the current big game and antlerless drawings for the purpose of researching preference point records.~~
- ~~—(c) The division shall retain copies of electronic applications from 2000 to the current big game drawing for the purpose of researching preference point records.~~
- ~~—(d) Any requests for researching an applicant's preference point records must be requested within the time frames provided in Subsection (b) and (c).~~
- ~~—(e) Any preference points on the division's records shall not be researched beyond the time frames provided in Subsection (b) and (c).~~
- ~~—(f) The division may eliminate any preference points earned that are obtained by fraud or misrepresentation.~~

~~R657-5-38.~~ [General Archery Buck Deer Hunt.

- (1) The dates of the general archery buck deer hunt are provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.
- (2) A person who has obtained a general archery buck deer permit, or any other permit which allows that person to hunt general archery buck deer may use archery equipment to take:
 - (a) one buck deer within the general hunt area specified on the permit for the time specified in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game; or
 - (b) a deer of hunter's choice within the Wasatch Front or Uintah Basin extended archery area as provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.
 - (c) A person who has obtained a general archery buck deer permit, or any other permit which allows that person to hunt general archery buck deer, may not hunt within Cooperative Wildlife Management unit deer areas.
 - (d) A person who has obtained a general archery buck deer permit, or any other permit which allows that person to hunt general archery buck deer, may not hunt within premium limited entry deer and limited entry deer areas, except Crawford Mountain.
 - (3)(a) A person who obtains a general archery buck deer permit, or any other permit which allows that person to hunt general archery buck deer, may hunt within the Wasatch Front, Ogden or the

Uintah Basin extended archery areas during the extended archery area seasons as provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game and as provided in Subsection (b).

(b) A person must complete the Archery Ethics Course annually to hunt the Wasatch Front, Ogden or Uintah Basin extended archery areas during the extended archery season.

(c) A person must possess an Archery Ethics Course Certificate of Completion while hunting.

(4) A person who has obtained a general archery deer permit may not hunt during any other deer hunt or obtain any other deer permit, except antlerless deer.

(5)(a) Any person 18 years of age or younger on the opening day of the general archery buck deer season, may hunt by region the general archery, the general any weapon and general muzzleloader deer seasons, using the appropriate equipment as provided in Sections R657-5-8 through R657-5-12, respectively, for each respective season, provided that person obtains a general any weapon or general muzzleloader deer permit for a specified region.

(b) If a person 18 years of age or younger purchases a general archery buck deer permit, that person may only hunt during the general archery deer season and the extended archery season as provided Section R657-5-[38]24(3).

(6) Hunter orange material must be worn if a centerfire rifle hunt is also in progress in the same area as provided in Section 23-20-31. Archers are cautioned to study rifle hunt tables and identify these areas described in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

~~R657-5-[39.]25.~~ General Any Weapon Buck Deer Hunt.

(1) The dates for the general any weapon buck deer hunt are provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2) (a) A person who has obtained a general any weapon buck permit may use any legal weapon to take one buck deer within the hunt area specified on the permit as published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(b) A person who has obtained a general any weapon buck deer permit, or any other permit which allows that person to hunt general any weapon buck deer, may not hunt within Cooperative Wildlife Management unit deer areas.

(c) A person who has obtained a general any weapon buck deer permit, or any other permit which allows that person to hunt general any weapon buck deer, may not hunt within premium limited entry deer and limited entry deer areas, except Crawford Mountain.

(3) A person who has obtained a general any weapon buck deer permit may not hunt during any other deer hunt or obtain any other deer permit, except:

- (a) antlerless deer; and
- (b) any person 18 years of age or younger on the opening day of the general archery buck deer season, may hunt the general archery, general any weapon and general muzzleloader deer seasons, using the appropriate equipment as provided in Sections R657-5-8 through R657-5-12, respectively, for each respective season.

(i) If a person 18 years of age or younger purchases a general archery buck deer permit, that person may only hunt during the general archery deer season and the extended archery season as provided Section R657-5-[38]24(3).

R657-5-[40-]26. General Muzzleloader Buck Deer Hunt.

(1) The dates for the general muzzleloader buck deer hunt are provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2)(a) A person who has obtained a general muzzleloader buck permit may use a muzzleloader to take one buck deer within the general hunt area specified on the permit as published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(b) A person who has obtained a general muzzleloader buck deer permit, or any other permit which allows that person to hunt general muzzleloader buck deer, may not hunt within Cooperative Wildlife Management unit deer areas.

(c) A person who has obtained a general muzzleloader buck deer permit, or any other permit which allows that person to hunt general muzzleloader buck deer, may not hunt within premium limited entry deer and limited entry deer areas, except Crawford Mountain.

(3) A person who has obtained a general muzzleloader deer permit may not hunt during any other deer hunt or obtain any other deer permit, except:

(a) antlerless deer; and

(b) any person 18 years of age or younger on the opening day of the general archery buck deer season, may hunt the general archery, general any weapon and general muzzleloader deer seasons, using the appropriate equipment as provided in Sections R657-5-8 through R657-5-12, respectively, for each respective season.

(i) If a person 18 years of age or younger purchases a general archery buck deer permit, that person may only hunt during the general archery deer season and the extended archery season as provided Section R657-5-[38]24(3).

(4) Hunter orange material must be worn if a centerfire rifle hunt is also in progress in the same area as provided in Section 23-20-31. Muzzleloader hunters are cautioned to study the rifle hunt tables to identify these areas described in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

R657-5-[44-]27. Limited Entry Buck Deer Hunts.

(1) To hunt in a premium limited entry or limited entry area, hunters must obtain the respective limited entry buck permit. Limited entry areas are not open to general archery buck, general any weapon buck, or general muzzleloader buck hunting, except as specified in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2) A limited entry buck deer permit allows a person using the prescribed legal weapon, to take one buck deer within the area and season specified on the permit, except deer cooperative wildlife management units located within the limited entry unit.

(3)(a) A person who has obtained a premium limited entry, limited entry, management buck deer, or cooperative wildlife management unit buck deer permit must report hunt information within 30 calendar days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a buck deer.

(b) Limited entry and cooperative wildlife management unit buck deer permit holders must report hunt information by telephone, or through the division's Internet address.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, management, or cooperative

wildlife management unit permit or bonus points in the following year.

(d) Late questionnaires may be accepted pursuant to Rule R657-42-9(3).

(4) A person who has obtained a limited entry buck permit may not hunt during any other deer hunt or obtain any other deer permit, except antlerless deer.

R657-5-[42-]28. Antlerless Deer Hunts.

(1) To hunt an antlerless deer, a hunter must obtain an antlerless deer permit.

(2)(a) An antlerless deer permit allows a person to take one antlerless deer, per antlerless deer tag, using any legal weapon within the area and season as specified on the permit and in the antlerless addendum.

(b) A person may not hunt on any cooperative wildlife management units unless that person obtains an antlerless deer permit for a cooperative wildlife management unit as specified on the permit.

(3) A person who has obtained an antlerless deer permit may not hunt during any other antlerless deer hunt or obtain any other antlerless deer permit.

(4)(a) A person who obtains an antlerless deer permit and any of the permits listed in Subsection (b) may use the antlerless deer permit during the established season for the antlerless deer permit and during the established season for the permits listed in Subsection (b) provided:

(i) the permits are both valid for the same area;

(ii) the appropriate archery equipment is used if hunting with an archery permit;

(iii) the appropriate muzzleloader equipment is used if hunting with a muzzleloader permit.

(b)(i) General archery deer;

(ii) general muzzleloader deer;

(iii) limited entry archery deer; or

(iv) limited entry muzzleloader deer.

R657-5-[43-]29. General Archery Elk Hunt.

(1) The dates of the general archery elk hunt are provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2)(a) A person who has obtained a general archery elk permit may use archery equipment to take:

(i) one elk of hunter's choice on a general any bull elk unit, except on elk cooperative wildlife management units;

(ii) an antlerless elk or spike bull elk on a general spike bull elk unit, except on elk cooperative wildlife management units;

(iii) one elk, any bull or antlerless on the Wasatch Front or Uintah Basin extended archery areas as provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(3)(a) A person who obtains a general archery elk permit may hunt within the Wasatch Front, Uintah Basin, and Sanpete Valley extended archery areas during the extended archery area seasons as provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game and as provided in Subsection (b).

(b) A person must complete the Archery Ethics Course annually to hunt the extended archery areas during the extended archery season.

(c) A person must possess an Archery Ethics Course Certificate of Completion while hunting.

(4) A person who has obtained an archery elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsection R657-5-[48]34(3).

(5) Hunter orange material must be worn if a centerfire rifle hunt is also in progress in the same area as provided in Section 23-20-31. Archers are cautioned to study the rifle hunt tables to identify these areas described in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

R657-5-[44-]30. General Season Bull Elk Hunt.

(1) The dates for the general season bull elk hunt are provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game within general season elk units, except in the following areas:

- (a) Salt Lake County south of I-80 and east of I-15; and
- (b) elk cooperative wildlife management units.

(2)(a) A person may purchase either a spike bull permit or an any bull permit.

(b) A person who has obtained a general season spike bull elk permit may take a spike bull elk on a general season spike bull elk unit. Any bull units are closed to spike bull permittees.

(c) A person who has obtained a general season any bull elk permit may take any bull elk, including a spike bull elk on a general season any bull elk unit. Spike bull units are closed to any bull permittees.

(3) A person who has obtained a general season bull elk permit may use any legal weapon to take a spike bull or any bull elk as specified on the permit.

(4) A person who has obtained a general season bull elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsection R657-5-[48]34(3).

R657-5-[45-]31. General Muzzleloader Elk Hunt.

(1) The dates of the general muzzleloader elk hunt are provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game within the general season elk units, except in the following closed areas:

- (a) Salt Lake County south of I-80 and east of I-15; and
- (b) elk cooperative wildlife management units.

(2)(a) General muzzleloader elk hunters may purchase either a spike bull elk permit or an any bull elk permit.

(b) A person who has obtained a general muzzleloader spike bull elk permit may use a muzzleloader take a spike bull elk on an any general spike bull elk unit. Any bull units are closed to spike bull muzzleloader permittees.

(c) A person who has obtained a general muzzleloader any bull elk permit may use a muzzleloader take any bull elk on an any bull elk unit. Spike bull units are closed to any bull muzzleloader permittees.

(3) A person who has obtained a general muzzleloader elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsection R657-5-[48]34(3).

R657-5-[46-]32. Youth General Any Bull Elk Hunt.

(1)(a) For purposes of this section "youth" means any person 18 years of age or younger on the opening day of the youth any bull elk season published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(b) A youth may apply for or obtain a youth any bull elk permit.

(c) A youth may only obtain a youth any bull elk permit once during their youth.

(2) The youth any bull elk hunting season and areas are published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(3)(a) A youth who has obtained a youth general any bull elk permit may take any bull elk, including a spike bull elk, on a general any bull elk unit. Spike bull elk units are closed to youth general any bull elk permittees.

(b) A youth who has obtained a youth general any bull elk permit may use any legal weapon to take any bull elk as specified on the permit.

(4) A youth who has obtained a youth general any bull elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Section R657-5-[48]34(3).

(5) Preference points shall not be awarded or utilized when applying for, or in obtaining, youth general any bull elk permits.

R657-5-[47-]33. Premium Limited Entry and Limited Entry Bull Elk Hunts.

(1) To hunt in a premium limited entry or limited entry bull elk area, a hunter must obtain the respective premium limited entry or limited entry elk permit.

(2)(a) A premium limited entry bull elk permit allows a person, using the prescribed legal weapon, to take one bull elk within the area and to hunt all limited entry bull elk seasons specified in the hunt tables, published in the proclamation of the Wildlife Board for taking big game, for the area specified on the permit, except elk cooperative wildlife management units located within a premium limited entry unit. Spike bull elk restrictions do not apply to premium limited entry elk permittees.

(b) A limited entry bull elk permit allows a person, using the prescribed legal weapon, to take one bull elk within the area and season specified on the permit, except elk cooperative wildlife management units located within a limited entry unit. Spike bull elk restrictions do not apply to limited entry elk permittees.

(3)(a) A person who has obtained a premium limited entry, limited entry or cooperative wildlife management unit bull elk permit must report hunt information within 30 calendar days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a bull elk.

(b) Limited entry and cooperative wildlife management unit bull elk permit holders must report hunt information by telephone, or through the division's Internet address.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or cooperative wildlife management unit permit or bonus points in the following year.

(d) Late questionnaires may be accepted pursuant to Rule R657-42-9(3).

(4) A person who has obtained a premium limited entry or limited entry bull elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsections (4)(a) and R657-5-[48]34(3).

R657-5-[48-]34. Antlerless Elk Hunts.

(1) To hunt an antlerless elk, a hunter must obtain an antlerless elk permit.

(2)(a) An antlerless elk permit allows a person to take one antlerless elk using any legal weapon within the area and season as specified on the permit and in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(b) A person may not hunt on any cooperative wildlife management units unless that person obtains an antlerless elk permit for a cooperative wildlife management unit as specified on the permit.

(3)(a) A person may obtain two elk permits each year, provided one or both of the elk permits is an antlerless elk permit.

(b) For the purposes of obtaining two elk permits, a hunter's choice elk permit may not be considered an antlerless elk permit.

(4)(a) A person who obtains an antlerless elk permit and any of the permits listed in Subsection (b) may use the antlerless elk permit during the established season for the antlerless elk permit and during the established season for the permits listed in Subsection (b) provided:

(i) the permits are both valid for the same area;

(ii) the appropriate archery equipment is used if hunting with an archery permit;

(iii) the appropriate muzzleloader equipment is used if hunting with a muzzleloader permit.

(b)(i) General archery deer;

(ii) general archery elk;

(iii) general muzzleloader deer;

(iv) general muzzleloader elk;

(v) limited entry archery deer;

(vi) limited entry archery elk;

(vii) limited entry muzzleloader deer; or

(viii) limited entry muzzleloader elk.

R657-5-[49,]35. Buck Pronghorn Hunts.

(1) To hunt buck pronghorn, a hunter must obtain a buck pronghorn permit.

(2) A person who has obtained a buck pronghorn permit may not obtain any other pronghorn permit or hunt during any other pronghorn hunt.

(3)(a) A person who has obtained a limited entry or cooperative wildlife management unit buck pronghorn permit must report hunt information within 30 calendar days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a buck pronghorn.

(b) Limited entry and cooperative wildlife management unit buck pronghorn permit holders must report hunt information by telephone, or through the Division's Internet address.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or cooperative wildlife management unit permit or bonus points in the following year.

(d) Late questionnaires may be accepted pursuant to Rule R657-42-9(3).

(4) A buck pronghorn permit allows a person using any legal weapon to take one buck pronghorn within the area and season specified on the permit, except during the buck pronghorn archery hunt when only archery equipment may be used and on buck pronghorn cooperative wildlife management unit located within a limited entry unit.

R657-5-[50,]36. Doe Pronghorn Hunts.

(1) To hunt a doe pronghorn, a hunter must obtain a doe pronghorn permit.

(2)(a) A doe pronghorn permit allows a person to take one doe pronghorn, per doe pronghorn tag, using any legal weapon within the area and season as specified on the permit and in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(b) A person may not hunt on any cooperative wildlife management units unless that person obtains an antlerless moose permit for a cooperative wildlife management unit as specified on the permit.

(3) A person who has obtained a doe pronghorn permit may not hunt during any other pronghorn hunt or obtain any other pronghorn permit.

R657-5-[51,]37. Antlerless Moose Hunts.

(1) To hunt an antlerless moose, a hunter must obtain an antlerless moose permit.

(2)(a) An antlerless moose permit allows a person to take one antlerless moose using any legal weapon within the area and season as specified on the permit and in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(b) A person may not hunt on any cooperative wildlife management unit unless that person obtains an antlerless moose cooperative wildlife management unit as specified on the permit.

(3) A person who has obtained an antlerless moose permit may not hunt during any other moose hunt or obtain any other moose permit.

R657-5-[52,]38. Bull Moose Hunts.

(1) To hunt bull moose, a hunter must obtain a bull moose permit.

(2) A person who has obtained a bull moose permit may not obtain any other moose permit or hunt during any other moose hunt.

(3) A bull moose permit allows a person using any legal weapon to take one bull moose within the area and season specified on the permit, except in bull moose cooperative wildlife management units located within a limited entry unit.

(4)(a) A person who has obtained a bull moose permit must report hunt information within 30 calendar days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a bull moose.

(b) Bull moose permit holders must report hunt information by telephone, or through the division's Internet address.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or cooperative wildlife management unit permit or bonus points in the following year.

(d) Late questionnaires may be accepted pursuant to Rule R657-42-9(3).

R657-5-[53,]39. Bison Hunts.

(1) To hunt bison, a hunter must obtain a bison permit.

(2) A person who has obtained a bison permit may not obtain any other bison permit or hunt during any other bison hunt.

(3) The bison permit allows a person using any legal weapon to take a bison of either sex within the area and season as specified on the permit.

(4)(a) An orientation course is required for bison hunters who draw an Antelope Island bison permit. Hunters shall be notified of the orientation date, time and location.

(b) The Antelope Island hunt is administered by the Division of Parks and Recreation.

(5) A Henry Mountain cow bison permit allows a person to take one cow bison using any legal weapon within the area and season as specified on the permit and in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(6) An orientation course is required for bison hunters who draw Henry Mountain cow bison permits. Hunters will be notified of the orientation date, time and location.

(7)(a) A person who has obtained a bison permit must report hunt information within 30 calendar days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a bison.

(b) Bison permit holders must report hunt information by telephone, or through the division's Internet address.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or cooperative wildlife management unit permit or bonus points in the following year.

(d) Late questionnaires may be accepted pursuant to Rule R657-42-9(3).

R657-5-[54-]40. Desert Bighorn and Rocky Mountain Bighorn Sheep Hunts.

(1) To hunt desert bighorn sheep or Rocky Mountain bighorn sheep, a hunter must obtain the respective permit.

(2) A person who has obtained a desert bighorn sheep or Rocky Mountain bighorn sheep permit may not obtain any other desert bighorn sheep or Rocky Mountain bighorn sheep permit or hunt during any other desert bighorn sheep or Rocky Mountain bighorn sheep hunt.

(3) Desert bighorn sheep and Rocky Mountain big horn sheep permits are considered separate once-in-a-lifetime hunting opportunities.

(4)(a) The desert bighorn sheep permit allows a person using any legal weapon to take one desert bighorn ram within the area and season specified on the permit.

(b) The Rocky Mountain sheep permit allows a person using any legal weapon to take one Rocky Mountain bighorn ram within the area and season specified on the permit.

(5) The permittee may attend a hunter orientation course. The division provides each permittee with the time and location of the course.

(6) All bighorn sheep hunters are encouraged to have a spotting scope with a minimum of 15 power while hunting bighorn sheep. Any ram may be legally taken, however, permittees are encouraged to take a mature ram. The terrain inhabited by bighorn sheep is extremely rugged, making this hunt extremely strenuous.

(7) Successful hunters must deliver the horns of the bighorn sheep to a division office within 72 hours of leaving the hunting area. A numbered seal will be permanently affixed to the horn indicating legal harvest.

(8)(a) A person who has obtained a desert bighorn sheep or Rocky Mountain bighorn sheep permit must report hunt information within 30 calendar days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a desert bighorn sheep or Rocky Mountain bighorn sheep.

(b) Desert bighorn sheep or Rocky Mountain bighorn sheep permit holders must report hunt information by telephone, or through the division's Internet address.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or cooperative wildlife management unit permit or bonus points in the following year.

(d) Late questionnaires may be accepted pursuant to Rule R657-42-9(3).

R657-5-[55-]41. Rocky Mountain Goat Hunts.

(1) To hunt Rocky Mountain goat, a hunter must obtain a Rocky Mountain goat permit.

(2) A person who has obtained a Rocky Mountain goat permit may not obtain any other Rocky Mountain goat permit or hunt during any other Rocky Mountain goat hunt.

(3) A Rocky Mountain goat of either sex may be legally taken on a hunter's choice permit. Permittees are encouraged to take a mature goat. A mature goat is a goat older than two years of age, as determined by counting the annual rings on the horn.

(4) The goat permit allows a person using any legal weapon to take one goat within the area and season specified on the permit.

(5) All goat hunters are encouraged to have a spotting scope with a minimum of 15 power while hunting goats. The terrain inhabited by Rocky Mountain goat is extremely rugged making this hunt extremely strenuous. The goat's pelage may be higher quality later in the hunting season.

(6) A female-goat only permit allows a person to take one female-goat using any legal weapon within the area and season as specified on the permit and in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(7) An orientation course is required for Rocky Mountain goat hunters who draw female-goat only permits. Hunters will be notified of the orientation date, time and location.

(8)(a) A person who has obtained a Rocky Mountain goat permit must report hunt information within 30 calendar days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a Rocky Mountain goat.

(b) Rocky Mountain goat permit holders must report hunt information by telephone, or through the division's Internet address.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or cooperative wildlife management unit permit or bonus points in the following year.

(d) Late questionnaires may be accepted pursuant to Rule R657-42-9(3).

R657-5-[56-]42. Depredation Hunter Pool Permits.

When deer, elk or pronghorn are causing damage, antlerless control hunts not listed in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game may be held as provided in Rule R657-44. These hunts occur on short notice, involve small areas, and are limited to only a few hunters.

R657-5-57. Antlerless Application – Deadlines.

— (1) Applications are available through the division's Internet address.

— (2) Residents may apply for, and draw the following permits, except as provided in Subsection (5):

- (a) antlerless deer;
- (b) antlerless elk;
- (c) doe pronghorn; and
- (d) antlerless moose.

— (3) Nonresidents may apply in the drawing for, and draw the following permits, except as provided in Subsection (5):

- (a) antlerless deer;
- (b) antlerless elk;
- (c) doe pronghorn; and
- (d) antlerless moose, if permits are available during the current year.

— (4) A youth may apply in the antlerless drawing as provided in Subsection (3) or Subsection R657-5-59(3).

— (5) Any person who has obtained a pronghorn permit, or a moose permit may not apply for a doe pronghorn permit or antlerless moose permit, respectively, except as provided in Section R657-5-61.

— (6) A person may not submit more than one application in the antlerless drawing per each species as provided in Subsections (2) and (3).

— (7) Only a resident may apply for or obtain a resident permit and only a nonresident may apply for or obtain a nonresident permit, except as provided in Subsection R657-5-59(4) and Section R657-5-61.

— (8)(a) Applications must be submitted online by the date prescribed in the Antlerless Addendum to the Bucks, Bulls and Once In A Lifetime Proclamation of the Wildlife Board for taking big game.

— (b) If an error is found on an application, the applicant may be contacted for correction.

— (9) Any person who applies for a hunt that occurs on private land is responsible for obtaining written permission from the landowner to access the property. To avoid disappointment and wasting the permit and fee if access is not obtained, hunters should get written permission before applying. The division does not guarantee access and does not have the names of landowners where hunts occur.

— (10) To apply for a resident permit, a person must establish residency at the time of purchase.

— (11) The posting date of the drawing shall be considered the purchase date of a permit.

R657-5-58. Fees for Antlerless Applications.

— The permit fees and handling fees must be paid pursuant to Rule R657-42-8(5).

R657-5-59. Antlerless Big Game Drawing.

— (1) Applicants shall be notified by mail of draw results by the date published in the Antlerless Addendum to the Bucks, Bulls and Once In A Lifetime Proclamation of the Wildlife Board for taking big game.

— (2) Permits are drawn in the order listed in the Antlerless Addendum to the Bucks, Bulls and Once In A Lifetime Proclamation of the Wildlife Board for taking big game.

— (3)(a) Twenty percent of the antlerless deer, elk and doe pronghorn permits are reserved for youth hunters.

— (b) For purposes of this section, "youth" means any person 18 years of age or younger on the opening day of the general archery buck deer season.

— (c) Youth hunters who wish to participate in the youth drawing must:

- (i) submit an application in accordance with Section R657-5-57; and
- (ii) not apply as a group.

— (d) Youth applicants who apply for an antlerless deer, elk, or doe pronghorn permit as provided in Subsection (c), will automatically be considered in the youth drawing based upon their birth date.

— (e) Any reserved permits remaining and any youth applicants who were not selected for reserved permits shall be returned to the antlerless drawing.

— (4) If permits remain after all choices have been evaluated separately for residents and nonresidents, a second evaluation will be done allowing cross-over usage of remaining resident and nonresident permit quotas.

R657-5-60. Antlerless Application Refunds.

— (1) Unsuccessful applicants will not be charged for a permit.

— (2) The handling fees are nonrefundable.

R657-5-61. Over the Counter Permit Sales After the Antlerless Drawing.

— Permits remaining after the drawing will be sold beginning on the date prescribed in the Antlerless Addendum to the Bucks, Bulls and Once In A Lifetime Proclamation of the Wildlife Board for taking big game on a first-come, first-served basis from division offices, through participating online license agents, and through the mail.

R657-5-62. Corrections, Withdrawals and Resubmitting Applications.

— (1)(a) If an error is found on the application, the applicant may be contacted for correction.

— (b) The division reserves the right to correct applications.

— (2)(a) An applicant may withdraw their application from the permit drawing by the date published in the respective proclamation of the Wildlife Board.

— (b) Handling fees and hunting or combination license fees will not be refunded.

— (3)(a) An applicant may amend their application for the permit drawing by resubmitting an application by the date published in the respective proclamation of the Wildlife Board.

R657-5-63. Special Hunts.

— (1)(a) In the event that wildlife management objectives are not being met for once in a lifetime, premium limited entry, or limited entry species, the division may recommend that the Wildlife Board authorize a special hunt for a specific species.

— (b) The division will only utilize Subsection (1)(a) if the Bucks, Bulls and Once In A Lifetime Proclamation and Antlerless Addendum to the Bucks, Bulls and Once In A Lifetime Proclamation of the Wildlife Board for taking big game has been published and the Bucks, Bulls and Once In A Lifetime and Antlerless drawings have been completed.

— (2) The special hunt season dates, areas, number of permits, methods of take, requirements and other administrative details shall be provided in an addendum to the Bucks, Bulls and Once In A

~~Lifetime Proclamation or Antlerless Addendum of the Wildlife Board for taking big game.~~

~~—(3) Permits will be allocated through a special drawing for the pertinent species.~~

~~R657-5-64. Special Hunt Application Deadlines.~~

~~—(1) Applications are available from license agents and division offices.~~

~~—(2)(a) Residents and nonresidents may apply.~~

~~—(b) Any person who was unsuccessful in the Bucks, Bulls and Once In A Lifetime or Antlerless drawing may apply. However, any person who has obtained a permit may not apply, unless otherwise provided in this rule and the Bucks, Bulls and Once In A Lifetime Proclamation or Antlerless Addendum to the Bucks, Bulls and Once In A Lifetime Proclamation of the Wildlife Board for taking big game.~~

~~—(3)(a) Applications must be mailed by the date prescribed in the addendum to the Bucks, Bulls and Once In A Lifetime Proclamation or Antlerless Addendum to the Bucks, Bulls and Once In A Lifetime Proclamation of the Wildlife Board for taking big game. Applications filled out incorrectly or received later than the date prescribed in the addendum to the Bucks, Bulls and Once In A Lifetime Proclamation or Antlerless Addendum of the Bucks, Bulls and Once In A Lifetime Proclamation of the Wildlife Board for taking big game may be rejected. Late applications will be returned unopened.~~

~~—(b) If an error is found on an application, the applicant may be contacted for correction.~~

~~—(4) Bonus points will be used in the special hunt drawings to improve odds for drawing permits as provided in Section R657-5-37. However, bonus points will not be awarded for unsuccessful applications in the special hunt drawings.~~

~~—(5) Any person who obtains a special hunt permit is subject to all rules and regulations provided in this rule, the Bucks, Bulls and Once In A Lifetime Proclamation and Antlerless Addendum to the Bucks, Bulls and Once In A Lifetime Proclamation of the Wildlife Board for taking big game, unless otherwise provided in Sections R657-5-63 through R657-5-68.~~

~~R657-5-65. Fees for Special Hunt Applications.~~

~~—Fees and handling fees must be paid pursuant to Rule R657-42-8(5).~~

~~R657-5-66. Special Hunt Drawing.~~

~~—(1) Applicants shall be notified by mail of draw results by the date published in an addendum to the Bucks, Bulls and Once In A Lifetime Proclamation of the Wildlife Board for taking big game or the Antlerless Addendum to the Bucks, Bulls and Once In A Lifetime Proclamation of the Wildlife Board for taking big game.~~

~~—(2) If permits remain after all choices have been evaluated separately for residents and nonresidents, a second evaluation will be done allowing cross-over usage of remaining resident and nonresident permit quotas.~~

~~R657-5-67. Special Hunt Application Refunds.~~

~~—(1) Unsuccessful applicants, who applied on the initial drawing and who applied with a check or money order will receive a refund within six weeks after posting of the drawing results.~~

~~—(2) Unsuccessful applicants, who applied with a credit or debit card, will not be charged for a permit.~~

~~—(3) The handling fees are nonrefundable.~~

~~R657-5-68. Permits Remaining After the Special Hunt Drawing.~~

~~—Permits remaining after the special hunt drawing may be sold by mail or on a first come, first served basis as provided in the addendum to the Bucks, Bulls and Once In A Lifetime or Antlerless Addendum of the Wildlife Board for taking big game. These permits may be purchased by either residents or nonresidents.~~

~~R657-5-69.]43. Carcass Importation.~~

~~(1) It is unlawful to import dead elk, mule deer, or white-tailed deer or their parts from the areas of any state, province, game management unit, equivalent wildlife management unit, or county, which has deer or elk diagnosed with Chronic Wasting Disease, except the following portions of the carcass:~~

- ~~(a) meat that is cut and wrapped either commercially or privately;~~
- ~~(b) quarters or other portion of meat with no part of the spinal column or head attached;~~
- ~~(c) meat that is boned out;~~
- ~~(d) hides with no heads attached;~~
- ~~(e) skull plates with antlers attached that have been cleaned of all meat and tissue;~~
- ~~(f) antlers with no meat or tissue attached;~~
- ~~(g) upper canine teeth, also known as buglers, whistlers, or ivories; or~~
- ~~(h) finished taxidermy heads.~~

~~(2)(a) The affected states, provinces, game management units, equivalent wildlife management units, or counties, which have deer or elk diagnosed with Chronic Wasting Disease shall be available at division offices and through the division's Internet address.~~

~~(b) Importation of harvested elk, mule deer or white-tailed deer or their parts from the affected areas are hereby restricted pursuant to Subsection (1).~~

~~(3) Nonresidents of Utah transporting harvested elk, mule deer, or white-tailed deer from the affected areas are exempt if they:~~

- ~~(a) do not leave any part of the harvested animal in Utah and do not stay more than 24 hours in the state of Utah;~~
- ~~(b) do not have their deer or elk processed in Utah; or~~
- ~~(c) do not leave any parts of the carcass in Utah.~~

~~R657-5-[70.]44. Chronic Wasting Disease - Infected Animals.~~

~~(1) Any person who under the authority of a permit issued by the division legally takes a deer or elk that is later confirmed to be infected with Chronic Wasting Disease may:~~

- ~~(a) retain the entire carcass of the animal;~~
- ~~(b) retain any parts of the carcass, including antlers, and surrender the remainder to the division for proper disposal; or~~
- ~~(c) surrender all portions of the carcass in their actual or constructive possession, including antlers, to the division and receive a free new permit the following year for the same hunt.~~

~~(2) The new permit issued pursuant to Subsection (1)(c) shall be for the same species, sex, weapon type, unit, region, and otherwise subject to all the restrictions and conditions imposed on the original permit, except season dates for the permit shall follow the proclamation of the Wildlife Board for taking big game published in the year the new permit is valid.~~

~~(3) Notwithstanding other rules to the contrary, private landowners and landowner associations may refuse access to private property to persons possessing new permits issued under Subsection (1)(c).~~

R657-5-~~71~~45. Management Bull Elk Hunt.

(1)(a) For the purposes of this section "management bull" means any bull elk with 5 points or less on at least one antler. A point means a projection longer than one inch, measured from its base to its tip.

(b) For purposes of this section "youth" means any person 18 years of age or younger on the opening day of the management bull elk archery season published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(c) For the purposes of this section "senior" means any person 65 years of age or older on the opening day of the management bull elk archery season published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2)(a) Management bull elk permits shall be distributed through the division's big game drawing. Thirty percent of the permits are allocated to youth, 30 percent to seniors and the remaining 40 percent to hunters of all ages.

(b) Group application shall not be accepted in the division's big game drawing for management bull elk permits.

(3) Waiting periods as provided in R657-~~5~~62-~~34~~17 are incurred as a result of obtaining management bull elk permits.

(4)(a) Bonus points shall be awarded when an applicant is unsuccessful in obtaining a management bull elk permit in the big game drawing.

(b) Bonus points shall be expended when an applicant is successful in obtaining a management bull elk permit in the big game drawing.

(5) Management bull elk permit holders may take one management bull elk during the season, on the area and with the weapon type specified on the permit. Management bull elk hunting seasons, areas and weapon types are published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(6)(a) A person who has obtained a management bull elk permit must report hunt information within 30 calendar days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a management bull elk.

(b) Management bull elk permit holders must report hunt information by telephone, or through the division's Internet address.

(7)(a) Management bull elk permit holders who successfully harvest a management bull elk, as defined in Subsection (1)(a) must have their animal inspected by the division.

(b) Successful hunters must deliver the head and antlers of the elk they harvest to a division office for inspection within 48 hours after the date of kill.

(8) Management bull elk permit holders may not retain possession of any harvested bull elk that fails to satisfy the definition requirements in Subsection (1)(a).

(9) A person who has obtained a management bull elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Section R657-5-~~48~~34(3).

R657-5-~~72~~46. General Any Weapon Buck Deer and Bull Elk Combination Hunt.

(1) Permit numbers, season dates and unit boundary descriptions for the general any weapon buck deer and bull elk combination hunt shall be established in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2) A person who obtains a general any weapon buck deer and bull elk combination permit may use any legal weapon to take one

buck deer and one bull elk during the season and within the unit specified on the permit.

(a) A general any weapon buck deer and bull elk combination permit does not authorize the holder to hunt deer or elk within any cooperative wildlife management unit.

(3) A person who has obtained a general any weapon buck deer and bull elk combination permit may not hunt during any other deer or elk hunt or obtain any other deer or elk permit, except:

(a) antlerless deer, as provided in Subsection R657-5-~~42~~28, and

(b) antlerless elk, as provided in Subsection R657-5-~~48~~34.

(4)(a) Lifetime license holders may obtain a general any weapon buck deer and bull elk combination permit.

(b) Upon obtaining a general any weapon buck deer and bull elk combination permit, the lifetime license holder foregoes any rights to receive a buck deer permit for the general archery, general any weapon or general muzzleloader deer hunts as provided in Section 23-19-17.5.

(c) A refund or credit is not issued for the general archery, general any weapon or general muzzleloader deer permit.

R657-5-~~73~~47. Management Buck Deer Hunt.

(1)(a) For the purposes of this section "management buck" means any buck deer with 3 points or less on at least one antler above and including the first fork in the antler. A point means a projection longer than one inch, measured from its base to its tip. The eye guard is not counted as a point.

(b) For purposes of this section "youth" means any person 18 years of age or younger on the opening day of the management buck deer archery season published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(c) For the purposes of this section "senior" means any person 65 years of age or older on the opening day of the management buck deer archery season published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2)(a) Management buck deer permits shall be distributed through the division's big game drawing. Thirty percent of the permits are allocated to youth, 30 percent to seniors and the remaining 40 percent to hunters of all ages.

(b) Group application shall not be accepted in the division's big game drawing for management buck deer permits.

(3) Waiting periods as provided in R657-~~5~~62-~~30~~17 are incurred as a result of obtaining management buck deer permits.

(4)(a) Bonus points shall be awarded when an applicant is unsuccessful in obtaining a management buck deer permit in the big game drawing.

(b) Bonus points shall be expended when an applicant is successful in obtaining a management buck deer permit in the big game drawing.

(5) Management buck deer permit holders may take one management buck deer during the season, on the area and with the weapon type specified on the permit. Management buck deer hunting seasons, areas and weapon types are published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(6)(a) A person who has obtained a management buck deer permit must report hunt information within 30 calendar days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a management buck deer.

(b) Management buck deer permit holders must report hunt information by telephone, or through the division's Internet address.

(7)(a) Management buck deer permit holders who successfully harvest a management buck deer, as defined in Subsection (1)(a) must have their animal inspected by the division.

(b) Successful hunters must deliver the head and antlers of the deer they harvest to a division office for inspection within 48 hours after the date of kill.

(8) Management buck deer permit holders may not retain possession of any harvested buck deer that fails to satisfy the definition requirements in Subsection (1)(a).

(9) A person who has obtained a management buck deer permit may not hunt during any other deer hunt or obtain any other deer permit, except as provided in Section R657-5-[42]28(4).

KEY: wildlife, game laws, big game seasons

Date of Enactment or Last Substantive Amendment: [March 24], 2009

Notice of Continuation: November 21, 2005

Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19; 23-16-5; 23-16-6



Natural Resources, Wildlife Resources R657-60 Aquatic Invasive Species Interdiction

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 32678

FILED: 05/18/2009, 11:57

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is purposed to define procedures and regulations designed to prevent and control the spread of aquatic invasive species within the State of Utah.

SUMMARY OF THE RULE OR CHANGE: This rule sets the guidelines and regulations designed to prevent and control the spread of Dreissena mussels in Utah. This amendment removes Electric Lake, Utah from the list of infected waters and adds definitions for "Detects or suspects", "Juvenile or adult Dreissena mussel", and "Veliger". The amendment also increases the Wildlife Board's authority to designate a particular body of water as infested and outlines a closure order and control plan. (DAR NOTE: A corresponding 120-day (emergency) rule that is effective as of 05/19/2009 is under DAR No. 32679 in this issue, June 15, 2009, of the Bulletin.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-27-401, 23-14-18, and 23-14-19

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The Division of Wildlife Resources (DWR) determines that these amendments do create a cost impact to the state budget or DWR's budget. The 2008 Utah Legislative Session appropriated \$2,500,000 to aid in the implementation costs associated with this rule.

❖ **LOCAL GOVERNMENTS:** This rule does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** This rule may create a cost impact to boat owners and other water enthusiasts in Utah in that if Dreissena Mussels are found in Utah the cost to decontaminate boats and other conveyances will be at the expense of the owner.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DWR determines that this rule may create a cost impact to individuals who own water vessels and boat in infested waters, because they would be required to decontaminate the conveyance.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses. Michael R. Styler, Executive Director

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

NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Staci Coons at the above address, by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@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 07/15/2009.

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2009

AUTHORIZED BY: James F Karpowitz, Director

R657. Natural Resources, Wildlife Resources. R657-60. Aquatic Invasive Species Interdiction. R657-60-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2 and 23-27-101.

(2) In addition:

(a) "Conveyance" means a terrestrial or aquatic vehicle, including a vessel, or a vehicle part that may carry or contain a Dreissena mussel.

(b) "Decontaminate" means to:

(i) Self-decontaminate equipment or a conveyance that has been in an infested water in the previous 30 days by:

(A) removing all plants, fish, mussels and mud from the equipment or conveyance;

(B) draining all water from the equipment or conveyance, including water held in ballast tanks, bilges, livewells, and motors; and

(C) drying the equipment or conveyance for no less than 7 days in June, July and August; 18 days in September, October, November, March, April and May; 30 days in December, January and February; or expose the equipment or conveyance to sub-freezing temperatures for 72 consecutive hours; or

(ii) Professionally decontaminate equipment or a conveyance that has been in an infested water in the previous 30 days by:

(A) Using a professional decontamination service approved by the division to apply scalding water (140 degrees Fahrenheit) to completely wash the equipment or conveyance and flush any areas where water is held, including ballast tanks, bilges, livewells, and motors.

(c) "Detects or suspects" means visually identifying:

(i) a veliger Dreissena mussel through microscopy and confirming the identity of the organism as a Dreissena mussel through two independent polymerase chain reaction (PCR) tests; or
 (ii) a juvenile or adult Dreissena mussel.

(e)d) "Dreissena mussel" means a mussel of the genus Dreissena at any life stage, including a zebra mussel, a quagga mussel and a Conrad's false mussel.

(f)e) "Controlling entity" means the owner, operator, or manager of a water body, facility, or a water supply system.

(f)f) "Equipment" means an article, tool, implement, or device capable of carrying or containing water or Dreissena mussel.

(f)g) "Facility" means a structure that is located within or adjacent to a water body.

(g)h) "Infested water" includes all the following:

~~(i) Electric Lake, Utah;~~

~~(ii) Grand Lake, Colorado;~~

~~(iii) Jumbo Reservoir, Colorado;~~

~~(iv) lower Colorado River between Lake Mead and the Gulf of California;~~

~~(v) Lake Granby, Colorado;~~

~~(vi) Lake Mead in Nevada and Arizona;~~

~~(vii) Lake Mohave in Nevada and Arizona;~~

~~(viii) Lake Havasu in California and Arizona;~~

~~(ix) Lake Pueblo in Colorado;~~

~~(x) Lake Pleasant in Arizona;~~

~~(xi) San Justo Reservoir in California;~~

~~(xii) Southern California inland waters in Orange, Riverside, San Diego, Imperial, and San Bernardino counties;~~

~~(xiii) Shadow Mountain Reservoir, Colorado;~~

~~(xiv) Tarryall Reservoir, Colorado;~~

~~(xv) Willow Creek Reservoir; Colorado;~~

~~(xvi) coastal and inland waters east of the 100th Meridian in North America; and~~

~~(xvii) other waters established by the Wildlife Board and published on the DWR website.~~

(i) "Juvenile or adult Dreissena mussel" means a macroscopic Dreissena mussel that is not a veliger.

(j) "Veliger" means a microscopic, planktonic larva of Dreissena mussel.

(h)k) "Vessel" means every type of watercraft used or capable of being used as a means of transportation on water.

(i)l) "Water body" means natural or impounded surface water, including a stream, river, spring, lake, reservoir, pond, wetland, tank, and fountain.

(j)m) "Water supply system" means a system that treats, conveys, or distributes water for irrigation, industrial, wastewater

treatment, or culinary use, including a pump, canal, ditch or pipeline.

(i)n) "Water supply system" does not include a water body.

R657-60-5. Transportation of Equipment and Conveyances That Have Been in Infested Waters.

(1) The owner, operator, or possessor of any equipment or conveyance that has been in an infested water or in any other water subject to a closure order under R657-60-8 or control plan under R657-60-9 that requires decontamination of conveyances and equipment upon leaving the water shall:

(a) immediately drain all water from the equipment or conveyance at the take out site, including water held in ballast tanks, bilges, livewells, motors, and other areas of containment; and

(b) immediately inspect the interior and exterior of the equipment or conveyance at the take out site for the presence of Dreissena mussels.

(2) If all water in the equipment or conveyance is drained and the inspection undertaken pursuant to Subsection (1)(b) reveals the equipment and conveyance are free from mussels or shelled organisms, fish, plants and mud, the equipment and conveyance may be transported in or through the state directly from the take out site to the location where it will be:

(a) professionally decontaminated; or

(b) stored and self-decontaminated.

(3) If all the water in the equipment or conveyance is not drained or the inspection undertaken pursuant to Subsection (1)(b) reveals the equipment or conveyance has attached mussels or shelled organisms, fish, plants, or mud, the equipment and conveyance shall not be moved from the take out site until the division is contacted and written or electronic authorization received to move the equipment or conveyance to a designated location for professional decontamination.

(4) A person shall not place any equipment or conveyance ~~that has been in an infested water in the previous 30 days into any~~ into a water body or water supply system in the state without first decontaminating the equipment and conveyance when the equipment or conveyance in the previous 30 days has been in:

(a) an infested water; or

(b) other water body or water supply system [in the state without first decontaminating the equipment or conveyance] subject to a closure order under R657-60-8 or control plan under R657-60-9 that requires decontamination of conveyances and equipment upon leaving the water.

R657-60-6. Certification of Decontamination.

(1) The owner, operator or possessor of a vessel desiring to launch on a water body in Utah must:

(a) verify the vessel and any launching device, in the previous 30 days, have not been in an infested water ~~in the previous 30 days~~ or in any other water subject to closure order under R657-60-8 or control plan under R656-60-9 that requires decontamination of conveyances and equipment upon leaving the water; or

(b) certify the vessel and launching device have been decontaminated.

(2) Certification of decontamination is satisfied by:

(a) previously completing self-decontamination since the vessel and launching device were last in ~~an infested~~ a water described in Subsection (1)(a) and completely filling out and dating a decontamination certification form which can be obtained from the division; or

(b) providing a signed and dated certificate by a division approved professional decontamination service verifying the vessel and launching device were professionally decontaminated since the vessel and launching device were last in ~~[an infested]~~ a water described in Subsection (1)(a).

(3) Both the decontamination certification form and the professional decontamination certificate, where applicable, must be signed and placed in open view in the window of the launching vehicle prior to launching or placing the vessel in a body of water.

(4) It is unlawful under Section 76-8-504 to knowingly falsify a decontamination certification form.

R657-60-7. Wildlife Board Designations of Infested Waters.

(1) The Wildlife Board may designate a geographic area, water body, facility, or water supply system as infested with Dreissena mussels pursuant to Section 23-27-102 and 23-27-401 without taking the proposal to or receiving recommendations from the regional advisory councils.

(a) The Wildlife Board may designate a particular water body, facility, or water supply system within the state as infested with Dreissena mussels when a juvenile or adult mussel from the subject water is visually identified as a Dreissena mussel and that identity is confirmed by two independent positive polymerase chain reaction (PCR) tests.

(b) The Wildlife Board may designate a particular water body, facility, or water supply system outside the state as infested with Dreissena mussels when a veliger, juvenile or adult Dreissena mussel is detected by the state having jurisdiction over the water or when the Wildlife Board has credible evidence suggesting the presence of a Dreissena mussel.

(c) Where the number of infested waters in a particular area is pervasive or too numerous to individually list, or where surveillance activities or infestation containment actions are deficient, the Wildlife Board may designate geographic areas as infested with Dreissena mussels.

R657-60-8. Closure Order for a Water Body, Facility, or Water Supply System.

(1)(a) If the division detects or suspects a Dreissena mussel is present in a water body, facility, or water supply system in the state, the division director or designee may, with the concurrence of the executive director, issue an order closing the water body, facility, or water supply system to the introduction or removal of conveyances or equipment.

(b) The director shall consult with the controlling entity of the water body, facility, or water supply system when determining the scope, duration, level and type of closure that will be imposed in order to avoid or minimize disruption of economic and recreational activities.

(c) A closure order may:

(i) close the water entirely to conveyances and equipment;
(ii) authorize the introduction and removal of conveyances and equipment subject to the decontamination requirements in R657-60-2(2)(b) and R657-60-5; or

(iii) impose any other condition or restriction necessary to prevent the movement of Dreissena mussels into or out of the subject water.

(iv) a closure order may not restrict the flow of water without the approval of the controlling entity.

(2)(a) A closure order issued pursuant to Subsection (1) shall be in writing and identify the:

(i) water body, facility, or water supply system subject to the closure order;

(ii) nature and scope of the closure or restrictions;

(iii) reasons for the closure or restrictions;

(iv) conditions upon which the order may be terminated or modified; and

(v) sources for receiving updated information on the status of infestation and closure order.

(b) The closure order shall be mailed, electronically transmitted, or hand delivered to:

(i) the controlling entity of the water body, facility, or water supply system; and

(ii) any governmental agency or private entity known to have economic, political, or recreational interests significantly impacted by the closure order; and

(iii) any person or entity requesting a copy of the order.

(c) The closure order or its substance shall further be:

(i) posted on the division's web page; and

(ii) published in a newspaper of general circulation in the state of Utah or the affected area.

(3) If a closure order lasts longer than seven days, the division shall provide the controlling entity and post on its web page a written update every 10 days on its efforts to address the Dreissena mussel infestation.

(a) The 10 day update notice cycle will continue for the duration of the closure order.

(4)(a) Notwithstanding the closure authority in Subsection (1), the division may not unilaterally close or restrict a water supply system infested with Dreissena mussels where the controlling entity has prepared and implemented a control plan in cooperation with the division that effectively eradicates or controls the spread of Dreissena mussels from the water supply system.

(b) The control plan shall comply with the requirements in R657-60-9.

(5) Except as authorized by the Division in writing, a person may not violate any provision of a closure order.

R657-60-9. Control Plan Required.

(1) The controlling entity of a water body, facility, or water supply system may develop and implement a control plan in cooperation with the division prior to infestation designed to:

(a) avoid the infestation of Dreissena mussels; and

(b) control or eradicate an infestation of Dreissena mussels that might occur in the future.

(2) A pre-infestation control plan developed consistent with the requirements in Subsection (3) and approved by the division will eliminate or minimize the duration and impact of a closure order issued pursuant to Section 23-27-303 and R657-60-8.

~~(3) [Upon detection of] If the division detects or suspects a Dreissena mussel [and issuance of a division closure order involving] is present in a water body, facility, or water supply system [without] in the state that does not have an approved control plan and issues a closure order, the controlling entity shall cooperate with the division in developing and implementing a control plan to address the:~~

~~(a) scope and extent of the infestation;~~

~~(b) actions proposed to control the pathways of spread of the infestation;~~

~~(c) actions proposed to control or eradicate the infestation;~~

~~(d) methods to decontaminate the water body, facility, or water supply system, if possible;~~

(e) actions required to systematically monitor the level and extent of the infestation; and

(f) requirements and methods to update and revise the plan with scientific advances.

(4) Any post-infestation control plan prepared pursuant to Subsection (3) shall be approved by the Division before implementation.

(5) A control plan prepared pursuant to this Section may require that all conveyances and equipment entering or leaving the subject water to comply with the decontamination requirements in R657-60-2(2)(b) and R657-60-5.

(6) Except as authorized by the Division and the controlling entity in writing, a person may not violate any provision of a control plan.

R657-60-11. Conveyance or Equipment Detainment.

(1) To eradicate and prevent the infestation of a Dreissena mussel, the division may:

(a) temporary stop, detain, inspect, and impound a conveyance or equipment that the division reasonably believes is in violation of Section 23-27-201 or R657-60-5;

(b) order a person to decontaminate a conveyance or equipment that the division reasonably believes is in violation of Section 23-27-201 or R657-60-5.

(2) The division, a port-of-entry agent or a peace officer may detain or impound a conveyance or equipment if:

(a) the division, agent, or peace officer reasonably believes that the person transporting the conveyance or equipment is in violation of Section 23-27-201 or R657-60-5.

(3) The detainment or impoundment authorized by Subsection (2) may continue for:

(a) up to five days; or

(b) the period of time necessary to:

(i) decontaminate the conveyance or equipment; and

(ii) ensure that a Dreissena mussel is not living on or in the conveyance or equipment.

R657-60-12. Penalty for Violation.

(1) A violation of any provision of this rule is punishable as provided in Section 23-13-11.

(2) A violation of any provision of a closure order issued under R657-60-8 or a control plan created under R657-60-9 is punishable as a criminal infraction as provided in Section 23-13-11.

KEY: fish, wildlife, wildlife law

Date of Enactment or Last Substantive Amendment: ~~March 10~~, 2009

Authorizing, and Implemented or Interpreted Law: 23-27-401; 23-14-18; 23-14-19

◆ ————— ◆

End of the Notices of Proposed Rules Section

NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a 120-DAY (EMERGENCY) RULE when it finds that the regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

As with a PROPOSED RULE, a 120-DAY RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the 120-DAY RULE including the name of a contact person, justification for filing a 120-DAY RULE, anticipated cost impact of the rule, and legal cross-references. A row of dots in the text (. . . .) indicates that unaffected text was removed to conserve space.

A 120-DAY RULE is effective at the moment the Division of Administrative Rules receives the filing, or on a later date designated by the agency. A 120-DAY RULE is effective for 120 days or until it is superseded by a permanent rule.

Because 120-DAY RULES are effective immediately, the law does not require a public comment period. However, when an agency files a 120-DAY RULE, it usually files a PROPOSED RULE at the same time, to make the requirements permanent. Comment may be made on the proposed rule. Emergency or 120-DAY RULES are governed by Section 63G-3-304; and Section R15-4-8.

Natural Resources, Wildlife Resources **R657-60** Aquatic Invasive Species Interdiction

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE No.: 32679
FILED: 05/18/2009, 12:00

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is purposed to define procedures and regulations to prevent and control the spread of aquatic invasive species within the State of Utah.

SUMMARY OF THE RULE OR CHANGE: This emergency rule amendment is to add the procedures and policy for issuing a closure order or control plan on a particular body of water where Dreissena Mussel have been detected, suspected, or confirmed. (DAR NOTE: A corresponding proposed amendment is under DAR No. 32678 in this issue, June 15, 2009, of the Bulletin.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-27-401, 23-14-18, and 23-14-19

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** The Division of Wildlife Resources (DWR) determines that these amendments do create a cost impact to the state budget or DWR's budget. The 2008 Utah Legislative Session appropriated \$2,500,000 aid in the implementation costs associated with this rule.
- ❖ **LOCAL GOVERNMENTS:** This rule does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments

indirectly impacted because the rule does not create a situation requiring services from local governments.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** This rule may create a cost impact to boat owners and other water enthusiasts in Utah in that if Dreissena Mussels are found in Utah the cost to decontaminate boats and other conveyances will be at the expense of the owner.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DWR determines that this rule may create a cost impact to individuals who own water vessels and boat in infested waters, because they would be required to decontaminate the conveyance.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses. Michael R. Styler, Executive Director

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD cause an imminent peril to the public health, safety, or welfare.

Quagga and Zebra mussels are invasive aquatic wildlife species from the European continent. The two species became established in the Eastern United States a decade ago by transatlantic ocean liners taking on ballast water in European ports and then discharging the water in North American ports. Since then the species have spread throughout the Mississippi River basin causing millions of dollars in damage each year to hydroelectric facilities, heavy industry, irrigation companies, and wild fisheries. The mussels attach to solid objects in the water and colonize by building layer upon layer of shells. Their prolific reproduction and colonization characteristics plug water lines in reservoirs, hydroelectric plants, industrial facilities, boat engines, irrigation systems, etc. The mussels spread from one water to another primarily by attaching to boats. Last year, lower

Colorado River reservoirs, such as Lake Mead and Lake Havasu, were found infested with Quagga mussels. Many recreationists that boat in these waters also boat in Utah waters which presents an imminent threat to Utah's industrial and agricultural infrastructure that uses and transports water through pipeline. S.B. 238 was passed into law during the 2008 General Legislative Session which makes it unlawful to transport a boat from an infested water without first decontaminating it and gives the state specialized interdiction tools to prevent the spread of the mussels into Utah waters. S.B. 238 charges the Division of Wildlife Resources to promulgate administrative rules designating the waters that are considered infested for purposes of boat decontamination and to establish decontamination requirements and procedures. Without these regulatory components in rule, S.B. 238 is largely unenforceable. Given the recreational boat traffic between Lower Colorado River waters and Utah waters, the threat of Quagga mussels spreading to Utah is imminent without the rule's interdiction elements that give S.B. 238 traction to move forward and fulfill its purpose. Emergency rulemaking is necessary to effectively protect Utah waters from Quagga mussel infestation and the imminent peril infestation presents to public health, safety, and welfare. (DAR NOTE: S.B. 238 (2008) is found at Chapter 284, Laws of Utah 2008, and was effective 05/05/2008.)

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

NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Staci Coons at the above address, by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

THIS RULE IS EFFECTIVE ON: 05/19/2009

AUTHORIZED BY: James F Karpowitz, Director

R657. Natural Resources, Wildlife Resources.
R657-60. Aquatic Invasive Species Interdiction.
R657-60-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2 and 23-27-101.

(2) In addition:

(a) "Conveyance" means a terrestrial or aquatic vehicle, including a vessel, or a vehicle part that may carry or contain a Dreissena mussel.

(b) "Decontaminate" means to:

(i) Self-decontaminate equipment or a conveyance that has been in an infested water in the previous 30 days by:

(A) removing all plants, fish, mussels and mud from the equipment or conveyance;

(B) draining all water from the equipment or conveyance, including water held in ballast tanks, bilges, livewells, and motors; and

(C) drying the equipment or conveyance for no less than 7 days in June, July and August; 18 days in September, October, November, March, April and May; 30 days in December, January and February; or expose the equipment or conveyance to sub-freezing temperatures for 72 consecutive hours; or

(ii) Professionally decontaminate equipment or a conveyance that has been in an infested water in the previous 30 days by:

(A) Using a professional decontamination service approved by the division to apply scalding water (140 degrees Fahrenheit) to completely wash the equipment or conveyance and flush any areas where water is held, including ballast tanks, bilges, livewells, and motors.

(c) "Detects or suspects" means visually identifying:

(i) a veliger Dreissena mussel through microscopy and confirming the identity of the organism as a Dreissena mussel through two independent polymerase chain reaction (PCR) tests; or
(ii) a juvenile or adult Dreissena mussel.

([e]d) "Dreissena mussel" means a mussel of the genus Dreissena at any life stage, including a zebra mussel, a quagga mussel and a Conrad's false mussel.

([d]e) "Controlling entity" means the owner, operator, or manager of a water body, facility, or a water supply system.

([e]f) "Equipment" means an article, tool, implement, or device capable of carrying or containing water or Dreissena mussel.

([f]g) "Facility" means a structure that is located within or adjacent to a water body.

([g]h) "Infested water" includes all the following:

(i) ~~Electric Lake, Utah;~~

(ii) Grand Lake, Colorado;

(iii) Jumbo Reservoir, Colorado;

(iv) lower Colorado River between Lake Mead and the Gulf of California;

(v) Lake Granby, Colorado;

(vi) Lake Mead in Nevada and Arizona;

(vii) Lake ~~Mead~~ Mohave in Nevada and Arizona;

(viii) Lake ~~Mohave~~ Havasu in ~~Nevada~~ California and Arizona;

(ix) ~~Lake]~~ Pueblo in Colorado;

(x) ~~Lake]~~ Pleasant in Arizona;

(xi) ~~San Justo Reservoir~~ San Justo Reservoir in California;

(xii) ~~Southern California inland waters in Orange, Riverside, San Diego, Imperial, and San Bernardino counties;~~

(xiii) ~~Shadow Mountain Reservoir, Colorado;~~

(xiv) ~~Tarryall Reservoir, Colorado;~~

(xv) ~~Willow Creek Reservoir, Colorado;~~

(xvi) ~~coastal and inland waters east of the 100th Meridian in North America; and~~

(xvii) ~~other waters established by the Wildlife Board and published on the DWR website.~~

(i) "Juvenile or adult Dreissena mussel" means a macroscopic Dreissena mussel that is not a veliger.

(j) "Veliger" means a microscopic, planktonic larva of Dreissena mussel.

([h]k) "Vessel" means every type of watercraft used or capable of being used as a means of transportation on water.

(f) "Water body" means natural or impounded surface water, including a stream, river, spring, lake, reservoir, pond, wetland, tank, and fountain.

(g) "Water supply system" means a system that treats, conveys, or distributes water for irrigation, industrial, wastewater treatment, or culinary use, including a pump, canal, ditch or, pipeline.

(h) "Water supply system" does not include a water body.

R657-60-5. Transportation of Equipment and Conveyances That Have Been in Infested Waters.

(1) The owner, operator, or possessor of any equipment or conveyance that has been in an infested water or in any other water subject to a closure order under R657-60-8 or control plan under R657-60-9 that requires decontamination of conveyances and equipment upon leaving the water shall:

(a) immediately drain all water from the equipment or conveyance at the take out site, including water held in ballast tanks, bilges, livewells, motors, and other areas of containment; and

(b) immediately inspect the interior and exterior of the equipment or conveyance at the take out site for the presence of Dreissena mussels.

(2) If all water in the equipment or conveyance is drained and the inspection undertaken pursuant to Subsection (1)(b) reveals the equipment and conveyance are free from mussels or shelled organisms, fish, plants and mud, the equipment and conveyance may be transported in or through the state directly from the take out site to the location where it will be:

- (a) professionally decontaminated; or
- (b) stored and self-decontaminated.

(3) If all the water in the equipment or conveyance is not drained or the inspection undertaken pursuant to Subsection (1)(b) reveals the equipment or conveyance has attached mussels or shelled organisms, fish, plants, or mud, the equipment and conveyance shall not be moved from the take out site until the division is contacted and written or electronic authorization received to move the equipment or conveyance to a designated location for professional decontamination.

(4) A person shall not place any equipment or conveyance ~~that has been in an infested water in the previous 30 days into any~~ into a water body or water supply system in the state without first decontaminating the equipment and conveyance when the equipment or conveyance in the previous 30 days has been in:

- (a) an infested water; or
- (b) other water body or water supply system ~~[in the state without first decontaminating the equipment or conveyance]~~ subject to a closure order under R657-60-8 or control plan under R657-60-9 that requires decontamination of conveyances and equipment upon leaving the water.

R657-60-6. Certification of Decontamination.

(1) The owner, operator or possessor of a vessel desiring to launch on a water body in Utah must:

(a) verify the vessel and any launching device, in the previous 30 days, have not been in an infested water ~~[in the previous 30 days]~~ or in any other water subject to closure order under R657-60-8 or control plan under R656-60-9 that requires decontamination of conveyances and equipment upon leaving the water; or

(b) certify the vessel and launching device have been decontaminated.

(2) Certification of decontamination is satisfied by:

(a) previously completing self-decontamination since the vessel and launching device were last in ~~[an infested]~~ a water described in Subsection (1)(a) and completely filling out and dating a decontamination certification form which can be obtained from the division; or

(b) providing a signed and dated certificate by a division approved professional decontamination service verifying the vessel and launching device were professionally decontaminated since the vessel and launching device were last in ~~[an infested]~~ a water described in Subsection (1)(a).

(3) Both the decontamination certification form and the professional decontamination certificate, where applicable, must be signed and placed in open view in the window of the launching vehicle prior to launching or placing the vessel in a body of water.

(4) It is unlawful under Section 76-8-504 to knowingly falsify a decontamination certification form.

R657-60-7. Wildlife Board Designations of Infested Waters.

(1) The Wildlife Board may designate a geographic area, water body, facility, or water supply system as infested with Dreissena mussels pursuant to Section 23-27-102 and 23-27-401 without taking the proposal to or receiving recommendations from the regional advisory councils.

(a) The Wildlife Board may designate a particular water body, facility, or water supply system within the state as infested with Dreissena mussels when a juvenile or adult mussel from the subject water is visually identified as a Dreissena mussel and that identity is confirmed by two independent positive polymerase chain reaction (PCR) tests.

(b) The Wildlife Board may designate a particular water body, facility, or water supply system outside the state as infested with Dreissena mussels when a veliger, juvenile or adult Dreissena mussel is detected by the state having jurisdiction over the water or when the Wildlife Board has credible evidence suggesting the presence of a Dreissena mussel.

(c) Where the number of infested waters in a particular area is pervasive or too numerous to individually list, or where surveillance activities or infestation containment actions are deficient, the Wildlife Board may designate geographic areas as infested with Dreissena mussels.

R657-60-8. Closure Order for a Water Body, Facility, or Water Supply System.

(1)(a) If the division detects or suspects a Dreissena mussel is present in a water body, facility, or water supply system in the state, the division director or designee may, with the concurrence of the executive director, issue an order closing the water body, facility, or water supply system to the introduction or removal of conveyances or equipment.

(b) The director shall consult with the controlling entity of the water body, facility, or water supply system when determining the scope, duration, level and type of closure that will be imposed in order to avoid or minimize disruption of economic and recreational activities.

(c) A closure order may:

- (i) close the water entirely to conveyances and equipment;
- (ii) authorize the introduction and removal of conveyances and equipment subject to the decontamination requirements in R657-60-2(2)(b) and R657-60-5; or

(iii) impose any other condition or restriction necessary to prevent the movement of Dreissena mussels into or out of the subject water.

(iv) a closure order may not restrict the flow of water without the approval of the controlling entity.

(2)(a) A closure order issued pursuant to Subsection (1) shall be in writing and identify the:

(i) water body, facility, or water supply system subject to the closure order;

(ii) nature and scope of the closure or restrictions;

(iii) reasons for the closure or restrictions;

(iv) conditions upon which the order may be terminated or modified; and

(v) sources for receiving updated information on the status of infestation and closure order.

(b) The closure order shall be mailed, electronically transmitted, or hand delivered to:

(i) the controlling entity of the water body, facility, or water supply system; and

(ii) any governmental agency or private entity known to have economic, political, or recreational interests significantly impacted by the closure order; and

(iii) any person or entity requesting a copy of the order.

(c) The closure order or its substance shall further be:

(i) posted on the division's web page; and

(ii) published in a newspaper of general circulation in the state of Utah or the affected area.

(3) If a closure order lasts longer than seven days, the division shall provide the controlling entity and post on its web page a written update every 10 days on its efforts to address the Dreissena mussel infestation.

(a) The 10 day update notice cycle will continue for the duration of the closure order.

(4)(a) Notwithstanding the closure authority in Subsection (1), the division may not unilaterally close or restrict a water supply system infested with Dreissena mussels where the controlling entity has prepared and implemented a control plan in cooperation with the division that effectively eradicates or controls the spread of Dreissena mussels from the water supply system.

(b) The control plan shall comply with the requirements in R657-60-9.

(5) Except as authorized by the Division in writing, a person may not violate any provision of a closure order.

R657-60-9. Control Plan Required.

(1) The controlling entity of a water body, facility, or water supply system may develop and implement a control plan in cooperation with the division prior to infestation designed to:

(a) avoid the infestation of Dreissena mussels; and

(b) control or eradicate an infestation of Dreissena mussels that might occur in the future.

(2) A pre-infestation control plan developed consistent with the requirements in Subsection (3) and approved by the division will eliminate or minimize the duration and impact of a closure order issued pursuant to Section 23-27-303 and R657-60-8.

(3) ~~[Upon detection of]~~ If the division detects or suspects a Dreissena mussel [and issuance of a division closure order involving] is present in a water body, facility, or water supply system [without] in the state that does not have an approved control plan and issues a closure order, the controlling entity shall cooperate with the

division in developing and implementing a control plan to address the:

(a) scope and extent of the infestation;

(b) actions proposed to control the pathways of spread of the infestation;

(c) actions proposed to control or eradicate the infestation;

(d) methods to decontaminate the water body, facility, or water supply system, if possible;

(e) actions required to systematically monitor the level and extent of the infestation; and

(f) requirements and methods to update and revise the plan with scientific advances.

(4) Any post-infestation control plan prepared pursuant to Subsection (3) shall be approved by the Division before implementation.

(5) A control plan prepared pursuant to this Section may require that all conveyances and equipment entering or leaving the subject water to comply with the decontamination requirements in R657-60-2(2)(b) and R657-60-5.

(6) Except as authorized by the Division and the controlling entity in writing, a person may not violate any provision of a control plan.

R657-60-11. Conveyance or Equipment Detainment.

(1) To eradicate and prevent the infestation of a Dreissena mussel, the division may:

(a) temporary stop, detain, inspect, and impound a conveyance or equipment that the division reasonably believes is in violation of Section 23-27-201 or R657-60-5;

(b) order a person to decontaminate a conveyance or equipment that the division reasonably believes is in violation of Section 23-27-201 or R657-60-5.

(2) The division, a port-of-entry agent or a peace officer may detain or impound a conveyance or equipment if:

(a) the division, agent, or peace officer reasonably believes that the person transporting the conveyance or equipment is in violation of Section 23-27-201 or R657-60-5.

(3) The detainment or impoundment authorized by Subsection (2) may continue for:

(a) up to five days; or

(b) the period of time necessary to:

(i) decontaminate the conveyance or equipment; and

(ii) ensure that a Dreissena mussel is not living on or in the conveyance or equipment.

R657-60-12. Penalty for Violation.

(1) A violation of any provision of this rule is punishable as provided in Section 23-13-11.

(2) A violation of any provision of a closure order issued under R657-60-8 or a control plan created under R657-60-9 is punishable as a criminal infraction as provided in Section 23-13-11.

KEY: fish, wildlife, wildlife law

Date of Enactment or Last Substantive Amendment: May 19, 2009

Authorizing, and Implemented or Interpreted Law: 23-27-401; 23-14-18; 23-14-19

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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 Section 63G-3-305.

Administrative Services, Facilities Construction and Management

R23-3

Planning and Programming for Capital Projects

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 32700
FILED: 06/01/2009, 17:10

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 enacted under the authority of Subsection 63A-5-103(1)(e), which directs the Utah Building Board to make rules necessary for the discharge of duties of the Division of Facilities, Construction and Management (DFCM); and Section 63A-5-211 regarding the Planning 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: DFCM and the Utah Building Board have not received written comments, either in support or opposition to Rule R23-3.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Keeping Rule R23-3 is necessary to provide the policies and procedures for the authorization, funding, and development of programs for capital development and capital improvement projects and the use and administration of the Planning Fund. Therefore, this rule should be continued.

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

ADMINISTRATIVE SERVICES
FACILITIES CONSTRUCTION AND MANAGEMENT
Room 4110 STATE OFFICE BLDG

450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Alan Bachman, Priscilla Anderson, or La Priel Dye at the above address, by phone at 801-538-3105, 801-538-9595, or 801-538-3240, by FAX at 801-538-3313, 801-538-3378, or 801-538-3313, or by Internet E-mail at abachman@utah.gov, phanderson@utah.gov, or ldye@utah.gov

AUTHORIZED BY: D. Gregg Buxton, Director

EFFECTIVE: 06/01/2009

Administrative Services, Facilities Construction and Management

R23-29

Across the Board Delegation

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 32699
FILED: 06/01/2009, 17:09

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 enacted under the authority of Subsection 63A-5-103(1)(e), which directs the Building Board to make rules necessary for the discharge of its duties and the duties of the Division of Facilities Construction and Management (DFCM); and Section 63A-5-206 in regard to delegations.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: DFCM and the Utah Building Board have not received written comments, either in support or opposition to Rule R23-29.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Keeping Rule R23-29 is necessary to provide the procedures for delegation of construction projects to the University of Utah and Utah State University. Therefore, this rule should be continued.

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

ADMINISTRATIVE SERVICES
FACILITIES CONSTRUCTION AND MANAGEMENT
Room 4110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

La Priel Dye, Alan Bachman, or Priscilla Anderson at the above address, by phone at 801-538-3240, 801-538-3105, or 801-538-9595, by FAX at 801-538-3313, 801-538-3313, or 801-538-3378, or by Internet E-mail at ldye@utah.gov, abachman@utah.gov, or phanderson@utah.gov

AUTHORIZED BY: D. Gregg Buxton, Director

EFFECTIVE: 06/01/2009

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Commerce, Real Estate
R162-201
Residential Mortgage Definitions

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 32694
FILED: 05/27/2009, 13:40

**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 61-2c-103(3) permits the Division of Real Estate to make various rules to administer the Utah Residential Mortgage Practices Act. Rule R162-201 defines terms used throughout the rule.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Division has received no comments regarding Rule R162-201.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: As with statute, administrative rules are more clearly understood when a definition section is included. Rule R162-201 creates a place

to define terms that help the public know how the subsequent rules apply. Therefore, this rule should be continued.

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

COMMERCE
REAL ESTATE
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:

Mark Steinagel at the above address, by phone at 801-530-6744, by FAX at 801-530-6749, or by Internet E-mail at msteinagel@utah.gov

AUTHORIZED BY: Mark Steinagel, Director

EFFECTIVE: 05/27/2009

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Commerce, Real Estate
R162-210
**Certification of Prelicensing Education
Providers**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 32695
FILED: 05/27/2009, 18:16

**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 61-2c-103(6) requires the Division of Real Estate to establish rules regarding prelicensing education of mortgage licensees.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Division of Real Estate has received no written comments from individuals supporting or opposing Rule R162-210.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Division of Real Estate is still required to make rules governing prelicensing education, per statute. In addition, the public is protected when the division requires a higher standard of education than would be available without government certification. Therefore, this rule should be continued.

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

COMMERCE
 REAL ESTATE
 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:

Mark Steinagel at the above address, by phone at 801-530-6744, by FAX at 801-530-6749, or by Internet E-mail at msteinagel@utah.gov

AUTHORIZED BY: Mark Steinagel, Director

EFFECTIVE: 05/27/2009



**Health, Health Systems Improvement,
 Child Care Licensing
 R430-8
 Exemptions From Child Care Licensing**

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE No.: 32683
 FILED: 05/19/2009, 12:08

**NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 26-39-301(1)(a) allows the Department of Health to "make and enforce rules to

implement this chapter and to protect children's common needs for a safe and healthy environment...."

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The continuation of this rule is necessary in order for the Department of Health to continue to fulfill its statutory responsibility to regulate child care programs in order to protect the health and safety of the children in these programs. This rule defines which programs are exempt, based on statute, from child care licensing.

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

HEALTH
 HEALTH SYSTEMS IMPROVEMENT,
 CHILD CARE LICENSING
 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:

Teresa Whiting at the above address, by phone at 801-538-6320, by FAX at 801-538-6325, or by Internet E-mail at TWHITING@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 05/19/2009



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*. Statute permits an agency to make a rule effective "on any date specified by the agency that is no fewer than seven calendar days after the close of the public comment period . . . , nor more than 120 days after the publication date." Subsection 63G-3-301(9).

Abbreviations

AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal and Reenact
REP = Repeal

Alcoholic Beverage Control

Administration

No. 32459 (AMD): R81-1-6. Violation Schedule.
Published: April 15, 2009
Effective: May 27, 2009

Commerce

Real Estate

No. 32396 (AMD): R162-105. Scope of Authority.
Published: March 15, 2009
Effective: June 1, 2009

No. 32347 (AMD): R162-204. Residential Mortgage Record Keeping Requirements.
Published: March 1, 2009
Effective: June 1, 2009

No. 32348 (AMD): R162-205-1. Residential Mortgage Unprofessional Conduct.
Published: March 1, 2009
Effective: June 1, 2009

Health

Health Care Financing, Coverage and Reimbursement Policy

No. 32440 (AMD): R414-510. Intermediate Care Facility for Individuals with Mental Retardation Transition Program.
Published: April 1, 2009
Effective: May 21, 2009

Human Services

Ageing and Adult Services

No. 32428 (R&R): R510-302. Adult Protective Services.
Published: April 1, 2009
Effective: May 27, 2009

No. 32471 (R&R): R510-400. Home and Community-Based Alternatives Services Policy and Procedures.
Published: April 15, 2009
Effective: May 27, 2009

Child and Family Services

No. 32455 (AMD): R512-2. Title IV-B Child Welfare/Family Preservation and Support Services and Title IV-E Foster Care, Adoption, and Independent Living.
Published: April 15, 2009
Effective: May 27, 2009

No. 32456 (AMD): R512-32. Children with Reportable Communicable Diseases.
Published: April 15, 2009
Effective: May 27, 2009

No. 32457 (AMD): R512-40. Adoptive Home Studies, Recruitment, Approval.
Published: April 15, 2009
Effective: May 27, 2009

No. 32464 (AMD): R512-302. Out of Home Services, Responsibilities Pertaining to an Out of Home Caregiver.
Published: April 15, 2009
Effective: May 27, 2009

Insurance

Administration

No. 32316 (AMD): R590-136. Title Insurance Agents' Annual Reports.
Published: February 1, 2009
Effective: May 19, 2009

No. 32317 (AMD): R590-187. Assessment of Title Insurance Agencies and Title Insurers for Costs Related to Regulation of Title Insurance.
Published: February 1, 2009
Effective: May 19, 2009

Labor Commission

Adjudication

No. 32482 (AMD): R602-7-4. Hearings.
Published: April 15, 2009
Effective: May 22, 2009

No. 32483 (AMD): R602-8-4. Hearings.
Published: April 15, 2009
Effective: May 22, 2009

NOTICES OF RULE EFFECTIVE DATES

Natural Resources

Forestry, Fire and State Lands

No. 32487 (AMD): R652-5-200. Payments.

Published: April 15, 2009

Effective: May 26, 2009

No. 32485 (AMD): R652-20-1600. Posting

Dates/Simultaneous Filing.

Published: April 15, 2009

Effective: May 26, 2009

No. 32486 (AMD): R652-70. Sovereign Lands.

Published: April 15, 2009

Effective: May 26, 2009

No. 32489 (AMD): R652-90. Sovereign Land
Management Planning.

Published: April 15, 2009

Effective: May 26, 2009

Public Safety

Fire Marshal

No. 32466 (AMD): R710-9. Rules Pursuant to the Utah
Fire Prevention Law.

Published: April 15, 2009

Effective: May 27, 2009

End of the Notices of Rule Effective Dates Section

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

The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 2009, including notices of effective date received through June 1, 2009. 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
Administrative Services					
<u>Administration</u>					
R13-3	Americans with Disabilities Act Grievance Procedures	32204	AMD	02/26/2009	2009-1/3
R13-3-8	Relationship to Other Laws	32431	NSC	03/26/2009	Not Printed
<u>Facilities Construction and Management</u>					
R23-3	Planning and Programming for Capital Projects	32700	5YR	06/01/2009	2009-12/76
R23-29	Across the Board Delegation	32699	5YR	06/01/2009	2009-12/76
R23-29	Across the Board Delegation (5YR EXTENSION)	32399	NSC	06/01/2009	Not Printed
<u>Fleet Operations</u>					
R27-1-2	Definitions	32189	AMD	04/20/2009	2009-1/5
R27-7	Safety and Loss Prevention of State Vehicles	32292	AMD	04/20/2009	2009-3/2
R27-10	Identification Mark for State Motor Vehicles	32291	AMD	04/20/2009	2009-3/4

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>Fleet Operations, Surplus Property</u>					
R28-2-3	Procedures	32362	AMD	05/11/2009	2009-5/2
<u>Purchasing and General Services</u>					
R33-6	Modification and Termination of Contracts for Supplies and Services (5YR EXTENSION)	31983	NSC	01/29/2009	Not Printed
R33-6	Modification and Termination of Contracts for Supplies and Services	32344	5YR	01/29/2009	2009-4/55
R33-7	Cost Principles (5YR EXTENSION)	31984	NSC	01/29/2009	Not Printed
R33-7	Cost Principles	32345	5YR	01/29/2009	2009-4/55
R33-9	Insurance Procurement (5YR EXTENSION)	31985	NSC	01/29/2009	Not Printed
R33-9	Insurance Procurement	32346	5YR	01/29/2009	2009-4/56
<u>Records Committee</u>					
R35-1-4	Committee Minutes	32355	NSC	02/26/2009	Not Printed
R35-2	Declining Appeal Hearings	32358	NSC	02/26/2009	Not Printed
R35-4	Compliance with State Records Committee Decisions and Orders	32359	NSC	02/26/2009	Not Printed
R35-5	Subpoenas Issued by the Records Committee	32360	NSC	02/26/2009	Not Printed
R35-6	Expedited Hearings	32361	NSC	02/26/2009	Not Printed
Agriculture and Food					
<u>Administration</u>					
R51-1	Public Petitions for Declaratory Rulings	32536	NSC	05/14/2009	Not Printed
R51-3	Government Records Access and Management Act	32573	NSC	05/27/2009	Not Printed
R51-4-1	Authority and Purpose	32537	NSC	05/14/2009	Not Printed
<u>Animal Industry</u>					
R58-17	Aquaculture and Aquatic Animal Health	32199	AMD	02/19/2009	2009-1/7
R58-20	Domesticated Elk Hunting Park	32397	5YR	02/23/2009	2009-6/90
<u>Marketing and Development</u>					
R65-7	Horse Racing	32401	AMD	04/21/2009	2009-6/4
<u>Plant Industry</u>					
R68-2-3	Registration of Products	32031	AMD	02/25/2009	2008-21/4
R68-7	Utah Pesticide Control Act	32332	AMD	03/26/2009	2009-4/4
R68-19-2	Definition of Terms	32516	NSC	05/14/2009	Not Printed
<u>Regulatory Services</u>					
R70-630	Water Vending Machine	32289	5YR	01/08/2009	2009-3/83
Alcoholic Beverage Control					
<u>Administration</u>					
R81-1	Scope, Definitions, and General Provisions	32222	NSC	01/22/2009	Not Printed
R81-1-6	Violation Schedule	32414	AMD	04/22/2009	2009-6/15
R81-1-6	Violation Schedule	32459	AMD	05/27/2009	2009-8/5
R81-1-11	Multiple-Licensed Facility Storage and Service	32607	NSC	05/27/2009	Not Printed
R81-1-28	Special Commission Meetings-Fees	32333	AMD	03/24/2009	2009-4/8
R81-2-10	State Store Hours	32608	NSC	05/27/2009	Not Printed
R81-4A-1	Licensing	32610	NSC	05/27/2009	Not Printed
R81-4A-2	Application	32556	EMR	05/01/2009	2009-10/145
R81-4A-10	Table Service	32558	EMR	05/01/2009	2009-10/146

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R81-4A-11	Consumption at Patron's Table	32560	EMR	05/01/2009	2009-10/147
R81-4A-14	Brownbagging	32611	NSC	05/27/2009	Not Printed
R81-4A-15	Grandfathered Bar Structures	32562	EMR	05/01/2009	2009-10/148
R81-4B-1	Licensing	32612	NSC	05/27/2009	Not Printed
R81-4C-1	Licensing	32613	NSC	05/27/2009	Not Printed
R81-4C-2	Application	32564	EMR	05/01/2009	2009-10/149
R81-4C-9	Table Service	32568	EMR	05/01/2009	2009-10/150
R81-4C-10	Consumption at Patron's Table	32571	EMR	05/01/2009	2009-10/151
R81-4C-13	Grandfathered Bar Structures	32574	EMR	05/01/2009	2009-10/151
R81-4D-2	Application	32614	NSC	05/27/2009	Not Printed
R81-4D-4	Insurance	32616	NSC	05/27/2009	Not Printed
R81-4D-10	State Label	32577	EMR	05/01/2009	2009-10/153
R81-5-18	Age Verification - Dining and Social Clubs	32606	EMR	05/01/2009	2009-10/154
R81-10A-1	Licensing	32620	NSC	05/27/2009	Not Printed
R81-10A-7	Draft Beer Sales/Minors on Premises	32624	NSC	05/27/2009	Not Printed

Capitol Preservation Board (State)

Administration

R131-2	Capitol Hill Complex Facility Use	32343	AMD	03/26/2009	2009-4/9
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Career Service Review Board

Administration

R137-1	Grievance Procedure Rules	32429	NSC	04/07/2009	Not Printed
R137-1-2	Definitions	32286	EMR	01/08/2009	2009-3/77
R137-1-2	Definitions	32287	AMD	05/06/2009	2009-3/5
R137-1-21	The Evidentiary/Step 5 Adjudicatory Procedures	32514	NSC	05/14/2009	Not Printed
R137-1-22	The Board's Appellate/Step 6 Procedures	32288	EMR	01/08/2009	2009-3/79
R137-1-22	The Board's Appellate/Step 6 Procedures	32290	AMD	05/06/2009	2009-3/7
R137-2	Government Records Access and Management Act	32520	NSC	05/14/2009	Not Printed

Commerce

Consumer Protection

R152-21	Credit Services Organizations Act Rules	32382	5YR	02/17/2009	2009-5/24
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Corporations and Commercial Code

R154-1-7	Fees	32519	NSC	05/14/2009	Not Printed
R154-100-2	Designation of Informal Adjudicative Proceedings	32518	NSC	05/14/2009	Not Printed

Occupational and Professional Licensing

R156-1	General Rules of the Division of Occupational and Professional Licensing	32241	AMD	02/24/2009	2009-2/2
R156-22-102	Definitions	32364	AMD	04/07/2009	2009-5/3
R156-22-305	Inactive Status	32500	NSC	05/14/2009	Not Printed
R156-31b	Nurse Practice Act Rule	32212	AMD	05/01/2009	2009-1/13
R156-31b	Nurse Practice Act Rule	32212	CPR	05/01/2009	2009-6/78
R156-31b-607	Approved Nursing Education Programs Located Outside of Utah	32365	NSC	02/26/2009	Not Printed
R156-31c	Nurse Licensure Compact Rules	32430	AMD	05/11/2009	2009-7/2
R156-37	Utah Controlled Substances Act Rules	32540	NSC	05/27/2009	Not Printed

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R156-37-609a	Controlled Substance Database - Reporting Procedure and Format for Submission to the Database for Pharmacies and Pharmacy Groups Selected by the Division for the Real Time Pilot Program	32411	AMD	04/21/2009	2009-6/18
R156-40-302d	Time Limitation for TRT applicants	32236	NSC	01/22/2009	Not Printed
R156-40-302f	Qualifications for Temporary License as a TRS - Supervision Required	32479	NSC	04/14/2009	Not Printed
R156-42a	Occupational Therapy Practice Act Rule	32413	5YR	02/26/2009	2009-6/90
R156-44a	Nurse Midwife Practice Act Rules	32356	5YR	02/05/2009	2009-5/24
R156-46a	Hearing Instrument Specialist Licensing Act Rule	32398	5YR	02/24/2009	2009-6/91
R156-46a-302c	Qualifications for Licensure - Examination Requirements	32235	NSC	01/22/2009	Not Printed
R156-49-304	Temporary Dietitian Certificate - Supervision Required	32478	NSC	04/14/2009	Not Printed
R156-54	Radiology Technologist and Radiology Practical Technician Licensing Act Rules	32412	AMD	04/21/2009	2009-6/20
R156-55a	Utah Construction Trades Licensing Act Rule	32438	AMD	05/11/2009	2009-7/3
R156-55d-302a	Qualifications for Licensure - Application Requirements	32477	NSC	04/14/2009	Not Printed
R156-56	Utah Uniform Building Standard Act Rules	32001	AMD	01/01/2009	2008-21/9
R156-56-302	Licensure of Inspectors	32476	NSC	04/14/2009	Not Printed
R156-61	Psychologist Licensing Act Rule	32366	5YR	02/10/2009	2009-5/25
R156-63a	Security Personnel Licensing Act Contract Security Rule	32475	NSC	04/14/2009	Not Printed
R156-63b	Security Personnel Licensing Act Armored Car Rule	32474	NSC	04/14/2009	Not Printed
R156-64-302a	Qualifications for Licensure - Application Requirements	32473	NSC	04/14/2009	Not Printed
<u>Real Estate</u>					
R162-2-2	Licensing Procedure	32115	AMD	01/08/2009	2008-22/19
R162-6	Licensee Conduct	32248	AMD	03/02/2009	2009-2/8
R162-103	Appraisal Education Requirements	31998	AMD	01/01/2009	2008-21/23
R162-105	Scope of Authority	32396	AMD	06/01/2009	2009-6/21
R162-201	Residential Mortgage Definitions	32694	5YR	05/27/2009	2009-12/77
R162-204	Residential Mortgage Record Keeping Requirements	32347	AMD	06/01/2009	2009-5/4
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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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	32300	R657-17-4	AMD	03/10/2009	2009-3/61
	32319	R657-33-19	AMD	03/24/2009	2009-4/50
	32309	R657-38	AMD	03/10/2009	2009-3/62
	32371	R657-42-4	AMD	04/07/2009	2009-5/19
	32299	R657-44-3	AMD	03/10/2009	2009-3/69
	32721	R657-46	5YR	06/09/2009	Not Printed
	32297	R657-55-4	AMD	03/10/2009	2009-3/71
	32679	R657-60	EMR	05/19/2009	2009-12/72
	32081	R657-60-2	AMD	01/07/2009	2008-22/28
	32298	R657-60-2	AMD	03/10/2009	2009-3/72
	32210	R657-61	AMD	02/09/2009	2009-1/40
	32420	R657-62	NEW	04/21/2009	2009-6/70
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<u>wildlife law</u> Natural Resources, Wildlife Resources	32129	R657-13	AMD	01/07/2009	2008-23/23
	32679	R657-60	EMR	05/19/2009	2009-12/72
	32081	R657-60-2	AMD	01/07/2009	2008-22/28
	32298	R657-60-2	AMD	03/10/2009	2009-3/72
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<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
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