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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.

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Division of Administrative Rules, Salt Lake City 84114

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SPECIAL NOTICES

Commerce Occupational and Professional Licensing

State Construction Code Amendments Proposed Under Utah Uniform Building Standards Act

Part I

Summary of Construction Code Amendments Recommended Under the Uniform Building Standards Act

This document is a summary of the proposed amendments to the State Construction Code as approved by the Uniform Building Code Commission for publication for consideration at a public hearing to be held on September 8, 2010 at 9:00 a.m. in Room 4112 of the State Office Building, Salt Lake City, Utah.

These recommendations are subject to change after the public hearing and before a final recommendation is made by the Uniform Building Code Commission to the Legislature's Business and Labor Interim Committee.

The proposed changes are written with strikethrough and underline as changes to the adopted construction codes. The changes are shown in this format for easier identification of items that are recommended for change.

This summary also discusses proposed amendments that were not approved by the Uniform Building Code Commission.

Overall Summary of Proposed Changes:

Pending the results of the public hearing, the Uniform Building Code Commission is recommending that the proposed amendments be adopted as part of the State Construction Code.

There are five areas of changes recommended:

1. Update to current NFPA referenced standards.
2. Local amendments for fire sprinkler requirements in the Town of Brian Head.
3. Adoption of 2009 IECC energy provisions for residences.
4. Amendments to the 2009 IECC energy provisions for residences to allow other means of complying with new energy requirements.
5. Amendments to the 2009 IECC energy provisions for residences for log homes.

Summary of Individual Amendments:

Section 201. Statewide amendments to the IBC proposed numbers 70 to 84.

These new amendments were recommended by the State Fire Marshall. These amendments propose adopting the latest NFPA standards as referenced standards. These amendments will allow the most current standards and technology to be used.

These same referenced standards have been approved to be included in the recommended amendments to the 2009 International Fire Code that will be submitted by the State Fire Marshal's Office. These amendments will coordinate the provisions of the Fire Codes and Building Codes so that the requirements are consistent.

These amendments have been reviewed and agreed to by members of the industry affected by the changes.

Section 202. Statewide Amendments to the IRC numbers 20 and 21.

Current amendment number 20: The Uniform Building Code Commission is recommending that this current amendment number 20 be deleted, which means the 2009 IECC energy provisions for the IRC will become effective, with a recommended effective date of January 1, 2012. See section Review of Proposed Adoption of 2009 IECC Energy Provisions for IRC for further details.

A new amendment number 20 is being recommended for approval. This amendment will allow the log home industry to meet the new requirements for energy efficiency under the 2009 energy codes. Members of the log home industry have agreed to this amendment.

Section 207. Statewide Amendments to the IECC number 1 and 2.

The new amendment number 1 allows a builder to comply with the 2009 energy provisions by any method which increases energy efficiency by 12% over the 2006 code. See section Review of Proposed Adoption of 2009 IECC Energy Provisions for IRC for further details.

A new amendment number 2 is being recommended for approval. This amendment will allow the log home industry to meet the new requirements for energy efficiency under the 2009 energy codes. This requires a minimum of 6 inch logs be used. The industry reported that they know of no builders in Utah who are using 5 inch logs. Members of the log home industry have agreed to this amendment.

Section 301 and 302. Local Amendments to the IBC and IRC

These are local amendments requested by the Town of Brian Head. These proposed amendments have been approved by the Town of Brian Head (local compliance agency) as allowed by part 3 of House Bill 308, 2010 legislative session.

These amendments require additional fire sprinkler requirements in certain larger homes and homes located where access by fire fighting personnel and equipment and ample water supplies may be difficult.

**Proposed Amendment to Change from
IPC to UPC -Not Accepted.**

IAPMO (The International Association of Plumbing and Mechanical Officials) submitted a request for an amendment to change the adopted Utah Plumbing Code from the IPC (International Plumbing Code) to the UPC (Uniform Plumbing Code) published by IAPMO.

The Plumbing Advisory Committee to the Uniform Building Code Commission met monthly for several months and reviewed and compared the two codes chapter by chapter and side by side to determine the differences between the two codes and amendments that would be necessary should the proposed amendment be approved.

After input from the industry, educators, and code officials, the Plumbing Advisory Committee found that the differences between the two codes was not sufficient to recommend the UPC over the IPC and that there was no compelling advantage in the UPC that would warrant the change. It was also noted that if a person used the UPC that in large majority of cases it would also satisfy the requirements of the IPC.

After this review was completed by the Plumbing Advisory Committee, they recommend that the proposed change not be accepted. The Uniform Building Code Commission agreed with this recommendation.

**Review of Proposed Adoption of
2009 IECC Energy Provisions for IRC**

The advisory committees to the Uniform Building Code Commission, the Ad Hoc Energy Advisory Group, the Mechanical Advisory Committee and the Architectural Advisory Committee were unable to come to a consensus of whether to recommend adoption of the 2009 IECC energy provisions for the IRC.

The Ad Hoc Energy Advisory Group did not make a recommendation of whether to endorse adoption of the 2009 energy provisions but members of the group presented their studies to the Mechanical Advisory Committee and the Architectural Advisory Committee.

Each of the committees reviewed the studies from the Ad Hoc Energy Advisory Group, but the Mechanical and Architectural Advisory Committees were split on their recommendations to the Uniform Building Code Commission. The Mechanical Committee unanimously recommended adoption of the 2009 IECC energy provisions for the IRC. The Architectural Advisory Committee failed to recommend adoption of the 2009 IECC energy provisions for the IRC with a vote of 2 for and 2 against adoption. A 5th member of the Architectural Advisory Committee stated he was against adoption but had to leave the meeting before the vote.

The Uniform Building Code Commission reviewed the recommendations from the committees and comments received from interested parties and by a vote of 6 in favor and 2 against, voted to recommend adoption of the 2009 IECC energy provisions for the IRC, with an effective date of January 1, 2012. This added time was recommended to allow time for the industry to plan for the change and to allow further amendments or regulations to be recommended should they be necessary.

Details of studies and argument for and against adoption of the 2009 IECC energy provisions for the IRC.

The Ad Hoc Energy Advisory Group met monthly from January 2010 to July 2010. Their assigned objective was to study the building costs and energy savings that would result from adoption of the 2009 IECC energy provision for residences under the IRC and then make a recommendation on whether to adopt the new energy code provisions.

Members of the ad hoc group devoted a substantial amount of time outside of the ad hoc meetings to complete these studies.

The ad hoc group developed several different scenarios of what the costs and savings would be for a typical home. The energy group and the builder group have each provided their own summary. The summaries do have some variances with the information and disagreement about the significance of the results and what the result should indicate regarding adoption of the 2009 energy provisions. The two summaries are attached.

It was acknowledged by all persons in the ad hoc group that there is a wide range of scenarios and size of projects that could be used and the details of what should be used in all scenarios was not agreed to by all parties. This report, therefore recognizes that the data presented, herein in and on the attached summaries, is still subject to debate. However, this is the best data now available.

The ad hoc group used an average size home of approximately 2,400 square feet. Using that home as a representative model, they developed 13 different scenarios of the construction costs resulting from changing from the 2006 to the 2009 IECC codes for residences and the energy savings that would result from each scenario.

Three of the scenarios were for climate zone 3 (St George area), five of the scenarios were for climate zone 5 (Wasatch Front) and five scenarios were for climate zone 6 (Vernal and higher elevations).

The overall increased building costs on the 13 scenarios ranged from a low of \$218 on one scenario to a high of \$1,419 on one scenario. The added costs in climate zone 3 ranges from \$663 to \$747, in climate zone 5 from \$218 to \$1,220 and climate zone 6 from \$467 to \$1,419. The average cost of all scenarios was \$859. This is not a weighted average cost, but a simply average of the 13 scenarios studied.

The cost identified is the builder cost not the final cost to the home owner, who would ultimately pay the additional costs. The builder would add their normal overhead and markup. The builders in the group estimated that the actual consumer costs of the added provisions would be approximately double the builder's hard costs.

The overall savings from implementing the new energy codes ranged from an annual saving of minus (\$33) per year to \$200 per year. This resulted in a payback of minus (14.2) years to 87.2 years with an average of 6.7 years for climate zone 3, 5.1 years for climate zone 5 and 44.6 years for climate zone 6. The pay back time period was determined by dividing the total builders cost by the annual savings.

Due to the fact that the hard cost to the builder was used rather than the consumer cost, the actual payback time period for the consumer will be substantially longer. Given the cost to the consumer is expected to be about double the builder cost, the payback time for the consumer will be as much as double the time period specified on the summary charts. No adjustments have been made for interest that would be paid and no adjustments have been made for energy costs that may increase over time.

The primary elements resulting in the increased costs and the energy savings was divided into 5 primary areas: building envelope, HVAC systems, Duct Systems, Testing/Inspection and CFL lighting.

The increased building envelope costs ranged from an additional \$118 to \$1,767. The most expensive part of the increased costs in this area resulted from changing from 2X4 walls allowed under the 2006 codes to 2X6 walls or equivalent required under the 2009 codes.

The HVAC systems costs ranged from a minus (\$650) to \$14. The minus cost resulted from a tradeoff of a 90 percent efficiency furnace in the 2006 codes which was allowed to offset staying with the 2X4 walls. The annual net energy use with the trade off not allowed resulted in an energy savings from the building envelope of as much as \$56 to \$73 per year for the building envelope. The minus energy saving shown on the scenarios resulted from returning to the 80 percent efficiency furnace, which resulted in minus \$45 to minus \$57 energy savings, for an average net savings after the offset of building envelope of \$16 to \$21 per year.

There was an amendment recommended to the Mechanical and Architectural Advisory Committees to allow a builder to comply with the 2009 energy provisions by any method which increases energy efficiency by 12% over the 2006 code. This amendment was accepted by the Uniform Building Code Commission to be part of its tentative recommendation to the legislature.

There was a second amendment recommended to the Mechanical and Architectural Advisory Committees to still allow the high efficiency furnace as an offset to meeting other code requirements. This amendment was not included in the tentative recommendation to the legislature.

The details of how either of the amendments would interact with the 2009 code requirements and what effect it would have on the cost of each scenario was not determined. Further study on this effect may be warranted.

However, the intent of both proposed amendments was to allow the trade off but still require the overall energy efficiency now required by the 2009 codes. It is unclear if this intent can be met with the change. The home builders stated that the tradeoff just barely resulted in complying with the code under the 2006 energy requirements. With the new 2009 energy requirement it is unclear if the proposed amendment would allow sufficient offset credit for the 90 percent efficiency furnace to allow keeping the 2X4 walls and the lower building costs that would result.

The next largest item requiring increased costs is the requirement for testing or inspections. The estimated builder's costs for these tests or inspections were \$504 per house and resulted in annual energy saving ranging from \$48 to \$85 per year. This item assumes certain air leakage rates in non tested or non inspected homes to a lower air leakage rate in tested or inspected homes. The ad hoc group did not verify the accuracy of these assumptions but agreed the testing or inspection would ultimately result in corrections to the deficit installations and would result in energy savings.

The next largest area of energy savings was switching a portion of the home lighting to CFL lighting. This resulted in an annual energy savings ranging from \$0 to \$93 and an average cost of \$28 to \$35.

Those in favor of adopting the new 2009 energy codes for residential claim that the lengthy pay back periods in some scenarios are not representative of the full spectrum of possibilities and claim that adoption of the 2009 codes will result in energy savings to consumers that have a reasonable pay back period. They claim that homes will be in use for as many as 100 years or more and over the expected life of the home, the higher initial costs will be repaid many times. They also state that Utah has already received \$38 million from stimulus funds that could be required to be returned if Utah fails to abide by its commitment to go to the 2009 energy codes.

The builders opposed to the adoption of the 2009 energy codes claim the increased cost is not warranted given the lengthy pay back time periods, particularly when isolating costs elements and the pay back related to those areas. They also claim that adding this much cost to home construction comes at the worst possible time given the status of the economy and the substantially impacted building industry that has resulted. They also object to the adoption of the 2009 energy requirement for purpose of saving stimulus funds, when the parties that have already received the funds are not the home owners who would be paying for the compliance.

NOTE: The following tables are not able to be published in the Utah State Bulletin. If you need a copy of these tables, please contact the Division of Occupational and Professional Licensing directly.

Energy Savings and Building Code by Category: 2006 IECC vs. 2009 IECC
Annual Energy Savings and Building Cost by Compliance Methodology: 2006 IECC vs. 2009 IECC

Part 2

STATE CONSTRUCTION CODE ADOPTION ACT AND
STATE CONSTRUCTION CODEAmendments
Proposed for September 8, 2010
Uniform Building Code Commission Meeting
and Public Hearing

[Sections 1 and 2 and Part 1 remain unchanged]

Part 2. Statewide Amendments

Section 201. Statewide amendments to the IBC.

The following are adopted as amendments to the IBC to be applicable statewide:

[(1) through (69) remain unchanged]

(70) In IBC, Chapter 35, NFPA referenced standard 10-7 is deleted and replaced with the following:

<u>Number</u>	<u>Title</u>	<u>Referenced in code Section number</u>
10-10	Portable Fire Extinguishers	906.2, 906.3.2, 906.3.4, Table 906.3(1), Table 906.3(2)"

(71) In IBC, Chapter 35, NFPA referenced standard 11-05 is deleted and replaced with the following:

<u>Number</u>	<u>Title</u>	<u>Referenced in code Section number</u>
11-10	Low Expansion Foam	904.7"

(72) In IBC, Chapter 35, NFPA referenced standard 12-05 is deleted and replaced with the following:

<u>Number</u>	<u>Title</u>	<u>Referenced in code Section number</u>
12-08	Carbon Dioxide Extinguishing Systems	904.8, 904.11"

(73) In IBC, Chapter 35, NFPA referenced standard 12A-04 is deleted and replaced with the following:

<u>Number</u>	<u>Title</u>	<u>Referenced in code Section number</u>
12A-09	Halon 1301 Fire Extinguishing Systems	904.9"

(74) In IBC, Chapter 35, NFPA referenced standard 13-07 is deleted and replaced with the following:

<u>Number</u>	<u>Title</u>	<u>Referenced in code Section number</u>
13-10	Installation of Sprinkler Systems	708.2, 903.3.1.1, 903.3.2, 903.3.5.1.1, 903.3.5.2, 904.11, 905.3.4, 907.6.3, 1613.3"

(75) In IBC, Chapter 35, NFPA referenced standard 13D-07 is deleted and replaced with the following:

<u>Number</u>	<u>Title</u>	<u>Referenced in code Section number</u>
13D-10	Installation of Sprinkler Systems in One- and Two-family Dwellings and Manufactured Homes	903.3.1.3, 903.3.5.1.1"

(76) In IBC, Chapter 35, NFPA referenced standard 13R-07 is deleted and replaced with the following:

"Number Title	Referenced in code Section number
13R-10 Installation of Sprinkler Systems in Residential Occupancies Up to and Including Four Stories in Height	903.3.1.2, 903.3.5.1.1, 903.3.5.1.2, 903.4"

(77) In IBC, Chapter 35, NFPA referenced standard 14-07 is deleted and replaced with the following:

"Number Title	Referenced in code Section number
14-10 Installation of Standpipe and Hose System	905.2, 905.3.4, 905.4.2, 905.6.2, 905.8"

(78) In IBC, Chapter 35, NFPA referenced standard 17-02 is deleted and replaced with the following:

"Number Title	Referenced in code Section number
17-09 Dry Chemical Extinguishing Systems	904.6, 904.11"

(79) In IBC, Chapter 35, NFPA referenced standard 17A-02 is deleted and replaced with the following:

"Number Title	Referenced in code Section number
17A-09 Wet Chemical Extinguishing Systems	904.5, 904.11"

(80) In IBC, Chapter 35, NFPA referenced standard 20-07 is deleted and replaced with the following:

"Number Title	Referenced in code Section number
20-10 Installation of Stationary Pumps for Fire Protection	913.1, 913.2.1, 913.5"

(81) In IBC, Chapter 35, NFPA referenced standard 72-07 is deleted and replaced with the following:

"Number Title	Referenced in code Section number
72-10 National Fire Alarm Code	901.6, 903.4.1, 904.3.5, 907.2, 907.2.5, 907.2.11, 907.2.13.2, 907.3, 907.3.3, 907.3.4, 907.5.2.1.2, 907.5.2.2, 907.6, 907.6.1, 907.6.5, 907.7, 907.7.1, 907.7.2, 911.1.5, 3006.5, 3007.6"

(82) In IBC, Chapter 35, NFPA referenced standard 92B-05 is deleted and replaced with the following:

"Number Title	Referenced in code Section number
92B-09 Smoke Management Systems in Malls, Atria and Large Spaces	909.8"

(83) In IBC, Chapter 35, NFPA referenced standard 101-06 is deleted and replaced with the following:

"Number Title	Referenced in code Section number
101-09 Life Safety Code	1028.6.2"

(84) In IBC, Chapter 35, NFPA referenced standard 110-05 is deleted and replaced with the following:

"Number Title	Referenced in code Section number
110-10 Emergency and Standby Power Systems	2702.1"

Section 202. Statewide Amendments to the IRC.

The following are adopted as amendments to the IRC to be applicable statewide:

[(1) through (19) remain unchanged]

(20) ~~IRC, Chapter 11, is deleted and replaced with Chapter 11 of the 2006 International Residential Code and Chapter 4 of the 2006 International Energy Conservation Code.~~

(20) In IRC, Table N1102.1, a new footnote l for Climate Zones 5-8 is added as follows:

"l. Log walls complying with ICC400 and with a minimum average wall thickness of 6" or greater shall be permitted in Climate Zones 5-8 when overall window glazing is .31 U-factor or lower, minimum heating equipment efficiency of 90 AFUE (gas) or 84 AFUE (oil), and all other component requirements are met.

[(21) through (35) remain unchanged]

[Section 203 to 206 remain unchanged]

Section 207. Statewide Amendments to the IECC.

The following are adopted as amendments to the IECC to be applicable statewide:

(1) In IECC, Section 401.2, a new number 3 is added as follows:

"; or

3. Show compliance based on a 12% energy efficiency improvement over the 2006 IECC. A project may show compliance using the 2006 IECC code tradeoff and performance methodologies including computer software, worksheets, compliance manuals or other approved methods, verifying the project exceeds compliance to the 2006 IECC by a minimum of 12%. The mandatory requirements of the 2009 IECC Section 402 and 403 apply when using this method."

(2) In IECC Table 402.1.1, a new footnote k for Climate Zones 5-8 is added as follows:

"k. Log walls complying with ICC400 and with a minimum average wall thickness of 6" or greater shall be permitted in Climate Zones 5-8 when overall window glazing is .31 U-factor or lower, minimum heating equipment efficiency of 90 AFUE (gas) or 84 AFUE (oil), and all other component requirements are met."

(4)(3) In IECC, Section 504.4, a new exception is added as follows: "Exception: Heat traps, other than the arrangement of piping and fittings, shall be prohibited unless a means of controlling thermal expansion can be ensured as required in the IPC Section 607.3."

[Section 208 remains unchanged]

Part 3. Local Amendments**Section 301. Local Amendments to the IBC.**

The following are adopted as amendments to the IBC to be applicable to the following jurisdictions:

(1) Brian Head Town, statewide amendment number (30) to the IBC for Section (F)903.2.8 is deleted and replaced with the following: "(F)903.2.8 Group R. An automatic sprinkler system installed in accordance with Section (F)903.3 shall be provided throughout all buildings with a Group R fire area.

Exception:

1. Detached one and two family dwellings and multiple single-family dwellings (townhouses) constructed in accordance with the International Residential Code for one and two-family dwellings. Except that an automatic fire sprinkler system shall be installed in all one- and two-family dwellings and townhouses over 3000 square feet in size of defined living space (garage is excluded from defined living space) in accordance with Section (F)903.3.1 of the International Building Code. In areas not served by Brian Head Town culinary water services, NFPA Standard 1142 for water supplies for rural fire fighting shall apply. Any one- and two-family dwellings and townhouses that are difficult to locate or access, as determined by the authority having jurisdiction, shall be required to follow the guidelines as set forth in the NFPA Standard 1142 regardless of the size of the building.

2. Group R-4 fire areas not more than 4,500 gross square feet and not containing more than 16 residents, provided the building is equipped throughout with an approved fire alarm system that is interconnected and receives its primary power from the building wiring and a commercial power system."

[remaining items 1 to 6 are renumbered as 2 to 7]

Section 302. Local Amendments to the IRC.

The following are adopted as amendments to the IRC to be applicable to the following jurisdictions:

(1) A local amendment to the following which may be applied to detached one and two family dwellings and multiple single family dwellings shall be applicable to the corresponding provisions of the IRC for the local jurisdiction to which the local amendment has been made:

- (a) IBC under State Construction Code, Section 301;
- (b) IPC under State Construction Code, Section 303;
- (c) IMC under State Construction Code, Section 304;
- (d) IFGC under State Construction Code, Section 305;
- (e) NEC under State Construction Code, Section 306; and
- (f) IECC under State Construction Code, Section 307.

(2) Brian Head Town, a new IRC, Section R324, is added as follows: "Section R324 Automatic Sprinkler Systems. An automatic fire sprinkler system shall be installed in all one- and two-family dwellings and townhouses over 3000 square feet in size of defined living space (garage is excluded from defined living space) in accordance with Section (F)903.3.1 of the International Building Code. In areas not served by Brian Head Town culinary water services, NFPA Standard 1142 for water supplies for rural fire fighting shall apply. Any one- and two-family dwellings and townhouses that are difficult to locate or access, as determined by the authority having jurisdiction, shall be required to follow the guidelines as set forth in the NFPA Standard 1142 regardless of the size of the building"

[remaining items 2 to 8 are renumbered as 3 to 9]

[section 303 to 307 remain unchanged]

Effective dates:

Recommended effective dates are as follows:

Section 201	July 1, 2011 to correspond with adoption of corresponding fire code amendments
Sections 201 and 207	January 1, 2012
Sections 301 and 302	July 1, 2011

End of the Special Notices Section

EXECUTIVE DOCUMENTS

As part of his or her constitutional duties, the Governor periodically issues **EXECUTIVE DOCUMENTS** comprised of Executive Orders, Proclamations, and Declarations. "Executive Orders" set policy for the Executive Branch; create boards and commissions; provide for the transfer of authority; or otherwise interpret, implement, or give administrative effect to a provision of the Constitution, state law or executive policy. "Proclamations" call special or extraordinary legislative sessions; designate classes of cities; publish states-of-emergency; promulgate other official formal public announcements or functions; or publicly avow or cause certain matters of state government to be made generally known. "Declarations" designate special days, weeks or other time periods; call attention to or recognize people, groups, organizations, functions, or similar actions having a public purpose; or invoke specific legislative purposes (such as the declaration of an agricultural disaster).

The Governor's Office staff files **EXECUTIVE DOCUMENTS** that have legal effect with the Division of Administrative Rules for publication and distribution. All orders issued by the Governor not in conflict with existing laws have the full force and effect of law during a state of emergency when a copy of the order is filed with the Division of Administrative Rules. (See Section 63K-4-401).

Governor's Executive Order EO/008/2010: Wildland Fire Management

EXECUTIVE ORDER

Wildland Fire Management

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

WHEREAS, numerous 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, Gary R. Herbert, 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 August 10, 2010 requiring aid, assistance and relief available pursuant to the provisions of state statutes, and the State Emergency Operations Plan, which is hereby activated.

IN TESTIMONY, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah this 10th day of August 2010

(State Seal)

Gary R. Herbert
Governor

Attest:

Lieutenant Governor
Greg Bell

EO/008/2010

End of the Executive Documents 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 August 03, 2010, 12:00 a.m., and August 16, 2010, 11:59 p.m. are included in this, the September 01, 2010 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 October 1, 2010. The agency may accept comment beyond this date and will indicate the last day the agency will accept comment in the **RULE ANALYSIS**. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency hold a hearing on a specific **PROPOSED RULE**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through December 30, 2010, 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 OF A CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** 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; Rule R15-2; and Sections R15-4-3, R15-4-4, R15-4-5, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page

Agriculture and Food, Animal Industry
R58-7
Livestock Markets, Satellite Video
Livestock Auction Market, Livestock
Sales, Dealers, and Livestock Market
Weighpersons

NOTICE OF PROPOSED RULE

(Amendment)
 DAR FILE NO.: 33895
 FILED: 08/05/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to add provisions to the rule that will protect public safety.

SUMMARY OF THE RULE OR CHANGE: This amendment adds language that safety of the public and employees must be considered in the operation of an auction market.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 4-2-2 and Section 4-30-3

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The changes to the rule will not affect the state budget. The program is currently being funded by general fund money. The Division does not anticipate that the changes to the rule will change the current funding level beyond inflationary costs associated with the general fund.

◆ **LOCAL GOVERNMENTS:** There are no costs to local government at this time under the current rule. All costs to run the program are through the state general fund and local governments are not involved in the program. The proposed changes made to the rule will not require local government involvement and will not require costs to be borne by local governments.

◆ **SMALL BUSINESSES:** There will be no costs to businesses other than those costs associated with improvements to the facilities to bring them into compliance.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The auction market may increase fees to the sellers to offset the costs to upgrade the facilities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Costs to update facilities may be needed depending the age and neglect of the facility.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Livestock markets that have maintained their facilities will have no additional costs as a result of changes to this rule. The changes to this rule will affect those livestock markets that have not maintained their facilities and must upgrade them to create a safe working environment for their employees, government personnel, and the public. These markets may shift some of the costs to the livestock seller by increasing the fees charged to sell the animal.

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

AGRICULTURE AND FOOD
 ANIMAL INDUSTRY
 350 N REDWOOD RD
 SALT LAKE CITY, UT 84116-3034
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
 ◆ Kyle Stephens by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at kylestephens@utah.gov
 ◆ Terry Menlove by phone at 801-538-7162, by FAX at 801-538-7169, or by Internet E-mail at tmenlove@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2010

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2010

AUTHORIZED BY: Leonard Blackham, Commissioner

R58. Agriculture and Food, Animal Industry.

R58-7. Livestock Markets, Satellite Video Livestock Auction Market, Livestock Sales, Dealers, and Livestock Market Weighpersons.

R58-7-1. Authority.

A. Promulgated under authority of Section 4-30-3 and Section 4-2-2.

B. It is the intent of these rules to provide uniformity and fairness in the marketing of livestock within the state, whether sold through regularly established livestock markets or other types of sales.

R58-7-2. Definitions.

A. "Commissioner" means the commissioner of Agriculture and Food.

B. "Livestock" means cattle, domestic elk, swine, equines, sheep, goats, camelids, ratites, and bison.

C. "Representative" means a dealer licensed in Utah under Section 4-7-7 who is a resident of this state, or who is a representative of, or who in any capacity conducts business with a livestock auction market licensed under Section 4-30-4, which does business with an in state or out of state satellite video livestock auction market.

D. "Satellite video livestock auction market" means a place or establishment or business conducted or operated for compensation or profit as a public market where livestock or other agricultural related products located in this state are sold or offered for sale at a facility within or outside the state through the use of an electronically televised or recorded media presentation, which is, or can be exhibited at a public auction.

E. "Livestock market" means a public market place consisting of pens or other enclosures where all classes of livestock or poultry are received on consignment and kept for subsequent sale, either through public auction or private sale.

F. "Livestock dealer" means a person engaged in the business of purchasing livestock for immediate resale or interstate shipment for immediate resale.

R58-7-3. Livestock Markets.

A. Standards for Approved and Non-approved Markets. The operator of a livestock market shall maintain the following standards in order to obtain, retain or renew a livestock market license:

1. Follow procedures outlined in Section 4-30-4, and all state and federal laws and regulations pertaining to livestock health and movement.

2. Conduct all sales in compliance with the provisions of Utah laws and rules pertaining to livestock health and movement.

3. Furnish the Department with a schedule of sale days, which have been previously approved by the Commissioner of Agriculture and Food, giving the beginning hour.

4. Maintain records of animals in the market in accordance with United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, Brucellosis Eradication Uniform Methods and Rules, Part II, U, 2 to 4. Records must be retained for 2 years.

5. Maintain the identity of ownership of all animals as set forth in Section 4-24-20, and these rules. All test eligible females and breeding bulls two years of age and over shall be backtagged for individual identification as outlined in 9 CFR 71.18 71.19 and 9 CFR 79, January 1, 2001, edition. The tags are not to be removed in trading channels.

6. Permit authorized state or federal inspectors to review all phases of the livestock market operations including, but not limited, to records of origin and destination of livestock handled by the livestock market.

7. Provide adequate space for pens, alleyways, chutes, and sales ring; cover sales ring with a leak-proof roof.

8. Have floors in all pens, alleyways, chutes, and sales ring constructed in such a manner as to be safe, easily cleaned and properly drained in all types of weather and to be easily maintained in a clean and sanitary condition.

9. Maintain all alleyways, pens, chutes, and sales rings in a clean, safe, and sanitary manner.

10. Furnish and maintain one or more chutes (in addition to the loading chute) at a convenient and usable place in a covered

area, suitable for restraining, inspecting, examining, testing, tagging, branding and other treatments and procedures ordinarily required in providing livestock sanitary or health service at markets in a safe manner. Furnish personnel as required to assist Department or federal inspectors.

11. Provide specially designated pens or a provision for yarding for diseased animals infected with or exposed to brucellosis, tuberculosis, scabies, anaplasmosis, vesicular disease, pseudorabies, hog cholera, sheep foot rot, or other contagious or infectious disease.

12. Provide adequate facilities and service at a reasonable cost for cleaning and disinfecting cars, trucks and other vehicles which have been used to transport diseased animals as directed by the Department of Agriculture and Food or its authorized representative.

13. Do not release any diseased animal or animal exposed to any contagious, infectious or communicable disease from a livestock market until it has been approved for movement by the Department or its authorized representative.

14. Do not release any livestock from the market which have not complied with Utah laws and rules.

B. Additional Standards for Approved Markets.

1. Weigh each reactor individually and record reactor tag number, tattoo or other identifying marks on a separate weigh ticket, and record sales price per pound and net return after deducting expenses for required handling of such reactor. Restrict sale of all reactors to a slaughtering establishment where federal or state inspection is maintained.

2. Reimburse the Department monthly an amount equal to expenses incurred in providing a veterinarian at the livestock market.

3. Provide specially designated pens or a provision for yarding for animals classified as reactors, exposed, suspects or "S" branded.

4. Provide suitable laboratory space at the market as agreed between the market and the livestock market veterinarian for the conducting of brucellosis and other necessary tests.

C. Veterinary Medical Services. These services, fees, and collection procedures will be outlined and negotiated between the Department of Agriculture and Food, Livestock Auctions, and Veterinarians in contract agreements signed by each party. Any procedures, payments fees and collection methods done outside the contract terms will be worked out between the livestock market and the veterinarian.

D. Denial, Suspension or Cancellation of Registration. The Department may, after due notice and opportunity for a hearing to the livestock market involved, deny an application for registration, or suspend or cancel the registration when the Department is satisfied that the market has:

1. Violated state statutes or rules governing the interstate or intrastate movement, shipment or transportation of livestock, or

2. Made false or misleading statements in their application for licensing, or false or misleading statements as to the health or physical conditions of livestock regarding official test results or status of the herd of origin, or

3. Knowingly sold for dairy or breeding purposes cattle which were affected with a communicable disease, or

4. Demonstrated their inability or unwillingness to carry out the record keeping requirements contained in this rule, or

5. Failed to comply with any law or rule pertaining to livestock health or movement, or

6. Failed to maintain market facilities in a safe, clean and sanitary manner, or

~~_____~~[6]7. Operated as a livestock market without proper licensing.

E. Relating to temporary livestock market:

Temporary Livestock Market Licensees shall not be required to abide by the provisions in R58-7-3A (1,4,5,7-14), R58-7-3B (1-4), and R58-7-3C.

R58-7-4. Temporary Livestock Sale License.

A. A temporary livestock sales license shall be required for each sale where:

1. Livestock is offered for public bidding and sold on a yardage, commission or percentage basis.

2. Sales are conducted by or for a person at which livestock owned by such person are sold on his own premises, see R58-7-3 and 4.

3. Sales are conducted for the purpose of liquidation of livestock by a farmer, dairyman, livestock breeder or feeder.

4. Sales conducted by non-profit breed or livestock associations or clubs:

a. It is not the intent of this rule to require a bond from non-profit breed or livestock associations or clubs, or from liquidation sales if they conduct sales themselves and do not assume any financial responsibility between the seller and the buyer. However, if such sales are conducted by outside or professional management a license and either a bond, trust fund agreement or letter of credit will be required.

5. Other sales may be approved by the Department of Agriculture and Food.

B. A temporary license shall not be required for:

1. Sales conducted by Future Farmers of America or 4H Club groups.

2. Sales conducted in conjunction with state, county, or private fairs.

C. The Department shall be notified 10 days prior to all such sales.

D. A temporary livestock sales license shall be issued when the Department finds:

1. That an application as approved by the Department has been received, along with the payment of a \$10.00 license fee.

2. That the applicant has filed with the Department where applicable a bond as required by the Department or in accordance with the Packers and Stockyards Act (7 U.S.C. 181 et seq.), except that a letter of credit or a trust fund agreement, as approved by the Department, may replace the bonding requirements.

R58-7-5. Dealers.

A. Dealer Licensing and Bonding:

No person shall operate as a livestock dealer in the state without a license and bond in accordance with Title 4, Chapter 7.

1. Upon receipt of a proper application and payment of a license fee in the amount of \$25.00 and meeting current bonding requirements the Department will issue a license allowing the applicant to operate as a livestock dealer through December 31 of each year.

2. The Department, after due notice and opportunity for hearing to the dealer involved, may deny an application for license, suspend or cancel the license when the Department is satisfied that the applicant or dealer has:

a. Violated state statutes or rules governing the interstate or intrastate movement, shipment, or transportation of livestock, or

b. Made false or misleading statements in their application for licensing, or false or misleading statements as to the health or physical conditions of livestock regarding official test results or status of the herd of origin, or

c. Knowingly sold for dairy or breeding purposes cattle which were affected with a communicable disease, or

d. Demonstrated their inability or unwillingness to carry out the record keeping requirements contained in this rule, or

e. Failed to comply with any law or rule pertaining to livestock health or movement, or

f. Operated as a dealer without meeting proper licensing and bonding requirements.

B. Record Keeping.

1. All livestock dealers must keep adequate records to allow accurate trace back of all livestock to the prior owner Section 4-7-9.

2. Dealers shall permit the Department or its authorized representative to review all phases of the livestock dealer operations including, but not limited to, records of origin and destination of livestock handled by the livestock dealer.

3. Dealers shall retain above records for a period of two years.

R58-7-6. Responsibilities of a Bonded and Licensed Weighperson.

A. Weighperson operator to be competent, licensed and bonded.

1. Stockyard owner, market agencies, and dealers shall employ only competent, licensed and bonded persons of good character and known integrity to operate scales for weighing livestock for the purpose of purchase or sale. Any person found to be operating scales incorrectly, carelessly, in violation of instructions, or in such manner as to favor or injure any party or agency through incorrect weighing or incorrect weight recording shall be removed from his weighing duties.

2. The primary responsibility of a weigher is to determine and accurately record the weight of a livestock draft without prejudice or favor to any person or agency and without regard for livestock ownership, price condition, fill, shrink, or other considerations. A weigher shall not permit the representations or attitudes of any persons or agencies to influence his judgment or action in performing his duties.

3. Unused scale tickets, or those which are partially executed but without a printed weight value, shall not be left exposed or accessible to unauthorized personnel. All such tickets shall be kept under lock when the weigher is not at his duty station.

4. Accurate weighing and correct weight recording require that a weigher shall not permit the operations to be hurried to the extent that inaccurate weights or incorrect weight records may result. Each draft of livestock must be weighed accurately to the nearest minimum weight value that can be indicated or recorded. Manual operations connected with balancing, weighing,

and recording shall be performed with the care necessary to prevent damage to the accurately machined and adjusted part of weigh-beams, poses, and printing devices.

5. Livestock owners, buyers, or others having legitimate interest in a livestock draft must be permitted to observe the balancing, weighing, and recording procedures, and a weigher shall not deny them that right or withhold from them any information pertaining to the weight of that draft. He shall check the zero balance of the scale or reweigh a draft of livestock when requested by such parties.

B. Balancing the empty scale.

1. The empty scale shall be balanced each day before weighing begins, and maintained in correct balance while weighing operations continue. The zero balance shall be verified at intervals of not more than 15 drafts or 15 minutes, whichever is completed first. In addition, the zero balance of the scale shall be verified whenever a weigher resumes weighing duties after an absence from the scale and also whenever a load exceeding half the scale capacity or 10,000 pounds (whichever is less) has been weighed and is followed by a load of less than 1,000 pounds, verification to occur before the weighing of the load of less than 1,000 pounds.

2. The time at which the empty scale is balanced or its zero balance verified shall be recorded on scale tickets or other permanent records. Balance tickets must be filed with other scale tickets issued on that date.

3. Before balancing the empty scale, the weigher shall assure himself that the scale gates are closed and that no persons or animals are on the scale platform or in contact with the stock rack, gates, or platform. If the scale is balanced with persons on the scale platform, the zero balance shall be verified whenever there is a change in such persons. When the scale is properly balanced and ready for weighing, the weigher shall so indicate by an appropriate signal.

C. Weighing the load.

1. Before weighing a draft of livestock, the weigher shall assure himself that the entire draft is on the scale platform with the gates closed and that no persons or animals off the scale are in contact with the platform, gates or stock rack.

D. Sale of livestock by weight.

All livestock sold by weight through a satellite video auction market must be sold based on the weight of the livestock on the day of delivery. All livestock sold by weight must be weighed on scales that have been tested and inspected by the Department of Weights and Measures in the manner prescribed by law.

R58-7-7. Satellite Video Livestock Auction Market.

1. Before entering into business as or with a satellite video livestock auction market and annually, on or before January 1, each market or representative shall file an application for a license to transact business as or with a satellite video livestock auction market with the commissioner on a form prescribed by the commissioner. The application must show:

- a. the nature of the business for which a license is desired;
- b. the name of the representative applying for the license;
- c. the name and address of the proposed satellite video auction or the name and address of the satellite video auction the representative proposes to transact business with; and

d. other information the commissioner may require as listed in Subsection 4-7-6.

2. The application for a license or for a renewal for a license must be accompanied by:

- a. a license fee in accordance with Section 4-30-4, determined by the department pursuant to Subsection 4-2-2(2).
- b. evidence of proper security bonding as required in Subsection 4-30-4(3) for the satellite video auction and Section 4-7-7 for the representative.
- c. a schedule of fees and commissions that will be charged to owners, sellers, or their agents; and
- d. other information the commissioner may require as listed in Section 4-7-6.

3. Each satellite video auction will be considered as a temporary livestock sale unless licensed under this chapter as a satellite video auction market. Sales operated by a representative will be required to make application as designated in R58-7-4.

4. A copy of each and any contract between the representative and the satellite video auction market with which the representative proposes to transact business or a contract with the proposed satellite video auction market must be supplied to the department.

The contract must include a provision authorizing the commissioner or the commissioner's designee to have access to the books, papers, accounts, financial records held by financial institutions, accountants or other sources; and other documents relating to the activities of the satellite video livestock market and requiring the satellite video auction market to make such documents reasonably available upon the request of the commissioner or the commissioner's designee. If the contract between a representative and the satellite video auction market is terminated, rescinded, breached, or materially altered, the representative and the satellite video auction market shall immediately notify the commissioner. Failure to notify will be deemed failure to keep and maintain suitable records and be deemed to be a false entry or statement of fact in application filed with the department. (Section 4-7-11.)

R58-7-8. Livestock Market Committee.

A. Hearing on License Application; Notice of Hearing.

1. Upon filing of an application as a satellite video auction livestock market, the chairman of the Department of Agriculture and Food's Livestock Market Committee shall set a time and place for a hearing to review the application and determine whether a license will be issued.

2. Upon filing of an application as a representative of a satellite video auction market, the chairman of the Department of Agriculture and Food's Livestock Market Committee may elect to hold a hearing to review the application and determine whether a license will be issued.

B. Guidelines delineated for decision on application shall be in accordance with 4-30-6 and shall apply to the livestock auction market and the satellite video livestock auction market.

KEY: livestock

Date of Enactment or Last Substantive Amendment: ~~February 12, 2002~~ 2010

Notice of Continuation: January 14, 2010

Authorizing, and Implemented or Interpreted Law: 4-2-2; 4-30-3

Agriculture and Food, Animal Industry
R58-21
Trichomoniasis

NOTICE OF PROPOSED RULE

(Amendment)
 DAR FILE NO.: 33896
 FILED: 08/05/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to update approved tests, make working and numbering modifications, and to change the citation fee for untested bulls grazing with cattle.

SUMMARY OF THE RULE OR CHANGE: The rule changes are to modify the language and numbering and to the change the citation fee for untested bulls grazing with cattle.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 4-31-21

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** The changes to the rule will not affect the state budget. The program is currently being funded by the general fund. The Division does not anticipate that the changes to the rule will change the current funding level beyond inflationary costs associated with the general fund.

♦ **LOCAL GOVERNMENTS:** There are no costs to local government at this time under the current rule. All costs to run the program are through the state general fund and local governments are not involved in this program. The proposed changes made to the rule will not require local government involvement and will not require costs to be borne by local government.

♦ **SMALL BUSINESSES:** There will be no increased costs to businesses other than those costs associated with compliance with the existing rule.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There will be no increased cost to individuals other than those costs associated with compliance with the existing rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is a doubling of the cost to individuals found grazing untested bulls with cattle.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes to this rule will not increase costs to any entity above those already incurred by compliance to the existing

rule. The fee change was requested and approved by industry to be implemented with this rule change.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 AGRICULTURE AND FOOD
 ANIMAL INDUSTRY
 350 N REDWOOD RD
 SALT LAKE CITY, UT 84116-3034
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
 ♦ Kyle Stephens by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at kylestephens@utah.gov
 ♦ Terry Menlove by phone at 801-538-7162, by FAX at 801-538-7169, or by Internet E-mail at tmenlove@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2010

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2010

AUTHORIZED BY: Leonard Blackham, Commissioner

R58. Agriculture and Food, Animal Industry.

R58-21. Trichomoniasis.

R58-21-1. Authority.

Promulgated under authority of Section 4-31-21.

R58-21-2. Definitions.

A. Acceptable media - Any Department approved media in which samples may be transferred, transported, and cultured. [~~At this time, the approved media is the InPouchTM TF (BioMed Diagnostics, San Jose, Calif.)~~]

B. Approved slaughter facility - A slaughter establishment that is either under state or federal inspection.

C. Brand - A 2 X 3 hot iron single character lazy V applied to the left of the tailhead of a bull, signifying that the bull is infected with the venereal disease, Trichomoniasis.

D. Certified veterinarian - A veterinarian who has been certified by the Utah Department of Agriculture and Food to collect samples for trichomoniasis testing.

E. Commuter bulls - Bulls traveling across state lines for grazing purposes while utilizing a Commuter Permit Agreement approved by both the respective State Veterinarians or bulls traveling on a Certificate of Veterinary Inspection where there is no change of ownership.

F. Confinement - Bulls held in such manner that escape is improbable. Typical barbed wire or net pasture fencing does not constitute confinement.

G. Department - The Utah Department of Agriculture and Food.

H. Exposed to female cattle - Freedom from restraint such that breeding is a possible activity.

I. Feeder Bulls - Bulls not exposed to female cattle and kept in confinement for the purpose of feeding and only go to slaughter.

J. Negative bull - A bull that has been tested with official test procedures and found free from infection by *Tritrichomonas foetus*.

K. Official tag - A tag authorized by the Department that is placed in the right ear of a bull by a certified veterinarian after being tested for trichomoniasis. The color of the official tag shall be changed yearly.

M. Official test - A test currently approved by the Department for detection of *Tritrichomonas foetus*. The culture test and the Polymerase Chain Reaction (PCR) test are the currently approved test methods.

N. Positive bull - A bull that has been tested with official test procedures and found to be infected by *Tritrichomonas foetus*.

O. Positive herd - Any herd or group of cattle owned by one or more persons which shares common grazing or feeding operations and in which one or more animals has been diagnosed with trichomoniasis within the last 12 months.

P. Qualified feedlot - A feedlot approved by the Utah Department of Agriculture and Food to handle heifers, cows, or bulls. These animals shall be confined to a dry lot area which is used to upgrade or finish feeding animals going only to slaughter.

Q. Test chart - A document which certifies that a bull has been subjected to an official test for trichomoniasis and indicates the results of the test.

R. Trichomoniasis - A venereal disease of bovidea caused by the organism *Tritrichomonas foetus*.

R58-21-3. Trichomoniasis - Sampling and Testing Procedures.

A. Sample collection - Samples are obtained from a vigorous scraping of the bull's prepuce using a sterile syringe and new pipette on each bull.

B. Sample handling - Samples shall be transferred and transported in approved media, Media should be ~~and~~ maintained at 65 to 90 degrees Fahrenheit (18 to 32 degrees Celsius). Samples shall be set up for culture testing within 24 hours of sampling. Samples shall also be protected from direct sunlight.

C. Culture testing - The inoculated media shall be incubated at 98 degrees Fahrenheit (37 degrees Celsius) and monitored for growth at 24 hour intervals for 96 hours.

D. Polymerase Chain Reaction (PCR) testing - The inoculated media shall be incubated at 98 degrees Fahrenheit (37 degrees Celsius) for 24 hours and then frozen. The frozen sample shall be sent overnight on postal approved frozen packs ~~ice~~ to the Utah Veterinary Diagnostic Laboratory (950 East 1400 North, Logan, Utah 84341) for PCR testing.

E. Test interpretation - A sample is considered test negative if one (1) PCR test or one (1) culture test is negative for the presence of *Tritrichomonas foetus*.

R58-21-4. Trichomoniasis - Rules - Prevention and Control.

A. All bulls nine months of age and older, entering Utah, must be tested with one (1) Polymerase Chain Reaction (PCR) test or three (3) culture tests, collected no less than seven days ~~apart~~, for Trichomoniasis by an accredited veterinarian ~~[within 30 days]~~ prior to entry into Utah. Bulls that have had contact with female cattle subsequent to testing must be retested prior to entry.

B. The following bulls are exempted from (A) above:

1. Bulls going directly to slaughter or to a qualified feedlot,

2. ~~[Feeder]~~ ~~B~~ bulls kept in confinement operations,

3. Rodeo bulls for the purpose of exhibition, and

4. Bulls attending livestock shows for the purpose of exhibition, only to be returned to the state of origin immediately after the event.

~~C~~ ~~B~~. Rodeo and exhibition bulls with access to grazing, or exposed to female cattle, or being offered for sale are required to be tested prior to entry.

~~D~~ ~~E~~. All bulls nine months of age and older residing in Utah, and all commuter bulls must be tested with an official test for trichomoniasis annually, between October 1 and April 30 of the following year, or prior to exposure to female cattle according to approved sampling and testing procedures. All bulls must be classified as a negative bull prior to exposure to female cattle.

~~E~~ ~~D~~. Testing shall be performed by a certified veterinarian.

1. All test results shall be recorded on test charts provided by the Department or electronic forms created by the certified veterinarian.

a. Electronic forms shall have the following information:

i. Veterinarian's name and contact information

ii. Owner's name and contact information

iii. Bull's Trichomoniasis tag number, age, breed

iv. Date of collection

v. Test results

2. A copy of all test charts shall be submitted to the Department within ten (10) days of collecting the sample.

~~E~~ ~~E~~. All bulls from positive herds are required to have three negative culture tests, no less than one week apart, or one negative Polymerase Chain Reaction (PCR) test prior to exposure to female cattle. Exceptions include bulls going to slaughter or to a qualified feedlot, bulls in confinement operations, and feeder bulls.

~~G~~ ~~F~~. All bulls nine months of age and older being offered for sale for reproductive purposes in the state of Utah must be tested for Trichomoniasis with an official test prior to sale. Bulls that have had contact with female cattle subsequent to testing must be re-tested prior to sale or transfer of ownership.

~~H~~ ~~G~~. It shall be the responsibility of the owner or his agent to declare, on the auction drive-in slip, the Trichomoniasis status of a bull being offered for sale at a livestock auction.

1. Untested bulls (i.e. bulls without a current Trichomoniasis test tag), including dairy bulls, must be sold for slaughter only, for direct movement to a Qualified Feedlot, or Confinement Operation.

~~I~~ ~~H~~. Any bull over nine months of age which has strayed and commingles with female cattle may be required to be tested (or re-tested) for trichomoniasis. The owner of the offending bull shall bear all costs for the official test.

~~I~~ ~~F~~. All Utah bulls, which are tested, shall be tagged in the right ear with an official tag by the certified veterinarian performing the test.

~~K~~ ~~J~~. Bulls entering the State of Utah under the provisions of this rule may be tagged upon arrival by a certified veterinarian upon receipt of the Trichomoniasis test charts from the testing veterinarian.

~~L[K]~~. Bulls which bear a current Trichomoniasis test tag from another state which has an official Trichomoniasis testing program will be acceptable to the State of Utah providing that they meet all Trichomoniasis testing requirements as described above.

R58-21-5. Trichomoniasis - Rules - Positive Bull.

A. A bull is considered positive if:

1. Trichomonas organisms are identified when cultured by the examining veterinarian or a laboratory, or
2. A laboratory identifies Trichomonas foetus using a Polymerase Chain Reaction (PCR) test.

B. An owner may have the option to request submission of the positive culture sample to an approved reference laboratory for confirmation by Polymerase Chain Reaction (PCR) test.

1. The sample from said bull must be shipped to the laboratory using the protocol described in R58-21-3.
2. A sample determined by Polymerase Chain Reaction (PCR) not to be Trichomonas foetus will be considered negative and the bull can be used for breeding purposes.
3. A sample found to be inconclusive will result in the need for the bull to be sampled and tested a second time.

C. All bulls testing positive for Trichomoniasis must be reported immediately to: 1) the owner, and 2) the State Veterinarian, by the certified veterinarian performing the test.

D. The owner shall be required to notify the administrators of the common grazing allotment and any neighboring (contiguous) cattlemen within ten days following such notification by the certified veterinarian.

E. All bulls which test positive for Trichomoniasis must be sent by direct movement within 14 days, to:

1. Slaughter at an approved slaughter facility, or
 2. To a Qualified Feedlot for finish feeding and slaughter,
- or
3. To an approved auction market for sale to one of the above facilities.

F. Such bulls must move only when accompanied by a VS 1-27 Form issued by the testing veterinarian or other regulatory official.

G. Positive bulls entering a Qualified Feedlot, or Approved Auction Market shall be identified with a lazy V brand on the left side of the tailhead by either the livestock inspector or the contract veterinarian, indicating that the bull is infected with Trichomoniasis.

R58-21-6. Trichomoniasis - Rules - Non-compliance.

A. Any person who fails to satisfy the requirements of this rule or who knowingly sells animals infected with Trichomoniasis, other than to slaughter, without declaring their disease status shall be subject to citation and fines as prescribed by the department or may be called to appear before an administrative proceeding by the department.

B. After April 30, owners of untested bulls may be fined \$200.00 per head.

C. Owners of untested bulls that have been exposed to female cattle may be fined up to \$~~1,0~~⁵00.00 per head regardless of the time of year.

KEY: disease control

Date of Enactment or Last Substantive Amendment:
~~September 22, 2009~~²⁰¹⁰

Notice of Continuation: January 27, 2010

Authorizing, and Implemented or Interpreted Law: 4-31-21

Agriculture and Food, Plant Industry **R68-21**

Standard of Identity for Honey

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 33885

FILED: 08/03/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to establish a standard of identity for honey that is produced, packed, repacked, distributed, and sold in Utah. Codification of this standard is meant to reduce economic fraud by controlling the pervasive, illegal practice of blending or diluting pure honey with low cost syrups such as sugar, cane, and corn.

SUMMARY OF THE RULE OR CHANGE: This rule establishes a standard that products labeled as a type of honey must meet. It also provides for the embargo of products misbranded as honey.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 4-5-6(b)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** The infrequent investigations and sampling will be within the existing budget. This is expected to be less than \$500 annually.

♦ **LOCAL GOVERNMENTS:** This rule has no impact on local government. If fraud is suspected the Utah Department of Agriculture and Food (UDAF) will investigate and test samples, which will not involve local government.

♦ **SMALL BUSINESSES:** This rule will have no cost impact on the majority of small honey businesses in Utah.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This is a monetary benefit to the honey consumers of Utah in that they will get the true product they pay for. The aggregate benefit is not possible to calculate.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule is primarily a preventative protection. If compliance investigation suggests a honey commodity is in violation of the standard, some testing may be necessary. It is expected this will be rare, but some costs may be incurred to run these tests. For the business community, there will be no compliance cost impact for the majority of producers. For those few who are not in compliance, the cost will be the difference between the cost of pure honey and the substitute non-honey they now use.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be little, if any fiscal impact to business. This rule is necessary to protect the interests of the consumers to ensure they are getting the product they are buying. It will illuminate or reduce the opportunity for fraud or deceit to occur in the marketplace.

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

AGRICULTURE AND FOOD
PLANT INDUSTRY
350 N REDWOOD RD
SALT LAKE CITY, UT 84116-3034
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Clair Allen by phone at 801-538-7180, by FAX at 801-538-7189, or by Internet E-mail at clairallen@utah.gov
◆ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
◆ Kyle Stephens by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at kylestephens@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2010

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2010

AUTHORIZED BY: Leonard Blackham, Commissioner

R68. Agriculture and Food, Plant Industry.

R68-21. Standard of Identity for Honey.

R68-21-1. Purpose.

The purpose of this rule is to establish a standard of identity for honey that is produced, packed, repacked, distributed and sold in Utah. Codification of this standard is meant to reduce economic fraud by controlling the pervasive, illegal practice of blending or diluting pure honey with low-cost syrups such as sugar, cane and corn.

R68-21-2. Authority.

This rule is promulgated under the authority of Titles 4-2-2-1(g), 4-5-8-5, 4-5-6-1b, and 4-5-16 of the UCU.

R68-21-3. Definitions.

(1) "Honey" means the natural sweet substance produced by honeybees from nectar of plants or from secretions of living parts of plants which the bees collect, transform by combining with specific substances of their own, then deposit, dehydrate, store, and leave in the honeycomb to ripen and mature.

(2) "Blossom Honey" or "Nectar Honey" means honey that comes from the nectar of plants.

(3) "Comb" or "Comb honey" means honey stored by bees in the cells of freshly built broodless combs and sold in sealed whole combs or sections of such combs.

R68-21-4. Standard of Identification for Honey.

(1) Honey shall meet the following standards:

(a) honey may not be heated or processed to such an extent that its essential composition is changed or its quality is impaired;

(b) chemical or biochemical treatments may not be used to influence honey crystallizations;

(c) honey may not contain more than 20 percent moisture content and for heather honey not more than 23 percent;

(d) honey may be not less than 60 percent fructose and glucose, combined; the ratio of fructose to glucose shall not be greater than 0.9;

(e) honey may not contain oligosaccharides indicative of invert syrup;

(f) honey, except for honeycomb and cut comb style honey, may not contain more than 0.5g/1000g water insoluble solids.

R68-21-5. Standard of Identification for Blossom Honey.

(1) Blossom honey shall meet the standards for honey in R68-21-4;

(2) Blossom honey shall not contain more than 5 percent sucrose, except for the following:

(a) alfalfa (Medicago sativa), citrus spp, false acacia (Robinia pseudoacacia), French Honeysuckle (Hedysarum), Menzies banksias (Banksia menziesii), red gum (Eucalyptus camaldulensis), leatherwood (Eucalyptus lucida), and Eucryphia milligani may contain up to 10 percent sucrose.

(b) lavender (Lavandula spp) and borage (Borago officinalis) may contain up to 15 percent sucrose.

R68-21-6. Food Labeled as Honey.

(1) Food meeting the standards set forth in R68-21-4 and R68-21-5 shall be designated "honey".

(2) Food containing honey plus flavoring, spice or food additive shall be distinguished in the food name from honey by declaration of all of the added ingredients.

(3) Food containing honey which is processed in such a way that materially changes the flavor, color, viscosity or other material characteristics of the honey shall be distinguished in the food name from honey by declaration of the modification.

(4) Food containing honey may be designated according to floral or plant source if the honey comes predominately from that particular source and has the organoleptic, physicochemical and microscopic properties corresponding with that origin.

(a) Food designated according to the honey's floral source plant shall have the common name or the botanical name of the floral source in close proximity on the label to the word "honey".

(5) Honey may be designated according to the following styles:

(a) honey in liquid or crystalline state or a mixture of the two may be designated as "liquid" or "crystalline";

(b) honey meeting the definition of "comb" or "comb honey"; or

(c) honey containing one or more pieces of comb honey may be designated as "honey with comb" or "chunk honey".

R68-21-7. Misbranded Food.

Food labeled as a honey, but not meeting the standard of identification or a labeling requirement in Sections four through six of this rule shall be deemed to be misbranded.

R68-21-8. False Food Advertisement.

Food advertised as honey shall be considered falsely advertised if it does not meet the standard of identification or a labeling requirement in Sections four through six of this rule.

R68-21-9. Embargo and Destruction of Misbranded Food.

When an authorized agent of the department finds or has cause to believe a honey product is misbranded, the agent may follow the tagging, embargo and destruction procedures found in Title 4-5-5 UCA.

KEY: honey

Date of Enactment or Last Substantive Amendment: 2010

Authorizing, and Implemented or Interpreted Law: 4-2-2-1(g); 4-5-8-5; 4-5-6-1b; 4-5-16

Commerce, Real Estate
R162-2c-204
License Renewal

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33901

FILED: 08/05/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment is proposed to provide a new option by which a mortgage loan originator (MLO) may complete education requirements for renewal.

SUMMARY OF THE RULE OR CHANGE: An MLO who, within the 2010 calendar year, completes all requirements to obtain a principal lending manager (PLM) or associate lending manager (ALM) license may renew the new license without completing additional continuing education.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 61-2c-103(3)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The state already bears the costs of processing renewal applications. Giving licensees a new option for completing the education requirement will have no effect on the state's budget.

◆ **LOCAL GOVERNMENTS:** Local governments are not required to renew licenses, nor do they process license renewals. No fiscal impact to local governments is anticipated.

◆ **SMALL BUSINESSES:** Small mortgage businesses that choose to pay the costs of continuing education for their licensed employees will realize a savings in that any MLO who obtains a PLM/ALM license will be relieved of the burden of paying for additional continuing education.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** An affected person will be subject to the costs associated with obtaining a PLM/ALM license, including preclicensing education. These costs vary by provider and will be offset in part by the affected person being relieved of the burden of paying for additional continuing education.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance is optional. A person who chooses to exercise this option for renewal will bear the costs of obtaining the PLM/ALM license, including preclicensing education. These costs vary by provider.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed filing provides a new option to meet renewal requirements as to education. As indicated in the rule summary, no fiscal impact to businesses is anticipated from this amendment other than a cost savings to those who obtain a principle lending manager or associate lending manager license.

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:

◆ Jennie Jonsson by phone at 801-530-6706, by FAX at 801-526-4387, or by Internet E-mail at jjonsson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2010

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2010

AUTHORIZED BY: Deanna Sabey, Director

R162. Commerce, Real Estate.

R162-2c. Utah Residential Mortgage Practices and Licensing Rules.

R162-2c-204. License Renewal.

- (1) Renewal period.
 - (a) Any person who holds an active license as of October 31 shall renew by December 31 of the same calendar year.
 - (b) Any person who obtains a license on or after November 1 shall renew by December 31 of the following calendar year.
- (2) Qualification for renewal.
 - (a) Character.
 - (i) Individuals and control persons applying for a renewed license shall evidence that they maintain good moral character, honesty, integrity, and truthfulness as required for initial licensure.
 - (ii) An individual applying for a renewed license may not have:
 - (A) a felony that resulted in a conviction or plea agreement during the renewal period; or
 - (B) a finding of fraud, misrepresentation, or deceit entered against the applicant by a court of competent jurisdiction or a government agency and occurring within the renewal period.
 - (iii) The division may deny an individual applicant a renewed license upon evidence, as outlined in R162-2c-202(1)(b), of circumstances that reflect negatively on the applicant's character, honesty, integrity, or truthfulness and that:
 - (A) occurred during the renewal period; or
 - (B) were not disclosed and considered in a previous application or renewal.
 - (iv) The division may deny an entity applicant a renewed license upon evidence that a control person fails to meet the standards for character, honesty, integrity, and truthfulness required of individual applicants.
 - (b) Competency.
 - (i) Individual applicants and control persons shall evidence that they maintain the competency required for initial licensure.
 - (ii) The division may deny an individual applicant a renewed license upon evidence, as outlined in R162-2c-202(2), of circumstances that reflect negatively on the applicant's competency and that:
 - (A) occurred during the renewal period; or
 - (B) were not disclosed and considered in a previous application or renewal.
 - (iii) The division may deny an entity applicant a renewed license upon evidence that a control person fails to meet the standard for competency required of individual applicants.
 - (c) Continuing education.
 - (i) Beginning January 1, 2011, an individual who holds an active license as of October 31 of the calendar year shall complete, within the renewal period ending December 31 of the same calendar year, eight hours of non-duplicative continuing education:
 - (A) approved through the nationwide database; and

- (B) consisting of:
 - (I) three hours federal laws and regulations;
 - (II) two hours ethics (fraud, consumer protection, fair lending);
 - (III) two hours non-traditional; and
 - (IV) one hour elective.
- (ii) An individual who obtains a license on or after November 1 of the calendar year is exempt from continuing education for the renewal period ending December 31 of the same calendar year.
 - (iii) Continuing education courses shall be completed within the renewal period.
 - (iv) Continuing education courses shall be non-duplicative of courses taken in the preceding renewal period.
- (3) Renewal procedures for the renewal period ending December 31, 2010. In order to renew by December 31, 2010:
 - (a) an individual licensee shall:
 - (i) evidence having completed a minimum of:
 - (A) 20 hours of prelicensing education as approved by:
 - (I) the division; or
 - (II) the nationwide database; or
 - (B) 28 hours of division-approved continuing education in the two previous renewal cycles;
 - (ii) evidence having taken and passed a Utah licensing examination as approved by the commission;
 - (iii) register in the nationwide database by May 31, 2010;
 - (iv) ~~(A) evidence having completed, since the date of last renewal, continuing education[~~:
 - ~~(A)] approved by either the division or the nationwide database, non-duplicative of any hours required to satisfy the registration education requirement under this Subsection (3)(a)(i), and;~~
 - ~~(I) totaling 14 hours if licensed as of October 1, 2009; or~~
 - ~~(II) totaling eight hours if licensed on or after October 1, 2009; or~~
 - ~~(B) if licensed as a mortgage loan originator, evidence having completed, since January 1, 2010, all requirements to obtain an ALM or a PLM license, pursuant to Subsection R162-2c-201: [approved by either the division or the nationwide database; and~~
 - ~~(C) non-duplicative of any hours required to satisfy the registration education requirement under this Subsection (3)(a)(i);]~~
 - (v) take and pass the national component of the licensing examination as approved by the nationwide database;
 - (vi) submit to the division the jurisdiction-specific documents and information required by the nationwide database; and
 - (vii) submit through the nationwide database:
 - (A) a request for renewal; and
 - (B) all fees as required by the division and by the nationwide database.
 - (b) an entity licensee shall:
 - (i) register in the nationwide database by May 31, 2010;
 - (ii) submit to the division the jurisdiction-specific documents and information required by the nationwide database;
 - (iii) submit through the nationwide database a request for renewal;
 - (iv) renew the registration of any branch office or other trade name registered under the license of the entity; and

(v) pay through the nationwide database all renewal fees required by the division and by the nationwide database.

(4) Renewal procedures for the renewal period ending December 31, 2011. In order to renew by December 31, 2011,

(a) an individual licensee shall:

(i) evidence having completed, since the date of last renewal, continuing education:

(A) as required by Subsection (2)(c);

(B) non-duplicative of any continuing education hours taken in the previous renewal cycle; and

(C) approved by the nationwide database;

(ii) submit to the division the jurisdiction-specific documents and information required by the nationwide database; and

(iii) submit through the nationwide database:

(A) a request for renewal; and

(B) all fees as required by the division and by the nationwide database.

(b) an entity licensee shall:

(i) submit through the nationwide database a request for renewal;

(ii) submit to the division the jurisdiction-specific documents and information required by the nationwide database;

(iii) renew the registration of any branch office or other trade name registered under the entity license; and

(iv) pay through the nationwide database all renewal fees required by the division and by the nationwide database.

(5) Reinstatement.

(a) To reinstate an expired license, a person shall, by February 28 of the calendar year following the date on which the license expired:

(i) comply with all requirements for an on-time renewal; and

(ii) pay through the nationwide database all late fees and other fees as required by the division and the nationwide database.

(b) A person may not reinstate a license after February 28. To obtain a license after the reinstatement period described in Subsection (5)(a) expires, a person shall reapply as a new applicant.

KEY: residential mortgage, loan origination, licensing, enforcement

Date of Enactment or Last Substantive Amendment: [July 22], 2010

Authorizing, and Implemented or Interpreted Law: 61-2c-103(3)

Commerce, Real Estate
R162-2e
Appraisal Management Company
Administrative Rules

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 33923

FILED: 08/12/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The existing rules are renumbered and reorganized to reflect a statutory numbering scheme and to mirror the organization of Title 61, Chapter 2e. Definitions are proposed to clarify language in the statute and rules. In response to questions from the industry, rules are created to help guide appraisal management companies (AMCs) in satisfying the statutory requirement that they provide the Division with an explanation of the systems they use: 1) to ensure the use of licensed or certified appraisers; 2) to verify that appraisals adhere to applicable standards; and 3) to evidence that they keep adequate records. Additionally, a rule is proposed to require that AMCs register with the Division in the name of the legal entity rather than obtaining unique registrations for each "dba" or other trade name. Finally, a rule is proposed to outline specific information that an AMC must provide to an appraiser at the time the assignment is offered.

SUMMARY OF THE RULE OR CHANGE: The terms "affiliation," "AMC," "client," "competency statement," "day," "select," and "USPAP" are defined. An AMC must register in the name of the legal entity under which it conducts business and inform the Division of any dbas or trade names being used, but does not need to obtain a unique registration for each name. To register, an AMC must put into place a system wherein the AMC verifies: 1) that an appraiser who is added to the panel is licensed or certified; and 2) that an appraiser who is given an assignment remains licensed/certified in good standing. At this time, the rule does not mandate how this system must operate. To register, an AMC must have in place a system whereby the AMC: 1) verifies that an assignment is completed by the appraiser or appraisal firm to which it is assigned; and 2) ensures that an assignment offer includes information sufficient to allow the appraiser to determine whether he or she can competently complete the assignment. This information includes property identification, assignment conditions, and scope of work requirements. To register, an AMC must have in place a system for tracking the client on each assignment, as well as the appraiser or appraisal entity that accepts each assignment. AMCs must also provide the Division with information about the format in which records are kept, how electronic records are backed up, where the records are kept, and the name of the records custodian.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 61-2e-102 and Section 61-2e-103 and Section 61-2e-201 and Section 61-2e-301 and Section 61-2e-302 and Section 61-2e-303 and Section 61-2e-304 and Section 61-2e-401

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** These rules interpret specific statutory requirements but do not create new programs that the state will have to oversee and enforce. No impact to the state budget is anticipated.
- ◆ **LOCAL GOVERNMENTS:** Local governments do not act as AMCs and, therefore, do not register with the Division. Local governments do not enforce the rules governing AMCs. These rules have no effect on local governments. No impact to the budgets of local governments is anticipated.
- ◆ **SMALL BUSINESSES:** By statute, small AMC businesses must create systems: 1) to verify the use of qualified appraisers; 2) to ensure adherence to standards; and 3) to keep records. These rules simply provide minimum standards for these systems. Any financial impact was therefore contemplated by the legislature when the statute was enacted.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The AMC rules govern businesses only. No other persons are affected; therefore, there is no financial impact anticipated for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: By statute, AMCs must create systems for verifying the use of qualified appraisers, ensuring adherence to standards, and keeping records. The cost of creating those systems was contemplated by the legislature. An AMC seeking registration will be able to tailor its system to meet the minimum standards with no costs beyond those incurred in the initial creation of a system. Currently registered AMCs, which already have systems in place, will need to review those systems and might need to make adjustments to comply with the minimum standards set forth in these rules. The cost of doing so should not require new staff or resources. If there are any costs, the Division anticipates that they will be minimal.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This filing renumbers the Division rules to mirror the statutory numbering scheme, provides a general definition section and new provisions with guidance to licensees in meeting their various statutory requirements. As indicated in the rule summary, there will be no impact to businesses beyond those already addressed by the Legislature in passing the Act.

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:

- ◆ Jennie Jonsson by phone at 801-530-6706, by FAX at 801-526-4387, or by Internet E-mail at jjonsson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2010

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2010

AUTHORIZED BY: Deanna Sabey, Director

R162. Commerce, Real Estate.

R162-2e. Appraisal Management Company Administrative Rules.

R162-2e-101. Title.

This chapter is known as the "Appraisal Management Company Administrative Rules."

R162-2e-102. Definitions.

- (1) "Affiliation" means a business association:
 - (a) between:
 - (i) two individuals registered, licensed, or certified under Section 61-2b; or
 - (ii) an individual registered, licensed, or certified under Section 61-2b and:
 - (A) an appraisal entity; or
 - (B) a government agency;
 - (b) for the purpose of providing an appraisal service; and
 - (c) regardless of whether an employment relationship exists between the parties.
- (2) The acronym "AMC" stands for appraisal management company.
- (3) As used in Subsection R162-2e-201(3)(c)(ii), "business day" means a day other than:
 - (a) a Saturday;
 - (b) a Sunday;
 - (c) a state or federal holiday; or
 - (d) any other day when the division is closed for business.
- (4) "Client" is defined in Section 61-2e-102(10).
- (5) "Competency statement" means a statement provided by the AMC to the appraiser that, at a minimum, requires the appraiser to attest that the appraiser:
 - (a) is competent according to USPAP standards;
 - (b) recognizes and agrees to comply with:
 - (i) laws and regulations that apply to the appraiser and to the assignment;
 - (ii) assignment conditions; and
 - (iii) the scope of work outlined by the client; and
 - (c) has access, either independently or through an affiliation pursuant to Subsection (1), to the records necessary to complete a credible appraisal, including:
 - (i) multiple listing service data; and
 - (ii) county records.
- (6) "Select" means:
 - (a) for purposes of composing the AMC appraiser panel, to review and evaluate the qualifications of an appraiser who applies to be included on the AMC's appraiser panel; and
 - (b) for purposes of assigning an appraisal activity to an appraiser.

_____ (i) to choose from the AMC's appraiser panel an individual appraiser or appraisal entity to complete an assignment; or

_____ (ii) to compile, from among the appraisers included in the AMC's appraiser panel, an electronic distribution list of appraisers to whom an assignment will be offered through e-mail.

_____ (7) The acronym "USPAP" stands for Uniform Standards of Professional Appraisal Practice.

R162-2e-201. Registration Required - Qualification for Registration.

_____ (1) The division may not register or renew the registration of an AMC that fails to:

_____ (a) comply with any provision of Utah Code Title 61, Chapter 2e, "Appraisal Management Company Registration and Regulation Act"; or

_____ (b) comply with any provision of these rules.

_____ (2) The division shall schedule a hearing before the board for an AMC that:

_____ (a)(i) applies for registration or renewal of registration;

_____ (ii) has a control person who discloses, or the division finds through its own research, an issue that might affect the control person's moral character; and

_____ (iii) the division determines that the board should be aware of the issue; or

_____ (b) fails to provide an adequate explanation for the AMC's:

_____ (i) plan to ensure the use of licensed appraisers in good standing;

_____ (ii) plan to ensure the integrity of the appraisal review process; or

_____ (iii) plan for record keeping.

_____ (3)(a) An AMC shall register with the division in the name of the legal entity under which it conducts the business of appraisal management in Utah and in other states.

_____ (b) An AMC shall notify the division of a dba, trade name, or assumed business name under which the registered legal entity operates in Utah:

_____ (i) at the time of registration; or

_____ (ii) if applicable, immediately upon beginning to operate under such dba, trade name, or assumed business name.

_____ (c) If an AMC changes its registered name, a dba, a trade name, or an assumed business name, the AMC shall notify the division:

_____ (i) in writing; and

_____ (ii) within ten business days of making the change.

R162-2e-301. Use of Licensed or Certified Appraisers.

_____ Beginning upon registration with the division and continuing biennially thereafter, an AMC shall provide to the division a statement signed by its designated controlling person that explains the AMC's system for verifying that:

_____ (1) an appraiser who is added to the panel is licensed or certified; and

_____ (2) an appraiser who is assigned to complete a real estate appraisal remains licensed or certified in good standing.

R162-2e-302. Adherence to Standards.

_____ Beginning upon registration with the division and continuing biennially thereafter, an AMC shall provide a statement to the division, signed by its designated controlling person, certifying that the AMC verifies that each appraisal assignment offered to an appraiser acting as an independent contractor is:

_____ (1) signed by an appraiser who is included in the AMC's panel at the time the assignment is offered; and

_____ (2) includes the information outlined in Subsection 304(1)(b)-(c).

R162-2e-303. Recordkeeping.

_____ An AMC's statement of recordkeeping required upon registration with the division and biennially thereafter shall be signed by its designated controlling person and shall describe:

_____ (1) its system for maintaining a record of:

_____ (a)(i) the name of the appraiser who accepts each assignment and signs the corresponding appraisal report; and

_____ (ii) if an assignment is accepted by an appraisal entity, the name of the entity that accepts the assignment; and

_____ (b) the client that requested the appraisal report;

_____ (2) the format in which the records required to be kept under Section 61-2e-303(1) are maintained;

_____ (3) an explanation of the system through which the AMC backs up any records kept as required by Section 61-2e-303(1) that are maintained in an electronic format;

_____ (4) the location where the records are kept; and

_____ (5) the name of the records custodian.

R162-2e-304. Required Disclosure.

_____ In addition to the disclosures required by Section 61-2e-304, an AMC shall:

_____ (1) at the time an assignment is offered, disclose to the appraiser:

_____ (a) the total amount that the appraiser may expect to earn from the assignment, disclosed as a dollar amount;

_____ (b)(i) the property address;

_____ (ii) the legal description; or

_____ (iii) equivalent information that would allow the appraiser to determine whether the appraiser has been involved with any service regarding the subject property within the three years preceding the date on which the assignment is offered;

_____ (c) the assignment conditions and scope of work requirements in sufficient detail to allow the appraiser to determine whether the appraiser is competent to complete the assignment; and

_____ (d) any known deadlines within which the assignment must be completed;

_____ (2) at or before the time the appraiser accepts an assignment, obtain the appraiser's acknowledgment as to the AMC's competency statement;

_____ (3) before requiring the appraiser to submit a completed report, disclose to the appraiser:

_____ (a) the total fee that will be collected by the AMC for the assignment; and

_____ (b) the total amount that the AMC will retain from the fee charged, disclosed as a dollar amount; and

(4) direct the appraiser who performs the real estate appraisal activity to disclose in the body of the appraisal report:

(a) the total compensation, stated as a dollar amount, paid to the appraiser or, if the appraiser is employed by an appraisal company, to the appraiser's employer; and

(b) the total compensation retained by the AMC in connection with the real estate appraisal activity, stated as a dollar amount.

R162-2e-305. Employee Requirements.

(1) An AMC seeking registration shall demonstrate to the division that each person who selects an appraiser or reviews an appraiser's work for the AMC:

(a) is a licensed or certified appraiser in good standing; or

(b) has taken and passed the 15-hour national USPAP course.

(2) An AMC seeking renewal of the company's registration shall demonstrate to the division that each person who selects an appraiser or reviews an appraiser's work for the AMC:

(a) is a licensed or certified appraiser in good standing; or

(b) has completed the seven-hour national USPAP update course.

R162-2e-401. Unprofessional Conduct.

(1) An AMC commits unprofessional conduct if the AMC:

(a) requires an appraiser to modify any aspect of the appraisal report, unless the modification complies with Section 61-2e-307;

(b) unless first prohibited by the client or applicable law, prohibits or inhibits an appraiser from contacting:

(i) the client;

(ii) a person licensed under Section 61-2c or Section 61-2f; or

(iii) any other person with whom the appraiser reasonably needs to communicate in order to obtain information necessary to complete a credible appraisal report;

(c) requires the appraiser to do anything that does not comply with:

(i) USPAP; or

(ii) assignment conditions and certifications required by the client;

(d) makes any portion of the appraiser's fee or the AMC's fee contingent on a favorable outcome, including but not limited to:

(i) a loan closing; or

(ii) a specific dollar amount being achieved by the appraiser in the appraisal report; or

(e) requests, for the purpose of facilitating a mortgage loan transaction,

(i) a broker price opinion; or

(ii) any other real property price or value estimation that does not qualify as an appraisal.

(2) An AMC commits unprofessional conduct and creates a violation by the appraiser of R162-107.1.6 if the AMC requires the appraiser to:

(a) accept full payment; and

(b) remit a portion of the full payment back to the AMC.

KEY: appraisal management company, conduct, registration

Date of Enactment or Last Substantive Amendment: 2010

Authorizing, and Implemented or Interpreted Law: 61-2e-102; 61-2e-103; 61-2e-304; 61-2e-305

**Commerce, Real Estate
R162-101-2
Definitions**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 33906

FILED: 08/10/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: New definitions are proposed to facilitate rules by which individuals are required to report an affiliation to the division, and to comply with deadlines.

SUMMARY OF THE RULE OR CHANGE: Definitions are proposed for the terms "affiliation," "day," "entity," and "person."

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 61-2b-20 to 61-2b-31

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The proposed definitions create no new programs that must be overseen or enforced by the state. No impact to the state budget is anticipated.

◆ **LOCAL GOVERNMENTS:** Local governments are not required to comply with or enforce the appraisal rules. The proposed definitions will have no fiscal impact to local governments.

◆ **SMALL BUSINESSES:** Small businesses are not required to comply with the appraiser rules, which affect individuals only. The proposed definitions will have no fiscal impact to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed definitions help to facilitate amendments to other sections of the appraisal rules. One of those amendments creates a new duty under which appraisers are required to submit a change form to the division when they change an affiliation, as that term is defined. The submission of a change form requires a fee, and that burden is discussed in the rule analysis for Rules R162-102 and R162-110. (DAR NOTE: The proposed amendment to Rule R162-102 is under DAR No. 33908 and the proposed amendment to Rule R162-110 is under DAR No. 33909 in this issue, September 1, 2010, of the Bulletin.)

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed definitions alone do not require compliance. They help to facilitate other rules, and the compliance costs are discussed in the analysis of those rules.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact to businesses is anticipated from this filing, which provides clarifying definition for other sections and makes other technical changes.

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:

♦ Jennie Jonsson by phone at 801-530-6706, by FAX at 801-526-4387, or by Internet E-mail at jjonsson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2010

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2010

AUTHORIZED BY: Deanna Sabey, Director

R162. Commerce, Real Estate.

R162-101. Authority and Definitions.

R162-101-2. Definitions.

101.2.1 "Affiliation" means an ongoing business association

(a) between:

(i) two individuals registered, licensed, or certified under Section 61-2b; or

(ii) an individual registered, licensed, or certified under Section 61-2b and:

(A) an appraisal entity; or

(B) a government agency;

(b) for the purpose of providing an appraisal service; and

(c) regardless of whether an employment relationship exists between the parties.

[+01.2.1]101.2.2 The acronym "AQB" stands for the Appraiser Qualifications Board of The Appraisal Foundation.

[+01.2.2]101.2.3 "Board" means the Utah Real Estate Appraiser Licensing and Certification Board.

101.2.4 "Business day" means a day other than:

(a) a Saturday;

(b) a Sunday; or

(c) a federal or state holiday.

[+01.2.3]101.2.5 "Classification" means the type of license or certification held by an appraiser.

101.2.6 "Day" means calendar day unless specified as "business day."

[+01.2.4]101.2.7 "Division" means the Division of Real Estate of the Department of Commerce.

101.2.8 "Entity" means:

(a) a corporation;

(b) a partnership;

(c) a sole proprietorship;

(d) a limited liability company;

(e) another business entity; or

(f) a subsidiary or unit of an entity described in Subsections (a) through (e).

101.2.9 "Person" means an individual or an entity.

[+01.2.5]101.2.10 "Reinstatement" means renewing a license or certification for an additional period after its expiration date has passed but prior to 12 months after the expiration date.

[+01.2.6]101.2.11 "Renewal" means extending a license or certification for an additional period upon its expiration.

[+01.2.7]101.2.12 "Trainee" means a person who is working under the direct supervision of a State-certified residential appraiser or a State-certified general appraiser to earn hours for licensure, and who meets the requirements of R162-110.

[+01.2.8]101.2.13 The acronym "USPAP" stands for The Uniform Standards of Professional Appraisal Practice published by The Appraisal Foundation.

KEY: real estate appraisals, definitions

Date of Enactment or Last Substantive Amendment: [January 27], 2010

Notice of Continuation: April 18, 2007

Authorizing, and Implemented or Interpreted Law: 61-2b-20 to 61-2b-31

Commerce, Real Estate **R162-102** Application Procedures

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 33908

FILED: 08/10/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment is proposed so that the division will have more accurate information about where appraisers are working. This information will help facilitate investigations when the division receives complaints.

SUMMARY OF THE RULE OR CHANGE: The amendments require appraisers to inform the division at the time of application if they are affiliated with another appraiser, an appraisal entity, or a government agency. In addition, individuals are required to submit a change form to the division whenever they change an affiliation.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 61-2b-6(1)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** These amendments will require the state to process change forms. This task is already being performed in the real estate and mortgage industries, and the division has adequate staff to perform it in the appraisal industry, which is the smallest of the three. In addition, an individual who submits a change form will pay a nominal fee, which will offset any other costs to the state and, potentially, increase state revenues (minimally). In the aggregate, no meaningful impact to the state budget is anticipated.
- ◆ **LOCAL GOVERNMENTS:** Local governments are not required to comply with or enforce this rule. No fiscal impact to local governments is anticipated.
- ◆ **SMALL BUSINESSES:** Small businesses are not required to comply with this rule. No fiscal impact to small businesses is anticipated.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Appraisers who submit a change form will be required to pay a \$15 change fee. This is the same fee currently being charged to real estate and mortgage licensees who submit a change form. It is the division's position that this cost to individuals is minimal and is justified by the benefit generated.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be a cost of \$15 per change form.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing adopts a requirement for an appraiser license applicant to disclose any affiliations with an appraisal entity or government agency, as well as the requirement to submit a status change form when a licensee has a change in affiliations. Any status change form required a \$15 fee; it is expected that the benefits of this requirement will outweigh the minimal cost to individuals.

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:

- ◆ Jennie Jonsson by phone at 801-530-6706, by FAX at 801-526-4387, or by Internet E-mail at jjonsson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2010

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2010

AUTHORIZED BY: Deanna Sabey, Director

R162. Commerce, Real Estate.

R162-102. Application Procedures.

R162-102-1. Application.

102.1.1 Initial Review - An applicant for licensure or certification as an appraiser will be required to submit, on forms provided by the Division, documentation indicating successful completion of the education and experience required by the State of Utah. Until January 1, 2008, an applicant may submit education documentation and experience documentation to the Division for approval separately. Effective January 1, 2008, an applicant shall submit education documentation and experience documentation to the Division at the same time.

102.1.1.1 Education documentation may be reviewed by an Appraiser Education Review Committee appointed by the Real Estate Appraiser Licensing and Certification Board to determine if the education requirement has been met.

102.1.1.1.1 As a prerequisite to sitting for either the licensing examination or the certification examination, the applicant shall submit proof of successful completion of the 15-hour National USPAP Course or its equivalent from an instructor or instructors, at least one of whom is a State-Certified Residential or State-Certified General Appraiser and has been certified by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation. Equivalency to the 15-hour National USPAP Course will be determined through the Course Approval Program of the Appraiser Qualifications Board (AQB) of the Appraisal Foundation.

102.1.1.2 The applicant shall provide evidence of meeting the experience requirement by completing the form required by the Division. The Division and the Board shall not award experience credit toward qualification as a state-licensed appraiser for any work performed at a time when the applicant was not registered with the Division as a trainee.

102.1.1.3 The candidate shall submit the appropriate license or certification fee at the time of application.

102.1.1.4 If an applicant has submitted education or experience documentation to the Division prior to January 1, 2008 and has obtained approval of only the education component or only the experience component required for licensure or certification, the applicant must submit proper documentation of the remaining component to the Division prior to January 1, 2011 or any approval of a component shall lapse.

102.1.2 Exam Application

102.1.2.1 Upon determining the candidate has completed the education and experience requirements, the Division will issue to the candidate a form permitting the candidate to register to sit for the examination. The permission to register to sit for the examination shall be valid for twenty-four months after issuance.

102.1.2.2 The candidate shall make application to take the examination by returning the application form and the appropriate testing fee to the testing service designated by the

Division. If the applicant fails to take the examination, the fee will be forfeited.

102.1.3 Final Application

102.1.3.1 Within 90 days after successful completion of the exam, the appraiser applicant shall return to the Division each of the following:

102.1.3.1.1 A report from the testing service indicating successful completion of the exam.

102.1.3.1.2 The application form required by the Division~~[-The application form]~~ shall include:

~~(a) the applicant's business and home addresses[-A post office box without a street address is unacceptable as a business or home address. The applicant may designate either address to be used as a mailing address.];~~

~~(b) the name and business address of any appraisal entity or government agency with which the applicant is affiliated; and~~

~~[102.1.3.1.3 The](c) the fee for the federal registry if the applicant is applying for certification.~~

~~102.1.3.2 A post office box without a street address is unacceptable as a business or home address. The applicant may designate either address to be used as a mailing address.~~

R162-102-2. Status Change.

102.2.1

~~(a) A licensed appraiser, certified appraiser, or trainee shall notify the Division within ten [working]business days of any status change, including a change in affiliation. Status changes are effective on the date the properly executed forms and appropriate fees are received by the Division. Notice shall be made in writing on the forms required by the Division.~~

~~(b) A licensed appraiser, certified appraiser, or trainee is not required to report an affiliation that:~~

~~(i) is created to facilitate a single transaction; and~~

~~(ii) is not part of an ongoing business association.~~

~~(c) If a deadline for notification falls on a day when the Division is closed, the deadline shall be extended to the next business day.~~

102.2.1.1 Change of name requires submission of official documentation such as a marriage or divorce certificate, or driver's license.

102.2.1.2 Change of business, home address or mailing address requires written notification. A post office box without a street address is unacceptable as a business or home address. Any address may be designated as a mailing address.

102.2.2 State-licensed Appraisers, upon meeting the appropriate requirements for certification and upon filing a completed application within six months from their last renewal, will be allowed to transfer to the categories of either Certified Residential or Certified General by paying only a transfer fee.

102.2.2.1 Transfer to a certified category will not change the individual's expiration date.

R162-102-3. Renewal.

102.3.1 At least 30 days before expiration, a renewal notice shall be sent by the Division to the licensed appraiser, certified appraiser, or trainee at the mailing address shown on the Division records. The applicant for renewal shall return the completed renewal notice and the applicable renewal fee to the Division on or before the expiration shown on the notice.

102.3.1.1 The licensed appraiser, certified appraiser, or trainee shall return proof of completion of the following continuing education taken during the preceding two years:

(a) the 7-hour National USPAP Update Course; and

(b) 21 additional hours of Division-approved continuing education.

102.3.1.4 All appraisers and trainees must take the 7-hour National USPAP Update Course or its equivalent once for each renewal in order to maintain a license, certification, or registration. In order to qualify as continuing education for renewal, the course must have been taken from an instructor or instructors, at least one of whom is a State-Certified Residential or State-Certified General Appraiser and has been certified by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation. Equivalency to the 7-hour National USPAP Update Course will be determined through the Course Approval Program of the Appraiser Qualifications Board (AQB) of the Appraisal Foundation.

102.3.2 If the renewal fee and documentation are not received within the prescribed time period, the license, certification, or registration shall expire.

102.3.2.1 A license, certification, or registration may be renewed for a period of 30 days after the expiration date upon payment of a late fee in addition to the requirements of Section 102.3.1.

102.3.2.2 Reinstatement.

(a) After the 30-day period described in Subsection 102.3.2.1 and until six months after the expiration date, an individual may reinstate an expired license, certification, or registration by

(i) complying with Subsection 102.3.1;

(ii) paying a late fee; and

(iii) paying a reinstatement fee.

(b) After the six-month period described in Subsection (a) and until one year after the expiration date, an individual may reinstate an expired license, certification, or registration by

(i) complying with Subsection 102.3.1;

(ii) paying a late fee;

(iii) paying a reinstatement fee; and

(iv) completing 24 hours of additional continuing education.

(c)(i) An individual who does not reinstate an expired license, certification, or registration within 12 months of the expiration date must:

(A) reapply with the Division as a new applicant;

(B) retake and pass the 15-hour USPAP course; and

(C) retake and pass any applicable licensing or certification examination.

(ii) An individual reapplying under Subsection (i) shall receive credit for previously credited preclicensing education if:

(A) it was completed within the five-year period prior to the date of reapplication; and it was either

(B) completed after January 1, 2008; or

(C) certified by the Division and the AQB prior to January 1, 2008, as approved, qualified preclicensing education.

102.3.3 If the Division has received renewal documents in a timely manner but the information is incomplete, the appraiser or trainee may be extended a 15-day grace period to complete the application.

102.3.4 Renewal while on active military service. An appraiser or trainee who is unable to renew a license or certification because active military service has prevented the completion of the appraiser's or trainee's required continuing education may submit a timely application for renewal that is complete, except for proof of continuing education, and may request that the application for renewal be held in suspense pending the completion of the continuing education requirement.

102.3.4.1 The appraiser or trainee shall have 120 days after completion of active military service to complete the continuing education required for the renewal and submit proof of the continuing education to the Division.

102.3.4.2 An appraiser may not act as an appraiser in Utah after the expiration of the appraiser's current license while the appraiser's application for renewal is held in suspense by the Division pending the completion of military service and the completion of the continuing education required for renewal. The appraiser may not act as an appraiser in Utah until the appraiser submits proof of completion of the required continuing education and the appraiser's application for renewal is processed by the Division.

R162-102-4. Six-Month Temporary Permits.

102.4.1 A non-resident of this state may obtain a six-month temporary permit to perform one or more specific appraisal assignments in Utah. In order to qualify for a temporary permit, the specific appraisal assignments must be covered by a contract to provide appraisals. In order to obtain a temporary permit, an applicant must:

102.4.1.1 Submit an application in writing requesting temporary licensure or certification. The application shall include the name of the client, the specific property address(es) to be appraised, the type of property being appraised, and the estimated time to complete the assignment;

102.4.1.2 Answer and submit a "Utah Appraiser Qualifying Questionnaire" in the form designated by the Division;

102.4.1.3 Sign an irrevocable consent to service authorizing the Division to receive service of any lawful process on his behalf in any noncriminal proceeding arising out of his practice as an appraiser in this state;

102.4.1.4 Pay an application fee in the amount established by the Division; and

102.4.1.5 Provide the starting date of the appraisal assignment for which the temporary permit is being obtained.

102.4.2 A non-resident is limited to two temporary permits per calendar year, each of which may be extended one time for an additional six month period if the assignments have not been completed within the original six-month term of the temporary permit. A temporary permit may be extended by submitting any forms required by the Division.

R162-102-5. Reciprocity.

102.5.1 An individual who is licensed or certified as an appraiser by another state may be licensed or certified in Utah by reciprocity on the following conditions:

102.5.1.1 The other state must have required the applicant to satisfactorily complete classroom hours of appraisal education approved by that state which are substantially equivalent

in number to the hours required for the class of licensure or certification for which he is applying in Utah;

102.5.1.2 The education must have included a course in the Uniform Standards of Professional Appraisal Practice. The course must either be the 15-hour National USPAP Course or its equivalent. Equivalency to the 15-hour National USPAP Course will be determined through the Course Approval Program of the Appraiser Qualifications Board (AQB) of the Appraisal Foundation;

102.5.1.3 The applicant shall obtain and study the Utah Real Estate Appraiser Licensing and Certification Act and the rules promulgated thereunder and shall sign an attestation that he understands and will abide by them;

102.5.1.4 The applicant shall provide evidence of having passed an examination that has been approved by the AQB for the class of licensure or certification for which he is applying;

102.5.1.5 If the applicant resides outside of the state of Utah, the applicant shall sign an irrevocable consent to service authorizing the Division to receive service of any lawful process on his behalf in any noncriminal proceeding arising out of his practice as an appraiser in this state;

102.5.1.6 The applicant shall provide a complete licensing history sent directly to the Division by his home state and any other state in which he has been licensed, which shall include the applicant's full name, home and business addresses and telephone numbers, the date first licensed, the type or types of licenses or certifications held, the date the current license or certification expires, and a statement concerning whether disciplinary action has ever been taken, or is pending, against the individual;

102.5.1.7 The applicant shall not have been convicted of a criminal offense involving moral turpitude relating to his ability to provide services as an appraiser; and

102.5.1.8 The applicant shall agree, as a condition of licensure or certification, to furnish to the Division upon demand all records requested by the Division relating to the applicant's appraisal practice in Utah. Failure to do so will be considered grounds for revocation of license or certification.

KEY: real estate appraisals, licensing

Date of Enactment or Last Substantive Amendment: [January 27], 2010

Notice of Continuation: February 15, 2007

Authorizing, and Implemented or Interpreted Law: 61-2b-6(1)

**Commerce, Real Estate
R162-106-5
Failure to Respond to Notice**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 33907

FILED: 08/10/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment is proposed to clarify how a deadline will be calculated within the state's four-day workweek.

SUMMARY OF THE RULE OR CHANGE: A deadline that falls on a day when the division is closed shall be extended to the next business day.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 61-2b-29 and Subsection 61-2b-8(5)(c)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** This amendment is for clarification only. It does not require oversight or enforcement by the state. No impact to the state budget is anticipated.
- ◆ **LOCAL GOVERNMENTS:** Local governments are not subject to the appraiser rules. No fiscal impact to local governments is anticipated.
- ◆ **SMALL BUSINESSES:** Small businesses are not subject to the appraiser rules. No fiscal impact to local governments is anticipated.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This amendment imposes no fees or penalties. No fiscal impact to affected persons is anticipated.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No compliance is required. There are no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact to businesses is anticipated from this filing, which clarifies that deadlines falling on any days that the Division is closed will be extended to the next business day.

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:

- ◆ Jennie Jonsson by phone at 801-530-6706, by FAX at 801-526-4387, or by Internet E-mail at jjonsson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2010

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2010

AUTHORIZED BY: Deanna Sabey, Director

R162. Commerce, Real Estate.

R162-106. Professional Conduct.

R162-106-5. Failure to Respond to Notice.

106.5.

(a) When the Division notifies an appraiser or registered expert witness of a complaint, or when the Division notifies an appraiser or registered expert witness that information is needed from the individual, the notified individual must respond to the notice in the manner specified in the notice within ten business days of receipt of the notice from the Division. Failure to respond within the required time period to a notice or any written request for information from the Division shall be considered a violation of these rules and separate grounds for disciplinary action against the appraiser or registered expert witness.

(b) If a deadline for response under Subsection (a) falls on a day when the Division is closed, the deadline shall be extended to the next business day.

KEY: real estate appraisals, conduct

Date of Enactment or Last Substantive Amendment: [~~April 28~~], 2010

Notice of Continuation: February 15, 2007

Authorizing, and Implemented or Interpreted Law: 61-2b-29; 61-2b-8(5)(c)

Commerce, Real Estate

R162-110

Trainee Registration

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33909

FILED: 08/10/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment is proposed so that the division will have more accurate information about where trainees are working. This information will help facilitate investigations when the division receives complaints.

SUMMARY OF THE RULE OR CHANGE: The amendments require a trainee to inform the division at the time of application of the state-certified appraiser(s) and any appraisal entity or government agency with which the trainee is affiliated. In addition, trainees are required to submit a change form to the division whenever they change an affiliation.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 61-2b-6(4) and Subsection 61-2b-8(2)(d)

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: These amendments will require the state to process change forms. This task is already being performed in the real estate and mortgage industries, and the division has adequate staff to perform it in the appraisal industry, which is the smallest of the three. In addition, an individual who submits a change form will pay a nominal fee, which will offset any other costs to the state and, potentially, increase state revenues (minimally). In the aggregate, no meaningful impact to the state budget is anticipated.

◆ LOCAL GOVERNMENTS: Local governments are not required to comply with or enforce this rule. No fiscal impact to local governments is anticipated.

◆ SMALL BUSINESSES: Small businesses are not required to comply with this rule. No fiscal impact to small businesses is anticipated.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Trainees and appraisers who submit a change form will be required to pay a \$15 change fee. This is the same fee currently being charged to real estate and mortgage licensees who submit a change form. It is the division's position that this cost to individuals is minimal and is justified by the benefit generated.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be a cost of \$15 per change form.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing adopts a requirement for appraiser trainees to disclose the name of appraisers with whom the trainee is affiliated and any affiliations with an appraisal entity or government agency. It also requires trainees to submit a status change form when terminating an affiliation with an appraiser, an appraisal entity, or government agency. Any status change form requires a \$15 fee; it is expected that the benefits of this requirement will outweigh the minimal cost to individuals.

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:

◆ Jennie Jonsson by phone at 801-530-6706, by FAX at 801-526-4387, or by Internet E-mail at jjonsson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2010

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2010

AUTHORIZED BY: Deanna Sabey, Director

R162. Commerce, Real Estate.

R162-110. Trainee Registration.

R162-110-1. Trainee Registration.

(1) Registration Required.

(a) An individual who intends to obtain a license to practice as a state-licensed appraiser must first register with the Division as a trainee.

(b) The Division and the Board shall not award or recognize experience hours toward licensure for any appraisal work that is performed by an individual during a period of time when the individual is not validly and currently registered as a trainee.

(2) Character. An individual registering with the Division as a trainee shall evidence honesty, integrity, and truthfulness.

(a) A trainee applicant shall be denied registration for

(i) Any felony that resulted in

(A) a conviction occurring within five years of the date of application; or

(B) a jail or prison release date falling within five years of the date of application.

(ii) Any misdemeanor involving fraud, misrepresentation, theft, or dishonesty that resulted in

(A) a conviction occurring within three years of the date of application; or

(B) a jail or prison release date falling within three years of the date of application.

(b) A trainee applicant may be denied registration upon consideration of the following:

(i) criminal convictions and pleas entered at any time prior to the date of application;

(ii) the circumstances that led to any criminal convictions or pleas under consideration;

(iii) past acts related to honesty or moral character, with particular consideration given to any such acts involving the business of appraising;

(iv) dishonest conduct that would be grounds under Utah law for sanctioning an existing licensee;

(v) civil judgments in lawsuits brought on grounds of fraud, misrepresentation, or deceit;

(vi) court findings of fraudulent or deceitful activity in civil lawsuits;

(vii) evidence of non-compliance with court orders or conditions of sentencing;

(viii) evidence of non-compliance with terms of a probation agreement, plea in abeyance, or diversion agreement; and

(ix) failure to pay taxes or child support obligations.

(3) Competency. An individual registering with the Division as a trainee shall evidence competency. In evaluating an applicant for competency, the Division and Commission may consider any evidence, including the following:

(a) civil judgments, with particular consideration given to any such judgments involving the appraisal business;

(b) failure to satisfy a civil judgment that has not been discharged in bankruptcy;

(c) the extent and quality of the applicant's training and education in appraising;

(d) the extent of the applicant's knowledge of the Utah Real Estate Appraiser Licensing and Certification Act;

(e) evidence of disregard for licensing laws;

(f) evidence of drug or alcohol dependency; and

(g) the amount of time that has passed since any incident under consideration.

(4) Pre-registration Education. Within the five-year period preceding the date of application, an applicant must successfully complete 75 classroom hours of AQB-approved education as follows:

(a) 30 hours of appraisal principles;

(b) 30 hours of appraisal procedures; and

(c) the 15-hour Uniform Standards of Professional Appraisal Practice (USPAP) course.

(5) Examination. An applicant must pass the final examination in all pre-registration courses.

(6) Application to the Division. An applicant shall submit the following to the Division:

(a) a completed application as provided by the Division;

(b) course completion certificates for the 75 hours of pre-registration education;

(c)(i) two fingerprint cards in a form acceptable to the Division; or

(ii) evidence that the applicant's fingerprints have been scanned at a testing center;

(d) all court documents related to any past criminal proceeding;

(e) complete documentation of any sanction taken against any license in any jurisdiction;

(f) a signed letter of waiver authorizing the Division to obtain the fingerprints of the applicant, review past and present employment records, review education records, and conduct a criminal background check;

(g) the fee for the criminal background check; ~~and~~

(h) the name of the state-certified appraiser(s) with whom the trainee is affiliated;

(i) the name and business address of any appraisal entity or government agency with which the trainee is affiliated; and

~~_____ (h)(i)~~ the application fee.

(7) Affiliation with a Certified Appraiser. Applicants shall affiliate with at least one supervising certified appraiser and evidence that affiliation by:

(a) identifying each supervising certified appraiser on a form supplied by the Division; and

(b) obtaining each supervising certified appraiser's signature on the application.

(8) Notification Requirements. A registered trainee must ~~notify~~ complete a change card and submit it to the Division within 10 ~~working~~ business days whenever the trainee:

~~or~~ (a) affiliates with a new supervising certified appraiser;

(b) terminates an affiliation with a supervising certified appraiser~~[-]; or~~

~~_____ (c) changes affiliation with an appraisal entity or government agency.~~

(9) Re-registration of Existing Trainees.

(a) Any trainee who registered with the Division without undergoing a background check shall re-register with the Division according to the following schedule:

(i) a trainee who registered prior to January 1, 2008 must re-register by January 1, 2011;

(ii) a trainee who registered during the 2008 calendar year must re-register in 2011 by the anniversary of the trainee's registration date;

(iii) a trainee who registered on or after January 1, 2009 must re-register on the two-year anniversary of the registration date.

(b) To re-register, a trainee shall submit the following to the Division:

(i) a completed application as provided by the Division;

(ii)(A) two fingerprint cards in a form acceptable to the Division; or

(B) evidence that the applicant's fingerprints have been scanned at a testing center;

(iii) all court documents related to any past criminal proceeding;

(iv) complete documentation of any sanction taken against any license in any jurisdiction;

(v) a signed letter of waiver authorizing the Division to obtain the fingerprints of the applicant, review past and present employment records, review education records, and conduct a criminal background check;

(vi) the fee for the criminal background check;

(vii) evidence of having completed the 28 hours of continuing education or AQB qualifying education required for renewal under Subsection 162-102-3;~~and~~

(viii) the name of the state-certified appraiser(s) with whom the trainee is affiliated;

(ix) the name and address of any appraisal entity or government agency with which the trainee is affiliated; and

~~_____ (viii)(x)~~ the application fee.

(d) A Division hearing officer shall review the application of any trainee re-registering under Subsection (9) who fails to meet the character and competency requirements of Subsections (2) and (3). The hearing officer may:

(i) approve the application with the concurrence of the Board;

(ii) approve the application subject to probation or restriction; or

(iii) refer the application to the Board for decision.

(10) Registration Renewal.

(a) A trainee registration is valid for two years and must be renewed according to Subsection R162-102-3 before the expiration date printed on the registration certificate.

(b) If the renewal fee and required documentation are not received by the expiration date, the registration shall expire. It shall be grounds for disciplinary sanction if, after the registration has expired, the trainee continues to perform work for which the trainee is required to be registered.

(c) An expired registration may be renewed or reinstated according to the same rules that govern the renewal and reinstatement of appraiser licenses and certifications, as outlined in Subsections R162-102.3.2 through R162-102.3.4.

KEY: real estate appraisals, trainees, registration
Date of Enactment or Last Substantive Amendment: [January 7], 2010
Authorizing, and Implemented or Interpreted Law: 61-2b-6(4); 61-2b-8(2)(d)

Commerce, Real Estate
R162-150
Appraisal Management Companies

NOTICE OF PROPOSED RULE
 (Repeal)
 DAR FILE NO.: 33922
 FILED: 08/12/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division proposes a new Rule R162-2e, to govern Appraisal Management Companies (AMCs). The existing provisions found in Rule R162-150 are incorporated into the new rule; therefore, this rule needs to be repealed. (DAR NOTE: The proposed new Rule R162-2e is DAR No. 33923 in this issue, September 1, 2010, of the Bulletin.)

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

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 61-2e-102 and Section 61-2e-103 and Section 61-2e-304 and Section 61-2e-305

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The substantive provisions are incorporated into the new Rule R162-2e. The burden on the state remains what it was under this rule. The Division anticipates no impact to the state budget.
- ◆ **LOCAL GOVERNMENTS:** Local governments neither register with the Division as AMCs nor oversee and enforce the rules governing AMCs. They are not affected by this rule, and its repeal will have no effect on their budgets.
- ◆ **SMALL BUSINESSES:** Small AMC businesses remain obligated to adhere to the substance of this rule, as those substantive provisions are incorporated into the new Rule R162-2e. Small businesses will not experience any costs or savings by virtue of this rule being repealed.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule governs businesses. Persons other than businesses are not required to comply. The rule has never affected persons other than businesses, and its repeal will have no effect on those persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The rule is repealed. No compliance is required. There are no compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact to businesses is anticipated from this rule repeal, as a substitute rule amendment containing the substance of these provisions is also proposed by the Division.

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:
 ◆ Jennie Jonsson by phone at 801-530-6706, by FAX at 801-526-4387, or by Internet E-mail at jjonsson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2010

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2010

AUTHORIZED BY: Deanna Sabey, Director

R162. Commerce, Real Estate.
~~**[R162-150. Appraisal Management Companies.**~~
~~**R162-150-1. Qualification for Registration or Renewal of Registration.**~~
~~_____ (1) The Division may not register or renew the registration of an appraisal management company that:~~
~~_____ (a) fails to comply with any provision of Utah Code Title 61, Chapter 2e, "Appraisal Management Company Registration and Regulation Act";~~
~~_____ (b) fails to comply with Sections R162-150-2 or R162-150-3; or~~
~~_____ (c) fails to pay to the Division the fee required for registration.~~
~~_____ (2) The Division shall schedule a hearing before the board for an appraisal management company that:~~
~~_____ (a)(i) applies for registration or renewal of registration;~~
~~_____ (ii) has a control person who discloses, or the Division finds through its own research, an issue that might affect the control person's moral character; and~~
~~_____ (iii) the Division determines that the board should be aware of the issue; or~~
~~_____ (b) fails to provide an adequate explanation for the appraisal management company's:~~
~~_____ (i) plan to ensure the use of licensed appraisers in good standing;~~

- ~~_____ (ii) plan to ensure the integrity of the appraisal review process; or~~
- ~~_____ (iii) plan for record keeping.~~

~~R162-150-2. Employee Qualifications.~~

~~_____ (1) An appraisal management company seeking registration shall demonstrate to the Division that each person who selects an appraiser or reviews an appraiser's work for the appraisal management company:~~

- ~~_____ (a) is a licensed or certified appraiser in good standing; or~~
- ~~_____ (b) has taken and passed, within 6 months after initial registration, the 15-hour national Uniform Standards of Professional Appraisal Practice (USPAP) course.~~

~~_____ (2) An appraisal management company seeking renewal of the company's registration shall demonstrate to the Division that each person who selects an appraiser or reviews an appraiser's work for the appraisal management company:~~

- ~~_____ (a) is a licensed or certified appraiser in good standing; or~~
- ~~_____ (b) has completed the seven-hour national USPAP update course.~~

~~R162-150-3. Unprofessional Conduct.~~

~~_____ (1) An appraisal management company commits unprofessional conduct if the appraisal management company:~~

- ~~_____ (a) fails to disclose to the appraiser:

 - ~~_____ (i) the total compensation paid to the appraiser who performs the real estate appraisal activity, disclosed as a dollar amount; and~~
 - ~~_____ (ii) the total compensation retained by the appraisal management company in connection with the real estate appraisal activity, disclosed as a dollar amount;~~~~
- ~~_____ (b) fails to require the appraiser to disclose in the body of the appraisal report:

 - ~~_____ (i) the total compensation paid to the appraiser who performs the real estate appraisal activity, disclosed as a dollar amount; and~~
 - ~~_____ (ii) the total compensation retained by the appraisal management company in connection with the real estate appraisal activity, disclosed as a dollar amount;~~~~
- ~~_____ (c) requires an appraiser to modify any aspect of the appraisal report unless the modification complies with Utah Code Ann. Section 61-2e-307;~~
- ~~_____ (d) requires an appraiser to prepare an appraisal report if the appraiser, in the appraiser's own professional judgment, believes the appraiser does not have the necessary expertise for the specific geographic area;~~
- ~~_____ (e) requires an appraiser to prepare an appraisal report under a time frame that the appraiser, in the appraiser's own professional judgment, believes does not afford the appraiser the ability to meet all the relevant legal and professional obligations;~~
- ~~_____ (f) prohibits or inhibits communication between the appraiser and:

 - ~~_____ (i) the lender;~~
 - ~~_____ (ii) a real estate licensee; or~~
 - ~~_____ (iii) any other person from whom the appraiser, in the appraiser's own professional judgment, believes information would be relevant;~~~~
- ~~_____ (g) requires the appraiser to do anything that does not comply with:~~

- ~~_____ (i) USPAP; or~~
- ~~_____ (ii) any assignment conditions and certifications required by the client;~~

~~_____ (h) makes any portion of the appraiser's fee or the appraisal management company's fee contingent on a favorable outcome, including but not limited to:~~

- ~~_____ (i) a loan closing; or~~
- ~~_____ (ii) a specific dollar amount being achieved by the appraiser in the appraisal report; or~~
- ~~_____ (i) requests, for the purpose of facilitating a mortgage loan transaction;~~
- ~~_____ (i) a broker price opinion; or~~
- ~~_____ (ii) any other real property price or value estimation that does not qualify as an appraisal.~~

~~_____ (2) An appraisal management company commits unprofessional conduct and creates a violation by the appraiser of R162-107.1.6 if the appraisal management company requires the appraiser to:~~

- ~~_____ (a) accept full payment; and~~
- ~~_____ (b) remit a portion of the full payment back to the appraisal management company.~~

~~KEY: appraisal management company regulations~~

~~Date of Enactment or Last Substantive Amendment: November 13, 2009~~

~~Authorizing, and Implemented or Interpreted Law: 61-2e-102; 61-2e-103; 61-2e-304; 61-2e-305]~~

Education, Administration
R277-403
 Student Reading Proficiency and
 Notice to Parents

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 33945

FILED: 08/13/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this new rule is to provide reading requirements consistent with S.B. 150 from the 2010 Legislative Session. (DAR NOTE: S.B. 150 (2010) is found at Chapter 275, Laws of Utah 2010, and was effective 05/11/2010.)

SUMMARY OF THE RULE OR CHANGE: The new rule provides definitions, local education agency responsibilities, and Utah State Office of Education (USOE) responsibilities to ensure identification of students not reading at grade level and appropriate notification to parents.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3) and Subsection 53A-1-606.6(2)

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: There may be costs to the USOE budget for assisting local education agencies (LEAs) in developing assessments although the USOE and LEAs intend to use assessments and interventions currently in use. Additional costs, if any, are speculative and will be absorbed by the USOE.

◆ LOCAL GOVERNMENTS: There may be costs to local government for LEAs to develop assessments although LEAs intend to use assessments and interventions currently in use. Additional costs, if any, are speculative and will be absorbed by the LEAs.

◆ SMALL BUSINESSES: There are no anticipated costs or savings to small businesses. The rule affects public schools and does not involve small businesses.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no anticipated costs or savings to persons other than small businesses, businesses, or local government entities. Parents will not be charged for students to participate in assessments and intervention programs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The USOE and LEAs will provide services as necessary to comply with the requirements of this rule.

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

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2010

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2010

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

R277. Education, Administration.

R277-403. Student Reading Proficiency and Notice to Parents.

R277-403-1. Definitions.

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

B. "LEA" means a Utah school district or charter school.

C. "Midpoint of the school year" means January 15 of each school year unless an LEA identifies an alternative date as the midpoint in a public board meeting no later than September 30 of each year.

D. "Notification to parents" for purposes of this rule means notice by any reasonable means including electronic notice, notice by telephone, written notice, or personal notice.

E. "Reading below grade level" for purposes of this rule means that a student requires additional instruction beyond that provided to typically developing peers in order to close the gap between the student's current level of reading achievement and that expected of all students in that grade as determined by valid and reliable assessment.

F. "Reading remediation interventions" means instruction in activities or both in reading given to students in addition to their regular reading instruction, during another time in the school day, outside school hours, or in the summer, which is focused on specific needs as identified by reliable and valid assessments.

G. "USOE" means the Utah State Office of Education.

R277-403-2. Authority and Purpose.

A. This rule is authorized under Utah Constitutional Article X, Section 3 which vests general control and supervision over public education in the Board, by Section 53A-1-606.6(2) which directs the Board to make rules defining reading levels for specific grades, and by Section 53A-1-401(3) which allows the Board to make rules in accordance with its responsibilities.

B. The purpose of this rule is to provide notice, reporting standards and timelines for LEAs and to provide for a report by the Board to the Education Interim Committee as required under Section 53A-1-606.6.

R277-403-3. LEA Responsibilities.

A. Before the midpoint of the school year, each LEA or school within an LEA, shall identify every student currently enrolled in the school who is in the first, second or third grade who is not reading at grade level.

B. Each LEA shall notify the parent/legal guardian of each student identified under R277-403-3A as determined by the LEA by the midpoint of the school year.

C. An LEA shall use at least two different assessments to identify students who are not reading at grade level.

D. One assessment shall be determined by the USOE.

E. Each LEA shall select and submit the name or type of the additional assessment to the USOE that it shall use to identify students who are not reading at grade level by September 30, 2010. LEAs need not submit additional assessment information annually unless they change the identified assessment.

F. LEAs shall determine the grade level designation for each selected assessment; the USOE shall provide guidance to LEAs to assist in their designation of grade level for various assessments.

G. LEAs shall provide, upon request, information to parents notified under R277-403-3B of the interventions available for their students from the LEA.

H. LEAs shall provide, as part of the S3 Report, the following information:

(1) the number of students in each of grades 1, 2 and 3 that are reading below grade level; and

(2) the number of students in each grade level that were reading below grade level who received reading remediation interventions.

R277-403-4. USOE Responsibilities.

A. The USOE shall provide guidance to LEAs about available and valid assessments to use in evaluating the reading grade level of students.

B. The USOE shall assist LEAs in determining expected reading levels of first, second and third grade students.

C. The USOE shall report and provide data to the Education Interim Committee consistent with Section 53A-1-606.6(3).

KEY: students, reading, proficiency

Date of Enactment or Last Substantive Amendment: 2010

Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53A-1-606.6(2); 53A-1-401(3)

Education, Administration
R277-518
Career and Technical Education
Licenses

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33946

FILED: 08/13/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide licensing requirements for adult education Career and Technical Education providers. The amendments also update program areas, and provide minor wording changes throughout the rule for clarification purposes.

SUMMARY OF THE RULE OR CHANGE: The amendments provide new and revised definitions, adds language to the purpose of the rule, provides changes to program areas, and provides minor wording changes throughout the rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53A-6-104 and Subsection 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There are no anticipated costs or savings to the state budget. The amendments provide requirements for Career and Technical Education licenses and directs that adult education educators must be licensed appropriately.

♦ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings to local government. Licensing takes place at the state level.

♦ **SMALL BUSINESSES:** There are no anticipated costs or savings to small businesses. The rule applies to licensing for public education.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings to persons other than small businesses, businesses, or local government entities. The amendments provide updated language to include adult education.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Individuals have needed a Career and Technical Education license to teach career and technical education. The license now includes a component for adult education.

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

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2010

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2010

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

R277. Education, Administration.

R277-518. Career and Technical Education Licenses.

R277-518-1. Definitions.

A. "Adult education" means organized and structured programs or competencies which directly or indirectly prepare students for post-secondary or training opportunities, and/or

entering and retaining employment opportunities. Adult education programs provide qualifying out-of-school youth and adult students with literacy skills below the collegiate/post-secondary level with a continuous education system, driven by a student education occupational plan (SEOP), through competency-based instruction, with opportunities to improve their basic literacy levels. English as a second language skills, or high school level of education consistent with R277-733.

[C]B. "Board" means the Utah State Board of Education.

[A]C. "Career and technical education (CTE)" means organized educational programs or competencies which directly or indirectly prepare students for employment, or for additional preparation leading to employment, in occupations where entry requirements generally do not generally require a baccalaureate or advanced degree. The CTE programs provide all students a continuous education system, driven by a student education occupational plan (SEOP), through competency-based instruction, culminating in essential life skills, certified occupational skills, and meaningful employment. Occupational categories include agriculture; business; family and consumer sciences; health science and technology; information technology; marketing; trade skilled and technical education sciences; technology and engineering education; and work-based learning, consistent with R277-916.

[B]D. "CTE Alternative Preparation Program (APP) license area of concentration (license area)" means the provisional license area of concentration issued by the Board for a three year period which enables the holder to teach only in a specific CTE or technical field, or adult education in the public school system and may require educational coursework.

[D]E. "Level 1 license" means the initial provisional license issued by the Board to an individual who is recommended by a Board-approved educator preparation program or approved alternative preparation program. A complete Utah educator license requires both a level and a specified license area.

[E]F. "Level 2 license" means a license issued by the Board to a Level 1 license holder upon completion of the Entry Years Enhancement (EYE) Program consistent with R277-522. A complete Utah educator license requires both a level and a specified license area.

[F]G. "Level 3 license" means a license issued by the Board to a Level 2 license holder who has achieved National Board Professional Teaching Standards Certification or who holds a doctorate in the educator's field of practice. A complete Utah educator license requires both a level and a specified license area.

[G]H. "A license area of concentration (license area)" is obtained by completing an approved preparation program or an alternative preparation program in a specific area of educational studies such as Early Childhood (K-3), Elementary 1-8, Middle (5-9), Secondary (6-12), Administrative/Supervisory, CTE, School Counselor, School Psychologist, School Social Worker, Special Education (K-12), Preschool Special Education (Birth-Age 5), Communication Disorders.

[H]I. "USOE" means the Utah State Office of Education.

R277-518-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution, Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-6-104 which permits the Board to issue licenses for educators, and Section 53A-1-401(3) which

allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to specify standards for a CTE license area and endorsements. An appropriate CTE or secondary license area and appropriate endorsement(s) are required for all persons teaching CTE programs at the secondary and adult level where high school credit is earned. Specific to adult education, an appropriate CTE, elementary or secondary license is required for all persons awarding adult education high school completion credits in multiple subjects consistent with R277-733-4L.

R277-518-3. CTE License Required.

A[n] CTE or secondary license area with appropriate endorsements is required for all persons teaching CTE programs at the secondary and adult level where high school credit is earned.

R277-518-4. Level 1 CTE (APP) License.

A. A Level 1 CTE (APP) license area may be issued to an applicant who:

(1) has six years of related occupational experience or documented evidence of a bachelor's degree in a related area and two years of full-time related work experience or documented evidence of an associate's degree in a related area and four years of full-time related work experience with an appropriate endorsement in any of the following program areas:

- (a) agriculture;
- (b) business;
- (c) marketing;
- (d) trade skilled and technical sciences;
- (e) technology and engineering;
- (f) family and consumer sciences;
- (g) health sciences and technology;
- (h) information technology; and
- (i) work-based learning or
- (j) adult education.

(2) has been offered a teaching assignment directly related to the applicant's occupational experience and which is in an approved area of endorsement.

B. A Level 1 CTE (APP) license area for the Disabled, which is restricted to teaching in workshop centers for the handicapped, may be issued to an applicant who has 18 months of related occupational experience in business or industry related to the teaching assignment offered the applicant.

C. Verification of related occupational experience shall accompany an application for a Level 1 CTE (APP) license area.

(1) Periods of employment lasting less than one month and periods of employment prior to 18 years of age are not accepted for purposes of calculating the occupational experience requirement.

(2) All related work experience shall be within 10 years of application for this license.

D. State-approved testing:

The occupational experience requirement may be waived by the appropriate USOE CTE Program Specialist or Coordinator if the applicant has passed a state-approved competency examination in the respective field at or above the USOE established cut-off scores. Individual applicant scores may be used

for licensing purposes up to five years after completion of the respective examination(s).

E. ~~[Besides]~~In addition to meeting the requirements of Subsection 4(A)(1), an applicant for a Level 1 CTE (APP) license area to instruct in the following areas shall satisfy identified standards:

(1) an applicant for barbering, cosmetology, or building trades/courses shall also hold a valid license in the respective area issued by the Utah State Department of Commerce, Division of Occupational and Professional Licensing;

(2) an applicant for nurse assistant course(s) shall also be a licensed practical nurse or a registered nurse;

(3) an applicant for licensed practical nurse course(s) shall also be a registered nurse;

(4) an applicant for health science medical anatomy and physiology course(s) shall also have a minimum of an associate's degree in a health care related area.

F. A CTE (APP) license area applicant shall complete pedagogical coursework or satisfy pedagogical standards consistent with R277-503-4. A Level 1 CTE (APP) license area applicant shall provide evidence of mastery of the following areas:

- (1) concepts, principles, and methods of teaching;
- (2) human relations or educational psychology;
- (3) curriculum development related to the program area;
- (4) development and use of instructional materials and aids;

(5) facility management and safety;

(6) measurement and evaluation;

(7) Career and Technical Student Organizations (CTSO), equity education, work-based learning, and comprehensive guidance.

G. A Level 1 CTE licensee with an adult education endorsement is restricted to employment in an accredited adult education program.

~~[G]~~H. In addition to satisfaction of the pedagogical areas of R277-518-4F, a CTE (APP) license area applicant is strongly encouraged to and may be required by an employing school district to complete a USOE-approved program or assessment that demonstrates mastery of beginning teaching skills and competency.

~~[H]~~I. A person ~~[shall]~~may be employed under a CTE (APP) license area for one three year period. It is expected that a CTE (APP) license area holder shall complete requirements for a Level 1 CTE license area within three years or satisfy the employing district's/charter school's requirement for a district-specific license under Section 53A-6-104.5 in subsequent years.

~~[I]~~J. A person teaching in a CTE or adult education program ~~[up to]~~less than one-half day in relation to the respective school schedule, whose regular employment is or has been in any CTE or adult education program area, may, in lieu of the requirements of R277-518-4(F), have the Level 1 CTE (APP) license area renewed for subsequent three-year periods upon the recommendation of the employing agency and with the approval of the appropriate USOE~~[-CTE]~~ Program Specialist or Coordinator.

~~[J]~~K. Secondary License: A Level 1 CTE (APP) license area holder with a bachelor's degree may obtain a Level 2 CTE license area and secondary license area by successfully completing the following requirements within a three-year period:

(1) if the applicant's bachelor's degree is not related to the subject area he would like to teach, he shall document at least six years of work experience in the desired teaching area;

(2) has satisfied the requirements of R277-518-4F;

(3) ~~[is strongly encouraged to and]~~ may be required by an employing school district and is strongly encouraged to complete a USOE-approved program or assessment that demonstrates mastery of beginning teaching skills and competency

(4) provide documentation of any additional content area coursework as advised by the appropriate USOE~~[-CTE]~~ Program Specialist or Coordinator; and

(5) ~~[have]~~has completed the Entry Years Enhancement (EYE) Program consistent with R277-522.

R277-518-5. Level 1 CTE License.

An applicant for a Level 1 CTE license area with endorsement(s) shall have:

A. a baccalaureate degree in an approved teacher educational program, including 16 semester hours of course work in the endorsement area in which the applicant desires to teach, and at least two years of successful related occupational experience; or,

B. a baccalaureate degree with a major in the related occupational field in which the applicant desires to teach, including satisfaction of 15 semester hours or competency in USOE-approved education course work and two years of related occupational experience.

C. An applicant without public school teaching experience~~[is strongly encouraged to and]~~ may be required by an employing school district and is strongly encouraged to complete a USOE-approved program or assessment that enhances or demonstrates mastery of beginning teaching skills and competencies.

R277-518-6. Level 2 CTE License.

An applicant for the Level 2 CTE license area with endorsements shall have:

A. completed at least three years of successful teaching experience under a Level 1 CTE (APP) license area or Level 1 CTE license area; and

B. completed the Entry Years Enhancement (EYE) Program consistent with R277-522.

R277-518-7. Level 3 CTE License.

A. An applicant for the Level 3 CTE license area with endorsements shall have a Level 2 CTE license area and have achieved National Board Professional Teaching Standards Certification or hold a doctorate in the educator's field of practice.

B. The Level 3 CTE license area ~~[shall]~~may be renewed for successive seven year periods consistent with R277-501, Educator Licensing Renewal.

KEY: educator licensing, professional education, career and technical education

Date of Enactment or Last Substantive Amendment: ~~[January 7, 2009]~~2010

Notice of Continuation: January 8, 2008

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-6-104; 53A-1-401(3)

Education, Administration
R277-601-3
Standards

NOTICE OF PROPOSED RULE

(Amendment)
 DAR FILE NO.: 33947
 FILED: 08/13/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Standards for Utah School Buses and Operations manual was updated. The purpose of this amendment is to change the revision date of the manual within the rule. The amendment also provides clarification about acceptable electronic and telecommunications devices for school bus drivers.

SUMMARY OF THE RULE OR CHANGE: Section R277-601-3 of the rule provides the Standards for Utah School Buses and Operations manual updated revision date and clarifies an acceptable use for electronic and telecommunication devices for school bus drivers.

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

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There are no anticipated costs or savings to the state budget. The amendment changes a date and provides clarification.
- ◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings to local government. The amendment changes a date and provides clarification.
- ◆ **SMALL BUSINESSES:** There are no anticipated costs or savings to small businesses. The amendment changes a date and provides clarification.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings to persons other than small businesses, businesses, or local government entities. The amendment changes a date and provides clarification.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The amendment merely changes a date and provides clarification.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2010

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2010

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

R277. Education, Administration.
R277-601. Standards for Utah School Buses and Operations.
R277-601-3. Standards.

A. The local board and school district personnel shall act consistent with the manual entitled STANDARDS FOR UTAH SCHOOL BUSES AND OPERATIONS, [1999]2010, which includes information received from Utah school districts, the Utah Transportation Commission, and the Utah Department of Public Safety and is available at each department or agency.

B. STANDARDS FOR UTAH SCHOOL BUSES AND OPERATIONS, [1999]2010, shall include:

- (1) Electronic and telecommunications devices
 - (a) A school bus operator's primary responsibility, consistent with training and policy, is the safety of passengers and the safety of the public at all times.
 - (b) A school bus operator shall not use a cell phone, wireless electronic device, or any headset, earpiece, earphones or other equipment that might distract a driver from his responsibilities, whether hand held or not, while the school bus is in motion and not appropriately parked or secured. This prohibition does not apply to the safe and appropriate use of two-way radios or to mounted, voice GPS systems. All school districts and public schools that regularly transport students shall maintain documentation of training for bus drivers and employees in the safe and appropriate use of two-way radios.
 - (c) Once the bus is stopped and safely parked, a school bus operator may use an electronic device for emergencies, to assist special needs students, for behavior management, for appropriate assistance for field/activity trips or for other business-related issues.
 - (d) A school bus operator may use an electronic device for personal use once a school bus is safely parked, appropriately secured and all passengers are safely off and at a safe distance from the bus, consistent with school district policy.

(e) Any violation of these provisions for emergency or compelling reasons may require documentation and will be addressed by the employing education entity.

(f) Violations of these provisions may result in personnel action(s) against the school bus operator consistent with school district/employer policies.

(g) Private contractors employed by school districts for student transportation shall also adhere strictly to these provisions in addition to the policies of the employer.

(2) End of bus route inspection

(a) At the end of a student delivery, both during the day and after the final route of the day, a school bus operator shall complete the delivery, stop and park the bus, and insure that all students are off the bus.

(b) Where possible, this inspection shall be completed at each school site when delivering students to school.

(c) Following each from-school route of the day, the bus operator shall complete the same type of inspection at a safe location a short distance from where the final student(s) left the bus. If children are found on the bus, they shall be immediately returned to their assigned bus stop location or to an alternate location, consistent with district policy, with express permission from the parents(s).

KEY: school, buses, school transportation

Date of Enactment or Last Substantive Amendment: [~~June 9, 2009~~]**2010**

Notice of Continuation: February 13, 2009

Authorizing, and Implemented or Interpreted Law: 53A-1-402(1)(d); 53A-1-401(3)

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

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33916

FILED: 08/10/2010

RULE ANALYSIS

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

SUMMARY OF THE RULE OR CHANGE: The rule modifications address the adoption of appropriate requirements found in 72 FR 55864 - 55937, 72 FR 68043 - 68059, and , 74 FR 33901 - 33906. The definition of "Byproduct Material" is modified to include the expanded authority of the NRC. Definitions for "Consortium," "Cyclotron," and "Diffuse Source" are added. Definitions for "Waste" and "Total Effective Dose Equivalent" are modified for compatibility with NRC requirements. Record keeping requirements are modified to include records for all waste disposals. The address for communications to the Utah Division of Radiation Control is modified to reflect the present address of the Division. In addition to this rulemaking action, comments are being solicited regarding the applicability of Subsection 19-3-104(8), restricting the Board's ability to adopt rules more stringent than corresponding federal regulations. The Executive Secretary and the Board have made a preliminary determination that there are no corresponding federal regulations, but are soliciting comments on that issue, see www.radiationcontrol.utah.gov for the Statement of Basis. The Executive Secretary and the Board have also made a determination that, if Subsection 19-3-104(8) is applicable, corresponding federal regulations are not adequate to protect public health and the environment of the state since they do not address radioactive sources that are identical to those being addressed under federal rules except that they are from a different source.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-3-104(4) and Subsection 19-3-104(8)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This proposed change is expected to have a minimal impact on the state budget. There may be a small cost for printing the updated regulations. Radioactive materials included in the expanded definition of byproduct material were regulated by the State of Utah prior to the modification of NRC requirements; therefore, the Division does not anticipate that additional licenses or license amendments will be required.

◆ **LOCAL GOVERNMENTS:** This proposed change is expected to have a minimal impact on local government. There may be a small cost for regulated local government agencies to obtain or print updated regulations. The majority of radioactive materials included in the expanded definition of byproduct material were regulated by the State of Utah prior to the modification of NRC requirements. It is not anticipated that local government agencies with a radioactive materials license will have to modify their radiation safety program or their license.

◆ **SMALL BUSINESSES:** This proposed change is expected to have a minimal impact on small businesses. There may be a small cost for regulated small businesses to obtain or print updated regulations. The majority of radioactive materials included in the expanded definition of byproduct material

were regulated by the State of Utah prior to the modification of NRC requirements. It is not anticipated that small businesses with a radioactive materials license will have to modify their radiation safety program or their license.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no known persons other than businesses, or local government entities that will be affected by this rulemaking action; therefore the anticipated costs for other persons is expected to be minimal and would be limited to costs for obtaining copies of revised rules, if desired.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Affected persons may incur a small cost to print or obtain printed copies of the revised regulations. The revised regulations will also be available on line at no cost to affected persons.

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

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

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/04/2010

THIS RULE MAY BECOME EFFECTIVE ON: 10/11/2010

AUTHORIZED BY: Rusty Lundberg, Director

R313. Environmental Quality, Radiation Control.

R313-12. General Provisions.

R313-12-1. Authority.

The rules set forth herein are adopted pursuant to the provisions of Subsections 19-3-104(4) and 19-3-104(8) and Section ~~[63J-1-303]~~63J-1-504.

R313-12-3. Definitions.

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

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

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

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

"Accelerator produced radioactive material" means ~~[a-]~~ material made radioactive by a particle accelerator.

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

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

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

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

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

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

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

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

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

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

"As low as reasonably achievable" (ALARA) means making every reasonable effort to maintain exposures to radiation as far below the dose limits as is practical, consistent with the purpose for which the licensed or registered activity is undertaken, taking into account the state of technology, the economics of improvements in relation to state of technology, the economics of

improvements in relation to benefits to the public health and safety, and other societal and socioeconomic considerations, and in relation to utilization of nuclear energy and licensed or registered sources of radiation in the public interest.

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

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

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

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

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

"Byproduct material" means:

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

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

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

~~(ii) material that~~

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

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

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

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

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

"Calibration" means the determination of:

(a) the response or reading of an instrument relative to a series of known radiation values over the range of the instrument; or
(b) the strength of a source of radiation relative to a standard.

"CFR" means Code of Federal Regulations.

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

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

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

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

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

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

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

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

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

"Curie" means a unit of measurement of activity. One curie (Ci) is that quantity of radioactive material which decays at the rate of 3.7×10^{10} disintegrations or transformations per second (dps or tps).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Executive Secretary" means the executive secretary of the board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Individual" means a human being.

"Individual monitoring" means the assessment of:

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

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

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

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

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

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

"Lens dose equivalent" (LDE) applies to the external exposure of the lens of the eye and is taken as the dose equivalent at a tissue depth of 0.3 centimeter (300 mg/cm²).

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

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

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

"Licensing state" means a state which, prior to November 30, 2007, was ~~has been~~ provisionally or finally designated as such by the Conference of Radiation Control Program Directors, Inc., which review[s]ed state regulations to establish equivalency with the Suggested State Regulations and ascertain[s]ed whether a State has an effective program for control of natural occurring or accelerator produced radioactive material ~~[(NARM)]. [The Conference will designate as Licensing States those states with regulations for control of radiation relating to, and an effective program for, the regulatory control of NARM.]~~

"Limits". See "Dose limits".

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

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

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

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

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

~~["NARM" means a naturally occurring or accelerator produced radioactive material. It does not include byproduct, source or special nuclear material.]~~

~~"NORM" means a naturally occurring radioactive material.~~

]"Natural radioactivity" means radioactivity of naturally occurring nuclides.

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

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

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

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

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

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

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

"Personnel monitoring equipment," see individual monitoring devices.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Radiobioassay". See "Bioassay".

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

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

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

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

"Research and development" means:

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

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

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

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

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

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

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

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

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

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

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

"Source material" means:

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

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

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

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

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

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

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

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

"Special nuclear material" means:

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

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

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

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

"Survey" means an evaluation of the radiological conditions and potential hazards incident to the production, use,

transfer, release, disposal, or presence of sources of radiation. When appropriate, such evaluation includes, but is not limited to, tests, physical examinations and measurements of levels of radiation or concentrations of radioactive material present.

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

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

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

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

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

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

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

"Waste" means those low-level radioactive wastes containing radioactive material that are acceptable for disposal in a land disposal facility. For the purposes of this definition, low-level radioactive waste means radioactive waste ~~[waste has the same meaning as in the Low-Level Radioactive Waste Policy Act, P.L. 96-573, as amended by P.L. 99-240, effective January 15, 1986; that is, radioactive waste:~~

~~_____ (a)] not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in paragraphs (b), (c), and (d) of the definition of byproduct material found in Section R313-12-3[Section He.(2) of the Atomic Energy Act (uranium or thorium tailings and waste) and~~

~~_____ (b) classified by the U.S. Nuclear Regulatory Commission as low-level radioactive waste consistent with existing law and in accordance with (a) above].~~

"Week" means seven consecutive days starting on Sunday.

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

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

"Working level" (WL), means any combination of short-lived radon daughters in one liter of air that will result in the ultimate emission of 1.3×10^5 MeV of potential alpha particle

energy. The short-lived radon daughters are, for radon-222: polonium-218, lead-214, bismuth-214, and polonium-214; and for radon 220: polonium-216, lead-212, bismuth-212, and polonium-212.

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

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

R313-12-51. Records.

(1) A licensee or registrant shall maintain records showing the receipt, transfer, and disposal of all sources of radiation.

(2) Prior to license termination, each licensee authorized to possess radioactive material with a half-life greater than 120 days, in an unsealed form, may forward the following records to the Executive Secretary:

(a) records of disposal of licensed material made under Sections R313-15-1002 (including burials authorized before January 28, 1981), R313-15-1003, R313-15-1004, and R313-15-1005; and

(b) records required by Subsection R313-15-1103(2)(d).

NOTE: 10 CFR 20.304 permitted burial of small quantities of licensed materials in soil before January 28, 1981, without specific U.S. Nuclear Regulatory Commission authorization. See 20.304 contained in the 10 CFR, parts 0 to 199, edition revised as of January 1, 1981.

(3) If licensed activities are transferred or assigned in accordance with Subsection R313-19-34(2), each licensee authorized to possess radioactive material, with a half-life greater than 120 days, in an unsealed form, shall transfer the following records to the new licensee and the new licensee will be responsible for maintaining these records until the license is terminated:

(a) records of disposal of licensed material made under Sections R313-15-1002 (including burials authorized before January 28, 1981), R313-15-1003, R313-15-1004, ~~and~~ R313-15-1005, and R313-15-1008; and

(b) records required by Subsection R313-15-1103(2)(d).

(4) Prior to license termination, each licensee may forward the records required by Subsection R313-22-35(7) to the Executive Secretary.

(5) Additional records requirements are specified elsewhere in these rules.

R313-12-110. Communications.

All communications and reports concerning these rules, and applications filed thereunder, should be addressed to the Division of Radiation Control, P.O. Box 144850, ~~1468~~195 North 1950 West, Salt Lake City, Utah 84114-4850.

KEY: definitions, units, inspections, exemptions

Date of Enactment or Last Substantive Amendment: ~~April 11, 2008~~2010

Notice of Continuation: July 10, 2006

Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-3-108

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

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33918

FILED: 08/10/2010

RULE ANALYSIS

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

SUMMARY OF THE RULE OR CHANGE: The rule modifications address the adoption of appropriate requirements found in 72 FR 55864 - 55937 and 72 FR 68043 - 68059. The rule adds ALIs and DACs, as well as transfer and disposal requirements, for radioactive materials added by the expanded definition of byproduct material. Rule changes clarify how deep dose equivalent and effective dose equivalent are determined and how they are to be used in determining the total effective dose equivalent. A requirement that licensees must provide a copy of the written report to exposed individuals when reports of exceeding dose limits are required to be provided to the Executive Secretary. References incorporating the Code of Federal Regulations (CFRs) by reference were updated to current versions to address certain requirements necessary for compatibility and to decrease the number of different versions of the CFRs that must be maintained by licensees. In addition to this rulemaking action, comments are being solicited regarding the applicability of Subsection 19-3-104(8), restricting the Board's ability to adopt rules more stringent than corresponding federal regulations. The Executive Secretary and the Board have made a preliminary determination that there are no corresponding federal regulations, but are

soliciting comments on that issue, see www.radiationcontrol.utah.gov for the Statement of Basis. The Executive Secretary and the Board have also made a determination that, if Subsection 19-3-104(8) is applicable, corresponding federal regulations are not adequate to protect public health and the environment of the state since they do not address radioactive sources that are identical to those being addressed under federal rules except that they are from a different source.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-3-104(4) and Subsection 19-3-104(8)

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Updates 10 CFR 20, published by Government Printing Office, 01/01/2010

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This proposed change is expected to have a minimal impact on the state budget. There may be a small cost for printing the updated regulations. Radioactive materials included in the expanded definition of byproduct material were regulated by the State of Utah prior to the modification of NRC requirements; therefore, the Division does not anticipate that the modified requirements will add a substantial regulatory addition.

◆ **LOCAL GOVERNMENTS:** This proposed change is expected to have a minimal impact on local government. There may be a small cost for regulated local government agencies to obtain or print updated regulations. The majority of radioactive materials included in the expanded definition of byproduct material were regulated by the State of Utah prior to the modification of NRC requirements. It is not anticipated that local government agencies with a radioactive materials license will have to modify their radiation safety program or their license to address the new requirements.

◆ **SMALL BUSINESSES:** This proposed change is expected to have a minimal impact on small businesses. There may be a small cost for regulated small businesses to obtain or print updated regulations. The majority of radioactive materials included in the expanded definition of byproduct material were regulated by the State of Utah prior to the modification of NRC requirements. It is not anticipated that small businesses with a radioactive materials license will have to modify their radiation safety program or their license.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** It cannot be foreseen how any other person, not working for radioactive material licensees possessed by businesses or local government, will have any fiscal impact due to this change in definition.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Affected persons may incur a small cost to print or obtain printed copies of the revised regulations. The revised regulations will also be available on line at no cost to affected persons. If there is an incident where an exposure limit is exceeded, a copy of the written report now required to be

submitted to the Executive Secretary will be required to be given to the exposed individual. Therefore, there will be a minimal cost to the licensee for an extra written copy in the rare instance that an exposure limit is exceeded.

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

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

ENVIRONMENTAL QUALITY
RADIATION CONTROL
THIRD FLOOR

195 N 1950 W

SALT LAKE CITY, UT 84116-3085

or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/04/2010

THIS RULE MAY BECOME EFFECTIVE ON: 10/11/2010

AUTHORIZED BY: Rusty Lundberg, Director

**R313. Environmental Quality, Radiation Control.
R313-15. Standards for Protection Against Radiation.
R313-15-2. Definitions.**

"Annual limit on intake" (ALI) means the derived limit for the amount of radioactive material taken into the body of an adult worker by inhalation or ingestion in a year. ALI is the smaller value of intake of a given radionuclide in a year by the reference man that would result in a committed effective dose equivalent of 0.05 Sv (5 rem) or a committed dose equivalent of 0.5 Sv (50 rem) to any individual organ or tissue. ALI values for intake by ingestion and by inhalation of selected radionuclides are given in Table I, Columns 1 and 2, of Appendix B of 10 CFR 20.1001 to 20.2402, ([2007]2010), which is incorporated by reference.

"Air-purifying respirator" means a respirator with an air-purifying filter, cartridge, or canister that removes specific air contaminants by passing ambient air through the air-purifying element.

"Assigned protection factor" (APF) means the expected workplace level of respiratory protection that would be provided by a properly functioning respirator or a class of respirators to properly fitted and trained users. Operationally, the inhaled concentration can be estimated by dividing the ambient airborne concentration by the APF.

"Atmosphere-supplying respirator" means a respirator that supplies the respirator user with breathing air from a source independent of the ambient atmosphere, and includes supplied-air respirators (SARs) and self-contained breathing apparatus (SCBA) units.

"Class" means a classification scheme for inhaled material according to its rate of clearance from the pulmonary region of the lung. Materials are classified as D, W, or Y, which applies to a range of clearance half-times: for Class D, Days, of less than ten days, for Class W, Weeks, from ten to 100 days, and for Class Y, Years, of greater than 100 days. For purposes of these rules, "lung class" and "inhalation class" are equivalent terms.

"Constraint (dose constraint)" in accordance with 10 CFR 20.1003, ([2007]2010), means a value above which specified licensee actions are required.

"Declared pregnant woman" means a woman who has voluntarily informed her employer, in writing, of her pregnancy and the estimated date of conception. The declaration remains in effect until the declared pregnant woman withdraws the declaration in writing or is no longer pregnant.

"Demand respirator" means an atmosphere-supplying respirator that admits breathing air to the facepiece only when a negative pressure is created inside the facepiece by inhalation.

"Derived air concentration" (DAC) means the concentration of a given radionuclide in air which, if breathed by the reference man for a working year of 2,000 hours under conditions of light work, results in an intake of one ALI. For purposes of these rules, the condition of light work is an inhalation rate of 1.2 cubic meters of air per hour for 2,000 hours in a year. DAC values are given in Table I, Column 3, of Appendix B of 10 CFR 20.1001 to 20.2402, ([2007]2010), which is incorporated by reference.

"Derived air concentration-hour" (DAC-hour) means the product of the concentration of radioactive material in air, expressed as a fraction or multiple of the derived air concentration for each radionuclide, and the time of exposure to that radionuclide, in hours. A licensee or registrant may take 2,000 DAC-hours to represent one ALI, equivalent to a committed effective dose equivalent of 0.05 Sv (5 rem).

"Disposable respirator" means a respirator for which maintenance is not intended and that is designed to be discarded after excessive breathing resistance, sorbent exhaustion, physical damage, or end-of-service-life renders it unsuitable for use. Examples of this type of respirator are a disposable half-mask respirator or a disposable escape-only self-contained breathing apparatus (SCBA).

"Dosimetry processor" means an individual or an organization that processes and evaluates individual monitoring devices in order to determine the radiation dose delivered to the monitoring devices.

"Filtering facepiece" (dust mask) means a negative pressure particulate respirator with a filter as an integral part of the facepiece or with the entire facepiece composed of the filtering medium, not equipped with elastomeric sealing surfaces and adjustable straps.

"Fit factor" means a quantitative estimate of the fit of a particular respirator to a specific individual, and typically estimates the ratio of the concentration of a substance in ambient air to its concentration inside the respirator when worn.

"Fit test" means the use of a protocol to qualitatively or quantitatively evaluate the fit of a respirator on an individual.

"Helmet" means a rigid respiratory inlet covering that also provides head protection against impact and penetration.

"Hood" means a respiratory inlet covering that completely covers the head and neck and may also cover portions of the shoulders and torso.

"Inhalation class", refer to "Class".

"Labeled package" means a package labeled with a Radioactive White I, Yellow II, or Yellow III label as specified in U.S. Department of Transportation regulations 49 CFR 172.403 and 49 CFR 172.436 through 440, ([2007]2009). Labeling of packages containing radioactive materials is required by the U.S. Department of Transportation if the amount and type of radioactive material exceeds the limits for an excepted quantity or article as defined and limited by U.S. Department of Transportation regulations 49 CFR 173.403 and 49 CFR 173.421 through 424, ([2007]2009).

"Loose-fitting facepiece" means a respiratory inlet covering that is designed to form a partial seal with the face.

"Lung class", refer to "Class".

"Nationally tracked source" is a sealed source containing a quantity equal to or greater than Category 1 or Category 2 levels of any radioactive material listed in Appendix E of 10 CFR 20.1001 to 20.2402 ([2007]2010), which is incorporated by reference. In this context a sealed source is defined as radioactive material that is sealed in a capsule or closely bonded, in a solid form and which is not exempt from regulatory control. It does not mean material encapsulated solely for disposal, or nuclear material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet. Category 1 nationally tracked sources are those containing radioactive material at a quantity equal to or greater than the Category 1 threshold. Category 2 nationally tracked sources are those containing radioactive material at a quantity equal to or greater than the Category 2 threshold but less than the Category 1 threshold.

"Negative pressure respirator" (tight fitting) means a respirator in which the air pressure inside the facepiece is negative during inhalation with respect to the ambient air pressure outside the respirator.

"Nonstochastic effect" means a health effect, the severity of which varies with the dose and for which a threshold is believed to exist. Radiation-induced cataract formation is an example of a nonstochastic effect. For purposes of these rules, "deterministic effect" is an equivalent term.

"Planned special exposure" means an infrequent exposure to radiation, separate from and in addition to the annual occupational dose limits.

"Positive pressure respirator" means a respirator in which the pressure inside the respiratory inlet covering exceeds the ambient air pressure outside the respirator.

"Powered air-purifying respirator" (PAPR) means an air-purifying respirator that uses a blower to force the ambient air through air-purifying elements to the inlet covering.

"Pressure demand respirator" means a positive pressure atmosphere-supplying respirator that admits breathing air to the facepiece when the positive pressure is reduced inside the facepiece by inhalation.

"Qualitative fit test" (QLFT) means a pass/fail fit test to assess the adequacy of respirator fit that relies on the individual's response to the test agent.

"Quantitative fit test" (QNFT) means an assessment of the adequacy of respirator fit by numerically measuring the amount of leakage into the respirator.

"Quarter" means a period of time equal to one-fourth of the year observed by the licensee, approximately 13 consecutive weeks, providing that the beginning of the first quarter in a year coincides with the starting date of the year and that no day is omitted or duplicated in consecutive quarters.

"Reference Man" means a hypothetical aggregation of human physical and physiological characteristics determined by international consensus. These characteristics may be used by researchers and public health employees to standardize results of experiments and to relate biological insult to a common base. A description of the Reference Man is contained in the International Commission on Radiological Protection report, ICRP Publication 23, "Report of the Task Group on Reference Man."

"Respiratory protective equipment" means an apparatus, such as a respirator, used to reduce an individual's intake of airborne radioactive materials.

"Sanitary sewerage" means a system of public sewers for carrying off waste water and refuse, but excluding sewage treatment facilities, septic tanks, and leach fields owned or operated by the licensee or registrant.

"Self-contained breathing apparatus" (SCBA) means an atmosphere-supplying respirator for which the breathing air source is designed to be carried by the user.

"Stochastic effect" means a health effect that occurs randomly and for which the probability of the effect occurring, rather than its severity, is assumed to be a linear function of dose without threshold. Hereditary effects and cancer incidence are examples of stochastic effects. For purposes of these rules, "probabilistic effect" is an equivalent term.

"Supplied-air respirator" (SAR) or airline respirator means an atmosphere-supplying respirator for which the source of breathing air is not designed to be carried by the user.

"Tight-fitting facepiece" means a respiratory inlet covering that forms a complete seal with the face.

"User seal check" (fit check) means an action conducted by the respirator user to determine if the respirator is properly seated to the face. Examples include negative pressure check, positive pressure check, irritant smoke check, or isoamyl acetate check.

"Very high radiation area" means an area, accessible to individuals, in which radiation levels from radiation sources external to the body could result in an individual receiving an absorbed dose in excess of five Gy (500 rad) in one hour at one meter from a radiation source or one meter from any surface that the radiation penetrates.

"Weighting factor" w_T for an organ or tissue (T) means the proportion of the risk of stochastic effects resulting from irradiation of that organ or tissue to the total risk of stochastic effects when the whole body is irradiated uniformly. For calculating the effective dose equivalent, the values of w_T are:

TABLE
ORGAN DOSE WEIGHTING FACTORS

Organ or Tissue	w_T
Gonads	0.25
Breast	0.15
Red bone marrow	0.12
Lung	0.12
Thyroid	0.03
Bone surfaces	0.03
Remainder	0.30(1)
Whole Body	1.00(2)

(1) 0.30 results from 0.06 for each of five "remainder" organs, excluding the skin and the lens of the eye, that receive the highest doses.

(2) For the purpose of weighting the external whole body dose, for adding it to the internal dose, a single weighting factor, $w_T = 1.0$, has been specified. The use of other weighting factors for external exposure will be approved on a case-by-case basis until such time as specific guidance is issued.

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

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

(a) An annual limit, which is the more limiting of:

(i) The total effective dose equivalent being equal to 0.05 Sv (5 rem); or

(ii) The sum of the deep dose equivalent and the committed dose equivalent to any individual organ or tissue other than the lens of the eye being equal to 0.50 Sv (50 rem).

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

(i) A lens dose equivalent of 0.15 Sv (15 rem), and

(ii) A shallow dose equivalent of 0.50 Sv (50 rem) to the skin of the whole body or to the skin of any extremity.

(2) Doses received in excess of the annual limits, including doses received during accidents, emergencies, and planned special exposures, shall be subtracted from the limits for planned special exposures that the individual may receive during the current year and during the individual's lifetime. See Subsections R313-15-206(5)(a) and R313-15-206(5)(b).

(3) When the external exposure is determined by measurement with an external personal monitoring device, the deep dose equivalent must be used in place of the effective dose equivalent, unless the effective dose equivalent is determined by a dosimetry method approved by the Executive Secretary, U.S. Nuclear Regulatory Commission, or an Agreement State. The assigned deep dose equivalent must be for the part of the body receiving the highest exposure. The assigned shallow dose equivalent must be the dose averaged over the contiguous ten square centimeters of skin receiving the highest exposure.

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

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

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

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

(4) Derived air concentration (DAC) and annual limit on intake (ALI) values are specified in Table I of Appendix B of 10 CFR 20.1001 to 20.2402, ([2007]2010), which is incorporated by reference, and may be used to determine the individual's dose and to demonstrate compliance with the occupational dose limits. See Section R313-15-1107.

(5) Notwithstanding the annual dose limits, the licensee shall limit the soluble uranium intake by an individual to ten milligrams in a week in consideration of chemical toxicity. See footnote 3, of Appendix B of 10 CFR 20.1001 to 20.2402, ([2007]2010), which is incorporated by reference.

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

R313-15-203. Determination of External Dose from Airborne Radioactive Material.

(1) Licensees or registrants shall, when determining the dose from airborne radioactive material, include the contribution to the deep dose equivalent, lens dose equivalent, and shallow dose equivalent from external exposure to the radioactive cloud. See footnotes 1 and 2 of Appendix B of 10 CFR 20.1001 to 20.2402, ([2007]2010), which is incorporated by reference.

(2) Airborne radioactivity measurements and DAC values shall not be used as the primary means to assess the deep dose equivalent when the airborne radioactive material includes radionuclides other than noble gases or if the cloud of airborne radioactive material is not relatively uniform. The determination of the deep dose equivalent to an individual shall be based upon measurements using instruments or individual monitoring devices.

R313-15-204. Determination of Internal Exposure.

(1) For purposes of assessing dose used to determine compliance with occupational dose equivalent limits, the licensee or

registrant shall, when required pursuant to Section R313-15-502, take suitable and timely measurements of:

(a) Concentrations of radioactive materials in air in work areas; or

(b) Quantities of radionuclides in the body; or

(c) Quantities of radionuclides excreted from the body; or

(d) Combinations of these measurements.

(2) Unless respiratory protective equipment is used, as provided in Section R313-15-703, or the assessment of intake is based on bioassays, the licensee or registrant shall assume that an individual inhales radioactive material at the airborne concentration in which the individual is present.

(3) When specific information on the physical and biochemical properties of the radionuclides taken into the body or the behavior of the material in an individual is known, the licensee or registrant may:

(a) Use that information to calculate the committed effective dose equivalent, and, if used, the licensee or registrant shall document that information in the individual's record; and

(b) Upon prior approval of the Executive Secretary, adjust the DAC or ALI values to reflect the actual physical and chemical characteristics of airborne radioactive material, for example, aerosol size distribution or density; and

(c) Separately assess the contribution of fractional intakes of Class D, W, or Y compounds of a given radionuclide to the committed effective dose equivalent. See Appendix B of 10 CFR 20.1001 to 20.2402, ([2007]2010), which is incorporated by reference.

(4) If the licensee or registrant chooses to assess intakes of Class Y material using the measurements given in Subsections R313-15-204(1)(b) or R313-15-204(1)(c), the licensee or registrant may delay the recording and reporting of the assessments for periods up to seven months, unless otherwise required by Section R313-15-1202 or Section R313-15-1203. This delay permits the licensee or registrant to make additional measurements basic to the assessments.

(5) If the identity and concentration of each radionuclide in a mixture are known, the fraction of the DAC applicable to the mixture for use in calculating DAC-hours shall be either:

(a) The sum of the ratios of the concentration to the appropriate DAC value, that is, D, W, or Y, from Appendix B of 10 CFR 20.1001 to 20.2402, ([2007]2010), which is incorporated by reference, for each radionuclide in the mixture; or

(b) The ratio of the total concentration for all radionuclides in the mixture to the most restrictive DAC value for any radionuclide in the mixture.

(6) If the identity of each radionuclide in a mixture is known, but the concentration of one or more of the radionuclides in the mixture is not known, the DAC for the mixture shall be the most restrictive DAC of any radionuclide in the mixture.

(7) When a mixture of radionuclides in air exists, a licensee or registrant may disregard certain radionuclides in the mixture if:

(a) The licensee or registrant uses the total activity of the mixture in demonstrating compliance with the dose limits in Section R313-15-201 and in complying with the monitoring requirements in Subsection R313-15-502(2), and

(b) The concentration of any radionuclide disregarded is less than ten percent of its DAC, and

(c) The sum of these percentages for all of the radionuclides disregarded in the mixture does not exceed 30 percent.

(8) When determining the committed effective dose equivalent, the following information may be considered:

(a) In order to calculate the committed effective dose equivalent, the licensee or registrant may assume that the inhalation of one ALI, or an exposure of 2,000 DAC-hours, results in a committed effective dose equivalent of 0.05 Sv (5 rem) for radionuclides that have their ALIs or DACs based on the committed effective dose equivalent.

(b) For an ALI and the associated DAC determined by the nonstochastic organ dose limit of 0.50 Sv (50 rem), the intake of radionuclides that would result in a committed effective dose equivalent of 0.05 Sv (5 rem), that is, the stochastic ALI, is listed in parentheses in Table I of Appendix B of 10 CFR 20.1001 to 20.2402, ([2007]2010), which is incorporated by reference. The licensee or registrant may, as a simplifying assumption, use the stochastic ALI to determine committed effective dose equivalent. However, if the licensee or registrant uses the stochastic ALI, the licensee or registrant shall also demonstrate that the limit in Subsection R313-15-201(1)(a)(ii) is met.

R313-15-205. Determination of Prior Occupational Dose.

(1) For each individual likely to receive, in a year, an occupational dose requiring monitoring pursuant to Section R313-15-502, the licensee or registrant shall[-

~~_____ (a)-] Determine the occupational radiation dose received during the current year; and~~

~~[(b) Attempt to obtain the records of cumulative occupational radiation dose. A licensee or registrant may accept, as the record of cumulative radiation dose, an up-to-date form DRC-05 or equivalent, signed by the individual and countersigned by an appropriate official of the most recent employer for work involving radiation exposure, or the individual's current employer, if the individual is not employed by the licensee or registrant.~~

~~_____](2) Prior to permitting an individual to participate in a planned special exposure, the licensee or registrant shall determine:~~

~~(a) The internal and external doses from all previous planned special exposures; and~~

~~(b) All doses in excess of the limits, including doses received during accidents and emergencies, received during the lifetime of the individual.~~

~~(3) In complying with the requirements of Subsections R313-15-205(1) or (2), a licensee or registrant may:~~

~~(a) Accept, as a record of the occupational dose that the individual received during the current year, a written signed statement from the individual, or from the individual's most recent employer for work involving radiation exposure, that discloses the nature and the amount of any occupational dose that the individual received during the current year;[-and]~~

~~_____ (b) Attempt to obtain the records of cumulative occupational radiation dose. A licensee or registrant may accept, as the record of cumulative radiation dose, an up-to-date form DRC-05 or equivalent, signed by the individual and countersigned by an appropriate official of the most recent employer for work involving radiation exposure, or the individual's current employer, if the individual is not employed by the licensee or registrant; and~~

~~[(b)c] Obtain reports of the individual's dose equivalents from the most recent employer for work involving radiation exposure, or the individual's current employer, if the individual is not employed by the licensee or registrant, by telephone, telegram, facsimile, other electronic media or letter. The licensee or registrant shall request a written verification of the dose data if the authenticity of the transmitted report cannot be established.~~

~~(4) The licensee or registrant shall record the exposure history, as required by Subsection R313-15-205(1) or (2), on form DRC-05, or other clear and legible record, of all the information required on [that]form[-~~

~~_____ (a)-] DRC-05. The form or record shall show each period in which the individual received occupational exposure to radiation or radioactive material and shall be signed by the individual who received the exposure. For each period for which the licensee or registrant obtains reports, the licensee or registrant shall use the dose shown in the report in preparing form DRC-05 or equivalent. For any period in which the licensee or registrant does not obtain a report, the licensee or registrant shall place a notation on form DRC-05 or equivalent indicating the periods of time for which data are not available.~~

~~[(b)5] For the purpose of complying with this requirement, licensees or registrants are not required to reevaluate the separate external dose equivalents and internal committed dose equivalents or intakes of radionuclides assessed pursuant to the rules in Rule R313-15 in effect before January 1, 1994. Further, occupational exposure histories obtained and recorded on form DRC-05 or equivalent before January 1, 1994, would not have included effective dose equivalent, but may be used in the absence of specific information on the intake of radionuclides by the individual.~~

~~[(5)6] If the licensee or registrant is unable to obtain a complete record of an individual's current and previously accumulated occupational dose, the licensee or registrant shall assume:~~

~~(a) In establishing administrative controls under Subsection R313-15-201(6) for the current year, that the allowable dose limit for the individual is reduced by 12.5 mSv (1.25 rem) for each quarter for which records were unavailable and the individual was engaged in activities that could have resulted in occupational radiation exposure; and~~

~~(b) That the individual is not available for planned special exposures.~~

~~[(6)7] The licensee or registrant shall retain the records on form DRC-05 or equivalent until the Executive Secretary terminates each pertinent license or registration requiring this record. The licensee or registrant shall retain records used in preparing form DRC-05 or equivalent for three years after the record is made. This includes records required under the standards for protection against radiation in effect prior to January 1, 1994.~~

R313-15-302. Compliance with Dose Limits for Individual Members of the Public.

(1) The licensee or registrant shall make or cause to be made surveys of radiation levels in unrestricted and controlled areas and radioactive materials in effluents released to unrestricted and controlled areas to demonstrate compliance with the dose limits for individual members of the public in Section R313-15-301.

(2) A licensee or registrant shall show compliance with the annual dose limit in Section R313-15-301 by:

(a) Demonstrating by measurement or calculation that the total effective dose equivalent to the individual likely to receive the highest dose from the licensed or registered operation does not exceed the annual dose limit; or

(b) Demonstrating that:

(i) The annual average concentrations of radioactive material released in gaseous and liquid effluents at the boundary of the unrestricted area do not exceed the values specified in Table II of Appendix B of 10 CFR 20.1001 to 20.2402, (~~2007~~2010), which is incorporated by reference; and

(ii) If an individual were continuously present in an unrestricted area, the dose from external sources would not exceed 0.02 mSv (0.002 rem) in an hour and 0.50 mSv (0.05 rem) in a year.

(3) Upon approval from the Executive Secretary, the licensee or registrant may adjust the effluent concentration values in Appendix B, Table II of 10 CFR 20.1001 to 20.2402, (~~2007~~2010), which is incorporated by reference, for members of the public, to take into account the actual physical and chemical characteristics of the effluents, such as, aerosol size distribution, solubility, density, radioactive decay equilibrium, and chemical form.

R313-15-502. Conditions Requiring Individual Monitoring of External and Internal Occupational Dose.

Each licensee or registrant shall monitor exposures from sources of radiation at levels sufficient to demonstrate compliance with the occupational dose limits of Rule R313-15. As a minimum:

(1) Each licensee or registrant shall monitor occupational exposure to radiation from licensed, unlicensed, and registered radiation sources under the control of the licensee and shall supply and require the use of individual monitoring devices by:

(a) Adults likely to receive, in one year from sources external to the body, a dose in excess of ten percent of the limits in Subsection R313-15-201(1); and

(b) Minors likely to receive, in one year, from radiation sources external to the body, a deep dose equivalent in excess of one mSv (0.1 rem), a lens dose equivalent in excess of 1.5 mSv (0.15 rem), or a shallow dose equivalent to the skin or to the extremities in excess of five mSv (0.5 rem); and

(c) Declared pregnant women likely to receive during the entire pregnancy, from radiation sources external to the body, a deep dose equivalent in excess of one mSv (0.1 rem); and

(d) Individuals entering a high or very high radiation area; and

(e) Individuals working with medical fluoroscopic equipment.

(i) An individual monitoring device used for the dose to an embryo/fetus of a declared pregnant woman, pursuant to Subsection R313-15-208(1), shall be located under the protective apron at the waist.

(A) If an individual monitoring device worn by a declared pregnant woman has a monthly reported dose equivalent value in excess of 0.5 mSv (50 mrem), the value to be used for determining the dose to the embryo/fetus, pursuant to Subsection R313-15-208(3)(a) for radiation from medical fluoroscopy, may be the value reported by the individual monitoring device worn at the waist underneath the protective apron which has been corrected for the potential overestimation of dose recorded by the monitoring

device because of the overlying tissue of the pregnant individual. This correction shall be performed by a radiation safety officer of an institutional radiation safety committee, a qualified expert approved by the Board, or a representative of the Executive Secretary.

(ii) An individual monitoring device used for lens dose equivalent shall be located at the neck, or an unshielded location closer to the eye, outside the protective apron.

(iii) When only one individual monitoring device is used to determine the effective dose equivalent for external radiation pursuant to Subsection R313-15-201(3)(b), it shall be located at the neck outside the protective apron. When a second individual monitoring device is used, for the same purpose, it shall be located under the protective apron at the waist. Note: The second individual monitoring device is required for a declared pregnant woman.

(iv) A registrant is not required to supply and require the use of individual monitoring devices provided the registrant has conducted a survey, pursuant to Section R313-15-501, that demonstrates that the working environment the individual encounters will not likely result in a dose in excess of ten percent of the limits in Subsection R313-15-201(1), and that the individual is neither a minor nor a declared pregnant woman.

(2) Each licensee or registrant shall monitor, to determine compliance with Section R313-15-204, the occupational intake of radioactive material by and assess the committed effective dose equivalent to:

(a) Adults likely to receive, in one year, an intake in excess of ten percent of the applicable ALI(s) in Table I, Columns 1 and 2, of Appendix B of 10 CFR 20.1001 to 20.2402, (~~2007~~2010), which is incorporated by reference; and

(b) Minors likely to receive, in one year, a committed effective dose equivalent in excess of one mSv (0.1 rem); and

(c) Declared pregnant women likely to receive, during the entire pregnancy, a committed effective dose equivalent in excess of one mSv (0.1 rem).

Note: All of the occupational doses in Section R313-15-201 continue to be applicable to the declared pregnant worker as long as the embryo/fetus dose limit is not exceeded.

R313-15-703. Use of Individual Respiratory Protection Equipment.

If the licensee or registrant uses respiratory protection equipment to limit the intake of radioactive material:

(1) Except as provided in Subsection R313-15-703(2), the licensee or registrant shall use only respiratory protection equipment that is tested and certified by the National Institute for Occupational Safety and Health.

(2) The licensee or registrant may use equipment that has not been tested or certified by the National Institute for Occupational Safety and Health or for which there is no schedule for testing or certification, provided the licensee or registrant has submitted to the Executive Secretary and the Executive Secretary has approved an application for authorized use of that equipment. The application must include a demonstration by testing, or a demonstration on the basis of reliable test information, that the material and performance characteristics of the equipment are capable of providing the proposed degree of protection under anticipated conditions of use.

(3) The licensee or registrant shall implement and maintain a respiratory protection program that includes:

(a) Air sampling sufficient to identify the potential hazard, permit proper equipment selection, and estimate doses; and

(b) Surveys and bioassays, as necessary, to evaluate actual intakes; and

(c) Testing of respirators for operability, user seal check for face sealing devices and functional check for others, immediately prior to each use; and

(d) Written procedures regarding

(i) Monitoring, including air sampling and bioassays;

(ii) Supervision and training of respirator users;

(iii) Fit testing;

(iv) Respirator selection;

(v) Breathing air quality;

(vi) Inventory and control;

(vii) Storage, issuance, maintenance, repair, testing, and quality assurance of respiratory protection equipment;

(viii) Recordkeeping; and

(ix) Limitations on periods of respirator use and relief from respirator use; and

(e) Determination by a physician prior to initial fitting of respirators, before the first field use of non-face sealing respirators, and either every 12 months thereafter or periodically at a frequency determined by a physician, that the individual user is medically fit to use the respiratory protection equipment; and

(f) Fit testing, with fit factor greater than or equal to ten times the APF for negative pressure devices, and a fit factor greater than or equal to 500 for positive pressure, continuous flow, and pressure-demand devices, before the first field use of tight fitting, face-sealing respirators and periodically thereafter at a frequency not to exceed one year. Fit testing must be performed with the facepiece operating in the negative pressure mode.

(4) The licensee or registrant shall advise each respirator user that the user may leave the area at any time for relief from respirator use in the event of equipment malfunction, physical or psychological distress, procedural or communication failure, significant deterioration of operating conditions, or any other conditions that might require such relief.

(5) The licensee or registrant shall also consider limitations appropriate to the type and mode of use. When selecting respiratory devices the licensee shall provide for vision correction, adequate communication, low temperature work environments, and the concurrent use of other safety or radiological protection equipment. The licensee or registrant shall use equipment in such a way as not to interfere with the proper operation of the respirator.

(6) Standby rescue persons are required whenever one-piece atmosphere-supplying suits, or any combination of supplied air respiratory protection device and personnel protective equipment are used from which an unaided individual would have difficulty extricating himself or herself. The standby persons must be equipped with respiratory protection devices or other apparatus appropriate for the potential hazards. The standby rescue persons shall observe or otherwise maintain continuous communication with the workers (visual, voice, signal line, telephone, radio, or other suitable means), and be immediately available to assist them in case of a failure of the air supply or for any other reason that requires

relief from distress. A sufficient number of standby rescue persons must be immediately available to assist all users of this type of equipment and to provide effective emergency rescue if needed.

(7) Atmosphere-supplying respirators must be supplied with respirable air of grade D quality or better as defined by the Compressed Gas Association in publication G-7.1, "Commodity Specification for Air," 1997 ed. and included in 29 CFR 1910.134(i)(1)(ii)(A) through (E), ([2007]2010). Grade D quality air criteria include:

(a) Oxygen content (v/v) of 19.5 to 23.5%;

(b) Hydrocarbon (condensed) content of five milligrams per cubic meter of air or less;

(c) Carbon monoxide (CO) content of ten ppm or less;

(d) Carbon dioxide content of 1,000 ppm or less; and

(e) Lack of noticeable odor.

(8) The licensee shall ensure that no objects, materials or substances, such as facial hair, or any conditions that interfere with the face and facepiece seal or valve function, and that are under the control of the respirator wearer, are present between the skin of the wearer's face and the sealing surface of a tight-fitting respirator facepiece.

(9) In estimating the dose to individuals from intake of airborne radioactive materials, the concentration of radioactive material in the air that is inhaled when respirators are worn is initially assumed to be the ambient concentration in air without respiratory protection, divided by the assigned protection factor. If the dose is later found to be greater than the estimated dose, the corrected value must be used. If the dose is later found to be less than the estimated dose, the corrected value may be used.

R313-15-704. Further Restrictions on the Use of Respiratory Protection Equipment.

The Executive Secretary may impose restrictions in addition to the provisions of Section R313-15-702, Section R313-15-703, and Appendix A of 10 CFR 20.1001 to 20.2402, ([2007]2010), which is incorporated by reference to:

(1) Ensure that the respiratory protection program of the licensee or registrant is adequate to limit doses to individuals from intakes of airborne radioactive materials consistent with maintaining total effective dose equivalent ALARA; and

(2) Limit the extent to which a licensee or registrant may use respiratory protection equipment instead of process or other engineering controls.

R313-15-705. Application for Use of Higher Assigned Protection Factors.

The licensee or registrant shall obtain authorization from the Executive Secretary before using assigned protection factors in excess of those specified in Appendix A of 10 CFR 20.1001 to 20.2402, ([2007]2010), which is incorporated by reference. The Executive Secretary may authorize a licensee or registrant to use higher assigned protection factors on receipt of an application that:

(1) Describes the situation for which a need exists for higher protection factors; and

(2) Demonstrates that the respiratory protection equipment provides these higher protection factors under the proposed conditions of use.

R313-15-901. Caution Signs.

(1) Standard Radiation Symbol. Unless otherwise authorized by the Executive Secretary, the symbol prescribed by 10 CFR 20.1901, ([2007]2010), which is incorporated by reference, shall use the colors magenta, or purple, or black on yellow background. The symbol prescribed is the three-bladed design as follows:

(a) Cross-hatched area is to be magenta, or purple, or black, and

(b) The background is to be yellow.

(2) Exception to Color Requirements for Standard Radiation Symbol. Notwithstanding the requirements of 10 CFR 20.1901(a), ([2007]2010), which is incorporated by reference, licensees or registrants are authorized to label sources, source holders, or device components containing sources of radiation that are subjected to high temperatures, with conspicuously etched or stamped radiation caution symbols and without a color requirement.

(3) Additional Information on Signs and Labels. In addition to the contents of signs and labels prescribed in Rule R313-15, the licensee or registrant shall provide, on or near the required signs and labels, additional information, as appropriate, to make individuals aware of potential radiation exposures and to minimize the exposures.

R313-15-902. Posting Requirements.

(1) Posting of Radiation Areas. The licensee or registrant shall post each radiation area with a conspicuous sign or signs bearing the radiation symbol and the words "CAUTION, RADIATION AREA."

(2) Posting of High Radiation Areas. The licensee or registrant shall post each high radiation area with a conspicuous sign or signs bearing the radiation symbol and the words "CAUTION, HIGH RADIATION AREA" or "DANGER, HIGH RADIATION AREA."

(3) Posting of Very High Radiation Areas. The licensee or registrant shall post each very high radiation area with a conspicuous sign or signs bearing the radiation symbol and words "GRAVE DANGER, VERY HIGH RADIATION AREA."

(4) Posting of Airborne Radioactivity Areas. The licensee or registrant shall post each airborne radioactivity area with a conspicuous sign or signs bearing the radiation symbol and the words "CAUTION, AIRBORNE RADIOACTIVITY AREA" or "DANGER, AIRBORNE RADIOACTIVITY AREA."

(5) Posting of Areas or Rooms in which Licensed or Registered Material is Used or Stored. The licensee or registrant shall post each area or room in which there is used or stored an amount of licensed or registered material exceeding ten times the quantity of such material specified in Appendix C of 10 CFR 20.1001 to 20.2402, ([2007]2010), which is incorporated by reference, with a conspicuous sign or signs bearing the radiation symbol and the words "CAUTION, RADIOACTIVE MATERIAL" or "DANGER, RADIOACTIVE MATERIAL."

R313-15-903. Exceptions to Posting Requirements.

(1) A licensee or registrant is not required to post caution signs in areas or rooms containing sources of radiation for periods of less than eight hours, if each of the following conditions is met:

(a) The sources of radiation are constantly attended during these periods by an individual who takes the precautions

necessary to prevent the exposure of individuals to sources of radiation in excess of the limits established in Rule R313-15; and

(b) The area or room is subject to the licensee's or registrant's control.

(2) Rooms or other areas in hospitals that are occupied by patients are not required to be posted with caution signs pursuant to Section R313-15-902 provided that the patient could be released from licensee control pursuant to [Section]Rule R313-32.

(3) A room or area is not required to be posted with a caution sign because of the presence of a sealed source provided the radiation level at 30 centimeters from the surface of the sealed source container or housing does not exceed 0.05 mSv (0.005 rem) per hour.

(4) A room or area is not required to be posted with a caution sign because of the presence of radiation machines used solely for diagnosis in the healing arts.

(5) Rooms in hospitals or clinics that are used for teletherapy are exempt from the requirement to post caution signs under Section R313-15-902 if:

(a) Access to the room is controlled pursuant to Section R313-32; and

(b) Personnel in attendance take necessary precautions to prevent the inadvertent exposure of workers, other patients, and members of the public to radiation in excess of the limits established in Rule R313-15.

R313-15-905. Exemptions to Labeling Requirements.

A licensee or registrant is not required to label:

(1) Containers holding licensed or registered material in quantities less than the quantities listed in Appendix C of 10 CFR 20.1001 to 20.2402, ([2007]2010), which is incorporated by reference; or

(2) Containers holding licensed or registered material in concentrations less than those specified in Table III of Appendix B of 10 CFR 20.1001 to 20.2402, ([2007]2010), which is incorporated by reference; or

(3) Containers attended by an individual who takes the precautions necessary to prevent the exposure of individuals in excess of the limits established by Rule R313-15; or

(4) Containers when they are in transport and packaged and labeled in accordance with the rules of the U.S. Department of Transportation; or

(5) Containers that are accessible only to individuals authorized to handle or use them, or to work in the vicinity of the containers, if the contents are identified to these individuals by a readily available written record. Examples of containers of this type are containers in locations such as water-filled canals, storage vaults, or hot cells. The record shall be retained as long as the containers are in use for the purpose indicated on the record; or

(6) Installed manufacturing or process equipment, such as piping and tanks.

R313-15-1001. Waste Disposal - General Requirements.

(1) A licensee or registrant shall dispose of licensed or registered material only:

(a) By transfer to an authorized recipient as provided in Section R313-15-1006 or in Rules R313-21, R313-22, R313-24, or R313-25, or to the U.S. Department of Energy; or

(b) By decay in storage; or

(c) By release in effluents within the limits in Section R313-15-301; or

(d) As authorized pursuant to Sections R313-15-1002, R313-15-1003, R313-15-1004, ~~[or]~~ R313-15-1005, or R313-15-1008.

(2) A person shall be specifically licensed or registered to receive waste containing licensed or registered material from other persons for:

- (a) Treatment prior to disposal; or
- (b) Treatment or disposal by incineration; or
- (c) Decay in storage; or

(d) Disposal at a land disposal facility licensed pursuant to Rule R313-25; or

(e) Storage until transferred to a storage or disposal facility authorized to receive the waste.

R313-15-1003. Disposal by Release into Sanitary Sewerage.

(1) A licensee or registrant may discharge licensed or registered material into sanitary sewerage if each of the following conditions is satisfied:

(a) The material is readily soluble, or is readily dispersible biological material, in water; and

(b) The quantity of licensed or registered radioactive material that the licensee or registrant releases into the sewer in one month divided by the average monthly volume of water released into the sewer by the licensee or registrant does not exceed the concentration listed in Table III of Appendix B of 10 CFR 20.1001 to 20.2402, (~~2007~~2010), which is incorporated by reference; and

(c) If more than one radionuclide is released, the following conditions shall also be satisfied:

(i) The licensee or registrant shall determine the fraction of the limit in Table III of Appendix B of 10 CFR 20.1001 to 20.2402, (~~2007~~2010), which is incorporated by reference, represented by discharges into sanitary sewerage by dividing the actual monthly average concentration of each radionuclide released by the licensee or registrant into the sewer by the concentration of that radionuclide listed in Table III of Appendix B of 10 CFR 20.1001 to 20.2402, (~~2007~~2010), which is incorporated by reference; and

(ii) The sum of the fractions for each radionuclide required by Subsection R313-15-1003(1)(c)(i) does not exceed unity; and

(d) The total quantity of licensed or registered radioactive material that the licensee or registrant releases into the sanitary sewerage system in a year does not exceed 185 GBq (five Ci) of hydrogen-3, 37 GBq (one Ci) of carbon-14, and 37 GBq (one Ci) of all other radioactive materials combined.

(2) Excreta from individuals undergoing medical diagnosis or therapy with radioactive material are not subject to the limitations contained in Subsection R313-15-1003(1).

R313-15-1006. Transfer for Disposal and Manifests.

(1) The requirements of Section R313-15-1006 and Appendix G of 10 CFR 20.1001 to 20.2402, (~~2006~~2010), which are incorporated into these rules by reference, are designed to:

(a) control transfers of low-level radioactive waste by any waste generator, waste collector, or waste processor licensee, as defined in Appendix G in 10 CFR 20.1001 to 20.2402, (~~2006~~2010), who ships low-level waste either directly, or

indirectly through a waste collector or waste processor, to a licensed low-level waste land disposal facility as defined in Section R313-25-2;

(b) establish a manifest tracking system; and

(c) supplement existing requirements concerning transfers and recordkeeping for those wastes.

(2) Any licensee shipping radioactive waste intended for ultimate disposal at a licensed land disposal facility must document the information required on the U.S. Nuclear Regulatory Commission's Uniform Low-Level Radioactive Waste Manifest and transfer this recorded manifest information to the intended consignee in accordance with Appendix G to 10 CFR 20.1001 to 20.2402, (~~2006~~2010), which is incorporated into these rules by reference.

(3) Each shipment manifest shall include a certification by the waste generator as specified in Section II of Appendix G to 10 CFR 20.1001 to 20.2402, (~~2006~~2010), which is incorporated by reference.

(4) Each person involved in the transfer of waste for disposal or in the disposal of waste, including the waste generator, waste collector, waste processor, and disposal facility operator, shall comply with the requirements specified in Section III of Appendix G to 10 CFR 20.1001 to 20.2402, (~~2006~~2010), which is incorporated by reference.

(5) A licensee shipping byproduct material as defined in paragraphs (c) and (d) of the Section R313-12-3 definition of byproduct material intended for ultimate disposal at a land disposal facility licensed under Rule R313-25 must document the information required on the NRC's Uniform Low-Level Radioactive Waste Manifest and transfer the recorded manifest information to the intended consignee in accordance with Appendix G to 10 CFR Part 20 (2010 edition).

R313-15-1008. Disposal of Section R313-12-3 Byproduct Material Definition Paragraphs (c) and (d).

(1) Licensed material defined in Section R313-12-3, byproduct material definition, paragraphs (c) and (d), may be disposed in accordance with Rule R313-25, even though it is not defined as low-level radioactive waste. Therefore, licensed byproduct material being disposed of at a facility, or transferred for ultimate disposal at a facility licensed under Rule R313-25, must meet the requirements of Section R313-15-1006.

(2) A licensee may dispose of licensed material defined in Section R313-12-3, byproduct material definition, paragraphs (c) and (d), at a disposal facility authorized to dispose of such material in accordance with Federal or State solid or hazardous waste law, including the Solid Waste Disposal Act, as authorized under the Energy Policy Act of 2005.

R313-15-~~1008~~1009. Classification and Characteristics of Low-Level Radioactive Waste.

(1) Classification of Radioactive Waste for Land Disposal

(a) Considerations. Determination of the classification of radioactive waste involves two considerations. First, consideration shall be given to the concentration of long-lived radionuclides (and their shorter-lived precursors) whose potential hazard will persist long after such precautions as institutional controls, improved waste form, and deeper disposal have ceased to be effective. These precautions delay the time when long-lived radionuclides could

cause exposures. In addition, the magnitude of the potential dose is limited by the concentration and availability of the radionuclide at the time of exposure. Second, consideration shall be given to the concentration of shorter-lived radionuclides for which requirements on institutional controls, waste form, and disposal methods are effective.

(b) Classes of waste.

(i) Class A waste is waste that is usually segregated from other waste classes at the disposal site. The physical form and characteristics of Class A waste shall meet the minimum requirements set forth in Subsection R313-15-[4008]1009(2)(a). If Class A waste also meets the stability requirements set forth in Subsection R313-15-[4008]1009(2)(b), it is not necessary to segregate the waste for disposal.

(ii) Class B waste is waste that shall meet more rigorous requirements on waste form to ensure stability after disposal. The physical form and characteristics of Class B waste shall meet both the minimum and stability requirements set forth in Subsection R313-15-[4008]1009(2).

(iii) Class C waste is waste that not only shall meet more rigorous requirements on waste form to ensure stability but also requires additional measures at the disposal facility to protect against inadvertent intrusion. The physical form and characteristics of Class C waste shall meet both the minimum and stability requirements set forth in Subsection R313-15-[4008]1009(2).

(c) Classification determined by long-lived radionuclides. If the radioactive waste contains only radionuclides listed in Table I, classification shall be determined as follows:

(i) If the concentration does not exceed 0.1 times the value in Table I, the waste is Class A.

(ii) If the concentration exceeds 0.1 times the value in Table I, but does not exceed the value in Table I, the waste is Class C.

(iii) If the concentration exceeds the value in Table I, the waste is not generally acceptable for land disposal.

(iv) For wastes containing mixtures of radionuclides listed in Table I, the total concentration shall be determined by the sum of fractions rule described in Subsection R313-15-[4008]1009(1)(g).

TABLE I
Concentration

Radionuclide	curie/cubic meter(1)	nanocurie/gram(2)
C-14	8	
C-14 in activated metal	80	
Ni-59 in activated metal	220	
Nb-94 in activated metal	0.2	
Tc-99	3	
I-129	0.08	
Alpha emitting transuranic radionuclides with half-life greater than five years		100
Pu-241		3,500
Cm-242		20,000
Ra-226		100

NOTE: (1) To convert the Ci/m³ values to gigabecquerel (GBq)/cubic meter, multiply the Ci/m³ value by 37.
(2) To convert the nCi/g values to becquerel (Bq)/gram, multiply the nCi/g value by 37.

(d) Classification determined by short-lived radionuclides. If the waste does not contain any of the radionuclides listed in Table I, classification shall be determined based on the concentrations shown in Table II. However, as specified in Subsection R313-15-[4008]1009(1)(f), if radioactive waste does not contain any nuclides listed in either Table I or II, it is Class A.

(i) If the concentration does not exceed the value in Column 1, the waste is Class A.

(ii) If the concentration exceeds the value in Column 1 but does not exceed the value in Column 2, the waste is Class B.

(iii) If the concentration exceeds the value in Column 2 but does not exceed the value in Column 3, the waste is Class C.

(iv) If the concentration exceeds the value in Column 3, the waste is not generally acceptable for near-surface disposal.

(v) For wastes containing mixtures of the radionuclides listed in Table II, the total concentration shall be determined by the sum of fractions rule described in Subsection R313-15-[4008]1009(1)(g).

TABLE II

Radionuclide	Concentration, curie/cubic meter(1)		
	Column 1	Column 2	Column 3
Total of all radionuclides with less than 5-year half-life	700	(2)	(2)
H-3	40	(2)	(2)
Co-60	700	(2)	(2)
Ni-63	3.5	70	700
Ni-63 in activated metal	35	700	7000
Sr-90	0.04	150	7000
Cs-137	1	44	4600

NOTE: (1) To convert the Ci/m³ value to gigabecquerel (GBq)/cubic meter, multiply the Ci/m³ value by 37.

(2) There are no limits established for these radionuclides in Class B or C wastes. Practical considerations such as the effects of external radiation and internal heat generation on transportation, handling, and disposal will limit the concentrations for these wastes. These wastes shall be Class B unless the concentrations of other radionuclides in Table II determine the waste to be Class C independent of these radionuclides.

(e) Classification determined by both long- and short-lived radionuclides. If the radioactive waste contains a mixture of radionuclides, some of which are listed in Table I and some of which are listed in Table II, classification shall be determined as follows:

(i) If the concentration of a radionuclide listed in Table I is less than 0.1 times the value listed in Table I, the class shall be that determined by the concentration of radionuclides listed in Table II.

(ii) If the concentration of a radionuclide listed in Table I exceeds 0.1 times the value listed in Table I, but does not exceed the value in Table I, the waste shall be Class C, provided the concentration of radionuclides listed in Table II does not exceed the value shown in Column 3 of Table II.

(f) Classification of wastes with radionuclides other than those listed in Tables I and II. If the waste does not contain any radionuclides listed in either Table I or II, it is Class A.

(g) The sum of the fractions rule for mixtures of radionuclides. For determining classification for waste that contains a mixture of radionuclides, it is necessary to determine the sum of fractions by dividing each radionuclide's concentration by the appropriate limit and adding the resulting values. The appropriate limits shall all be taken from the same column of the same table. The sum of the fractions for the column shall be less than 1.0 if the waste class is to be determined by that column. Example: A waste contains Sr-90 in a concentration of 1.85 TBq/m³ (50 Ci/m³) and Cs-137 in a concentration of 814 GBq/m³ (22 Ci/m³). Since the concentrations both exceed the values in Column 1, Table II, they shall be compared to Column 2 values. For Sr-90 fraction, 50/150 = 0.33., for Cs-137 fraction, 22/44 = 0.5; the sum of the fractions = 0.83. Since the sum is less than 1.0, the waste is Class B.

(h) Determination of concentrations in wastes. The concentration of a radionuclide may be determined by indirect methods such as use of scaling factors which relate the inferred concentration of one radionuclide to another that is measured, or radionuclide material accountability, if there is reasonable assurance that the indirect methods can be correlated with actual measurements. The concentration of a radionuclide may be averaged over the volume of the waste, or weight of the waste if the units are expressed as becquerel (nanocurie) per gram.

(2) Radioactive Waste Characteristics

(a) The following are minimum requirements for all classes of waste and are intended to facilitate handling and provide protection of health and safety of personnel at the disposal site.

(i) Wastes shall be packaged in conformance with the conditions of the license issued to the site operator to which the waste will be shipped. Where the conditions of the site license are more restrictive than the provisions of Rule R313-15, the site license conditions shall govern.

(ii) Wastes shall not be packaged for disposal in cardboard or fiberboard boxes.

(iii) Liquid waste shall be packaged in sufficient absorbent material to absorb twice the volume of the liquid.

(iv) Solid waste containing liquid shall contain as little free-standing and non-corrosive liquid as is reasonably achievable, but in no case shall the liquid exceed one percent of the volume.

(v) Waste shall not be readily capable of detonation or of explosive decomposition or reaction at normal pressures and temperatures, or of explosive reaction with water.

(vi) Waste shall not contain, or be capable of generating, quantities of toxic gases, vapors, or fumes harmful to persons transporting, handling, or disposing of the waste. This does not apply to radioactive gaseous waste packaged in accordance with Subsection R313-15-[1008]1009(2)(a)(viii).

(vii) Waste shall not be pyrophoric. Pyrophoric materials contained in wastes shall be treated, prepared, and packaged to be nonflammable.

(viii) Wastes in a gaseous form shall be packaged at an absolute pressure that does not exceed 1.5 atmospheres at 20 degrees celsius. Total activity shall not exceed 3.7 TBq (100 Ci) per container.

(ix) Wastes containing hazardous, biological, pathogenic, or infectious material shall be treated to reduce to the maximum extent practical the potential hazard from the non-radiological materials.

(b) The following requirements are intended to provide stability of the waste. Stability is intended to ensure that the waste does not degrade and affect overall stability of the site through slumping, collapse, or other failure of the disposal unit and thereby lead to water infiltration. Stability is also a factor in limiting exposure to an inadvertent intruder, since it provides a recognizable and nondispersible waste.

(i) Waste shall have structural stability. A structurally stable waste form will generally maintain its physical dimensions and its form, under the expected disposal conditions such as weight of overburden and compaction equipment, the presence of moisture, and microbial activity, and internal factors such as radiation effects and chemical changes. Structural stability can be provided by the waste form itself, processing the waste to a stable form, or placing the waste in a disposal container or structure that provides stability after disposal.

(ii) Notwithstanding the provisions in Subsections R313-15-[1008]1009(2)(a)(iii) and R313-15-[1008]1009(2)(a)(iv), liquid wastes, or wastes containing liquid, shall be converted into a form that contains as little free-standing and non-corrosive liquid as is reasonably achievable, but in no case shall the liquid exceed one percent of the volume of the waste when the waste is in a disposal container designed to ensure stability, or 0.5 percent of the volume of the waste for waste processed to a stable form.

(iii) Void spaces within the waste and between the waste and its package shall be reduced to the extent practical.

(3) Labeling. Each package of waste shall be clearly labeled to identify whether it is Class A, Class B, or Class C waste, in accordance with Subsection R313-15-[1008]1009(1).

R313-15-1201. Reports of Stolen, Lost, or Missing Licensed or Registered Sources of Radiation.

(1) Telephone Reports. Each licensee or registrant shall report to the Executive Secretary by telephone as follows:

(a) Immediately after its occurrence becomes known to the licensee or registrant, stolen, lost, or missing licensed or registered radioactive material in an aggregate quantity equal to or greater than 1,000 times the quantity specified in Appendix C of 10 CFR 20.1001 to 20.2402, ([2007]2010), which is incorporated by reference, under such circumstances that it appears to the licensee or registrant that an exposure could result to individuals in unrestricted areas;

(b) Within 30 days after its occurrence becomes known to the licensee or registrant, lost, stolen, or missing licensed or registered radioactive material in an aggregate quantity greater than ten times the quantity specified in Appendix C of 10 CFR 20.1001 to 20.2402, ([2007]2010), which is incorporated by reference, that is still missing.

(c) Immediately after its occurrence becomes known to the registrant, a stolen, lost, or missing radiation machine.

(2) Written Reports. Each licensee or registrant required to make a report pursuant to Subsection R313-15-1201(1) shall, within 30 days after making the telephone report, make a written report to the Executive Secretary setting forth the following information:

(a) A description of the licensed or registered source of radiation involved, including, for radioactive material, the kind, quantity, and chemical and physical form; and, for radiation

machines, the manufacturer, model and serial number, type and maximum energy of radiation emitted;

(b) A description of the circumstances under which the loss or theft occurred; and

(c) A statement of disposition, or probable disposition, of the licensed or registered source of radiation involved; and

(d) Exposures of individuals to radiation, circumstances under which the exposures occurred, and the possible total effective dose equivalent to persons in unrestricted areas; and

(e) Actions that have been taken, or will be taken, to recover the source of radiation; and

(f) Procedures or measures that have been, or will be, adopted to ensure against a recurrence of the loss or theft of licensed or registered sources of radiation.

(3) Subsequent to filing the written report, the licensee or registrant shall also report additional substantive information on the loss or theft within 30 days after the licensee or registrant learns of such information.

(4) The licensee or registrant shall prepare any report filed with the Executive Secretary pursuant to Section R313-15-1201 so that names of individuals who may have received exposure to radiation are stated in a separate and detachable portion of the report.

R313-15-1205. Reports to Individuals of Exceeding Dose Limits.

When a licensee or registrant is required, pursuant to the provisions of Sections R313-15-1203 or R313-15-1204, to report to the Executive Secretary any exposure of an identified occupationally exposed individual, or an identified member of the public, to sources of radiation, the licensee or registrant shall also provide the individual a [copy of the] written report on the exposure data included in the report [submitted] to the Executive Secretary [to the individual]. This report shall be transmitted at a time no later than the transmittal to the Executive Secretary.

KEY: radioactive materials, contamination, waste disposal, safety

Date of Enactment or Last Substantive Amendment: ~~March 17, 2008~~ 2010

Notice of Continuation: December 10, 2007

Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-3-108

Environmental Quality, Radiation Control **R313-18-13** Notifications and Reports to Individuals

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33911

FILED: 08/10/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being revised due to changes to the U.S. Nuclear Regulatory Commission's (NRC) regulations in 10 CFR Part 19 that were published in the Federal Register on 12/04/2007 and made effective on 02/15/2008. The State of Utah has entered into an agreement with the NRC to establish and maintain a compatible program for the control of radioactive material in Utah. This change is necessary to maintain compatibility of the Utah Radiation Control Rules with federal regulations.

SUMMARY OF THE RULE OR CHANGE: Changes in this rule involve two items: 1) currently, licensees or registrants shall furnish each worker, who requires monitoring, a written record of their dose. The new rule would require licensees or registrants to furnish each worker a written record of their dose if they exceed 100 mrem Total Effective Dose Equivalent (TEDE) or 100 mrem to an individual organ or tissue; or upon request by the monitored individual; and 2) increased dissemination of dose information to those individuals who receive a radioactive dose that is required to be reported to the Executive Secretary. If a licensee must report a dose received by an individual, either an occupationally exposed worker or an identified member of the public, to the Division, then the licensee must also report the same information to the individual who received the dose. The licensee must do so in writing.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-3-104(4) and Subsection 19-3-104(8)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** This proposed change is not anticipated to have any impact on the state budget. State government activities will not change as a result of this rule change. State government agencies who are also state radiation control licensees, will need to submit, to individuals, a written report identical to that written report which will be required to be submitted to the Executive Secretary. The estimated cost is minimal since it involves only the cost of office supplies and mailing.

♦ **LOCAL GOVERNMENTS:** This proposed change is not anticipated to have any fiscal impact on local government due to regulatory issues, since local government is not involved in any regulatory activity associated with this rule. However, local government agencies who are also state radiation control licensees, will need to submit, to individuals, a written

report identical to that written report which will be required to be submitted to the Executive Secretary. The estimated cost is minimal since it involves only the cost of office supplies and mailing.

♦ **SMALL BUSINESSES:** Small businesses who are also state radiation control licensees, will need to submit, to individuals, a written report identical to that written report which will be required to be submitted to the Executive Secretary. The estimated cost is minimal since it involves only the cost of office supplies and mailing.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** It cannot be foreseen how any other person, not working for radioactive material licensees possessed by businesses or local government, will have any fiscal impact due to this change in definition.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance cost is minimally measurable since it involves only the cost of office supplies and mailing. This rule adds the additional requirement to report to an individual, the information which is currently reported to the Executive Secretary.

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

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

ENVIRONMENTAL QUALITY
RADIATION CONTROL ROOM THIRD FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Mario Bettolo by phone at 801-536-4256, by FAX at 801-533-4097, or by Internet E-mail at mbettolo@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/04/2010

THIS RULE MAY BECOME EFFECTIVE ON: 10/11/2010

AUTHORIZED BY: Rusty Lundberg, Director

R313. Environmental Quality, Radiation Control.

R313-18. Notices, Instructions and Reports to Workers by Licensees or Registrants--Inspections.

R313-18-13. Notifications and Reports to Individuals.

(1) Radiation exposure data for an individual and the results of measurements, analyses, and calculations of radioactive material deposited or retained in the body of an individual shall be reported to the individual as specified in R313-18-13. The information reported shall include data and results obtained pursuant to these rules, orders, or license conditions, as shown in records maintained by the licensee or registrant pursuant to R313-15-1107. Notifications and reports shall:

(a) be in writing;

(b) include appropriate identifying data such as the name of the licensee or registrant, the name of the individual, and the individual's identification number, preferably social security number;

(c) include the individual's exposure information; and

(d) contain the following statement:

"This report is furnished to you under the provisions of the Utah Administrative Code Section R313-18-13. You should preserve this report for further reference."

(2) Licensees or registrants shall ~~furnish~~ make dose information available to [each] workers [annually a written report of the worker's dose] as shown in records maintained by the licensee or registrant pursuant to R313-15-1107. The licensee shall provide an annual report to each individual monitored under R313-15-502 of the dose received in that monitoring year if:

(a) The individual's occupational dose exceeds 1 mSv (100 mrem) TEDE or 1 mSv (100 mrem) to any individual organ or tissue; or

(b) The individual requests his or her annual dose report.

(3) Licensees or registrants shall furnish a written report of the worker's exposure to sources of radiation at the request of a worker formerly engaged in activities controlled by the licensee or registrant. The report shall include the dose record for each year the worker was required to be monitored pursuant to R313-15-502. The report shall be furnished within 30 days from the date of the request, or within 30 days after the dose of the individual has been determined by the licensee or registrant, whichever is later. The report shall cover the period of time that the worker's activities involved exposure to sources of radiation and shall include the dates and locations of work under the license or registration in which the worker participated during this period.

(4) When a licensee or registrant is required pursuant to R313-15-1202, R313-15-1203, or R313-15-1204 to report to the Executive Secretary an exposure of an individual to sources of radiation, the licensee or ~~the~~ registrant shall also provide the individual a written report on the exposure data included ~~therein~~ in the report to the Executive Secretary. This r[R]eport[s] shall be transmitted at a time no[t] later than the transmittal to the Executive Secretary.

(5) At the request of a worker who is terminating employment with the licensee or registrant in work involving exposure to radiation or radioactive material, during the current year, the licensee or registrant shall provide at termination to the

worker, or to the worker's designee, a written report regarding the radiation dose received by that worker from operations of the licensee or registrant during the current year or fraction thereof. If the most recent individual monitoring results are not available at that time, a written estimate of the dose shall be provided together with a clear indication that this is an estimate.

KEY: radioactive materials, inspections, radiation safety, licensing

Date of Enactment or Last Substantive Amendment: ~~June 11, 1999~~ 2010

Notice of Continuation: July 10, 2006

Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-3-108

Environmental Quality, Radiation Control R313-19

Requirements of General Applicability to Licensing of Radioactive Material

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33919

FILED: 08/10/2010

RULE ANALYSIS

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

SUMMARY OF THE RULE OR CHANGE: The rule modifications address the adoption of appropriate requirements found in 72 FR 55864 - 55937 and complete the adoption of requirements in 72 FR 58473 - 58489. The rule modifications include changes required for compatibility with the expansion of the NRC's definition of byproduct material. Specifically, requirements in the Utah Radiation Control Rules that pertain to diffuse sources of radiation are modified to allow continued regulation by the State of Utah; regulations pertaining to the non-commercial production and transfer of radioisotopes used in Positron Emission Tomography are added; and a testing requirement for elutions from Sr-82/Ru-82 generators is added. Requirements are changed to address the NRC's reclamation of certain regulatory authorities regarding the manufacturing and distribution of certain devices previously regulated under Agreement State authority. References incorporating the

Code of Federal Regulations (CFRs) by reference were updated to current versions to update regulations for compatibility purposes and to decrease the number of different versions of the CFRs that must be maintained by licensees. In addition to this rulemaking action, comments are being solicited regarding the applicability of Subsection 19-3-104(8), restricting the Board's ability to adopt rules more stringent than corresponding federal regulations. The Executive Secretary and the Board have made a preliminary determination that there are no corresponding federal regulations, but are soliciting comments on that issue, see www.radiationcontrol.utah.gov for the Statement of Basis. The Executive Secretary and the Board have also made a determination that, if Subsection 19-3-104(8) is applicable, corresponding federal regulations are not adequate to protect public health and the environment of the state since they do not address radioactive sources that are identical to those being addressed under federal rules except that they are from a different source.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-3-104(4) and Subsection 19-3-104(8)

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Updates 10 CFR 20, published by Government Printing Office, 01/01/2010
- ◆ Updates 10 CFR 71, published by Government Printing Office, 01/01/2010

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** This proposed change is expected to have a minimal impact on the state budget. There may be a small cost for regulated local government agencies to obtain or print updated regulations and new versions of the CFRs. Radioactive materials included in the expanded definition of byproduct material were regulated by the State of Utah prior to the modification of NRC requirements; therefore, the Division does not anticipate that additional licenses or license amendments will be required. Although some regulatory authorities were reclaimed by the NRC, the State of Utah does not have any radioactive materials licenses affected by the relinquished authority so there will be no additional work for state personnel.
- ◆ **LOCAL GOVERNMENTS:** This proposed change is expected to have a minimal impact on local government. There may be a small cost for regulated local government agencies to obtain or print updated regulations and new versions of the CFRs. The majority of radioactive materials included in the expanded definition of byproduct material were regulated by the State of Utah prior to the modification of NRC requirements. It is not anticipated that local government agencies with a radioactive materials license will have to modify their radiation safety program or their license.
- ◆ **SMALL BUSINESSES:** This proposed change is expected to have a minimal impact on small businesses. There may be a small cost for regulated small businesses to obtain or print updated regulations and new versions of the CFRs. The majority of radioactive materials included in the expanded

definition of byproduct material were regulated by the State of Utah prior to the modification of NRC requirements. It is not anticipated that small businesses with a radioactive materials license will have to modify their radiation safety program or their license.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no known persons other than small businesses, businesses, or local government entities that will be affected by this rulemaking action; therefore the anticipated costs for other persons is expected to be minimal and would be limited to costs for obtaining copies of revised rules and new versions of the CFRs, if desired.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Affected persons may incur a small cost to print or obtain printed copies of the revised regulations and new versions of the CFRs. The revised regulations and CFRs will also be available on line at no cost to affected persons.

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

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

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/04/2010

THIS RULE MAY BECOME EFFECTIVE ON: 10/11/2010

AUTHORIZED BY: Rusty Lundberg, Director

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

R313-19-2. General.

(1) A person shall not manufacture, produce, receive, possess, use, transfer, own or acquire radioactive material except as authorized in a specific or general license issued pursuant to Rules R313-21 or R313-22 or as otherwise provided in Rule R313-19.

(2) In addition to the requirements of Rules R313-19, R313-21 or R313-22, all licensees are subject to the requirements of Rules R313-12, R313-15, and R313-18. Licensees authorized to use sealed sources containing radioactive materials in panoramic irradiators with dry or wet storage of radioactive sealed sources, underwater irradiators, or irradiators with high dose rates from radioactive sealed sources are subject to the requirements of Rule R313-34, licensees engaged in industrial radiographic operations are subject to the requirements of Rule R313-36, licensees using radionuclides in the healing arts are subject to the requirements of Rule R313-32, licensees engaged in land disposal of radioactive material are subject to the requirements of Rule R313-25, and licensees engaged in wireline and subsurface tracer studies are subject to the requirements of Rule R313-38. Licensees engaged in source material milling operations, authorized to possess byproduct material, as defined in Section R313-12-3 (see definition (b)) from source material milling operations, authorized to possess and maintain a source material milling facility in standby mode, authorized to receive byproduct material from other persons for disposal, or authorized to possess and dispose of byproduct material generated by source material milling operations are subject to the requirements of Rule R313-24.

R313-19-13. Exemptions.

(1) Source material.

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

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

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

(i) any quantities of thorium contained in:

(A) incandescent gas mantles,

(B) vacuum tubes,

(C) welding rods,

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

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

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

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

(ii) source material contained in the following products:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Radioactive material other than source material.

(a) Exempt concentrations.

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

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

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

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

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

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

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

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

(b) Exempt quantities.

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

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

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

exempt under Subsection R313-19-13(2)(b) or the equivalent regulations of a Licensing State, the U.S. Nuclear Regulatory Commission or an Agreement State.

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

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

(c) Exempt items.

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

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

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

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

(III) 15 millicuries (555.0 MBq) of tritium per dial.

Bezels when used shall be considered as part of the dial;

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

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

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

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

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

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

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

(VIII) one microcurie (37.0 kBq) of radium-226 per timepiece in timepieces manufactured prior to ~~the effective date of these rules~~ November 30, 2007.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(II) each instrument contains no more than ten exempt quantities. For purposes of this requirement, an instrument's source(s) may contain either one type or different types of radionuclides and an individual exempt quantity may be composed of fractional parts of one or more of exempt quantities in Section R313-19-71, provided that the sum of the fractions shall not exceed unity;

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

(ii) Self-luminous products containing radioactive material.

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

(B) Radium-226. A person is exempt from these rules, to the extent that such person receives, possesses, uses, transfers, or owns articles containing less than 0.1 microcurie (3.7 kBq) of

radium-226 which were acquired prior to the effective date of these rules.

(iii) Gas and aerosol detectors containing radioactive material.

(A) Except for persons who manufacture, process, ~~produce, or initially transfer for sale or distribution~~ gas and aerosol detectors containing radioactive material, a person is exempt from these rules to the extent that the person receives, possesses, uses, transfers, owns, or acquires radioactive material in gas and aerosol detectors designed to protect life or property from fires and airborne hazards, provided that detectors containing radioactive material shall have been manufactured, ~~imported, or]processed, produced, or initially~~ transferred in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to 10 CFR Part 32.26, or manufactured or distributed before November 30, 2007 in accordance with a specific license issued by an Agreement State or Licensing State under comparable provisions to 10 CFR 32.26 (2010) authorizing distribution~~[a Licensing State pursuant to Subsection R313-22-75(3) or equivalent requirements, which authorizes the transfer of the detectors]~~ to persons who are exempt from regulatory requirements.

~~[(B) Gas and aerosol detectors previously manufactured and distributed to general licensees in accordance with a specific license issued by an Agreement State shall be considered exempt under Subsection R313-19-13(2)(e)(iii)(A), provided that the device is labeled in accordance with the specific license authorizing distribution of the general licensed device, and provided further that they meet the requirements of Subsection R313-22-75(3).~~

~~(C) Gas and aerosol detectors containing naturally occurring and accelerator-produced radioactive material (NARM) previously manufactured and distributed in accordance with a specific license issued by a Licensing State shall be considered exempt under Subsection R313-19-13(2)(e)(iii)(A), provided that the device is labeled in accordance with the specific license authorizing distribution, and provided further that they meet the requirements of Subsection R313-22-75(3).~~

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

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

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

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

(v) With respect to Subsections R313-19-13(2)(b)(iii), R313-19-13(2)(c)(i), (iii) and (iv), the authority to transfer possession or control by the manufacturer, processor, or producer of equipment, devices, commodities, or other products containing byproduct material whose subsequent possession, use, transfer, and disposal by other persons is exempted from regulatory requirements

may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

R313-19-34. Terms and Conditions of Licenses.

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

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

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

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

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

(a) the licensee;

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

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

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

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

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

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

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

each test and retain each record for three years after the record is made.

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

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

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

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

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

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

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

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

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

R313-19-50. Reporting Requirements.

(1) Licensees shall notify the Executive Secretary as soon as possible but not later than four hours after the discovery of an event that prevents immediate protective actions necessary to avoid exposures to radiation or radioactive materials that could exceed regulatory limits or releases of licensed material that could exceed regulatory limits. Events may include fires, explosions, toxic gas releases, etc.

(2) The following events involving licensed material require notification of the Executive Secretary by the licensee within 24 hours:

(a) an unplanned contamination event that:

(i) requires access to the contamination area, by workers or the public, to be restricted for more than 24 hours by imposing additional radiological controls or by prohibiting entry into the area;

(ii) involves a quantity of material greater than five times the lowest annual limit on intake specified in Appendix B of 10 CFR 20.1001 through 20.2402 (~~[2001]~~2010), which is incorporated by reference, for the material; and

(iii) has access to the area restricted for a reason other than to allow radionuclides with a half-life of less than 24 hours to decay prior to decontamination; or

(b) an event in which equipment is disabled or fails to function as designed when:

(i) the equipment is required by rule or license condition to prevent releases exceeding regulatory limits, to prevent exposures to radiation and radioactive materials exceeding regulatory limits, or to mitigate the consequences of an accident;

(ii) the equipment is required by rule or license condition to be available and operable; and

(iii) no redundant equipment is available and operable to perform the required safety function; or

(c) an event that requires unplanned medical treatment at a medical facility of an individual with spreadable radioactive contamination on the individual's clothing or body; or

(d) an unplanned fire or explosion damaging licensed material or a device, container, or equipment containing licensed material when:

(i) the quantity of material involved is greater than five times the lowest annual limit on intake specified in Appendix B of 10 CFR 20.1001 through 20.2402 (~~[2001]~~2010), which is incorporated by reference, for the material; and

(ii) the damage affects the integrity of the licensed material or its container.

(3) Preparation and submission of reports. Reports made by licensees in response to the requirements of Section R313-19-50 must be made as follows:

(a) For radioactive materials, other than special nuclear material, licensees shall make reports required by Subsections R313-19-50(1) and (2) by telephone to the Executive Secretary. To the extent that the information is available at the time of notification, the information provided in these reports must include:

(i) the caller's name and call back telephone number;

(ii) a description of the event, including date and time;

(iii) the exact location of the event;

(iv) the radionuclides, quantities, and chemical and physical form of the licensed material involved; and

(v) available personnel radiation exposure data.

(b) For special nuclear materials, licensees shall make reports required by Subsections R313-19-50(1) and (2) by telephone to the Executive Secretary. To the extent that the information is available at the time of notification, the information provided in these reports must include:

(i) the caller's name, position title, and call-back telephone number;

(ii) the date, time, and exact location of the event; and

(iii) a description of the event, including:

(A) radiological or chemical hazards involved, including isotopes, quantities, and chemical and physical form of any material released; and

(B) actual or potential health and safety consequences to the workers, the public, and the environment, including relevant chemical and radiation data for actual personnel exposures to radiation or radioactive materials or hazardous chemicals produced from radioactive materials (e.g., level of radiation exposure, concentration of chemicals, and duration of exposure).

(c) Written report for materials other than special nuclear materials. A licensee who makes a report required by Subsections R313-19-50(1) or (2) shall submit a written follow-up report within 30 days of the initial report. Written reports prepared pursuant to other rules may be submitted to fulfill this requirement if the reports contain all of the necessary information and the appropriate distribution is made. These written reports shall be sent to the Executive Secretary. The report shall include the following:

(i) A description of the event, including the probable cause and the manufacturer and model number, if applicable, of equipment that failed or malfunctioned;

(ii) the exact location of the event;

(iii) the radionuclides, quantities, and chemical and physical form of the licensed material involved;

(iv) date and time of the event;

(v) corrective actions taken or planned and results of evaluations or assessments; and

(vi) the extent of exposure of individuals to radiation or radioactive materials without identification of individuals by name.

(d) Written report for special nuclear material. A licensee who makes a report required by Subsections R313-19-50(1) or (2) shall submit a written follow-up report within 30 days of the initial report. Written reports prepared pursuant to other rules may be submitted to fulfill this requirement if the reports contain all of the necessary information and the appropriate distribution is made. These written reports shall be sent to the Executive Secretary. The report shall include the following:

(i) the complete applicable information required by Subsection R313-19-50(3)(b);

(ii) the probable cause of the event, including all factors that contributed to the event and the manufacturer and model number (if applicable) of any equipment that failed or malfunctioned; and

(iii) corrective actions taken or planned to prevent occurrence of similar or identical events in the future and the results of any evaluations or assessments.

R313-19-100. Transportation.

For purposes of Section R313-19-100, 10 CFR 71.0(c), 71.1(a), 71.3, 71.4, 71.13, 71.14(a), 71.15, 71.17, 71.19(a), 71.19(b), 71.19(c), 71.20 through 71.23, 71.47, 71.83 through 71.89, 71.97, 71.101(a), 71.101(b), 71.101(c)(1), 71.101(g), 71.105, 71.127 through 71.137, and Appendix A to Part 71 ([2006]2010) are incorporated by reference with the following clarifications or exceptions:

(1) The exclusion of the following:

(a) In 10 CFR 71.4 the following definitions:

(i) "close reflection by water";

(ii) "licensed material";

(iii) "optimum interspersed hydrogenous moderation";

(iv) "spent nuclear fuel or spent fuel"; and

(v) "state."

(2) The substitution of the following date reference:

(a) "October 1, 2011" for "October 1, 2008".

(3) The substitution of the following rule references:

(a) "R313-36 (incorporating 10 CFR 34.31(b) by reference)" for "Sec. 34.31(b) of this chapter" as found in 10 CFR 71.101(g);

(b) "R313-15-502" for reference to "10 CFR 20.1502";

(c) "R313-14" for reference to "10 CFR Part 2 Subpart B";

(d) "Rule R313-32, 10 CFR Part 35," for reference to "10 CFR part 35";

(e) "R313-15-906(5)" for reference to "10 CFR 20.1906(e)";

(f) "R313-19-100(5)" for "Sec.71.5";

(g) "10 CFR 71.101(a), 71.101(b), 71.101(c)(1), 71.101(g), 71.105, and 71.127 through 71.137" for "subpart H of this part" or for "subpart H" except in 10 CFR 71.17(b), 71.20(b), 71.21(b), 71.22(b), 71.23(b);

(h) "10 CFR 71.0(c), 71.1(a), 71.3, 71.4, 71.17(c)(2), 71.20(c)(2), 71.21(d)(2), 71.83 through 71.89, 71.97, 71.101(a), 71.101(b), 71.101(c)(1), 71.101(g), 71.105, and 71.127 through 71.137" for "subparts A, G, and H of this part";

(i) "10 CFR 71.47" for "subparts E and F of this part"; and

(j) "10 CFR 71.101(a), 71.101(b), 71.101(c)(1), 71.101(g), 71.105, and 71.127 through 71.137" for "Sec. Sec. 71.101 through 71.137."

(4) The substitution of the following terms:

(a) "Executive Secretary" for:

(i) "Commission" in 10 CFR 71.0(c), 71.17(a), 71.20(a), 71.21(a), 71.22(a), 71.23(a), and 71.101(c)(1);

(ii) "Director, Division of Nuclear Safety, Office of Nuclear Security and Incident Response" in 10 CFR 71.97(c)(1), and 71.97(f)(1);

(iii) "Director, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001" in 10 CFR 71.97(c)(3)(iii);

(iv) "NRC" in 10 CFR 71.101(f);

(b) "Executive Secretary, the U.S. Nuclear Regulatory Commission, or an Agreement State" for "Commission" in 10 CFR 71.3;

(c) "The Governor of Utah" for:

(i) "the governor of a State" in 71.97(a);

(ii) "each appropriate governor" in 10 CFR 71.97(c)(1);

(iii) "the governor" in 10 CFR 71.97(c)(3);

(iv) "the governor of the state" in 10 CFR 71.97(e);

(v) "the governor of each state" in 10 CFR 71.97(f)(1);

(vi) "a governor" in 10 CFR 71.97(e);

(d) "State of Utah" for "State" in 71.97(a), 71.97(b)(2), and 71.97(d)(4);

(e) "the Governor of Utah's" for:

(i) "the governor's" in 10 CFR 71.97(a), 71.97(c)(3), 71.97(c)(3)(iii), 71.97(e), and 71.97(f)(1);

(ii) "governor's" in 10 CFR 71.97(c)(1), and 71.97(e);

(f) "Specific or general" for "NRC" in 10 CFR 71.0(c);

(g) "The Executive Secretary at the address specified in R313-12-110" for reference to "ATTN: Document Control Desk, Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards" in 10 CFR 71.101(c)(1);

(h) "Each" for "Using an appropriate method listed in Sec. 71.1(a), each" in 10 CFR 71.101(c)(1);

(i) "The material must be contained in a Type A package meeting the requirements of 49 CFR 173.417(a)." for "The fissile material need not be contained in a package which meets the standards of subparts E and F of this part; however, the material must be contained in a Type A package. The Type A package must also meet the DOT requirements of 49 CFR 173.417(a)." as found in 10 CFR 71.22(a) and 71.23(a);

(j) "Licensee" for "licensee, certificate holder, and applicant for a COC"; and

(k) "Licensee is" for reference to "licensee, certificate holder, and applicant for a COC are."

(5) Transportation of licensed material

(a) Each licensee who transports licensed material outside the site of usage, as specified in the license issued by the Executive Secretary, the U.S. Nuclear Regulatory Commission or an Agreement State, or where transport is on public highways, or who delivers licensed material to a carrier for transport, shall comply with the applicable requirements of the U.S. Department of Transportation regulations in 49 CFR parts 107, 171 through 180, and 390 through 397 (~~2006~~2009), appropriate to the mode of transport.

(i) The licensee shall particularly note DOT regulations in the following areas:

(A) Packaging--49 CFR part 173: subparts A (49 CFR 173.1 through 49 CFR 173.13), B (49 CFR 173.21 through 49 CFR 173.40), and I (49 CFR 173.401 through 49 CFR 173.477).

(B) Marking and labeling--49 CFR part 172: subpart D (49 CFR 172.300 through 49 CFR 172.338); and 49 CFR 172.400 through 49 CFR 172.407 and 49 CFR 172.436 through 49 CFR 172.441 of subpart E.

(C) Placarding--49 CFR part 172: subpart F (49 CFR 172.500 through 49 CFR 172.560), especially 49 CFR 172.500 through 49 CFR 172.519 and 49 CFR 172.556; and appendices B and C.

(D) Accident reporting--49 CFR part 171: 49 CFR 171.15 and 171.16.

(E) Shipping papers and emergency information--49 CFR part 172: subparts C (49 CFR 172.200 through 49 CFR 172.205) and G (49 CFR 172.600 through 49 CFR 172.606).

(F) Hazardous material employee training--49 CFR part 172: subpart H (49 CFR 172.700 through 49 CFR 172.704).

(G) Security plans--49 CFR part 172: subpart I (49 CFR 172.800 through 49 CFR 172.804).

(H) Hazardous material shipper/carrier registration--49 CFR part 107: subpart G (49 CFR 107.600 through 49 CFR 107.606).

(ii) The licensee shall also note DOT regulations pertaining to the following modes of transportation:

(A) Rail--49 CFR part 174: subparts A through D (49 CFR 174.1 through 49 CFR 174.86) and K (49 CFR 174.700 through 49 CFR 174.750).

(B) Air--49 CFR part 175.

(C) Vessel--49 CFR part 176: subparts A through F (49 CFR 176.1 through 49 CFR 176.99) and M (49 CFR 176.700 through 49 CFR 107.720).

(D) Public Highway--49 CFR part 177 and parts 390 through 397.

(b) If DOT regulations are not applicable to a shipment of licensed material, the licensee shall conform to the standards and requirements of the DOT specified in paragraph (a) of this section to the same extent as if the shipment or transportation were subject to DOT regulations. A request for modification, waiver, or exemption from those requirements, and any notification referred to in those requirements, must be filed with, or made to, the Executive Secretary, P.O. Box 144850, Salt Lake City, Utah 84114-4850.

KEY: license, reciprocity, transportation, exemptions

Date of Enactment or Last Substantive Amendment: ~~July 14, 2010~~

Notice of Continuation: October 5, 2006

Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-3-108

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

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33917

FILED: 08/10/2010

RULE ANALYSIS

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

SUMMARY OF THE RULE OR CHANGE: The rule modifications address the adoption of appropriate requirements found in 72 FR 55864 - 55937. Changes include the addition of general license requirements for certain items and self-luminous products containing radium-226. The rulemaking clarifies which manufacturers are authorized to manufacture or produce devices, items, or radioactive materials regulated under general licenses. The rulemaking also corrects portions of the rule to conform to the State of Utah rule writing guidelines. In addition to this rulemaking action, comments are being solicited regarding the applicability of Subsection 19-3-104(8), restricting the Board's ability to adopt rules more stringent than corresponding federal regulations. The Executive Secretary and the Board have made a preliminary determination that

there are no corresponding federal regulations, but are soliciting comments on that issue, see www.radiationcontrol.utah.gov for the Statement of Basis. The Executive Secretary and the Board have also made a determination that, if Subsection 19-3-104(8) is applicable, corresponding federal regulations are not adequate to protect public health and the environment of the state since they do not address radioactive sources that are identical to those being addressed under federal rules except that they are from a different source.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-3-104(4) and Subsection 19-3-104(8)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This proposed change is expected to have an minimal impact on the state budget. The number of items or devices containing 0.1 millicuries or greater of radium-226 that are not presently licensed cannot be determined. The Division of Radiation Control (DRC) is unable to predict whether or not additional sources will be required to be registered with the Executive Secretary. DRC staff believe that the majority of these radium sources are presently regulated, since the items and devices in question are regulated as generally licensed devices. The Division does not anticipate a substantial cost associated with regulation of these items or devices. There will be minimal costs associated with tracking and registering these items and devices. There may be a small cost to obtain or print updated regulations and new versions of the CFRs.

◆ **LOCAL GOVERNMENTS:** This proposed change is expected to have a minimal impact on local government. There may be a small cost for regulated local government agencies to obtain or print updated regulations and new versions of the CFRs. The majority of radioactive materials included in the expanded definition of byproduct material were regulated by the State of Utah prior to the modification of NRC requirements. Local governments possess radioactive materials for specific uses that do not fall under the proposed general license regulation. Therefore, it is not anticipated that local government agencies with a radioactive materials license will have to modify their radiation safety program or their license.

◆ **SMALL BUSINESSES:** This proposed change is expected to have a minimal impact on small businesses. There may be a small cost for regulated small businesses to obtain or print updated regulations and new versions of the CFRs. The majority of radioactive materials included in the expanded definition of byproduct material were regulated by the State of Utah prior to the modification of NRC requirements. It is not anticipated that small businesses with a radioactive materials license will have to modify their radiation safety program or their license.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** It cannot be foreseen how any other person, not working for radioactive material licensees possessed by businesses or

local government, will be fiscally impacted due to these proposed regulations.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Affected persons may incur a small cost to print or obtain printed copies of the revised regulations. The revised regulations will also be available on line at no cost to affected persons. If an individual is required to register previously unregistered radioactive material, there will be a minimum registration cost and minimal costs associated with required testing and/or tracking.

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

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

ENVIRONMENTAL QUALITY
RADIATION CONTROL
THIRD FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/04/2010

THIS RULE MAY BECOME EFFECTIVE ON: 10/11/2010

AUTHORIZED BY: Rusty Lundberg, Director

R313. Environmental Quality, Radiation Control.

R313-21. General Licenses.

R313-21-22. General Licenses*--Radioactive Material Other Than Source Material.

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

(1) Certain devices and equipment. A general license is hereby issued to transfer, receive, acquire, own, possess, and use radioactive material incorporated in the following devices or equipment which have been manufactured, tested and labeled by the manufacturer in accordance with a specific license issued to the manufacturer by the Executive Secretary, the Nuclear Regulatory Commission, an Agreement State, or a Licensing State for use pursuant to 10 CFR 31.3. This general license is subject to the

provisions of R313-12-51 through R313-12-70, R313-14, R313-15, R313-18 and R313-19 as applicable.

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

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

(2) [RESERVED:]Certain items and self-luminous products containing radium-226.

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

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

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

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

(iv) All other luminous products provided that no more than 100 items are used or stored at the same location at one time.

(v) Small radium sources containing no more than 37 kilobecquerels (1 uCi) of radium-226. For the purposes of Subsection R313-21-22(2)(a), "small radium sources" means discrete survey instrument check sources, sources contained in radiation measuring instruments, sources used in educational demonstrations such as cloud chambers and spinthariscopes, electron tubes, static eliminators, or as designated by the Executive Secretary.

(b) Persons who acquire, receive, possess, use, or transfer radioactive material under the general license issued in Subsection R313-21-22(2)(a) are exempt from the provisions of Rules R313-15, R313-18, and Sections R313-12-51 and R313-19-50, to the extent that the receipt, possession, use, or transfers of radioactive material is within the terms of the general license; provided, however, that this exemption shall not be deemed to apply to a person specifically licensed under Rule R313-22.

(c) A person who acquires, receives, possesses, uses, or transfers radioactive material in accordance with the general license in Subsection R313-21-22(2)(a):

(i) Shall notify the Executive Secretary should there be an indication of possible damage to the product so that it appears it could result in a loss of the radioactive material. A report containing a brief description of the event, and the remedial action taken, must be furnished to the Executive Secretary within 30 days.

(ii) Shall not abandon products containing radium-226. The product, and radioactive material from the product, may only be disposed of according to Section R313-15-1008 or by transfer to

a person authorized by a specific license to receive the radium-226 in the product or as otherwise approved by the Executive Secretary.

(iii) Shall not export products containing radium-226 except in accordance with 10 CFR Part 110.

(iv) Shall dispose of products containing radium-226 at a disposal facility authorized to dispose of radioactive material in accordance with Federal or State solid or hazardous waste laws, including the Solid Waste Disposal Act, as authorized under the Energy Policy Act of 2005, by transfer to a person authorized to receive radium-226 under Rule R313-22 or equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State or as otherwise approved by the Executive Secretary.

(v) Shall respond to written requests from the Executive Secretary to provide information relating to the general license within 30 calendar days of the date of the request, or other time specified in the request. If the general licensee cannot provide the requested information within the allotted time, it shall, within that same time period, request a longer period to supply the information by providing the Executive Secretary a written justification using the method stated in Section R313-12-110.

(d) The general license in R313-21-22(2)(a) does not authorize the manufacture, assembly, disassembly, repair, or import of products containing radium-226, except that timepieces may be disassembled and repaired.

(3) RESERVED.

(4) Certain detecting, measuring, gauging or controlling devices and certain devices for producing light or an ionized atmosphere.*

NOTE: *Persons possessing radioactive material in devices under a general license in R313-21-22(4) before January 15, 1975, may continue to possess, use, or transfer that material in accordance with the labeling requirements of R313-21-22(4) in effect on January 14, 1975.

(a) A general license is hereby issued to commercial and industrial firms and research, educational and medical institutions, individuals in the conduct of their business, and state or local government agencies to own, acquire, receive, possess, use or transfer, in accordance with the provisions of R313-21-22(4)(b), (c) and (d), radioactive material, excluding special nuclear material, contained in devices designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation, leakage, or qualitative or quantitative chemical composition, or for producing light or an ionized atmosphere.

(b)(i) The general license in R313-21-22(4)(a) applies only to radioactive material contained in devices which have been manufactured or initially transferred and labeled in accordance with the specifications contained in:

(A) a specific license issued by the Executive Secretary pursuant to R313-22-75(4); or

(B) an equivalent specific license issued by the Nuclear Regulatory Commission[;] or an Agreement State; or [~~a Licensing State.~~]

(C) An equivalent specific license issued by a State with provisions comparable to R313-22-75.*

NOTE: *Regulations under the Federal Food, Drug, and Cosmetic Act authorizing the use of radioactive control devices in food production require certain additional labeling thereon which is found in 21 CFR 179.21.

(ii) The devices must have been received from one of the specific licensees described in R313-21-22(4)(b)(i) or through a transfer made under R313-21-22(4)(c)(ix).

(c) Any person who owns, acquires, receives, possesses, uses or transfers radioactive material in a device pursuant to the general license in R313-21-22(4)(a):

(i) shall assure that all labels affixed to the device at the time of receipt and bearing a statement that removal of the label is prohibited are maintained thereon and shall comply with all instructions and precautions provided by the labels;

(ii) shall assure that the device is tested for leakage of radioactive material and proper operation of the on-off mechanism and indicator, if any, at no longer than six-month intervals or at other intervals as are specified in the label; however:

(A) Devices containing only krypton need not be tested for leakage of radioactive material, and

(B) Devices containing only tritium or not more than 3.7 megabecquerel (100 uCi) of other beta, gamma, or both, emitting material or 0.37 megabecquerel (10 uCi) of alpha emitting material and devices held in storage in the original shipping container prior to initial installation need not be tested for any purpose;

(iii) shall assure that other testing, installation, servicing, and removal from installation involving the radioactive materials, its shielding or containment, are performed:

(A) in accordance with the instructions provided by the labels; or

(B) by a person holding a specific license pursuant to R313-22 or from the Nuclear Regulatory Commission, an Agreement State, or a Licensing State to perform such activities;

(iv) shall maintain records showing compliance with the requirements of R313-21-22(4)(c)(ii) and (iii). The records shall show the results of tests. The records also shall show the dates of performance of, and the names of persons performing, testing, installation, servicing, and removal from the installation the radioactive material and its shielding or containment. The licensee shall retain these records as follows:

(A) Each record of a test for leakage of radioactive material required by R313-21-22(4)(c)(ii) shall be retained for three years after the next required leak test is performed or until the sealed source is transferred or disposed of;

(B) Each record of a test of the on-off mechanism and indicator required by R313-21-22(4)(c)(ii) shall be retained for three years after the next required test of the on-off mechanism and indicator is performed or until the sealed source is transferred or disposed of;

(C) Each record that is required by R313-21-22(4)(c)(iii) shall be retained for three years from the date of the recorded event or until the device is transferred or disposed of;

(v) shall immediately suspend operation of the device if there is a failure of, or damage to, or any indication of a possible failure of or damage to, the shielding of the radioactive material or the on-off mechanism or indicator, or upon the detection of 185 becquerel (0.005 uCi) or more removable radioactive material. The device may not be operated until it has been repaired by the manufacturer or other person holding a specific license to repair the device that was issued by the Executive Secretary, the Nuclear Regulatory Commission, an Agreement State, or a Licensing State. The device and any radioactive material from the device may only be disposed of by transfer to a person authorized by a specific

license to receive the radioactive material in the device or as otherwise approved by the Executive Secretary, the Nuclear Regulatory Commission, an Agreement State, or a Licensing State. A report containing a brief description of the event and the remedial action taken; and, in the case of detection of 185 becquerel (0.005 uCi) or more removable radioactive material or failure of or damage to a source likely to result in contamination of the premises or the environs, a plan for ensuring that the premises and environs are acceptable for unrestricted use, must be furnished to the Executive Secretary within 30 days. Under these circumstances, the criteria set out in R313-15-402 may be applicable, as determined by the Executive Secretary on a case-by-case basis;

(vi) shall not abandon the device containing radioactive material;

(vii) shall not export the device containing radioactive materials except in accordance with 10 CFR 110;

(viii)(A) shall transfer or dispose of the device containing radioactive material only by export as provided by R313-21-22(4)(c)(vii), by transfer to another general licensee as authorized in R313-21-22(4)(c)(ix), to a person authorized to receive the device by a specific license issued under R313-22, to an authorized waste collector under R313-25, or equivalent regulations of the Nuclear Regulatory Commission, an Agreement State, or a Licensing State, or as otherwise approved under R313-21-22(4)(c)(viii)(C);

(B) shall furnish a report to the Executive Secretary within 30 days after transfer of a device to a specific licensee or export. The report must contain:

(I) the identification of the device by manufacturer's or initial transferor's name, model number, and serial number;

(II) the name, address, and license number of the person receiving the device, the license number is not applicable if exported; and

(III) the date of the transfer;

(C) shall obtain written approval from the Executive Secretary before transferring the device to any other specific licensee not specifically identified in R313-21-22(4)(c)(viii)(A); however, a holder of a specific license may transfer a device for possession and use under its own specific license without prior approval, if[-] the holder:

(I) verifies that the specific license authorizes the possession and use, or applies for and obtains an amendment to the license authorizing the possession and use;

(II) removes, alters, covers, or clearly and unambiguously augments the existing label (otherwise required by R313-21-22(4)(c)(i)) so that the device is labeled in compliance with R313-15-904; however, the manufacturer, model number, and serial number must be retained;

(III) obtains the manufacturer's or initial transferor's information concerning maintenance that would be applicable under the specific license (such as leak testing procedures); and

(IV) reports the transfer under R313-21-22(4)(c)(viii)(B);

(ix) shall transfer the device to another general licensee only if:

(A) the device remains in use at a particular location. In this case, the transferor shall give the transferee a copy of R313-21-22(4), R313-12-51, R313-15-1201, and R313-15-1202, and any safety documents identified in the label of the device. Within 30 days of the transfer, the transferor shall report to the Executive Secretary:

(I) the manufacturer's or initial transferor's name;
 (II) the model number and serial number of the device transferred;

(III) the transferee's name and mailing address for the location of use; and

(IV) the name, title, and phone number of the responsible individual identified by the transferee in accordance with R313-21-22(4)(c)(xii) to have knowledge of and authority to take actions to ensure compliance with the appropriate regulations and requirements; or

(B) the device is held in storage by an intermediate person in the original shipping container at its intended location of use prior to initial use by a general licensee;

(x) shall comply with the provisions of R313-15-1201 and R313-15-1202 for reporting radiation incidents, theft or loss of licensed material, but shall be exempt from the other requirements of R313-15 and R313-18;

(xi) shall respond to written requests from the Executive Secretary to provide information relating to the general license within 30 calendar days of the date of the request, or other time specified in the request. If the general licensee cannot provide the requested information within the allotted time, it shall, within that same time period, request a longer period to supply the information by submitting a letter to the Executive Secretary and provide written justification as to why it cannot comply;

(xii) shall appoint an individual responsible for having knowledge of the appropriate regulations and requirements and the authority for taking required actions to comply with appropriate regulations and requirements. The general licensee, through this individual, shall ensure the day-to-day compliance with appropriate regulations and requirements. This appointment does not relieve the general licensee of any of its responsibility in this regard;

(xiii)(A) shall register, in accordance with R313-21-22(4)(c)(xiii)(B) and (C), devices containing at least 370 megabecquerel (ten mCi) of cesium-137, 3.7 megabecquerel (0.1 mCi) of strontium-90, 37 megabecquerel (one mCi) of cobalt-60, 3.7 megabecquerel (0.1 mCi) of radium-226, or 37 megabecquerel (one mCi) of americium-241 or any other transuranic, (elements with atomic number greater than uranium-92), based on the activity indicated on the label. Each address for a location of use, as described under R313-21-22(4)(c)(xiii)(C)(IV) represents a separate general licensee and requires a separate registration and fee;

(B) if in possession of a device meeting the criteria of R313-21-22(4)(c)(xiii)(A), shall register these devices annually with the Executive Secretary and shall pay the fee required by R313-70. Registration shall include verifying, correcting, or adding, as appropriate, to the information provided in a request for registration received from the Executive Secretary. The registration information must be submitted to the Executive Secretary within 30 days of the date of the request for registration or as otherwise indicated in the request. In addition, a general licensee holding devices meeting the criteria of R313-21-22(4)(c)(xiii)(A) is subject to the bankruptcy notification requirement in R313-19-34(5) and (6);

(C) in registering devices, the general licensee shall furnish the following information and any other information specifically requested by the Executive Secretary:

(I) name and mailing address of the general licensee;

(II) information about each device: the manufacturer or initial transferor, model number, serial number, the radioisotope and activity as indicated on the label;

(III) name, title, and telephone number of the responsible person designated as a representative of the general licensee under R313-21-22(4)(c)(xii);

(IV) address or location at which the device(s) are used, stored, or both. For portable devices, the address of the primary place of storage;

(V) certification by the responsible representative of the general licensee that the information concerning the device(s) has been verified through a physical inventory and checking of label information; and

(VI) certification by the responsible representative of the general licensee that they are aware of the requirements of the general license; and

(D) persons generally licensed by the Nuclear Regulatory Commission, an Agreement State, or Licensing State with respect to devices meeting the criteria in R313-21-22(4)(c)(xiii)(A) are not subject to registration requirements if the devices are used in areas subject to Division jurisdiction for a period less than 180 days in any calendar year. The Executive Secretary will not request registration information from such licensees;

(xiv) shall report changes to the mailing address for the location of use, including changes in the name of a general licensee, to the Executive Secretary within 30 days of the effective date of the change. For a portable device, a report of address change is only required for a change in the device's primary place of storage; and

(xv) may not hold devices that are not in use for longer than 2 years. If devices with shutters are not being used, the shutter must be locked in the closed position. The testing required by R313-21-22(4)(c)(ii) need not be performed during the period of storage only. However, when devices are put back into service or transferred to another person, and have not been tested within the required test interval, they must be tested for leakage before use or transfer and the shutter tested before use. Devices kept in standby for future use are excluded from the two-year time limit if the general licensee performs quarterly physical inventories of these devices while they are in standby.

(d) The general license in R313-21-22(4)(a) does not authorize the manufacture or import of devices containing radioactive material.

(e) The general license provided in R313-21-22(4)(a) is subject to the provisions of R313-12-51 through R313-12-53, R313-12-70, R313-14, R313-19-34, R313-19-41, R313-19-61, and R313-19-100.

(5) Luminous safety devices for aircraft.

(a) A general license is hereby issued to own, receive, acquire, possess and use tritium or promethium-147 contained in luminous safety devices for use in aircraft, provided:

(i) each device contains not more than 370.0 gigabecquerel (10 Ci) of tritium or 11.1 gigabecquerel (300 mCi) of promethium-147; and

(ii) each device has been manufactured, assembled or initially transferred in accordance with a specific license issued by the Nuclear Regulatory Commission or an Agreement State, or each device has been manufactured or assembled in accordance with the

specifications contained in a specific license issued by the Executive Secretary or an Agreement State to the manufacturer or assembler of the device pursuant to licensing requirements equivalent to those in R313-22-75(5).

(b) Persons who own, receive, acquire, possess or use luminous safety devices pursuant to the general license in R313-21-22(5) are exempt from the requirements of R313-15 and R313-18, except that they shall comply with the provisions of R313-15-1201 and R313-15-1202.

(c) This general license does not authorize the manufacture, assembly, repair, or import of luminous safety devices containing tritium or promethium-147.

(d) This general license does not authorize the export of luminous safety devices containing tritium or promethium-147.

(e) This general license does not authorize the ownership, receipt, acquisition, possession or use of promethium-147 contained in instrument dials.

(f) This general license is subject to the provisions of R313-12-51 through R313-12-70, R313-14, R313-19-34, R313-19-41, R313-19-61, and R313-19-100.

(6) Ownership of radioactive material. A general license is hereby issued to own radioactive material without regard to quantity. Notwithstanding any other provisions of R313-21, this general license does not authorize the manufacture, production, transfer, receipt, possession, use, import, or export of radioactive material except as authorized in a specific license.

(7) Calibration and reference sources.

(a) A general license is hereby issued to own, receive, acquire, possess, use and transfer, in the form of calibration or reference sources, americium-241, plutonium or radium-226 in accordance with the provisions of Subsections R313-21-22(7)(b) and (c), to a person who holds a specific license issued by the Executive Secretary which authorizes that person to receive, possess, use and transfer radioactive material.

(b) The general license in Subsection R313-21-22(7)(a) applies only to calibration or reference sources which have been manufactured or initially transferred in accordance with the specifications contained in a specific license issued [~~to the manufacturer or importer of the sources~~] by the Nuclear Regulatory Commission pursuant to 10 CFR 32.57 or 10 CFR 70.39 or which have been manufactured in accordance with the specifications contained in a specific license issued to the manufacturer by the Executive Secretary, [~~a Licensing State,~~] or an Agreement State which authorizes manufacture of the sources for distribution to persons generally licensed, or in accordance with a specific license issued by a State with requirements equivalent to 10 CFR 32.57 or 10 CFR 70.39.

(c) The general license provided in Subsection R313-21-22(7)(a) is subject to the provisions of Sections R313-12-51 through R313-12-53, R313-12-70, and Rules R313-14, R313-19-34, R313-19-41, R313-19-61, R313-19-100, R313-15 and R313-18. In addition, persons who own, receive, acquire, possess, use or transfer one or more calibration or reference sources pursuant to ~~these~~ the general license[s] in Subsection R313-21-22(7)(a):

(i) shall not possess at any one time, at any one location of storage or use, more than 185.0 kilobecquerel (5 uCi) of americium-241, 185.0 kilobecquerel (5 uCi) of plutonium, or 185.0 kilobecquerel (5 uCi) of radium-226 in such sources;

(ii) shall not receive, possess, use or transfer a source unless the source, or the storage container, bears a label which includes one of the following statements or a substantially similar statement which contains the information called for in the following statement:

The receipt, possession, use and transfer of this source, Model No., Serial No., are subject to a general license and the regulations of the United States Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority. Do not remove this label.

CAUTION - RADIOACTIVE MATERIAL
THIS SOURCE CONTAINS (AMERICIUM-241)
(PLUTONIUM)(RADIUM-226)*
DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE.

.....
Typed or printed name of the manufacturer or initial transferor

NOTE: *Show the name of the appropriate material.

(iii) shall not transfer, abandon, or dispose of a source except by transfer to a person authorized by a license ~~from~~ issued by the Executive Secretary, the Nuclear Regulatory Commission, or an Agreement State [~~or a Licensing State~~] to receive the source;

(iv) shall store a source, except when the source is being used, in a closed container adequately designed and constructed to contain americium-241, plutonium, or radium-226 which might otherwise escape during storage; and

(v) shall not use a source for any purpose other than the calibration of radiation detectors or the standardization of other sources.

~~(f)d) [These]~~ A general license[s] issued pursuant to Subsection R313-21-22(7)(a) does not authorize the manufacture, import, or export of calibration or reference sources containing americium-241, plutonium, or radium-226.

(8) RESERVED.

(9) General license for use of radioactive material for certain in vitro clinical or laboratory testing.*

NOTE: *The New Drug provisions of the Federal Food, Drug and Cosmetic Act also govern the availability and use of any specific diagnostic drug in interstate commerce.

(a) A general license is hereby issued to any physician, veterinarian in the practice of veterinary medicine, clinical laboratory or hospital to receive, acquire, possess, transfer or use, for the following stated tests, in accordance with the provisions of R313-21-22(9) (b), (c), (d), (e), and (f) the following radioactive materials in prepackaged units for use in in-vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals:

- (i) iodine-125, in units not exceeding 370.0 kilobecquerel (10 uCi) each;
- (ii) iodine-131, in units not exceeding 370.0 kilobecquerel (10 uCi) each;
- (iii) carbon-14, in units not exceeding 370.0 kilobecquerel (10 uCi) each;
- (iv) hydrogen-3 (tritium), in units not exceeding 1.85 megabecquerel (50 uCi) each;

(v) iron-59, in units not exceeding 740.0 kilobecquerel (20 uCi) each;

(vi) cobalt-57, in units not exceeding 370.0 kilobecquerel (10 uCi) each;

(vii) selenium-75, in units not to exceed 370.0 kilobecquerel (10 uCi) each; or

(viii) mock iodine-125, reference or calibration sources, in units not exceeding 1.85 kilobecquerel (0.05 uCi) of iodine-129 and 185.0 becquerel (0.005 uCi) of americium-241 each.

(b) A person shall not receive, acquire, possess, use or transfer radioactive material pursuant to the general license established by R313-21-22(9)(a) until that person has filed form DRC-07, "Registration Form-In Vitro Testing with Radioactive Material Under General License," with the Executive Secretary and received a Certificate of Registration signed by the Executive Secretary, or until that person has been authorized pursuant to R313-32 to use radioactive material under the general license in R313-21-22(9). The physician, veterinarian, clinical laboratory or hospital shall furnish on form DRC-07 the following information and other information as may be required by that form:

(i) name and address of the physician, veterinarian, clinical laboratory or hospital;

(ii) the location of use; and

(iii) a statement that the physician, veterinarian, clinical laboratory or hospital has appropriate radiation measuring instruments to carry out in vitro clinical or laboratory tests with radioactive material as authorized under the general license in Subsection R313-21-22(9)(a) and that the tests will be performed only by personnel competent in the use of radiation measuring instruments and in the handling of the radioactive material.

(c) A person who receives, acquires, possesses or uses radioactive material pursuant to the general license established by Subsection R313-21-22(9)(a) shall comply with the following:

(i) The general licensee shall not possess at any one time, pursuant to the general license in Subsection R313-21-22(9)(a) at any one location of storage or use, a total amount of iodine-125, iodine-131, selenium-75, iron-59, cobalt-57, or any combination, in excess of 7.4 megabecquerel (200 uCi).

(ii) The general licensee shall store the radioactive material, until used, in the original shipping container or in a container providing equivalent radiation protection.

(iii) The general licensee shall use the radioactive material only for the uses authorized by Subsection R313-21-22(9)(a).

(iv) The general licensee shall not transfer the radioactive material except to a person authorized to receive it pursuant to a license issued by the Executive Secretary, the Nuclear Regulatory Commission, an Agreement State or Licensing State, nor transfer the radioactive material in a manner other than in the unopened, labeled shipping container as received from the supplier.

(v) The general licensee shall dispose of the Mock Iodine-125 reference or calibration sources described in Subsection R313-21-22(9)(a)(viii) as required by Section R313-15-1001.

(vi) The general licensee shall pay annual fees pursuant to Rule R313-70.

(d) The general licensee shall not receive, acquire, possess, or use radioactive material pursuant to Subsection R313-21-22(9)(a):

(i) Except as prepackaged units which are labeled in accordance with the provision of a specific license issued pursuant to R313-22-75(7) or in accordance with the provisions of a specific license issued by the Nuclear Regulatory Commission, or an Agreement State, or a Licensing State, or before November 30, 2007, in accordance with the provisions of a specific license issued by a State with comparable provisions to 10 CFR 32.71 (2010), which authorizes the manufacture and distribution of iodine-125, iodine-131, carbon-14, hydrogen-3(tritium), iron-59, selenium-75, cobalt-57, or Mock Iodine-125 to persons generally licensed under Subsection R313-21-22(9) or its equivalent, and

(ii) Unless the following statement, or a substantially similar statement which contains the information called for in the following statement, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure which accompanies the package:

"This radioactive material shall be received, acquired, possessed and used only by physicians, veterinarians in the practice of veterinary medicine, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of the United States Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority.

.....

Name of Manufacturer"

(e) The physician, veterinarian, clinical laboratory or hospital possessing or using radioactive material under the general license in Subsection R313-21-22(9)(a) shall report in writing to the Executive Secretary, changes in the information previously furnished in the "Registration Form-In Vitro Testing with Radioactive Material Under General License", form DRC -07. The report shall be furnished within 30 days after the effective date of the change.

(f) Any person using radioactive material pursuant to the general license of Subsection R313-21-22(9)(a) is exempt from the requirements of Rules R313-15 and R313-18 with respect to radioactive material covered by that general license, except that persons using the Mock Iodine-125 described in Subsection R313-21-22(9)(a)(viii) shall comply with the provisions of Sections R313-15-1001, R313-15-1201 and R313-15-1202.

(10) Ice Detection Devices.

(a) A general license is hereby issued to own, receive, acquire, possess, use and transfer strontium-90 contained in ice detection devices, provided each device contains not more than 1.85 megabecquerel (50 uCi) of strontium-90 and each device has been manufactured or initially transferred in accordance with a specific license issued by the Nuclear Regulatory Commission, or each device has been manufactured in accordance with the specifications contained in a specific license issued by the Executive Secretary, an Agreement State, or a Licensing State to the manufacturer of the device pursuant to licensing requirements equivalent to those in 10 CFR 32.61.

(b) Persons who own, receive, acquire, possess, use or transfer strontium-90 contained in ice detection devices pursuant to the general license in Subsection R313-21-22(10)(a):

(i) shall, upon occurrence of visually observable damage, such as a bend or crack or discoloration from over-heating to the device, discontinue use of the device until it has been inspected, tested for leakage and repaired by a person holding a specific license from the Executive Secretary, the Nuclear Regulatory Commission, an Agreement State, or a Licensing State to manufacture or service the device; or shall dispose of the device pursuant to the provisions of Section R313-15-1001;

(ii) shall assure that all labels affixed to the device at the time of receipt, and which bear a statement which prohibits removal of the labels, are maintained thereon; and

(iii) are exempt from the requirements of Rules R313-15 and R313-18 except that the persons shall comply with the provisions of Sections R313-15-1001, R313-15-1201 and R313-15-1202.

(c) This general license does not authorize the manufacture, assembly, disassembly, repair, or import of strontium-90 in ice detection devices.

(d) This general license is subject to the provision of Sections R313-12-51 through R313-12-53, R313-12-70, R313-14, R313-19-34, R313-19-41, R313-19-61, and R313-19-100 of these rules.

KEY: radioactive materials, general licenses, source materials
Date of Enactment or Last Substantive Amendment: ~~July 14,~~ 2010
Notice of Continuation: October 14, 2008
Authorizing, and Implemented or Interpreted Law: 19-3-104

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

**NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 33912
 FILED: 08/10/2010**

RULE ANALYSIS

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

SUMMARY OF THE RULE OR CHANGE: Rule modifications address the adoption of appropriate requirements found in 72 FR 55864 - 55937 and complete the adoption of requirements in 72 FR 58473 - 58489. Rules are modified to clearly state

the NRC's reclaimed authority over the introduction of exempt concentrations and distribution of items containing exempt concentration to individuals without a specific license. Regulations for the non-commercial production and distribution of certain accelerator produced radioactive materials for medical use are introduced. Specific qualifications for facilities producing Positron Emission Tomography (PET) radioactive drugs are established. The quantities of radioactive materials requiring consideration of the need for an emergency plan for responding to a release are updated to included additional radioactive materials identified in the expanded definition of byproduct material. Citations to the Code of Federal Regulations are updated to the most recent version. In addition to this rulemaking action, comments are being solicited regarding the applicability of Subsection 19-3-104(8), restricting the Board's ability to adopt rules more stringent than corresponding federal regulations. The Executive Secretary and the Board have made a preliminary determination that there are no corresponding federal regulations, but are soliciting comments on that issue, see www.radiationcontrol.utah.gov for the Statement of Basis. The Executive Secretary and the Board have also made a determination that, if Subsection 19-3-104(8) is applicable, corresponding federal regulations are not adequate to protect public health and the environment of the state since they do not address radioactive sources that are identical to those being addressed under federal rules except that they are from a different source.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-3-104(4) and Subsection 19-3-104(8)

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Updates 10 CFR 20, published by Government Printing Office, 01/01/2010
- ◆ 10 CFR 30, published by Government Printing Office, 01/01/2010

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This proposed change is expected to have a minimal impact on the state budget. There may be a small cost for regulated local government agencies to obtain or print updated regulations and new versions of the CFRs. Radioactive materials included in the expanded definition of byproduct material were regulated by the State of Utah prior to the modification of NRC requirements; therefore, the Division does not anticipate that additional licenses or license amendments will be required. Although some regulatory authorities were reclaimed by the NRC, the State of Utah did not have any radioactive materials licenses affected by the relinquished authority so there will be no additional work for state personnel.

◆ **LOCAL GOVERNMENTS:** This proposed change is expected to have a minimal impact on local government. There may be a small cost for regulated local government agencies to obtain or print updated regulations and new versions of the CFRs. The majority of radioactive materials included in the expanded definition of byproduct material

were regulated by the State of Utah prior to the modification of NRC requirements. It is not anticipated that local government agencies with a radioactive materials license will have to modify their radiation safety program or their license.

◆ **SMALL BUSINESSES:** This proposed change is expected to have a minimal impact on small businesses. There may be a small cost for regulated government agencies to obtain or print updated regulations and new versions of the CFRs. The majority of radioactive materials included in the expanded definition of byproduct material were regulated by the State of Utah prior to the modification of NRC requirements. It is not anticipated that government agencies with a radioactive materials license will have to modify their radiation safety program or their license.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no known persons other than small businesses, businesses, or local government entities that will be affected by this rulemaking action; therefore the anticipated costs for other persons is expected to be minimal and would be limited to costs for obtaining copies of revised rules and new versions of the CFRs, if desired.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Affected persons may incur a small cost to print or obtain printed copies of the revised regulations. The revised regulations will also be available on line at no cost to affected persons.

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

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

ENVIRONMENTAL QUALITY
RADIATION CONTROL
THIRD FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/04/2010

THIS RULE MAY BECOME EFFECTIVE ON: 10/11/2010

AUTHORIZED BY: Rusty Lundberg, Director

R313. Environmental Quality, Radiation Control.

R313-22. Specific Licenses.

R313-22-4. Definitions.

"Alert" means events may occur, are in progress, or have occurred that could lead to a release of radioactive material but that the release is not expected to require a response by off-site response organizations to protect persons off-site.

"Nationally tracked source" is a sealed source containing a quantity equal to or greater than Category 1 or Category 2 levels of any radioactive material listed in Appendix E of 10 CFR 20.1001 to 20.2402 (~~2007~~2010), which is incorporated by reference. In this context a sealed source is defined as radioactive material that is sealed in a capsule or closely bonded, in a solid form and which is not exempt from regulatory control. It does not mean material encapsulated solely for disposal, or nuclear material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet. Category 1 nationally tracked sources are those containing radioactive material at a quantity equal to or greater than the Category 1 threshold. Category 2 nationally tracked sources are those containing radioactive material at a quantity equal to or greater than the Category 2 threshold but less than the Category 1 threshold.

"Principal activities" means activities authorized by the license which are essential to achieving the purpose(s) for which the license was issued or amended. Storage during which no licensed material is accessed for use or disposal and activities incidental to decontamination or decommissioning are not principal activities.

"Site Area Emergency" means events may occur, are in progress, or have occurred that could lead to a significant release of radioactive material and that could require a response by off-site response organizations to protect persons off-site.

R313-22-32. Filing Application for Specific Licenses.

(1) Applications for specific licenses shall be filed on a form prescribed by the Executive Secretary.

(2) The Executive Secretary may, after the filing of the original application, and before the expiration of the license, require further statements in order to enable the Executive Secretary to determine whether the application should be granted or denied or whether a license should be modified or revoked.

(3) Applications shall be signed by the applicant or licensee or a person duly authorized to act for and on the applicant's behalf.

(4) An application for a license may include a request for a license authorizing one or more activities.

(5) In the application, the applicant may incorporate by reference information contained in previous applications, statements, or reports filed with the Executive Secretary, provided the references are clear and specific.

(6) An application for a specific license to use radioactive material in the form of a sealed source or in a device that contains the sealed source shall identify the source or device by manufacturer and model number as registered with the U.S. Nuclear Regulatory Commission under 10 CFR 32.210 (2010). [~~2006 ed. or~~]the equivalent regulations of an Agreement State, or with a State under provisions comparable to 10 CFR 32.210.

(7) As provided by Section R313-22-35, certain applications for specific licenses filed under these rules shall contain a proposed decommissioning funding plan or a certification of financial assurance for decommissioning. In the case of renewal applications submitted before January 1, 1995, this submittal may follow the renewal application but shall be submitted on or before January 1, 1995.

(8)(a) Applications to possess radioactive materials in unsealed form, on foils or plated sources, or sealed in glass in excess of the quantities in Section R313-22-90, "Quantities of Radioactive Materials Requiring Consideration of the Need for an Emergency Plan for Responding to a Release", shall contain either:

(i) An evaluation showing that the maximum dose to an individual off-site due to a release of radioactive materials would not exceed one rem effective dose equivalent or five rems to the thyroid; or

(ii) An emergency plan for responding to a release of radioactive material.

(b) One or more of the following factors may be used to support an evaluation submitted under Subsection R313-22-32(8)(a) (i):

(i) The radioactive material is physically separated so that only a portion could be involved in an accident;

(ii) All or part of the radioactive material is not subject to release during an accident because of the way it is stored or packaged;

(iii) The release fraction in the respirable size range would be lower than the release fraction shown in Section R313-22-90 due to the chemical or physical form of the material;

(iv) The solubility of the radioactive material would reduce the dose received;

(v) Facility design or engineered safety features in the facility would cause the release fraction to be lower than shown in Section R313-22-90;

(vi) Operating restrictions or procedures would prevent a release fraction as large as that shown in Section R313-22-90; or

(vii) Other factors appropriate for the specific facility.

(c) An emergency plan for responding to a release of radioactive material submitted under Subsection R313-22-32(8)(a) (ii) shall include the following information:

(i) Facility description. A brief description of the licensee's facility and area near the site.

(ii) Types of accidents. An identification of each type of radioactive materials accident for which protective actions may be needed.

(iii) Classification of accidents. A classification system for classifying accidents as alerts or site area emergencies.

(iv) Detection of accidents. Identification of the means of detecting each type of accident in a timely manner.

(v) Mitigation of consequences. A brief description of the means and equipment for mitigating the consequences of each type of accident, including those provided to protect workers on-site, and a description of the program for maintaining equipment.

(vi) Assessment of releases. A brief description of the methods and equipment to assess releases of radioactive materials.

(vii) Responsibilities. A brief description of the responsibilities of licensee personnel should an accident occur, including identification of personnel responsible for promptly notifying off-site response organizations and the Executive

Secretary; also responsibilities for developing, maintaining, and updating the plan.

(viii) Notification and coordination. A commitment to and a brief description of the means to promptly notify off-site response organizations and request off-site assistance, including medical assistance for the treatment of contaminated injured on-site workers when appropriate. A control point shall be established. The notification and coordination shall be planned so that unavailability of some personnel, parts of the facility, and some equipment will not prevent the notification and coordination. The licensee shall also commit to notify the Executive Secretary immediately after notification of the appropriate off-site response organizations and not later than one hour after the licensee declares an emergency.

NOTE: These reporting requirements do not supersede or release licensees of complying with the requirements under the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Public Law 99-499 or other state or federal reporting requirements, including 40 CFR 302, [2005 ed]2010.

(ix) Information to be communicated. A brief description of the types of information on facility status, radioactive releases, and recommended protective actions, if necessary, to be given to off-site response organizations and to the Executive Secretary.

(x) Training. A brief description of the frequency, performance objectives and plans for the training that the licensee will provide workers on how to respond to an emergency including special instructions and orientation tours the licensee would offer to fire, police, medical and other emergency personnel. The training shall familiarize personnel with site-specific emergency procedures. Also, the training shall thoroughly prepare site personnel for their responsibilities in the event of accident scenarios postulated as most probable for the specific site including the use of team training for the scenarios.

(xi) Safe shutdown. A brief description of the means of restoring the facility to a safe condition after an accident.

(xii) Exercises. Provisions for conducting quarterly communications checks with off-site response organizations and biennial on-site exercises to test response to simulated emergencies. Quarterly communications checks with off-site response organizations shall include the check and update of all necessary telephone numbers. The licensee shall invite off-site response organizations to participate in the biennial exercises. Participation of off-site response organizations in biennial exercises although recommended is not required. Exercises shall use accident scenarios postulated as most probable for the specific site and the scenarios shall not be known to most exercise participants. The licensee shall critique each exercise using individuals not having direct implementation responsibility for the plan. Critiques of exercises shall evaluate the appropriateness of the plan, emergency procedures, facilities, equipment, training of personnel, and overall effectiveness of the response. Deficiencies found by the critiques shall be corrected.

(xiii) Hazardous chemicals. A certification that the applicant has met its responsibilities under the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Public Law 99-499, if applicable to the applicant's activities at the proposed place of use of the radioactive material.

(d) The licensee shall allow the off-site response organizations expected to respond in case of an accident 60 days to

comment on the licensee's emergency plan before submitting it to the Executive Secretary. The licensee shall provide any comments received within the 60 days to the Executive Secretary with the emergency plan.

(9) An application from a medical facility, educational institution, or Federal facility to produce Positron Emission Tomography (PET) radioactive drugs for non-commercial transfer to licensees in its consortium authorized for medical use under Rule R313-32 shall include:

(a) A request for authorization for the production of PET radionuclides or evidence of an existing license issued pursuant to 10 CFR Part 30 or equivalent Agreement State requirements for a PET radionuclide production facility within its consortium from which it receives PET radionuclides.

(b) Evidence that the applicant is qualified to produce radioactive drugs for medical use by meeting one of the criteria in Subsection R313-22-75(9)(a)(ii).

(c) Identification of the individual(s) authorized to prepare the PET radioactive drugs if the applicant is a pharmacy, and documentation that each individual meets the requirements of an authorized nuclear pharmacist as specified in Rule R313-32.

(d) Information identified in Subsection R313-22-75(9)(a)(iii) on the PET drugs to be noncommercially transferred to members of its consortium.

R313-22-35. Financial Assurance and Recordkeeping for Decommissioning.

(1)(a) Applicants for a specific license authorizing the possession and use of unsealed radioactive material of half-life greater than 120 days and in quantities exceeding 10^5 times the applicable quantities set forth in Appendix B of 10 CFR 30.1 through 30.72, [2006 ed.]2010, which is incorporated by reference, shall submit a decommissioning funding plan as described in Subsection R313-22-35(5). The decommissioning funding plan shall also be submitted when a combination of radionuclides is involved if R divided by 10^5 is greater than one, where R is defined here as the sum of the ratios of the quantity of each radionuclide to the applicable value in Appendix B of 10 CFR 30.1 through 30.72, [2006 ed.]2010, which is incorporated by reference.

(b) Holders of, or applicants for, a specific license authorizing the possession and use of sealed sources or plated foils of half-life greater than 120 days and in quantities exceeding 10^{12} times the applicable quantities set forth in Appendix B of 10 CFR 30.1 through 30.72, [2006 ed.]2010, which is incorporated by reference, or when a combination of isotopes is involved if R , as defined in Subsection R313-22-35(1)(a), divided by 10^{12} is greater than one, shall submit a decommissioning funding plan as described in Subsection R313-22-35(5).

(c) Applicants for a specific license authorizing the possession and use of more than 100 mCi of source material in a readily dispersible form shall submit a decommissioning funding plan as described in Subsection R313-22-35(5).

(2) Applicants for a specific license authorizing possession and use of radioactive material of half-life greater than 120 days and in quantities specified in Subsection R313-22-35(4), or authorizing the possession and use of source material greater than 10 mCi but less than or equal to 100 mCi in a readily dispersible form shall either:

(a) submit a decommissioning funding plan as described in Subsection R313-22-35(5); or

(b) submit a certification that financial assurance for decommissioning has been provided in the amount prescribed by Subsection R313-22-35(4) using one of the methods described in Subsection R313-22-35(6). Applicants for a specific license authorizing the possession and use of source material in a readily dispersible form shall submit a certification that financial assurance for decommissioning has been provided in the amount of \$225,000 by October 20, 2007. For an applicant subject to this subsection, this certification may state that the appropriate assurance will be obtained after the application has been approved and the license issued but before the receipt of licensed material. If the applicant defers execution of the financial instrument until after the license has been issued, a signed original of the financial instrument obtained to satisfy the requirements of Subsection R313-22-35(6) shall be submitted to the Executive Secretary before receipt of licensed material. If the applicant does not defer execution of the financial instrument, the applicant shall submit to the Executive Secretary, as part of the certification, a signed original of the financial instrument obtained to satisfy the requirements in Subsection R313-22-35(6).

(3)(a) Holders of a specific license issued on or after October 20, 2006, which is of a type described in Subsections R313-22-35(1) or (2), shall provide financial assurance for decommissioning in accordance with the criteria set forth in Section R313-22-35.

(b) Holders of a specific license issued before October 20, 2006, and of a type described in Subsection R313-22-35(1), shall submit by October 20, 2007, a decommissioning funding plan as described in Subsection R313-22-35(5) or a certification of financial assurance for decommissioning in an amount at least equal to \$1,125,000 in accordance with the criteria set forth in Section R313-22-35. If the licensee submits the certification of financial assurance rather than a decommissioning funding plan, the licensee shall include a decommissioning funding plan in any application for license renewal.

(c) Holders of a specific license issued before October 20, 2006, and of a type described in Subsection R313-22-35(2), shall submit by October 20, 2007, a decommissioning funding plan as described in Subsection R313-22-35(5) or a certification of financial assurance for decommissioning in accordance with the criteria set forth in Section R313-22-35.

(d) A licensee who has submitted an application before October 20, 2006, for renewal of license in accordance with Section R313-22-37, shall provide financial assurance for decommissioning in accordance with Subsections R313-22-35(1) and (2).

(e) Waste collectors and waste processors, as defined in Appendix G of 10 CFR 20.1001 to 20.2402, [2006 ed.]2010, which is incorporated by reference, shall provide financial assurance in an amount based on a decommissioning funding plan as described in Subsection R313-22-35(5). The decommissioning funding plan shall include the cost of disposal of the maximum amount (curies) of radioactive material permitted by the license, and the cost of disposal of the maximum quantity, by volume, of radioactive material which could be present at the licensee's facility at any time, in addition to the cost to remediate the licensee's site to meet the license termination criteria of Rule R313-15.

(f) Holders of a specific license issued prior to October 20, 2006, which is of a type described in Subsections R313-22-35(1), (2), or (3)(g), shall submit a decommissioning funding plan to the Executive Secretary on or before October 20, 2007. Holders of a specific license issued on or after October 20, 2006, which is of a type described in Subsections R313-22-35(1), (2), or (3)(g), shall submit a decommissioning funding plan to the Executive Secretary as a part of the license application.

(g) Applicants for a specific license authorizing the possession and use of radioactive materials in sufficient quantities that require financial assurance and recordkeeping for decommissioning under Section R313-22-35 shall assure that all documents submitted to the Executive Secretary for the purpose of demonstrating compliance with financial assurance and recordkeeping requirements meet the applicable criteria contained in the Nuclear Regulatory Commission's document NUREG-1757, Volume 3, "Consolidated NMSS Decommissioning Guidance: Financial Assurance, Recordkeeping, and Timeliness" (9/2003).

(h) Documents provided to the Executive Secretary under Subsection R313-22-35(3)(g) shall provide that legal remedies be sought in a court of appropriate jurisdiction within Utah.

(4) Table of required amounts of financial assurance for decommissioning by quantity of material. Licensees required to submit an amount of financial assurance listed in this table must do so during a license application or as part of an amendment to an existing license. Licensees having possession limits exceeding the upper bounds of this table must base financial assurance on a decommissioning funding plan.

TABLE

<p>Greater than 10^4 but less than or equal to 10^5 times the applicable quantities of radioactive material, as defined in Appendix B of 10 CFR 30.1 through 30.72 [2006-ed.,] (2010) which is incorporated by reference, in unsealed form. For a combination of radionuclides, if R, as defined in Subsection R313-22-35(1)(a) divided by 10^4 is greater than one but R divided by 10^5 is less than or equal to one:</p>	<p>\$1,125,000</p>
<p>Greater than 10^3 but less than or equal to 10^4 times the applicable quantities of radioactive material, as defined in Appendix B of 10 CFR 30.1 through 30.72 [2006-ed.,] (2010) which is incorporated by reference, in unsealed form. For a combination of radionuclides, if R, as defined in Subsection R313-22-35(1)(a) divided by 10^3 is greater than one but R divided by 10^4 is less than or equal to one:</p>	<p>\$225,000</p>
<p>Greater than 10^{10} but less than or equal to 10^{12} times the applicable quantities of radioactive material, as defined in Appendix B of 10 CFR 30.1 through 30.72 [2006-ed.,] (2010) which is incorporated by reference, in sealed sources or plated foils. For combination of radionuclides, if R, as defined in R313-22-35(1)(a), divided by 10^{10} is greater than one, but</p>	

R divided by 10^{12} is less than or equal to one: \$113,000

(5) A decommissioning funding plan shall contain a cost estimate for decommissioning and a description of the method of assuring funds for decommissioning from Subsection R313-22-35(6), including means for adjusting cost estimates and associated funding levels periodically over the life of the facility. Cost estimates shall be adjusted at intervals not to exceed 3 years. The decommissioning funding plan shall also contain a certification by the licensee that financial assurance for decommissioning has been provided in the amount of the cost estimate for decommissioning and a signed original of the financial instrument obtained to satisfy the requirements of Subsection R313-22-35(6).

(6) Financial assurance for decommissioning shall be provided by one or more of the following methods:

(a) Prepayment. Prepayment is the deposit prior to the start of operation into an account segregated from licensee assets and outside the licensee's administrative control of cash or liquid assets so that the amount of funds would be sufficient to pay decommissioning costs. Prepayment may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities;

(b) A surety method, insurance, or other guarantee method. These methods shall guarantee that decommissioning costs will be paid. A surety method may be in the form of a surety bond, letter of credit, or line of credit. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in Subsection R313-22-35(8). A parent company guarantee may not be used in combination with other financial methods to satisfy the requirements of Section R313-22-35. A guarantee of funds by the applicant or licensee for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in Subsection R313-22-35(9). A guarantee by the applicant or licensee may not be used in combination with any other financial methods to satisfy the requirements of Section R313-22-35 or in any situation where the applicant or licensee has a parent company holding majority control of the voting stock of the company. A surety method or insurance used to provide financial assurance for decommissioning shall contain the following conditions:

(i) the surety method or insurance shall be open-ended or, if written for a specified term, such as five years, shall be renewed automatically unless 90 days or more prior to the renewal date the issuer notifies the Executive Secretary, the beneficiary, and the licensee of its intention not to renew. The surety method or insurance shall also provide that the full face amount be paid to the beneficiary automatically prior to the expiration without proof of forfeiture if the licensee fails to provide a replacement acceptable to the Executive Secretary within 30 days after receipt of notification of cancellation,

(ii) the surety method or insurance shall be payable to a trust established for decommissioning costs. The trustee and trust shall be acceptable to the Executive Secretary. An acceptable trustee includes an appropriate state or federal government agency or an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State agency, and

(iii) the surety method or insurance shall remain in effect until the Executive Secretary has terminated the license;

(c) An external sinking fund in which deposits are made at least annually, coupled with a surety method or insurance, the value of which may decrease by the amount being accumulated in the sinking fund. An external sinking fund is a fund established and maintained by setting aside funds periodically in an account segregated from licensee assets and outside the licensee's administrative control in which the total amount of funds would be sufficient to pay decommissioning costs at the time termination of operation is expected. An external sinking fund may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities. The surety or insurance provisions shall be as stated in Subsection R313-22-35(6)(b);

(d) In the case of Federal, State or local government licensees, a statement of intent containing a cost estimate for decommissioning or an amount based on the Table in Subsection R313-22-35(4) and indicating that funds for decommissioning will be obtained when necessary; or

(e) When a governmental entity is assuming custody and ownership of a site, an arrangement that is deemed acceptable by such governmental entity.

(7) Persons licensed under Rule R313-22 shall keep records of information important to the decommissioning of a facility in an identified location until the site is released for unrestricted use. Before licensed activities are transferred or assigned in accordance with Subsection R313-19-34(2), licensees shall transfer all records described in Subsections R313-22-35(7)(a) through (d) to the new licensee. In this case, the new licensee will be responsible for maintaining these records until the license is terminated. If records important to the decommissioning of a facility are kept for other purposes, reference to these records and their locations may be used. Information the Executive Secretary considers important to decommissioning consists of the following:

(a) records of spills or other unusual occurrences involving the spread of contamination in and around the facility, equipment, or site. These records may be limited to instances when contamination remains after any cleanup procedures or when there is reasonable likelihood that contaminants may have spread to inaccessible areas as in the case of possible seepage into porous materials such as concrete. These records shall include any known information on identification of involved nuclides, quantities, forms, and concentrations;

(b) as-built drawings and modification of structures and equipment in restricted areas where radioactive materials are used or stored, and of locations of possible inaccessible contamination such as buried pipes which may be subject to contamination. If required drawings are referenced, each relevant document need not be indexed individually. If drawings are not available, the licensee shall substitute appropriate records of available information concerning these areas and locations;

(c) except for areas containing only sealed sources, provided the sources have not leaked or no contamination remains after a leak, or radioactive materials having only half-lives of less than 65 days, a list contained in a single document and updated every two years, including all of the following:

(i) all areas designated and formerly designated as restricted areas as defined under Section R313-12-3;

(ii) all areas outside of restricted areas that require documentation under Subsection R313-22-35(7)(a);

(iii) all areas outside of restricted areas where current and previous wastes have been buried as documented under Section R313-15-1109; and

(iv) all areas outside of restricted areas which contain material such that, if the license expired, the licensee would be required to either decontaminate the area to meet the criteria for decommissioning in Sections R313-15-401 through R313-15-406, or apply for approval for disposal under Section R313-15-1002; and

(d) records of the cost estimate performed for the decommissioning funding plan or of the amount certified for decommissioning, and records of the funding method used for assuring funds if either a funding plan or certification is used.

(8) Criteria relating to use of financial tests and parent company guarantees for providing reasonable assurance of funds for decommissioning.

(a) To pass the financial test referred to in Subsection R313-22-35(6)(b), the parent company shall meet one of the following criteria:

(i) The parent company shall have all of the following:

(A) Two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5;

(B) Net working capital and tangible net worth each at least six times the current decommissioning cost estimates, or prescribed amount if a certification is used;

(C) Tangible net worth of at least \$10 million; and

(D) Assets located in the United States amounting to at least 90 percent of total assets or at least six times the current decommissioning cost estimates, or prescribed amount if a certification is used; or

(ii) The parent company shall have all of the following:

(A) A current rating for its most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A or Baa as issued by Moody's;

(B) Tangible net worth at least six times the current decommissioning cost estimate, or prescribed amount if a certification is used;

(C) Tangible net worth of at least \$10 million; and

(D) Assets located in the United States amounting to at least 90 percent of total assets or at least six times the current decommissioning cost estimates, or prescribed amount if certification is used.

(b) The parent company's independent certified public accountant shall have compared the data used by the parent company in the financial test, which is derived from the independently audited, year end financial statements for the latest fiscal year, with the amounts in such financial statement. In connection with that procedure the licensee shall inform the Executive Secretary within 90 days of any matters coming to the auditor's attention which cause the auditor to believe that the data specified in the financial test should be adjusted and that the company no longer passes the test.

(c)(i) After the initial financial test, the parent company shall repeat the passage of the test within 90 days after the close of each succeeding fiscal year.

(ii) If the parent company no longer meets the requirements of Subsection R313-22-35(8)(a) the licensee shall send notice to the Executive Secretary of intent to establish alternative financial assurance as specified in Section R313-22-35. The notice shall be sent by certified mail within 90 days after the end of the fiscal year for which the year end financial data show that the parent company no longer meets the financial test requirements. The licensee shall provide alternate financial assurance within 120 days after the end of such fiscal year.

(d) The terms of a parent company guarantee which an applicant or licensee obtains shall provide that:

(i) The parent company guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the licensee and the Executive Secretary. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the licensee and the Executive Secretary, as evidenced by the return receipts.

(ii) If the licensee fails to provide alternate financial assurance as specified in Section R313-22-35 within 90 days after receipt by the licensee and Executive Secretary of a notice of cancellation of the parent company guarantee from the guarantor, the guarantor will provide such alternative financial assurance in the name of the licensee.

(iii) The parent company guarantee and financial test provisions shall remain in effect until the Executive Secretary has terminated the license.

(iv) If a trust is established for decommissioning costs, the trustee and trust shall be acceptable to the Executive Secretary. An acceptable trustee includes an appropriate State or Federal Government agency or an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State agency.

(9) Criteria relating to use of financial tests and self guarantees for providing reasonable assurance of funds for decommissioning.

(a) To pass the financial test referred to in Subsection R313-22-35(6)(b), a company shall meet all of the following criteria:

(i) Tangible net worth at least ten times the total current decommissioning cost estimate, or the current amount required if certification is used, for all decommissioning activities for which the company is responsible as self-guaranteeing licensee and as parent-guarantor;

(ii) Assets located in the United States amounting to at least 90 percent of total assets or at least ten times the total current decommissioning cost estimate, or the current amount required if certification is used, for all decommissioning activities for which the company is responsible as self-guaranteeing licensee and as parent-guarantor; and

(iii) A current rating for its most recent bond issuance of AAA, AA, or A as issued by Standard and Poor's, or Aaa, Aa, or A as issued by Moody's.

(b) To pass the financial test, a company shall meet all of the following additional requirements:

(i) The company shall have at least one class of equity securities registered under the Securities Exchange Act of 1934;

(ii) The company's independent certified public accountant shall have compared the data used by the company in the financial test which is derived from the independently audited,

yearend financial statements for the latest fiscal year, with the amounts in such financial statement. In connection with that procedure, the licensee shall inform the Executive Secretary within 90 days of any matters coming to the attention of the auditor that cause the auditor to believe that the data specified in the financial test should be adjusted and that the company no longer passes the test; and

(iii) After the initial financial test, the company shall repeat passage of the test within 90 days after the close of each succeeding fiscal year.

(c) If the licensee no longer meets the requirements of Subsection R313-22-35(9)(a), the licensee shall send immediate notice to the Executive Secretary of its intent to establish alternate financial assurance as specified in Section R313-22-35 within 120 days of such notice.

(d) The terms of a self-guarantee which an applicant or licensee furnishes shall provide that:

(i) The guarantee will remain in force unless the licensee sends notice of cancellation by certified mail to the Executive Secretary. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by the Executive Secretary, as evidenced by the return receipt.

(ii) The licensee shall provide alternative financial assurance as specified in Section R313-22-35 within 90 days following receipt by the Executive Secretary of a notice of a cancellation of the guarantee.

(iii) The guarantee and financial test provisions shall remain in effect until the Executive Secretary has terminated the license or until another financial assurance method acceptable to the Executive Secretary has been put in effect by the licensee.

(iv) The licensee shall promptly forward to the Executive Secretary and the licensee's independent auditor all reports covering the latest fiscal year filed by the licensee with the Securities and Exchange Commission pursuant to the requirements of section 13 of the Securities and Exchange Act of 1934.

(v) If, at any time, the licensee's most recent bond issuance ceases to be rated in a category of "A" or above by either Standard and Poor's or Moody's, the licensee shall provide notice in writing of such fact to the Executive Secretary within 20 days after publication of the change by the rating service. If the licensee's most recent bond issuance ceases to be rated in any category of A or above by both Standard and Poor's and Moody's, the licensee no longer meets the requirements of Subsection R313-22-35(9)(a).

(vi) The applicant or licensee shall provide to the Executive Secretary a written guarantee, a written commitment by a corporate officer, which states that the licensee will fund and carry out the required decommissioning activities or, upon issuance of an order by the Board, the licensee shall set up and fund a trust in the amount of the current cost estimates for decommissioning.

R313-22-75. Special Requirements for a Specific License to Manufacture, Assemble, Repair, or Distribute Commodities, Products, or Devices Which Contain Radioactive Material.

(1) Licensing the introduction of radioactive material in exempt concentrations into products or materials, and transfer of ownership or possession of the products and materials, [in exempt concentrations].

(a) The authority to introduce radioactive material in exempt concentrations into equipment, devices, commodities or

other products may be obtained only from the Nuclear Regulatory Commission, Washington, D.C. 20555; and

(b) The manufacturer, processor or producer of equipment, devices, commodities or other products containing exempt concentrations of radioactive materials may obtain the authority to transfer possession or control of the equipment, devices, commodities, or other products containing exempt concentrations to persons who are exempt from regulatory requirements only from the Nuclear Regulatory Commission, Washington, D.C. 20555.

[(a) In addition to the requirements set forth in Section R313-22-33, a specific license authorizing the introduction of radioactive material into a product or material owned by or in the possession of the licensee or another to be transferred to persons exempt under Subsection R313-19-13(2)(a) will be issued if:

(i) the applicant submits a description of the product or material into which the radioactive material will be introduced, intended use of the radioactive material and the product or material into which it is introduced, method of introduction, initial concentration of the radioactive material in the product or material, control methods to assure that no more than the specified concentration is introduced into the product or material, estimated time interval between introduction and transfer of the product or material, and estimated concentration of the radioactive material in the product or material at the time of transfer; and

(ii) the applicant provides reasonable assurance that the concentrations of radioactive material at the time of transfer will not exceed the concentrations in Section R313-19-70, that reconcentration of the radioactive material in concentrations exceeding those in Section R313-19-70 is not likely, that use of lower concentrations is not feasible, and that the product or material is not likely to be incorporated in any food, beverage, cosmetic, drug or other commodity or product designed for ingestion or inhalation by, or application to a human being.

(b) Persons licensed under Subsection R313-22-75(1) shall file an annual report with the Executive Secretary which shall identify the type and quantity of products or materials into which radioactive material has been introduced during the reporting period; name and address of the person who owned or possessed the product and material, into which radioactive material has been introduced, at the time of introduction; the type and quantity of radionuclide introduced into the product or material; and the initial concentrations of the radionuclide in the product or material at time of transfer of the radioactive material by the licensee. If no transfers of radioactive material have been made pursuant to Subsection R313-22-75(1) during the reporting period, the report shall so indicate. The report shall cover the year ending June 30, and shall be filed within thirty days thereafter.

] (2) Licensing the distribution of radioactive material in exempt quantities. Authority to transfer possession or control by the manufacturer, processor or producer of equipment, devices, commodities or other products containing byproduct material whose subsequent possession, use, transfer, and disposal by other persons who are exempted from regulatory requirements may be obtained only from the Nuclear Regulatory Commission, Washington, D.C. 20555.

[(a) An application for a specific license to distribute naturally occurring and accelerator-produced radioactive material

(NARM) to persons exempted from these rules pursuant to Subsection R313-19-13(2)(b) will be approved if:

(i) the radioactive material is not contained in a food, beverage, cosmetic, drug or other commodity designed for ingestion or inhalation by, or application to, a human being;

(ii) the radioactive material is in the form of processed chemical elements, compounds, or mixtures, tissue samples, bioassay samples, counting standards, plated or encapsulated sources, or similar substances, identified as radioactive and to be used for its radioactive properties, but is not incorporated into a manufactured or assembled commodity, product, or device intended for commercial distribution; and

(iii) the applicant submits copies of prototype labels and brochures and the Executive Secretary approves the labels and brochures;

(b) The license issued under Subsection R313-22-75(2) (a) is subject to the following conditions:

(i) No more than ten exempt quantities shall be sold or transferred in a single transaction. However, an exempt quantity may be composed of fractional parts of one or more of the exempt quantities provided the sum of the fractions shall not exceed unity.

(ii) Exempt quantities shall be separated and individually packaged. No more than ten packaged exempt quantities shall be contained in any outer package for transfer to persons exempt pursuant to Subsection R313-19-13(2)(b). The outer package shall not allow the dose rate at the external surface of the package to exceed 5.0 microsievert (0.5 mrem) per hour.

(iii) The immediate container of a quantity or separately packaged fractional quantity of radioactive material shall bear a durable, legible label which:

(A) identifies the radionuclide and the quantity of radioactivity; and

(B) bears the words "Radioactive Material."

(iv) In addition to the labeling information required by Subsection R313-22-75(2)(b)(iii), the label affixed to the immediate container, or an accompanying brochure, shall:

(A) state that the contents are exempt from Licensing State requirements;

(B) bear the words "Radioactive Material - Not for Human Use - Introduction into Foods, Beverages, Cosmetics, Drugs, or Medicinals, or into Products Manufactured for Commercial Distribution is Prohibited - Exempt Quantities Should Not Be Combined;" and

(C) set forth appropriate additional radiation safety precautions and instructions relating to the handling, use, storage and disposal of the radioactive material.

(e) Persons licensed under Subsection R313-22-75(2) shall maintain records identifying, by name and address, persons to whom radioactive material is transferred for use under Subsection R313-19-13(2)(b) or the equivalent regulations of a Licensing State, and stating the kinds and quantities of radioactive material transferred. An annual summary report stating the total quantity of radionuclides transferred under the specific license shall be filed with the Executive Secretary. Reports shall cover the year ending June 30, and shall be filed within thirty days thereafter. If no transfers of radioactive material have been made pursuant to Subsection R313-22-75(2) during the reporting period, the report shall so indicate.

~~_____ (3) Licensing the incorporation of naturally occurring and accelerator-produced radioactive material (NARM) into gas and aerosol detectors. An application for a specific license authorizing the incorporation of NARM into gas and aerosol detectors to be distributed to persons exempt under Subsection R313-19-13(2)(e) (iii) will be approved if the application satisfies requirements equivalent to those contained in 10 CFR 32.26, 2006 ed. The maximum quantity of radium-226 in each device shall not exceed 3.7 kilobecquerel (0.1 mCi).~~

] _____ (3) Reserved

(4) Licensing the manufacture and distribution of devices to persons generally licensed under Subsection R313-21-22(4).

(a) An application for a specific license to manufacture or distribute devices containing radioactive material, excluding special nuclear material, to persons generally licensed under Subsection R313-21-22(4) or equivalent regulations of the Nuclear Regulatory Commission, an Agreement State or a Licensing State will be approved if:

(i) the applicant satisfies the general requirements of Section R313-22-33;

(ii) the applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control, labels, proposed uses, installation, servicing, leak testing, operating and safety instructions, and potential hazards of the device to provide reasonable assurance that:

(A) the device can be safely operated by persons not having training in radiological protection,

(B) under ordinary conditions of handling, storage and use of the device, the radioactive material contained in the device will not be released or inadvertently removed from the device, and it is unlikely that a person will receive in one year, a dose in excess of ten percent of the annual limits specified in Subsection R313-15-201(1), and

(C) under accident conditions, such as fire and explosion, associated with handling, storage and use of the device, it is unlikely that a person would receive an external radiation dose or dose commitment in excess of the following organ doses:

TABLE

Whole body; head and trunk; active blood-forming organs; gonads; or lens of eye	150.0 mSv (15 rems)
Hands and forearms; feet and ankles; localized areas of skin averaged over areas no larger than one square centimeter	2.0 Sv (200 rems)
Other organs	500.0 mSv (50 rems); and

(iii) each device bears a durable, legible, clearly visible label or labels approved by the Executive Secretary, which contain in a clearly identified and separate statement:

(A) instructions and precautions necessary to assure safe installation, operation and servicing of the device; documents such as operating and service manuals may be identified in the label and used to provide this information,

(B) the requirement, or lack of requirement, for leak testing, or for testing an "on-off" mechanism and indicator,

including the maximum time interval for testing, and the identification of radioactive material by radionuclide, quantity of radioactivity, and date of determination of the quantity, and

(C) the information called for in one of the following statements, as appropriate, in the same or substantially similar form:

(I) "The receipt, possession, use and transfer of this device, Model No. _____, Serial No. _____, are subject to a general license or the equivalent, and the regulations of the Nuclear Regulatory Commission or a state with which the Nuclear Regulatory Commission has entered into an agreement for the exercise of regulatory authority. This label shall be maintained on the device in a legible condition. Removal of this label is prohibited." The label shall be printed with the words "CAUTION - RADIOACTIVE MATERIAL" and the name of the manufacturer or distributor shall appear on the label. The model, serial number, and name of the manufacturer or distributor may be omitted from this label provided the information is elsewhere specified in labeling affixed to the device.

(II) "The receipt, possession, use and transfer of this device, Model No. _____, Serial No. _____, are subject to a general license or the equivalent, and the regulations of a Licensing State. This label shall be maintained on the device in a legible condition. Removal of this label is prohibited." The label shall be printed with the words "CAUTION - RADIOACTIVE MATERIAL" and the name of the manufacturer or distributor shall appear on the label. The model, serial number, and name of the manufacturer or distributor may be omitted from this label provided the information is elsewhere specified in labeling affixed to the device.

(D) Each device having a separable source housing that provides the primary shielding for the source also bears, on the source housing, a durable label containing the device model number and serial number, the isotope and quantity, the words, "Caution-Radioactive Material," the radiation symbol described in Section R313-15-901, and the name of the manufacturer or initial distributor.

(E) Each device meeting the criteria of Subsection R313-21-22(4)(c)(xiii)(A), bears a permanent label, for example, embossed, etched, stamped, or engraved, affixed to the source housing if separable, or the device if the source housing is not separable, that includes the words, "Caution-Radioactive Material," and, if practicable, the radiation symbol described in Section R313-15-901.

(b) In the event the applicant desires that the device be required to be tested at intervals longer than six months, either for proper operation of the "on-off" mechanism and indicator, if any, or for leakage of radioactive material or for both, the applicant shall include in the application sufficient information to demonstrate that a longer interval is justified by performance characteristics of the device or similar devices and by design features which have a significant bearing on the probability or consequences of leakage of radioactive material from the device or failure of the "on-off" mechanism and indicator. In determining the acceptable interval for the test for leakage of radioactive material, the Executive Secretary will consider information which includes, but is not limited to:

- (i) primary containment, or source capsule;
- (ii) protection of primary containment;
- (iii) method of sealing containment;
- (iv) containment construction materials;

(v) form of contained radioactive material;
 (vi) maximum temperature withstood during prototype tests;
 (vii) maximum pressure withstood during prototype tests;
 (viii) maximum quantity of contained radioactive material;
 (ix) radiotoxicity of contained radioactive material; and
 (x) operating experience with identical devices or similarly designed and constructed devices.

(c) In the event the applicant desires that the general licensee under Subsection R313-21-22(4), or under equivalent regulations of the Nuclear Regulatory Commission, an Agreement State or a Licensing State be authorized to install the device, collect the sample to be analyzed by a specific licensee for leakage of radioactive material, service the device, test the "on-off" mechanism and indicator, or remove the device from installation, the applicant shall include in the application written instructions to be followed by the general licensee, estimated calendar quarter doses associated with this activity or activities, and basis for these estimates. The submitted information shall demonstrate that performance of this activity or activities by an individual untrained in radiological protection, in addition to other handling, storage, and use of devices under the general license, is unlikely to cause that individual to receive a dose in excess of ten percent of the annual limits specified in Subsection R313-15-201(1).

(d)(i) If a device containing radioactive material is to be transferred for use under the general license contained in Subsection R313-21-22(4), each person that is licensed under Subsection R313-22-75(4) shall provide the information specified in Subsections R313-22-75(4)(d)(i)(A) through (E) to each person to whom a device is to be transferred. This information must be provided before the device may be transferred. In the case of a transfer through an intermediate person, the information must also be provided to the intended user prior to initial transfer to the intermediate person. The required information includes:

(A) a copy of the general license contained in Subsection R313-21-22(4); if Subsections R313-21-22(4)(c)(ii) through (iv) or R313-21-22(4)(c)(xiii) do not apply to the particular device, those paragraphs may be omitted;

(B) a copy of Sections R313-12-51, R313-15-1201, and R313-15-1202;

(C) a list of services that can only be performed by a specific licensee;

(D) Information on acceptable disposal options including estimated costs of disposal; and

(E) An indication that the Board's policy is to issue civil penalties for improper disposal.

(ii) If radioactive material is to be transferred in a device for use under an equivalent general license of the Nuclear Regulatory Commission, an Agreement State, or Licensing State, each person that is licensed under Subsection R313-22-75(4) shall provide the information specified in Subsections R313-22-75(4)(d)(ii)(A) through (D) to each person to whom a device is to be transferred. This information must be provided before the device may be transferred. In the case of a transfer through an intermediate person, the information must also be provided to the intended user prior to initial transfer to the intermediate person. The required information includes:

(A) A copy of an Agreement State's or Licensing State's regulations equivalent to Sections R313-12-51, R313-15-1201, R313-15-1202, and Subsection R313-21-22(4) or a copy of 10 CFR 31.5, 10 CFR 31.2, 10 CFR 30.51, 10 CFR 20.2201, and 10 CFR 20.2202. If a copy of the Nuclear Regulatory Commission regulations is provided to a prospective general licensee in lieu of the Agreement State's or Licensing State's regulations, it shall be accompanied by a note explaining that use of the device is regulated by the Agreement State or Licensing State; if certain paragraphs of the regulations do not apply to the particular device, those paragraphs may be omitted;

(B) A list of services that can only be performed by a specific licensee;

(C) Information on acceptable disposal options including estimated costs of disposal; and

(D) The name or title, address, and phone number of the contact at the Nuclear Regulatory Commission, Agreement State, or Licensing State from which additional information may be obtained.

(iii) An alternative approach to informing customers may be proposed by the licensee for approval by the Executive Secretary.

(iv) Each device that is transferred after February 19, 2002 must meet the labeling requirements in Subsection R313-22-75(4)(a)(iii).

(v) If a notification of bankruptcy has been made under Section R313-19-34 or the license is to be terminated, each person licensed under Subsection R313-22-75(4) shall provide, upon request, to the Executive Secretary, the Nuclear Regulatory Commission, or an appropriate Agreement State or Licensing State, records of final disposition required under Subsection R313-22-75(4)(d)(vii)(H).

(vi) Each person licensed under Subsection R313-22-75(4) to initially transfer devices to generally licensed persons shall comply with the requirements of Subsections R313-22-75(4)(d)(vi) and (vii).

(A) The person shall report all transfers of devices to persons for use under the general license under Subsection R313-21-22(4) and all receipts of devices from persons licensed under Subsection R313-21-22(4) to the Executive Secretary. The report must be submitted on a quarterly basis on Form 653, "Transfers of Industrial Devices Report" as prescribed by the Nuclear Regulatory Commission, or in a clear and legible report containing all of the data required by the form.

(B) The required information for transfers to general licensees includes:

(I) The identity of each general licensee by name and mailing address for the location of use; if there is no mailing address for the location of use, an alternative address for the general licensee shall be submitted along with information on the actual location of use.

(II) The name, title, and phone number of the person identified by the general licensee as having knowledge of and authority to take required actions to ensure compliance with the appropriate regulations and requirements;

(III) The date of transfer;

(IV) The type, model number, and serial number of device transferred; and

(V) The quantity and type of radioactive material contained in the device.

(C) If one or more intermediate persons will temporarily possess the device at the intended place of use before its possession by the user, the report must include the same information for both the intended user and each intermediate person, and clearly designate the intermediate persons.

(D) For devices received from a Subsection R313-21-22(4) general licensee, the report must include the identity of the general licensee by name and address, the type, model number, and serial number of the device received, the date of receipt, and, in the case of devices not initially transferred by the reporting licensee, the name of the manufacturer or initial transferor.

(E) If the licensee makes changes to a device possessed by a Subsection R313-21-22(4) general licensee, such that the label must be changed to update required information, the report must identify the general licensee, the device, and the changes to information on the device label.

(F) The report must cover each calendar quarter, must be filed within 30 days of the end of the calendar quarter, and must clearly indicate the period covered by the report.

(G) The report must clearly identify the specific licensee submitting the report and include the license number of the specific licensee.

(H) If no transfers have been made to or from persons generally licensed under Subsection R313-21-22(4) during the reporting period, the report must so indicate.

(vii) The person shall report all transfers of devices to persons for use under a general license in the Nuclear Regulatory Commission's, an Agreement State's, or Licensing State's regulations that are equivalent to Subsection R313-21-22(4) and all receipts of devices from general licensees in the Nuclear Regulatory Commission's, Agreement State's, or Licensing State's jurisdiction to the Nuclear Regulatory Commission, or to the responsible Agreement State or Licensing State agency. The report must be submitted on Form 653, "Transfers of Industrial Devices Report" as prescribed by the Nuclear Regulatory Commission, or in a clear and legible report containing all of the data required by the form.

(A) The required information for transfers to general licensee includes:

(I) The identity of each general licensee by name and mailing address for the location of use; if there is no mailing address for the location of use, an alternative address for the general licensee shall be submitted along with information on the actual location of use.

(II) The name, title, and phone number of the person identified by the general licensee as having knowledge of and authority to take required actions to ensure compliance with the appropriate regulations and requirements;

(III) The date of transfer;

(IV) The type, model number, and serial number of the device transferred; and

(V) The quantity and type of radioactive material contained in the device.

(B) If one or more intermediate persons will temporarily possess the device at the intended place of use before its possession by the user, the report must include the same information for both

the intended user and each intermediate person, and clearly designate the intermediate persons.

(C) For devices received from a general licensee, the report must include the identity of the general licensee by name and address, the type, model number, and serial number of the device received, the date of receipt, and, in the case of devices not initially transferred by the reporting licensee, the name of the manufacturer or initial transferor.

(D) If the licensee makes changes to a device possessed by a general licensee, such that the label must be changed to update required information, the report must identify the general licensee, the device, and the changes to information on the device label.

(E) The report must cover each calendar quarter, must be filed within 30 days of the end of the calendar quarter, and must clearly indicate the period covered by the report.

(F) The report must clearly identify the specific licensee submitting the report and must include the license number of the specific licensee.

(G) If no transfers have been made to or from a Nuclear Regulatory Commission licensee, or to or from a particular Agreement State or Licensing State licensee during the reporting period, this information shall be reported to the Nuclear Regulatory Commission or the responsible Agreement State or Licensing State agency upon request of the agency.

(H) The person shall maintain all information concerning transfers and receipts of devices that supports the reports required by Subsection R313-22-75(4)(d)(vii). Records required by Subsection R313-22-75(4)(d)(vii)(H) must be maintained for a period of three years following the date of the recorded event.

(5) Special requirements for the manufacture, assembly or repair of luminous safety devices for use in aircraft. An application for a specific license to manufacture, assemble or repair luminous safety devices containing tritium or promethium-147 for use in aircraft for distribution to persons generally licensed under Subsection R313-21-22(5) will be approved if:

(a) the applicant satisfies the general requirements of Section R313-22-33; and

(b) the applicant satisfies the requirements of 10 CFR 32.53 through 32.56 and 32.101[~~-, 2006 ed.~~], (2010) or their equivalent.

(6) Special requirements for license to manufacture or initially transfer calibration sources containing americium-241, plutonium or radium-226 for distribution to persons generally licensed under Subsection R313-21-22(7). An application for a specific license to manufacture calibration and reference sources containing americium-241, plutonium or radium-226 to persons generally licensed under Subsection R313-21-22(7) will be approved if:

(a) the applicant satisfies the general requirements of Section R313-22-33; and

(b) the applicant satisfies the requirements of 10 CFR 32.57 through 32.59, 32.102 and 10 CFR 70.39[~~-, 2006 ed.~~], (2010), or their equivalent.

(7) Manufacture and distribution of radioactive material for certain in vitro clinical or laboratory testing under general license. An application for a specific license to manufacture or distribute radioactive material for use under the general license of Subsection R313-21-22(9) will be approved if:

(a) the applicant satisfies the general requirements specified in Section R313-22-33;

(b) the radioactive material is to be prepared for distribution in prepackaged units of:

(i) iodine-125 in units not exceeding 370 kilobecquerel (ten uCi) each;

(ii) iodine-131 in units not exceeding 370 kilobecquerel (ten uCi) each;

(iii) carbon-14 in units not exceeding 370 kilobecquerel (ten uCi) each;

(iv) hydrogen-3 (tritium) in units not exceeding 1.85 megabecquerel (50 uCi) each;

(v) iron-59 in units not exceeding 740.0 kilobecquerel (20 uCi) each;

(vi) cobalt-57 in units not exceeding 370 kilobecquerel (ten uCi) each;

(vii) selenium-75 in units not exceeding 370 kilobecquerel (ten uCi) each; or

(viii) mock iodine-125 in units not exceeding 1.85 kilobecquerel (0.05 uCi) of iodine-129 and 1.85 kilobecquerel (0.05 uCi) of americium-241 each;

(c) prepackaged units bear a durable, clearly visible label:

(i) identifying the radioactive contents as to chemical form and radionuclide, and indicating that the amount of radioactivity does not exceed 370 kilobecquerel (ten uCi) of iodine-125, iodine-131, carbon-14, cobalt-57, or selenium-75; 1.85 megabecquerel (50 uCi) of hydrogen-3 (tritium); 740.0 kilobecquerel (20 uCi) of iron-59; or Mock Iodine-125 in units not exceeding 1.85 kilobecquerel (0.05 uCi) of iodine-129 and 1.85 kilobecquerel (0.05 uCi) of americium-241 each; and

(ii) displaying the radiation caution symbol described in Section R313-15-901 and the words, "CAUTION, RADIOACTIVE MATERIAL", and "Not for Internal or External Use in Humans or Animals";

(d) one of the following statements, as appropriate, or a substantially similar statement which contains the information called for in one of the following statements, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure which accompanies the package:

(i) "This radioactive material shall be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of the Nuclear Regulatory Commission or of a state with which the Nuclear Regulatory Commission has entered into an agreement for the exercise of regulatory authority.

.....
Name of Manufacturer"

(ii) "This radioactive material shall be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of a Licensing State.

.....

Name of Manufacturer"

(e) the label affixed to the unit, or the leaflet or brochure which accompanies the package, contains adequate information as to the precautions to be observed in handling and storing radioactive material. In the case of the Mock Iodine-125 reference or calibration source, the information accompanying the source shall also contain directions to the licensee regarding the waste disposal requirements set out in Section R313-15-1001.

(8) Licensing the manufacture and distribution of ice detection devices. An application for a specific license to manufacture and distribute ice detection devices to persons generally licensed under Subsection R313-21-22(10) will be approved if:

(a) the applicant satisfies the general requirements of Section R313-22-33; and

(b) the criteria of 10 CFR 32.61, 32.62, 32.103, 2006 ed. are met.

(9) Manufacture, preparation, or transfer for commercial distribution of radioactive drugs containing radioactive material for medical use under R313-32.

(a) An application for a specific license to manufacture and distribute radiopharmaceuticals containing radioactive material for use by persons licensed pursuant to Rule R313-32 will be approved if:

(i) the applicant satisfies the general requirements specified in Section R313-22-33;

(ii) the applicant submits evidence that the applicant is at least one of the following:

(A) registered [~~or licensed~~] with the U.S. Food and Drug Administration (FDA) as [~~a drug manufacturer~~]the owner or operator of a drug establishment that engages in the manufacture, preparation, propagation, compounding, or processing of a drug under 21 CFR 207.20(a);

(B) registered or licensed with a state agency as a drug manufacturer;

(C) licensed as a pharmacy by a State Board of Pharmacy; or

(D) operating as a nuclear pharmacy within a medical institution[-]; or

(E) registered with a State Agency as a Positron Emission Tomography (PET) drug production facility.

(iii) the applicant submits information on the radionuclide; the chemical and physical form; the maximum activity per vial, syringe, generator, or other container of the radioactive drug; and the shielding provided by the packaging to show it is appropriate for the safe handling and storage of the radioactive drugs by medical use licensees; and

(iv) the applicant satisfies the following labeling requirements:

(A) A label is affixed to each transport radiation shield, whether it is constructed of lead, glass, plastic, or other material, of a radioactive drug to be transferred for commercial distribution. The label must include the radiation symbol and the words "CAUTION, RADIOACTIVE MATERIAL" or "DANGER, RADIOACTIVE MATERIAL"; the name of the radioactive drug or its abbreviation; and the quantity of radioactivity at a specified date and time. For radioactive drugs with a half life greater than 100 days, the time may be omitted.

(B) A label is affixed to each syringe, vial, or other container used to hold a radioactive drug to be transferred for commercial distribution. The label must include the radiation symbol and the words "CAUTION, RADIOACTIVE MATERIAL" or "DANGER, RADIOACTIVE MATERIAL" and an identifier that ensures that the syringe, vial, or other container can be correlated with the information on the transport radiation shield label.

(b) A licensee described by Subsections R313-22-75(9)(a)(ii)(C) or (D):

(i) May prepare radioactive drugs for medical use, as defined in Rule R313-32 (incorporating 10 CFR 35.2 by reference), provided that the radioactive drug is prepared by either an authorized nuclear pharmacist, as specified in Subsections R313-22-75(9)(b)(ii) and (iv), or an individual under the supervision of an authorized nuclear pharmacist as specified in Rule R313-32 (incorporating 10 CFR 35.27 by reference).

(ii) May allow a pharmacist to work as an authorized nuclear pharmacist if:

(A) this individual qualifies as an authorized nuclear pharmacist as defined in Rule R313-32 (incorporating 10 CFR 35.2 by reference);

(B) this individual meets the requirements specified in Rule R313-32 (incorporating 10 CFR 35.55(b) and 10 CFR 35.59 by reference) and the licensee has received an approved license amendment identifying this individual as an authorized nuclear pharmacist; or

(C) this individual is designated as an authorized nuclear pharmacist in accordance with Subsection R313-22-75(9)(b)(iv).

(iii) The actions authorized in Subsections R313-22-75(9)(b)(i) and (ii) are permitted in spite of more restrictive language in license conditions.

(iv) May designate a pharmacist, as defined in Rule R313-32 (incorporating 10 CFR 35.2 by reference), as an authorized nuclear pharmacist if ~~the individual is identified as of January 1, 1997 as an "authorized user" on a nuclear pharmacy license issued by the Executive Secretary under Subsection R313-22-75(9)]~~

(A) The individual was a nuclear pharmacist preparing only radioactive drugs containing accelerator produced radioactive material, and

(B) The individual practiced at a pharmacy at a Government agency or Federally recognized Indian Tribe before November 30, 2007, or at all other pharmacies before August 8, 2009, or an earlier date as noticed by the NRC.

(v) Shall provide to the Executive Secretary:

(A) a copy of each individual's certification by a specialty board whose certification process has been recognized by the Nuclear Regulatory Commission or Agreement State as specified in Rule R313-32 (incorporating 10 CFR 35.55(a) by reference) with the written attestation signed by a preceptor as required by Rule R313-32 (incorporating 10 CFR 35.55(b)(2) by reference); or

(B) the Nuclear Regulatory Commission or Agreement State license; or

(C) the permit issued by a licensee of broad scope; or

(D) the permit issued by a U.S. Nuclear Commission master materials licensee; or

(E) documentation that only accelerator produced radioactive materials were used in the practice of nuclear pharmacy at a Government agency or Federally recognized Indian Tribe

before November 30, 2007 or at all other locations of use before August 8, 2009, or an earlier date as noticed by the NRC; and

~~(D)E~~ ~~[and]~~ a copy of the state pharmacy licensure or registration, no later than 30 days after the date that the licensee allows, pursuant to Subsections R313-22-75(9)(b)(ii)(A) and R313-22-75(9)(b)(ii)(C), the individual to work as an authorized nuclear pharmacist.

(c) A licensee shall possess and use instrumentation to measure the radioactivity of radioactive drugs. The licensee shall have procedures for use of the instrumentation. The licensee shall measure, by direct measurement or by combination of measurements and calculations, the amount of radioactivity in dosages of alpha-, beta-, or photon-emitting radioactive drugs prior to transfer for commercial distribution. In addition, the licensee shall:

(i) perform tests before initial use, periodically, and following repair, on each instrument for accuracy, linearity, and geometry dependence, as appropriate for the use of the instrument; and make adjustments when necessary; and

(ii) check each instrument for constancy and proper operation at the beginning of each day of use.

(d) Nothing in Subsection R313-22-75(9) relieves the licensee from complying with applicable FDA, or Federal, and State requirements governing radioactive drugs.

(10) Manufacture and distribution of sources or devices containing radioactive material for medical use. An application for a specific license to manufacture and distribute sources and devices containing radioactive material to persons licensed under Rule R313-32 for use as a calibration, transmission, or reference source or for the uses listed in Rule R313-32 (incorporating 10 CFR 35.400, 10 CFR 35.500, 10 CFR 35.600, and 35.1000 by reference) will be approved if:

(a) the applicant satisfies the general requirements in Section R313-22-33;

(b) the applicant submits sufficient information regarding each type of source or device pertinent to an evaluation of its radiation safety, including:

(i) the radioactive material contained, its chemical and physical form and amount,

(ii) details of design and construction of the source or device,

(iii) procedures for, and results of, prototype tests to demonstrate that the source or device will maintain its integrity under stresses likely to be encountered in normal use and accidents,

(iv) for devices containing radioactive material, the radiation profile of a prototype device,

(v) details of quality control procedures to assure that production sources and devices meet the standards of the design and prototype tests,

(vi) procedures and standards for calibrating sources and devices,

(vii) legend and methods for labeling sources and devices as to their radioactive content, and

(viii) instructions for handling and storing the source or device from the radiation safety standpoint, these instructions are to be included on a durable label attached to the source or device or attached to a permanent storage container for the source or device; provided that instructions which are too lengthy for a label may be

summarized on the label and printed in detail on a brochure which is referenced on the label;

(c) the label affixed to the source or device, or to the permanent storage container for the source or device, contains information on the radionuclide, quantity and date of assay, and a statement that the source or device is licensed by the Executive Secretary for distribution to persons licensed pursuant to Rule R313-32 (incorporating 10 CFR 35.18, 10 CFR 35.400, 10 CFR 35.500, and 10 CFR 35.600 by reference) or under equivalent regulations of the Nuclear Regulatory Commission, an Agreement State or a Licensing State; provided that labeling for sources which do not require long term storage may be on a leaflet or brochure which accompanies the source;

(d) in the event the applicant desires that the source or device be required to be tested for leakage of radioactive material at intervals longer than six months, the applicant shall include in the application sufficient information to demonstrate that a longer interval is justified by performance characteristics of the source or device or similar sources or devices and by design features that have a significant bearing on the probability or consequences of leakage of radioactive material from the source; and

(e) in determining the acceptable interval for test of leakage of radioactive material, the Executive Secretary shall consider information that includes, but is not limited to:

- (i) primary containment or source capsule,
- (ii) protection of primary containment,
- (iii) method of sealing containment,
- (iv) containment construction materials,
- (v) form of contained radioactive material,
- (vi) maximum temperature withstood during prototype

tests,

- (vii) maximum pressure withstood during prototype tests,
- (viii) maximum quantity of contained radioactive

material,

- (ix) radiotoxicity of contained radioactive material, and
- (x) operating experience with identical sources or devices or similarly designed and constructed sources or devices.

(11) Requirements for license to manufacture and distribute industrial products containing depleted uranium for mass-volume applications.

(a) An application for a specific license to manufacture industrial products and devices containing depleted uranium for use pursuant to Subsection R313-21-21(5) or equivalent regulations of the Nuclear Regulatory Commission or an Agreement State will be approved if:

(i) the applicant satisfies the general requirements specified in Section R313-22-33;

(ii) the applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control procedures, labeling or marking, proposed uses and potential hazards of the industrial product or device to provide reasonable assurance that possession, use or transfer of the depleted uranium in the product or device is not likely to cause an individual to receive a radiation dose in excess of ten percent of the annual limits specified in Subsection R313-15-201(1); and

(iii) the applicant submits sufficient information regarding the industrial product or device and the presence of depleted uranium for a mass-volume application in the product or device to provide reasonable assurance that unique benefits will

accrue to the public because of the usefulness of the product or device.

(b) In the case of an industrial product or device whose unique benefits are questionable, the Executive Secretary will approve an application for a specific license under Subsection R313-22-75(11) only if the product or device is found to combine a high degree of utility and low probability of uncontrolled disposal and dispersal of significant quantities of depleted uranium into the environment.

(c) The Executive Secretary may deny an application for a specific license under Subsection R313-22-75(11) if the end use of the industrial product or device cannot be reasonably foreseen.

(d) Persons licensed pursuant to Subsection R313-22-75(11)(a) shall:

(i) maintain the level of quality control required by the license in the manufacture of the industrial product or device, and in the installation of the depleted uranium into the product or device;

(ii) label or mark each unit to:

(A) identify the manufacturer of the product or device and the number of the license under which the product or device was manufactured, the fact that the product or device contains depleted uranium, and the quantity of depleted uranium in each product or device; and

(B) state that the receipt, possession, use and transfer of the product or device are subject to a general license or the equivalent and the regulations of the Nuclear Regulatory Commission or an Agreement State;

(iii) assure that the uranium before being installed in each product or device has been impressed with the following legend clearly legible through a plating or other covering: "Depleted Uranium";

(iv) furnish to each person to whom depleted uranium in a product or device is transferred for use pursuant to the general license contained in Subsection R313-21-21(5) or its equivalent:

(A) a copy of the general license contained in Subsection R313-21-21(5) and a copy of form DRC-12; or

(B) a copy of the general license contained in the Nuclear Regulatory Commission's or Agreement State's regulation equivalent to Subsection R313-21-21(5) and a copy of the Nuclear Regulatory Commission's or Agreement State's certificate, or alternatively, furnish a copy of the general license contained in Subsection R313-21-21(5) and a copy of form DRC-12 with a note explaining that use of the product or device is regulated by the Nuclear Regulatory Commission or an Agreement State under requirements substantially the same as those in Subsection R313-21-21(5);

(v) report to the Executive Secretary all transfers of industrial products or devices to persons for use under the general license in Subsection R313-21-21(5). The report shall identify each general licensee by name and address, an individual by name or position who may constitute a point of contact between the Executive Secretary and the general licensee, the type and model number of device transferred, and the quantity of depleted uranium contained in the product or device. The report shall be submitted within thirty days after the end of the calendar quarter in which the product or device is transferred to the generally licensed person. If no transfers have been made to persons generally licensed under Subsection R313-21-21(5) during the reporting period, the report shall so indicate;

(vi) provide certain other reports as follows:

(A) report to the Nuclear Regulatory Commission all transfers of industrial products or devices to persons for use under the Nuclear Regulatory Commission general license in 10 CFR 40.25[-2006 ed.](2010);

(B) report to the responsible state agency all transfers of devices manufactured and distributed pursuant to Subsection R313-22-75(11) for use under a general license in that state's regulations equivalent to Subsection R313-21-21(5),

(C) reports shall identify each general licensee by name and address, an individual by name or position who may constitute a point of contact between the agency and the general licensee, the type and model number of the device transferred, and the quantity of depleted uranium contained in the product or device. The report shall be submitted within thirty days after the end of each calendar quarter in which a product or device is transferred to the generally licensed person,

(D) if no transfers have been made to Nuclear Regulatory Commission licensees during the reporting period, this information shall be reported to the Nuclear Regulatory Commission, and

(E) if no transfers have been made to general licensees within a particular Agreement State during the reporting period, this information shall be reported to the responsible Agreement State agency upon the request of that agency; and

(vii) records shall be kept showing the name, address and point of contact for each general licensee to whom the person transfers depleted uranium in industrial products or devices for use pursuant to the general license provided in Subsection R313-21-21(5) or equivalent regulations of the Nuclear Regulatory Commission or an Agreement State. The records shall be maintained for a period of two years and shall show the date of each transfer, the quantity of depleted uranium in the product or device transferred, and compliance with the report requirements of Subsection R313-22-75(11).

R313-22-90. Quantities of Radioactive Materials Requiring Consideration of the Need for an Emergency Plan for Responding to a Release. Refer to Subsection R313-22-32(8).

TABLE

Radioactive Material(1)	Release Fraction	Quantity (curies)
Actinium-228	0.001	4,000
Americium-241	.001	2
Americium-242	.001	2
Americium-243	.001	2
Antimony-124	.01	4,000
Antimony-126	.01	6,000
Barium-133	.01	10,000
Barium-140	.01	30,000
Bismuth-207	.01	5,000
Bismuth-210	.01	600
Cadmium-109	.01	1,000
Cadmium-113	.01	80
Calcium-45	.01	20,000
Californium-252 (20 mg)	.001	9
Carbon-14	.01	50,000
	Non CO	
Cerium-141	.01	10,000
Cerium-144	.01	300
Cesium-134	.01	2,000
Cesium-137	.01	3,000

Chlorine-36	.5	100
Chromium-51	.01	300,000
Cobalt-60	.001	5,000
Copper-64	.01	200,000
Curium-242	.001	60
Curium-243	.001	3
Curium-244	.001	4
Curium-245	.001	2
Europium-152	.01	500
Europium-154	.01	400
Europium-155	.01	3,000
Germanium-68	.01	2,000
Gadolinium-153	.01	5,000
Gold-198	.01	30,000
Hafnium-172	.01	400
Hafnium-181	.01	7,000
Holmium-166m	.01	100
Hydrogen-3	.5	20,000
Iodine-125	.5	10
Iodine-131	.5	10
Indium-114m	.01	1,000
Iridium-192	.001	40,000
Iron-55	.01	40,000
Iron-59	.01	7,000
Krypton-85	1.0	6,000,000
Lead-210	.01	8
Manganese-56	.01	60,000
Mercury-203	.01	10,000
Molybdenum-99	.01	30,000
Neptunium-237	.001	2
Nickel-63	.01	20,000
Niobium-94	.01	300
Phosphorus-32	.5	100
Phosphorus-33	.5	1,000
Polonium-210	.01	10
Potassium-42	.01	9,000
Promethium-145	.01	4,000
Promethium-147	.01	4,000
Ruthenium-106	.01	200
Radium-226	.001	100
Samarium-151	.01	4,000
Scandium-46	.01	3,000
Selenium-75	.01	10,000
Silver-110m	.01	1,000
Sodium-22	.01	9,000
Sodium-24	.01	10,000
Strontium-89	.01	3,000
Strontium-90	.01	90
Sulfur-35	.5	900
Technetium-99	.01	10,000
Technetium-99m	.01	400,000
Tellurium-127m	.01	5,000
Tellurium-129m	.01	5,000
Terbium-160	.01	4,000
Thulium-170	.01	4,000
Tin-113	.01	10,000
Tin-123	.01	3,000
Tin-126	.01	1,000
Titanium-44	.01	100
Vanadium-48	.01	7,000
Xenon-133	1.0	900,000
Yttrium-91	.01	2,000
Zinc-65	.01	5,000
Zirconium-93	.01	400
Zirconium-95	.01	5,000
Any other beta-gamma emitter	.01	10,000
Mixed fission products	.01	1,000
Mixed corrosion products	.01	10,000
Contaminated equipment, beta-gamma	.001	10,000
Irradiated material, any form other than solid noncombustible	.01	1,000
Irradiated material, solid noncombustible	.001	10,000
Mixed radioactive waste, beta-gamma	.01	1,000
Packaged mixed waste, beta-gamma(2)	.001	10,000

Any other alpha emitter	.001	2
Contaminated equipment, alpha	.0001	20
Packaged waste, alpha(2)	.0001	20
Combinations of radioactive materials listed above(1)	-----	-----

(1) For combinations of radioactive materials, consideration of the need for an emergency plan is required if the sum of the ratios of the quantity of each radioactive material authorized to the quantity listed for that material in Section R313-22-90 exceeds one.

(2) Waste packaged in Type B containers does not require an emergency plan.

R313-22-210. Registration of Product Information.

Licenses who manufacture or initially distribute a sealed source or device containing a sealed source whose product is intended for use under a specific license or general license are deemed to have provided reasonable assurance that the radiation safety properties of the source or device are adequate to protect health and minimize danger to life and the environment if the sealed source or device has been evaluated in accordance with 10 CFR 32.210[~~2006 ed.~~](2010) or equivalent regulations of an Agreement State.

KEY: specific licenses, decommissioning, broad scope, radioactive materials

Date of Enactment or Last Substantive Amendment: [~~February 12, 2009~~]**2010**

Notice of Continuation: October 5, 2006

Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-3-108

Environmental Quality, Radiation
Control
R313-25-2
Definitions

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 33915
FILED: 08/10/2010

RULE ANALYSIS

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

SUMMARY OF THE RULE OR CHANGE: The rule modifications address the adoption of appropriate requirements found in 72 FR 55864 - 55937. In this

rulemaking the definition of waste is modified to address changes required by the NRC's expanded definition of byproduct material which include the addition of certain discrete sources of radium-226 or naturally occurring radioactive materials and certain accelerator produced radioactive materials. In addition to this rulemaking action, comments are being solicited regarding the applicability of Subsection 19-3-104(8), restricting the Board's ability to adopt rules more stringent than corresponding federal regulations. The Executive Secretary and the Board have made a preliminary determination that there are no corresponding federal regulations, but are soliciting comments on that issue, see www.radiationcontrol.utah.gov for the Statement of Basis. The Executive Secretary and the Board have also made a determination that, if Subsection 19-3-104(8) is applicable, corresponding federal regulations are not adequate to protect public health and the environment of the state since they do not address radioactive sources that are identical to those being addressed under federal rules except that they are from a different source.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-3-104(4) and Subsection 19-3-104(8)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This proposed change is expected to have an minimal impact on the state budget. There may be a small cost to obtain or print updated regulations and new versions of the CFRs. Radioactive materials included in the expanded definition of byproduct material were regulated by the State of Utah prior to the modification of NRC requirements; therefore, the Division does not anticipate that there will be additional costs related to the regulation of radioactive materials under the new requirement.

◆ **LOCAL GOVERNMENTS:** This proposed change is expected to have a minimal impact on local government. There may be a small cost for regulated local government agencies to obtain or print updated regulations and new versions of the CFRs. The majority of radioactive materials included in the expanded definition of byproduct material were regulated by the State of Utah prior to the modification of NRC requirements. It is not anticipated that local government agencies with a radioactive materials license will have to modify their radiation safety program or their license due to this rule change.

◆ **SMALL BUSINESSES:** This proposed change is expected to have a minimal impact on small businesses. There may be a small cost for regulated small businesses to obtain or print updated regulations and new versions of the CFRs. The majority of radioactive materials included in the expanded definition of byproduct material were regulated by the State of Utah prior to the modification of NRC requirements. It is not anticipated that small businesses with a radioactive materials license will have to modify their radiation safety program or their license due to this rule change.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no known persons other than small businesses,

businesses, or local government entities that will be affected by this rulemaking action; therefore the anticipated costs for other persons is expected to be minimal and would be limited to costs for obtaining copies of revised rules and new versions of the CFRs, if desired.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Affected persons may incur a small cost to print or obtain printed copies of the revised regulations. The revised regulations will also be available on line at no cost to affected persons. The Division does not anticipate that persons other than small businesses, businesses, or local government entities will be impacted fiscally by this rulemaking.

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

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

ENVIRONMENTAL QUALITY
RADIATION CONTROL
THIRD FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/04/2010

THIS RULE MAY BECOME EFFECTIVE ON: 10/11/2010

AUTHORIZED BY: Rusty Lundberg, Director

R313. Environmental Quality, Radiation Control.

R313-25. License Requirements for Land Disposal of Radioactive Waste - General Provisions.

R313-25-2. Definitions.

As used in R313-25, the following definitions apply:

"Active maintenance" means significant activity needed during the period of institutional control to maintain a reasonable assurance that the performance objectives in R313-25-19 and R313-25-20 are met. Active maintenance may include the pumping and treatment of water from a disposal unit, the replacement of a disposal unit cover, or other episodic or continuous measures. Active maintenance does not include custodial activities like repair of fencing, repair or replacement of monitoring equipment,

vegetation, minor additions to soil cover, minor repair of disposal unit covers, and general disposal site upkeep.

"Buffer zone" means a portion of the disposal site that is controlled by the licensee and that lies under the disposal units and between the disposal units and the boundary of the site.

"Commencement of construction" means clearing of land, excavation, or other substantial action that could adversely affect the environment of a land disposal facility. The term does not mean disposal site exploration, necessary roads for disposal site exploration, borings to determine foundation conditions, or other preconstruction monitoring or testing to establish background information related to the suitability of the disposal site or the protection of environmental values.

"Custodial agency" means an agency of the government designated to act on behalf of the government owner of the disposal site.

"Disposal" means the isolation of wastes from the biosphere by placing them in a land disposal facility.

"Disposal site" means that portion of a land disposal facility which is used for disposal of waste. It consists of disposal units and a buffer zone.

"Disposal unit" means a discrete portion of the disposal site into which waste is placed for disposal. For near-surface disposal, the disposal unit may be a trench.

"Engineered barrier" means a man-made structure or device intended to improve the land disposal facility's performance under R313-25.

"Hydrogeologic unit" means a soil or rock unit or zone that has a distinct influence on the storage or movement of ground water.

"Inadvertent intruder" means a person who may enter the disposal site after closure and engage in activities unrelated to post closure management, such as agriculture, dwelling construction, or other pursuits which could, by disturbing the site, expose individuals to radiation.

"Intruder barrier" means a sufficient depth of cover over the waste that inhibits contact with waste and helps to ensure that radiation exposures to an inadvertent intruder will meet the performance objectives set forth in R313-25, or engineered structures that provide equivalent protection to the inadvertent intruder.

"Land disposal facility" means the land, buildings and structures, and equipment which are intended to be used for the disposal of radioactive waste.

"Monitoring" means observing and making measurements to provide data to evaluate the performance and characteristics of the disposal site.

"Near-surface disposal facility" means a land disposal facility in which waste is disposed of within approximately the upper 30 meters of the earth's surface.

"Site closure and stabilization" means those actions that are taken upon completion of operations that prepare the disposal site for custodial care, and that assure that the disposal site will remain stable and will not need ongoing active maintenance.

"Stability" means structural stability.

"Surveillance" means monitoring and observation of the disposal site to detect needs for maintenance or custodial care, to observe evidence of intrusion, and to ascertain compliance with other license and regulatory requirements.

"Treatment" means the stabilization or the reduction in volume of waste by a chemical or a physical process.

"Waste" means those low-level radioactive wastes containing radioactive material that are acceptable for disposal in a land disposal facility. For the purposes of this definition, low-level radioactive waste means~~[as defined in Section 19-3-102 that are acceptable for disposal in a land disposal facility. For the purposes of this definition, low-level waste has the same meaning as it does in the Low-Level Radioactive Waste Policy Act, Pub.L. 96-573, 94 Stat. 3347; thus, the term denotes]~~ radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in (b), (c), and (d) of the definition for byproduct material found in Subsection R313-12-3. ~~[waste does not mean byproduct material as defined in 42 U.S.C. 2011(e)(2) of the Atomic Energy Act, uranium or thorium tailings and waste.]~~

KEY: radiation, radioactive waste disposal, depleted uranium
Date of Enactment or Last Substantive Amendment: ~~[June 2,]~~ 2010
Notice of Continuation: October 5, 2006
Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-3-108

Environmental Quality, Radiation Control **R313-25-25** Near Surface Land Disposal Facility Operation and Disposal Site Closure

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 33914
FILED: 08/10/2010

RULE ANALYSIS

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

SUMMARY OF THE RULE OR CHANGE: The rule modifications address the adoption of appropriate requirements found in 72 FR 55864 - 55937. Section R313-15-1008 is changed to Section R313-15-1009. References to Section R313-15-1008 in Section R313-25-25 are corrected to reflect the reference change. In addition to this rulemaking action, comments are being solicited regarding the applicability of Subsection 19-3-104(8),

restricting the Board's ability to adopt rules more stringent than corresponding federal regulations. The Executive Secretary and the Board have made a preliminary determination that there are no corresponding federal regulations, but are soliciting comments on that issue, see www.radiationcontrol.utah.gov for the Statement of Basis. The Executive Secretary and the Board have also made a determination that, if Subsection 19-3-104(8) is applicable, corresponding federal regulations are not adequate to protect public health and the environment of the state since they do not address radioactive sources that are identical to those being addressed under federal rules except that they are from a different source.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-3-104(4) and Subsection 19-3-104(8)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This proposed change is expected to have a minimal impact on the state budget. There may be a small cost to obtain or print updated regulations. This rulemaking did not modify the existing regulations but corrected references to maintain the regulations as previously written. Therefore, there is no other cost anticipated to be incurred from this rulemaking.

◆ **LOCAL GOVERNMENTS:** This proposed change is expected to have a minimal impact on local government. There may be a small cost for regulated local government agencies to obtain or print updated regulations. This rulemaking did not modify the existing regulations but corrected references to maintain the regulations as previously written. Therefore, there is no other cost anticipated to be incurred from this rulemaking.

◆ **SMALL BUSINESSES:** This proposed change is expected to have a minimal impact on small businesses. There may be a small cost for regulated small businesses to obtain or print updated regulations. This rulemaking did not modify the existing regulations but corrected references to maintain the regulations as previously written. Therefore, there is no other cost anticipated to be incurred from this rulemaking.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no known persons other than small businesses, businesses, or local government entities that will be affected by this rulemaking action; therefore the anticipated costs for other persons is expected to be minimal and would be limited to costs for obtaining copies of revised rules.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Affected persons may incur a small cost to print or obtain printed copies of the revised regulations. The revised regulations will also be available on line at no cost to affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed change to the rule is necessary for the Utah Radiation Control Rules to be compatible with NRC

requirements, and to ensure that the Division's program activities are adequate to protect the public health and safety. The Division is not aware of any business that would be impacted fiscally due to the proposed rule changes.

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

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RADIATION CONTROL
THIRD FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/04/2010

THIS RULE MAY BECOME EFFECTIVE ON: 10/11/2010

AUTHORIZED BY: Rusty Lundberg, Director

R313. Environmental Quality, Radiation Control.

R313-25. License Requirements for Land Disposal of Radioactive Waste - General Provisions.

R313-25-25. Near Surface Land Disposal Facility Operation and Disposal Site Closure.

(1) Wastes designated as Class A pursuant to R313-15-[4008]1009 of these rules shall be segregated from other wastes by placing them in disposal units which are sufficiently separated from disposal units for the other waste classes so that any interaction between Class A wastes and other wastes will not result in the failure to meet the performance objectives of R313-25. This segregation is not necessary for Class A wastes if they meet the stability requirements of R313-15-[4008]1009(2)(b).

(2) Wastes designated as Class C pursuant to R313-15-[4008]1009 shall be disposed of so that the top of the waste is a minimum of five meters below the top surface of the cover or shall be disposed of with intruder barriers that are designed to protect against an inadvertent intrusion for at least 500 years.

(3) Except as provided in R313-25-1(1), only waste classified as Class A, B, or C shall be acceptable for near-surface disposal. Wastes shall be disposed of in accordance with the requirements of R313-25-25(4) through 11.

(4) Wastes shall be emplaced in a manner that maintains the package integrity during emplacement, minimizes the void spaces between packages, and permits the void spaces to be filled.

(5) Void spaces between waste packages shall be filled with earth or other material to reduce future subsidence within the fill.

(6) Waste shall be placed and covered in a manner that limits the radiation dose rate at the surface of the cover to levels that at a minimum will permit the licensee to comply with all provisions

of R313-15-105 at the time the license is transferred pursuant to R313-25-16.

(7) The boundaries and locations of disposal units shall be accurately located and mapped by means of a land survey. Near-surface disposal units shall be marked in such a way that the boundaries of the units can be easily defined. Three permanent survey marker control points, referenced to United States Geological Survey or National Geodetic Survey control stations, shall be established on the site to facilitate surveys. The United States Geological Survey or National Geodetic Survey control stations shall provide horizontal and vertical controls as checked against United States Geological Survey or National Geodetic Survey record files.

(8) A buffer zone of land shall be maintained between any buried waste and the disposal site boundary and beneath the disposed waste. The buffer zone shall be of adequate dimensions to carry out environmental monitoring activities specified in R313-25-26(4) and take mitigative measures if needed.

(9) Closure and stabilization measures as set forth in the approved site closure plan shall be carried out as the disposal units are filled and covered.

(10) Active waste disposal operations shall not have an adverse effect on completed closure and stabilization measures.

(11) Only wastes containing or contaminated with radioactive material shall be disposed of at the disposal site.

(12) Proposals for disposal of waste that are not generally acceptable for near-surface disposal because the wastes form and disposal methods shall be different and, in general, more stringent than those specified for Class C waste, may be submitted to the Executive Secretary for approval.

KEY: radiation, radioactive waste disposal, depleted uranium
Date of Enactment or Last Substantive Amendment: [June 2,] 2010

Notice of Continuation: October 5, 2006

Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-3-108

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

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33913

FILED: 08/10/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The State of Utah entered into an agreement with the U.S. Nuclear Regulatory Commission (NRC) to establish

and maintain a compatible program for the control of radioactive material in Utah. To maintain compatibility with NRC requirements, the State of Utah is required to modify the Utah Radiation Control Rules.

SUMMARY OF THE RULE OR CHANGE: The rule modifications address the adoption of appropriate requirements found in 72 FR 55864 - 55937 and 74 FR 33901 - 33906. The rulemaking clarifies which individuals need to comply with specific training requirements and clarifies that experienced individuals that meet the requirements may serve as preceptors and work experience supervisors. Specific requirements for the use of radioactive materials included under the expanded definition of byproduct material are added. The added regulations relate to the use of accelerator produced radioactive materials in medical facilities including training and experience for authorized individuals, certain tests, recordkeeping, and authorized sources for the accelerator produced materials. The rulemaking also incorporates the most recent version of 10 CFR 35. In addition to this rulemaking action, comments are being solicited regarding the applicability of Subsection 19-3-104(8), restricting the Board's ability to adopt rules more stringent than corresponding federal regulations. The Executive Secretary and the Board have made a preliminary determination that there are no corresponding federal regulations, but are soliciting comments on that issue, see www.radiationcontrol.utah.gov for the Statement of Basis. The Executive Secretary and the Board have also made a determination that, if Subsection 19-3-104(8) is applicable, corresponding federal regulations are not adequate to protect public health and the environment of the state since they do not address radioactive sources that are identical to those being addressed under federal rules except that they are from a different source.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-3-104(4) and Subsection 19-3-104(8)

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Updates 10 CFR 35, published by Government Printing Office, 01/01/2010

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** This proposed change is expected to have an minimal impact on the state budget. There may be a small cost to obtain or print updated regulations and new versions of the CFRs. Radioactive materials included in the expanded definition of byproduct material were regulated by the State of Utah prior to the modification of NRC requirements; therefore, the Division does not anticipate that additional licenses or license amendments will be required.
- ◆ **LOCAL GOVERNMENTS:** This proposed change is expected to have a minimal impact on local government. There may be a small cost for regulated local government agencies to obtain or print updated regulations and new

versions of the CFRs. The majority of radioactive materials included in the expanded definition of byproduct material were regulated by the State of Utah prior to the modification of NRC requirements. The Division has not identified any local government agencies licensed to use radioactive materials for medical purposes; therefore, no additional costs are expected for local government agencies.

◆ **SMALL BUSINESSES:** This proposed change is expected to have a minimal impact on small businesses. There may be a small cost for regulated small businesses to obtain or print updated regulations and new versions of the CFRs. The majority of radioactive materials included in the expanded definition of byproduct material were regulated by the State of Utah prior to the modification of NRC requirements. It is not anticipated that small businesses with a radioactive materials license will have to modify their radiation safety program or their license.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Prior to the NRC's expansion of the definition for byproduct material, entities authorized to use radioactive materials for medical purposes in Utah have been regulated by the State for the use of these materials. Therefore, the anticipated costs for other persons is expected to be minimal and would be limited to costs associated with obtaining copies of revised rules and new versions of the CFRs, if desired.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Affected persons may incur a small cost to print or obtain printed copies of the revised regulations. The revised regulations will also be available on line at no cost to affected persons.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/04/2010

THIS RULE MAY BECOME EFFECTIVE ON: 10/11/2010

AUTHORIZED BY: Rusty Lundberg, Director

R313. Environmental Quality, Radiation Control.

R313-32. Medical Use of Radioactive Material.

R313-32-1. Purpose and Authority.

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

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

R313-32-2. Clarifications or Exceptions.

For the purposes of Rule R313-32, 10 CFR 35.2 through 35.7; 35.10(d) through 35.10(f); 35.11(a) through 35.11(b); 35.12; and [35-10]35.13(b) through 35.3067 (January 1, 2007) [2010] are incorporated by reference with the following clarifications or exceptions:

- (1) The exclusion of the following:
 - (a) In 10 CFR 35.2, exclude definitions for "Address of Use," "Agreement State," "Area of Use," "Dentist," "Pharmacist," "Physician," "Podiatrist," and "Sealed Source"; and
 - (b) In 10 CFR 35.3067, exclude "with a copy to the Director, Office of Nuclear Material Safety and Safeguards."
- (2) The substitution of the following date references:
 - (a) "May 13, 2005" for "October 24, 2002"; and
 - (b) "May 10, 2006" for "April 29, 2005."
- (3) The substitution of the following rule references:
 - (a) "Rule R313-15" for reference to "10 CFR Part 20" or for reference to "Part 20 of this chapter";
 - (b) "Rule R313-19" for reference to "Part 30 of this chapter" or for reference to "10 CFR Part 30" except for the reference to "Part 30 of this chapter" found in 10 CFR 35.65(d);
 - (c) "10 CFR 30" for reference to "Part 30 of this chapter" found in 10 CFR 35.65(d);
 - (d) "Rules R313-15 and R313-19" for reference to "parts 20 and 30 of this chapter";
 - (e) "Section R313-12-110" for reference to "Sec. 30.6 of this chapter" or for reference to "Sec. 30.6(a)" or for reference to "Sec. 30.6(a) of this chapter";
 - (f) "Section R313-15-101" for reference to "Sec. 20.1101 of this chapter";
 - (g) "Subsection R313-15-301(1)(a)" for reference to "Sec. 20.1301(a)(1) of this chapter";
 - (h) "Subsection R313-15-301(1)(c)" for reference to "Sec. 20.1301(c) of this chapter";
 - (i) "Section R313-15-501" for reference to "Sec. 20.1501 of this chapter";
 - (j) "Section R313-18-12" for reference to "Sec. 19.12 of this chapter";
 - (k) "Subsection R313-22-75(10) or equivalent U.S. Nuclear Regulatory Commission or Agreement State regulations"

for reference to "Sec. 32.74 of this chapter," found in 10 CFR 35.65(b);

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

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

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

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

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

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

(r) "Subsection R313-22-75(9), 10 CFR 32.72," for reference to "Sec. 32.72 of this chapter";

(s) "Subsection R313-22-75(9)(b)(v)" for reference to "Sec. 32.72(b)(5)";

(t) "(c)(1) or (c)(2)" for reference to "(c)(1)" in 10 CFR 35.50(d); ~~and~~

(u) "35.600 or 35.1000" for reference to "35.600" in 10 CFR 35.41(b)(1); and

(v) "Subsection R313-22-32(9), 10 CFR 30.32(j)," for reference to "30.32(j) of this chapter";

(4) The substitution of the following terms:

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

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

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

(d) "Form DRC-01, 'Radioactive Material License Application'" for reference to "NRC Form 313, 'Application for Material License'";

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

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

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

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

(i) "Executive Secretary" for reference to "NRC Operations Center" in 10 CFR 35.3045(c) and 10 CFR 35.3047(c);

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

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

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

(m) "Executive Secretary" for reference to "Commission" in 10 CFR 35.10(b), 10 CFR 35.12(d)(2), 10 CFR 35.14(a)(first instance), 10 CFR 35.14(b), 10 CFR 35.18(a), 10 CFR 35.18(a)(3) (first instance), 10 CFR 35.18(b), 10 CFR 35.24(a)(1), 10 CFR 35.24(c), 10 CFR 35.26(a), and 10 CFR 35.1000(b);

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

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

(p) "Executive Secretary, a U.S. Nuclear Regulatory Commission, or Agreement State" for reference to "NRC or Agreement State" in 10 CFR 35.63(b)(2)(ii), 10 CFR 35.100(c), 10 CFR 35.200(c), and 10 CFR 35.300(c); and

~~[(q) In 10 CFR 35.2, Definitions, "Medium dose rate remote afterloader," substitute "remotely delivers a dose rate of greater than 2 gray (200 rads) per hour, but less than or equal to 12 gray (1200 rads) per hour" for "remotely delivers a dose rate of greater than 2 gray (200 rads), but less than 12 gray (1200 rads) per hour."~~

[(q) In 10 CFR 35.75(a) "Footnote 1", substitute "The current version of NUREG-1556, Vol. 9" for "NUREG-1556 Vol. 9,";

~~(s) In 10 CFR 35.92(a) substitute "less than or equal to" for "less than";~~

~~(t) In 10 CFR 35.190, paragraph (a)(1), substitute "as described in paragraphs (e)(1)(i) through (e)(1)(ii)(F) of this section; and" for "that includes the topics listed in paragraphs (e)(1)(i) and (e)(1)(ii) of this section; and"~~

~~(u) In 10 CFR 35.290, paragraph (a)(1), substitute "as described in paragraphs (e)(1)(i) through (e)(1)(ii)(G) of this section; and" for "that includes the topics listed in (e)(1)(i) and (e)(1)(ii) of this section."~~

KEY: radioactive materials, radiopharmaceutical, brachytherapy, nuclear medicine

Date of Enactment or Last Substantive Amendment: [February 12, 2009]2010

Notice of Continuation: October 5, 2006

Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-3-108

Environmental Quality, Water Quality R317-1-7 TMDLs

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33921

FILED: 08/11/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to incorporate by reference a recently completed and Environmental Protection Agency (EPA) approved Total Maximum Daily Load (TMDL) Water Quality determination into the rule.

SUMMARY OF THE RULE OR CHANGE: This section incorporates by reference the Middle Bear River and Cutler Reservoir TMDL. Each TMDL has gone through an individual public review process, has been approved by the Environmental Protection Agency, and has been adopted by the Water Quality Board.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-5-104

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Adds Middle Bear River and Cutler Reservoir TMDL, published by Utah Division of Water Quality, February 2010

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There are no anticipated impacts to the state budget. The proposed amendments will be addressed using existing resources.

◆ **LOCAL GOVERNMENTS:** Implementation of the approved Bear River and Cutler Reservoir TMDL will require Logan City to upgrade its existing wastewater treatment facility to meet TMDL water quality endpoints. Estimated costs are in the range of \$15,000,000, however, the cost of these upgrades is difficult to determine as they will vary widely depending on the type of treatment technology selected by the city.

◆ **SMALL BUSINESSES:** No cost impacts to small businesses are anticipated. However, the approved TMDL outline an adaptive management strategy for implementation. Capital construction costs or costs associated with changes in management strategies to address point and nonpoint sources of pollution may or may not be required in the future depending on a number of factors that cannot be determined at this time. Implementation projects and strategies will be made available for discussion and comment in a continuing public planning process associated with each TMDL.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No cost impacts to other persons are anticipated. However, the approved TMDL outline an adaptive management strategy for implementation. Capital construction costs or costs associated with changes in management strategies to address point and nonpoint sources of pollution may or may not be required in the future depending on a number of factors that cannot be determined at this time. Implementation projects and strategies will be made available for discussion and comment in a continuing public planning process associated with each TMDL.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Implementation of the approved Bear River and Cutler

Reservoir TMDL will require Logan City to upgrade its existing wastewater treatment facility to meet TMDL water quality endpoints. Estimated costs are in the range of \$15,000,000, however, the cost of these upgrades is difficult to determine as they will vary widely depending on the type of treatment technology selected by the city.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Each state is required under Section 303 of the federal Clean Water Act to establish TMDLs for waters identified as impaired, i.e., those waters included on the 303(d) list. States must complete and implement TMDLs. No cost impacts to businesses are identified in the approved TMDLs. However, the approved TMDLs outline an adaptive management strategy for implementation. Capital construction costs or costs associated with changes in management strategies to address point and nonpoint sources of pollution may or may not be required in the future depending on a number of factors that cannot be determined at this time. Implementation projects and strategies will be made available for discussion and comment in a continuing public planning process associated with each TMDL.

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

ENVIRONMENTAL QUALITY
WATER QUALITY
THIRD FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Dave Wham by phone at 801-536-4337, by FAX at 801-536-4301, or by Internet E-mail at dwham@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2010

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2010

AUTHORIZED BY: Amanda Smith, Executive Director

R317. Environmental Quality, Water Quality.
R317-1. Definitions and General Requirements.
R317-1-7. TMDLs.

The following TMDLs are approved by the Board and hereby incorporated by reference into these rules:

- 7.1 Middle Bear River -- [December 23, 1997]February 23, 2010
- 7.2 Chalk Creek -- December 23, 1997
- 7.3 Otter Creek -- December 23, 1997
- 7.4 Little Bear River -- May 23, 2000
- 7.5 Mantua Reservoir -- May 23, 2000
- 7.6 East Canyon Creek -- September 1, 2000
- 7.7 East Canyon Reservoir -- September 1, 2000

- 7.8 Kents Lake -- September 1, 2000
- 7.9 LaBaron Reservoir -- September 1, 2000
- 7.10 Minersville Reservoir -- September 1, 2000
- 7.11 Puffer Lake -- September 1, 2000
- 7.12 Scofield Reservoir -- September 1, 2000
- 7.13 Onion Creek (near Moab) -- July 25, 2002
- 7.14 Cottonwood Wash -- September 9, 2002
- 7.15 Deer Creek Reservoir -- September 9, 2002
- 7.16 Hyrum Reservoir -- September 9, 2002
- 7.17 Little Cottonwood Creek -- September 9, 2002
- 7.18 Lower Bear River -- September 9, 2002
- 7.19 Malad River -- September 9, 2002
- 7.20 Mill Creek (near Moab) -- September 9, 2002
- 7.21 Spring Creek -- September 9, 2002
- 7.22 Forsyth Reservoir -- September 27, 2002
- 7.23 Johnson Valley Reservoir -- September 27, 2002
- 7.24 Lower Fremont River -- September 27, 2002
- 7.25 Mill Meadow Reservoir -- September 27, 2002
- 7.26 UM Creek -- September 27, 2002
- 7.27 Upper Fremont River -- September 27, 2002
- 7.28 Deep Creek -- October 9, 2002
- 7.29 Uinta River -- October 9, 2002
- 7.30 Pineview Reservoir -- December 9, 2002
- 7.31 Browne Lake -- February 19, 2003
- 7.32 San Pitch River -- November 18, 2003
- 7.33 Newton Creek -- June 24, 2004
- 7.34 Panguitch Lake -- June 24, 2004
- 7.35 West Colorado -- August 4, 2004
- 7.36 Silver Creek -- August 4, 2004
- 7.37 Upper Sevier River -- August 4, 2004
- 7.38 Lower and Middle Sevier River -- August 17, 2004
- 7.39 Lower Colorado River -- September 20, 2004
- 7.40 Upper Bear River -- August 4, 2006
- 7.41 Echo Creek -- August 4, 2006
- 7.42 Soldier Creek -- August 4, 2006
- 7.43 East Fork Sevier River -- August 4, 2006
- 7.44 Koosharem Reservoir -- August 4, 2006
- 7.45 Lower Box Creek Reservoir -- August 4, 2006
- 7.46 Otter Creek Reservoir -- August 4, 2006
- 7.47 Thistle Creek -- July 9, 2007
- 7.48 Strawberry Reservoir -- July 9, 2007
- 7.49 Matt Warner Reservoir -- July 9, 2007
- 7.50 Calder Reservoir -- July 9, 2007
- 7.51 Lower Duchesne River -- July 9, 2007
- 7.52 Lake Fork River -- July 9, 2007
- 7.53 Brough Reservoir -- August 22, 2008
- 7.54 Steinaker Reservoir -- August 22, 2008
- 7.55 Red Fleet Reservoir -- August 22, 2008
- 7.56 Newcastle Reservoir -- August 22, 2008
- 7.57 Cutler Reservoir -- February 23, 2010

KEY: water pollution, waste disposal, industrial waste, effluent standards
Date of Enactment or Last Substantive Amendment: [April 1, 2010]
Notice of Continuation: October 2, 2007
Authorizing, and Implemented or Interpreted Law: 19-5

Human Services, Child and Family
Services
R512-100
Home Based Services

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33925

FILED: 08/12/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being changed to modify the name from "Home Based Services" to "In-Home Services" and make other modifications to bring it current with practice, revise the purpose and authority section, and make minor formatting changes.

SUMMARY OF THE RULE OR CHANGE: The proposed changes to this rule replace the name "Home Based Services" with "In-Home Services" and make other modifications to bring it current with practice, add the statutory authority for Child and Family Services to perform rulemaking duties, and make minor formatting changes for consistency.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-4a-102 and Section 62A-4a-105 and Section 62A-4a-201 and Section 62A-4a-202

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: There will be no increase in cost or savings to the state budget because these proposed changes bring the rule in line with current practice and add rulemaking authority for Child and Family Services, but do not increase workload that would require additional staff or other costs.
- ◆ LOCAL GOVERNMENTS: There will be no increase in costs or savings to local government because it was determined that this rule does not apply to local government, but only applies to Child and Family Services.
- ◆ SMALL BUSINESSES: There will be no increase in costs or savings to small businesses because it was determined that this rule does not apply to small businesses, but only applies to Child and Family Services.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There will be no increase in costs or savings to persons other than small businesses, businesses, or local government entities because it was determined that this rule does not apply to persons other than small businesses, businesses, or local government entities, but only applies to Child and Family Services.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons associated with implementing the changes to this rule.

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

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

HUMAN SERVICES

CHILD AND FAMILY SERVICES

195 N 1950 W

SALT LAKE CITY, UT 84116

or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Carol Miller by phone at 801-557-1772, by FAX at 801-538-3993, or by Internet E-mail at carolmiller@utah.gov
- ◆ Julene Jones by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at hjones@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2010

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2010

AUTHORIZED BY: Brent Platt, Director

R512. Human Services, Child and Family Services.

R512-100. ~~[Home Based]~~In-Home Services.

R512-100-1. Purpose and Authority ~~and Purpose~~.

~~[A-](1)~~ The purpose of ~~[Home Based]~~In-Home Services is to provide services to allow children at risk to remain safely in their own home, and provide services to facilitate the return home of children who have been placed in the custody of the Division of Child and Family Services (Child and Family Services) ~~(DCFS)~~.

(2) In-Home Services are designed to maintain children safely in their homes by helping families alleviate crises. Child and Family Services provides assistance for developing skills and educational training in the family home and for connecting the family to community services and resources to meet the family's needs.

~~[B-](3)~~ The components of ~~[Home Based]~~In-Home Services ~~[H]~~interventions include:

~~[1-](a)~~ Case ~~[M]~~management,

~~[2-](b)~~ Skills ~~[D]~~development and ~~[F]~~family

~~[E]~~education,

~~[3-](c)~~ Counseling/~~[T]~~therapy,

~~[4-](d)~~ Home visits, ~~[+]~~The DCFS worker will visit with the child and family a minimum of one time per month.

~~[5-](e)~~ Private conversation with one or more of the children~~(ren)~~ if the children~~(ren)~~ ~~have[has]~~been substantiated as a victim of abuse or neglect.

~~[(C)](4) Pursuant to Sections 62A-4a-105, 62A-4a-201, and 62A-4a-202, Child and Family Services [the Division] is authorized to provide [Home Based] In-Home Services.~~

~~(4) This rule is authorized by Section 62A-4a-102.~~

R512-100-2. Definitions.

~~[(C)](1) "[Functional] Child and Family Assessment" defines the child and family's strengths and needs and provides the framework from which to access appropriate services[.], [E]valuate progress toward goals, and adjust plans and interventions accordingly.~~

~~[(A)](2) "Child and Family Plan" is based on the assessment of the child and family's strengths and needs which will enable them to work toward their goals.~~

~~[(B)](3) "Child and Family Team"[A] is a group that meets [together] as often as needed and works to support the family and assist them in meeting their needs. This may include the referent or other concerned individuals identified by the family as support persons.~~

R512-100-3. Qualifications.

~~[(A) Home Based services may be provided to children who are potentially at risk of abuse and neglect and their families. The family must agree to work voluntarily with Child and Family Services with regard to Early Intervention services.~~

~~B. Requests for Home Based Services will be evaluated as soon as possible after receiving the request. The initial level of intensity will be decided also and is assigned at the discretion of DCFS. Acceptance may be based on any of the following criteria:~~

- ~~1. the ongoing risk of abuse/neglect of a child;~~
- ~~2. the minimal or no risk of removal of the child from his/her home;~~
- ~~3. the past history of abuse/neglect of a child;~~
- ~~4. the family's willingness to accept Home Based Services;~~
- ~~5. the need for ongoing monitoring by DCFS.~~

~~C. DCFS will have the discretion to determine whether a request for Home Based DCFS Services is accepted unless those services are court ordered. Home Based Services are appropriate when any of the following conditions exist:~~

- ~~1. a child has experienced abuse or neglect but can remain safely in the home;~~
- ~~2. when a child is returned home from out of home care;~~
- ~~3. when an adoptive placement may disrupt or dissolve and intensive services are needed to maintain the family in the adoptive home; or~~
- ~~4. when reunification is likely within 14 days and intensive support is needed to prepare for and facilitate the reunification.~~

~~D. A child and family will not be accepted for Home Based Services if all of the following conditions are present:~~

- ~~1. a family has the ability to access resources, supports and services on their own;~~
- ~~2. there is minimal risk or no of abuse/neglect to the child; and the family does not require ongoing services;~~

~~E. The family will be asked to sign a consent for services after the case is opened by a DCFS worker and prior to the time services begin.~~

~~F. If the DCFS response to a request is that the family needs Home Based Services but the family refuses to accept these services and the child is determined to be at risk of abuse/neglect, by the evidence from the initial assessment, safety/risk assessments or by observation by the Home Based Worker, the DCFS worker will screen the case with an Assistant Attorney General and will consider filing a petition for court ordered services.~~

~~G. The family and the referent will be contacted and informed of the decision to provide or not to provide Home Based Services. Notification may be verbal or written and will be documented in the file.~~

~~H. If a request for Home Based Services is denied, the reasons for denial of Home Based Services will be documented and explained to the referent and family. The worker will provide suggestions to the family for other resources, supports and services to meet the family's needs. Referral resources will also be recorded in the closing summary.](1) In-Home Services may be provided to families under the following conditions:~~

~~(a) A specific threat of harm to the child is present or is likely to be present and without intervention the protective capacities of the caregiver cannot safely manage the threat of harm.~~

~~(b) Abuse or neglect has occurred but the child is able to remain safely in the home.~~

~~(c) A child who is being reunited with their family and has been in the temporary custody of Child and Family Services and/or an out-of-home placement with a kinship caregiver.~~

~~(d) An adoptive placement may be at risk of disruption or dissolution and services are needed to maintain the child in the adoptive home.~~

~~(2) A family may not be accepted for In-Home Services under the following conditions:~~

~~(a) A family has the ability to access resources, supports, and services on their own.~~

~~(b) There are no specific threats of harm to the child that are not managed by the protective capacities of the family.~~

~~(3) In-Home Services may be voluntary or court ordered.~~

~~(a) Voluntary services are preferred over court ordered services.~~

~~(b) A petition may be filed for court-ordered protective supervision of the family.~~

~~(4) In-Home Services are available in all geographic regions of the state.~~

R512-100-5. Service Delivery.

~~[(A) A Child and Family Team will be developed or strengthened for every family receiving Home Based Services.~~

~~B. Ongoing Child and Family Team meetings will be held for every family receiving Home Based Services to ensure safety of the child and appropriateness and quality of services provided to the family. Child and Family Team Meetings must be held at least once every six months to track and adapt the plan.~~

~~C. Ongoing Child and Family Team Meetings for Home Based services will include, but are not limited to, the following:~~

~~1. Initial Child and Family Team Meeting which will be held for each Home Based Services case to establish case intensity and to discuss options for service provision.~~

~~2. Transition Child and Family Team Meeting may be held prior to the family's transition from services with the following goals:~~

~~a. assess safety of and ongoing risk to the child;~~
~~b. identify continuing and additional service needs; and~~
~~c. assess the family's ability to meet their own needs and access services without further DCFS involvement.~~

~~D. A functional assessment will be updated as new information is obtained for each child and family receiving Home Based Services, and prior to the development of the Child and Family Plan.~~

~~E. A Child and Family Plan will be developed for each family receiving Home Based Services. The plan will be developed by the Child and Family Team and will have the goal of identifying avenues through which the family can establish and meet their needs.~~

~~F. Child and Family plans will be reviewed at a minimum every three months and updated as needed. The worker will request information from Child and Family Team members when reviewing, tracking and adapting the Child and Family Plan.~~

~~G. The child and family plan will be complete when the worker, their supervisor and the child and family team have agreed to the plan and it is finalized in SAFE. Signatures will be obtained as soon as possible after the plan is finalized in SAFE. If a family member refuses to sign the plan, the worker will document that family member's reasons for refusal.~~

~~H. The worker will provide a copy of the Child and Family Plan to the family, other Child and Family Team members and, if services are court ordered, to the attorney general, guardian ad litem and the court.~~

~~I. When Home Based Services are court ordered, it is the responsibility of DCFS to determine the level of intensity of the services to be provided to the family unless a court order specifically sets a level of intensity.~~

~~J. If services are court ordered but the assessment indicates that Home Based Services are not appropriate, the DCFS worker will contact the assistant attorney general and guardian ad litem, explain the situation and request a petition be filed with the court to terminate services.~~

~~K. The family and referent must be informed of the results of a functional assessment when the Home Based worker has concluded that Home Based Services are inappropriate and is recommending that those services should be terminated. If needs have been identified that could not be met by other means then other service options should be explored with the family prior to ending services with the family.~~

~~L. When determining the level of service intensity, the DCFS worker will consider the following factors:~~

- ~~1. The degree of risk to the child;~~
- ~~2. the extent of services to be provided;~~
- ~~3. The needed frequency and duration of contacts with the family;~~
- ~~4. The amount of time needed for case management activities;~~
- ~~5. If a clinical service is needed; and~~
- ~~6. The family's schedule.~~

~~M. The intensity of service may change during the course of Home Based Services. A change in intensity level does not require termination of service or starting a new service and does not require a worker change.~~

~~N. The needs of the child and family and the intensity of the service will determine the frequency of home visits to the child~~

and family. The worker, or another member of the team will contact the child/family at a minimum, once monthly. Contact may include a Home or Community Visit. If a team member other than the identified DCFS targeted case manager contacts the family, they will report the nature and outcome of the visit to the case manager.

~~O. Unannounced visits are permissible and the likelihood of such visits should be explained to the family.](1) Child and Family Team:~~

~~(a) With the family's assistance, a Child and Family Team shall be established for each family receiving In-Home Services.~~

~~(b) At a minimum, the Child and Family Team shall assist with assessment, Child and Family Plan development, and selection of permanency goals; oversee progress toward completion of the Child and Family Plan; and provide input into adaptations to the Child and Family Plan.~~

~~(2) Child and Family Assessment:~~

~~(a) A written assessment that evaluates the child and family's strengths and underlying needs is completed for each family working with Child and Family Services.~~

~~(3) Child and Family Plan:~~

~~(a) Based upon the Child and Family Assessment, each child and family receiving In-Home Services shall have a written Child and Family Plan in accordance with Section 62A-4a-205.~~

~~(b) Members of the Child and Family Team shall assist in creating the Child and Family Plan.~~

~~(c) A copy of the completed Child and Family Plan shall be provided to the parent or guardian. If In-Home Services are court ordered, a copy of the Child and Family Plan will be provided to the court, Assistant Attorney General, Guardian ad Litem, and legal counsel for the parent or guardian.~~

~~(4) Permanency Goals:~~

~~(a) All children receiving In-Home Services shall have a primary permanency goal and a concurrent permanency goal identified by the Child and Family Team.~~

~~(b) For court-ordered In-Home Services, both primary and concurrent permanency goals shall be submitted to the court for approval.~~

~~(5) Duration of Services:~~

~~(a) In-Home Services shall continue until the identified threats of harm have been managed by decreasing the child vulnerabilities and/or increasing the protective capacities of the family, or when the child can no longer safely remain in the home.~~

~~[R512-100-6. Duration of Services.~~

~~A. Early intervention services may last for 30 to 90 days, or, if determined by the worker, supervisor and the child and family team to be necessary, may be extended as long as the family needs to reduce risks and develop or strengthen a support system separate from Child and Family Services.~~

~~B. Intensive services will be provided for a period of 60 to 90 days. If intensive services beyond the 60 to 90 days are in the best interest of the child and family, the supervisor or designee may approve an extension. The reasons for the extension must be documented and include specific desired results and treatment methods.~~

~~R512-100-7. Termination of Services.~~

~~A. If the initial functional assessment indicates that Home Based Services are not appropriate, services may be terminated~~

~~(unless court ordered) without development of a Child and Family Plan. Termination will occur prior to the due date of the Child and Family Plan.~~

~~B. When it is determined that services will no longer be provided, a final progress summary will be completed, including the reason for closure.~~

~~C. If there are two DCFS workers assigned to the case, the workers will collaborate prior to making a decision to remove the child from the home, unless the removal is due to an emergency.~~

~~D. If a child needs to be removed from the home in which the child's family is receiving Home Based Services, the Home Based Services worker will follow the requirement specified in Rule R512-200, obtaining a warrant, motion hearing, or if appropriate circumstances exist, will remove without a warrant.~~

~~E. A consultation is required prior to the removal of the child and will include the Home Based Services supervisor, a DCFS Child Protective Services (CPS) supervisor or a CPS worker. The Home Based worker should also consult with the guardian ad litem and assistant attorney general.~~

R512-100-8. Documentation.

~~A. If Domestic Violence (DV) is identified through the provision of the service where it wasn't before, the worker will document the completion of the following:~~

- ~~1. staff with supervisor and/or DV specialist/or community specialist; and~~
- ~~2. conduct assessment alone with the victim or see that a domestic violence or~~
- ~~3. community specialist conducts an assessment.~~
- ~~4. complete Risk of Danger form;~~
- ~~5. create Safety Plan; and~~
- ~~6. interview child and assess.~~

~~]~~
KEY: child welfare

Date of Enactment or Last Substantive Amendment:
[September 3, 2003]2010

Notice of Continuation: August 20, 2008

Authorizing, and Implemented or Interpreted Law:
62A-4a-102; 62A-4a-105; 62A-4a-201; 62A-4a-202

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being changed to make minor modifications to bring it current with practice, revise the purpose and authority section, and make minor formatting changes.

SUMMARY OF THE RULE OR CHANGE: The proposed changes to this rule make minor modifications to bring it current with practice, add the statutory authority for Child and Family Services to perform rulemaking duties, and make minor formatting changes for consistency.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-4a-102 and Section 62A-4a-105 and Section 62A-4a-202.3

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There will be no increase in cost or savings to the state budget because these proposed changes bring the rule in line with current practice and add rulemaking authority for Child and Family Services, but do not increase workload that would require additional staff or other costs.

◆ **LOCAL GOVERNMENTS:** There will be no increase in costs or savings to local government because it was determined that this rule does not apply to local government, but only applies to Child and Family Services.

◆ **SMALL BUSINESSES:** There will be no increase in costs or savings to small businesses because it was determined that this rule does not apply to small businesses, but only applies to Child and Family Services.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There will be no increase in costs or savings to persons other than small businesses, businesses, or local government entities because it was determined that this rule does not apply to persons other than small businesses, businesses, or local government entities, but only applies to Child and Family Services.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons associated with implementing the changes to this rule.

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

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

HUMAN SERVICES
CHILD AND FAMILY SERVICES
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Carol Miller by phone at 801-557-1772, by FAX at 801-538-3993, or by Internet E-mail at carolmiller@utah.gov

Human Services, Child and Family Services
R512-201
Child Protective Services, Investigation Services

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33926

FILED: 08/12/2010

♦ Julene Jones by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjones@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2010

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2010

AUTHORIZED BY: Brent Platt, Director

R512. Human Services, Child and Family Services.

R512-201. Child Protective Services, Investigation Services.

R512-201-1. Purpose and Authority [and Purpose].

[A-](1) Purpose. Promoting protection, Child Protective Services (CPS), and safety of children by [] accurate and timely investigations; and []

[] assessments, which determine the capability, willingness, and the availability of resources for achieving safety, permanence, and well-being for the children. The [DCFS] Child and Family Services CPS caseworker shall assess protection, risk, and safety needs of a child, the family's [ies] strengths, needs, and challenges, and capacity and willingness of the family to provide for and protect the child, and shall determine appropriate services.

[2] [] Authority. Pursuant to Sections 62A-4a-105 and 62A-4a-202.3, the [Division of] Child and Family Services [DCFS] is authorized to provide [child protective services] CPS.

(a) This rule is authorized by Section 62A-4a-102.

R512-201-2. Definitions.

[A-](1) "Immediate Protection and Safety Assessment": An organized protocol whereby [DCFS] Child and Family Services or another agency gathers information to identify the strengths and challenges and other factors of the family members that may contribute to safety or risk issues of a child who may be an alleged victim of abuse, neglect, or dependency.

R512-201-3. Qualifications.

[A-](1) Children who are the subject of a referral for child abuse, neglect, or dependency qualify for investigation services, as described in Section 62A-4a-403 and [DHS-] Rule [] R512-200, Child Protective Services, Intake Services.

R512-201-4. Scope of Services.

[A-](1) A CPS investigation shall include (but is not limited to) the following:

[B-](a) Immediate Protection and Safety Assessment for the Child. []

[] The [DCFS] Child and Family Services CPS caseworker shall assess the immediate protection safety needs of a child and the family's capacity to protect the child. The [DCFS] Child and Family Services CPS caseworker shall include a domestic violence assessment.

[C-](b) CPS Investigation and Assessment. In addition to the requirements of Sections 62A-4a-202.3 and 62A-4a-409, a CPS investigation may include, but is not limited to, the following:

[4-](i) Assessment of immediate risk, safety, and protection needs of a child to include an assessment of risk [] that an absent parent or cohabitant may pose to the child.

[2-](ii) [a] Assessment of risk, protection, and safety needs for any siblings or other children residing in the home as a sibling or child at risk. Complete the team consultation of each case.

[3-](iii) Assessment of the family's strengths, needs, challenges, limitations, struggles, ability, and willingness to protect the child.

[4-](iv) Determination of eligibility for enrollment or membership in a Native American tribe.

[5-](v) Medical or mental health evaluations completed as required by statute within required time frames to negate or lessen the possibility of physical injury, severe physical abuse, medical neglect, exposure to a hazardous, illegal chemical environment, or recent sexual abuse.

[C-](2) Availability.

[4-](a) CPS [S] services are available in all geographic regions of the state.

[2](3) Transfer of a Case When a Child has Moved Out of the State of Utah.

(a) [DCFS] Child and Family Services regional and inter-regional offices will cooperate to ensure that a CPS investigation is not interrupted and children are not placed in danger when the child has moved out of the state.

[3-](b) If the child and family move outside the state of Utah before the [DCFS] Child and Family Services CPS caseworker is able to make the face-to-face contact with the child and the new location of the child and family is known, the [DCFS] Child and Family Services CPS caseworker shall contact the state child welfare agency where the family has moved and request courtesy casework. If the state child welfare agency where the family has moved refuses to complete courtesy casework, the case shall be closed as "unable to locate." If the receiving state child welfare agency agrees to complete the courtesy casework, the [DCFS] Child and Family Services CPS caseworker shall make the appropriate finding based on information from the receiving state.

[4-](c) If the child and family move outside the state of Utah after the [DCFS] Child and Family Services CPS caseworker has made the face-to-face contact with the alleged victim and the whereabouts of the child and family are known, the [DCFS] Child and Family Services CPS caseworker who began the investigation shall contact the state child welfare agency where the family has moved and shall make a request for courtesy casework referral, providing the information that was obtained in the investigation. The case shall be closed as "unable to complete investigation" unless the information obtained meets the standard of "reasonable cause to believe" that the abuse, neglect, or dependency occurred. If a finding of "supported" is made against one or both of the parents/caregivers, upon case closure a Notice of Agency Action shall be sent to the address of family in their current state of residence.

[a-](i) If the facts of the investigation establish reason to suspect the child is in imminent danger, the Child and Family Services CPS caseworker shall make appropriate referrals to CPS and law enforcement in the other state and screen the case with the Assistant Attorney General for legal action.

[5-](d) If the child and family move out of the state of Utah after the [DCFS]Child and Family Services CPS caseworker has made the face-to-face contact with the alleged victim and the whereabouts of the child and family are unknown, the [DCFS]Child and Family Services CPS caseworker shall make reasonable efforts to locate the family in order to make a referral to request courtesy casework from the state child welfare agency where the family now resides. Reasonable efforts include (but are not limited to) contacting the post office for a forwarding address and checking with the school to obtain the address where records are being transferred when there is a school-age child in the home.

[6-](4) Transfer of a Case When a Child has Moved Within the State of Utah.

(a) Regional and inter-regional offices will cooperate to ensure that a CPS investigation is not interrupted and children are not placed in danger when the child who is the subject of the investigation has moved within the state of Utah.

[7-](5) Request for Courtesy Casework.

(a) A [DCFS]Child and Family Services CPS caseworker may request courtesy assistance for completion of specific investigative activities on an open CPS case when the child or other related individual is not accessible to the assigned [DCFS]Child and Family Services CPS caseworker.

[8-](6) Courtesy Casework Request from Another State.

(a) A [DCFS]Child and Family Services CPS caseworker shall assist in the protection and supervision of a child under the jurisdiction of another state.

[9-](7) Duration of Services.

[1-](a) Unable to Locate Within the State of Utah. A [DCFS]Child and Family Services CPS caseworker shall not close an investigation solely on the grounds that the child could not be located until reasonable efforts have been made by the caseworker to locate the child and family members.

[2-](b) Case Finding. At the conclusion of a CPS investigation, a finding shall be made for each allegation identified at the time of Intake or identified during the investigation. Each alleged victim in the case shall be linked to a specific allegation or allegations and to an alleged perpetrator or alleged perpetrators. Acceptable findings include:

[a-](i) Supported. A case finding of supported shall be used when there is a reasonable basis to conclude that abuse, neglect, or dependency occurred, even if the alleged perpetrator is unknown.

[b-](ii) Unsupported. A case finding of unsupported/not accepted shall be used when there is insufficient evidence to conclude that abuse, neglect, or dependency occurred.

[c-](iii) Without Merit. A case finding of without merit shall be used when there is evidence that abuse, neglect, or dependency did not occur.

[d-](iv) Unable to Locate. A case finding of unable to locate shall be used when the [DCFS]Child and Family Services CPS caseworker was unable to complete face-to-face contact with the alleged victim and all reasonable efforts were made to locate the child and family members.

~~[e-] Child and Family Assessment (in approved pilot region offices). A case finding of child and family assessment in approved pilot region offices shall be used when the case is converted from a CPS investigation to a family assessment.~~

~~_____ f](v) Unable to Complete Investigation. A case finding of unable to complete investigation shall be used when the caseworker is unable to complete the investigation because the subject of the investigation has moved out of the state or similar reason.~~

KEY: social services, child welfare, domestic violence, child abuse

Date of Enactment or Last Substantive Amendment: [September 3, 2003]2010

Notice of Continuation: August 20, 2008

Authorizing, and Implemented or Interpreted Law: 62A-4a-102; 62A-4a-105; 62A-4a-202.3

Human Services, Child and Family Services R512-202 Child Protective Services, General Allegation Categories

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33927

FILED: 08/12/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being changed to revise the purpose and authority section, update citations to law, and make minor formatting changes.

SUMMARY OF THE RULE OR CHANGE: The proposed changes to this rule add the statutory authority for Child and Family Services to perform rulemaking duties, update citations to law, and make minor formatting changes for consistency.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-4a-102 and Section 62A-4a-105

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There will be no increase in cost or savings to the state budget because these proposed changes add rulemaking authority for Child and Family Services, but do not increase workload that would require additional staff or other costs.

◆ **LOCAL GOVERNMENTS:** There will be no increase in costs or savings to local government because it was determined that this rule does not apply to local government, but only applies to Child and Family Services.

♦ **SMALL BUSINESSES:** There will be no increase in costs or savings to small businesses because it was determined that this rule does not apply to small businesses, but only applies to Child and Family Services.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There will be no increase in costs or savings to persons other than small businesses, businesses, or local government entities because it was determined that this rule does not apply to persons other than small businesses, businesses, or local government entities, but only applies to Child and Family Services.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons associated with implementing the changes to this rule.

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

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

HUMAN SERVICES
CHILD AND FAMILY SERVICES
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Carol Miller by phone at 801-557-1772, by FAX at 801-538-3993, or by Internet E-mail at carolmiller@utah.gov
♦ Julene Jones by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhones@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2010

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2010

AUTHORIZED BY: Brent Platt, Director

R512. Human Services, Child and Family Services.

R512-202. Child Protective Services, General Allegation Categories.

R512-202-1. Purpose and Authority [and Purpose].

(1) The purpose of this rule is to provide information about the allegation categories used by the Division of Child and Family Services (Child and Family Services).

[A-](2) Pursuant to Section 62A-4a-105, [the Division of] Child and Family Services [~~(DCFS)~~] is authorized to provide Child Protective Services (CPS).

(3) This rule is authorized by Section 62A-4a-102.

R512-202-2 Categories.

[A-](1) Qualification for Services. [~~Referral and Investigation Allegation Categories for Abuse Neglect and Dependency.~~]

(a) The [Division] Child and Family Services worker receiving or investigating a report of child abuse, neglect, or dependency shall categorize the information into an allegation category. Severe and chronic categories of abuse and neglect are found in Sections 62A-4a-101 and [62A-4a-116.1]62A-4a-1002. This rule contains the allegation categories that are not severe or chronic.

(2) Referral and Investigation Allegation Categories for Abuse, Neglect, and Dependency.

(a) Abuse:

[1-](i) Child endangerment:

[a-](A) Driving under the influence with children in the vehicle;

[b-](B) Homes where there are lab paraphernalia, chemicals for manufacturing illegal drugs, access to illegal drugs, distribution of illegal drugs in the presence of a child, [~~or~~] loaded weapons within the reach of the child, or exposure to pornography;

[c-](C) Giving children illegal drugs or substances, alcohol, tobacco, or non-prescribed/not recommended medications for that child;

[d-](D) Involving a child in the commission of crimes, such as shoplifting;

[e-](E) Other circumstances endangering a child.

[2-](ii) Domestic Violence Related Child Abuse:

[a-](A) Potential for or actual injury to a child during a domestic violence episode;

[b-](B) Violent physical and/or verbal altercation between adults[;] in the presence a child.

[3-](iii) Emotional abuse:

[a-](A) General emotional abuse, such as a pattern or severe isolated incident of:

[i-](I) Demeaning or derogatory remarks about the child or other family member in the presence of the child;

[ii-](II) Perception of or actual threatened harm;

[iii-](III) Corrupting or exploiting the child;

[iv-](IV) Multiple false reports to CPS;

[v-](V) Terrorizing;

[vi-](VI) Spurning (hostile rejecting);

[vii-](VII) Denying emotional responsiveness;

[viii-](VIII) Isolating.

[4-](iv) Material harmful to a child.

[5-](v) Physical abuse:

[a-](A) Physical abuse, general, excluding any physical abuse as defined herein, including (but not limited to):

[i-](I) Non-accidental injury to a child that may or may not be visible;

[ii-](II) Unexplained injuries to an infant or toddler;

[iii-](III) Unexplained injuries to a disabled or non-verbal child.

[6-](vi) Fetal exposure to alcohol or other substances.

[7-](vii) Fetal addiction to alcohol or other harmful substances.

[8-](viii) Pediatric Condition Falsification (formerly known as Munchausen Syndrome by Proxy).

[B-](2) Neglect:

[1-](a) Medical neglect. This allegation or finding needs to be based on the opinion of the child's primary care physician or other licensed medical professional. A parent or guardian may obtain a second opinion to be considered in determining medical neglect, at their own expense. A parent or guardian may obtain a second medical opinion to present for consideration by [DCFS]Child and Family Services, but [DCFS]Child and Family Services is not bound by the opinion and shall consider the totality of the facts.

[2-](b) Baby Doe (congenital birth defect that parents or caregiver declines to treat).

[3-](c) Failure to thrive, based on the opinion of the child's primary care physician or other licensed medical professional.

[4-](d) Neglect of child's physical health.

[5-](e) Neglect of child's psychological health.

[6-](f) Neglect of child's dental health.

[7-](g) Pediatric Condition Falsification (formerly known as [z] Munchausen Syndrome by Proxy).

[8-](h) Physical neglect.

[9-](i) Sibling or child at risk.

[10-](j) Educational neglect occurs when a child has been frequently absent from school without good cause or that the parent has failed to cooperate with school authorities in a reasonable manner[;] according to Section[s] 62A-4a-101(14)(a)(iv), 62A-4a-101(14)(b), and] 78A-6-319.

[11-](k) Failure to protect.

[12-](l) Non-supervision.

[13-](m) Abandonment.

[14-](n) Environmental neglect. Physical neglect of the environment such as absence of utilities, home conditions below minimum standards, hazards, etc.

[15-](o) Dependency. A child who is homeless or without proper care through no fault of the child's parent, guardian, or custodian. Institutionalization of a parent or guardian who has not or cannot arrange for safe and appropriate care for the child.

~~C. Court ordered investigation. When a court orders an investigation on a case when the allegation is not one of the categories listed in this rule, the allegation category is court ordered.~~

~~D. Availability:~~

~~1. CPS Services are available in all geographic regions of the state.]~~

KEY: social services, child welfare, domestic violence, child abuse

Date of Enactment or Last Substantive Amendment: [September 3, 2003]2010

Notice of Continuation: August 20, 2008

Authorizing, and Implemented or Interpreted Law: 62A-4a-102; 62A-4a-105

Human Services, Child and Family Services R512-203 Child Protective Services, Significant Risk Assessments

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33928

FILED: 08/12/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being changed to revise the purpose and authority section, update citations to law, and make minor formatting changes.

SUMMARY OF THE RULE OR CHANGE: The proposed changes to this rule state the purpose of the rule, add the statutory authority for Child and Family Services to perform rulemaking duties, update citations to law, and make minor formatting changes for consistency.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-4a-1002 and Section 62A-4a-102 and Section 62A-4a-105

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There will be no increase in cost or savings to the state budget because these proposed changes state the purpose of the rule and add rulemaking authority for Child and Family Services, but do not increase workload that would require additional staff or other costs.
- ◆ **LOCAL GOVERNMENTS:** There will be no increase in costs or savings to local government because it was determined that this rule does not apply to local government, but only applies to Child and Family Services.
- ◆ **SMALL BUSINESSES:** There will be no increase in costs or savings to small businesses because it was determined that this rule does not apply to small businesses, but only applies to Child and Family Services.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There will be no increase in costs or savings to persons other than small businesses, businesses, or local government entities because it was determined that this rule does not apply to persons other than small businesses, businesses, or local government entities, but only applies to Child and Family Services.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons associated with implementing the changes to this rule.

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

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

HUMAN SERVICES
CHILD AND FAMILY SERVICES
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Carol Miller by phone at 801-557-1772, by FAX at 801-538-3993, or by Internet E-mail at carolmiller@utah.gov
♦ Julene Jones by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjones@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2010

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2010

AUTHORIZED BY: Brent Platt, Director

R512. Human Services, Child and Family Services.

R512-203. Child Protective Services, Significant Risk Assessments.

R512-203-1. Purpose and Authority[and Purpose].

(1) The purpose of this rule is to define how significant risk assessments are utilized by the Division of Child and Family Services (Child and Family Services).

(2) Pursuant to Section 62A-4a-105, [~~the Division of~~] Child and Family Services [~~(DCFS)~~] is authorized to provide Child Protective Services (CPS). [~~DCFS~~] Child and Family Services is required by Section [~~62A-4a-116-1(4)(a)~~]62A-4a-1002 to promulgate a rule for making significant risk assessments.

(3) This rule is authorized by Section 62A-4a-102.

R512-203-2. Definitions.

[~~A~~](1) "Assessment" means an evaluation made to determine if a minor is a risk to other children and whether or not a minor's name should be placed and retained on the Licensing Information System.

[~~B~~](2) "Significant risk" means that a minor is likely to continue perpetrating against other children.

R512-203-3. Significant Risk Assessments.

[~~A~~](1) During the course of a CPS investigation involving allegations of conduct by a juvenile that is identified as severe or chronic as those terms are defined in Sections 62A-4a-101 and [~~62A-4a-116-1~~]62A-4a-1002, the CPS caseworker shall

complete a significant risk assessment to determine whether a juvenile is a significant risk to other children or the community.

[~~B~~](2) To conduct this assessment the CPS caseworker shall use the assessment tool developed by [~~DCFS~~]Child and Family Services for the purpose of determining risk presented by the minor. The tool used will be the most current version of the significant risk assessment.

[~~C~~](3) The assessment shall be based upon the facts of the case that are present during the CPS investigation.

[~~D~~](4) The assessment process identified in Section R512-203-3[~~A~~] is not for determining whether the allegation under investigation is supported or unsupported.

[~~E~~](5) The juvenile's age alone is not a reason for determining whether the juvenile presents a significant risk.

[~~F~~](6) The completed significant risk assessment instrument for each minor assessed shall be made a part of the CPS record and shall be classified as Private pursuant to the Government Records Management and Access Act (GRAMA).

KEY: child welfare, child abuse

Date of Enactment or Last Substantive Amendment: [~~June 1, 2006~~]2010

Authorizing, and Implemented or Interpreted Law: 62A-4a-102; 62A-4a-105; [~~62A-4a-116-1~~]62A-4a-1002

Public Safety, Fire Marshal **R710-3** Assisted Living Facilities

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33881

FILED: 08/03/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the rule change is to update an incorporated reference. It is proposed to update the 2006 edition of the International Fire Code to the 2009 edition as enacted and amended by the Utah State Legislature in the State Fire Code Adoption Act. It is also proposed to eliminate the 2006 International Building Code as an incorporated reference since it is adopted by the Utah State Legislature in the Building Construction Standards Act.

SUMMARY OF THE RULE OR CHANGE: In Subsection R710-3-1(1.1), it is proposed to update the 2006 International Fire Code to the 2009 International Fire Code. In Subsection R710-3-1(1.2), it is proposed to delete the 2006 International Building Code due to its adoption in the Building Construction Standards Act. In Subsections R710-3-3(3.1.3) and (3.1.4), it is proposed to eliminate the installation of fire alarms in

existing facilities unless required by NFPA 72, National Fire Alarm Code. There are other reference changes throughout the rule to make them consistent with the 2009 International Fire Code.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-7-204

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Updates International Fire Code, published by International Code Council, Inc., 03/01/2009
- ◆ Removes International Building Code, published by International Code Council, Inc., 03/01/2006

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There would be an aggregate anticipated cost of approximately \$1,000 to purchase the needed copies of the 2009 International Fire Code for state usage.
- ◆ **LOCAL GOVERNMENTS:** The aggregate anticipated cost to local government would be approximately \$68 per International Fire Code. There would be approximately 200 fire departments that would purchase a 2009 International Fire Code totaling approximately \$14,000. Some might purchase more than one book but that number is unknown.
- ◆ **SMALL BUSINESSES:** There would be no aggregate anticipated cost or savings to small businesses because small businesses rarely, if ever, purchase a regulatory code.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There would be no other persons affected by these proposed amendments. Those affected would be those in government that would use the code.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The only compliance cost for affected persons would be the purchase of the newly adopted 2009 International Fire Code which would be by those in government that would be using the standard as a regulatory reference.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on business for the implementation of these proposed rule changes. The only fiscal impact would be to government agencies to purchase the newly adopted 2009 International Fire Code.

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

PUBLIC SAFETY
FIRE MARSHALROOM 302
5272 S COLLEGE DR
MURRAY, UT 84123-2611
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Brent Halladay by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at bhallada@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2010

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2010

AUTHORIZED BY: Ron Morris , Utah State Fire Marshal

R710. Public Safety, Fire Marshal.

R710-3. Assisted Living Facilities.

R710-3-1. Introduction.

Pursuant to Title 53, Chapter 7, Section 204, of the Utah Code Annotated 1953, the Utah Fire Prevention Board adopts for the purpose of establishing minimum standards for prevention of fire and for the protection of life and property against fire and panic in assisted living facilities. The requirements listed in this rule text are in addition to the requirements listed in R710-9, Rules Pursuant to the Utah Fire Prevention Law.

There is adopted as part of these rules the following codes which are incorporated by reference:

1.1 International Fire Code (IFC), [2006]2009 edition, excluding appendices, as published by the International Code Council, Inc. (ICC), [~~except as amended by provisions listed in R710-3-3, et seq~~]and as enacted and amended by the Utah State Legislature in Sections 102 and 201 of the State Fire Code Adoption Act.

[1.2 International Building Code (IBC), 2006 edition, as published by the International Code Council, Inc. (ICC), and as adopted under the authority of the Uniform Building Standards Act, Title 58, Chapter 56, Section 4, Utah Code Annotated 1953 and the Utah Administrative Code, R156-56-701.

—]1.[3]2 Copies of the above code are on file in the Office of Administrative Rules and the State Fire Marshal.

R710-3-3. Amendments and Additions.

3.1 General Requirements

3.1.1 All facilities shall be inspected annually and obtain a certificate of fire clearance signed by the AHJ.

3.1.2 All facility administrators shall develop emergency plans and preparedness as required in IFC, Chapter 4.

3.1.3 IFC, Chapter 9, Section[s] 907.3[1.2 and 907.3.1.8 is deleted] Where required in existing buildings and structures, is deleted and rewritten as follows: "An approved automatic fire detection system shall be installed in accordance with the provisions of this code and NFPA 72. Devices, combinations of devices, appliances, and equipment shall be approved. The automatic fire detectors shall be smoke detectors, except an approved alternative type of detector shall be installed in spaces such as boiler rooms where, during normal operation, products of combustion are present in sufficient quantity to actuate a smoke detector".

3.1.4. IFC, Chapter 46, Section 4603.6.2 and 4603.6.7 are deleted and rewritten as follows: "An approved automatic fire detection system shall be installed in accordance with the provisions of this code and NFPA 72. Devices, combinations of devices, appliances, and equipment shall be approved. The automatic fire detectors shall be smoke detectors, except an approved alternative type of detector shall be installed in spaces such as boiler rooms

where, during normal operation, products of combustion are present in sufficient quantity to actuate a smoke detector".

3.2 Type I Assisted Living Facilities

3.2.1 Type I Limited Capacity Assisted Living Facilities shall be constructed in accordance with IBC, Residential Group R-3, and maintained in accordance with the IBC and IFC.

3.2.2 Type I Limited Capacity Assisted Living Facility required exits shall not be secured with dead bolts, chains, or hasps. Deadbolts that are interconnected with the latch, and provide simultaneous retraction of both the deadbolt and the latch, by the turning of the latch, is permitted.

3.2.3 Residents in Type I Limited Capacity Assisted Living Facilities shall be housed on the first story only, unless an approved outside exit leading to the ground level is provided from any upper or lower level. Split entry/split level type homes in which stairs to the lower and upper level are equal or nearly equal, may have residents housed on both levels when approved by the AHJ.

3.2.4 In Type I Limited Capacity Assisted Living Facilities, resident rooms on the ground level, shall have emergency escape or rescue windows as required in IFC, Chapter 10, Section [4025]1029.

3.2.5 In Type I Limited Capacity Assisted Living Facilities an approved independent smoke detector shall be installed and maintained by location as required in IFC, Chapter 9, Section 907.2.[401]11.2.

3.2.6 Type I Small Assisted Living Facilities shall be constructed in accordance with IBC, Residential Group R-4, and maintained in accordance with the IBC and IFC.

3.2.7 Type I Small Assisted Living Facility required exits shall not be secured with dead bolts, chains, or hasps. Deadbolts that are interconnected with the latch, and provide simultaneous retraction of both the deadbolt and the latch, by the turning of the latch, is permitted.

3.2.8 Type I Large Assisted Living Facilities shall be constructed in accordance with IBC, Institutional Group I-1, and maintained in accordance with the IBC and IFC.

3.2.8.1 An automatic fire sprinkler system shall be provided throughout buildings classified as Group I. Listed quick response or residential sprinkler heads shall be installed in patient or resident sleeping areas.

3.2.9 In a Type I Assisted Living Facility, non-ambulatory persons are permitted after receiving approval for a variance from the Utah Department of Health as allowed in Utah Administrative Code, R432-2-18.

3.3 Type II Assisted Living Facilities

3.3.1 Type II Limited Capacity Assisted Living Facilities shall be constructed in accordance with IBC, Residential Group R-4, and maintained in accordance with the IBC and IFC.

3.3.2 Type II Limited Capacity Assisted Living Facilities shall have an approved automatic fire extinguishing system installed in compliance with the IBC and IFC, or provide a staff to a resident ratio of one to one on a 24 hour basis.

3.3.3 Type II Small Assisted Living Facilities shall be constructed in accordance with IBC, Institutional Group I-1, and maintained in accordance with the IBC and IFC.

3.3.3.1 An automatic fire sprinkler system shall be provided throughout buildings classified as Group I. Listed quick

response or residential sprinkler heads shall be installed in patient or resident sleeping areas.

3.3.4 Type II Small Assisted Living Facilities shall have a minimum corridor width of six feet.

3.3.4.1 Type II Small Assisted Living Facilities licensed before November 16, 2004, shall have a minimum corridor width of six feet or a path of egress that is acceptable to the AHJ.

3.3.5 Type II Large Assisted Living Facilities shall be constructed in accordance with IBC, Institutional Group I-2, and maintained in accordance with the IBC and IFC.

3.3.5.1 An automatic fire sprinkler system shall be provided throughout buildings classified as Group I. Listed quick response or residential sprinkler heads shall be installed in patient or resident sleeping areas.

3.3.6 In Type II Assisted Living Facilities, where the clinical needs of the patients require specialized security, approved access controlled egress doors may be installed when all of the following are met:

3.3.6.1 The controlled egress doors shall unlock upon activation of the automatic fire sprinkler system or the automatic fire detection system.

3.3.6.2 The facility staff can unlock the controlled egress doors by either sensor or keypad.

3.3.6.3 The controlled egress doors shall unlock upon loss of power.

3.3.6.4 The secure area or unit with controlled egress doors shall be located at the level of exit discharge in Type V construction.

3.3.7 In Type II Assisted Living Facilities, where the clinical needs of the patients require approved, listed delayed egress locks, they shall be installed on doors as allowed in IBC, Section 1008.1.[8-6]9.7. Section 1008.1.[8-6]9.7(3) is deleted. The secure area or unit with delayed egress locks shall be located at the level of exit discharge in Type V construction.

3.3.8 In a Type II Assisted Living Facility, non-ambulatory persons are permitted after receiving approval for a variance from the Utah Department of Health as allowed in Utah Administrative Code, R432-2-18.

3.4 Residential Treatment/Support Assisted Living Facilities

3.4.1 Residential Treatment/Support Limited Capacity Assisted Living Facility shall be constructed in accordance with IBC, Residential Group R-3, and maintained in accordance with the IBC and IFC.

3.4.2 Residential Treatment/Support Limited Capacity Assisted Living Facility required exits shall not be secured with dead bolts, chains, or hasps. Deadbolts that are interconnected with the latch, and provide simultaneous retraction of both the deadbolt and the latch, by the turning of the latch, is permitted.

3.4.3 Residents in Residential Treatment/Support Limited Capacity Assisted Living Facilities shall be housed on the first story only, unless an approved outside exit leading to the ground level is provided from any upper or lower level. Split entry/split level type homes in which stairs to the lower and upper level are equal or nearly equal, may have residents housed on both levels when approved by the AHJ.

3.4.4 In Residential Treatment/Support Limited Capacity Assisted Living Facilities, resident rooms on the ground level, shall have emergency escape or rescue windows as required in I[8]FC, Chapter 10, Section [4026]1029.

3.4.5 In Residential Treatment/Support Limited Capacity Assisted Living Facilities an approved independent smoke detector shall be installed and maintained by location as required in IFC, Chapter 9, Section 907.2.~~[10-F]~~11.2.

3.4.6 Residential Treatment/Support Small Assisted Living Facilities shall be constructed in accordance with IBC, Residential Group R-4, and maintained in accordance with the IBC and IFC.

3.4.6.1 IFC, Chapter 9, Section 903.2.~~[7]~~8 is amended to add the following: Exception: Residential Treatment/Support Assisted Living Facility classified as Group R-4, not more than 4500 gross square feet, and not containing more than 16 ambulatory, non-restrained residents, is allowed provided the building is equipped throughout with an approved fire alarm system that is interconnected and receives its primary power from the building wiring.

3.4.7 Residential Treatment/Support Small Assisted Living Facility required exits shall not be secured with dead bolts, chains, or hasps. Deadbolts that are interconnected with the latch, and provide simultaneous retraction of both the deadbolt and the latch, by the turning of the latch, is permitted.

3.4.8 Residential Treatment/Support Large Assisted Living Facilities shall be constructed in accordance with IBC, Institutional Group I-1, and maintained in accordance with the IBC and IFC.

3.4.8.1 An automatic fire sprinkler system shall be provided throughout buildings classified as Group I. Listed quick response or residential sprinkler heads shall be installed in patient or resident sleeping areas.

3.4.9 In a Residential Treatment/Support Assisted Living Facility, residents with compromised ambulatory capacity that can demonstrate the ability to exit the facility unassisted in two minutes or less, and meet the requirements listed in Utah Administrative Code, R501-2-11, Emergency Plans, may receive approval from the Office of Licensing, Utah Department of Human Services, to remain in the facility as a resident.

3.4.9.1 In those facilities where the Office of Licensing, Department of Human Services, determines that the resident cannot exit the facility unassisted in two minutes or less, the facility management shall complete one of the following:

3.4.9.1.1 Make accommodations, changes or enact an emergency plan that guarantees the exiting of the resident in two minutes or less.

3.4.9.1.2 Provide a staff to resident ratio of one to one on a 24 hour basis.

3.4.9.1.3 Install an approved automatic fire sprinkler system.

3.4.9.1.4 Move the resident from the facility.

KEY: assisted living facilities

Date of Enactment or Last Substantive Amendment: ~~[March 10, 2009]~~**October 8, 2010**

Notice of Continuation: June 4, 2007

Authorizing, and Implemented or Interpreted Law: 53-7-204

Transportation, Program Development R926-13 Designated Scenic Byways

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33904

FILED: 08/10/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The changes are because: the Garden City Town Council took action to segment a portion of the Logan Canyon Scenic Byway, requiring an amendment of the description of this byway; a highly stylized tourist map was submitted as part of the application for National Scenic Byway status on the Trail of the Ancients Scenic Byway, resulting in several errors and omissions in the map, provided by the National Scenic Byway Program, on which the description in Subsection R926-13-5(7) was based. Most of these have now been corrected, so the rule needs to be amended to reflect the correct alignments; and no federal aid secondary highway (FAS) designation was included for National Forest Road 015 in the Fishlake Scenic Byway, as was done for all other non-state roadways described in the rule so the designation will be added with this amendment.

SUMMARY OF THE RULE OR CHANGE: Subsection R926-13-4(1) is changed to add the exclusion of the 20-foot segment acted on by Garden City; Subsection R926-13-4(1)(c) is added to give the effective date of the change. Subsection R926-13-5(7)(a) is amended to reflect the corrections made to the official National Scenic Byway Program map; Subsection R926-13-5(7)(c) is deleted as being no longer applicable with the corrections having been made. Subsection R926-13-4(11) is amended to add a federal aid secondary designation to complement the Forest Roadway designation.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63G-3-201 and Section 72-4-303

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There are no anticipated costs or savings to the state budget because the proposed amendment only corrects and updates scenic byway descriptions.

◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings to local government because the proposed amendment only corrects and updates scenic byway descriptions.

♦ **SMALL BUSINESSES:** There are no anticipated costs or savings to small business because the proposed amendment only corrects and updates scenic byway descriptions.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings to persons other than small business, businesses, or local government entities because the proposed amendment only corrects and updates scenic byway descriptions.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated compliance costs for affected persons because the proposed amendment only corrects and updates scenic byway descriptions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated fiscal impacts on businesses because the proposed amendment only corrects and updates scenic byway descriptions.

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

TRANSPORTATION
PROGRAM DEVELOPMENT
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY, UT 84119-5998
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Linda Barrow by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at lindabarrow@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2010

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2010

AUTHORIZED BY: John Njord, Executive Director

R926. Transportation, Program Development.

R926-13. Designated Scenic Byways.

R926-13-4. Highways Within the State That Are Designated as State Scenic Byways.

The following roads are designated as state scenic byways (date of designation is April 9, 1990 unless otherwise specified):

(1) Logan Canyon Scenic Byway. US Route 89, beginning at 1500 East in Logan and running to the intersection of SR-30 in Garden City, excluding a 20-foot segment within Garden City at a location centered at approximately mile point 497.73.

(a) Designated April 9, 1990.

(b) Shortened June 13, 2002 when designated a National Scenic Byway and the portion of US-89 from Garden City to the Utah/Idaho State Line was transferred to the Bear Lake Scenic Byway.

(c) Segment excluded May 13, 2010 by action of the Garden City town council which determined the segment at approximately mile point 497.73 lay adjacent to a non-scenic area.

(2) Bear Lake Scenic Byway. US Route 89, beginning at the Utah/Idaho state line and running to SR-30; and State Route 30, beginning at US-89, and running to East Shore Road in Laketown.

(a) Designated April 9, 1990 as Laketown Scenic Byway.

(b) Extended and renamed June 13, 2002 to include the portion of US-89 originally included in the state designation of the Logan Canyon Scenic Byway that was excluded when that byway was designated a National Scenic Byway.

(3) Ogden River Scenic Byway. State Route 39, beginning at Valley Drive, near the mouth of Ogden Canyon, and running to the eastern Wasatch-Cache Forest boundary near highway milepost 48; and State Route 158 from SR-39, and running to County Road FAS-3468; and the County Road FAS-3468, from SR-158, running to SR-39.

(4) Big Cottonwood Canyon Scenic Byway. State Route 190, beginning at SR-210, and running to the end of the Brighton Loop.

(5) Little Cottonwood Canyon Scenic Byway. State Route 210, beginning at SR-209, and running to the end of state maintenance, near Alta.

(6) Provo Canyon Scenic Byway. US Route 189, beginning at SR-52, and running to SR-113, near Charleston; and State Route 113, from US-189 running to US-40 in Heber City.

(a) Designated April 9, 1990.

(b) Realigned onto SR-113 from the eastern portion of US-189 February 25, 2003.

(7) Mirror Lake Scenic Byway. State Route 150, beginning at SR-32 in Kamas, and running to the Utah/Wyoming State Line.

(8) Flaming Gorge-Uintas Scenic Byway. US Route 191, beginning at US-40 in Vernal, and running to the Utah/Wyoming State Line; State Route 44, from US-191, running to SR-43 in Manila; and State Route 43, from SR-44, running to the Utah/Wyoming state line.

(a) Designated April 9, 1990 on SR-44 and US-191 between ~~SR~~SR-44 and Vernal.

(b) Added November 18, 1992 the portion of US-191 between SR-44 and the state line.

(9) Indian Canyon Scenic Byway. US Route 191, beginning at US-6 near Helper, and running to US-40 in Duchesne.

(10) The Energy Loop: Huntington and Eccles Canyons Scenic Byway. State Route 31, beginning at US-89 in Fairview, and running to SR-10 in Huntington; State Route 264, from SR-31, running to SR-96; and State Route 96, from Clear Creek, and running to US-6 near Colton.

(a) Designated April 9, 1990 on SR-31 and SR-264.

(b) Extended circa 1992 to add SR-96 between Clear Creek and Colton.

(11) Nebo Loop Scenic Byway. State Route 115, beginning at I-15 and running to SR-198; State Route 198, from SR-115 running to 600 East in Payson; and along County Road FAS-2822 (600 East) and National Forest Road 015 (FAS-1822 and the portion of FAS-1820 south of FAS-1822) running to SR-132 in Juab County.

(12) Upper Colorado River Scenic Byway. State Route 128, beginning at US-191 near Moab, and running to I-70 West Cisco interchange.

(13) Potash-Lower Colorado River Scenic Byway. State Route 279, beginning at the southwest end of SR-279 near the Potash Plant and running to US-191.

(14) Indian Creek Corridor Scenic Byway. State Route 211, beginning at US-191 and running to County Road FAS-2432; and County Road FAS-2432 from SR-211 running to the Canyonlands National Park Visitor Center.

(15) Bicentennial Highway Scenic Byway. State Route 95, beginning at SR-24, and running to US-191.

(16) Trail of The Ancients Scenic Byway. State Route 95, beginning at SR-275, and running to US-191; State Route 275, from SR-95 and running to Natural Bridges National Monument; US Route 191 from Center Street in Blanding running to SR-162 in Bluff; and State Route 162 from US-191 running to the Utah/Colorado state line.

(a) Designated February 7, 1994 on SR-275, over the eastern portion of the Bicentennial Highway Scenic Byway between SR-275 and US-191, and on US-191 between Blanding and SR-262.

(b) Extended June 6, 2001 to include US-191 between SR-262 and Bluff, and to include SR-162.

(17) Monument Valley to Bluff Scenic Byway. US Route 163, beginning at the Utah/Arizona State Line running to US-191; and US Route 191 from US-163 running to the Cottonwood Wash Bluff in Bluff.

(18) Capitol Reef Country Scenic Byway. State Route 24, beginning at SR-72 in Loa, and running to SR-95 in Hanksville.

(19) Highway 12, A Journey Through Time Scenic Byway. State Route 12, beginning at US-89 near Panguitch, and running to SR-24 near Torrey.

(20) Markagunt High Plateau Scenic Byway. State Route 14, beginning at SR-130 and running to US-89.

(21) Cedar Breaks Scenic Byway. State Route 148, beginning at SR-14, through Cedar Breaks National Monument, running to SR-143.

(22) Brian Head-Panguitch Lake Scenic Byway. State Route 143, beginning at I-15 South Parowan Interchange, and running to US-89 in Panguitch.

(23) Beaver Canyon Scenic Byway. State Route 153, beginning at SR-160 in Beaver, and running to the end of pavement near Elk Meadows.

(24) Mt. Carmel Scenic Byway. US Route 89, beginning at the Kanab north city limit (approximately highway milepost 65), and running to SR-12.

(25) Zion Park Scenic Byway. State Route 9, beginning at I-15 and running to US-89.

(26) Kolob Fingers Road Scenic Byway. The National Park Service Road, beginning at I-15, and running to the Kolob Canyon Overlook.

(27) Dead Horse Mesa Scenic Byway. State Route 313, from US-191 running to Dead Horse Point State Park; and the Island in the Sky Road FAS-1708, from SR-313 running to Grandview Point.

(a) Designated May 16, 2002.

(28) Fishlake Scenic Byway. State Route 25 and County Roads FAS-2554 (comprising Fish Lake Road/Forest Highway 31)

and FAS-3268 (Freemont River Road/Forest Highway 42), beginning at SR-24, and running to SR-72.

(a) Designated April 9, 1990, on SR-25 between SR-24 and Johnson Valley Reservoir.

(b) Extended November 18, 1992, along the Fremont River Road between Johnson Valley Reservoir and SR-72 to comprise the southern portion of the Gooseberry/Fremont Road Scenic Backway.

(29) Dinosaur Diamond Prehistoric Highway Scenic Byway. Interstate 70, from the Utah/Colorado state line running to Cisco Exit 214; the County Road FAS-1714 through Cisco, from I-70 running to SR-128; State Route 128, from the Cisco Road running to US-191 near Moab; US Route 191, from SR-128 running to I-70 at Crescent Junction; Interstate 70, from US-191 at Crescent Junction running to US-6 near Green River; US Route 6, from I-70 running to US-191 near Helper; US Route 191, from US-6 near Helper running to US-40 in Duchesne; US Route 40, from US-191 in Duchesne to the Utah/Colorado state line.

(a) Dinosaur Diamond Prehistoric Highway designated in Title 72, Chapter 4, Section 204 in 1998.

(b) Scenic byway route established with National Scenic Byway designation differs from special highway designation in that it includes County Road FAS-1714 and I-70 east of Cisco and does not at this time include those portions located on SR-10, on SR-155, or on US-191 south of SR-128.

(30) Great Salt Lake Legacy Parkway Scenic Byway. State Route 67, beginning at I-215 and running to I-15.

(a) Designated May 16, 2002.

R926-13-5. Highways Within the State That Are Designated as National Scenic Byways or All-American Roads.

The following roads are designated by the National Scenic Byways Program as National Scenic Byways or All-American Roads:

(1) Flaming Gorge-Uintas National Scenic Byway.
(a) Comprised of the Flaming Gorge-Uintas State Scenic Byway.

(b) Designated National Scenic Byway June 9, 1998.
(2) Nebo Loop National Scenic Byway.
(a) Comprised of the Nebo Loop State Scenic Byway.
(b) Designated National Scenic Byway June 9, 1998.
(3) The Energy Loop: Huntington and Eccles Canyons National Scenic Byway.

(a) Comprised of the Energy Loop: Huntington and Eccles Canyons State Scenic Byway.
(b) Designated National Scenic Byway June 15, 2000.
(4) Logan Canyon National Scenic Byway.

(a) Comprised of the Logan Canyon State Scenic Byway.
(b) Designated National Scenic Byway June 13, 2002.
(5) Dinosaur Diamond Prehistoric Highway National Scenic Byway.

(a) Comprised of the Dinosaur Diamond Prehistoric Highway Scenic Byway.

(b) Also comprises the Indian Canyon State Scenic Byway and the Upper Colorado River State Scenic Byway (excluding the portion of SR-128 between I-70 and County Road FAS-1714).

(c) Designated NSB June 13, 2002.

(6) Scenic Byway 12 All-American Road.

(a) Comprised of the Highway 12, A Journey Through Time State Scenic Byway.

(b) Designated All-American Road June 13, 2002.

(7) Trail of the Ancients National Scenic Byway.

(a) Comprised of:

(i) The Trail of the Ancients State Scenic Byway.

(ii) The Monument Valley to Bluff State Scenic Byway.

(iii) The section of the Trail of the Ancients State Scenic Backway on SR-261 starting at US-163 and running to SR-95 (but excluding for now that portion on SR-316 between SR 261 and Goosenecks State Park that was accidentally omitted on the NSB application).

(iv) The section of the Trail of the Ancients State Scenic Backway running on SR-262 between US-191 and County Road FAS-2416, and on FAS-2416 starting at SR-262 and running southeasterly to County Road FAS-2422, then northeasterly on FAS-2422 to the Utah/Colorado State Line near Hovenweep National Monument. ~~[the Trail of the Ancients State Scenic Byway, the Monument Valley to Bluff State Scenic Byway, and both sections of the Trail of the Ancients State Scenic Backway (SR-261 starting at US-163 and running to SR-95, the east-west portion of SR-262, and the reservation roads starting at SR-262 and running easterly to the Utah/Colorado State Line near Hovenweep National~~

~~Monument (comprising the portion of FAS-2416 between SR-262 and FAS-2426, former FAS-2417, and FAS-2422));]~~

(b) Designated National Scenic Byway September 22, 2005.

~~[(e) In addition to the above description, the America's Byways tourist maps also show the portion of US-191 between Blanding and Monticello as part of the Trail of the Ancients. This is done for purposes of travel continuity along the byway, but this portion is not officially designated by the committee as part of the state scenic byway system and so is not subject to byways regulations and restrictions.~~

~~_____]~~(8) Utah's Patchwork Parkway National Scenic Byway.

(a) Comprised of Brian Head-Panguitch Lake State Scenic Byway.

(b) Designated National Scenic Byway October 16, 2009.

KEY: transportation, scenic byways, highways

Date of Enactment or Last Substantive Amendment: [June 21], 2010

Authorizing, and Implemented or Interpreted Law: 72-4-303; 63G-3-201

End of the Notices of Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended 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 upon filing.

NOTICES are governed by Section 63G-3-305.

Agriculture and Food, Plant Industry **R68-6** Utah Nursery Act

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 33905
FILED: 08/10/2010

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: Promulgated under authority of Section 4-15-3 and Subsection 4-2-2(1)(k)(i) which directs the Department to inspect any nursery, orchard, farm garden, park, cemetery, greenhouse, or any private or public place that may become infested or infected with harmful insect, plant diseases, noxious or poisonous weeds, or other agricultural pests.

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The nursery rule helps the department ensure that nursery Stock sold in Utah meets these guidelines and protects the environment that could become infested or infected with harmful insects, plant diseases, noxious or poisonous weeds, or other agricultural pests. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
AGRICULTURE AND FOOD
PLANT INDUSTRY
350 N REDWOOD RD
SALT LAKE CITY, UT 84116-3034
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Clair Allen by phone at 801-538-7180, by FAX at 801-538-7189, or by Internet E-mail at clairallen@utah.gov
◆ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
◆ Kyle Stephens by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at kylestephens@utah.gov
◆ Robert Hougaard by phone at 801-538-7187, by FAX at 801-538-7189, or by Internet E-mail at rhougaard@utah.gov

AUTHORIZED BY: Leonard Blackham, Commissioner

EFFECTIVE: 08/10/2010

Agriculture and Food, Regulatory Services **R70-610** Uniform Retail Wheat Standards of Identity

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 33894
FILED: 08/05/2010

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: In Sections 4-5-6, 4-2-2, and 4-5-17, the Utah Department of Agriculture and Food is authorized to make and enforce rules necessary to administer and enforce Title 4, Chapter 5 and to establish standards of identity for agricultural products.

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The purpose of this rule is to establish standards of identity for several forms of wheat. Wheat is used in many forms in a myriad of foods. The standards provide that food labels properly list the type and form of wheat as identified in the rule. In turn, this allows consumers to make informed purchasing decisions and is necessary to protect public health of individuals that may be subject to allergies. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 AGRICULTURE AND FOOD
 REGULATORY SERVICES
 350 N REDWOOD RD
 SALT LAKE CITY, UT 84116-3034
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Don McClellan by phone at 801-538-7145, by FAX at 801-538-7126, or by Internet E-mail at dmcclellan@utah.gov
 ♦ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
 ♦ Kyle Stephens by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at kylestephens@utah.gov
 ♦ Richard Clark by phone at 801-538-7150, by FAX at 801-538-7126, or by Internet E-mail at richardwclark@utah.gov

AUTHORIZED BY: Leonard Blackham, Commissioner

EFFECTIVE: 08/05/2010

**Agriculture and Food, Regulatory Services
 R70-620
 Enrichment of Flour and Cereal Products**

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 33892
 FILED: 08/05/2010

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 no longer authorized, as Title 4, Chapter 6, has been repealed by the Utah Legislature.

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule has been reviewed and it needs to be repealed but is being continued until the repeal can be put through the rulemaking process.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 AGRICULTURE AND FOOD
 REGULATORY SERVICES
 350 N REDWOOD RD
 SALT LAKE CITY, UT 84116-3034
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Don McClellan by phone at 801-538-7145, by FAX at 801-538-7126, or by Internet E-mail at dmcclellan@utah.gov
 ♦ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
 ♦ Kyle Stephens by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at kylestephens@utah.gov

♦ Richard Clark by phone at 801-538-7150, by FAX at 801-538-7126, or by Internet E-mail at richardwclark@utah.gov

AUTHORIZED BY: Leonard Blackham, Commissioner

EFFECTIVE: 08/05/2010

**Agriculture and Food, Regulatory
Services
R70-910**

**Registration of Serviceperson for
Commercial Weighing and Measuring
Devices**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 33893

FILED: 08/05/2010

**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: The Utah Department of Agriculture and Food is authorized to make and enforce rules necessary to administer and enforce Title 4, Chapter 9. This authorization is combined with an adoption of the Uniform Regulation for the Voluntary Registration of National Conference on Weights and Measures in Handbook 130, Uniform Laws and Regulations in the Areas of Legal Metrology and Engine Fuel Quality, National Institute of Standards and Technology Servicepersons and Service Agencies for Commercial Weighing and Measuring Devices, for the registration of servicepersons and service agencies in the state. Rule R70-910 is simply the codification of Handbook 130 with modifications deemed necessary to implement the Act.

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule requires individuals involved in this

service to be able to demonstrate competence and utilize equipment that has been certified. This ensures the companies that are employing these services that the individuals are licensed to perform this critical work. Therefore, this rule should be continued.

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

AGRICULTURE AND FOOD
REGULATORY SERVICES
350 N REDWOOD RD
SALT LAKE CITY, UT 84116-3034
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Brett Gurney by phone at 801-538-7158, by FAX at 801-538-7126, or by Internet E-mail at bgurney@utah.gov
♦ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
♦ Kyle Stephens by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at kylestephens@utah.gov
♦ Richard Clark by phone at 801-538-7150, by FAX at 801-538-7126, or by Internet E-mail at richardwclark@utah.gov

AUTHORIZED BY: Leonard Blackham, Commissioner

EFFECTIVE: 08/05/2010

**Agriculture and Food, Regulatory
Services
R70-950**

Uniform National Type Evaluation

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 33891

FILED: 08/05/2010

**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: In Section 4-9-2, the Utah Department of Agriculture and Food is authorized to make and enforce rules necessary to administer and enforce Title 4, Chapter 9.

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The purpose of this rule is to enable the State Metrology Laboratory to maintain its certification from the National Institute of Standards and Technology. This certification is required for weights and measures in Utah to be recognized as meeting national and international standards for commerce.

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

AGRICULTURE AND FOOD
REGULATORY SERVICES
350 N REDWOOD RD
SALT LAKE CITY, UT 84116-3034
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Brett Gurney by phone at 801-538-7158, by FAX at 801-538-7126, or by Internet E-mail at bgurney@utah.gov
- ◆ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
- ◆ Kyle Stephens by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at kylestephens@utah.gov
- ◆ Richard Clark by phone at 801-538-7150, by FAX at 801-538-7126, or by Internet E-mail at richardwclark@utah.gov

AUTHORIZED BY: Leonard Blackham, Commissioner

EFFECTIVE: 08/05/2010

Environmental Quality, Air Quality

R307-165

Emission Testing

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 33888
FILED: 08/04/2010

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-2-104(1)(a) allows the Air Quality Board to make rules "...regarding the control, abatement, and prevention of air pollution from all sources...." One component of preventing air pollution is testing to ensure that control equipment is working properly.

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-165 establishes the frequency of emission testing requirements for all areas of the state. Without periodic testing, there is no guarantee that pollution control equipment is working properly. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Kimberly Kreykes by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at kkreykes@utah.gov

AUTHORIZED BY: Amanda Smith, Executive Director

EFFECTIVE: 08/04/2010

Natural Resources, Wildlife Resources

R657-11

Taking Furbearers

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 33949
FILED: 08/16/2010

**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: Under Sections 23-14-18 and 23-14-19, the Wildlife Board is authorized and required to provide rules to regulate and prescribe the means by which protected wildlife may be taken.

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 not received any written comments regarding this rule. Any comments received in opposition to the rule are resolved using existing policies and procedures or the issue is placed on the Regional Advisory Council and Wildlife Board's agenda for review and discussion during the process for taking public input. The public is welcome to view the Regional Advisory Council minutes, Wildlife Board minutes, and administrative record for this rule at the Division of Wildlife Resources.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-11 provides the application procedures, standards, and requirements for taking furbearers. The provisions adopted in this rule are effective in providing the standards and requirements for taking furbearers. Continuation of this rule is necessary for continued success of the furbearer program and providing furbearer hunting opportunities.

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 by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

AUTHORIZED BY: James Karpowitz , Director

EFFECTIVE: 08/16/2010

Transportation, Motor Carrier, Ports Of
Entry
R912-16
Special Mobile Equipment

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 33924
FILED: 08/12/2010

**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 Section 41-1a-231 which requires the Department of Transportation in consultation with the State Tax Commission to make rules establishing procedures for application, identification, approval, denial, and appeal of special mobile equipment.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has not received written comments from interested persons during and since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The law requiring rules for special mobile equipment remains in force and the Department is required to comply with the law by having this rule in place. Therefore, this rule should remain in place.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TRANSPORTATION
MOTOR CARRIER, PORTS OF ENTRY
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY, UT 84119-5998
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Linda Barrow by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at lindabarrow@utah.gov

AUTHORIZED BY: John Njord, Executive Director

EFFECTIVE: 08/12/2010

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their rules effective and enforceable after publication in the Utah State Bulletin. In the case of Proposed Rules or Changes in Proposed Rules with a designated comment period, the law permits an agency to file a notice of effective date any time after the close of comment plus seven days. In the case of Changes in Proposed Rules with no designated comment period, the law permits an agency to file a notice of effective date on any date including or after the thirtieth day after the rule's publication date. If an agency fails to file a Notice of Effective Date within 120 days from the publication of a Proposed Rule or a related Change in Proposed Rule the rule lapses and the agency must start the rulemaking process over.

Notices of Effective Date are governed by Subsection 63G-3-301(12), 63G-3-303, and Sections R15-4-5a and 5b.

Abbreviations

AMD = Amendment

CPR = Change in Proposed Rule

NEW = New Rule

R&R = Repeal & Reenact

REP = Repeal

Commerce

Consumer Protection

No. 33771 (AMD): R152-23. Utah Health Spa Services

Published: 07/01/2010

Effective: 08/09/2010

No. 33768 (AMD): R152-32a. Pawnshop and Secondhand Merchandise Transaction Information Act Rules

Published: 07/01/2010

Effective: 08/09/2010

No. 33773 (AMD): R152-34-7. Rules Relating to the Operation of Proprietary Schools under Section 13-34-107

Published: 07/01/2010

Effective: 08/09/2010

Occupational and Professional Licensing

No. 33705 (AMD): R156-31c. Nurse Licensure Compact Rule

Published: 07/01/2010

Effective: 08/16/2010

No. 33736 (AMD): R156-38b. State Construction Registry Rules

Published: 07/01/2010

Effective: 08/16/2010

No. 33737 (AMD): R156-55a. Utah Construction Trades Licensing Act Rule

Published: 07/01/2010

Effective: 08/16/2010

No. 33735 (AMD): R156-60b. Marriage and Family Therapist Licensing Act Rule

Published: 07/01/2010

Effective: 08/16/2010

No. 33734 (AMD): R156-61. Psychologist Licensing Act Rule

Published: 07/01/2010

Effective: 08/16/2010

No. 33552 (AMD): R156-71-202. Naturopathic Physician Formulary

Published: 05/01/2010

Effective: 08/16/2010

Securities

No. 33657 (AMD): R164-14. Exemptions

Published: 06/15/2010

Effective: 08/03/2010

Education

Administration

No. 33738 (AMD): R277-402-1. Definitions

Published: 07/01/2010

Effective: 08/09/2010

No. 33739 (AMD): R277-433-3. School District and Charter School Policies on Disposal of Textbooks

Published: 07/01/2010

Effective: 08/09/2010

No. 33740 (AMD): R277-459. Classroom Supplies Appropriation

Published: 07/01/2010

Effective: 08/09/2010

No. 33741 (R&R): R277-463. Class Size Reporting

Published: 07/01/2010

Effective: 08/09/2010

No. 33742 (AMD): R277-469. Instructional Materials Commission Operating Procedures

Published: 07/01/2010

Effective: 08/09/2010

No. 33743 (NEW): R277-472. Charter School Student Enrollment and Transfers and School District Capacity Information
Published: 07/01/2010
Effective: 08/09/2010

No. 33744 (AMD): R277-473. Testing Procedures
Published: 07/01/2010
Effective: 08/09/2010

No. 33745 (NEW): R277-480. Charter Schools School Building Subaccount
Published: 07/01/2010
Effective: 08/09/2010

No. 33746 (AMD): R277-505-4. Administrative License Area of Concentration Requirements
Published: 07/01/2010
Effective: 08/09/2010

No. 33747 (AMD): R277-600-10. Special Transportation Levy
Published: 07/01/2010
Effective: 08/09/2010

No. 33748 (AMD): R277-604-1. Definitions
Published: 07/01/2010
Effective: 08/09/2010

No. 33749 (AMD): R277-609. Standards for School District, School and Charter School Discipline Plans
Published: 07/01/2010
Effective: 08/09/2010

No. 33750 (AMD): R277-612-3. Foreign Exchange Student Cap
Published: 07/01/2010
Effective: 08/09/2010

No. 33751 (AMD): R277-616-1. Definitions
Published: 07/01/2010
Effective: 08/09/2010

No. 33752 (AMD): R277-705. Secondary School Completion and Diplomas
Published: 07/01/2010
Effective: 08/09/2010

Fair Corporation (Utah State)
Administration

No. 33707 (AMD): R325-3-17. Smoke-Free Policy
Published: 07/01/2010
Effective: 08/09/2010

No. 33709 (AMD): R325-4-22. Smoke-Free Policy
Published: 07/01/2010
Effective: 08/09/2010

No. 33708 (AMD): R325-5-17. Smoke-Free Policy
Published: 07/01/2010
Effective: 08/09/2010

Health

Health Systems Improvement, Emergency Medical Services
No. 33576 (AMD): R426-6. Emergency Medical Services Competitive Grants Program Rules
Published: 05/15/2010
Effective: 08/03/2010

No. 33577 (AMD): R426-8. Emergency Medical Services Per Capita Grants Program Rules
Published: 05/15/2010
Effective: 08/03/2010

Human Resource Management

Administration

No. 33767 (AMD): R477-1. Definitions
Published: 07/01/2010
Effective: 08/09/2010

No. 33772 (AMD): R477-4-4. Recruitment and Selection for Career Service Positions
Published: 07/01/2010
Effective: 08/09/2010

No. 33774 (AMD): R477-14-1. Rules Governing a Drug-Free Workplace
Published: 07/01/2010
Effective: 08/09/2010

No. 33770 (AMD): R477-15-1. Purpose
Published: 07/01/2010
Effective: 08/09/2010

Human Services

Administration

No. 33662 (NEW): R495-883. Children in Care Support Services
Published: 06/15/2010
Effective: 08/09/2010

Child and Family Services

No. 33763 (AMD): R512-31. Foster Parent Due Process
Published: 07/01/2010
Effective: 08/11/2010

No. 33764 (AMD): R512-200. Child Protective Services, Intake Services
Published: 07/01/2010
Effective: 08/11/2010

No. 33765 (AMD): R512-300. Out-of-Home Services
Published: 07/01/2010
Effective: 08/11/2010

Recovery Services

No. 33660 (AMD): R527-40. Retained Support
Published: 06/15/2010
Effective: 08/09/2010

No. 33659 (REP): R527-550. Assessment
Published: 06/15/2010
Effective: 08/09/2010

Money Management CouncilAdministration

No. 33728 (AMD): R628-13. Collateralization of Public
Funds
Published: 07/01/2010
Effective: 08/10/2010

Natural ResourcesParks and Recreation

No. 33733 (AMD): R651-206. Carrying Passengers For Hire
Published: 07/01/2010
Effective: 08/09/2010

No. 33725 (AMD): R651-215-9. Required Wearing of PFDs
Published: 07/01/2010
Effective: 08/09/2010

No. 33730 (AMD): R651-215-10. River Flat Water Areas
Published: 07/01/2010
Effective: 08/09/2010

Wildlife Resources

No. 33626 (AMD): R657-5. Taking Big Game
Published: 06/01/2010
Effective: 08/05/2010

No. 33758 (AMD): R657-12. Hunting and Fishing
Accommodations for People With Disabilities
Published: 07/01/2010
Effective: 08/09/2010

No. 33755 (AMD): R657-17. Lifetime Hunting and Fishing
License
Published: 07/01/2010
Effective: 08/09/2010

No. 33756 (AMD): R657-41. Conservation and Sportsman
Permits
Published: 07/01/2010
Effective: 08/09/2010

No. 33754 (AMD): R657-42. Fees, Exchanges, Surrenders,
Refunds and Reallocation of Wildlife Documents
Published: 07/01/2010
Effective: 08/09/2010

No. 33757 (AMD): R657-55. Wildlife Convention Permits
Published: 07/01/2010
Effective: 08/09/2010

No. 33759 (AMD): R657-60. Aquatic Invasive Species
Interdiction
Published: 07/01/2010
Effective: 08/09/2010

Regents (Board Of)Administration

No. 33760 (AMD): R765-604. New Century Scholarship
Published: 07/01/2010
Effective: 08/09/2010

Tax CommissionAuditing

No. 33693 (AMD): R865-6F-27. Order of Credits Applied
Against Utah Corporate Franchise Tax Due Pursuant to Utah
Code Ann. Sections 9-2-413, 59-6-102, 59-7-601 through
59-7-614, and 59-13-202
Published: 06/15/2010
Effective: 08/12/2010

No. 33696 (AMD): R865-9I-2. Determination of Utah
Resident Individual Status Pursuant to Utah Code Ann.
Section 59-10-103
Published: 06/15/2010
Effective: 08/12/2010

No. 33694 (AMD): R865-9I-42. Order of Credits Applied
Against Utah Individual Income Tax Due Pursuant to Utah
Code Ann. Sections 59-6-102, 59-13-202, Title 59, Chapter
10, and 63M-1-413
Published: 06/15/2010
Effective: 08/12/2010

No. 33691 (AMD): R865-20T-13. Calculation of Tax on Moist
Snuff Pursuant to Utah Code Ann. Section 59-14-302
Published: 06/15/2010
Effective: 08/12/2010

Property Tax

No. 33692 (AMD): R884-24P-24. Form for Notice of
Property Valuation and Tax Changes Pursuant to Utah Code
Ann. Sections 59-2-918 through 59-2-924
Published: 06/15/2010
Effective: 08/12/2010

No. 33695 (AMD): R884-24P-62. Valuation of State
Assessed Unitary Properties to Utah Code Ann. Section
59-2-201
Published: 06/15/2010
Effective: 08/12/2010

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, 2010 through August 16, 2010. The Rules Index is published in the Utah State Bulletin and in the annual Utah Administrative Rules Index of Changes. Nonsubstantive changes, while not published in the Bulletin, do become part of the Utah Administrative Code (Code) and are included in this Index, as well as 120-Day (Emergency) rules that do not become part of the Code. The rules are indexed by Agency (Code Number) and Keyword (Subject).

Questions regarding the index and the information it contains should be addressed to 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>Administrative Rules</u>					
R15-4	Administrative Rulemaking Procedures	33437	NSC	03/29/2010	Not Printed
<u>Archives</u>					
R17-7-3	Archives/ Research Room/Access to Records	33320	AMD	05/17/2010	2010-3/12
<u>Debt Collection</u>					
R21-3	Debt Collection Through Administrative Offset	33564	NSC	07/01/2010	Not Printed
R21-3	Debt Collection Through Administrative Offset	33778	NSC	07/26/2010	Not Printed
<u>Facilities Construction and Management</u>					
R23-1	Procurement of Construction	33621	AMD	07/08/2010	2010-11/6
R23-2-15	Negotiation and Appointment	33766	NSC	07/01/2010	Not Printed
R23-7	State Construction Contracts and Drug and Alcohol Testing	33622	NEW	07/08/2010	2010-11/16
R23-22	General Procedures for Acquisition and Selling of Real Property	33623	AMD	07/08/2010	2010-11/19
R23-22-7	Requirements for the Disposition of Real Property by DFCM	33683	NSC	07/08/2010	Not Printed
R23-23	Health Reform -- Health Insurance Coverage in State Contracts -- Implementation	33634	AMD	07/08/2010	2010-11/23
R23-26	Dispute Resolution	33360	5YR	02/01/2010	2010-4/79
<u>Finance</u>					
R25-7	Travel-Related Reimbursements for State Employees	33618	AMD	08/01/2010	2010-11/26
R25-7-10	Reimbursement for Transportation	33302	AMD	04/21/2010	2010-3/12
<u>Purchasing and General Services</u>					
R33-3	Source Selection and Contract Formulation	33650	AMD	07/08/2010	2010-11/28
R33-5	Construction and Architect-Engineer Selection	33635	AMD	07/08/2010	2010-11/35
R33-10	State Construction Contracts and Drugs and Alcohol Testing	33656	NEW	07/08/2010	2010-11/44
<u>Records Committee</u>					
R35-1-4	Committee Minutes	33335	AMD	05/17/2010	2010-4/16
R35-1-4	Committee Minutes	33436	NSC	05/17/2010	Not Printed
R35-1a	State Records Committee/Definitions	33399	5YR	02/22/2010	2010-6/35
<u>Risk Management</u>					
R37-1	Risk Management General Rules	33390	AMD	06/01/2010	2010-5/2
R37-2	Risk Management State Workers' Compensation Insurance Administration	33392	NSC	03/10/2010	Not Printed
R37-4	Adjusted Utah Governmental Immunity Act Limitations on Judgments	33393	AMD	06/01/2010	2010-6/6

AGRICULTURE AND FOOD

Animal Industry

R58-7	Livestock Markets, Satellite Video Livestock Auction Market, Livestock Sales, Dealers and Livestock Market Weighpersons	33326	5YR	01/14/2010	2010-3/87
R58-10	Meat and Poultry Inspection	33329	5YR	01/14/2010	2010-3/87
R58-17	Aquaculture and Aquatic Animal Health	33327	5YR	01/14/2010	2010-3/88
R58-20-5	Facilities	33217	AMD	01/27/2010	2009-24/4
R58-21	Trichomoniasis	33340	5YR	01/27/2010	2010-4/79

Conservation and Resource Management

R64-1	Agriculture Resource and Development Loans (ARDL)	33305	5YR	01/07/2010	2010-3/89
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Plant Industry

R68-2	Utah Commercial Feed Act Governing Feed	33813	5YR	07/07/2010	2010-15/69
R68-6	Utah Nursery Act	33905	5YR	08/10/2010	Not Printed
R68-7	Utah Pesticide Control Act	33080	AMD	01/04/2010	2009-22/5
R68-10	Quarantine Pertaining to European Corn Borer	33835	5YR	07/15/2010	2010-15/69
R68-12	Quarantine Pertaining to Mint Wilt	33677	5YR	05/27/2010	2010-12/69
R68-20	Utah Organic Standards	33315	5YR	01/12/2010	2010-3/89

Regulatory Services

R70-101	Bedding, Upholstered Furniture and Quilted Clothing	33074	AMD	01/11/2010	2009-22/11
R70-101	Bedding, Upholstered Furniture and Quilted Clothing	33542	5YR	04/07/2010	2010-9/41
R70-610	Uniform Retail Wheat Standards of Identity	33894	5YR	08/05/2010	Not Printed
R70-620	Enrichment of Flour and Cereal Products	33892	5YR	08/05/2010	Not Printed
R70-910	Registration of Serviceperson for Commercial Weighing and Measuring Devices	33893	5YR	08/05/2010	Not Printed
R70-950	Uniform National Type Evaluation	33891	5YR	08/05/2010	Not Printed

ALCOHOLIC BEVERAGE CONTROL

Administration

R81-1-11	Multiple-Licensed Facility Storage and Service	33153	AMD	01/26/2010	2009-24/5
R81-1-26	Criminal History Background Checks	33154	AMD	01/26/2010	2009-24/6
R81-3-13	Operational Restrictions	33152	AMD	01/26/2010	2009-24/8
R81-4D-1	Licensing	33155	AMD	01/26/2010	2009-24/10
R81-4D-14	Reporting Requirement	33156	AMD	01/26/2010	2009-24/11
R81-4E	Resort Licenses	33157	NEW	01/26/2010	2009-24/12
R81-4E-4	Insurance	33339	NSC	02/11/2010	Not Printed
R81-7-1	Application Guidelines	33469	AMD	05/26/2010	2010-8/6
R81-10B-1	Application Guidelines	33504	AMD	05/26/2010	2010-8/7

CAPITOL PRESERVATION BOARD (STATE)

Administration

R131-1	Procurement of Architectural and Engineering Services	33363	EXT	02/08/2010	2010-5/73
R131-1	Procurement of Architectural and Engineering Services	33544	5YR	04/07/2010	2010-9/41
R131-1	Procurement of Architectural and Engineering Services	33543	NSC	04/26/2010	Not Printed
R131-2	Capitol Hill Complex Facility Use	33364	EXT	02/08/2010	2010-5/73
R131-2	Capitol Hill Complex Facility Use	33545	5YR	04/07/2010	2010-9/42
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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	

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	33475	R309-115	5YR	03/22/2010	2010-8/42
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lead-based paint abatement

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	33316	R164-4-9	AMD	03/11/2010	2010-3/14
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	33316	R164-4-9	AMD	03/11/2010	2010-3/14
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	33010	R164-9	AMD	02/02/2010	2009-20/14
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	33012	R164-11-1	AMD	02/02/2010	2009-20/18
	33013	R164-12-1f	AMD	02/02/2010	2009-20/19
	33014	R164-13	REP	02/02/2010	2009-20/22
	33657	R164-14	AMD	08/03/2010	2010-12/17
	33016	R164-18-6	AMD	02/02/2010	2009-20/23
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Education, Administration	33147	R277-111	NEW	01/08/2010	2009-23/15
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	33145	R315-316	AMD	01/15/2010	2009-23/17

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	33462	R309-515-6	AMD	05/13/2010	2010-7/18

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	33462	R309-515-6	AMD	05/13/2010	2010-7/18

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	33456	R309-205-9	NSC	03/29/2010	Not Printed

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	33757	R657-55	AMD	08/09/2010	2010-13/124
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Environmental Quality, Air Quality	33435	R307-207	5YR	03/04/2010	2010-7/55
	33698	R307-302	5YR	06/02/2010	2010-13/143
<u>workers' compensation</u>					
Administrative Services, Risk Management	33392	R37-2	NSC	03/10/2010	Not Printed
Labor Commission, Industrial Accidents	33230	R612-13	NEW	01/21/2010	2009-24/89
<u>workers' compensation insurance</u>					
Insurance, Administration	33617	R590-231	5YR	05/04/2010	2010-11/129
<u>youth corrections</u>					
Human Services, Administration	33662	R495-883	NEW	08/09/2010	2010-12/34
Human Services, Recovery Services	33659	R527-550	REP	08/09/2010	2010-12/38
<u>youth mentor</u>					
Human Services, Child and Family Services	33256	R512-10	AMD	02/09/2010	2010-1/33