

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
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Number 98-24
December 15, 1998

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

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

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

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TABLE OF CONTENTS

1. SPECIAL NOTICES

Department of Health: Public Notice - Nursing Facility Reimbursement Rates	1
Department of Commerce, Occupational and Professional Licensing: Public Notice - 1999 Board/Committee Meeting Schedule	1

2. NOTICES OF PROPOSED RULES

Agriculture and Food

Plant Industry

No. 21701 (Amendment): R68-15. Quarantine Pertaining to Japanese Beetle, (<i>Popillia Japonica</i>)	8
---	---

Commerce

Occupational and Professional Licensing

No. 21716 (Amendment): R156-24a. Physical Therapist Practice Act Rules	11
--	----

Environmental Quality

Air Quality

No. 21697 (Amendment): R307-12 (Changed to R307-205). Fugitive Emissions and Fugitive Dust	12
--	----

No. 21698 (New): R307-309. Davis, Salt Lake and Utah Counties, Ogden City and Any Nonattainment Area for PM10: Fugitive Emissions and Fugitive Dust	15
---	----

No. 21727 (New): R307-343. Davis and Salt Lake Counties and Ozone Nonattainment Areas: Emissions Standards for Wood Furniture Manufacturing Operations	18
--	----

Radiation Control

No. 21684 (Amendment): R313-12-3. Definitions	26
---	----

No. 21685 (Amendment): R313-15-906. Procedures for Receiving and Opening Packages	32
---	----

No. 21686 (Amendment): R313-19. Requirements of General Applicability to Licensing of Radioactive Material	33
--	----

No. 21682 (Amendment): R313-28. Use of X-rays in the Healing Arts	46
---	----

Health

Health Care Financing, Coverage and Reimbursement Policy

No. 21687 (Amendment): R414-29. Client Review/Education and Restriction Policy	50
--	----

Health Systems Improvement, Emergency Medical Services

No. 21693 (Amendment): R426-1. Ambulance Rules	51
--	----

No. 21688 (Amendment): R426-2. Air Medical Service Rules	59
--	----

No. 21694 (Amendment): R426-3. Utah Mobile Paramedic Rules	61
--	----

No. 21695 (Amendment): R426-4. Emergency Medical Dispatcher Rules	67
---	----

TABLE OF CONTENTS

Health Systems Improvement, Health Facility Licensure
No. 21700 (Amendment): R432-6. Assisted Living Facility General Construction 69
No. 21722 (Repeal and Reenact): R432-270. Assisted Living Facilities 70

Human Services

Recovery Services
No. 21726 (Amendment): R527-378. Garnishment of Social Security Benefits 90

Insurance

Administration
No. 21723 (Repeal): R590-135. Accounting Records Rule 91
No. 21724 (Repeal): R590-166. Home Protection Service Contract Rule 93
No. 21725 (New): R590-170. Fiduciary and Trust Account Obligations 95

Natural Resources

Wildlife Resources
No. 21717 (Amendment): R657-5. Taking Big Game 96
No. 21719 (Amendment): R657-38. Dedicated Hunter Program 107
No. 21720 (Amendment): R657-42. Exchanges, Surrenders, Refunds and Reallocation of Licenses,
Certificates of Registration and Permits 109
No. 21721 (Amendment): R657-43. Landowner Permits 110

Public Safety

Fire Marshal
No. 21708 (Amendment): R710-1. Concerns Servicing Portable Fire Extinguishers 112
No. 21709 (Amendment): R710-3. Assisted Living Facilities 116
No. 21710 (Amendment): R710-4. Buildings Under the Jurisdiction of the State Fire Prevention Board 117
No. 21712 (Amendment): R710-8. Day Care Rules 120

Workforce Services

Employment Development
No. 21705 (Amendment): R986-413. Program Standards 122
No. 21706 (Amendment): R986-419. Income Limits 124
No. 21707 (Amendment): R986-420. Maximum Allotments 125

3. FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Administrative Services

Fleet Operations, Surplus Property
No. 21683: R28-3. Utah State Agency for Surplus Property Adjudicative Proceedings 127

Insurance

Administration

No. 21713: R590-161. Disability Income Policy Disclosure	127
No. 21714: R590-162. Actuarial Opinion and Memorandum Rule	128
No. 21715: R590-163. Filing Quarterly Statements	128
4. NOTICES OF RULE EFFECTIVE DATES	130
5. RULES INDEX	131

SPECIAL NOTICES

DEPARTMENT OF HEALTH

PUBLIC NOTICE NURSING FACILITY REIMBURSEMENT RATES

The Utah Medicaid Agency hereby gives public notice that the Nursing Facility Reimbursement rates for the period beginning July 1, 1998, are, on the average, increased by the factor of 3%. This percentage is based on the inflation adjustment calculated using the methodology outlined in the Medicaid State Plan, plus an additional 1/2% factor, reflecting funds appropriated by the Utah State Legislature for special needs.

Written comments can be sent to the attention of Blaine Goff, and the public may review the proposed changes at: Division of Health Care Financing, Utah State Department of Health, 288 North 1460 West, Salt Lake City, Utah 84116-0580.

DEPARTMENT OF COMMERCE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING

PUBLIC NOTICE 1999 BOARD/COMMITTEE MEETING SCHEDULE

NOTE: Meetings are subject to change - contact the Division at (801) 530-6628 to confirm meetings. Most meetings are held in the Heber M. Wells Building, 160 East 300 South, Salt Lake City, Utah.

January

7 Security Services Licensing Board	9:00 a.m.
8 Dentists and Dental Hygienists Board	8:00 a.m.
8 Plumbers Licensing Board	8:30 a.m.
11 Psychology Board	9:30 a.m.
12 Controlled Substance Database Committee	9:00 a.m.
12 Building Inspector Licensing Board	9:30 a.m.
13 Hearing Instrument Specialist Licensing Board	9:00 a.m.
13 Physicians Licensing Board	9:00 a.m.
13 Professional Counselors Licensing Board	10:00 a.m.
14 Social Work Board	8:00 a.m.
14 Occupational Therapy Board	9:00 a.m.
15 Uniform Building Code Commission	9:00 a.m.
19 Professional Engineer/Professional Land Surveyor Board	9:00 a.m.
19 Building Codes Advisory Committee	1:00 p.m.
20 Residence Lien Recovery Fund Board	8:00 a.m.
20 CPA Quality Review Acceptance Body	8:00 a.m.
20 Health Care Assistant Registration Board	9:00 a.m.
21 Physician Assistant Licensing Board	8:00 a.m.
21 Electricians Licensing Board	9:00 a.m.
26 Boxing Commission	9:00 a.m.
26 Pharmacy Board	9:00 a.m.
26 Employee Leasing Company Board	10:00 a.m.
27 Contractors Licensing Board	8:00 a.m.
27 Utah Board of Accountancy	1:00 p.m.
28 Funeral Service/Preneed Funeral Arr. Boards	9:00 a.m.
29 Nursing Board	8:00 a.m.

SPECIAL NOTICES

February

2 Environmental Health Scientist Board	9:00 a.m.
5 Dentists and Dental Hygienists Board	8:00 a.m.
8 Psychology Board	9:30 a.m.
9 Radiology Technology Licensing Board	9:00 a.m.
9 Utah Board of Massage Therapy	9:00 a.m.
9 Building Inspector Licensing Board	9:30 a.m.
10 Physicians Licensing Board	9:00 a.m.
10 Professional Counselor Licensing Board	10:00 a.m.
11 Social Work Board	8:00 a.m.
12 Plumbers Licensing Board	8:30 a.m.
17 Residence Lien Recovery Fund Board	8:00 a.m.
17 Health Care Assistant Registration Board	9:00 a.m.
18 Physician Assistant Licensing Board	8:00 a.m.
18 Deception Detection Examiners Board	9:00 a.m.
18 Electricians Licensing Board	9:00 a.m.
19 Uniform Building Code Commission	9:00 a.m.
19 Architect Board	9:00 a.m.
19 Architect IDP Committee	9:00 a.m.
19 Building Codes Advisory Committee	1:00 p.m.
23 Pharmacy Board	9:00 a.m.
24 Contractors Licensing Board	8:00 a.m.
24 Alarm System Security and Licensing Board	9:00 a.m.
24 Utah Board of Accountancy	1:00 p.m.
26 Nursing Board	8:00 a.m.

March

1 Cosmetology/Barber Board	9:00 a.m.
2 Landscape Architects Licensing Board	9:00 a.m.
4 Security Services Licensing Board	9:00 a.m.
4 Veterinary Board	9:00 a.m.
5 Dentists and Dental Hygienists Board	8:00 a.m.
9 Respiratory Care Board	9:00 a.m.
10 Chiropractic Physician Board	9:00 a.m.
10 Professional Counselor Licensing Board	10:00 a.m.
11 Social Work Board	8:00 a.m.
12 Plumbers Licensing Board	8:30 a.m.
15 Psychology Board	9:30 a.m.
16 Professional Engineer/Professional Land Surveyor Board	9:00 a.m.
16 Building Codes Advisory Committee	1:00 p.m.
16 Building Inspector Licensing Board	9:30 a.m.
17 Residence Lien Recovery Fund Board	8:00 a.m.
17 Health Care Assistant Registration Board	9:00 a.m.
18 Physician Assistant Board	8:00 a.m.
18 Electricians Licensing Board	9:00 a.m.
19 Uniform Building Code Commission	9:00 a.m.
23 Pharmacy Board	9:00 a.m.
24 Utah Board of Accountancy	1:00 p.m.
26 Nursing Board	8:00 a.m.
31 Contractors Licensing Board	8:00 a.m.

April

2 Dentists and Dental Hygienists Board	8:00 a.m.
7 Professional Counselors Licensing Board	10:00 a.m.
8 Social Work Board	8:00 a.m.
9 Plumbers Licensing Board	8:30 a.m.
14 Physicians Licensing Board	9:00 a.m.
14 Hearing Instrument Specialist Licensing. Board	9:00 a.m.
14 Recreational Therapy Board	9:00 a.m.
14 Psychology Board	1:00 p.m.

15	Physician Assistant Board	8:00 a.m.
15	Electricians Licensing Board	9:00 a.m.
16	Architect Board	9:00 a.m.
16	Architect IDP Committee	9:00 a.m.
16	Uniform Building Code Commission	9:00 a.m.
16	Marriage/Family Therapy Board	9:00 a.m.
20	Physical Therapy Board	9:00 a.m.
20	Health Facility Administrators Board	9:00 a.m.
20	Building Inspector Licensing Board	9:30 a.m.
20	Building Codes Advisory Committee	1:00 p.m.
21	Residence Lien Recovery Fund Board	8:00 a.m.
21	Health Care Assistant Registration Board	9:00 a.m.
27	Pharmacy Board	9:00 a.m.
27	Employee Leasing Company Board	10:00 a.m.
28	Contractors Licensing Board	8:00 a.m.
28	Utah Board of Accountancy	1:00 p.m.
29	Funeral Service/Preneed Funeral Arr. Boards	9:00 a.m.
30	Nursing Board	8:00 a.m.

May

4	Optometrist Licensing Board	9:00 a.m.
6	Security Services Licensing Board	9:00 a.m.
7	Dentists and Dental Hygienists Board	8:00 a.m.
11	Utah Board of Massage Therapy	9:00 a.m.
11	Controlled Substance Database Committee	9:00 a.m.
12	Physicians Licensing Board	9:00 a.m.
12	Dietitian Board	9:00 a.m.
12	Professional Counselors Licensing Board	10:00 a.m.
13	Social Work Board	8:00 a.m.
14	Plumbers Licensing Board	8:30 a.m.
14	Uniform Building Code Commission	9:00 a.m.
17	Psychology Board	9:00 a.m.
18	Professional Engineer/Professional Land Surveyor Board	9:00 a.m.
18	Building Inspector Licensing Board	9:30 a.m.
18	Building Codes Advisory Committee	1:00 p.m.
19	Residence Lien Recovery Fund Board	8:00 a.m.
19	Health Care Assistant Registration Board	9:00 a.m.
20	Physician Assistant Board	8:00 a.m.
20	CPA Quality Review Acceptance Body	8:00 a.m.
20	Electricians Licensing Board	9:00 a.m.
21	Nursing Board	8:00 a.m.
25	Pharmacy Board	9:00 a.m.
26	Contractors Licensing Board	8:00 a.m.
26	Alarm System Security and Licensing Board	9:00 a.m.
26	Utah Board of Accountancy	1:00 p.m.

June

3	Veterinary Board	9:00 a.m.
4	Dentists and Dental Hygienists Board	8:00 a.m.
7	Cosmetology/Barber Board	9:00 a.m.
8	Speech-Language Pathology/Audiology Board	9:00 a.m.
9	Physicians Licensing Board	9:00 a.m.
9	Professional Counselors Licensing Board	10:00 a.m.
10	Social Work Board	8:00 a.m.
10	Chiropractic Physicians Board	9:00 a.m.
10	Occupational Therapy Board	9:00 a.m.
11	Plumbers Licensing Board	8:30 a.m.
15	Boxing Commission	9:00 a.m.
15	Building Inspector Licensing Board	9:30 a.m.
15	Building Codes Advisory Committee	1:00 p.m.

SPECIAL NOTICES

16	Residence Lien Recovery Fund Board	8:00 a.m.
16	CPA Quality Review Acceptance Body	8:00 a.m.
16	Health Care Assistant Registration Board	9:00 a.m.
17	Physician Assistant Board	8:00 a.m.
17	Electricians Licensing Board	9:00 a.m.
18	Architect Board	9:00 a.m.
18	Architect IDP Committee	9:00 a.m.
18	Uniform Building Code Commission	9:00 a.m.
18	Nursing Board	8:00 a.m.
21	Psychology Board	9:00 a.m.
22	Pharmacy Board	9:00 a.m.
23	Utah Board of Accountancy	1:00 p.m.
30	Contractors Licensing Board	8:00 a.m.

July

1	Security Services Licensing Board	9:00 a.m.
2	Dentists and Dental Hygienists Board	8:00 a.m.
8	Social Work Board	8:00 a.m.
9	Plumbers Licensing Board	8:30 a.m.
13	Environmental Health Scientist Board	9:00 a.m.
14	Physicians Licensing Board	9:00 a.m.
14	Hearing Instrument Specialist Licensing Board	9:00 a.m.
14	Professional Counselors Licensing Board	10:00 a.m.
15	Electricians Licensing Board	9:00 a.m.
15	Physician Assistant Board	8:00 a.m.
16	Uniform Building Code Commission	9:00 a.m.
16	Marriage/Family Therapy Board	9:00 a.m.
19	Psychology Board	9:30 a.m.
20	Professional Engineer/Professional Land Surveyor Board	9:00 a.m.
20	Building Inspector Licensing Board	9:30 a.m.
20	Building Codes Advisory Committee	1:00 p.m.
21	Residence Lien Recovery Fund Board	8:00 a.m.
21	CPA Quality Review Acceptance Body	8:00 a.m.
21	Health Care Assistant Registration Board	9:00 a.m.
27	Pharmacy Board	9:00 a.m.
27	Radiology Technology Licensing Board	9:00 a.m.
27	Employee Leasing Company Board	10:00 a.m.
28	Contractors Licensing Board	8:00 a.m.
28	Utah Board of Accountancy	1:00 p.m.
29	Funeral Service/Preneed Funeral Arr. Boards	9:00 a.m.
30	Nursing Board	8:00 a.m.

August

3	Landscape Architects Licensing Board	9:00 a.m.
6	Dentists and Dental Hygienists Board	8:00 a.m.
10	Respiratory Care Board	9:00 a.m.
10	Utah Board of Massage Therapy	9:00 a.m.
11	Physicians Licensing Board	9:00 a.m.
11	Professional Counselors Licensing Board	10:00 a.m.
12	Social Work Board	8:00 a.m.
13	Plumbers Licensing Board	8:30 a.m.
16	Psychology Board	9:30 a.m.
17	Building Inspector Licensing Board	9:30 a.m.
17	Building Codes Advisory Committee	1:00 p.m.
18	Residence Lien Recovery Fund Board	8:00 a.m.
18	CPA Quality Review Acceptance Body	8:00 a.m.
18	Health Care Assistant Registration Board	9:00 a.m.
19	Physician Assistant Board	8:00 a.m.
19	Deception Detection Examiners Board	9:00 a.m.
19	Electricians Licensing Board	9:00 a.m.

20	Uniform Building Code Commission	9:00 a.m.
20	Architect Board	9:00 a.m.
20	Architect IDP Committee	9:00 a.m.
24	Pharmacy Board	9:00 a.m.
25	Contractors Licensing Board	8:00 a.m.
25	Alarm System Security and Licensing Board	9:00 a.m.
25	Utah Board of Accountancy	1:00 p.m.
27	Nursing Board	8:00 a.m.

September

2	Security Services Licensing Board	9:00 a.m.
2	Veterinary Board	9:00 a.m.
3	Dentists and Dental Hygienists Board	8:00 a.m.
8	Physicians Licensing Board	9:00 a.m.
8	Professional Counselors Licensing Board	10:00 a.m.
9	Social Work Board	8:00 a.m.
9	Chiropractic Physician Board	9:00 a.m.
10	Plumbers Licensing Board	8:30 a.m.
13	Cosmetology/Barber Board	9:00 a.m.
14	Physical Therapy Board	9:00 a.m.
15	Residence Lien Recovery Fund Board	8:00 a.m.
15	CPA Quality Review Acceptance Body	8:00 a.m.
15	Health Care Assistant Registration Board	9:00 a.m.
16	Physician Assistant Board	8:00 a.m.
16	Electricians Licensing Board	9:00 a.m.
17	Uniform Building Code Commission	9:00 a.m.
20	Psychology Board	9:30 a.m.
21	Professional Engineer/Professional Land Surveyor Board	9:00 a.m.
21	Building Inspector Licensing Board	9:30 a.m.
21	Building Codes Advisory Committee	1:00 p.m.
22	Utah Board of Accountancy	1:00 p.m.
24	Nursing Board	8:00 a.m.
28	Pharmacy Board	9:00 a.m.
29	Contractors Licensing Board	8:00 a.m.

October

1	Dentists and Dental Hygienists Board	8:00 a.m.
6	Professional Counselors Licensing Board	10:00 a.m.
8	Plumbers Licensing Board	8:30 a.m.
13	Physicians Licensing Board	9:00 a.m.
13	Hearing Instrument Specialist Licensing Board	9:00 a.m.
13	Controlled Substance Database Committee	9:00 a.m.
13	Psychology Board	1:00 p.m.
14	Social Work Board	8:00 a.m.
15	Uniform Building Code Commission	9:00 a.m.
15	Architect Board	9:00 a.m.
15	Architect IDP Committee	9:00 a.m.
15	Marriage/Family Therapy Board	9:00 a.m.
16	Dietitian Board	9:00 a.m.
19	Health Facility Administrators Board	9:00 a.m.
19	Building Inspector Licensing Board	9:30 a.m.
19	Building Codes Advisory Committee	1:00 p.m.
20	Residence Lien Recovery Fund Board	8:00 a.m.
20	CPA Quality Review Acceptance Body	8:00 a.m.
20	Health Care Assistant Registration Board	9:00 a.m.
21	Physician Assistant Board	8:00 a.m.
21	Electricians Licensing Board	9:00 a.m.
26	Pharmacy Board	9:00 a.m.
26	Employee Leasing Company Board	10:00 a.m.

SPECIAL NOTICES

27 Contractors Licensing Board	8:00 a.m.
27 Utah Board of Accountancy	1:00 p.m.
28 Funeral Service/Preneed Funeral Arr. Boards	9:00 a.m.
29 Nursing Board	8:00 a.m.

November

2 Recreational Therapy Board	9:00 a.m.
4 Security Services Licensing Board	9:00 a.m.
5 Dentists and Dental Hygienists Board	8:00 a.m.
9 Utah Board of Massage Therapy	9:00 a.m.
10 Physicians Licensing Board	9:00 a.m.
10 Professional Counselor Licensing Board	10:00 a.m.
12 Plumbers Licensing Board	8:30 a.m.
15 Uniform Building Code Commission	9:00 a.m.
15 Psychology Board	9:30 a.m.
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16 Building Codes Advisory Committee	1:00 p.m.
17 Residence Lien Recovery Fund Board	8:00 a.m.
17 CPA Quality Review Acceptance Body	8:00 a.m.
17 Health Care Assistant Registration Board	9:00 a.m.
18 Physicians Assistant Board	8:00 a.m.
18 Social Work Board	8:00 a.m.
18 Electricians Licensing Board	9:00 a.m.
19 Nursing Board	8:00 a.m.
23 Pharmacy Board	9:00 a.m.
24 Contractors Licensing Board	8:00 a.m.
24 Alarm System Security and Licensing Board	9:00 a.m.
24 Utah Board of Accountancy	1:00 p.m.

December

1 Optometrist Licensing Board	9:00 a.m.
2 Veterinary Board	9:00 a.m.
3 Dentists and Dental Hygienists Board	8:00 a.m.
3 Physical Therapy Board	9:00 a.m.
6 Cosmetology/Barber Board	9:00 a.m.
7 Speech-Language Pathology/Audiology Board	9:00 a.m.
8 Physicians Licensing Board	9:00 a.m.
8 Professional Counselors Licensing Board	10:00 a.m.
9 Social Work Board	8:00 a.m.
9 Chiropractic Physicians Licensing Board	9:00 a.m.
10 Plumbers Licensing Board	8:30 a.m.
15 Residence Lien Recovery Fund Board	8:00 a.m.
15 CPA Quality Review Acceptance Body	8:00 a.m.
15 Health Care Assistant Registration Board	9:00 a.m.
16 Physician Assistant Board	8:00 a.m.
16 Electricians Licensing Board	9:00 a.m.
17 Uniform Building Code Commission	9:00 a.m.
17 Architect Board	9:00 a.m.
17 Architect IDP Committee	9:00 a.m.
17 Nursing Board	8:00 a.m.
20 Psychology Board	9:30 a.m.
21 Building Inspector Licensing Board	9:30 a.m.
21 Building Codes Advisory Committee	1:00 p.m.
22 Utah Board of Accountancy	1:00 p.m.
28 Pharmacy Board	9:00 a.m.
29 Contractors Licensing Board	8:00 a.m.

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 November 17, 1998, 12:00 a.m., and December 1, 1998, 11:59 p.m., are included in this, the December 15, 1998, issue of the *Utah State Bulletin*.

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

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

The law requires that an agency accept public comment on PROPOSED RULES published in this issue of the *Utah State Bulletin* until at least January 14, 1999. The agency may accept comment beyond this date and will list the last day the agency will accept comment in the RULE ANALYSIS. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency to hold a hearing on a specific PROPOSED RULE. Section 63-46a-5 (1987) requires that a hearing request be received "in writing not more than 15 days after the publication date of the PROPOSED RULE."

From the end of the public comment period through April 14, 1999, the agency may notify the Division of Administrative Rules that it wants to make the PROPOSED RULE effective. The agency sets the effective date. The date may be no fewer than 31 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a CHANGE IN PROPOSED RULE in response to comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing lapses and the agency must start the process over.

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

PROPOSED RULES are governed by *Utah Code* Section 63-46a-4 (1996); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page.

Agriculture and Food, Plant Industry
R68-15
Quarantine Pertaining to Japanese Beetle, (Popillia Japonica)

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21701
FILED: 11/25/1998, 09:53
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is established to control the spread of Japanese Beetle within the State of Utah. This beetle, when in the larval state, attacks the roots of many plants and as an adult attacks the leaves and fruits of many plants.

SUMMARY OF THE RULE OR CHANGE: This amendment includes the following states as areas under quarantine: Iowa, Kansas, and Nebraska. It also Reestablishes Section R68-15-5, "Restrictions," to more fully meet the needs for this quarantine.

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

ANTICIPATED COST OR SAVINGS TO:

- THE STATE BUDGET: No anticipated cost to state government. The cost would be to the shipper if the quarantine is violated.
LOCAL GOVERNMENTS: No anticipated cost to local government. The cost would be to the shipper if the quarantine is violated.
OTHER PERSONS: Cost would be to shipper if the quarantine is violated.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Noncompliance with the quarantine provisions may result in Civil Penalties up to \$5,000 per violation and/or revocation of nursery license.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: If there is a violation to this quarantine there would be a cost to the owner, or owners, or their duly authorized agent for treatment of destruction of the infected plants. Noncompliance with the quarantine provisions may result in Civil Penalties up to \$5,000 per violation and/or revocation of nursery license.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dick Wilson at the above address, by phone at (801) 538-7180, by FAX at (801) 538-7126, or by Internet E-mail at agmain.dwilson@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 01/14/1999; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 01/07/1999, 10:00 a.m., 350 North Redwood Road, Salt Lake City, UT .

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/1999

AUTHORIZED BY: Cary G. Peterson, Commissioner

R68. Agriculture and Food, Plant Industry.
R68-15. Quarantine Pertaining to Japanese Beetle, (Popillia Japonica).

R68-15-3. Areas Under Quarantine.

A. The following states have been placed under a general quarantine to prohibit the entry of Japanese Beetle into Utah through the sale of plants and plant products: the entire states of Alabama, Colorado, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia.

B. The same general quarantine shall apply[~~to products~~] from the following states in provinces of Canada:

- 1. In the Province of Ontario: Lincoln, Welland, and Wentworth.
2. In the Province of Quebec: Missiquoi and St. Jean.

C. Any areas not mentioned above which are subsequently found to be infested with Japanese Beetle, shall also be placed under this same general quarantine.

R68-15-4. Articles and Commodities Under Quarantine.

A. The following are hereby declared to be hosts and possible carriers of all stages of the Japanese beetle:

- 1. Soil, humus, compost and manure (except when commercially packaged and treated);
2. All plants with roots (except bareroot plants free from soil).
3. Grass Sod;
4. Plant crowns or roots for propagation (except when free from soil);
5. Bulbs, corms, tubers, and rhizomes of ornamental plants (except when free from soil);
6. Any other plant, plant part, article, or means of conveyance when it is determined by a Utah State Plant Quarantine Officer to present a hazard of spreading live Japanese beetle due to infestation or exposure to infestation by Japanese beetle.

B. Soil - For the purpose of this quarantine, soil is defined as all growing media in which the plants are actually rooted. Packing material other than soil, added to bareroot plants after harvesting

would not normally pose a pest risk. Packing material would be covered under (6) above, at the inspector's discretion.

C. Free From Soil - For the purposes of this quarantine, free from soil is defined as soil in amounts that could not contain concealed Japanese beetle larvae or pupae.

R68-15-5. Restrictions.

~~[A. All articles and commodities under quarantine are prohibited entry into Utah from an area under quarantine or an area known to be infested with the following exceptions:~~

~~1. Certificate of Treatment. All of the articles and commodities covered are approved for entry into Utah when accompanied by a certificate issued by an authorized state agricultural official at origin stating that the article or shipment was treated for Japanese beetle or grown in accordance with methods and procedures approved and prescribed by the Commissioner of the Utah Department of Agriculture and Food. A Certificate of Treatment must include the date of treatment. Shipment of the articles or commodities must not take place sooner than ten (10) days after the date of treatment.~~

~~2. Certificate of Origin. Commercial plant shipments with soil may be shipped from an area under quarantine into Utah provided such shipments are accompanied by a certificate issued by an authorized state agricultural official at origin. Such certificates shall be used only if the shipment confirms fully with either (a), (b), or (c) below:~~

~~a. The greenhouse in which the plants were produced was tightly constructed so that adult Japanese beetles would not gain entry, the plants and greenhouses were inspected and found to be free from all stages of Japanese beetle, and the plants and soil were protected from subsequent infestation while being stored, packed and shipped; or~~

~~b. The plants were not produced in the regulated area, were transported into the regulated area in a closed conveyance or closed containers and at all times thereafter were protected from becoming infested with Japanese beetle; or~~

~~c. States or portions of states listed in the area under quarantine may have counties that are not infested with Japanese beetle. Shipments of articles and commodities covered will be accepted from these noninfested counties if annual surveys are made in such counties and the results of such surveys are negative for Japanese beetle. A list of counties so approved will be maintained by the Commissioner of the Utah Department of Agriculture and Food.~~

~~3. Agricultural officials of other states may recommend a noninfested county be placed on the approved county list by writing for such approval and stating how the surveys were made giving the following information:~~

~~i. Area surveyed;~~

~~ii. How survey was carried out;~~

~~iii. Personnel involved;~~

~~iv. If county was previously infested, give date of last infestation;~~

~~v. The recommendation for approval of such counties will be evaluated by the Division of Plant Industry, Utah Department of Agriculture and Food;~~

~~If heavy infestations occur in neighboring counties, approval may be denied. To be maintained on approved list, each county must be reapproved every twelve (12) months. Shipments of articles~~

~~and commodities under quarantine from noninfested counties will only be allowed entry into Utah if the noninfested county has been placed on the approved list prior to the arrival of the shipment to Utah;~~

~~4. Privately owned house plants grown indoors may be inspected and approved for entry by Utah State Plant Quarantine Officers if found free from Japanese beetle.]All commodities covered are prohibited entry into Utah from the area under quarantine unless they have the required certification. Plants may be shipped from the area under quarantine into Utah provided such shipments conform to one of the options below and are accompanied by a certificate issued by an authorized state agricultural official at origin. Note that not all protocols approved in the U.S. Domestic Japanese Beetle Harmonization Plan are acceptable for Utah. Advance notification of regulated commodity shipment is required. The certificate shall bear the name and address of the shipper and receiver as well as the inspection/certificate date and the signature of state agricultural office. The certifying official shall mail, FAX or e-mail a copy of the certificate to Director, Plant Industry Division, Utah Department of Agriculture and Food, 350 North Redwood Road, P.O. Box 146500, Salt Lake City, Utah 84114-6500, FAX: (801) 538-7189, e-mail: agmain.dwilson@state.ut.us. The shipper shall notify the receiver to hold such commodities for inspection by the Utah Department of Agriculture and Food. The receiver must notify the Utah Department of Agriculture and Food of the arrival of commodities imported under the provisions of this quarantine and must hold such commodities for inspection. Such certificates shall be issued only if the shipment conforms fully with (a), (b), (c), (d) or (e) below:~~

~~(a) Production in an Approved Japanese Beetle Free Greenhouse/Screenhouse. All the following criteria apply: All media must be sterilized and free of soil; All stock must be free of soil (bareroot) before planting into the approved medium; The potted plants must be maintained within the greenhouse/screenhouse during the entire adult flight period; During the adult flight period the greenhouse/screenhouse must be made secure so that adult Japanese beetles cannot gain entry. Security will be documented by the appropriate phytosanitary officials of the origin state department of agriculture and must be specifically approved as a secure area. They shall be inspected by the same officials for the presence of all life stages of the Japanese beetle; The plants and their growing medium must be appropriately protected from subsequent infestation while being stored, packed and shipped; Certified greenhouse/screenhouse nursery stock may not be transported into or through any infested areas unless identity is preserved and adequate safeguards are applied to prevent possible infestation; Each greenhouse/screenhouse operation must be approved by the phytosanitary officials as having met and maintained the above criteria, and issued an appropriate certificate bearing the following declaration: "The rooted plants (or crowns) were produced in an approved Japanese beetle free greenhouse or screenhouse." The certificate accompanying the shipment must have the same statement as an additional declaration.~~

~~(b) Production During a Pest Free Window. The entire rooted plant production cycle will be completed within a pest free window, in clean containers with sterilized and soilless growing medium, i.e., planting, growth, harvest, and shipment will occur outside the adult Japanese beetle flight period, June through October. The~~

accompanying phytosanitary certificate shall bear the following additional declaration: "These plants were produced outside the Japanese beetle flight season."

(c) Applications of Approved Regulatory Treatments. All treatments will be performed under direct supervision of a phytosanitary official of the origin state department of agriculture or under a compliance agreement thereof. Treatments and procedures under a compliance agreement will be monitored closely throughout the season. State phytosanitary certificates listing and verifying the treatment used must be forwarded to the receiving state via fax or electronic mail, as well as accompanying the shipment. Note that not all treatments approved in the U.S. Domestic Japanese Beetle Harmonization Plan are acceptable for Utah. The phytosanitary certificate shall bear the following additional declaration: "The rooted plants were treated to control *Popillia japonica*" according to the criteria for shipment to category 1 states as provided in the U.S. Domestic Japanese Beetle Harmonization Plan."

(A) Dip Treatment - B and B and Container Plants. Not approved.

(B) Drench Treatments - Container Plants Only. Not approved for ornamental grasses or sedges. Potting media used must be sterile and soilless, containers must be clean. Field potted plants are not eligible for certification using this protocol. This is a prophylactic treatment protocol targeting eggs and early first instar larvae. If the containers are exposed to a second flight season they must be retreated.

(1) Imidacloprid (Marathon 60WP). Apply one-half (0.5) gram of active ingredient per gallon as a prophylactic treatment just prior to Japanese beetle adult flight season (June 1, or as otherwise determined by the phytosanitary official). Apply tank mix as a drench to wet the entire surface of the potting media. A twenty-four (24) gallon tank mix should be enough to treat 120-140 one-gallon containers. Avoid over drenching so as not to waste active ingredient through leaching. During the adult flight season, plants must be retreated after sixteen (16) weeks if not shipped to assure adequate protection.

(2) Bifenthrin (Talstar Nursery Flowable 7.9%). Mix at the rate of twenty (20) ounces per 100 gallons of water. Apply, as a drench, approximately eight (8) ounces of tank mix per six (6) inches of container diameter.

(C) Media (Granule) Incorporation - Container Plants Only. All pesticides used for media incorporation must be mixed prior to potting and plants potted a minimum of thirty (30) days prior to shipment. Potting media used must be sterile and soilless; containers must be clean. The granules must be incorporated into the media prior to potting. Field potted plants are not eligible for treatment. This treatment protocol targets eggs and early first instar larvae and allows for certification of plants that have been exposed to only one flight season after application. If the containers are to be exposed to a second flight season they must be repotted with a granule incorporated mix or retreated using one of the approved drench treatments. Pesticides approved for media incorporation are:

(1) Imidacloprid (Marathon 1G). Mix at the rate of five (5) pounds per cubic yard.

(2) Bifenthrin (Talstar Nursery Granular or Talstar T and O Granular (0.2)). Mix at the rate of 25 ppm or one-third (0.33) of a pound per cubic yard based on a potting media bulk density of 200.

(3) Tefluthrin (Fireban 1.5 G). Mix at the rate of 25 ppm based on a potting media bulk density of 400.

(D) Methyl Bromide Fumigation. Nursery stock: methyl bromide fumigation at NAP, chamber or tarpaulin. See the California Commodity Treatment Manual for authorized schedules.

(d) Detection Survey for Origin Certification. Japanese Beetle Harmonization Plan protocol not approved. Alternative approved protocol: States listed in the area under quarantine may have counties that are not infested with Japanese beetle. Shipments of commodities covered may be accepted from these noninfested counties if annual surveys are made in such counties and adjacent counties and the results of such surveys are negative for Japanese beetle. In addition, the plants must be greenhouse grown or contained in media that is sterilized and free of soil and the shipping nursery must grow all their own stock from seed, unrooted cuttings or bareroot material. A list of counties so approved will be maintained by the Utah Department of Agriculture and Food. Agricultural officials from a quarantined state or province may recommend a noninfested county be placed on the approved county list by writing for such approval and stating how surveys were conducted giving the following information:

(A) Areas surveyed

(B) How survey was carried out

(C) Number of traps

(D) Results of survey

(E) History of survey

If a county was previously infested, give date of last infestation. If infestations occur in neighboring counties, approval may be denied. To be maintained on the approved list, each county must be reappraised every twelve (12) months. Shipments of commodities covered from noninfested counties will only be allowed entry into Utah if the uninfested county has been placed on the approved list prior to the arrival of the shipment in Utah. The certificate must have the following additional declaration: "The plants in this consignment were produced in (name of county), state of (name of state of origin) that is known to be free of Japanese beetle.

(e) Privately owned house plants obviously grown, or certified at the place of origin as having been grown indoors without exposure to Japanese beetle may be allowed entry into this state without meeting the requirements of section (4). Contact the Utah Department of Agriculture and Food for requirements: Director, Plant Industry Division, Utah Department of Agriculture and Food, 350 North Redwood Road, P.O. Box 146500, Salt Lake City, Utah 84114-6500, FAX: (801) 538-7189, e-mail: agmain.dwilson@state.ut.us.

KEY: quarantine

[July 2, 1998]1999

Notice of Continuation March 5, 1998

4-2-2

4-35-9

◆ _____ ◆

**Commerce, Occupational and
Professional Licensing
R156-24a
Physical Therapist Practice Act Rules**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 21716

FILED: 12/01/1998, 08:59

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and Physical Therapy Board needed to update the existing rules.

SUMMARY OF THE RULE OR CHANGE: Added definitions for the following: "Approved course work evaluation tool," "CAPTE," and "FSBPT." Added the accrediting body for an accredited physical therapy assistant program. Clarifies the mechanism for an applicant requesting licensure by endorsement to document that his education is equal to a Commission on Accreditation in Physical Therapy Education (CAPTE) accredited degree. Clarifies the means to complete educational deficiencies for applicants requesting licensure by endorsement. Eliminates the requirement for 3,000 hours of practice for endorsement applicants. Adopts the January 1997 version of the published standards and ethics of the profession.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-24a-101, and Subsections 58-1-106(1) and 58-1-202(1)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Adds: "A Course Work Evaluation Tool for Persons Who Received Their Physical Therapy Education Outside the United States", June 1997, published by the Federation of State Boards of Physical Therapy; Updates: American Physical Therapy Association's Code of Ethics, January 1997 edition

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The rule amendments clarify current licensure requirements, and therefore do not have a cost or savings.

❖LOCAL GOVERNMENTS: The rule amendments clarify current licensure requirements, and therefore do not have a cost or savings.

❖OTHER PERSONS: The rule amendments clarify current licensure requirements. A potential savings may result in the elimination of the 3,000 hours of experience requirement for endorsement applicants and that the applicant may be able to qualify for licensure in a shorter period of time. A potential unknown cost may result for those applicants who are found to have educational deficiencies and consists of the expense of studying for and taking the College Level Examination Program and any additional courses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The rule amendments clarify current licensure requirements. A potential savings may result in the elimination of the 3,000 hours of experience requirement for endorsement applicants and that the applicant may be able to qualify for licensure in a shorter period of time. A potential unknown cost may result for those applicants who are found to have educational deficiencies and consists of the expense of studying for and taking the College Level Examination Program and any additional courses.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment is filed primarily for the purpose of adopting the 1997 version of the professional standards and ethics; to eliminate certain requirements in possible excess of statutory authority; clarify the licensure by endorsement requirements and education; provide for completion of educational deficiencies for foreign schooled applicants; and define the accrediting body for physical therapy assistant programs. The implementation of this rule will have no effect on the budgets of either the state or local governments. The fiscal impact on prospective licensees is difficult to assess. The savings will be a result of the applicant being able to become licensed in a shorter period of time. The possible cost will be for those found to have educational deficiencies and consist of the expense of studying for and taking the College Level Examination Program and any additional courses. The offsetting savings to this is that persons deficient under the current rule could not become licensed without completing a new degree program in an accredited United States educational institution--Douglas C. Borba

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

Commerce
Occupational and Professional Licensing
Fourth Floor, Heber M. Wells Building
160 East 300 South
PO Box 146741
Salt Lake City, UT 84114-6741, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

David Fairhurst at the above address, by phone at (801) 530-6621, by FAX at (801) 530-6511, or by Internet E-mail at brdopl.fairhur@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 01/14/1999; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 01/07/1999, 9:00 a.m., 160 East 300 South, Conference Room 428, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/1999

AUTHORIZED BY: J. Craig Jackson, Director

R156. Commerce, Occupational and Professional Licensing.
R156-24a. Physical Therapist Practice Act Rules.
R156-24a-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 24a, as used in Title 58, Chapters 1 and 24a or these rules:

(1) "Approved course work evaluation tool", as used in Subsection R156-24a-302a(3), means the FSBPT's June 1997 revised publication entitled "A Course Work Evaluation Tool For Persons Who Received Their Physical Therapy Education Outside the United States", which is hereby adopted and incorporated by reference.

(2) "CAPTE" means Commission on Accreditation in Physical Therapy Education.

(3) "FSBPT" means the Federation of State Licensing Boards of Physical Therapy.

(4) "Joint mobilization", as used in Subsection 58-24a-104(2)(b), means passive and active movements of the joints of a patient, including the spine, to increase the mobility of joint systems; but, does not include specific vertebral adjustment and manipulation of the articulation of the spine by those methods or techniques which are generally recognized as the classic practice of chiropractic.

(5) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 24a, is further defined, in accordance with Subsection 58-1-203(5), in Section R156-24a-502.

R156-24a-302a. Qualifications for Licensure - Education Requirements.

(1) In accordance with Subsection[s] 58-24a-109(2)(b), the accredited school of physical therapy for a physical therapist shall be accredited by [the Commission on Accreditation in Physical Therapy Education]CAPTE.

(2) In accordance with Subsection 58-24a-102(5), the accredited school of physical therapy for a physical therapy assistant shall be accredited by CAPTE.

(3) In accordance with Section 58-1-302, an applicant who has been licensed in a foreign country whose degree was not accredited by CAPTE shall document that his education is equal to a CAPTE accredited degree by submitting to the Division a credential evaluation from either the International Credentialing Associates, Inc. or the Foreign Credentialing Commission on Physical Therapy which shall use the approved course work evaluation tool. Educational deficiencies may be corrected by completing college level credits in the deficient areas or by passing the College Level Examination Program (CLEP) demonstrating proficiency in the deficient areas.

R156-24a-302b. Qualifications for Licensure - Examination Requirements.

(1) In accordance with Subsection 58-24a-109(2), the examination which shall be required for each applicant for licensure, including endorsement applicants, as a physical therapist shall consist of the following:

(a) the [Federation of State Boards of Physical Therapy]FSBPT's National Physical Therapy Examination with a passing score of at least 600 as established by the [Federation of State Boards of Physical Therapy]FSBPT; and

(b) the Utah Physical Therapy Law Examination with a passing score of at least 75%.

(2) An applicant must have successfully completed all academic and associated clinical requirements before being eligible to sit for the examinations required for Utah licensure.

~~**R156-24a-307. Licensure by Endorsement.**~~

~~(1) In accordance with Section 58-1-302, an applicant for licensure as a physical therapist by endorsement shall:~~

~~(a) document licensure in any state, district or territory of the United States or in any foreign country;~~

~~(b) document having graduated from a school of physical therapy that was:~~

~~(i) accredited by the Commission on Accreditation in Physical Therapy Education at the time the applicant graduated; or~~

~~(ii) evaluated and found to be equivalent to a physical therapy program as defined in Subsection (i) above by one of the following evaluation agencies:~~

~~(A) International Credentialing Associates, Inc.;~~

~~(B) International Educational Research Foundation, Inc; or~~

~~(C) International Consultants Inc. of Delaware.~~

~~(c) document having passed the:~~

~~(i) Federation of State Boards of Physical Therapy National Physical Therapy Examination with a passing score of at least 600 as established by the Federation of State Boards of Physical Therapy; and~~

~~(ii) the Utah Physical Therapy Law Examination with a passing score of at least 75%; and~~

~~(d) document having practiced as a licensed physical therapist for at least 3,000 hours in the five years immediately preceding application.~~

~~(2) Any applicant for licensure by endorsement who has not practiced as a licensed physical therapist in the five years immediately preceding application shall satisfy the board as to his competency in the practice of physical therapy by serving in an internship or taking remedial courses as determined by the board; or both. The board may also require the applicant to take an examination.]~~

R156-24a-502. Unprofessional Conduct.

Unprofessional conduct includes:

(1) violating any provision of the American Physical Therapy Association's Code of Ethics, [July 1994]last amended January 1997, which is hereby adopted and incorporated by reference; and

(2) not providing supervision as set forth in Section R156-24a-503.

KEY: licensing, physical therapy

[March 6, 1997]1999

Notice of Continuation May 12, 1997

58-24a-101

58-1-106(1)

58-1-202(1)



Environmental Quality, Air Quality

R307-12

(Changed to R307-205)

Fugitive Emissions and Fugitive Dust

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 21697

FILED: 11/23/1998, 13:40

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: On May 15, 1998, the Air Quality Board proposed revisions in R307-12 and a new rule R307-309. Due to extensive public comment on the proposals, both filings were allowed to lapse. This proposal reflects those public comments.

(DAR Note: The original proposed amendment to R307-12 is found under DAR No. 21079 in the May 15, 1998, issue of the *Utah State Bulletin*. The original proposed new rule for R307-309 is found under DAR No. 21080 in the May 15, 1998, issue of the *Utah State Bulletin*.)

SUMMARY OF THE RULE OR CHANGE: Dirt and construction material tracked onto roads is ground down into very fine particles called PM10 and PM2.5 which lodge in human lungs. Children, the elderly, and those with chronic lung problems such as asthma are most affected. To fit the structure of the newly reorganized R307 rules, change rule number from R307-12 to R307-205, add "Emission Standards:" to the beginning of the title, and renumber internally to fit the standard rulemaking system. Move all provisions applying only to Salt Lake, Davis and Utah Counties, Ogden City, and any nonattainment area for PM10 to a new rule R307-309. This includes Subsections R307-12-2(A), R307-12-3(A)(2), and R307-12-4(A). (See separate filing on R307-309 in this issue.) Clarify that R307-205 applies statewide, except where otherwise specified. Add definitions for "Material" and "Road." In Subsection R307-12-4(3) regarding deposition of material onto roads, change the requirement from minimizing fugitive dust to requiring that the road be cleaned promptly. In Section R307-12-5, make clear that mining activities are controlled by Section R307-205-5 and not by other sections of R307-12. In Section R307-12-6, make clear that tailings piles and ponds associated with mining activities are controlled by Section R307-205-6 and not by other sections of R307-12. Other editorial changes to improve clarity are found throughout the rule.

(DAR Note: The new proposed new rule for R307-309 is under DAR No. 21698 in this *Bulletin*.)

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

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: No change in cost for the Division of Air Quality; the requirements are not significantly different from existing requirements. Other state agencies may engage in activities regulated under this rule but the requirement to clean the road promptly if material is spilled is not very different from the present requirement to minimize dust from such deposits. Therefore, there is no reason to expect much change in costs or savings.

❖LOCAL GOVERNMENTS: This rule may affect 25 counties outside the Wasatch Front, as many as 170 cities and towns in those counties, and any service districts in those areas

depositing materials which may create fugitive dust on a public or private road. (The rule applies statewide but R307-309 applies in the Wasatch Front area and is generally more stringent.) The requirement to clean the road promptly if material is spilled is not very different from the present requirement to minimize dust from such deposits. There is also an unquantifiable savings because the governments (and taxpayers) will not have to clean up dirt left by private haulers. Overall, there is no reason to expect much change in costs or savings.

❖OTHER PERSONS: Total cost for cleaning roads is unknown.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The requirement to clean the road promptly if material is spilled is not very different from the present requirement to minimize dust from such deposits. Therefore, there is no reason to expect much change in costs or savings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be very little change in costs for businesses operating outside the Wasatch Front--Dianne R. Nielson.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 01/22/1999; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR Salt Lake City: Room 101, Department of Environmental Quality (DEQ) Building, 168 North 1950 West, January 5, 7:00 p.m.; Provo: City Council Chambers, 351 West Center Street, January 7, 1999, at 7:00 p.m.; North Salt Lake: Orchard Elementary School, 205 East Center Street, January 12, 1999, 6:30 p.m.; Ogden: Weber-Morgan Health District, 2570 Grant Ave, January 14, 1999, 7:00 p.m.

THIS RULE MAY BECOME EFFECTIVE ON: 02/04/1999

AUTHORIZED BY: Rick Sprott, Planning Branch Manager

R307. Environmental Quality, Air Quality.

R307-~~12~~205. Emission Standards: Fugitive Emissions and Fugitive Dust.

R307-~~12~~205-1. Applicability.

(1) (Except where otherwise specified, R307-205 applies statewide.)

(2) The provisions of R307-~~(12)205~~ shall not apply to any sources for which limitations for fugitive dust or fugitive emissions are assigned pursuant to ~~[R307-1-3.1 or R307-1-3.2]~~R307-401, R307-305, or R307-307 nor shall they apply to agricultural or horticultural activities.

(3) The following definitions apply throughout R307-205:

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

"Road" means any public or private road.

R307-~~(12)205-2. Fugitive Emissions.~~

~~[2.A. In actual areas of nonattainment for particulates, fugitive emissions from any source shall not exceed 20% opacity.~~

~~— 2.B.]Fugitive emissions from sources in [other] areas [of the State] outside Davis, Salt Lake and Utah Counties, Ogden City and any nonattainment area for PM10 and which were constructed before April 25, 1971, shall not exceed 40% opacity. Fugitive emissions from sources constructed after April 25, 1971, shall not exceed 20% opacity.~~

R307-~~(12)205-3. Fugitive Dust.~~

~~[The following control and/or operating procedures are applicable to minimize fugitive dust:~~

~~— 3.A.](1) Storage and Handling of Aggregate Materials.]~~

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

~~(2) Any person owning and/or operating an existing material storage, handling and/or hauling operation in an actual area of nonattainment for particulate shall submit plans for control of fugitive dust from such operations to the executive secretary for approval no later than September 29, 1981, 180 days after the effective date of this regulation.]~~

~~[3.B.](2) Construction [and] Demolition Activities.~~

~~(1) a) Any person engaging in clearing or leveling of land [over 1/4] greater than one-quarter acre in size, earthmoving, excavation, or movement of trucks or construction equipment over cleared land [over 1/4] greater than one-quarter acre in size or access haul roads shall take steps to minimize fugitive dust from such activities. Such control may include [but is not limited to] watering and [or] chemical stabilization of potential fugitive dust sources or other equivalent methods or techniques approved by the executive secretary.~~

~~(2) b) The owner or operator of any land area [s over 1/4] greater than one-quarter acre in size that [have] has been cleared or excavated shall take measures to prevent fugitive particulate matter from becoming airborne. Such measures may include [but are not limited to]:~~

- ~~(a) i) planting vegetative cover,~~
- ~~(b) ii) providing synthetic cover,~~
- ~~(c) iii) watering and [or] chemical stabilization,~~
- ~~(d) iv) wind breaks, and [or]~~

~~(e) v) other equivalent methods or techniques approved by the executive secretary.~~

~~(3) c) Any person engaging in demolition activities including razing [of] homes, buildings, or other structures [;] or removing [of]~~

]paving material from roads [and] or parking areas shall take steps to minimize fugitive dust from such activities. Such control may include watering and [or] chemical stabilization or other equivalent methods or techniques approved by the executive secretary.

R307-~~(12)205-4. Roads.] WAYS:~~

~~— 4.A. Any person responsible for construction or maintenance of any existing road or having right-of-way easement or possessing the right to use the same in an actual area of nonattainment for particulate whose activities result in fugitive dust from such road shall be required to minimize fugitive dust.~~

~~(1) When such roads have an average daily traffic volume of less than 150 vehicle trips per day, averaged over a consecutive 5-day period, fugitive dust shall be minimized by appropriate control techniques. Such control may include but not be limited to watering, chemical stabilization and/or other equivalent methods or techniques approved by the executive secretary.~~

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

~~[4.B.](1) Any person planning to construct or operate a new unpaved road which is anticipated to have an average daily traffic volume of 150 vehicle trips per day or greater, averaged over a consecutive [5] five day period, shall submit a notice of intent to construct [or] operate such a road to the executive secretary pursuant to ~~[R307-1-3.1]~~R307-401. Such notice shall include proposed action to minimize fugitive dust emissions from the road.~~

~~[4.C.](2) The executive secretary may require persons owning, operating or maintaining any new or existing road, or having right-of-way easement or possessory right to use the same to supply traffic count information as determined necessary to ascertain whether or not control techniques are adequate or additional controls are necessary.~~

~~[4.D.](3) Any person who [through his/her operations] deposits materials which may create fugitive dust on a public or private paved road [is required to] shall clean the road promptly. [such that fugitive dust as a result of his/her operations is minimized.]~~

R307-~~(12)205-5. Mining Activities.~~

~~[5.A.](1) Fugitive dust, construction activities, and roadways associated with mining activities are regulated under the provisions of [this section] R307-205-5 and not by ~~[R307-12-3 and R307-12-4]~~R307-205-3 and 4.~~

~~[5.B.](2) Any person who owns or operates a mining operation shall minimize fugitive dust as an integral part of site preparation, mining activities, and reclamation operations.~~

~~[5.C.](3) The fugitive dust control measures to be used may include [but are not limited to]:~~

- ~~(1) a) periodic watering of unpaved roads,~~
- ~~(2) b) chemical stabilization of unpaved roads,~~
- ~~(3) c) paving of roads,~~
- ~~(4) d) prompt removal of coal, rock minerals, soil, and other dust-forming debris from roads and frequent scraping and compaction of unpaved roads to stabilize the road surface,~~
- ~~(5) e) restricting the speed of vehicles in and around the mining operation,~~

(6)f) revegetating, mulching, or otherwise stabilizing the surface of all areas adjoining roads that are a source of fugitive dust,
 (7g) restricting the travel of vehicles on other than established roads,

(8h) enclosing, covering, watering, or otherwise treating loaded haul trucks and~~for~~ railroad cars, to minimize loss of material to wind and spillage,

(9i) substitution of conveyor systems for haul trucks and covering of conveyor systems when conveyed loads are subject to wind erosion,

(10j) minimizing the area of disturbed land,

(11k) prompt revegetation of regraded lands,

(12l) planting of special windbreak vegetation at critical points in the permit area,

(13m) control of dust from drilling, using water sprays, hoods, dust collectors or other controls approved by the executive secretary.

(14n) restricting the areas to be blasted at any one time,

(15o) reducing the period of time between initially disturbing the soil and revegetating or other surface stabilization,

(16p) restricting fugitive dust at spoil and coal transfer and loading points,

(17q) control of dust from storage piles through use of enclosures, covers, or stabilization and~~for~~ other equivalent methods or techniques as approved by the executive secretary, and/or

(18r) other techniques as determined necessary by the executive secretary.

~~5-D:~~(4) Any person owning ~~and~~ or operating an existing mining operation in an actual area of nonattainment for particulate or an existing mining operation outside an actual area of nonattainment from which fugitive dust impacts an actual area of nonattainment for particulate shall submit plans for control of fugitive dust from such operations to the executive secretary for approval no later than September 29, 1981, 180 days after the effective date of this regulation.

R307-~~12~~205-6. Tailings Piles and Ponds.

~~6-A:~~(1) Fugitive dust, construction activities, and roadways associated with tailings piles and ponds are regulated under the provisions of ~~this section~~ R307-205-6 and not by ~~R307-12-3 and R307-12-4~~ R307-205-3 and 4.

~~6-B:~~(2) Any person owning ~~and~~ or operating an existing tailings operation where fugitive dust results from grading, excavating, depositing, or natural erosion or other causes in association with such operation shall take steps to minimize fugitive dust from such activities. Such controls may include~~but are not limited to~~:

(1a) watering and~~for~~ chemical stabilization,

(2b) synthetic and~~for~~ vegetative covers,

(3c) wind breaks,

(4d) minimizing the area of disturbed tailings,

(5e) restricting the speed of vehicles in and around the tailings operation, and~~for~~

(6f) other equivalent methods or techniques which may be approvable by the executive secretary.

~~6-C:~~(3) Any person owning ~~and~~ or operating an existing tailings operation in a nonattainment area for particulate or an existing mining operation outside an actual area of nonattainment

from which fugitive dust impacts an actual area of nonattainment for particulate shall submit plans for control of fugitive dust from such operations to the executive secretary for approval no later than September 29, 1981, 180 days after the effective date of this regulation.

KEY: air pollution, fugitive emissions*, mining*, tailings*

199[5]9

19-2-101

19-2-104

19-2-109

Environmental Quality, Air Quality **R307-309**

Davis, Salt Lake and Utah Counties, Ogden City and Any Nonattainment Area for PM10: Fugitive Emissions and Fugitive Dust

NOTICE OF PROPOSED RULE

(New)

DAR FILE NO.: 21698

FILED: 11/23/1998, 13:40

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: On May 15, 1998, the Air Quality Board proposed revisions in R307-12 and a new rule R307-309. This new proposal reflects the public comments on that earlier version. This proposal focuses each operator's attention on preparation and implementation of a fugitive dust control plan which will specify control measures appropriate to each site. It specifies that operators shall prevent dust to the maximum extent possible, and specifies that opacity due to fugitive dust shall not exceed 10% if wind speed is less than 25 m.p.h. and the operator is taking appropriate action as defined in their dust control plan.

(DAR Note: The original proposed amendment to R307-12 is found under DAR No. 21079 in the May 15, 1998, issue of the *Utah State Bulletin*. The original proposed new rule for R307-309 is found under DAR No. 21080 in the May 15, 1998, issue of the *Utah State Bulletin*. The new proposed amendment to R307-12 (changed to R307-205) is found under DAR No. 21697 in this *Bulletin*.)

SUMMARY OF THE RULE OR CHANGE: These more stringent provisions are added because dust is a component of fine particulate pollution which is detrimental to human health. The mud and dust tracked onto roads is ground into very fine particles which are inhaled and remain in human lungs. The greatest source of complaints to the Division of Air Quality (DAQ) is blowing dust, and local governments also receive complaints from their citizens. R307-309 regulates fugitive emissions and fugitive dust in Davis, Salt Lake, and Utah

counties, Ogden City and any nonattainment area for PM10. Agricultural and horticultural activities are exempted under Subsection R307-309-1(2). The rule limits fugitive emissions to an opacity no greater than 15% and fugitive dust to an opacity of 15%, and requires all sources to prepare or revise dust control plans. Wasatch Front Regional Council (WFRC) has requested that this rule be made more stringent, and the staff of the Division of Air Quality have worked with WFRC staff and Council members, as well as regulated sources, to draft the provisions. These requirements are already written into the permits for I-15 reconstruction and a number of other sources. In Subsection R307-309-1(1), specify that sources with fugitive dust limitations in an approval order issued under R307-401 become subject to the rule on May 1, 1999, and sources with an operating permit issued by that date are subject to the rule when the permit is renewed or reopened. Subsection R307-309-1(2)(a) exempts agricultural and horticultural activities. Subsections R307-309-1(2)(b) and R307-309-1(2)(c) exempt certain sources from all requirements of R307-309 except for submittal of the fugitive dust control plan required in Section R307-309-4. Exempt sources are those subject to emission limits in R307-305 (emission limits) or R307-307 (road salting and sanding), and those subject to Sections R307-205-5 and R307-205-6 (mining and tailings activities). Definitions for "Material" and "Road" are added in Subsection R307-309-1(3). In Section R307-309-2, the emission limit for fugitive emissions formerly found in Subsection R307-12-2(A) is changed from 20% to 15%. In Subsection R307-309-3(1), an opacity limit for fugitive dust is set at 10% except when wind speeds exceed 25 m.p.h. and the owner or operator is taking appropriate actions to control dust. Appropriate action means the actions specified in the source's dust control plan. The rule in place since 1981 requires any source owning or operating a material storage, handling or hauling operation to prepare a fugitive dust control plan. This proposal requires any source with a dust control plan approved before February 4, 1999, to review and revise the plan in accordance with Section R307-309-4, and re-submit to the Division of Air Quality no later than March 1, 1999. Section R307-309-4 specifies the sources and kinds of operations for which a dust control plan must be submitted, and suggests control strategies to be considered for each site. It requires that any source becoming subject to the rule later will have 30 days in which to submit the plan. Sections R307-309-5 and R307-309-6 specify that certain kinds of operations shall "prevent, to the maximum extent possible," material from being deposited onto paved roads, and require that any person who does deposit material shall clean the road promptly. The existing rule does not address such track-out. The present Subsection R307-12-4(A) requires that those responsible for constructing or maintaining roads must minimize fugitive dust. Subsection R307-309-7(1) adds "...to the maximum extent possible..." and adds a requirement that any person who does deposit material shall clean the road promptly. Subsection R307-309-7(2) requires that those responsible for construction or maintenance on unpaved roads shall prevent to the maximum extent possible the deposit of material onto any intersecting paved roads, and requires prompt cleanup if material is deposited.

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

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: For the Division of Air Quality, it will take about 3/4 hour to review each of approximately 50 dust control plans that will be re-submitted. An unknown number of sources (probably in the neighborhood of 50) not previously required to prepare plans will submit them. This is a one-time cost of \$27.40 (salary + benefits) X 0.75 hours X 100 sources = \$2,055. New plans will be reviewed as they are submitted, as they are now, and there is no additional cost. There is likely to be an unquantifiable savings because compliance staff can determine more quickly whether a source is in compliance, because DAQ will receive fewer citizen complaints, and because staff will spend less time filing paperwork for sources out of compliance. For the Utah Department of Transportation (UDOT), there will be additional costs for contracted road construction and maintenance to reduce the dirt unintentionally deposited on roads. The main methods to reduce dirt on the roads are to lay down a gravel pad to shake dirt off trucks before they enter roads, or to clean up the road immediately after dirt is left there. These provisions already are written into the I-15 contract. There is also an unquantifiable savings for UDOT (and taxpayers) because UDOT will not have to clean up dirt left by private haulers. Any other state agency engaged in construction or hauling in the Wasatch Front counties may incur small costs to comply.

❖LOCAL GOVERNMENTS: Wasatch Front Regional Council requested that the rule be made more stringent. It may affect 3 counties and approximately 50 cities and towns. There may be additional costs for governments and their contractors for road construction and maintenance to reduce the dirt unintentionally deposited on roads adjacent to the construction site. The main methods to reduce dirt on the roads are to lay down a gravel pad to shake dirt off trucks before they enter roads, or to clean up the road immediately after dirt is left there. There is also an unquantifiable savings because the governments (and taxpayers) will not have to clean up dirt left by private haulers. Mayors who spoke to the Air Quality Board stressed that dirt on the roads becomes slick when wet, and is a safety hazard.

❖OTHER PERSONS: Total costs are unquantifiable because the total number of affected sources is unknown and because there are so many control techniques each source could use. There are also unquantifiable costs to clean up roads when dirt is tracked on them. There are savings to citizens who will no longer have to pay state and local government agencies to clean up roads when dirt is tracked out by private operators, and because citizens will have less medical costs, cleaning costs, air conditioning costs, cracked windshield, and paint costs due to dust blown or tracked from the work site.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Preparation or revision of a dust control plan will take 1 staff person at \$27 per hour about 8 hours for a cost of approximately \$216. Operators with multiple sites may choose to prepare site-specific plans, or may submit a generic plan to cover all sites. The present requirement is to minimize fugitive dust; in practice, there will be little additional cost to reduce

emissions to 10% opacity. In addition, each operator will be held to implementing the dust control plan during windy weather; this gives the operator more certainty as to what is required than the present requirement does. This too should hold down costs for operators. The cost to reduce dirt tracked onto roads can be minimal, in cost per ton. A small aggregate operation could prevent trackout by laying a gravel pad at the entrance to the street or road, at a cost of approximately \$2,000 to \$3,000 for a pad measuring 100 yards X 24 feet X 4 inches, to shake the dirt off the truck. A larger aggregate operation with about 1,400 trucks per day has recently spent about \$50,000 to install a cattle guard and truck washing system which includes re-using water; assuming 300 days of operation per year and 1,200 to 1,400 trucks per day with loads averaging 16 tons, the cost would be \$0.003 per ton. For construction sites, a load of gravel at the exit onto the street will be adequate for small sites. For large sites, a load of gravel plus one laborer to sweep down each truck that leaves or clean up the street when dirt is spilled will be adequate. The cost to reduce fugitive emissions to 10% opacity mostly will fall on the aggregate and construction industries. Generally, only the summer is dry enough to require control measures for an extended period. Possible control measures are set forth in Section R307-309-4. For most construction sites, a light watering periodically to seal the surface will be adequate. Larger sites may need a watering truck at about \$400 per day, or a person to water with a hose at approximately \$120 to \$140 per 12-hour day. Some operators have found it less expensive to apply a dust suppressant. Aggregate operators will want to apply a variety of measures suggested in Section R307-309-4 at varying costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Those operations issued permits recently have emission limits even stricter than this rule and are able to meet it--Dianne R. Nielson.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 01/22/1999; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR Salt Lake City: Room 101, Department of Environmental Quality (DEQ) Building, 168 North 1950 West, January 5, 1999, 7:00 p.m.; Provo: City Council Chambers, 351 West Center Street, January 7, 1999, at 7:00 p.m.; North Salt Lake: Orchard Elementary School 205 East Center Street, January 12, 6:30 p.m.;

Ogden: Weber-Morgan Health District, 2570 Grant Ave, January 14, 1999, 7:00 p.m.

THIS RULE MAY BECOME EFFECTIVE ON: 02/04/1999

AUTHORIZED BY: Rick Sprott, Planning Branch Manager

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

R307-309-1. Applicability and Definitions.

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

(2) Exemptions.

(a) The provisions of R307-309 do not apply to agricultural or horticultural activities.

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

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

(3) The following additional definitions apply to R307-309: "Material" means sand, gravel, soil, minerals or other matter which may create fugitive dust.

"Road" means any public or private road.

R307-309-2. Fugitive Emissions.

Fugitive emissions from any source shall not exceed 15% opacity, except as provided in R307-309-3.

R307-309-3. General Requirements for Fugitive Dust.

(1) Opacity caused by fugitive dust shall not exceed 10%, except when the wind speed exceeds 25 miles per hour and the owner or operator is taking appropriate actions to control fugitive dust. If the source has a dust control plan approved by the executive secretary, control measures in the plan are considered appropriate. Wind speed may be measured by a hand-held anemometer or equivalent device.

(2) Any source with a dust control plan approved by the executive secretary prior to February 4, 1999, shall review and revise the plan in accordance with R307-309-4 below. The revised plan shall be submitted to the executive secretary no later than March 1, 1999.

R307-309-4. Fugitive Dust Control Plan.

(1) Any person owning or operating a new or existing source of fugitive dust, including storage, hauling or handling operations or engaging in clearing or leveling of land one-quarter acre or greater in size, earthmoving, excavation, or movement of trucks or

construction equipment over cleared land one-quarter acre or greater in size or access haul roads shall submit a plan to control fugitive dust to the executive secretary no later than 30 days after the source becomes subject to the rule. The plan shall address fugitive dust control strategies for the following operations as applicable:

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

(3) Failure to comply with the provisions of a dust control plan approved by the executive secretary is a violation of this rule.

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

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

R307-309-6. Construction and Demolition Activities.

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

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

R307-309-7. Roads.

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

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

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

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

**KEY: air pollution, dust*
1999**

**19-2-101
19-2-104
19-2-109**

◆ ————— ◆

**Environmental Quality, Air Quality
R307-343
Davis and Salt Lake Counties and
Ozone Nonattainment Areas:
Emissions Standards for Wood
Furniture Manufacturing Operations**

NOTICE OF PROPOSED RULE

(New)

DAR FILE NO.: 21727

FILED: 12/01/1998, 17:45

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Utah's Ozone Maintenance Plan for Salt Lake and Davis Counties included a commitment that Utah would adopt reasonably available control technology (RACT) requirements as they are issued by the Environmental Protection Agency (EPA).

In April 1996, EPA issued guidelines and a model rule for wood furniture manufacturers. R307-343 is consistent with the federal model rule and consistent with the other air pollution rules which already apply to the same sources and pollutants.

SUMMARY OF THE RULE OR CHANGE: R307-343 applies to approximately 6 wood furniture manufacturing sources with the potential to emit 25 tons or more per year of volatile organic compounds and are located in Salt Lake or Davis County. Four of the affected sources already are regulated by similar requirements under the Maximum Achievable Control Technology (MACT) rules and 3 are subject to Title V Operating Permit requirements. Major sources which do some wood furniture finishing as an incidental part of their manufacture of other goods are exempt from the rule so long as they use 100 gallons or less per month of finishing material. Section R307-343-4 requires that affected sources use materials with limited content of volatile organic compounds, or use a control system to capture emissions. No Utah sources are presently using control systems to capture emissions, and the required materials are readily available. Requirements for compliance, monitoring, performance testing, recordkeeping, and reporting are specified. Reporting deadlines match those in the hazardous air pollutant regulations.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 19-2-104(1)(a) and 19-2-104(3)(e)
FEDERAL REQUIREMENT FOR THIS RULE: 42 U.S.C. 7511a(b)(2)

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** The Division of Air Quality (DAQ) staff will review semiannual reports submitted by sources. At 3 hours per report, 2 reports per year from 2 sources and DAQ staff costs of \$32.99/hour (salary and benefits), the cost will be approximately \$395.99 per year.

❖**LOCAL GOVERNMENTS:** Local government is not affected by this rule.

❖**OTHER PERSONS:** Approximately two sources will have additional costs. The cost will be approximately \$12,240 for the first year and \$6,240 per year thereafter (see "Compliance costs for affected persons").

COMPLIANCE COSTS FOR AFFECTED PERSONS: Four affected sources already are regulated under R307-214 and 40 CFR 63. The only requirement in R307-343 affecting those four sources is a requirement for more information in the required reports which will satisfy both R307-214 and R307-343. Sources already are gathering that additional information in order to calculate the information required in the present reports under R307-214, so the cost for those sources is unquantifiably small. The other two sources may install high volume-low pressure spray equipment at a cost of approximately \$300 per spray gun, or about \$1,800 per source with some unquantifiable savings in materials used.

In addition, those two sources will have to train employees at a total cost of approximately \$1,200 per source, with some unquantifiable savings in materials used. Record keeping will cost each source approximately \$60 per week for a total of \$3,120 per year per source. The total cost for each source will be approximately \$1,800 + \$1,200 + \$3,120 = \$6,120 for

the first year. In subsequent years there will be the record keeping cost of \$3,120 and some training costs due to employee turnover.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: High volume-low pressure spray equipment is widely used already in the wood furniture-finishing industry. The specified work practices also are good business practices, resulting in savings in materials used and costs of disposal. The cost per ton for reductions of volatile organic compounds for this industry compares favorably with the cost for industries which already have applied controls--Dianne R. Nielson.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 01/14/1999; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 01/07/1999, 1:30 p.m., Room 103, Department of Environmental Quality (DEQ) Building, 168 North 1950 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 02/04/1999

AUTHORIZED BY: Rick Sprott, Planning Branch Manager

R307. Environmental Quality, Air Quality.
R307-343. Davis and Salt Lake Counties and Ozone Nonattainment Areas: Emissions Standards for Wood Furniture Manufacturing Operations.
R307-343-1. Purpose.

(1) The purpose of R307-343 is to limit volatile organic compound emissions from wood furniture manufacturing sources located in Davis and Salt Lake Counties and ozone nonattainment areas.

R307-343-2. Applicability.

Provisions of R307-343 apply to each wood furniture manufacturing source that is not an incidental wood furniture manufacturer, has the potential to emit 25 tons or more per year of volatile organic compounds and is located in Salt Lake County, Davis County, or any ozone nonattainment area.

R307-343-3. Definitions.

The following additional definitions apply to R307-343:

"Affected Source" means a wood furniture manufacturing source that meets the criteria in R307-343-2.

"Alternative Method" means any method of sampling and analyzing for an air pollutant that is not a reference or equivalent method but that has been demonstrated to the executive secretary's satisfaction to, in specific cases, produce results adequate for a determination of compliance.

"As Applied" means the volatile organic compound and solids content of the finishing material that is actually used for coating the substrate. It includes the contribution of materials used for in-house dilution of the finishing material.

"Basecoat" means a coat of colored material, usually opaque, that is applied before graining inks, glazing coats, or other opaque finishing materials, and is usually topcoated for protection.

"Capture Device" means a hood, enclosed room, floor sweep, or other means of collecting solvent emissions or other pollutants into a duct so that the pollutant can be directed to a pollution control device such as an incinerator or carbon adsorber.

"Capture Efficiency" means the fraction of all organic vapors generated by a process that is directed to a control device.

"Certified Product Data Sheet (CPDS)" means documentation furnished by a coating supplier or an outside laboratory that provides the volatile organic compound content by percent weight, the solids content by percent weight, and the density of a finishing material, strippable booth coating, or solvent, measured using EPA Method 24 or an equivalent or alternative method, or formulation data if the coating meets the criteria specified in R307-343-7(1). The purpose of the CPDS is to assist the affected source in demonstrating compliance with the emission limitations presented in Subsection R307-343-4.

"Cleaning Operations" means operations in which organic solvent is used to remove coating materials from equipment used in wood furniture manufacturing operations.

"Coating" means a protective, decorative, or functional material applied in a thin layer to a surface. Such materials may include paints, topcoats, varnishes, sealers, stains, washcoats, basecoats, inks, and temporary protective coatings.

"Compliant Coating" means a finishing material or strippable booth coating that meets the emission limits specified in R307-343-4(1).

"Continuous Coater" means a finishing system that continuously applies finishing materials onto furniture parts moving along a conveyor system. Finishing materials that are not transferred to the part are recycled to the finishing material reservoir. Several types of application methods can be used with a continuous coater including spraying, curtain coating, roll coating, dip coating, and flow coating.

"Continuous Compliance" means that the affected source meets the emission limitations and other requirements of R307-343 at all times and fulfills all monitoring and recordkeeping provisions of R307-343 in order to demonstrate compliance.

"Control Device" means any equipment that reduces the quantity of a pollutant that is emitted to the air. The device may destroy or secure the pollutant for subsequent recovery. Control devices include, but are not limited to, incinerators, carbon adsorbers, and condensers.

"Control Device Efficiency" means the ratio of the pollution released by a control device and the pollution introduced to the control device, expressed as a fraction.

"Control System" means the combination of capture and control devices used to reduce emissions to the atmosphere.

"Conventional Air Spray" means a spray coating method in which the coating is atomized by mixing it with compressed air at an air pressure greater than 10 pounds per square inch (gauge) at the point of atomization. Airless, air assisted airless spray technologies, and electrostatic spray technology are not considered conventional air spray.

"Day" means a period of 24 consecutive hours beginning at midnight local time, or beginning at a time consistent with a source's operating schedule.

"Emission" means the direct or indirect release or discharge of volatile organic compound into the ambient air.

"Equipment Leak" means emissions of volatile organic compounds from pumps, valves, flanges, or other equipment used to transfer or apply finishing materials or organic solvents.

"Equivalent Method" means any method of sampling and analyzing for an air pollutant that has been demonstrated to the executive secretary's satisfaction to have a consistent and quantitatively known relationship to the reference method under specific conditions.

"Finishing Application Station" means the part of a finishing operation where the finishing material is applied, such as a spray booth.

"Finishing Material" means a coating used in the wood furniture industry, including basecoats, stains, washcoats, sealers, and topcoats.

"Finishing Operation" means those activities in which a finishing material is applied to a substrate and is subsequently air-dried, cured in an oven, or cured by radiation.

"Incidental wood furniture manufacturer" means a major source as defined in 40 CFR 63.2 that is primarily engaged in the manufacture of products other than wood furniture or wood furniture components and that uses no more than 100 gallons per month of finishing material in the manufacture of wood furniture or wood furniture components.

"Incinerator" means an enclosed combustion device that thermally oxidizes volatile organic compounds to carbon monoxide and carbon dioxide. This term does not include devices that burn municipal or hazardous waste material.

"Noncompliant Coating" means a finishing material or strippable booth coating that has a volatile organic compound content greater than the emission limitation specified in Subsection R307-343-4(1).

"Normally Closed Container" means a container that is closed unless an operator is actively engaged in activities such as emptying or filling the container.

"Operating Parameter Value" means a minimum or maximum value established for a control device or process parameter that, if achieved by itself or in combination with one or more other operating parameter values, determines that an owner or operator has complied with an applicable emission limit.

"Organic Solvent" means a liquid containing volatile organic compounds that is used for dissolving or dispersing constituents in a coating, adjusting the viscosity of a coating, cleaning, or washoff. When used in a coating, the organic solvent evaporates during drying and does not become a part of the dried film.

"Overall Control Efficiency" means the efficiency of a control system, calculated as the product of the capture and control device efficiencies, expressed as a percentage.

"Permanent Total Enclosure" means a permanently installed enclosure that completely surrounds a source of emissions such that all emissions are captured and contained for discharge through a control device, and which meets the criteria presented in Subsection R307-343-7(5)(a)(i) through (iv).

"Reference Method" means any method of sampling and analyzing for an air pollutant that is published in Appendix A of 40 CFR 60.

"Responsible Official" has the same meaning as in R307-415. Operating Permit Requirements.

"Sealer" means a finishing material used to seal the pores of a wood substrate before additional coats of finishing material are applied. A washcoat used to optimize aesthetics is not a sealer.

"Solids" means the part of the coating that remains after the coating is dried or cured; solids content is determined using data from EPA Method 24, or an alternative or equivalent method approved by the executive secretary.

"Solvent" means a liquid used in a coating for dissolving or dispersing constituents in a coating, adjusting the viscosity of a coating, cleaning, or washoff. When used in a coating, it evaporates during drying and does not become a part of the dried film.

"Stain" means any color coat having a solids content by weight of no more than 8.0 percent that is applied in single or multiple coats directly to the substrate, including nongrain raising stains, equalizer stains, sap stains, body stains, no-wipe stains, penetrating stains, and toners.

"Strippable Booth Coating" means a coating that:

(1) is applied to a booth wall to provide a protective film to receive overspray during finishing operations;

(2) is subsequently peeled off and disposed; and

(3) by achieving (1) and (2), reduces or eliminates the need to use organic solvents to clean booth walls.

"Substrate" means the surface onto which coatings are applied, or into which coatings are impregnated.

"Temporary Total Enclosure" means an enclosure that meets the requirements of Subsection R307-343-7(5)(a)(i) through (iv) and is not permanent, but is constructed only to measure the capture efficiency of pollutants emitted from a given source. Additionally, any exhaust point from the enclosure shall be at least 4 equivalent duct or hood diameters from each natural draft opening.

"Topcoat" means the last film-building finishing material applied in a finishing system. Non-permanent final finishes are not topcoats.

"Touch-up and Repair" means the application of finishing materials to cover minor finishing imperfections.

"Washcoat" means a transparent special purpose coating having a solids content by weight of 12.0 percent or less that is applied over initial stains to protect and control color and to stiffen the wood fibers in order to aid sanding.

"Washoff Operations" means those operations in which organic solvent is used to remove coating from a substrate.

"Wood Furniture" means any product made of wood, a wood product such as rattan or wicker, or an engineered wood product such as particleboard that is manufactured under any of the following standard industrial classification codes: 2434, 2511, 2512, 2517, 2519, 2521, 2531, 2541, 2599, or 5712.

"Wood Furniture Manufacturing Operations" means the finishing, cleaning, and washoff operations associated with the production of wood furniture or wood furniture components.

"Working Day" means a day, or any part of a day, in which a source is engaged in manufacturing.

R307-343-4. Emission Standards.

(1) Each owner or operator of an affected source subject to R307-343 shall limit volatile organic compound emissions from finishing operations. Methods in (a) through (e) below are accepted.

(a) Use topcoats with a volatile organic compound content no greater than 0.8 kilogram per kilogram of solids, as applied; or

(b) Use a finishing system of sealers with a volatile organic compound content no greater than 1.9 kilograms per kilogram of solids, as applied, and topcoats with a volatile organic compound content no greater than 1.8 kilograms per kilogram of solids, as applied; or

(c) For affected sources using acid-cured alkyd amino vinyl sealers or acid-cured alkyd amino conversion varnish topcoats, use sealers and topcoats based on the following criteria:

(i) If the affected source is using acid-cured alkyd amino vinyl sealers and acid-cured alkyd amino conversion varnish topcoats, the sealer shall contain no more than 2.3 kilograms of volatile organic compound per kilogram of solids, as applied, and the topcoat shall contain no more than 2.0 kilograms of volatile organic compound per kilogram of solids, as applied;

(ii) If the affected source is using a sealer other than an acid-cured alkyd amino vinyl sealer and acid-cured alkyd amino conversion varnish topcoats, the sealer shall contain no more than 1.9 kilograms of volatile organic compound per kilogram of solids, as applied, and the topcoat shall contain no more than 2.0 kilograms of volatile organic compound per kilogram of solids, as applied; or

(iii) if the affected source is using an acid-cured alkyd amino vinyl sealer and a topcoat other than an acid-cured alkyd amino conversion varnish topcoat, the sealer shall contain no more than 2.3 kilograms of volatile organic compound per kilogram of solids, as applied, and the topcoat shall contain no more than 1.8 kilograms of volatile organic compound per kilogram of solids, as applied; or

(d) Use a control system that will achieve an equivalent reduction in emissions as the requirements of Subsection R307-343-4(1)(a) or (b), as calculated using the compliance provisions in R307-343-6(2), as appropriate; or

(e) Use a combination of the methods presented in (a) through (d) above.

(2) Each owner or operator of an affected source subject to R307-343 shall limit volatile organic compound emissions from cleaning operations when using a strippable booth coating. A strippable booth coating shall contain no more than 0.8 kilogram of volatile organic compound per kilogram of solids, as applied.

R307-343-5. Work Practice Standards.

(1) Work Practice Implementation Plan.

(a) Each owner or operator of an affected source subject to R307-343 shall prepare and maintain a written work practice implementation plan that defines environmentally desirable work practices for each wood furniture manufacturing operation and addresses each of the topics specified in R307-343-5(2) through (10). The plan shall be completed no later than April 5, 1999. The

owner or operator of the affected source shall comply with each provision of the work practice implementation plan. The written work practice implementation plan shall be available for inspection by the executive secretary, upon request. If the executive secretary determines that the work practice implementation plan does not adequately address each of the topics specified in (2) through (10) below or that the plan does not include sufficient mechanisms for ensuring that the work practice standards are being implemented, the executive secretary may require the affected source to modify the plan.

(2) Operator Training.

(a) Each owner or operator of an affected source shall train new and existing personnel, including contract workers, who are involved in finishing, gluing, cleaning, or washoff operations, use of manufacturing equipment, or implementation of the requirements of R307-343. All new personnel, those hired after February 4, 1999, shall be trained upon hiring. All existing personnel, those hired before February 4, 1999, shall be trained by August 4, 1999. All personnel shall be given refresher training annually.

(b) The affected source shall maintain a copy of the training program with the work practice implementation plan. The training program shall include, at a minimum, the following:

(i) A list of all current personnel by name and job description that are required to be trained;

(ii) An outline of the subjects to be covered in the initial and refresher training for each position or group of personnel;

(iii) Lesson plans for courses to be given at the initial and the annual refresher training that include, at a minimum, appropriate application techniques, appropriate cleaning and washoff procedures, appropriate equipment setup and adjustment to minimize finishing material usage and overspray, and appropriate management of cleanup wastes; and

(iv) A description of the methods to be used at the completion of initial or refresher training to demonstrate and document successful completion and a record of the training date for all personnel.

(3) Leak Inspection and Maintenance Plan. Each owner or operator of an affected source shall prepare and maintain with the work practice implementation plan a written leak inspection and maintenance plan that specifies:

(a) A minimum visual inspection frequency of once per month for all equipment used to transfer or apply finishing materials, or organic solvents;

(b) An inspection schedule;

(c) Methods for documenting the date and results of each inspection and any repairs that were made;

(d) The time elapsed between identifying the leak and making the repair, using at a minimum the following schedule:

(i) A first attempt at repair, such as tightening of packing glands, shall be made no later than five working days after the leak is detected; and

(ii) Final repairs shall be made within 15 working days, unless the leaking equipment is to be replaced by a new purchase, in which case repairs shall be completed within three months.

(4) Cleaning and Washoff Solvent Accounting System. Each owner or operator of an affected source shall develop an organic solvent accounting form to record:

(a) The quantity and type of organic solvent used each month for washoff and cleaning;

(b) The number of pieces washed off each month, and the reason for the washoff; and

(c) The net quantity of spent organic solvent generated from each washoff and cleaning operation each month, and whether it is recycled onsite or disposed offsite. The net quantity of spent solvent is equivalent to the total amount of organic solvent that is generated from the activity minus any organic solvent that is reused onsite for operations other than cleaning or washoff and any organic solvent that was sent offsite for disposal.

(5) Spray Booth Cleaning. Each owner or operator of an affected source shall not use compounds containing more than 8.0 percent by weight of volatile organic compound for cleaning spray booth components other than conveyors, continuous coaters and their enclosures, or metal filters, unless the spray booth is being refurbished. If the spray booth is being refurbished, that is, the spray booth coating or other material used to cover the booth is being replaced, the affected source shall use no more than 1.0 gallon of organic solvent to prepare the booth prior to applying the booth coating.

(6) Storage Requirements. Each owner or operator of an affected source shall use normally closed containers for storing finishing, cleaning, and washoff materials.

(7) Application Equipment Requirements. Each owner or operator of an affected source shall use conventional air spray guns for applying finishing materials only under any of the following circumstances:

(a) To apply finishing materials that have a volatile organic compound content no greater than 1.0 kilogram per kilogram of solids, as applied;

(b) For touch-up and repair under the following circumstances:

(i) The touchup and repair occurs after completion of the finishing operation; or

(ii) The touchup and repair occurs after the application of stain and before the application of any other type of finishing material, and the materials used for touchup and repair are applied from a container that has a volume of no more than 2.0 gallons.

(c) When the spray gun is aimed and triggered automatically, not manually;

(d) When the emissions from the finishing application station are directed to a control device;

(e) The conventional air gun is used to apply finishing materials and the cumulative total usage of that finishing material is no more than 5.0 percent of the total gallons of finishing material used during that semiannual reporting period; or

(f) The conventional air gun is used to apply stain on a part for which it is technically or economically infeasible to use any other spray application technology. The affected source shall demonstrate technical or economic infeasibility by submitting to the executive secretary a videotape, a technical report, or other documentation that supports the affected source's claim of technical or economic infeasibility. The following criteria shall be used, either independently or in combination, to support the affected source's claim of technical or economic infeasibility:

(i) The production speed is too high or the part shape is too complex for one operator to coat the part and the application station is not large enough to accommodate an additional operator; or

(ii) The excessively large vertical spray area of the part makes it difficult to avoid sagging or runs in the stain.

(8) Line Cleaning. Each owner or operator of an affected source shall pump or drain all organic solvent used for line cleaning into a normally closed container.

(9) Gun Cleaning. Each owner or operator of an affected source shall collect all organic solvent used to clean spray guns into a normally closed container.

(10) Washoff Operations. Each owner or operator of an affected source shall control emissions from washoff operations by using normally closed tanks for washoff and minimizing dripping by tilting or rotating the part to drain as much organic solvent as possible.

R307-343-6. Compliance Procedures and Monitoring Requirements.

(1) Methodology. Terms and equations required in the calculation of compliance are found in Appendix B, "Control of Organic Compound Emissions from Wood Furniture Manufacturing Operations." EPA-453/R-96-007, April 1996. The terms found in B.3(b) on pages B-10 and B-11, Equation 3 on page B-18, Equations 4, 5, 6, and 7 on pages B-26 and B-27 are hereby adopted and incorporated by reference. Copies are available at the Division of Air Quality, the Division of Administrative Rules and most state depository libraries.

(2) General Compliance. The owner or operator of an affected source subject to the emission standards in Section R307-343-4 shall demonstrate compliance with those provisions by using any of the methods in (a) or (b) below.

(a) To demonstrate compliance with emission standards in R307-343-4(1)(a), (b), or (c) or R307-343-4(2), maintain certified product data sheets for each of these finishing materials and strippable booth coatings. If solvent or other volatile organic compound is added to the finishing material before application, the affected source shall maintain documentation showing the volatile organic compound content of the finishing material as applied, in kilograms of volatile organic compound per kilogram of solids.

(b) To comply through the use of a control system as specified in R307-343-4(1)(d):

(i) Determine the overall control efficiency needed to demonstrate compliance using Equation 3.

(ii) Document that the amount of volatile organic compound in Equation 3 is obtained from the volatile organic compound and solids content of the finishing material as applied;

(iii) Calculate the overall efficiency of the control device, using the procedures in R307-343-7(4) or (5), and demonstrate that the overall efficiency of the control device calculated by Equation 6 is equal to or greater than the overall efficiency of the control device calculated by Equation 3.

(3) Initial Compliance. The owner or operator of each affected source shall demonstrate compliance by submitting an initial compliance status report.

(a) Each owner or operator of an affected source that complies through the procedures established in (2)(a) above shall submit an initial compliance status report stating that compliant sealers, topcoats and strippable booth coatings are being used by the affected source.

(b) Each owner or operator of an affected source that complies by using the procedures in R307-343-6(2)(a) and applies sealers or topcoats using continuous coaters shall:

(i) Submit an initial compliance status report stating that compliant sealers or topcoats, as determined by the volatile organic compound content of the finishing material in the reservoir and the volatile organic compound content as calculated from records, are used; or

(ii) Submit an initial compliance status report stating that compliant sealers or topcoats, as determined by the volatile organic compound content of the finishing material in the reservoir, are used and the viscosity of the finishing material in the reservoir is being monitored. The affected source also shall provide data that demonstrates the correlation between the viscosity of the finishing material and the volatile organic compound content of the finishing material in the reservoir.

(c) Each owner or operator of an affected source using a control system, capture device or control device to comply with the requirements of R307-343, as allowed by R307-343-4(1)(d) and R307-343-6(2)(b), shall:

(i) Submit a monitoring plan that identifies the operating parameter to be monitored for the capture device and demonstrates why the parameter is appropriate to show ongoing compliance;

(ii) Conduct an initial performance test using the procedures and test methods listed in R307-343-7(3) and (4) or (5);

(iii) Calculate the overall control efficiency using Equation 6; and

(iv) Determine those operating conditions that are critical to determining compliance and establishing operating parameters that will ensure compliance with the standard, as follows:

(A) For a thermal incinerator, use minimum combustion temperature;

(B) For a catalytic incinerator equipped with a fixed catalyst bed, use the minimum gas temperature both upstream and downstream of the catalyst bed.

(C) For a catalytic incinerator equipped with a fluidized catalyst bed, use the minimum gas temperature upstream of the catalyst bed and the pressure drop across the catalyst bed;

(D) For a carbon adsorber, use either the total regeneration mass stream flow for each regeneration cycle and the carbon bed temperature after each regeneration, or the concentration level of organic compounds exiting the adsorber, unless the owner or operator requests and receives approval from the executive secretary to establish other operating parameters;

(E) For a control device not listed in (A) through (D) above, the operating parameter shall be established using the procedures in R307-343-6(4)(c)(vi).

(v) Each owner or operator complying with R307-343-6(3)(c) shall calculate the site-specific operating parameter value as the arithmetic average of the maximum or minimum operating parameter values, as appropriate, that demonstrate compliance with the standards, during the three test runs required by R307-343-7(3)(a).

(d) Each owner or operator of an affected source subject to the work practice standards in R307-343-5 shall submit an initial compliance status report, as required by R307-343-9(2), stating that the work practice implementation plan has been developed and procedures have been established for implementing the provisions of the plan.

(4) Continuous Compliance Demonstrations.

(a) Each owner or operator of an affected source subject to the provisions of R307-343-4 that comply using the procedures

established in R307-343-6(2)(a) shall demonstrate continuous compliance by using compliant materials, maintaining records that demonstrate the materials are compliant, and submitting a compliance certification with the semiannual report required by R307-343-9(3).

(i) The compliance certification shall state that compliant sealers, topcoats and strippable booth coatings have been used during the semiannual reporting period, or should otherwise identify the days of noncompliance and the reasons for noncompliance.

(ii) The compliance certification shall be signed by a responsible official.

(b) Each owner or operator of an affected source subject to the provisions of R307-343-4 that comply using the procedures established in R307-343-6(2)(a) and applies sealers or topcoats using continuous coaters shall demonstrate continuous compliance by following the procedures in (i) or (ii) below.

(i) Use compliant materials, as determined by the volatile organic compound content of the finishing material in the reservoir and the volatile organic compound content as calculated from records, and submit a compliance certification with the semiannual report required by R307-343-9(3).

(A) The compliance certification shall state that compliant sealers and topcoats have been used during the semiannual reporting period, or should otherwise identify the days of noncompliance and the reasons for noncompliance.

(B) The compliance certification shall be signed by a responsible official.

(ii) Use compliant materials, as determined by the volatile organic compound content of the finishing material in the reservoir, maintaining a viscosity of the finishing material in the reservoir that is no less than the viscosity of the initial finishing material by monitoring the viscosity with a viscosity meter or by testing the viscosity of the initial finishing material and retesting the material in the reservoir each time solvent is added, maintaining records of solvent additions, and submitting a compliance certification with the semiannual report required by R307-343-9(3).

(A) The compliance certification shall state that compliant sealers and topcoats, as determined by the volatile organic compound content of the finishing material in the reservoir, have been used during the semiannual reporting period. Additionally, the certification shall state that the viscosity of the finishing material in the reservoir has not been less than the viscosity of the initial finishing material, that is, the material that is initially mixed and placed in the reservoir, during the semiannual reporting period.

(B) The compliance certification shall be signed by a responsible official.

(C) An affected source is in violation of the standard when a sample of the finishing material as applied exceeds the applicable limit established in R307-343-4(1)(a), (b), or (c), as determined using EPA Method 24 or an alternative or equivalent method, or the viscosity of the finishing material in the reservoir is less than the viscosity of the initial finishing material.

(c) Each owner or operator of an affected source subject to the provisions of R307-343-4 that complies using a control system, capture device or control device shall demonstrate continuous compliance by installing, calibrating, maintaining, and operating the appropriate monitoring equipment according to manufacturers specifications.

(i) Where a capture or control device is used, a device to monitor the site-specific operating parameter established in accordance with R307-343-6(3)(c)(i) is required.

(ii) Where an incinerator is used, a temperature monitoring device equipped with a continuous recorder is required.

(A) Where a thermal incinerator is used, a temperature monitoring device shall be installed in the firebox or in the ductwork immediately downstream of the firebox in a position before any substantial heat exchange occurs.

(B) Where a catalytic incinerator equipped with a fixed catalyst bed is used, temperature monitoring devices shall be installed in the gas stream immediately before and after the catalyst bed.

(C) Where a catalytic incinerator equipped with a fluidized catalyst bed is used, a temperature monitoring device shall be installed in the gas stream immediately before the bed. In addition, a pressure monitoring device shall be installed to determine the pressure drop across the catalyst bed. The pressure drop shall be measured monthly at a constant flow rate.

(iii) Where a carbon adsorber is used, one of the following monitoring devices shall be used:

(A) An integrating regeneration stream flow monitoring device having an accuracy of plus or minus 10 percent, capable of recording the total regeneration stream mass flow for each regeneration cycle; and a carbon bed temperature monitoring device having an accuracy of plus or minus one percent of the temperature being monitored expressed in degrees Celsius, or plus or minus 0.5 C, whichever is greater, capable of recording the carbon bed temperature after each regeneration and within fifteen minutes of completing any cooling cycle;

(B) An organic monitoring device, equipped with a continuous recorder, to indicate the concentration level of organic compounds exiting the carbon adsorber; or

(C) Any other monitoring device that has been approved by the executive secretary as allowed under (vi) below.

(iv) Each owner or operator of an affected source shall not operate the capture or control device at a daily average value greater than or less than the operating parameter value, as defined in the plan required by R307-343-6(3)(c)(i). The daily average value shall be calculated as the average of all values for a monitored parameter recorded during the operating day.

(v) Each owner or operator of an affected source that complies through the use of a catalytic incinerator equipped with a fluidized catalyst bed shall maintain a constant pressure drop, measured monthly, across the catalyst bed.

(vi) An owner or operator using a control device not listed in R307-343-6(3)(c) shall submit to the executive secretary a description of the device, test data verifying the performance of the device, and appropriate operating parameter values that will be monitored to demonstrate continuous compliance with the standard. Use of this device to demonstrate compliance is subject to the executive secretary's approval.

(d) Each owner or operator of an affected source subject to the work practice standards in R307-343-5 shall demonstrate continuous compliance by following the work practice implementation plan and submitting a compliance certification with the semiannual report required by R307-343-9(3).

(i) The compliance certification shall state that the work practice implementation plan was followed, or should otherwise

identify the periods of noncompliance with the work practice standards.

(ii) The compliance certification shall be signed by a responsible official.

R307-343-7. Performance Test Methods.

(1) The EPA Method 24 (40 CFR 60) shall be used to determine the volatile organic compound content and the solids content by weight of the finishing materials as supplied by the manufacturer. The owner or operator of the affected source may request approval from the executive secretary to use an alternative or equivalent method for determining the volatile organic compound content of the finishing material. Batch formulation information may be accepted by the executive secretary if the source demonstrates that a finishing material does not release volatile organic compound reaction byproducts during the cure. If the EPA Method 24 value is higher than the source's formulation data, the EPA Method 24 test shall govern. Sampling procedures shall follow the guidelines in "Standard Procedures for Collection of Coating and Ink Samples for volatile organic compound Content Analysis by Reference Method 24 and Reference Method 24A," EPA-340/1-91-010.

(2) Each owner or operator using a control system to demonstrate compliance shall determine the overall control efficiency of the control system as the product of the capture and control device efficiencies, using the test methods cited in (3) below and the procedures in (4) or (5) below.

(3) Each owner or operator using a control system shall demonstrate initial compliance using the procedures in (a) through (f) below.

(a) The EPA Method 18, 25, or 25A shall be used to determine the volatile organic compound concentration of gaseous air streams. The test shall consist of three separate runs, each lasting a minimum of 30 minutes.

(b) The EPA Method 1 or 1A shall be used for sample and velocity traverses.

(c) The EPA Method 2, 2A, 2C, or 2D shall be used to measure velocity and volumetric flow rates.

(d) The EPA Method 3 shall be used to analyze the exhaust gases.

(e) The EPA Method 4 shall be used to measure the moisture in the stack gas.

(f) The EPA Methods 2, 2A, 2C, 2D, 3, and 4 shall be performed, as applicable, at least twice during each test period.

(4) Each owner or operator using a control system to demonstrate compliance with R307-343 shall use the procedures in (a) through (f) below.

(a) Construct the overall volatile organic compound control system so that volumetric flow rates and volatile organic compound concentrations can be determined by the test methods specified in R307-343-7(3);

(b) Measure the capture efficiency from the affected emission points by capturing, venting, and measuring all volatile organic compound emissions from the affected emission points. To measure the capture efficiency of a capture device located in an area with nonaffected volatile organic compound emission points, the affected emission points shall be isolated from all other volatile organic compound sources by one of the following methods:

(i) Build a temporary total enclosure around the affected emission points;

(ii) Shut down all nonaffected volatile organic compound emission points and continue to exhaust fugitive emissions from the affected emission points through any building ventilation system and other room exhausts such as drying ovens. All exhaust air must be vented through stacks suitable for testing; or

(iii) Use another methodology approved by the executive secretary provided it complies with the EPA criteria for acceptance under 40 CFR Part 63, Appendix A, Method 301.

(c) Operate the control system with all affected emission points connected and operating at maximum production rate;

(d) Determine the efficiency of the control device using Equation 4;

(e) Determine the efficiency of the capture system using Equation 5;

(f) Compliance is demonstrated if the overall control efficiency in Equation 6 is greater than or equal to the overall control efficiency calculated by Equation 3, in accordance with R307-343-6(2)(b)(i).

(5) An alternative to the compliance method presented in (4) above is the installation of a permanent total enclosure.

(a) Each affected source that complies using a permanent total enclosure shall demonstrate that the total enclosure meets the following requirements:

(i) The total area of all natural draft openings shall not exceed five percent of the total surface area of the enclosure's walls, floor, and ceiling;

(ii) All sources of emissions within the enclosure shall be a minimum of four equivalent diameters away from each natural draft opening;

(iii) Average inward face velocity (FV) across all natural draft openings shall be a minimum of 3,600 meters per hour or 200 feet per minute as determined by the following procedures:

(A) All forced makeup air ducts and all exhaust ducts are constructed so that the volumetric flow rate in each can be accurately determined by the test methods and procedures specified in (3)(b) and (3)(c) above. Volumetric flow rates shall be calculated without the adjustment normally made for moisture content; and

(B) Determine face velocity by Equation 7;

(iv) All access doors and windows whose areas are not included as natural draft openings and are not included in the calculation of face velocity shall be closed during routine operation of the process.

(b) Determine the control device efficiency using Equation 4, and the test methods and procedures specified in R307-343-7(3).

(c) For a permanent total enclosure, the capture efficiency in Equation 5 is equal to one.

(d) For owners or operators using a control system to comply with the provisions of R307-343, compliance is demonstrated if:

(i) The capture efficiency of the enclosure is determined to equal one; and

(ii) The overall efficiency of the control system calculated by Equation 6 in accordance with (4) above is greater than or equal to the overall efficiency of the control system calculated by Equation 3 in accordance with R307-343-6(2)(b).

R307-343-8. Recordkeeping Requirements.

(1) The owner or operator of an affected source subject to the emission limits in R307-343-4 shall maintain records of the following:

(a) A certified product data sheet for each finishing material and strippable booth coating subject to the emission limits in R307-343-4;

(b) The volatile organic compound content, kilograms of volatile organic compound per kilogram of solids, as applied, of each finishing material and strippable booth coating subject to the emission limits in R307-343-4, and copies of data sheets documenting how the as applied values were determined.

(2) The owner or operator of an affected source following the compliance procedures of R307-343-6(4)(b) shall maintain the records required by (1) above and records of solvent and finishing material additions to the continuous coater reservoir and viscosity measurements.

(3) The owner or operator of an affected source following the compliance method of R307-343-6(2)(b) shall maintain the following records:

(a) Copies of the calculations to demonstrate that the control system achieves emission control equivalent to the requirements of R307-343-4(1)(a) or (b), as well as the data that are necessary to support the calculation of the emission limit in Equation 3 and the calculation of overall control efficiency in Equation 6;

(b) Records of the daily average value of each continuously monitored parameter for each operating day. If all recorded values for a monitored parameter are within the range established during the initial performance test, the owner or operator may record that all values were within the range rather than calculating and recording an average for that day; and

(c) Records of the pressure drop across the catalyst bed for sources complying with the emission limitations using a catalytic incinerator with a fluidized catalyst bed.

(4) The owner or operator of an affected source subject to the work practice standards in R307-343-5 shall maintain onsite the work practice implementation plan and all records associated with fulfilling the requirements of that plan, including:

(a) Records demonstrating that the operator training program is in place;

(b) Records maintained in accordance with the inspection and maintenance plan;

(c) Records associated with the cleaning solvent accounting system;

(d) Records associated with the limitation on the use of conventional air spray guns showing total finishing material usage and the percentage of finishing materials applied with conventional air spray guns for each semiannual reporting period;

(e) Records showing the volatile organic compound content of compounds used for cleaning booth components, except for solvent used to clean conveyors, continuous coaters and their enclosures, or metal filters; and

(f) Copies of logs and other documentation to demonstrate that the other provisions of the work practice implementation plan are followed.

(5) In addition to the records required by R307-343-8(1) of this section, the owner or operator of an affected source that complies using the provisions of R307-343-6(2)(a) or R307-343-5 shall maintain a copy of the compliance certifications submitted in

accordance with R307-343-9(3) for each semiannual period following the compliance date.

(6) The owner or operator of an affected source shall maintain a copy of all other information submitted with the initial status report required by R307-343-9(2) and the semiannual reports required by R307-343-9(3).

(7) The owner or operator of an affected source shall maintain all records for a minimum of five years.

R307-343-9. Reporting Requirements.

(1) The owner or operator of an affected source using a control system to fulfill the requirements R307-343 is subject to R307-214-2 in which the reporting requirements of 40 CFR Part 63, subpart A are incorporated by reference; and to the following reporting requirements:

(2) The owner or operator of an affected source subject to R307-343 shall submit an initial compliance report no later than April 5, 1999. The report shall include the items required by R307-343-6(3).

(3) The owner or operator of an affected source subject to R307-343 and demonstrating compliance in accordance with R307-343-6(2)(a) or (b) shall submit a semiannual report covering the previous six months of wood furniture manufacturing operations according to the following schedule:

(a) The first report shall be submitted no later than July 7, 1999.

(b) Subsequent reports shall be submitted no later than January 7 and July 7 each year thereafter.

(c) Each semiannual report shall include the information required by R307-343-6(4), a statement of whether the affected source was in compliance or noncompliance. If the affected source was not in compliance, the measures taken to bring the affected source into compliance shall be reported.

KEY: air pollution, ozone, wood furniture*, coatings*

1999

19-2-104(1)(a)

19-2-104(3)(e)

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**Environmental Quality, Radiation
Control
R313-12-3
Definitions**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 21684

FILED: 11/18/1998, 16:19

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To maintain rules which are compatible with 10 CFR 71 and to add clarity to existing requirements.

SUMMARY OF THE RULE OR CHANGE: The revisions relate to the deletion and addition of definitions or revision of existing definitions in Section R313-12-3 to reflect the changes in Section R313-19-100.

(DAR Note: The proposed amendment to R313-19 is under DAR No. 21686 in this *Bulletin*.)

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 10 CFR 71, January 1, 1998

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Changes in the rule will not affect the inspection process so there will be no cost or savings impact on the state budget.

❖LOCAL GOVERNMENTS: Changes in the rule do not affect local governments; therefore, there will be no cost or savings impact.

❖OTHER PERSONS: Changes in the rule will not affect other persons; therefore, there will be no cost or savings impact.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The rule change will have no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The rulemaking will have no new fiscal impact on businesses since the changes relate to definitions for Section R313-19-100.

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

Environmental Quality
Radiation Control
State of Utah Office Park, Bldg. 2
168 North 1950 West
PO Box 144850
Salt Lake City, UT 84114-4850, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Susan Giddings at the above address, by phone at (801) 536-4250, by FAX at (801) 533-4097, or by Internet E-mail at sgidding@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 01/14/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 03/12/1999

AUTHORIZED BY: William J. Sinclair, Executive Secretary

R313. Environmental Quality, Radiation Control.

R313-12. General Provisions.

R313-12-3. Definitions.

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

"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 R313-19-100[~~Table 4,~~] or may be derived in accordance with the procedures prescribed in 10 CFR 71, Appendix A, which is incorporated by reference in R313-19-100[~~(19)~~].

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

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

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

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

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

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

"Agreement State" means a state with which the United States Nuclear Regulatory 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 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. "Background radiation" does not include sources of radiation from radioactive materials regulated by the Department under the Radiation Control Act or Rules.

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

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

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

"Byproduct material" means:

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

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

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

"Calibration" means the determination of:

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

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

"CFR" means Code of Federal Regulations.

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

"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.

"Committed dose equivalent" ($H_{T,50}$), 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" ($H_{E,50}$), is the sum of the products of the weighting factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to each of these organs or tissues.

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

"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).

"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).

"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.

"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 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.

"Eye dose equivalent" means the external dose equivalent to the lens of the eye at a tissue depth of 0.3 centimeter (300 mg/cm^2).

"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 could result in an individual receiving a dose equivalent in excess of one mSv (0.1 rem), in one hour at 30 centimeters from a 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 designated 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, thermoluminescent 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.

"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 has been provisionally or finally designated as such by the Conference of Radiation Control Program Directors, Inc., which reviews state regulations to establish equivalency with the Suggested State Regulations and

ascertains 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 R313-32-75, 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.

"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 practice pharmacy. See Sections 58-17-1 through 58-17-27.

"Physician" means an individual licensed by this state to practice medicine and surgery in all its branches. See Sections 58-12-26 through 58-12-43.

"Practitioner" means an individual licensed by this state in the practice of a healing art. Examples would be, physician, dentist, podiatrist, osteopath, and chiropractor.

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

"Public dose" means the dose received by a member of the public from sources of radiation from licensed or registered operations. 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 R313-32-75, 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.

~~["Qualified expert" means an individual having the knowledge and training to measure ionizing radiation, to evaluate safety techniques, and to advise regarding radiation protection needs, for example, individuals certified in the appropriate field by the American Board of Radiology or the American Board of Health Physics, or those having equivalent qualifications. With reference to the calibration of radiation therapy equipment, an individual having, in addition to the above qualifications, training and experience in the clinical applications of radiation physics to radiation therapy, for example, individuals certified in Therapeutic Radiological Physics or X-Ray and Radium Physics by the American Board of Radiology, or those having equivalent qualifications.]~~

"Quality factor" (Q) means the modifying factor, listed in Tables 1 and 2 of 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.

"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.

"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" (H_s) which applies to the external exposure of the skin or an extremity, means the dose equivalent at a tissue depth of 0.007 centimeter (seven mg per cm^2), averaged over an area of one square centimeter.

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

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

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

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

"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 ~~[either]designed [or constructed after June 30, 1985, shall meet requirements of this definition applicable at the time of its design or construction]~~ 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 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 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 that are acceptable for disposal in a land disposal facility. For the purposes of this definition, low-level 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, spent nuclear fuel, or byproduct material as defined in Section 11e.(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.

"Waste collector licensees" means persons licensed to receive and store radioactive wastes prior to disposal or persons licensed to dispose of radioactive waste.

"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.

KEY: definitions, units, inspections, exemptions
~~March 20, 1998~~ 1999 **19-3-104**
 Notice of Continuation March 26, 1997 **19-3-108**



Environmental Quality, Radiation
 Control

R313-15-906

Procedures for Receiving and Opening
 Packages

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 21685

FILED: 11/18/1998, 16:19

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To maintain rules which are compatible with 10 CFR 71 and to add clarity to existing requirements.

SUMMARY OF THE RULE OR CHANGE: The revisions relate to number changes to reflect the change in Section R313-19-100 (which incorporates parts of 10 CFR 71 by reference).

(DAR Note: The proposed amendment to R313-19 is under DAR No. 21686 in this *Bulletin*.)

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 10 CFR 71, January 1, 1998

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Changes in the rule will not affect the inspection process so there will be no cost or savings impact on the state budget.

❖LOCAL GOVERNMENTS: Changes in the rule do not affect local governments; therefore, there will be no cost or savings impact.

❖OTHER PERSONS: Changes in the rule will not affect other persons and therefore, there will be no cost or savings impact.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The rule change will have no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The rulemaking will have no new fiscal impact on businesses.

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

Environmental Quality
 Radiation Control
 State of Utah Office Park, Bldg. 2
 168 North 1950 West
 PO Box 144850
 Salt Lake City, UT 84114-4850, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Susan Giddings at the above address, by phone at (801) 536-4250, by FAX at (801) 533-4097, or by Internet E-mail at sgidding@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 01/14/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 03/12/1999

AUTHORIZED BY: William J. Sinclair, Executive Secretary

R313. Environmental Quality, Radiation Control.

R313-15. Standards for Protection Against Radiation.

R313-15-906. Procedures for Receiving and Opening Packages.

(1) Each licensee or registrant who expects to receive a package containing quantities of radioactive material in excess of a Type A quantity, as ~~defined~~ used in Section ~~R313-19-4 and Subsection~~ R313-19-100~~(19)~~, which incorporates 10 CFR 71.4 by reference, shall make arrangements to receive:

- (a) The package when the carrier offers it for delivery; or
- (b) The notification of the arrival of the package at the carrier's terminal and to take possession of the package expeditiously.

(2) Each licensee or registrant shall:

- (a) Monitor the external surfaces of a labeled package for radioactive contamination unless the package contains only radioactive material in the form of gas or in special form as defined in Section R313-12-3; and

(b) Monitor the external surfaces of a labeled package for radiation levels unless the package contains quantities of radioactive material that are less than or equal to the Type A quantity, as [defined]used in Section [R313-19-4 and Subsection]R313-19-100[~~(19)~~], which incorporates 10 CFR 71.4 by reference; and

(c) Monitor all packages known to contain radioactive material for radioactive contamination and radiation levels if there is evidence of degradation of package integrity, such as packages that are crushed, wet, or damaged.

(3) The licensee or registrant shall perform the monitoring required by Subsection R313-15-906(2) as soon as practical after receipt of the package, but not later than three hours after the package is received at the licensee's or registrant's facility if it is received during the licensee's or registrant's normal working hours or if there is evidence of degradation of package integrity, such as a package that is crushed, wet, or damaged. If a package is received after working hours, and has no evidence of degradation of package integrity, the package shall be monitored no later than three hours from the beginning of the next working day.

(4) The licensee or registrant shall immediately notify the final delivery carrier and, by telephone and telegram, mailgram, or facsimile, the Executive Secretary when:

(a) Removable radioactive surface contamination exceeds the limits of [Subs]Section R313-19-100 which incorporates 10 CFR 71.87(i) by reference[~~(13)(h)~~]; or

(b) External radiation levels exceed the limits of [Subs]Section[s] R313-19-100 which incorporates 10 CFR 71.47 by reference[~~(13)(i) and R313-19-100(13)(j)~~].

(5) Each licensee or registrant shall:

(a) Establish, maintain, and retain written procedures for safely opening packages in which radioactive material is received; and

(b) Ensure that the procedures are followed and that due consideration is given to special instructions for the type of package being opened.

(6) Licensees or registrants transferring special form sources in vehicles owned or operated by the licensee or registrant to and from a work site are exempt from the contamination monitoring requirements of Subsection R313-15-906(2), but are not exempt from the monitoring requirement in Subsection R313-15-906(2) for measuring radiation levels that ensures that the source is still properly lodged in its shield.

KEY: radioactive material, contamination, waste disposal, safety

[March 20, 1998]1999

Notice of Continuation April 30, 1998

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.: 21686

FILED: 11/18/1998, 16:19

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To maintain rules which are compatible with 10 CFR 71, 10 CFR 30, and to add clarity to existing requirements.

SUMMARY OF THE RULE OR CHANGE: The revisions relate to definitions (Section R313-19-4), exemption of capsules containing carbon-14 urea for "in vivo" human diagnostic use (Section R313-19-13); and the transportation of radioactive material (Section R313-19-100). The changes to the transportation of radioactive materials are as follows: the expansion of the radionuclide list and changes in radionuclide limits; inclusion of criteria used to ship plutonium by air; and revision of requirements for low specific activity materials.

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 10 CFR 71, January 1, 1998

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Changes in the rule will not affect the inspection process so there will be no cost or savings impact on the state budget.

❖LOCAL GOVERNMENTS: Changes in the rule do not affect local governments; therefore, there will be no cost or savings impact.

❖OTHER PERSONS: Changes in the exemption section of the rule will affect other persons. There will be a savings impact for persons who need medical diagnostic testing for peptic ulcers. The exemption of carbon-14 urea for "in vivo" human diagnostic use gives doctors a less expensive option for diagnosing the presence of the bacterium "Helicobacter pylori" which causes peptic ulcers. The average cost of the test is \$100. In the past, this was done through an endoscopic procedure at an average cost of \$1,000 per test. Changes in the exemption section of the rule would also result in a reduced cost to patients from medical referrals. Physicians who are not authorized users on a radioactive material license would be able to administer the test to their patients. The exemption would eliminate the need for referrals to an authorized user and therefore, reduce the cost associated with travel and personal time to the patient. If it is assumed that a round trip of 20 miles at \$0.25 per mile and personal time of 0.5 hours per trip valued at \$25 per hour would be incurred by a patient from a medical referral, the exemption would result in a \$17.50 per hour savings to the patient. The changes in the definition and transportation sections of the rule would not have an affect upon other persons. Therefore, there will be no cost or savings impact.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Changes in the definition section of the rule will not have a cost or savings impact on the licensee. Changes in the exemption section of

the rule will result in the elimination of compliance costs associated with licensing. The elimination of compliance cost associated with licensing (category (7)(b) other licenses for human use of radioactive material) would result in a savings of \$700 for affected persons. Changes in the transportation section of the rule may have a potential cost or savings impact on the licensee depending on the following: whether the licensee transports radioactive material affected by the expansion of the radionuclide list and modification of its limits; whether the licensee ships plutonium by air; and whether the licensee transports low specific activity materials. The cost or savings impact would have to be assessed by the individual licensee based upon the above related transportation requirements for the type and amount of radioactive material that the licensee transports.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The rulemaking will have no new fiscal impact on businesses. The overall impact will be the elimination of regulation for individuals who fall under the exemption in Section R313-19-13.

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

Environmental Quality
Radiation Control
State of Utah Office Park, Bldg. 2
168 North 1950 West
PO Box 144850
Salt Lake City, UT 84114-4850, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Susan Giddings at the above address, by phone at (801) 536-4250, by FAX at (801) 533-4097, or by Internet E-mail at sgiddings@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 01/14/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 03/12/1999

AUTHORIZED BY: William J. Sinclair, Executive Secretary

R313. Environmental Quality, Radiation Control.

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

~~R313-19-4. Definitions.~~

~~As used in R313-19:~~

~~"Carrier" means a person engaged in the transportation of passengers or property by land or water as a common, contract, or private carrier, or by civil aircraft.~~

~~"Closed transport vehicle" means a transport vehicle equipped with a securely attached exterior enclosure that during normal transportation restricts the access of unauthorized persons to the cargo space containing the radioactive material. The enclosure may be either temporary or permanent but shall limit access from top,~~

~~sides, and ends. In the case of packaged materials, it may be of the "see-through" type.~~

~~"Containment System" means the components of the packaging intended to retain the radioactive material during transport.~~

~~"Conveyance" means any vehicle, aircraft, vessel, freight container, or hold, compartment, or defined deck area of an inland waterway craft or seagoing vessel.~~

~~"Exclusive use", also referred to in other rules as "sole use" or "full load", means the sole use of conveyance by a single consignor and for which all initial, intermediate, and final loading and unloading are carried out in accordance with the direction of the consignor or consignee.~~

~~"Fissile material" means any special nuclear material consisting of or containing one or more fissile radionuclides. Fissile radionuclides are plutonium-238, plutonium-239, plutonium-241, uranium-233, and uranium-235. Neither natural nor depleted uranium is fissile material. Board jurisdiction extends only to special nuclear material if quantities are not sufficient to form a critical mass as defined in R313-12.~~

~~(a) Fissile Class I: means a package which may be transported in unlimited numbers and in any arrangement, and which requires no nuclear criticality safety controls during transportation. A transport index is not assigned for purposes of nuclear criticality safety but may be required because of external radiation levels.~~

~~(b) Fissile Class H: means a package which may be transported together with other packages in any arrangement but for criticality control in numbers which do not exceed an aggregate transport index of 50. These shipments require no other nuclear criticality safety control during transportation. Individual packages may have a transport index not less than 0.1 and not more than 10.~~

~~"Low specific activity material" means any of the following:~~

~~(a) uranium or thorium ores and physical or chemical concentrates of those ores;~~

~~(b) unirradiated natural or depleted uranium or unirradiated natural thorium;~~

~~(c) tritium oxide in aqueous solutions provided the concentration does not exceed 5.0 millicuries (185.0 MBq) per milliliter;~~

~~(d) material in which the radioactivity is essentially uniformly distributed and in which the estimated average concentration per gram of contents does not exceed:~~

~~(i) 0.0001 millicurie (3.7 kBq) of radionuclides for which the A_2 quantity in R313-19-100 Table 4 is not more than 0.05 curie (1.85 GBq);~~

~~(ii) 0.005 millicurie (185.0 kBq) of radionuclides for which the A_2 quantity in R313-19-100 Table 4 is more than 0.05 curie; (1.85 GBq) but not more than 1 curie (37.0 GBq); or~~

~~(iii) 0.3 millicurie (11.1 MBq) of radionuclides for which the A_2 quantity in R313-19-100 Table 4 is more than one curie (37.0 GBq);~~

~~(e) objects of nonradioactive material externally contaminated with radioactive material, provided that the radioactive material is not readily dispersible and the surface contamination, when averaged over an area of one square meter, does not exceed 0.0001 millicurie (220,000 disintegrations per minute) per square centimeter (3.7 kBq/cm²) of radionuclides for which the A_2 quantity in R313-19-100 Table 4 is not more than 0.05 curie (1.85 GBq), or 0.001 millicurie (2,200,000 disintegrations per minute) per square centimeter (37.0 kBq/cm²) for other radionuclides.~~

— "Normal form radioactive material" means radioactive material which has not been demonstrated to qualify as "special form radioactive material".

— "Packaging" means the assembly of components necessary to ensure compliance with the packaging requirements of R313-19-100. It may consist of one or more receptacles, absorbent materials, spacing structures, thermal insulation, radiation shielding, and devices for cooling or absorbing mechanical shocks. The vehicle, tiedown systems and auxiliary equipment may be designated as part of the packaging.

— "Regulations of the U.S. Department of Transportation" means the regulations in 49 CFR Parts 100 through 189.

— "Specific activity" means the radioactivity of a radionuclide per unit mass of that nuclide. The specific activity of a material in which the radionuclide is essentially uniformly distributed is the radioactivity per unit mass of the material.

— "Transport index" means the dimensionless number, rounded up to the first decimal place, placed on the label of a package to designate the degree of control to be exercised by the carrier during transportation. The transport index is the number expressing the maximum radiation level in millirem per hour at one meter from the surface of the package.

— "Type A quantity" means a quantity of radioactive material, the aggregate radioactivity of which does not exceed A_1 for special form radioactive material or A_2 for normal form radioactive material, where A_1 and A_2 are given in R313-19-100 Table 4 or may be determined by procedures described in R313-19-100.

— "Type B package" means a Type B packaging together with its radioactive contents. A Type B package design is designated as B(U) or B(M). B(U) refers to the need for unilateral approval of international shipments; B(M) refers to the need for multilateral approval. There is no distinction made in how packages with these designations may be used in domestic transportation. To determine their distinction for international transportation, refer to 49 CFR Part 173. A Type B package approved prior to September 6, 1983 was designated only as Type B. Limitations on its use are specified in R313-19-100(6).

— "Type B packaging" means a packaging designed to retain the integrity of containment and shielding when subjected to the normal conditions of transport and hypothetical accident test conditions set forth in 10 CFR Part 71.

— "Type B quantity" means a quantity of radioactive material greater than a Type A quantity.]

R313-19-13. Exemptions.

(1) Source material.

(a) A person is exempt from 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 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 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 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 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 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 R313-19-13(2)(a)(ii) a person is exempt from 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 R313-19-70, or

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

(ii) 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 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 R313-22-75(1) or the general license provided in R313-19-30.

(b) Exempt quantities.

(i) Except as provided in R313-19-13(2)(b)(ii) and (iii) 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 R313-19-71.

(ii) 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 R313-19-71, knowing or having reason to believe that the quantities of radioactive material will be transferred to persons exempt under 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 C.F.R. Part 32 or by the Executive Secretary pursuant to R313-22-75(2), which license states that the radioactive material may be transferred by the licensee to persons exempt under 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 C.F.R. Part 31.5 is exempt from the requirements for a license set forth in R313-19 to the extent that the person possesses, uses, transfers or owns the radioactive material. This exemption does not apply for radium-226.

(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.

(B) Lock illuminators containing not more than 15 millicuries (555.0 MBq) of tritium or not more than two millicuries (74.0 MBq) of promethium-147 installed in automobile locks. The levels of radiation from each lock illuminator containing promethium-147 will not exceed one millirad (10 uGy) per hour at one centimeter from any surface when measured through 50 milligrams per square centimeter of absorber.

(C) Precision balances containing not more than one millicurie (37.0 MBq) of tritium per balance or not more than 0.5 millicurie (18.5 MBq) of tritium per balance part.

(D) Automobile shift quadrants containing not more than 25 millicuries (925 MBq) of tritium.

(E) 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.

(F) Thermostat dials and pointers containing not more than 25 millicuries (925.0 MBq) of tritium per thermostat.

(G) 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.

(H) 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 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 R313-19-71, provided that the sum of the fractions shall not exceed unity;

(III) for purposes of R313-19-13(2)(c)(i)(H), 0.05 microcurie (1.85 kBq) of americium-241 is considered an exempt quantity under R313-19-71.

(I) Spark gap irradiators containing not more than one microcurie (37.0 kBq) of cobalt-60 per spark gap irradiator for use in electrically ignited fuel oil burners having a firing rate of at least three gallons (11.4 liters) per hour.

(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 C.F.R. Part 32.22, which license authorizes the transfer of the product to persons who are exempt from regulatory requirements. The exemption in 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, or produce 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 transferred in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to 10 C.F.R. Part 32.26, or a Licensing State pursuant to 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 R313-19-13(2)(c)(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 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 R313-19-13(2)(c)(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 R313-22-75(3).

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

(A) Except as provided in R313-19-13(2)(c)(iv)(B), any person is exempt from the regulations in 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 R313-32.

(C) Nothing in 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) Resins containing scandium-46 and designed for sand consolidation in oil wells. A person is exempt from these rules to the extent that the person receives, possesses, uses, transfers, owns or acquires synthetic plastic resins containing scandium-46 which are designed for sand consolidation in oil wells. The resins shall have been manufactured or imported in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission, or shall have been manufactured in accordance with the specifications contained in a specific license issued by the Executive Secretary or an Agreement State to the manufacturer of resins pursuant to licensing requirements equivalent to those in 10 C.F.R. Part 32.16 and 32.17. This exemption does not authorize the manufacture of any resins containing scandium-46.

~~[(v)](vi)~~ With respect to R313-19-13(2)(b)(iii), R313-19-13(2)(c)(i), ~~(iii)~~ and ~~(iii)(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.

R313-19-100. Transportation.

~~(1) A person shall not transport radioactive material or deliver radioactive material to a carrier for transport except as authorized in a general or specific license issued by the Executive Secretary or as exempted in R313-19-100(2):~~

~~(2) Exemptions:~~

~~(a) Common and contract carriers, freight forwarders, and warehousemen who are subject to the requirements of the U.S. Department of Transportation in 49 CFR 170 through 189 or the U.S. Postal Service in the Postal Service Manual (Domestic Mail Manual), Section 124-3, which the U.S. Postal Service has incorporated by reference at 39 CFR 111.1, 1992, ed., and the U.S. Postal Service are exempt from the requirements of R313-19-100 to the extent that they transport or store radioactive material in the regular course of their carriage for others or storage incident thereto. Common and contract carriers who are not subject to the requirements of the U.S. Department of Transportation (DOT) or U.S. Postal Service are subject to R313-19-100(1) and other applicable requirements of these rules:~~

~~(b) Licensees are exempt from R313-19-100 to the extent that the licensee delivers to a carrier for transport a package containing radioactive material having a specific activity not greater than 0.002 microcurie per gram (74.0 Bq/g):~~

~~(c) With the exception of R313-19-100(3) and R313-19-100(14), a licensee is exempt from all requirements of R313-19-100, with respect to shipment or carriage of the following:~~

~~(i) a package containing no more than a Type A quantity of radioactive material if the package contains no fissile material; or~~

~~(ii) packages transported between locations within the United States which contain only americium or plutonium in special form with an aggregate radioactivity not to exceed 20 curies (740 GBq):~~

~~(3) Transportation of Licensed Material:~~

~~(a) A licensee who transports licensed material outside of the confines of the licensee's plant or other place of use, or who delivers licensed material to a carrier for transport shall:~~

~~(i) comply with the applicable requirements, appropriate to the mode of transport, of the regulations of the DOT; and~~

~~(ii) assure that any special instructions needed to safely open the package are sent to or have been made available to the consignee:~~

~~(b) If, for any reason the regulations of the DOT are not applicable to a shipment of licensed material, the licensee shall conform to the standards and requirements of those regulations to the same extent as if the shipment was subject to the regulations:~~

~~(4) General licenses for carriers:~~

~~(a) A general license is hereby issued to a common or contract carrier not exempt under R313-19-100(2) to receive, possess, transport, and store radioactive material in the regular course of their carriage for others or storage incident thereto, provided the transportation and storage is in accordance with the applicable~~

~~requirements, appropriate to the mode of transport, of the U.S. Department of Transportation insofar as the requirements relate to the loading and storage of packages, placarding of the transporting vehicle, and incident reporting. Notification of incidents referred to in those requirements shall be filed with, or made to, the Executive Secretary:~~

~~(b) A general license is hereby issued to a private carrier to transport radioactive material, provided the transportation is in accordance with the applicable requirements, appropriate to the mode of transport, of the U.S. Department of Transportation insofar as such requirements relate to the loading and storage of packages, placarding of the transporting vehicle, and incident reporting. Notification of incidents referred to in those requirements shall be filed with, or made to, the Executive Secretary:~~

~~(c) Persons who transport radioactive material pursuant to the general licenses in R313-19-100(3)(a) or (b) are exempt from the requirements of R313-15 and R313-18 to the extent that they transport radioactive material:~~

~~(5) General License - Approved Packages:~~

~~(a) A general license is hereby issued to any person licensed by the Executive Secretary to transport, or to deliver to a carrier for transport, licensed material in a package for which a license, certificate of compliance, or other approval has been issued by the U.S. Nuclear Regulatory Commission (NRC):~~

~~(b) This general license applies only to a licensee who:~~

~~(i) has a copy of the specific license, certificate of compliance, or other approval of the package and has the drawings and other documents referenced in the approval relating to the use and maintenance of the packaging and to the actions to be taken prior to shipment;~~

~~(ii) complies with the terms and conditions of the license, certificate, or other approval, as applicable, and the applicable requirements of R313-19-100;~~

~~(iii) prior to the licensee's first use of the package, has registered with the NRC; and~~

~~(iv) has a quality assurance program that meets the requirements of R313-19-100(18):~~

~~(c) The general license in R313-19-100(5)(a) applies only when the package approval authorizes use of the package under this general license:~~

~~(d) For previously approved Type B packages which are not designated as either B(U) or B(M) in the Certificate of Compliance, this general license is subject to additional restrictions of R313-19-100(6):~~

~~(6) General License - Previously Approved Type B Packages:~~

~~(a) A Type B package previously approved by the NRC, but not designated as B(U) or B(M) in the Certificate of Compliance, may be used under the general license of R313-19-100(5) with the following additional limitations:~~

~~(i) fabrication of the packaging was satisfactorily completed before August 31, 1986, as demonstrated by application of its model number in accordance with NRC regulations; and~~

~~(ii) the package may not be used for a shipment to a location outside the United States, except approved under special arrangement in accordance with 49 CFR 173.471:~~

~~(7) General License - Specification Container:~~

~~(a) A general license is issued to any person licensed by the Executive Secretary to transport, or to deliver to a carrier for transport, licensed material in a specification container for a Type~~

B quantity of radioactive material as specified in 49 CFR 173 and 178:

— (b) This general license applies only to a licensee who has a quality assurance program required by R313-19-100(18):

— (c) This general license applies only to a licensee who:

- (i) has a copy of the specification; and
- (ii) complies with the terms and conditions of the specification and the applicable requirements of R313-19-100:

— (d) The general license in R313-19-100(7)(a) is subject to the limitation that the specification container may not be used for a shipment to a location outside the United States except approved under special arrangements in accordance with 49 CFR 173.472:

— (8) General License - Use of Foreign Approved Package:

— (a) A general license is issued to any person licensed by the Executive Secretary to transport, or to deliver to a carrier for transport, licensed material in a package the design of which has been approved in a foreign national competent authority certificate which has been revalidated by the DOT as meeting the applicable requirements of 49 CFR 171.12:

— (b) This general license applies only to international shipments:

— (c) This general license applies only to a licensee who:

- (i) has a copy of the applicable certificate, the revalidation, and the drawings and other documents referenced in the certificate relating to the use and maintenance of the packaging and to the actions to be taken prior to shipment; and
- (ii) complies with the terms and conditions of the certificate and revalidation and with the applicable requirements of this part:

— (9) General License - Type A, Fissile Class II Package:

— (a) A general license is hereby issued to any licensee to transport fissile material, or to deliver fissile material to a carrier for transport, if the material is shipped as a Fissile Class II package:

— (b) This general license applies only when a package contains no more than a Type A quantity of radioactive material, including only one of the following:

- (i) up to 40 grams of uranium-235;
- (ii) up to 30 grams of uranium-233;
- (iii) up to 25 grams of the fissile radionuclides of plutonium; except that for encapsulated plutonium-beryllium neutron sources in special form, an A₁ quantity of plutonium may be present; or
- (iv) a combination of fissile radionuclides in which the sum of the ratios of the amount of each radionuclide to the corresponding maximum amounts in R313-19-100(9)(b)(i), (ii) and (iii) does not exceed unity:

— (c)(i) Except as specified in R313-19-100(9)(c)(ii), this general license applies only when a package containing more than 15 grams of fissile radionuclides is labeled with a transport index not less than the number given by the following equation: Minimum Transport Index equals $(0.4x + 0.67y + z) (1 - (15/(x + y + z)))$ where the package contains x grams of uranium-235; y grams of uranium-233, and z grams of the fissile radionuclides of plutonium:

— (ii) For a package in which the only fissile material is in the form of encapsulated plutonium-beryllium neutron sources in special form, the transport index based on criticality considerations may be taken as 0.026 times the number of grams of the fissile radionuclides of plutonium in excess of 15 grams:

— (iii) In all cases, the transport index shall be rounded up to one decimal place and may not exceed 10.0:

— (10) General License - Restricted, Fissile Class II Package:

— (a) A general license is hereby issued to any licensee to transport fissile material, or to deliver fissile material to a carrier for transport, if the material is shipped as a Fissile Class II package:

— (b) This general license applies only when all of the following requirements are met:

— (i) The package contains no more than a Type A quantity of radioactive material:

— (ii) Neither beryllium nor hydrogenous material enriched in deuterium is present:

— (iii) The total mass of graphite present does not exceed 150 times the total mass of uranium-235 plus plutonium:

— (iv) Substances having a higher hydrogen density than water are not present, except that polyethylene may be used for packing or wrapping:

— (v) Uranium-233 is not present, and the amount of plutonium does not exceed one percent of the amount of uranium-235:

— (vi) The amount of uranium-235 is limited as follows:

— (A) If the fissile radionuclides are not uniformly distributed; the maximum amount of uranium-235 per package may not exceed the value given in the following table:

TABLE 1

Uranium enrichment in weight percent of uranium-235 not exceeding	Permissible maximum grams of uranium-235 per package
24	40
20	42
15	45
11	48
10	51
9.5	52
9	54
8.5	55
8	57
7.5	59
7	60
6.5	62
6	65
5.5	68
5	72
4.5	76
4	80
3.5	88
3	100
2.5	120
2	164
1.5	272
1.35	320
1	600(1)
0.92	1200(1)

(1) Pursuant to Section 19.3.113 which refers to the Department's agreement with the NRC, jurisdiction extends only to 350 grams of uranium-235.

— (B) If the fissile radionuclides are distributed uniformly, the maximum amount of uranium-235 per package may not exceed the value given in the following table:

TABLE 2

Uranium enrichment in weight percent of uranium-235 not exceeding	Permissible maximum grams of uranium-235 per package
4	84
3.5	92
3	112
2.5	148
2	240
1.5	560(1)
1.35	800(1)

(1) Pursuant to Section 19-3-113 which refers to the Department's agreement with the NRC, jurisdiction extends only to 350 grams of uranium-235.

(vii) The transport index of each package based on criticality considerations is taken as ten times the number of grams of uranium-235 in the package divided by the maximum allowable number of grams per package in accordance with Table 1 or 2 above as applicable.

(11) Fissile Material Assumptions as to Unknown Properties. When the isotopic abundance, mass, concentration, degree of irradiation, degree of moderation, or other pertinent property of fissile material in any package is not known, the licensee shall package the fissile material as if the unknown properties had credible values that would cause the maximum nuclear reactivity.

(12) Preliminary Determinations. Prior to the first use of any packaging for the shipment of radioactive material:

(a) the licensee shall ascertain that there are no defects which could significantly reduce the effectiveness of the packaging;

(b) where the maximum normal operating pressure will exceed 34.3 kilopascal (5 psi), the licensee shall test the containment system at an internal pressure at least 50 percent higher than the maximum normal operating pressure to verify the capability of that system to maintain its structural integrity at that pressure;

(c) the licensee shall determine that the packaging has been fabricated in accordance with the design approved by the NRC; and

(d) the licensee shall conspicuously and durably mark the packaging with its model number, gross weight, and a package identification number assigned by the NRC.

(13) Routine Determinations. Prior to each shipment of licensed material, the licensee shall determine that:

(a) the package is proper for the contents to be shipped;

(b) the package is in unimpaired physical condition except for superficial defects such as marks or dents;

(c) each closure device of the packaging, including any required gasket, is properly installed and secured and free of defects;

(d) any system for containing liquid is adequately sealed and has adequate space or other specified provision for expansion of the liquid;

(e) any pressure relief device is operable and set in accordance with written procedures;

(f) the package has been loaded and closed in accordance with written procedures;

(g) any structural part of the package which could be used to lift or tie down the package during transport is rendered inoperable for that purpose unless it satisfies design requirements specified by the NRC;

(h)(i) the level of removable radioactive contamination on the external surfaces of each package offered for shipment is as low as reasonably achievable. The level of removable radioactive contamination may be determined by wiping an area of 300 square centimeters of the surface concerned with an absorbent material, using moderate pressure, and measuring the activity on the wiping material. Sufficient measurements shall be taken in the most appropriate locations to yield a representative assessment of the removable contamination levels. Except as provided in R313-19-100(13)(h)(ii), the amount of radioactivity measured on any single wiping material, when averaged over the surface wiped, shall not exceed the limits given in Table 3 below at any time during transport. Other methods of assessment of equal or greater efficiency may be used. When other methods are used, the detection efficiency of the method used shall be taken into account and in no case may the removable contamination on the external surfaces of the package exceed ten times the limits listed in Table 3.

TABLE 3

Contaminant	Maximum Permissible Limits	
	uCi/cm ²	dpm/cm ²
Beta-gamma emitting radionuclides; all radionuclides with half-lives less than ten days; natural uranium; natural thorium; uranium-235; uranium-238; thorium-232; thorium-230 and thorium-230 when contained in ores or physical concentrates	10 ⁻⁷	22
All other alpha emitting radionuclides	10 ⁻⁶	2.2

To convert microcuries (uCi) to SI units of megabecquerels, multiply the values by 37.

(ii) in the case of packages transported as exclusive use shipments by rail or highway only, the removable radioactive contamination at any time during transport shall not exceed ten times the levels prescribed in R313-19-100(13)(h)(i). The levels at the beginning of transport shall not exceed the levels in R313-19-100(13)(h)(i);

(i) external radiation levels around the package and around the vehicle, if applicable, will not exceed 200 millirems per hour (2 mSv/h) at any point on the external surface of the package at any time during transportation. The transport index shall not exceed ten;

(j) for a package transported in exclusive use by rail, highway or water, radiation levels external to the package may exceed the limits specified in R313-19-100(13)(i) but shall not exceed any of the following:

(i) 200 millirems per hour (2 mSv/h) on the accessible external surface of the package unless the following conditions are met, in which case the limit is 1000 millirems per hour (10 mSv/h);

(A) the shipment is made in a closed transport vehicle;

(B) provisions are made to secure the package so that its position within the vehicle remains fixed during transportation; and

(C) there are no loading or unloading operations between the beginning and end of the transportation;

— (ii) 200 millirems per hour (2 mSv/h) at any point on the outer surface of the vehicle, including the upper and lower surfaces, or, in the case of a flat-bed style vehicle, with a personnel barrier, at any point on the vertical planes projected from the outer edges of the vehicle, on the upper surface of the load, or enclosure, if used; and on the lower external surface of the vehicle. A flat-bed style vehicle with a personnel barrier shall have radiation levels determined at vertical planes. If no personnel barrier, the package cannot exceed 200 millirems per hour (2 mSv/h) at the surface;

— (iii) ten millirems per hour (0.1 mSv/h) at any point two meters from the vertical planes represented by the outer lateral surfaces of the vehicle, or, in the case of a flat-bed style vehicle, at any point two meters from the vertical planes projected from the outer edges of the vehicle; and

— (iv) two millirems per hour (0.02 mSv/h) in any normally occupied positions of the vehicle, except that this provision does not apply to private motor carriers when persons occupying these positions are provided with special health supervision, personnel radiation exposure monitoring devices, and training in accordance with R313-18-12; and

— (k) a package shall be prepared for transport so that in still air at 100 degrees Fahrenheit (38 degrees Celsius) and in the shade, no accessible surface of a package would have a temperature exceeding 122 degrees Fahrenheit (50 degrees Celsius) in a nonexclusive use shipment or 180 degrees Fahrenheit (82 degrees Celsius) in an exclusive use shipment. Accessible package surface temperatures shall not exceed these limits at any time during transportation.

— (14) Air Transport of Plutonium. Notwithstanding the provisions of any general licenses and notwithstanding any exemptions stated directly in R313-19-100 or included indirectly by citation of the DOT regulations, as may be applicable, the licensee shall assure that plutonium in any form is not transported by air, or delivered to a carrier for air transport, unless:

— (a) the plutonium is contained in a medical device designed for individual human application;

— (b) the plutonium is contained in a material in which the specific activity is not greater than 0.002 microcuries per gram (74 Bq/gm) of material and in which the radioactivity is essentially uniformly distributed;

— (c) the plutonium is shipped in a single package containing no more than an A_2 quantity of plutonium in any radionuclide or form and is shipped in accordance with R313-19-100(3); or

— (d) the plutonium is shipped in a package specifically authorized for the shipment of plutonium by air in the Certificate of Compliance for that package issued by the NRC.

— (15) Shipment Records. Each licensee shall maintain for a period of two years after shipment a record of each shipment of licensed material not exempt under R313-19-100(2), showing, where applicable:

— (a) identification of the packaging by model number;

— (b) verification that there were no significant defects in the packaging, as shipped;

— (c) volume and identification of coolant;

— (d) type and quantity of licensed material in each package, and the total quantity of each shipment;

— (e) date of the shipment;

— (f) name and address of the transferee;

— (g) address to which the shipment was made; and

— (h) results of the determinations required by R313-19-100(13);

— (16) Reports. The licensee shall report to the Executive Secretary within 30 days:

— (a) any instance in which there is significant reduction in the effectiveness of any authorized packaging during use; and

— (b) details of any defects with safety significance in the packaging after first use, with the means employed to repair the defects and prevent their recurrence.

— (17) Advance Notification of Transport of Nuclear Waste

— (a) Prior to the transport of any nuclear waste outside of the confines of the licensee's facility or other place of use or storage, or prior to the delivery of any nuclear waste to a carrier for transport, each licensee shall provide advance notification of such transport to the governor, or governor's designee, of each state through which the waste will be transported. A list of the mailing addresses of the governors and governors' designees is available upon request from the Director, State Programs, Office of Governmental and Public Affairs, NRC, Washington, D.C. 20555.

— (b) Advance notification is required only when:

— (i) the nuclear waste is required to be in Type B packaging for transportation;

— (ii) the nuclear waste is being transported to, through, or across state boundaries to a disposal site or to a collection point for transport to a disposal site; and

— (iii) the quantity of licensed material in a single package exceeds:

— (A) 5,000 curies (185 TBq) of special form radionuclides;

— (B) 5,000 curies (185 TBq) of uncompressed gases of argon-41, krypton-85m, krypton-87, xenon-131m, or xenon-135;

— (C) 50,000 curies (1.85 PBq) of argon-37, or of uncompressed gases of krypton-85 or xenon-133, or of hydrogen-3 as a gas, as luminous paint, or absorbed on solid material;

— (D) 20 curies (740 GBq) of other non-special form radionuclides for which A_2 is less than or equal to 4 curies (148 GBq); or

— (E) 200 curies (7.4 TBq) of other non-special form radionuclides for which A_2 is greater than 4 curies (148 GBq).

— (c) Each advance notification required by R313-19-100(17)(a) shall contain the following information:

— (i) the name, address, and telephone number of the shipper, carrier, and receiver of the shipment;

— (ii) a description of the nuclear waste contained in the shipment as required by 49 CFR 172.202 and 172.203(d);

— (iii) the point of origin of the shipment and the seven-day period during which departure of the shipment is estimated to occur;

— (iv) the seven-day period during which arrival of the shipment at state boundaries is estimated to occur;

— (v) the destination of the shipment, and the seven-day period during which arrival of the shipment is estimated to occur; and

— (vi) a point of contact with a telephone number for current shipment information.

— (d) The notification required by R313-19-100(17)(a) shall be made in writing to the office of each appropriate governor, or governor's designee, and to the Executive Secretary. A notification delivered by mail shall be postmarked at least seven days before the beginning of the seven-day period during which departure of the shipment is estimated to occur. A notification delivered by

messenger shall reach the office of the governor, or governor's designee, at least four days before the beginning of the seven-day period during which departure of the shipment is estimated to occur. A copy of the notification shall be retained by the licensee for one year.

(c) The licensee shall notify each appropriate governor, or governor's designee, and the Executive Secretary of any changes to schedule information provided pursuant to R313-19-100(17)(a). Such notification shall be by telephone to a responsible individual in the office of the governor, or governor's designee, of the appropriate state or states. The licensee shall maintain for one year a record of the name of the individual contacted.

(f) Each licensee who cancels a nuclear waste shipment, for which advance notification has been sent, shall send a cancellation notice to the governor, or governor's designee, of each appropriate state and to the Executive Secretary. A copy of the notice shall be retained by the licensee for one year.

(18) Quality Assurance Requirements:

(a) Each licensee shall establish, maintain, and execute a quality assurance program to verify by procedures such as checking, auditing, and inspection that deficiencies, deviations, and defective material and equipment relating to the shipment of packages containing radioactive material are promptly identified and corrected.

(b) The licensee shall identify the material and components to be covered by the quality assurance program.

(c) Each licensee shall document the quality assurance program by written procedures or instructions and shall carry out the program in accordance with those procedures throughout the period during which packaging is used.

(d) The licensee shall maintain sufficient written records to demonstrate compliance with the quality assurance program. Records of quality assurance pertaining to the use of a package for shipment of radioactive material shall be maintained for a period of two years after shipment.

(19) Determination of A_1 and A_2 :

(a) Single Radionuclides

(i) For a single radionuclide of known identity, the values of A_1 and A_2 are taken from Table 4 if listed there. The values A_1 and A_2 in Table 4 are also applicable for the radionuclide contained in (alpha, neutron) or (gamma, neutron) neutron sou

(ii) For any single radionuclide whose identity is known but which is not listed in Table 4 the value of A_1 and A_2 are determined according to the following procedure:

(A) If the radionuclide emits only one type of radiation, A_1 is determined according to the following method. For radionuclides emitting different kinds of radiation, A_1 is the most restrictive value of those determined for each kind of radiation. However, in either case, A_1 is restricted to a maximum of 1000 curies (37 TBq). If a parent nuclide decays into a shorter lived daughter with a half-life not greater than ten days, A_1 is calculated for both the parent and the daughter, and the more limiting of the two values is assigned to the parent nuclide.

(1) For gamma emitters, A_1 is determined by the expression: A_1 equals $(9 \text{ Curies})/G$, where G is the gamma-ray constant, corresponding to the dose in roentgens per curie-hour at one meter, and the number 9 results from the choice of one rem per hour at a distance of three meters as the reference dose-equivalent rate.

(H) For x-ray emitters, A_1 is determined by the atomic number of the nuclide: for Z less than or equal to 55, A_1 equals 1000 Ci (37 TBq); and for Z greater than 55, A_1 equals 200 Ci (7.4 TBq) where Z is the atomic number of the nuclide.

(III) For beta emitters, A_1 is determined by the maximum beta energy (E_{max}) according to Table 5; and

(IV) For alpha emitters, A_1 is determined by the expression: A_1 equals $1000 A_3$, where A_3 is the value listed in Table 6;

(B) A_2 is the more restrictive of the following two values:

(1) The corresponding A_1 ; and

(II) The value A_3 obtained from Table 6.

(iii) For any single radionuclide whose identity is unknown, the value of A_1 is taken to be two Ci (74 GBq) and the value of A_2 is taken to be 0.002 Ci (74 MBq). However, if the atomic number of the radionuclide is known to be less than 82, the value of A_1 is taken to be ten Ci (370 GBq) and the value of A_2 is taken to be 0.4 Ci (14.8 GBq):

(b) Mixtures of Radionuclides, Including Radioactive Decay Chains

(i) For mixed fission products, the activity limit may be assumed if a detailed analysis of the mixture is not carried out, A_1 equals 10 Ci (370 GBq), A_2 equals 0.4 Ci (14.8 GBq):

(ii) A single radioactive decay chain is considered to be a single radionuclide when the radionuclides are present in their naturally occurring proportions and no daughter nuclide has a half-life either longer than ten days or longer than that of the parent nuclide. The activity to be taken into account and the A_1 or A_2 value from Table 4 to be applied are those corresponding to the parent nuclide of that chain. When calculating A_1 or A_2 values, radiation emitted by daughters shall be considered. However, in the case of radioactive decay chains in which any daughter nuclide has a half-life either longer than ten days or greater than that of the parent nuclide, the parent and daughter nuclides are considered to be mixtures of different nuclides.

(iii) In the case of a mixture of different radionuclides, where the identity and activity of each radionuclide are known, the permissible activity of each radionuclide R_1, R_2, \dots, R_n is such that $F_1 + F_2 + \dots + F_n$ is not greater than unity, where: F_1 equals the total activity of $R_1/(A_1) \times (R_1)$; F_2 equals the total activity of $R_2/(A_2) \times (R_2)$; F_n equals the total activity of $R_n/(A_n) \times (R_n)$ and; $A_1, (R_1, R_2, \dots, R_n)$ is the value of A_1 or A_2 as appropriate for the nuclide R_1, R_2, \dots, R_n .

(iv) When the identity of each radionuclide is known but the individual activities of some of the radionuclides are not known, the formula given in R313-19-100(19)(b)(iii) is applied to establish the values of A_1 or A_2 as appropriate. All the radionuclides whose individual activities are not known (their total activity will, however, be known) are classed in a single group and the most restrictive value of A_1 and A_2 applicable to any one of them is used as the value of A_1 or A_2 in the denominator of the fraction.

(v) Where the identity of each radionuclide is known but the individual activity of none of the radionuclides is known, the most restrictive value of A_1 or A_2 applicable to any one of the radionuclides present is adopted as the applicable value.

(vi) When the identity of none of the nuclides is known, the value of A_1 is taken to be two Ci (74 GBq) and the value of A_2 is taken to be 0.002 Ci (74 MBq). However, if alpha emitters are known to be absent, the value of A_2 is taken to be 0.4 Ci (14.8 GBq):

TABLE 4
 A_1 and A_2 Values for Radionuclides
 (See footnotes at end of table.)

Symbol of Radionuclide	Element of Atomic Number	A_1 (Ci)	A_2 (Ci)	Specific activity (Ci/g)
227-Ac	Actinium (89)	1000	0.003	7.2E+1
228-Ac		10	4	2.2E+6
105-Ag	Silver (47)	40	40	3.1E+4
110m-Ag		7	7	4.7E+3
111-Ag		100	20	1.6E+5
241-Am	Americium (95)	8	0.008	3.2
243-Am		8	0.008	1.9E-1
37-Ar				
(compressed/				
uncompressed)(1)	Argon (18)	1000	1000	1.0E+5
41-Ar				
(uncompressed)(1)		20	20	4.3E+7
41-Ar				
(compressed)(1)		1	1	4.3E+7
73-As	Arsenic (33)	1000	400	2.4E+4
74-As		20	20	1.0E+5
76-As		10	10	1.6E+6
77-As		300	20	1.1E+6
211-At	Astatine (85)	200	7	2.1E+6
193-Au	Gold (79)	200	200	9.3E+5
196-Au		30	30	1.2E+5
198-Au		40	20	2.5E+5
199-Au		200	25	2.1E+5
131-Ba	Barium (56)	40	40	8.7E+4
133-Ba		40	10	4.0E+2
140-Ba		20	20	7.3E+4
7-Be	Beryllium (4)	300	300	3.5E+5
206-Bi	Bismuth (83)	5	5	9.9E+4
207-Bi		10	25	2.2E+2
210-Bi (RaE)		100	4	1.2E+5
212-Bi		6	6	1.5E+7
249-Bk	Berkelium (97)	1000	1	1.8E+3
77-Br	Bromine (35)	70	25	7.1E+5
82-Br		6	6	1.1E+6
11-C	Carbon (6)	20	20	8.4E+8
14-C		1000	60	4.6
45-Ca	Calcium (20)	1000	25	1.9E+4
47-Ca		20	20	5.9E+5
109-Cd	Cadmium (48)	1000	70	2.6E+3
115m-Cd		30	30	2.6E+4
115-Cd		80	20	5.1E+5
139-Ce	Cerium (58)	100	100	6.5E+3
141-Ce		300	25	2.8E+4
143-Ce		60	20	6.6E+5
144-Ce		10	7	3.2E+3
249-Cf	Californium (98)	2	0.002	3.1
250-Cf		7	0.007	1.3E+2
252-Cf		2	0.009	6.5E+2
36-Cl	Chlorine (17)	300	10	3.2E-2
38-Cl		10	10	1.3E+8
242-Cm	Curium (96)	200	0.2	3.3E+3
243-Cm		9	0.009	4.2E+1
244-Cm		10	0.01	8.2E+1
245-Cm		6	0.006	1.0E-1
246-Cm		6	0.006	3.6E-1
56-Co	Cobalt (27)	5	5	3.0E+4
57-Co		90	90	0.5E+3
58m-Co		1000	1000	5.9E+6
58-Co		20	20	3.1E+4
60-Co		7	7	1.1E+3
51-Cr	Chromium (24)	600	600	9.2E+4
129-Cs	Cesium (55)	40	40	7.6E+5
131-Cs		1000	1000	1.0E+5
134m-Cs		1000	10	7.4E+6
134-Cs		10	10	1.2E+3
135-Cs		1000	25	8.8E-4
136-Cs		7	7	7.4E+4

137-Cs		30	10	9.0E+1
64-Cu	Copper (29)	80	25	3.8E+6
67-Cu		200	25	7.9E+5
165-Dy	Dysprosium (66)	100	20	8.2E+6
166-Dy		1000	200	2.3E+5
169-Er	Erbium (68)	1000	25	8.2E+4
171-Er		50	20	2.4E+6
152m-Eu	Europium (63)	30	30	2.2E+6
152-Eu		20	10	1.9E+2
154-Eu		10	5	1.5E+2
155-Eu		400	60	1.4E+3
18-F	Fluorine (9)	20	20	9.3E+7
52-Fe	Iron (26)	5	5	7.3E+6
55-Fe		1000	1000	2.2E+3
59-Fe		10	10	4.9E+4
67-Ga	Gallium (31)	100	100	6.0E+5
68-Ga		20	20	4.0E+7
72-Ga		7	7	3.1E+6
153-Gd	Gadolinium (64)	200	100	3.6E+3
159-Gd		300	20	1.1E+6
68-Ge	Germanium (32)	20	10	7.0E+3
71-Ge		1000	1000	1.6E+5
3-H	Hydrogen (1)			
	see T-Tritium			
181-Hf	Hafnium (72)	30	25	1.6E+4
197m-Hg	Mercury (80)	200	200	6.6E+5
197-Hg		200	200	2.5E+5
203-Hg		80	25	1.4E+4
166-Ho	Holmium (67)	30	30	6.9E+5
123-I	Iodine (53)	50	50	1.9E+6
125-I		1000	70	1.7E+4
126-I		40	10	7.8E+4
129-I		1000	2	1.6E-4
131-I		40	10	1.2E+5
132-I		7	7	1.1E+7
133-I		30	10	1.1E+6
134-I		8	8	2.7E+7
135-I		10	10	3.5E+6
111-In	Indium (49)	30	25	4.2E+5
113m-In		60	60	1.6E+7
114m-In		30	20	2.3E+4
115m-In		100	20	6.1E+6
190-Ir	Iridium (77)	10	10	6.2E+4
192-Ir		20	10	9.1E+3
194-Ir		10	10	8.5E+5
42-K	Potassium (19)	10	10	6.0E+6
43-K		20	10	3.3E+6
85m-Kr				
(uncompressed)(1)	Krypton (36)	100	100	8.4E+6
85m-Kr				
(compressed)(1)		3	3	8.4E+6
85-Kr				
(uncompressed)(1)		1000	1000	4.0E+2
85-Kr				
(compressed)(1)		5	5	4.0E+2
87-Kr				
(uncompressed)(1)		20	20	2.8E+7
87-Kr				
(compressed)(1)		0.6	0.6	2.8E+7
140-La	Lanthanum (57)	30	30	5.6E+5
LSA	Low specific activity material (See R313-19-4)			
177-Lu	Lutetium (71)	300	25	1.1E+5
MFP	Mixed Fission Products	10	0.4	-----
28-Mg	Magnesium (12)	6	6	5.2E+6
52-Mn	Manganese (25)	5	5	4.4E+5
54-Mn		20	20	8.3E+3
56-Mn		5	5	2.2E+7
99-Mo	Molybdenum (42)	100	20	4.7E+5
13-N	Nitrogen (7)	20	10	1.5E+9
22-Na	Sodium (11)	8	8	6.3E+3
24-Na		5	5	8.7E+6

94m-Nb	Niobium (41)	1000	200	1.1E+3			
95-Nb		20	20	3.9E+4			
97-Nb		20	20	2.6E+7			
147-Nd	Neodymium (60)	100	20	0.0E+4			
149-Nd		30	20	1.1E+7			
59-Ni	Nickel (28)	1000	900	0.1E-2			
63-Ni		1000	100	4.6E+1			
65-Ni		10	10	1.9E+7			
237-Np	Neptunium (93)	5	0.005	6.9E-4			
239-Np		200	25	2.3E+5			
105-Os	Osmium (76)	20	20	7.3E+3			
191-Os		600	200	4.6E+4			
191m-Os		200	200	1.2E+6			
193-Os		100	20	5.3E+5			
32-P	Phosphorus (15)	30	30	2.9E+5			
230-Pa	Protactinium (91)	20	0.8	3.2E+4			
231-Pa		2	0.002	4.5E-2			
233-Pa		100	100	2.1E+4			
201-Pb	Lead (82)	20	20	1.7E+6			
210-Pb		100	0.2	0.0E+1			
212-Pb		6	5	1.4E+6			
103-Pd	Palladium (46)	1000	700	7.5E+4			
109-Pd		100	20	2.1E+6			
147-Pm	Promethium (61)	1000	25	9.4E+2			
149-Pm		100	20	4.2E+5			
210-Po	Polonium (84)	200	0.2	4.5E+3			
142-Pr	Praseodymium (59)	10	10	1.2E+4			
143-Pr		300	20	6.6E+4			
191-Pt	Platinum (78)	100	100	2.3E+5			
193m-Pt		200	200	2.0E+5			
197m-Pt		300	20	1.2E+7			
197-Pt		300	20	0.8E+5			
238-Pu	Plutonium (94)	3	0.003	1.7E+1			
239-Pu		2	0.002	6.2E-2			
240-Pu		2	0.002	2.3E-1			
241-Pu		1000	0.1	1.1E+2			
242-Pu		3	0.003	3.9E-3			
223-Ra	Radium (88)	50	0.2	5.0E+4			
224-Ra		6	0.5	1.6E+5			
226-Ra		10	0.05	1.0			
228-Ra		10	0.05	2.3E+2			
81-Rb	Rubidium (37)	30	25	0.2E+6			
86-Rb		30	30	0.1E+4			
87-Rb		Unlimited		6.6E-8			
Rb (Natural)		Unlimited		1.0E-8			
106-Re	Rhenium (75)	100	20	1.9E+5			
107-Re		Unlimited		3.0E-8			
108-Re		10	10	1.0E+6			
Re (Natural)		Unlimited		2.4E-8			
103m-Rh	Rhodium (45)	1000	1000	3.2E+7			
105-Rh		200	25	0.2E+5			
222-Rn	Radon (86)	10	2	1.5E+5			
97-Ru	Ruthenium (44)	80	80	5.5E+5			
103-Ru		30	25	3.2E+4			
105-Ru		20	20	6.6E+6			
106-Ru		10	7	3.4E+3			
35-S	Sulphur (16)	1000	60	4.3E+4			
122-Sb	Antimony (51)	30	30	3.9E+5			
124-Sb		5	5	1.0E+4			
125-Sb		40	25	1.4E+3			
46-Sc	Scandium (21)	8	8	3.4E+4			
47-Sc		200	20	0.2E+5			
48-Sc		5	5	1.5E+6			
75-Se	Selenium (34)	40	40	1.4E+4			
31-Si	Silicon (14)	100	20	3.9E+7			
147-Sm	Samarium (62)	Unlimited		2.0E-8			
151-Sm		1000	90	2.6E+1			
153-Sm		300	20	4.4E+5			
113-Sn	Tin (50)	60	60	1.0E+4			
119m-Sn		100	100	4.4E+3			
125-Sn		10	10	1.1E+5			
85m-Sr	Strontium (38)	80	80	3.2E+7			
85-Sr		30	30	2.4E+4			
87m-Sr		50	50	1.2E+7			
89-Sr		100	10	2.9E+4			
90-Sr		10	0.4	1.5E+2			
91-Sr		10	10	3.6E+6			
92-Sr		10	10	1.3E+7			
T (uncompressed)(1) Tritium (1)		1000	1000	9.7E+3			
T (compressed)(1)		1000	1000	9.7E+3			
T (activated luminous paint)		1000	1000	9.7E+3			
T (absorbed on solid carrier)		1000	1000	9.7E+3			
T (tritiated water)		1000	1000	9.7E+3			
T (other forms)		20	20	9.7E+3			
102-Ta	Tantalum (73)	20	20	6.2E+3			
160-Tb	Terbium (65)	20	10	1.1E+4			
96m-Tc	Technetium (43)	1000	1000	3.8E+7			
96-Tc		6	6	3.2E+5			
97m-Tc		1000	200	1.5E+4			
97-Tc		1000	400	1.4E-3			
99m-Tc		100	100	5.2E+6			
99-Tc		1000	25	1.7E-2			
125m-Te	Tellurium (52)	1000	100	1.0E+4			
127m-Te		300	20	4.0E+4			
127-Te		300	20	2.6E+6			
129m-Te		30	10	2.5E+4			
129-Te		100	20	2.0E+7			
131m-Te		10	10	0.0E+5			
132-Te		7	7	3.1E+5			
227-Th	Thorium (90)	200	0.2	3.2E+4			
228-Th		6	0.008	0.3E+2			
230-Th		3	0.003	1.9E-2			
231-Th		1000	25	5.3E+5			
232-Th		Unlimited		1.1E-7			
234-Th		10	10	2.3E+4			
Th (natural)		Unlimited		2.2E-7			
Th (irradiated)(2)							
200-Tl	Thallium (81)	20	20	5.8E+5			
201-Tl		200	200	2.2E+5			
202-Tl		40	40	5.4E+4			
204-Tl		300	10	4.3E+2			
170-Tm	Thulium (69)	300	10	6.0E+3			
171-Tm		1000	100	1.1E+3			
230-U	Uranium (92)	100	0.1	2.7E+4			
232-U		30	0.03	2.1E+1			
233-U		100	0.1	9.5E-3			
234-U		100	0.1	6.2E-3			
235-U		100	0.2	2.1E-6			
236-U		200	0.2	6.3E-5			
238-U		Unlimited		3.3E-7			
U (natural)		Unlimited		See Table 7			
U (enriched) less than 20%		Unlimited		7			
U (enriched) 20% or greater		100	0.1	See Table 7			
U (depleted)		Unlimited		See Table 7			
U (irradiated)(3)							
48-V	Vanadium (23)	6	6	1.7E+5			
181-W	Tungsten (74)	200	100	5.0E+3			
185-W		1000	25	9.7E-3			
187-W		40	20	7.0E+5			
127-Xe							
U (uncompressed)(1) Xenon (54)		70	70	2.8E+4			
127-Xe (compressed)(1)		5	5	2.8E+4			
131m-Xe (compressed)(1)		10	10	1.0E+5			
131m-Xe (uncompressed)(1)		100	100	1.0E+5			
133-Xe (uncompressed)(1)		1000	1000	1.9E+5			

133-Xe				
(compressed)(1)	5	5	1.9E+5	
135-Xe				
(uncompressed)(1)	70	70	2.5E+5	
135-Xe				
(compressed)(1)	2	2	2.5E+5	
87-Y	Yttrium (39)	20	20	4.5E+1
90-Y		10	10	2.5E+5
90m-Y		30	30	4.1E+7
91-Y		30	30	2.5E+4
92-Y		10	10	9.5E+6
93-Y		10	10	3.2E+6
169-Yb	Ytterbium (70)	80	80	2.3E+5
175-Yb		400	25	1.0E+5
65-Zn	Zinc (30)	30	30	0.0E+3
69m-Zn		40	20	3.3E+6
69-Zn		300	20	5.3E+7
93-Zr	Zirconium (40)	1000	200	3.5E-3
95-Zr		20	20	2.1E+4
97-Zr		20	20	2.0E+6

50.0	2.5E-5	4.0E+4
90.0	5.0E-5	1.7E+4
93.0	7.0E-5	1.4E+4
95.0	9.1E-5	1.1E+4
Natural Thorium	2.2E-7	4.6E+6

(1) The figures for uranium include representative values for the activity of the uranium-234 which is concentrated during the enrichment process. The activity for thorium includes the equilibrium concentration of thorium-228.

(1) For the purpose of Table 4, compressed gas means a gas at a pressure which exceeds the ambient atmospheric pressure at the location where the containment system was closed.

(2) The values of A_2 and A_3 shall be calculated in accordance with the procedure specified in R313-19-100(19)(b)(iii), taking into account the activity of the fission products and of the uranium-233 in addition to that of the thorium.

(3) The values of A_2 and A_3 shall be calculated in accordance with the procedure specified in R313-19-100(19)(b)(iii), taking into account the activity of the fission products and plutonium radionuclides in addition to that of the uranium.

TABLE 5
Relationship Between A_2 and E_{max}
for Beta Emitters

E_{max} (MeV)	A_2 (Ci)
less than 0.5	1000
0.5 to less than 1.0	300
1.0 to less than 1.5	100
1.5 to less than 2.0	30
greater than or equal to 2.0	10

TABLE 6
Relationship Between A_2 and
the Atomic Number of the Radionuclide

Atomic Number	Half life	Half life	Half life
	Less than 1000 Days	1000 Days to 10 ⁵ Years	Greater than 10 ⁵ Years
1 to 81	3 Ci	.05 Ci	3 Ci
82 and above	.002 Ci	.002 Ci	3 Ci

TABLE 7
Activity-Mass Relationships for Uranium/Thorium

Thorium and Uranium Enrichment(1) wt % ²³⁵ U Present	Specific Activity	
	Ci/g	g/Ci
0.45	5.0E-7	2.0E+6
0.72 (natural)	7.06E-7	1.42E+6
1.0	7.6E-7	1.3E+6
1.5	1.0E-6	1.0E+6
5.0	2.7E-6	3.7E+5
10.0	4.8E-6	2.1E+5
20.0	1.0E-5	1.0E+5
35.0	2.0E-5	5.0E+4

For purposes of R313-19-100, 10 CFR 71.4, 71.10, 71.12, 71.13(a) and (b) through 71.16, 71.47, 71.81, 71.85 through 71.89, 71.97 (1998), and Appendix A to part 71 are incorporated by reference with the following clarifications or exceptions:

(1) The substitution of the following:

(a) "Issued by the Executive Secretary" for reference to "issued by the Commission" in 10 CFR 71.4;

(b) "Licensee" for reference to "licensee of the Commission";

(c) "R313-19-100(3)" for reference to "10 CFR 71.5";

(d) "R313-15-906(5)" for reference to "10 CFR 20.1906(e)";

(e) "R313-15-502" for reference to "10 CFR 20.1502"; and

(f) "Utah" for reference to "the United States" in 10 CFR 71.10(b)(3);

(2) The exclusion of the following:

(a) "close reflection by water" and "optimum interspersed hydrogenous moderation" in 10 CFR 71.4;

(b) "10 CFR 71.12(b)", "10 CFR 71.14(b)", and "10 CFR 71.16(b)"; and

(c) "subpart H" in 10 CFR 71.12(c)(2), 71.14(c)(2), 71.16(d)(2), and 71.81;

(3) Transportation of licensed material.

(a) Each licensee who transports licensed material outside the site of usage, as specified in the license, 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 (DOT) regulations in 49 CFR 170 through 189 (1998) appropriate to the mode of transport.

(i) The licensee shall particularly note DOT regulations in the following areas:

(A) Packaging--49 CFR 173.1 through 173.13, 173.21 through 173.40, and 173.401 through 173.476;

(B) Marking and labeling--49 CFR 172.300 through 172.338, 172.400 through 172.407, 172.436 through 172.440, and 172.400 through 172.450;

(C) Placarding--49 CFR 172.500 through 172.560 and Appendices B and C;

(D) Accident reporting--49 CFR 171.15 and 171.16;

(E) Shipping papers and emergency information--49 CFR 172.200 through 172.205 and 172.600 through 172.606;

(F) Hazardous material employee training--49 CFR 172.700 through 172.704; and

(G) Hazardous material shipper/carrier registration--49 CFR 107.601 through 107.620.

(ii) The licensee shall also note DOT regulations pertaining to the following modes of transportation:

(A) Rail--49 CFR 174.1 through 174.86 and 174.700 through 174.750;

(B) Air--49 CFR 175;

(C) Vessel--49 CFR 176.1 through 176.99 and 176.700 through 176.715; and

(D) Public Highway--49 CFR 177 and 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.

KEY: [~~radioactive material, licensing, radioactive material transportation~~]license, reciprocity, transportation, exemptions
 [June 16, 1995]1999 **19-3-104**
 Notice of Continuation May 1, 1997 **19-3-108**
[19-3-113]

◆ ————— ◆

**Environmental Quality, Radiation
 Control**
R313-28
Use of X-rays in the Healing Arts

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 21682
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 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The major reason for the amendment is to address the need to insure that Computed Tomography (CT) X-ray machines are properly calibrated and maintained, and that the user has a knowledge of the dose received by patients undergoing CT diagnostic procedures.

SUMMARY OF THE RULE OR CHANGE: Section R313-28-20 is changed to include definitions applicable to the proposed computed tomography (CT) requirements in Section R313-28-160. Section R313-28-160 is added to indicate CT equipment requirements, collimation and alignment criteria, equipment operating requirements, the need for a quality assurance program, and patient dose information.

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

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** It is projected that \$1,000 will be incurred through the purchase of an abdominal phantom.
- ◆ **LOCAL GOVERNMENTS:** Changes in the rule do not affect local governments, so there will be no cost or savings impact.
- ◆ **OTHER PERSONS:** Individuals who provide consultation services to owners of computed tomography equipment, and who do not currently have appropriate phantoms, will incur an initial expense estimated at \$1,275.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Users of computed tomography X-ray equipment, found to be in noncompliance with the rule, will experience an additional cost associated with correcting the noncompliance. Because the cost associated with correcting a specific noncompliance is variable, we are unable to project the actual cost for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rulemaking will have no new fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 Environmental Quality
 Radiation Control
 State of Utah Office Park, Bldg. 2
 168 North 1950 West
 PO Box 144850
 Salt Lake City, UT 84114-4850, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Richard B. Sanborn at the above address, by phone at (801) 536-4250, by FAX at (801) 533-4097, or by Internet E-mail at rsanborn@deq.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 01/14/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 03/12/1999

AUTHORIZED BY: William J. Sinclair, Executive Secretary

R313. Environmental Quality, Radiation Control.
R313-28. Use of X-rays in the Healing Arts.
R313-28-20. Definitions.

As used in R313-28, the following definitions apply:
 "Accessible surface" means the external surface of the enclosure or housing provided by the manufacturer.
 "Actual focal spot" refer to "Focal spot."
 "Aluminum equivalent" means the thickness of aluminum, type 1100 alloy, affording the same attenuation, under specified conditions, as the material in question. The nominal chemical composition of type 1100 aluminum alloy is 99.00 percent minimum aluminum, 0.12 percent copper.
 "Assembler" means individuals engaged in the business of assembling, replacing, or installing one or more components into an x-ray system or subsystem. The term includes the owner of an x-ray system or his or her employee or agent if they assemble components into an x-ray system that is subsequently used to provide professional or commercial services.
 "Attenuation block" means a block or stack, having appropriate dimensions 20 cm by 20 cm by 3.8 cm, of type 1100 aluminum alloy or other materials having equivalent attenuation.
 "Automatic EXPOSURE control" means a device which automatically controls one or more technique factors in order to

obtain, at a preselected location, a required quantity of radiation. Phototimer and ion chamber devices are included in this category.

"Barrier" refer to "Protective barrier".

"Beam axis" means a line from the source through the centers of the x-ray fields.

"Beam-limiting device" means a device which provides a means to restrict the dimensions of the x-ray field.

"Certified components" means components of x-ray systems which are subject to regulations promulgated under Public Law 90-602, the Radiation Control for Health and Safety Act of 1968.

"Certified system" means an x-ray system which has one or more certified components.

"Changeable filters" means filters designed to be removed by the operator.

"Coefficient of variation (C)" means the ratio of the standard deviation to the mean value of a population of observations.

"Computed tomography" means the production of a tomogram by the acquisition and computer processing of x-ray transmission data.

"Control panel" means that part of the x-ray control upon which are mounted the switches, knobs, push buttons, and other hardware necessary for setting the technique factors.

"Cooling curve" means the graphical relationship between heat units stored and cooling time.

"CT" means computed tomography.

"CT gantry" means the tube housing assemblies, beam-limiting devices, detectors, and the supporting structures and frames which house these components.

"Dead-man switch" means a switch so constructed that a circuit closing contact can be maintained only by continuous pressure on the switch by the operator.

"Diagnostic source assembly" means the tube housing assembly with a beam-limiting device attached.

"Diagnostic x-ray system" means an x-ray system designed for irradiation of part of the human body for the purpose of recording or visualization for diagnostic purposes.

"Entrance EXPOSURE rate" means the EXPOSURE free in air per unit time at the point where the useful beam enters the patient.

"Equipment" refer to "X-ray equipment".

"Field emission equipment" means equipment which uses an x-ray tube in which electron emission from the cathode is due solely to the action of an electric field.

"Filter" means material placed in the useful beam to absorb preferentially selected radiations.

"Fluoroscopic imaging assembly" means a subsystem in which x-ray photons produce a fluoroscopic image. It includes equipment housing, electrical interlocks, the primary protective barrier, and structural material providing linkage between the image receptor and the diagnostic source assembly.

"Focal spot" means the area on the anode of the x-ray tube bombarded by the electrons accelerated from the cathode and from which the useful beam originates. Also referred to as "Actual focal spot."

"Gonad shield" means a protective barrier for the testes or ovaries.

"Half-value layer or HVL" means the thickness of specified material which attenuates the beam of radiation to an extent that the EXPOSURE rate is reduced to one-half of its original value. In this definition, the contribution of scatter radiation, other than that

which might be present initially in the beam concerned, is deemed to be excluded.

"Healing arts screening" means the testing of a human population which is asymptomatic for the disease for which the screening is being performed. Excluded from this definition are those individuals whose risk factors for the disease are greater than for the population at large".

"Heat unit" means a unit of energy equal to the product of the peak kilovoltage, milliamperes, and seconds: for example, kVp times mA times seconds.

"HVL" refer to "half value layer."

"Image intensifier" means a device installed in its housing which instantaneously converts an x-ray pattern into a light image of higher energy density.

"Image receptor" means a device, for example, a fluorescent screen radiographic film, solid state detector, or gaseous detector, which transforms incident x-ray photons to produce a visible image or stores the information in a form which can be made into a visible image. In those cases where means are provided to preselect a portion of the image receptor, the term "image receptor" shall mean the preselected portion of the device.

"Irradiation" means the exposure of matter to ionizing radiation.

"Kilovolts peak" refer to "Peak tube potential".

"kV" means kilovolts.

"kVp" refer to "Peak tube potential."

"Lead equivalent" means the thickness of lead affording the same attenuation, under specified conditions, as the material in question.

"Leakage radiation" means radiation emanating from the diagnostic source assembly except for:

- (a) the useful beam, and
- (b) radiation produced when the exposure switch or timer is not activated.

"Leakage technique factors" means the technique factors associated with the diagnostic source assembly which are used in measuring leakage radiation. They are defined as follows:

(a) For diagnostic source assemblies intended for capacitor energy storage equipment, the maximum-rated peak tube potential and the maximum-rated number of exposures in an hour for operation at the maximum-rated peak tube potential with the quantity of charge per exposure being ten millicoulombs, ten milliamperere seconds, or the minimum obtainable from the unit, whichever is larger.

(b) For diagnostic source assemblies intended for field emission equipment rated for pulsed operation, the maximum-rated peak tube potential and the maximum-rated number of x-ray pulses in an hour for operation at the maximum-rated peak tube potential.

(c) For other diagnostic source assemblies, the maximum-rated peak tube potential and the maximum-rated continuous tube current for the maximum-rated peak tube potential.

"Light field" means that area of the intersection of the light beam from the beam-limiting device and one of the set of planes parallel to and including the plane of the image receptor, whose perimeter is the locus of points at which the illumination is one-fourth of the maximum in the intersection.

"mA" means tube current in milliamperes.

"mAs" means milliamperere second or the product of the tube current in milliamperes and the time of exposure in seconds.

"Mammography imaging medical physicist" means an individual who conducts mammography surveys of mammography facilities.

"Mammography survey" means an evaluation of x-ray imaging equipment and oversight of a mammography facility's quality control program.

"Mobile x-ray equipment" refer to "X-ray equipment".

"Multiple scan average dose" means the average dose at the center of a series of scans, specified at the center of the axis of rotation of a CT x-ray system.

"New installation" means change, modification or relocation of new or existing shielding or equipment.

"Patient" means an individual subjected to healing arts examination, diagnosis, or treatment.

"PBL" refer to "Positive beam limitation."

"Peak tube potential" means the maximum value of the potential difference across the x-ray tube during an exposure.

"Phantom" means a volume of material behaving in a manner similar to tissue with respect to the attenuation and scattering of radiation.

"PID" refer to "Position indicating device."

"Portable x-ray equipment" refer to "X-ray equipment".

"Position indicating device (PID)" means a device, on dental x-ray equipment which indicates the beam position and establishes a definite source-surface (skin) distance. The device may or may not incorporate or serve as a beam-limiting device.

"Positive beam limitation" means the automatic or semi-automatic adjustment of an x-ray beam to the size of the selected image receptor, whereby exposures cannot be made without such adjustment.

"Primary beam scatter" means scattered radiation which has been deviated in direction or energy by materials irradiated by the primary beam.

"Primary protective barrier" refer to "Protective barrier".

"Protective apron" means an apron made of radiation absorbing materials, used to reduce radiation exposure.

"Protective barrier" means a barrier of radiation absorbing material used to reduce radiation exposure.

(a) "Primary protective barrier" means the material, excluding filters, placed in the useful beam to reduce the radiation exposure for protection purposes.

(b) "Secondary protective barrier" means the material which attenuates stray radiation.

"Protective glove" means a glove made of radiation absorbing materials used to reduce radiation exposure.

"Qualified expert" means an individual who has demonstrated to the satisfaction of the Board that the individual possesses the knowledge, training, and experience to measure ionizing radiation, to evaluate safety techniques, and to advise regarding radiation protection needs.

"Radiation therapy simulation system" means a radiographic or fluoroscopic x-ray system intended for localizing the volume to be exposed during radiation therapy and for confirming the position and size of the therapeutic irradiation field.

"Radiograph" means an image receptor on which the image is created directly or indirectly by an x-ray pattern and results in a permanent record.

"Rating" means the operating limits of an x-ray system or subsystem as specified by the component manufacturer.

"Recording" means producing a permanent form of an image resulting from x-ray photons.

"Reference plane" means a plane which is displaced from and parallel to the tomographic plane.

"Scan" means the complete process of collecting x-ray transmission data for the production of a tomogram. Data can be collected simultaneously during a single scan for the production of one or more tomograms.

"Scan increment" means the amount of relative displacement of the patient with respect to the computer tomographic x-ray system between successive scans measured along the direction of such displacement.

"Scattered radiation" means radiation that, during passage through matter, has been deviated in direction, energy or both direction and energy. Also refer to "Primary Beam Scatter".

"Shutter" means a device attached to the tube housing assembly which can intercept the entire cross sectional area of the useful beam and which has a lead equivalency at least that of the tube housing assembly.

"SID" refer to "Source-image receptor distance".

"Source" means the focal spot of the x-ray tube.

"Source to image receptor distance" means the distance from the source to the center of the input surface of the image receptor.

"Special purpose x-ray system" means that which is designed for irradiation of specific body parts.

"Spot film" means a radiograph which is made during a fluoroscopic examination to permanently record conditions which exist during that fluoroscopic procedure.

"Spot film device" means a device intended to transport or position a radiographic image receptor between the x-ray source and fluoroscopic image receptor, including a device intended to hold a cassette over the input end of an image intensifier for the purpose of making a radiograph.

"SSD" means the distance between the source and the skin entrance plane of the patient.

"Stationary x-ray equipment" refer to "X-ray equipment".

"Stray radiation" means the sum of leakage and scattered radiation.

"Technique factors" means the following conditions of operation.

(a) For capacitor energy storage equipment, peak tube potential in kV and quantity of charge in mAs.

(b) For field emission equipment rated for pulsed operation, peak tube potential in kV and number of x-ray pulses.

(c) For other equipment, peak tube potential in kV and either;

(i) the tube current in mA and exposure time in seconds, or

(ii) the product of tube current and exposure time in mAs.

"Termination of irradiation" means the stopping of irradiation in a fashion which will not permit continuance of irradiation without the resetting of operating conditions at the control panel.

"Tomogram" means the depiction of the x-ray attenuation properties of a section through the body.

"Tomographic plane" means that geometric plane which is identified as corresponding to the output tomogram.

"Tomographic section" means the volume of an object whose x-ray attenuation properties are imaged in a tomogram.

"Tube" means an x-ray tube, unless otherwise specified.

"Tube housing assembly" means the tube housing with tube installed. It includes high-voltage or filament transformers and

other appropriate elements when they are contained within the tube housing.

"Tube rating chart" means the set of curves which specify the rated limits of operation of the tube in terms of the technique factors.

"Useful beam" means the radiation emanating from the tube housing port or the radiation head and passing through the aperture of the beam limiting device when the switch or timer is activated.

"Visible area" means that portion of the input surface of the image receptor over which incident x-ray photons are producing a visible image.

"X-ray exposure control" means a device, switch, button, or other similar means by which an operator initiates or terminates the radiation exposure. The x-ray exposure control may include associated equipment, for example, timers and back-up timers.[-]

"X-ray equipment" means an x-ray system, subsystem, or component thereof. Types of x-ray equipment are as follows:

(a) "Mobile" means x-ray equipment mounted on a permanent base with wheels or casters for moving while completely assembled.

(b) "Portable" means x-ray equipment designed to be hand-carried.

(c) "Stationary" means x-ray equipment which is installed in a fixed location.

"X-ray field" means that area of the intersection of the useful beam and one of the sets of planes parallel to and including the plane of the image receptor, whose perimeter is the locus of points at which the EXPOSURE rate is one-fourth of the maximum in the intersection.

"X-ray high-voltage generator" means a device which transforms electrical energy from the potential supplied by the x-ray control to the tube operating potential. The device may also include means for transforming alternating current to direct current, filament transformers for the x-ray tube high-voltage switches, electrical protective devices, and other appropriate elements.

"X-ray system" means an assemblage of components for the controlled production of x-rays. It includes minimally an x-ray high-voltage generator, an x-ray control, a tube housing assembly, a beam-limiting device, and the necessary supporting structures. Additional components which function with the system are considered integral parts of the system.

"X-ray tube" means an electron tube which is designed to be used primarily for the production of x-rays.

R313-28-160. Computed Tomography X-ray Equipment.

(1) Equipment Requirements.

(a) In the event of equipment failure affecting data collection, means shall be provided to terminate the x-ray exposure automatically by either de-energizing the x-ray source or intercepting the x-ray beam with a shutter mechanism through the use of either a back-up timer or devices which monitor equipment function.

(b) A visible signal shall indicate when the x-ray exposure has been terminated through the means required by R313-28-160 (1)(a).

(c) The operator shall be able to terminate the x-ray exposure at any time during a scan, or series of scans, of greater than 0.5 second duration.

(2) Tomographic Plane Indication and Alignment.

(a) Means shall be provided to permit visual determination of the location of a reference plane. This reference plane can be offset from the location of the tomographic plane.

(b) If a device using a light source is used to satisfy R313-28-160 (2)(a), the light source shall provide illumination at levels sufficient to permit visual determination of the location of the tomographic plane or reference plane.

(c) The total error in the indicated location of the tomographic plane or reference plane shall not exceed 5 millimeters.

(3) Beam-On and Shutter Status Indicators.

(a) The computed tomography (CT) x-ray control panel and CT gantry shall provide visual indication whenever x-rays are produced and, if applicable, whether the shutter is open or closed.

(b) Each emergency button or switch shall be clearly labeled as to its function.

(4) Indication of CT Conditions of Operation.

(a) The CT x-ray system shall be designed such that technique factors, tomographic section thickness, and scan increment shall be indicated prior to the initiation of a scan or series of scans.

(5) Quality Assurance Procedures. Quality assurance procedures shall be conducted on the CT x-ray equipment.

(a) The quality assurance procedures shall be in writing. Such procedures shall include, but not be limited to, the following:

(i) Specifications of the tests that are to be performed, including instructions to be employed in the performance of those tests; and

(ii) Specifications of the frequency at which tests are to be performed, the acceptable tolerance for each parameter measured and actions to be taken if tolerances are exceeded.

(b) The parameters measured to satisfy R313-28-160(5)(a)(ii) shall include, but not be limited to, kVp, mA and reproducibility of dose appropriate to the type of CT procedures performed.

(c) Records of tests performed to satisfy the requirements of R313-28-160(5)(a) and (b) shall be maintained for three years for inspection by the Division.

(6) Dose Calibration.

(a) Radiation measurements shall be performed at least annually and after change or replacement of components which could cause a change in the radiation output.

(b) The calibration of the radiation measuring instrument shall be traceable to a national standard and shall be calibrated at intervals not to exceed two years.

(c) Measurements shall be specified in terms of the multiple scan average dose, using phantoms and technique factors appropriate to the type of CT procedures performed.

KEY: dental, x-ray, mammography, beam limitation

[July 18, 1997]1999

19-3-104

Notice of Continuation May 1, 1997

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Health, Health Care Financing, Coverage and Reimbursement Policy

R414-29

Client Review/Education and Restriction Policy

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 21687

FILED: 11/19/1998, 08:01

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule outlines agency policy for administration of the Medicaid Restriction Program. Changing an annual restriction client review to a review only on request saves staff time by eliminating unnecessary reviews.

SUMMARY OF THE RULE OR CHANGE: In Section R414-29-7, annual review is eliminated and the review will be done only upon request.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-5

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There should be a cost savings resulting in a reduction in the amount of restriction staff time spent on unnecessary mandatory reviews.

❖LOCAL GOVERNMENTS: The rule does not apply to local government, so there should be no fiscal impact.

❖OTHER PERSONS: The rule does not apply to other persons, so there should be no fiscal impact

COMPLIANCE COSTS FOR AFFECTED PERSONS: There should be no involvement for affected persons other than that described under "State budget."

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Mandatory annual reviews have proven unproductive; those subject to this restriction can still request a review. There should be no impact on businesses--Rod Betit.

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

Health
Health Care Financing,
Coverage and Reimbursement Policy
Cannon Building
288 North 1460 West
Box 143102
Salt Lake City, UT 84114-3102, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jacky Stokes at the above address, by phone at (801) 538-6418, by FAX at (801) 538-6952, or by Internet E-mail at jstokes@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 01/14/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/1999

AUTHORIZED BY: Rod L. Betit, Executive Director

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

R414-29. Client Review/Education and Restriction Policy.

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R414-29-2. Definitions.

In addition to the definitions in R414-1[+], the following definitions apply to this rule:

(1) "Overutilize" means use of medical services at a frequency or amount that is above what is medically necessary.

(2) "Restriction Case Manager" means a Medical Doctor or Doctor of Osteopathy who agrees to become the primary medical care provider for all of a restricted client's non-emergency medical needs.

(3) "Restriction Pharmacy" means the only pharmacy that can receive Medicaid reimbursement for dispensing non-emergency pharmacy items to a restricted client.

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R414-29-7. Length of Restriction.

(1) All clients shall continue participation in the Restriction Program until they have demonstrated they are not overutilizing services. If a client loses Medicaid eligibility, and subsequently re-establishes Medicaid eligibility, the Department shall automatically require the client's participation in the Restriction Program.

(2) The Department shall assess the client's use of services when requested[annually], based on the client's compliance with the Restriction Case Manager's written treatment plan and recommendations, and shall also use information such as:

- (a) medical care obtained from multiple practitioners;
(b) prescriptions obtained from multiple practitioners;
(c) emergency rooms used for non-emergency services as defined in the Utah Medicaid Table of Authorized Emergency Diagnosis;
(d) use of multiple emergency rooms;
(e) concurrent use of medications in the same therapeutic class, when prescribed by different practitioners;
(f) indications of forged or altered prescriptions;
(g) use of medical services inconsistent with diagnosis;
(h) other patterns indicating overutilization.

KEY: medicaid
~~[June 25, 1996]~~1999

26-1-5

Notice of Continuation December 2, 1997



**Health, Health Systems Improvement,
Emergency Medical Services
R426-1
Ambulance Rules**

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21693
FILED: 11/19/1998, 12:02
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In order to make all levels of Emergency Medical Services (EMS) certification consistent, it is necessary to amend the Emergency Medical Technician (EMT) certification time period from three to four years. Language is needed to clarify who is responsible for ambulance services at special events. "Communication" needed to be revised. Other changes were needed to bring EMS rules into conformity.

SUMMARY OF THE RULE OR CHANGE: The proposed change will modify ambulance licensure periods to four years (they are presently three). It will also change Emergency Medical Technician (EMT) certification to four years and define recertification standards. It makes it necessary for an EMT to have a TB examination before they can be recertified. Re-testing standards will be established by the Department and taken out of the rule. It gives the licensed ambulance agency responsibility for special events in their geographical area. The change modifies "communication." References to recordings and defibrillation services were deleted from the rule. The references were left in when tape recordings and defibrillation services were deleted in a previous rule amendment. The training equipment rental fees were deleted from the rule. These fees are approved by the Legislature each year in the annual fee schedule.

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

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The Bureau will see a reduction of approximately \$12,825 each year for EMT recertification fees. This is based on having 5,700 EMTs scheduled to recertify within the next three years, losing \$27 over a 12 year period, or \$2.25 per year per EMT. The loss will be made up by an increase in reciprocity application fees from out of state EMTs wishing to work at the Olympics, and by the increase in total numbers the next year. The Bureau will also see a reduction of approximately \$1,324.47 per year per licensed

ambulance service or designated first response unit. There are 159 licensed or designated services.

❖LOCAL GOVERNMENTS: Aggregate savings to local governments because of the four year recertification would mean \$2.25 savings per EMT recertified per year for recertification fees. This would be a savings of \$9,000 per year, where approximately 4,000 of the EMTs are affiliated with local government agencies. Continuing medical education cost savings will be approximately \$50 per EMT, or a savings to local government of approximately \$200,000 per year. Local Governments' aggregate savings for ambulance licensure or first response designation would be \$1,291.15 for 155 licensed or designated services.

❖OTHER PERSONS: Non-affiliated EMTs would save approximately \$3,825 per year for recertification fees, where approximately 1,700 of the EMTs are non-affiliated. Continuing medical education costs will be approximately \$50.00 savings per EMT, or a savings to individuals of approximately \$85,000.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no additional costs to anyone in order to comply with the proposed rule change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Affected businesses will realize a savings by this rule change--Rod L. Betit.

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

Health
Health Systems Improvement,
Emergency Medical Services
Cannon Health Building
288 North 1460 West
PO Box 142004
Salt Lake City, UT 84114-2004, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Leslie Johnson at the above address, by phone at (801) 538-6292, by FAX at (801) 538-6808, or by Internet E-mail at ljjohnso@doh.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 01/14/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/1999

AUTHORIZED BY: Rod Betit, Executive Director

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

R426-1. Ambulance Rules.

R426-1-3. Requisites for Providing Ambulance Service.

(1) An ambulance license and ambulance permit will be issued for a period of [~~three~~four] years from the date of issue and will remain valid for the period unless revoked or suspended by the Department. Annual inspections will be conducted to assure

compliance. The Department may adjust the ~~three~~four year licensure period to adjust to revised recertification schedules.

(2) License Process - An application for an original license, renewal license, expanded license, or change in ownership, shall be made to the license officer on forms provided by the Department and shall contain as a minimum the following:

(a) Financial statement of ambulance service operating revenues and expenses for the previous fiscal year. Services operating for a profit shall also provide a balance sheet and a description of any judgments, executions or liens against the assets of the applicant. The financial information provided shall clearly demonstrate that the applicant has adequate resources to provide the services proposed.

(b) Articles of Incorporation, or certificate of good standing or renewal license, if incorporated.

(c) The name and address of the owner of the ambulance service or proposed ambulance service.

(d) The name under which the applicant is doing business or proposes to do business.

(e) The training and experience of the applicant in the transportation and care of patients.

(f) A description and general location of each ambulance or boat to be used as an ambulance, including the make, model, year of manufacture, motor and chassis number, and the color scheme, insignia, name or monogram, or other distinguishing characteristics.

(g) The geographical area to be served, and the location of the place or places from which the ambulance service intends to operate.

(i) If the application is for an original or expanded license and proposes to serve a geographical area that is already served by existing licensees, then the Committee shall evaluate whether public need and necessity supports the proposed service, as opposed to continuation of the existing service. If the Committee finds that public need and necessity would be served by the change, then the Department shall modify all existing licenses that previously served the overlapping geographical area, to remove the overlapping authority from existing licenses, effective on the date that the new license is issued. If the Committee does not find that public need and necessity would be met, then the application shall be denied, and existing licenses shall continue without change.

(ii) A licensed ambulance agency is responsible for the provision of ambulance service (including standby) for any special events that require ambulance service within their geographic service area. If the licensed ambulance agency determines that it is unable or unwilling to provide the special event coverage, the responsible agency may contact another licensed ambulance agency to provide ambulance service for the special event.

(h) Name of the training officer who will assume responsibility for the ambulance personnel continuing education program.

(i) EMT-Advanced ambulance service licensure - Requirements noted as follows are in addition to regular ambulance service licensure:

(i) Provide the name of the physician medical director who shall develop and review treatment protocols, assess field performance and critique ambulance runs. This provision also applies to services using pneumatic trousers.

(ii) Receive Department approval for the use of EMT-I optional skills and drugs, esophageal obturator airway, intraosseous infusion.

(iii) Receive Department approval for the use of EMT-IV optional skill, intraosseous infusion.

(iv) Secure written support from all related agencies, including the proposed or designated resource hospital before submitting an application.

(v) Secure written support from the physician medical director and all hospital physicians who provide EMT medical control for the ambulance service area.

(vi) Agree to abide by resource hospital medical leadership and medical control.

(vii) Agree to cooperate with the resource hospital to assure provision of continuing medical education for EMT-advanced personnel in accordance with Department recertification standards.

(3) Inspection Process - Upon receipt of an application for ambulance service license, the state license officer shall comply with requirements in Title 26, Chapter 8. Upon approval by the Department of the application, but before issuing a license to the new ambulance service, the license officer shall cause to be inspected the ambulance, equipment and the personnel training qualifications designated in each application hereunder to determine compliance with R426-1.

(4) Change of Ownership or Management. - Upon change of ownership or management, an ambulance license and ambulance permit shall terminate and the new owner or operator shall be required to file within ten business days of acquisition an application for an ambulance license and ambulance permit in conformance with all requirements for an original.

(5) Ambulance Vehicle Requirements.

(a) An application for an original or renewal ambulance permit shall be made to the license officer, upon forms prescribed by him. No ambulance shall be used in providing ambulance service unless there is in effect, with respect to it, a currently valid permit. Each ambulance shall carry a decal showing the permit expiration date and permit number issued by the Department as evidence that the ambulance identified thereon has been inspected and determined to be in compliance with R426-1.

(b) Ambulances shall be maintained in good mechanical repair and sanitary condition on suitable premises, properly equipped, maintained and operated so as to contribute to the general well-being of patients.

(c) All carriers providing emergency ambulance service, shall notify the Department whenever the general location of an ambulance is changed.

(d) Ground ambulances shall use warning devices, such as lights and sirens, in accordance with Utah law.

(e) Ambulance Manufacturing Specifications - An ambulance permit for a new or replacement vehicle shall be issued only if the applicable ambulance complies with the following specifications:

(i) Van or Truck Chassis.

(A) New Vehicles - Federal GSA Specification No. KKK-A-1822-C, dated January 1, 1990. This document is published by the General Services Administration, Washington, D.C., and copies may be obtained from the Bureau of Emergency Medical Services.

(B) Used Vehicles manufactured prior to July 10, 1991 - Federal Specification No. KKK-A-1822, as amended, in effect at

the time of manufacture or purchased under Utah specifications in effect between January 1986, and July 10, 1991.

(ii) Special consideration will be given by the EMS Committee to communities with limited populations or unique problems for use of ambulance vehicles which do not meet the above specifications.

(f) Ambulance Driver Requirements - The driver of each ambulance, while transporting an emergency patient, shall comply with the following requirements:

(i) Destination Restriction - In the absence of physician direction, specific area protocols or other decisive factors to the contrary, a ground ambulance driver shall transport emergency patients to the nearest accessible medical facility equipped, staffed and prepared to receive emergency cases and administer emergency medical care appropriate to the needs of the patient.

(ii) Siren and Red Warning Light Restrictions - Ground ambulance drivers shall not display red warning light and use siren except when:

- (A) Responding to an emergency call;
- (B) Engaged in lifesaving services at the scene; or
- (C) Transporting emergency patients who are classified as "emergent" by the ambulance attendant on the ambulance trip report form.

(g) Ambulance Accident Reports - All licensed providers shall send a copy of the official accident report to the Department whenever a permitted vehicle is involved in an accident while responding to or transporting a patient.

(6) Equipment and Supplies

(a) In accordance with the basic or advanced life support licensure level granted an ambulance service, minimum quantities of supplies and equipment shall be carried on each of the service's ambulance vehicles as described in "R426 Appendix". This list may be modified at the discretion of the Department as other needs or new methodology become known. All equipment shall be stored or secured in a manner as to prevent its movement during a crash.

(b) Equipment rated "not recommended" or "unacceptable" by the American College of Surgeons is not approved under R426-1. Current ratings will be provided by the Bureau of Emergency Medical Services on request.

(c) No advanced life support equipment, supplies or drugs may be carried on an ambulance where the use of that equipment by an EMT or EMT-Paramedic is not approved by R426-1. If a medical director wishes to have additional ALS equipment, supplies or drugs carried on an ambulance within his jurisdiction for physician or licensed nurse practitioner with Advanced Cardiac Life Support (ACLS) certification to use, a request for approval shall be submitted by the medical director to the EMS Committee at least 30 days prior to the Committee's regular scheduled quarterly meeting. If approved, the responsibility for use and maintenance of equipment falls solely on the requesting physician and the physician's associates.

(d) Special equipment considerations:

(e) Critical Care Transport - Ground ambulances used in conjunction with hospital critical care transport teams are exempt from the above requirements but shall carry equipment appropriate to the specific needs of the patient.

(7) Safety - Safety equipment shall be carried and maintained in working condition.

(a) Ambulances shall be equipped with approved safety belts for the driver and all passengers.

(b) Ground ambulances shall display a current safety inspection decal on the lower left hand corner of the left rear window.

(c) Water ambulances shall comply with all current state boating regulations.

(8) Communications - All ambulances shall be equipped to allow ambulance personnel to be able to:

(a) communicate with hospital emergency departments, dispatch centers, emergency medical services, and law enforcement agencies; and

(b) communicate on radio frequencies approved by the Department.

~~[(a) All ambulances shall be equipped with a two-way radio capable of ambulance to hospital communication on 155.340 Mhz.~~

~~— (b) All advanced life support services shall have communication capabilities approved by the Department which allow ready communication between EMTs in the field and a medical control registered nurse or physician representing the designated resource hospital.~~

~~— (c) Utah EMS microwave system:~~

~~— (i) A statewide microwave system is available, limited to the following EMS purposes:~~

~~— (A) Medical assistance and notification;~~

~~— (B) Back up advanced life support medical control;~~

~~— (C) In-transit ground or air ambulance to hospital medical communications;~~

~~— (D) Utah Department of Health disaster coordination; and~~

~~— (E) Other uses approved by the Department.~~

~~— (ii) Communication and control of microwave access shall be governed by Department operational protocols.~~

~~— (iii) EMT medical assistance or ALS medical control may be provided only when communications with local medical authority or medical director are not available, or at his recommendation.~~

~~— (iv) Back up medical assistance for ALS medical control is authorized through Department designated hospital emergency departments who routinely provide paramedic medical control. Participating hospitals shall be pre-assigned by the Department to collectively provide services 24 hours per day, seven days per week.~~

~~— (v) Back up medical control to the requesting EMT shall be limited to services authorized in R426-1. Accordingly, back up medical control physician should request EMT certification level, name, EMT number and service represented.~~

~~— (vi) Emergency Departments providing back up medical control shall record all advanced life support transmissions.]~~

(9) Sanitation.

(a) The ambulance shall be maintained in a clean condition with interior being thoroughly cleaned after each use as appropriate.

(b) Linens shall be clean and changed after each use.

(c) Equipment:

(i) All equipment except disposable items, shall be so designed, constructed, and made of materials that under normal conditions and operations, it shall be durable and capable of withstanding repeated cleaning.

(ii) Equipment intended for one use only, shall not be reused.

(iii) Equipment shall be maintained in working condition and equipment checks documented according to local hospital standards.

- (iv) Equipment shall be cleaned after each use.
- (v) Sanitizing or sterilization of equipment shall be accomplished prior to use on a subsequent run.
- (vi) Equipment shall be stored in a protected manner and be readily accessible.
- (10) Records -
 - (a) Incident Records - A record shall be made for each trip on forms or data format specified by the Department. Copies shall be transmitted in accordance with instructions provided by the Department. Storage of forms and use of information contained therein shall assure patient confidentiality. Copies of the above trip records shall be maintained and stored by each ambulance service for a minimum of ten years. The method of storage shall lend itself to ready retrieval of specified records.
 - (b) Personnel Records - A personnel file shall be maintained for ambulance personnel which shall include their qualifications and training.
 - (c) ~~[EMT-D Incident Cassette Tapes - Tapes accompanied by a written critique form shall be maintained for a minimum of ten years.~~
 - ~~(d)~~ Records required herein shall be available for inspection by representatives of the Department.

R426-1-5. Personnel.

- (1) Ground ambulances, while providing ambulance services, shall have the following minimum complement of personnel who shall meet all requirements as outlined in this Ambulance Rule:
 - (a) Two attendants, each of whom is an Emergency Medical Technician, EMT-Paramedic, licensed medical doctor or registered nurse under Title 58, and
 - (b) A driver, 18 years of age or older, who is the holder of a valid driver's license. If the driver is also an EMT, EMT-I, EMT-Paramedic, licensed medical doctor or registered nurse under Title 58, the driver shall qualify as one of the two attendants required.
- (2) Ambulance services authorized by the Department to provide advanced life support shall assure that at least one EMT-Advanced, EMT-Paramedic, nurse, or physician responds on each call.
- (3) An applicant for basic EMT or ambulance driver shall provide the information required on the application, including his social security number.
- (4) The Department shall exclude from EMT certification an individual who may pose an unacceptable risk to public health and safety, as indicated by his criminal history. The Department shall conduct a background check on each individual who seeks to certify or recertify as an EMT.
 - (a) An individual convicted of certain crimes presents an unreasonable risk and the Department shall deny all applications for certification or recertification by individuals convicted of the following crimes:
 - (i) Sexual misconduct if the victim's failure to affirmatively consent is an element of the crime, such as forcible rape.
 - (ii) Sexual or physical abuse of children, the elderly or infirm, such as sexual misconduct with a child, making or distributing child pornography or using a child in a sexual display, incest involving a child, assault on an elderly or infirm person.
 - (iii) Abuse, neglect, theft from, or financial exploitation of a person entrusted to the care or protection of the applicant, if the

victim is an out-of-hospital patient or a patient or resident of a health care facility.

(iv) Crimes of violence against persons, such as aggravated assault, murder or attempted murder, manslaughter except involuntary manslaughter, kidnaping, robbery of any degree; or arson; or attempts to commit such crimes.

(b) Except in extraordinary circumstances, established by clear and convincing evidence that certification or recertification will not jeopardize public health and safety, the Department shall deny applicants for certification or recertification in the following categories:

(i) Persons who are convicted of any crime not listed in (a) and who are currently incarcerated, on work release, on probation or on parole.

(ii) Conviction of crimes in the following categories, unless at least three years have passed since the conviction or at least three years have passed since release from custodial confinement, whichever occurs later:

(A) Crimes of violence against persons, such as assault;

(B) Crimes defined as domestic violence under Section 77-36-1;

(C) Crimes involving controlled substances or synthetics, or counterfeit drugs, including unlawful possession or distribution, or intent to distribute unlawfully, Schedule I through V drugs as defined by the Uniform Controlled Dangerous Substances Act; and

(D) Crimes against property, such as grand larceny, burglary, embezzlement or insurance fraud.

(c) The Department shall deny certification or recertification to individuals convicted of crimes, including DUIs, but not including minor traffic violations chargeable as infractions after consideration of the following factors:

(i) The seriousness of the crime.

(ii) Whether the crime relates directly to the skills of prehospital care service and the delivery of patient care.

(iii) Amount of time that has elapsed since the crime was committed.

(iv) Whether the crime involved violence to or abuse of another person.

(v) Whether the crime involved a minor or a person of diminished capacity as a victim.

(vi) Whether the applicant's actions and conduct since the crime occurred are consistent with the holding of a position of public trust.

(vii) Total number of arrests and convictions.

(viii) Whether the applicant was truthful regarding the crime on his/her application.

(d) Certified EMS personnel must notify the Department of any arrest or conviction. The Department may suspend, decertify, or place on probation anyone who does not notify the Department within 30 days of the arrest or conviction.

(e) The Department may decertify or suspend certification, or place a person on probation for any of the above violations.

(f) The Department may require an EMT to submit to a background check upon Department request. The Department may decertify or suspend certification, or place on probation an EMT who refuses to submit to a background check.

(5) The Department may refuse to issue a certification or recertification, or suspend or revoke a certification for any of the following causes:

(a) Habitual or excessive use or addiction to narcotics or dangerous drugs. Refusal to take a drug test administered by an EMS employer or the department is grounds for refusal, suspension or certification revocation by the Department of Health.

(b) Habitual abuse of alcoholic beverages or being under the influence of alcoholic beverages while on call or on duty as an Emergency Medical Technician or while driving any emergency vehicle.

(c) Failure to comply with the emergency medical technician training certification or recertification requirements of this rule.

(d) Fraud or deceit in applying for or obtaining a certification or fraud, deceit, incompetence, patient abuse, theft, or dishonesty in the performance of duties and practice as an emergency medical technician.

(e) Involvement in the unauthorized use or removal of narcotics, drugs, supplies or equipment from any emergency vehicle or health care facility.

(f) Performing procedures or skills beyond the level of certification or violation of laws pertaining to medical practice and drugs.

(g) Conviction of a felony, misdemeanor, or a crime involving moral turpitude, excluding minor traffic violations chargeable as infractions.

(h) Mental incompetence as determined by a court of competent jurisdiction.

(i) Demonstrated inability and failure to perform adequate patient care.

(j) For good cause, including conduct which is unethical, immoral, or dishonorable.

(6) An individual who wishes to be certified as a Basic Emergency Medical Technician (EMT), shall:

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

(b) be 18 years of age or older;

(c) submit to a background investigation;

(d) complete a Department-approved EMT course;

(e) display technical competence during field and clinical training;

(f) successfully complete the Department written and practical examinations; and

(g) complete all requirements for certification within 90 days from course completion date. The Department may extend the time limit to individuals who demonstrate good cause based on extenuating circumstances.

(7) An individual who wishes to be certified as an Emergency Medical Technician - Intermediate (EMT-I), shall:

(a) have 12 months of field experience as a certified EMT, however, the 12 month period may be reduced to six months with special authorization from the Department, based upon a written request from the resource hospital medical director showing the need for advanced level EMTs;

(b) be currently certified as an EMT in Utah;

(c) complete a Department-approved EMT-I course;

(d) display technical competence during field and clinical training;

(e) successfully complete the Department written examination and clinical practical evaluation; and

(f) complete all requirements for certification within 90 days from course completion date; however, the Department may extend

the time limit to individuals who demonstrate good cause based on extenuating circumstances.

(8) An individual who wishes to be certified in EMT-IV Infusion (IV) shall:

(a) have 12 months of field experience as a certified EMT; however, the 12 month period may be reduced to six months with special authorization from the Department based upon a written request from the resource hospital medical director showing the need for advanced level EMTs;

(b) be currently certified as an EMT in Utah;

(c) complete the Department-approved IV training module which includes pediatric vascular access;

(d) successfully complete the Department written examination and clinical practical evaluation; and

(e) Complete all requirements for certification within 90 days from course completion date; however, the Department may extend the time limit to individuals who demonstrate good cause based on extenuating circumstances.

(9) Recertification is required every ~~three~~four years. This period may be modified by the Department to standardize EMT recertification cycles. Anyone who recertifies after July 1, 1998, shall receive a four year certification. Anyone certified prior to that date, must continue to recertify as of the date on their identification badge and will be converted to the four year cycle upon recertification.

(a) An EMT-Basic who wishes to recertify shall:

(i) submit a completed application form, including social security number, to the Department;

(ii) submit to a background investigation;

(iii) maintain and submit [to the Department] verification of a department-approved current course completion in cardiopulmonary resuscitation[card or certificate meeting standards approved by the Department];

(iv) submit to the Department evidence of having completed ~~60~~25 hours of Department-approved CME ~~[during the previous three year period]~~each year, in accordance with the Recertification Protocol for Emergency Medical Technicians;

(v) successfully complete the Department EMT written and practical examinations;

(vi) submit a statement from the applicant's sponsoring agency confirming the applicant's results of a TB examination.

(vii) Certification as an EMT-P or an EMT-I will fulfill EMT recertification requirements. Recertification will be for a concurrent time period.

(b) An EMT-Intermediate who wishes to recertify shall:

(i) complete all EMT-Basic recertification requirements;

(ii) successfully complete the Department written and practical Intermediate examination;

(iii) submit a letter to the Bureau from the resource hospital medical director recommending the individual for recertification and verifying the individual's demonstrated proficiency in the following EMT-I skills:

(A) initiating and terminating intravenous infusion, including pediatric vascular access;

(B) insertion and removal of intraosseous needles;

(C) insertion and removal of esophageal obturator airway; and

(D) administration of medications via intramuscular, subcutaneous, and intravenous routes.

(c) An EMT-IV who wishes to recertify shall:

(i) successfully complete EMT-Basic recertification requirements;

(ii) submit a letter to the Bureau from the resource hospital medical director recommending the individual for recertification and verifying the individual's demonstrated proficiency in EMT-IV skills; and

(iii) successfully complete the Department IV written examination.

(10) Emergency Medical Technicians who permit their certification to lapse for a period of less than ~~three~~ one year[s], and who wish to regain it shall:

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

(b) submit to a background check;

(c) submit to the Department evidence of having completed ~~60~~ 25 hours each year of Department-approved CME [~~within three years prior to application~~], in accordance with the Recertification Protocol for Emergency Medical Technicians;

(d) ~~maintain and submit verification of a department-approved current course completion in~~ cardiopulmonary resuscitation [~~card or certificate meeting standards approved by the Department~~];

(e) successfully complete the Department's written and practical examination;

(11) Those individuals who permit their EMT-I certification to lapse for a period of less than one year, and wish to regain it shall:

(a) submit ~~a letter to the Department requesting consideration for re-entry into the certification program, which shall be accompanied by~~ the following [~~items~~]:

(i) completed recertification application including social security number;

(ii) letter of recommendation from the ambulance or rescue service with which they are affiliated;

(iii) letter of recommendation including results of a structured oral examination, from the resource hospital medical director verifying proficiency in EMT-I skills; and

(iv) evidence of completion of ~~twenty~~ 25 hours of Department-approved CME for each year ~~away from the program~~ since last recertification.

(b) ~~Upon Department approval for re-entry, c~~ Complete the written and practical recertification examination.

(12) Those individuals who permit their IV certification to lapse and wish to regain it shall:

(a) ~~s~~ Submit a completed recertification application to the Department, including social security number;

(b) ~~be currently certified as a Utah EMT;~~ Complete the basic EMT certification requirements;

(c) ~~s~~ Submit a letter of recommendation including results of a structured oral examination from the resource hospital medical director verifying proficiency in EMT-IV skills; and

(d) ~~s~~ Successfully complete the Department's written examination.

(13) The Department may grant reciprocity for EMT-Basic applicants certified outside of the State of Utah based on the following considerations:

(a) Applicants shall submit to the Department a completed application, including social security number.

(b) Applicants shall provide the Department with a current copy of their Emergency Medical Technician Certification.

(c) Applicants shall submit to a background check.

(d) Applicants shall provide verification to the Department that the certifying course meets the standards established by the Department.

(e) Applicants shall successfully complete the Department's written and practical examinations.

(14) Reciprocity for advanced level applicants certified outside of the state of Utah is, at the discretion of the Department, based on the following considerations:

(a) Applicants shall provide the Department with a copy of their current Emergency Medical Technician Certification.

(b) Applicants shall provide verification to the Department that the certifying course meets the standards established by the Department.

(c) Applicants shall complete all basic EMT reciprocity requirements.

~~(e)~~ Applicants shall successfully complete the Department applicable Advanced Level certification written and practical examinations.

(15) Persons who fail any part of the written or practical certifying examination may retest based upon the following:

~~(a) [The applicant must request a re-examination:~~

~~(b) The applicant must take the re-examination after notification of failure of the initial examination.~~

~~(c)] Only one re-examination is permitted.~~

~~(d)] Applicants who fail the EMT-Basic re-examination must take a complete EMT training course to be eligible for further examination.~~

~~(e)] Applicants failing the IV Infusion re-examination must take that complete module to be eligible for further examination.~~

(16) Recertification Examination Standards

(a) An EMT-Basic who fails any part of the written or practical recertification examination may retest ~~based on the following:~~ in accordance with testing standards established by the Department.

~~(i) The applicant must request a re-examination.~~

~~(ii) The applicant must re-take the examination after notification of failure of recertification examination.~~

~~(iii) Only one re-examination is permitted.~~

~~(iv) Applicants who fail the recertification re-examination must take a complete EMT training course.]~~

(b) An EMT-I [~~IV~~] who fails any part of the written or practical recertification examination may retest ~~based on the following:~~ in accordance with testing standards established by the Department.

~~(i) [The applicant must request a re-examination.~~

~~(ii) The applicant must re-take the examination after notification of failure of recertification examination.~~

~~(iii) Only one re-examination is permitted.~~

~~(iv) Applicants who fail the recertification re-examination must retake the complete EMT-I training course to be eligible for further examination.]~~

(17) An individual who teaches EMT training programs shall:

(a) Be certified as an Emergency Medical Technician Instructor, or instructor specialist by the Department, or be a licensed physician under Title 58;

(b) Successfully complete an instructor certification course.

(18) An individual who teaches EMT-Advanced training programs shall be licensed under Title 58 as a physician or registered nurse, or be approved by the Department.

(19) An individual who teaches pediatric vascular courses must be a licensed physician or registered nurse who has completed a Department-approved pediatric advanced life support course or who has completed the Department Emergency Medical Services for Children instructor course.

(20) When responding to a medical emergency, EMTs shall display their Department-approved certification identification on outer clothing to identify competency level at the scene. EMTs representing volunteer ambulance services shall comply with this requirement to the extent practicable. Any person displaying a Utah EMT certification identification, who is not so certified, is guilty of a Class B misdemeanor, as provided in 26-8-7(1) and 26-8-15.

(21) An EMT shall be under medical control of a physician representing a designated resource hospital. When EMTs arrive at the scene of an injury or illness, they must secure radio or telephonic contact with their resource hospital to establish medical control as quickly as possible. If radio or telephonic contact cannot be obtained, the EMT must so indicate on the EMS report form and must follow local written protocol. If there is a physician at the scene who wishes to assist or provide medical direction to the EMT, the EMT ~~shall~~ may follow his instructions, but only until communications are established with the physician at the resource hospital. Once communications are established with the resource hospital physician, the EMT shall take orders from him. If the physician at the scene wishes to continue directing EMT activities, the EMT shall place the at-scene physician in radio contact with the resource hospital physician. The resource hospital physician may (1) allow the physician at the scene to assume or continue medical control, (2) retain EMT medical control, but allow the physician at the scene to assist, or (3) retain medical control with no participation by the on-scene physician. If option (1) is followed, all orders given to EMTs by the at-scene physician shall be repeated over the radio or telephone by the resource hospital physician for evaluation and ~~recording~~ documentation. If, in the judgment of the resource hospital physician who is monitoring and evaluating the at-scene medical control, the care is inappropriate to the nature of the medical emergency, the resource hospital physician may reassume medical control of the at-scene EMTs.

R426-1-7. EMT-Advanced Standards.

(1) Resource Hospital - Advanced Life Support (ALS) system control shall be vested in a regional resource hospital designated by the EMS Committee. Resource hospital designation process - A hospital desiring to be designated as a regional resource hospital shall complete an application form provided by the Department which assures that the following rules will be met:

(a) The hospital will assume medical leadership for the provision of advanced life support services in a specified geographical area.

(b) The hospital will designate a physician as medical director who will assume overall medical direction of the regional advanced life support system.

(c) The hospital will designate an ALS medical control committee which will meet at least quarterly to review and evaluate EMT-Advanced emergency runs, continuing medical education needs and program administration problems. Committee members shall include resource hospital medical director, hospital nurse representative, hospital administration representative, ambulance

and emergency services representatives. Minutes shall be kept and filed for Department review.

(d) The hospital will assume management responsibility for EMT-Advanced training programs and will conduct them only upon written authorization by the Department and in accordance with Departmental curriculum and guidelines.

(e) The hospital will assume responsibility for providing didactic and clinical CME for EMT-Advanced personnel within their region.

(f) The hospital will assure that medical control will be available to EMT-Advanced personnel 24 hours per day via department approved telecommunications. Control shall be as follows:

(i) EMT-IV and EMT-I (excluding drug orders), direct voice communications with a licensed physician or a registered nurse in voice contact with a licensed physician or by voice communication with responding paramedics as per local medical control protocol.

(ii) EMT-IV and EMT-I may initiate intraosseous infusion after direct voice communications with a licensed physician or with a registered nurse who is in voice contact with a licensed physician. Standing orders for use of intraosseous infusion are not sufficient.

(iii) Drug orders shall be given only by a registered nurse who is currently certified by the American Heart Association in Advanced Cardiac Life Support (ACLS), or by a physician.

(g) The medical director may provide to Advanced EMTs signed written standing or contingency orders for the use of IVs and esophageal obturators to deal with extraordinary circumstances or when medical control via telecommunications is not available, however, routine system operation shall be in accordance with R426-1-7(1)(f).

~~[(h) The hospital will maintain tape recordings of all EMT-Advanced cardiac drug order transmissions.]~~

~~[(i)h] The hospital shall provide patient data identified by the department. This data shall be submitted at least quarterly to the department. Corporate submittal is preferred. The data must be submitted electronically in a format acceptable to the department.~~

~~[(j)i] The minimum data set that hospitals are required to submit comes from the UB92 file format. The required data elements are:~~

- Unique Patient Control Number
- Record Type
- Provider Identifier (hospital)
- Patient Social Security Number
- Patient Control Number
- Type of Bill
- Patient Name
- Patient's Address (postal zip code)
- Patient Date of Birth
- Patient's Gender
- Admission Date
- Admission Hour
- Discharge Hour
- Patient's Medical Record Number
- Revenue Code 1 ("450" in at least one of the Rev code fields)
- Total Charges by Revenue Code 1 ("001" last total Charge Field, is sum)
- Revenue Code 2 ("450" used for record selection)
- Total Charges by Revenue Code 2 ("001" sum of all charges)
- Primary Payer Identification

Estimated Amount Due
 Secondary Payer Identification
 Estimated Amount Due
 Tertiary Payer Identification
 Estimated Amount Due
 Patient Estimated Amount Due
 Principal Diagnosis Code
 Secondary Diagnosis Code 1
 Secondary Diagnosis Code 2
 Secondary Diagnosis Code 3
 Secondary Diagnosis Code 4
 Secondary Diagnosis Code 5
 Secondary Diagnosis Code 6
 Secondary Diagnosis Code 7
 Secondary Diagnosis Code 8
 External Cause of Injury Code (E-Code)
 Procedure Coding Method Used
 Principal Procedure
 Secondary Procedure 1
 Secondary Procedure 2
 Secondary Procedure 3
 Secondary Procedure 4, and
 Secondary Procedure 5

(k) Where medications are approved, the hospital will provide initial supplies and replenish supplies expended during patient treatment.

(l) Where EMT or EMT-I defibrillation services are approved, the Medical Director or service Medical Director approved by the Department shall:

(1) Conduct or have his designee conduct a periodic review and practical session for each certified EMT or EMT-I for whom he provides medical control. This review shall be conducted monthly for Manual services and semi-annually for Automatic services. The review shall be in accordance with Department protocol. He shall suspend any certified EMT or EMT-I from functioning for 30 days if the EMT fails to pass the required review. If the EMT fails three consecutive defibrillation practical reviews he shall be decertified by the Department. However, if because of illness or medical director-approved absence from service, the EMT is unable to be present for examination, he may be reinstated, after testing if no longer than six months have elapsed since his last successful examination.

(2) Assure that cassette tape recordings are made on all Defibrillator runs in accordance with operational standards.

(3) Review and critique 100% of all Defibrillator runs for each service.

(4) Submit semi-annual reports regarding Defibrillator program activity to the Department on forms provided by the Department. The report may include as a minimum:

- (A) Defibrillation run data;
- (B) Verification of medical director review of each Defibrillation run;
- (C) Verification of D-certified EMT review and practice session;
- (D) Notice of any change in individual D-certified EMT status.

(2) Operational standards

(a) Persons certified as EMTs with IV certification or EMT-Is, while functioning under resource hospital medical control, may

provide basic life support services plus the following advanced life support procedures:

(i) EMTs with IV certification - Administer intravenous and intraosseous solutions as listed in the "R426 Appendix", and draw blood specimens for analysis.

(ii) EMT-I - Administer IV infusion, airway intubation by esophageal obturator, and drugs limited to those described in the document "R426 Appendix." Cardiac drugs may be used only when:

(A) The patient is being monitored;

(B) An ECG strip has been successfully transmitted and received at the resource hospital or designated paramedic base station as provided in R426-1-3-9, and

(C) The EMT-I has received verbal direction from the resource hospital physician or other authorized medical personnel to administer the drug. Standing orders for the use of drugs are not allowed.

(b) Defibrillation - Persons certified as EMTs or EMT-Is, with D certification or paramedics certification while functioning under these standards shall:

(i) Utilize equipment specified for EMT-D defibrillation and record report all runs where cardiopulmonary resuscitation is performed. The recording shall commence upon arrival of the EMT-D at the patient's side and shall not be terminated until care of the patient is directly assumed by the hospital medical director, his representative, or at the scene just prior to transport by a certified EMT-Paramedic functioning with a licensed paramedic service.

(ii) Determine the presence of ventricular fibrillation and defibrillate according to the established Department protocol.

(3) Equipment and supplies - See "R426 Appendix" for required list of equipment and supplies.

(4) EMT-Advanced/Physician Relationship - An Advanced EMT where possible shall be under medical control of a physician representing a designated resource hospital. When Advanced EMTs arrive at the scene of an injury or illness, they should secure radio or telephonic contact with their resource hospital to establish medical control as quickly as possible. If radio or telephonic contact cannot be obtained, the Advanced EMT should so indicate on the EMS report form and should follow local written protocol. If there is a physician at the scene who wishes to assist or provide medical direction to the Advanced EMT, the Advanced EMT shall follow his instructions but only until communications are established with the physician at the resource hospital. Once communications are established with the resource hospital physician, the Advanced EMT shall take orders from him. If the physician at the scene wishes to continue directing Advanced EMT activities, the Advanced EMT shall place the at-scene physician in radio contact with the resource hospital physician. The resource hospital physician has the option of (1) allowing the physician at the scene to assume or continue medical control, (2) assuming Advanced EMT medical control, but allowing the physician at the scene to assist, or (3) assuming medical control with no participation by the on scene physician. In the event option 1 is followed, all orders given to Advanced EMTs by the at-scene physician shall be repeated over the radio or telephone by the resource hospital physician for evaluation and recording documentation. If in the judgment of the resource hospital physician who is monitoring and evaluating the at-scene

medical control, the care is inappropriate to the nature of the medical emergency, the resource hospital physician may reassume medical control of the at-scene Advanced EMT's.

(5) Paramedics on board non-paramedic ambulances - Certified EMT-Paramedics providing services for a licensed paramedic rescue service may, under medical control, continue those services during transport of the patient to a medical facility in a licensed EMT-Basic or EMT-Intermediate ambulance.

R426-1-13. Training Equipment Rental Fees.

Department-owned training equipment is available for rental upon request to assist training personnel in conducting initial training and continuing medical education programs. [Rental fees are as follows:

TABLE	
a.	Complete set per course (Minimum charge) \$300.00
	Additional charge per student over 20 12.50
b.	Training equipment cost per piece per day
	Sphygmomanometer 4.00
	Stethoscopes (Regular) 2.50
	Dual Stethoscope (Trainers) 2.50
	Cervical Collars
	Foam 1.50
	Philadelphia 1.50
	Cardio Pulsar 2.00
	Oxygen Powered Demand Valve 20.50
	Oxygen Powered Suction Unit 11.00
	Bag Mask Resuscitators 10.50
	Spray Bottles .50
	Construction Knives 1.50
	Airway Kits 2.50
	Oxygen Flowmeter Kit 11.00
	Oxygen Cylinders 10.00
	Orthopedic Backboard (Scoop) 4.00
	Short Backboard (Metal) 4.00
	Short Backboard (Wood) 3.00
	Long Backboard (Wood) 3.50
	Folding Backboard (Metal) 3.50
	K.E.D. Splint 3.00
	Long Board Leg Splints 1.00
	Thomas Half Rings 3.00
	Femur Traction Splint with Ratchet 9.00
	Femur Traction Splint without Ratchet 7.50
	Army Stretchers 2.00
	Henrie Knee-Trac .50
	All Level Ambulance Cot 12.50
	Backboard Straps and Neck roll 7.00
	Blankets 6.00
	Pillows and Pillow Cases 1.50
	MAST Trousers 7.50
	Skeleton 10.50
	Resusci Anne II 15 00 05 17.50
	Resusci Baby 6.00
	Recording Resusci Anne 24.00
	Obstetrical Mannequin 37.50
	35 MM Slide Projector Kit 24.50
	35 MM Slide Sets (Complete Set) 24.50
	35 MM Slide Trays .50
	16 MM Motion Picture Projector 17.50
	16 MM Films 12.00
	Extrication Kits 30.00
	Air Chisel Rescue Tool Kit 30.00
	Compressed Air Cylinder 10.50
	K Bar Rescue Tool 6.00
	Moulage Kit 20.50
	Durawax 1.00
	Intubation Mannequin (Adult and Infant) 8.00
	Laryngoscopes 5.00
	ET Tubes 4.00

Esophageal Obturator Airway Kits	15.00
Cardiac Monitor and Defibrillator	52.00
Heart Simulator	22.50
Portable Suction Unit	10.00
Infusion Trainer	6.00
Anatomical Model	24.50
Video Tapes	4.50
Bio-Com Rental	12.00
Cardboard Splints	.50
Phones, Sound Powered	
(two phones and wire) per set	1.50
Flip Card File	3.00
Mr. Hurt	30.00
Safety Goggles	1.50
O.B. Kit	8.50
Life Pack 5	52.00

KEY: emergency medical services

[July 6, 1998]1999

26-8

Notice of Continuation December 9, 1997



**Health, Health Systems Improvement,
Emergency Medical Services
R426-2
Air Medical Service Rules**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 21688

FILED: 11/19/1998, 08:52

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Request to go to a four-year agency licensure in order to stay consistent with ambulance and paramedic agency licensure periods. Other changes are clean up amendments.

SUMMARY OF THE RULE OR CHANGE: The proposed change will define air ambulance licensure to four years.

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

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The Bureau will see a reduction of approximately \$66.67 per year. There are eight air ambulances in Utah, they license every three years, and it costs them \$100. They would go to a four-year licensure and pay \$100 every four years.

❖LOCAL GOVERNMENTS: Aggregate savings to local governments because of the four-year licensure would mean approximately \$466.69 savings per year.

❖OTHER PERSONS: The single existing private air ambulance would save approximately \$66.67 per year.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no additional costs to anyone and there will be a \$66.67 savings

for each air ambulance provider to comply with the proposed rule change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Affected businesses should see a cost savings from this rule change--Rod Betit.

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

Health
Health Systems Improvement,
Emergency Medical Services
Cannon Health Building
288 North 1460 West
PO Box 142004
Salt Lake City, UT 84114-2004, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Leslie Johnson at the above address, by phone at (801) 538-6292, by FAX at (801) 538-6808, or by Internet E-mail at ljjohnso@doh.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 01/14/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/1999

AUTHORIZED BY: Rod Betit, Executive Director

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

R426-2. Air Medical Service Rules.

R426-2-2. Definitions.

As used in Rule R426-2:

(1) Advanced Life Support means an advanced level of pre-hospital and inter-hospital emergency care that includes basic life support functions plus some or all of the following techniques or procedures: cardiac monitoring, cardiac defibrillation, [telemetered] electrocardiography, administration of specific medications, drugs, and solutions, use of adjunctive medical devices, trauma care, and other techniques and procedures authorized by the committee.

(2) Air medical personnel means the pilot and patient care personnel who are involved in an air medical transport.

(3) Air Medical Service means any publicly or privately owned organization that is licensed or applies for licensure under R426-2.

(4) Air Ambulance means any privately or publicly owned air vehicle specifically designed, constructed, or modified, which is intended to be used for and is maintained or equipped with the intent to be used for, maintained or operated for the transportation of individuals who are sick, injured, or otherwise incapacitated or helpless.

(5) Air Medical Service Medical Director means a physician knowledgeable of potential medical complications which may arise because of air medical transport, and is responsible for overseeing and assuring that the appropriate air ambulance, medical personnel, and equipment are provided for patients transported by the air ambulance service.

(6) Air Medical Transport Service means the transportation and care of patients by air ambulance.

(7) ~~CAAMS~~CAMTS is the acronym for the Commission on Accreditation of ~~Air~~Medical ~~Services~~Transport Systems, which is a non-profit organization dedicated to improving the quality of air medical services.

(8) Committee means the State Emergency Medical Services Committee.

(9) Department means the Utah Department of Health.

(10) Director means the Director of the Utah Department of Health.

(11) License means the authorization issued by the Department to a person to provide emergency medical services.

(12) License Officer means the Director of the Department or the Director's designee.

(13) Medical Control means direction and advice provided by medical personnel at a designated medical facility to pre-hospital advanced life support personnel by radio or telephonic communications, written protocol, or direct verbal order.

(14) Patient means an individual who, as the result of illness or injury, needs immediate medical attention, whose physical or mental condition presents an imminent danger of loss of life or significant health impairment, or who may be otherwise incapacitated or helpless as a result of a physical or mental condition.

(15) Permit means the authorization issued by the Department in respect to an air ambulance used or to be used to provide air medical transport services.

(16) Person means any individual, firm, partnership, association, corporation, company, group of individuals acting together for a common purpose, agency, or organization of any kind, public or private.

(17) Physician means a medical doctor licensed to practice medicine in Utah.

(18) PA means a licensed Physician's Assistant.

(19) Pilot means any individual licensed under Federal Aviation Regulations, Part 135.

(20) Quality Management means a total process of continually monitoring, assessing, and improving the quality of the service.

(21) Quality Management Director means the person who is the quality management team leader.

(22) Resource Hospital means a facility designated by the EMS Committee which assumes medical leadership and medical control for the provision of advanced life support services in a specified geographical area.

(23) RN means a registered nurse.

(24) RT means a registered respiratory therapist.

(25) Specialized Life Support Air Medical Service means a level of care which requires equipment or speciality patient care by one or more medical personnel in addition to the regularly scheduled air medical team.

R426-2-3. Requirements for Licensure.

(1) The Department may issue licenses and vehicle permits to air medical services conforming to R426-2 for Advanced Life Support Air Medical Service and for Specialized Life Support Air Medical Service. A Specialized Life Support Air Medical Service license must list, on the license, the specialities for which the Specialized Life Support Air Medical Service is licensed.

(2) A person may not furnish, operate, conduct, maintain, advertise, or provide air medical transport services to patients within the state or from within the state to out of state more than once in a twelve month period unless licensed by the Department.

(3) An air medical service shall comply with all state and federal requirements governing the specific vehicles utilized for air medical transport services.

(4) An air medical service must provide air medical services 24 hours a day, every day of the year as allowed by weather conditions except when the service is committed to another medical emergency or is unavailable due to maintenance requirements.

(5) To become licensed as an air medical service, an applicant must submit to the Department an application and appropriate fees for an original license which shall include the following:

(a) Certified Articles of Incorporation, if incorporated.

(b) The name, address, and business type of the owner of the air medical service or proposed air medical service.

(c) The name and address of the air ambulance operator(s) providing air ambulance(s) to the service.

(d) The name under which the applicant is doing business or proposes to do business.

(e) A statement summarizing the training and experience of the applicant in the air transportation and care of patients.

(f) A description and location of each dedicated and back-up air ambulance(s) procured for use in the air medical service, including the make, model, year of manufacture, FAA-N number, insignia, name or monogram, or other distinguishing characteristics.

(g) A copy of current Federal Aviation Administration(FAA) Air Carrier Operating Certificate authorizing FAR, Part 135, operations.

(h) A copy of the current certificate of insurance for the air ambulance.

(i) A copy of the current certificate of insurance demonstrating coverage for medical malpractice.

(j) The geographical service area, location and description of the place or places from which the air ambulance will operate.

(k) Name of the training officer responsible for the air medical personnel continuing education.

(l) The name of the air medical service medical director.

(m) A proposed roster of medical personnel which includes level of certification or licensure.

(n) A statement detailing the level of care for which the air medical service wishes to be licensed, either advanced or specialized.

(6) Upon receipt of an appropriately completed application for an air medical service license and submission of license fees, the Department shall collect supporting documentation and review each application. The Air Ambulance Subcommittee shall review each application and make recommendations to the Department for licensure based upon type of service to be offered, equipment and trained personnel. Public need and necessity requirements of Subsection 26-8-7(2) are superseded by federal law. After review and recommendation by the Air Ambulance Subcommittee, and before issuing a license to a new air medical service, the Department shall directly inspect the vehicle(s), the air medical equipment, and required documentation.

(7) The Department shall issue an air medical service license and air ambulance permit for a period of ~~three~~four years from the date of issue and which shall remain valid for the period unless

revoked or suspended by the Department. The department may conduct inspections to assure compliance.

(8) Upon change of ownership, an air medical service license and air ambulance permit terminates and the new owner or operator must file within ten business days of acquisition an application for renewal of the air medical service license and air ambulance permit.

(9) Air medical services must have an agreement to allow hospital emergency department physicians, nurses, and other personnel who participate in emergency medical services to fly on air ambulances.

(10) Air medical services must provide reports to the Department, for each mission made, on forms or a data format specified by the Department.

(11) Effective July 1, 1998, successful completion of the ~~CAAMS~~CAMTS certification process is required for licensure and relicensure by the Department as an air medical service.

(a) Air medical services licensed under R426-2 as of July 1, 1997 must achieve ~~CAAMS~~CAMTS certification as of July 1, 1998, and meet requirements of R426-2 for relicensure.

(b) Air medical services licensed under R426-2 after July 1, 1997 must submit an application for ~~CAAMS~~CAMTS certification within one year of receiving a license under this rule.

KEY: emergency medical services

~~September 23, 1997~~1999

26-8

Notice of Continuation December 9, 1997



**Health, Health Systems Improvement,
Emergency Medical Services
R426-3
Utah Mobile Paramedic Rules**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 21694

FILED: 11/19/1998, 12:02

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In order to make all levels of Emergency Medical Services (EMS) certification consistent, it is necessary to eliminate the initial two-year paramedic certification and change it to a four year. Other changes were made as explained under "Summary of the rule or change."

SUMMARY OF THE RULE OR CHANGE: The proposed change will define paramedic agency licensure periods to four years. It will also change initial paramedic certification from two to four years. The proposed change modifies "communication." References to telemetry recordings were deleted from the rules. The references were left in when tape recordings were deleted in a previous rule amendment. Minimum hours of training for paramedics have been changed to 1,000 hours, which is in conformance with the new curriculum. The title of

the rule will change from "Utah Mobile Paramedic Rule" to "Paramedic Rule."

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

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The Bureau will see a reduction of approximately \$810 each year for paramedic recertification. This is based on certifying 30 new paramedics per year and losing \$27 a year because their initial certification period now becomes four years. The Bureau will also see a reduction of approximately \$108.29 per year for licensed paramedic services. There are 13 licensed paramedic services.

❖LOCAL GOVERNMENTS: Aggregate savings to local governments because of the four year recertification would be approximately \$756 per year. This is based on 28 of the 30 certifying paramedics per year working for local government. Local Governments' aggregate savings for paramedic licensure would be \$91.63, because 11 of the 13 agencies are local government agencies.

❖OTHER PERSONS: Non-affiliated paramedics would save \$54 per year. This is based on two of the 30 paramedic trained per year, being unaffiliated. Two private paramedic agencies' aggregate savings for paramedic licensure would be \$16.66. COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no additional costs to anyone to comply with the proposed rule change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Affected businesses will realize a savings by this rule change--Rod L. Betit.

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

Health
Health Systems Improvement,
Emergency Medical Services
Cannon Health Building
288 North 1460 West
PO Box 142004
Salt Lake City, UT 84114-2004, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Leslie Johnson at the above address, by phone at (801) 538-6292, by FAX at (801) 538-6808, or by Internet E-mail at ljohonso@doh.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 01/14/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/1999

AUTHORIZED BY: Rod Betit, Executive Director

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

R426-3. [~~Utah Mobile~~]Paramedic Rules.

R426-3-2. Definitions.

As used in rule R426-3:

(1) Agency means any department, division, board, council, committee, authority or agency of the State of Utah, or any of its political subdivisions.

(2) Associate Hospital means a hospital which provides 24-hour emergency care and has [~~telemetry~~]communication equipment approved by the Department which enables communication with EMT-Paramedics at a remote location through linkage with a base station hospital.

(3) Base Station Hospital means a hospital which provides 24-hour emergency care and has [~~telemetry~~]communication equipment approved by the Department which enables communication by radio and telephone with paramedics at a remote location.

(4) Department means the Utah Department of Health.

(5) EMS Committee means the Utah Emergency Medical Services Committee.

(6) EMT-Paramedic means an emergency medical technician who has completed an advanced life support training program approved by the Department who is certified by the Department as qualified to render services enumerated in R426-3.

(7) License Officer means the Director of the Department or his designee.

(8) Patient means an individual who, as the result of illness or injury, needs immediate medical attention, whose physical or mental condition presents an imminent danger of loss of life or significant health impairment, or who may be otherwise incapacitated or helpless as a result of a physical or mental condition.

(9) Person means any individual, firm, partnership, association, corporation, company, group of individuals acting together for a common purpose, agency, or organization of any kind, public or private.

(10) Physician means a medical doctor licensed to practice medicine and surgery in Utah.

(11) Receiving Center means any hospital which provides emergency care.

(12) Registered Nurse means a registered nurse licensed in Utah.

R426-3-3. Administration of the [~~Mobile~~]Paramedic Rules.

(1) The EMS Committee is responsible to establish rules as enumerated in the Utah Emergency Medical Services Systems Act, Section 26-8-4. Pursuant to the Act (Subsection 26-8-3(3)) and to more effectively regulate the paramedic program, a Paramedic Advisory Subcommittee is established as a standing subcommittee advisory to the EMS Committee.

(2) The Department is responsible for licensing paramedic services, issuing ambulance and emergency response vehicle permits, developing, conducting, or authorizing training programs, testing and certifying EMT-Paramedics and administering rules herein adopted by the EMS Committee.

(a) The Department shall license paramedic services for a period of four years from the date of issue. The license is valid for the period unless revoked or suspended by the Department. The Department will conduct annual inspections to assure compliance. The Department may adjust the four year licensure period to adjust to revised recertification schedules.

(i) An application for a license shall be made to the appropriate Department representative on forms provided by the Department and shall contain at least the following information:

- (A) written support from all related agencies;
- (B) financial statement (agencies are exempted);
- (C) copy of the Articles of Incorporation, if incorporated;
- (D) the name and address of the owner of the paramedic service or proposed paramedic service;
- (E) the name under which the applicant is doing business or proposes to do business;
- (F) the training and experience of the applicant in the transportation and care of patients;
- (G) the location and description of the place or places from which the paramedic service is intended to operate;
- (H) the proposed geographic service area;
- (I) agreement to provide reports to the Department, for each trip made, on forms specified by the Department; and
- (J) agreement to make available, time for recertification programs available by hospitals, division, district, or develop their own as necessary.

(ii) Upon receipt of an appropriately completed application form for a paramedic service license, the license officer shall comply with the requirements in Chapter 8, Title 26. The Paramedic Advisory Committee shall review each application and make recommendations to the EMS Committee for licensure based upon type of paramedic service to be offered, equipment, trained personnel, and whether the public convenience and necessity requires the proposed paramedic service. Upon approval by the EMS Committee, and before issuing a license to a new paramedic service, the license officer shall cause the paramedic vehicle and equipment to be inspected. The paramedic personnel training qualifications designated in each application hereunder will be reviewed to determine compliance with R426-3.

(iii) The applicant for a paramedic service provider license will assure the Department that it complies with the following standards:

(A) Utilize one of the following response configurations which shall be so designated on the license.

(I) Paramedic Rescue - Rescue units to be used for response only, utilizing a licensed ambulance service for transport.

(II) Paramedic Tactical Rescue - A rescue unit trained in combat medical response whose primary mission is the retrieval and field treatment of injured peace officers or victims of traumatic confrontations. In addition to the information required under R426-3-3(2)(a) for licensure as a Paramedic Tactical Rescue Unit (PTRU), the applicant shall provide to the Department its standard operating procedures and a letter of recommendation by the Commissioner of the Utah Department of Public Safety. Upon licensure, a PTRU shall function within another EMS service licensure area at the invitation of the local or state public safety authority. The PTRU shall then notify the local EMS agency to establish medical protocol. The PTRU shall also immediately notify the Department of its activation and circumstances of

deployment, including location, situation, possible duration, and special needs.

(III) Paramedic Ambulance - Ambulances to be used routinely to transport patients. These units shall also comply with the requirements of the Ambulance Rules of the Utah Emergency Medical Services Act.

(IV) Paramedic Ambulance Transfer Service - Paramedic ambulance services may be licensed for "Paramedic Transfer Service" only. The service is restricted to movement of patients, upon physician request, between medical or nursing facilities. This service is not intended to be a first response paramedic service.

(B) Staffing Requirements

(I) Paramedic configuration at the scene of an accident or medical emergency should be no less than two persons, each of whom is an EMT-Paramedic, licensed medical doctor or registered nurse under Title 58.

(II) Under extraordinary circumstances, as defined by the EMS Committee, a paramedic vehicle may be manned by one EMT-Paramedic and one EMT. The licensee shall maintain a log of all events and submit them to the Department thirty days prior to the quarterly EMS Committee meeting for Committee review. The log shall show each date of variance, vehicle identification number, variance time period and justification.

(III) When a paramedic ambulance has been requested by the referring or attending physician for non-first response inter-facility movement of a patient, and the physician describes the condition of the patient as "serious or potentially critical," paramedic ambulance minimum staffing shall be as noted under R426-3-3(2)(a)(iii)(B)(I). Where the physician describes the condition of the patient as "critical," minimum paramedic ambulance staffing shall be as noted under R426-3-3(2)(a)(iii)(B)(I), plus a driver who is the holder of a valid driver's license.

(IV) The Department shall not authorize the expansion of an existing paramedic service until the provider can show adequate manning levels to meet the required standard of two paramedics at the scene of each accident or medical emergency.

(C) Availability - Provide 24-hour coverage in the defined geographic service area. Paramedic transfer services shall provide 24-hour on-call coverage.

(D) Response Area - The closest vehicle will be dispatched regardless of geopolitical boundaries between contiguous paramedic services.

(iv) Equipment, Supplies and Medications - Each paramedic unit shall carry medical equipment, supplies, medications, access and extrication equipment, and a standard tool box as described in the "R426 Appendix" hereby incorporated by reference into R426-3. This document may be modified at the discretion of the Department as other needs or new methodology becomes known. Copies may be obtained from the Department.

(A) Tool Box - Paramedic services licensed only to provide paramedic ambulance transfer services are exempt from these requirements.

(B) Access and Extrication Equipment - The equipment specified may either be carried on board the paramedic vehicle or on a second vehicle that routinely accompanies the paramedic vehicle to the scene of an accident. Paramedic services licensed only to provide paramedic ambulance transfer services are exempt from these requirements.

(C) Medications - Due to the nature of the difficulties involved in delivering emergency medical care in the field, it will be the responsibility of the local physician advisor to direct the standardization of the optimal package form of medications and the equipment designed for the administration of medications. These package forms will be made available for the resupplying of the paramedic units. All medications shall be stored per manufacturers' recommendations for temperature control and packaging requirements. A record shall be maintained which records the minimum and maximum temperatures inside each drug box during each 24-hour period. Any medications known or suspected to have been subjected to temperature outside the recommended range shall be returned to the hospital for replacement.

(v) The Department may conduct periodic inspections to determine that operational procedures, equipment condition and maintenance, drug and medication supplies and inventories are adequate and appropriate to the goals of the paramedic program. In this regard, Department representatives shall take the appropriate action to see that operational procedures, equipment condition and maintenance, drug and medication supplies and inventories found to be inadequate or inappropriate by any party are corrected, remedied, standardized or amended. Any licensed paramedic service shall allow emergency department physicians, nurses and other persons selected by the Department and participating in emergency medical services to ride with paramedic units for the purposes of:

- (A) Evaluation of EMT-Paramedic performance.
- (B) Identification of training needs.
- (C) Improving communications between manpower resources.
- (D) Clarification of role assignments as related to hospital emergency departments, communications, transportation and other components of the paramedic system.
- (E) Training new paramedic personnel.
- (F) Other purposes deemed necessary by the provider, District EMS Director or the Department.

(vi) All licensed providers shall send a copy of the official accident report to the Department whenever a permitted vehicle is involved in an accident while responding to or transporting a patient.

(b) The Department shall recommend for designation by the EMS Committee participating base station hospitals and associate hospitals who shall comply with the following:

- (i) Maintain a 24-hour emergency facility.
- (ii) Assist the Department in collecting statistics and evaluating performance costs relating to the program. Each participating hospital shall use the standard Emergency Department Log or other forms as the Department requires.
- (iii) Provide initial supplies of new medication when needed and replenish medical supplies and equipment expended during treatment of patients by mobile units.
- (iv) Not transfer to another facility any patient who has been treated by a mobile intensive care paramedic unless or until, in the judgment of a licensed physician or registered nurse, the patient is medically able to be transferred and the transfer is in the best medical interest of the patient.
- (v) Abide by the Utah Mobile Paramedic Rules established by the EMS Committee.
- (vi) Provide to the Department a list of Hospital Paramedic Committee members. The committee should be composed of at

least a licensed physician, designated as Medical Director for paramedic-hospital activities, a registered nurse, a representative of hospital administration and a certified paramedic. The committee shall meet monthly to:

~~—(A) A] assess paramedic field performance and evaluate continuing education needs. Each base and associate hospital shall submit a quarterly report of meetings outlining findings, recommendations, follow-up results and the names of paramedics involved in tape critique sessions.~~

~~—(B) Review telemetry tapes.~~

~~—(C) Maintain communications among Emergency Department personnel and the total paramedic care system.]~~

(vii) ~~[Provide, at all times, operational radio or telephonic telemetry communications utilizing:~~

~~—(A) Telemetry and recording equipment which conforms with current federal standards.~~

~~—(B) Radio frequencies approved by the Department in conformance with the State Communications Plan.]~~ All paramedic services shall be equipped to allow paramedic personnel to be able to:

(A) communicate with hospital emergency departments, dispatch centers, emergency medical services, and law enforcement agencies; and

(B) communicate on radio frequencies approved by the Department.

(viii) Have a licensed physician or registered nurse, qualified in CPR and ECG interpretation who is supervised by a licensed physician acting in accordance with the provisions of the Utah Nurse Practice Act, immediately available at all times to communicate with the EMT-Paramedics in the field.

(ix) Provide supervised clinical training for initial EMT-Paramedic training and for the continuing education of certified EMT-Paramedics.

~~—(x) Record in a bound log, tape recording of EMT-Paramedic transmissions including equipment checks and calibration tests.]~~

(c) The Department shall approve local plans for paramedic system operation.

(i) Local emergency medical services councils will develop for Department approval, detailed plans for the operation of the paramedic systems within their district. Councils may request assistance from the Department in the development of paramedic system plans. Plans shall be in conformity with the Utah Mobile Paramedic Rules and shall include procedures and protocol as follows:

(A) Communications including public access, paramedic dispatch, and training;

(B) Patient triage;

(C) Patient or guardian refusal of services;

(D) EMT-Paramedic standing orders;

(E) Patient or guardian facility preference;

(F) Patient transfer;

(G) Medical records transfer and accessibility; and

(H) In-service training.

(ii) The plan will include letters of support from local government officials, hospital administration and paramedic providers to assure operational integrity of the paramedic system.

(iii) Plans will include procedures for conducting in-service education programs and the responsible people to contact for the program.

(iv) Plans for new paramedic services shall be submitted to the Department prior to the system start-up.

(v) Paramedic system plans will be reviewed by the Department and returned to the District EMS Director within 30 days of submittal.

R426-3-4. Training and Certification.

(1) EMT-Paramedic certification will be awarded by the Department for a ~~two~~four year period upon successful completion of a training program which shall consist of a minimum of ~~480~~1,000 hours training as determined by the Department and a pass on the Department certification examination.

(2) At the discretion of the Department a trainee may be provisionally certified as a ~~an EMT-~~Paramedic for a period not to exceed 90 days. The employing agency is responsible to insure the proficiency of its EMT-Paramedics. It is their obligation to the patients they serve to make certain that any EMT-Paramedic whose job takes him away from patient care for a prolonged time, be reintroduced to patient care in a proper manner which is safe for the patient. To be certified as a paramedic, an individual shall:

(a) Have 12 months of field experience as a certified EMT. However, the 12 month period may be reduced to six months with special authorization from the Department based upon a written request from the resource hospital medical director.

(b) Be currently certified as an EMT in Utah.

(c) Submit a completed application form to the department.

(d) Submit to a background investigation.

~~(2)3~~ ~~[Hospitals and p]~~ Paramedic training programs authorized by the Department to provide initial EMT-Paramedic training or continuing medical education experiences shall provide the following:

(a) qualified teaching staff and resource facility.

(b) adequate clinical facilities to allow for a variety of learning experiences.

(c) qualified physicians, nurses and other health professionals to supervise trainees during initial training.

(d) Authorized hospitals shall provide a variety of supervised training experiences for trainees during initial training and for certified EMT- Paramedics as part of the continuing education program as defined in this rule. Patient care clinical areas shall include the following:

(i) emergency Department;

(ii) intensive care unit;

(iii) coronary care unit;

(iv) delivery room;

(v) operating room;

(vi) recovery room.

(e) Trainees may be accepted into programs under criteria established by the training institution, but shall as a minimum provide documentation of successful completion of an 120-hour EMT training program or its equivalent.

(f) The training institution, or Department, shall have the authority to terminate training of any trainee during any phase of the program because of:

(i) failure to achieve minimum academic standards;

(ii) disclosure of fraudulent application;

(iii) ~~[F]~~failure of clinical or fieldwork training segments due to:

(A) technical incompetence due to emotional instability under stress; or

(B) technical incompetence as determined by supervisory personnel or instructional staff of the training institution, training hospital or paramedic service involved in field internship training. Reasons for termination by the training institution shall be reduced to written form and submitted to the Department prior to any action taken toward trainee.

(iv) Conviction of any felony, misdemeanor or act or moral turpitude, excluding minor traffic violations chargeable as infractions.

~~(3)4~~ Paramedic training programs must meet the requirements of the paramedic training program accreditation standards as established by the Department.

~~(4)5~~ The Department shall establish EMT-Paramedic testing standards in conjunction with the paramedic training institutions.

~~(5)6~~ The Department shall establish other criteria relevant to the training of EMT-Paramedics.

~~(6)7~~ Training Program Monitoring - The Department shall be responsible for monitoring local in-service educational programs for EMT-Paramedics.

~~(7)8~~ Physician Training Consultant - Each paramedic provider shall provide for a physician operationally involved to serve as training consultant. The training consultant shall be responsible for the provider's paramedic continuing education program in accordance with state in-service training requirements and shall develop and maintain competency skill levels including the following subject areas:

(a) triage;

(b) cardiopulmonary resuscitation;

(c) airway management including:

(i) endotracheal or esophageal intubation;

(ii) removal of foreign objects; and

(iii) suctioning

(d) administration of intravenous or intraosseous solutions and intravenous medications;

(e) drug administration;

(f) arrhythmia recognition;

(g) splinting and bandaging;

(h) soft tissue injuries;

(i) extrication and movement of injured persons;

(j) bleeding wounds and shock;

(k) oxygen administration;

~~(k)l~~ emergency childbirth; and

(m) medical and environmental emergencies.

R426-3-5. Recertification.

(1) Paramedic recertification shall be for a period of ~~two~~four years ~~following initial certification~~. This period may be modified by the Department to standardize all expiration dates to June 30. Anyone who certifies after July 1, 1998, shall receive a four year certification. Anyone certified prior to that date, must continue to recertify as of the date on their identification badge and will be converted to the four year cycle upon recertification.

(2) ~~[Thereafter, recertification shall be for a period of four years:~~

~~(3)-~~An EMT-Paramedic who wishes to recertify shall:

(a) submit a completed recertification application form, including social security number.

(b) submit to a background investigation.

(c) ~~maintain and submit verification of current department-approved current course completion in certification in adult and pediatric [A] advanced Cardiac Life Support [ACLS] by the American Heart Association.~~

(d) submit verification of annual completion of 25 hours per year of Department approved continuing education.

(e) ~~submit the results of a sponsoring agency peer evaluation confirming satisfactory field performance.~~

~~(f) submit a statement from the applicant's sponsoring agency confirming the applicant's [physical fitness to perform paramedic functions, including the] results of a TB examination.~~

(g) submit an evaluation and recommendation from the sponsoring agency's physician advisor.

(h) successfully complete the Department written examination.

(i) At the discretion of the Department, an EMT-Paramedic may have his certification provisionally extended for a period not to exceed 90 days, for evaluation.

R426-3-6. EMT-Paramedic Functions.

(1) Upon satisfactory completion of the initial training program and upon Department certification, an EMT-Paramedic may carry out the following functions:

(a) Render advanced first aid, rescue and resuscitation services.

(b) Administer parenteral medications under the direct supervision of a licensed physician or a registered nurse both during training and after certification.

(c) Perform cardiopulmonary resuscitation and defibrillation in a pulseless, non-breathing patient.

(d) Where voice contact or a telemetered electrocardiogram is monitored by a licensed physician or a registered nurse supervised by a licensed physician, and direct communication is maintained, upon order of the physician or nurse, perform procedures and administer drugs approved by the EMS Committee as follows:

(i) administer intravenous or intraosseous solutions;

(ii) perform gastric suction by intubation;

(iii) administer airway intubation by esophageal tube or endotracheal tube;

(iv) perform needle aspiration of the chest;

(v) perform a phlebotomy or draw blood specimens for analysis;

(vi) administer drugs of the following classes:

(A) antiarrhythmic agents;

(B) vagolytic agents;

(C) chronotropic agents;

(D) ionotropic agents;

(E) analgesic agents;

(F) alkalinizing agents; and

(G) vasopressor agents.

(vii) provide medication by intracardiac puncture; and

(viii) perform cricothyroidotomy.

(e) Services noted in this section under written standing or contingency orders signed by the Base Station or Associate Hospital Medical Director(s) and approved by the Paramedic Advisory Subcommittee.

(2) At the scene of an accident, in transit, or where a sudden illness occurs, certified Paramedics shall be responsible for the

direction and provision of emergency medical care, as described in this section.

(3) The Department shall exclude from paramedic certification an individual who may pose an unacceptable risk to public health and safety, as indicated by his criminal history. The Department shall conduct a background check on each individual who seeks to certify or recertify as a ~~paramedic~~.

(a) An individual convicted of certain crimes presents an unreasonable risk and the Department shall deny all applications for certification or recertification by individuals convicted of the following crimes:

(i) Sexual misconduct if the victim's failure to affirmatively consent is an element of the crime, such as forcible rape.

(ii) Sexual or physical abuse of children, the elderly or infirm, such as sexual misconduct with a child, making or distributing child pornography or using a child in a sexual display, incest involving a child, assault on an elderly or infirm person.

(iii) Abuse, neglect, theft from, or financial exploitation of a person entrusted to the care or protection of the applicant, if the victim is an out-of-hospital patient or a patient or resident of a health care facility.

(iv) Crimes of violence against persons, such as aggravated assault, murder or attempted murder, manslaughter except involuntary manslaughter, kidnaping, robbery of any degree; or arson; or attempts to commit such crimes.

(b) Except in extraordinary circumstances, established by clear and convincing evidence that certification or recertification will not jeopardize public health and safety, the Department shall deny applicants for certification or recertification in the following categories:

(i) Persons who are convicted of any crime not listed in (a) and who are currently incarcerated, on work release, on probation or on parole.

(ii) Conviction of crimes in the following categories, unless at least three years have passed since the conviction or at least three years have passed since release from custodial confinement, whichever occurs later:

(A) Crimes of violence against persons, such as assault;

(B) Crimes defined as domestic violence under Section 77-36-1;

(C) Crimes involving controlled substances or synthetics, or counterfeit drugs, including unlawful possession or distribution, or intent to distribute unlawfully, Schedule I through V drugs as defined by the Uniform Controlled Dangerous Substances Act; and

(D) Crimes against property, such as grand larceny, burglary, embezzlement or insurance fraud.

(c) The Department shall deny certification or recertification to individuals convicted of crimes, including DUIs, but not including minor traffic violations chargeable as infractions after consideration of the following factors:

(i) The seriousness of the crime.

(ii) Whether the crime relates directly to the skills of prehospital care service and the delivery of patient care.

(iii) Amount of time that has elapsed since the crime was committed.

(iv) Whether the crime involved violence to or abuse of another person.

(v) Whether the crime involved a minor or a person of diminished capacity as a victim.

(vi) Whether the applicant's actions and conduct since the crime occurred are consistent with the holding of a position of public trust.

(vii) Total number of arrests and convictions.

(viii) Whether the applicant was truthful regarding the crime on his/her application.

(d) Certified EMS personnel must notify the Department of any arrest or conviction. The Department may suspend, decertify, or place on probation anyone who does not notify the Department within 30 days of the arrest or conviction.

(e) The Department may decertify or suspend certification, or place a person on probation for any of the above violations.

(f) The Department may decertify or suspend certification, or place on probation an EMT-Paramedic who refuses to submit to a background check

(4) Refusal, Suspension or Revocation of Certification - The Department may refuse to issue a certification or recertification, or suspend or revoke a certification for any of the following causes:

(a) Habitual or excessive use or addiction to narcotics or dangerous drugs. Refusal to take a drug test administered by an EMS employer or the Department, is grounds for refusal, suspension or certification revocation by the Department of Health.

(b) Habitual abuse of alcoholic beverages or being under the influence of alcoholic beverages while on call or on duty as an EMT-Paramedic or while driving any emergency vehicle.

(c) Failure to comply with the EMT-Paramedic training certification or recertification requirements of this rule.

(d) Fraud or deceit in applying for or obtaining a certification or fraud, deceit, incompetence, patient abuse, theft, or dishonesty in the performance of duties and practice as an EMT-Paramedic.

(e) Involvement in the unauthorized use or removal of narcotics, drugs, supplies or equipment from any emergency vehicle or health care facility.

(f) Performing procedures or skills beyond the level of certification or violation of laws pertaining to medical practice and drugs.

(g) Mental incompetence as determined by a court of competent jurisdiction.

(h) Demonstrated inabilities and failure to perform adequate patient care.

(i) For good cause, including conduct which is unethical, immoral, or dishonorable.

(5) A ~~an EMT-~~Paramedic shall be under medical control of a physician representing a designated base station hospital. When ~~EMT-~~Paramedics arrive at the scene of an injury or illness, they must secure radio or telephonic ~~telemetry~~ contact with a base station hospital Emergency Department to establish medical control as quickly as possible. If radio or telephonic ~~telemetry~~ contact cannot be obtained, ~~EMT-~~Paramedics must so indicate on the Incident Trip Report form and follow local written contingency orders of the base station hospital providing medical control. If there is a physician at the scene who wishes to assist or provide medical direction to the ~~EMT-~~Paramedics, the ~~EMT-~~Paramedics shall follow his instructions but only until communications are established with a physician at the base station hospital Emergency Department. Once communications are established with the base station hospital physician, the ~~EMT-~~Paramedics must take orders

from him. If the physician at the scene wishes to continue directing paramedic activities, the ~~EMT-~~Paramedics ~~shall~~ may place the at-scene physician in radio or telephonic contact with the base station physician. The base station physician may (1) allow the physician at the scene to assume or continue medical control, (2) retain paramedic medical control, but allow the physician at the scene to assist, or (3) retain medical control with no participation by the on-scene physician. If Option (1) is followed, all orders given to the ~~EMT-~~Paramedic by the at-scene physician, shall be repeated over the radio or telephone to the base station hospital physician for evaluation and ~~recording~~ documentation. If in the judgment of the base station hospital physician who is monitoring and evaluating the at-scene medical control, the care is inappropriate to the nature of the medical emergency, the base station hospital physician may reassume medical control of the at-scene EMT- Paramedics.

KEY: emergency medical services
~~June 23, 1998~~1999 26-8-1 et seq.
Notice of Continuation December 9, 1997



Health, Health Systems Improvement, Emergency Medical Services **R426-4** Emergency Medical Dispatcher Rules

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 21695
FILED: 11/19/1998, 12:02
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In order to make all levels of Emergency Medical Services (EMS) certification consistent, it is necessary to amend the dispatch certification time period from three to four years.

SUMMARY OF THE RULE OR CHANGE: The proposed change will define dispatcher certification to four years. It also defines recertification standards.

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

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** The Bureau will see a reduction of approximately \$1,176.75 each year for dispatcher recertification. This is based on having 523 dispatchers, losing \$27 over a 12-year period, or \$2.25 per year per dispatcher.

❖**LOCAL GOVERNMENTS:** Aggregate savings to local governments because of the four-year recertification would mean \$1172.25 savings per year.

❖**OTHER PERSONS:** Non-affiliated dispatchers would save approximately \$4.50 per year.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no additional costs to anyone to comply with the proposed rule change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Affected businesses will realize a savings by this rule change--Rod L. Betit.

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

Health
Health Systems Improvement,
Emergency Medical Services
Cannon Health Building
288 North 1460 West
PO Box 142004
Salt Lake City, UT 84114-2004, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Leslie Johnson at the above address, by phone at (801) 538-6292, by FAX at (801) 538-6808, or by Internet E-mail at ljohonso@doh.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 01/14/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/1999

AUTHORIZED BY: Rod Betit, Executive Director

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

R426-4. Emergency Medical Dispatcher Rules.

R426-4-4. Personnel.

(1) Dispatchers serving medical providers are not required to be certified as Emergency Medical Dispatchers, but are encouraged to voluntarily seek training and certification through a Department approved course. Certification allows the dispatcher to fall under the liability immunity coverage provided in Subsection 26-8-11(2).

(2) The Department shall develop an Emergency Medical Dispatch training and certification program. Curriculum standards shall be established by the Department. To be initially certified as an EMD, an individual must:

- (a) successfully complete a state approved EMD Course.
- (b) submit to the department a completed application form, including social security number.
- (c) submit to a background check.
- (d) maintain and submit verification of a department-approved current course completion in[be currently certified in] cardiopulmonary resuscitation[~~(CPR) through a Department approved course].~~
- (e) successfully pass the Department's written examination.
- (f) complete all requirements for certification within 90 days from course completion date. The Department may extend the time limit to individuals who demonstrate good cause based on extenuating circumstances.

(3) Recertification is required every ~~[three]~~four years to maintain state certification. Anyone who recertifies after July 1, 1998, shall receive a four year certification. Anyone certified prior to that date, must continue to recertify as of the date on their identification badge and will be converted to the four year cycle upon recertification. This period may be modified by the Department. An EMD who wishes to recertify shall:

- (a) submit to the Department a completed application form including social security number;
- (b) submit to a background check;
- (c) maintain and submit [to the Department a current card or certificate from the American Heart Association or the American Red Cross, reflecting satisfactory]verification of a department-approved current course completion [and current certification]in cardiopulmonary resuscitation;
- (d) successfully complete the Department's EMD written examination; and
- (e) complete ~~[36]~~12 hours annually of Department-approved continuing medical dispatch education or in-service during the ~~[three]~~four year recertification period.

(4) The Department may grant reciprocity for applicants certified outside of Utah based on the following considerations:

- (a) Applicants shall provide the Department with a current copy of their Emergency Medical Dispatcher certification.
- (b) Applicants shall provide the Department proof that the certifying course meets the standards established by the Department.

(c) Applicants shall ~~[successfully]~~complete ~~[the Department's written examination]~~all certification requirements.

(5) This rule shall not preclude any physically handicapped individual from certifying or recertifying, who can demonstrate proficiency in verbally describing the treatment methods outlined in the Department approved EMD ~~[C]course~~ to a caller.

(6) Those individuals who permit their certification to lapse may be recertified by completion of the recertification requirements.

(7) Instructors who teach emergency medical dispatchers shall meet certification standards established by the Department.

(8) The Department shall exclude from EMD certification an individual who may pose an unacceptable risk to public health and safety, as indicated by his criminal history. The Department shall conduct a background check on each individual who seeks to certify or recertify as an EMD.

(a) An individual convicted of certain crimes presents an unreasonable risk and the Department shall deny all applications for certification or recertification by individuals convicted of the following crimes:

- (i) Sexual misconduct if the victim's failure to affirmatively consent is an element of the crime, such as forcible rape.
- (ii) Sexual or physical abuse of children, the elderly or infirm, such as sexual misconduct with a child, making or distributing child pornography or using a child in a sexual display, incest involving a child, assault on an elderly or infirm person.
- (iii) Abuse, neglect, theft from, or financial exploitation of a person entrusted to the care or protection of the applicant, if the victim is an out-of-hospital patient or a patient or resident of a health care facility.
- (iv) Crimes of violence against persons, such as aggravated assault, murder or attempted murder, manslaughter except

involuntary manslaughter, kidnaping, robbery of any degree; or arson; or attempts to commit such crimes.

(b) Except in extraordinary circumstances, established by clear and convincing evidence that certification or recertification will not jeopardize public health and safety, the Department shall deny applicants for certification or recertification in the following categories:

(i) Persons who are convicted of any crime not listed in (a) and who are currently incarcerated, on work release, on probation or on parole.

(ii) Conviction of crimes in the following categories, unless at least three years have passed since the conviction or at least three years have passed since release from custodial confinement, whichever occurs later:

(A) Crimes of violence against persons, such as assault;

(B) Crimes defined as domestic violence under Section 77-36-1;

(C) Crimes involving controlled substances or synthetics, or counterfeit drugs, including unlawful possession or distribution, or intent to distribute unlawfully, Schedule I through V drugs as defined by the Uniform Controlled Dangerous Substances Act; and

(D) Crimes against property, such as grand larceny, burglary, embezzlement or insurance fraud.

(c) The Department shall deny certification or recertification to individuals convicted of crimes, including DUIs, but not including minor traffic violations chargeable as infractions after consideration of the following factors:

(i) The seriousness of the crime.

(ii) Whether the crime relates directly to the skills of prehospital care service and the delivery of patient care.

(iii) Amount of time that has elapsed since the crime was committed.

(iv) Whether the crime involved violence to or abuse of another person.

(v) Whether the crime involved a minor or a person of diminished capacity as a victim.

(vi) Whether the applicant's actions and conduct since the crime occurred are consistent with the holding of a position of public trust.

(vii) Total number of arrests and convictions.

(viii) Whether the applicant was truthful regarding the crime on his/her application.

(d) Certified EMS personnel must notify the Department of any arrest or conviction. The Department may suspend, decertify, or place on probation anyone who does not notify the Department within 30 days of the arrest or conviction.

(e) The Department may decertify or suspend certification, or place a person on probation for any of the above violations.

(f) The Department may require an EMD to submit to a background check upon Department request. The Department may decertify or suspend certification, or place on probation an EMD who refuses to submit to a background check.

(9) The Department may refuse to issue a certification or recertification, or suspend or revoke a certification for any of the following causes:

(a) Habitual or excessive use or addiction to narcotics or dangerous drugs. Refusal to take a drug test as administered by an EMS employer or the Department is grounds for refusal, suspension or certification revocation by the Department of Health.

(b) Habitual abuse of alcoholic beverages or being under the influence of alcoholic beverages while on call or on duty as an Emergency Medical Dispatcher or while driving any emergency vehicle.

(c) Failure to comply with the emergency medical dispatcher training certification or recertification requirements of this rule.

(d) Fraud or deceit in applying for or obtaining a certification or fraud, deceit, incompetence, patient abuse, theft, or dishonesty in the performance of duties and practice as an emergency medical dispatcher.

(e) Involvement in the unauthorized use or removal of narcotics, drugs, supplies or equipment from any emergency vehicle or health care facility.

(f) Performing procedures or skills beyond the level of certification or violation of laws pertaining to medical practice and drugs.

(g) Conviction of a felony, misdemeanor or a crime involving moral turpitude, but not including minor traffic violations chargeable as infractions.

(h) Mental incompetence as determined by a court of competent jurisdiction.

(i) Demonstrated inabilities and failure to perform adequate patient care.

(j) For good cause, including conduct which is unethical, immoral, or dishonorable.

KEY: emergency medical services

~~[June 23, 1998]~~1999

26-8

Notice of Continuation December 2, 1997



**Health, Health Systems Improvement,
Health Facility Licensure
R432-6
Assisted Living Facility General
Construction**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 21700

FILED: 11/24/1998, 14:09

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The current rule is effective as of September 14, 1998. An important sentence relating to accommodations for the disabled was inadvertently left out. The change adds back in the missing sentence.

SUMMARY OF THE RULE OR CHANGE: The addition is made to Subsection R432-6-18(3) to read: "At least one building entrance shall be accessible to persons with physical disabilities."

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 21

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There will be a compliance cost incurred for printing and distributing the revised rule.

❖LOCAL GOVERNMENTS: The addition of this sentence does not affect local governments.

❖OTHER PERSONS: Costs: The cost to those facilities not constructed at grade will vary greatly depending on the length and height of the ramp and the materials used for the ramp. Cost to build is estimated at \$100 to \$1,500 per ramp. Ramps were required in the previous rule but inadvertently left out of the revised rule. Since ramps were required in the previous rule and there will only be about a three-month lapse between rules, no additional costs are anticipated to new facilities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs will be \$100 to \$1,500 per ramp. Ramps were required in the previous rule but inadvertently left out of the revised rule. Since ramps were required in the previous rule and there will only be about a three-month lapse between rules, no additional costs are anticipated to new facilities.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: It is appropriate and legally necessary that facilities be accessible. Correction of this inadvertent omission is justified and a necessary cost of doing business--Rod Betit.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 01/14/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/1999

AUTHORIZED BY: Rod L. Betit, Executive Director

R432. Health, Health Systems Improvement, Health Facility Licensure.

R432-6. Assisted Living Facility General Construction.

R432-6-18. Special Design Features.

(1) Building entrances in large facilities shall be at grade level, clearly marked, and located to minimize the need for residents to

traverse other program areas. A main facility entrance shall be designated and accessible to persons with disabilities.

(2) Lobbies of multi-occupancy buildings may be shared if the design precludes unrelated traffic within or through units or suites of the licensed health care facility.

(3) At least one building entrance shall be accessible to persons with physical disabilities. Entrances requiring ramps with a slope in excess of 1:20 shall have steps as well as ramps.

(4) In Large facilities where all resident units do not have kitchens or toilet facilities, at least one drinking fountain or water cooler, toilet, and handwashing fixture on each floor shall be wheelchair accessible.

(5) Each resident living unit shall have a wardrobe, closet, or locker for each resident occupying the unit. The closet, wardrobe or locker shall have a shelf and a hanging rod, with minimum inside dimensions of 22 inches deep by 36 inches wide by 72 inches tall, suitable for hanging full-length garments.

KEY: health facilities

[September 14, 1998]1999

26-21-5

26-21-16



**Health, Health Systems Improvement,
Health Facility Licensure
R432-270
Assisted Living Facilities**

NOTICE OF PROPOSED RULE

(Repeal and reenact)

DAR FILE NO.: 21722

FILED: 12/01/1998, 12:14

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for this change is to implement S.B. 153, "Assisted Living Facilities," passed in the recent legislative session which combined R432-250 Residential Health Care into the category of Assisted Living. A repeal has been proposed for R432-250, "Residential Health Care Facilities."

SUMMARY OF THE RULE OR CHANGE: This rule combines R432-250, "Residential Health Care Facilities," with R432-270, "Assisted Living Facilities," Type I and Type II. Levels of care are defined as Assisted Living Type I for those residents who are ambulatory and able to take life saving action independently, and Assisted Living Type II for those residents who may require intermittent nursing services and may require the assistance of one staff person to evacuate the facility. Section R432-270-3 adds definitions for "assistance with activities of daily living and independent activities of daily living," and "social care." Subsection R432-270-6(4) adds the requirement for one year of management experience for Type II large facilities. Subsection R432-270-8(8) adds staff training in Alzheimer's and dementia needs of residents.

Subsection R432-270-16(2)(c) allows assisted living facilities to arrange for home visits by health care professionals. Subsection R432-270-15(1)(b) permits a Type I facility to provide nursing care in accordance with Type II requirements for nursing care. Section R432-270-17 is deleted from the rule. Section R432-270-29, "Penalties," is added as required by state law.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-21-9.5

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: This amended rule will result in aggregate savings in printing and distribution costs to the state budget as R432-250, "Residential Health Care Facilities" has been repealed and incorporated into this rule.

❖LOCAL GOVERNMENTS: There is no anticipated aggregate cost or savings to local government as enforcement of this rule does not apply to local governments.

❖OTHER PERSONS: Residents of assisted living Type I and II facilities will be able to access their home health benefit vs. paying privately for intermittent skilled nursing services, resulting in a savings to the individual and provider at \$50 per hour for nursing services. The aggregate savings may be of the 2,405 residents in Assisted Living Facilities, if 5% required private nursing for 4 hours per day, the savings may be \$24,200. Providers may realize aggregate savings in being able to assist residents in arranging for and accessing home health care services rather than providing these services on contract. There may be aggregate cost to some large Type II facilities to obtain an administrator with required management experience. However, of the licensed Type II facilities, 16 facilities would be considered "large" and all of these facilities currently have experienced administrators who would not require additional management experience. This rule does not impact any of the licensed assisted living facilities currently. There is an additional cost to facilities that have not provided training for staff who work with Alzheimers' and dementia residents. During the informal hearing process, no provider made any comments on the increased cost associated with this requirement. However, if all of the 130 facilities were required to provide one hour of training annually on Alzheimer and Dementia care, and if the cost of the trainer was \$40 per hour, then the aggregate cost would be \$5,200.

(DAR Note: The proposed repeal for R432-250 is found under DAR No. 21528 in the November 1, 1998, issue of the *Utah State Bulletin*.)

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be incremental compliance costs to providers if the assumptions under "Other persons" are accurate, however during the informal hearing no provider objected to the change or any additional costs for implementing S.B. 153. Please refer to "Other persons."

(DAR Note: S.B. 153 is found at 1998 Utah Laws 192, and was effective July 1, 1998.)

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: It appears that providers regulated by this rule have been appropriately consulted in

the development of the rule. The training and other costs appear to be justified and necessary--Rod Betit.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 01/14/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/1999

AUTHORIZED BY: Rod L. Betit, Executive Director

R432. Health, Health Systems Improvement, Health Facility Licensure.

[R432-270. Assisted Living Facilities.

R432-270-1. Legal Authority.

— This rule is adopted pursuant to Title 26, Chapter 21:

R432-270-2. Purpose.

— (1) This rule establishes the operational standards for assisted living facilities:

— (2) Assisted living as provided in Subsection 26-21-2(3) is a facility with a home-like setting that provides an array of coordinated supportive personal and health care services, available 24 hours per day, to residents who have been assessed under division rule to need any of these services. Each resident shall have a service plan based on the assessment, which may include:

- (i) specified services of intermittent nursing care
- (ii) administration of medication; and
- (iii) support services promoting residents' independence and self-sufficiency;

— (3) Assisted living is intended to provide a place of residence where elderly and disabled persons can receive 24-hour individualized personal and health-related services to:

- (i) maintain the individual's capabilities and facilitate using those abilities;
- (ii) create options to enable the individual to exercise control over their lives;
- (iii) provide supports which validate the self-worth of the individual by showing courtesy and respect for the individual's rights;
- (iv) maintain areas or spaces which provide privacy;

— (v) recognize the individual's needs and preferences and is flexible in service delivery to respond to those needs and preferences.

— (4) Assisted living facilities shall provide each resident with a separate living unit. Two residents may share a unit upon request of both of the residents.

— (5) Assisted living is intended to allow residents to choose how they will balance risk and quality of life.

— (6) Assisted living is intended to enable residents, to the degree possible, to age in place.

R432-270-3. Definitions:

— (1) The terms used in these rules are defined in R432-1-3.

— (2) In addition:

— (a) "Dependent" means a person who meets one or both of the following criteria:

— (i) requires inpatient hospital or 24-hour continual nursing care that will last longer than 15 calendar days after the day on which the nursing care begins;

— (ii) is unable to evacuate from the facility without the physical assistance of two persons.

— (b) "Home-like" as used in statute and this rule means a place of residence which creates an atmosphere supportive of the resident's preferred lifestyle. Home-like is also supported by the use of residential building materials and furnishings.

— (c) "Licensed health care professional" means a person licensed by the Utah Department of Commerce who has education and experience to assess and evaluate the health care needs of the resident.

— (d) "Semi-independent" means a person who is:

— (i) physically disabled but able to direct his own care; or

— (ii) cognitively impaired or physically disabled but able to evacuate from the facility with the physical assistance of one person.

— (e) "Service Plan" means a written plan for services which meets the requirements of R432-270-13.

— (f) "Services" means activities which help the residents develop skills to increase or maintain their level of psychosocial and physical functioning, or which assist them in activities of daily living.

— (g) "Unit" means an individual living space, including living and sleeping space, bathroom, and optional kitchen area.

R432-270-4. Licensure:

— (1) Assisted living facilities may be licensed as large, small or limited capacity facilities:

— (a) A large assisted living facility houses 17 or more residents.

— (b) A small assisted living facility houses six to 16 residents.

— (c) A limited capacity assisted living facility houses up to five residents.

— (2) Assisted Living facilities may offer respite services and are not required to obtain a respite license from the Utah Department of Health.

— (a) The purpose of respite is to provide intermittent, time limited care to give primary caretakers relief from the demands of caring for a person.

— (b) Respite services may be provided at an hourly rate or daily rate, but shall not exceed 14 days for any single respite stay. Stays which exceed 14 days shall be considered an assisted living facility

admission, and shall be subject to the admission requirements of R432-270:

— (c) The facility shall coordinate the delivery of respite services with the recipient of services, case manager, if one exists, and the family member or primary caretaker.

— (d) The facility shall document the person's response to the respite placement and coordinate with all provider agencies to ensure an uninterrupted service delivery program.

— (e) The facility must complete a service agreement to serve as the plan of care. The service agreement shall identify the prescribed medications, physician treatment orders, need for assistance for activities of daily living and diet orders.

— (f) The facility shall have written policies and procedures available to staff regarding the respite care clients which include:

— (i) Medication administration;

— (ii) Notification of a responsible party in the case of an emergency;

— (iii) Service agreement and admission criteria;

— (iv) Behavior management interventions;

— (v) Philosophy of respite services;

— (vi) Post-service summary;

— (vii) Training and in-service requirement for employees; and

— (viii) Handling personal funds.

— (g) Persons receiving respite services shall be provided a copy of the Resident Rights documents upon admission.

— (h) The facility shall maintain a record for each person receiving respite services which includes:

— (i) Retention and storage of records;

— (ii) Confidentiality and release of information.

— (iii) The record shall contain the following information:

— (A) Service agreement;

— (B) Demographic information and resident identification data;

— (C) Nursing notes;

— (D) Physician treatment orders;

— (E) Records made by staff regarding daily care of the person in service;

— (F) Accident and injury reports;

— (G) Post-service summary.

— (i) If a person has an advanced directive, a copy shall be filed in the record and staff informed.

R432-270-5. Licensee:

— (1) The licensee must:

— (a) ensure compliance with all federal, state, and local laws;

— (b) assume responsibility for the overall organization, management, operation, and control of the facility;

— (c) establish policies and procedures for the welfare of residents, the protection of their rights, and the general operation of the facility;

— (d) implement a policy which ensures that the facility does not discriminate on the basis of race, color, sex, religion, ancestry, or national origin in accordance with state and federal law;

— (e) appoint, in writing, a qualified administrator who shall assume full responsibility for the day-to-day operation and management of the facility, the licensee and administrator may be the same person;

— (f) secure and update contracts for required services not provided directly by the facility; and

— (g) respond to requests for reports from the Department.

— (2) The licensee shall appoint a Quality Assurance Committee. The committee shall:

- (a) consist of at least the facility administrator and a health care professional;
 - (b) meet at least quarterly to identify and act on quality issues;
 - (c) implement a quality assurance program.
- (3) If the licensee is a corporation or an association, it shall maintain an active and functioning governing body to fulfill licensee duties and to ensure accountability.

R432-270-6. Administrator Qualifications:

- (1) An administrator shall have the following qualifications:
 - (a) be 21 years of age or older;
 - (b) have knowledge of applicable laws and rules;
 - (c) have the ability to deliver, or direct the delivery of, appropriate care to residents;
 - (d) be of good moral character;
 - (e) not have been convicted of a felony; and
 - (f) complete a national certification program.
- (2) The administrator of a small or limited-capacity assisted living facility shall have one or more of the following:
 - (a) an associate degree in a health care field;
 - (b) two years or more management experience in a health care field;
 - (c) one year's experience in a health care field as a licensed health care professional.
- (3) The administrator of a large assisted living facility must have one or more of the following:
 - (a) a state health facility administrator license;
 - (b) a bachelor's degree in a health care field;
 - (c) a bachelor's degree in any field and one year or more experience in a health care field;
 - (d) an associates degree and four years or more management experience in a health care field.

R432-270-7. Administrator Duties:

- (1) The administrator must:
 - (a) Be on the premises a sufficient number of hours in the business day, and at other times as necessary, to manage and administer the facility.
 - (b) Designate, in writing, a competent employee, 21 years of age or older, to act as administrator in the administrator's absence. It is not the intent of this subsection to permit a de facto administrator to replace the designated administrator.
- (2) The administrator is responsible for the following:
 - (a) Recruit, employ, and train the number of licensed and unlicensed staff needed to provide services;
 - (b) Verify all required licenses and permits of staff and consultants at the time of hire or the effective date of contract;
 - (c) Maintain facility staffing records for the preceding 12 months;
 - (d) Admit and retain only those residents who meet admissions criteria and whose needs can be met by the facility;
 - (e) Review every injury, accident, and incident to a resident or employee and take appropriate corrective action;
 - (f) Maintain a log indicating any significant change in a resident's condition and the facility's action or response;

— (g) Complete an investigation whenever there is reason to believe that a resident has been subject to abuse, neglect, or exploitation;

— (h) Notify the resident's responsible person and physician of significant changes or deterioration of the resident's health, and ensure the resident's transfer to an appropriate health care facility if the resident requires services beyond the scope of the facility's license;

— (i) Conduct and document regular inspections of the facility to ensure it is safe from potential hazards;

— (j) Complete, submit, and file all records and reports required by the Department;

— (k) Participate in a quality assurance program; and

— (1) Secure and update contracts for required professional and other services not provided directly by the facility.

— (5) The administrator's responsibilities shall be included in a written job description on file in the facility.

R432-270-8. Personnel:

— (1) Direct-care personnel shall be on the premises 24 hours a day to meet residents needs as determined by the residents' assessment and service plans.

— (2) The services provided or arranged by the facility shall be provided by qualified persons in accordance with the resident's written service plan.

— (3) Personnel who provide personal care to residents shall be certified nurse aides or complete a state certified nurse aide program after four months of the date of hire.

— (4) Personnel shall be licensed, certified, or registered in accordance with applicable state laws.

— (5) The facility shall have written job descriptions for each position, including job title, job responsibilities, qualifications or required skills.

— (6) The facility shall make available to personnel at all times its policies and procedures manuals and other information necessary for facility personnel to effectively perform their duties.

— (7) The facility shall document that all personnel are oriented to the facility and the job for which they are hired. Orientation shall include the following:

— (a) job description;

— (b) ethics, confidentiality, and residents' rights;

— (c) fire and disaster plan;

— (d) policy and procedures; and

— (e) reporting responsibility for abuse, neglect and exploitation.

— (8) Each employee shall receive documented in-service training. The training shall be tailored to include all of the following subjects that are relevant to the employee's job responsibilities:

— (a) principles of good nutrition, menu planning, food preparation, and storage;

— (b) principles of good housekeeping and sanitation;

— (c) principles of providing personal and social care;

— (d) proper procedures in assisting residents with medications;

— (e) recognizing early signs of illness and determining when there is a need for professional help;

— (f) accident prevention, including safe bath and shower water temperatures;

— (g) communication skills which enhance resident dignity.

~~— (9) To meet personnel health requirements, the facility shall:~~
~~— (a) complete at the time a person is hired, an employee health inventory that includes the following:~~

~~— (i) conditions that may predispose the employee to acquiring or transmitting infectious diseases;~~

~~— (ii) conditions that may prevent the employee from performing certain assigned duties satisfactorily.~~

~~— (b) develop employee health screening and immunization components of personnel health programs in accordance with Rule R386-702, concerning communicable diseases;~~

~~— (c) conduct employee skin testing by the Mantoux Method and follow up for tuberculosis in accordance with R386-702-5, concerning measures for control of tuberculosis:~~

~~— (i) skin testing must be conducted on each employee annually and after suspected exposure to a resident with active tuberculosis;~~

~~— (ii) all employees with known positive reaction to skin tests are exempt from skin testing.~~

~~— (d) report all infections and communicable diseases reportable by law to the local health department in accordance with Section R386-702-2, concerning reportable diseases; and~~

~~— (e) comply with the Occupational Safety and Health Administration's Bloodborne Pathogen Standard.~~

~~R432-270-9. Volunteers:~~

~~— (1) Volunteers may be used in the daily activities of the facility, but may not be included in the facility's employee staffing plan.~~

~~— (2) Volunteers must be supervised by facility staff.~~

~~— (3) Volunteers must be familiar with the facility's policies and procedures and with residents' rights.~~

~~R432-270-10. Admissions:~~

~~— (1) Assisted living facilities may admit persons who are independent and semi-independent, but shall not accept persons who are dependent.~~

~~— (2) The facility shall develop in accordance with this section written admission, retention, and transfer policies and shall make those policies available to the public upon request.~~

~~— (3) Before admitting a person, the facility shall obtain information about that person's ability to function in the facility through the following:~~

~~— (a) interviewing the person or the person's responsible person;~~

~~— (b) obtaining a physician's assessment.~~

~~— (4) Assisted living facilities shall not admit or retain a person who:~~

~~— (a) manifests behavior that is suicidal, assaultive, or poses a danger to self or others; or~~

~~— (b) has active tuberculosis or other chronic communicable disease that:~~

~~— (i) cannot be treated in the facility or on an outpatient basis; or~~

~~— (ii) may be transmitted to other residents or guests through the normal course of activities.~~

~~— (5) The prospective resident or the prospective resident's responsible person must sign a written admission agreement prior to admission. The admission agreement shall be kept on file by the facility and shall specify at least the following:~~

~~— (a) room and board charges and charges for basic and optional services;~~

~~— (b) provision for a 30-day notice prior to any change in established charges;~~

~~— (c) admission, retention, transfer, discharge, and eviction policies;~~

~~— (d) conditions under which the agreement may be terminated;~~

~~— (e) refund provisions that address the following:~~

~~— (i) thirty-day notices for transfer or discharge given by the facility or by the resident;~~

~~— (ii) emergency transfers or discharges;~~

~~— (iii) transfers or discharges without notice; and~~

~~— (iv) death of a resident.~~

~~— (f) the name of the responsible party;~~

~~— (g) notice that the Department has the authority to examine resident records to determine compliance with licensure requirements.~~

~~R432-270-11. Transfer or Discharge Requirements:~~

~~— (1) A resident may be discharged, transferred, or evicted for one or more of the following reasons:~~

~~— (a) the facility is no longer able to meet the resident's needs;~~

~~— (b) the resident fails to pay for services as required by the admission agreement;~~

~~— (c) the resident fails to comply with written policies or rules of the facility;~~

~~— (d) the resident wishes to transfer; or~~

~~— (e) the facility ceases to operate.~~

~~— (2) Prior to transferring or discharging a resident the facility shall serve a transfer or discharge notice upon the resident and the resident's responsible person according to the following requirements:~~

~~— (a) the notice shall be either hand-delivered or sent by certified mail;~~

~~— (b) the notice shall be made at least 30 days before the day on which the facility plans to transfer or discharge the resident, except that the notice may be made as soon as practicable before transfer or discharge if:~~

~~— (i) the safety or health of persons in the facility is endangered; or~~

~~— (ii) an immediate transfer or discharge is required by the resident's urgent medical needs.~~

~~— (3) The notice of transfer or discharge shall:~~

~~— (a) be in writing;~~

~~— (b) be phrased in a manner and in a language the resident can understand;~~

~~— (c) detail the reasons for transfer or discharge;~~

~~— (d) state the effective date of transfer or discharge;~~

~~— (e) state the location to which the resident will be transferred or discharged;~~

~~— (f) state that the resident may request a conference to discuss the transfer or discharge;~~

~~— (g) be copied in the resident file; and~~

~~— (h) contain the following information:~~

~~— (i) for facility residents who are 60 years of age or older, the name, mailing address, and telephone number of the State Long Term Care Ombudsman;~~

~~— (ii) for facility residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy of developmentally disabled~~

individuals established under part C of the Developmental Disabilities Assistance and Bill of Rights Act;

— (iii) for facility residents who are mentally ill, the mailing address and telephone number of the agency responsible for the protection and advocacy of mentally ill individuals established under the Protection and Advocacy for Mentally Ill Individuals Act;

— (4) The facility shall provide sufficient preparation and orientation to a resident to ensure a safe and orderly transfer or discharge from the facility.

— (5) The resident or the resident's responsible person may contest a transfer or discharge. If the transfer or discharge is contested, the facility shall provide an informal conference, except where undue delay might jeopardize the health, safety, or well-being of the resident or others.

— (a) The resident or the resident's responsible person must request the conference within five calendar days of the day of receipt of notice of discharge.

— (b) The purpose of the conference shall be to determine if a satisfactory resolution can be reached.

— (c) Participants in the conference shall include the facility representatives, the resident or the resident's responsible person and any others requested by the resident or the resident's responsible person.

R432-270-12. Physician's Assessment:

— (1) Each person admitted by an assisted living facility must have a personal physician upon admission.

— (2) A signed and dated statement from the resident's physician, obtained prior to admission, shall be on file for each person admitted by the facility. The physician's statement shall document the resident's ability to function in the facility by including information on the following:

- (a) health status;
- (b) communicable disease status;
- (c) allergies;
- (d) diet;
- (e) current prescribed medications with dose, route, time of administration, and assistance required from facility staff;
- (f) physical or mental limitations; and
- (g) activity restrictions.

R432-270-13. Resident Assessment:

— (1) The facility shall use a Department-approved resident assessment form to conduct its resident assessments.

— (2) The facility shall use the resident assessment together with the physician's assessment to develop, review, and revise an individualized service plan for each resident.

— (3) The facility shall conduct the resident assessment within seven calendar days of the day the facility admits the resident.

— (4) The facility shall conduct a semi-annual resident assessment review and one full resident assessment in each 12-month period to document changes in a resident's cognitive, medical, physical, and social conditions.

— (5) The facility shall revise the resident assessment when there is a significant change in a resident's cognitive, medical, physical, or social condition.

— (6) Each resident assessment shall be conducted or coordinated by a licensed health care professional who must sign and certify the assessment.

R432-270-14. Service Plan:

— (1) The facility shall develop an individualized service plan for each resident that is consistent with the resident's unique cognitive, medical, physical, and social needs within seven calendar days of the day the facility admits the resident. The facility shall periodically revise the service plan as needed.

— (2) The service plan is prepared by a service coordinator who is an employee of the assisted living facility. The resident or the resident's responsible person shall actively participate with a service coordinator in developing the service plan.

— (3) The service plan shall include a written description of the following:

- (a) what services will be provided;
- (b) who will provide the services, including the resident's significant others who may participate in the delivery of services;
- (c) how the services will be provided;
- (d) the frequency of services;
- (e) changes in services and reasons for those changes.

R432-270-15. Arrangements for Medical or Dental Care:

— (1) The facility shall promptly arrange for medical or dental care as needed or requested by residents.

— (2) The facility shall arrange for care through one or more of the following methods:

- (a) notifying the resident's responsible person;
- (b) arranging for transportation to and from the practitioner's office; or
- (c) notifying a physician or other health care professional when the resident requires immediate medical attention.

R432-270-16. Food Services:

— (1) Facilities must have the capability to provide three meals a day, seven days a week to all residents, plus snacks.

— (a) The facility shall have in the facility a one-week supply of nonperishable food and a three-day supply of perishable food to meet the needs of the planned menus.

— (b) The facility shall comply with the following:

- (i) All food shall be of good quality and shall be prepared by methods that conserve nutritive value, flavor, and appearance;
- (ii) The facility shall ensure food is palatable, attractively served, and that hot food is served hot and cold food is served cold;
- (iii) Powdered milk shall not be used as a beverage, unless the residents desire, but may be used in cooking and baking.

— (2) The facility shall provide adaptive eating equipment and utensils for residents who need them.

— (3) A different menu shall be planned and followed for each day of the week.

- (a) All menus must be approved by a certified dietitian;
- (b) Cycle menus shall cover a minimum of three weeks;
- (c) The current week's menu shall be posted for residents' viewing;

— (d) Substitutions to the menu that are actually served to the residents shall be recorded and retained for six months for review by the Department.

— (4) Meals served on the premises must be served in a designated dining area suitable for the purpose.

— (5) Inspection reports by the local health department shall be maintained at the facility for review by the Department.

— (6) If the facility admits residents requiring therapeutic or special diets, the facility shall have an approved dietary manual for reference when preparing meals. Dietitian consultation shall be provided quarterly and documented for residents requiring therapeutic diets.

— (7) The facility shall employ food service personnel to meet the needs of residents.

— (a) All food service personnel shall observe personal hygiene and sanitation practices which protect food from contamination.

— (b) While on duty in food service, the cook and other kitchen staff shall not be assigned concurrent duties outside the food service area.

— (c) All personnel who prepare or serve food shall have a current Food Handler's Permit.

— (d) Dietary staff must receive a minimum of six hours of documented in-service training each year.

R432-270-17. Food Service Supervisor Requirements.

— (1) Large and small assisted living facilities shall have an organized dietary service supervised by a qualified food service supervisor.

— (2) A qualified food service supervisor shall have completed, prior to or within one year of employment, one of the following:

— (a) training in food service supervision and management consisting of 25 hours of classroom instruction in food service supervision;

— (b) graduation from a dietetic technician or dietary managers' training program approved by the Dietary Managers' Association;

— (c) completion of a bachelor's degree with major study in food management and nutrition, or dietetics;

— (d) be a certified dietitian.

— (3) A state-approved food service supervisor course shall cover, at a minimum, the following:

— (a) menu writing;

— (b) basic nutrition;

— (c) sanitation and safety;

— (d) food preparation;

— (e) purchasing;

— (f) therapeutic diets and portion control;

— (g) alteration and consistency of food products;

— (h) interpersonal communication.

— (4) A qualified food service supervisor shall attend six hours of in-service training each year.

— (5) The qualified food service supervisor shall train and supervise all persons who work in food services.

R432-270-18. Housekeeping Services.

— (1) The facility shall employ housekeeping and maintenance staff to maintain both the exterior and interior of the facility.

— (2) The facility shall designate a person to direct housekeeping services. This person shall:

— (a) post routine laundry, maintenance, and cleaning schedules for housekeeping staff.

— (b) ensure all furniture, bedding, linens, and equipment are clean and shall clean such items before use by another resident.

— (3) The facility shall control odors by maintaining cleanliness.

— (4) The facility shall have a trash container in every occupied room.

— (5) The facility shall store cleaning agents, bleaches, insecticides, or poisonous, dangerous, or flammable materials in a locked area to prevent unauthorized access.

— (6) The facility must not use bathtubs, shower stalls, or lavatories as storage places.

R432-270-19. Laundry Services.

— (1) The facility shall provide laundry service to meet the needs of the residents, including sufficient linen supply to permit a change in bed linens at least twice a week.

— (2) The facility shall inform the resident or the resident's responsible person in writing of the facility's laundry policy for residents' personal clothing.

— (3) Food may not be stored, prepared, or served in any laundry area.

— (4) The facility shall make available, in good repair, the following:

— (a) at least one washing machine and one clothes dryer;

— (b) at least one iron and ironing board.

R432-270-20. Maintenance Services.

— (1) The facility shall conduct maintenance, including preventive maintenance, according to a written schedule to ensure that the facility equipment, buildings, fixtures, spaces, and grounds are safe, clean, operable, and in good repair.

— (2) The facility shall maintain entrances, exits, steps, and outside walkways in a safe condition, free of ice, snow, and other hazards.

— (3) The facility shall maintain electrical systems, including appliances, cords, equipment call lights, and switches to guarantee safe functioning and compliance with the National Electric Code; NFPA 70.

— (4) The facility shall inspect and clean or replace air filters installed in heating, air conditioning, and ventilation systems according to manufacturers specifications.

— (5) The facility shall document maintenance work performed.

R432-270-21. Activity Program.

— (1) The facility shall encourage residents to participate in activity and recreational programs.

— (2) The administrator shall designate an activity coordinator to direct the facility's activity program. The activity coordinator's duties include the following:

— (a) coordinate all recreational activities, including volunteer and auxiliary activities;

— (b) plan, organizes, and conducts the residents' activity program with resident participation;

— (c) develop monthly activity calendars, including information on community activities, based on residents' needs and interests.

— (3) The facility shall provide sufficient equipment, supplies, and indoor and outdoor space to meet the recreational needs and interests of residents.

— (4) The facility shall provide storage for recreational equipment and supplies.

R432-270-22. Medication Administration.

— (1) A resident may self-administer medication, have a significant other administer the medication, or have a licensed nurse

administer the medication. The level of assistance provided shall be documented on the service plan:

— (2) A resident who has been assessed to be able to handle their own medication regimen may keep prescription medications in their room. If more than one resident resides in a unit, the facility shall assess each person's ability to safely have medications in the unit. If safety is a factor, a resident shall keep his medication in a locked container in the unit:

— (3) Facility staff may assist residents who self-medicate by:

- (a) reminding the resident to take the medication;
- (b) opening medication containers;
- (c) reading the instructions on container labels;
- (d) checking the dosage against the label of the container;
- (e) reassuring the resident that the dosage is correct;
- (f) observing a resident take the medication; and
- (g) reminding the resident or the resident's responsible person when the prescription needs to be refilled.

— (4) If facility staff administer medication to a resident, instructions shall be documented on the resident's service plan and the medications shall be prescribed in writing for the resident by a physician or his designee:

— (5) All medications administered by the facility nurse shall be reviewed at least every six months:

— (a) Medication records shall include the following:

- (i) the resident's name;
- (ii) the name of the prescribing physician;
- (iii) the name of the medication, including prescribed dosage;
- (iv) times and dates administered;
- (v) method of administration;
- (vi) signatures of personnel administering the medication; and
- (vii) review date.

— (b) Any change in the dosage or schedule of medication administration shall be made by the resident's physician:

— (c) The facility shall keep on file a list of possible reactions to the resident medications it administers:

— (6) If a facility administers medication, the facility shall have a procedure to notify the physician to report medication errors:

— (7) Medication shall be stored securely in a central storage area to prevent unauthorized access:

— (a) If medication is stored in a central location, the resident shall have timely access to the medication:

— (b) Medications that require refrigeration shall be stored separately from food items and at temperatures between 36–46 degrees F:

— (c) Provision shall be made for safe handling and storage of oxygen. Facility personnel shall not transfer oxygen from one cylinder to another:

— (8) The facility shall develop and implement a policy for disposing of unused, outdated, or recalled medications:

— (a) The facility shall return a resident's medication to the resident or to the resident's responsible person upon discharge:

— (b) The administrator shall document the return to the resident or the resident's responsible person of medication stored in a central supply:

R432-270-23. Residents' Rights:

— (1) Assisted living facilities shall develop a written resident's rights statement based on this section:

— (2) The facility shall give the resident a written description of the resident's legal rights upon admission, including the following:

— (a) a description of the manner of protecting personal funds, in accordance with Section R432-270-24; and

— (b) a statement that the resident may file a complaint with the state long term care ombudsman and any other advocacy group concerning resident abuse, neglect, and misappropriation of resident property in the facility:

— (3) The facility shall notify the resident or the resident's responsible person at the time of admission, in writing and in a language and manner that the resident or the resident's responsible person understands, of the resident's rights and of all rules governing resident conduct and responsibilities during the stay in the facility:

— (4) The facility shall promptly notify in writing the resident or the resident's responsible person when there is a change in resident rights under state law:

— (5) Resident rights include the following:

— (a) the right to be treated with respect, consideration, fairness, and full recognition of personal dignity and individuality;

— (b) the right to be transferred, discharged, or evicted by the facility only in accordance with the terms of the signed admission agreement;

— (c) the right to be free of mental and physical abuse, and chemical and physical restraints;

— (d) the right to refuse to perform work for the facility;

— (e) the right to perform work for the facility if the facility consents and if:

— (i) the facility has documented the resident's need or desire for work in the service plan;

— (ii) the resident agrees to the work arrangement described in the service plan;

— (iii) the service plan specifies the nature of the work performed and whether the services are voluntary or paid; and

— (iv) compensation for paid services is at or above the prevailing rate for like work in the surrounding community:

— (f) the right to privacy during visits with family, friends, clergy, social workers, ombudsmen, resident groups, and advocacy representatives;

— (g) the right to share a unit with a spouse, if both spouses consent and if both spouses are facility residents;

— (h) the right to privacy when receiving personal care or services;

— (i) the right to keep personal possessions and clothing as space permits;

— (j) the right to participate in religious and social activities of the resident's choice;

— (k) the right to interact with members of the community both inside and outside the facility;

— (l) the right to send and receive mail unopened;

— (m) the right to have access to telephones to make and receive private calls;

— (n) the right to arrange for medical and personal care;

— (o) the right to have a family member or responsible person informed by the facility of significant changes in the resident's cognitive, medical, physical, or social condition or needs;

— (p) the right to leave the facility at any time and not be locked into any room, building, or on the facility premises during the day

or night; this right does not prohibit the establishment of house rules such as locking doors at night for the protection of residents;

—(q) the right to be informed of complaint or grievance procedures and to voice grievances and recommend changes in policies and services to facility staff or outside representatives without restraint, discrimination, or reprisal;

—(r) the right to be encouraged and assisted throughout the period of a stay to exercise these rights as a resident and as a citizen;

—(s) the right to manage and control personal funds, or to be given an accounting of personal funds entrusted to the facility, as provided in R432-270-24 concerning management of resident funds;

—(t) the right, upon oral or written request, to access within 24 hours all records pertaining to the resident, including clinical records;

—(u) the right, two working days after the day of the resident's oral or written request, to purchase at a cost not to exceed the community standard photocopies of the resident's records or any portion thereof;

—(v) the right to personal privacy and confidentiality of personal and clinical records;

—(w) the right to be fully informed in a language and in a manner the resident understands of the resident's health status and health rights, including the following:

—(i) medical condition;

—(ii) the right to refuse treatment;

—(iii) the right to formulate an advance directive in accordance with Section 75-2-1101; and

—(iv) the right to refuse to participate in experimental research.

—(x) the right to be fully informed in advance about care and treatment and of any changes in that care or treatment that may affect the resident's well-being;

—(6) The facility shall post in a public area of the facility that is easily accessible by residents the following:

—(a) the results of surveys of the facility and any plans of correction;

—(b) the ombudsmen's notification poster;

—(c) information on Utah protection and advocacy systems; and

—(d) a copy of the resident's rights.

—(7) A resident may organize and participate in resident groups in the facility, and a resident's family has may meet in the facility with the families of other residents.

—(a) The facility shall provide a resident group or family group private space.

—(b) Facility personnel or visitors may attend resident group or family group meetings only at the group's invitation.

—(c) The facility shall designate an employee to provide assistance and to respond to written requests that result from group meetings.

R432-270-24. Management of Resident Funds.

—(1) Residents have the right to manage and control their financial affairs. The facility may not require residents to deposit their personal funds or valuables with the facility.

—(2) The facility need not handle residents' cash resources or valuables. However, upon written authorization by the resident or the resident's responsible person, the facility may hold, safeguard,

manage, and account for the resident's personal funds or valuables deposited with the facility, in accordance with the following:

—(a) The licensee shall establish and maintain on the residents' behalf a system that assures a full, complete, and separate accounting according to generally accepted accounting principles of each resident's personal funds entrusted to the facility. The system shall:

—(i) preclude any commingling of resident funds with facility funds or with the funds of any person other than another resident, and preclude facility personnel from using residents' monies or valuables as their own;

—(ii) separate residents' monies and valuables intact and free from any liability that the licensee incurs in the use of its own or the facility's funds and valuables;

—(iii) maintain a separate account for resident funds for each facility and not commingle such funds with resident funds from another facility;

—(iv) for records of residents' monies which are maintained as a drawing account, include a control account for all receipts and expenditures and an account for each resident and supporting receipts filed in chronological order;

—(v) keep each account with columns for debits, credits, and balance;

—(vi) include a copy of the receipt that it furnished to the residents for funds received and other valuables entrusted to the licensee for safekeeping.

—(b) The facility shall make individual financial records available on request through quarterly statements to the resident or the resident's legal representative.

—(c) The facility shall purchase a surety bond or otherwise provide assurance satisfactory to the Department that all resident personal funds deposited with the facility are secure.

—(d) The facility shall deposit all money in a resident's account that is in excess of \$150 in an interest-bearing bank account, one separate from any of the facility's operating accounts, in a local financial institution within five days of receipt.

—(i) Interest earned on the residents' bank accounts shall be credited to their accounts.

—(ii) In pooled accounts there shall be a separate accounting for each resident's share, including interest.

—(e) The facility shall maintain a resident's personal funds that do not exceed \$150 in a noninterest-bearing account, interest-bearing account, or petty cash fund.

—(f) Upon discharge of a resident with funds or valuables deposited with the facility, the facility shall that day convey the resident's funds, and a final accounting of those funds, to the resident or the resident's legal representative. However, funds and valuables kept in an interest-bearing account and a final accounting of those funds shall be made available within three working days.

—(g) Within 30 days following the death of a resident, except in a medical examiner case, the facility shall convey the resident's valuables and funds entrusted to the facility, and a final accounting of those funds, to the individual administering the resident's estate.

R432-270-25. Facility Records.

—(1) The facility shall maintain accurate and complete records. Records shall be filed, stored safely, and be easily accessible to staff.

— (2) Records shall be protected against access by unauthorized individuals.

— (3) The facility shall maintain personnel records for each employee and shall retain such records for at least three years following termination of employment. Personnel records shall include the following:

- (a) employee application;
- (b) date of employment;
- (c) termination date; and
- (d) reason for leaving.

— (4) The facility shall maintain in the facility a separate record for each resident that shall:

- (a) be available to facility staff and the Department;
- (b) be retained for at least three years following discharge;
- (c) include the following:
 - (i) demographic information; including the resident's name, date of birth, and last address;
 - (ii) name, address, and telephone number of the person who administers and obtains medications, if this is not facility staff;
 - (iii) name, address, and telephone number of the individual to be notified in case of accident or death;
 - (iv) name, address, and telephone number of physician and dentist to be called in an emergency;
 - (v) admission agreement;
 - (vi) physician's assessment;
 - (vii) resident assessment; and
 - (viii) resident service plan.

R432-270-26. Disaster and Emergency Preparedness:

— (1) The facility is responsible for the safety and well-being of residents in the event of an emergency or disaster.

— (2) The licensee and the administrator are responsible to develop plans coordinated with the state and local emergency disaster authorities to respond to potential emergencies and disasters. The plan shall outline the protection or evacuation of all residents and include arrangements for staff response or provisions of additional staff to ensure the safety of any resident with physical or mental limitations:

- (a) Emergencies and disasters include fire, severe weather, missing residents, interruption of public utilities, explosion, bomb threat, earthquake, flood, windstorm, epidemic, or mass casualty;
- (b) The emergency and disaster response plans shall be in writing and shall be distributed or made available to all facility staff and residents to assure prompt and efficient implementation.
- (c) The licensee and the administrator shall review and update the plans as necessary to conform with local emergency plans. The plans shall be available for review by the Department.

— (3) The facility's emergency and disaster response plans shall address the following:

- (a) the names of the person in charge and persons with decision-making authority;
- (b) the names of persons who shall be notified in an emergency in order of priority;
- (c) the names and telephone numbers of emergency medical personnel, fire department, paramedics, ambulance service, police, and other appropriate agencies;
- (d) instructions on how to contain a fire and how to use the facility alarm systems;

— (e) assignment of personnel to specific tasks during an emergency;

— (f) the procedure to evacuate and transport residents and staff to a safe place within the facility or to other prearranged locations;

— (g) instructions on how to recruit additional help, supplies, and equipment to meet the residents' needs after an emergency or disaster;

— (h) delivery of essential care and services to facility occupants by alternate means;

— (i) delivery of essential care and services when additional persons are housed in the facility during an emergency;

— (j) delivery of essential care and services to facility occupants when personnel are reduced by an emergency;

— (k) maintenance of safe ambient air temperatures within the facility:

— (i) Emergency heating must have the approval of the local fire department.

— (ii) Ambient air temperatures of 58 degrees F. or below may constitute an imminent danger to the health and safety of the residents in the facility. The person in charge shall take immediate action in the best interests of the residents.

— (iii) The facility shall have, and be capable of implementing, contingency plans regarding excessively high ambient air temperatures within the facility that may exacerbate the medical condition of residents.

— (4) Personnel and residents shall receive instruction and training in accordance with the plans to respond appropriately in an emergency. The facility shall:

— (a) annually review the procedures with existing staff and residents and carry out unannounced drills using those procedures;

— (b) hold simulated disaster drills semi-annually;

— (c) hold simulated fire drills quarterly on each shift for staff and residents in accordance with Rule R710-3; and

— (d) document all drills, including date, participants, problems encountered, and the ability of each resident to evacuate.

— (5) The administrator shall be in charge during an emergency. If not on the premises, the administrator shall make every effort to report to the facility, relieve subordinates and take charge.

— (6) The facility shall provide in-house all equipment and supplies required in an emergency including emergency lighting, heating equipment, food, potable water, extra blankets, first aid kit, and radio.

— (7) The following shall be posted in prominent locations throughout the facility:

— (a) The name of the person in charge and names and telephone numbers of emergency medical personnel, agencies, and appropriate communication and emergency transport systems.

— (b) Evacuation routes, location of fire alarm boxes, and fire extinguishers.

R432-270-27. First Aid:

— (1) The facility must at all times have one employee on duty who has trained in basic first aid, cardiopulmonary resuscitation and emergency procedures. First aid training refers to any basic first aid course approved by the American Red Cross or Utah Emergency Medical Training Council.

— (2) The facility must have a first aid kit available at a specified location in the facility:

— (3) The first aid kit must contain the following:

- (a) a current edition of a basic first aid manual approved by the American Red Cross, the American Medical Association, or a state or federal health agency;
- (b) sterilized gauze squares, six each of assorted sizes two- and four-inch;
- (c) one each of King rolled one-inch, two-inch, and three-inch bandages;
- (d) assorted adhesive dressing such as Band-Aids;
- (e) adhesive tape, one-half inch or one inch wide;
- (f) bandage or other safe scissors;
- (g) tweezers;
- (h) thermometers;
- (i) tongue blades and cotton-tipped applicator sticks;
- (j) cleansing agent or disinfectant solution;
- (k) lubricant;
- (l) assorted safety pins;
- (m) airway for mouth-to-mouth resuscitation.

R432-270-28. Pets.

- (1) The facility may allow residents to keep household pets such as dogs, cats, birds, fish, and hamsters if permitted by local ordinance and by facility policy.
- (2) Pets must be kept clean and disease-free.
- (3) The pets' environment shall be kept clean.
- (4) Small pets such as birds and hamsters shall be kept in appropriate enclosures.
- (5) Pets not confined in enclosures shall be hand-held, under leash control, or under voice control.
- (6) Pets that are kept at the facility or are frequent visitors must have current vaccinations.
- (7) Upon approval of the administrator, family members may bring residents' pets to visit.
- (8) Each facility with birds shall have procedures which prevent the transmission of psittacosis. Procedures shall ensure the minimum handling of and the placing of droppings into a closed plastic bag for disposal.
- (9) Pets are not permitted in central food preparation, storage, or dining areas or in any area where their presence would create a significant health or safety risk to others.

R432-270-29. Abuse Policy.

- (1) The resident has the right to be free from involuntary seclusion, corporal punishment, and from verbal, sexual, physical, or mental abuse.
- (2) The facility shall develop and implement written policies and procedures that prohibit the mistreatment, neglect, or abuse of residents, or the misappropriation of resident property.
- (3) The facility shall not:
 - (a) allow verbal, mental, sexual, or physical abuse, including corporal punishment or involuntary seclusion; or
 - (b) knowingly employ individuals who have been convicted of abusing, neglecting, or mistreating individuals.
- (4) The facility shall ensure that all alleged violations involving mistreatment, neglect, or abuse, including injuries of an unknown source, are reported immediately to the administrator of the facility and to other officials in accordance with Section 62A-3-302, concerning requirements to report abuse, neglect, or exploitation of a disabled adult.

— (5) The facility shall maintain incident reports documenting that all alleged violations are thoroughly investigated internally, and shall prevent further potential abuse while the investigation is in progress.

— (6) The results of all internal investigations shall be reported immediately to the administrator or the administrator's designated representative or to other appropriate officials.

— (7) If the alleged violation is verified, the facility shall take appropriate corrective action and document the action taken.

KEY: health facilities**March 5, 1996****26-21-5****26-21-1****R432-270-1. Legal Authority.**

This rule is adopted pursuant to Title 26, Chapter 21.

R432-270-2. Purpose.

(1) This rule establishes the operational standards for assisted living facilities.

(2) Assisted living as provided in 26-21-2(3) means:

(a) A Type I assisted living facility is a residential facility that provides assistance with activities of daily living and social care to two or more residents who are capable of achieving mobility sufficient to exit the facility without the assistance of another person;

(b) A Type II assisted living facility is a residential facility with a home-like setting that provides an array of coordinated supportive personal and health care services, available 24 hours per day, to residents who have been assessed.

(c) Each resident in a Type I or Type II assisted living facility must have a service plan based on the assessment, which may include:

(i) specified services of intermittent nursing care

(ii) administration of medication; and

(iii) support services promoting residents' independence and self-sufficiency.

(3) Assisted living is intended to enable persons experiencing functional impairments to receive 24-hour personal and health-related services in a place of residence with sufficient structure to meet care needs in a safe manner.

(4) Assisted living services shall be individualized to:

(a) maintain each individual's capabilities and facilitate using those abilities;

(b) create options to enable individuals to exercise control over their lives;

(c) provide supports which validate the self-worth of each individual by showing courtesy and respect for the individual's rights;

(d) maintain areas or spaces which provide privacy; and

(e) recognize each individual's needs and preferences and be flexible in service delivery to respond to those needs and preferences.

(5) Assisted living is intended to allow residents to choose how they will balance risk and quality of life.

(6) Type II assisted living facilities shall provide substantial assistance with activities of daily living, in response to a medical condition, above the level of verbal prompting, supervision, or coordination.

(7) Type II assisted living facilities shall provide each resident with a separate living unit. Two residents may share a unit upon written request of both of the residents.

(8) Type II assisted living is intended to enable residents, to the degree possible, to age in place.

R432-270-3. Definitions.

(1) The terms used in these rules are defined in R432-1-3.

(2) In addition:

(a) "Assistance with the activities of daily living and independent activities of daily living" means prompting and assisting residents with the following:

(i) personal grooming and dressing;

(ii) oral hygiene and denture care;

(iii) toileting and toilet hygiene;

(iv) eating during mealtime;

(v) encouraging and supporting residents to be independent or maintain independence if they use assistive devices (crutches, braces, walkers, wheelchairs) or prosthetic devices (glasses and hearing aids);

(vi) housekeeping;

(vii) self-administration of medication;

(viii) encouraging the resident to maintain his independence and sense of self-direction;

(ix) administering emergency first aid; and

(x) taking and recording oral temperatures.

(b) "Dependent" means a person who meets one or all of the following criteria:

(i) requires inpatient hospital or 24-hour continual nursing care that will last longer than 15 calendar days after the day on which the nursing care begins;

(ii) is unable to evacuate from the facility without the physical assistance of two persons.

(c) "Home-like" as used in statute and this rule means a place of residence which creates an atmosphere supportive of the resident's preferred lifestyle. Home-like is also supported by the use of residential building materials and furnishings.

(d) "Licensed health care professional" means a registered nurse, physician assistant, advanced nurse practitioner, or physician licensed by the Utah Department of Commerce who has education and experience to assess and evaluate the health care needs of the resident.

(e) "Semi-independent" means a person who is:

(i) physically disabled but able to direct his own care; or

(ii) cognitively impaired or physically disabled but able to evacuate from the facility or to a zone or area of safety with the physical assistance of one person.

(f) "Service Plan" means a written plan for services which meets the requirements of R432-270-14.

(g) "Services" means activities which help the residents develop skills to increase or maintain their level of psycho-social and physical functioning, or which assist them in activities of daily living.

(h) "Social care" means:

(i) providing opportunities for social interaction in the facility and in the community; and

(ii) providing services to promote independence and a sense of self-direction.

(i) "Unit" means an individual living space, including living and sleeping space, bathroom, and optional kitchen area.

R432-270-4. Licensure.

(1) Assisted living facilities may be licensed as large, small or limited capacity facilities.

(2) A large assisted living facility houses 17 or more residents.

(3) A small assisted living facility houses six to 16 residents.

(4) A limited capacity assisted living facility houses two to five residents.

R432-270-5. Licensee.

(1) The licensee must:

(a) ensure compliance with all federal, state, and local laws;

(b) assume responsibility for the overall organization, management, operation, and control of the facility;

(c) establish policies and procedures for the welfare of residents, the protection of their rights, and the general operation of the facility;

(d) implement a policy which ensures that the facility does not discriminate on the basis of race, color, sex, religion, ancestry, or national origin in accordance with state and federal law;

(e) secure and update contracts for required services not provided directly by the facility;

(f) respond to requests for reports from the Department; and

(g) appoint, in writing, a qualified administrator who shall assume full responsibility for the day-to-day operation and management of the facility. The licensee and administrator may be the same person.

(2) The licensee shall implement a quality assurance program to include a Quality Assurance Committee. The committee must:

(a) consist of at least the facility administrator and a health care professional, and

(b) meet at least quarterly to identify and act on quality issues.

(3) If the licensee is a corporation or an association, it shall maintain an active and functioning governing body to fulfill licensee duties and to ensure accountability.

R432-270-6. Administrator Qualifications.

(1) The administrator shall have the following qualifications:

(a) be 21 years of age or older;

(b) have knowledge of applicable laws and rules;

(c) have the ability to deliver, or direct the delivery of, appropriate care to residents;

(d) be of good moral character;

(e) complete the background criminal clearance defined in R432-35; and

(f) for all Type II facilities, complete a Department approved national certification program.

(2) In addition to R432-270-6(1) the administrator of a Type I facility shall have an associate degree or two years experience in a health care facility.

(3) In addition to R432-270-6(1) the administrator of a Type II small or limited-capacity assisted living facility shall have one or more of the following:

(a) an associate degree in a health care field;

(b) two years or more management experience in a health care field; or

(c) one year's experience in a health care field as a licensed health care professional.

(4) In addition to R432-270-6(1) the administrator of a Type II large assisted living facility must have one or more of the following:

(a) a State of Utah health facility administrator license;

(b) a bachelor's degree in a health care field, to include management training or one or more years of management experience;

(c) a bachelor's degree in any field, to include management training or one or more years of management experience and one year or more experience in a health care field; or

(d) an associates degree and four years or more management experience in a health care field.

R432-270-7. Administrator Duties.

(1) The administrator must:

(a) be on the premises a sufficient number of hours in the business day, and at other times as necessary, to manage and administer the facility;

(b) designate, in writing, a competent employee, 21 years of age or older, to act as administrator when the administrator is unavailable for immediate contact. It is not the intent of this subsection to permit a de facto administrator to replace the designated administrator.

(2) The administrator is responsible for the following:

(a) recruit, employ, and train the number of licensed and unlicensed staff needed to provide services;

(b) verify all required licenses and permits of staff and consultants at the time of hire or the effective date of contract;

(c) maintain facility staffing records for the preceding 12 months;

(d) admit and retain only those residents who meet admissions criteria and whose needs can be met by the facility;

(e) review at least quarterly every injury, accident, and incident to a resident or employee and document appropriate corrective action;

(f) maintain a log indicating any significant change in a resident's condition and the facility's action or response;

(g) complete an investigation whenever there is reason to believe that a resident has been subject to abuse, neglect, or exploitation;

(h) report all suspected abuse, neglect, or exploitation in accordance with Section 62A-3-302, and document appropriate action if the alleged violation is verified.

(i) notify the resident's responsible person and physician of significant changes or deterioration of the resident's health, and ensure the resident's transfer to an appropriate health care facility if the resident requires services beyond the scope of the facility's license;

(j) conduct and document regular inspections of the facility to ensure it is safe from potential hazards;

(k) complete, submit, and file all records and reports required by the Department;

(l) participate in a quality assurance program; and

(m) secure and update contracts for required professional and other services not provided directly by the facility.

(5) The administrator's responsibilities shall be included in a written and signed job description on file in the facility.

R432-270-8. Personnel.

(1) Qualified competent direct-care personnel shall be on the premises 24 hours a day to meet residents needs as determined by the residents' assessment and service plans. Additional staff shall be employed as necessary to perform office work, cooking, housekeeping, laundering and general maintenance.

(2) The services provided or arranged by the facility shall be provided by qualified persons in accordance with the resident's written service plan.

(3) All personnel who provide personal care to residents in a Type I facility shall be at least 18 years of age and shall have related experience in the job assigned or receive on the job training.

(4) Personnel who provide personal care to residents in a Type II facility shall be certified nurse aides or complete a state certified nurse aide program after four months of the date of hire.

(5) Personnel shall be licensed, certified, or registered in accordance with applicable state laws.

(6) The administrator shall maintain written job descriptions for each position, including job title, job responsibilities, qualifications or required skills.

(7) Facility policies and procedures must be available to personnel at all times.

(8) All personnel must receive documented orientation to the facility and the job for which they are hired. Orientation shall include the following:

(a) job description;

(b) ethics, confidentiality, and residents' rights;

(c) fire and disaster plan;

(d) policy and procedures; and

(e) reporting responsibility for abuse, neglect and exploitation.

(9) Each employee shall receive documented in-service training. The training shall be tailored to include all of the following subjects that are relevant to the employee's job responsibilities:

(a) principles of good nutrition, menu planning, food preparation, and storage;

(b) principles of good housekeeping and sanitation;

(c) principles of providing personal and social care;

(d) proper procedures in assisting residents with medications;

(e) recognizing early signs of illness and determining when there is a need for professional help;

(f) accident prevention, including safe bath and shower water temperatures;

(g) communication skills which enhance resident dignity;

(h) first aid;

(i) resident's rights and reporting requirements of Section 62A-3-201 to 312; and

(j) special needs of the Dementia/Alzheimer's resident.

(10) An employee who reports suspected abuse, neglect, or exploitation shall not be subject to retaliation, disciplinary action, or termination by the facility for that reason alone. (11) The facility shall establish a personnel health program through written personnel health policies and procedures which protect the health and safety of personnel, residents and the public.

(12) The facility must complete an employee placement health evaluation to include at least a health inventory when an employee is hired. Facilities may use their own evaluation or a Department approved form.

(a) A health inventory shall obtain at least the employee's history of the following:

(i) conditions that may predispose the employee to acquiring or transmitting infectious diseases; and

(ii) conditions that may prevent the employee from performing certain assigned duties satisfactorily.

(b) The facility shall develop employee health screening and immunization components of the personnel health program.

(c) Employee skin testing by the Mantoux Method and follow up for tuberculosis shall be done in accordance with R388-804, Tuberculosis Control Rule.

(i) Skin testing must be conducted on each employee within two weeks of hire and after suspected exposure to a resident with active tuberculosis.

(ii) All employees with known positive reaction to skin tests are exempt from skin testing.

(d) All infections and communicable diseases reportable by law shall be reported to the local health department in accordance with R386-702-2.

(e) The facility shall comply with the Occupational Safety and Health Administration's Bloodborne Pathogen Standard.

R432-270-9. Volunteers.

(1) Volunteers may be used in the daily activities of the facility, but may not be included in the facility's employee staffing plan.

(2) Volunteers must be supervised by facility staff.

(3) Volunteers must be familiar with the facility's policies and procedures and with residents' rights.

R432-270-10. Residents' Rights.

(1) Assisted living facilities shall develop a written resident's rights statement based on this section.

(2) The administrator or designee shall give the resident a written description of the resident's legal rights upon admission, including the following:

(a) a description of the manner of protecting personal funds, in accordance with Section R432-270-20; and

(b) a statement that the resident may file a complaint with the state long term care ombudsman and any other advocacy group concerning resident abuse, neglect, or misappropriation of resident property in the facility.

(3) The administrator or designee shall notify the resident or the resident's responsible person at the time of admission, in writing and in a language and manner that the resident or the resident's responsible person understands, of the resident's rights and of all rules governing resident conduct and responsibilities during the stay in the facility.

(4) The administrator or designee must promptly notify in writing the resident or the resident's responsible person when there is a change in resident rights under state law.

(5) Resident rights include the following:

(a) the right to be treated with respect, consideration, fairness, and full recognition of personal dignity and individuality;

(b) the right to be transferred, discharged, or evicted by the facility only in accordance with the terms of the signed admission agreement;

(c) the right to be free of mental and physical abuse, and chemical and physical restraints;

(d) the right to refuse to perform work for the facility;

(e) the right to perform work for the facility if the facility consents and if:

(i) the facility has documented the resident's need or desire for work in the service plan.

(ii) the resident agrees to the work arrangement described in the service plan.

(iii) the service plan specifies the nature of the work performed and whether the services are voluntary or paid, and

(iv) compensation for paid services is at or above the prevailing rate for similar work in the surrounding community;

(f) the right to privacy during visits with family, friends, clergy, social workers, ombudsmen, resident groups, and advocacy representatives;

(g) the right to share a unit with a spouse if both spouses consent, and if both spouses are facility residents;

(h) the right to privacy when receiving personal care or services;

(i) the right to keep personal possessions and clothing as space permits;

(j) the right to participate in religious and social activities of the resident's choice;

(k) the right to interact with members of the community both inside and outside the facility;

(l) the right to send and receive mail unopened;

(m) the right to have access to telephones to make and receive private calls;

(n) the right to arrange for medical and personal care;

(o) the right to have a family member or responsible person informed by the facility of significant changes in the resident's cognitive, medical, physical, or social condition or needs;

(p) the right to leave the facility at any time and not be locked into any room, building, or on the facility premises during the day or night. This right does not prohibit the establishment of house rules such as locking doors at night for the protection of residents;

(q) the right to be informed of complaint or grievance procedures and to voice grievances and recommend changes in policies and services to facility staff or outside representatives without restraint, discrimination, or reprisal;

(r) the right to be encouraged and assisted throughout the period of a stay to exercise these rights as a resident and as a citizen;

(s) the right to manage and control personal funds, or to be given an accounting of personal funds entrusted to the facility, as provided in R432-270-20 concerning management of resident funds;

(t) the right, upon oral or written request, to access within 24 hours all records pertaining to the resident, including clinical records;

(u) the right, two working days after the day of the resident's oral or written request, to purchase at a cost not to exceed the community standard photocopies of the resident's records or any portion thereof;

(v) the right to personal privacy and confidentiality of personal and clinical records;

(w) the right to be fully informed in advance about care and treatment and of any changes in that care or treatment that may affect the resident's well-being; and

(x) the right to be fully informed in a language and in a manner the resident understands of the resident's health status and health rights, including the following:

- (i) medical condition;
 - (ii) the right to refuse treatment;
 - (iii) the right to formulate an advance directive in accordance with UCA Section 75-2-1101; and
 - (iv) the right to refuse to participate in experimental research.
- (6) The following items must be posted in a public area of the facility that is easily accessible by residents the following:
- (a) the long term care ombudsmen's notification poster;
 - (b) information on Utah protection and advocacy systems; and
 - (c) a copy of the resident's rights.

(7) The facility shall have available in a public area of the facility the results of the current survey of the facility and any plans of correction.

(8) A resident may organize and participate in resident groups in the facility, and a resident's family may meet in the facility with the families of other residents.

(a) The facility shall provide private space for resident groups or family groups.

(b) Facility personnel or visitors may attend resident group or family group meetings only at the group's invitation.

(c) The administrator shall designate an employee to provide assistance and to respond to written requests that result from group meetings.

R432-270-11. Admissions.

(1) The facility shall have written admission, retention, and transfer policies that are available to the public upon request.

(2) Before accepting a resident, the facility must obtain sufficient information about the person's ability to function in the facility through the following:

- (a) an interview with the resident and the resident's responsible person; and
- (b) the completion of the resident assessment.

(3) If the Department determines during inspection or interview that the facility knowingly and willfully admits or retains residents who do not meet license criteria, then the Department may, for a time period specified, require that resident assessments be conducted by an individual who is independent from the facility.

(4) The facility shall accept and retain only residents who meet the following criteria:

(a) Residents admitted to a Type I facility shall meet the following criteria before being admitted:

(i) be ambulatory or mobile and be capable of taking life saving action in an emergency;

(ii) have stable health;

(iii) require no assistance or only limited assistance from facility staff in the activities of daily living; and

(iv) require and receive regular or intermittent care or treatment in the facility from a licensed health professional either through contract or by the facility, if permitted by facility policy.

(b) Residents admitted to a Type II facility may be independent and semi-independent, but shall not be dependent.

(5) Type I and Type II assisted living facilities shall not admit or retain a person who:

(a) manifests behavior that is suicidal, sexually or socially inappropriate, assaultive, or poses a danger to self or others; or

(b) has active tuberculosis or other chronic communicable diseases that cannot be treated in the facility or on an outpatient basis; or may be transmitted to other residents or guests through the normal course of activities; or

(c) requires inpatient hospital or long-term nursing care;

(6) In addition to the conditions outlined in R432-270-11(5), a Type I facility shall not accept or retain a person who:

(a) requires significant assistance during night sleeping hours;

(b) is unable to take life saving action in an emergency without the assistance of another person; or

(c) requires close supervision and a controlled environment.

(7) The prospective resident or the prospective resident's responsible person must sign a written admission agreement prior to admission. The admission agreement shall be kept on file by the facility and shall specify at least the following:

(a) room and board charges and charges for basic and optional services;

(b) provision for a 30-day notice prior to any change in established charges;

(c) admission, retention, transfer, discharge, and eviction policies;

(d) conditions under which the agreement may be terminated;

(e) the name of the responsible party;

(f) notice that the Department has the authority to examine resident records to determine compliance with licensing requirements; and

(g) refund provisions that address the following:

(i) thirty-day notices for transfer or discharge given by the facility or by the resident,

(ii) emergency transfers or discharges,

(iii) transfers or discharges without notice, and

(iv) death of a resident.

R432-270-12. Transfer or Discharge Requirements.

(1) A resident may be discharged, transferred, or evicted for one or more of the following reasons:

(a) The facility is no longer able to meet the resident's needs.

(b) The resident fails to pay for services as required by the admission agreement.

(c) The resident fails to comply with written policies or rules of the facility.

(d) The resident wishes to transfer.

(e) The facility ceases to operate.

(2) Prior to transferring or discharging a resident, the facility shall serve a transfer or discharge notice upon the resident and the resident's responsible person.

(a) The notice shall be either hand-delivered or sent by certified mail.

(b) The notice shall be made at least 30 days before the day on which the facility plans to transfer or discharge the resident, except that the notice may be made as soon as practicable before transfer or discharge if:

(i) the safety or health of persons in the facility is endangered; or

(ii) an immediate transfer or discharge is required by the resident's urgent medical needs.

(3) The notice of transfer or discharge shall:

(a) be in writing with a copy placed in the resident file;

(b) be phrased in a manner and in a language the resident can understand;

(c) detail the reasons for transfer or discharge;

(d) state the effective date of transfer or discharge;

(e) state the location to which the resident will be transferred or discharged;

(f) state that the resident may request a conference to discuss the transfer or discharge; and

(g) contain the following information:

(i) for facility residents who are 60 years of age or older, the name, mailing address, and telephone number of the State Long Term Care Ombudsman;

(ii) for facility residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy of developmentally disabled individuals established under part C of the Developmental Disabilities Assistance and Bill of Rights Act; and

(iii) for facility residents who are mentally ill, the mailing address and telephone number of the agency responsible for the protection and advocacy of mentally ill individuals established under the Protection and Advocacy for Mentally Ill Individuals Act.

(4) The facility shall provide sufficient preparation and orientation to a resident to ensure a safe and orderly transfer or discharge from the facility.

(5) The resident or the resident's responsible person may contest a transfer or discharge. If the transfer or discharge is contested, the facility shall provide an informal conference, except where undue delay might jeopardize the health, safety, or well-being of the resident or others.

(a) The resident or the resident's responsible person must request the conference within five calendar days of the day of receipt of notice of discharge to determine if a satisfactory resolution can be reached.

(b) Participants in the conference shall include the facility representatives, the resident or the resident's responsible person, and any others requested by the resident or the resident's responsible person.

R432-270-13. Resident Assessment.

(1) Each person admitted to an assisted living facility shall have a personal physician or a licensed practitioner prior to admission.

(2) A signed and dated resident assessment shall be completed on each resident prior to admission and at least annually thereafter.

(3) In a Type I facility, the resident assessment shall be completed and signed by a physician, an advanced practice registered nurse, physician assistant, or a registered nurse.

(4) In a Type II facility, the resident assessment shall be completed and signed by the facility's registered nurse.

(5) The resident assessment shall include a signed statement, by the health professional completing the resident assessment, that the resident is able to function in either a Type I or Type II assisted living facility.

(6) The resident assessment shall document the resident's cognitive, physical, medical, and social conditions.

(7) The facility shall use a resident assessment form that is approved and reviewed by the Department to document the resident assessments.

(8) The facility shall revise and update each resident's assessment when there is a significant change in the resident's cognitive, medical, physical, or social condition.

(9) A Type I facility shall conduct a semi annual resident review in each 12-month period.

(a) The semi-annual review shall document the assistance required by the resident in the activities of daily living.

(b) The semi annual resident review may be completed and signed by facility staff other than a licensed health care professional.

(10) A Type II facility shall conduct a semi-annual resident assessment review.

(a) The semi-annual resident assessment review shall document changes in a resident's cognitive, medical, physical, and social conditions.

(b) A registered nurse must complete and sign the resident assessment.

R432-270-14. Service Plan.

(1) Each resident must have an individualized service plan that is consistent with the resident's unique cognitive, medical, physical, and social needs, and is developed within seven calendar days of the day the facility admits the resident. The facility shall periodically revise the service plan as needed.

(2) The facility shall use the resident assessment to develop, review, and revise the service plan for each resident.

(3) The service plan must be prepared by a service coordinator who is an employee of the assisted living facility. The resident or the resident's responsible person shall actively participate with the service coordinator in developing the service plan.

(4) The service plan shall include a written description of the following:

(a) what services are provided;

(b) who will provide the services, including the resident's significant others who may participate in the delivery of services;

(c) how the services are provided;

(d) the frequency of services; and

(e) changes in services and reasons for those changes.

R432-270-15. Nursing Services.

(1) The facility must develop written policies and procedures defining the level of nursing services provided by the facility.

(a) A Type II assisted living facility shall employ or contract with a registered nurse to provide or supervise nursing services to include:

(i) a nursing assessment on each resident;

(ii) general health monitoring on each resident; and

(iii) routine nursing tasks, including those that may be delegated to unlicensed assistive personnel in accordance with the Utah Nurse Practice Act R156-31-603.

(b) A Type I assisted living facility may provide nursing care according to facility policy. If a Type I assisted living facility chooses to provide nursing services, the nursing services must be provided in accordance with R432-270-15(1)(a)(i) thru (iii).

(2) Type I and Type II assisted living facilities shall not provide skilled nursing care, but must assist the resident in obtaining required services.

(3) To determine whether a nursing service is skilled, the following criteria shall apply:

(a) The complexity or specialized nature of the prescribed services can be safely or effectively performed only by, or under the close supervision of licensed health care professional personnel.

(b) Care is needed to prevent, to the extent possible, deterioration of a condition or to sustain current capacities of a resident.

R432-270-16. Arrangements for Medical or Dental Care.

(1) The facility shall assist residents in arranging access for ancillary services for medically related care including physician, dentist, pharmacist, therapy, podiatry, hospice, home health, and other services necessary to support the resident.

(2) The facility shall arrange for care through one or more of the following methods:

(a) notifying the resident's responsible person;

(b) arranging for transportation to and from the practitioner's office; or

(c) arrange for a home visit by a health care professional.

(3) The facility must notify a physician or other health care professional when the resident requires immediate medical attention.

R432-270-17. Activity Program.

(1) Residents shall be encouraged to maintain and develop their fullest potential for independent living through participation in activity and recreational programs.

(2) The facility shall provide opportunities for the following:

(a) socialization activities;

(b) independent living activities to foster and maintain independent functioning;

(c) physical activities; and

(d) community activities to promote resident participation in activities away from the facility.

(3) The administrator shall designate an activity coordinator to direct the facility's activity program. The activity coordinator's duties include the following:

(a) coordinate all recreational activities, including volunteer and auxiliary activities;

(b) plan, organize, and conduct the residents' activity program with resident participation; and

(c) develop and post monthly activity calendars, including information on community activities, based on residents' needs and interests.

(3) The facility shall provide sufficient equipment, supplies, and indoor and outdoor space to meet the recreational needs and interests of residents.

(4) The facility shall provide storage for recreational equipment and supplies. Locked storage must be provided for potentially dangerous items such as scissors, knives, and toxic materials.

R432-270-18. Medication Administration.

(1) A licensed health care professional must assess each resident to determine what level and type of assistance is required for medication administration. The level and type of assistance provided shall be documented on the resident's service plan.

(2) The resident's medication program shall include one or all of the following:

(a) The resident is able to self-administer medications.

(i) Residents who have been assessed to be able to self-administer medications may keep prescription medications in their rooms.

(ii) If more than one resident resides in a unit, the facility must assess each person's ability to safely have medications in the unit. If safety is a factor, a resident shall keep his medication in a locked container in the unit.

(b) Facility staff may assist residents who self-medicate by:

(i) reminding the resident to take the medication;

(ii) opening medication containers;

(iii) reading the instructions on container labels;

(iv) checking the dosage against the label of the container;

(v) reassuring the resident that the dosage is correct;

(vi) observing a resident take the medication; and

(vii) reminding the resident or the resident's responsible person when the prescription needs to be refilled.

(c) Family members or a significant other may set up medications in a package which identifies the medication and time to administer. If a family member or significant other assists with medication administration, they shall sign a waiver indicating that they agree to assume the responsibility to fill prescriptions, administer medication, and document that the medication has been administered. The facility staff may assist the resident to self-medicate by:

(i) reminding residents to take medications; and

(ii) opening the container at the resident's request.

(d) Unlicensed assistive personnel may assist with medication administration under the supervision of the facility's registered nurse.

(i) The facility's registered nurse may delegate the task of assisting with medication administration to unlicensed assistive personnel in accordance with the Nurse Practice Act R156-31-603.

(ii) The registered nurse who delegates the assisting with medication administration must verify and evaluate the practitioner's orders, perform a nursing assessment, and determine whether unlicensed assistive personnel can safely perform the assisting with administration of medications.

(iii) The medications must be administered according to a plan of care developed by the registered nurse.

(iv) The registered nurse shall provide and document supervision, evaluation, and training of unlicensed assistive personnel assisting with medication administration.

(v) The delegating nurse or another registered nurse shall be readily available either in person or by telecommunication.

(e) The resident may have the facility's licensed nurse administer medications.

(i) The service plan shall document instructions for medication administration.

(ii) All medications shall be prescribed in writing for the resident by the resident's licensed practitioner.

(3) The facility must review all resident medications at least every six months unless the resident has been assessed to safely self-administer medications.

(a) Medication records shall include the following:

(i) the resident's name;

(ii) the name of the prescribing practitioner;

(iii) the name of the medication, including prescribed dosage;

(iv) the times and dates administered;

(v) the method of administration;

(vi) signatures of personnel administering the medication; and
(vii) the review date.

(b) Any change in the dosage or schedule of medication administration shall be made by the resident's licensed practitioner and be documented in the medication record. All personnel shall be notified of the medication change.

(c) The facility shall keep on file a list of possible reactions and precautions to any medications that facility staff assist the resident to administer.

(6) The licensed practitioner shall be notified when medications errors occur.

(7) Medications shall be stored in a locked central storage area to prevent unauthorized access.

(a) If medication is stored in a central location, the resident shall have timely access to the medication.

(b) Medications that require refrigeration shall be stored separately from food items and at temperatures between 36 - 46 degrees F.

(c) The administration, storage, and handling of oxygen must comply with the requirements of NFPA 99 which is adopted and incorporated by reference.

(8) The facility shall develop and implement a policy for disposing of unused, outdated, or recalled medications.

(a) The facility shall return a resident's medication to the resident or to the resident's responsible person upon discharge.

(b) The administrator shall document the return to the resident or the resident's responsible person of medication stored in a central storage.

R432-270-19. Management of Resident Funds.

(1) Residents have the right to manage and control their financial affairs. The facility may not require residents to deposit their personal funds or valuables with the facility.

(2) The facility need not handle residents' cash resources or valuables. However, upon written authorization by the resident or the resident's responsible person, the facility may hold, safeguard, manage, and account for the resident's personal funds or valuables deposited with the facility, in accordance with the following:

(a) The licensee shall establish and maintain on the residents' behalf a system that assures a full, complete, and separate accounting according to generally accepted accounting principles of each resident's personal funds entrusted to the facility. The system shall:

(i) preclude any commingling of resident funds with facility funds or with the funds of any person other than another resident, and preclude facility personnel from using residents' monies or valuables as their own;

(ii) separate residents' monies and valuables intact and free from any liability that the licensee incurs in the use of its own or the facility's funds and valuables;

(iii) maintain a separate account for resident funds for each facility and not commingle such funds with resident funds from another facility;

(iv) for records of residents' monies which are maintained as a drawing account, include a control account for all receipts and expenditures and an account for each resident and supporting receipts filed in chronological order;

(v) keep each account with columns for debits, credits, and balance; and

(vi) include a copy of the receipt that it furnished to the residents for funds received and other valuables entrusted to the licensee for safekeeping.

(b) The facility shall make individual financial records available on request through quarterly statements to the resident or the resident's legal representative.

(c) The facility shall purchase a surety bond or otherwise provide assurance satisfactory to the Department that all resident personal funds deposited with the facility are secure.

(d) The facility shall deposit, within five days of receipt, all resident monies that are in excess of \$150 in an interest-bearing bank account, that is separate from any of the facility's operating accounts, in a local financial institution.

(i) Interest earned on a resident's bank account shall be credited to the resident's account.

(ii) In pooled accounts, there shall be a separate accounting for each resident's share, including interest.

(e) The facility shall maintain a resident's personal funds that do not exceed \$150 in a non-interest-bearing account, interest-bearing account, or petty cash fund.

(f) Upon discharge of a resident with funds or valuables deposited with the facility, the facility shall that day convey the resident's funds, and a final accounting of those funds, to the resident or the resident's legal representative. Funds and valuables kept in an interest-bearing account shall be accounted for and made available within three working days.

(g) Within 30 days following the death of a resident, except in a medical examiner case, the facility shall convey the resident's valuables and funds entrusted to the facility, and a final accounting of those funds, to the individual administering the resident's estate.

R432-270-20. Facility Records.

(1) The facility must maintain accurate and complete records. Records shall be filed, stored safely, and be easily accessible to staff and the Department.

(2) Records shall be protected against access by unauthorized individuals.

(3) The facility shall maintain personnel records for each employee and shall retain such records for at least three years following termination of employment. Personnel records must include the following:

(a) employee application;

(b) date of employment;

(c) termination date;

(d) reason for leaving;

(e) documentation of CPR and first aid training;

(f) health inventory;

(g) food handlers permits;

(h) TB skin test documentation; and

(i) documentation of criminal background check.

(4) The facility must maintain in the facility a separate record for each resident that includes the following:

(a) the resident's name, date of birth, and last address;

(b) the name, address, and telephone number of the person who administers and obtains medications, if this person is not facility staff;

(c) the name, address, and telephone number of the individual to be notified in case of accident or death;

(d) the name, address, and telephone number of a physician and dentist to be called in an emergency;

(e) the admission agreement;

(f) the resident assessment; and

(g) the resident service plan.

(5) Resident records must be retained for at least three years following discharge.

R432-270-21. Food Services.

(1) Facilities must have the capability to provide three meals a day, seven days a week, to all residents, plus snacks.

(a) The facility shall maintain onsite a one-week supply of nonperishable food and a three day supply of perishable food as required to prepare the planned menus.

(b) There shall be no more than a 14 hour interval between the evening meal and breakfast, unless a nutritious snack is available in the evening.

(c) The facility food service must comply with the following:

(i) All food shall be of good quality and shall be prepared by methods that conserve nutritive value, flavor, and appearance.

(ii) The facility shall ensure food is palatable, attractively served, and delivered to the resident at the appropriate temperature.

(iii) Powdered milk may only be used as a beverage, upon the resident's request, but may be used in cooking and baking.

(2) The facility shall provide adaptive eating equipment and utensils for residents as needed.

(3) A different menu shall be planned and followed for each day of the week.

(a) All menus must be approved and signed by a certified dietitian.

(b) Cycle menus shall cover a minimum of three weeks.

(c) The current week's menu shall be posted for residents' viewing.

(d) Substitutions to the menu that are actually served to the residents shall be recorded and retained for three months for review by the Department.

(4) Meals shall be served in a designated dining area suitable for that purpose or in resident rooms upon request by the resident.

(5) Residents shall be encouraged to eat their meals in the dining room with other residents.

(6) Inspection reports by the local health department shall be maintained at the facility for review by the Department.

(7) If the facility admits residents requiring therapeutic or special diets, the facility shall have an approved dietary manual for reference when preparing meals. Dietitian consultation shall be provided at least quarterly and documented for residents requiring therapeutic diets.

(8) The facility shall employ food service personnel to meet the needs of residents.

(a) While on duty in food service, the cook and other kitchen staff shall not be assigned concurrent duties outside the food service area.

(b) All personnel who prepare or serve food shall have a current Food Handler's Permit.

(c) Dietary staff must receive a minimum of six hours of documented in-service training each year.

(9) Food service shall comply with the Utah Department of Health Food Service Sanitation Regulations, R392-100.

R432-270-22. Housekeeping Services.

(1) The facility shall employ housekeeping staff to maintain both the exterior and interior of the facility.

(2) The facility shall designate a person to direct housekeeping services. This person shall:

(a) post routine laundry, maintenance, and cleaning schedules for housekeeping staff.

(b) ensure all furniture, bedding, linens, and equipment are clean before use by another resident.

(3) The facility shall control odors by maintaining cleanliness.

(4) There shall be a trash container in every occupied room.

(5) All cleaning agents, bleaches, insecticides, or poisonous, dangerous, or flammable materials shall be stored in a locked area to prevent unauthorized access.

(6) Housekeeping personnel shall be trained in preparing and using cleaning solutions, cleaning procedures, proper use of equipment, proper handling of clean and soiled linen, and procedures for disposal of solid waste.

(7) Bathtubs, shower stalls, or lavatories shall not be used as storage places.

(8) Throw or scatter rugs that present a tripping hazard to residents are not permitted.

R432-270-23. Laundry Services.

(1) The facility shall provide laundry services to meet the needs of the residents, including sufficient linen supply to permit a change in bed linens at least twice a week.

(2) The facility shall inform the resident or the resident's responsible person in writing of the facility's laundry policy for residents' personal clothing.

(3) Food may not be stored, prepared, or served in any laundry area.

(4) The facility shall make available for resident use, the following:

(a) at least one washing machine and one clothes dryer; and

(b) at least one iron and ironing board.

R432-270-24. Maintenance Services.

(1) The facility shall conduct maintenance, including preventive maintenance, according to a written schedule to ensure that the facility equipment, buildings, fixtures, spaces, and grounds are safe, clean, operable, and in good repair.

(2) Entrances, exits, steps, and outside walkways shall be maintained in a safe condition, free of ice, snow, and other hazards.

(3) Electrical systems, including appliances, cords, equipment call lights, and switches shall be maintained to guarantee safe functioning and compliance with the National Electric Code, NFPA 70.

(4) The facility shall inspect and clean or replace air filters installed in heating, air conditioning, and ventilation systems according to manufacturers specifications.

(5) A pest control program shall be conducted in the facility buildings and on the grounds by a licensed pest control contractor or a qualified employee, certified by the State, to ensure the absence of vermin and rodents. Documentation of the pest control program shall be maintained for Department review.

(6) The facility shall document maintenance work performed.

(7) Lighting levels shall meet or exceed the minimum standards as outlined in "Lighting for Health Care Facilities", Illuminating Engineering Society of North America, 1995 edition.

(8) Hot water temperature controls shall automatically regulate temperatures of hot water delivered to plumbing fixtures used by residents. The facility shall maintain hot water delivered to public and resident care areas at temperatures between 105 - 120 degrees F.

R432-270-25. Disaster and Emergency Preparedness.

(1) The facility is responsible for the safety and well-being of residents in the event of an emergency or disaster.

(2) The licensee and the administrator are responsible to develop and coordinate plans with state and local emergency disaster authorities to respond to potential emergencies and disasters. The plan shall outline the protection or evacuation of all residents, and include arrangements for staff response or provisions of additional staff to ensure the safety of any resident with physical or mental limitations.

(a) Emergencies and disasters include fire, severe weather, missing residents, death of a resident, interruption of public utilities, explosion, bomb threat, earthquake, flood, windstorm, epidemic, or mass casualty.

(b) The emergency and disaster response plan shall be in writing and distributed or made available to all facility staff and residents to assure prompt and efficient implementation.

(c) The licensee and the administrator must review and update the plan as necessary to conform with local emergency plans. The plan shall be available for review by the Department.

(3) The facility's emergency and disaster response plan must address the following:

(a) the names of the person in charge and persons with decision-making authority;

(b) the names of persons who shall be notified in an emergency in order of priority;

(c) the names and telephone numbers of emergency medical personnel, fire department, paramedics, ambulance service, police, and other appropriate agencies;

(d) instructions on how to contain a fire and how to use the facility alarm systems;

(e) assignment of personnel to specific tasks during an emergency;

(f) the procedure to evacuate and transport residents and staff to a safe place within the facility or to other prearranged locations;

(g) instructions on how to recruit additional help, supplies, and equipment to meet the residents' needs after an emergency or disaster;

(h) delivery of essential care and services to facility occupants by alternate means;

(i) delivery of essential care and services when additional persons are housed in the facility during an emergency; and

(j) delivery of essential care and services to facility occupants when personnel are reduced by an emergency.

(4) The facility must maintain safe ambient air temperatures within the facility.

(a) Emergency heating must have the approval of the local fire department.

(b) Ambient air temperatures of 58 degrees F. or below may constitute an imminent danger to the health and safety of the

residents in the facility. The person in charge shall take immediate action in the best interests of the residents.

(c) The facility shall have, and be capable of implementing, contingency plans regarding excessively high ambient air temperatures within the facility that may exacerbate the medical condition of residents.

(5) Personnel and residents shall receive instruction and training in accordance with the plans to respond appropriately in an emergency. The facility shall:

(a) annually review the procedures with existing staff and residents and carry out unannounced drills using those procedures;

(b) hold simulated disaster drills semi-annually;

(c) hold simulated fire drills quarterly on each shift for staff and residents in accordance with Rule R710-3; and

(d) document all drills, including date, participants, problems encountered, and the ability of each resident to evacuate.

(6) The administrator shall be in charge during an emergency. If not on the premises, the administrator shall make every effort to report to the facility, relieve subordinates and take charge.

(7) The facility shall provide in-house all equipment and supplies required in an emergency including emergency lighting, heating equipment, food, potable water, extra blankets, first aid kit, and radio.

(8) The following information shall be posted in prominent locations throughout the facility:

(a) The name of the person in charge and names and telephone numbers of emergency medical personnel, agencies, and appropriate communication and emergency transport systems; and

(b) evacuation routes, location of fire alarm boxes, and fire extinguishers.

R432-270-26. First Aid.

(1) There shall be one staff person on duty at all times who has training in basic first aid, the Heimlich maneuver, certification in cardiopulmonary resuscitation and emergency procedures to ensure that each resident receives prompt first aid as needed.

(2) First aid training refers to any basic first aid course approved by the American Red Cross or Utah Emergency Medical Training Council.

(3) The facility must have a first aid kit available at a specified location in the facility.

(4) The facility shall have a current edition of a basic first aid manual approved by the American Red Cross, the American Medical Association, or a state or federal health agency.

(5) The facility must have a clean up kit for blood borne pathogens.

R432-270-27. Pets.

(1) The facility may allow residents to keep household pets such as dogs, cats, birds, fish, and hamsters if permitted by local ordinance and by facility policy.

(2) Pets must be kept clean and disease-free.

(3) The pets' environment shall be kept clean.

(4) Small pets such as birds and hamsters shall be kept in appropriate enclosures.

(5) Pets that display aggressive behavior are not permitted in the facility.

(6) Pets that are kept at the facility or are frequent visitors must have current vaccinations

(7) Upon approval of the administrator, family members may bring residents' pets to visit.

(8) Each facility with birds shall have procedures which prevent the transmission of psittacosis. Procedures shall ensure the minimum handling and placing of droppings into a closed plastic bag for disposal.

(9) Pets are not permitted in central food preparation, storage, or dining areas or in any area where their presence would create a significant health or safety risk to others.

R432-270-28. Respite Services.

(1) Assisted Living facilities may offer respite services and are not required to obtain a respite license from the Utah Department of Health.

(2) The purpose of respite is to provide intermittent, time limited care to give primary caretakers relief from the demands of caring for a person.

(3) Respite services may be provided at an hourly rate or daily rate, but shall not exceed 14-days for any single respite stay. Stays which exceed 14 days shall be considered a non-respite assisted living facility admission, subject to the requirements of R432-270.

(4) The facility shall coordinate the delivery of respite services with the recipient of services, case manager, if one exists, and the family member or primary caretaker.

(5) The facility shall document the person's response to the respite placement and coordinate with all provider agencies to ensure an uninterrupted service delivery program.

(6) The facility must complete a service agreement to serve as the plan of care. The service agreement shall identify the prescribed medications, physician treatment orders, need for assistance for activities of daily living and diet orders.

(7) The facility shall have written policies and procedures approved by the Department prior to providing respite care.

(8) Policies and procedures must be available to staff regarding the respite care clients which include:

- (a) medication administration;
- (b) notification of a responsible party in the case of an emergency;
- (c) service agreement and admission criteria;
- (d) behavior management interventions;
- (e) philosophy of respite services;
- (f) post-service summary;
- (g) training and in-service requirement for employees; and
- (h) handling personal funds.

(8) Persons receiving respite services shall be provided a copy of the Resident Rights documents upon admission.

(9) The facility shall maintain a record for each person receiving respite services which includes:

- (a) a service agreement;
- (b) demographic information and resident identification data;
- (c) nursing notes;
- (d) physician treatment orders;
- (e) records made by staff regarding daily care of the person in service;
- (f) accident and injury reports; and
- (g) a post-service summary.

(10) Retention and storage of respite records shall comply with R432-270-21(1)-(2).

(11) If a person has an advanced directive, a copy shall be filed in the respite record and staff shall be informed of the advanced directive.

R432-270-29. Penalties.

Any person who violates any provision of this rule may be subject to the penalties enumerated in 26-21-11 and R432-3-6 or be assessed a penalty not to exceed the sum of \$5,000 or be punished for violation of a class B misdemeanor for the first violation and for any subsequent similar violation within two years for violation of a class A misdemeanor as provided in Section 26-23-6.

KEY: health facilities
1999

26-21-5
26-21-1



Human Services, Recovery Services
R527-378
Garnishment of Social Security
Benefits

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 21726

FILED: 12/01/1998, 15:48

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Office of Recovery Services/Child Support Services (ORS/CSS) intends to use income withholding exclusively as the means by which support is collected from Social Security benefits (as provided in Section 62A-11-401 et seq.). Hence, the word "Garnishment" is being replaced with "Withholding" in the R527-378 and Section R527-378-1 titles. Although ORS/CSS may otherwise require that 50% of an obligor's disposable income be withheld for payment of current and past-due support (or up to 65%, subject to Federal Consumer Credit Protection Act (FCCPA) limitations, when a 50% deduction is not enough to cover the current support obligation), the current rule has restricted withholding to 25% of the Social Security benefit amount when the obligor's sole income source is Social Security. The proposed amendment will allow ORS/CSS to request that more than 25% of the obligor's Social Security benefit be withheld (subject to ORS/CSS rules and procedures and FCCPA limitations), when the obligor has a current support obligation. This will ensure that children who are not receiving Social Security benefit payments covering the amount of the current support due them, will receive the regular financial support they need. The rule will continue to restrict withholding to 25% in arrears only cases where the obligor's only income source is Social Security.

SUMMARY OF THE RULE OR CHANGE: The word "Garnishment" has been replaced with "Withholding" in the titles of R527-378 and Section R527-378-1. The reference to garnishment in Section R527-378-1 has been eliminated, leaving only the reference to income withholding, and words have been added to restrict the 25% limitation on Social Security benefit withholding to arrears only cases.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-11-107

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There is no anticipated cost to the state associated with the proposed amendment. The exclusive use of income withholding may result in a small savings because it is more efficient than the garnishment process. However, the garnishment process has been rarely used as a means to collect from Social Security benefits. Because there are only a small number of ORS/CSS cases in which the obligor has no other income except Social Security, and only a percentage of those cases have a current support obligation, it is expected that the change in this rule (allowing ORS/CSS have more than 25% withheld when the obligor has a current support obligation) will result in a correspondingly small savings to the state.

❖LOCAL GOVERNMENTS: None--administrative rules of the Office of Recovery Services do not apply to local governments.

❖OTHER PERSONS: The only persons who may be affected by this change are those individuals with a current support obligation whose only source of income is Social Security benefits and are either not making required support payments or whose support obligation is not fully covered by Social Security benefits being paid to his/her children. This change will allow ORS/CSS to notify the Social Security Administration to withhold support from these obligors up to the FCCPA limit (65%) when 50% of the Social Security benefit amount will not cover the current support.

COMPLIANCE COSTS FOR AFFECTED PERSONS: A person who is solely dependent on Social Security, has a current support obligation, and is either not making required support payments or whose support obligation is not fully covered by Social Security benefits being paid to his/her children, will be affected by this change. Income withholding for these obligors will be limited to 50% of the obligor's Social Security benefit amount unless the withheld amount is not enough to cover the current support obligation. Under that exception, ORS/CSS would be allowed to notify the Social Security Administration to withhold up to 65% of the obligor's benefit amount as provided in the FCCPA.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed rule amendment only affects certain obligors whose sole source of income is Social Security, and the Social Security Administration which acts on income withholding orders received from the Office of Recovery Services. The change will have no fiscal impact on other payors of income including businesses.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 01/14/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/1999

AUTHORIZED BY: Emma Chacon, Director

R527. Human Services, Recovery Services.
R527-378. [~~Garnishment~~Withholding of Social Security Benefits.

R527-378-1. [~~Garnishment~~Withholding of Social Security Benefits.

If social security is the obligor's sole means of support and the case is an arrears only case, [~~the garnishment or~~]the notice to the Social Security Administration to withhold income shall be limited to 25 percent of the social security benefit amount.

KEY: child support, social security

[~~1992~~1999

62A-11-107

Notice of Continuation December 4, 1997



Insurance, Administration

R590-135

Accounting Records Rule

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE No.: 21723

FILED: 12/01/1998, 15:48

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being repealed and then rewritten as R590-170. The new rule will also include what is now in the Insurance Department's bulletin entitled "Fiduciary Responsibilities," and "Company Reporting."

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

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201 and 31A-23-312

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Since the changes noted here are essentially a matter of consolidation, there should be no change in the state's budget.

❖LOCAL GOVERNMENTS: Since the changes noted here are essentially a matter of consolidation, there should be no change in the local government's budget.

❖OTHER PERSONS: Since the changes noted here are essentially a matter of consolidation, there should be no change to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since the changes noted here are essentially a matter of consolidation, there should be no change in the state's budget.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The repeal of this rule and its rewrite as Rule R590-170 will not create any additional costs or credits for the state, the citizens of Utah, or those in the insurance industry who are under its regulatory authority.

(DAR Note: The proposed new rule for R590-170 is under DAR No. 21725 in this *Bulletin*.)

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

Insurance
Administration
3110 State Office Building
Salt Lake City, UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 01/14/1999; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 01/06/1999, 10:00 a.m., State Office Building (behind the Capitol), Room 1112.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/1999

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.

[R590-135. Accounting Records Rule.

R590-135-1. Authority.

~~— This rule is promulgated by the insurance commissioner pursuant to the authority granted under Subsection 31A-2-201(3), Utah Code Annotated, (U.C.A.), to adopt rules for the implementation of the Utah Insurance Code and under Subsection~~

~~31A-23-312(2)(c), U.C.A., which allows the commissioner to establish by rule, records to be kept by licensees.~~

R590-135-2. Purpose and Scope.

~~— (1) The purpose of this rule is to issue guidelines and standards that should be followed when maintaining accounting records.~~

~~— (2) This Rule applies to all licensees holding monies in a fiduciary capacity, or who is otherwise subject to Section 31A-23-310, U.C.A.~~

R590-135-3. Definitions.

~~— For the purpose of this rule, the commissioner adopts the definitions as particularly set forth in Sections 31A-1-301 and 31A-23-102, U.C.A., and in addition thereto, the following definition:~~

~~— (1) "Trust Account" means a checking or savings account where monies are held in a fiduciary capacity.~~

R590-135-4. Rule.

~~— (1) Those to which this rule applies shall maintain, at the principal place of business, accurate, records, kept on a consistent basis, which will facilitate an audit trail, and shall be maintained for a period of not less than three years.~~

~~— (2) Records maintained must establish that the following conditions have been met:~~

~~— (a) They must show the source and establish the existence of fees and commissions in a trust account.~~

~~— (b) A generally accepted form of reconciliation has been completed that establishes the amount of fees or commissions or both that have been or are to be transferred out of the trust account.~~

~~— (c) Commissions have not been transferred from a trust account prior to the beginning of the policy period for which premium was collected.~~

~~— (d) Commissions or fees have not been left to accumulate in a trust account beyond the end of the policy period for which premium was collected.~~

~~— (e) Commissions attributed to premiums collected after the end of the policy period have been disbursed no later than when the net of those premiums are paid to the insurer.~~

~~— (f) Interest accrued on funds held in a trust account have been withdrawn at least annually. Records maintained must establish the existence and amount of interest accrued.~~

~~— (3) No person shall pay personal or business expenses directly from a trust account.~~

~~— (4) Failure to comply with the requirements of this rule shall result in the rebuttable presumption that the person to whom this rule applies is in violation of Subsection 31A-23-310(1), U.C.A.~~

R590-135-5. Penalties.

~~— Licensees failing to maintain records and information as required by this rule, will be subject to the forfeiture and penalty provisions of Section 31A-2-308, U.C.A.~~

R590-135-6. Severability.

~~— If a provision of this rule or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of such provisions may not be affected thereby.~~

~~KEY: insurance law~~
~~1990~~ ~~31A-2-201~~
~~Notice of Continuation December 1, 1995~~ ~~31A-23-312~~



Insurance, Administration
R590-166
Home Protection Service Contract Rule

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 21724
FILED: 12/01/1998, 15:48
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule was written as just a temporary remedy to make up for the lack of insurers selling reimbursement insurance. The purpose of this rule is to establish certain exemptions from the requirements of Chapter 6a of Title 31A as it relates to home protection companies as defined in the rule.

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

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201 and 31A-6a-110

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The repeal of this rule will increase the amount of premium taxes by a minute amount. There are only 13 home protection companies that will be required to have their contracts insured by reimbursement insurance, if they are not already. The state receives no fees as a result of this rule and requires no additional people to regulate it.

❖LOCAL GOVERNMENTS: This would not affect local governments since they have not been involved in the regulation of home protection companies and do not receive fees or taxes from their operation.

❖OTHER PERSONS: If this rule is repealed, 13 home protection companies will be required to follow the current law found in Section 31A-6a-103 requiring them to obtain a reimbursement insurance policy for the service contracts that they sell to their customers instead of depositing a certain amount of their money to cover these contracts. As a result of the elimination of this rule home protection companies will no longer have to tie up \$10,000 of their money for every 500 homes that they have home protection contracts on. Instead they will be able to use this money to pay for the reimbursement insurance premium and other business related expenses required in Title 31A, Chapter 6a.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Those who might be affected by this repeal will be insurers (if any) who offer the reimbursement insurance and the 13 home protection companies doing business in Utah. The business of the reimbursement insurer may increase when this rule is

eliminated if the 13 home protection companies are not already purchasing reimbursement insurance. It is hard to know what the impact will be on each home protection company. It will differ according to the amount of business they do and the cost of the reimbursement insurance. We do not know the cost of the insurance because we do not know what insurers are offering this insurance. That is why we are having the hearing.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: We are unaware of what the costs may be if this rule is repealed. The law requires home protection companies to back their contracts with reimbursement insurance. Since this coverage was not available when the rule first went into effect, the rule has allowed home protection companies to provide the necessary coverage to their clients with a deposit. The hearing on January 7, 1999, will determine if the reimbursement insurance is now available. If the rule is repealed there will be an additional cost to home protection companies who will need to purchase the reimbursement insurance. Also, money that was deposited to self-insure their home protection contracts will then be freed up for other expenses.

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

Insurance
Administration
3110 State Office Building
Salt Lake City, UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 01/14/1999; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 01/07/1999, 10:00 a.m., State Office Building (behind the Capitol), Room 3112.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/1999

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.
~~**R590-166. Home Protection Service Contract Rule.**~~
~~**R590-166-1. Authority.**~~

~~This rule is issued by the Insurance Commissioner pursuant to the authority granted under Subsection 31A-2-201(3) to adopt rules for the implementation of the Utah Insurance Code and under Subsections 31A-6a-110(1) and (2).~~

~~**R590-166-2. Purpose and Scope.**~~

~~The purpose of this rule is to establish certain exemptions from the requirements of Chapter 6a of Title 31A as it relates to home protection companies as defined herein.~~

R590-166-3. Definition:

— A. "Home protection service contract," also referred to as "home service contract" or "home warranty," means a service contract as defined by Subsection 31A-6a-101(3)(a) whereby a person, other than a builder, seller, or lessor of a home which is the subject of the contract, undertakes, for a specified period of time and for a predetermined fee, to repair or replace components, systems, or appliances of such home upon mechanical or operational failure, or to make indemnification to the holder of such contract for such repair or replacement.

— B. "Home protection company" means a service contract provider as defined by 31A-6a-101(5) who issues home protection service contracts, excluding insurers authorized for casualty insurance.

R590-166-4. Rule:

— A. Upon prior written notification to the commissioner, home protection companies doing business in this state who are, at the time of notification, in compliance with all the terms and provisions set forth in this rule and are in compliance with all of the terms and provisions of Chapter 6a of Title 31A, except those terms and provisions specifically exempted herein, shall be exempt from the requirements of Subsections 31A-6a-103(1), 31A-6a-103(2)(a) and 31A-6a-103(2)(b) and the requirements of Subsections 31A-6a-104(2) and (8); provided, however, that nothing herein shall abrogate the requirement that home protection companies file copies of the service contracts to be used in this state, and any modifications thereto, and pay filing fees as would otherwise be required pursuant to Subsections 31A-6a-103(2)(a) and (b). So long as a home protection company remains in compliance with this rule, the home protection company's election to be subject to this rule shall remain in effect until written notification to the commissioner by the company of the company's withdrawal of its election. Notwithstanding the foregoing, home protection companies who are doing business in this state prior to the effective date of this rule and who elect to be subject to this rule as of the rule's effective date shall have until 60 days from the rule's effective date to attain compliance with all the terms and provisions of the rule:

— B. To assure the faithful performance of its obligations to its contract holders the home protection company shall deposit in accordance with Section 31A-2-206 an amount not less than \$10,000 for each 500 home protection service contracts in force in this state, but not to exceed \$100,000. In the event of any failure of the home protection company to perform its obligations to its contract holders, the commissioner may make equitable distributions to contract-holders from funds held on deposit.

— C. In lieu of the deposit required in paragraph B above, a surety bond or irrevocable letter of credit in favor of the commissioner for \$50,000 may be filed by the home protection company. When, based on the home protection company's annual report pursuant to Section 5(A) hereof, the number of home protection service contracts issued by a protection company then in force in this state exceeds 2,500, the amount of the surety bond or letter of credit shall be increased to \$100,000. The bond shall be issued by an insurer authorized to transact surety business in this

state. Any letter of credit shall be from a bank approved by the commissioner and in a form acceptable to the commissioner. The surety bond or letter of credit shall be held for the same purpose as the deposit in lieu of which it is filed. No bond or letter of credit shall be cancelled or subject to cancellation unless at least 30 days advance notice, in writing, thereof is filed with the commissioner and evidence of other security is provided.

— D. The securities, bond or letter of credit of a home protection company deposited as required by this rule shall constitute a claim fund to be administered by the commissioner for the benefit of persons sustaining actionable injury due to the insolvency or impairment of the home protection company. The commissioner may, at his option, seek assumption of an insolvent home protection company's obligations and business by a solvent company, and apply the insolvent home protection company's deposit or proceeds of any surety bond or letter of credit to this purpose.

— E. Any deposit, surety bond or letter of credit shall be maintained unimpaired as long as the home protection company continues to do business in this state. Whenever the home protection company ceases to do business in this state and furnishes the commissioner proof that it has discharged or otherwise adequately provided for all its obligations to its home protection service contract holders in this state, the commissioner shall authorize release of the deposited securities, surety bond or letter of credit on file at that time.

R590-166-5. Annual Statements, Interim Reports:

— A. A home protection company electing to be subject to this rule shall annually, within 90 days after the close of its fiscal year, file with the commissioner its annual statement in a form prescribed by the commissioner. Such annual statement shall include a current financial statement prepared in accordance with generally accepted accounting principles, reviewed by an independent certified public accountant, and verified by the home protection company's president and principal financial or accounting officer.

— B. Each annual statement shall also report the home protection company's volume of business in this state during the preceding fiscal year, the losses thereon, open depositories at year end, and a statement of assets and liabilities.

— C. A home protection company which fails to file its annual statement in the form and within the time provided in this rule may be fined \$500 for each month, or any part thereof, during which such delinquency continues, and upon notice by the commissioner, its election to be subject to this rule may be suspended or revoked until such delinquency is cured to the satisfaction of the commissioner.

— D. In addition to an annual statement, the commissioner may require of any particular home protection company, in any situation where that home protection company's ability to service its obligations to holders or creditors is in reasonable doubt, such additional regular or special reports as the commissioner may deem necessary.

R590-166-6. Severability:

— If a provision of this rule or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of such provisions is not effected.

KEY: insurance**1994****31A-2-201****31A-6a-110**

◆ ————— ◆

Insurance, Administration
R590-170
Fiduciary and Trust Account
Obligations

NOTICE OF PROPOSED RULE

(New)

DAR FILE NO.: 21725

FILED: 12/01/1998, 15:48

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the rule is to set minimum standards that shall be followed for fiduciary and trust account obligations pursuant to Section 31A-23-310. This rule is written to consolidate existing Rule R590-135, and the Insurance Department's Bulletins 88-3 and 90-7.

SUMMARY OF THE RULE OR CHANGE: The rule clarifies how licensees must hold funds in a fiduciary capacity. The main change over the current Rule R590-135 and the Department's Bulletins is found in Section R590-170-5, "Maintaining the Trust Account," Subsections R590-170-5(5), R590-170-5(6), and R590-170-5(7), dealing with how commissions are dispersed from the agent's trust account. **(DAR Note:** A proposed repeal of R590-135 is found under DAR No. 21723 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201, 31A-23-312, and 31A-25-305

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: No impact since there are no additional fees or fines required as a result of this rule.
- ❖LOCAL GOVERNMENTS: No impact since the regulation of agent trust accounts has always been a state function.
- ❖OTHER PERSONS: This rule does not impact fees or fines on agents, agencies, or companies or create additional work for them.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule does not impact fees or fines on agents, agencies, or companies or create additional work for them.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The repeal of Rule R590-135 and its rewrite as Rule R590-170 will not create any additional costs or credits for the state, the citizens of Utah, or those in the insurance industry who are under its regulatory authority.

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

Insurance
Administration
3110 State Office Building
Salt Lake City, UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 01/14/1999; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 01/06/1999, 10:00 a.m., State Office Building (behind the Capitol), Room 1112.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/1999

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.**R590-170. Fiduciary and Trust Account Obligations.****R590-170-1. Authority.**

This rule is promulgated by the insurance commissioner pursuant to the authority granted under Subsection 31A-2-201(3) to adopt rules for the implementation of the Utah Insurance Code and under Subsections 31A-23-312(2)(c) and 31A-25-305(1) authorizing the commissioner to establish by rule, records to be kept by licensees.

R590-170-2. Purpose and Scope.

(1) The purpose of this rule is to set minimum standards that shall be followed for fiduciary and trust account obligations pursuant to Section 31A-23-310. This rule replaces Rule R590-135 "Accounting Records Rule," Bulletin 88-3 "Fiduciary Responsibilities," and Bulletin 90-7 "Company Reporting."

(2) This rule applies to all licensees holding funds in a fiduciary capacity.

R590-170-3. Definitions.

For the purposes of this rule the commissioner adopts the definitions as set forth in Section 31A-1-301 and the following:

(1) "Trust Account" means a checking or savings account where funds are held in a fiduciary capacity.

(2) "Accounts Receivable" means those premiums invoiced by a licensee and to be collected for an insurer.

(3) "Accounts Payable" means the premium due insurers that a licensee is responsible for invoicing and collecting from insureds on behalf of insurers.

R590-170-4. Establishing the Trust Account.

(1) All records relating to a trust account shall be identified with the wording "Trust Account" or words of similar import. These records include checks, bank statements, general ledgers and records retained by the bank pertaining to the trust account.

(2) All trust accounts shall be established with a Federal Employer Identification Number rather than a Social Security Number.

(3) A trust account shall be separate and distinct from operating and personal accounts, i.e., a separate account number, a separate account register, and different checks, deposit and withdrawal slips.

R590-170-5. Maintaining the Trust Account.

(1) Funds deposited into a trust account shall only include: premiums which may include commissions; return premiums; fees paid with premiums; financed premiums; funds held pursuant to a third party administrator contract; funds deposited with a title insurance agent in connection with any escrow settlement or closing, amounts necessary to cover bank charges on the trust account; and interest on the trust account, except as provided under Section 31A-23-307(2)(b).

(2) Disbursements from a trust account shall only include: premiums paid to insurers; return premiums to policyholders; transfer of commissions and fees; funds paid pursuant to a third party administrator contract; funds disbursed by a title insurance agent in connection with any escrow settlement or closing; and the transfer of accrued interest.

(3) Personal or business expenses may not be paid from a trust account, even if sufficient commissions exist in the account to cover these expenses.

(4) Commissions may not be disbursed from a trust account prior to the beginning of the policy period for which the premium has been collected.

(5) Commissions attributed to premiums and fees collected must be disbursed from a trust account on a date not later than the first business day of the calendar quarter after the end of the policy period for which the funds were collected.

(6) Premiums due insurers may not be paid from a trust account unless the premiums directly relating to the amount due have been deposited into the trust account, or unless funds have been placed by a licensee into the trust account to finance premiums.

(7) Premiums financed by a licensee must be accounted for as a loan with interest charged at the statutory rate for any loan exceeding 90 days, pursuant to Section 31A-23-304.

R590-170-6. Accounting Records to be Maintained.

(1) Bank statements for trust accounts must be reconciled monthly.

(2) An accounts receivable report showing credits and debits must be maintained and reconciled monthly. This report must list, at a minimum, the account name and the amount and date due for each receivable. The sum of all receivables must be shown on the report. Receivables that are over 60 days old and their sums must be shown separately on the report.

(3) An accounts payable report showing the status of each account must be maintained and reconciled monthly.

(4) Adequate records shall be maintained to establish ownership of all funds in the trust account, from whom they were received and for whom they are held.

(5) All other accounting records relating to the business of insurance must be maintained in a manner that facilitates an audit trail.

R590-170-7. Insurer Responsibility.

Insurers and their managing general agents shall provide a written report to the insurance commissioner within 15 days of either of the following:

(1) If an agent or broker fails to pay an account payable within 30 days of the due date. This does not apply where a legitimate dispute exists regarding the account payable if the agent or broker has properly notified the insurer of any disputed items and has provided documentation supporting that position; or

(2) If an agent or broker issues a check that when presented at the bank is not honored or is returned because of insufficient funds.

R590-170-8. Severability.

If any provision or clause of this rule or its application to any person or situation is held invalid such invalidity will not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

**KEY: insurance
1999**

**31A-2-201
31A-23-312
31A-25-305**



Natural Resources, Wildlife Resources
R657-5
Taking Big Game

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 21717

FILED: 12/01/1998, 09:10

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Wildlife Board meetings conducted annually for taking public input and reviewing permit numbers for bucks, bulls, and once-in-a-lifetime big game species.

SUMMARY OF THE RULE OR CHANGE: Definitions for "cow bison" and "ram" are being added. The companion hunting provision is being amended to include elk, whereby a person who is legally blind or quadriplegic is allowed a companion hunter to take a deer or elk for the person who is blind or quadriplegic. The spotlighting provision is restructured to add Subsection R657-5-17(1)(b) as an exception to Section 23-13-17. Nonresidents who apply for general deer permits are allowed to apply in a group of up to ten applicants. The waiting period provisions are being clarified to include limited entry landowner and cooperative wildlife management units permits, which incur a waiting period as a result of obtaining those permits, for purposes of applying in the bucks, bulls and once-in-a-lifetime drawing. A person is allowed to apply

for bonus points in lieu of applying for permits in the bucks, bulls and once-in-a-lifetime drawing. Provisions are added that require residents to obtain a resident Southern Region General Deer Voucher before purchasing a resident Southern Region General Deer Permit. Other changes are being made for consistency and clarity.

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

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The Division of Wildlife Resources (DWR) determines that this rule will not create any cost or savings impact to the state budget or the DWR's budget.

❖LOCAL GOVERNMENTS: None--this filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖OTHER PERSONS: No impact--these amendments do not impose any requirements on persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No impact--this rule does not impose any requirements or burdens on persons.

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

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

Natural Resources
Wildlife Resources
Suite 2110
1594 West North Temple
PO Box 146301
Salt Lake City, UT 84114-6301, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debbie Sundell at the above address, by phone at (801) 538-4707, by FAX at (801) 538-4709, or by Internet E-mail at nrdrw.dsundell@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 01/14/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/1999

AUTHORIZED BY: John Kimball, Director

R657. Natural Resources, Wildlife Resources.

R657-5. Taking Big Game.

R657-5-1. Purpose and Authority.

(1) Under authority of Sections 23-14-18 and 23-14-19, the Wildlife Board has established this rule for taking deer, elk, pronghorn, moose, bison, bighorn sheep, and Rocky Mountain goat.

(2) Specific dates, areas, methods of take, requirements, and other administrative details which may change annually are

published in the [~~bucks, bulls and once-in-a-lifetime proclamation and the antlerless addendum to the bucks, bulls and once-in-a-lifetime proclamation~~]Bucks, Bulls and Once-In-A-Lifetime Proclamation and the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

R657-5-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Antlerless deer" means a deer without antlers or with antlers five inches or shorter.

(b) "Antlerless elk" means an elk without antlers or with antlers five inches or shorter.

(c) "Antlerless moose" means a moose with antlers shorter than its ears.

(d) "Arrow quiver" means a portable arrow case that completely encases all edges of the broadheads.

(e) "Buck deer" means a deer with antlers longer than five inches.

(f) "Buck pronghorn" means a pronghorn with horns longer than five inches.

(g) "Bull elk" means an elk with antlers longer than five inches.

(h) "Bull moose" means a moose with antlers longer than its ears.

(i) "Cow bison" means a female bison.

(j) "Doe pronghorn" means a pronghorn without horns or with horns five inches or shorter.

~~(k)~~(k) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public as a matter of right for vehicular travel.

~~(l)~~(l) "Hunter's choice" means either sex may be taken.

~~(m)~~(m) "Permit" for purposes of this rule means a secondary document which:

(i) requires a wildlife habitat authorization as a prerequisite to its issuance; and

(ii) grants authority to engage in specific activities under the Wildlife Resources Code or a rule or proclamation of the Wildlife Board.

~~(n)~~(n) "Ram" means a male desert bighorn sheep or Rocky Mountain bighorn sheep.

~~(o)~~(i)~~(m)~~(i) "Resident" for purposes of this rule means a person who:

(A) has been domiciled in the state of Utah for six consecutive months immediately preceding the purchase of a license or permit; and

(B) does not claim residency for hunting, fishing, or trapping in any other state or country.

(ii) A Utah resident retains Utah residency if that person leaves this state:

(A) to serve in the armed forces of the United States or for religious or educational purposes; and

(B) complies with Subsection (m)(i)(B).

(iii)(A) A member of the armed forces of the United States and dependents are residents for the purposes of this chapter as of the date the member reports for duty under assigned orders in the state if the member:

(I) is not on temporary duty in this state; and

(II) complies with Subsection (m)(i)(B).

(iv) A copy of the assignment orders must be presented to a wildlife division office to verify the member's qualification as a resident.

(v) A nonresident attending an institution of higher learning in this state as a full-time student may qualify as a resident for purposes of this chapter if the student:

(A) has been present in this state for 60 consecutive days immediately preceding the purchase of the license or permit; and

(B) complies with Subsection (m)(i)(B).

(vi) A Utah resident license or permit is invalid if a resident license for hunting, fishing, or trapping is purchased in any other state or country.

(vii) An absentee landowner paying property tax on land in Utah does not qualify as a resident.

~~(m)~~(p) "Spike bull" means a bull elk which has at least one antler having no branching above the ears. Branched means a projection on an antler longer than one inch, measured from its base to its tip.

~~(n)~~(q) "Wildlife Habitat Authorization" for purposes of this rule means the primary document granting authority to engage in activities under:

- (a) the Wildlife Resources Code; or
- (b) a rule or proclamation of the Wildlife Board.

R657-5-3. Wildlife Habitat Authorization, License, Permit, and Tag Requirements.

(1) A person may engage in hunting protected wildlife or in the sale, trade, or barter of protected wildlife or their parts in accordance with Section 23-19-1 and the rules or proclamations of the Wildlife Board.

(2) Any license, permit, or tag that is mutilated or otherwise made illegible is invalid and may not be used for taking or ~~pursuing~~possessing big game.

R657-5-4. Age Requirements and Restrictions.

(1)(a) ~~[Any resident or nonresident]~~A person 14 years of age or older may purchase a wildlife habitat authorization, and permit and tag to hunt big game. A person 13 years of age may purchase a wildlife habitat authorization, and permit and tag to hunt big game if that person's 14th birthday falls within the calendar year for which the wildlife habitat authorization, permit and tag are issued.

(b) A person must purchase a wildlife habitat authorization prior to obtaining a permit and tag to hunt big game.

(2)(a) A person 15 years of age or younger must be accompanied by his parent or legal guardian, or other responsible person 21 years of age or older and approved by his parent or guardian, while hunting big game with any weapon.

(b) As used in this section, "accompanied" means at a distance within which visual and verbal communication are maintained for the purposes of advising and assisting.

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R657-5-6. Companion Hunting.

(1) A person may take a deer or elk for a person who is legally blind or quadriplegic provided the blind or quadriplegic person:

- (a) meets hunter education requirements as provided in Section 23-19-11;

(b) purchases a wildlife habitat authorization and the appropriate permit and tag;

(c) obtains a certificate of registration from the division; and

(d) is accompanied by a companion hunter who has obtained a wildlife habitat authorization and has completed a division approved hunter education course as provided in Section 23-19-11.

(2) A person who is legally blind may obtain a certificate of registration from the division by submitting a signed statement by a licensed ophthalmologist, optometrist, or physician verifying that the applicant:

(a) has no more than 20/200 visual acuity in the better eye when corrected; or

(b) has, in the case of better than 20/200 central vision, a restriction of the field of vision in the better eye which subtends an angle of vision 20 degrees or less.

(3) A person who is quadriplegic may obtain a certificate of registration from the division by submitting a signed statement by a licensed physician verifying that the applicant is quadriplegic.

(4) The blind or quadriplegic person must be accompanied by the companion hunter at the time of kill and while transporting the deer or elk.

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R657-5-11. Rifles and Shotguns.

(1) The following rifles and shotguns may be used to take big game:

(a) any rifle firing centerfire cartridges and expanding bullets; and

(b) a shotgun, 20 gauge or larger, firing only number 4 or larger buckshot or slug ammunition.

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R657-5-14. Archery Equipment.

(1) Archery equipment may be used during any big game hunt, except a muzzleloader hunt, provided:

(a) the minimum bow pull is 40 pounds at the draw or the peak, whichever comes first; and

(b) arrowheads used have two or more sharp cutting edges that cannot pass through a 7/8 inch ring.

(2) The following equipment or devices may not be used to take big game:

(a) a crossbow; except as provided in Section R657-5-~~[13]~~15.

(b) arrows with chemically treated or explosive arrowheads;

(c) a mechanical device for holding the bow at any increment of draw; or

(d) a release aid that is not hand held or that supports the draw weight of the bow.

(3) Arrows carried in or on a vehicle where a person is riding must be in an arrow quiver or a closed case.

(4)(a) A person who has obtained an archery permit may not possess or be in control of a firearm or have a firearm in his camp or motor vehicle during an archery hunt.

(b) The provisions of Subsection (a) do not apply to:

(i) a person licensed to hunt upland game using a shotgun with shot no larger than 4 during the upland game season;

(ii) a person licensed to hunt big game species during hunts that coincide with the archery hunt; or

(iii) livestock owners protecting their livestock.

R657-5-15. Crossbows.

(1)(a) A disabled person who has a permanent, physical disability may use a crossbow to hunt deer or elk during the respective archery hunt dates provided in the [~~proclamation~~]Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game, provided that person:

(i) applies for and obtains a certificate of registration authorizing the use of a crossbow; and

(ii) provides a physician's statement confirming the disability as defined in Subsection (b).

(b) "Disabled person" means a person who has a permanent physical impairment due to injury or disease, congenital or acquired, which renders the person so severely disabled as to be unable to use conventional archery equipment.

(2)(a) Any crossbow used to hunt deer must have:

(i) a stock that is at least 18 inches long;

(ii) a minimum draw weight of 125 pounds;

(iii) a draw length that is at least 18 inches from the front of the crossbow to the back of the string in a cocked position; and

(iv) a positive safety mechanism.

(b) Arrows or bolts used must be at least 18 inches long and must have a broadhead with two or more sharp cutting edges that cannot pass through a 7/8 inch ring.

(3) Arrows or bolts carried in or on a vehicle where a person is riding must be in an arrow quiver or a closed case.

(4) A cocked crossbow may not be carried in or on a vehicle.

R657-5-16. Areas With Special Restrictions.

(1)(a) Hunting of any wildlife is prohibited within the boundaries of all park areas, except those designated by the Division of Parks and Recreation in Rule R651-603-5.

(b) Hunting with rifles and handguns in park areas designated open is prohibited within one mile of all park area facilities, including buildings, camp or picnic sites, overlooks, golf courses, boat ramps, and developed beaches.

(c) Hunting with shotguns or archery equipment is prohibited within one-quarter mile of the areas provided in Subsection (b).

(2) Hunting is closed within the boundaries of all national parks and monuments unless otherwise provided by the governing agency.

(3) Hunters obtaining a Utah license, permit or tag to take big game may not be authorized to hunt on Indian reservation and trust lands. Hunters must observe tribal regulations concerning wildlife while hunting on Indian reservation and trust lands.

(4) Military installations, including Camp Williams, are closed to hunting and trespassing unless otherwise authorized.

(5) In Salt Lake County, a person may not:

(a) hunt big game or discharge a shotgun or archery equipment within 600 feet of a road, house, or any other building; or

(b) discharge a rifle, handgun, shotgun firing slug ammunition, or muzzleloader within one mile of a cabin, house, or other building regularly occupied by people, except west of I-15 a muzzleloader may not be discharged within one-half mile of a cabin, house, or other building regularly occupied by people.

(6) Hunting is closed within a designated portion of the town of Alta. Hunters may refer to the town of Alta for boundaries and other information.

R657-5-17. Spotighting.

(1) [~~(a) Except as provided in Section 23-13-17;~~]Except as provided in Section 23-13-17:

(a) a person may not use or cast the rays of any spotlight, headlight, or other artificial light to locate protected wildlife while having in possession a firearm or other weapon or device that could be used to take or injure protected wildlife; and[-]

(b) [~~The~~]the use of a spotlight or other artificial light in a field, woodland, or forest where protected wildlife are generally found is prima facie evidence of attempting to locate protected wildlife.

(2) The provisions of this section do not apply to the use of headlights or other artificial light in a usual manner where there is no attempt or intent to locate protected wildlife.

R657-5-18. Use of Vehicle or Aircraft.

(1)(a) A person may not use an airplane or any other airborne vehicle or device, or any motorized terrestrial or aquatic vehicle, including snowmobiles and other recreational vehicles, except a vessel as provided in Subsection (c), to take protected wildlife.

(b) A person may not take protected wildlife being chased, harmed, harassed, rallied, herded, flushed, pursued or moved by an aircraft or any other vehicle or conveyance listed in Subsection (a).

(c) Big game may be taken from a vessel provided:

(i) the motor of a motorboat has been completely shut off;

(ii) the sails of a sailboat have been furled; and

(iii) the vessel's progress caused by the motor or sail has ceased.

(2)(a) A person may not use any type of aircraft from 48 hours before [~~a~~]any big game hunt begins through 48 hours after [~~the~~]any big game hunting season ends to:

(i) transport a hunter or hunting equipment into a hunting area;

(ii) transport a big game carcass; or

(iii) locate, or attempt to observe or locate any protected wildlife.

(b) Flying slowly at low altitudes, hovering, circling or repeatedly flying over a forest, marsh, field, woodland or rangeland where protected wildlife is likely to be found may be used as evidence of violations of Subsections (1) and (2).

(3) The provisions of this section do not apply to the operation of an aircraft in a usual manner, or landings and departures from improved airstrips, where there is no attempt or intent to locate protected wildlife.

R657-5-19. Party Hunting and Use of Dogs.

(1)[-] A person may not take big game for another person, except as provided in Section R657-5-~~5~~6.

(2) A person may not use the aid of a dog to take, chase, harm or harass big game.

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R657-5-27. Bucks, Bulls, and Once-In-A-Lifetime Application -Deadlines.

(1) A person may obtain only one permit per species of big game, including premium limited entry, limited entry, cooperative wildlife management unit, once-in-a-lifetime, conservation, sportsman, landowner and general permits, except antlerless permits as provided in the Antlerless Addendum and Rule R657-42.

(2) Applications are available from license agents and division offices.

(3) A resident may apply in the bucks, bulls and once-in-a-lifetime drawing for the following permits:

(a) only one of the following species:

(i) buck deer - premium limited entry, limited entry and cooperative wildlife management unit;

(ii) bull elk - limited entry[-] and cooperative wildlife management unit[-and muzzleloader]; or

(iii) buck pronghorn - limited entry and cooperative wildlife management unit; and

(b) only one once-in-a-lifetime permit, including once-in-a-lifetime cooperative wildlife management unit permits, except as provided in Section R657-5-66(2)(b); and

(c) general muzzleloader elk (ML300).[-]

(4) A nonresident may apply in the bucks, bulls and once-in-a-lifetime drawing for the following permits:

(a) only one of the following species:

(i) buck deer - premium limited entry and limited entry;

(ii) bull elk - limited entry and muzzleloader; or

(iii) buck pronghorn - limited entry; and

(b) only one once-in-a-lifetime permit; and

(c) general archery, general season or general muzzleloader buck deer; and

(d) general muzzleloader elk (ML300).[-]

(5) A wildlife habitat authorization may be purchased before applying, or the wildlife habitat authorization will be issued to the applicant upon successfully drawing a permit.

(6)(a) Applications must be mailed by the date prescribed in the [proclamation]Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game. Applications filled out incorrectly or received later than the date prescribed in the [big game proclamation]Bucks, Bulls and Once-In-A-Lifetime Proclamation may be rejected. Late applications will be returned unopened.

(b) If an error is found on an application, the applicant may be contacted for correction.

(7) Any person who applies for a hunt that occurs on private land is responsible for obtaining written permission from the landowner to access the property. To avoid disappointment and wasting the permit and fee if access is not obtained, hunters should get permission before applying. The division does not guarantee access and does not have the names of landowners where hunts occur.

(8) Only a resident may apply for or obtain a resident permit and only a nonresident may apply for or obtain a nonresident permit, except as provided in Subsections R657-5-30(4) and R657-5-32(1).

R657-5-28. Fees for Bucks, Bulls and Once-In-A-Lifetime Applications.

(1) Each application must include:

(a) the permit fee for any nonresident general permit applied for;

(b) the highest permit fee of any other permits applied for;

(c) a \$5 nonrefundable handling fee for one of the following permits:

(i) buck deer;

(ii) bull elk; or

(iii) buck pronghorn; and

(d) a \$5 nonrefundable handling fee for a once-in-a-lifetime permit; and

(e) a \$5 nonrefundable handling fee for any nonresident general permit applied for; and

(f) the wildlife habitat authorization fee, if it has not yet been purchased.

(2)(a) Personal checks, money orders, cashier's checks and credit cards are accepted from residents.

(b) Money orders, cashier's checks and credit cards are accepted from nonresidents. Personal checks are not accepted from nonresidents.

(3)(a) Credit cards must be valid at least 30 days after the drawing results are posted.

(b) If applicants are applying as a group, all fees for all applicants in that group must be charged to one credit card.

(c) Handling fees are charged [~~to~~to] the credit card when the application is processed. Permit fees are charged after the drawing, if successful.

(4) An application is voidable if the check is returned unpaid from the bank or the credit card is invalid or refused.

R657-5-29. Applying as a Group.

(1)(a) Two people may apply together for elk or pronghorn permits.

(b) Up to four people may apply together for premium limited entry, limited entry and resident cooperative wildlife management unit deer permits.

(c) Up to ten people may apply together for nonresident general deer permits.

(2) Applicants must indicate the number of hunters in the group by filling in the appropriate box on each application form.

(3) Group applicants must submit their applications together in the same envelope.

(4) Residents and nonresidents may apply together.

(5) When applying as a group:

(a) if one applicant is successful in drawing a permit, then all applicants with valid applications in that group are successful;

(b) if the group is rejected due to an error in fees and only one species is applied for, then the entire group is rejected;

(c) if the group is rejected due to an error in fees and more than one species is applied for, the group will be kept in the drawing for any species with sufficient fees, using the draw order; or

(d) if one or more members of the group are rejected due to an error other than fees, the members with valid applications will be kept in the drawing, unless the group indicates on the application that all members are to be rejected.

(i) The applicant whose application is on the top of all the applications for that group, will be designated the group leader.

(ii) If any group member has an error on their application that is not corrected during the correction process, the reject box on the

group leader's application will determine whether the entire group is rejected.

R657-5-30. Bucks, Bulls and Once-In-A-Lifetime Drawing.

(1) Bucks, bulls, and once-in-a-lifetime drawing results are posted at the Lee Kay Center for Hunter Education, Cache Valley Hunter Education Center and division offices on the date published in the [proclamation]Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2) Permits are drawn in the order listed in the [proclamation]Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(3) Any person who draws one of the following permits is not eligible to draw a once-in-a-lifetime permit:

(a) a premium limited entry, limited entry or cooperative wildlife management unit buck deer;

(b) a limited entry, cooperative wildlife management unit or muzzleloader bull elk; or

(c) a limited entry or cooperative wildlife management unit buck pronghorn.

(4) If permits remain after all choices have been evaluated separately for residents and nonresidents, a second evaluation will be done allowing cross-over usage of remaining resident and nonresident permit quotas, except nonresident general deer permits and resident cooperative wildlife management unit permits.

R657-5-31. Bucks, Bulls and Once-In-A-Lifetime Application Refunds.

(1)(a) Unsuccessful applicants who applied in the initial drawing and who applied with a check or money order will receive a refund in May.

(b) Unsuccessful applicants, who applied for remaining permits and who applied with a check or money order, will receive a refund in June.

(2) Unsuccessful applicants, who applied with a credit card, will not be charged for a permit.

(3)(2) The handling fees are nonrefundable.

R657-5-32. Permits Remaining After the Bucks, Bulls and Once-In-A-Lifetime Drawing.

(1) Permits remaining after the bucks, bulls, and once-in-a-lifetime drawing are sold only by mail or on a first-come, first-served basis beginning and ending on the dates provided in the [proclamation]Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game. These permits may be purchased by either residents or nonresidents, except residents may not purchase nonresident general deer permits and nonresidents may not purchase resident cooperative wildlife management unit permits.

(2) Applications are available from division offices and license agents.

(3) The same application form used for the bucks, bulls and once-in-a-lifetime big game drawing must be used when applying for remaining permits by mail. The handling fees are nonrefundable.

R657-5-33. Waiting Periods for Deer.

(1) A person who obtained a premium limited entry buck, limited entry buck[-or], cooperative wildlife management unit buck

or limited entry landowner buck deer permit during the preceding two years may not apply in the bucks, bulls and once-in-a-lifetime drawing for any of these permits during the current year.

(2) A person who obtains a premium limited entry buck, limited entry buck[-or], cooperative wildlife management unit buck or limited entry landowner buck deer permit in the [big game]bucks, bulls and once-in-a-lifetime drawing, may not apply for any of these permits again for a period of two years.

(3) A waiting period does not apply to general archery, general season, general muzzleloader, antlerless deer, conservation, sportsman and poaching-reported reward deer permits.

R657-5-34. Waiting Periods for Elk.

(1) A person who obtained a limited entry[-or], cooperative wildlife management unit or limited entry landowner bull elk permit during the preceding four years may not apply [for either]in the bucks, bulls and once-in-a-lifetime drawing for any of these permits during the current year.

(2) A person who obtains a limited entry[-or], cooperative wildlife management unit or limited entry landowner bull elk permit in the [big game]bucks, bulls and once-in-a-lifetime drawing, may not apply for [either]any of these permits for a period of five years.

(3) A waiting period does not apply to general archery, general season, muzzleloader[-, ML300] (ML300), antlerless elk, conservation, sportsman and poaching-reported reward elk permits.

R657-5-35. Waiting Periods for Pronghorn.

(1) A person who obtained a buck pronghorn permit in the preceding four years, may not apply in the bucks, bulls and once-in-a-lifetime drawing for a buck pronghorn permit during the current year.

(2) A person who obtains a buck pronghorn[-or], cooperative wildlife management unit or limited entry landowner buck pronghorn permit in the [big game]bucks, bulls and once-in-a-lifetime drawing, may not apply for [either]any of these permits for a period of five years.

(3) A waiting period does not apply to doe pronghorn, pronghorn conservation, sportsman and poaching-reported reward permits.

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R657-5-37. Waiting Periods for Once-in-a-Lifetime Species.

(1) Any person who has obtained a permit for [a]any bull moose, bison, Rocky Mountain bighorn sheep, desert bighorn sheep or Rocky Mountain goat through the [big game]bucks, bulls and once-in-a-lifetime drawing or from a private landowner may not apply for a once-in-a-lifetime permit for the same species in the [big game]bucks, bulls and once-in-a-lifetime drawing.

(2) A person who has been convicted of unlawfully taking a once-in-a-lifetime species may not apply for or obtain a permit for that species.

R657-5-38. Waiting Periods for Permits Obtained After the Drawing.

(1) Waiting periods provided in Sections R657-5-33 through R657-5-36 do not apply to the purchase of the remaining permits sold over the counter.

(2) However, waiting periods are incurred as a result of purchasing remaining permits. Therefore, if a remaining permit is purchased in the current year, waiting periods will be in effect when applying in the drawing in following years.

R657-5-39. Cooperative Wildlife Management Unit Permits and Landowner Permits.

(1) ~~[(a)]~~ A waiting period and once-in-a-lifetime status apply to a person who has obtained a cooperative wildlife management unit permit incurs the respective waiting period for each species as specified in [permits obtained through the drawing.

~~—(b) The number of years that applies is the same number of years provided in Sections] R657-5-33 through R657-5-37.~~

(2)(a) A waiting period or once-in-a-lifetime status does not apply to purchasing landowner or cooperative wildlife management unit permits obtained through a landowner, except as provided in Subsection ~~[R657-5-37(2)]~~(b).

(b) Waiting periods are incurred for the purpose of applying in the bucks, bulls and once-in-a-lifetime drawing as a result of purchasing limited entry landowner and cooperative wildlife management unit permits obtained through a landowner.

R657-5-40. Bonus Point System.

(1) Bonus points are used to improve odds for drawing permits.

(2)(a) A bonus point is awarded for:

(i) each valid unsuccessful application when applying for permits in the bucks, bulls and once-in-a-lifetime [big game drawing] drawing; or

(ii) each valid application when applying for bonus points in the bucks, bulls and once-in-a-lifetime drawing.

(b) Bonus points are awarded by species.

(c) Bonus points are awarded for:

(i) premium limited entry, limited entry and cooperative wildlife management unit buck deer;

(ii) limited entry and cooperative wildlife management unit bull elk;

(iii) limited entry and cooperative wildlife management unit buck pronghorn; and

(iv) all once-in-a-lifetime species.

(3) ~~[(a)]~~ A person may apply for a bonus point for:

(a) only one of the following species:

(i) buck deer - premium limited entry, limited entry and Cooperative Wildlife Management unit;

(ii) bull elk - limited entry and Cooperative Wildlife Management unit; or

(iii) buck pronghorn - limited entry and Cooperative Wildlife Management unit; and

(b) only one once-in-a-lifetime, including once-in-a-lifetime Cooperative Wildlife Management unit.

(4)(a) A person may not apply in the drawing for both a premium limited entry or limited entry bonus point and a premium limited entry or limited entry permit.

(b) A person may not apply in the drawing for a once-in-a-lifetime bonus point and a once-in-a-lifetime permit.

(c) A person may not apply for a bonus point if that person is ineligible to apply for a permit for the respective species.

(d) A person may only apply for bonus points on the initial Bucks, Bulls and Once-In-A-Lifetime drawing.

(e) Group applications will not be accepted when applying for bonus points.

(5)(a) Fifty percent of the permits for each hunt unit and species will be reserved for applicants with bonus.

(b) Based on the applicant's first choice, the reserved permits will be designated by a random drawing number to eligible applicants with the greatest number of bonus points for each species.

(c) If reserved permits remain, the reserved permits will be designated by a random number to eligible applicants with the next greatest number of bonus points for each species.

(d) The procedure in Subsection (c) will continue until all reserved permits have been issued or no applications for that species remain.

(e) Any reserved permits remaining and any applicants who were not selected for reserved permits will be returned to the general drawing.

~~[(4)]~~ (6)(a) Each applicant receives a random drawing number for:

(i) each species applied for; and

(ii) each bonus point for that species.

~~[(5)]~~ (7) Bonus points are forfeited if a person obtains a permit through the drawing for that bonus point species as provided in Subsection (2)(c), including any permit obtained after the drawing.

~~[(6)]~~ (8) Bonus points are not forfeited if:

(a) a person is successful in obtaining a conservation permit or sportsman permit;

(b) a person obtains a landowner or a cooperative wildlife management unit permit from a landowner; or

(c) a person obtains a poaching-reported reward permit.

~~[(7)]~~ Bonus points are only awarded if a person is unsuccessful in obtaining a permit through the drawing.

~~[(8)]~~ (9) Bonus points are not transferable.

~~[(9)]~~ (10) Bonus points are averaged and rounded down when two or more people apply together on a group application.

~~[(10)]~~ (11) Bonus points are tracked using social security numbers or division-issued hunter identification numbers. Applicants who do not include this number or include an incorrect number on the application will not collect a bonus point.

R657-5-41. General Archery Buck Deer Hunt.

(1) The dates of the general archery buck deer hunt are provided in the ~~[proclamation]~~ Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2) A person who has obtained a general archery buck deer permit may use archery equipment to take:

(a) one buck deer within the general hunt area specified on the permit, except premium limited entry deer, limited entry deer and cooperative wildlife management unit deer areas and specific hunt ~~[units] areas~~ published in the ~~[proclamation]~~ Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game; or

(b) a deer of hunter's choice within the ~~[Northern region general hunt area]~~ Wasatch Front extended archery area as provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game; or

(c) a deer of hunter's choice within the ~~[Wasatch Front or]~~ Uintah Basin extended archery [areas] area.

(3) A person who obtains a general archery buck deer permit for any hunt area may hunt within the Wasatch Front and Uintah Basin extended archery areas.

(4) A person who has obtained a Northern Region general archery buck deer permit may take a deer of hunter's choice within the Northern Region general hunt area.

(5) A person who has obtained a general archery deer permit may not hunt during any other deer hunt or obtain any other deer permit, except antlerless deer.

~~(5)~~(6) Hunter orange fluorescent material must be worn if a centerfire rifle hunt is also in progress in the same area. Archers are cautioned to study rifle hunt tables and identify these areas described in the [proclamation]Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

R657-5-42. General Season Buck Deer Hunt.

(1) The dates for the general season buck deer hunt are provided in the [proclamation]Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2) A person who has obtained a general season buck permit may use any legal weapon to take one buck deer within the hunt area specified on the permit, except premium limited entry deer, limited entry deer and cooperative wildlife management unit deer areas and specific hunt [units]areas published in the [proclamation]Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(3) A person who has obtained a general season buck deer permit may not hunt during any other deer hunt or obtain any other deer permit, except antlerless deer.

R657-5-43. General Muzzleloader Buck Deer Hunt.

(1) The dates for the general muzzleloader buck deer hunt are provided in the [proclamation]Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2) A person who has obtained a general muzzleloader buck permit may use a muzzleloader to take one buck deer within the general hunt area specified on the permit, except premium limited entry deer, limited entry deer and cooperative wildlife management unit deer areas and specific hunt [units]areas published in the [proclamation]Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(3) A person who has obtained a general muzzleloader deer permit may not hunt during any other deer hunt or obtain any other deer permit, except antlerless deer.

(4) Hunter orange fluorescent material must be worn if a centerfire rifle hunt is also in progress in the same area. Muzzleloader hunters are cautioned to study the rifle hunt tables to identify these areas described in the [proclamation]Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

R657-5-44. Limited Entry Buck Deer Hunts.

(1) To hunt in a premium limited entry or limited entry area, hunters must obtain ~~[a]~~the respective limited entry buck permit. Limited entry areas are not open to general archery buck, general season buck, or general muzzleloader buck hunting, except as specified in the [proclamation]Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2) A limited entry buck deer permit allows a person using the prescribed legal weapon, to take one buck deer within the area and season specified on the permit, except deer cooperative wildlife management units located within the limited entry unit.

(3) A person who has obtained a limited entry buck permit may not hunt during any other deer hunt or obtain any other deer permit, except antlerless deer.

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R657-5-46. General Archery Elk Hunt.

(1)(a) The dates of the general archery elk hunt are provided in the [proclamation]Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(b) The San Juan unit east of U.S. 191 is closed to general archery and general season bull elk hunting.

(2)(a) A general archery elk permit allows a person using archery equipment to take one elk of hunter's choice in a general season elk unit, except on elk cooperative wildlife management units.

(b) On a spike bull elk unit, archers may take an antlerless elk or a spike bull elk.

(c) In Salt Lake County south of I-80 and east of I-15, archers may take an antlerless elk or any bull elk.

(3) A person who has obtained an archery elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsection R657-5-50(4).

(4) Hunter orange fluorescent material must be worn if a centerfire rifle hunt is also in progress in the same area. Archers are cautioned to study the rifle hunt tables to identify these areas described in the [proclamation]Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

R657-5-47. General Season Bull Elk Hunt.

(1) The dates for the general season bull elk hunt are provided in the [proclamation]Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game within general season elk units, except in the following ~~[closed areas:]~~areas:

~~(a) elk cooperative wildlife management units;~~
~~—(b)(a) Salt Lake County south of I-80 and east of I-15[;]~~ is restricted to muzzleloaders and shotguns with slug ammunition only;

(b) elk cooperative wildlife management units are closed; and
(c) the San Juan unit east of US-191 is closed.

(2)(a) General season elk hunters may purchase either a spike bull permit or an any bull permit.

(b) A person who has obtained a general season spike bull elk permit may take a spike bull elk on a general season spike bull elk unit. Any bull units are closed to spike bull permittees.

(c) A person who has obtained a general season any bull elk permit may take any bull elk, including a spike bull elk on a general season any bull elk unit. Spike bull units are closed to any bull permittees.

(3) A person who has obtained a general season bull elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsection R657-5-50(4).

R657-5-48. General Muzzleloader Elk Hunt.

(1) To hunt during the general muzzleloader elk hunt, a hunter must obtain a general muzzleloader elk permit.

(2) The dates of the general muzzleloader elk hunt are provided in the ~~[proclamation]~~Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game within the general season elk units, except in the following closed areas:

- (a) Salt Lake County south of I-80 and east of I-15;
- (b) elk cooperative wildlife management units; and
- (c) the San Juan unit east of US-191.

(3)(a) A person who has obtained a general muzzleloader elk permit may take one elk of hunter's choice, except a hunter may take only a spike bull or an antlerless elk in a spike bull unit.

(b) A person who has obtained a general muzzleloader spike bull elk permit may hunt only on a spike bull elk unit and may take only a spike bull elk. Any bull units are closed to spike bull permittees.

(4) A person who has obtained a general muzzleloader elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsection R657-5-50(4).

R657-5-49. Limited Entry Bull Elk Hunt.

(1) To hunt in a limited entry bull elk area, a hunter must obtain a limited entry elk permit.

(2) A person who has obtained a limited entry elk permit may use any legal weapon to take one bull elk within the hunt area and season specified on the permit, except cooperative wildlife management units located within a limited entry unit. Spike bull elk restrictions do not apply to limited entry elk permittees.

(3) A person who has obtained a limited entry bull elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsection R657-5-50(4).

(4)(a) A hunter who draws a limited entry bull elk permit may also purchase a permit to hunt using archery equipment beginning 15 days prior to the date specified on the limited entry elk permit, except in the Panguitch Lake, Mt. Dutton, ~~[Pahvant, Fishlake,]Fillmore, Plateau, Monroe, [Indian Peaks,]Southwest Desert, Pilot Mountain portion of Box Elder, Beaver and muzzleloader (ML300)~~ elk permit ~~[ML300 elk]~~units.

(b) If an elk is not taken during this 15 day period, any legal weapon may be used during the dates specified on the limited entry bull elk permit.

R657-5-50. Antlerless Elk Hunts.

(1) To hunt an antlerless elk, a hunter must obtain an antlerless elk permit.

(2)(a) An antlerless elk permit allows a person to take one antlerless elk using any legal weapon within the area and season as specified on the permit and in the ~~[antlerless addendum to the proclamation]~~Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(b) A person may not hunt on any cooperative wildlife management units unless that person obtains an antlerless elk permit for a cooperative wildlife management unit as specified on the permit.

(3) A person who has obtained an antlerless elk permit may not hunt during any other antlerless elk hunt or obtain any other antlerless elk permit, except as provided in Subsection (4).

(4)(a) A person who has obtained an antlerless elk permit may purchase an additional antlerless elk permit beginning on the date published in the ~~[antlerless addendum to the proclamation]~~Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game, if any of these permits are available.

(b) A person who has obtained an antlerless elk permit may purchase an any bull or hunter's choice elk permit beginning on the date published in the ~~[antlerless addendum to the proclamation]~~Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game, if any of these permits are available.

(c) A person who has obtained an any bull or hunter's choice elk permit may purchase an antlerless elk permit beginning on the date published in the ~~[antlerless addendum to the proclamation]~~Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game, if any of these permits are available.

(d) A person who obtains a spike bull elk permit may not obtain an antlerless elk permit. A person who obtains an antlerless elk permit may not obtain a spike bull elk permit.

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R657-5-52. Doe Pronghorn Hunts.

(1) To hunt a doe pronghorn, a hunter must obtain a doe pronghorn permit.

(2)(a) A doe pronghorn permit allows a person to take one doe pronghorn using any legal weapon within the area and season as specified on the permit and in the ~~[antlerless addendum to the proclamation]~~Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(b) A person may not hunt on any cooperative wildlife management units unless that person obtains an antlerless moose permit for a cooperative wildlife management unit as specified on the permit.

(3) A person who has obtained a doe pronghorn permit may not hunt during any other pronghorn hunt or obtain any other pronghorn permit.

R657-5-53. Antlerless Moose Hunts.

(1) To hunt an antlerless moose, a hunter must obtain an antlerless moose permit.

(2)(a) An antlerless moose permit allows a person to take one antlerless moose using any legal weapon within the area and season as specified on the permit and in the ~~[antlerless addendum to the proclamation]~~Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(b) A person may not hunt on any cooperative wildlife management unit unless that person obtains an antlerless moose cooperative wildlife management unit as specified on the permit.

(3) A person who has obtained an antlerless moose permit may not hunt during any other moose hunt or obtain any other moose permit.

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R657-5-55. Bison Hunts.

- (1) To hunt bison, a hunter must obtain a bison permit.
- (2) A person who has obtained a bison permit may not obtain any other bison permit or hunt during any other bison hunt.
- (3) The bison permit allows a person using any legal weapon to take a bison within the area and season as specified on the permit.
- (4)(a) A mandatory wildlife orientation course for the Antelope Island Hunt is held on Antelope Island Park Headquarters.
- (b) The Antelope Island hunt is administered by the Division of Parks and Recreation. Hunt fees include the handling fee, permit, and transportation on the island. Permittees are required to use these contract services. Permittees are required to furnish their own living quarters and food during their stay.
- (c) Individuals accompanying the permittee must pay an additional fee and provide their own reliable four-wheel drive vehicle. Prior arrangements need to be made through the Division of Parks and Recreation.
- (5) An orientation course is required~~available~~ for bison hunters who draw Henry Mountain cow bison permits. Hunters will be notified of the orientation date, time and location.

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R657-5-58. Depredation Hunter Pool Permits.

- (1) When deer, elk or pronghorn are causing damage, antlerless control hunts not listed in the ~~[proclamation]~~Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game may be held. These hunts occur on short notice, involve small areas, and are limited to only a few hunters.
- (2) Hunters are called from a list of unsuccessful permittees or other resident hunters who have applied for depredation hunts.
- (3)(a) Application does not affect eligibility for antlerless or other type hunts. However, hunters who participate in any deer, elk, or pronghorn depredation hunt may not possess an additional antlerless permit for that species during the same year except as provided in Subsection R657-5-50(4).
- (b) Hunters with depredation permits for doe pronghorn or antlerless deer and elk may not possess any other permit for those species, except hunters may possess a buck deer permit and a depredation antlerless deer permit.
- (4) The division may contact hunters to participate in a depredation hunt prior to the general hunt for a given species of big game. Hunters who do not possess an antlerless deer, elk, or pronghorn permit may purchase an appropriate permit.
- (5) Applications must be sent to the appropriate regional division office for the area requested.
- (6) Applications must be received by the date published in the ~~[proclamation]~~Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

R657-5-59. Antlerless Application - Deadlines.

- (1) Applications are available from license agents and division offices.
- (2) Residents may apply in the drawing for the following permits:
 - (a) antlerless deer;

- (b) antlerless elk;
- (c) doe pronghorn; and
- (d) antlerless moose.
- (3) Nonresidents may apply in the drawing for the following permits:
 - (a) antlerless deer;
 - (b) antlerless elk;
 - (c) doe pronghorn; and
 - (d) antlerless moose, if permits are available during the current year.
- (4) Residents and nonresidents may draw an antlerless permit for each species, except any person who obtained a hunter's choice, bull elk, buck pronghorn, or bull moose permit may not apply for an antlerless elk, doe pronghorn, or antlerless moose permit, respectively.
- (5) Only a resident may apply for or obtain a resident permit and only a nonresident may apply for or obtain a nonresident permit, except as provided in Subsections R657-5-61(3) and R657-5-63(1).

(6) A Wildlife Habitat Authorization may be purchased before applying, or the Wildlife Habitat Authorization will be issued to the applicant upon successfully drawing a permit.

(7)(a) Applications must be mailed by the date prescribed in the ~~[antlerless addendum to the proclamation]~~Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game. Applications filled out incorrectly or received later than the date prescribed in the ~~[antlerless addendum to the proclamation]~~Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game may be rejected. Late applications may be returned unopened.

(b) If an error is found on an application, the applicant may be contacted for correction.

(8) Any person who applies for a hunt that occurs on private land is responsible for obtaining written permission from the landowner to access the property. To avoid disappointment and wasting the permit and fee if access is not obtained, hunters should get permission before applying. The division does not guarantee access and does not have the names of landowners where hunts occur.

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R657-5-61. Antlerless Big Game Drawing.

(1) The antlerless drawing results are posted at the Lee Kay Center, Cache Valley Hunter Education Center and division offices on the date published in the ~~[antlerless addendum to the proclamation]~~Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2) Permits are drawn in the order listed in the ~~[antlerless addendum to the proclamation]~~Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(3) If permits remain after all choices have been evaluated separately for residents and nonresidents, a second evaluation will be done allowing cross-over usage of remaining resident and nonresident permit quotas.

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R657-5-63. Permits Remaining After the Antlerless Drawing.

(1) Permits remaining after the antlerless drawing are sold by mail or on a first-come, first-served basis as provided in the antlerless addendum, and beginning and ending on the dates provided in the [~~antlerless addendum to the proclamation~~]Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game. These permits may be purchased by either residents or nonresidents.

(2) The same application form used for the antlerless drawing must be used when applying for remaining permits by mail. The handling fees are nonrefundable.

(3) Applications are available from division offices and license agents.

R657-5-64. Application Withdrawal.

(1) A person may withdraw their application for the bucks, bulls and once-in-a-lifetime drawing or antlerless drawing by requesting such in writing by the date published in the [~~antlerless addendum to the proclamation~~]Bucks, Bulls and Once-In-A-Lifetime Proclamation or Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2) The applicant must send their notarized signature with a statement requesting that their application be withdrawn to the Salt Lake Division office.

(3) A person may not amend a withdrawn application, nor reapply after the application has been withdrawn.

(4) Handling fees will not be refunded.

R657-5-65. Special Hunts.

(1)(a) In the event that wildlife management objectives are not being met for once-in-a-lifetime, premium limited entry, or limited entry species, the division may recommend that the Wildlife Board authorize a special hunt for a specific species.

(b) The division will only utilize Subsection (1)(a) if the Bucks, Bulls and Once-In-A-Lifetime Proclamation and Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game has been published and the Bucks, Bulls and Once-In-A-Lifetime and Antlerless drawings have been completed.

(2) The special hunt season dates, areas, number of permits, methods of take, requirements and other administrative details shall be provided in an addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation or Antlerless Addendum of the Wildlife Board for taking big game.

(3) Permits will be allocated through a special drawing for the pertinent species.

R657-5-66. Special Hunt Application - Deadlines.

(1) Applications are available from license agents and division offices.

(2)(a) Residents and nonresidents may apply.

(b) Any person who was unsuccessful in the Bucks, Bulls and Once-In-A-Lifetime or Antlerless drawing may apply. However, any person who has obtained a permit may not apply, unless otherwise provided in this rule and the Bucks, Bulls and Once-In-A-Lifetime Proclamation [~~and~~]or Antlerless Addendum to the

Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(3) A wildlife habitat authorization may be purchased before applying, or the wildlife habitat authorization will be issued to the applicant upon successfully drawing a permit.

(4)(a) Applications must be mailed by the date prescribed in the addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation or Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game. Applications filled out incorrectly or received later than the date prescribed in the addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation or Antlerless Addendum of the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game may be rejected. Late applications will be returned unopened.

(b) If an error is found on an application, the applicant may be contacted for correction.

(5) Bonus points will be used in the special hunt drawings to improve odds for drawing permits as provided in Section R657-5-40. However, bonus points will not be awarded for unsuccessful applications in the special hunt drawings.

(6) Any person who obtains a special hunt permit is subject to all rules and regulations provided in this rule, the Bucks, Bulls and Once-In-A-Lifetime Proclamation and Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game, unless otherwise provided in Sections R657-5-65 through R657-5-70.

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R657-5-68. Special Hunt Drawing.

(1) The special hunt drawing results are posted at the Lee Kay Center, Cache Valley Hunter Education Center and division offices on the date published in the addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation or Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2) If permits remain after all choices have been evaluated separately for residents and nonresidents, a second evaluation will be done allowing cross-over usage of remaining resident and nonresident permit quotas.

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R657-5-71. Obtaining Vouchers to Purchase Resident Southern Region General Deer Permits.

(1)(a) A person must obtain a resident Southern Region General Deer Voucher before purchasing a resident Southern Region general deer permit.

(b) Only persons who possess a valid resident Southern Region General Deer Voucher are eligible to purchase a resident Southern Region general deer permit. Vouchers are nontransferable

(2)(a) Resident Southern Region General Deer vouchers may be obtained at any Division satellite office on the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(b) A list of Division satellite offices will be available at license agents and Division offices by the date published in the

Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(3) A person may obtain up to four Southern Region General Deer Vouchers by providing the following information for each person for whom the person obtains a voucher:

- (a) name;
- (b) address;
- (c) date of birth; and
- (d) proof of hunter education, if born after December 31, 1965.

(4) Valid resident Southern Region General Deer Vouchers may be redeemed for a resident Southern Region general deer permit beginning on the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(5) Duplicate resident Southern Region General Deer Vouchers will not be issued. If a voucher is lost, a person must purchase their resident Southern Region general deer permit from a Division regional office after computer verification from the Division that the person obtained a resident Southern Region General Deer Voucher.

KEY: wildlife, game laws, big game seasons*
[~~October 16, 1998~~1999] 23-14-18
23-14-19
23-16-5
23-16-6



Natural Resources, Wildlife Resources
R657-38
Dedicated Hunter Program

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE No.: 21719
 FILED: 12/01/1998, 09:10
 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to the November 12, 1998, Wildlife Board meeting for the purpose of taking public input and reviewing the Dedicated Hunter Program.

SUMMARY OF THE RULE OR CHANGE: A person may not participate in the dedicated hunter program if that person has been convicted of violations of Title 23, Wildlife Resources Code, or any rule or proclamation of the Wildlife Board that amounted to a felony, a Class A misdemeanor in the last five years, or three or more Class B or Class C misdemeanors in the past five years, or is currently on wildlife license revocation. Certificates of Registration may not be issued to any person after the first week prior to the posting of the bucks, bulls and once-in-a-lifetime drawing. Participants

must complete their service hours by August 1 annually. Other changes are made for consistency and clarity.

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

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The Division of Wildlife Resources (DWR) determines that this rule will not create any cost or savings impact to the state budget or the DWR's budget.

❖LOCAL GOVERNMENTS: None--this filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖OTHER PERSONS: No impact--these amendments do not impose any requirements on persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No impact--this rule does not impose any requirements or burdens on persons.

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

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

Natural Resources
 Wildlife Resources
 Suite 2110
 1594 West North Temple
 PO Box 146301
 Salt Lake City, UT 84114-6301, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO: Debbie Sundell at the above address, by phone at (801) 538-4707, by FAX at (801) 538-4709, or by Internet E-mail at nrdwr.dsundell@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 01/14/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/1999

AUTHORIZED BY: John Kimball, Director

R657. Natural Resources, Wildlife Resources.
R657-38. Dedicated Hunter Program.

R657-38-3. Certificate of Registration Required.

(1)[(a)] A person may not participate in the dedicated hunter program if that person has been convicted of any of the following violations of Title 23, Wildlife Resources Code, or any rule or proclamation of the Wildlife Board, or is currently on wildlife license revocation:

- (a) a felony;
- (b) a Class A misdemeanor in the last five years; or
- (c) three or more Class B or Class C misdemeanors in the past five years.

(2)(a) To participate in the program a person must sign and obtain a certificate of registration from the division.

(b) No more than ten thousand certificates of registration for the program may be in effect at any given time.

(c) Each participant must provide proof of having attended an education course before the division may issue the certificate of registration for the program.

(d) A certificate of registration to participate in the program may not be issued to any person after the first week prior to the posting of the bucks, bulls and once-in-a-lifetime drawing[~~results are posted.~~].

~~(2)~~(3) Each certificate of registration is valid for a three-year period.

~~(3)(a)~~(4)(a) Any person who is 14 years of age or older may obtain a certificate of registration. A person 13 years of age may obtain a certificate of registration if the date of that person's 14th birthday is before the end of the annual muzzleloader season set for the calendar year in which the certificate of registration is issued.

(b) Any person who is 17 years of age or younger before the beginning date of the annual archery deer hunt shall pay the youth participant fees.

(c) Any person who is 18 years of age or older on or before the beginning date of the annual archery deer hunt shall pay the adult participant fees.

~~(4)~~(5) A certificate of registration authorizes the participant an opportunity to receive annually a permit to hunt during the general archery, general season and general muzzleloader deer hunts. The permit may be used during the dates and within the hunt area boundaries established annually by the Wildlife Board in the proclamation for taking big game.

~~(5)~~(6) Except as provided in Subsection R657-38-7(8), a participant entering the program may take two deer within three years.

~~(6)~~(7) A participant may take only one deer in any one year, except as provided in Subsection R657-38-7(8).

~~(7)(a)~~(8)(a) In addition to the certificate of registration, the participant must purchase a wildlife habitat authorization each year.

(b) Lifetime license holders are not required to purchase an annual wildlife habitat authorization pursuant to Section 23-19-42.

~~(8)~~(9) The certificate of registration must be signed by the participant and a division representative. The certificate of registration is not valid without the required signatures.

~~(9)~~(10) The participant and holder of the certificate of registration must have a valid permit in possession while hunting.

~~(10)~~(11) Certificates of registration are not transferable and expire three years from the date of issuance.

~~(11)~~(12) Certificates of registration will not be issued to any person who has previously obtained a certificate of registration if that person has failed to provide the service requirements or fees.

.....

R657-38-6. Wildlife Projects.

(1)(a) Each participant in the program shall:

(i) provide no fewer than eight hours of service by August 1 annually working on a wildlife project or other division approved program or activity; or

(ii) pay a fee of \$18.75 for each hour not completed.

(b) Residents may not substitute more than 16 of the 24 total required service hours. Nonresidents may substitute all of the 24 total required service hours.

(c) The division may, upon request, approve a person who is physically unable to provide service by working on a wildlife project to provide other forms of service.

(2) Wildlife projects shall be designed by the division, or any other individual or entity and pre-approved by the division.

(3)(a) Wildlife projects may occur anytime during the year as determined by the division.

(b) The division shall publicize the dates, times, locations and description of approved projects and activities at regional offices.

(4) Participants shall sign up at least two weeks before the date of the wildlife project or activity by notifying a regional division office.

(5) Proof of the number of hours worked shall be provided to the participant.

(6) If a participant fails to fulfill the service requirement for any year of participation, the participant will not be issued a permit for that year. The participant may obtain a permit for subsequent years upon completion of the service requirements due or payment of the fee in lieu thereof.

(7) The wildlife project manager shall keep a receipt of all participants who attend the wildlife project and the number of hours worked. A copy of the receipt shall be returned by the participant for record keeping purposes.

R657-38-7. Obtaining Other Permits.

(1) Participants may apply for or obtain limited entry and cooperative wildlife management unit buck deer permits as provided in Rule R657-5 and the proclamation of the Wildlife Board for taking big game.

(2) If the participant is successful in drawing a limited entry rifle buck deer permit, the participant may use the permit in the prescribed area:

- (a) during the season dates listed on the permit; and
- (b) during the dates prescribed for the general archery, general season and general muzzleloader hunts.

(3) The division may exclude multiple season opportunities on specific units due to extenuating circumstances on that specific unit.

(4) If the participant is successful in drawing a limited entry archery or muzzleloader buck deer permit, the participant may use the permit in the prescribed area during the season dates listed on the permit.

(5) The permit must be on the person while hunting.

(6) Obtaining a limited entry or cooperative wildlife management unit buck deer permit does not authorize a participant to take an additional deer.

(7) Participants who draw a cooperative wildlife management unit permit may hunt on the cooperative wildlife management unit only during the dates determined by the landowner/operator.

(8)(a) Participants may apply for or obtain antlerless deer permits as provided in Rule R657-5 and the ~~antlerless addendum~~Antlerless Addendum to the proclamation of the Wildlife Board for taking big game.

(b) Antlerless permits do not count against the number of tags issued pursuant to this program.

.....

R657-38-11. Revocation.

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

KEY: wildlife, hunting, recreation, ethics
[January 15, 1998]1999

23-14-18



Natural Resources, Wildlife Resources
R657-42
 Exchanges, Surrenders, Refunds and
 Reallocation of Licenses, Certificates of
 Registration and Permits

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 21720
 FILED: 12/01/1998, 09:10
 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to the November 12, 1998, Wildlife Board meeting for the purpose of taking public input and reviewing this rule.

SUMMARY OF THE RULE OR CHANGE: A person who has obtained a license, certificate of registration, or permit may surrender the same prior to the opening season date for which the license, certificate of registration, or permit is obtained for the purpose of: a) waiving the waiting period and reinstating bonus points; or b) purchasing a reallocated permit or any other permit available for which the person is eligible. Other provisions are amended for consistency and clarity.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-19-1 and 23-19-38

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The Division of Wildlife Resources (DWR) charges a handling fee to exchange permits. The DWR may also issue refunds in accordance with Section 23-

19-38. In addition, the DWR may reallocate surrendered limited entry, once-in-a-lifetime, and Cooperative Wildlife Management Unit permits. Therefore, the results of exchanging permits, issuing refunds, and reallocating permits may create a cost or savings impact to the budget. However, the DWR is unable to determine the number of permits that will be exchanged, refunded or reallocated, and therefore, cannot estimate on exact dollar amounts to the costs or savings impact of this rule.

❖LOCAL GOVERNMENTS: None--this filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖OTHER PERSONS: No impact--these amendments do not impose any requirements on persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No impact--this rule does not impose any requirements or burdens on persons.

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

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

Natural Resources
 Wildlife Resources
 Suite 2110
 1594 West North Temple
 PO Box 146301
 Salt Lake City, UT 84114-6301, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO: Debbie Sundell at the above address, by phone at (801) 538-4707, by FAX at (801) 538-4709, or by Internet E-mail at nrdwr.dsundell@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 01/14/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/1999

AUTHORIZED BY: John Kimball, Director



R657. Natural Resources, Wildlife Resources.
R657-42. Exchanges, Surrenders, Refunds and Reallocation of Licenses, Certificates of Registration and Permits.

.....

R657-42-3. Permit Exchanges.

(1)(a) Any person who has obtained a general buck deer or a general bull elk permit may exchange that permit for any other available general permit if both permits are for the same species and sex.

(b) A person must make general buck deer and general bull elk permit exchanges at any division office prior to the season opening date of the permit to be exchanged.

(2) Any person who has obtained a cougar harvest objective unit permit may exchange that permit for any other available cougar harvest objective unit permit as provided in Rule R657-10.

(3) The division may charge a handling fee for the exchange of a permit.

R657-42-4. Surrender of Licenses, Certificates of Registration and Permits.

(1) Any person who has obtained a license, certificate of registration or permit and decides not to use it, may surrender the license, certificate of registration or permit to any division office.

(2) ~~Any person who has obtained~~ a license, certificate of registration or permit ~~is surrendered prior to the season date of~~ may surrender the license, certificate of registration or permit; ~~the division shall waive~~ prior to the season opening date of the license, certificate of registration or permit for the purpose of:

(a) waiving the waiting period normally assessed and reinstating the number of bonus points, if applicable; ~~shall be reinstated;~~; or

(b) purchasing a reallocated permit or any other permit available for which the person is eligible.

(3) A Cooperative Wildlife Management Unit permit must be surrendered before the following dates:

~~(a) September 1 for general buck deer, general bull elk, pronghorn, and moose;~~ the opening date for the respective general archery season for buck deer, bull elk or spike bull elk;

~~(b) the opening of the general archery deer season for archery buck deer and archery bull elk;~~ (b) September 1 for pronghorn and moose;

~~(c) September 1 for muzzleloader deer and elk seasons;~~

~~(d) August 15 for antlerless elk seasons;~~

~~(e) (c) August 15 for antlerless deer [seasons] and elk;~~

~~(f) (d) prior to the applicable season date for small game and waterfowl; and~~

~~(g) (e) prior to the applicable season date of any variance approved by the Wildlife Board in accordance with Rules R657-21 and R657-37.~~

(4) Dedicated hunter participants must surrender their permits prior to the general archery deer season.

(5) The division may not issue a refund, except as provided in Section R657-42-5.

.....

R657-42-6. Reallocation of Permits.

(1)(a) The division may reallocate surrendered limited entry, once-in-a-lifetime and Cooperative Wildlife Management Unit permits.

(b) The division shall not reallocate resident and nonresident big game general permits.

(2) Permits shall be reallocated through the Salt Lake Division office.

(3)(a) Any limited entry, once-in-a-lifetime or public Cooperative Wildlife Management Unit permit surrendered to the division shall be reallocated through the drawing process by contacting the next person listed on the alternate drawing list.

(b) The alternate drawing lists are classified as private and therefore, protected under the Government Records Access Management Act.

(c) The division shall make a reasonable effort to contact the next person on the alternate list by telephone or mail.

(d) If the next person, who would have drawn the limited entry, once-in-a-lifetime or public Cooperative Wildlife Management Unit permit, does not accept the permit or the division is unable to contact that person, the reallocation process will continue until the division has reallocated the permit or the season opens for that permit.

(4) If the next person, who would have drawn the limited entry, once-in-a-lifetime or public Cooperative Wildlife Management Unit permit has obtained a permit, that person may be required to surrender the previously obtained permit in accordance with Section R657-42-4(2) and any other applicable rules and proclamations of the Wildlife Board.

(5) Any private Cooperative Wildlife Management Unit permit surrendered to the division will be reallocated by the landowner through a voucher, issued to the landowner by the Division in accordance with Rule R657-37.

R657-42-7. Reallocated Permit Cost.

(1) Any person who accepts the offered reallocated permit must pay the applicable permit fee.

(2) The division may not issue a refund, except as provided in Section R657-42-5.

KEY: wildlife, permits

~~[August 19, 1998]~~ 1999

23-19-1

23-19-38



Natural Resources, Wildlife Resources
R657-43
Landowner Permits

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 21721

FILED: 12/01/1998, 09:10

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to the November 12, 1998, Wildlife Board meeting for the purpose of taking public input and reviewing this rule.

SUMMARY OF THE RULE OR CHANGE: This amendment allows private landowners to obtain landowner permits for taking buck deer within the general regional hunt boundary area where the landowner's property is located during the general deer hunt only. Other provisions are amended for consistency and clarity.

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

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The Division of Wildlife Resources (DWR) determines that this rule will not create any cost or savings impact to the state budget or the DWR's budget.

❖LOCAL GOVERNMENTS: None--this filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖OTHER PERSONS: No impact--these amendments do not impose any requirements on persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No impact--this rule does not impose any requirements or burdens on persons.

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

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

Natural Resources
Wildlife Resources
Suite 2110
1594 West North Temple
PO Box 146301
Salt Lake City, UT 84114-6301, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debbie Sundell at the above address, by phone at (801) 538-4707, by FAX at (801) 538-4709, or by Internet E-mail at nrdwr.dsundell@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 01/14/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/1999

AUTHORIZED BY: John Kimball, Director

R657. Natural Resources, Wildlife Resources.

R657-43. Landowner Permits.

R657-43-1. Purpose and Authority.

(1) Under authority of Sections 23-14-18 and 23-14-19, this rule provides the standards and procedures for private landowners to obtain landowner permits for:

(a) taking buck deer [~~in the Southern region for the 1998~~ within the general regional hunt boundary area where the landowner's property is located during the general deer hunt only]; and

(b) taking bull elk, buck deer or buck pronghorn within a limited entry unit.

(2) In addition to this rule, any person who receives a landowner permit must abide by Rule R657-5 and the proclamation of the Wildlife Board for taking big game.

(3) The intent of the general landowner deer permit is to provide an opportunity for landowners or their immediate family, whose property provides [~~valuable~~]habitat for deer, to hunt deer during the general deer hunt[~~—The general landowner buck deer permits will be available for the Southern region only.~~ within the general regional hunt boundary area where the landowner's property is located.]

(4) The intent of the limited entry landowner permit is to provide an opportunity for landowners to be allocated a restricted number of permits for a specific unit. Allowing landowners a restricted number of permits:

(a) encourages landowners to manage their land for wildlife;

(b) compensates the landowner for providing private land as habitat for wildlife; and

(c) allows the Division to increase big game numbers on specific units.

R657-43-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Eligible property" means:

(i) private land that provides [~~valuable~~]habitat for deer, elk or pronghorn as determined by the Division of Wildlife Resources;

(ii) land in agricultural use as provided in Section 59-2-502 and eligible for agricultural use valuation as provided in Sections 59-2-503 and 59-2-504; and

(iii) a minimum of 640 acres or more of private non-cropland owned by one landowner within the designated region for general deer permits; or

(iv) private land, including crop land owned by members of a landowner association for limited entry permits.

(b) "Landowner" means any individual, family, or corporation who owns property in Utah and whose name appears on a deed as the owner of eligible property or whose name appears as the purchaser on a contract for sale of eligible property.

(c) "Landowner association" means an organization of private landowners who own property within a limited entry unit, organized for the purpose of working with the Division.

(d) "Lessee" means any person, partnership, or corporation whose name appears as the Lessee on a written lease, for at least a one-year period, for eligible property used for farming or ranching purposes, and who is in actual physical control of the eligible property.

(e) "Limited entry unit" means a specified geographical area that is closed to hunting deer, elk or pronghorn to any person who has not obtained a valid permit to hunt in that unit.

(f) "Immediate family" means the landowner's spouse, children, father, mother, brother, sister, stepchildren, and grandchildren.

(g) "Voucher" means a document issued by the Division to a landowner, landowner association, or Cooperative Wildlife Management Unit operator, allowing a landowner, landowner association, or Cooperative Wildlife Management Unit operator to designate who may purchase a landowner big game hunting permit from a Division office.

R657-43-3. Qualifications for General Permits.

(1) The director, upon approval of the Wildlife Board, may establish a number of buck deer permits within the ~~[southern region]~~ general regional hunt boundary area where the landowner's property is located to be offered to eligible landowners for the ~~[1998]~~ general deer hunting season only.

(2) Only private lands will be considered for general landowner permits. Public or state lands are not eligible.

(3) General landowner permits are limited to resident or nonresident landowners, corporations, lessees, and members of their immediate family that own land in Utah.

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R657-43-5. Application for General Permits.

(1) Applications for general landowner permits are available from Division offices.

(2) Only one representative landowner may submit an application for lands within the ~~[Southern region]~~ respective general regional hunt boundary area that qualify for general landowner permits.

(3) In cases where more than one application is received for the same parcel of land, all applications will be rejected.

(4) Applications must include:

(a) total acres owned within the ~~[Southern region]~~ respective general regional hunt boundary area;

(b) signature of the landowner; and

(c) location of the private lands, acres owned, county and region.

(5) A \$5 non-refundable handling fee must accompany each application.

(6) Applications will be available by January 7.

(7) Applications must be completed and returned to the regional Division office by ~~[May 8]~~ the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board.

(8) Signature on the application will serve as an affidavit certifying ownership.

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R657-43-7. General Permits and Season Dates.

(1) The following number of general permits may be available to a landowner:

(a) one general permit may be issued for eligible property of 640 acres; and

(b) one additional general permit may be issued for eligible property for each additional 640 acres.

(2) General permits issued to landowners shall be included in the total hunt area allocation.

(3) Permittees may select only one general permit (archery, rifle or muzzleloader) as provided in the proclamation of the Wildlife Board for taking big game.

(4) General landowner permits are for landowner use only and may not be transferred.

(5) Any person who is issued a general landowner permit must follow season dates, weapon restrictions and any other regulations as provided in the proclamation of the Wildlife Board for taking big game.

(6) A general landowner permit holder may take only one buck deer within the ~~[Southern region]~~ respective general regional hunt boundary area during any one year.

(7) A general landowner permit authorizes the permittee to hunt within the ~~[Southern region]~~ respective general regional hunt boundary area, where the eligible property is located.

(8) The fee for a general landowner permit is the same as the fee for a general season, general archery or general muzzleloader buck deer permit.

.....

KEY: wildlife, landowner permits*, big game seasons*
~~[March 18, 1998]~~ 1999 23-14-18
23-14-19



Public Safety, Fire Marshal
R710-1
Concerns Servicing Portable Fire Extinguishers

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 21708
FILED: 11/30/1998, 11:10
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Fire Prevention Board proposes to complete some small corrections to the existing rule. When this rule was last amended on September 1, 1998, three small changes that should have been made then were overlooked. It is now proposed to complete what should have been completed at the last substantive amendment.

SUMMARY OF THE RULE OR CHANGE: On November 19, 1998, the Utah Fire Prevention Board met and addressed the following corrections: (1) updating Subsection R710-1-3(21)(a)(14) to the currently enacted and incorporated 1998 edition of the National Fire Protection Association (NFPA), Standard 10, Standard for Portable Fire Extinguishers. This update was overlooked when the last amendment was completed and the 1998 edition of NFPA 10 became the incorporated reference; (2) updating Subsection R710-1-6(8) to properly reflect the usage of verification of service collars. The usage of internal pickup tube labels or markings is no longer used, being now replaced with an external collar called a verification of service collar. This correction should have been made when NFPA 10, 1998 edition, was adopted on September 1, 1998; (3) updating Subsection R710-1-9(2)(f) to properly reflect the usage of the verification of service collar on the valve assembly and the elimination of the internal tag or marking.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-7-204

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There would be a small anticipated cost to the state budget for our office to reprint a new rule with the corrections and send them to all concerned. The anticipated cost would be about \$50.

❖LOCAL GOVERNMENTS: There would be no anticipated cost or savings to local government because the proposed amendments in this rule are corrective in nature only.

❖OTHER PERSONS: There would be no anticipated cost or savings to any other persons because the proposed amendments in this rule are corrective in nature only.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There would be no compliance cost for affected persons from the amendment of this rule. The proposed amendments are corrective amendments now required and overlooked at the last amendment that became effective September 1, 1998.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact to businesses from the proposed amendment of this rule.

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

Public Safety
Fire Marshal
Suite 302
5272 South College Drive
Murray, UT 84123-2611, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Brent R. Halladay at the above address, by phone at (801) 284-6350, by FAX at (801) 284-6351, or by Internet E-mail at psdomain.psudi.bhallada@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 01/14/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/1999

AUTHORIZED BY: Brent R. Halladay, Chief Deputy State Fire Marshal

R710. Public Safety, Fire Marshal.

R710-1. Concerns Servicing Portable Fire Extinguishers.

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R710-1-3. Licensing.

3.0 License Required.

No person or concern shall engage in the servicing of portable fire extinguishers without a license issued by the SFM, pursuant to these rules, expressly authorizing such concern to perform such acts.

3.1 Application.

(a) Application for a license to engage in the business of, or perform the servicing of portable fire extinguishers, shall be made in writing to the SFM on forms provided by the SFM. A separate application for license shall be made for each separate place or business location of the /applicant (branch office).

(b) As of January 1, 1999, the application for a license to engage in the business of, or perform the servicing of portable fire extinguishers, shall be accompanied with proof of public liability insurance. The public liability insurance shall be issued by a public liability insurance carrier showing coverage of at least \$100,000 for each incident, and \$300,000 in total coverage. The licensee shall notify the SFM within thirty days after the public liability insurance coverage required is no longer in effect for any reason.

3.2 Signature of Application.

The application shall be signed by the applicant. If the application is made by a partnership, it shall be signed by all partners. If the application is made by a corporation or association other than a partnership, it shall be signed by a principal officer.

3.3 Equipment Inspection.

The applicant shall allow the SFM, and any of his properly authorized deputies to enter, examine, and inspect any premise, building, room, establishment, or vehicle, used by the applicant in servicing portable fire extinguishers to determine compliance with the provisions of these rules. The inspection will be conducted during normal business hours, and the owner or manager will be given a minimum of 24 hours notice before the appointed inspection. The equipment inspection may be conducted on an annual basis, and consent to inspect will be obtained.

3.4 Issuance.

Following receipt of the properly completed application, and compliance with the provision of the statute and these rules, the SFM shall issue a license.

3.5 Original, Valid Date.

Original licenses shall be valid from the date of issuance through December 31st of the year in which issued. Thereafter, each license shall be renewed annually and renewals thereof shall be valid from January 1st through December 31st. Original licenses purchased after July 1st and up to November 1st can be purchased one time, at a one-half year fee. Licenses issued on or after November 1st will be valid through December 31st of the following year.

3.6 Renewal, Valid Date.

Application for renewal shall be made before January 1st of each year. Application for renewal shall be made in writing, on forms provided by the SFM.

3.7 Refusal to Renew.

The SFM may refuse to renew any license in the same manner, and for any reason, that he is authorized, pursuant to Section 10 of these rules to deny a license. The applicant shall, upon such refusal, have the same rights as are granted by Section 10 of these rules to an applicant for an original license which has been denied by the SFM.

3.8 Change of Address.

Every licensee shall notify the SFM, in writing, within thirty (30) days, of any change of his address or location.

3.9 Under Another Name.

No licensee shall conduct his licensed business under a name other than the name or names which appears on his license.

3.10 List of Licensed Concerns.

The SFM shall make available, upon request and without cost, to the chief fire official of each local fire authority, the name, address, and license number of each concern that is licensed pursuant to these rules. Upon request, single copies of such list shall be furnished, without cost, to a licensed concern.

3.11 Inspection.

The holder of any license shall submit such license for inspection upon request of the SFM, or any of his properly authorized deputies, or any local fire official.

3.12 SFM Notification and Certification of Registration.

Every licensed concern shall, within thirty (30) days of employment, and within thirty (30) days of termination of any employee, report to the SFM, the name, address, and certificate of registration number, of every person performing any act of servicing portable fire extinguishers for such licensed concern in writing.

3.13 Type.

(a) Every license shall be identified by type. The type of license shall be determined on the basis of the act or acts performed by the licensee or by any of the employees. Every licensed concern shall be staffed by qualified personnel, and shall be properly equipped to perform the act or acts for the type of license issued.

(b) Licenses shall authorize any one, or any combination of the following types of activities:

(1) Type 1 - Conducting of all activities, as per (2), (3), and (4) below, or

(2) Type 2 - Conducting hydrostatic tests of fire extinguisher cylinders that are listed and marked in conformance with the United States Department of Transportation (I.C.C.) rules, or

(3) Type 3 - Conducting hydrostatic tests of dry chemical, halon, water, and water chemical type fire extinguishers, or

(4) Type 4 - Servicing and maintaining all types of extinguishers, excluding hydrostatic testing.

(c) No licensed concern shall be prohibited from taking orders for the performance of any act or acts for which the concern has not been licensed to perform. Such orders shall be consigned to another licensed concern that is authorized to perform such act or acts.

3.14 Examination.

Every person who performs any act or acts within the scope of the license shall pass an examination in accordance with the provisions of section 4 of these rules.

3.15 Duplicate License.

A duplicate license may be issued by the SFM to replace any previously issued license, which has been lost or destroyed, upon the submission of a written statement from the licensee to the SFM. Such statement shall attest to the fact that the license has been lost or destroyed.

3.16 Employer Responsibility.

Every concern shall be responsible for the acts of its employees insofar as such acts apply to the marketing, sale, distribution, and servicing of any portable fire extinguisher.

3.17 Minimum Age.

No license shall be issued to any person as licensee who is under eighteen (18) years of age.

3.18 Restrictive Use.

(a) No license shall constitute authorization for any licensee, or any of his employees, to enter upon, or into, any property or building other than by consent of the owner or manager.

(b) No license shall constitute authorization for any licensee, or any of his employees, to enforce any provision, or provisions, of this rule, or the Uniform Fire Code.

3.19 Non-Transferable.

No license issued pursuant to this section shall be transferred from one concern to another.

3.20 Registration Number.

(a) Every license shall be identified by a number, delineated as E-(number). Such number may be transferred from one concern to another only when approved by the SFM.

3.21 Minimum Materials and Equipment Required.

At each business location or vehicle of the applicant where servicing work is performed the following minimum material and equipment requirements shall be maintained:

(a) Type 4 license:

(1) Nitrogen tank.

(2) Nitrogen regulator and hose assembly.

(3) Minimum of twelve (12) recharge adapters.

(4) Valve cleaning brush.

(5) Scoop.

(6) Funnel for A:B:C.

(7) Funnel for B:C.

(8) A closed receptacle for dry chemical.

(9) Fifty pound scale.

(10) A scale for cartridges.

(11) 'O' Ring lubricant.

(12) Tag hole Punch.

(13) Approved seals maximum fourteen (14) pound break strength.

(14) A copy of NFPA Standard 10 (~~1994~~1998 Edition), statute, and these rules.

(15) Minimum parts:

(A) A supply of O rings needed for standard service.

(B) A supply of valve stems for standard service.

(C) A supply of nozzles for standard extinguishers.

(D) Pressure gauges for extinguisher types: 100, 150, 175, 195, 240 lbs.

(E) Carry handles and replacement handles for extinguishers.

(F) Rivets or steel roll pins for handles and levers.

(G) Dry chemical cartridges as required by manufacture specifications, to include 4 lb., 10 lb., 20 lb. and 30 lb.

(H) Inspection light for cylinders.

(I) A variety of pull pins to secure handle.

(J) Carbon Dioxide continuity tester for hoses.

(K) Halon closed recovery system.

(b) Type 3 License:

(1) Approved testing pump.

(2) Test cage or suitable safety barrier.

(3) Approved hydro test labels.

(4) Hydrostatic test adapters or approved equal.

(5) Heater which produces a heated air or dry air for drying cylinders, or other approved dryer not to exceed 150 degrees Far. (66 degrees C).

(c) Type 2 License:

Current registration number from the Department of Transportation, verifying the concern as a qualified cylinder requalification facility under the provision of Section 173.34 of Title 49, Code of Federal Regulations, 49 CFR shall be maintained

for all concerns holding a type 1 or 2 license. A copy of the certification letter must be submitted to the SFM.

(d) Type 1 License:

All of the equipment, provisions, and numbers as required in License types 2, 3, and 4 shall be required for a Type 1 License.

3.22 Records.

Accurate records shall be maintained for five years back by the licensee of all service work performed. These records shall include the name and address of all servicing locations, and the date and name of the person performing the work. These records shall be made available to the SFM, or authorized deputies, upon request.

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R710-1-6. Service Tags.

6.1 Size and Color.

Tags shall be not more than five and one-half inches (5-1/2") in height, nor less than four and one-half inches (4-1/2") in height, and not more than three inches (3") in width, nor less than two and one-half inches (2-1/2") in width.

6.2 Attaching Tag.

One service tag shall be attached to each portable fire extinguisher in such a position as to be conveniently inspected.

6.3 Tag Information.

(a) Service tags shall bear the following information:

- (1) Provisions of Section 6.7.
- (2) Type of license.
- (3) Approved Seal of Registration of the SFM.
- (4) License registration "E" number.
- (5) Certificate of registration "EE" number of individual who performed or supervised the service or services performed.
- (6) Signature of individual whose certificate of registration number appears on the tag.
- (7) Concern's name.
- (8) Concern's address.
- (9) Type of service performed.
- (10) Type of extinguisher serviced.
- (11) Date service is performed.

(b) The above information shall appear on one side of the service tag. All other desired printing or information shall be placed on the reverse side of the tag.

6.4 Legibility.

(a) The certificate of registration number required in Section 6.3(5), and the signature required in Section 6.3(6), shall be printed or written distinctly.

(b) All information pertaining to date, type of servicing, and type of extinguisher serviced shall be indicated on the card by perforations in the appropriate space provided. Each perforation shall clearly indicate the desired information.

6.5 Format.

Subject to the use requirements of Section 6.4, the following format shall be used for all service tags:

EXAMPLE OF SERVICE TAG

Exception: Service tags may be printed or otherwise established for any number of years not in excess of five (5) years. ILLUSTRATION ON FILE IN STATE FIRE MARSHAL'S OFFICE

6.6 New Tag.

A new service tag shall be attached to the extinguisher each time a service is performed.

6.7 Tag Wording.

The following wording shall be placed at the top or reinforced ring end of every tag: "DO NOT REMOVE, BY ORDER OF THE STATE FIRE MARSHAL".

6.8 Removal.

No person or persons shall remove a service tag, hydrostatic test tag or label, 6 year maintenance service[ing] tag or label, or [internal pick-up tube label or marking]verification of service collar, except when further service is performed. No person or persons shall deface, modify, or alter any service tag, hydrostatic test tag or label, 6 year maintenance service[ing] tag or label, or [internal pick-up tube label attached to, or]verification of service collar that is required to be attached to any portable fire extinguisher.

6.9 Restrictive Use.

(a) Portable fire extinguishers which do not conform with the minimum rules, shall be permanently removed from service, and shall not be tagged.

(b) Any extinguisher which fails a hydrostatic test shall be condemned, and so stamped or etched into the cylinder or shell.

(c) Extinguishers, other than one which has failed a hydrostatic test, may be provided with a tag stating the extinguisher is "Condemned" or "Rejected". Such tags shall be red in color, and shall be not less, in size, than that of an approved service tag.

(d) Service tags shall only be placed on portable fire extinguishers and wheeled units as allowed in these rules.

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R710-1-9. Adjudicative Proceedings.

9.1 All adjudicative proceedings performed by the agency shall proceed informally as authorized by UCA, Sections 63-46b-4 and 63-46b-5.

9.2 The issuance, renewal, or continued validity of a license or certificate of registration may be denied, suspended, or revoked, if the SFM finds that the applicant, person employed for, or the person having authority and management of a concern servicing portable fire extinguishers commits any of the following violations:

- (a) The person or applicant is not the real person in interest.
- (b) Material misrepresentation or false statement in the application.
- (c) Refusal to allow inspection by the SFM, or his duly authorized deputies.
- (d) The person or applicant for a license or certificate of registration does not have the proper facilities and equipment, to conduct the operations for which application is made.
- (e) The person or applicant for a certificate of registration does not possess the qualifications of skill or competence to conduct the operations for which application is made, as evidenced by failure to pass the examination and practical tests pursuant to Section 4.19 of these rules.
- (f) The person or applicant fails to place [an internal tag or marking, on the pick-up tube]a verification of service collar on the valve assembly of any pressurized dry chemical extinguisher when the following occurs:
 - (i) re-charge;

- (ii) 6 year maintenance; or
- (iii) hydrostatic testing.
- (g) The person or applicant refuses to take the examination required by Section 4.3 and Section 3.14 of these rules.
- (h) The person or applicant has been convicted of any of the following:
 - (i) a violation of the provisions of these rules;
 - (ii) a crime of violence or theft; or
 - (iii) any crime that bears upon the person or applicant's ability to perform their functions and duties.

(i) The person servicing portable fire extinguishers does not maintain adequate facilities, equipment, or knowledge, to conduct operations as required in the manufacturer's instructions, statute, and rules.

(j) The person or applicant is involved in conduct which could be considered criminal, although such conduct did not result in the filing of criminal charges against the person, but where the evidence shows that the criminal act did occur, that the person committed the act, and that the burden by a preponderance of evidence could be established.

9.3 A person whose license or certificate of registration is suspended or revoked by the SFM shall have an opportunity for a hearing before the Board if requested by that person within 20 days after receiving notice.

9.4 All adjudicative proceedings, other than criminal prosecution, taken by the SFM to enforce the Utah Fire Prevention and Safety Act, and these rules, shall commence in accordance with UCA, Section 63-46b-3.

9.5 The Board shall act as the hearing authority, and shall convene after timely notice to all parties involved. The Board shall be the final authority on the suspension or revocation of a license or certificate of registration.

9.6 The Board shall direct the SFM to issue a signed order to the parties involved giving the decision of the Board within a reasonable time of the hearing pursuant to UCA, Section 63-46b-5(i).

9.7 Reconsideration of the Board decision may be requested in writing within 20 days of the date of the decision pursuant to UCA, Section 63-46b-13.

9.8 After a period of three years from the date of revocation, the Board shall review the submitted written application of a person whose license or certificate of registration has been revoked. After timely notice to all parties involved, the Board shall convene to review the revoked persons application, and that person shall be allowed to present themselves and their case before the Board. After the hearing, the Board shall direct the SFM to allow the person to complete the licensing or certification process or shall direct that the revocation be continued.

9.9 Judicial review of all final Board actions resulting from informal adjudicative proceedings shall be conducted pursuant to UCA, Section 63-46b-15.

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KEY: fire prevention, extinguishers
[September 1, 1998] January 15, 1999 **53-7-204**



Public Safety, Fire Marshal **R710-3** Assisted Living Facilities

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 21709
 FILED: 11/30/1998, 11:10
 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Fire Prevention Board proposes to add an amendment to R710-3, "Assisted Living Facilities," which better defines the housing of residents in Type I Limited Capacity Assisted Living Facilities in split-entry/split-level homes.

SUMMARY OF THE RULE OR CHANGE: On November 19, 1998, the Utah Fire Prevention Board met and addressed an amendment to Subsection R710-3-3(2)(3). This amendment defines a concern generated from split-entry/split-level homes that are not set into the ground far enough for the lower level to qualify as a basement. This will now designate to the Authority Having Jurisdiction the ability to allow the Assisted Living Facility operator to house residents on both levels if the home qualifies to this new amendment.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-7-204

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** There will be a very minimal cost to the state to reprint the changed rule, R710-3, and redistribute this rule to those who are affected by the rule change. The aggregate cost would be estimated at approximately \$50.

❖**LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government because the amendment only assists local government in clarifying the first level.

❖**OTHER PERSONS:** There is an anticipated savings to the Assisted Living operators in Type I Limited Capacity Facilities, to now be allowed to house residents on both levels of a split-entry/split-level home.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no anticipated compliance cost for affected persons because this is amendment only defines a split-entry/split-level home and the housing of residents on both levels of the home.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on business that will result from this rule amendment.

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

Public Safety
 Fire Marshal
 Suite 302
 5272 South College Drive
 Murray, UT 84123-2611, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Brent R. Halladay at the above address, by phone at (801) 284-6350, by FAX at (801) 284-6351, or by Internet E-mail at psdomain.psudi.bhallada@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 01/14/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/1999

AUTHORIZED BY: Brent R. Halladay, Chief Deputy State Fire Marshal

R710. Public Safety, Fire Marshal.
R710-3. Assisted Living Facilities.

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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, provide staff training in the usage of all emergency equipment to include portable fire extinguishers, hood systems, fire alarms, and fire drills, in addition to those requirements in the UFC, Article 13.

3.2 Type I Assisted Living Facilities

3.2.1 Type I Limited Capacity Assisted Living Facilities shall be constructed in accordance with UBC, Group R, Division 3 Occupancies; and maintained in accordance with the UBC and UFC.

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 ~~main floor~~ 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 escape or rescue windows as required in UBC, Chapter 3, Section 310.4.

3.2.5 In Type I Limited Capacity Assisted Living Facilities an approved independent smoke detector shall be installed in each sleeping room and access hallway.

3.2.6 Type I Small Assisted Living Facilities shall be constructed in accordance with UBC, Appendix Chapter 3, Division IV - Requirements for Group R, Division 4 Occupancies; and maintained in accordance with the UBC and UFC.

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 UBC, Group I, Division 2; and maintained in accordance with the UBC and UFC.

3.3 Type II Assisted Living Facilities

3.3.1 Type II Limited Capacity Assisted Living Facilities shall be constructed in accordance with UBC, Appendix Chapter 3, Division IV, Requirements for Group R, Division 4 Occupancies; and maintained in accordance with the UBC and UFC.

3.3.2 Type II Limited Capacity Assisted Living Facilities shall have an approved automatic fire extinguishing system installed in compliance with the UBC, 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 UBC, Group I, Division 2; and maintained in accordance with the UBC and UFC.

3.3.4 Type II Small Assisted Living Facilities shall have a minimum corridor width of six feet.

3.3.5 Type II Large Assisted Living Facilities shall be constructed in accordance with UBC, Group I, Division 2; and maintained in accordance with the UBC and UFC.

3.3.6 Type II Large Assisted Living Facilities shall have a minimum corridor width of six feet.

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KEY: assisted living facilities

~~[September 1, 1998]~~ January 15, 1999

53-7-204



Public Safety, Fire Marshal

R710-4

Buildings Under the Jurisdiction of the State Fire Prevention Board

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 21710

FILED: 11/30/1998, 11:10

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Fire Prevention Board proposes to change the currently adopted rule by eliminating the need of the appendices section of NFPA 13 being formally adopted as a portion of the incorporated reference, and also amending the section that requires the placement of manual fire alarm boxes in various state owned and educational occupancies. Several years ago the Board eliminated the placement of manual fire alarm boxes in corridor and exit ways to aid elementary and secondary public and private school administrators with misuse of these fire alarm boxes and false alarms. With this former amendment it is now realized it hurt and lessened reasonable fire safety with early notification in the event of

fire or emergency in the other occupancies that are not elementary or secondary education buildings.

SUMMARY OF THE RULE OR CHANGE: On November 19, 1998, the Utah Fire Prevention Board met and addressed the following proposed changes: (1) removing the appendices from Subsection R710-4-1(2) as an adopted portion of an incorporated reference. The appendices are provided in the NFPA standards as an informational guide only, and are not developed or intended to be used as a regulatory standard; (2) amend Subsection R710-4-3(3)(2)(b)(3), and add the requirement that in college buildings, university buildings, and state-owned buildings with an occupant load of 100 or more, manual fire alarm boxes shall be provided as required in the Uniform Fire Code and NFPA 72. Several years ago this requirement was modified to accommodate public and private elementary and secondary schools eliminating the fire alarm boxes in the hallways and near the exits for continued misuse by the students. The Fire Prevention Board did not realize the need to continue the manual fire alarm boxes in state-owned buildings, college buildings, and university buildings. This amendment will now correct an unintentional error with regard to manual fire alarm boxes and return them to the corridors and exit ways in these other occupancies.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-7-204

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: The National Fire Protection Association (NFPA), Standard 13, Installation of Sprinkler Systems, 1996 edition

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Approximately \$50 is the anticipated cost for the rewritten rule to be copied and the cost to send it to all affected by the amendment. There would be an anticipated cost to the state budget of several hundred dollars to several thousands of dollars on each new building built that would now require the placement of manual fire alarm boxes in the corridors and exit ways as required by the nationally accepted standards in effect in the State of Utah. Exact aggregate impact is impossible to predict due to the unknown number of new buildings proposed, the size of those buildings, usage of those buildings, and design of those proposed buildings.

❖LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government because the amendment only removes the appendices from an incorporated reference and affects fire alarm systems in state-owned and privately-owned educational facilities.

❖OTHER PERSONS: There is an anticipated cost of several hundred dollars to several thousand dollars to any college or university that is privately owned, to now comply to the nationally accepted standard of placement of the manual fire alarm boxes in the corridors and exit ways. Exact aggregate anticipated cost is impossible to predict due to the unknown number of new buildings proposed, the size of those buildings, usage of those buildings, and design of those proposed buildings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The major compliance cost for the adoption of this amended rule as proposed would be to now return to the adopted standard of placing manual fire alarm boxes in the corridors and hallways of all state owned buildings, college buildings, and university buildings with an occupant load of more than 100. This would not include public or private elementary or secondary schools. This would have an anticipated compliance cost of several hundred dollars to several thousand dollars on each new building. The cost would vary on each building depending on the design of that building and the size of the building.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After review of these proposed changes with the State Fire Marshal, and as recommended by the Utah Fire Prevention Board, I have concluded that the fiscal impact to the state and to privately owned colleges and universities, does not create an unreasonable fiscal impact due to the increased safety that these manual fire alarm boxes create for early notification of a fire or emergency.

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

Public Safety
Fire Marshal
Suite 302
5272 South College Drive
Murray, UT 84123-2611, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Brent R. Halladay at the above address, by phone at (801) 284-6350, by FAX at (801) 284-6351, or by Internet E-mail at psdomain.psudi.bhallada@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 01/14/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/1999

AUTHORIZED BY: Brent R. Halladay, Chief Deputy State Fire Marshal

R710. Public Safety, Fire Marshal.

R710-4. Buildings Under the Jurisdiction of the State Fire Prevention Board.

R710-4-1. Adoption of Fire Codes.

Pursuant to Title 53, Chapter 7, Section 204, of the Utah Code Annotated 1953, the Utah Fire Prevention Board adopts minimum rules for the prevention of fire and for the protection of life and property against fire and panic in any publicly owned building, including all public and private schools, colleges, and university buildings, and in any building or structure used, or intended for use, as an asylum, hospital, mental hospital, sanitarium, home for the aged, residential health care facility, children's home or institution, or any similar institutional type occupancy of any capacity; and in

any place of assemblage where fifty (50) or more persons may gather together in a building, structure, tent, or room, for the purpose of amusement, entertainment, instruction, or education.

There is further adopted as part of these rules the following codes which are incorporated by reference:

1.1 National Fire Protection Association (NFPA), Standard 101, Life Safety Code (LSC), 1997 edition, except as amended by provisions listed in R710-4-3, et seq. The following chapters from NFPA, Standard 101 are the only chapters adopted: Chapter 12 - New Health Care Occupancies; Chapter 13 - Existing Health Care Occupancies; Chapter 14 - New Detention and Correctional Occupancies; Chapter 15 - Existing Detention and Correctional Occupancies; and other sections referenced within and pertaining to these chapters only.

1.2 National Fire Protection Association (NFPA), Standard 13, Installation of Sprinkler Systems, ~~[with all appendices]~~ 1996 edition, except as amended by provisions listed in R710-4-3, et seq.

1.3 National Fire Protection Association (NFPA), Standard 72, National Fire Alarm Code, 1996 edition, except as amended by provisions listed in R710-4-3, et seq.

1.4 National Fire Protection Association (NFPA), Standard 70, National Electric Code (NEC), 1996 edition, as adopted by the Uniform Building Standards Act, Title 58, Chapter 56, Section 4, Utah Code Annotated 1953.

1.5 Uniform Building Code (UBC), Volume 1, 1997 edition, as published by the International Conference of Building Officials (ICBO), and as adopted by the Uniform Building Standards Act, Title 58, Chapter 56, Section 4, Utah Code Annotated 1953.

The following UBC appendix chapter is adopted:

Chapter 3 - Division IV, Requirements for Group R, Division 4 Occupancies.

1.6 Uniform Fire Code (UFC), Volume 1, 1997 edition, as published by the International Fire Code Institute (IFCI), except as amended by provisions listed in R710-4-3, et seq.

The following UFC appendix chapters are adopted:

- (a) Appendix I-C Stairway Identification.
- (b) Appendix III-C Inspection, Testing and Maintenance of Water Based Fire Protection Systems.
- (c) Appendix IV-A Interior Floor Finish.
- (d) Appendix VI-A Hazardous Materials Classifications.
- (e) Appendix VI-E Reference Tables from the Uniform Building Code.

1.7 Uniform Fire Code Standards (UFCS), Volume 2, 1997 edition, as published by the International Fire Code Institute (IFCI).

The following UFCS standards are amended as follows:

(a) UFCS 10-1, Selection, Installation, Inspection, Maintenance and Testing of Portable Fire Extinguishers is amended to adopt NFPA, Standard 10, 1998 edition.

(b) UFCS 10-2, Installation, Maintenance and Use of Fire Protection Signaling Systems is amended to adopt NFPA, Standard 72, 1996 edition.

(c) UFCS 52-1, Compressed Natural Gas (CNG) Vehicular Fuel Systems is amended to adopt NFPA, Standard 52, 1995 edition.

(d) UFCS 79-1, Foam Fire Protection Systems is amended to adopt NFPA, Standard 11, 1994 edition.

(e) UFCS 82-1, Liquefied Petroleum Gas Storage is amended to adopt NFPA, Standard 58, 1995 edition.

1.8 Uniform Mechanical Code (UMC), 1994 edition, as published by the International Conference of Building Officials (ICBO), and as adopted by the Uniform Building Standards Act, Title 58, Chapter 56, Section 4, Utah Code Annotated 1953.

1.9 Copies of the above codes are on file in the Office of Administrative Rules and the State Fire Marshal.

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R710-4-3. Amendments and Additions.

3.0 The following amendments and additions are hereby adopted for those buildings under the jurisdiction of the State Fire Marshal:

3.1 Door Closures

3.1.1 UFC, Article 11, Section 1111.2.2 Operation. Add the following Exception. In Group E Occupancies, Divisions 1 and 2, the door closures may be of the friction hold-open type on classrooms only.

3.2 Dumpsters

3.2.1 UFC, Article 11, Section 1103.2.2, with reference to Group E Occupancies, is amended to add the following requirement:

Dumpsters and containers with an individual capacity of 1.5 cubic yards (40.5 cubic feet) or greater shall not be stored in buildings or placed within 20 feet of combustible walls, openings or combustible roof eave lines.

3.3 Fire Alarm Systems

3.3.1 General Provisions

The following rules pertain to newly installed systems or changes made to existing systems, except where noted:

(a) Presignal feature type systems are prohibited, except in I-3 Occupancies.

(b) Fire alarm system designs submitted to the AHJ, shall include complete floor plans showing location of all devices, occupancy use of each room, schematic wiring diagrams, battery calculations, and any other items deemed necessary.

3.3.2 Required Installations

(a) Fire alarm systems shall be provided as required in UFC, Article 10, Section 1007, and LSC Chapters as adopted, and in other rules promulgated by the Board.

(b) All state-owned buildings, college and university buildings, other than institutional, with an occupant load of one hundred (100) or more, all schools with an occupant load of fifty (50) or more, shall have an approved fire alarm system with the following features:

(1) Products-of-combustion (smoke) detectors installed throughout all corridors and common areas of egress at the maximum prescribed spacing of thirty feet on center, and no more than fifteen feet from the walls.

(2) In other than fully sprinklered buildings, automatic detectors shall be installed in each enclosed space, other than corridors, at maximum prescribed spacing as specified in NFPA, Standard 72, or by their listing.

(3) Manual fire alarm boxes shall be provided as required. In public and private elementary and secondary schools, [M]manual fire alarm [initiating devices]boxes shall be provided in the boiler room, kitchen, and main administrative office of each building, and any other areas as determined by the AHJ.

(4) The fire alarm system shall be connected to a proprietary panel, where provided within the complex.

3.3.3 Main Panel

(a) An approved key plan drawing and operating instructions shall be posted at the main fire alarm panel which displays the location of all alarm zones and if applicable, device addresses.

(b) The main panel shall be located in a normally attended area such as the main office or lobby. Location of the Main Panel other than as stated above, shall require the review and authorization of the SFM. Where location as required above is not possible, an electronically supervised remote annunciator from the main panel shall be located in a supervised area of the building. The remote annunciator shall visually indicate system power status, alarms for each zone, and give both a visual and audible indication of trouble conditions in the system. All indicators on both the main panel and remote annunciator shall be adequately labeled.

3.3.4 System Wiring

(a) System Wiring shall be in accordance with the following:

(1) The Initiating Device circuits (IDC) shall be Style D as defined in NFPA, Standard 72.

(2) The Indicating Appliance circuits (IAC) shall be Style Z as defined in NFPA, Standard 72.

(3) Signaling line circuits shall be Style 6 or 7 as defined in NFPA, Standard 72.

(b) All junction boxes shall be adequately identified as part of the fire alarm system. Covers for the concealed boxes shall be painted red.

3.3.5 System Devices

All equipment and devices shall be listed and/or labeled by a nationally recognized testing laboratory for fire alarm use.

3.3.6 Fan Shut Down

(a) The fan shut down relay(s) in the air handling equipment shall be normally energized, and connected through and controlled by a normally closed contact in the fire alarm panel, or a normally closed contact of a remote relay under supervision by the main panel. The relays will transfer on alarm, and shall not restore until the panel is reset.

(b) Duct detectors required by the UMC, shall be interconnected, and compatible with the fire alarm system.

3.3.7 Maintenance and Tests

The owner/administrator of each building shall insure maintenance and testing as required in UFC, Article 10, Section 1001.4 and 1001.5. A written log, verifying these tests, shall be kept on file for inspection by the AHJ.

3.4 Fireworks

3.4.1 UFC, Article 78, Section 7802.3 is amended to include the following Exception:

3. The use of fireworks for display and retail sales is allowed as set forth in the "Utah Fireworks Act", as adopted in Title 11, Chapter 3, Utah Code Annotated 1953.

3.5 Health Care Facilities

3.5.1 LSC Chapters 12 and 13 Sections 12-1.2.4 and 13-1.2.4 (Exiting Through Adjoining Occupancies) exception is deleted.

3.5.2 LSC Chapter 13, Section 13-3.6.1, (Rooms Allowed open to Corridor) exceptions No. 1, No. 5, No. 6, and No. 8 are deleted.

3.6 Hydrants, Fire

3.6.1 The fire department connection on automatic fire sprinkler and standpipe systems shall be located a reasonable distance as approved by the AHJ.

3.7 Fire Sprinklers

3.7.1 Class 1 and Class 2 fire protection systems, as defined in AWWA, M14, Second Edition, "Recommended Practice for Backflow Prevention and Cross-Connection Control," shall be provided with a listed alarm check valve with standard trim.

3.7.2 Antifreeze systems installed in Class 1 and Class 2 fire protection systems shall be installed as required in NFPA, Standard 13, and a backflow preventing device shall be installed as required in the Uniform Plumbing Code.

3.8 Water Supply Analysis

3.8.1 For proposed construction in both sprinklered and unsprinklered occupancies, the owner or architect shall provide an engineer's water supply analysis evaluating the available water supply.

3.8.2 The owner or architect shall provide the water supply analysis during the preliminary design phase of the proposed construction.

3.8.3 The water analysis shall be representative of the supply that may be available at the time of a fire as required in NFPA, Standard 13, Appendix A-7-2.1.

3.9 Fire Drills

3.9.1 UFC, Article 13, Section 1303.3.3.2(1) is amended to include the additional Exception:

2. A fire drill in secondary schools shall be conducted at least every two months, to a total of four fire drills during the nine month school year. The first fire drill shall be conducted within the first two weeks of the school year.

.....

KEY: fire prevention, public buildings
[September 1, 1998] January 15, 1999

53-7-204



Public Safety, Fire Marshal
R710-8
Day Care Rules

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 21712

FILED: 11/30/1998, 11:10

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Fire Prevention Board proposes to update the currently enacted rule to comply to the Utah Child Care Licensing Act that was passed during the 1998 session of the Utah State Legislature.

SUMMARY OF THE RULE OR CHANGE: On November 19, 1998, the Utah Fire Prevention Board met and addressed the updating of R710-8 to comply with the newly enacted Utah Child Care Licensing Act statute (S.B. 26) passed during the 1998 session of the Utah State Legislature. The proposed amendments are as follows: (1) Subsection R710-8-1(1) is proposed to be amended by dropping the usage of the National Fire Protection Association (NFPA), Standard 101, Life Safety Code, and replacing it with the Uniform Fire Code, Volume 1, 1997 edition; (2) Subsection R710-8-1(2)(1) is proposed to be eliminated as an incorporated sub-reference to the Uniform Building Code as it now does not apply; (3) Section R710-8-2, "Definitions," is proposed to have the "Day Care Center" and "Family Day Care" definitions rewritten to comply with the established guidelines of the Utah Child Care Licensing Act and the rules adopted pursuant to this statute by the Department of Health; (4) Section R710-8-2, "Definitions," is proposed to have the definition of "Group Day Care" eliminated due to it not being an established category of day care within the Utah Child Care Licensing Act; (5) Subsections R710-8-3(1) through R710-8-3(13) are proposed to be newly enacted amendments or rewritten amendments to comply with the Utah Child Care Licensing Act. (DAR Note: S.B. 26 is found at 1998 Utah Laws 158, and is effective as of May 4, 1998.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-7-204

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Uniform Fire Code, Volume 1, 1997 edition

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: \$50 would be the anticipated cost to the state budget to copy the rewritten rule and send it out to all that are required to have a copy.
- ❖LOCAL GOVERNMENTS: There is no anticipated cost or savings seen by local government because this rule does not affect local government.
- ❖OTHER PERSONS: There might be an anticipated cost to the Family Day Care providers in the usage of a home where any fire and life safety items might need to be installed to make the home fire safe.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs for affected persons will vary according to the type, age, and style of home to be used for Family Day Care. If a home is to be used for Family Day Care and the provider doesn't have two exits from the level where day care will be provided, a second exit will need to be installed. The anticipated cost for a second exit would be from \$200 to \$2,500 depending on the type of exit required, the location of the desired exit such as a basement or second story, the logistics to complete the exit system, and who completes the work. The Family Day Care provider would also be required to provide smoke detectors and a portable fire extinguisher if they are not already in the home. A single station battery operated smoke detector is approximately \$10 and a 5 pound portable fire extinguisher is approximately \$50.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After review of these proposed changes with the State Fire Marshal, and as recommended by the Utah Fire Prevention Board, it is my opinion that the proposed amendments in this rule will comply with the newly enacted Utah Child Care Licensing Act. It is also my opinion that the fiscal impact is minimal to provide a reasonable degree of fire and life safety for the care of as many as 16 children in a home.

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

Public Safety
Fire Marshal
Suite 302
5272 South College Drive
Murray, UT 84123-2611, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Brent R. Halladay at the above address, by phone at (801) 284-6350, by FAX at (801) 284-6351, or by Internet E-mail at psdomain.psudi.bhallada@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 01/14/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/1999

AUTHORIZED BY: Brent R. Halladay, Chief Deputy State Fire Marshal

R710. Public Safety, Fire Marshal.

R710-8. Day Care Rules.

R710-8-1. Adoption of Codes.

Pursuant to Title 53, Chapter 7, Section 204, Utah Code Annotated 1953, the Utah Fire Prevention Board adopts minimum standards for the prevention of fire and for the protection of life and property against fire and panic in any day care facility or children's home.

There is further adopted as part of these rules the following codes which are incorporated by reference:

1.1 [~~National Fire Protection Association (NFPA), Standard 101, Life Safety Code (LSC), 1997 edition, except as amended by provisions listed in R710-8-3, et seq. The following chapters from NFPA, Standard 101 are the only chapters adopted: Chapter 30; New Day Care Occupancies, Sections 30-6 and 30-7 - Day Care Homes; Chapter 31, Existing Day Care Occupancies, Sections 31-6 and 31-7 - Day Care Homes; and other sections referenced within and pertaining to these chapters only;~~]Uniform Fire Code (UFC), 1997 edition, et seq.

1.2 Uniform Building Code (UBC), 1997 edition, as published by the International Conference of Building Officials (ICBO), and as adopted by the Uniform Building Standards Act, Title 58, Chapter 56, Section 4, Utah Code Annotated 1953.

[1.2.1 ~~Group Day Care units shall also apply R156-56-20; Amendments to the UBC, Chapter 3, Section 305.1, Division 3, in carrying out the purposes of this Rule.~~

—1.3]1.2 Copies of the above codes are on file in the Office of Administrative Rules and the Office of the State Fire Marshal.

R710-8-2. Definitions.

"Authority Having Jurisdiction (AHJ)" means the State Fire Marshal, his duly authorized deputies, or the local fire enforcement authority.

"Board" means Utah Fire Prevention Board.

"Client" means a child or adult receiving care from other than a parent, relative or guardian.

"Day Care" means any building or portion thereof, where clients receive care, maintenance, and supervision for less than 24 hours per day and which are not classified in the Uniform Building Code as E-1 or E-2 occupancies.

"Day Care Center" means providing care for [thirteen or more]more than six clients in a place other than a home. This would also include Child Care Centers or Hourly Child Care Centers licensed by the the Department of Health.

"Family Day Care" means[~~a service of~~] providing care for [~~not more than six~~]clients listed in the following two groups:

a. [~~"A" means not less than one and not more than three clients. The unit will be unlicensed, unregulated, and exempt.]Type I - Services provided for five to eight clients in a home. This would also include a home that is certified by the Department of Health as Residential Certificate Child Care or licensed as Family Child Care.~~

b. [~~"B" means not less than four and not more than six clients. The unit shall be licensed and regulated by regional offices of the Department of Human Services.]Type II - Services provided for nine to sixteen clients in a home with sufficient staffing. This would also include a home that is licensed by the Department of Health as Family Child Care.~~

[~~"Group Day Care" means a service of providing care for not less than seven and not more than twelve clients.]~~

"ICBO" means International Conference of Building Officials.

[~~"LSC" means Life Safety Code.~~

—~~"NFPA" means National Fire Protection Association.]~~

"SFM" means State Fire Marshal.

"UBC" means Uniform Building Code.

R710-8-3. Amendments and Additions.

3.1 Family Day Care units [~~shall comply with the requirements of NFPA, Standard 101, Life Safety Code (LSC), Chapter 30, Sections 30-6 and 30-7, and Chapter 31, Sections 31-6 and 31-7, where applicable, and the R-3 requirements of the Uniform Building code. Section 31-1.1.2 of NFPA, Standard 101, Life Safety Code, 1997 edition, and all other sections that reference staff-to-client ratios, is deleted with reference to Family Day Care units, and is replaced with R710-8-3.8:]shall have two remotely located exits from each floor occupied by clients that shall lead to an open space at ground level.~~

3.2 Family Day Care Units that are located above or below the main story shall be provided with two exits, one of which shall discharge directly to the outside.

3.2 [~~Group Day Care units shall comply with the Uniform Building Code Statewide Amendment for Group Day Care and the R-3 requirements of the Uniform Building Code:]Family Day Care units shall have fire extinguishers and single station smoke detectors in good operating condition on each level occupied by clients.~~

3.3 Day Care Centers shall comply with the E-3 requirements of the Uniform Building Code.

3.4 Places of religious worship shall not be required to meet the provisions of this Rule in order to operate a nursery while religious services are being held in the building.

3.5 Heating equipment in spaces occupied by children shall be provided with partitions, screens, or other means to protect children from hot surfaces and open flames.

3.6 A fire escape plan shall be completed and posted in a conspicuous place. All staff shall be trained on the fire escape plan and procedure.

3.7 Fire drills shall be conducted in Family[~~and Group~~] Day Care units quarterly, and shall include the complete evacuation from the building of all clients and staff. Fire Drills in Day Care Centers shall be completed as required under Group E Occupancies. All fire drills shall be documented to include the date of the fire drill and who participated.

3.8 The Authority Having Jurisdiction shall insure at each inspection there is sufficient adult staff to client ratios to allow safe and orderly evacuation in case of fire.

3.9 Infants shall not be housed in basements or above the first story unless permitted by the Uniform Fire Code or the Uniform Building Code[~~or the Life Safety Code~~].

.....

KEY: fire prevention, day care

[September 1, 1998]January 15, 1999

53-7-204



**Workforce Services, Employment
Development
R986-413
Program Standards**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 21705

FILED: 11/27/1998, 13:20

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose for this filing is to incorporate federal regulations for the Food Stamp Program as directed by the United States Department of Agriculture (USDA), Food and Nutrition Service (FNS). The new regulations are implemented effective October 1, 1998. The filing also includes the addition of a regulatory citation that had been erroneously deleted and a change to a program name.

SUMMARY OF THE RULE OR CHANGE: This rule change corrects an erroneously deleted reference to 7 CFR 273.7 which the Department had previously incorporated by reference. The rule also incorporates, by reference, Title I, Section 1001 of the Balanced Budget Act of 1997 (Pub. L. No. 105-33). That

Act adds certain conditions to the Employment and Training and the Able-Bodied Adults Without Dependents (ABAWD) provisions of the Food Stamp Program. This rule also changes the name of the General Assistance-Emergency Work Program (G-EWP) to the Working Toward Employment Program.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-103
 FEDERAL REQUIREMENT FOR THIS RULE: Title I, Section 1001, Balanced Budget Act of 1997 (Pub. L. No. 105-33)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Title I, Section 1001, Balanced Budget Act of 1997, (Pub. L. No. 105-33) August 5, 1997; and 7 CFR 273.7, 1992 ed.

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: All Food Stamp Program benefits are funded by the federal government. The state does, however, pay one half of the administrative costs related to this program. In the case of this rule change, participation requirements have been modified for certain Able-Bodied Adults Without Dependents (ABAWD's) who receive benefits from the Food Stamp Program. It is likely that because of these new requirements, certain households with individuals meeting the ABAWD criteria will receive benefits for additional months. Because these new participation components are optional to ABAWD's and are only available in certain areas of the state, the Department is unable to estimate the impact on the program. There are certain administrative costs associated with implementing this change that are absorbed in the Department's cost of operating the Food Stamp Program. Those costs are not distinguishable or significant.

❖LOCAL GOVERNMENTS: Local governments are not generally involved directly with the administration of the Food Stamp Program. However, with this change, it is possible that local governments in certain areas of the state will be involved with the Department in setting up additional participation components, such as Work Skills Training Sites. Those costs should be incidental and are unknown to the Department.

❖OTHER PERSONS: This rule change incorporates expanded participation components for certain individuals meeting the ABAWD criteria in the Food Stamp Program. This means that certain of Utah's citizens could potentially qualify (or continue to qualify) for additional months of benefits from the Food Stamp Program. Although there are potentially some costs to be incurred by those individuals who choose to increase participation, those potential costs are considered to be minimal and are incalculable. The Department does allow up to \$25 per month reimbursement for costs associated with participation in certain components of the Employment and Training Program. Because certain recipients may continue to participate in the Food Stamp Program as a result of this change, there could be some implications for businesses that interact with participants of the Food Stamp Program. Any costs or savings to those businesses reflect the potential for increased sales and

operating expenses. Those potential costs or savings are unknown to the Department and are considered incalculable.
 COMPLIANCE COSTS FOR AFFECTED PERSONS: Although compliance with and implementation of the expanded participation requirements for individuals meeting the ABAWD criteria does potentially extend program participation for certain program participants, all increased benefit costs are borne by the Federal government. The Department does incur 50% of the associated administrative costs. Those costs associated with implementing this change are absorbed in the Department's cost of operating the Food Stamp Program. Those costs are not distinguishable or significant.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: For this rule change, participation requirements have been modified for certain ABAWD's who receive benefits from the Food Stamp Program. It is likely that because of these new requirements, certain households with individuals meeting the ABAWD criteria will receive benefits for additional months. However, businesses dealing directly with the participants (food retailers) would not necessarily realize an increase in business. Although it also possible that the operating costs of those businesses could be affected, those costs are unknown to the Department and are not calculable.

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

Workforce Services
 Employment Development
 Second Floor
 1385 South State Street
 Salt Lake City, UT 84115, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gordon Mendenhall at the above address, by phone at (801) 468-0125, by FAX at (801) 468-0160, or by Internet E-mail at gmenden@wscdomain.wscfam.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 01/15/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 01/16/1999

AUTHORIZED BY: Robert C. Gross, Executive Director

R986. Workforce Services, Employment Development.

R986-413. Program Standards.

R986-413-302. Work Requirements.

The department adopts 7 CFR 273.7, 1992 ed. and Public Law 104-193, section 815 which [is]are incorporated by reference.

1. Current Department Practices for the Employment Program
 - a. Eligible household members shall complete an assignment to the employment program once each 12 months or be exempt.
 - b. Exempt persons may volunteer.
 - c. An Employment Program assignment consists of:
 - i. assignment to a job search workshop

- ii. assignment to a self-sufficiency unit
- iii. a person is not assigned if neither of the above is available
- d. noncomplying individuals shall be sent a notice and allowed ten days to complete the assignment or establish good cause.

- 2. Reducing Work Hours
- 3. Voluntary Quit

R986-413-304. Able-Bodied Adults Without Dependents.

The department adopts Public Law 104-193, section 824 and Public Law 105-33, Title I, Section 1001 which is incorporated by reference.

- 1. Current Department Practices
 - a. Persons who are participating [~~G-EWP~~]in the Working Towards Employment Program or Refugee Cash Assistance Program will also satisfy the work requirement.

.....

KEY: food stamps

[February 19, 1997]1999

35A-3-103

Notice of Continuation February 10, 1997



Workforce Services, Employment
Development
R986-419
Income Limits

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 21706

FILED: 11/27/1998, 13:20

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose for this filing is to incorporate the revised Food Stamp program maximum income limits as directed by the United States Department of Agriculture (USDA), Food and Nutrition Service (FNS). These new limits are effective for all benefits issued as of October 1, 1998.

SUMMARY OF THE RULE OR CHANGE: This rule change implements the revised maximum income limits for the Food Stamp Program. The Department is removing the maximum income limits table from this rule. This rule will now reference those limits in Tables IV, V, and VI which are contained in the Food Stamp Manual as maintained by the Department. Maximum income limits are updated annually by the United States Department of Agriculture (USDA), Food and Nutrition Service (FNS).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-103

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 7 CFR 273.9(a), 1995 ed.

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: All Food Stamp Program benefits are funded by the federal government. The state does, however, pay one half of the administrative costs related to this program. In the case of this rule change, the maximum income limits have been increased. This means that households currently participating will continue to qualify for benefits at the higher income levels and that new applicants could now qualify at those higher limits. The administrative costs to implement the new maximum income limits are absorbed in the Department's costs of operating the Food Stamp Program and are not distinguishable or significant.

❖LOCAL GOVERNMENTS: Local governments are not involved in the administration of the Food Stamp Program. This change has no direct impact on local governments.

❖OTHER PERSONS: This rule change incorporates higher income levels which means that more of Utah's citizens could potentially qualify (or continue to qualify) for benefits from the Food Stamp Program. There are no costs or savings to potential or existing food stamp applicants associated with increased income limits. Increased participation in the Food Stamp Program also has some implications for those businesses that interact with program participants. There is the potential that sales and/or operating expenses may be affected. Any resulting costs or savings to those businesses are unknown to the Department and are considered incalculable.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Department of Workforce Services is the single state agency responsible for administering the Food Stamp Program. Compliance with and implementation of the revised maximum income levels does potentially increase the number of program participants. Increased benefit costs are borne by the Federal government. Although the Department does incur 50% of the associated administrative costs, those costs are absorbed in the Department's costs of operating the Food Stamp Program and are not distinguishable or significant. No "other persons" have compliance requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change increases the maximum income limits for qualifying for the Food Stamp Program. Although it is feasible that the number of program participants would increase, businesses dealing directly with the participants (food retailers) would not necessarily realize an increase in business. It is feasible that businesses could see an increase in related operating expenses. Although there are potential costs to businesses, those costs are unknown to the Department and are not calculable.

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

Workforce Services
Employment Development
Second Floor
1385 South State Street
Salt Lake City, UT 84115, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Gordon Mendenhall at the above address, by phone at (801) 468-0125, by FAX at (801) 468-0160, or by Internet E-mail at gmenden@wscdomain.wscfam.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 01/15/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 01/16/1999

AUTHORIZED BY: Robert C. Gross, Executive Director

**R986. Workforce Services, Employment Development.
 R986-419. Income Limits.**

R986-419-900. Food Stamp Program Income Limits.

The department adopts 7 CFR 273.9 (a), 1995 ed. and The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, signed into law August 22, 1996, which [is]are incorporated by reference.

The Food Stamp Program income limits are updated annually. The current limits are listed in the Food Stamps Manual, Tables IV, V, VI. That manual is available for public inspection at each Department of Workforce Services Employment Center and at the Employment Development Division, 1385 South State Street, Salt Lake City, UT.

[

TABLE
 FOOD STAMP PROGRAM INCOME LIMITS

	TABLE IV	TABLE V	TABLE VI
	Maximum Gross Monthly Income	Gross Monthly Income Limits	Net Monthly Income Limit
Household Size	Elderly/Disabled	165% of Poverty	130% of Poverty
1	1085	855	658
2	1459	1150	885
3	1833	1445	1111
4	2207	1739	1338
5	2581	2034	1565
6	2955	2329	1791
7	3329	2623	2018
8	3703	2918	2245
9	4077	3213	2472
10	4451	3508	2699

for each additional member add: \$374 \$295 \$227

**[KEY: food stamps
 [January 2, 1998]1999
 Notice of Continuation August 18, 1997** **35A-3-103**

**Workforce Services, Employment Development
 R986-420
 Maximum Allotments**

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE No.: 21707
 FILED: 11/27/1998, 13:20
 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose for this filing is to incorporate the revised Food Stamp Program maximum food stamp allotments as directed by the United States Department of Agriculture (USDA), Food and Nutrition Service (FNS). These new allotment amounts are effective for all benefits issued beginning October 1, 1998.

SUMMARY OF THE RULE OR CHANGE: This rule change implements the revised maximum allotment amounts for the Food Stamp Program. The Department is removing the maximum allotment amounts table from this rule. This rule will now reference those allotment amounts in Table VII which is contained in the Food Stamp Manual as maintained by the Department. Maximum allotment amounts are updated annually by the United States Department of Agriculture (USDA), Food and Nutrition Service (FNS).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-103

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 7 CFR 273.10(e)(4), 1995 ed.

- ANTICIPATED COST OR SAVINGS TO:
- ❖THE STATE BUDGET: All Food Stamp Program benefits are funded by the federal government. The state does, however, pay one half of the administrative costs related to this program. In the case of this rule change, the maximum allotment amounts have been increased. This means that households participating in the Food Stamp Program will likely receive more benefits beginning in October 1998. At the maximum benefit level, the increase averages \$10 a month for all households combined. The administrative costs to implement the new allotment amounts are absorbed in the Department's costs of operating the Food Stamp Program and are not distinguishable or significant.
 - ❖LOCAL GOVERNMENTS: Local governments are not involved in the administration of the Food Stamp Program. This change has no direct impact on local governments.
 - ❖OTHER PERSONS: This rule change incorporates new allotment amounts that mean increased food stamp benefits

for Utah's citizens. The federal government funds all program benefits. There are no costs associated with this change that would impact potential or existing food stamp participants. The increase of participant benefits does have some implications for businesses that interact with participants of the Food Stamp Program. There is the potential that sales and/or operating expenses may be affected. Any resulting costs or savings to those businesses are unknown to the Department and are considered incalculable.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Department of Workforce Services is the single state agency responsible for administering the Food Stamp Program. Compliance with and implementation of the revised maximum food stamp allotments does potentially increase the benefit amount for program participants. Increased benefit costs are borne by the federal government. Although the Department does incur 50% of the associated administrative costs related to this change, those costs are absorbed in the Department's costs of operating the Food Stamp Program and are not distinguishable or significant. No "other persons" have compliance requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change increases the maximum allotment amounts for the Food Stamp Program. It is likely that the amount of benefits to households will increase. However, since the increase will average less than \$10 per household, businesses dealing directly with the participants (food retailers) will not necessarily realize a significant increase in business. It is feasible that businesses could see an increase in related operating expenses. Although there are potential costs to businesses, those costs are unknown to the Department and are not calculable.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 Workforce Services
 Employment Development
 Second Floor
 1385 South State Street
 Salt Lake City, UT 84115, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Gordon Mendenhall at the above address, by phone at (801) 468-0125, by FAX at (801) 468-0160, or by Internet E-mail at gmdenden@wscdomain.wscfam.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 01/15/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 01/16/1999

AUTHORIZED BY: Robert C. Gross, Executive Director

R986. Workforce Services, Employment Development.

R986-420. Maximum Allotments.

R986-420-100. Maximum Food Stamp [Allotment Table] Allotments.

The department adopts 7 CFR 273.10(e)(4), 1995 ed. and The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, signed into law August 22, 1996, which [is] are incorporated by reference.

The Food Stamp Program maximum food stamp allotments are updated annually. The current maximum allotment amounts are listed in the Food Stamps Manual, Table VII (Basic Coupon Issuance Tables). That manual is available for public inspection at each Department of Workforce Services Employment Center and at the Employment Development Division, 1385 South State Street, Salt Lake City, UT.

[

TABLE

MAXIMUM FOOD STAMP ALLOTMENTS

HOUSEHOLD SIZE	MAXIMUM ALLOTMENT
1	122
2	224
3	321
4	408
5	485
6	582
7	643
8	735
9	827
10	919
Each Additional Person:	92

]KEY: food stamps
[January 2, 1998]1999 **35A-3-103**
Notice of Continuation August 18, 1997



End of the Notices of Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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

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

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

Administrative Services, Fleet
Operations, Surplus Property
R28-3
Utah State Agency for Surplus Property
Adjudicative Proceedings

**FIVE-YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 21683
FILED: 11/17/1998, 16:36
RECEIVED BY: NL

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: As required by the Utah Administrative Procedures Act, this rule provides the procedures for adjudicating disputes brought before the Utah State Agency for Surplus Property under the authority granted by Sections 63A-2-301 through 63A-2-308.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: This has not been a controversial rule and no comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to mediate any disputes that are brought before the Utah State Agency for Surplus Property in an orderly manner.

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

Administrative Services
Fleet Operations, Surplus Property
447 West 13800 South

PO Box 141152
Salt Lake City, UT 84114-1152, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Mark Young at the above address, by phone at (801) 533-5885, by FAX at (801) 533-4016, or Internet E-mail at myoung@fo.state.ut.us.

AUTHORIZED BY: Mark Young, Manager

EFFECTIVE: 11/17/1998



Insurance, Administration
R590-161
Disability Income Policy Disclosure

**FIVE-YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 21713
FILED: 12/01/1998, 07:25
RECEIVED BY: NL

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 31A-2-201(3)(a) allows the insurance commissioner to make rules necessary to implement the provisions of Title 31A.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule

requires insurers who write disability income coverage to provide the coverage amount stated in their policies. The rule prevents insurers from totaling up the amount of disability income payments their insureds receive from other owned insurance policies (workers' compensation, auto, etc.) and deducting that amount from the coverage amount provided under their policies.

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

Insurance
Administration
3110 State Office Building
Salt Lake City, UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 12/01/1998



Insurance, Administration
R590-162
Actuarial Opinion and Memorandum
Rule

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 21714
FILED: 12/01/1998, 07:25
RECEIVED BY: NL

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 31A-17-503(2) allows the commissioner to define specific requirements and any other items considered necessary to the requirements of the insurance company's actuarial opinion. Subsection 31A-17-503(3)(a) allows the commissioner to set forth standards and guidelines for the statement of the actuarial opinion submitted by the company. These guidelines are set forth in Subsection R590-162-6(C) of the rule.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to set a standard of reporting the reserves of life and fraternal insurers to the insurance department. This report is called the "actuarial opinion of reserves." The Utah Code leaves it to the insurance commissioner to set standards of reporting and standards qualifying an actuary to do the report. The rule sets forth the forms to be used and their wording, categorizes companies according to their admitted assets, and the criteria they are to follow in completing this report. In essence, the rule sets a standard for reporting which put everyone on the same playing field, and makes sure that the information used on the report most accurately identifies the reserves that are necessary to cover the specific contracts sold by the insured. Without these standards it would be difficult to regulate the money (reserves) set aside by life insurers to cover the policies they have sold to consumers.

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

Insurance
Administration
3110 State Office Building
Salt Lake City, UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 12/01/1998



Insurance, Administration
R590-163
Filing Quarterly Statements

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 21715
FILED: 12/01/1998, 07:25
RECEIVED BY: NL

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 31A-2-201(3)(a) allows the Insurance Commissioner to make rules necessary to implement the provisions of Title 31A. Subsection 31A-2-202(1)(a) allows the Insurance

Commissioner to require from those they regulate, reports and statements at regular intervals.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: To better check and regulate the financial stability of those insurance companies domiciled in Utah, the Commissioner requires that they provide quarterly financial statements to the department.

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

Insurance
Administration
3110 State Office Building
Salt Lake City, UT 84114, or
at the Division of Administrative Rules.

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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 12/01/1998



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

NOTICES OF RULE EFFECTIVE DATES

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

Abbreviations

AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal and Reenact
REP = Repeal

Agriculture and Food

Animal Industry

No. 21480 (AMD): R58-1-5. Cattle.
Published: October 15, 1998
Effective: November 17, 1998

Commerce

Occupational and Professional Licensing

No. 21481 (AMD): R156-65-502. Unprofessional Conduct.
Published: October 15, 1998
Effective: November 17, 1998

Environmental Quality

Air Quality

No. 21272 (AMD): R307-220-31. Section X, Basic Inspection and Maintenance, Part A, General Requirements and Applicability.
Published: August 1, 1998
Effective: November 20, 1998

Financial Institutions

Administration

No. 21479 (AMD): R331-22. Rule Governing Reimbursement of Costs of Financial Institutions for Production of Records.
Published: October 15, 1998
Effective: November 17, 1998

Human Services

Services for People with Disabilities

No. 21477 (AMD): R539-1. Eligibility.
Published: October 15, 1998
Effective: November 24, 1998

Labor Commission

Occupational Safety and Health

No. 21453 (AMD): R614-1-4. Incorporation of Federal Standards.
Published: October 1, 1998
Effective: December 2, 1998

Natural Resources

Parks and Recreation

No. 21493 (AMD): R651-206. Carrying Passengers for Hire.
Published: October 15, 1998
Effective: December 1, 1998

No. 21494 (AMD): R651-224. Towed Devices.

Published: October 15, 1998
Effective: December 1, 1998

No. 21495 (AMD): R651-227-1. Boating Safety Course Fees.

Published: October 15, 1998
Effective: December 1, 1998

Wildlife Resources

No. 21499 (AMD): R657-34. Procedures for Confirmation of Ordinances on Hunting Closures.

Published: October 15, 1998
Effective: November 19, 1998

Public Service Commission

Administration

No. 21450 (NEW): R746-360. Universal Public Telecommunications Service Support Fund.

Published: October 1, 1998
Effective: November 25, 1998

**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, 1998, including notices of effective date received through November 2, 1998, the effective dates of which are no later than November 15, 1998. The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

DAR NOTE: Because of space constraints, neither Index is included in this *Bulletin*.

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