

# UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT  
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Kimberly K. Hood, Executive Director  
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Division of Administrative Rules, Salt Lake City 84114

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## NOTICES OF PROPOSED RULES

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A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between March 15, 2008, 12:00 a.m., and April 1, 2008, 11:59 p.m. are included in this, the April 15, 2008, issue of the *Utah State Bulletin*.

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

Following the RULE ANALYSIS, the text of the PROPOSED RULE is usually printed. New rules or additions made to existing rules are underlined (e.g., example). Deletions made to existing rules are struck out with brackets surrounding them (e.g., [~~example~~]). Rules being repealed are completely struck out. A row of dots in the text between paragraphs (. . . . .) indicates that unaffected text from within a section was removed to conserve space. Unaffected sections are not printed. If a PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of each rule that is too long to print is available from the filing agency or from the Division of Administrative Rules.

The law requires that an agency accept public comment on PROPOSED RULES published in this issue of the *Utah State Bulletin* until at least May 15, 2008. 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 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 August 13, 2008, the agency may notify the Division of Administrative Rules that it wants to make the PROPOSED RULE effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a CHANGE IN PROPOSED RULE in response to comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing lapses and the agency must start the process over.

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

PROPOSED RULES are governed by Section 63-46a-4; and Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5, R15-4-9, and R15-4-10.

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**The Proposed Rules Begin on the Following Page.**

**Administrative Services, Facilities  
Construction and Management  
R23-2  
Procurement of Architect-Engineer  
Services**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 31098

FILED: 04/01/2008, 12:08

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Section R23-2-20 is being amended to increase the small purchases limits authorized for the procurement of architectural and engineering services. Other technical corrections and housekeeping changes are being made for clarification and consistency throughout the rule.

**SUMMARY OF THE RULE OR CHANGE:** Section R23-2-20 is being amended to increase the small purchases limits authorized for the procurement of architectural and engineering services. The increase to the small purchase limits will allow the Division of Facilities Construction and Management (DFCM) to issue direct award contracts to architects or engineers when the fee is less than \$100,000 or the construction cost of the project is less than \$1,500,000. Other changes are being made for clarification and consistency, and to make corrections to the cited authorized and interpreted laws.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Sections 63A-5-103 et seq. and 63-2-101 et seq., and Subsection 63-56-208(2)

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** The amendments to this rule provide an increase to the small purchases limits. The increased limits will allow DFCM to issue direct award contracts to architects or engineers provided the fees, negotiated in accordance with DFCM's fee schedule, are less than the small purchases' limits. Selection will not be required and contract costs will not increase. Other changes being made are for clarification and consistency and do not result in any anticipated cost or savings impact. Therefore, DFCM determines that there are no cost or savings impact as result of these amendments.

❖ **LOCAL GOVERNMENTS:** The amendments to this rule do 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 require services from local governments.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** The amendments to this rule provide an increase to the small purchases limits, and makes technical corrections, clarifications, and housekeeping changes. The amendments do not impose any additional requirements on persons, nor generate a cost or saving impact to other persons.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The amendments to this rule provide an increase to the small purchases limits to allow DFCM to issue direct award contracts to architects or engineers, and make technical corrections, clarifications, and housekeeping changes. DFCM determines that there are no compliance costs for affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The amendments to this rule provide an increase to the small purchases limits. The increased limits will allow DFCM to issue direct award contracts to architects or engineers provided the fees, negotiated in accordance with DFCM's fee schedule, are less than the small purchases' limits. Other changes are for clarification and housekeeping. Therefore, the amendments to this rule do not create an impact on businesses. Kimberly Hood, Executive Director

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

**ADMINISTRATIVE SERVICES  
FACILITIES CONSTRUCTION AND MANAGEMENT  
Room 4110 STATE OFFICE BLDG  
450 N MAIN ST  
SALT LAKE CITY UT 84114-1201, or  
at the Division of Administrative Rules.**

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

Debbie Merrill, Priscilla Anderson, or Alan Bachman at the above address, by phone at 801-538-3240, 801-538-9595, or 801-538-3105, by FAX at 801-538-3313, 801-538-3378, or 801-538-3313, or by Internet E-mail at [debramerill@utah.gov](mailto:debramerill@utah.gov), [phanderson@utah.gov](mailto:phanderson@utah.gov), or [abachman@utah.gov](mailto:abachman@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 05/22/2008

AUTHORIZED BY: D. Gregg Buxton, Director

**R23. Administrative Services, Facilities Construction and Management.**

**R23-2. Procurement of Architect-Engineer Services.**

**R23-2-2. Definitions.**

(1) Except as otherwise stated in this rule, terms used in this rule are defined in Section 63-56-105.

(2) The following additional terms are defined for this rule.

(a) "Board" means the State Building Board established pursuant to Section 63A-5-101.

(b) "Director" means the Director of the Division, including, unless otherwise stated, his duly authorized designee.

(c) "Division" means the Division of Facilities Construction and Management established pursuant to Section 63A-5-201.

(d) "Public Notice" means the notice that is publicized pursuant to this rule to notify architects ~~and~~ or engineers of Solicitations.



(e) "Record" shall have the meaning defined in Section 63-2-103 of the Government Records Access and Management Act (GRAMA).

(f) "Solicitations" means all documents, whether attached or incorporated by reference, used for soliciting information from architects ~~and~~ or engineers seeking to provide architect-engineer services to the Division.

(g) "State" means the State of Utah.

(h) "Using Agency" means any state agency or any political subdivision of the state which utilizes the services procured under this rule.

**R23-2-3. Register of Architectural~~/~~ or Engineering Firms.**

(1) Architects ~~and~~ or engineers interested in being considered for architect-engineer services procured by the Division under Section R23-2-19 may submit an annual statement of qualifications and performance data.

(2) The Division shall maintain a file of information submitted under Subsection (1).

(3) Except for services procured under Sections R23-2-17 and R23-2-19, an updated or project specific statement of qualifications shall generally be required in order to be considered in procurements of services for a specific project as provided in the solicitation.

**R23-2-5. Submittal Preparation Time.**

Submittal preparation time is the period of time between the date of first publication of the public notice, and the date and time set for the receipt of submittals by the Division. In each case, the submittal preparation time shall be set to provide architects ~~and~~ or engineers a reasonable time to prepare their submittals. The time between the first publication of the public notice and the earlier of the first required submittal of information or any mandatory meeting shall be not less than ten calendar days, unless a shorter time is deemed necessary for a particular procurement as determined, in writing, by the Director.

**R23-2-7. Addenda to Solicitations.**

Addenda to the solicitation may be made in the same manner provided for addenda to the bidding documents in connection with Invitations for Bids set forth in Subsection R23-1-5(6), except that addenda may be issued until the selection of an architect or engineer is completed.

**R23-2-8. Modification or Withdrawal of Submittals.**

(1) Submittals may be modified prior to the due dates established in the solicitation.

(2) Architects ~~and~~ or engineers may withdraw from consideration until a contract is executed.

**R23-2-10. Receipt and Registration of Submittals.**

After the date established for the first submittal of information, a register of submitting architects ~~and~~ or engineers shall be prepared and open to public inspection. Prior to award, submittals and modifications shall be shown only to procurement officials and other persons involved with the review and selection process, who shall adhere to the requirements of GRAMA and this rule.

**R23-2-11. Disclosure of Submittals, Performance Evaluations, and References.**

(1) Except as provided in this rule, submittals shall be open to public inspection after notice of the selection results.

(2) The classification of records as protected and the treatment of such records shall be as provided in Section R23-1-35.

(3) The Board finds that it is necessary to maintain the confidentiality of performance evaluations and reference information in order to avoid competitive injury and to encourage those persons providing the information to respond in an open and honest manner without fear of retribution. Accordingly, records containing performance evaluations and reference information are classified as protected records under the provisions of Subsection 63-2-304(6) and shall be disclosed only to those persons involved with the performance evaluation, the architect~~-~~ or engineer that the information addresses and persons involved with the review and selection of submittals. The Division may, however, provide reference information to other governmental entities for use in their procurement activities and to other parties when requested by the architect~~-~~ or engineer that is the subject of the information. Any other disclosure of such performance evaluations and reference information shall only be as required by applicable law.

**R23-2-12. Selection Committee.**

(1) The Board delegates to the director the authority to appoint a selection committee, which may include representatives of the Board, the Division, the using agency, and architects~~-~~ or engineers and~~others of~~ the general public.

(2) Each member of the selection committee shall certify as to his lack of conflicts of interest.

**R23-2-13. Evaluation and Ranking.**

(1) The selection committee shall evaluate the relative competence and qualifications of architects ~~and~~ or engineers who submit the required information.

(2) The evaluation shall be based on evaluation factors set forth in the solicitation and may include:

- (a) past performance and references;
- (b) qualifications and experience of the firm and key individuals;
- (c) plans for managing and avoiding project risks;
- (d) interviews; and
- (e) other factors that indicate the relevant competence and qualifications of the architect~~-~~ or engineer and the architect~~-~~ or engineer's ability to satisfactorily provide the desired services.

(3) The evaluation may be conducted in two phases with the first phase identifying no less than the top three ranked firms to be evaluated further in the second phase unless less than three firms are competing for the contract.

(4) Numerical rating systems may be used but are not required.

(5) The evaluation committee shall rank at least the top three firms.

**R23-2-16. Role of the Board.**

(1) The Board has the responsibility to establish and monitor the selection process. It must verify the acceptability of the procedure and make changes in procedure as determined necessary by the Board.

(2) At each regular meeting of the Board, the Division shall submit a list of all architect~~/~~ or engineer services contracts entered into since its previous report and the method of selection used. This shall be for the information of the Board.

**R23-2-17. Performance Evaluation.**

(1) The Division shall evaluate the performance of the architectural~~[/]~~or engineering firm and shall provide an opportunity for the using agency to comment on the Division's evaluation.

(2) This evaluation shall become a part of the record of that architectural~~[/]~~or engineering firm within the Division. The architectural~~[/]~~or engineering firm shall be provided a copy of its evaluation at the end of the project and may enter its response in the file.

(3) Confidentiality of the evaluation information shall be addressed as provided in Subsection R23-2-11(3).

**R23-2-19. Direct Awards.**

(1) The Director may award a contract to an architectural~~[/]~~or engineering firm without following the procedures of this rule if:

(a) The contract is for a project which is integrally related to, or an extension of, a project which was previously awarded to the architectural~~[/]~~or engineering firm;

(b) The architectural~~[/]~~or engineering firm performed satisfactorily on the related project; and

(c) The Director determines that the direct award is in the best interests of the State.

(2) The Director shall place written documentation of the reasons for the direct award in the project file and shall report the action to the Board at its next meeting.

**R23-2-20. Small Purchases.**

(1) If the Director determines that ~~[the]architect-engineer services[-of architects and engineers]~~ can be procured for less than ~~[\$50,000,]100,000~~, or if the estimated construction cost of the project is less than ~~[\$500,000,]1,500,000~~, the procedures contained in Subsection (2) may be used.

(2) The Director shall select a qualified firm and attempt to negotiate a contract for the required services at a fair and reasonable price. The qualified firm may be, but is not required to be, selected from the register of architectural ~~[and]or~~ engineering firms provided for in Section R23-2-3. If, after negotiations on price, the parties cannot agree upon a price that, in the Director's judgment, is fair and reasonable, negotiations shall be terminated with that firm and negotiations begun with another qualified firm. This process shall continue until a contract is negotiated at a fair and reasonable price.

**KEY: procurement, architects, engineers**

**Date of Enactment or Last Substantive Amendment:** ~~[June 1, 2006]2008~~

**Notice of Continuation:** December 23, 2004

**Authorizing, and Implemented or Interpreted Law:** 63A-5-103 et seq.; 63-2-101 et seq.; 63-56-~~[4]208(2)~~



Agriculture and Food, Conservation and  
Resource Management  
**R64-2**  
Utah Conservation Commission  
Electronic Meetings

**NOTICE OF PROPOSED RULE**

(New Rule)

DAR FILE No.: 31079

FILED: 03/27/2008, 10:45

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this rule is to comply with the Utah Open and Public Meetings law (Section 52-4-207) so the Utah Conservation commission can hold electronic meetings.

**SUMMARY OF THE RULE OR CHANGE:** The proposed new rule provides for notice requirements regarding electronic meetings held by the commission. It also provides for a default anchor location for electronic meetings.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 52-4-207

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** There would be a \$5,200 savings. There are 16 members of the commission, 10 citizen members from various parts of the state whose travel costs are reimbursed by state funds, 6 separate state and 1 county natural resource related agency member with approximately 5 state agency staff that participate in meetings, most agency members and staff are headquartered in Salt Lake City. The current estimate is to have two electronic meetings per fiscal year with anchor location in Salt Lake City that will replace two in-person meetings. An estimate of travel costs savings for both citizen and state employees is \$3,000 per meeting, less estimate \$400 for state electronic computer and phone aided audio/visual equipment consultant and use costs, or \$2,600 per meeting, or \$5,200 for the two meetings.

❖ **LOCAL GOVERNMENTS:** There would be a \$500 savings. One of the ex officio commission members is a county employee. The current member is from Grand County and an estimate of travel time and expense saved by not having to go to a meeting in Salt Lake City is \$500.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** There would be a \$2,160 savings. Nine of the ten citizens members are agricultural enterprise owners who are not paid for their travel time to Salt Lake City or other cities where in-person meetings are held. It is estimated that the average round trip travel time for these members is 4 hours per member or 36 hours per meeting, time which these individuals do not have to spend traveling if electronic meetings are held. An estimated labor value rate per person of these individuals is \$30 per hour, or \$1,080 per meeting, or \$2,160 for the two meetings per fiscal year. There may be additional savings to the media and public that might have attended commission meetings. Utah small businesses will experience \$4,000 in lost income because participants in two electronic meetings means members and staff do not have to travel. There will be a loss of business by travel-related businesses that is estimated at \$4,000.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There would likely be little or no additional compliance costs for a person to participate in a commission's electronic meeting since the person would likely already have access to existing phone and

high speed Internet connection. Some participants with inadequate computer equipment or connection may have to travel to a location with adequate equipment or purchase such equipment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be a positive impact on citizen members of the commission who will no longer have to lose production time from their businesses traveling to meetings. There may be some negative financial impacts on travel-related small businesses due to less travel. Leonard M. Blackham, Commissioner

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

George S Hopkin or Kathleen Mathews at the above address, by phone at 801-538-7177 or 801-538-7103, by FAX at 801-538-9436 or 801-538-7126, or by Internet E-mail at ghopkin@utah.gov or kmathews@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 05/22/2008

AUTHORIZED BY: Leonard M. Blackham, Commissioner

**R64. Agriculture and Food, Conservation and Resource Management.**

**R64-2. Utah Conservation Commission Proposed Electronic Meetings.**

**R64-2-1. Authority and Purpose.**

(1) Purpose. Utah Code Section 52-4-207 requires any public body that convenes or conducts an electronic meeting to establish written procedures for such meetings. This rule establishes procedures for conducting commission meetings by electronic means.

(2) Authority. This rule is enacted under the authority of Sections 52-4-207, 63-46a-3 and 4-18-5,2d.

(3) Procedure. The following provisions govern any meeting at which one or more commissioners appear telephonically or electronically pursuant to Utah Code Section 52-4-207:

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

(b) Notice of the meeting and the agenda shall be posted at the anchor location. Written or electronic notice shall also be provided

to at least one newspaper of general circulation within the state and to a local media correspondent. These notices shall be provided at least 24 hours before the meetings.

(c) Notice of the possibility of an electronic meeting shall be given to the commission members at least 24 hours before the meeting. In addition, the notice shall describe how a commission member may participate in the meeting electronically or telephonically.

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

(e) The anchor location, unless otherwise designated in the notice, shall be at the offices of the Department of Agriculture and Food, 350 N Redwood Road, Salt Lake City, Utah. The anchor location is the physical location from which the electronic meeting originates or from which the participants are connected. In addition, the anchor location shall have space and facilities so that interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

**KEY: electronic meetings**

**Date of Enactment or Last Substantive Amendment: 2008**

**Authorizing, and Implemented or Interpreted Law: 52-4-207**

◆ ————— ◆

**Health, Epidemiology and Laboratory  
Services, Epidemiology  
R386-702-12  
Official References**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE No.: 31099

FILED: 04/01/2008, 12:37

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change updates the incorporated rabies treatment standard to the 2008 version established by the National Association of State Public Health Veterinarians.

SUMMARY OF THE RULE OR CHANGE: The updated incorporation includes both the 2007 and 2008 revisions for the prevention and control of rabies. The new standard includes changes to the treatment and use of tissues and products from livestock exposed to rabies and clarifications on isolation and adverse events.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 26-1-30 and 26-6-3, and Title 26, Chapter 23b

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: The National Association of State Public Health Veterinarians, Inc. "Compendium of Animal Rabies Prevention and Control, 2008"

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The new standards do not pose a quantifiable impact on state government. While the compendium makes several changes, the implementation of the new compendium is no more costly than the implementation of the prior compendium.

❖ LOCAL GOVERNMENTS: While the compendium makes several changes, they do not change any of the duties or responsibilities imposed on local governments. Therefore, there is no cost or savings impact.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The exposures to livestock in the state are rare, so an annual impact is difficult to determine. There may be some impacts on small businesses and other persons because of increased barrier requirements, increased disposal costs, and loss of product, but the cost is difficult to quantify because Utah has not experienced a livestock rabies exposure in the past 15 years. The new compendium does not increase the cost to persons other than businesses. While the compendium makes several changes, the implementation of the new compendium is no more costly than the implementation of the prior compendium.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Costs to any single affected business because of the change are difficult to quantify because of the low incidence of rabies in Utah. Costs to individuals and government entities are negligible because the implementation of the new compendium for them is no more costly than the implementation of the prior compendium.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Fiscal impact on business is expected to be very small, especially since no livestock rabies exposure has occurred for many years. The need for protection justifies the costs if an exposure were to occur. David N. Sundwall, MD, Executive Director

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

HEALTH  
EPIDEMIOLOGY AND LABORATORY SERVICES,  
EPIDEMIOLOGY  
CANNON HEALTH BLDG  
288 N 1460 W  
SALT LAKE CITY UT 84116-3231, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Robert T Rolfs at the above address, by phone at 801-538-6191, by FAX at 801-538-9923, or by Internet E-mail at rolfs@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 05/22/2008

AUTHORIZED BY: David N. Sundwall, Executive Director

**R386. Health, Community Health Services, Epidemiology.  
R386-702. Communicable Disease Rule.**

**R386-702-12. Official References.**

All treatment and management of individuals and animals who have or are suspected of having a communicable or infectious disease that must be reported pursuant to this rule shall comply with the following documents, which are adopted and incorporated by reference:

(1) American Public Health Association. "Control of Communicable Diseases Manual". 18th ed., Heymann, David L., editor, 2004.

(2) Centers for Disease Control and Prevention. Recommendation of the Immunization Practices Advisory Committee (ACIP): Human rabies Prevention - United States, 1999. "Morbidity and Mortality Weekly Report." 1999; 48: RR-1, 1-21.

(3) The National Association of State Public Health Veterinarians, Inc., [~~"Compendium of Animal Rabies Prevention and Control, 2006, Part II"~~]"Compendium of Animal Rabies Prevention and Control, 2008."]

(4) American Academy of Pediatrics. "Red Book: 2003 Report of the Committee on Infectious Diseases" 26th Edition. Elk Grove Village, IL, American Academy of Pediatrics; 2003.

**KEY: communicable diseases, rules and procedures, quarantine, rabies**

**Date of Enactment or Last Substantive Amendment:** [~~May 24, 2007~~]**2008**

**Notice of Continuation:** March 22, 2007

**Authorizing, and Implemented or Interpreted Law:** 26-1-30; 26-6-3; 26-23b



Health, Epidemiology and Laboratory  
Services, Environmental Services

**R392-302**

Design, Construction, and Operation of  
Public Pools

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 31097

FILED: 04/01/2008, 11:23

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The changes are proposed to control Cryptosporidiosis. They are made in response to a final epidemiology report regarding an outbreak of Cryptosporidiosis in August of 2007. The change to the drain cover requirement is made because large drain covers are not commercially available that meet the existing drain cover certification requirements.

**SUMMARY OF THE RULE OR CHANGE:** The following additions have been made: 1) a definition of a cleansing shower has been added; 2) a requirement for operators to follow The Centers for Disease Control Fecal Accident Response Recommendations; 3) a requirement prohibiting swimmers from swimming if they have diarrhea, or have had diarrhea within the last two weeks; 4) a requirement for young children and those who cannot control evacuative bodily functions to wear swim diapers or waterproof swimwear; 5) requirements pool operators must follow in response to the Department of Health issuance of Cryptosporidiosis "Watches" and "Warnings"; 6) modifications to the requirement for drain covers that are less than 24 inches by 24 inches to meet the cited ANSI/ASME standard rather than requiring a listing by a laboratory that has tested the drain cover using the ANSI/ASME standard; 7) a requirement to provide soap for patrons in the shower area, in addition to lavatories; and 8) the drain cover requirement is relaxed to allow large drain covers that meet the standard but that have not been independently certified to meet the standard.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 26-15-2

**THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL:** Centers for Disease Control and Prevention: Notice to Readers--Responding to Fecal Accidents in Disinfected Swimming Venues. Morbidity Mortality Weekly Report, May 25, 2001, Volume 50, pages 416-417; Centers for Disease Control and Prevention: Notice to Readers--Revised Guidance for Responding to Fecal Accidents in Disinfected Swimming Venues. Morbidity Mortality Weekly Report, February 15, 2008, Volume 57, pages 151-152; American National Standards Institute, ANSI Z535.1-2002, American National Standards For Environmental and Facility Safety Signs, November 7, 2002; and NSF International Standard/American National Standard, NSF/ANSI 50 - 2007, Circulation system components and related materials for swimming pools, spas / hot tubs, April 3, 2007

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** There will be costs to write and implement the proposed change in the rule but these costs will be covered by existing budgets.

❖ **LOCAL GOVERNMENTS:** There will be increased costs to local governments who own and operate pools to follow these new requirements. There are 2,726 public pools in the state. There are approximately 270 government-owned pools, and the balance are privately owned. Soap and soap dispensers in shower areas: it is not known how many soap dispensers are already provided by government pool operators, therefore, an accurate estimate cannot be done for the additional cost. However, soap dispensers cost approximately \$15 each. If each large government owned pool had to add eight dispensers, then the aggregate governmental cost would be \$32,400, plus labor costs to install, and the ongoing cost of providing soap. Cost for required signage: each pool would need to add one sign. Assuming signs cost approximately \$40 each, the aggregate cost would be \$10,800. However, the costs of the signs can be highly variable. Cost to

purchase additional pool chemicals if an outbreak occurs: this is a "soft" cost, dependent upon occurrence. This will be an additional cost, but because this factor is affected by a diverse number of variables (method followed, pool size, type of chemical, and duration), a cost that would be meaningful cannot be estimated. The change to the drain cover requirements may result in a cost-savings for some pools not yet constructed. However, the amount is highly dependent on the design of each individual pool.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** There are approximately 2,456 privately owned pools in the state. The Department of Health does not track which of those pools are operated by small businesses with less than 50 employees, but estimates that most fall into that category. There will be increased costs to follow the new requirements. Soap and soap dispensers in shower areas: the number of soap dispensers already provided by private pool operators is not known, therefore, an accurate estimate of the additional cost cannot be done. However, soap dispensers cost approximately \$15 each. If each pool had to add two dispensers, then the aggregate cost would be \$73,680, plus labor costs to install, and the ongoing cost of providing soap. Cost for required signage: each pool would need to add one sign. Assuming signs cost approximately \$40 each, the aggregate cost would be \$98,240. However, the costs of the signs can be highly variable. Cost to purchase additional pool chemicals, if an outbreak occurs: this is a "soft" cost, dependent upon occurrence. This will be an additional cost, but because this factor is affected by a diverse number of variables (method followed, pool size, type of chemical, and duration), a cost that would be meaningful cannot be estimated. Swimming diapers for patrons: swimming diapers cost approximately \$3 each. The total number of patrons of swimming pools requiring swim diapers is not known, therefore, cannot be estimated. The change to the drain cover requirements may result in a cost-savings for some pools not yet constructed. However, the amount is highly dependent on the design of each individual pool.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are approximately 2,726 pools in the state. There will be increased costs to follow the new requirements. Soap and soap dispensers in shower areas: the number of soap dispensers already provided by private pool operators is not known, therefore, an accurate estimate of the additional number/per individual that will be required cannot be done. However, soap dispensers cost approximately \$15 each, plus installation and the ongoing cost of providing soap. Cost for required signage: each pool would need to add one sign. Signs cost approximately \$40 each. Cost to purchase additional pool chemicals if an outbreak occurs: this is a "soft" cost, dependent upon occurrence. This will be an additional cost, but because this factor is affected by a diverse number of variables (method followed, pool size, type of chemical, and duration), a cost that would be meaningful cannot be estimated. Swim diapers: the cost would be \$3 each.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The analysis of the costs listed above is correct. There will be a necessary fiscal impact on business. Public confidence in the safety of using public pools

and stopping the spread of disease justifies those costs.  
David N. Sundwall, MD, Executive Director

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

HEALTH  
EPIDEMIOLOGY AND LABORATORY SERVICES,  
ENVIRONMENTAL SERVICES  
CANNON HEALTH BLDG  
288 N 1460 W  
SALT LAKE CITY UT 84116-3231, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ronald Marsden at the above address, by phone at 801-538-6191, by FAX at 801-538-6564, or by Internet E-mail at rmarsden@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 05/22/2008

AUTHORIZED BY: David N. Sundwall, Executive Director

### **R392. Health, Epidemiology and Laboratory Services, Environmental Services.**

#### **R392-302. Design, Construction and Operation of Public Pools.**

##### **R392-302-2. Definitions.**

The following definitions apply in this rule.

(1) "Bather Area" means any area normally occupied by bathers as they participate in bathing activities. Bather areas include pools, decks, slides, and dressing rooms.

(2) "Bather Load" means the number of persons using a pool at any one time or specified period of time.

(3) "Cleansing shower" means the cleaning of the entire body surfaces with soap and water to remove any matter, including fecal matter, that may wash off into the pool while swimming.

(3)4 "Department" means the Utah Department of Health.

(4)5 "Diver area" means the area of a pool that is designed, operated, and reserved around each diving board or platform.

(5)6 "Executive Director" means the Executive Director of the Utah Department of Health, or his designated representative.

(6)7 "Facility" means any premises, building, pool, equipment, system, and appurtenance which appertains to the operation of a public pool.

(7)8 "Float Tank or Relaxation Tank" means a tank containing skin-temperature salt water that is designed to provide for solitary body floatation upon or within the water.

(8)9 "High Bather Load" means 90% or greater of the designed maximum bather load."

(9)10 "Hydrotherapy Pool" means a pool designed primarily for medically prescribed therapeutic use.

(10)11 "Illuminance Uniformity" means the ratio between the brightest illuminance falling on a surface compared to the lowest illuminance falling on a surface within an area. The value of illuminance falling on a surface is measured in foot candles.

(11)12 "Lamp Lumens" means the quantity of light, illuminance, produced by a lamp.

(12)13 "Lifeguard" means an attendant who supervises the safety of bathers.

(13)14 "Living Unit" means one or more rooms or spaces that are, or can be, occupied by an individual, group of individuals, or a family, temporarily or permanently for residential or overnight lodging purposes. Living units include motel and hotel rooms, condominium units, travel trailers, recreational vehicles, mobile homes, single family homes, and individual units in a multiple unit housing complex.

(14)15 "Local Health Officer" means the health officer of the local health department having jurisdiction, or his designated representative.

(15)16 "Non-swimmer area" means each area of a pool with water 5 feet, 1.52 meters, or less in depth.

(16)17 "Pool" means a man-made basin, chamber, receptacle, tank, or tub which, when filled with water, creates an artificial body of water used for swimming, bathing, diving, recreational and therapeutic uses.

(17)18 "Pool Deck" means the area contiguous to the outside of the pool curb, diving boards, diving towers and slides.

(18)19 "Private Residential Pool" means a swimming pool, spa pool or wading pool used only by an individual, family, or living unit members and guests, but not serving any type of multiple unit housing complex of four or more living units.

(19)20 "Public Pool" means a swimming pool, spa pool, wading pool, or special purpose pool facility which is not a private residential pool."

(20)21 "Saturation Index" means a value determined by application of the formula for calculating the saturation index in Table 5, which is based on interrelation of temperature, calcium hardness, total alkalinity and pH which indicates if the pool water is corrosive, scale forming or neutral.

(21)22 "Spa Pool" means a pool which uses therapy jet circulation, hot water, cold water, bubbles produced by air induction, or any combination of these, to impart a massaging effect upon a bather. Spa pools include, spas, whirlpools, hot tubs, or hot spas.

(22)23 "Special Purpose Pool" means a pool with design and operational features that provide patrons recreational, instructional, or therapeutic activities which are different from that associated with a pool used primarily for swimming, diving, or spa bathing.

(23)24 "Splash Pool" means the area of water located at the terminus of a water slide or vehicle slide.

(24)25 "Swimmer area" means each area of a pool with water over 5 feet, 1.52 meters, in depth, which is not designed, operated, or reserved as a diver area.

(25)26 "Swimming Pool" means a pool used primarily for recreational, sporting, or instructional purposes in bathing, swimming, or diving activities.

(26)27 "Surge Tank" means a tank receiving the gravity flow from an overflow gutter and main drain or drains from which the circulation pump takes water which is returned to the system.

(27)28 "Turnover" means the circulation of a quantity of water equal to the pool volume through the filter and treatment facilities.

(28)29 "Vehicle Slide" means a recreational pool where bathers ride vehicles, toboggans, sleds, etc., down a slide to descend into a splash pool.

(29)30 "Wading Pool" means any pool or pool area used or designed to be used by children five years of age or younger for wading or water play activities.

(~~30~~31) "Water play activity" means play associated with or facilitated by playground type equipment or recreational features and incorporates water as part of its designed function. Water play does not include swimming, diving, waterslides as described in R392-302-31, or organized sports, or instruction of these activities.

(~~31~~32) "Water Slide" means a recreational facility consisting of flumes upon which bathers descend into a splash pool.

#### **R392-302-6. Construction Materials.**

(1) Each public pool and the appurtenances necessary for its proper function and operation must be constructed of materials [~~which~~that] are inert, non-toxic to humans, impervious, enduring over time, and resist[s] the [~~a~~]effects of wear and deterioration from chemical, physical, radiological, and mechanical actions.

(2) Construction of a public pool must withstand the stresses associated with the normal uses for which the public pool was designed.

(3) Each pool shell must be bonded to the supporting members.

(4) Each pool shell must be designed and constructed in a manner that provides a smooth, easily cleanable surface.

(5) Except for spa pools, the pool shell surface must be of a white or light pastel color.

(6) Sand, clay, or earth bottoms are prohibited.

(7) Vinyl or other flexible liners are prohibited.

(8) The pool shell surface coatings and textures, including flexible coating materials of at least 60 mils in thickness, may be used if they are bonded to a pool shell that is constructed as provided in Subsections R392-302-6(1), (2) and (3).

(a) The coatings must provide a smooth surface that is easily cleanable.

(b) The coatings must be slip resistant.

(9) The pool shell surfaces must be free of cracks or open joints with the exception of structural expansion joints.

(10) A pool shell constructed of materials other than concrete must:

(a) be listed by the International Association of Plumbing and Mechanical Officials (IAPMO) and the spa or other pool basin or tub shall bear the IAPMO logo; or

(b) meet construction and material standards that are equivalent to IAPMO's.

#### **R392-302-18. Outlets.**

(1) Each pool shall have a minimum of either two grated outlets, two anti-entrapment outlets, or two anti-vortex type outlets that meet the following design criteria:

(a) Outlets shall have a suitable protective grate or cover securely fastened in such a way that the use of tools is required to remove it. A pool shall not operate with broken, damaged or missing drain grates or covers. Protective grates or covers smaller than 24 inches by 24 inches, 61 centimeters by 61 centimeters, shall [be listed by a nationally recognized testing laboratory in accordance with] meet the requirements of ASME/ANSI A112.19.8M.

(b) The outlets must be constructed so that if one of the outlets is completely obstructed, the remaining outlet(s) will be capable of handling 100 percent of the maximum design circulation flow.

(c) All pool outlets must connect to pipes of equal diameter.

(d) The outlet system must not allow any outlet to be cut out of the suction line by a valve or other means.

(e) The outlets centered in the deepest area of the pool must permit the pool to be completely and easily emptied.

(f) There must be one main drain outlet for each 30 feet, 9.14 meters, of pool width. To prevent body entrapment, multiple main drain outlets shall not be spaced more than 30 feet, 9.14 meters, apart nor spaced closer than 4 feet, 1.22 meters, apart. The outermost main drain outlets must be located within 15 feet, 4.57 meters, from a side wall.

(g) If an outlet discharge pipe is 8 inches, 20.32 centimeters, or greater in diameter it shall have an additional device that shall prevent the passage of a sphere greater than 6 inches, 15.24 centimeters, in diameter. Such a device shall be designed by the designing architect or engineer and may not alter the required flow design characteristics.

(h) Devices or methods used for draining pools shall prevent overcharging the sanitary sewer.

(i) Multiple pumps may utilize the same outlets only if the outlets are sized to accommodate 100 percent of the total combined design flow from all pumps and only if the flow characteristics of the system meet the requirements of subsection R392-302-18(2)(a) or (3)(a).

(j) No feature or circulation pump shall be connected to less than two outlets unless connected to an anti-entrapment outlet system that the operator demonstrates to the Department as being effective in preventing entrapment.

#### **(2) Grated Outlets.**

(a) The designing architect or engineer shall ensure that outlet grate openings in the floor of the pool are at least four times the area of discharge or provide sufficient area so the maximum velocity of the water passing through the grate will not exceed 1.5 feet per second.

(b) The openings in a grate shall have a minimum width of 0.25 inches, 0.635 centimeters, and a maximum length of 1.5 inches, 3.81 centimeters. A grate opening that is neither square nor rectangular in shape, may not be greater than 0.75 inches, 1.905 centimeters., measured in any dimension along the exposed surface of the grate.

#### **(3) Anti-vortex or anti-entrapment drains.**

The total velocity of water through the open area of an anti-vortex or anti-entrapment drain shall not exceed the manufacturer's recommended maximum velocity or a maximum of three feet per second through the open area of the drain, whichever is more restrictive.

(4) Spa pool outlets shall meet all of the requirements of subsections R392-302-18(1) through R392-302-18(3); however, the following exceptions apply:

(a) The designing architect or engineer shall ensure multiple spa outlets are spaced at least three feet apart from each other or that a third drain is provided and that the separation distance between individual outlets is at the maximum possible spacing.

(b) The department may exempt an acrylic or fiberglass spa from the requirement to locate outlets at the deepest point in the pool, if the outlets are located on side walls within three inches of the pool floor, and a wet-vacuum is available on site to remove any water left in the pool after draining.

(5) A wading pool shall have drainage to waste through a quick opening valve to facilitate emptying the wading pool should accidental bowel discharge or other contamination occur.

(6) Subsections R392-302-18(6) through R392-302-18(6)(c) supersede section R392-302-3. The pool owner or certified pool operator shall retrofit each swimming pool circulation system on existing pools that do not meet the requirements of subsections R392-302-18(1) through R392-302-18(5) by any of the following means:

(a) A vacuum switch that meets both the American Society for Testing and Materials Standard Provisional Specification for Manufactured Safety Vacuum Release Systems (SVRS) for Swimming Pools, Spas, and Hot Tubs, PS 10-03, and the requirements of

American Society of Mechanical Engineers Manufactured Safety Vacuum Release Systems for Residential and Commercial Pools, ASME A112.19.17 - 2002, which are incorporated by reference, installed on the suction side of the pump to prevent outlet entrapment. To ensure proper operation, the certified pool operator shall inspect and test the vacuum switch at least once a week but no less often than established by the manufacturer. The certified pool operator shall test the switch in a manner specified by the manufacturer. The certified pool operator shall log all inspections, tests and maintenance and retain the records for a minimum of two years for review by the Department and local health department upon request.

(b) An outlet system that includes no fewer than two suction outlets separated by no less than 4 feet, 1.22 meters, on the horizontal plane or located on two different planes and connected to pipes of equal diameter. The suction outlets shall be plumbed so water is drawn simultaneously without valves through the outlets to a common line to the pump system; or

(c) Any other system that the operator demonstrates to the Department to prevent outlet entrapment.

**R392-302-25. Toilets and Showers.**

(1) The minimum number of toilets and showers for dressing room fixtures must be based upon the designed maximum bather load. Required numbers of fixtures must be based upon 50 percent of the total number of bathers being male and 50 percent being female, except where the facility is used exclusively by one sex. The minimum number of sanitary fixtures must be in accordance with Table 4.

TABLE 4  
Sanitary Fixture Minimum Requirements

Water Closets	
Male	Female
1:1 to 25	1:1 to 25
2:26 to 75	2:26 to 75
3:76 to 125	3:76 to 125
4:126 to 200	4:126 to 200
5:201 to 300	5:201 to 300
6:301 to 400	6:301 to 400

Over 400, add one fixture for each additional 200 males or 150 females.

Where urinals are provided, one water closet less than the number specified may be provided for each urinal installed, except the number of water closets in such cases may not be reduced to less than one half of the minimum specified.

(2) Lavatories must be provided on the basis of one for each water closet up to four, then one for each two additional water closets.

(3) One shower head for each sex must be provided for each 50 bathers or fraction thereof.

(4) Potable water must be provided at all shower heads. Water heaters and thermostatically controlled mixing valves must be inaccessible to bathers and must be capable of providing 2 gallons per minute, 7.57 liters per minute, of 90 degree F. water to each shower head for each bather.

(5) Soap must be dispensed at all lavatories and showers. Soap dispensers must be constructed of metal or plastic. Use of bar soap is prohibited.

(6) Fixtures must be designed so that they may be readily cleaned. Fixtures must withstand frequent cleaning and disinfecting.

(7) At least one covered waste can must be provided in each restroom.

**R392-302-27. Disinfection and Quality of Water.**

(1) A public pool must be continuously disinfected by a process which meets all of the following requirements:

(a) Is registered with the United States Environmental Protection Agency as a disinfecting process or disinfectant product for water.

(b) Imparts a disinfectant residual which may be easily and accurately measured by a field test procedure appropriate to the disinfectant in use.

(c) Is compatible for use with other chemicals normally used in pool water treatment.

(d) Does not create harmful or deleterious physiological effects on bathers if used according to manufacturer's specifications.

(e) Does not create an undue safety hazard if handled, stored and used according to manufacturer's specifications.

(2) If the active disinfecting agent is chlorine, the unstabilized free chlorine residual, as measured by the diethyl-p-phenylene diamine, leuco crystal violet test or other test method approved by the department, must meet the concentration levels listed in Table 6 for all circumstances, bather loads, and the pH level of the water.

(3) If cyanuric acid is used to stabilize the free residual chlorine, or if one of the chlorinated isocyanurate compounds is used as the disinfecting chemical, the concentration of cyanuric acid in the water must be at least ten parts per million, but may not exceed 100 parts per million and the free residual chlorine, as measured by the diethyl-p-phenylene diamine, leuco crystal violet test or other test method approved by the department, must meet concentrations levels shown in Table 6, depending upon the pH of the water.

(4) If disinfection of the pool water is accomplished by bromine or iodine, the disinfectant must be within the ranges specified in Table 6.

(5) An easy to operate, pool side disinfectant testing kit, compatible with the disinfectant in use and accurate to within 0.2 parts per million, must be provided at each public pool. If stabilized chlorine is used, a testing kit for cyanuric acid, accurate to within 10.0 parts per million must be provided.

(a) Test kit reagents may not be used if they have exceeded their expiration dates.

(6) Circulation equipment must be operated 24 hours continuously during the operating seasons.

(7) The water must have sufficient clarity at all times so that a black disc, 6 inches, 15.24 centimeters, in diameter, is readily visible if placed on a white field at the deepest point of the pool. The facility must be closed immediately if this requirement is not met.

(8) In a public pool, the difference between the total chlorine and the free chlorine must not be greater than 0.5 parts per million as determined by the diethyl-p-phenylene diamine, leuco crystal violet tests or other test method approved by the department.

(a) If the concentration of combined residual chlorine is greater than 0.5 parts per million the pool water must be breakpoint chlorinated to oxidize and reduce the concentration of combined chlorines.

(9) A water sample must be collected from a pool at least once per month or as otherwise directed by the local health department, while it is in use, and must be submitted to a laboratory approved by the department to perform Safe Drinking Water Program testing.

(a) The laboratory shall subject the sample to the standard 35 degree Celsius heterotrophic plate count and test for coliform organisms utilizing either a membrane filter test, a multiple tube fermentation test, or a Colilert test.



(b) The testing laboratory must promptly report the results of such analysis to the local health department having jurisdiction and to the facility operator. When requested, the lab or local health department shall ~~mail~~report the results of such analysis to the Utah Department of Health.

(c) When less than two samples per month are collected and submitted for bacteriological analysis, the local health department shall conduct a follow-up inspection for each failing sample to identify the causes for the sample failure. The local health department shall conduct a follow-up within three working days following the reporting of the sample failure to the local health department.

(10) Not more than 15 percent of the samples covering a four month period of time may fail bacteriological quality standards. A seasonal or other pool in operation less than four months may only fail bacteriological quality standards with an initial pre-opening sample prior to the opening of the operating season. If a seasonal or other pool in operation less than four months in a year is sampled on a once per month basis, then failure of any bacteriological water quality sample shall require submission of a second sample within one working day after the sample report has been received.

(a) A pool water sample fails bacteriological quality standards if it:

- (i) contains more than 200 bacteria per milliliter, as determined by the standard 35 degrees Celsius heterotrophic plate count;
- (ii) shows positive test, confirmed test, for coliform organisms in any of the five 10-milliliter portions of a sample; or
- (iii) contains more than 1.0 coliform organisms per 50 ml if the membrane filter test is used; or
- (iv) indicates a positive MMO-MUG type test approved by the EPA.

(11) Pool water temperatures, excluding spas and special purpose pools, must meet the following requirements:

(a) Pool water temperatures for general use must be within the range of 82 degrees Fahrenheit, 27.8 degrees Celsius, to 86 degrees Fahrenheit, 30.0 degrees Celsius.

(b) The water in a pool dedicated primarily for swim training and high exertion activities must be within the temperature range of 78 degrees Fahrenheit, 25.6 degrees Celsius, to 82 degrees Fahrenheit, 27.8 degrees Celsius to reduce safety hazards associated with hyperthermia.

(c) The minimum water temperature for a pool is 78 degrees Fahrenheit, 25.6 degrees Celsius.

(d) The local health department may grant an exemption to the pool water temperature requirements for a special purpose pool including a cold plunge pool, but may not exempt maximum hot water temperatures for a spa pool.

(12) Total dissolved solids in a public pool may not exceed 2,500 parts per million.

(13) Total alkalinity must be with the range from 100-125 parts per million for plaster pools, 80-150 parts per million for a spa pool, and 125-150 parts per million for a painted or fiberglass pool.

(14) A calcium hardness of at least 200 parts per million must be maintained.

(15) The saturation index value of the pool water must be within the range of positive 0.3 and minus 0.3. The saturation index shall be calculated in accordance with Table 5.

TABLE 5  
CHEMICAL VALUES AND FORMULA FOR CALCULATING SATURATION INDEX

Formula for Calculating the Saturation Index:  $SI = pH + TF + CF + AF - 12.1$  where SI means saturation index, TF means temperature factor, CF means calcium factor, ppm means parts per million, deg F means degrees Fahrenheit, and AF means alkalinity factor.

Temperature		Calcium Hardness		Total Alkalinity	
deg. F	TF	ppm	CF	ppm	AF
32	0.0	5	0.3	5	0.7
37	0.1	25	1.0	25	1.4
46	0.2	50	1.3	50	1.7
53	0.3	75	1.5	75	1.9
60	0.4	100	1.6	100	2.0
66	0.5	150	1.8	150	2.2
76	0.6	200	1.9	200	2.3
84	0.7	300	2.1	300	2.5
94	0.8	400	2.2	400	2.6
105	0.9	800	2.5	800	2.9
128	1.0	1,000	2.6	1,000	3.0

If the SATURATION INDEX is 0, the water is chemically in balance.

If the INDEX is a minus value, corrosive tendencies are indicated.

If the INDEX is a positive value, scale-forming tendencies are indicated.

EXAMPLE: Assume the following factors:

pH 7.5, Temperature 80 degrees F, 19 degrees C, CalciumHardness 235  
Total Alkalinity 100

1- pH - 7.5

2- TF - 0.7

3- CF - 1.9

4- AF - 2.0

TOTAL:  $12.1 - 12.1 = 0.0$

This water is balanced.

TABLE 6  
DISINFECTANT LEVELS AND CHEMICAL PARAMETERS

	POOLS	SPAS	SPECIAL PURPOSE
Stabilized Chlorine (parts per million)			
pH 7.2 to 7.6	2.0(1)	3.0(1)	2.0(1)
pH 7.7 to 8.0	3.0(1)	5.0(1)	3.0(1)
Non-Stabilized Chlorine (parts per million)			
pH 7.2 to 7.6	1.0(1)	2.0(1)	2.0(1)
pH 7.7 to 8.0	2.0(1)	3.0(1)	3.0(1)
Bromine (parts per million)	4.0(1)	4.0(1)	4.0(1)
Iodine (parts per million)	1.0(1)	1.0(1)	1.0(1)
Ultraviolet and Hydrogen Peroxide (parts per million hydrogen peroxide)	40.0(1)	40.0(1)	40.0(1)
pH	7.2 to 7.8	7.2 to 7.8	7.2 to 7.8
Total Dissolved Solids (parts per million)	2,500	2,500	2,500
Cyanuric Acid (parts per million)	10 to 100	10 to 100	10 to 100
Maximum Temperature (degrees Fahrenheit)	105	105	105

Calcium Hardness (parts per million)	200(1)	200(1)	200(1)
Total Alkalinity (parts per million)			
Plaster Pools	100 to 125	80 to 150	100 to 125
Painted or Fiberglass Pools	125 to 150	80 to 150	125 to 150
Saturation Index (see Table 5)	Plus or Minus 0.3	Plus or Minus 0.3	Plus or Minus 0.3
Chloramines (combined chlorine residual, parts per million)	0.5	0.5	0.5

Note (1): Minimum Value

### R392-302-28. Cleaning Pools.

(1) Visible dirt on the bottom of the pool must be removed at least once every 24 hours or more frequently as needed to keep the pool free of visible dirt.

(2) The pool water surface must be cleaned as often as needed to keep the pool free of visible scum or floating matter.

(3) Pool shell surfaces, handrails, floors, walls, and ceilings of rooms enclosing pools, dressing rooms and equipment rooms, must be kept clean, sanitary, and in good repair.

(4) The operator shall respond to all discovered releases of fecal matter into a public pool in accordance with the following protocol: Centers for Disease Control and Prevention. Fecal Accident Response Recommendations for Pool Staff and Notice to Readers--Revised Guidance for Responding to Fecal Accidents in Disinfected Swimming Venues. Morbidity Mortality Weekly Report February 15, 2008 Volume 57, pages 151-152 and May 25, 2001 Volume 50, pages 416-417, which are incorporated by reference. The operator shall include in the records required in R392-302-29(2) information about all fecal matter releases into a public pool. The records shall include date, time, and where the fecal matter was discovered; whether the fecal matter was loose or solid; and the responses taken. The Local Health Officer may approve the alteration of the required Centers for Disease Control protocol for the hyperchlorination step for a loose fecal release if an operator is able to achieve a 99.9 percent kill or removal of cryptosporidium oocysts in the entire pool system by another method such as ultraviolet light, ozone, or enhanced filtration prior to allowing bathers to reenter the pool.

### R392-302-29. Supervision of Pools.

(1) Each public pool must be operated by at least one qualified operator as evidenced by a current National Swimming Pool Foundation Certified Pool Operator, CPO, certification; a National Recreation and Parks Association Aquatic Facility Operator, AFO, certification; or an equivalent certification approved by the department.

(a) Approved certifications are valid under this rule for no more than five years from the date of issue.

(b) A local health department may deny recognition of the certification of a pool operator for cause, including failure to comply with the requirements of this rule, or creating or allowing undue health or safety hazards. The local health department shall notify the department of any denials. A denial of recognition of certification is effective in the entire state. The operator may overcome the denial by obtaining a new certification from a certifying authority.

(2) The pool operator must keep written records of all information pertinent to the operation, maintenance and sanitation of each pool facility. Records must be available at the facility and be readily accessible. The pool operator must make records available to the department or the local health department having jurisdiction upon their

request. These records must include disinfectant residual in the pool water, pH and temperature of the pool water, pool circulation rate, quantities of chemicals and filter aid used, filter head loss, filter washing schedule, cleaning and disinfecting schedule for pool decks and dressing rooms, bather load, and other information required by the local health department. The pool operator must keep the records at the facility, for at least two operating seasons.

(3) The public pool owner, in consultation with the qualified operator designated in accordance with 392-302-29(1), shall develop an operation, maintenance and sanitation plan for the pool that will assure that the pool water meets the sanitation and quality standards set forth in this rule. The plan shall be in writing and available for inspection by the local health department. At a minimum the plan shall include the frequency of measurements of pool disinfectant residuals, pH and pool water temperature that will be taken. The plan shall also specify who is responsible to take and record the measurements.

(4) If the public pool water samples required in Section R392-302-27(9) fail bacteriological quality standards as defined in Section R392-302-27(10), the local health department shall require the public pool owner and qualified operator to develop an acceptable plan to correct the problem. The local health department may require more frequent water samples, additional training for the qualified operator and also may require that:

(a) The pool operator shall measure and record the level of disinfectant residuals, pH, and pool water temperature at least four times a day. If oxidation reduction potential technology is used in accordance with this rule, the pool operator may reduce water testing to once per day minimum.

(b) The pool operator shall read flow rate gauges and record the pool circulation rate at least four times a day.

(~~3~~)<sup>5</sup> Bather load must be limited if necessary to insure the safety of bathers and pool water quality as required in Section R392-302-27.

(~~4~~)<sup>6</sup> A sign must be posted in the immediate vicinity of the pool stating the location of the nearest telephone and emergency telephone numbers which shall include:

(a) Name and phone number of nearest police, fire and rescue unit;

(b) Name and phone number of nearest ambulance service;

(c) Name and phone number of nearest hospital.

(~~5~~)<sup>7</sup> If a telephone is not available at poolside, emergency telephone numbers must be provided in a form that can be taken to a telephone.

### R392-302-30. Supervision of Bathers.

(1) Access to the pool must be prohibited when the facility is not open for use.

(2) Lifeguard service must be provided at a public pool or a private pool if direct fees are charged, public funds support the operation of the pool, or if the pool is used for public uses including swimming lessons, scuba diving instruction, and aquatic competitions. If a pool is normally exempt from the requirement to provide lifeguard services, but is used for some public uses, then lifeguard services are required during the period of public use. For other pools, lifeguard service must be provided, or signs must be clearly posted indicating that lifeguard service is not provided.

(3) A lifeguard must meet each of the following:

(a) Be trained and certified by the American Red Cross, or an equivalent program as approved by the department in Standard Level First Aid, C.P.R. for professional rescuers, and Life Guarding.

(b) Be on duty at all times when the pool is open to use by bathers, except as provided in Subsection R392-302-30(2).

- (c) Have full authority to enforce all rules of safety and sanitation.
- (4) A lifeguard may not have any other duties to perform other than the supervision and safety of bathers while he or she is assigned lifeguarding duties.
- (5) Where lifeguard service is required, the number of lifeguards must be sufficient to allow for continuous supervision of all bathers, and surveillance over total pool floor areas.
- (6) Lifeguards must be relieved in the rotation of lifeguarding responsibilities at least every 15 minutes with a work break of at least 10 minutes every hour to maintain mental alertness and to prevent mental and physical fatigue.
- (7) The facility operator and staff are responsible for the enforcement of the following personal hygiene and behavior rules:
- (a) A bather using the facility must take a cleansing shower before entering the pool enclosure. A bather leaving the pool to use the toilet must take a second cleansing shower before returning to the pool enclosure.
- (b) A person having a communicable disease transmissible by water must be excluded from public pools. A person having any exposed sub-epidermal tissue, including open blisters, cuts, or other lesions may not use a public pool. A person who has or has had diarrhea within the last two weeks caused by an unknown source or from any communicable or fecal-borne disease may not enter any public pool.
- (c) Any child under three years old, any child not toilet trained, and anyone who lacks control of defecation shall wear a water resistant swim diaper and waterproof swimwear. Swim diapers and waterproof swimwear shall have waist and leg openings fitted such that they are in contact with the waist or leg around the entire circumference.
- (~~e~~d) Running, boisterous play, or rough play, except supervised water sports, ~~is~~ are prohibited.
- (~~f~~e) Easily readable placards embodying the above rules of personal hygiene and behavior must be conspicuously posted in the pool enclosure and in the dressing rooms and offices.
- (f) Diapers shall be changed only in restrooms or changing stations and shall not be changed at poolside. The person or persons who change the diaper must wash their hands thoroughly with soap before returning to the pool. The diapered person must undergo a cleansing shower before returning to the pool.
- (8) A spa pool must have an easily readable caution sign mounted adjacent to the entrance to the spa or hot tub which contains the following information:
- (a) The word "caution" centered at the top of the sign in large, bold letters at least two inches in height.
- (b) Elderly persons and those suffering from heart disease, diabetes or high blood pressure should consult a physician before using the spa pool.
- (c) Persons suffering from a communicable disease transmissible via water may not use the spa pool. Persons using prescription medications should consult a physician before using the spa.
- (d) Individuals under the influence of alcohol or other impairing chemical substances should not use the spa pool.
- (e) Bathers should not use the spa pool alone.
- (f) Pregnant women should not use the spa pool without consulting their physicians.
- (g) Persons should not spend more than 15 minutes in the spa in any one session.
- (h) Children under the age of 14 must be accompanied and supervised by at least one responsible adult over the age of 18 years, when lifeguards are not on duty.

(i) Children under the age of five years are prohibited from bathing in a spa or hot tub.

(j) Running or engaging in unsafe activities or horseplay in or around the spa pool is prohibited.

(9) Water jets and air induction ports on spa pools must be controlled by an automatic timer which limits the duration of their use to 15 minutes per each cycle of operation. The operator shall mount the timer switch in a location which requires the bather to exit the spa before the timer can be reset for another 15 minute cycle or part thereof.

**R392-302-34. Cryptosporidiosis Watches and Warnings.**

(1) The Executive Director or local health officer may issue cryptosporidiosis watches or cryptosporidiosis warnings as methods of intervention for likely or indicated outbreaks of cryptosporidiosis. The Executive Director or local health officer may issue a cryptosporidiosis watch if there is a heightened likelihood of a cryptosporidiosis outbreak. The Executive Director or local health officer may issue a cryptosporidiosis warning if there have been reports of cryptosporidiosis above the background level reported for the disease. The Executive Director or local health officer shall include the geographic area and pool type covered in the warning and may restrict certain persons from using public pools.

(2) If a cryptosporidiosis watch or a cryptosporidiosis warning has been issued, the operator of any public pool shall post a notice sign that meets the requirements of this section, the standard for "notice" signs established in ANSI Z353.2-2002, which is adopted by reference, and the approval of the local health officer to assure compliance with this section and the ANSI standard. An Adobe Acrobat .pdf version of the sign that meets the requirements of this section and the ANSI standard for 10-foot viewing is available from the Department or the local health department. The notice sign shall be placed so that all patrons are alerted to the cryptosporidium-targeted requirements prior to deciding whether to use the swimming pool. The sign shall be at least 17 inches, 43 centimeters, wide by 11 inches, 28 centimeters, high. The sign may need to be larger, depending on the placement of the sign, to meet the ANSI standard.

(a) Centered immediately below the blue panel shall appear the words "CRYPTO DISEASE PREVENTION" in capital letters.

(b) The body of the notice sign shall be in upper case letters at least 1.0 centimeters high and include the following four bulleted statements in black letters:

-All with diarrhea in the past 2 weeks shall not use the pool.

-All users must shower with soap to remove all fecal material prior to pool entry and after using the toilet or a diaper change.

-All less than 3 yrs or who wear diapers must wear a swim diaper and waterproof swimwear. Diapers may only be changed in restrooms or changing stations.

-Keep pool water out of your mouth.

(3) If a cryptosporidium warning has been issued, each operator of a public pool subject to the warning shall, at a minimum, implement the following cryptosporidium counter measures:

(a) maintain the disinfectant concentration within the range between two ppm (four ppm for bromine) and the concentration listed on the product's Environmental Protection Agency mandated label as the maximum reentry concentration, but in no case more than five ppm (10 ppm for bromine);

(b) maintain the pH between 7.2 and 7.5; and

(c) maintain the cyanuric acid level that meets the requirement of R392-302-27(3), except the maximum level shall be reduced to 30 ppm.

(4)(a) If a cryptosporidium warning has been issued, in addition to the requirements listed in R392-302-34(3), the owner or operator of a public pool shall implement any additional cryptosporidium countermeasures listed in subsection below sufficient to achieve at least a 99.9 percent destruction or removal of cryptosporidium oocysts twice weekly, except as provided in R392-302-34(4)(b).

(b) Hyperchlorination using sodium hypochlorite or calcium hypochlorite to achieve a concentration multiplied by time (CT) value of 15,300 ppm minutes. Table 7 lists examples of chlorine concentrations and time periods that may be used to achieve the required CT value. The operator shall not allow anyone to use the pool if the chlorine concentration exceeds the Environmental Protection Agency maximum reentry concentration listed on the product's label, but in no case if the concentration exceeds five ppm. The operator of any public pool not required to have a lifeguard by R392-302-30(2) shall hyperchlorinate at least once weekly.

(c) A full flow ultraviolet treatment system that meets the requirements of National Sanitation Foundation standard NSF/ANSI 50-2007, which is incorporated by reference. The owner or operator shall ensure that the system is installed and operated according to the manufacturer's recommendations. The owner or operator shall obtain from the manufacturer of the system documentation of third-party challenge testing that the system can achieve a single pass 99.9 percent inactivation of cryptosporidium or the bacteriophage MS2 at the pool design flow rate and during normal operating conditions. The owner or operator shall maintain and make available for inspection the manufacturer's documentation.

(d) An ozone treatment system that achieves a CT value of 7.4 and a flow-through rate at least four times the volume of the pool every three and a half days. The system shall meet the requirements of National Sanitation Foundation standard NSF/ANSI 50-2007, which is incorporated by reference. The owner or operator shall ensure that the system is installed and operated according to the manufacturer's recommendations.

(e) A cryptosporidium oocyst-targeted filter system installed and operated according to the manufacturer's recommendations. The filter shall meet the requirements of R392-302-20. The owner or operator shall obtain from the manufacturer of the system documentation of third-party challenge testing that the system can achieve a single pass 99 percent reduction of particles in the range of 4 to 6 microns or cryptosporidium oocysts at the pool design flow rate and normal operating conditions. The owner or operator shall maintain and make available for inspection the manufacturer's documentation.

(f) A system approved by the local health officer. The health officer's approval of a system for use as an alternative shall be based on the system's documented ability to:

- (i) achieve cryptosporidium removal or inactivation to a level at least equivalent to the requirements in R392-302-34(4)(a);
- (ii) assure safety for swimmers and pool operators; and
- (iii) comply with all other applicable rules and federal regulations.

Table 7

Chlorine Concentration and Contact Time to Achieve CT = 15,300

Chlorine Concentration	Contact Time
1.0 ppm	15,300 minutes (255 hours)
10 ppm	1,530 minutes (25.5 hours)
20 ppm	765 minutes (12.75 hours)

(5) If the Executive Director or local health officer issues a restriction on the use of public pools by certain persons as part of the cryptosporidium warning the operator shall restrict persons within that segment of the population from using the facility.

(6) If the Executive Director or local health officer determines that a pool is a cryptosporidiosis threat to public health, he may order the pool to close. The owner or operator of the pool may not reopen until the person issuing the order has rescinded it.

**KEY: pools, spas, water slides**

**Date of Enactment or Last Substantive Amendment: ~~May 31, 2007~~ 2008**

**Notice of Continuation: March 22, 2007**

**Authorizing, and Implemented or Interpreted Law: 26-15-2**



## Health, Community and Family Health Services, Immunization **R396-100-3** Required Immunizations

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31100

FILED: 04/01/2008, 12:46

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This change recognizes that the vaccinations for Hepatitis A, Hepatitis B, Varicella, and Pneumococcal disease are already recommended by the Center for Disease Control's (CDC) Advisory Committee on Immunization Practices (ACIP) and the American Academy of Pediatrics. As such, medical providers routinely provide these vaccinations. This change will match the rule to current practice.

**SUMMARY OF THE RULE OR CHANGE:** The change adds requirements for Hepatitis A, Hepatitis B, Varicella, and Pneumococcal vaccinations for early child care entry effective 07/01/2008. This changed brings the Utah immunizations requirements in line with the CDC ACIP. It also updates the incorporated materials on immunization guidelines.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 53A-11-301

**THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL:** Preventing Pneumococcal Disease Among Infants and Young Children: October 6, 2000/Vol. 49/No. RR-9

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** State vaccine funds already cover underinsured children for all of the newly required immunizations. These immunizations are already routinely given to children who receive immunizations under state programs. The department does not anticipate any additional

costs if the vaccinations for Hepatitis A, Hepatitis B, Varicella, and Pneumococcal vaccines are mandatory for enrollment into child care programs.

❖ **LOCAL GOVERNMENTS:** Publicly funded vaccines are currently provided to local health departments at no cost through the federal Vaccines for Children (VFC) program to cover children on Medicaid and the Children's Health Insurance Program (CHIP), those without insurance, or who are American Indian/Alaskan Native and those who are underinsured. Local health departments choosing to serve children with private health insurance with vaccines as a covered cost are reimbursed by contracts with insurance providers. However, the department does not anticipate that there will be a change in the number of vaccinations provided by local governments as a result of this rule change. Therefore, the department estimates that there will be no cost or savings impact because of this change.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** Physicians' offices, clinics, community health centers are all small businesses. The administration of Hepatitis A, Hepatitis B, Varicella, and Pneumococcal vaccines is recommended by ACIP and is in standard practice in medical provider offices. Most insurance plans in Utah cover all ACIP recommended vaccines. Vaccinations for underinsured children are covered by state programs. Vaccinations for uninsured children are covered by the federal VFC program. Because the department does not anticipate that the number of vaccinations will increase because of this change, the department estimates that there will be no cost or savings.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** If an individual were to pay for the immunization out-of-pocket, the vaccine costs are: \$24.50 for a two dose Hepatitis A series, \$28.50 for a three dose Hepatitis B series, \$59.15 for a single dose Varicella, and \$248.56 for a four dose Pneumococcal series. There could be additional administrative fees assessed which could be at a maximum \$14.52 per dose. Most insurance plans in Utah cover the cost of these vaccines. Costs for individuals covered by private insurance are dependent upon co-pay or deductibles charged by the insurer. If the cost of a child's vaccination is not covered by insurance, the cost is covered either by Medicaid, CHIP, or the federal VFC program.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** Some vaccines may be given on an earlier schedule consistent with medical recommendations to allow entry into day care, but the overall number of vaccines is not expected to increase as a result of this rule. Day care providers already document certain immunizations and no significant new expense is expected by the addition of these additional immunizations. David N. Sundwall, MD, Executive Director

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

HEALTH  
COMMUNITY AND FAMILY HEALTH SERVICES,  
IMMUNIZATION  
CANNON HEALTH BLDG  
288 N 1460 W

SALT LAKE CITY UT 84116-3231, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Martee Hawkins at the above address, by phone at 801-538-6298, by FAX at 801-538-9440, or by Internet E-mail at mhawkins@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 05/22/2008

AUTHORIZED BY: David N. Sundwall, Executive Director

**R396. Health, Community and Family Health Services, Immunization.**

**R396-100. Immunization Rule for Students.**

**R396-100-3. Required Immunizations.**

(1) A student born before July 1, 1993 must meet the minimum immunization requirements of the ACIP prior to school entry for the following antigens: Diphtheria, Tetanus, Pertussis, Polio, Measles, Mumps, and Rubella.

(2) A student born after July 1, 1993 must meet the minimum immunization requirements of the ACIP prior to school entry for the following antigens: Diphtheria, Tetanus, Pertussis, Polio, Measles, Mumps, Rubella, and Hepatitis B.

(3) A student born after July 1, 1993, must also meet the minimum immunization requirements of the ACIP prior to entry into the seventh grade for the following antigens: Tetanus, Diphtheria, Pertussis and Varicella.

(4) A student born after July 1, 1996 must meet the minimum immunization requirements of the ACIP prior to school entry for the following antigens: Diphtheria, Tetanus, Pertussis, Polio, Measles, Mumps, Rubella, Hepatitis B, Hepatitis A, and Varicella.

(5) To attend a Utah early childhood program, a student must meet the minimum immunization requirements of the ACIP for the following antigens: Diphtheria, Tetanus, Pertussis, Polio, Measles, Mumps, Rubella, [~~and~~] Haemophilus Influenza Type b, Hepatitis A, Hepatitis B, Pneumococcal, and Varicella vaccines prior to school entry.

(6) The vaccinations must be administered according to the recommendations of the United States Public Health Service's Advisory Committee on Immunization Practices (ACIP) as listed below which are incorporated by reference into this rule:

(a) General Recommendations on Immunization: December 1, 2006/Vol. 55/No. RR-15;

(b) Immunization of Adolescents: November 22, 1996/Vol. 45/No. RR-13;

(c) Combination Vaccines for Childhood Immunization: May 14, 1999/Vol. 48/No. RR-5;

(d) Diphtheria, Tetanus, and Pertussis: Recommendations for Vaccine Use and Other Preventive Measures: August 8, 1991/Vol. 40/No. RR-10;

(e) Pertussis Vaccination: Use of Acellular Pertussis Vaccines Among Infants and Children: March 28, 1997/Vol. 46/No. RR-7;

(f) Use of Diphtheria Toxoid-Tetanus Toxoid-Acellular Pertussis Vaccine as a Five-Dose Series: Supplemental Recommendations of

the Advisory Committee on Immunization Practices: November 17, 2000/Vol. 49/No. RR-13;

(g) Preventing Tetanus, Diphtheria, and Pertussis Among Adolescents: Use of Tetanus Toxoid, Reduced Diphtheria Toxoid and Acellular Pertussis Vaccines: March 24, 2006/Vol. 55/No. RR-3;

(h) A Comprehensive Strategy to Eliminate Transmission of Hepatitis B Virus Infection in the United States December 23, 2005/Vol. 54/No. RR-6;

(i) Haemophilus b Conjugate Vaccines for Prevention of Haemophilus influenzae Type b Disease Among Infants and Children Two Months of Age and Older: January 11, 1991/Vol. 40/No. RR-1;

(j) Recommendations for Use of Haemophilus b Conjugate Vaccines and a Combined Diphtheria, Tetanus, and Pertussis, and Haemophilus b Vaccine: September 17, 1993/Vol. 42/No. RR-13;

(k) Measles, Mumps, and Rubella-Vaccine Use and Strategies for Elimination of Measles, Rubella, and Congenital Rubella Syndrome and Control of Mumps: May 22, 1998/Vol. 47/No. RR-8;

(l) Updated Recommendations of the Advisory Committee on Immunization Practices (ACIP for the Control and Elimination of Mumps: June 9, 2006/Vol. 55/No. 22;

(m) Poliomyelitis Prevention in the United States: May 19, 2000/Vol. 49/No. RR-5;

(n) Prevention of Varicella: ~~July 12, 1996/Vol. 45/No. RR-14;~~ June 22, 2007/Vol. 56/No. RR-4;

(o) ~~Prevention of Varicella: Updated Recommendations of the Advisory Committee on Immunization Practices: May 28, 1999/Vol. 48/No. RR-6; and~~

~~(p) Prevention of Hepatitis A Through Active or Passive Immunization: May 29, 2006/Vol. 55/No. RR-7; and~~

~~(p) Preventing Pneumococcal Disease Among Infants and Young Children: October 6, 2000/Vol. 49/No. RR-9.~~

**KEY: immunizations, rules and procedures**

**Date of Enactment or Last Substantive Amendment:** ~~May 7, 2007~~ **2008**

**Notice of Continuation:** April 24, 2003

**Authorizing, and Implemented or Interpreted Law:** 53A-11-303; 53A-11-306

◆ ————— ◆

**Health, Community and Family Health  
Services, Children with Special Health  
Care Needs**

**R398-5**

**Birth Defects Reporting**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE No.: 31070

FILED: 03/21/2008, 12:15

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the proposed rule change is to expand the birth defect reporting rule to allow the Utah Birth Defect Network (UBDN) to collect information on stillbirths and genetic metabolic disorders. Adding these conditions, for which there

is no current population-based surveillance mechanism, will allow the UBDN to track prevalence rates over time, assess and identify maternal risk factors, as well as design and evaluate prevention activities. The proposed change also strengthens the language regarding community health care providers and clinics as the UBDN has had trouble securing prenatal records from these sources. The prenatal records provide key information regarding potential risk factors, as well as diagnostic methods and timing.

SUMMARY OF THE RULE OR CHANGE: This rule change expands the definition of "birth defect" to include genetic metabolic disorders and adds stillbirth as a reportable condition. This change also strengthens the language regarding community health care providers and clinics allowing UBDN staff to abstract information from the prenatal records of mothers of affected children.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 26-1-30(2)(c), (d), (e), (g), (p), (t), and 26-10-1(2), and Sections 26-10-2 and 26-25-1

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The proposed changes would slightly increase the workload of existing UBDN staff. This slight increase in workload would not warrant additional FTEs. Any increase in cost could be absorbed in the current UBDN budget allocation.

❖ LOCAL GOVERNMENTS: The proposed changes would only affect those local governments that operate hospitals. Under the proposed changes, hospitals would be required to slightly modify their current birth defect report to include still births. Under the current rule, hospitals are required to allow UBDN staff to abstract the medical records of affected children and their mothers. This would not change. However, the number of records requested would increase slightly. The UBDN anticipates that these changes would add an additional 300 new cases per year state-wide. According to a survey of 8 hospitals, it costs approximately \$1.10 to pull each record for UBDN review, meaning the total cost for all local government-operated hospitals is less than \$40 annually.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are only three types of people or businesses in this category that would be affected by the proposed changes. They are birthing centers with less than 50 employees, medical practices with less than 50 employees, and private health care providers not practicing in a group or clinic. The birthing centers would be affected in the same manner as the hospitals as documented above with an estimated cost of less than \$10 per year per facility (a maximum aggregate cost of \$20 statewide as there are only 2 birthing centers licensed in the state). The only medical practices or private care providers that would be affected are those providing obstetrical care. It is current standard of practice for an obstetric care provider to send a copy of the prenatal record to the hospital where their patients will deliver. Information within the prenatal record is vital to birth defect surveillance. Therefore, if the prenatal record is not found in the medical record at the delivery hospital, then the UBDN accesses those records through the obstetrical care provider. Each year approximately 300 of the birth hospital records reviewed by

the UBDN do not contain the prenatal records. Maintaining the estimate of \$1.10 to access a record, the aggregate cost of reviewing these records would be \$330. Combined with the cost for the birthing centers, the total aggregate cost to small businesses and persons other than businesses would be \$350.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs for affected persons, as detailed above, are estimated to be less than \$10 per affected person per year.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A very minor cost to business is expected, while the benefit of gathering this information is important to public health. David N. Sundwall, MD, Executive Director

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

HEALTH  
COMMUNITY AND FAMILY HEALTH SERVICES,  
CHILDREN WITH SPECIAL HEALTH CARE NEEDS  
44 N MEDICAL DR  
SALT LAKE CITY UT 84113, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Lyle Odendahl at the above address, by phone at 801-538-6878, by FAX at 801-538-6306, or by Internet E-mail at lyleodendahl@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 05/22/2008

AUTHORIZED BY: David N. Sundwall, Executive Director

**R398. Health, Community and Family Health Services, Children with Special Health Care Needs.**

**R398-5. Birth Defects Reporting.**

**R398-5-1. Purpose and Authority.**

This rule establishes reporting requirements for birth defects and stillbirths in Utah and for [birth defect]-related test results. Sections 26-1-30(2)(c), (d), (e), (g), (p), (t), 26-10-1(2), and 26-10-2 authorize this rule.

**R398-5-2. Definitions.**

As used in this rule:

(1) "Birthing center" means a birthing center licensed under Title 26, Chapter 21.

(2) "Birth defect" means any medical disorder of organ structure, function or biochemistry which is of possible genetic or prenatal origin. This includes any congenital anomaly or genetic metabolic disorder listed in the ICD-9-CM (International Classification of Diseases, 9th Revision, Clinical Modification, established by the United States Center for Health Statistics) with any of the following diagnostic codes: 243, 255.2, 255.4, from 269.2 to 279.9, and from

740.0 to 759.9; or listed in the ICD-10 (International Classification of Diseases, 10th Revision, established by the World Health Organization) with any of the following diagnostic codes: E03, E25, from E70 to E90, from D55 to D58, and from Q00-Q99.

(3) "Hospital" means general acute hospital, children's specialty hospital, remote-rural hospital licensed under Title 26, Chapter 21.

(4) "Stillbirth" means a pregnancy resulting in a fetal death at 20 weeks gestation or later.

(5) "Clinic" means physician-owned or operated clinic that regularly provide services for the diagnosis or treatment of birth defects, genetic counseling, or prenatal diagnostic services.

**R398-5-3. Reporting by Hospitals and Birthing Centers.**

Each hospital or birthing center that admits a patient and detects a birth defect as a result of any outcome of pregnancy, or admits a child under 24 months of age with a birth defect, or is presented with the event of a stillbirth shall report or cause to report to the department within 40 days of discharge the following:

- (1) if live born, child's name;
- (2) child's date of birth (or date of delivery);
- (3) mother's name;
- (4) mother's date of birth;
- (5) delivery hospital;
- (6) birth defects diagnoses;
- (7) mother's state of residency at delivery;
- (8) child's sex; and
- (9) mother's zip code.

**R398-5-5. Record Abstraction.**

Hospitals, ~~and~~ birthing centers, ~~and~~ clinics ~~[required to report pursuant to this rule]~~ as well as community health care providers ~~[who participate voluntarily]~~ shall allow personnel from the department or its contractors to abstract information from the mother's and child's files on their demographic characteristics, family history of birth defects, prenatal ~~[information]~~ and postnatal procedures or treatments ~~(including diagnostics)~~ related to the birth defect or stillbirth, and outcomes of that and other pregnancies by that mother.

**KEY: birth defects, birth defect reporting**

**Date of Enactment or Last Substantive Amendment: ~~[September 17, 2002]~~ 2008**

**Notice of Continuation: September 22, 2004**

**Authorizing, and Implemented or Interpreted Law: 26-1-30(2)(c), (d), (e), (g), (p), (t); 26-10-1(2); 26-10-2; 26-25-1**

◆ ————— ◆

**Health, Health Systems Improvement,  
Emergency Medical Services**

**R426-5-3**

**Trauma Center Categorization  
Guidelines**

**NOTICE OF PROPOSED RULE  
(Amendment)**

DAR FILE NO.: 31068

FILED: 03/20/2008, 15:25

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This change updates the trauma center designation criteria for all five levels of trauma centers to meet national standards established by the American College of Surgeons.

**SUMMARY OF THE RULE OR CHANGE:** The criteria for Level I, II, and III trauma center designations are adopted by reference from the current national standards established by the American College of Surgeons document, "Resources for Optimal Care of the Injured Patient 2006". The rule change also adopts by reference the "Resources for Optimal Care of the Injured Patient 1999", to establish the criteria for Level IV and V trauma center designations.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 26-8a-252

**THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL:** Resources for Optimal Care of the Injured Patient, 1999 and 2006 editions

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** The rule change neither increases nor decreases the workload associated with the designation trauma centers in Utah. Adoption of the American College of Surgeons criteria eliminates cost to the state associated with updating old duplicative criteria as presently required in rule. Estimated savings to the State of Utah by eliminating the need to update and print the 1995 Trauma Plan is \$5,000.

❖ **LOCAL GOVERNMENTS:** The rule change will have no effect on local government entities due to the fact that there are no trauma centers or hospitals considering designation that are operated by local government entities.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** The rule change will have no effect on businesses with fewer than 50 employees as the smallest hospital in the state reports 60 employees. For hospitals having more than 50 employees, the cost of designation under the proposed rule will decrease because the need to prepare a duplicative State Trauma System document will be eliminated. The aggregate savings for the existing 9 trauma centers is approximately \$540 for each 3-year renewal cycle. There will be no additional costs to comply with the newly adopted national standards as the designated trauma centers are already following the national standards.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** A designated trauma center may save approximately \$60 every 3 years in paperwork savings because it will not need to fill out a separate form as required in the current rule. There will be no additional costs to comply with the newly adopted national standards as the designated trauma centers are already following the national standards.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This proposed rule conforms Utah's standards with national standards used by facilities currently and should have a small positive fiscal impact on regulated business. A. Richard Melton, Acting Executive Director

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

HEALTH  
HEALTH SYSTEMS IMPROVEMENT,  
EMERGENCY MEDICAL SERVICES  
CANNON HEALTH BLDG  
288 N 1460 W  
SALT LAKE CITY UT 84116-3231, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jolene Whitney at the above address, by phone at 801-538-6290, by FAX at 801-538-6808, or by Internet E-mail at jrwhitney@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 05/22/2008

AUTHORIZED BY: Richard Melton, Deputy Director

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

**R426-5. Statewide Trauma System Standards.**

**R426-5-3. Trauma Center Categorization Guidelines.**

~~[(1) To establish a basis for trauma center categorization and designation, the Department shall utilize trauma center criteria established in the 1995 Utah Trauma System Plan. The criteria takes into consideration current national standards for trauma center categorization.]~~ The Department adopts as criteria for Level I, Level II, Level III, and Pediatric trauma center designation, compliance with national standards published in the American College of Surgeons document: Resources for Optimal Care of the Injured Patient 2006. The Department adopts as criteria for Level IV and Level V trauma center designation the American College of Surgeons document: Resources for Optimal Care of the Injured Patient 1999, except that a Level V trauma center need not have a general surgeon on the medical staff and may be staffed by nurse practitioners or certified physician assistants.

**KEY:** emergency medical services, trauma, reporting

**Date of Enactment or Last Substantive Amendment:** ~~December 12, 2007~~ 2008

**Notice of Continuation:** July 18, 2007

**Authorizing, and Implemented or Interpreted Law:** 26-8a-252



Health, Health Systems Improvement,  
Emergency Medical Services  
**R426-7-3**  
Prehospital Data Set



**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 31069

FILED: 03/21/2008, 10:38

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This change clarifies the amount of information that emergency medical services (EMS) providers must provide in their report of patient care to a receiving facility. The most recent amendment to this rule raised questions about the reporting requirements. This change clarifies that the reporting requirement has not changed.

**SUMMARY OF THE RULE OR CHANGE:** This revision changes Subsection R426-7-3(10) to clarify that EMS providers must provide key information critical to the ongoing care of a patient--not necessarily a complete patient care report--to the receiving facility within one hour.

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

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** The changes impose no additional duties on state government and do not relieve state government from any responsibilities. Therefore, there will be no cost to the state budget.

❖ **LOCAL GOVERNMENTS:** The changes will not save or cost local governments. The rule change clarifies reporting requirements to conform them to longstanding practice and prior rule requirements.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** The changes will not save or cost small businesses or other persons. The rule change clarifies reporting requirements to conform them to longstanding practice and prior rule requirements.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There will not be any costs to any person. The change clarifies reporting requirements to conform them to longstanding practice and prior rule requirements.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This amendment responds to public comment and clarifies that the amount of information to be reported by EMS providers to a receiving facility has not been changed. No fiscal impact on business. David N. Sundwall, MD, Executive Director

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

HEALTH  
HEALTH SYSTEMS IMPROVEMENT,  
EMERGENCY MEDICAL SERVICES  
CANNON HEALTH BLDG  
288 N 1460 W  
SALT LAKE CITY UT 84116-3231, or  
at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

Jolene Whitney at the above address, by phone at 801-538-6290, by FAX at 801-538-6808, or by Internet E-mail at jrwhitney@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM ON 05/15/2008.**

**THIS RULE MAY BECOME EFFECTIVE ON: 05/22/2008**

**AUTHORIZED BY: David N. Sundwall, Executive Director**

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

**R426-7. Emergency Medical Services Prehospital Data System Rules.**

**R426-7-3. Prehospital Data Set.**

(1) Emergency medical service providers shall collect data as identified by the Department in this rule.

(2) Emergency Medical Services Providers shall submit the data to the Department electronically in the National Emergency Medical Services Information System (NEMSIS) format. For Emergency Medical Services Providers directly using a reporting system provided by the Department, the data is considered submitted to the Department as soon as it has been entered or updated in the Department-provided system.

(3) Emergency Medical Services Providers shall submit NEMSIS Demographic data elements within 30 days after the end of each calendar quarter in the format defined in the NEMSIS EMSDemographicDataSet. Some data may change less frequently than quarterly, but Emergency Medical Services Providers shall submit all required data elements quarterly regardless of whether the data have changed.

(4) Emergency Medical Services Providers shall submit NEMSIS EMS incident data elements for each Patient Care Report within 30 days of the end of the month in which the EMS incident occurred, in the format defined in the NEMSIS EMSDataSet.

(5) If the Department determines that there are errors in the data, it may ask the data supplier for corrections. The data supplier shall correct the data and resubmit it to the Department within 30 days of receipt from the Department. If data is returned to the supplier for corrections, the Emergency Medical Services Provider is not in compliance with this rule until corrected data is returned, accepted and approved by the Department.

(6) The minimum required demographic data elements that must be reported under this rule include the following NEMSIS EMSDemographicDataSet elements:

D01\_01 EMS Agency Number  
D01\_02 EMS Agency Name  
D01\_03 EMS Agency State  
D01\_04 EMS Agency County  
D01\_05 Primary Type of Service  
D01\_06 Other Types of Service  
D01\_07 Level of Service  
D01\_08 Organizational Type  
D01\_09 Organization Status

D01_10	Statistical Year	D08_01	EMS Personnel's Last Name
D01_11	Other Agencies In Area	D08_03	EMS Personnel's First Name
D01_12	Total Service Size Area	(7)	The minimum required Patient Care Report data elements that must be reported under this rule include the following NEMSIS EMSDataSet elements:
D01_13	Total Service Area Population	E01_01	Patient Care Report Number
D01_14	911 Call Volume per Year	E01_02	Software Creator
D01_15	EMS Dispatch Volume per Year	E01_03	Software Name
D01_16	EMS Transport Volume per Year	E01_04	Software Version
D01_17	EMS Patient Contact Volume per Year	E02_01	EMS Agency Number
D01_18	EMS Billable Calls per Year	E02_02	Incident Number
D01_19	EMS Agency Time Zone	E02_04	Type of Service Requested
D01_20	EMS Agency Daylight Savings Time Use	E02_05	Primary Role of the Unit
D01_21	National Provider Identifier	E02_06	Type of Dispatch Delay
D02_01	Agency Contact Last Name	E02_07	Type of Response Delay
D02_02	Agency Contact Middle Name/Initial	E02_08	Type of Scene Delay
D02_03	Agency Contact First Name	E02_09	Type of Transport Delay
D02_04	Agency Contact Address	E02_10	Type of Turn-Around Delay
D02_05	Agency Contact City	E02_12	EMS Unit Call Sign (Radio Number)
D02_06	Agency Contact State	E02_20	Response Mode to Scene
D02_07	Agency Contact Zip Code	E03_01	Complaint Reported by Dispatch
D02_08	Agency Contact Telephone Number	E03_02	EMD Performed
D02_09	Agency Contact Fax Number	E04_01	Crew Member ID
D02_10	Agency Contact Email Address	E05_01	Incident or Onset Date/Time
D02_11	Agency Contact Web Address	E05_02	PSAP Call Date/Time
D03_01	Agency Medical Director Last Name	E05_03	Dispatch Notified Date/Time
D03_02	Agency Medical Director Middle Name/Initial	E05_04	Unit Notified by Dispatch Date/Time
D03_03	Agency Medical Director First Name	E05_05	Unit En Route Date/Time
D03_04	Agency Medical Director Address	E05_06	Unit Arrived on Scene Date/Time
D03_05	Agency Medical Director City	E05_07	Arrived at Patient Date/Time
D03_06	Agency Medical Director State	E05_08	Transfer of Patient Care Date/Time
D03_07	Agency Medical Director Zip Code	E05_09	Unit Left Scene Date/Time
D03_08	Agency Medical Director Telephone Number	E05_10	Patient Arrived at Destination Date/Time
D03_09	Agency Medical Director Fax Number	E05_11	Unit Back in Service Date/Time
D03_10	Agency Medical Director's Medical Specialty	E05_12	Unit Cancelled Date/Time
D03_11	Agency Medical Director Email Address	E05_13	Unit Back at Home Location Date/Time
D04_01	State Certification Licensure Levels	E06_01	Last Name
D04_02	EMS Unit Call Sign	E06_02	First Name
D04_04	Procedures	E06_03	Middle Initial/Name
D04_05	Personnel Level Permitted to Use the Procedure	E06_04	Patient's Home Address
D04_06	Medications Given	E06_05	Patient's Home City
D04_07	Personnel Level Permitted to Use the Medication	E06_06	Patient's Home County
D04_08	Protocol	E06_07	Patient's Home State
D04_09	Personnel Level Permitted to Use the Protocol	E06_08	Patient's Home Zip Code
D04_10	Billing Status	E06_09	Patient's Home Country
D04_11	Hospitals Served	E06_10	Social Security Number
D04_13	Other Destinations	E06_11	Gender
D04_15	Destination Type	E06_12	Race
D04_17	EMD Vendor	E06_13	Ethnicity
D05_01	Station Name	E06_14	Age
D05_02	Station Number	E06_15	Age Units
D05_03	Station Zone	E06_16	Date of Birth
D05_04	Station GPS	E06_17	Primary or Home Telephone Number
D05_05	Station Address	E07_01	Primary Method of Payment
D05_06	Station City	E07_15	Work-Related
D05_07	Station State	E07_16	Patient's Occupational Industry
D05_08	Station Zip	E07_17	Patient's Occupation
D05_09	Station Telephone Number	E07_34	CMS Service Level
D06_01	Unit/Vehicle Number	E07_35	Condition Code Number
D06_03	Vehicle Type	E08_05	Number of Patients at Scene
D06_07	Vehicle Model Year	E08_06	Mass Casualty Incident
D07_02	State/Licensure ID Number		
D07_03	Personnel's Employment Status		

E08_07	Incident Location Type	E14_24	Stroke Scale
E08_11	Incident Address	E14_26	APGAR
E08_12	Incident City	E14_27	Revised Trauma Score
E08_13	Incident County	E14_28	Pediatric Trauma Score
E08_14	Incident State	E15_01	NHTSA Injury Matrix External/Skin
E08_15	Incident ZIP Code	E15_02	NHTSA Injury Matrix Head
E09_01	Prior Aid	E15_03	NHTSA Injury Matrix Face
E09_02	Prior Aid Performed by	E15_04	NHTSA Injury Matrix Neck
E09_03	Outcome of the Prior Aid	E15_05	NHTSA Injury Matrix Thorax
E09_04	Possible Injury	E15_06	NHTSA Injury Matrix Abdomen
E09_05	Chief Complaint	E15_07	NHTSA Injury Matrix Spine
E09_06	Duration of Chief Complaint	E15_08	NHTSA Injury Matrix Upper Extremities
E09_07	Time Units of Duration of Chief Complaint	E15_09	NHTSA Injury Matrix Pelvis
E09_11	Chief Complaint Anatomic Location	E15_10	NHTSA Injury Matrix Lower Extremities
E09_12	Chief Complaint Organ System	E15_11	NHTSA Injury Matrix Unspecified
E09_13	Primary Symptom	E16_01	Estimated Body Weight
E09_14	Other Associated Symptoms	E16_02	Broselow/Luten Color
E09_15	Providers Primary Impression	E16_03	Date/Time of Assessment
E09_16	Provider's Secondary Impression	E16_04	Skin Assessment
E10_01	Cause of Injury	E16_05	Head/Face Assessment
E10_02	Intent of the Injury	E16_06	Neck Assessment
E10_03	Mechanism of Injury	E16_07	Chest/Lungs Assessment
E10_04	Vehicular Injury Indicators	E16_08	Heart Assessment
E10_05	Area of the Vehicle impacted by the collision	E16_09	Abdomen Left Upper Assessment
E10_06	Seat Row Location of Patient in Vehicle	E16_10	Abdomen Left Lower Assessment
E10_07	Position of Patient in the Seat of the Vehicle	E16_11	Abdomen Right Upper Assessment
E10_08	Use of Occupant Safety Equipment	E16_12	Abdomen Right Lower Assessment
E10_09	Airbag Deployment	E16_13	GU Assessment
E10_10	Height of Fall	E16_14	Back Cervical Assessment
E11_01	Cardiac Arrest	E16_15	Back Thoracic Assessment
E11_02	Cardiac Arrest Etiology	E16_16	Back Lumbar/Sacral Assessment
E11_03	Resuscitation Attempted	E16_17	Extremities-Right Upper Assessment
E11_04	Arrest Witnessed by	E16_18	Extremities-Right Lower Assessment
E11_05	First Monitored Rhythm of the Patient	E16_19	Extremities-Left Upper Assessment
E11_06	Any Return of Spontaneous Circulation	E16_20	Extremities-Left Lower Assessment
E11_08	Estimated Time of Arrest Prior to EMS Arrival	E16_21	Eyes-Left Assessment
E11_10	Reason CPR Discontinued	E16_22	Eyes-Right Assessment
E12_01	Barriers to Patient Care	E16_23	Mental Status Assessment
E12_08	Medication Allergies	E16_24	Neurological Assessment
E12_14	Current Medications	E18_01	Date/Time Medication Administered
E12_18	Presence of Emergency Information Form	E18_02	Medication Administered Prior to this Units EMS
E12_19	Alcohol/Drug Use Indicators	Care	
E12_20	Pregnancy	E18_03	Medication Given
E13_01	Run Report Narrative	E18_04	Medication Administered Route
E14_01	Date/Time Vital Signs Taken	E18_05	Medication Dosage
E14_02	Obtained Prior to this Units EMS Care	E18_06	Medication Dosage Units
E14_03	Cardiac Rhythm	E18_07	Response to Medication
E14_04	SBP (Systolic Blood Pressure)	E18_08	Medication Complication
E14_05	DBP (Diastolic Blood Pressure)	E18_09	Medication Crew Member ID
E14_07	Pulse Rate	E18_10	Medication Authorization
E14_09	Pulse Oximetry	E19_01	Date/Time Procedure Performed Successfully
E14_10	Pulse Rhythm	E19_03	Procedure
E14_11	Respiratory Rate	E19_04	Size of Procedure Equipment
E14_14	Blood Glucose Level	E19_05	Number of Procedure Attempts
E14_15	Glasgow Coma Score-Eye	E19_06	Procedure Successful
E14_16	Glasgow Coma Score-Verbal	E19_07	Procedure Complication
E14_17	Glasgow Coma Score-Motor	E19_08	Response to Procedure
E14_18	Glasgow Coma Score-Qualifier	E19_09	Procedure Crew Members ID
E14_19	Total Glasgow Coma Score	E19_10	Procedure Authorization
E14_20	Temperature	E19_12	Successful IV Site
E14_22	Level of Responsiveness	E19_13	Tube Confirmation

E19\_14 Destination Confirmation of Tube Placement  
 E20\_01 Destination/Transferred To, Name  
 E20\_03 Destination Street Address  
 E20\_04 Destination City  
 E20\_05 Destination State  
 E20\_06 Destination County  
 E20\_07 Destination Zip Code  
 E20\_10 Incident/Patient Disposition  
 E20\_14 Transport Mode from Scene  
 E20\_15 Condition of Patient at Destination  
 E20\_16 Reason for Choosing Destination  
 E20\_17 Type of Destination  
 E22\_01 Emergency Department Disposition  
 E22\_02 Hospital Disposition  
 E23\_03 Personal Protective Equipment Used  
 E23\_09 Research Survey Field  
 E23\_10 Who Generated this Report?  
 E23\_11 Research Survey Field Title

(8) Emergency Medical Services Providers shall use elements E23\_09 and E23\_11 to report biosurveillance indicators. When any of the following indicators are present in an incident, the Emergency Medical Services Provider shall provide an instance of E23\_09 and E23\_11, with E23\_09 set to "true" and E23\_11 set to one of the following:

B01\_01 Abdominal Pain  
 B01\_02 Altered Level of Consciousness  
 B01\_03 Apparent Death  
 B01\_04 Bloody Diarrhea  
 B01\_05 Fever  
 B01\_06 Headache  
 B01\_07 Inhalation  
 B01\_08 Rash/Blistering  
 B01\_09 Nausea/Vomiting  
 B01\_10 Paralysis  
 B01\_11 Respiratory Arrest  
 B01\_12 Respiratory Distress  
 B01\_13 Seizures

(9) Emergency Medical Services Providers are not required to submit other NEMSIS data elements but may optionally do so. Emergency Medical Services Providers may also use additional instances of E23\_09 and E23\_11 for their own purposes.

(10) For each patient transported to a licensed acute care facility or a specialty hospital with an emergency department, each responding emergency medical services provider unit that cared for the patient during the incident shall provide a [patient care]report of patient status, containing information critical to the ongoing care of the patient, to the receiving facility within one hour after the patient arrives at the receiving facility in at least one of the following formats:

- (a) NEMSIS XML; or
- (b) Paper form.

(11) For each patient transported to a licensed acute care facility or a specialty hospital with an emergency department, the ~~["care RECEIVING — SEE USAGE IN (10)"]~~receiving facility shall provide at least the following information to each Emergency Medical Services Provider that cared for the patient, upon request by the Emergency Medical Services Provider:

- (a) the patient's emergency department disposition; and
- (b) the patient's hospital disposition.

**KEY: emergency medical services**

**Date of Enactment or Last Substantive Amendment: ~~December 19, 2007~~2008**

**Notice of Continuation: January 24, 2006**

**Authorizing, and Implemented or Interpreted Law: 28-8a**



## Health, Health Systems Improvement, Emergency Medical Services

### R426-8-4

#### Application and Award Formula

##### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31096

FILED: 04/01/2008, 10:15

##### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The rule change was proposed by the Grants Subcommittee and approved by the Emergency Medical Services (EMS) Committee. It will change the award formula so that a person who is dual certified as a dispatcher and as an EMT, EMT-I, EMT-IA, or paramedic can receive per capita grant funds for two agencies in the same county.

**SUMMARY OF THE RULE OR CHANGE:** Change the award formula to let a person who is certified as an Emergency Medical Dispatcher and an EMT, EMT-I, EMT-IA, or a paramedic be counted for two different agencies in the same county.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 26-8a-207

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** The changes impose no additional duties on state government and do not relieve state government from any responsibilities. Therefore, there will be no cost to the state budget.

❖ **LOCAL GOVERNMENTS:** Counties will receive the same amount of per capita funds because the formula does not change. The department anticipates that the impact will be minor to any government agency and monies distributed elsewhere will be given to other government agencies.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** There are very few non-local government agencies that are involved in this process. However, Dixie Ambulance Service, Wendover Ambulance Service, and Gold Cross Ambulance Service in Vernal may receive less money because some of their employees are certified dispatchers and work for another agency that is local government.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs because the per capita grants are monies provided to EMS providers through the Criminal Fines and Forfeitures and given to providers. The rule imposes no additional application requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No negative fiscal impact is expected. Application requirements have not changed. David N. Sundwall, MD, Executive Director

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

HEALTH  
HEALTH SYSTEMS IMPROVEMENT,  
EMERGENCY MEDICAL SERVICES  
CANNON HEALTH BLDG  
288 N 1460 W  
SALT LAKE CITY UT 84116-3231, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Leslie Johnson at the above address, by phone at 801-538-6292, by FAX at 801-538-6808, or by Internet E-mail at [lesliejohnson@utah.gov](mailto:lesliejohnson@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 05/22/2008

AUTHORIZED BY: David N. Sundwall, Executive Director

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

**R426-8. Emergency Medical Services Per Capita Grants Program Rules.**

**R426-8-4. Application and Award Formula.**

(1) Grants are available to eligible providers that complete a grant application by the deadline established annually by the Department.

(2) Agency applicants shall certify agency personnel rosters as part of the grant application process.

(a) A certified individual who works for both a public and a for-profit agency may be credited only to the public or non-profit licensee or designee.

(b) Certified individuals may be credited for only one agency per county. However, if a dispatcher is also an EMT, EMT-I, EMT-IA, or paramedic, the dispatcher may be credited to one agency as a dispatcher and one agency as an EMT, EMT-I, EMT-IA, or paramedic.

(c) Certified individuals who work for providers that cover multiple counties may be credited only for the county where the certified person lives.

(d) The Department shall determine the amounts of the per capita grants by prorating available funds on a per capita basis by county.

(3) The Department shall allocate funds to licensed and designated ambulance and paramedic providers, designated dispatch agencies and designated first response units by using the following point totals for their personnel: certified Dispatchers = 1; certified Basic EMTs and EMT-IVs = 2; certified Intermediate EMTs = 3; and certified Paramedics = 4. The number of certified personnel is based upon the personnel rosters of each licensed EMS

provider, designated dispatch agency and designated first response unit as of January 1 immediately prior to the grant year, which begins July 1.

**KEY: emergency medical services**

**Date of Enactment or Last Substantive Amendment:** ~~January 30, 2001~~ **2008**

**Notice of Continuation:** January 24, 2006

**Authorizing, and Implemented or Interpreted Law:** 26-8a



Human Services, Administration  
**R495-878**  
Department of Human Services Civil  
Rights Complaint Procedure

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 31067

FILED: 03/20/2008, 13:37

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this amendment is to update references to office names and addresses, update the format of the rule, and remove duplicative language.

**SUMMARY OF THE RULE OR CHANGE:** The rulemaking authorizing statute was added. Duplicative language was removed. The name and address of the department coordinator was updated. The address for the Federal Civil Rights office in Denver was updated. The rule was renumbered to conform to the state rulemaking guidelines.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Sections 62A-1-111, 45 CFR 80.4(b)(2), 45 CFR 84.7(b), and 28 CFR 35.107

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** The changes to this rule are only informational or formatting in nature and do not impact the state budget.

❖ **LOCAL GOVERNMENTS:** The changes to this rule are only informational or formatting in nature and do not impact local governments.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** The changes to this rule are only informational or formatting in nature and do not impact small businesses and persons other than businesses.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The changes to this rule are only informational or formatting in nature and do not impact compliance costs for affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The amendment of this rule does not have a fiscal impact on businesses since it merely

updates the format of the rule and the office names and addresses. Lisa-Michele Church, Executive Director

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

HUMAN SERVICES  
ADMINISTRATION  
120 N 200 W  
SALT LAKE CITY UT 84103-1500, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

L Ray Winger at the above address, by phone at 801-538-4319, by FAX at 801-538-4424, or by Internet E-mail at raywinger@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 05/22/2008

AUTHORIZED BY: Lisa-Michele Church, Executive Director

#### **R495. Human Services, Administration.**

#### **R495-878. Department of Human Services Civil Rights Complaint Procedure.**

##### **R495-878-1. Authority and Purpose.**

~~[A.](1) This rule is promulgated pursuant to Section 63-46a-3(2) of the State Administrative Rulemaking Act authorized by Section 62A-1-111 and the Federal Civil Rights statutes and regulations cited below. The Department of Human Services, (Department) adopts, defines, and publishes within this rule complaint procedures that incorporate due process standards and that provide for the prompt and equitable resolution of complaints filed in accordance with any of the following:~~

~~—(1) Title VI of the Civil Rights Act of 1964, Pub.L. 88-352, 42 U.S.C.A., Section 2000d-1 et seq. (Title VI), and its implementing regulation, Title 45 Code of Federal Regulations (CFR), Part 80, Section 80.4(b)(2);~~

~~—(2) Section 504 of the Rehabilitation Act of 1973, Pub.L. 93-112, Pub.L. 93-516, Pub.L. 95-602, and Pub.L. 102-569, 29 U.S.C. 794 et seq., and its implementing regulation, Title 45 CFR Part 84, Section 84.7(b); and;~~

~~—(3) Title II of the Americans with Disabilities Act (ADA), 42 U.S.C. 12131-12134 and its implementing regulation, Title 28 CFR Part 35, Section 35.107.~~

~~"Title VI prohibits discrimination on the ground of race, color, or national origin; Section 504 prohibits discrimination on the basis of handicap; and the ADA prohibits discrimination on the basis of disability."~~

~~B. The Americans with Disabilities Act mandates that no qualified individual with a disability, by reason of such disability, shall be excluded from participation in or be denied the benefits of the services, programs, or activities of this Department, or be subjected to discrimination by this Department including discrimination in employment matters.]the Civil Rights Act of 1964, 45 CFR 80.4(b)(2); the Rehabilitation Act of 1973, 45 CFR 84.7(b); and the Americans with Disabilities Act (ADA), 28 CFR 35.107.~~

##### **R495-878-2. Definitions.**

~~(1) Terms used in this rule with respect to ADA are defined in 28 CFR 35.104.~~

~~(2) Terms used in this rule with respect to the Rehabilitation Act of 1973 are defined in 45 CFR 84.3.~~

~~(3) Terms used in this rule with respect to the Civil Rights Act of 1964 are defined in 45 CFR 80.13.~~

~~[A.](4) "The Civil Rights [C]oordinator" [(ADA, Section 504, and Title VI)] for the Department [of Human Services] is the Director of the [Office] Bureau of Administrative Support. The Coordinator has responsibility for investigating and providing prompt and equitable resolution of complaints filed by persons alleging discrimination in the receipt of services due to disabilities, race, color, or national origin.~~

~~[B.](5) The "State ADA Coordinating Committee" means that committee with representatives designated by the directors of the following agencies:~~

~~(1)a) Office of Planning and Budget;~~

~~(2)b) Department of Human Resource Management;~~

~~(3)c) Division of Risk Management;~~

~~(4)d) Division of Facilities Construction Management; and~~

~~(5)e) Office of the Attorney General.~~

~~[C.](6) "Disability" means, with respect to an individual with a disability, a physical or mental impairment that substantially limits one or more of the major life activities of such an individual; a record of such an impairment; or being regarded as having such an impairment. [Impairment is defined in 29 CFR 163A2.]~~

~~[D. "Handicapped Person" under Section 504 means any individual who (i) has a physical or mental impairment which substantially limits one or more major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment.~~

~~[E.](7) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.]~~

~~(2) With respect to other services and activities, an individual with a disability (a handicapped person) who with or without reasonable modification to rules, policies, or practices, the removal of architectural, communication or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.]~~

~~[G.](8) "Qualified Individual with a disability" (hereinafter [individual] means a person who has a disability which limits one of his or her major life activities and who meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the Department of Human Services or who would otherwise be an individual with a disability who satisfies the requisite skill, experience, education and other job-related requirements of the employment position.~~

##### **R495-878-3. Filing of Complaints.**

~~[A.](1) An individual shall file the complaint in a timely manner to assure prompt, effective assessment and consideration of the facts, but no later than 180 days from the date of the alleged act of discrimination.~~

~~[B.](2) The complaint may be filed with any division, office or regional office of the Department or directly with the Department's Civil Rights Coordinator[, Civil Rights, Office of Administrative Support, who has been designated as the Coordinator for the Department]. Complaints filed locally and not resolved within five [(5) ]working days are to be forwarded to the Coordinator. The complaint~~

shall be in writing or in another accessible format suitable to the individual and delivered or mailed to:

Coordinator, Civil Rights  
~~[Office]~~Bureau of Administrative Support  
~~[PO Box 45500]~~

] 120 North 200 West, Room 331  
 Salt Lake City, Utah ~~[84445-0500]~~84103

~~[C-](3)~~ Each complaint shall:

(1) ~~[a]~~ include the individual's name and address;

(2) ~~[b]~~ include the nature and extent of the individual's disability;

(if ADA or Section 504)

(3) ~~[c]~~ describe the Department's alleged discrimination action in sufficient detail to inform the Department of the nature and date of the alleged violation;

(4) ~~[d]~~ describe the action and accommodation desired; and

(5) ~~[e]~~ be signed by the individual or by his or her legal representative.

~~[D-](4)~~ Complaints filed on behalf of classes or third parties shall describe or identify by name, if possible, the alleged victims of discrimination.

~~[E-](5)~~ With or without exhausting ~~[DHS]~~the Department's procedures, complainants may also file complaints alleging discrimination in employment and in the delivery of services with:

~~[Office For Civil Rights,~~

~~U.S. Department of Health and Human Services~~

~~Federal Office Building~~

~~1961 Stout Street~~

~~Denver, Colorado 80295-3538]~~Office for Civil Rights/Denver

~~U.S. Department of Education~~

~~1244 Speer Boulevard~~

~~Cesar E. Chavez Memorial Building~~

~~Suite 310~~

~~Denver, CO 80204~~

#### **R495-878-4. Investigation of Complaint.**

~~[A-](1)~~ The Coordinator shall conduct an investigation of each complaint received. The ~~[Office]~~Department of Human Resource Management Field Office-Human Services (~~[OHR]~~DHRM) shall assume lead responsibility in conducting investigations for complaints from employees alleging discrimination under Title I of the ADA. ~~[OHR]~~DHRM investigations ~~[will]~~shall be submitted to the Coordinator to issue a decision. The ~~[Office]~~Bureau of Administrative Support shall assume lead responsibility in conducting all other civil rights investigations~~[under the sections of the Acts referenced in Part I of this rule]~~. Investigations shall be conducted to the extent necessary to assure all relevant facts are determined and documented. This may include gathering all information listed in ~~[Section 878-3-C]~~R495-878-3(3) ~~[of this rule]~~ if it is not made available by the individual.

~~[B-](2)~~ When conducting the investigation, the Coordinator may seek assistance from other divisions/offices within the Department and the Office of the Attorney General in determining what action, if any, shall be taken on the complaint. The Coordinator shall consult with the State ADA Coordinating Committee before making any decision that would involve:

(1) ~~[a]~~ an expenditure of funds which is not absorbable within the agency or Department's budget and would require appropriation authority;

(2) ~~[b]~~ facility modification beyond the Department's capability due to the constraint in item (1) above; or

(3) ~~[d]~~ reclassification or reallocation in merit system grade.

#### **R495-878-5. Issuance of Decision.**

~~[A-](1)~~ Within 15 working days after receiving the complaint, the Coordinator shall issue a decision outlining in writing or in another accessible format suitable to the individual stating what action, if any, shall be taken on the complaint.

~~[B-](2)~~ If the Coordinator is unable to reach a decision within the 15 working day period, written notice (or notice in another acceptable format) ~~[will]~~shall be provided to the complainant explaining the delay and the amount of additional time needed.

#### **R495-878-6. Appeals.**

~~[A-](1)~~ The individual may appeal the decision of the Coordinator by filing an appeal within five working days from the receipt of the decision.

~~[B-](2)~~ The appeal shall be filed in writing with the Executive Director of the Department of Human Services.

~~[C-](3)~~ The filing of an appeal shall be considered as authorization by the individual to allow review of all information, including information classified as private or controlled, by the Executive Director or appointed designee.

~~[D-](4)~~ The appeal shall describe in sufficient detail why the Coordinator's decision is in error, is incomplete or ambiguous, is not supported by the evidence, or is otherwise improper.

~~[E-](5)~~ The Division Director may also appeal a decision by the Coordinator when the decision is perceived to negatively affect Division operation.

~~[F-](6)~~ The Executive Director or appointed designee shall review the factual findings of the investigation and the individual's statement regarding the inappropriateness of the Coordinator's decision and arrive at an independent conclusion and recommendation. Additional investigations may be conducted, if necessary, to clarify questions of fact before making any decision that would require~~[-]~~:

(1) ~~[a]~~ an expenditure of funds which is not absorbable within the agency or Department's budget and would require appropriation authority;

(2) ~~[b]~~ facility modifications beyond the Department's capability ~~[due to the constraint in item (1) above]~~to be absorbed within the budget and would require appropriation authority; or

(3) ~~[d]~~ reclassification or reallocation in merit system grade.

~~[G-](7)~~ The decision shall be issued within ~~[fifteen]~~15 working days after receiving the appeal and shall be in writing or in another accessible format suitable to the individual.

~~[H-](8)~~ If the Executive Director is unable to reach a decision within the fifteen day working period, he shall notify the individual in writing or in another accessible format suitable to the individual why the decision is delayed and the additional amount of time needed to reach a decision.

#### **R495-878-7. Classification of Records.**

(1) The record of each complaint and appeal, and all written records produced or received as part of such actions, shall be classified as protected as defined under Section 63-2-304 until the Coordinator, Executive Director or their designees issue the decision at which time any portions of the record which may pertain to the individual's medical conditions shall remain classified as private as defined under Section 63-2-302 or controlled as defined in Section 63-2-303. All other information gathered as part of the complaint record shall be classified as private information. Only the written decision of the Coordinator, Executive Director or designees shall be classified as public information.

**R495-878-8. Relationship to Other Laws.**

(1) This rule does not prohibit or limit the use of remedies available to individuals under the State Anti-Discrimination Complaint Procedures, as found in [Section (67-19-32)]Section 67-19-32; the Federal ADA Complaint Procedures, as found in [(28 CFR Subpart F, beginning with Part)28 CFR 35.170, (1992[-Edition]); the Federal Rehabilitation Act procedures [(29 U.S.C. Section 794)]as found in 29 U.S.C. 794; or any other Utah State or Federal law that provides equal or greater protection for the rights of individuals with disabilities.

**KEY: developmentally disabled, Americans with Disabilities Act 1992[<sup>§</sup>], Rehabilitation Act 1973[<sup>§</sup>], Civil Rights Act 1964[<sup>§</sup>]  
Date of Enactment or Last Substantive Amendment: [1993]2008  
Notice of Continuation: February 5, 2007  
Authorizing, and Implemented or Interpreted Law: 62A-1-111**



## Human Services, Services for People with Disabilities **R539-9** Supported Employment Pilot Program

**NOTICE OF PROPOSED RULE**

(Amendment)  
DAR FILE NO.: 31084  
FILED: 03/28/2008, 09:11

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this amendment is to allow participants in the Supported Employment Program to receive Service Brokering Services.

**SUMMARY OF THE RULE OR CHANGE:** A person who participates in the Supported Employment Program may have needs beyond the supported employment program services. Service brokering may help persons find additional related services that will assist them in being successful in the supported employment program.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 62A-5-103.1

**ANTICIPATED COST OR SAVINGS TO:**

- ❖ **THE STATE BUDGET:** The impact of this rule will not affect the division budget or the budget of any other state agency. The addition of service brokering will assure that the persons participating will have a greater chance of success in gaining and keeping employment.
- ❖ **LOCAL GOVERNMENTS:** Local governments are not involved in providing these types of services and there will be no cost or savings as a result of this rule.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** Service brokering services are provided by small businesses to persons who meet eligibility standards for the pilot program. This change will not affect their cost or savings but will provide additional business to these agencies.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs for affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** Service brokering services are provided by small private businesses to persons who meet the eligibility standards for the pilot program. Services will be provided under contract to the department. Lisa-Michele Church, Executive Director

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

HUMAN SERVICES  
SERVICES FOR PEOPLE WITH DISABILITIES  
Room 411  
120 N 200 W  
SALT LAKE CITY UT 84103-1500, or  
at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

Steven Bradford at the above address, by phone at 801-538-4197, by FAX at 801-538-4279, or by Internet E-mail at sbradford@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 05/22/2008

AUTHORIZED BY: George Kelner, Director

**R539. Human Services, Services for People with Disabilities.  
R539-9. Supported Employment Pilot Program.  
R539-9-2. Definitions.**

- (1) Terms used in this rule are defined in Section 62A-5-101, and
- (2) "Supported Employment" means "competitive work" in integrated work settings or employment in "integrated work" settings where individuals are working toward competitive employment, consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individuals, for individuals with the most significant disabilities.
- (3) "Competitive Work" means employment in the competitive labor market that is performed on a full-time or part-time basis in an integrated setting; and for which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals who are not disabled.
- (4) "Integrated Work" means job sites where most employees are not disabled, where a client interacts on a regular basis, in the performance of job duties, with employees who are not disabled. If a client is part of a distinct work group of only individuals with disabilities, the work group should consist of no more than eight individuals.
- (5) "Extended Services" means on-going support services and other appropriate services, needed to support and maintain an individual with a most significant disability in employment. They are provided singly or in combination and are organized and made



available in such a way as to assist an eligible individual in maintaining supported employment. Extended services are based on a determination of the needs of an eligible individual. Extended services may include natural supports, such as volunteers, family members, co-workers, employer, supervisors, students, and Plan for Achieving Self Support[PASS] or Impairment Related Work Expense[IRWE].

### **R539-9-3. Eligibility.**

(1) A Person who meets the eligibility requirements listed in Section 62A-5-103.1 may participate in the supported employment pilot program provided that:

(2) the Person agrees to enter services under the conditions listed in Section 62A-5-103.1,

(3) the Person agrees not to use any other Home and Community Based Medicaid Waiver service operated by the Division while participating in the Supported Employment Pilot, (but may use Service Brokering services, if appropriate).

(4) if the person has a Medicaid Card the person may continue to access State Plan, E-Pass and other Medicaid services operated separately from the Division during participation in the pilot,

(5) the person agrees to move off the immediate needs waiting list for supported employment,

(6) the person is found eligible for Division of Rehabilitation Services, Supported Employment funding,

(7) the person agrees to use an approved provider,

(8) the person signs the Supported Employment Pilot Participant Agreement and agrees to follow through with instructions from rehabilitation counselors, services for people with disabilities support coordinators and service brokers and private provider staff,

(9) the person has an Office of Education, Rehabilitation Services, Referral and Services Report form 58 completed, signed by a rehabilitation counselor and a support coordinator,

(10) the person agrees that the person's need for extended supported employment services will be met solely by the provision of supported employment services for the duration of the pilot program, and

(11) the person agrees to provide information needed by the person's employer to obtain the tax incentive through 26 U.S. Code 44[P.L. 104-188], Federal Welfare to Work, Internal Revenue Service, IRS Form 8850 or Section 59-7-608 or Credit for Employers Who Hire Persons with Disabilities, Form TC-40HD.

**KEY: disabilities, supported employment**

**Date of Enactment or Last Substantive Amendment:** ~~August 7, 2007~~ **2008**

**Authorizing, and Implemented or Interpreted Law:** 62A-5-103.1



## Insurance, Administration **R590-191** Unfair Life Insurance Claims Settlement Practices Rule

### NOTICE OF PROPOSED RULE (Amendment)

DAR File No.: 31077  
FILED: 03/26/2008, 15:19

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The rule is being updated due to the passage of H.B. 342. This bill will take effect on 05/05/2008. (DAR NOTE: H.B. 342 is found at Chapter 345, Laws of Utah 2008, and will be effective on 05/05/2008.)

**SUMMARY OF THE RULE OR CHANGE:** In Section R590-191-1, the statutory reference Section 31A-22-428 is added. In Section R590-191-5, new language adds requirement for payment of interest on death proceeds. A penalty section, R590-191-7, has been added, as well as a new enforcement date section, R590-191-8.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Sections 31A-2-201, 31A-2-202, 31A-21-312, 31A-22-428, 31A-26-301, and 31A-26-303

#### ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The changes to this rule will have no impact on the workload of the Insurance Department. Department revenues could be increased with the addition of the unfair claims penalty. Penalty amounts would differ with each situation.

❖ **LOCAL GOVERNMENTS:** Since this rule deals with the relationship between the department and their life insurance company licensees, it will have no impact on local governments.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** This rule addresses the way life insurance companies handle payment of claims. Insurance companies are composed of more than 50 people. Claims payments could affect small businesses that have life insurance on key people. This rule would make sure claims were handled promptly or additional interest rates were paid and penalties forfeited.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Insurance companies will be required to pay interest on all death proceeds. Many are already providing this interest and some in higher amounts than required by the rule. Though there is a fiscal impact on the insurance company, paying interest provides compensation for the consumer and will encourage prompt payment.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This standard was taken from the requirements of the Interstate Insurance Product Regulation Commission (IRPC) which is a national central point for the filing of life insurance products. The IRPC is composed of 31 states at this time. Many life insurers licensed in Utah are already complying with the new provisions of this rule and will not be impacted by it. Those that are not will be required to pay interest on claims with. This rule will encourage prompt payment of claims. D. Kent Michie, Commissioner

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

INSURANCE  
ADMINISTRATION  
Room 3110 STATE OFFICE BLDG

450 N MAIN ST  
SALT LAKE CITY UT 84114-1201, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at [jwhitby@utah.gov](mailto:jwhitby@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 05/22/2008

AUTHORIZED BY: Jilene Whitby, Information Specialist

## **R590. Insurance, Administration.**

### **R590-191. Unfair Life Insurance Claims Settlement Practices Rule.**

#### **R590-191-1. Authority.**

This rule is promulgated pursuant to Subsections 31A-2-201(1) and 31A-2-201(3)(a) in which the commissioner is empowered to administer and enforce this title and to make rules to implement the provisions of this title. Further authority to provide for timely payment of claims is provided by Subsection 31A-26-301(1). Matters relating to proof and notice of loss are promulgated pursuant to Section 31A-26-301 and Subsection 31A-21-312(5). Authority to promulgate rules defining unfair claims settlement practices or acts is provided in Subsection 31A-26-303(4). The authority to require a timely response to the Insurance Department is provided by Section 31A-2-202(4). Authority to require payment of interest on death proceeds is provided in Section 31A-22-428.

#### **R590-191-5. Unfair Claims Settlement Practices.**

The commissioner, pursuant to 31A-26-303(4), hereby finds the following acts or failure to perform required acts to be misleading, deceptive, unfairly discriminatory, or overreaching in the settlement of claims:

- (1) concealing from or failing to fully disclose to a claimant any benefits, limitations, exclusions, coverages, or other relevant provisions of an insurance policy or insurance contract under which a claim is presented;
- (2) denying or threatening the denial of a claim for any reason which is not clearly described in the policy;
- (3) refusing to settle claims without conducting a reasonable and complete investigation;
- (4) refusing to provide a written basis for the denial of a claim upon demand of the claimant;
- (5) failing to provide the claimant with a written explanation of the evidence of any investigation or file materials giving rise to the denial of a claim based on misrepresentation or fraud on an insurance application, when such misrepresentation is the basis for the denial;
- (6) compensating employees, agents or contractors of any amounts which are based on savings to the insurer as a result of reducing or denying claims;

(7) making a claim settlement to the claimant not accompanied by a statement or explanation of benefits setting forth the coverage under which the settlement is being made and how the settlement amount was calculated;

(8) failing to settle a claim following receipt of proof of loss when liability is reasonably clear in order to influence other claim settlements under other portions of the insurance policy coverage or under other policies of insurance;

(9) advising a claimant not to obtain the services of an attorney or other advocate or suggesting the claimant will receive less money if an attorney is used to pursue or advise on the merits of a claim;

(10) misleading a claimant as to the applicable statute of limitations;

(11) issuing a check or draft in partial settlement of a loss or a claim under a specified coverage when such check or draft contains language which purports to release the insurer from total liability;

(12)(a) for policies issued prior to May 5, 2008, failing to pay interest at the legal rate, as provided in Title 15 of the Utah Code upon amounts that are overdue under these rules. A claim shall be considered overdue if not settled within 15 days of completion of the investigation; or

(b) for policies issued on or after May 5, 2008, failing to pay interest in accordance with Section 31A-22-428; and

(13) failing to deliver a copy of the insurer's guidelines for prompt investigation of claims to the Insurance Department when requested to do so.

#### **R590-191-7. Penalties.**

A person found, after an administrative proceeding, to be in violation of this rule, shall be subject to penalties as provided under Section 31A-2-308.

#### **R590-191-8. Enforcement Date.**

The commissioner will begin enforcing the provisions of this rule immediately upon the effective date.

#### **R590-191-[7]9. Severability.**

If any provision or clause of this rule or its application to any person or situation is held invalid, such invalidity may 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 law**

**Date of Enactment or Last Substantive Amendment:** ~~[May 25, 1999]~~ **2008**

**Notice of Continuation:** April 26, 2004

**Authorizing, and Implemented or Interpreted Law:** 31A-2-201; 31A-2-204; 31A-2-308; 31A-21-312; 31A-22-428; 31A-26-301; 31A-26-303



## Insurance, Administration **R590-245** Self-Service Storage Insurance

**NOTICE OF PROPOSED RULE**

(New Rule)  
 DAR FILE No.: 31081  
 FILED: 03/27/2008, 12:25

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the rule is to recognize self-service storage as a limited-line producer line of authority, and to establish standards of licensing for those in the self-service storage-related insurance business in Utah.

SUMMARY OF THE RULE OR CHANGE: This rule recognizes self-service storage as a limited-line producer line of authority, and establish standards of licensing for those in the self-service storage-related insurance business in Utah.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201, 31A-23a-106, 31A-23a-104, and 31A-23a-111

## ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Applicants will need to pay a \$52 licensing fee and then a \$52 renewal fee every 2 years. There are approximately 55,000 self-storage businesses in the U.S. Those storage facilities that may want to sell insurance to those storing property in their units in Utah will need to have a limited-lines producer license to do so. At this point, we do not know of anyone specifically selling this insurance in Utah. As a result, we do not know what kind of revenues the department will receive from this new license.

❖ LOCAL GOVERNMENTS: This rule will have no effect on local governments since it deals solely with the relationship between the licensee and the department.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The limited-line license will be purchased only by those small businesses in Utah desiring to sell this insurance product to renters of their storage units. The cost to the small business owner to purchase and renew such a license will be \$52 every 2 years. In addition, there will be initial fingerprinting fees of \$54.25. They should make this back in the sale of insurance to renters of the storage units. This coverage will be a benefit to those without personal property or tenant liability coverage held through some other insurance policy.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The limited-line license will be purchased only by those small businesses in Utah desiring to sell this insurance product to renters of their storage units. The cost to the small business owner to purchase and renew such a license will be \$52 every 2 years.

In addition, there will be initial fingerprinting fees of \$54.25. They should make this back in the sale of insurance to renters of the storage units. This coverage will be a benefit to those without personal property or tenant liability coverage held through some other insurance policy.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be a charge to small businesses of \$52 for the licensing fee and \$54.25 for the fingerprinting fees. D. Kent Michie, Commissioner

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

INSURANCE  
 ADMINISTRATION  
 Room 3110 STATE OFFICE BLDG  
 450 N MAIN ST  
 SALT LAKE CITY UT 84114-1201, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at [jwhitby@utah.gov](mailto:jwhitby@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 05/22/2008

AUTHORIZED BY: Jilene Whitby, Information Specialist

**R590. Insurance, Administration.****R590-245. Self-Service Storage Insurance.****R590-245-1. Authority.**

This rule is promulgated pursuant to Subsection 31A-2-201(3) in which the commissioner is empowered to adopt rules to implement the provisions of the Utah Insurance Code and specifically Subsections:

(1) 31A-23a-106(3)(a), that authorizes the Commissioner to recognize by rule other limited line producer lines of authority as to kinds of insurance not listed under Subsections 31A-23a-106(2)(a) through (f);

(2) 31A-23a-104(2), and 31A-23a-110(1), that authorizes the Commissioner to prescribe the form in which licenses covered under Chapter 23a are to be issued or renewed; and

(3) 31A-23a-111(10), that authorizes the Commissioner to prescribe by rule, license renewal and reinstatement procedures.

**R590-245-2. Purpose and Scope.**

(1) The purpose of this rule is to:

(a) recognize self-service storage as a limited line producer line of authority; and

(b) establish standards of licensing for those in the self-service storage related insurance business in Utah.

(2) This rule applies to all persons selling, soliciting, or negotiating self-service storage related insurance business in Utah.

**R590-245-3. Definitions.**

For the purposes of this rule, the commissioner adopts the definitions in Sections 31A-1-301 and 31A-23a-102, and the following:

(1) "Self-service storage insurance" means any contract of insurance issued to a renter as a part of an agreement of self-service storage with respect to:

(a) hazard insurance coverage provided to a renter for loss or damage to tangible personal property in storage or in transit during the rental period; or

(b) tenant liability insurance coverage.  
(2) "Self-service storage facility" means a person or agency engaged in the business of providing leased or rented storage space to the public.

(3) "Storage space" means a room, unit, locker, or open space offered for rental to the public for temporary storage of personal belongings or light commercial goods.

(4) "Renter" means any person who obtains the use of storage space from a self-service storage facility under the terms of a rental agreement.

(5) "Rental agreement" means any written agreement setting forth the terms and conditions governing the use of storage space provided by a self-service storage facility.

(6) "Self-service storage insurance license" means a limited line producer license with a self-service storage insurance limited line producer line of authority that authorizes a person, licensed pursuant to this rule, to offer self-service storage insurance in connection with, and incidental to rental agreements on behalf of an insurer authorized to write the types of insurance specified in this state.

#### **R590-245-4. Licensing and Renewal.**

(1) All persons and entities involved in the sale, solicitation, or negotiation of self-service storage insurance must be licensed in accordance with Chapter 31A-23a, applicable department rules regarding individual and agency licensing, and this rule.

(2) A self-service storage insurance license is issued for a two-year license period and requires no examination or continuing education.

(3) A self-service storage insurance license must be renewed at the end of the two-year licensing period in accordance with Chapter 31A-23a and any applicable department rules regarding license renewal.

(4) A self-service storage insurance license may be held by an individual or by an agency, such as a self-service storage facility or franchisee of a self-service storage facility.

(5) An individual licensed under this rule must either be appointed by an insurance company underwriting the insurance policy the individual sells, or be designated to act by an agency licensed under this rule.

(6) An agency licensed under this rule must:

(a) be appointed by an insurance company underwriting the insurance policies the agency sells;

(b) designate a licensed individual to be responsible for the regulatory compliance of the agency in Utah; and

(c) designate at least one licensed individual at each location to sell, solicit, or negotiate self-service storage insurance.

(7) An agency licensed under this rule may employ non-licensed personnel employed as self-service storage counter sales representatives to sell, solicit, or negotiate self-service storage insurance. Such non-licensed employees must:

(a) be trained and supervised in the sale of self-service storage insurance products; and

(b) be responsible to a licensed individual designated by the agency at each location where these insurance products are sold, solicited, or negotiated.

(8) No self-service storage facility, or franchisee of a self-service storage facility, may offer or sell self-service storage insurance unless it has complied with the requirements of this rule and has been issued a license by the commissioner.

#### **R590-245-5. Penalties.**

A person found, after a hearing or other regulatory process, to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

#### **R590-245-6. Enforcement Date.**

The commissioner will begin enforcing this rule 45 days from the rule's effective date.

#### **R590-245-7. Severability.**

If any provision of this rule or the application of it to any person or circumstance is for any reason held to be invalid, the remaining provisions to other persons or circumstances shall not be affected.

#### **KEY: self-service storage**

**Date of Enactment or Last Substantive Amendment: 2008**  
**Authorizing, and Implemented or Interpreted Law: 31A-2-201, 31A-23a-104, 31A-23a-106, 31A-23a-110, 31A-23a-111, 31A-1-301 and 31A-23a-102**



## Labor Commission, Occupational Safety and Health

# R614-1-4

## Incorporation of Federal Standards

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31102

FILED: 04/01/2008, 13:57

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the proposed amendment is to clarify that, with certain exceptions, employers are required to pay for personal protective equipment (PPE) mandated by existing occupational safety and health standards. The proposed amendment will also maintain conformity between federal and Utah occupational safety and health standards.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment to Section R614-1-4 incorporates newly adopted federal OSHA standards published in 29 CFR 1910 and 29 CFR 1926. These standards do not require employers to provide PPE where none has been required before. Instead, the new standards only direct that PPE, when it is required, must be paid for by the employer.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 34A, Chapter 6

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 72 FR 64342 to and including 64430, "Employer Payment for Personal Protective Equipment Standard; Final Rule", November 15, 2007

## ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The proposed amendment will not result in any significant additional administration or enforcement costs to the Utah Occupational Safety and Health Division, nor will it generate any significant revenue from compliance penalties. In the state's capacity as an employer, the commission believes that the state has previously assumed responsibility to pay for required PPE. Consequently, the commission does not anticipate any costs or savings to the state budget.

❖ **LOCAL GOVERNMENTS:** The commission believes that, as is the case with state government, local governments have already assumed responsibility to pay for PPE required by their employees. Consequently, the commission does not anticipate any costs or savings to local government budgets.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** It appears that most small businesses have already assumed responsibility to pay for required PPE and will not incur any additional costs or savings as a result of the proposed amendment. Furthermore, federal economic analysis indicates a de minimis aggregate cost from this amendment, which cost will be offset from gains in productivity and reductions in injuries.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Studies conducted by the federal Department of Labor indicate that employers are already paying for 95% of required PPE. Thus, the vast majority of employers will experience little, if any, additional compliance costs if this amendment is adopted. For the small minority of employers who are not currently paying for required PPE, compliance costs will vary depending on their business activities involved. However, unit costs of PPE are relatively modest. For example, hardhats, safety glasses, and gloves can be purchased for less than \$10. More expensive items of PPE, such as welding helmets or fall protection harnesses, lanyards, and belts cost less than \$100.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** As already noted, studies indicate that employers are currently paying for 95% of required PPE. Employers have accepted this responsibility for a variety of reasons, including a desire to maintain productivity by avoiding preventable injuries, labor-management agreements, workers' compensation cost control, and the desire to insure the quality and proper maintenance of PPE. This reflects a judgment among businesses that employer-paid PPE leads to greater use of the protective equipment and results in increased productivity and decreased injury costs. The commission concurs with this business judgment and believes that costs of compliance will be offset by reduced injury rates and increased production. Sherrie Hayashi, Commissioner

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

LABOR COMMISSION  
OCCUPATIONAL SAFETY AND HEALTH  
HEBER M WELLS BLDG  
160 E 300 S

SALT LAKE CITY UT 84111-2316, or  
at the Division of Administrative Rules.

## DIRECT QUESTIONS REGARDING THIS RULE TO:

William Adams at the above address, by phone at 801-530-6897, by FAX at 801-530-7606, or by Internet E-mail at wadams@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 05/22/2008

AUTHORIZED BY: Sherrie Hayashi, Commissioner

**R614. Labor Commission, Occupational Safety and Health.****R614-1. General Provisions.****R614-1-4. Incorporation of Federal Standards.**

## A. General Industry Standards.

1. Sections 29 CFR 1910.21 to 1910.999 and 1910.1000 through the end of part 1910 of the July 1, 2007, edition are incorporated by reference.

2. 29 CFR 1908, July 1, 2007, is incorporated by reference.

3. 29 CFR 1904, July 1, 2007, is incorporated by reference.

4. FR Vol. 72, No. 30, Wednesday, February 14, 2007, Pages 7136 to and including 7221 "Electrical Standard; Final Rule" is incorporated by reference.

5. FR Vol. 72, No. 220, Thursday, November 15, 2007, Pages 64342 to and including 64430 "Employer Payment for Personal Protective Equipment Standard; Final Rule" is incorporated by reference.

## B. Construction Standards.

1. Section 29 CFR 1926.20 through the end of part 1926, of the July 1, 2007, edition is incorporated by reference.

2. FR Vol. 72, No. 220, Thursday, November 15, 2007, Pages 64342 to and including 64430 "Employer Payment for Personal Protective Equipment Standard; Final Rule" is incorporated by reference.

**KEY: safety**

**Date of Enactment or Last Substantive Amendment:** ~~June 22, 2007~~ **2008**

**Notice of Continuation:** November 2, 2007

**Authorizing, and Implemented or Interpreted Law:** 34A-6

Public Safety, Fire Marshal

**R710-1-4**

Certificates of Registration

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 31076

FILED: 03/26/2008, 11:15

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Fire Prevention Board met on 03/11/2008 in a regularly scheduled Board meeting and voted to amend Rule R710-1 by establishing requirements when testing and eliminate specific examination subjects to be covered in the examination due to its general nature and requirements that no longer need to be covered due to regulatory changes.

SUMMARY OF THE RULE OR CHANGE: A summary of the rule changes is as follows: 1) in Subsection R710-1-4(4.4.3) through (4.4.6), the board proposes to establish some guidelines when certificate of registration examinations are taken, such as, open book designation, prohibited use of cellular telephones in testing area, time limit on examinations, percent score to pass, levels of proficiency, etc.; and 2) in Subsection R710-1-4(4.16), the board proposes to eliminate the requirement for specific coverage of topics in the examination itself due to continuing changes in those requirements and some unnecessary topics that are no longer required to be covered.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-7-204

## ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There is no anticipated cost or savings to the state budget because these proposed rule amendments are procedural in nature and establish specific controls and requirements when taking certificate of registration examinations.
- ❖ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government because this has nothing to do with local government and does not affect local government in any form.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There is no anticipated cost or savings to small businesses because these are procedural changes by amendment in the way the examinations are taken and the content of the examinations and do not effect the budget of a small business.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no compliance cost for affected persons in these proposed amendments because these changes affect how you take the certificate of registration examination and the contents and do not affect actual costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These changes do not have a fiscal impact on businesses because they are procedural in nature only. Scott T. Duncan, Commissioner

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

PUBLIC SAFETY  
FIRE MARSHAL  
Room 302  
5272 S COLLEGE DR  
MURRAY UT 84123-2611, or  
at the Division of Administrative Rules.

## DIRECT QUESTIONS REGARDING THIS RULE TO:

Brent Halladay at the above address, by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at [bhallada@utah.gov](mailto:bhallada@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 05/22/2008

AUTHORIZED BY: Ron L. Morris, Utah State Fire Marshal

**R710. Public Safety, Fire Marshal.****R710-1. Concerns Servicing Portable Fire Extinguishers.****R710-1-4. Certificates of Registration.**

## 4.1 Required Certificates of Registration.

No person shall service any portable fire extinguisher without a certificate of registration issued by the SFM pursuant to these rules expressly authorizing such person to perform such acts. The provisions of this section apply to the state, universities, a county, city, district, public authority, and any other political subdivision or public corporation in this State.

## 4.2 Exemptions.

The provisions of this section shall not apply to any person servicing any portable fire extinguisher owned by such person, when the portable fire extinguisher is not required by any statute, rule, or ordinance, to be provided or installed.

## 4.3 Application.

Application for a certificate of registration to service portable fire extinguishers shall be made in writing to the SFM on forms provided by him. The application shall be signed by the applicant.

## 4.4 Examination.

The SFM shall require all applicants for a certificate of registration to take and pass a written examination, which may be supplemented by practical tests, when deemed necessary, to determine the applicant's knowledge of servicing portable fire extinguishers. Picture identification of the applicant for a certificate of registration may be requested by the SFM or his deputies. Examinations will be given according to the following schedule and requirements:

4.4.1 On the first and third Tuesdays of each month. When holidays conflict with these days, the day immediately following will be used. An appointment shall be made to take an examination at least 24 hours in advance of the examination date.

4.4.2 Examinations may be given at various field locations as deemed necessary by the SFM. Appointments for field examinations are required.

4.4.3 All certification examinations given are open book examinations. The applicant is allowed to use the statute, the administrative rule, and the NFPA standard that applies to the certification examination. Any other materials to include cellular telephones are prohibited in the examination room.

4.4.4 Completion of the certification examination will not be allowed if it appears to the test administrator that the applicant has not prepared to take the examination.

4.4.5 Each certification examination taken has a time limit of two hours to completion. To successfully pass the written examination, the applicant must obtain a minimum grade of seventy percent (70%). Leaving the office or testing location before the completion of the

examination voids the examination and will require the examination to be retaken by the applicant.

4.4.6 If there are different levels of proficiency in the subject matter, the lower proficiency level will be fully completed before the next higher proficiency will be administered.

#### 4.5 Issuance.

Following receipt of the properly completed application, compliance with the provisions of these rules, and the successful completion of the required examination, the SFM shall issue a certificate of registration.

#### 4.6 Original and Renewal Valid Date.

Original certificates of registration shall be valid for one year from the date of application. Thereafter, each certificate of registration shall be renewed annually and renewals shall be valid for one year from issuance. The holder of an invalid certificate of registration shall not perform any work on portable fire extinguishers.

#### 4.7 Renewal Date.

Application for renewal shall be made as directed by the SFM. The failure to renew will cause the certificate of registration to become invalid. Beginning March 4, 2003 through February 29, 2004, renewal dates for certification of registrations will be based upon the license inspection date and valid for a one-year period of time. Renewal certificate of registrations shall be prorated monthly, and monthly fees already paid in that time period shall be credited towards the renewal fee.

#### 4.8 Re-examination.

Every holder of a valid certificate of registration shall take a re-examination every five years, from date of original certificate, to comply with the provisions of Section 4.4 of these rules as follows:

4.8.1 The re-examination to comply with the provisions of Section 4.4 of these rules shall consist of one 25 question open book examination, to be mailed to the certificate holder at least 60 days before the renewal date.

4.8.2 The 25 question re-examination will consist of questions that focus on changes in the last five years to NFPA 10, the statute, or the adopted administrative rules. The re-examination may also consist of questions that focus on practices of concern as noted by the Board or the SFM.

4.8.3 The certificate holder is responsible to complete the re-examination and return it to the SFM in sufficient time to renew.

4.8.4 The certificate holder is responsible to return to the SFM the correct renewal fees to complete that certificate renewal.

#### 4.9 Refusal to Renew.

The SFM may refuse to renew any certificate of registration in the same manner and for any reason that he is authorized, pursuant to Section 10, to deny an original certificate of registration. 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 certificate of registration which has been denied by the SFM.

#### 4.10 Inspection.

The holder of a certificate of registration shall submit such certificate for inspection, upon request of the SFM, any of his properly authorized deputies, or any local fire official.

#### 4.11 Type.

4.11.1 Every certificate of registration shall indicate the type of act or acts to be performed and for which the applicant has qualified.

4.11.2 No person holding a valid certificate of registration shall be authorized to perform any act unless he is a licensee or is employed by a licensed concern.

#### 4.12 Change of Address.

Any change in home address of any holder of a valid certificate of registration shall be reported in writing, by the registered person to the SFM within thirty (30) days of such change. Such change shall also be made on the reverse side of the certificate of registration by the holder.

#### 4.13 Duplicate.

A duplicate certificate of registration may be issued by the SFM to replace any previously issued certificate which has been lost or destroyed upon the submission of a written statement to the SFM from the certified person. Such statement shall attest to the certificate having been lost or destroyed.

#### 4.14 Minimum Age.

No certificate of registration shall be issued to any person who is under 18 years of age.

#### 4.15 Restrictive Use.

4.15.1 A certificate of registration may be used for identification purposes only as long as such certificate remains valid and while the holder is employed by a licensed concern.

4.15.2 Regardless of the acts authorized to be performed by a licensed concern, only those acts for which the applicant for a certificate of registration has qualified shall be permissible by such applicant.

~~[—4.16 Contents of Examination.~~

~~—4.16.1 The examination required under the provisions of Section 3-14, shall include a written test of the applicant's knowledge of the provisions of these rules, and may include an actual demonstration of his ability to perform the acts indicated on the application.~~

~~—4.16.2 Examinations shall, in the opinion of the SFM, be compatible with the type of work to be performed by the applicant and with the equipment with which he will function.~~

~~—4.16.3 The written portion of the examination shall be divided into the following groups:~~

~~—4.16.3.1 Provisions relating to these Rules Governing Concerns Servicing Portable Fire Extinguishers.~~

~~—4.16.3.2 Hydrostatic testing of fire extinguisher cylinders that are listed with the USDOT.~~

~~—4.16.3.3 Hydrostatic testing of fire extinguisher cylinders which are not listed with the USDOT.~~

~~—4.16.3.4 Accepted servicing and inspection practices of portable fire extinguishers as required in NFPA, Standard 10.~~

] 4.[47]16 Right to Contest.

4.[47]16.1 Every person who takes an examination for a certificate of registration shall have the right to contest the validity of individual questions of such examination.

4.[47]16.2 Every contention as to the validity of individual questions of an examination shall be made in writing within 48 hours after taking said examination. Contentions shall state the reason for the objection.

4.[47]16.3 The decision as to the action to be taken on the submitted contention shall be by the SFM, and such decision shall be final.

4.[47]16.4 The decision made by the SFM, and the action taken, shall be reflected in all future examinations, but shall not affect the grades established in any past examination.[

~~—4.18 Passing Grade.~~

~~To successfully pass the written examination, the applicant must obtain a minimum grade of seventy percent (70%) in each portion of the examination taken. Each portion of the examination shall be separately graded.]~~

**4.[19]17 Non-Transferable.**

Certificates of Registration shall not be transferable. Individual certificates of registration shall be carried by the person to whom issued.

**4.[20]18 New Employees.**

New employees of a licensed concern may perform the various acts while under the direct supervision of persons holding a valid certificate of registration for a period not to exceed forty-five (45) days from the initial date of employment. By the end of such period, new employees shall have taken and passed the required examination.

**4.[21]19 Certificate Identification.**

Every certificate shall be identified by a number, delineated as EE-(number). Such number shall not be transferred from one person to another.

**KEY: fire prevention, extinguishers**

**Date of Enactment or Last Substantive Amendment: May [8, 2007]22, 2008**

**Notice of Continuation: May 30, 2007**

**Authorizing, and Implemented or Interpreted Law: 53-7-204**

◆ ————— ◆

## Public Safety, Fire Marshal R710-2-7

### Importer, Wholesaler, Display or Special Effects Operator Licenses

#### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31078

FILED: 03/27/2008, 10:10

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The Utah Fire Prevention Board met on 03/11/2008 in a regularly scheduled board meeting and voted to amend Rule R710-2 by establishing requirements when testing, and eliminate the requirement that the test be closed book and allow an open book examination.

**SUMMARY OF THE RULE OR CHANGE:** A summary of the rule changes is as follows: 1) in Subsection R710-2-7(7.10.1), the board proposes to eliminate the closed book requirement and allow open book examinations using the adopted incorporated references. The board felt it is incorrect to expect the testee to memorize a national safety standard; and 2) in Subsection R710-2-7(7.10.2), the board proposes to establish some guidelines when certificate of registration examinations are taken, such as, prohibited use of cellular telephones in the testing area, time limit on examinations, allowable materials to be used to complete the examination, being adequately prepared to take the examination, etc.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 53-7-204

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget because these proposed rule amendments are procedural in nature and establish specific controls and requirements when taking certificate of registration examinations.

❖ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government because this has nothing to do with local government and does not affect local government in any form.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** There is no anticipated cost or savings to small businesses because these are procedural changes by amendment in the way the examinations are taken and do not affect the budget of a small business.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There is no compliance cost for affected persons in these proposed amendments because these changes affect how you take the certificate of registration examination and do not affect actual costs.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** These changes do not have a fiscal impact on businesses because they are procedural in nature only. Scott T. Duncan, Commissioner

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

PUBLIC SAFETY

FIRE MARSHAL

Room 302

5272 S COLLEGE DR

MURRAY UT 84123-2611, or

at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

Brent Halladay at the above address, by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at [bhallada@utah.gov](mailto:bhallada@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 05/22/2008

AUTHORIZED BY: Ron L. Morris, Utah State Fire Marshal

**R710. Public Safety, Fire Marshal.****R710-2. Rules Pursuant to the Utah Fireworks Act.****R710-2-7. Importer, Wholesaler, Display or Special Effects Operator Licenses.**

7.1 Application for an importer, wholesaler, display or special effects operator license shall be made in writing on forms provided by the SFM.



7.2 Application for a license 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, it shall be signed by a principal officer.

7.3 Original licenses shall be valid from the date of issuance through December 31st of the year in which issued. Licenses issued on or after October 1st, will be valid through December 31st of the following year.

7.4 Application for renewal of license shall be made before January 1st of each year. Application for renewal shall be made in writing on forms provided by the SFM.

7.5 The SFM may refuse to renew any license pursuant to Section 8 of these rules. The applicant, upon such refusal, shall also have those rights as are granted by Section 8 of these rules.

7.6 Every licensee shall notify the SFM, in writing, within thirty (30) days, of any change of his address or location.

7.7 No licensee shall conduct his licensed business under a name other than the name which appears on his license.

7.8 No license shall be issued to any person as licensee who is under twenty-one (21) years of age.

7.9 The holder of any license shall submit such license for inspection upon request of the SFM, his duly authorized deputies, or any authorized enforcement official.

7.10 Every person who wishes to secure a display or special effects operator original license shall demonstrate proof of competence by:

7.10.1 Successfully passing ~~a closed~~ an open book written examination and obtaining a minimum grade of seventy percent (70%).

7.10.2 Examinations will be given according to the following requirements:

7.10.2.1 The applicant is allowed to use the statute, the administrative rule, and the NFPA standard that applies to the certification examination. Any other materials to include cellular telephones are prohibited in the examination room.

7.10.2.2 Completion of the certification examination will not be allowed if it appears to the test administrator that the applicant has not prepared to take the examination.

7.10.2.3 Each certification examination taken has a time limit of two hours to completion. Leaving the office or testing location before the completion of the examination voids the examination and will require the examination to be retaken by the applicant.

7.10.2 Submit written verification with the application of having completed a display or special effects operators safety class or demonstrate previous experience acceptable to the SFM.

7.10.3 Submit written verification with the application that the applicant has worked with a licensed display or special effects operator for at least three shows or demonstrate previous experience acceptable to the SFM.

7.11 The written examination stated in Section 7.10(a) shall be valid for five years from the date of the examination.

7.12 At the end of the five year period the licensed display or special effects operator shall take a re-examination. The re-examination shall be open book and sent to the license holder at least 60 days before the renewal date. The re-examination shall focus on the changes in the last 5 years to the adopted standards. The license holder is responsible to complete the re-examination and return it to the Division in time to renew and also comply with the requirements listed in Section 7.13.

7.13 After the issuance of the original license, and each year thereafter, the display or special effects operator shall complete a minimum of one fireworks performance annually or attend an operator

safety class annually or work with another licensed display or special effects operator with a show annually to demonstrate proof of competence.

7.14 When the license has expired for more than one year, an application shall be made for an original license and the initial requirements shall be completed as required in Section 7.10 of these rules.

7.15 Every person who wishes to secure an importer, wholesaler, display or special effects operators license shall be at least 21 years of age.

7.16 Every licensed display or special effects operator shall complete the Pyrotechnician's After Action Report for Fireworks Display form within ten (10) working days after the conclusion of any display or special effects show and send it to the State Fire Marshal.

**KEY: fireworks**

**Date of Enactment or Last Substantive Amendment:** ~~March 10, 2008~~ **May 22, 2008**

**Notice of Continuation:** June 4, 2007

**Authorizing, and Implemented or Interpreted Law:** 53-7-204



Public Safety, Fire Marshal  
**R710-5-3**  
Certificates of Registration

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE No.: 31080

FILED: 03/27/2008, 11:46

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Fire Prevention Board met on 03/11/2008 in a regularly scheduled board meeting and voted to amend Rule R710-5 by establishing requirements when a person completes a certification of registration examination.

SUMMARY OF THE RULE OR CHANGE: A summary of the rule changes is as follows: in Subsection R710-5-3(3.4), the board proposes to establish some guidelines when certificates of registration examinations are taken, such as, open book designation, prohibited use of cellular telephones in the testing area, time limit on examinations, percent score to pass, levels of proficiency, etc.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-7-204

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no anticipated cost or savings to the state budget because these proposed rule amendments are procedural in nature and establish specific controls and requirements when taking certificate of registration examinations.

❖ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government because this has nothing to do

with local government and does not affect local government in any form.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** There is no anticipated cost or savings to small businesses because these are procedural changes by amendment in the way the examinations are taken and do not affect the budget of a small business.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There is no compliance cost for affected persons in these proposed amendments because these changes affect how you take the certificate of registration examination and do not affect actual costs.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** These changes do not have a fiscal impact on businesses because they are procedural in nature only. Scott T. Duncan, Commissioner

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

PUBLIC SAFETY  
FIRE MARSHAL  
Room 302  
5272 S COLLEGE DR  
MURRAY UT 84123-2611, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Brent Halladay at the above address, by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at bhallada@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 05/22/2008

AUTHORIZED BY: Ron L. Morris, Utah State Fire Marshal

## **R710. Public Safety, Fire Marshal.**

### **R710-5. Automatic Fire Sprinkler System Inspecting and Testing.**

#### **R710-5-3. Certificates of Registration.**

##### **3.1 Required Certificates of Registration.**

No person shall engage in the inspecting and testing of automatic fire sprinkler systems without first receiving a certificate of registration issued by the SFM. The following groups are exempted from the requirements of this part:

3.1.1 The AHJ that is performing the initial installation acceptance testing of the automatic fire sprinkler system or ongoing inspections to verify compliance with the adopted NFPA standards and these rules.

3.1.2 The building owner or designee that performs additional periodic inspections beyond the annual inspection required in Section 6.2 of these rules, to satisfy requirements set by company policy, insurance, or risk management.

##### **3.2 Application.**

3.2.1 Application for a certificate of registration to inspect and test automatic fire sprinkler systems shall be made in writing to the SFM on forms provided the SFM. The applicant shall sign the application. The SFM or his deputies may request picture identification of the applicant for a certificate of registration.

3.2.2 The applicant shall indicate on the application which of the four technician levels the applicant will apply for:

3.2.2.1 Technician I

3.2.2.2 Technician II

3.2.2.3 Technician III

3.2.2.4 Master Technician

3.2.3 The application for a certificate of registration shall be accompanied with proof of public liability insurance from the certificate holder or employing concern. A public liability insurance carrier showing coverage of at least \$100,000 for each incident, and \$300,000 in total coverage shall issue the public liability insurance. The certificate of registration holder shall notify the SFM within 30 days after the public liability insurance coverage required is not longer in effect for any reason.

##### **3.3 Technician Examination.**

The SFM shall require all applicants for a certificate of registration as a technician to complete the following:

3.3.1 Technician I shall pass a written examination on wet pipe sprinkler systems, antifreeze sprinkler systems, and standpipes, and complete the manipulative skills task book.

3.3.2 Technician II shall pass all the requirements listed for Technician I; pass a written examination on dry pipe sprinkler systems, deluge sprinkler systems, preaction sprinkler systems, combined dry pipe-preaction systems, fire pumps, and water storage tanks, and complete the manipulative skills task book.

3.3.3 Technician III shall pass all the requirements listed for Technician I and II; pass a written examination on water spray fixed systems, foam-water sprinkler systems, and foam-water spray systems, and complete the manipulative skills task book.

3.3.4 Master Technician shall have successfully completed and be certified as NICET III in Inspection and Testing of Water-based Systems, and complete the manipulative skills task book.

3.4 Examinations will be given according to the following requirements:

3.4.1 All certification examinations given are open book examinations. The applicant is allowed to use the statute, the administrative rule, and the NFPA standard that applies to the certification examination. Any other materials to include cellular telephones are prohibited in the examination room.

3.4.2 Completion of the certification examination will not be allowed if it appears to the test administrator that the applicant has not prepared to take the examination.

3.4.3 Each certification examination taken has a time limit of two hours to completion. To successfully pass the written examination, the applicant must obtain a minimum grade of seventy percent (70%). Leaving the office or testing location before the completion of the examination voids the examination and will require the examination to be retaken by the applicant.

3.4.4 If there are different levels of proficiency in the subject matter, the lower proficiency level will be fully completed before the next higher proficiency will be administered.

3.4.5[3.4 To successfully complete the written examination the applicant must obtain a minimum of seventy percent (70%) in each examination taken.] To successfully complete the manipulative skills task book, all required skill tasks shall be signed as completed by a person duly qualified or certified in that skill.

3.5 As required in 3.3.4, those applicants that have successfully completed the requirements of NICET III, in Inspection and Testing of Water-based Systems, and that corresponds to the work to be performed by the applicant, shall have the requirement for initial written examination waived, after appropriate documentation is provided to the SFM by the applicant.

#### 3.6 Issuance.

Following receipt of the properly completed application, compliance with Section 3.3 of these rules, the SFM shall issue a certificate of registration.

#### 3.7 Original and Renewal Valid Date.

Original certificates of registration shall be valid for one year from the date of application. Thereafter, each certificate of registration shall be renewed annually and renewals shall be valid for one year from issuance.

#### 3.8 Renewal Date.

Application for renewal shall be made as directed by the SFM.

#### 3.9 Re-examination.

Every holder of a valid certificate of registration shall take a re-examination every three years, from date of original certificate, to comply with the provisions of Section 3.3 of these rules as follows:

3.9.1 The re-examination to comply with the provisions of Section 3.3 of these rules shall consist of an open book examination for each level of certification, to be mailed to the certificate holder at least 60 days before the renewal date.

3.9.2 The re-examination will consist of questions that focus on changes in the last three years to the adopted NFPA standards, the statute, and the adopted administrative rules. The re-examination may also consist of questions that focus on practices of concern as noted by the Board or the SFM.

3.9.3 The certificate holder is responsible to complete the re-examination and return it to the SFM in sufficient time to renew.

3.9.4 The certificate holder is responsible to return to the SFM the correct renewal fees to complete that certificate renewal.

#### 3.10 Refusal to Renew.

The SFM may refuse to renew any certificate of registration in the same manner and for any reason that he is authorized, pursuant to Section 7, to deny an original certificate of registration. The applicant shall, upon such refusal, have the same rights as are granted by Section 7 of these rules to an applicant for an original certificate of registration, which has been denied by the SFM.

#### 3.11 Inspection.

The holder of a certificate of registration shall submit such certificate for inspection, upon request of the AHJ.

#### 3.12 Type.

Every certificate of registration shall indicate the type of act or acts to be performed and for which the applicant has qualified as follows:

3.12.1 Technician I: A person who is engaged in the inspection and testing of wet pipe sprinkler systems, antifreeze sprinkler systems, and standpipes.

3.12.2 Technician II: A person who is engaged in the inspection and testing of dry pipe sprinkler systems, deluge sprinkler systems, preaction sprinkler systems, combined dry pipe-preaction systems, fire pumps and water storage tanks.

3.12.3 Technician III: A person who is engaged in the inspection and testing of foam-water sprinkler systems, foam-water spray systems, and water spray fixed systems.

3.12.4 Master Technician: A person who has obtained NICET III certification in Inspection and Testing of Water-based Systems.

#### 3.13 Change of Address.

Any change in home address of any holder of a valid certificate of registration shall be reported in writing, by the registered person to the SFM within 30 days of such change.

#### 3.14 Duplicate.

A duplicate certificate of registration may be issued by the SFM to replace any previously issued certificate, which has been lost or destroyed.

#### 3.15 Minimum Age.

No certificate of registration shall be issued to any person who is under 18 years of age.

#### 3.16 Restrictive Use.

3.16.1 A certificate of registration may be used for identification purposes only as long as such certificate remains valid.

3.16.2 Regardless of the acts authorized to be performed by a licensed concern, only those acts for which the applicant for a certificate of registration has qualified shall be permissible by such applicant.

#### 3.17 Right to Contest.

3.17.1 Every person who takes an examination for a certificate of registration shall have the right to contest the validity of individual questions of such examination.

3.17.2 Every contention as to the validity of individual questions of an examination shall be made within 48 hours after taking said examination.

3.17.3 The decision as to the action to be taken on the submitted contention shall be made by the SFM, and such decision shall be final.

3.17.4 The decision made by the SFM, and the action taken, shall be reflected in all future examinations, but shall not affect the grades established in any past examination.

#### 3.18 Non-Transferable.

Certificates of Registration shall not be transferable. The person to whom issued shall carry individual certificates of registration.

#### 3.19 Certificate of Registration Identification.

Every certificate shall be identified by a number, delineated as AFS-(number). Such number shall not be transferred from one person to another.

#### 3.20 New Employees

New or existing employees desiring to attain a Certificate of Registration may perform the various acts required while under the constant direct supervision of a person holding a valid certificate of registration for a period not to exceed 60 days from the initial date of employment or beginning service in the field.

#### **KEY: automatic fire sprinklers**

**Date of Enactment or Last Substantive Amendment:** ~~March 10, 2008~~ **May 22, 2008**

**Authorizing, and Implemented or Interpreted Law:** 53-7-204

◆ ————— ◆

**Public Safety, Fire Marshal**  
**R710-6-4**  
**LP Gas Certificates**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 31082

FILED: 03/27/2008, 13:59

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Liquefied Petroleum (LP) Gas Board met on 03/21/2008 in a regularly scheduled Board meeting and voted to amend Rule R710-6 with regard to amending the title of those that are allowed to be exempt from the HVAC/plumber certification requirement and completion of 40 hours of continuing training as a substitute for the five-year recertification examination requirement.

SUMMARY OF THE RULE OR CHANGE: A summary of the rule changes is as follows: 1) in Subsection R710-6-4(4.4.8), the board proposes to redefine the title of plumber from apprentice to licensed journeyman plumber that would receive an exemption from taking the initial certification examination; and 2) in Subsection R710-6-4(4.7.6), the board proposes to allow an additional exemption of 40 hours of continuing education over a five-year period to substitute for the recertification examination.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-7-305

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There would no aggregate anticipated cost or savings to the state budget because one amendment is a procedural change by license and the other proposed amendment is an allowance for continued training that would be the responsibility of the certified employee to provide to the state.

❖ LOCAL GOVERNMENTS: There is no aggregate anticipated cost or savings to local government because these proposed amendments do not affect local government at all. The Utah LP Gas Safety Act is regulated by the state and is not a locally mandated program.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There would be no aggregate anticipated cost or savings to small businesses for the enactment of these amendments because one is a procedural amendment and the other would only require a paperwork completion of attendance at safety meetings and/or training that already occurs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There would be no compliance cost for affected persons for the enactment of the proposed rule amendments. One proposed amendment is a title change on who is qualified to waive the initial certification examination and the other is an additional record keeping if continuing training over a five-year period would be allowed over the recertification examination.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact to businesses for the enactment of these proposed administrative rule amendments. Scott T. Duncan, Commissioner

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

PUBLIC SAFETY

FIRE MARSHAL

Room 302

5272 S COLLEGE DR

MURRAY UT 84123-2611, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Brent Halladay at the above address, by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at [bhallada@utah.gov](mailto:bhallada@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM ON 05/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 05/22/2008

AUTHORIZED BY: Ron L. Morris, Utah State Fire Marshal

**R710. Public Safety, Fire Marshal.****R710-6. Liquefied Petroleum Gas Rules.****R710-6-4. LP Gas Certificates.**

## 4.1 Application.

Application for an LPG certificate shall be made in writing to the Division. The application shall be signed by the applicant.

## 4.2 Examination.

Every person who performs any act or acts within the scope of a license issued under these rules, shall pass an initial examination in accordance with the provisions of this article.

## 4.3 Types of Initial Examinations:

## 4.3.1 Carburetion

## 4.3.2 Dispenser

## 4.3.3 HVAC/Plumber

## 4.3.4 Recreational Vehicle Service

## 4.3.5 Serviceman

## 4.3.6 Transportation and Delivery

## 4.4 Initial Examinations.

4.4.1 The initial examination shall include an open book written test of the applicant's knowledge of the work to be performed by the applicant. The written examination questions shall be taken from the adopted statute, administrative rules, NFPA 54, and NFPA 58.

4.4.2 The initial examination shall also include a practical or actual demonstration of some selected aspects of the job to be performed by the applicant.

4.4.3 To successfully complete the written and practical initial examinations, the applicant must obtain a minimum grade of seventy percent (70%) in each portion of the examination taken. Each portion of the examination will be graded separately. Failure of any one portion of the examination will not delete the entire test.

4.4.4 Examinations may be given at various field locations as deemed necessary by the Division. Appointments for field examinations are required.

4.4.5 As required in Sections 4.2 and 4.3 of these rules, those applicants that have successfully completed the requirements of the Certified Employee Training Program (CETP), as written by the National Propane Gas Association, and that corresponds to the work to

be performed by the applicant, shall have the requirement for initial examination waived, after appropriate documentation is provided to the Division by the applicant.

4.4.6 As required in Sections 4.2 and 4.3.6 of these rules, those applicants that have successfully completed the requirements in Code of Federal Regulations (CFR) 49, Parts 172.700, 172.704, 177.800 and 177.816, that corresponds to the work to be performed by the applicant, shall have the requirement for initial examination waived, after appropriate documentation is provided to the Division by the applicant.

4.4.7 As required in Sections 4.2 and 4.3.3 of these rules, those applicants that have successfully completed the Rocky Mountain Gas Association, Natural Gas Technician Certification Exam with a passing score, shall have the requirement for initial examination waived, after appropriate documentation is provided to the Division by the applicant.

4.4.8 As required in Sections 4.2 and 4.3.3 of these rules, those applicants that ~~have successfully completed an apprenticeship program that teaches the installation of gas line appliances and is approved by the Federal Bureau of Apprenticeship Training, are licensed journeyman plumbers as required in the Construction Trades Licensing Act Plumber Licensing Rules, R156-55c,~~ shall have the requirement for initial examination waived, after appropriate documentation is provided to the Division by the applicant.

#### 4.5 Original and Renewal Date.

Original LPG certificates shall be valid for one year from the date of issuance. Thereafter, each LPG certificate shall be renewed annually and renewals thereof shall be valid from for one year from issuance.

#### 4.6 Renewal Date.

Application for renewal shall be made on forms provided by the Division.

#### 4.7 Re-examination.

Every holder of a valid LPG Certificate shall take a re-examination every five years from the date of original certificate issuance, to comply with the provisions of Section 4.3 of these rules as follows:

4.7.1 The re-examination to comply with the provisions of Section 4.3 of these rules shall consist of an open book examination, to be mailed to the certificate holder at least 60 days before the renewal date.

4.7.2 The open book re-examination will consist of questions that focus on changes in the last five years to NFPA 54, NFPA 58, the statute, or the adopted administrative rules. The re-examination may also consist of questions that focus on practices of concern as noted by the Board or Division.

4.7.3 The certificate holder is responsible to complete the re-examination and return it to the Division in sufficient time to renew.

4.7.4 The certificate holder is responsible to return to the Division with the re-examination the correct renewal fees to complete that certificate renewal.

4.7.5 As required in Section 4.7 of these rules, those applicants that have successfully completed the requirements in Code of Federal Regulations (CFR) 49, Parts 172.700, 172.704, 177.800 and 177.816, that corresponds to the work to be performed by the applicant, shall have the requirement for re-examination waived, after appropriate documentation is provided to the Division by the applicant.

4.7.6 As required in Section 4.7 of these rules, those applicants that provide the Division with written verification of the completion

of 40 hours of continuing training over the previous five-year period shall have the requirement for re-examination waived.

#### 4.8 Refusal to Renew.

The Division may refuse to renew any LPG certificate in the same manner and for any reason that is authorized pursuant to Section 5.2 of these rules.

#### 4.9 Inspection.

The holder of a LPG certificate shall submit such certificate for inspection, upon request of the Division or the enforcing authority.

#### 4.10 Type.

4.10.1 Every LPG certificate shall indicate the type of act or acts to be performed and for which the applicant has qualified.

4.10.2 Any person holding a valid LPG certificate shall not be authorized to perform any act unless he is a licensee or is employed by a licensed concern.

4.10.3 It is the responsibility of the LPG certificate holder to insure that the concern they are employed by is licensed under this act.

#### 4.11 Change of Address.

Any change in home address of any holder of a valid LPG certificate shall be reported by the registered person to the Division within thirty (30) days of such change.

#### 4.12 Duplicate.

A duplicate LPG certificate may be issued by the Division to replace any previously issued certificate which has been lost or destroyed upon the submission of a written statement to the Division from the certified person. Such statement shall attest to the certificate having been lost or destroyed. If the original is found, it shall be surrendered to the Division within 15 days.

#### 4.13 Contents of Certificate of Registration.

Every LPG certificate issued shall contain the following information:

4.13.1 The name and address of the applicant.

4.13.2 The physical description of applicant.

4.13.3 The signature of the LP Gas Board Chairman.

4.13.4 The date of issuance.

4.13.5 The expiration date.

4.13.6 Type of service the person is qualified to perform.

4.13.7 Have printed on the card the following: "This certificate is for identification only, and shall not be used for recommendation or advertising".

#### 4.14 Minimum Age.

No LPG certificate shall be issued to any person who is under sixteen (16) years of age.

#### 4.15 Restrictive Use.

4.15.1 No LPG certificate shall constitute authorization for any person to enforce any provisions of these rules.

4.15.2 A LPG certificate may be used for identification purposes only as long as such certificate remains valid and while the holder is employed by a licensed concern.

4.15.3 Regardless of the acts for which the applicant has qualified, the performance of only those acts authorized under the licensed concern employing such applicant shall be permissible.

4.15.4 Regardless of the acts authorized to be performed by a licensed concern, only those acts for which the applicant for a LPG certificate has qualified shall be permissible by such applicant.

#### 4.16 Right to Contest.

4.16.1 Every person who takes an examination for a LPG certificate shall have the right to contest the validity of individual questions of such examination.

4.16.2 Every contention as to the validity of individual questions of an examination that cannot be reasonably resolved, shall be made in writing to the Division within 48 hours after taking said examination. Contentions shall state the reason for the objection.

4.16.3 The decision as to the action to be taken on the submitted contention shall be by the Board, and such decision shall be final.

4.16.4 The decision made by the Board, and the action taken, shall be reflected in all future examinations, but shall not affect the grades established in any past examination.

4.17 Non-Transferable.

LPG Certificates shall not be transferable to another individual. Individual LPG certificates shall be carried by the person to whom issued.

4.18 New Employees.

New employees of a licensed concern may perform the various acts while under the direct supervision of persons holding a valid LPG certificate for a period not to exceed 45 days from the initial date of employment. By the end of such period, new employees shall have taken and passed the required examination. In the event the employee fails the examination, re-examination shall be taken within 30 days. The employee shall remain under the direct supervision of an employee holding a valid LPG certificate, until certified.

4.19 Certificate Identification.

Every LPG certificate shall be identified by a number, delineated as PE-(number). Such number shall not be transferred from one person to another.

**KEY: liquefied petroleum gas**

**Date of Enactment or Last Substantive Amendment: ~~February 21, 2008~~ May 22, 2008**

**Notice of Continuation: March 30, 2006**

**Authorizing, and Implemented or Interpreted Law: 53-7-305**



Public Safety, Fire Marshal

**R710-7**

Concerns Servicing Automatic Fire Suppression Systems

**NOTICE OF PROPOSED RULE**  
(Amendment)

DAR FILE No.: 31085  
FILED: 03/28/2008, 09:48

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Fire Prevention Board met on 03/11/2008 in a regularly scheduled board meeting and adopted by motion and vote three updated incorporated references and some requirements when taking certification of registration examinations.

SUMMARY OF THE RULE OR CHANGE: A summary of the rule changes is as follows: 1) in Subsection R710-7-1(1.1), the board proposes to update three National Fire Protection Association (NFPA) incorporated references to the 2008 editions; and 2) in Subsections R710-7-4(4.3.3) through (4.3.6), the board proposes to establish requirements when

completing certification of registration examinations to include examination time limits, no use of cellular telephones in the examination area, total completion of each level of proficiency, limited materials of reference in the testing area, adequate level of preparation before testing, etc.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-7-204

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: National Fire Protection Association, Standard 12, Standard on Carbon Dioxide Extinguishing Systems, 2008 edition; National Fire Protection Association, Standard 96, Ventilation Control and Fire Protection of Commercial Cooking Operations, 2008 edition; and National Fire Protection Association, Standard 2001, Clean Agent Fire Extinguishing Systems, 2008 edition

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There would be an aggregate cost to the state budget of approximately \$115 to purchase the three updated NFPA documents for use. There would be a total of approximately \$345 to purchase three sets of the NFPA documents for use by the State Fire Marshal's Office.

❖ LOCAL GOVERNMENTS: There is no aggregate anticipated cost or savings to local government because these proposed amendments do not affect local government due to the fact this program is overseen by the state and is not a locally mandated program.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There would be an aggregate cost to small businesses of approximately \$115 to purchase all three of the updated NFPA standards for use in their business. There would be an aggregate cost of approximately \$6,325 for each of the 55 licensed concerns to purchase one set of three for use in their business.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There would be a compliance cost of approximately \$115 to purchase all three updated NFPA references. There would be a requirement that at least one set of three be purchased per company. There would be no compliance cost for affected persons for the proposed examination requirements because they are procedural in nature and are not cost incurring.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There would be a fiscal impact to businesses of approximately \$115 per business to purchase the three updated NFPA references. The industry prefers to use the latest editions of the NFPA standards to be allowed to receive the latest allowances in the trades. Scott T. Duncan, Commissioner

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

PUBLIC SAFETY  
FIRE MARSHAL  
Room 302  
5272 S COLLEGE DR  
MURRAY UT 84123-2611, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Brent Halladay at the above address, by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at [bhallada@utah.gov](mailto:bhallada@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 05/22/2008

AUTHORIZED BY: Ron L. Morris, Utah State Fire Marshal

## **R710. Public Safety, Fire Marshal.**

### **R710-7. Concerns Servicing Automatic Fire Suppression Systems.**

#### **R710-7-1. Adoption of Codes.**

Pursuant to Title 53, Chapter 7, Section 204, Utah Code Annotated 1953, the Utah State Fire Prevention Board adopts rules to provide regulation to those concerns that service Automatic Fire Suppression Systems. These rules do not apply to standpipe systems, deluge systems, or automatic fire sprinkler systems.

There is adopted as part of these rules the following codes which are incorporated by reference:

1.1 National Fire Protection Association, Standard 12, Standard on Carbon Dioxide Extinguishing Systems, [2005]2008 edition; N.F.P.A., Standard 12A, Halon 1301 Fire Extinguishing Systems, 2004 edition; N.F.P.A., Standard 12B, Halon 1211 Fire Extinguishing Systems, 1990 edition; N.F.P.A., Standard 17, Standard for Dry Chemical Extinguishing Systems, 2002 edition; N.F.P.A., Standard 17A, Standard for Wet Chemical Extinguishing Systems, 2002 edition; N.F.P.A., Standard 96, Ventilation Control and Fire Protection of Commercial Cooking Operations, [2004]2008 edition; N.F.P.A., Standard 2001, Clean Agent Fire Extinguishing Systems, [2004]2008 edition. The definitions contained in these pamphlets shall pertain to these regulations.

#### 1.2 Validity

If any section, subsection, sentence, clause, or phrase, of these rules is, for any reason, held to be unconstitutional, contrary to statute, or exceeding the authority of the SFM, such decision shall not affect the validity of the remaining portion of these rules.

#### 1.3 Systems Prohibited

No person shall market, distribute, sell, install or service any automatic fire suppression system in this state, unless it meets the following:

1.3.1 It complies with these rules.

1.3.2 It has been tested by, and bears the label of a testing laboratory which is accepted by the SFM as qualified to test automatic fire suppression systems.

1.3.3 All existing automatic fire suppression systems using dry chemical shall be removed and replaced with a UL300 listed system by January 1, 2006 or before that date when any of the following occurs:

1.3.3.1 Six year internal maintenance service;

1.3.3.2 Recharge;

1.3.3.3 Hydrostatic test date as indicated on the manufacturer date of the cylinders;

1.3.3.4 Reconfiguration of the system piping.

1.3.4 All existing wet chemical automatic fire suppression systems not UL300 listed shall be removed, replaced or upgraded to a UL300 listed system by January 1, 2006 or before that date when any of the following occurs:

1.3.4.1 Six year internal maintenance service;

1.3.4.2 Recharge;

1.3.4.3 Hydrostatic test date as indicated on the manufacturer date of the cylinders;

1.3.4.4 Reconfiguration of the system piping.

1.4 Copies of the above listed codes are on file in the Office of Administrative Rules and the Office of the State Fire Marshal.

### **R710-7-4. Certificates of Registration.**

#### 4.1 Required Certificates of Registration

No person shall service any automatic fire suppression system without a certificate of registration issued by the SFM pursuant to these rules expressly authorizing such person to perform such acts.

#### 4.2 Application

Application for a certificate of registration to work on automatic fire suppression systems shall be made in writing to the SFM on forms provided by the SFM. The application shall be signed by the applicant.

#### 4.3 Examination

The SFM shall require all applicants for a certificate of registration to take and pass a written examination, which may be supplemented by practical tests to determine the applicant's knowledge to work on automatic fire suppression systems. Pictured identification of the applicant for a certificate of registration may be requested by the SFM or his deputies. Examinations will be given according to the following schedule and requirements:

4.3.1 On the first and third Tuesdays of each month. When holidays conflict with these days, the day immediately following will be used. An appointment will be made to take an examination at least 24 hours in advance of the examination date.

4.3.2 Examinations may be given at various field locations as deemed necessary by the SFM. Appointments for field examinations are required.

4.3.3 All certification examinations given are open book examinations. The applicant is allowed to use the statute, the administrative rule, and the NFPA standard that applies to the certification examination. Any other materials to include cellular telephones are prohibited in the examination room.

4.3.4 Completion of the certification examination will not be allowed if it appears to the test administrator that the applicant has not prepared to take the examination.

4.3.5 Each certification examination taken has a time limit of two hours to completion. Leaving the office or testing location before the completion of the examination voids the examination and will require the examination to be retaken by the applicant.

4.3.6 If there are different levels of proficiency in the subject matter, the lower proficiency level will be fully completed before the next higher proficiency will be administered.

#### 4.4 Examination - Passing Grade

To successfully pass the written examination, the applicant must obtain a minimum grade of seventy percent (70%) in each portion of the examination taken.

#### 4.5 Contents of Examination

The examination required shall include a written test of the applicant's knowledge of the work to be performed, the provisions of these rules, and may include an actual demonstration of his ability to perform the acts indicated on the application.

#### 4.6 Right to Contest

Every person who takes an examination for a certificate of registration shall have the right to contest the validity of individual questions of such examination. Every contention as to the validity of individual questions of the examination shall be made in writing within 48 hours after taking said examination. The decision of the SFM shall be final.

#### 4.7 Issuance

Following receipt of the completed application, compliance with the provisions of these rules, and the successful completion of the required examination, the SFM shall issue a certificate of registration.

#### 4.8 Original and Renewal Valid Date

Original certificates of registration will be valid for one year from the date of application. Thereafter, each certificate of registration will be renewed annually and renewals will be valid for one year from issuance. The failure to renew a certificate of registration will cause the certificate of registration to become invalid. The holder of an invalid certificate of registration shall not perform any work on automatic fire suppression systems.

#### 4.9 Renewal Date

Application for renewal will be made as directed by the SFM. Beginning March 4, 2003 through February 29, 2004, renewal dates for certification of registrations will be based upon the license inspection date and valid for a one-year period of time. Renewal certificate of registrations shall be prorated monthly, and monthly fees already paid in that time period shall be credited towards the renewal fee.

#### 4.10 Re-examination

Every holder of a valid certificate of registration will take a re-examination every five (5) years, from the date of original certificate, to comply with the provisions of Section 4.3 of these rules as follows:

4.10.1. The re-examination to comply with the provisions of Section 4.3 of these rules shall consist of one 25 question open book examination to be mailed to the certificate holder at least 60 days before the renewal date.

4.10.2. The 25 question re-examination will consist of questions that focus on changes in the last five years to the NFPA standards, the statute, and adopted practices of concerns noted by the Board or SFM,.

4.10.3. The certificate holder is responsible to complete the re-examination and return it to the SFM in sufficient time to renew.

4.10.4. The certificate holder is responsible to return to the SFM the correct renewal fees to complete that certificate renewal.

#### 4.11 Refusal to Renew

The SFM may refuse to renew any certificate of registration for the reasons that is authorized pursuant to Section 8 of these rules. The applicant will, upon such refusal, have the same rights as are granted by Section 8 of these rules to an applicant for an original certificate of registration which has been denied by the SFM.

#### 4.12 Inspection

The holder of a certificate of registration will submit such certificate for inspection, upon request of the SFM, any authorized deputies, or any local fire official.

#### 4.13 Change of Address

Any change of address of any holder of a certificate of registration will be reported by the registered person to the SFM within thirty (30) days of such change. Such change will also be made by the holder of the certificate of registration on the reverse side of the certificate of registration card.

#### 4.14 Duplicate

A duplicate certificate of registration may be issued by the SFM to replace any previously issued certificate which has been lost or destroyed.

#### 4.15 Minimum Age

No certificate of registration shall be issued to any person who is under eighteen (18) years of age.

#### 4.16 Restrictive Use

4.16.1 No certificate of registration will constitute authorization for any person to enter upon or into any property or building.

4.16.2 No certificate of registration will constitute authorization for any person to enforce any provisions of these rules or the Uniform Fire Code.

4.16.3 Regardless of the acts authorized to be performed by the licensed concern, only those acts for which the applicant for a certificate of registration has qualified will be permissible by such applicant.

#### 4.17 Non-Transferable

Certificates of registration will not be transferable. Individual certificates of registration will be carried by the person to whom issued.

#### 4.18 Limited Issuance

No certificate of registration will be issued to any person unless that person is a licensee or an employee of a licensed concern.

#### 4.19 New Employees

New employees of a licensed concern may perform the various acts while under the direct supervision of a person holding a valid certificate of registration for a period not to exceed forty-five (45) days from the initial date of employment.

#### 4.20 Certificate Identification

Every certificate will be identified by a number, delineated as HE-(number).

**KEY: fire prevention, systems**

**Date of Enactment or Last Substantive Amendment:**

~~September 7, 2006~~ **May 22, 2008**

**Notice of Continuation: May 31, 2007**

**Authorizing, and Implemented or Interpreted Law: 53-7-204**

◆ ————— ◆

## Public Safety, Fire Marshal R710-11-3 Certificates of Registration

### NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 31086

FILED: 03/28/2008, 10:22

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Fire Prevention Board met on 03/11/2008 in a regularly scheduled Board meeting and voted to amend Rule R710-11 by establishing requirements when a person completes a certification of registration examination.



**SUMMARY OF THE RULE OR CHANGE:** A summary of the rule changes is as follows: 1) in Subsection R710-11-3(3.4), the board proposes to establish some guidelines when certificate of registration examinations are taken, to include open book designation, prohibited use of cellular telephones in the testing area, time limit on examinations, percent score to pass, levels of proficiency, etc.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 53-7-204

**ANTICIPATED COST OR SAVINGS TO:**

- ❖ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget because these proposed rule amendments are procedural in nature and establish specific controls and requirements when taking certificate of registration examinations.
- ❖ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government because this has nothing to do with local government and does not affect local government in any form.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** There is no anticipated cost or savings to small businesses because these are procedural changes by amendment in the way the examinations are taken and do not affect the budget of a small business.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There is no compliance cost for affected persons in these proposed amendments because these changes affect how you take the certificate of registration examinations and do not affect actual costs.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** These changes do not have a fiscal impact on businesses because they are procedural in nature only. Scott T. Duncan, Commissioner

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

PUBLIC SAFETY  
FIRE MARSHAL  
Room 302  
5272 S COLLEGE DR  
MURRAY UT 84123-2611, or  
at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

Brent Halladay at the above address, by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at [ballada@utah.gov](mailto:ballada@utah.gov)

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2008.**

**THIS RULE MAY BECOME EFFECTIVE ON:** 05/22/2008

**AUTHORIZED BY:** Ron L. Morris, Utah State Fire Marshal

## **R710. Public Safety, Fire Marshal.**

### **R710-11. Fire Alarm System Inspecting and Testing.**

#### **R710-11-3. Certificates of Registration.**

##### 3.1 Required Certificates of Registration.

No person shall engage in the inspecting and testing of fire alarm systems without first receiving a certificate of registration issued by the SFM. The following groups are exempted from the requirements of this part:

3.1.1 The AHJ that is performing the initial installation acceptance testing of the fire alarm system or ongoing inspections to verify compliance with the adopted NFPA standards and these rules.

3.1.2 The building owner or designee that performs additional periodic inspections beyond the annual inspection required in Section 6.2 of these rules, to satisfy requirements set by company policy, insurance, or risk management.

##### 3.2 Application.

3.2.1 Application for a certificate of registration to inspect and test fire alarm systems shall be made in writing to the SFM on forms provided by the SFM. The applicant shall sign the application. The SFM or his deputies may request picture identification of the applicant for a certificate of registration.

3.2.2 The applicant shall indicate on the application which of the three technician levels the applicant will apply for:

##### 3.2.2.1 Basic Fire Alarm Technician

##### 3.2.2.2 Fire Alarm Technician

##### 3.2.2.3 Master Fire Alarm Technician

3.2.3 The application for a certificate of registration shall be accompanied with proof of public liability insurance from the certificate holder or employing concern. A public liability insurance carrier showing coverage of at least \$100,000 for each incident, and \$300,000 in total coverage shall issue the public liability insurance. The certificate of registration holder shall notify the SFM within 30 days after the public liability insurance coverage required is not longer in effect for any reason.

##### 3.3 Technician Examination.

The SFM shall require all applicants for a certificate of registration as a technician to complete the following:

3.3.1 Basic Fire Alarm Technician shall pass a written examination on basic testing of fire alarm systems or shall be certified as a NICET I. The Basic Fire Alarm Technician shall complete the manipulative skills task book. Work as a Basic Fire Alarm Technician shall be performed under direct supervision of a Fire Alarm Technician or Master Fire Alarm Technician.

3.3.2 Fire Alarm Technician shall pass all the requirements listed for Basic Fire Alarm Technician, and shall pass a written examination on basic testing and maintenance of fire alarm systems limited up to and including four story buildings or shall be certified as a NICET II.

3.3.3 Master Fire Alarm Technician shall pass all the requirements listed for Basic Fire Alarm Technician and Fire Alarm Technician, and shall pass a written examination on fire alarm systems in buildings over four stories, voice alarm/evacuation systems, and smoke control systems or shall be certified as a NICET III or as NICET IV.

3.4 Examinations will be given according to the following requirements:

3.4.1 All certification examinations given are open book examinations. The applicant is allowed to use the statute, the administrative rule, and the NFPA standard that applies to the certification examination. Any other materials to include cellular telephones are prohibited in the examination room.

3.4.2 Completion of the certification examination will not be allowed if it appears to the test administrator that the applicant has not prepared to take the examination.

3.4.3 Each certification examination taken has a time limit of two hours to completion. To successfully pass the written examination, the applicant must obtain a minimum grade of seventy percent (70%). Leaving the office or testing location before the completion of the examination voids the examination and will require the examination to be retaken by the applicant.

3.4.4 If there are different levels of proficiency in the subject matter, the lower proficiency level will be fully completed before the next higher proficiency will be administered.

3.4.5~~[3.4 To successfully complete the written examination the applicant must obtain a minimum score of seventy percent (70%) in each examination taken.]~~ To successfully complete the manipulative skills task book, all required skill tasks shall be signed as completed by a person duly qualified or certified in that skill.

3.5 As required in 3.3 of these rules, those applicants that have successfully completed the requirements and are certified by NICET in the skills that correspond to the work to be performed by the applicant, shall have the requirement for written examination waived, after appropriate documentation is provided to the SFM by the applicant.

#### 3.6 Issuance.

Following receipt of the properly completed application, compliance with Section 3.3 of these rules, the SFM shall issue a certificate of registration.

#### 3.7 Original and Renewal Valid Date.

Original certificates of registration shall be valid for one year from the date of application. Thereafter, each certificate of registration shall be renewed annually and renewals shall be valid for one year from issuance.

#### 3.8 Renewal Date.

Application for renewal shall be made as directed by the SFM.

#### 3.9 Re-examination.

Every holder of a valid certificate of registration shall take a re-examination every three years, from date of original certificate, to comply with the provisions of Section 3.3 of these rules as follows:

3.9.1 The re-examination to comply with the provisions of Section 3.3 of these rules, shall consist of an examination for each level of certification, to be mailed to the certificate holder at least 60 days before the renewal date.

3.9.2 The re-examination will consist of questions that focus on changes in the last three years to the adopted NFPA standards, the statute, and the adopted administrative rules. The re-examination may also consist of questions that focus on practices of concern as noted by the Board or the SFM.

3.9.3 The certificate holder is responsible to complete the re-examination and return it to the SFM in sufficient time to renew.

3.9.4 The certificate holder is responsible to return to the SFM the correct renewal fees to complete that certificate renewal.

#### 3.10 Refusal to Renew.

The SFM may refuse to renew any certificate of registration in the same manner and for any reason that he is authorized, pursuant to Section 7, to deny an original certificate of registration. The applicant shall, upon such refusal, have the same rights as are granted by Section 7 of these rules to an applicant for an original certificate of registration, which has been denied by the SFM.

#### 3.11 Inspection.

The holder of a certificate of registration shall submit such certificate for inspection, upon request of the AHJ.

#### 3.12 Type.

Every certificate of registration shall indicate the type of act or acts to be performed and for which the applicant has qualified.

#### 3.13 Change of Address.

Any change in home address of any holder of a valid certificate of registration shall be reported in writing, by the registered person to the SFM within 30 days of such change.

#### 3.14 Duplicate.

A duplicate certificate of registration may be issued by the SFM to replace any previously issued certificate, which has been lost or destroyed.

#### 3.15 Minimum Age.

No certificate of registration shall be issued to any person who is under 18 years of age.

#### 3.16 Restrictive Use.

3.16.1 A certificate of registration may be used for identification purposes only as long as such certificate remains valid.

3.16.2 Regardless of the acts authorized to be performed by a licensed concern, only those acts for which the applicant for a certificate of registration has qualified shall be permissible by such applicant.

#### 3.17 Right to Contest.

3.17.1 Every person who takes an examination for a certificate of registration shall have the right to contest the validity of individual questions of such examination.

3.17.2 Every contention as to the validity of individual questions of an examination shall be made within 48 hours after taking said examination.

3.17.3 The decision as to the action to be taken on the submitted contention shall be made by the SFM, and such decision shall be final.

3.17.4 The decision made by the SFM, and the action taken, shall be reflected in all future examinations, but shall not affect the grades established in any past examination.

#### 3.18 Non-Transferable.

Certificates of Registration shall not be transferable. The person to whom issued shall carry individual certificates of registration.

#### 3.19 Certificate of Registration Identification.

Every certificate shall be identified by a number. The certificate of registration shall be worn in a visible manner when inspecting and testing fire alarm systems.

#### 3.20 New Employees

New or existing employees desiring to attain a certificate of registration may perform the various acts required while under the constant direct supervision of a person holding a valid certificate of registration for a period not to exceed 90 days from the initial date of employment or beginning service in the field.

#### **KEY: fire alarm systems**

**Date of Enactment or Last Substantive Amendment: May [8, 2007]22, 2008**

**Authorizing, and Implemented or Interpreted Law: 53-7-204**



Public Safety, Fire Marshal  
**R710-12-4**  
 Training

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 31087

FILED: 03/28/2008, 11:50

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Fire Prevention Board met on 03/11/2008 in a regularly scheduled Board meeting and voted to amend Rule R710-12 by redefining the approval and acceptance process for instruction materials, written examinations, and practical or actual demonstrations for those materials used statewide to teach hazardous materials.

SUMMARY OF THE RULE OR CHANGE: A summary of the rule changes is as follows: 1) in Subsection R710-12-4(4.1), the board proposes to redefine the approval and acceptance process for all instruction materials designed for statewide use to teach hazardous materials; and 2) in Subsection R710-12-4(4.2), the board proposes to redefine the approval and acceptance process for all written examinations and practical or actual demonstrations for those materials designed for statewide use to teach hazardous materials.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-7-204

**ANTICIPATED COST OR SAVINGS TO:**

- ❖ THE STATE BUDGET: There is no aggregate anticipated cost or savings to the state budget for these proposed amendments. These proposed changes are a procedural redefinition and do not generate any cost or savings.
- ❖ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government because this has nothing to do with local government and does not affect local government in any form.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There is no anticipated cost or savings to small businesses because these proposed amendments do not affect small businesses in any form. The proposed changes affect government agencies.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no compliance cost for affected persons in these proposed amendments because they redefine the approval and acceptance process for instruction materials, written examinations, and practical or actual demonstrations for teaching hazardous materials and are procedural by process.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These proposed amendments do not have a fiscal impact on businesses because they are procedural in nature only and do not affect businesses. Scott T. Duncan, Commissioner

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

PUBLIC SAFETY  
FIRE MARSHAL  
Room 302  
5272 S COLLEGE DR

MURRAY UT 84123-2611, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Brent Halladay at the above address, by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at bhallada@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 05/22/2008

AUTHORIZED BY: Ron L. Morris, Utah State Fire Marshal

**R710. Public Safety, Fire Marshal.****R710-12. Hazardous Materials Training and Certification.****R710-12-4. Training.**

4.1 ~~[All]~~ Instruction materials designed for statewide use that will teach minimum core competencies for those persons certifying to provide response services regarding hazardous material emergencies shall be approved by the ~~[Hazardous Materials Advisory] Council [before commencement of the instruction]~~ and accepted by the Utah Fire Service Certification Council.

4.2 ~~[All w]~~ Written examinations, practical or actual demonstrations, and any other required testing given for core competency, for those persons certifying to provide response services regarding hazardous material emergencies statewide, shall be approved by the Council [before administration of the examinations] and accepted by the Utah Fire Service Certification Council.

**KEY: hazardous materials**

**Date of Enactment or Last Substantive Amendment:** ~~[March 10, 2008]~~ May 22, 2008

**Authorizing, and Implemented or Interpreted Law:** 53-7-204

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## Transportation, Motor Carrier

# R909-75

## Safety Regulations for Motor Carriers Transporting Hazardous Materials and/or Wastes

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 31090

FILED: 03/31/2008, 16:58

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Pipeline and Hazardous Materials Safety Administration amends the Hazardous Material Regulations (HMR) by revising the list of hazardous substances and reportable quantities (RQs) and by

correcting editorial errors to the list of hazardous substance and RQs.

**SUMMARY OF THE RULE OR CHANGE:** This rule enables shippers and carriers to identify the affected hazardous substances, comply with all applicable regulatory requirements, and make the required notifications if the release of hazardous substance occurs.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Sections 72-9-103 and 72-9-104

**THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL:** 73 FR 1089-1115, January 7, 2008

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** None--There is no added cost to the state budget because the rule simply clarifies and revises the list of hazardous materials without making substantial changes.

❖ **LOCAL GOVERNMENTS:** None--There is no added cost to local governments for the same reason as given above. The rule simply clarifies and revises the list of hazardous materials without requiring action by local governments.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** None--There is no additional cost to small business and persons other than business because the rule simply clarifies when an affected business is required to utilize its existing reporting apparatus and to undergo the same procedures that would ordinarily be required in the event of a spill.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** None to minimal--The reason there are no substantial compliance costs is there are no significant changes in the hazardous materials list adding materials that were not already identified prior to this revision. As a result, costs will not likely change to any significant degree as a result of this rule adopting the revision.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** Costs will not likely increase since the great bulk of hazardous materials already exist on the list prior to the enactment of this rule. John Njord, Executive Director

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

TRANSPORTATION  
MOTOR CARRIER  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W  
SALT LAKE CITY UT 84119-5998, or  
at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

Shirleen Hancock at the above address, by phone at 801-965-4781, by FAX at 801-965-4211, or by Internet E-mail at shirleenhancock@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2008.**

THIS RULE MAY BECOME EFFECTIVE ON: 05/22/2008

AUTHORIZED BY: John R. Njord, Executive Director

**R909. Transportation, Motor Carrier.**

**R909-75. Safety Regulations for Motor Carriers Transporting Hazardous Materials and/or Hazardous Wastes.**

**R909-75-1. Adoption of Federal Regulations.**

Safety Regulations for Motor Carriers Transporting Hazardous Materials and/or Hazardous Wastes, 49 CFR, Sub-Chapter C, Parts 100 through 180, of the [October 1, 2006 edition of the Code of Federal Regulations] January 7, 2008 (Volume 73, Number 4) edition of the Federal Register, are incorporated by reference. These changes apply to all private, common, and contract carriers by highway in commerce.

**KEY:** hazardous materials transportation, hazardous substances, hazardous waste, safety regulations

**Date of Enactment or Last Substantive Amendment:** [February 8, 2007] 2008

**Notice of Continuation:** November 29, 2006

**Authorizing, and Implemented or Interpreted Law:** 72-9-103; 72-9-104



Transportation, Preconstruction  
**R930-5**

Establishment and Regulation of At-Grade Railroad Crossings

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 31066

FILED: 03/19/2008, 15:45

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this amendment is to clarify maintenance responsibilities for railroad crossings between the railroad and the owner of the road; and to clarify which party is responsible for costs of railroad crossing construction.

**SUMMARY OF THE RULE OR CHANGE:** There are two parts to the amendment. The first part describes responsibilities for maintenance at railroad crossings. When a crossing underpasses a railroad, the railroad owns the right-of-way fee title, and maintenance is the responsibility of the roadway owner. If the roadway owner owns the right-of-way fee title, the railroad is responsible for maintenance. Second, the rule provides that when no federal funds are used on a railroad crossing overpass or underpass construction project, no railroad financial participation is required if the railroad owns the fee title right of way. If the railroad does not own the fee title right of way, all costs are the responsibility of the railroad.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 72-1-201

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--There is no increased cost because any required maintenance will be handled by existing budgets.
- ❖ LOCAL GOVERNMENTS: None--There is no cost to local government because the rule does not apply to or involve local government.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--There is no cost to small businesses because the rule does not involve small business.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are construction costs for a railroad when there is a construction project at a crossing where the railroad does not own fee title right of way.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The rule will have no fiscal impacts on businesses. John Njord, Executive Director

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

TRANSPORTATION  
PRECONSTRUCTION  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W  
SALT LAKE CITY UT 84119-5998, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Maureen Short at the above address, by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at maureenshort@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 05/22/2008

AUTHORIZED BY: John R. Njord, Executive Director

### **R930. Transportation, Preconstruction.**

#### **R930-5. Establishment and Regulation of At-Grade Railroad Crossings.**

##### **R930-5-10. Maintenance.**

(1) Responsibility for maintenance is as described in this section unless a separate agreement has been executed between the railroad and the owner of the road.

~~(4)~~(2) The maintenance of automatic signal devices and the pavement area from end of tie to end of tie, including space between multiple tracks if the railroad company owns the easement rights between the multiple tracks, and two feet beyond each outside rails is the responsibility of the railroad company.

~~(2)~~(3) Signals and pavement between end of ties on temporary highway detours shall in all cases become the responsibility of the railroad company at the expense of the highway agency owning the roadway.

~~(3)~~(4) Maintenance of the crossing approaches up to end of tie is the responsibility of the agency owning the roadway. When the railway is raised due to track and ballast maintenance, the railroad company shall coordinate their work with the agency owning the roadway so the pavement on the approaches can be adjusted to provide a smooth ride for motorists. When the agency owning the roadway changes the road profile (through construction or maintenance activities) the approaches to the tracks must be adjusted to provide a smooth and level crossing surface.

~~(4)~~(5) Responsibility for maintenance of a grade separation structure is as follows:

(a) Where a separation facility overpasses a railroad, maintenance responsibility for the entire structure and approaches is assumed by the agency owning the structure and roadway.

(b) When a grade separation structure underpasses a railroad and the railroad owns the right of way fee title, maintenance of the roadway and the entire structure below and including the deck plate, girders, handrail, and parapets, is the responsibility of the owner of the roadway. Maintenance of the waterproofing, ballast, ties, rails and any portion of the supporting structure above the top of the ballast deck plate between parapets is the responsibility of the railroad company. If the owner of the roadway owns the right of way fee title, the railroad is responsible for the maintenance of the entire structure.

(c) Cost of repairing damages to a highway or a highway structure, occasioned by collision, equipment failure or derailment of the railroad's equipment shall be borne by the railroad company.

~~(5)~~(6) Responsibility for maintenance of private industrial trackage not owned by a railroad company that crosses public highways shall be as follows:

(a) When a facility, plant or property owner receives goods and services from a railroad company train over private industrial trackage that crosses a public highway, maintenance of the crossing shall be the responsibility of those companies receiving the goods and services.

(b) When the highway/railway crossing becomes a safety hazard to vehicles and is not maintained, the Department and the railroad company shipping the goods and services shall notify the facility, plant or property owners in writing to maintain or replace the railroad crossing material.

(c) If the owner of the private trackage does not maintain or replace the crossing material by a specified date, the Department shall order the railroad company to cease and desist operations across the highway/railway crossing.

(d) If the owner still does not respond to the order to maintain or replace the railroad crossing material the following action shall be taken by the highway agency owning the roadway. The highway agency shall arrange to have the crossing replaced, and bill the facility owner of the trackage for the expenses to repair the trackage.

##### **R930-5-13. Apportionment of Costs.**

(1) Paragraphs 2-7 of this section apply when highway projects are constructed in whole or in part with Federal funds.

(2) Apportionment of costs for installation, maintenance, and reconstruction of active and passive railroad warning devices at highway/railway intersections shall be in accordance with 23 CFR 646.

(3) When a roadway is widened by the state or local governmental agency, that agency shall fund all passive and active warning devices as recommended by the Diagnostic/Surveillance Team and as determined necessary by the Department.

(4) When a roadway is widened by a local agency, and the existing railroad crossing material is old and cannot be attached to the new material, the local agency shall fund the replacement of all new existing crossing material.

(5) When a highway/railway at-grade crossing is listed on the Department's Annual High Accident Prediction List, and it is determined by the Department that the crossing shall be upgraded, it shall be funded by federal railroad safety funds and local highway agency matching funds.

(6) If approved construction of a separation structure or the installation of a signal device at such crossing is not considered a benefit to the railroad, railroad participation shall not be required.

(7) A project to reconstruct an existing overpass or underpass shall include the entire structure and railway and the highest approaches thereto. Since there is no railway liability for such projects, it is considered that there shall be no benefit to the railroad and railroad participation shall not be required.

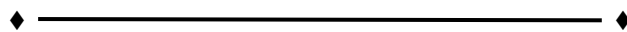
(8) This paragraph applies when no federal funds are used on a project to reconstruct an existing overpass or underpass. The project shall include the entire structure and railway and the highest approaches thereto. If the railroad owns the fee title right of way, no railroad participation is required. If the railroad does not own the fee title right of way, all costs will be the responsibility of the railroad.

**KEY: railroads, transportation, safety**

**Date of Enactment or Last Substantive Amendment: ~~April 25, 2006~~ 2008**

**Notice of Continuation: November 29, 2006**

**Authorizing, and Implemented or Interpreted Law: 10-8-34; 10-8-82; 41-6-19; 54-4-15; 72-1-102; 72-2-112**



## Workforce Services, Unemployment Insurance

# R994-106-106

## Non-Monetary Eligibility Determination

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31075

FILED: 03/25/2008, 11:25

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to comply with federal law and current practice.

SUMMARY OF THE RULE OR CHANGE: In combined wage claims where a decision has already been made on the claim in another state, the department must follow that decision unless that transferring state denied benefits.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-1-104 and Subsections 35A-1-104(4) and 35A-4-502(1)(b)

#### ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This is a federally-funded program so there are no costs or savings to the state budget.

❖ LOCAL GOVERNMENTS: This is a federally-funded program so there are no costs or savings to local government.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no costs or savings to any other persons or small businesses as there are no fees associated with this program and it is federally funded.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no costs or savings to any affected persons as there are no fees associated with this program and it is federally funded. These changes will not impact any employer's contribution rate.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no compliance costs associated with this change. There are no fees associated with this change. There will be no cost to anyone to comply with these changes. There will be no fiscal impact on any business. These changes will have no impact on any employers contribution tax rate. Kristen Cox, Executive Director

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

WORKFORCE SERVICES  
UNEMPLOYMENT INSURANCE  
140 E 300 S  
SALT LAKE CITY UT 84111-2333, or  
at the Division of Administrative Rules.

#### DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at [spixton@utah.gov](mailto:spixton@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 05/22/2008

AUTHORIZED BY: Kristen Cox, Executive Director

**R994. Workforce Services, Unemployment Insurance.****R994-106. Combined Wage Claims.****R994-106-106. Non-Monetary Eligibility Determination.**

When a combined wage claim is filed, the law and eligibility requirements of the paying state apply ~~even if an issue has been previously adjudicated by a transferring state.~~ except the paying state may not determine an issue that has previously been adjudicated by the transferring state. Such exception will not apply, however, if the transferring state's determination of the issue resulted in making the combined-wage claim possible as provided in 20 CFR 616.8 of the Code of Federal Regulations.

**KEY: unemployment compensation, interstate compacts****Date of Enactment or Last Substantive Amendment: ~~[1987]~~2008****Notice of Continuation: May 17, 2007****Authorizing, and Implemented or Interpreted Law: 35A-4-106(1)**

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**End of the Notices of Proposed Rules Section**

# FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by Section 63-46a-9.

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**Administrative Services, Facilities  
Construction and Management  
R23-13  
State of Utah Parking Rules for  
Facilities Managed by the Division of  
Facilities Construction and  
Management**

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 31063  
FILED: 03/17/2008, 09:56

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized under Section 63A-5-204, which authorizes the executive director of the Department of Administrative Services to adopt rules governing traffic flow and vehicle parking on state grounds surrounding facilities managed by the Division of Facilities Construction and Management (DFCM), and under Section 53-1-109, authorizing DFCM to enforce traffic rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: DFCM and the Utah Building Board have not received written comments either in support or opposition to Rule R23-13.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R23-13 establishes standards for parking at state facilities managed by DFCM. Specific attention has been given to the appearance of the grounds, presentation of the grounds at each facility to visitors, and optimal utilization of the parking areas at each facility for visitors, tourists, employees, and individuals with disabilities. Therefore, this rule should be continued.

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

ADMINISTRATIVE SERVICES  
FACILITIES CONSTRUCTION AND MANAGEMENT  
Room 4110 STATE OFFICE BLDG  
450 N MAIN ST  
SALT LAKE CITY UT 84114-1201, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debbie Merrill, Priscilla Anderson, or Alan Bachman at the above address, by phone at 801-538-3240, 801-538-9595, or 801-538-3105, by FAX at 801-538-3313, 801-538-3378, or 801-538-3313, or by Internet E-mail at [debramerrill@utah.gov](mailto:debramerrill@utah.gov), [phanderson@utah.gov](mailto:phanderson@utah.gov), or [abachman@utah.gov](mailto:abachman@utah.gov)

AUTHORIZED BY: D. Gregg Buxton, Director

EFFECTIVE: 03/17/2008

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**Administrative Services, Facilities  
Construction and Management  
R23-14  
Management of Roofs on State  
Buildings**

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 31064  
FILED: 03/17/2008, 09:56

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized under Section 63A-5-103, which directs the Building Board to make rules necessary for the discharge of its duties and those of the Division of Facilities Construction and Management (DFCM).



SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: DFCM and the Utah Building Board have not received written comments either in support or opposition to Rule R23-14.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R23-14 provides for the management of roofs on state buildings to prevent damage to the roof and to improve security of state buildings. Therefore, this rule should be continued.

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

ADMINISTRATIVE SERVICES  
FACILITIES CONSTRUCTION AND MANAGEMENT  
Room 4110 STATE OFFICE BLDG  
450 N MAIN ST  
SALT LAKE CITY UT 84114-1201, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Priscilla Anderson, Debbie Merrill, or Alan Bachman at the above address, by phone at 801-538-9595, 801-538-3240, or 801-538-3105, by FAX at 801-538-3378, 801-538-3313, or 801-538-3313, or by Internet E-mail at phanderson@utah.gov, debramerrill@utah.gov, or abachman@utah.gov

AUTHORIZED BY: D. Gregg Buxton, Director

EFFECTIVE: 03/17/2008



**Commerce, Occupational and  
Professional Licensing  
R156-31b  
Nurse Practice Act Rules**

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE NO.: 31094  
FILED: 04/01/2008, 09:16

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 58, Chapter 31b, provides for the licensure of licensed practical nurse, registered nurse, advanced practice registered nurse intern, advanced practice registered nurse, advanced practice registered nurse-CRNA (certified registered nurse anesthetist) without prescriptive practice and medication aide certified. Subsection 58-1-106(1)(a) provides that the division may adopt and enforce rules to administer Title 58. Subsection 58-

31b-201(3) provides that the Board of Nursing's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1)(a) provides that one of the duties of each board is to recommend appropriate rules to the division director. This rule was enacted to clarify the provisions of Title 58, Chapter 31b, with respect to the above-identified nursing classifications.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was last reviewed in June 2003, it has been amended several times. In July 2007, the division filed a proposed rule amendment with respect to delegation of nursing tasks (DAR No. 30208). The Division received numerous written comments mostly opposing the proposed amendments regarding the delegation of nursing tasks. As a result of the written comments received, comments offered during a 09/14/2007 rule hearing, and anticipated 2008 legislation with respect to the issue, the division did NOT make the proposed amendments effective and so notified the Division of Administrative Rules of this fact on 12/10/2007. In July 2004, the division filed proposed rule amendments resulting from 2003 legislative amendments to the governing statute, Title 58, Chapter 31b. An 08/24/2004 rule hearing was conducted with respect to the proposed amendments. As a result of comments offered during the August 2004 hearing, several written comments received by the division mostly opposing the LPN-GCM (licensed practical nurse-geriatric care manager) proposed amendments and further division review, a change in proposed rule filing (CPR) was filed on 10/25/2004. In that CPR filing, the division deleted all language regarding the LPN-GCM pilot program and indicated the issue would be addressed at a later date in another rule filing.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 31b, with respect to nursing classifications identified above. The rule should also be continued as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements.

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

COMMERCE  
OCCUPATIONAL AND PROFESSIONAL LICENSING  
HEBER M WELLS BLDG  
160 E 300 S  
SALT LAKE CITY UT 84111-2316, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Laura Poe at the above address, by phone at 801-530-6789, by FAX at 801-530-6511, or by Internet E-mail at lpoe@utah.gov

AUTHORIZED BY: F. David Stanley, Director

EFFECTIVE: 04/01/2008

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Commerce, Occupational and  
Professional Licensing

**R156-49**

Dietitian Certification Act Rules

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 31073  
FILED: 03/24/2008, 17:38

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 58, Chapter 49, provides for the certification of dietitians. Subsection 58-1-106(1)(a) provides that the division may adopt and enforce rules to administer Title 58. Subsection 58-49-3(3) provides that the Dietitian Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1)(a) provides that one of the duties of each board is to recommend appropriate rules to the division director. This rule was enacted to clarify the provisions of Title 58, Chapter 49, with respect to dietitians.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since this rule was last reviewed in September 2003, no written comments have been received by the division.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it provides a mechanism to inform potential licensees of the requirements for certification as allowed under statutory authority provided in Title 58, Chapter 49, with respect to dietitians. The rule should also be continued as it provides information to ensure applicants for certification are adequately trained and meet minimum requirements.

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

COMMERCE  
OCCUPATIONAL AND PROFESSIONAL LICENSING  
HEBER M WELLS BLDG  
160 E 300 S  
SALT LAKE CITY UT 84111-2316, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Daniel T. Jones at the above address, by phone at 801-530-6767, by FAX at 801-530-6511, or by Internet E-mail at dantjones@utah.gov

AUTHORIZED BY: F. David Stanley, Director

EFFECTIVE: 03/24/2008

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Commerce, Occupational and  
Professional Licensing

**R156-53**

Landscape Architect Licensing Act  
Rules

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 31074  
FILED: 03/24/2008, 17:40

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 58, Chapter 53, provides for the licensure of landscape architects. Subsection 58-1-106(1)(a) provides that the division may adopt and enforce rules to administer Title 58. Subsection 58-53-201(3) provides that the Landscape Architect Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1)(a) provides that one of the duties of each board is to recommend appropriate rules to the division director. This rule was enacted to clarify the provisions of Title 58, Chapter 53, with respect to landscape architects.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was last reviewed in June 2003, the rule has been amended once in August 2006 to add the administrative penalties fine schedule to Section R156-53-501. The division has received no written comments with respect to this rule since June 2003.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 53, with respect to landscape architects. The rule should also be continued as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements.

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

COMMERCE  
 OCCUPATIONAL AND PROFESSIONAL LICENSING  
 HEBER M WELLS BLDG  
 160 E 300 S  
 SALT LAKE CITY UT 84111-2316, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dennis Meservy at the above address, by phone at 801-530-6375, by FAX at 801-530-6511, or by Internet E-mail at dmeservy@utah.gov

AUTHORIZED BY: F. David Stanley, Director

EFFECTIVE: 03/24/2008



## Commerce, Occupational and Professional Licensing

### **R156-68**

## Utah Osteopathic Medical Practice Act Rules

#### **FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE No.: 31083  
 FILED: 03/27/2008, 16:19

#### **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 58, Chapter 68, provides for the licensure of osteopathic physicians/surgeons.

Subsection 58-1-106(1)(a) provides that the division may adopt and enforce rules to administer Title 58. Subsection 58-68-201(3)(a) provides that the Osteopathic Physician and Surgeon's Licensing Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1)(a) provides that one of the duties of each board is to recommend appropriate rules to the division director. This rule was enacted to clarify the provisions of Title 58, Chapter 68, with respect to osteopathic physicians/surgeons.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was last reviewed in June 2003, the rule has been amended once in April 2004 to add an additional approved medical specialty certification. The division has received no written comments with respect to this rule since June 2003.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be

continued as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 68, with respect to osteopathic physicians/surgeons. The rule should also be continued as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements.

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

COMMERCE  
 OCCUPATIONAL AND PROFESSIONAL LICENSING  
 HEBER M WELLS BLDG  
 160 E 300 S  
 SALT LAKE CITY UT 84111-2316, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Noel Taxin at the above address, by phone at 801-530-6621, by FAX at 801-530-6511, or by Internet E-mail at ntaxin@utah.gov

AUTHORIZED BY: F. David Stanley, Director

EFFECTIVE: 03/27/2008



## Human Services, Substance Abuse and Mental Health

### **R523-1**

## Procedures

#### **FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE No.: 31089  
 FILED: 03/31/2008, 08:15

#### **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 62A-13-105(2) directs the division to establish rules that administrate the Mental Health Therapist Grant and Scholarship. Subsection 62A-15-105(2) directs the division to establish by rule minimum standards for local substance abuse authorities and local mental health authorities. Subsection 62A-15-108(1) directs the division to establish by rule formulas to allocate funds to local substance abuse authorities and local mental health authorities. Section 62A-15-606 allows the board to establish rules that apply to the state hospital that can be enforced and administered by the division. Subsection 62A-15-611(2)(a) directs the board to establish by rule formulas for allocating beds for adults to local mental health authorities. Subsection 62A-15-612(2) directs the board to establish by rule formulas for allocating beds for children to local mental health authorities. Subsection 62A-15-704(3)(a) directs the division to establish by rule due process procedures for

children prior to the administration of antipsychotic medications, psychosurgery, and electroshock therapy.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No public comment has been received by the division, pertaining to this rule, over the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The division has reviewed this rule extensively and has concluded that most of the provisions related to mental health services are still appropriate for continuation to ensure continuity of care. There are also several subsections of this rule that are mandated by legislation that must remain in force. It has been noted that this rule is unorganized and not consumer friendly so a major rewrite is currently underway wherein rules providing for administration and program standards of substance abuse and mental health programs are being grouped into the same sections; and rules related to the Utah State Hospital are being moved to the state hospital rules. These rules are also being updated to reflect current practice and unneeded and ambiguous language is being removed. The division requested and was granted a 120-day extension with the intent to make the changes as outlined and to file a repeal of this rule, but that process has not been completed so a five-year review is being submitted at this time. The division anticipates the outlined changes to be filed by July or August of this year.

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

HUMAN SERVICES  
 SUBSTANCE ABUSE AND MENTAL HEALTH  
 Room 209  
 120 N 200 W  
 SALT LAKE CITY UT 84103-1500, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 Thom Dunford at the above address, by phone at 801-538-4519, by FAX at 801-538-9892, or by Internet E-mail at TDUNFORD@utah.gov

AUTHORIZED BY: Mark I Payne, Director

EFFECTIVE: 03/31/2008



**Public Safety, Fire Marshal**  
**R710-5**  
**Automatic Fire Sprinkler System**  
**Inspecting and Testing**

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 31088  
 FILED: 03/28/2008, 14:08

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53-7-225.5(2) directs the Utah Fire Prevention Board to make rules prescribing an application form and standards for certification qualification and for renewal and revocation for those that inspect and test automatic fire sprinkler systems.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Rule R710-5 has been amended five times in the last five years. It was enacted in 2002. There have been no written comments received in the last five-year period with regard to Rule R710-5. The Utah Fire Prevention Board has had a policy for many years that all that are affected receive sufficient notice before the board acts on any administrative rule enactment or amendment. All are encouraged to participate in the rule process thusly eliminating the majority of written comments to the board.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Automatic fire sprinkler systems are the automatic fire suppression systems in public and private schools, colleges, universities, hospitals, nursing homes, state owned facilities, businesses, etc. Almost always, the automatic fire sprinkler system enacts and controls the fire before the fire department ever arrives on scene. It is imperative that these systems work correctly due to their complicated functioning process, and this rule administers the requirements for the service technicians that inspect and test these systems. It is required that they be inspected, tested, and tagged on an annual basis. Over the last five years, a number of systems were found to be altered, shut off, partially shut off, major alterations in water, etc. that would not have been found without this program. Therefore, this rule should be continued with regard to the need for continued public safety.

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

PUBLIC SAFETY  
 FIRE MARSHAL  
 Room 302  
 5272 S COLLEGE DR  
 MURRAY UT 84123-2611, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 Brent Halladay at the above address, by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at bhallada@utah.gov

AUTHORIZED BY: Ron L. Morris, Utah State Fire Marshal

EFFECTIVE: 03/28/2008



Public Service Commission,  
Administration  
**R746-331**  
Determination of Exemption of Mutual  
Water Corporations

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 31095  
FILED: 04/01/2008, 09:17

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 54-4-1 authorizes the Public Service Commission to supervise and regulate utilities, and Section 54-2-1 defines water corporation and water system. This rule establishes the commission's guidelines for exemption from commission jurisdiction and the procedure used for that determination.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been submitted in the last five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is necessary that this rule be continued because it contains the guidelines for exemption from commission jurisdiction and the procedure used for that determination.

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

PUBLIC SERVICE COMMISSION  
ADMINISTRATION  
HEBER M WELLS BLDG  
160 E 300 S  
SALT LAKE CITY UT 84111-2316, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sheri Bintz at the above address, by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at sbintz@utah.gov

AUTHORIZED BY: Sandy Mooy, Legal Counsel

EFFECTIVE: 04/01/2008



Public Service Commission,  
Administration  
**R746-332**  
Depreciation Rates for Water Utilities

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 31091  
FILED: 04/01/2008, 09:10

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 54-4-24 gives the Public Service Commission the authority to require a utility to conform its depreciation accounts to the rates ascertained, determined, and fixed by the commission.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received in the last five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule needs to remain in effect to provide plant service life guidelines for those water utilities that cannot afford to perform depreciation studies on their own plant. Therefore, this rule should be continued.

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

PUBLIC SERVICE COMMISSION  
ADMINISTRATION  
HEBER M WELLS BLDG  
160 E 300 S  
SALT LAKE CITY UT 84111-2316, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sheri Bintz at the above address, by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at sbintz@utah.gov

AUTHORIZED BY: Sandy Mooy, Legal Counsel

EFFECTIVE: 04/01/2008



Public Service Commission,  
Administration  
**R746-342**

Rule on One-Way Paging

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE NO.: 31092  
FILED: 04/01/2008, 09:13

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 63-46a-3(3) requires rulemaking when an agency issues a written interpretation of a state or federal legal mandate. This rule determines whether one-way paging is a utility service under Utah law and thus whether subject to Public Service Commission regulation.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments to this rule since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is necessary that this rule be continued for the commission to continue to comply with the Utah Supreme Court decision in Williams v. Public Service Commission of Utah, 720 P.2d 773 (Utah 1986).

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

PUBLIC SERVICE COMMISSION  
ADMINISTRATION  
HEBER M WELLS BLDG  
160 E 300 S  
SALT LAKE CITY UT 84111-2316, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Sheri Bintz at the above address, by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at sbintz@utah.gov

AUTHORIZED BY: Sandy Mooy, Legal Counsel

EFFECTIVE: 04/01/2008



Public Service Commission,  
Administration  
**R746-402**

Rules Governing Reports of Accidents  
by Electric, Gas, Telephone, and Water  
Utilities

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE NO.: 31093  
FILED: 04/01/2008, 09:16

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 54-4-1 authorizes the Public Service Commission (PSC) to supervise and regulate utilities, and Section 54-4-14 authorizes the PSC to require utilities to perform specific acts intended to promote and safeguard the health and safety of employees, customers, and the public.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments to this rule since the last five-year review in 2003.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is necessary that this rule be continued because accidents of major importance may have an impact on rates.

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

PUBLIC SERVICE COMMISSION  
ADMINISTRATION  
HEBER M WELLS BLDG  
160 E 300 S  
SALT LAKE CITY UT 84111-2316, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Sheri Bintz at the above address, by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at sbintz@utah.gov

AUTHORIZED BY: Sandy Mooy, Legal Counsel

EFFECTIVE: 04/01/2008



**Public Service Commission,  
Administration  
R746-405  
Filing of Tariffs for Gas, Electric,  
Telephone, and Water Utilities**

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE NO.: 31101  
FILED: 04/01/2008, 13:37

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 54-4-1 authorizes the Public Service Commission to supervise and regulate utilities, and Section 54-3-2 requires the establishment of rules for the process, format, construction, and content of utility tariffs.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were submitted in the last five years. An amendment was made in 2005 to Section R746-405-1 due to statutory changes but no comments were received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is necessary that this rule be continued because it contains the process, format, construction, and content guidelines utility companies need when filing tariffs.

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

PUBLIC SERVICE COMMISSION  
ADMINISTRATION  
HEBER M WELLS BLDG  
160 E 300 S  
SALT LAKE CITY UT 84111-2316, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sheri Bintz at the above address, by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at [sbintz@utah.gov](mailto:sbintz@utah.gov)

AUTHORIZED BY: Sandy Mooy, Legal Counsel

EFFECTIVE: 04/01/2008



**End of the Five-Year Notices of Review and Statements of Continuation Section**

## NOTICES OF RULE EFFECTIVE DATES

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These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. Statute permits an agency to make a rule effective "on any date specified by the agency that is no fewer than seven calendar days after the close of the public comment period . . . , nor more than 120 days after the publication date." Subsection 63-46a-4(9).

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### Abbreviations

AMD = Amendment  
CPR = Change in Proposed Rule  
NEW = New Rule  
R&R = Repeal and Reenact  
REP = Repeal

### Commerce

Occupational and Professional Licensing  
No. 30935 (AMD): R156-3a-303. Qualifications for Licensure - Examination Requirements.  
Published: February 15, 2008  
Effective: March 27, 2008

No. 30715 (AMD): R156-26a. Certified Public Accountant Licensing Act Rules.  
Published: December 1, 2007  
Effective: March 31, 2008

No. 30715 (CPR): R156-26a. Certified Public Accountant Licensing Act Rules.  
Published: February 15, 2008  
Effective: March 31, 2008

### Education

Administration  
No. 30944 (AMD): R277-502. Educator Licensing and Data Retention.  
Published: February 15, 2008  
Effective: March 24, 2008

### Health

Health Care Financing, Coverage and Reimbursement Policy  
No. 30378 (AMD): R414-71. Medical Supplies -- Parenteral, Enteral, and IV Therapy.  
Published: September 15, 2007  
Effective: March 31, 2008

No. 30378 (CPR): R414-71. Medical Supplies - Parenteral, Enteral, and IV Therapy.  
Published: February 1, 2008  
Effective: March 31, 2008

No. 30945 (AMD): R414-305. Resources.  
Published: February 15, 2008  
Effective: April 1, 2008

No. 30927 (AMD): R414-308-7. Change Reporting and Benefit Changes.  
Published: February 15, 2008  
Effective: April 1, 2008

### Human Services

Services for People with Disabilities  
No. 30877 (AMD): R539-1-8. Non-Waiver Services for People with Brain Injury.  
Published: February 1, 2008  
Effective: April 1, 2008

### Labor Commission

Antidiscrimination and Labor, Labor  
No. 30942 (AMD): R610-2-6. Filing Procedure and Commencement of Agency Action.  
Published: February 15, 2008  
Effective: March 24, 2008

No. 30941 (AMD): R610-3-4. Filing Procedure and Commencement of Agency Action.  
Published: February 15, 2008  
Effective: March 24, 2008

### Safety

No. 30943 (AMD): R616-3-3. Safety Codes for Elevators.  
Published: February 15, 2008  
Effective: March 24, 2008

### Natural Resources

Oil, Gas and Mining; Coal  
No. 30932 (AMD): R645-100-200. Definitions.  
Published: February 15, 2008  
Effective: March 26, 2008

No. 30934 (AMD): R645-300-100. Review, Public Participation, and Approval or Disapproval of Permit Applications and Permit Terms and Conditions.  
Published: February 15, 2008  
Effective: March 26, 2008

No. 30933 (AMD): R645-301. Coal Mine Permitting: Permit Application Requirements.  
Published: February 15, 2008  
Effective: March 26, 2008



Tax Commission

Property Tax

No. 30931 (AMD): R884-24P-62. Valuation of State Assessed Unitary Properties Pursuant to Utah Code Ann. Section 59-2-201.

Published: February 15, 2008

Effective: March 28, 2008

**End of the Notices of Rule Effective Dates Section**

# RULES INDEX BY AGENCY (CODE NUMBER) AND BY KEYWORD (SUBJECT)

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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, 2008, including notices of effective date received through April 1, 2008, the effective dates of which are no later than April 15, 2008. The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

DAR NOTE: The index may contain inaccurate page number references. Also the index is incomplete in the sense that index entries for Changes in Proposed Rules (CPRs) are not preceded by entries for their parent Proposed Rules. Bulletin issue information and effective date information presented in the index are, to the best of our knowledge, complete and accurate. If you have any questions regarding the index and the information it contains, please contact Nancy Lancaster (801 538-3218), Mike Broschinsky (801 538-3003), or Kenneth A. Hansen (801 538-3777).

A copy of the *Rules Index* is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.utah.gov/>).

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## RULES INDEX - BY AGENCY (CODE NUMBER)

### ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b>Administrative Services</b>					
<u>Facilities Construction and Management</u>					
R23-13	State of Utah Parking Rules for Facilities Managed by the Division of Facilities Construction and Management	31063	5YR	03/17/2008	2008-8/50
R23-14	Management of Roofs on State Buildings	31064	5YR	03/17/2008	2008-8/50
<u>Fleet Operations</u>					
R27-4	Vehicle Replacement and Expansion of State Fleet	30618	AMD	03/06/2008	2007-22/9
<u>Fleet Operations, Surplus Property</u>					
R28-3	Utah State Agency for Surplus Property Adjudicative Proceedings	31117	5YR	04/04/2008	Not Printed
<b>Agriculture and Food</b>					
<u>Marketing and Development</u>					
R65-2	Utah Cherry Marketing Order	31007	5YR	02/15/2008	2008-5/38

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R65-5	Utah Red Tart and Sour Cherry Marketing Order	31008	5YR	02/15/2008	2008-5/38
<b>Plant Industry</b>					
R68-5	Grain Inspection	31006	5YR	02/15/2008	2008-5/39
R68-7	Utah Pesticide Control Act	30611	AMD	01/07/2008	2007-22/11
R68-14	Quarantine Pertaining to Gypsy Moth - Lymantria Dispar	31125	5YR	04/04/2008	Not Printed
<b>Capitol Preservation Board (State)</b>					
<u>Administration</u>					
R131-1	Procurement of Architectural and Engineering Services	30591	AMD	02/29/2008	2007-21/11
R131-4	Procurement of Construction	30590	R&R	02/29/2008	2007-21/13
<b>Commerce</b>					
<u>Corporations and Commercial Code</u>					
R154-10	Utah Digital Signatures Act Rules	30642	REP	03/03/2008	2007-22/16
<u>Occupational and Professional Licensing</u>					
R156-1-102a	Global Definitions of Levels of Supervision	30655	AMD	01/08/2008	2007-23/3
R156-3a-303	Qualifications for Licensure - Examination Requirements	30935	AMD	03/27/2008	2008-4/5
R156-26a	Certified Public Accountant Licensing Act Rules	30715	AMD	03/31/2008	2007-23/4
R156-26a	Certified Public Accountant Licensing Act Rules	30715	CPR	03/31/2008	2008-4/35
R156-31b	Nurse Practice Act Rules	31094	5YR	04/01/2008	2008-8/51
R156-38a	Residence Lien Restriction and Lien Recovery Fund Rules	30654	AMD	01/07/2008	2007-23/14
R156-47b	Massage Therapy Practice Act Rules	30853	AMD	02/21/2008	2008-2/4
R156-49	Dietitian Certification Act Rules	31073	5YR	03/24/2008	2008-8/52
R156-53	Landscape Architect Licensing Act Rules	31074	5YR	03/24/2008	2008-8/52
R156-55a	Utah Construction Trades Licensing Act Rule	30892	AMD	03/11/2008	2008-3/3
R156-56	Utah Uniform Building Standard Act Rules	30574	AMD	01/01/2008	2007-21/38
R156-56-420	Administration of Building Code Training Fund	30573	AMD	01/01/2008	2007-21/57
R156-68	Utah Osteopathic Medical Practice Act Rules	31083	5YR	03/27/2008	2008-8/53
R156-76	Professional Geologist Licensing Act Rules	30694	AMD	01/08/2008	2007-23/17
R156-78A	Prelitigation Panel Review Rules	31055	NSC	03/26/2008	Not Printed
<u>Real Estate</u>					
R162-2-2	Licensing Procedure	31003	AMD	04/07/2008	2008-5/7
R162-8-4	School Conduct and Standards of Practice	31001	AMD	04/07/2008	2008-5/10
R162-12	Utah Housing Opportunity Restricted Account	31000	NEW	04/07/2008	2008-5/11
R162-207-6	Determining Fitness for Renewal	31002	AMD	04/07/2008	2008-5/12
R162-210-4	Rules of Conduct for Certified Schools	31004	AMD	04/07/2008	2008-5/13
<b>Community and Culture</b>					
<u>Housing and Community Development</u>					
R199-8	Permanent Community Impact Fund Board Review and Approval of Applications for Funding Assistance	30451	AMD	01/01/2008	2007-19/6

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b>Corrections</b>					
<u>Administration</u>					
R251-112	Americans With Disabilities Act Implementation and Complaint Process	30713	AMD	03/11/2008	2007-23/19
R251-114	Offender Long-Term Health Care - Notice	30803	NEW	03/11/2008	2008-1/6
R251-304	Contract Procedures	30952	5YR	02/05/2008	2008-5/39
<b>Crime Victim Reparations</b>					
<u>Administration</u>					
R270-1-11	Collateral Source	30593	AMD	01/02/2008	2007-22/33
<b>Education</b>					
<u>Administration</u>					
R277-423	Delivery of Flow Through Money	30845	AMD	02/07/2008	2008-1/8
R277-469	Instructional Materials Commission Operating Procedures	30781	AMD	01/22/2008	2007-24/4
R277-469	Instructional Materials Commission Operating Procedures	31035	5YR	03/03/2008	2008-7/62
R277-470-7	Timelines - Charter School Starting Date	30846	AMD	02/07/2008	2008-1/9
R277-483	Persistently Dangerous Schools	31036	5YR	03/03/2008	2008-7/62
R277-485	Loss of Enrollment	31037	5YR	03/03/2008	2008-7/63
R277-502	Educator Licensing and Data Retention	30944	AMD	03/24/2008	2008-4/6
R277-508	Employment of Substitute Teachers	31038	5YR	03/03/2008	2008-7/63
R277-515-3	Educator as a Role Model of Civic and Societal Responsibility	30976	NSC	02/27/2008	Not Printed
R277-518	Applied Technology Education Licenses	30878	5YR	01/08/2008	2008-3/72
R277-600	Student Transportation Standards and Procedures	30879	5YR	01/08/2008	2008-3/72
R277-605	Coaching Standards and Athletic Clinics	30880	5YR	01/08/2008	2008-3/73
R277-609	Standards for School District Discipline Plans	30847	AMD	02/07/2008	2008-1/10
R277-609-5	Parent/Guardian Notification and Court Referral	30958	NSC	02/29/2008	Not Printed
R277-610	Released-Time Classes for Religious Instruction	30881	5YR	01/08/2008	2008-3/73
R277-700	The Elementary and Secondary School Core Curriculum	30882	5YR	01/08/2008	2008-3/74
R277-702	Procedures for the Utah General Educational Development Certificate	30883	5YR	01/08/2008	2008-3/74
R277-703-6	Funding Provisions	30977	NSC	02/27/2008	Not Printed
R277-709	Education Programs Serving Youth in Custody	30884	5YR	01/08/2008	2008-3/75
R277-718	Utah Career Teaching Scholarship Program	30885	5YR	01/08/2008	2008-3/75
R277-719	Standards for Selling Foods Outside of the Reimbursable Meal in Schools	30848	NEW	02/07/2008	2008-1/12
R277-721	Deadline for CACFP Sponsor Participation in Food Distribution Program	30886	5YR	01/08/2008	2008-3/76
R277-722	Withholding Payments and Commodities in the CACFP	30887	5YR	01/08/2008	2008-3/76
R277-730	Alternative High School Curriculum	30888	5YR	01/08/2008	2008-3/77
R277-746	Driver Education Programs for Utah Schools	31039	5YR	03/03/2008	2008-7/64
R277-747	Private School Student Driver Education	31040	5YR	03/03/2008	2008-7/64
R277-751	Special Education Extended School Year	31041	5YR	03/03/2008	2008-7/65
<u>Rehabilitation</u>					
R280-200	Rehabilitation	31042	5YR	03/03/2008	2008-7/65

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b>Environmental Quality</b>					
<u>Administration</u>					
R305-3	Emergency Meetings	30766	REP	02/15/2008	2007-24/6
R305-3	Emergency Meeting (5YR EXTENSION)	30506	NSC	02/15/2008	Not Printed
<u>Air Quality</u>					
R307-101	General Requirements	30697	AMD	02/08/2008	2007-23/21
R307-101	General Requirements	30959	5YR	02/08/2008	2008-5/40
R307-102	General Requirements: Broadly Applicable Requirements	30960	5YR	02/08/2008	2008-5/40
R307-115	General Conformity	30698	AMD	02/08/2008	2007-23/28
R307-115	General Conformity	30961	5YR	02/08/2008	2008-5/41
R307-121-3	Procedures for OEM Vehicles	30889	NSC	01/30/2008	Not Printed
R307-170	Continuous Emission Monitoring Program	30962	5YR	02/08/2008	2008-5/41
R307-170-7	Performance Specification Audits	30699	AMD	02/08/2008	2007-23/29
R307-202	Emission Standards: General Burning	30963	5YR	02/08/2008	2008-5/42
R307-203	Emission Standards: Sulfur Content of Fuels	30964	5YR	02/08/2008	2008-5/43
R307-214	National Emission Standards for Hazardous Air Pollutants	30430	AMD	01/11/2008	2007-19/12
R307-214	National Emission Standards for Hazardous Air Pollutants	30895	5YR	01/11/2008	2008-3/77
R307-215	Acid Rain Requirements	30700	REP	02/08/2008	2007-23/31
R307-220	Emission Standards: Plan for Designated Facilities	30965	5YR	02/08/2008	2008-5/43
R307-221	Emission Standards: Emission Controls for Existing Municipal Solid Waste Landfills	30701	AMD	02/08/2008	2007-23/32
R307-221	Emission Standards: Emission Controls for Existing Municipal Solid Waste Landfills	30966	5YR	02/08/2008	2008-5/44
R307-221-2	Definitions and References	30832	NSC	02/08/2008	Not Printed
R307-222	Emission Standards: Existing Incinerators for Hospital, Medical, Infectious Waste	30967	5YR	02/08/2008	2008-5/44
R307-222	Emission Standards: Existing Incinerators for Hospital, Medical, Infectious Waste	30702	AMD	02/08/2008	2007-23/36
R307-222-1	Purpose and Applicability	30833	NSC	02/08/2008	Not Printed
R307-223	Existing Incinerators for Hospital, Medical, Infectious Waste	30703	AMD	02/08/2008	2007-23/38
R307-223	Emission Standards: Existing Small Municipal Waste Combustion Units	30968	5YR	02/08/2008	2008-5/45
R307-224	Mercury Emission Standards: Coal-Fired Electric Generating Units	30969	5YR	02/08/2008	2008-5/45
R307-224-2	Emission Guidelines and Compliance Times for Coal-Fired Electric Generating Units	30704	AMD	02/08/2008	2007-23/39
R307-250	Western Backstop Sulfur Dioxide Trading Program	30970	5YR	02/08/2008	2008-5/46
R307-310	Salt Lake County: Trading of Emission Budgets for Transportation Conformity	30971	5YR	02/08/2008	2008-5/46
R307-310-2	Definitions	30705	AMD	02/08/2008	2007-23/40
R307-401-14	Used Oil Fuel Burned for Energy Recovery	30709	AMD	02/08/2008	2007-23/42
R307-405	Permits: Major Sources in Attainment or Unclassified Areas (PSD)	30431	AMD	01/11/2008	2007-19/15
R307-417	Acid Rain Sources	30706	AMD	02/08/2008	2007-23/43
R307-801	Asbestos	30707	AMD	02/08/2008	2007-23/45
R307-801	Asbestos	30972	5YR	02/08/2008	2008-5/47
R307-840	Lead-Based Paint Accreditation, Certification and Work Practice Standards	30708	AMD	02/08/2008	2007-23/48
R307-840	Lead-Based Paint Accreditation, Certification and Work Practice Standards	30973	5YR	02/08/2008	2008-5/47

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>Environmental Response and Remediation</u>					
R311-401-2	Utah Hazardous Substances Priority List	30567	AMD	01/02/2008	2007-21/59
<u>Radiation Control</u>					
R313-12-111	Submission of Electronic Copies	30774	CPR	04/11/2008	2008-5/34
R313-15	Standards for Protection Against Radiation	30865	AMD	03/17/2008	2008-2/10
<u>Solid and Hazardous Waste</u>					
R315-15-1	Applicability, Prohibitions, and Definitions	30907	AMD	03/13/2008	2008-3/16
R315-15-10	Liability/Financial Requirements	30908	AMD	03/13/2008	2008-3/19
R315-15-11	Closure	30909	AMD	03/13/2008	2008-3/21
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R315-307	Landtreatment Disposal Standards	30993	5YR	02/14/2008	2008-5/51
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R414-27	Medicare Nursing Home Certification	31046	NSC	03/25/2008	Not Printed
R414-52	Optometry Services	30775	AMD	02/01/2008	2007-24/12
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R414-301	Medicaid General Provisions	30936	5YR	01/31/2008	2008-4/43
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R414-304	Income and Budgeting	30652	AMD	01/28/2008	2007-23/54
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R512-50	Fee Collection for Clients Served by Pre-School Day Treatment Contract	30718	REP	01/07/2008	2007-23/60
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R651-611	Fee Schedule	30898	AMD	03/10/2008	2008-3/39
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R653-2	Financial Assistance from the Board of Water Resources	30940	NSC	02/25/2008	Not Printed
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R861-1A-20	Time of Appeal Pursuant to Utah Code Ann. Sections 59-1-301, 59-1-501, 59-2-1007, 59-7-517, 59-10-532, 9-10-533, 59-10-535, 59-12-114, 59-13-210, 63-46b-3, 63-46b-14	30688	AMD	01/11/2008	2007-23/68
R861-1A-24	Formal Adjudicative Proceedings Pursuant to Utah Code Ann. Sections 59-1-502.5, 63-46b-8, and 63-46b-10	30589	AMD	01/11/2008	2007-21/69
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R865-6F-37	Disclosure of Reportable Transactions and Material Advisor List Pursuant to Utah Code Ann. Sections 59-1-1301 through 59-1-1309	30842	AMD	02/25/2008	2008-1/35
R865-9I-37	Enterprise Zone Individual Income Tax Credits Pursuant to Utah Code Ann. Sections 63-38f-401 through 63-38f-414	30916	AMD	03/14/2008	2008-3/63
R865-9I-53	Disclosure of Reportable Transactions and Material Advisor List Pursuant to Utah Code Ann. Sections 59-1-1301 through 59-1-1309	30849	AMD	02/25/2008	2008-1/36
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**ABBREVIATIONS**

AMD = Amendment  
 CPR = Change in proposed rule  
 EMR = Emergency rule (120 day)  
 NEW = New rule  
 EXD = Expired  
 NSC = Nonsubstantive rule change  
 REP = Repeal  
 R&R = Repeal and reenact  
 5YR = Five-Year Review

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	30706	R307-417	AMD	02/08/2008	2007-23/43
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	30959	R307-101	5YR	02/08/2008	2008-5/40
	30960	R307-102	5YR	02/08/2008	2008-5/40
	30698	R307-115	AMD	02/08/2008	2007-23/28
	30961	R307-115	5YR	02/08/2008	2008-5/41
	30889	R307-121-3	NSC	01/30/2008	Not Printed
	30962	R307-170	5YR	02/08/2008	2008-5/41
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	30702	R307-222	AMD	02/08/2008	2007-23/36
	30967	R307-222	5YR	02/08/2008	2008-5/44
	30833	R307-222-1	NSC	02/08/2008	Not Printed
	30703	R307-223	AMD	02/08/2008	2007-23/38
	30968	R307-223	5YR	02/08/2008	2008-5/45
	30969	R307-224	5YR	02/08/2008	2008-5/45
	30704	R307-224-2	AMD	02/08/2008	2007-23/39
	30970	R307-250	5YR	02/08/2008	2008-5/46
	30971	R307-310	5YR	02/08/2008	2008-5/46
	30705	R307-310-2	AMD	02/08/2008	2007-23/40
	30709	R307-401-14	AMD	02/08/2008	2007-23/42
	30431	R307-405	AMD	01/11/2008	2007-19/15
	30972	R307-801	5YR	02/08/2008	2008-5/47
	30707	R307-801	AMD	02/08/2008	2007-23/45
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	31004	R162-210-4	AMD	04/07/2008	2008-5/13
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<b><u>Rural Broadband Service Fund</u></b> Governor, Economic Development	30788	R357-2	NEW	01/30/2008	2007-24/9
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