

# UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT  
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Kenneth A. Hansen, Director  
Nancy L. Lancaster, Editor

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

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

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

Division of Administrative Rules, Salt Lake City 84114

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## EDITOR'S NOTES

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### CLARIFICATION REGARDING GOVERNOR'S PROCLAMATION ISSUED OCTOBER 6, 2004

This editor's note is intended to resolve some confusion around the number of the extraordinary session called for on October 20, 2004.

On August 31, 2004, the Governor issued a Proclamation calling the Fifty-Fifth Legislature (Senate only) into an eleventh extraordinary session. That document was published in the September 15, 2004, issue of the *Utah State Bulletin (Bulletin)*. On September 10, 2004, the Governor issued a separate Proclamation calling the Fifty-Fifth Legislature into a Fourth Special Session, which was published in the October 1, 2004, *Bulletin*. After the call for the special session was issued, it was determined that there was no need for the eleventh extraordinary session, since the Senate would already be in session as part of the special session. A separate proclamation was not issued to rescind the call of the eleventh extraordinary session.

On October 6, 2004, the Governor issued the next proclamation calling another extraordinary session. The proclamation published in the October 15, 2004, issue of the *Bulletin*, identified the session as the twelfth extraordinary session. However, since there was not an eleventh extraordinary session, the extraordinary session held on October 20, 2004, should have been designated as the eleventh extraordinary session.

This issue of the *Bulletin* contains a corrected Proclamation dated October 6, 2004, calling the Fifty-Fifth Legislature (Senate only) into an eleventh extraordinary session on October 20, 2004.

*The Division of Administrative Rules regrets any confusion this situation may cause. Questions regarding this notice should be directed to Kenneth A. Hansen, Director, Division of Administrative Rules, 4120 State Office Building, Salt Lake City, UT 84114; or by phone at 801-538-3764, by FAX at 801-538-1773, or by E-mail at [rulesonline@utah.gov](mailto:rulesonline@utah.gov).*

**End of the Editor's Notes Section**

# SPECIAL NOTICES

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## Environmental Quality Air Quality

### **Public Notice: Extending the Comment Period on the Proposed Amendment to Section R307-110-11 Entitled Section IX, Control Measures for Area and Point Sources, Part B, Sulfur Dioxide**

The public comment period for the proposed amendment to Section R307-110-11 and the Sulfur Dioxide Maintenance Plan for Salt Lake and parts of Tooele County has been extended through 5 p.m. on November 7, 2004. The amendment was published in the October 1, 2004, issue of the *Utah State Bulletin* (2004-19, page 37) under DAR No. 27429. The text and further explanations are available at: <http://www.airquality.utah.gov/>.

*Comments may be submitted by electronic mail to [janmiller@utah.gov](mailto:janmiller@utah.gov); or may be mailed to: Richard W. Sprott, Director; Utah Division of Air Quality; PO Box 144820; Salt Lake City, UT; 84114-4820; ATTN: Sulfur Dioxide plan.*

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### **Governor's Proclamation: Calling the Fifty-Fifth Legislature into an Eleventh Extraordinary Session (Senate Only) (corrected version)**

(DAR NOTE: This is a corrected version, see the Editor's Note in this issue.)

## PROCLAMATION

**WHEREAS**, since the close of the 2004 General Session of the 55th Legislature of the State of Utah, certain matters have arisen which require immediate legislative attention; and

**WHEREAS**, Article VII, Section 6 of the Constitution of the State of Utah provides that the Governor may, by proclamation, convene the Legislature in Extraordinary Session;

**NOW, THEREFORE**, I, OLENE S. WALKER, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and the Laws of the State of Utah, do by this Proclamation call the Senate only of the 55th Legislature of the State of Utah into an Eleventh Extraordinary Session at the Senate Chambers, State Capitol Complex, in Salt Lake City, Utah, on the 20th day of October, 2004, at 12:00 noon, for the following purpose:

For the Senate to consent to appointments made by the Governor to positions within state government of the State of Utah since the close of the 2004 General Session of the 55th Legislature of the State of Utah.

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the State Capitol Complex in Salt Lake City, Utah, this 6th day of October, 2004.

(State Seal)

**Olene S. Walker**  
**Governor**

**Gayle F. McKeachnie**  
**Lieutenant Governor**

**End of the Special Notices Section**

## 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 October 2, 2004, 12:00 a.m., and October 15, 2004, 11:59 p.m. are included in this, the November 1, 2004, issue of the *Utah State Bulletin*.

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

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

The law requires that an agency accept public comment on PROPOSED RULES published in this issue of the *Utah State Bulletin* until at least December 1, 2004. The agency may accept comment beyond this date and will list the last day the agency will accept comment in the RULE ANALYSIS. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency to hold a hearing on a specific PROPOSED RULE. Section 63-46a-5 (1987) requires that a hearing request be received "in writing not more than 15 days after the publication date of the PROPOSED RULE."

From the end of the public comment period through March 1, 2005, the agency may notify the Division of Administrative Rules that it wants to make the PROPOSED RULE effective. The agency sets the effective date. The date may be no fewer than 31 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a CHANGE IN PROPOSED RULE in response to comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing lapses and the agency must start the process over.

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

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

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

# Administrative Services, Administration

## R13-2

### Access to Records

#### NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 27495  
FILED: 10/15/2004, 12:04

#### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This proposed amendment updates both the list of the divisions of the department, and their respective addresses where necessary.

SUMMARY OF THE RULE OR CHANGE: The addresses of Archives and Records Services, as well as Surplus Property are updated. The changes also add the Office of Child Welfare Parental Defense to the list of the divisions of the department, while removing the Utah Sports Authority from the list of divisions; and adds the room number to all the other divisions.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63A-1-109

#### ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There are no anticipated cost or savings to the state budget as a result of the changes. The changes are designed to make the rules consistent with the provisions of Section 63A-1-109.
- ❖ LOCAL GOVERNMENTS: There are no anticipated cost or savings to local government as a result of the changes. The changes are designed to make the rules consistent with the provisions of Section 63A-1-109.
- ❖ OTHER PERSONS: There are no anticipated cost or savings to other persons as a result of the changes. The changes are designed to make the rules consistent with the provisions of Section 63A-1-109.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated compliance costs to affected persons as a result of the changes. The changes are designed to make the rules consistent with the provisions of Section 63A-1-109.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on businesses as a result of the changes. The changes merely advise those requesting access to government records of the divisions within the department and the divisions' respective addresses.

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

ADMINISTRATIVE SERVICES  
ADMINISTRATION  
Room 3120 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:

Sal Petilos at the above address, by phone at 801-538-3091, by FAX at 801-538-3844, or by Internet E-mail at [spetilos@utah.gov](mailto:spetilos@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 12/01/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 12/02/2004

AUTHORIZED BY: Camille Anthony, Executive Director

#### R13. Administrative Services, Administration.

##### R13-2. Access to Records.

##### R13-2-1. Purpose and Authority.

Under authority of Sections 63-2-204(2), and 63-2-904(2), and Title 63, Chapter 46a, this rule provides procedures for access and denial of access to government records.

##### R13-2-2. Definitions.

- (1) "Records officer" means the individual appointed by the division to fulfill the function of Subsection 63-2-103(21).
- (2) "Division" means a division of the Department of Administrative Services.

##### R13-2-3. Records Officer.

Each division director shall comply with Section 63-2-903 and shall appoint a records officer to perform the following functions:

- (a) The duties set forth in Section 63-2-903; and
- (b) Review and respond to requests for access to division records.

##### R13-2-4. Requests for Access.

- (1) Requests for access to records should be directed to the records officer of the division which the requester believes generated or possesses the records.
- (2) The divisions of the department are as described in Sections 63A-1-109 and 63A-8-201 and are located as follow:
  - (a) Administrative Services Administration, 3120 State Office Building, Salt Lake City, Utah.
  - (b) Administrative Rules, 4120 State Office Building, Salt Lake City, Utah.
  - (c) Archives and Records Service, [~~Archives Building, Salt Lake City, Utah.~~] 346 S. Rio Grande Street, Salt Lake City, Utah.
  - (d) Facilities Construction and Management, 4110 State Office Building, Salt Lake City, Utah.
  - (e) Finance, 2110 State Office Building, Salt Lake City, Utah.
  - (f) Fleet Operations, 4120 State Office Building, Salt Lake City, Utah.
  - (g) Information Technology, 6000 State Office Building, Salt Lake City, Utah.
  - (h) Purchasing and General Services, 3150 State Office Building, Salt Lake City, Utah.
  - (i) Risk Management, 5120 State Office Building, Salt Lake City, Utah.
  - (j) Surplus Property, [~~522 South 700 West, Salt Lake City, Utah.~~] Division of Fleet Operations, 4120 State Office Building, Salt Lake City, Utah.

(k) Debt Collection, 5110 State Office Building, Salt Lake City, Utah.

(l) [~~Utah Sports Authority;~~]Child Welfare Parental Defense, 5100 State Office Building, Salt Lake City, Utah.

(3) The division is not required to respond to requests submitted to the wrong person or location within the time limits set by the Government Records Access and Management Act (Section 63-2-101).

**R13-2-5. Appeal of Agency Decision.**

(1) If a requester is dissatisfied with the agency's initial decision, the requester may appeal the decision to the corresponding division director under the procedures of Section 63-2-401 et seq.

(2) An individual may contest the accuracy or completeness of a document pertaining to that individual pursuant to Section 63-2-603. The request should be made to the records officer.

**R13-2-6. Fees.**

(1) A fee schedule for the direct costs of duplicating or compiling a record may be obtained from the division by contacting the records officer.

(2) Fees for duplication and compilation of a record may be waived under certain circumstances described in Subsection 63-2-203(3). Requests for this waiver of fees may be made to the records officer.

**R13-2-7. Forms.**

Request forms are available from the records officer of each division.

**KEY: freedom of information, public information, confidentiality of information, access to information**[~~1994~~]**2004**  
 Notice of Continuation May 31, 2002  
 63-2-101 et seq.

and was effective 05/03/2004. Another proposed amendment to Rule R156-56 is found under DAR No. 27490 in this issue.)

**SUMMARY OF THE RULE OR CHANGE:** In Section R156-56-302, deletes the outdated provision that allowed building inspectors who passed the state-administered examination to be issued or renewed a license. New Sections R156-56-603 and Section R156-56-604, as well as the statutory amendments made in S.B. 88, allow the state to continue to be approved by the federal Housing and Urban Development (HUD) agency as the State Administrative Agency for manufactured housing. The amendments also clarify the provisions of the new statute at Section 58-56-15. There is no real change in current practices implemented by the proposed two new sections. These amendments are being proposed to clarify what is meant to satisfy the HUD requirements. In Section R156-56-701, adds as an additional construction standard for existing buildings, the "Pre-standard and Commentary for the Seismic Rehabilitation of Buildings" (FEMA 356), published by the Federal Emergency Management Agency (FEMA). In Section R156-56-707, amends Table 608.1.1 to correct the referenced applicable standard for specialty backflow devices. In Section R156-56-709, adds to Section 305.1 which requires a sticker on equipment to verify that required adjustments have been made to natural gas space and water heaters. In Section R156-56-711, amendment to R313.2 in paragraph (16) clarifies the existing language on the requirement of carbon monoxide detectors in new residential structures.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsections 58-1-106(1)(a), 58-1-202(1)(a), 58-56-4(2), and 58-56-6(2)(a); and Section 58-56-1

**THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL:** Adds "Pre-standard and Commentary for the Seismic Rehabilitation of Buildings" (FEMA 356), published by the Federal Emergency Management Agency (November 2000)

**ANTICIPATED COST OR SAVINGS TO:**  
 ❖ **THE STATE BUDGET:** The Division has determined that there should be no direct effect on the state budget as a result of the proposed amendments. The program is already in place for the factory built housing dispute resolution program.  
 ❖ **LOCAL GOVERNMENTS:** The Division has determined that there should be no direct effect on a local government budget as a result of the proposed amendments. There is a potential for minor savings in the time spent reviewing plans and inspections for carbon monoxide alarms and green stickers.  
 ❖ **OTHER PERSONS:** Overall the proposed amendments do not appear to substantially change costs of construction. Some will allow minor savings to building owners and residential homes. It is impossible to estimate total aggregate impact because it would depend on the specific project but cost differences are expected to be minor. The estimated item by item impact of the proposed amendments to owners is estimated as follows: Subsection R156-56-302(2)(c)(i) - no impact because the section being removed is outdated and therefore is not currently being used; Section R156-56-603 - no impact because these procedures are already being used



**Commerce, Occupational and  
 Professional Licensing**  
**R156-56**  
**Utah Uniform Building Standard Act  
 Rules**

**NOTICE OF PROPOSED RULE**  
 (Amendment)  
 DAR FILE NO.: 27489  
 FILED: 10/14/2004, 12:32

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The Division is filing amendments to the rule to implement the semiannual proposed changes to building codes that have been approved by the Uniform Building Code Commission after review by the appropriate subcommittees. The Division is also filing amendments to the rule to implement new sections regarding manufactured housing which are required as a result of statute changes to Title 58, Chapter 56, made in S.B. 88 (2004). (DAR NOTES: S.B. 88 is found at UT L 2004 Ch 75,

within the Division; Section R156-56-604 - no impact because the continuing education requirement is already contained in statute in Title 58, Chapter 55; Subsection R156-56-701(2)(e) - by adopting the FEMA construction standard, it can result in some savings to construction projects. Section R156-56-707, Table 608.1.1 - no impact; Section R156-56-709 in Section 305.1 - no impact. The required green sticker will be supplied by Questar Gas free of charge to installers. There could be a savings to the homeowner by preventing the same adjustment from being done more than once; and Section R156-56-711 in Section R313.2 - no impact as this is already a requirement but the change is a only a technical amendment to clarify the language.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Overall the proposed amendments do not appear to substantially change costs of construction. Some will allow minor savings to building owners and residential homes as identified above.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The proposed amendments include the following: various technical changes to clarify and update the rule, adoption of a dispute resolution program and a continuing education requirement as required by statute, the option of another standard for existing buildings, and a sticker requirement after adjustments on appliances. There appears to be no appreciable impact to businesses as a result of these amendments, as most are technical and clarifying of existing procedures. Although there may be cost savings as a result of the sticker requirement for appliances and the option of FEMA standards for existing buildings, the amount of savings is difficult to determine. Klarice A. Bachman, Executive Director

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

COMMERCE  
OCCUPATIONAL AND PROFESSIONAL LICENSING  
HEBER M WELLS BLDG  
160 E 300 S  
SALT LAKE CITY UT 84111-2316, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dan S. Jones at the above address, by phone at 801-530-6720, by FAX at 801-530-6511, or by Internet E-mail at dsjones@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 12/01/2004

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 11/15/2004 at 9:00 AM, State Office Building, Room 4112 (fourth floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 12/02/2004

AUTHORIZED BY: J. Craig Jackson, Director

**R156. Commerce, Occupational and Professional Licensing.  
R156-56. Utah Uniform Building Standard Act Rules.  
R156-56-302. Licensure of Inspectors.**

In accordance with Subsection 58-56-9(1), the licensee classifications, scope of work, qualifications for licensure, and application for license are established as follows:

(1) License Classifications. Each inspector required to be licensed under Subsection 58-56-9(1) shall qualify for licensure and be licensed by the division in one of the following classifications:

- (a) Combination Inspector; or
- (b) Limited Inspector.

(2) Scope of Work. The scope of work permitted under each inspector classification is as follows:

(a) Combination Inspector.

(i) Inspect the components of any building, structure or work for which a standard is provided in the specific edition of the codes adopted under these rules or amendments to these codes as included in these rules.

(ii) Determine whether the construction, alteration, remodeling, repair or installation of all components of any building, structure or work is in compliance with the adopted codes.

(iii) After determination of compliance or noncompliance with the adopted codes take appropriate action as is provided in the aforesaid codes.

(b) Limited Inspector.

(i) A Limited Inspector may only conduct activities under Subsections (ii), (iii) or (iv) for which the Limited Inspector has maintained current certificates under the adopted codes as provided under Subsections R156-56-302(3)(b) and R156-56-302(2)(c)(ii).

(ii) Subject to the limitations of Subsection (i), inspect the components of any building, structure or work for which a standard is provided in the specific edition of the codes adopted under these rules or amendments to these codes as included in these rules.

(iii) Subject to the limitations under Subsection (i), determine whether the construction, alteration, remodeling, repair or installation of components of any building, structure or work is in compliance with the adopted codes.

(iv) Subject to the limitations under Subsection (i), after determination of compliance or noncompliance with the adopted codes, take appropriate action as is provided in the adopted codes. [

~~(e) Transitional Provisions:~~

~~(i) The state administered examinations upon which prior licenses were granted or upon which new limited inspector licenses may be granted shall be considered as current certification until March 1, 2004. Thereafter, licenses may not be granted or renewed unless the person has obtained current certificates issued by a national organization.]~~

(3) Qualifications for Licensure. The qualifications for licensure for each inspector classification are as follows:

(a) Combination Inspector.

Has passed the examination for and maintained as current the following national certifications for codes adopted under these rules:

(i) the "Combination Inspector Certification" issued by the International Code Council; or

(ii) all of the following certifications:

(A) the "Building Inspector Certification" issued by the International Code Council or both the "Commercial Building Inspector Certification" and the "Residential Building Inspector Certification" issued by the International Code Council;

(B) the "Electrical Inspector Certification" issued by the International Code Council or the "General Electrical Certification"

issued by the International Association of Electrical Inspectors, or both the "Commercial Electrical Inspector Certification" and the "Residential Electrical Inspector Certification" issued by the International Code Council;

(C) the "Plumbing Inspector Certification" issued by the International Code Council, or both the "Commercial Plumbing Inspector Certification" and the "Residential Plumbing Inspector Certification" issued by the International Code Council; and

(D) the "Mechanical Inspector Certification" issued by the International Code Council or both the "Commercial Mechanical Inspector Certification" and the "Residential Mechanical Inspector Certification" issued by the International Code Council.

(b) Limited Inspector.

Has passed the examination for and maintained as current one or more of the following national certifications for codes adopted under these rules:

(i) the "Building Inspector Certification" issued by the International Code Council;

(ii) the "Electrical Inspector Certification" issued by the International Code Council or the "General Electrical Certification" issued by the International Association of Electrical Inspectors;

(iii) the "Plumbing Inspector Certification" issued by the International Code Council;

(iv) the "Mechanical Inspector Certification" issued by the International Code Council;

(v) the "Residential Combination Inspector Certification" issued by the International Code Council;

(vi) the "Commercial Combination Certification" issued by the International Code Council;

(vii) the "Commercial Building Inspector Certification" issued by the International Code Council;

(viii) the "Commercial Electrical Inspector Certification" issued by the International Code Council;

(ix) the "Commercial Plumbing Inspector Certification" issued by the International Code Council;

(x) the "Commercial Mechanical Inspector Certification" issued by the International Code Council;

(xi) the "Residential Building Inspector Certification" issued by the International Code Council;

(xii) the "Residential Electrical Inspector Certification" issued by the International Code Council;

(xiii) the "Residential Plumbing Inspector Certification" issued by the International Code Council;

(xiv) the "Residential Mechanical Inspector Certification" issued by the International Code Council;

(xv) any other special or otherwise limited inspector certifications used by the International Code Council which certifications cover a part of the codes adopted under these rules including but not limited to each of the following: Reinforced Concrete Special Inspector, Prestressed Concrete Special Inspector, Residential Energy Inspector, Commercial Energy Inspector; or

(xvi) any combination certification which is based upon a combination of one or more of the above listed certifications.

(4) Application for License.

(a) An applicant for licensure shall:

(i) submit an application in a form prescribed by the division; and

(ii) pay a fee determined by the department pursuant to Section 63-38-3.2.

(5) Code transition provisions.

(a) If an inspector or applicant obtains a new, renewal or recertification or replacement national certificate after a new code or code edition is adopted, the inspector or applicant is required to obtain that certification under the currently adopted code or code edition.

(b) After a new code or new code edition is adopted under these rules, the inspector is required to re-certify their national certification to the new code or code edition at the next available renewal cycle of the national certification.

(c) If a licensed inspector fails to obtain the national certification as required in Subsection (a) or (b), their authority to inspect for the area covered by the national certification automatically expires at the expiration date of the national certification that was not obtained as required.

(d) If an inspector recertifies a national certificate on a newer edition of the codes adopted before that newer edition is adopted under these rules, such recertification shall be considered as a current national certification as required by these rules.

(e) If an inspector complies with these transition provisions, the inspector shall be considered to have a current national certification as required by these rules.

**R156-56-603. Factory Built Housing Dispute Resolution Program.**

(1) Pursuant to Subsection 58-56-15(1)(f)(i), the dispute resolution program is defined and clarified as follows:

(a) Persons having disputes regarding manufactured housing issues may file a complaint with the Division.

(b) The Division shall investigate such complaints and as part of the investigation may take any of the following actions:

(i) The Division may negotiate with the parties involved for informal resolution of such complaints.

(ii) The Division may take any informal or formal action allowed by any applicable statute including, but not limited to:

(A) pursuing disciplinary proceedings under Section 58-1-401;

(B) pursuing civil sanctions under Subsection 58-56-15(2); and

(C) referring matters to appropriate criminal prosecuting agencies and cooperating or assisting with the investigation and prosecution of cases by such agencies.

(c) In addition, persons having disputes regarding manufactured housing issues may also institute civil action.

**R156-56-604. Factory Built Housing Continuing Education Requirements.**

(1) Pursuant to Subsection 58-56-15(1)(f)(ii), continuing education required for manufactured housing installation contractors is defined and clarified as follows:

(a) the continuing education required by Subsection 58-55-501(21), which is effective July 1, 2005.

**R156-56-701. Specific Editions of Uniform Building Standards.**

(1) In accordance with Subsection 58-56-4(3), and subject to the limitations contained in Subsection (6), (7), and (8), the following codes are hereby incorporated by reference and adopted as the construction standards to be applied to building construction, alteration, remodeling and repair and in the regulation of building construction, alteration, remodeling and repair in the state:

(a) the 2003 edition of the International Building Code (IBC), including Appendix J promulgated by the International Code Council, and amendments adopted under these rules together with standards incorporated into the IBC by reference, including but not

limited to, the 2003 edition of the International Energy Conservation Code (IECC) promulgated by the International Code Council and the 2003 edition of the International Residential Code (IRC) promulgated by the International Code Council shall become effective on January 1, 2004;

(b) the 2002 edition of the National Electrical Code (NEC) promulgated by the National Fire Protection Association, to become effective January 1, 2003;

(c) the 2003 edition of the International Plumbing Code (IPC) promulgated by the International Code Council and amendments adopted under these rules in Section R156-56-707 shall become effective on January 1, 2004;

(d) the 2003 edition of the International Mechanical Code (IMC) together with all applicable standards set forth in the 2003 International Fuel Gas Code (IFGC) (formerly included as part of the IMC) and amendments adopted under these rules in Section R156-56-708 shall become effective on January 1, 2004;

(e) subject to the provisions of Subsection (4), the Federal Manufactured Housing Construction and Safety Standards Act (HUD Code) as promulgated by the Department of Housing and Urban Development and published in the Federal Register as set forth in 24 CFR parts 3280 and 3282 as revised April 1, 1990; and

(f) subject to the provisions of Subsection (4), the 1994 edition of NCSBCS A225.1 Manufactured Home Installations promulgated by the National Conference of States on Building Codes and Standards (NCSBCS).

(2) In accordance with Subsection 58-56-4(4), and subject to the limitations contained in Subsection 58-56-4(5), the following codes or standards are hereby incorporated by reference and approved for use and adoption by a compliance agency as the construction standards which may be applied to existing buildings in the regulation of building alteration, remodeling, repair, removal and rehabilitation in the state:

(a) the 1997 edition of the Uniform Code for the Abatement of Dangerous Buildings (UCADB) promulgated by the International Code Council;

(b) the 1997 edition of the Uniform Code for Building Conservation (UCBC) promulgated by the International Code Council;

(c) Guidelines for the Seismic Retrofit of Existing Buildings (GSREB) promulgated by the International Code Council;

(d) Guidelines for the Rehabilitation of Existing Buildings (GREB) promulgated by the International Code Council[-];

(e) Pre-standard and Commentary for the Seismic Rehabilitation of Buildings (FEMA 356) published by the Federal Emergency Management Agency (November 2000).

(3) Amendments adopted by rule to prior editions of the Uniform Building Standards shall remain in effect until specifically amended or repealed.

(4) In accordance with Subsection 58-56-4(2), the following is hereby adopted as the installation standard for manufactured housing:

(a) The manufacturer's installation instruction for the model being installed;

(b) The NCSBCS/ANSI 225.1-1994, Manufactured Home Installations, promulgated by the National Conference of States on Building Codes and Standards;

(c) The manufacturer, dealer or homeowner shall be permitted to design for unusual installation of a manufactured home not provided for in the manufacturer's standard installation instruction or NCSBCS/ANSI 225.1, Manufactured Home Installations, provided

the design is approved in writing by a professional engineer or architect licensed in Utah; and

(d) Guidelines for Manufactured Housing Installation as promulgated by the International Code Council may be used as a reference guide.

(5) Pursuant to the Federal Manufactured Home Construction and Safety Standards Section 604(d), a manufactured home may be installed in the state of Utah which does not meet the local snow load requirements as specified in Subsection R156-56-704; however all such homes which fail to meet the standards of Subsection R156-56-704 shall have a protective structure built over the home which meets the International Building Code and the snow load requirements under Subsection R156-56-704.

(6) To the extent that the building codes adopted under Subsection (1) establish local administrative functions or establish a method of appeal which pursuant to Section 58-56-8 are designated to be established by the compliance agency, such provisions are not included in the codes adopted hereunder but authority over such provisions are reserved to the compliance agency to establish such provisions.

(7) To the extent that the building codes adopted under Subsection (1) establish provisions, standards or references to other codes which by state statutes are designated to be established or administered by other state agencies or local city, town or county jurisdictions, such provisions are not included in the codes adopted herein but authority over such provisions are reserved to the agency or local government having authority over such provisions. Provisions excluded under this Subsection include but are not limited to:

(a) the International Property Maintenance Code;

(b) the International Private Sewage Disposal Code, authority over which would be reserved to the Department of Health and the Department of Environmental Quality;

(c) the International Fire Code which pursuant to Section 58-3-7 authority is reserved to the Utah Fire Prevention Board; and

(d) day care provisions which are in conflict with the Child Care Licensing Act, authority over which is designated to the Utah Department of Health.

(8) To the extent that the codes adopted under Subsection (1) establish provisions that exceed the authority granted to the Division, under the Utah Uniform Building Standards Act, to adopt codes or amendments to such codes by rulemaking procedures, such provisions, to the extent such authority is exceeded, are not included in the codes adopted.

**R156-56-707. Statewide Amendments to the IPC.**

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

.....

(38) Table 608.1.1 is added as follows:

Device	Degree of Hazard	Application	Applicable Standard
Antisiphon-type Water Closet Flush Tank Ball Cock	Low	Backsiphonage	ASSE 1002 CSA CAN/ CSA-B125

Dual check valve Backflow Preventer	Low	Backsiphonage or Backpressure 1/4" - 1"	ASSE 1024
Backflow Preventer with Intermediate Atmospheric Vent	Low Residential Boiler	Backsiphonage or Backpressure 1/4" - 3/4"	ASSE 1012 CSA CAN/ CSA-B64.3
Dual check valve type Backflow Preventer for Carbonated Beverage Dispensers/Post Mix Type	Low	Backsiphonage or Backpressure 1/4" - 3/8"	ASSE [ <del>1032</del> ] 1022
Hose-connection Vacuum Breaker	Low	Backsiphonage 1/2", 3/4", 1"	ASSE 1011 CSA CAN/ CSA-B64.2
Vacuum Breaker Wall Hydrants, Frost-resistant, Automatic Draining Type	Low	Backsiphonage 3/4", 1"	ASSE 1019 CSA CAN/ CSA-B64.2.2
Laboratory Faucet Backflow Preventer	Low	Backsiphonage	ASSE 1035 CSA CAN/ CSA-B64.7
Hose Connection Backflow Preventer	Low	Backsiphonage 1/2" - 1"	ASSE 1052

Installation Guidelines: The above specialty devices shall be installed in accordance with their listing and the manufacturer's instructions and the specific provisions of this chapter.

.....

**R156-56-709. Statewide Amendments to the IFGC.**

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

(1) The following paragraph is added at the end of Section 305.1

305.1 General. After natural gas, space and water heating appliances have been adjusted for altitude and the Btu content of the natural gas, the installer shall apply a sticker in a visible location indicating that the proper adjustments to such appliances have been made. The adjustments for altitude and the Btu content of the natural gas shall be done in accordance with the manufacturer's installation instructions and the gas utility's approved practices.

([+]~~2~~) Chapter 4, Section 401 General, a new section 401.9 is added as follows:

401.9 Meter protection. Gas meters shall be protected from physical damage, including falling ice and snow.

**R156-56-711. Statewide Amendments to the IRC.**

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

.....

(16) Section R313 is deleted and replaced with the following:  
R313.1 Single- and multiple-station smoke alarms. Single- and multiple-station smoke alarms shall be installed in the following locations:

1. In each sleeping room.
2. Outside of each separate sleeping area in the immediate vicinity of the bedrooms.

3. On each additional story of the dwelling, including basements and cellars but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

All smoke alarms shall be listed and installed in accordance with the provisions of this code and the household fire warning equipment provision of NFPA 72.

R313.2 Carbon monoxide alarms. In new residential structures regulated by this code that are equipped with fuel burning appliances, carbon[Carbon] monoxide alarms shall be installed on each habitable level [of a dwelling unit equipped with fuel burning appliances]. All carbon monoxide detectors shall be listed and comply with U.L. 2034 and shall be installed in accordance with provisions of this code and NFPA 720.

R313.3 Interconnection of alarms. When multiple alarms are required to be installed within an individual dwelling unit, the alarm devices shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed. Approved combination smoke- and carbon-monoxide detectors shall be permitted.

R313.4 Power source. In new construction, the required alarms shall receive their primary power from the building wiring when such wiring is served from a commercial source, and when primary power is interrupted, shall receive power from a battery. Wiring shall be permanent and without a disconnecting switch other than those required for overcurrent protection. Alarms shall be permitted to be battery operated when installed in buildings without commercial power or in buildings that undergo alterations, repairs, or additions regulated by Section R313.5

R313.5 Alterations, repairs and additions. When interior alterations, repairs or additions requiring a permit occur, or when one or more sleeping rooms are added or created in existing dwellings, the individual dwelling unit shall be provided with alarms located as required for new dwellings; the alarms shall be interconnected and hard wired.

Exceptions:

1. Alarms in existing areas shall not be required to be interconnected and hard wired where the alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space, or basement available which could provide access for hard wiring and interconnection without the removal of interior finishes.

2. Repairs to the exterior surfaces of dwellings are exempt from the requirements of this section.

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**KEY: contractors, building codes, building inspection, licensing**  
~~[August 17, 2004]~~**2005**  
**Notice of Continuation May 16, 2002**  
**58-1-106(1)(a)**  
**58-1-202(1)(a)**  
**58-56-1**

58-56-4(2)  
58-56-6(2)(a)

▼ ————— ▼

**Commerce, Occupational and  
Professional Licensing**  
**R156-56-704**  
**Statewide Amendments to the IBC**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 27490

FILED: 10/14/2004, 12:34

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The Division is filing an amendment to the section to implement the semiannual proposed changes to building codes that have been approved by the Uniform Building Code Commission after review by the appropriate subcommittees. This amendment is being proposed separately because there may be further adjustments needed depending on comments at the public hearing. (DAR NOTE: Another proposed amendment to Rule R156-56 is found under DAR No. 27489 in this issue.)

**SUMMARY OF THE RULE OR CHANGE:** This proposed change adds an amendment to Section 1621.1 (Subsection R156-56-704(47)) and adds a new Section 1621.1.4. The proposed amendments modify a fire sprinkler requirement that is overly restrictive and costly to be more appropriate. The remaining subsections are renumbered.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsections 58-1-106(1)(a), 58-1-202(1)(a), 58-56-4(2), and 58-56-6(2)(a); and Section 58-56-1

**ANTICIPATED COST OR SAVINGS TO:**

- ❖ **THE STATE BUDGET:** The Division has determined that there should be no direct effect on the state budget as a result of this proposed amendment.
- ❖ **LOCAL GOVERNMENTS:** The Division has determined that there should be no direct effect on a local government budget as a result of this proposed amendment.
- ❖ **OTHER PERSONS:** Overall the proposed amendment does not appear to substantially change costs of construction. The proposed amendment will allow minor savings to building owners, residential homeowners, and fire sprinkler contractors. It is impossible to estimate total aggregate impact because it would depend on the specific project, but cost differences are expected to be minor.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Overall the proposed amendment does not appear to substantially change costs of construction. The proposed amendment will allow minor savings to building owners, residential homeowners, and fire sprinkler contractors. It is impossible to estimate total possible savings for each person because it

would depend on the specific project, but cost differences are expected to be minor.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The proposed amendment adopts the requirement for a one-inch space around fire sprinklers, which is less restrictive than the requirement in the International Building Code. It is not year clear what effect this modification will have, but it is anticipated that there will be a slight cost savings to home and building owners and contractors. The proposed rule change will allow for installation of less expensive sprinkler heads without compromising safety since the one-inch heads will be used only with breakaway ceilings; two-inch heads will continue to be required in rigid ceilings constructed, for example, with metal materials. Klarice A. Bachman, Executive Director

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

COMMERCE  
OCCUPATIONAL AND PROFESSIONAL LICENSING  
HEBER M WELLS BLDG  
160 E 300 S  
SALT LAKE CITY UT 84111-2316, or  
at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

Dan S. Jones at the above address, by phone at 801-530-6720, by FAX at 801-530-6511, or by Internet E-mail at dsjones@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 12/01/2004

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 11/15/2004 at 9:00 AM, State Office Building, Room 4112 (fourth floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 12/02/2004

AUTHORIZED BY: J. Craig Jackson, Director

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**R156. Commerce, Occupational and Professional Licensing.  
R156-56. Utah Uniform Building Standard Act Rules.  
R156-56-704. Statewide Amendments to the IBC.**

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

\*\*\*\*\*

(46) Section 1618.1 is deleted and replaced with the following:  
1618.1 Dynamic analysis procedures. The following dynamic analysis procedures are permitted to be used in lieu of the equivalent lateral force procedure of Section 1617.4:

1. Modal Response Spectral Analysis.
2. Linear Time-history Analysis.
3. Nonlinear Time-history Analysis.

The dynamic analysis procedures listed above shall be performed in accordance with the requirements of Section 9.5.6, 9.5.7, and 9.5.8 respectively, of ASCE 7. Roof snow loads to be included in the seismic dead load (W) may be adjusted as outlined in Section 1616.4.1, Item 4, as amended.

(47) Section 1621.1 is deleted and replaced with the following:

1621.1 Component design. Architectural, mechanical, electrical and nonstructural systems, components and elements permanently attached to structures, including supporting structures and attachments (hereinafter referred to as "components"), and nonbuilding structures that are supported by other structures, shall meet with requirements of Section 9.6 of ASCE 7 except as modified in Sections 1621.1.1, 1621.1.2, 1621.1.3, and 1621.1.4, excluding Section 9.6.3.11.2, of ASCE 7, as amended in this section.

(48) A new Section 1621.1.4 is added as follows:

1621.1.4 ASCE 7, Section 9.6.2.6.2.2 paragraph (e) is modified to read as follows:

(e) Penetrations shall have a sleeve or adapter through the ceiling tile to allow for free movement of at least 1 inch (25 mm) in all horizontal directions.

Exceptions:

1. Where rigid braces are used to limit lateral deflections.

2. At fire sprinkler heads in frangible surfaces per NFPA 13.

([47]49) Section 1805.2.1 is deleted and replaced with the following:

Sections 1805.2.1 Frost protection. Except where otherwise protected from frost, foundation walls, piers and other permanent supports of buildings and structures shall be protected from frost by one or more of the following methods:

(1) Extending below the frost line of the locality;

(2) Constructed in accordance with ASCE-32; or

(3) Erected on solid rock.

Exception: Freestanding buildings meeting all of the following conditions shall not be required to be protected:

1. Classified in Importance Category I (see Table 1604.5), or Occupancy Group U (see Section 312);

2. Area of 1,000 square feet (93m<sup>2</sup>) or less;

3. Eave height of 10 feet (3048 mm) or less; and

4. Constructed of light-wood-framed construction.

Footings shall not bear on frozen soil unless such frozen condition is of a permanent character.

([48]50) Section 1805.5 is deleted and replaced with the following:

1805.5 Foundation walls. Concrete and masonry foundation walls shall be designed in accordance with Chapter 19 or 21. Foundation walls that are laterally supported at the top and bottom and within the parameters of Tables 1805.5(1) through 1805.5(4) are permitted to be designed and constructed in accordance with Sections 1805.5.1 through 1805.5.5. Concrete foundation walls may also be constructed in accordance with Section 1805.5.8.

([49]51) A new section 1805.5.8 is added as follows:

1805.5.8 Empirical foundation design. Group R, Division 3 Occupancies three stories or less in height, and Group U Occupancies, which are constructed in accordance with Section 2308, or with other methods employing repetitive wood-frame construction or repetitive cold-formed steel structural member construction, shall be permitted to have concrete foundations constructed in accordance with Table 1805.5(5).

([50]52) Table 1805.5(5) is added as follows:

Table 1805.5(5), entitled "Empirical Foundation Walls, dated September 1, 2002, published by the Department of Commerce,

Division of Occupational and Professional Licensing is hereby adopted and incorporated by reference. Table 1805.5(5) identifies foundation requirements for empirical walls.

([51]53) A new section 2306.1.4 is added as follows:

2306.1.4 Load duration factors. The allowable stress increase of 1.15 for snow load, shown in Table 2.3.2, Frequently Used Load Duration Factors, C<sub>d</sub>, of the National Design Specifications, shall not be utilized at elevations above 5,000 feet (1524 M).

([52]54) Section 2308.6 is deleted and replaced with the following:

2308.6 Foundation plates or sills. Foundations and footings shall be as specified in Chapter 18. Foundation plates or sills resting on concrete or masonry foundations shall comply with Section 2304.3.1 and shall be bolted or anchored by one of the following:

1. Foundation plates or sill shall be bolted or anchored to the foundation with not less than 1/2 inch (12.7 mm) diameter steel bolts or approved anchors. Bolts shall be embedded at least 7 inches (178 mm) into concrete or masonry, and spaced not more than 6 feet (1829 mm) apart. There shall be a minimum of two bolts or anchor straps per piece with one bolt or anchor strap located not more than 12 inches (305 mm) or less than 4 inches (102 mm) from each end of each piece.

2. Foundation plates or sills shall be bolted or anchored to the foundation with not less than 1/2 inch (12.7 mm) diameter steel bolts or approved anchors. Bolts shall be embedded at least 7 inches (178 mm) into concrete or masonry, and spaced not more than 32 inches (816 mm) apart. There shall be a minimum of two bolts or anchor straps per piece located not less than 4 inches (102 mm) from each end of each piece.

A properly sized nut and washer shall be tightened on each bolt to the plate.

([53]55) In Section 2902.1, the title for Table 2902.1 is deleted and replaced with the following and footnote f is added as follows: Table 2902.1, Minimum Number of Plumbing Facilities<sup>a, f</sup>.

FOOTNOTE: f. When provided, in public toilet facilities there shall be an equal number of diaper changing facilities in male toilet rooms and female toilet rooms.

([54]56) A new section 2902.1.1 is added as follows:

2902.1.1 Unisex toilets and bath fixtures. Fixtures located within unisex toilet and bathing rooms complying with section 2902 are permitted to be included in determining the minimum number of fixtures for assembly and mercantile occupancies.

([55]57) Section 3006.5 Shunt Trip, the following exception is added:

Exception: Hydraulic elevators and roped hydraulic elevators with a rise of 50 feet or less.

([56]58) A new section 3403.5 is added as follows:

3403.5 Parapets and other appendages. Building constructed prior to 1975 with parapet walls, cornices, spires, towers, tanks, signs, statuary and other appendages shall have such appendages evaluated by a licensed engineer to determine resistance to design loads specified in this code when said building is undergoing reroofing, or alteration of or repair to said feature.

EXCEPTION: Group R-3 an U occupancies.

Original Plans and/or structural calculations may be utilized to demonstrate that the parapet or appendages are structurally adequate. When found to be deficient because of design or deteriorated condition, the engineer shall prepare specific recommendations to anchor, brace, reinforce or remove the deficient feature.

The maximum height of an unreinforced masonry parapet above the level of the diaphragm tension anchors or above the

parapet braces shall not exceed one and one-half times the thickness of the parapet wall. The parapet height may be a maximum of two and one-half times its thickness in other than Seismic Design Categories D, E, or F. If the required parapet height exceeds this maximum height, a bracing system designed using the coefficients specified in ASCE 7-02 Table 9.6.2.2 shall support the top of the parapet. When positive diaphragm connections are absent, tension roof anchors shall be added. Approved alternative methods of equivalent strength will be considered when accompanied by engineer sealed drawings, details and calculations.

~~(57)59~~ The exception in 3409.1 is deleted and replaced with the following:

Exception: Type B dwelling or sleeping units required by section 1107 are not required to be provided in existing buildings and facilities, except when an existing occupancy is changed to R-2.

~~(58)60~~ In Section 3409.3, number 7 is added as follows:

7. When a change of occupancy in a building or portion of a building results in multiple dwelling or sleeping units as determined in section 1107.6.2, not less than 20 percent of the dwelling or sleeping units shall be Type B dwelling or sleeping units. These dwelling or sleeping units may be located on any floor of the building provided with an accessible route. Two percent, but not less than one, of the dwelling or sleeping units shall be Type A dwelling units.

~~(59)61~~ The following referenced standard is added under NFPA in chapter 35:

TABLE		
Number	Title	Referenced in code Section number
720-99	Recommended Practice for the Installation of Household Carbon Monoxide (CO) Warning Equipment	907.2.10.1, 907.2.10.5

~~(60)62~~ In Chapter 35, Referenced Standards, the following NFPA referenced standards are deleted and replaced with the current versions as follows:

TABLE		
DELETED	REPLACED BY	
13 - 99	13 - 02	Installation of Sprinkler Systems
13D - 99	13D - 02	Installation of Sprinkler Systems in One- and Two-family Dwellings and Manufactured Homes
13R - 99	13R - 02	Installation of Sprinkler Systems in Residential Occupancies Up to and Including Four Stories in Height
72 - 99	72 - 02	National Fire Alarm Code
101 - 00	101 - 03	Life Safety Code

**KEY: contractors, building codes, building inspection, licensing**  
~~August 17, 2004~~

**Notice of Continuation May 16, 2002**

**58-1-106(1)(a)**

**58-1-202(1)(a)**

**58-56-1**

**58-56-4(2)**

**58-56-6(2)(a)**



# Health, Epidemiology and Laboratory Services, Epidemiology

## R386-702

### Communicable Disease Rule

#### NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 27496

FILED: 10/15/2004, 15:07

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This amendment is intended to prevent perinatal transmission and transmission to household and close family contacts of hepatitis B.

**SUMMARY OF THE RULE OR CHANGE:** The amendments are: 1) requiring testing for hepatitis B surface antigen (HBsAg) during prenatal care and documentation of results in the provider record; 2) requiring that hospitals and birthing facilities develop policies to prevent transmission. Those policies should assure that women have been tested, that positive results are reported to public health (required in current rule), and that infants born to infected mothers are treated appropriately; 3) directing local health departments to provide case management for babies born to HBsAg positive mothers, and case management for persons with chronic HBsAg infection; and 4) requiring that pregnancy status be reported with HBsAg positive results in pregnant women when that information is available to the reporting entity.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Sections 26-1-30 and 26-6-3

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** The activities required under these amendments can be handled under existing communicable disease and immunizations programs in the Department of Health. No additional costs are anticipated.

❖ **LOCAL GOVERNMENTS:** These activities are currently performed by local health departments and additional costs, if any, should be minimal.

❖ **OTHER PERSONS:** The clinical activities required in these amendments are currently standard of practice and should result in minimal increased costs. There will be some costs to implement policies in facilities where such policies do not yet exist. These costs will be transient and minimal but are not easily quantified. Laboratories that implement collection of pregnancy status might incur costs for changes in forms or data submission systems, but the rule is permissive allowing these to occur as systems are upgraded.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Doctors, hospitals, and local health departments indicate that the activities required are standard of practice. Thus, these changes

should result in few if any costs not now being experienced. If these rule changes result in HBsAg testing of persons who would otherwise not have been tested, despite it being the standard of practice, either that person's insurance plan or the individual might incur a cost of \$10-\$15 for hepatitis B testing.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Preventing perinatal transmission and transmission to household and close family contacts of hepatitis B is a critical public health mandate. This rule will impose minimal cost on the health care industry, since this practice is already the standard of care. Scott D. Williams, MD

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 Rolfs at the above address, by phone at 801-538-6386, by FAX at 801-538-6694, 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 12/01/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 12/02/2004

AUTHORIZED BY: Scott D. Williams, Executive Director

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

**R386-702-9. Special Measures to Prevent Perinatal and Person-to-Person Transmission of Hepatitis B Infection.**

(1) A licensed healthcare provider who provides prenatal care shall routinely test each pregnant woman for hepatitis B surface antigen (HBsAg) at an early prenatal care visit.

(2) The licensed healthcare provider who provides prenatal care should repeat the HBsAg test during late pregnancy for those women who tested negative for HBsAg during early pregnancy, but who are at high risk based on:

- (a) evidence of clinical hepatitis during pregnancy;
- (b) injection drug use;
- (c) occurrence during pregnancy or a history of a sexually transmitted disease; or
- (d) the judgement of the healthcare provider.

(3) In addition to other reporting required by this rule, each positive HBsAg result detected in a pregnant woman shall be reported to the local health department or the Utah Department of Health, as specified in Section 26-6-6. That report shall indicate that the woman was pregnant at time of testing when that information is available to the reporting entity.

(4) A licensed healthcare provider who provides prenatal care shall document a woman's HBsAg test results in the medical record for that patient.

(5) Every hospital and birthing facility shall develop a policy to assure that:

(a) when a pregnant woman is admitted for delivery, or for monitoring of pregnancy status.

(i) the result from a test for HBsAg performed on that woman during that pregnancy is available for review and documented in the hospital record, or

(ii) if the woman's test result is not available, the mother is tested for HBsAg as soon as possible, but before discharge from the hospital;

(b) positive HBsAg results identified by testing performed or documented during the hospital stay are reported as specified in this rule;

(c) infants born to HBsAg positive mothers receive hepatitis B immune globulin (HBIG) and hepatitis B vaccine, administered at separate injection sites, within 12 hours of birth;

(d) infants born to mothers whose HBsAg status is unknown receive hepatitis B vaccine within 12 hours of birth, and

(i) if the mother's HBsAg test result is positive, that infant should receive HBIG as soon as possible but within 7 days of birth; and

(ii) if the infant was born preterm with birth weight less than 2,000 grams, that infant should receive HBIG within 12 hours of birth as specified on page 333 of the reference listed in (8).

(6) Local health departments shall perform the following activities or assure that they are performed:

(a) Infants born to HBsAg positive mothers complete the hepatitis B vaccine series as specified in Table 3.18, page 328 and Table 3.21, page 333 of the reference listed in (8).

(b) Children born to HBsAg positive mothers are tested for HBsAg and antibody against hepatitis B surface antigen (anti-HBs) at 9 to 15 months of age (3-9 months after the third dose of hepatitis B vaccine) to monitor the success of therapy and identify cases of perinatal hepatitis B infection.

(i) Children who test negative for HBsAg and do not demonstrate serological evidence of immunity against hepatitis B when tested as described in (b) receive additional vaccine doses and are retested as specified on page 332 of the reference listed in (8).

(c) HBsAg positive mothers are advised regarding how to reduce their risk of transmitting hepatitis B to others.

(d) Household members and sex partners of HBsAg positive mothers are evaluated to determine susceptibility to hepatitis B infection and if determined to be susceptible, are offered or advised to obtain vaccination against hepatitis B.

(7) Prevention of transmission by individuals with chronic hepatitis B infection.

(a) An individual with chronic hepatitis B infection is defined as an individual who is:

(i) HBsAg positive, and total antibody against hepatitis B core antigen (anti-HBc) positive (if done) and IgM anti-HBc negative; or

(ii) HBsAg positive on two tests performed on serum samples obtained at least 6 months apart.

(b) An individual with chronic hepatitis B infection should be advised regarding how to reduce the risk that the individual will transmit hepatitis B to others.

(c) Household members and sex partners of individuals with chronic hepatitis B infection should be evaluated to determine susceptibility to hepatitis B infection and if determined to be

susceptible, should be offered or advised to obtain vaccination against Hepatitis B.

(8) The Red Book, 2003 Report of the Committee on Infectious Diseases, as referenced in R386-702-12(4) is the reference source for details regarding implementation of the requirements of this section.

#### **R386-702-10. Public Health Emergency.**

(1) Declaration of Emergency: With the Governor's and Executive Director's or in the absence of the Executive Director, his designee's, concurrence, the Department or a local health department may declare a public health emergency by issuing an order mandating reporting emergency illnesses or health conditions specified in sections R386-702-3 for a reasonable time.

(2) For purposes of an order issued under this section and for the duration of the public health emergency, the following definitions apply.

(a) "emergency center" means:

(i) a health care facility licensed under the provisions of Title 26, Chapter 21, Utah Code, that operates an emergency department; or

(ii) a clinic that provides emergency or urgent health care to an average of 20 or more persons daily;

(b) "encounter" means an instance of an individual presenting at the emergency center who satisfies the criteria in section R386-702-3(2); and

(c) "diagnostic information" means an emergency center's records of individuals who present for emergency or urgent treatment, including the reason for the visit, chief complaint, results of diagnostic tests, presenting diagnosis, and final diagnosis, including diagnostic codes.

(3) Reporting Encounters: The Department shall designate the fewest number of emergency centers as is practicable to obtain the necessary data to respond to the emergency.

(a) Designated emergency centers shall report using the process described in R386-702-4.

(b) An emergency center designated by the Department shall report the encounters to the Department by:

(i) allowing Department representatives or agents, including local health department representatives, to review its diagnostic information to identify encounters during the previous day; or

(ii) reviewing its diagnostic information on encounters during the previous day and reporting all encounters by 9:00 a.m. the following day, or

(iii) identifying encounters and submitting that information electronically to the Department, using a computerized analysis method, and reporting mechanism and schedule approved by the Department; or

(iv) by other arrangement approved by the Department.

(4) For purposes of epidemiological and statistical analysis, the emergency center shall report on encounters during the public health emergency that do not meet the definition for a reportable emergency illness or health condition. The report shall be made using the process described in 702-9(3)(b) and shall include the following information for each such encounter:

- (a) facility name;
- (b) date of visit;
- (c) time of visit;
- (d) patient's age
- (e) patient's sex
- (f) patient's zip code for patient's residence;

(5) If either the Department or a local health department collects identifying health information on an individual who is the subject of a report made mandatory under this section, it shall destroy that identifying information upon the earlier of its determination that the information is no longer necessary to carry out an investigation under this section or 180 days after the information was collected. However, the Department and local health departments shall retain identifiable information gathered under other sections of this rule or other legal authority.

(6) Reporting on encounters during the public health emergency does not relieve a reporting entity of its responsibility to report under other sections of this rule or other legal authority.

#### **R386-702-1[0]1. Penalties.**

Any person who violates any provision of R386-702 may be assessed a penalty not to exceed the sum of \$5,000 or be punished for violation of a class B misdemeanor for the first violation and for any subsequent similar violation within two years for violation of a class A misdemeanor as provided in Section 26-23-6.

#### **R386-702-1[4]2. 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". 17th ed., Chin, James, editor, 2000.

(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, 2004, Part II."

(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**

~~June 11,~~ 2004

Notice of Continuation August 20, 2002

26-1-30

26-6-3

26-23b



## Insurance, Administration **R590-231** Workers' Compensation Market of Last Resort

### NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 27488

FILED: 10/14/2004, 10:03

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this proposed new rule is to define the "Market of Last Resort" and to provide eligibility criteria, requirements for the designation of existing insured employers, and reporting requirements. The market of last resort has never been defined. Definition is required to monitor assignment to the market of last resort, the size of the market of last resort, rating and rates in the market of last resort, and reporting about the market of last resort. During the last legislative session neither the Department nor the market of last resort were able to answer questions about the market of last resort because the market of last resort had never been defined. This rule provides a process to answer these questions.

**SUMMARY OF THE RULE OR CHANGE:** This rule defines the "Market of Last Resort," and provides eligibility criteria, requirements for the designation of existing insured employers, and reporting requirements.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Sections 31A-2-201, 31A-19a-404, 31A-20-103, and 31A-22-1010

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** There will be a minor increase in the Department's workload due to the requirement to file a report with the department. This will not require the hiring of an additional employee.

❖ **LOCAL GOVERNMENTS:** This rule does not affect local government since it deals solely with the relationship between the workers' compensation market and the Department.

❖ **OTHER PERSONS:** The requirements in the rule setting underwriting requirements, rating criteria and filing a report with the department regarding the Market of Last Resort will increase the workload of the Workers' Compensation Fund. Whether additional employees will need to be hired to handle this work or not is not known at this time. The rule should have no monetary impact on consumers of workers' compensation insurance since the rule is meant just to identify a segment of the Workers' Compensation Fund's pool of policyholders.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The requirements in the rule setting underwriting requirements, rating criteria and filing a report with the department regarding the Market of Last Resort will increase the workload of the Workers' Compensation Fund. Whether additional employees will need to be hired to handle this work or not is not known at this time.

The rule should have no monetary impact on consumers of workers' compensation insurance since the rule is meant just to identify a segment of the Workers' Compensation Fund's pool of policyholders.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The fiscal impact of this rule, if any, is not known by the department or the Workers' Compensation Fund at this time.

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 12/01/2004

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 11/23/2004 at 10:00 AM, State Office Building (behind the Capitol), Room 3112 (third floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 12/02/2004

AUTHORIZED BY: Jilene Whitby, Information Specialist

**R590. Insurance Administration.****R590-231. Workers' Compensation Market of Last Resort.****R590-231-1. Authority.**

This rule is promulgated pursuant to the following statutes:

(1) 31A-19a-404, rulemaking authority for the recording and reporting of statistical data and experience rating data;

(2) 31A-20-103, rulemaking authority to define lines and classes of insurance;

(3) 31A-22-1010, rulemaking authority for reporting requirements for workers' compensation deductible policies; and

(4) 31A-2-201, rulemaking authority to implement the provision of Title 31A.

**R590-231-2. Findings and Interpretation.**

(1) The commissioner finds that the legislature intended that the Workers' Compensation Fund created under Title 31A, Chapter 33, was to provide workers' compensation insurance for Utah employers who are not able to obtain such insurance in the voluntary marketplace.

(2) Based upon this finding, the commissioner interprets Section 31A-22-1001 to mean that the Workers' Compensation Fund, created under Title 31A, Chapter 33, is the insurer that provides workers' compensation insurance for the market of last resort in Utah.

**R590-231-3. Purpose and Scope.**

(1) The purpose of this rule, regarding the workers' compensation market of last resort, is to:

(a) define the workers' compensation market of last resort;

(b) provide eligibility criteria;

(c) provide requirements for designation of existing insured employers; and

(d) provide reporting requirements to the department and the designated rate service organization.

(2) This rule applies to the insurer for the market of last resort.

**R590-231-4. Definitions.**

(1) "Insurer for the market of last resort" means the Workers' Compensation Fund.

(2) "Market of Last Resort" means the workers' compensation class of risk that cannot be placed with a voluntary workers' compensation insurer because of certain underwriting restrictions or class codes.

(3) "Reasonable rating plan" means a rating plan approved by the department.

(4) "Voluntary workers' compensation insurer" means an admitted workers' compensation insurer actively seeking workers' compensation business in Utah, including the Workers' Compensation Fund.

**R590-231-5. Eligibility.**

(1) To be eligible for the workers' compensation market of last resort, an employer must meet the underwriting and rating criteria established by the market of last resort.

(2) An employer being insured in the market of last resort remains eligible until the employer obtains workers' compensation insurance from a voluntary workers' compensation insurer.

**R590-231-6. Underwriting and Rating.**

(1) The insurer for the market of last resort shall file separate underwriting and rating criteria for the market of last resort.

(2) Underwriting criteria for eligibility in the market of last resort shall include:

(a) a minimum qualifying premium of less than \$5,000,

(b) class code and risk characteristics, and

(c) loss and payroll experience.

(3) Policy files for employers eligible for the market of last resort must include the underwriting criteria used for placement in the market of last resort.

**R590-231-7. Designation and Reporting.**

(1) Because the Workers' Compensation Fund is a voluntary workers' compensation insurer, and the insurer for the market of last resort, the Workers' Compensation Fund shall:

(a) Designate its existing insured employers as insured in the voluntary workers' compensation market or in the market of last resort; and

(b) Such designation can be done:

(i) immediately; or

(ii) as each employer renews; or

(iii) at the time a new application is made for workers' compensation coverage.

(2) The insurer for the market of last resort shall report market of last resort data to the designated rate service organization. Such reporting shall be timely and consistent with the designated rate service organization's reporting requirements.

(3) Upon request, the insurer for the market of last resort shall make available to the Insurance Department, information about the market of last resort. Requested information may include the market of last resort data reported to the designated rate service organization.

**R590-231-8. Enforcement Date.**

The commissioner will begin enforcing the provisions of this rule 45 days from the effective date of the rule.

**R590-231-9. Severability.**

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

**KEY: workers' compensation insurance**

**2004**

**31A-2-201**

**31A-19a-404**

**31A-20-103**

**31A-22-1010**

**Labor Commission, Adjudication**

**R602-2-4**

**Attorney Fees**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 27492

FILED: 10/14/2004, 15:45

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the proposed rule change is to reorganize, update, and clarify the provision for attorneys fees in workers' compensation cases.

SUMMARY OF THE RULE OR CHANGE: The amendment deletes the existing section and replaces it with a new section. The new section maintains the general provisions of the old section regarding attorney fee arrangements in workers' compensation cases, but increases the amount of such fees by approximately 5% to reflect benefit increases over the last 2 years. The new section also allows attorneys to charge by the hour for up to 4 hours.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-1-301 et seq.

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This amendment does not affect the State in its capacity as an employer nor does it increase the state's cost of administering the workers' compensation system, consequently no costs or savings to the state budget are anticipated.

❖ LOCAL GOVERNMENTS: This amendment does not affect local governments in their capacity as employers, consequently no costs or savings to local government budgets are anticipated.

❖ OTHER PERSONS: This will allow workers' compensation plaintiff's attorneys to charge a somewhat higher fee to clients.

The increase is approximately 5% above previous attorney fee limits, but is offset by a similar increase in weekly benefits that injured workers are now receiving.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The only compliance costs are the somewhat higher attorneys fees that injured workers may be required to pay. As noted, this increase is due to (and offset by) increases in benefits paid to injured workers over the last two years.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The attorneys fees subject to this rule are paid by the injured worker, not the employer. The change should therefore have no fiscal impact on businesses.

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

LABOR COMMISSION  
ADJUDICATION  
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:

Alan Hennebold at the above address, by phone at 801-530-6937, by FAX at 801-530-6390, or by Internet E-mail at ahennebold@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 12/01/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 12/02/2004

AUTHORIZED BY: R Lee Ellertson, Commissioner

## **R602. Labor Commission, Adjudication.**

### **R602-2. Adjudication of Workers' Compensation and Occupational Disease Claims.**

#### **R602-2-4. Attorney Fees.**

~~[Pursuant to Section 34A-1-309, the Commission adopts the following rule to regulate and fix reasonable fees for attorneys representing applicants before the Commission in all cases wherein such fees are awarded after January 1, 2002.~~

~~— A. The concept of a contingency fee is recognized. A retainer in advance of a Commission approved fee is not allowed. Benefits are only deemed generated within the meaning of this rule when they are paid as a result of legal services rendered after an Appointment of Counsel form is signed by the applicant. A copy of this form must be filed with the Commission by the claimant's attorney.~~

~~— B. By creating this rule, the commission does not intend that an applicant's attorney be paid a fee where the assistance the attorney renders involves only an incidental expenditure of time. For example, no attorney's fee shall be paid when compensation agreements are merely reviewed, simple documents are prepared, or an apparent dispute is quickly resolved as a result of oral or written communication.~~

~~— C. "Benefits" within the meaning of this rule shall be limited to weekly death or disability compensation and accrued interest thereon paid to or on behalf of an applicant pursuant to the terms of Title 34A, Utah Code Annotated.~~

~~— D. An attorney's fee deducted from the benefits generated shall be awarded for all legal services rendered through final Commission action with the following constraints:~~

~~— 1. 20% of weekly benefits generated for the first \$20,500, plus 15% of the weekly benefits generated in excess of \$20,500 but not exceeding \$41,000, plus 10% of the weekly benefits generated in excess of \$41,000.~~

~~— 2. In no case shall an attorney collect fees calculated on more than the first 312 weeks of any and all combinations of workers' compensation benefits.~~

~~— 3. Notwithstanding the above, in no case shall the maximum fee exceed \$10,352.~~

~~— E. After either successfully prosecuting or defending an appeal following final Commission action, an increased attorney's fee shall be awarded amounting to:~~

~~— 1. 25% of the benefits in dispute before the Utah Court of Appeals, plus the amount awarded in part D of this rule, not to exceed \$15,130.~~

~~— 2. 30% of the benefits in dispute before the Supreme Court, plus the amount awarded in part D of this rule, plus the amount awarded in part E.1 of this rule, not to exceed \$19,900.~~

~~— F. An attorney's fee shall be deducted from and paid out of the benefits generated and shall be paid directly to the applicant's attorney upon order of the Commission.~~

~~— G. If a controversy over an attorney's fee develops, the Commission shall have the discretion, pursuant to Section 34A-1-309, and this rule, to award fees or otherwise resolve the dispute by Order delineating the Commission's findings along with the evidence and reasons supporting the decision.]A. Pursuant to Section 34A-1-309, the Commission adopts the following rule to regulate and fix reasonable fees for attorneys representing applicants in workers' compensation or occupational illness claims.~~

~~1. This rule applies to all fees awarded after January 1, 2005.~~

~~2. Fees awarded prior to the effective date of this rule are determined according to the prior version of this rule in effect on the date of the award.~~

~~B. Upon written agreement, when an attorney's services are limited to consultation, document preparation, document review, or review of settlement proposals, the attorney may charge the applicant an hourly fee of not more than \$125 for time actually spent in providing such services, up to a maximum of four hours.~~

~~1. Commission approval is not required for attorneys fees charged under this subsection B. It is the applicant's responsibility to pay attorneys fees permitted by this subsection B.~~

~~2. In all other cases involving payment of applicants' attorneys fees which are not covered by this subsection B, the entire amount of such attorneys fees are subject to subsection C. or D. of this rule.~~

~~C. Except for legal services compensated under subsection B. of this rule, all legal services provided to applicants shall be compensated on a contingent fee basis.~~

~~1. For purposes of this subsection C., the following definitions and limitations apply:~~

~~a. The term "benefits" includes only death or disability compensation and interest accrued thereon.~~

~~b. Benefits are "generated" when paid as a result of legal services rendered after an Appointment of Counsel form is signed by the applicant. A copy of this form must be filed with the Commission by the applicant's attorney.~~

c. In no case shall an attorney collect fees calculated on more than the first 312 weeks of any and all combinations of workers' compensation benefits.

2. Fees and costs authorized by this subsection shall be deducted from the applicant's benefits and paid directly to the attorney on order of the Commission. A retainer in advance of a Commission approved fee is not allowed.

3. Attorney fees for benefits generated by the attorney's services shall be computed as follows:

a. For all legal services rendered through final Commission action, the fee shall be 20% of weekly benefits generated for the first \$21,500, plus 15% of the weekly benefits generated in excess of \$21,500 but not exceeding \$43,000, plus 10% of the weekly benefits generated in excess of \$43,000, to a maximum of \$10,850.

b. For legal services rendered in prosecuting or defending an appeal before the Utah Court of Appeals, an attorney's fee shall be awarded amounting to 25% of the benefits in dispute before the Court of Appeals. This amount shall be added to any attorney's fee awarded under subsection C.3.a. for benefits not in dispute before the Court of Appeals. The total amount of fees awarded under subsection C.3.a. and this subsection C.3.b. shall not exceed \$15,850.

c. For legal services rendered in prosecuting or defending an appeal before the Utah Supreme Court, an attorney's fee shall be awarded amounting to 30% of the benefits in dispute before the Supreme Court. This amount shall be added to any attorney's fee awarded under subsection C.3.a. and subsection C.3.b. for benefits not in dispute before the Supreme Court. The total amount of fees awarded under subsection C.3.a, subsection C.3.b. and this subsection C.3.c shall not exceed \$20,850.

4. In addition to attorneys fees authorized by this subsection, a prevailing applicant's attorney shall be awarded reasonable and necessary costs actually incurred in the prosecution of the applicant's claim, as determined by the ALJ.

D. In "medical only" cases in which awards of attorneys' fees are authorized by '34A-1-309(4), the amount of such fees and costs shall be computed according to the provisions of subsection C.

**KEY: workers' compensation, administrative procedures, hearings, settlements**

**[January 2, 2004**

**Notice of Continuation September 5, 2002**

**34A-1-301 et seq.**

**63-46b-1 et seq.**



## Labor Commission, Industrial Accidents

### **R612-4-2**

#### Premium Rates for the Uninsured Employers' Fund and the Employers' Reinsurance Fund

## NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27493

FILED: 10/14/2004, 15:49

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This proposed amendment establishes premium assessment rates for 2005 to fund the Employers' Reinsurance Fund, the Uninsured Employers' Fund, and the Workplace Safety Account.

**SUMMARY OF THE RULE OR CHANGE:** The proposed amendment sets the workers' compensation insurance premium assessment rates for the 2005 calendar year for purposes of funding the Uninsured Employers' Fund, the Employers' Reinsurance Fund, and the Workplace Safety Account.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 59-9-101(2) and Sections 59-9-101.3 and 34a-2-202

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** This amendment reduces the workers' compensation premium rate by 20%. This reduction will be factored into the State's overall workers' compensation premium, reducing the State's cost for workers' compensation coverage accordingly.

❖ **LOCAL GOVERNMENTS:** This amendment reduces the workers' compensation premium rate by 20%. This reduction will be factored into local governments' overall workers' compensation premium, reducing local governments' cost for workers' compensation coverage accordingly.

❖ **OTHER PERSONS:** This amendment reduces the workers' compensation premium rate by 20%. This reduction will be factored into other persons' overall workers' compensation premium, reducing other persons' cost for workers' compensation coverage accordingly.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The proposed rule does not impose any additional compliance costs, but instead lowers workers' compensation premium rates and compliance costs for affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This proposed amendment slightly reduces business workers' compensation costs and will therefore have a positive fiscal impact on business.

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

LABOR COMMISSION  
INDUSTRIAL ACCIDENTS  
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:  
 Joyce Sewell at the above address, by phone at 801-530-6988, by FAX at 801-530-6804, or by Internet E-mail at jsewell@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 12/01/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 12/02/2004

AUTHORIZED BY: R Lee Ellertson, Commissioner

**R612. Labor Commission, Industrial Accidents.  
 R612-4. Premium Rates.  
 R612-4-2. Premium Rates for the Uninsured Employers' Fund and the Employers' Reinsurance Fund.**

A. Pursuant to Section 59-9-101(2), Section 59-9-101.3 and 34A-2-202 the workers' compensation premium rates effective January 1, 2004<sup>[4]</sup><sub>5</sub>, as established by the Labor Commission, shall be:

1. 0.25% for the Uninsured Employers' Fund;
2. ~~7.25%~~ for the Employers' Reinsurance Fund;
3. 0.25% for the workplace safety account.

B. The premium rates are a percentage of the total workers' compensation insurance premium income as detailed in Section 59-9-101(2)(a).

**KEY: workers' compensation, rates  
 [January 1,]2004  
 Notice of Continuation February 8, 2001  
 59-9-101(2)**



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

**NOTICE OF PROPOSED RULE  
 (Amendment)  
 DAR FILE NO.: 27494  
 FILED: 10/14/2004, 16:41**

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change provides adequate safety protections for Utah workers, and in order to maintain federal recognition, Utah's occupational safety and health program must be "as effective as" federal Occupational Safety and Health Administration (OSHA). To that end, the Commission is required to enact the proposed amendment to Section R614-1-4, which incorporates a recently enacted federal standard for respiratory protection.

SUMMARY OF THE RULE OR CHANGE: In this rule change, OSHA is approving an additional quantitative fit testing protocol, the controlled negative pressure (CNP) REDON (reapplying the

respirator after adjustments - redonning) fit testing protocol, for inclusion in Appendix A of its Respiratory Protection Standard. The Commission is adopting this protocol under the provisions of the Respiratory Protection Standard that allow individuals to submit evidence justifying additional fit testing protocols. The CNP REDON protocol requires the performance of three different test exercises followed by two redonnings of the respirator, while the CNP protocol approved previously by OSHA specifies eight test exercises, including one redonning of the respirator. In addition to amending the standard to include the CNP REDON protocol, this rulemaking makes several editorial and nonsubstantive technical revisions to the standard associated with the CNP REDON protocol and the previously approved CNP protocol.

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: FR Vol. 69, No. 149, Wednesday, August 4, 2004, Pages 46986 to and including 46994, "Controlled Negative Pressure REDON Fit Testing Protocol"; Final Rule

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: By providing regulatory flexibility to employers, the addition of the CNP REDON protocol may reduce costs in terms of time required to fit test affected State employees for respirator use, but otherwise there should be no savings or increase.
- ❖ LOCAL GOVERNMENTS: By providing regulatory flexibility to employers, the addition of the CNP REDON protocol may reduce costs in terms of time required to fit test affected local government employees for respirator use, but otherwise there should be no savings or increase.
- ❖ OTHER PERSONS: By providing regulatory flexibility to employers, addition of the CNP REDON protocol may reduce costs in terms of decreasing the time required to fit test their employees for respirator use, but otherwise there should be no savings or increase.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The CNP REDON protocol offers employers an additional option to fit test their employees for respirator use. Employers now have a choice between the previously approved CNP protocol and the simpler CNP REDON protocol. This flexibility may reduce compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This simpler and less expensive procedure authorized by this amendment will have a positive fiscal impact on businesses subject to the rule.

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 12/01/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 12/02/2004

AUTHORIZED BY: R Lee Ellertson, 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, 2002, edition are incorporated by reference.

2. 29 CFR 1908, July 1, 2001, is incorporated by reference.

3. 29 CFR 1904, July 1, 2001, is incorporated by reference.

4. FR Vol. 67, No. 126, Monday, July 1, 2002, Pages 44037 to and including 44048, "29 CFR Part 1904 Occupational Injury and Illness Recording and Reporting Requirements; Final Rule" is incorporated by reference.

5. FR Vol. 67, No. 216, Thursday, November 7, 2002, Pages 67949 to and including 67965, "Exit Routes, Emergency Action Plans, and Fire Protection Plans; Final Rule" is incorporated by reference.

6. FR Vol. 67, No. 242, Tuesday, December 17, 2002, Pages 77165 to and including 77170, "Occupational Injury and Illness Recording Requirements; Final Rule" is incorporated by reference.

7. FR Vol. 68, No. 105, Monday, June 2, 2003, Pages 32637 to and including 32638, "29 CFR Part 1910.178 Powered Industrial Trucks; Final Rule" technical amendment in incorporated by reference.

8. FR Vol. 68, No. 125, Monday June 30, 2003, Pages 38601 to and including 38607, "29 CFR Part 1904 Occupational Injury and Illnesses Recording and Reporting Requirements; Final Rule" is incorporated by reference.

9. FR Vol. 68, No. 250, Wednesday, December 31, 2003, Pages 75776 to and including 75780, "Respiratory Protection for M. Tuberculosis"; Final Rule is incorporated by reference.

10. FR Vol. 69, No. 31, Tuesday, February 17, 2004, Pages 7351 to and including 7366, "Commercial Diving Operations"; Final Rule is incorporated by reference.

11. FR Vol. 69, No. 110, Thursday June 8, 2004, Pages 31880 to and including 31882, "29 CFR 1910/1926; "Mechanical Power-Transmission Apparatus; Mechanical Power Presses; Telecommunications; Hydrogen"; Final Rule; technical amendments Final Rule" is incorporated by reference.

12. FR Vol. 69, No. 149, Wednesday, August 4, 2004, Pages 46986 to and including 46994, "Controlled Negative Pressure REDON Fit Testing Protocol"; 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, 2002, edition is incorporated by reference.

2. FR Vol. 67, No. 177, Thursday, September 12, 2002, Pages 57722 to and including 57736, "Safety Standards for Signs, Signals, and Barricades; Final Rule" is incorporated by reference.

**KEY: safety**

~~July 2,~~ 2004

Notice of Continuation November 25, 2002

34A-6

**Natural Resources, Wildlife Resources****R657-26-5****Hearings****NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE No.: 27497

FILED: 10/15/2004, 15:19

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is being amended pursuant to Subsection 23-13-2(39), which was amended during the 2004 Legislative Session (H.B. 235), removing the protected wildlife species of "turkey" from the definition of small game. (DAR NOTE: H.B. 235 is found at UT L 2004 Ch 66, and was effective 05/03/2004.)

**SUMMARY OF THE RULE OR CHANGE:** Subsection R657-26-5(5)(a)(iv) is being amended to include a wild turkey permit as a type of permit suspension that may be imposed in accordance with the remaining standards provided for in Rule R657-26.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 23-19-9(15)

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** This amendment provides a wild turkey permit as a type of permit suspension that may be imposed. The Division of Wildlife Resources (DWR) determines that this amendment will not create any cost or savings impact to the state budget or DWR's budget.

❖ **LOCAL GOVERNMENTS:** None--This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖ **OTHER PERSONS:** No impact--These amendments do not impose any requirements on persons.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** This amendment provides a wild turkey permit as a type of permit suspension that may be imposed. Therefore, this rule does not impose any cost requirements for affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The amendments to this rule do not create an impact on businesses.

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

NATURAL RESOURCES  
WILDLIFE RESOURCES  
1594 W NORTH TEMPLE  
SALT LAKE CITY UT 84116-3154, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debbie Sundell at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at [debbiesundell@utah.gov](mailto:debbiesundell@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 12/01/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 12/02/2004

AUTHORIZED BY: Miles Moretti, Acting Director

**R657. Natural Resources, Wildlife Resources.  
R657-26. Adjudicative Proceedings for a License, Permit, or Certificate of Registration.  
R657-26-5. Hearings.**

(1)(a) The presiding officer shall provide the respondent with an opportunity for a hearing.

(b) A hearing shall be held if the respondent requests a hearing within 20 days after the date the notice of agency action is issued.

(2) The respondent, or a person designated by the respondent to appear on the respondent's behalf, may testify at the hearing and present any relevant information or evidence.

(3) Hearings shall be open to the public.

(4) After reviewing all the information provided by the parties, the presiding officer shall suspend the respondent's license, permit or certificate of registration privileges in accordance with Section 23-19-9.

(5)(a) The type of license, permit or certificate of registration privilege suspension imposed shall be within the following categories:

- (i) all fishing licenses and permits;
- (ii) all furbearer and bobcat licenses and permits;
- (iii) all big game licenses and permits;
- (iv) all small game licenses and permits, and wild turkey permits;

(v) all permits to take and pursue cougar and bear;

(vi) all falconry permits and falconry certificates of registration;

(vii) certificates of registration of a type specified; or

(viii) all hunting licenses, permits and certificates of registration;

(ix) all licenses, permits and certificates of registration issued by the division.

(b) The presiding officer may suspend the license, permit or certificate of registration privileges most closely associated with the activity for which the person was participating in when the violation occurred.

(c) The presiding officer may suspend the license, permit or certificate of registration privileges most closely associated with the

activity that involved the unlawful taking of terrestrial wildlife for which no season has been established.

(d) If the violation involves acts that occurred while participating in an activity regulated by Title 23, which include more than one of the types of license or permit privileges as provided in Subsection (a), the presiding officer may suspend the license, permit or certificate of registration privileges for all categories that apply.

(e) The presiding officer may impose a suspension of all privileges to hunt protected wildlife or all privileges to take protected wildlife if the violations are found by the hearing officer to be conspicuously bad or offensive, and may include, but are not restricted to, the violations described in Subsection (e)(i) through Subsection (e)(viii).

(i) Any violation which could result in suspension that involves taking, in a single criminal episode, four times the legal bag limit of any protected fish species.

(ii) Any violation which could result in suspension that involves taking, in a single criminal episode, three times the legal bag limit of any small game species or waterfowl.

(iii) Any violation which could result in suspension that involves a once-in-a-lifetime species.

(iv) Any violation which could result in suspension that occurs out of season or in a closed area for the species illegally taken and involves a trophy animal.

(v) Three or more felony or class A misdemeanor violations under Section 23-20-4 in a seven-year period, regardless of suspension periods previously imposed.

(vi) Any violation which could result in suspension that involves the illegal taking, in a single criminal episode, of two or more big game animals not classified as once-in-a-lifetime.

(vii) Any violation which could result in suspension that involves the illegal taking, in a single criminal episode, of two or more cougar or bear.

(viii) Any violation subject to Section 23-19-9 that further violates an existing order of revocation or suspension recognized by the Utah Division of Wildlife Resources.

(6) The director shall appoint a qualified person as a hearing officer in accordance with Section 23-19-9(9).

(7)(a) The courts may suspend, in criminal sentencing, a person's privilege to apply for, purchase, or exercise the benefits conferred by a license, permit, or certificate of registration in accordance with Section 23-19-9(10).

(8) The division shall suspend and reinstate all hunting, fishing, trapping, and falconry privileges consistent with Title 23, Chapter 25, Wildlife Violator Compact.

**KEY: wildlife, suspensions, violations**

**[~~June 3, 2003~~2004**

**Notice of Continuation August 30, 2001**

**23-13-2**

**23-14-1**

**23-14-19**

**23-19-9**

**23-20-14**

**63-46b-13**

**63-46b-5**



Natural Resources, Wildlife Resources  
**R657-54**  
 Taking Wild Turkey

**NOTICE OF PROPOSED RULE**

(New Rule)

DAR FILE No.: 27498

FILED: 10/15/2004, 15:24

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is being created pursuant to Regional Advisory Council meetings and the Wildlife Board meeting conducted for taking public input and reviewing the wild turkey program as approved by the Wildlife Board. In addition, this rule is being proposed pursuant to Subsection 23-13-2(39), which was amended during the 2004 Legislative Session (H.B. 235), removing the protected wildlife species of "turkey" from the definition of small game and providing a wild turkey rule with the intent to amend Rule R657-6, Taking Upland Game, which currently includes wild turkey. (DAR NOTE: H.B. 235 is found at UT L 2004 Ch 66, and was effective 05/03/2004.)

**SUMMARY OF THE RULE OR CHANGE:** This rule provides the standards and procedures for taking wild turkey, including provisions for: 1) an application process for applying for and obtaining a wild turkey permit; 2) waiting periods; 3) bonus points; 4) landowner permits; 5) firearms and archery tackle; 6) shooting hours; 7) methods of take; 8) tagging requirements; 9) areas closed to hunting; and 10) youth hunting.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 23-14-18 and 23-14-19

**THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL:** 50 CFR 20, 2003 ed.

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** This rule is proposed pursuant to Subsection 23-13-2(39), which was amended during the 2004 Legislative Session, removing the protected wildlife species of "turkey" from the definition of small game and to provide the standards and procedures for taking wild turkey. The Division of Wildlife Resources (DWR) determines that this amendment will not create any cost or savings impact to the state budget or DWR's budget.

❖ **LOCAL GOVERNMENTS:** None--This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖ **OTHER PERSONS:** This rule is proposed pursuant to Subsection 23-13-2(39), which was amended during the 2004 Legislative Session, removing the protected wildlife species of "turkey" from the definition of small game and to provide the standards and procedures for taking wild turkey. This rule is proposed to eliminate confusion with small game and upland

game and does not impose any cost requirements for other persons.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** This rule is proposed pursuant to Subsection 23-13-2(39), which was amended during the 2004 Legislative Session, removing the protected wildlife species of "turkey" from the definition of small game and to provide the standards and procedures for taking wild turkey. This rule is proposed to eliminate confusion with small game and upland game and does not impose any cost requirements for affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This new rule does not create an impact on businesses.

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

NATURAL RESOURCES  
 WILDLIFE RESOURCES  
 1594 W NORTH TEMPLE  
 SALT LAKE CITY UT 84116-3154, or  
 at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

Debbie Sundell at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at debbiesundell@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 12/01/2004.**

**THIS RULE MAY BECOME EFFECTIVE ON:** 12/02/2004

**AUTHORIZED BY:** Miles Moretti, Acting Director

**R657. Natural Resources, Wildlife Resources.**

**R657-54. Taking Wild Turkey.**

**R657-54-1. Purpose and Authority.**

(1) Under authority of Sections 23-14-18 and 23-14-19 and in accordance with 50 CFR 20, 2003 edition, which is incorporated by reference, the Wildlife Board has established this rule for taking wild turkey.

(2) Specific season dates, bag and possession limits, areas open, number of permits and other administrative details that may change annually are published in the Turkey Proclamation of the Wildlife Board for taking wild turkey.

**R657-54-2. Definitions.**

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "CFR" means the Code of Federal Regulations.

(b) "Cleared and planted land" means private land or privately leased state or federal land used to produce a cultivated crop for commercial gain and the cultivated crop is routinely irrigated or routinely mechanically or manually harvested, or is crop residue that has forage value for livestock.

(c) "Commercial gain" means intent to profit from cultivated crops through an enterprise in support of the crop owner's livelihood.

(d) "Essential habitat" means areas where wild turkeys regularly and consistently roost, feed, loaf, nest or winter.

(e) "Immediate family" means the landowner's lessee, or landowner's or lessee's spouse, children, son-in-law, daughter-in-law, father, mother, father-in-law, mother-in-law, brother, sister, brother-in-law, sister-in-law, stepchildren, and grandchildren.

(f) "Landowner" means any individual, family or corporation who owns property in Utah and whose name appears on the deed as the owner of eligible property or whose name appears as the purchaser on a contract for sale of eligible property.

(g) "Livestock Forage" means any forage, excluding cultivated crops and crop residues, meant for consumption by livestock, not routinely irrigated or routinely mechanically or manually harvested.

(h) "Open season" means the days when upland game may lawfully be taken. Each period prescribed as an open season shall include the first and last days thereof.

(i) "Private land" means land in private fee ownership and in agricultural use as provided in Section 59-2-502 and eligible for agricultural use valuation as provided in Section 59-2-503 and 59-2-504. Private land does not include tribal trust lands.

#### **R657-54-3. Application Procedure for Wild Turkey.**

(1)(a) Applications are available from Division offices, license agents, and the Division's Internet address. Applications must be submitted by the date prescribed in the Turkey Proclamation of the Wildlife Board for taking wild turkey.

(b) Residents and nonresidents may apply.

(2)(a) Group applications for wild turkey will not be accepted.

(b) Applicants may select up to three hunt choices when applying for limited entry turkey permits. Hunt unit choices must be listed in order of preference.

(c) To apply for a resident permit, a person must be a resident at the time of purchase.

(d) The posting date of the drawing shall be considered the purchase date of a permit.

(3)(a) A person may obtain only one wild turkey permit each year, except a person may obtain wild turkey conservation permits in addition to obtaining a limited entry or remaining wild turkey permit.

(b) A person may not apply for wild turkey more than once annually.

(4)(a) Applications completed incorrectly or received after the date prescribed in the Turkey Proclamation may be rejected.

(b) If an error is found on the application, the applicant may be contacted for correction.

(5)(a) Late applications, received by the date published in the Turkey Proclamation of the Wildlife Board for taking wild turkey, will not be considered in the drawing, but will be processed for the purpose of entering data into the Division's draw database to provide:

(i) future preprinted applications;

(ii) notification by mail of late application and other draw opportunities; and

(iii) reevaluation of Division and third-party errors.

(b) The handling fee will be used to process the late application. Any permit fees submitted with the application will be refunded.

(c) Late applications, received after the date published in the Turkey Proclamation of the Wildlife Board for taking wild turkey shall not be processed and shall be returned to the applicant.

(d) A turkey permit allows a person using any legal weapon as provided in Section R657-54-7 to take one bearded turkey within the area and season specified on the permit.

(6) Each application must include:

(a) the nonrefundable handling fee; and

(b) the limited entry turkey permit fee.

(7) Applicants will be notified by mail or e-mail of drawing results. The drawing results will be posted on the Division's Internet address by the date published in the Turkey Proclamation of the Wildlife Board for taking wild turkey.

(8) Any permits remaining after the drawing are available on the date published in the Turkey Proclamation on a first-come, first-served basis from division offices and participating online license agents.

(9)(a) An applicant may withdraw their application for the wild turkey permit drawing by requesting such in writing by the date published in the Turkey Proclamation of the Wildlife Board for taking wild turkey.

(b) The applicant must send their notarized signature with a statement requesting that their application be withdrawn to the address published in the Turkey proclamation of the Wildlife Board for taking wild turkey.

(c) Handling fees will not be refunded.

(10)(a) An applicant may amend their application for the wild turkey permit drawing by requesting such in writing by the date published in the Turkey Proclamation of the Wildlife Board for taking wild turkey.

(b) The applicant must send their notarized signature with a statement requesting that their application be amended to the address published in the Turkey Proclamation of the Wildlife Board for taking wild turkey.

(c) The applicant must identify in their statement the requested amendment to their application.

(d) An amendment may cause rejection if the amendment causes an error on the application.

#### **R657-54-4. Waiting Period for Wild Turkey.**

(1)(a) Any person who obtained a turkey permit during the preceding two years may not apply for or obtain a turkey permit for the current year, except as provided in Subsections (c) and (d).

(b) Any person who obtains a turkey permit in the current year, may not apply for or obtain a turkey permit for two years, except as provided in Subsections (c) and (d).

(c) Waiting periods do not apply to the purchase of turkey permits remaining after the drawing. However, waiting periods are incurred as a result of purchasing remaining permits. Therefore, if a remaining permit is purchased in the current year, waiting periods will be in effect when applying in the drawing in the following two years.

(d) Waiting periods do not apply to conservation permits or landowner permits.

#### **R657-54-5. Bonus Points for Wild Turkey.**

(1) A bonus point is awarded for:

(a) a valid unsuccessful application when applying for a permit in the turkey drawing; or

(b) a valid application when applying for a bonus point in the turkey drawing.

(2)(a) A person may not apply for a bonus point if that person is ineligible to apply for a permit.

(b) A person may apply for one turkey bonus point each year, except a person may not apply in the drawing for both a turkey permit and a turkey bonus point in the same year.

(c) Group applications will not be accepted when applying for bonus points.

(3) A bonus point shall not be awarded for an unsuccessful landowner application.

(4)(a) Each applicant receives a random drawing number for:

(i) the current valid turkey application; and

(ii) each bonus point accrued.

(b) The applicant will retain the lowest random number for the drawing.

(5)(a) Fifty percent of the permits for each hunt unit will be reserved for applicants with bonus points.

(b) Based on the applicant's first choice, the reserved permits will be designated by a random drawing number to eligible applicants with the greatest number of bonus points.

(c) If reserved permits remain, the reserved permits will be designated by random number to eligible applicants with the next greatest number of bonus points.

(d) The procedure in Subsection (c) will continue until all reserved permits have been issued or no applications for that hunt unit remain.

(e) Any reserved permits remaining and any applicants who were not selected for reserved permits will be returned to the drawing.

(6) Bonus points are forfeited if a person obtains a wild turkey permit, except as provided in Subsection (7).

(7) Bonus points are not forfeited if:

(a) a person is successful in obtaining a Conservation Permit or Sportsman Permit;

(b) a person obtains a Landowner Permit; or

(c) a person obtains a Poaching-Reported Reward Permit.

(8) Bonus points are not transferable.

(9) Bonus points are tracked using social security numbers or Division-issued hunter identification numbers.

#### **R657-54-6. Landowner Permits.**

(1)(a) Up to an additional 20 percent of the limited entry permits authorized for taking Merriam's and Rio Grande turkeys are available to private landowners through a drawing.

(2) Landowners interested in obtaining landowner permits must:

(a) contact the regional Division office in their area on the dates published in the Turkey Proclamation of the Wildlife Board for taking wild turkey;

(b) obtain and complete a landowner application;

(c) obtain a Division representative's signature on the landowner application; and

(d) submit the landowner application in accordance with Section R657-54-3.

(4)(a) Landowner permit applications that are not signed by the local Division representative will be rejected.

(b) Landowner permit applications will not be accepted through the Internet.

(5)(a) Only one eligible landowner may submit an application for the same parcel of land within the respective regional hunt boundary area.

(b) In cases where more than one application is received for the same parcel of land, all applications will be rejected.

(6) Applications must include:

(a) description of total acres owned within the respective regional hunt boundary;

(b) evidence of property ownership, including a copy of a title, deed, or tax notice indicating the applicant is the owner of the property; and

(c) the signature of the landowner.

(i) The signature on the application will serve as an affidavit certifying land ownership.

(7)(a) A landowner is eligible to participate in the drawing for available landowner turkey permits provided the landowner owns:

(i) at least 640 acres of essential habitat, or 40 acres of essential habitat that is cleared and planted land, in an open unit designated as a Merriam's unit that supports wild turkeys; or

(ii) at least 20 acres of essential habitat in an open unit designated as a Rio Grande unit that supports wild turkeys.

(b) Land qualifying as essential habitat, or cleared and planted land, and owned by more than one landowner may qualify for a landowner permit. However, the landowners who own the qualifying land must determine the landowner who will be participating in the drawing.

(8)(a) A landowner who applies for a landowner permit may:

(i) be issued the permit; or

(ii) designate a member of the landowner's immediate family or landowner's regular full-time employee to receive the permit.

(b) At the time of application, the landowner must identify the designee who will receive the permit.

(c) The landowner permit may be used only on the open limited entry area in which the landowner's property is located during the open season established for hunting wild turkeys.

(9) Applicants will be notified by mail or e-mail of the drawing results for landowner permits by the date published in the Turkey Proclamation of the Wildlife Board for taking wild turkey.

(10)(a) Any landowner permits remaining after the landowner drawing shall be converted to public limited entry permits for that specific unit.

(b) These permits shall be issued through the limited entry drawing. Therefore, the number of public permits listed in the Turkey Proclamation of the Wildlife Board for taking wild turkey, may increase.

(11)(a) A waiting period does not apply to landowners applying for landowner permits.

(b) A landowner may apply once annually for a landowner permit and a limited entry permit, but may only draw or obtain one permit.

#### **R657-54-7. Firearms and Archery Tackle.**

Wild turkey may be taken only with a bow and broadhead tipped arrows or a shotgun no larger than 10 gauge and no smaller than 20 gauge, firing shot sizes between BB and no. 6.

#### **R657-54-8. Shooting Hours.**

(1) Wild turkey may be taken only between one-half hour before official sunrise through one-half hour after official sunset.

(b) A person must add to or subtract from the official sunrise and sunset depending on the geographic location of the state. Specific times are provided in a time zone map in the proclamation of the Wildlife Board for taking wild turkey.

**R657-54-9. State Parks.**

(1) Hunting of any wildlife is prohibited within the boundaries of all state park areas, except those areas designated open to hunting by the Division of Parks and Recreation in Rule R651-614-4.

(2) Hunting with rifles and handguns in park areas designated open is prohibited within one mile of all park facilities including buildings, camp or picnic sites, overlooks, golf courses, boat ramps, and developed beaches.

(3) Hunting with shotguns or archery tackle is prohibited within one quarter mile of the above stated areas.

**R657-54-10. Falconry.**

Falconers may not release a raptor on wild turkey.

**R657-54-11. Live Decoys and Electronic Calls.**

A person may not take a wild turkey by the use or aid of live decoys, records or tapes of turkey calls or sounds, or electronically amplified imitations of turkey calls.

**R657-54-12. Sitting or Roosting Turkeys.**

A person may not take or attempt to take any turkey sitting or roosting in a tree.

**R657-54-13. Tagging Requirements.**

(1) The carcass of a turkey must be tagged before the carcass is moved from, or the hunter leaves, the site of kill.

(2) To tag a carcass, a person shall:

(a) completely detach the tag from the license or permit;

(b) completely remove the appropriate notches to correspond with:

(i) the date the animal was taken;

(ii) the sex of the animal; and

(c) attach the tag to the carcass so that the tag remains securely fastened and visible.

(3) A person may not:

(a) remove more than one notch indicating date or sex; or

(b) tag more than one carcass using the same tag.

(4) A person may not hunt or pursue turkey after any of the notches have been removed from the tag or the tag has been detached from the permit.

**R657-54-14. Identification of Species and Sex.**

The head and beard must remain attached to the carcass of wild turkey while being transported.

**R657-54-15. Use of Dogs.**

(1) Dogs may be used to locate and retrieve wild turkey during open hunting seasons.

(2) Dogs are not allowed on state wildlife management or waterfowl management areas, except during open hunting seasons or as posted by the Division.

**R657-54-16. Closed Areas.**

A person may not hunt wild turkey in any area posted closed by the Division or any of the following areas:

(1) Salt Lake Airport boundaries as posted.

(2) Incorporated municipalities: Most of the incorporated areas of Alta, a portion of Davis County, Garland City, Layton, Logan, Pleasant View City, South Ogden City, West Jordan, and West Valley City are closed to the discharge of firearms. Check with the respective city officials for specific boundaries. Other municipalities may have additional firearm restrictions.

(3) Wildlife Management Areas:

(a) Waterfowl management areas are open for hunting wild turkey only during designated turkey hunting seasons, including: Bear River National Wildlife Refuge, Bicknell Bottoms, Blue Lake, Brown's Park, Clear Lake, Desert Lake, Farmington Bay, Harold S. Crane, Howard Slough, Locomotive Springs, Mills Meadows, Ogden Bay, Ouray National Wildlife Refuge, Powell Slough, Public Shooting Grounds, Salt Creek, Stewart Lake, and Timpie Springs.

(b) Fish Springs National Wildlife Refuge is closed to wild turkey hunting.

(c) Goshen Warm Springs is closed to wild turkey hunting.

(4) Military installations, including Camp Williams, are closed to hunting and trespassing unless otherwise authorized.

**R657-54-17. Possession of Live Protected Wildlife.**

It is unlawful for any person to hold in captivity at any time any protected wildlife, except as provided by Title 23, Wildlife Resources Code or any rules and regulations of the Wildlife Board. Protected wildlife that is wounded must be immediately killed and shall be included in the hunter's bag limit.

**R657-54-18. Spotlighting.**

(1) Except as provided in Section 23-13-17:

(a) a person may not use or cast the rays of any spotlight, headlight or other artificial light to locate protected wildlife while having in possession a firearm or other weapon or device that could be used to take or injure protected wildlife; and

(b) the use of a spotlight or other artificial light in a field, woodland or forest where protected wildlife are generally found is prima facie evidence of attempting to locate protected wildlife.

(2) The provisions of this section do not apply to:

(a) the use of the headlights of a motor vehicle or other artificial light in a usual manner where there is no attempt or intent to locate protected wildlife; or

(b) a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code, provided the person is not utilizing the concealed firearm to hunt or take wildlife.

**R657-54-19. Exporting Wild Turkey from Utah.**

A person may export wild turkey or their parts from Utah only if:

(1) the person who harvested the turkey accompanies it and possess a valid permit corresponding to the tag; or

(2) the person exporting the turkey or its parts, if it is not the person who harvested the turkey, has obtained a shipping permit from the Division.

**R657-54-20. Waste of Game.**

(1) A person may not waste or permit to be wasted or spoiled any protected wildlife or their parts.

(2) A person shall not kill or cripple any wild turkey without making a reasonable effort to retrieve the turkey.

**R657-54-21. Wild Turkey Poaching Reported Reward Permits.**

(1) Any person who provides information leading to another person's arrest and successful prosecution for wanton destruction of a wild turkey under Section 23-20-4, within any limited entry area may receive a permit from the Division to hunt wild turkey in the following year on the same limited entry area where the violation occurred, except as provided in Subsection (2).

(2)(a) In the event that issuance of a Poaching-Reported Reward Permit would exceed 5 percent of the total number of limited entry permits issued in the following year for the respective area, a permit shall not be issued for that respective area. As an alternative, the Division may issue a permit as outlined in Subsection (b).

(b) A permit for a wild turkey, on an alternative limited entry area that has been allocated more than 20 permits, may be issued.

(3)(a) The Division may issue only one Poaching-Reported Reward Permit for any one wild turkey illegally taken.

(b) No more than one Poaching-Reported Reward Permit shall be issued to any one person per successful prosecution.

(c) No more than one Poaching-Reported Reward Permit shall be issued to any one person in any one calendar year.

(4)(a) Poaching-Reported Reward permits may only be issued to the person who provides the most pertinent information leading to a successful prosecution. Permits are not transferrable.

(b) If information is received from more than one person, the director of the Division shall make a determination based on the facts of the case, as to which person provided the most pertinent information leading to the successful prosecution in the case.

(c) The person providing the most pertinent information shall qualify for the Poaching-Reported Reward Permit.

(5) Any person who receives a Poaching-Reported Reward Permit must be eligible to hunt and obtain wild turkey permits as provided in all rules and regulations of the Wildlife Board and the Wildlife Resources Code.

(6) For purposes of this section, "successful prosecution" means the screening, filing of charges and subsequent adjudication for the poaching incident.

**R657-54-22. Season Dates, Bag and Possession Limits, and Areas Open.**

Season dates, bag and possession limits, areas open, and number of permits for taking wild turkey are provided in the Turkey Proclamation of the proclamation of the Wildlife Board for taking wild turkey.

**R657-54-23. Youth Hunting.**

(1)(a) Up to 15 percent of the limited entry permits authorized for taking Merriam's and Rio Grande turkeys are available to youth hunters.

(b) For purposes of this section "youth" means any person who is 18 years of age or younger on the posting date of the wild turkey drawing.

(2)(a) Youth hunters who wish to participate in the youth limited entry wild turkey permit drawing must submit an application in accordance with Section R657-54-3.

(b) Youth who apply for a turkey permit in accordance with Section R657-54-3, will automatically be considered in the youth permit drawing based on their birth date.

(3)(a) Bonus points shall be used when applying for youth turkey permits in accordance with Section R657-54-5.

(b) Waiting periods will be incurred in accordance with Section R657-54-4.

**KEY: wildlife, wild turkey, game laws**  
**2004**  
**23-14-18**  
**23-14-19**

▼ ————— ▼

## Public Safety, Fire Marshal R710-1-9 Adjudicative Proceedings

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 27479

FILED: 10/06/2004, 16:11

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The Utah Fire Prevention Board met on September 14, 2004, in a regularly scheduled Board meeting and proposed to amend Section R710-1-9.

**SUMMARY OF THE RULE OR CHANGE:** The Board approved proposed amendments to Section R710-1-9 by clarifying the section, eliminating subsections that were not well defined, and adding new subsections to further define the intent of this section.

**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 because these proposed amendments will not affect the state budget.

❖ **LOCAL GOVERNMENTS:** There is no aggregate anticipated cost or savings to local government because these proposed amendments do not affect local government.

❖ **OTHER PERSONS:** There is no aggregate anticipated cost or savings to other persons because these proposed amendments will not affect other persons.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There is no compliance costs for affected persons for the enactment of these proposed rule amendments.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The enactment of these proposed rules will not have a fiscal impact on businesses.

**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 12/01/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 12/02/2004

AUTHORIZED BY: Gary A. Wise, State Fire Marshal

**R710. Public Safety, Fire Marshal.**

**R710-1. Concerns Servicing Portable Fire Extinguishers.**

**R710-1-9. Adjudicative Proceedings.**

9.1 All adjudicative proceedings performed by the agency shall proceed informally as authorized by UCA, Sections 63-46b-4 and 63-46b-5.

9.2 The issuance, renewal, or continued validity of a license or certificate of registration may be denied, suspended, or revoked, if the SFM finds that the applicant, person employed for, or the person having authority and management of a concern servicing portable fire extinguishers commits any of the following violations:

9.2.1 The person or applicant is not the real person in interest.

9.2.2 ~~The person or applicant provides [M]material misrepresentation or false statement [in]on the application.~~

9.2.3 ~~The person or applicant [Refusal]refuses to allow inspection by the SFM, or his duly authorized deputies.~~

9.2.4 The person or applicant for a license or certificate of registration does not have the proper facilities and equipment[-] to conduct the operations for which application is made.

9.2.5 The person or applicant for a certificate of registration does not possess the qualifications of skill or competence to conduct the operations for which application is made, as evidenced by failure to pass the examination and/or practical tests pursuant to Section 4.15 of these rules.

9.2.6 The person or applicant fails to place a verification of service collar when required on the valve assembly of any fire extinguisher when the following occurs:

9.2.6.1 re-charge;

9.2.6.2 required maintenance.

9.2.7 The person or applicant refuses to take the examination required by Section 4.3 and Section 3.14 of these rules.

~~[9.2.8 The person or applicant has been convicted of any of the following:~~

~~9.2.8.1 a violation of the provisions of these rules;~~

~~9.2.8.2 a crime of violence or theft; or~~

~~9.2.8.3 any crime that bears upon the person or applicant's ability to perform their functions and duties.~~

~~9.2.9 The person servicing portable fire extinguishers does not maintain adequate facilities, equipment, or knowledge, to conduct operations as required in the manufacturer's instructions, statute, and rules.~~

~~9.2.10 The person or applicant is involved in conduct which could be considered criminal, although such conduct did not result in the filing of criminal charges against the person, but where the evidence shows that the criminal act did occur, that the person committed the act, and that the burden by a preponderance of evidence could be established.~~ 9.2.8 The person or applicant has been convicted of one or more federal, state or local laws.

9.2.9 The person or applicant has been convicted of a violation of the adopted rules or been found by a Board administrative proceeding to have violated the adopted rules.

9.2.10 Any offense or finding of unlawful conduct, or there is or may be, a threat to the public's health or safety if the applicant or person were granted a license or certificate of registration.

9.2.11 There are other factors upon which a reasonable and prudent person would rely to determine the suitability of the applicant or person to safely and competently engage in the practice of servicing portable fire extinguishers.

9.3 A person whose license or certificate of registration is suspended or revoked by the SFM shall have an opportunity for a hearing before the Board if requested by that person within 20 days after receiving notice.

9.4 All adjudicative proceedings, other than criminal prosecution, taken by the SFM to enforce the Utah Fire Prevention and Safety Act, and these rules, shall commence in accordance with UCA, Section 63-46b-3.

9.5 The Board shall act as the hearing authority, and shall convene after timely notice to all parties involved. The Board shall be the final authority on the suspension or revocation of a license or certificate of registration.

9.6 The Board shall direct the SFM to issue a signed order to the parties involved giving the decision of the Board within a reasonable time of the hearing pursuant to UCA, Section 63-46b-5(i).

9.7 Reconsideration of the Board decision may be requested in writing within 20 days of the date of the decision pursuant to UCA, Section 63-46b-13.

9.8 After a period of three years from the date of revocation, the Board shall review the submitted written application of a person whose license or certificate of registration has been revoked. After timely notice to all parties involved, the Board shall convene to review the revoked persons application, and that person shall be allowed to present themselves and their case before the Board. After the hearing, the Board shall direct the SFM to allow the person to complete the licensing or certification process or shall direct that the revocation be continued.

9.9 Judicial review of all final Board actions resulting from informal adjudicative proceedings shall be conducted pursuant to UCA, Section 63-46b-15.

**KEY: fire prevention, extinguishers**  
**[March 6, 2003]December 2, 2004**  
**Notice of Continuation June 10, 2002**  
**53-7-204**

Public Safety, Fire Marshal  
**R710-7-7**  
Adjudicative Proceedings

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 27480

FILED: 10/06/2004, 16:30

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Fire Prevention Board met on September 14, 2004, in a regularly scheduled Board meeting and proposed to amend Section R710-7-7.

SUMMARY OF THE RULE OR CHANGE: The Board approved proposed amendments to Section R710-7-7 by clarifying the section, eliminating subsections that are not well defined, and adding new subsections to further define the intent of the section.

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 because these proposed amendments will not affect the state budget.
- ❖ LOCAL GOVERNMENTS: There is no aggregate anticipated cost or savings to local government because these proposed amendments do not affect local government.
- ❖ OTHER PERSONS: There is no aggregate anticipated cost or savings to other persons because these proposed amendments do not affect other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no compliance costs for affected persons for the enactment of these proposed rule amendments.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The enactment of these proposed rules will not have a fiscal impact on businesses.

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 12/01/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 12/02/2004

AUTHORIZED BY: Gary A. Wise, State Fire Marshal

**R710. Public Safety, Fire Marshal.****R710-7. Concerns Servicing Automatic Fire Suppression Systems.****R710-7-7. Adjudicative Proceedings.**

7.1 All adjudicative proceedings performed by the agency shall proceed informally as authorized by UCA, Sections 63-46b-4 and 63-46b-5.

7.2 The issuance, renewal, or continued validity of a license or certificate of registration may be denied, suspended, or revoked, if the SFM finds that the applicant, person employed for, or the person having authority and management of a concern servicing automatic fire suppression systems commits any of the following violations:

7.2.1 The person or applicant is not the real person in interest.

7.2.2 The person or applicant provides [M]material misrepresentation or false statement on the application.

7.2.3 The person or applicant [Refusal]refuses to allow inspection by the SFM, his duly authorized deputies.

7.2.4 The person or applicant for a license or certificate of registration does not have the proper facilities and equipment, to conduct the operations for which application is made.

7.2.5 The person or applicant for a certificate of registration does not possess the qualifications of skill or competence to conduct the operations for which application was made, as evidenced by failure to pass the examination and practical tests pursuant to Section 4.2 of these rules.

~~[7.2.6 The person or applicant has been convicted of any of the following:~~

~~7.2.6.1 a violation of the provisions of these rules;~~

~~7.2.6.2 a crime of violence or theft; or~~

~~7.2.6.3 any crime that bears upon the person or applicant's ability to perform their functions and duties.~~

~~7.2.7 The person servicing automatic fire suppression systems does not maintain adequate facilities, equipment, or knowledge, to conduct operations as required in the manufacturer's instructions, statute, and rules.~~

~~7.2.8 The person or applicant is involved in conduct which could be considered criminal, although such conduct did not result in the filing of criminal charges against the person, but where the evidence shows that the criminal act did occur, that the person committed the act, and that the burden by a preponderance of evidence could be established.]~~

7.2.6 The person or applicant has been convicted of one or more federal, state or local laws.

7.2.7 The person or applicant has been convicted of a violation of the adopted rules or been found by a Board administrative proceeding to have violated the adopted rules.

7.2.8 Any offense or finding of unlawful conduct, or there is or may be, a threat to the public's health or safety if the applicant or person were granted a license or certificate of registration.

7.2.9 There are other factors upon which a reasonable and prudent person would rely to determine the suitability of the applicant or person to safely and competently engage in the practice of servicing fire suppression systems.

7.3 A person whose license or certificate of registration is suspended or revoked by the SFM shall have an opportunity for a hearing before the Board if requested by that person within 20 days after receiving notice.

7.4 All adjudicative proceedings, other than criminal prosecution, taken by the SFM to enforce the Utah Fire Prevention and Safety Act, and these rules, shall commence in accordance with UCA, Section 63-46b-3.

7.5 The Board shall act as the hearing authority, and shall convene after timely notice to all parties involved. The Board shall be the final authority on the suspension or revocation of a license or certificate of registration.

7.6 The Board shall direct the SFM to issue a signed order to the parties involved giving the decision of the Board within a reasonable time of the hearing pursuant to UCA, Section 63-46b-5(i).

7.7 Reconsideration of the Board decision may be requested in writing within 20 days of the date of the decision pursuant to UCA, Section 63-46b-13.

7.8 After a period of three years from the date of revocation, the Board shall review the submitted written application of a person whose license or certificate of registration has been revoked. After timely notice to all parties involved, the Board shall convene to review the revoked persons application, and that person shall be allowed to present themselves and their case before the Board. After the hearing, the Board shall direct the SFM to allow the person to complete the licensing or certification process or shall direct that the revocation be continued.

7.9 Judicial review of all final Board actions resulting from informal adjudicative proceedings is available pursuant to UCA, Section 63-46b-15.

**KEY: fire prevention, systems**

~~March 18, 2003~~ **December 2, 2004**

Notice of Continuation June 11, 2002

53-7-204



## Tax Commission, Auditing

### **R865-19S-119**

#### Certain Transactions Involving Food and Lodging Pursuant to Utah Code Ann. Sections 59-12-103 and 59-12-104

#### **NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 27485

FILED: 10/08/2004, 13:34

#### **RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 59-12-103 imposes a sales tax on the consumer of tangible personal property and certain services. Section 54-12-104 provides an exemption to the sales tax for a sale of goods that will be resold.

SUMMARY OF THE RULE OR CHANGE: The proposed new section indicates when a seller of food and lodging, that is not a restaurant, may purchase food tax exempt as a sale for

resale, and when that seller must pay tax on the purchase of food as food the seller consumes.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-12-103 and 59-12-104

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--Currently, a seller qualifies for this exemption if the seller separately lists the meal on the invoice. Under this proposed section, the seller will qualify for the exemption if the seller separately lists the tax imposed on the sale of the meal. The seller is not required to separately list the cost of the meal.

❖ LOCAL GOVERNMENTS: None--Currently, a seller qualifies for this exemption if the seller separately lists the meal on the invoice. Under this proposed section, the seller will qualify for the exemption if the seller separately lists the tax imposed on the sale of the meal. The seller is not required to separately list the cost of the meal.

❖ OTHER PERSONS: None--Currently, a seller qualifies for this exemption if the seller separately lists the meal on the invoice. Under this proposed section, the seller will qualify for the exemption if the seller separately lists the tax imposed on the sale of the meal. The seller is not required to separately list the cost of the meal.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--A seller may continue to separately list the cost of the meal on the invoice, or the seller may choose to only list the tax associated with the sale of the meal on the invoice.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact on businesses as a result of this amendment.

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

TAX COMMISSION  
AUDITING  
210 N 1950 W  
SALT LAKE CITY UT 84134, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at [clee@utah.gov](mailto:clee@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 12/01/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 12/02/2004

AUTHORIZED BY: Pam Hendrickson, Commissioner

**R865. Tax Commission, Auditing.****R865-19S. Sales and Use Tax.****R865-19S-119. Certain Transactions Involving Food and Lodging Pursuant to Utah Code Ann. Sections 59-12-103 and 59-12-104.**

A. The provisions of this rule apply to a seller that:

1. is not a restaurant; and
2. provides a purchaser both food and lodging.

B. If a seller does not separately state an amount for tax applicable to food on the invoice, the seller must:

1. pay sales and use tax on the food at the time the seller purchases the food; and
2. include the food in the base that is subject to transient room tax.

C. Subject to D., if a seller separately states an amount for tax applicable to food on the invoice, the seller:

1. may purchase the food tax exempt from sales and use tax as a sale for resale; and
2. may not include the food in the base that is subject to transient room tax.

D. A seller that separately states an amount for tax applicable to food on the invoice must ensure that those amounts are accurately reflected in the seller's records.

**KEY: charities, tax exemptions, religious activities, sales tax [June 29,]2004**

**Notice of Continuation April 5, 2002**

**59-12-103**

**59-12-104**



## Workforce Services, Employment Development

# R986-500-501

## Authority for Adoption Assistance (AA) and Other Applicable Rules

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27491

FILED: 10/14/2004, 14:08

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment removes the requirement that the relinquishment must occur in the state of Utah.

SUMMARY OF THE RULE OR CHANGE: Adoption assistance is available to Utah residents who are other wise eligible. The current rule requires that the actual relinquishment occur in the state of Utah. It is believed that the current rule goes beyond the intent of the legislation and is being changed. Under the new amendment, the relinquishment can occur in another state as long as the parent resides in Utah.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-114

#### ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** It is believed that the number of persons served by this change will be few. The current rule has been in effect for seven years and only one parent was potentially adversely impacted by the rule. Any costs which may be associated with this change will be made within current funding levels.

❖ **LOCAL GOVERNMENTS:** This is a state program so there are no costs or savings to local government.

❖ **OTHER PERSONS:** There will be no costs or savings to any persons. The rule merely clarifies the maximum amount of time a general assistance recipient can receive short-term skills training.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs for affected persons. There are no compliance costs at all associated with the adoption assistance program.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This change will have no fiscal impact on business as no business is affected in any way by these changes.

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

WORKFORCE SERVICES  
EMPLOYMENT DEVELOPMENT  
140 E 300 S  
SALT LAKE CITY UT 84111-2333, or  
at the Division of Administrative Rules.

#### DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/01/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 01/01/2005

AUTHORIZED BY: Raylene G. Ireland, Executive Director

### **R986. Workforce Services, Employment Development.**

#### **R986-500. Adoption Assistance.**

#### **R986-500-501. Authority for Adoption Assistance (AA) and Other Applicable Rules.**

(1) The Department administers AA pursuant to the authority granted in Section 35A-3-308.

(2) The provisions of R986-100 apply to AA.

(3) The provisions of R986-200 apply to AA, except as noted in this rule.

#### **R986-500-502. General Provisions.**

(1) AA may be provided to a birth parent who was or would have been the caretaker of a child relinquished for adoption[ ~~in the State of Utah~~].

(2) The relinquishment must have been voluntary. Birth parents who have had their parental rights terminated are not eligible for AA.

(3) The adoption must have met the requirements of Section 78-30-4.14.

(4) AA financial assistance can be provided to a woman who is in her third trimester of pregnancy if she is planning to relinquish custody of the child for the purpose of adoption and if she is otherwise eligible.

(5) A parent must apply for AA no later than the end of the second month after the month of relinquishment. Proof of relinquishment is required.

(6) Relinquishment can be made for any minor child, however a child age 12 or older must agree to the relinquishment.

(7) The Department will coordinate services to assist the client in:

(a) receiving appropriate educational and occupational assessment and planning, including enrolling in appropriate education or training programs, which includes high school completion and adult education programs;

(b) enrolling in programs that provide assistance with job readiness, employment counseling, finding employment, and work skills;

(c) finding suitable housing;

(d) receiving medical assistance, under Title 26, Chapter 18, Medical Assistance Act, if the client is otherwise eligible; and

(e) receiving counseling and other mental health services.

(8) If a birth parent relinquishes custody of a child, and before the adoption is finalized, takes back custody of the child, the parent is no longer eligible for AA.

(9) The rule regarding minor parents found at R986-200-213 applies if the parent seeking AA is a minor.

(10) If the minor parent seeking AA is living with her parent(s), or the parent(s) of the father of the child being relinquished, the FEP rule for counting the income of the household found in R986-200-242 applies.

**KEY: adoption assistance**  
**~~[October 2, 2000]~~2005**  
**35A-3-114**



**End of the Notices of Proposed Rules Section**

## NOTICES OF CHANGES IN PROPOSED RULES

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After an agency has published a PROPOSED RULE in the *Utah State Bulletin*, it may receive public comment that requires the PROPOSED RULE to be altered before it goes into effect. A CHANGE IN PROPOSED RULE allows an agency to respond to comments it receives.

As with a PROPOSED RULE, a CHANGE IN PROPOSED RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the CHANGE IN 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 CHANGE IN PROPOSED RULE is usually printed. The text shows only those changes made since the PROPOSED RULE was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (e.g., example). Deletions made to the rule appear struck out with brackets surrounding them (e.g., [example]). A row of dots in the text (· · · · ·) indicates that unaffected text was removed to conserve space. If a CHANGE IN PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

While a CHANGE IN PROPOSED RULE does not have a formal comment period, there is a 30-day waiting period during which interested parties may submit comments. The 30-day waiting period for CHANGES IN PROPOSED RULES published in this issue of the *Utah State Bulletin* ends December 1, 2004. At its option, the agency may hold public hearings.

From the end of the waiting period through March 1, 2005, the agency may notify the Division of Administrative Rules that it wants to make the CHANGE IN PROPOSED RULE effective. When an agency submits a NOTICE OF EFFECTIVE DATE for a CHANGE IN PROPOSED RULE, the PROPOSED RULE as amended by the CHANGE IN PROPOSED RULE becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file another CHANGE IN PROPOSED RULE in response to additional comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or another CHANGE IN PROPOSED RULE, the CHANGE IN PROPOSED RULE filing, along with its associated PROPOSED RULE, lapses and the agency must start the process over.

CHANGES IN PROPOSED RULES are governed by *Utah Code* Section 63-46a-6 (2001); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

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

**Environmental Quality, Air Quality**  
**R307-110-12**  
**Section IX, Control Measures for Area**  
**and Point Sources, Part C, Carbon**  
**Monoxide**

**NOTICE OF CHANGE IN PROPOSED RULE**

DAR File No.: 27295  
 Filed: 10/07/2004, 16:01

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this change is to add updated inventory data for non-road mobile sources of carbon monoxide emissions, and to clarify the language regarding the motor vehicle emissions budget.

**SUMMARY OF THE RULE OR CHANGE:** There are no changes from the original proposed language in Section R307-110-12; all changes are in the State Implementation Plan (Plan) that is incorporated by reference in Section R307-110-12. In the Plan, changes include: changing the non-road mobile source emissions projections in Tables 1-3, and throughout the text, because a newer version of EPA's model for calculating emissions is now available. Because of those changes, the allocation of emissions to the on-road mobile source sector is increased slightly for years through 2019. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the August 1, 2004, issue of the Utah State Bulletin, on page 23. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 19-2-104(2)(e); and the Clean Air Act Section 211(m) (42 U.S.C. 7545(m))

**THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL:** State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide (October 6, 2004)

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** None of the control measures in the Plan are changed and thus there is no impact on the State budget.

❖ **LOCAL GOVERNMENTS:** This change will have no effect on any local government, as there is no change in control measures.

❖ **OTHER PERSONS:** There is no change in costs for any affected person, as there is no change in the control measures required in the Plan. Carbon monoxide levels are dropping rapidly as cleaner cars replace older vehicles.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There is no change in costs for any affected person, as there is no change in the control measures required in the Plan. Carbon monoxide levels are dropping rapidly as cleaner cars replace older vehicles.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** These changes clarify the provisions of the Plan but do not change the control measures already in place. Thus, there are no changes in cost for businesses.

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

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

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/01/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 12/02/2004

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

**R307. Environmental Quality, Air Quality.**  
**R307-110. General Requirements: State Implementation Plan.**  
**R307-110-12. Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide.**

The Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide, as most recently amended by the Utah Air Quality Board on October 6, 2004, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

**KEY: air pollution, small business assistance program, particulate matter, ozone**

**2004**

**Notice of Continuation March 27, 2002**  
**19-2-104(3)(e)**



**Public Service Commission,**  
**Administration**  
**R746-345**  
**Pole Attachments of Public Utility**  
**Companies**

**NOTICE OF CHANGE IN PROPOSED RULE**

DAR File No.: 27348  
 Filed: 10/12/2004, 10:00

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change in proposed rule incorporates comments and suggestions made by commentors in the initial comment period.

SUMMARY OF THE RULE OR CHANGE: This change clarifies definitions; clarifies that the rental charge applies for each attachment, not per pole; and clarifies when net or gross cost is to be used in calculating charges. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed repeal and reenactment that was published in the September 1, 2004, issue of the Utah State Bulletin, on page 29. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed repeal and reenactment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 54-3-1, 54-4-1, and 54-4-13; and 47 U.S.C. 224(c)

## ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--State agency activity in relation to pole attachment activities will stay the same.
- ❖ LOCAL GOVERNMENTS: None--Local government activities are not affected by this rule.
- ❖ OTHER PERSONS: Undeterminable--To the extent that rates set in the rule are lower than those previously charged, revenue reductions will occur for those entities which previously charged the higher rate; this will be offset by a reduction in costs or expenses of those entities who previously paid the higher rate. A concomitant change will occur in situations where the rule sets a rate higher than that previously charged. These changes in revenues and expenses may be considered by the Commission when establishing other rates for the public utilities subject to the Commission's jurisdiction. The magnitude of the changes will also be subject to the number of attachments which are affected and in existence. There is significant dispute between pole attachment parties on the number of pole attachments which they have among themselves. Inventory is still occurring and disputes are still pending before the Commission.

COMPLIANCE COSTS FOR AFFECTED PERSONS: As noted under Other persons above, offsetting increases and decreases will occur. Some entities will see a reduction in revenues they receive from attaching entities, but will also see a reduction in their own expenses for the attachment costs they incur for their own attachments with other pole owning entities. To the extent permitted by law, the Commission intends to consider the net effect of such changes when establishing rates for utilities operating within the Commission's jurisdiction.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Through state and federal law, the Commission regulates the terms by which attachments are made to the poles of utilities operating in Utah. Changes in the utility industry, increasing reliance upon and access demands for use of available attachment space, and the increasing magnitude of disputes concerning the entire attachment process have prompted the Commission to reexamine, with industry participation, a wide spectrum of issues relating to pole attachments. As is often the case for the Commission, promulgation of the rule requires balancing interests of various parties. The Commission has crafted a rule which it believes is consistent with both state and federal law and sets terms which are conducive to the public interest and well being of the State of Utah and its citizens generally. Where permitted by law, the Commission will consider the specific fiscal impact, whether up or down, the rule will have on the operations of an individual public utility operating in Utah and subject to the Commission's ratemaking authority.

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:

Sandy Mooy at the above address, by phone at 801-530-6708, by FAX at 801-530-6796, or by Internet E-mail at smoooy@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 12/01/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 12/02/2004

AUTHORIZED BY: Sandy Mooy, Legal Counsel

**R746. Public Service Commission, Administration.****R746-345. Pole Attachments of Public Utility Companies.****R746-345-1. Authorization.**

A. Authorization of Rules -- Consistent with the Pole Attachment Act, 47 U.S.C. 224(c), and Utah Code Annotated 54-3-1, 54-4-1, 54-4-4 and 54-4-13, the Public Service Commission shall have the power to regulate the rates, terms, and conditions by which a public utility, as defined in Utah Code Annotated 54-2-1(15)(a) including telephone corporations as defined in 54-2-23(a), can permit attachments to its poles by any other public utility, wireless provider, cable television company, or other attaching entity.

B. Application of Rules -- These rules shall apply to each public utility that permits attachments to its poles by any other public utility, wireless provider, cable television company or other attaching entity.

1. Although specifically excluded from regulation by the Commission in Utah Code Annotated 54-2-1(23)(b), solely for the

purpose of any pole attachment, these rules apply to any wireless provider.

2. Pursuant to these rules, a public utility must allow any attaching entity nondiscriminatory access to utility poles at rates, terms and conditions that are just and reasonable.

C. Application of Rate Methodology -- The rate methodology described in Section R746-345-5 shall be used to determine rates that a public utility may charge any other public utility, wireless provider, cable television company, or other attaching entity to attach to its poles for compensation.

#### **R746-345-2. General Definitions.**

A. "Attaching Entity" -- A public utility, wireless provider, cable television company or other entity that attaches to a pole owned or controlled by a public utility.

B. "Distribution Pole" -- A utility pole, excluding towers, used by a pole owner to support mainly overhead distribution wires or cables.

C. "Pole Attachment" -- ~~The bolt, bracket, hook, or other device used [attachment by an attaching entity of equipment that requires a bolt, bracket, hook, or other device] to secure an attaching entity's [that] equipment to a utility pole of a public utility. A new or existing service wire drop pole attachment that is attached to the same pole as an existing attachment of the attaching entity is considered a component of the existing attachment for purposes of this rule.~~

D. "Pole Owner" -- A public utility having ownership or control of poles used, in whole or in part, for any electric or telecommunications services.

E. "Secondary Pole" -- A pole used solely to provide service wire drops (the aerial wires or cables connecting to a customer premise). ~~["Primary Pole Attachment" -- A pole attachment of any distribution wire or cable.]~~

F. "Secondary Pole Attachment" -- A pole attachment to a secondary pole [of any distribution wire or cable used solely to provide a service wire drop, an aerial wire or cable that runs between a customer premise and a terminal or primary attachment, where no primary pole attachment of the attaching entity is present on the pole. A secondary pole attachment that is attached to the same pole as a primary attachment of the attaching entity is considered a component of the primary attachment for purposes of this rule].

G. "Wireless Provider" -- A corporation, partnership, or firm that provides cellular, Personal Communications Systems (PCS), or other commercial mobile radio service as defined in 47 U.S.C. 332 that has been issued a covering license by the Federal Communications Commission.

#### **R746-345-3. Tariffs and Contracts.**

A. Tariff Filings and Standard Contracts -- A pole owner shall submit a tariff and standard contract, or a Statement of Generally Available Terms (SGAT), specifying the rates, terms, and conditions for any pole attachment, to the Commission for approval.

1. A pole owner must petition the Commission for any changes or modifications to the rates, terms, or conditions of its tariff, standard contract or SGAT. A petition for change or modification must include a showing why the rate, term or condition is no longer just and reasonable. A change in rates, terms or conditions of an approved tariff, standard contract or SGAT will not become effective unless and until it has been approved by the Commission.

2. The tariff, standard contract or SGAT shall identify all rates, fees, and charges applicable to any pole attachment. The tariff,

standard contract or SGAT shall set forth all non-recurring, standard charges for pole attachment work, including permitting, pre-construction surveys, inspections, and applicable processing. Other pole attachment work such as engineering, make-ready, and pole change-out shall also be identified in the tariff, standard contract or SGAT and billed on a time-and-materials basis for costs actually incurred and at rates or charges consistent with tariffs, standard contracts, or SGATs on file with the Commission. The tariff, standard contract, and SGAT shall also include but not be limited to:

a. permitting process, inspection process, joint audit process, including shared scheduling and costs, and any non-recurring fee or charge applicable thereto;

b. emergency access provisions; and

c. any back rent recovery or unauthorized pole attachment fee and any applicable procedures for determining the liability of an attaching entity to pay back rent or any non-recurring fee or charge applicable thereto.[]

~~3. Any permitting requirement or annual rental charge shall not apply to a new service wire drop added to a pole on which an attaching entity already has a pole attachment or overlashes to an existing pole attachment.]~~

B. Establishing the Pole Attachment Relationship -- The pole attachment relationship shall be established when the pole owner and the attaching entity have executed the approved standard contract, or ~~[and adopted the approved tariff or]~~ SGAT, or other Commission-approved contract.

C. Exception -- ~~[In situations in which the tariff and standard contract or SGAT does not cover certain aspects of a specific pole attachment relationship and t]~~ The pole owner and attaching entity may voluntarily negotiate an alternative contract incorporating some, all, or none of the terms of the standard contract or SGAT. ~~[+]~~ The parties shall submit the negotiated contract to the Commission for approval. In situations in which the pole owner and attaching entity are unable to agree following good faith negotiations, the pole owner or attaching entity may petition the Commission for resolution as provided in Section R746-345-6. ~~[An approved contract under this exception shall not materially deviate from the rates, terms and conditions, which are subject to Commission review under R746-345-3A(1), of the standard contract.]~~

#### **R746-345-4. Pole Labeling.**

A. Pole Labeling -- A pole owner must label poles to indicate ownership. A pole owner shall label any new pole installed after the effective date of this rule immediately upon installation. Poles installed prior to the effective date of this rule, shall be labeled at the time of routine maintenance, normal replacement, change-out, or relocation, and whenever practicable. Labels shall be based on a good faith assertion of ownership.

B. Pole Attachment Labeling -- An attaching entity must label its pole attachments to indicate ownership. Pole attachment labels may not be placed in a manner that could be interpreted to indicate an ownership of the utility pole. An attaching entity shall label any new pole attachment installed after the effective date of this rule immediately upon installation. Pole Attachments installed prior to the effective date of this rule, shall be labeled at the time of routine maintenance, normal replacement, rearrangement, rebuilding, or reconstruction, and whenever practicable.

#### **R746-345-5. Rental Rate Formula and Methodology.**

A. Basis -- The rental rate for any pole attachment must be based on a fair and reasonable portion of the pole owner's costs and

expenses for the pole plant investment that is jointly used by an attaching entity. The rental rate for any pole attachment shall be based on the pole owner's investment in distribution poles. Any rate based on the rate formula in Subsection R746-345-5(B) shall be considered just and reasonable unless determined otherwise by the Commission.

B. Rate Formula -- A pole attachment rental rate shall be based on publicly filed data and must conform to the Federal Communications Commission's rules and regulations governing pole attachments, except as modified by this Section. A pole attachment rental rate shall be calculated and charged as an annual per attachment~~[pole annual]~~ rental rate for each attachment space used by an attaching entity. The following formula and presumptions shall be used to establish pole attachment rates:

1. Formula:

Rate per attachment space~~[pole]~~ = Space Used x (1/Usable Space) x Cost of Bare Pole x Carrying Charge Rate

2. Definitions:

a. "Carrying Charge Rate" means the percentage of a pole owner's depreciation expense, administrative and general expenses, maintenance expenses, taxes, rate of return, or other expenses that are directly or indirectly attributable to the pole owner's investment in poles. Carrying charge factors, except for the cost of capital, can be calculated on either a net or gross investment basis.

b. "Cost of Bare Pole" can be defined as either "net cost" or "gross cost." Gross cost means the original investment, purchase price, of poles and fixtures, excluding crossarms and appurtenances, divided by the number of poles represented in the investment amount. Net cost means the original investment, purchase price, of poles and fixtures, excluding crossarms and appurtenances, less depreciation reserve and deferred federal income taxes associated with the pole investment, divided by the number of poles represented in the investment amount. A pole owner may use gross cost only when its net cost is a negative balance. If using the net or gross cost results in an unfair or unreasonable outcome, a pole owner or attaching entity can seek relief from the Commission under R746-345-5 C.

c. "Unusable Space" means the space on a utility pole below the usable space including the amount required to set the depth of the pole.

d. "Usable Space" means the space on a utility pole above the minimum grade level to the top of the pole, which includes the space occupied by the pole owner.

3. Rebuttable presumptions:

a. Average pole height equals 37.5 feet.

b. Usable space per pole equals 13.5 feet.

c. Unusable space per pole equals 24 feet.

d. Space used by an attaching entity:

(i) An electric ~~[primary]~~ pole attachment equals 7.5 feet;

(ii) A telecommunications ~~[primary]~~ pole attachment equals 1.0 foot;

(iii) ~~[An electric or telecommunications secondary pole attachment equals 1.0 feet]~~ A cable television pole attachment equals 1.0 foot; and

(iv) ~~[A cable television pole attachment equals 1.0 foot]~~ An electric, cable, or telecommunications secondary pole attachment equals 1.0 foot.

(v) A wireless provider's pole attachment equals not less than 1.0 foot and shall be determined jointly by the pole owner and wireless provider. The space used by a wireless provider may be established as an average and included in the pole owner's tariff~~[;]~~ and standard contract, or SGAT, pursuant to Section R746-345-3 of this Rule.

e. The space used by a wireless provider:

i. shall include the height of the pole above that which the pole owner would generally install to facilitate its own pole attachment or the pole attachments of any attaching entity;

ii. shall include actual placement of equipment and appropriate standard clearances for said equipment, of equipment placed in the usable space or unusable space on a utility pole;

iii. may not include any of the length of a vertically placed cable, wire or conduit, unless the vertically placed cable, wire or conduit prevents another attaching entity from placing a pole attachment in the usable space of the pole;

iv. may not exceed the average pole height established in Subsection R746-345-5(B)(2)(a).

v. In situations in which the pole owner and wireless provider are unable to agree, following good faith negotiations, on the space used by the wireless provider, the pole owner or wireless provider may petition the Commission to determine the footage of space used by the ~~[W]~~ wireless provider as provided in Subsection R746-345-3(C).

4. A pole owner may not assess a fee or charge in addition to an annual pole attachment rental rate, including any non-recurring fee or charge described in Subsection R746-345-3(A)(2), for any cost included in the calculation of its annual pole attachment rental rate.

C. Commission Relief -- A pole owner or attaching entity may petition the Commission to review a pole attachment rental rate, rate formula, or rebuttable presumption as provided for in this rule. The petition must include a factual showing that a rental rate, rate formula or rebuttable presumption is unjust, unreasonable or otherwise inconsistent with the public interest.

**R746-345-6. Dispute Resolution.**

A. Except as otherwise precluded by law, a resolution of any dispute concerning any pole attachment agreement, negotiation, permit, audit, or billing may be pursued through mediation while reserving to the parties all rights to an adjudicative process before the Commission.

1. The parties may file their action with the Commission and request leave to pursue mediation any time before ~~[-] a [format] hearing~~~~[-on the record]~~.

2. The choice of mediator and the apportionment of costs shall be determined by agreement of the parties. However, the parties may jointly request a mediator from the Commission or the Division of Public Utilities.

B. If the parties reach a mediated agreement or settlement, they will prepare and sign a written agreement and submit it to the Commission. Unless the agreement or settlement is contrary to law and this rule, R746-345, the Commission will approve the agreement or settlement and dismiss or cancel proceedings concerning the matters settled.

1. If the agreement or settlement does not resolve all of the issues, the parties shall prepare a stipulation that identifies the issues resolved and the issues that remain in dispute.

2. If any issues remain unresolved, the matter will be scheduled for a hearing before the Commission.

**KEY: public utilities, pole attachment, telecommunications, telephone utility regulation**

**2004**

**54-4-13**



**End of the Notices of Changes in 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 *Utah Code* Section 63-46a-9 (1998).

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

### **R414-14**

#### Home Health Service

#### **FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE No.: 27482  
FILED: 10/06/2004, 16:48

#### **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 26-1-5 that grants the Utah Department of Health the power to adopt, amend, or rescind rules. In addition, Section 26-18-3 requires the Department to administer the Medicaid program. Furthermore, 42 CFR 440.70 authorizes home health services that are based on physician order and written plan of care.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written or oral comments have been received regarding this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because it provides home health services to patients who are chronically ill but only require minimal assistance, observation, teaching, or follow-up.

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

HEALTH  
HEALTH CARE FINANCING,  
COVERAGE AND REIMBURSEMENT POLICY  
CANNON HEALTH BLDG  
288 N 1460 W  
SALT LAKE CITY UT 84116-3231, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Craig Devashrayee at the above address, by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

AUTHORIZED BY: Scott D. Williams, Executive Director

EFFECTIVE: 10/06/2004



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

### **R414-14A**

#### Hospice Care

#### **FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE No.: 27481  
FILED: 10/06/2004, 16:40

#### **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: This rule is authorized under Section 26-1-5 that grants the Utah Department of Health the power to adopt, amend, or rescind rules. In addition, Section 26-18-3 requires the Department to administer the Medicaid program. Furthermore, 42 USC 1396d(o) authorizes hospice care benefits to terminally ill individuals who have voluntarily elected to have payment made for hospice care.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written or oral comments have been received regarding this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because the Hospice Care program provides palliative care to terminally ill individuals that is appropriate and cost effective.

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

HEALTH  
HEALTH CARE FINANCING,  
COVERAGE AND REIMBURSEMENT POLICY  
CANNON HEALTH BLDG  
288 N 1460 W  
SALT LAKE CITY UT 84116-3231, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Craig Devashrayee at the above address, by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

AUTHORIZED BY: Scott D. Williams, Executive Director

EFFECTIVE: 10/06/2004



Health, Health Care Financing,  
Coverage and Reimbursement Policy

**R414-31**

Inpatient Psychiatric Services for  
Individuals Under Age 21 in Psychiatric  
Facilities or Programs

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 27483  
FILED: 10/06/2004, 16:54

**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 26-1-5 that grants the Utah Department of Health the power to adopt, amend, or rescind rules. In addition, Section 26-18-3 requires the Department to administer the Medicaid program. Furthermore, 42 USC 1396d(h) authorizes inpatient psychiatric services for individuals under the age of 21.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written or oral comments have been received regarding this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because it provides inpatient psychiatric services to individuals under the age of 21 who suffer from mental diseases.

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

HEALTH  
HEALTH CARE FINANCING,  
COVERAGE AND REIMBURSEMENT POLICY  
CANNON HEALTH BLDG  
288 N 1460 W  
SALT LAKE CITY UT 84116-3231, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Craig Devashrayee at the above address, by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

AUTHORIZED BY: Scott D. Williams, Executive Director

EFFECTIVE: 10/06/2004



**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*. These effective dates are at least 31 days and not more than 120 days after the date the following rules were published.

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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. 27188 (AMD): R156-55d-302f. Qualifications for Licensure - Good Moral Character - Disqualifying Convictions.

Published: June 15, 2004

Effective: October 5, 2004

No. 27188 (CPR): R156-55d-302f. Qualifications for Licensure - Good Moral Character - Disqualifying Convictions.

Published: September 1, 2004

Effective: October 5, 2004

#### Real Estate

No. 27241 (AMD): R162-103. Appraisal Education Requirements.

Published: July 15, 2004

Effective: October 7, 2004

No. 27352 (AMD): R162-205. Residential Mortgage Unprofessional Conduct.

Published: September 1, 2004

Effective: October 7, 2004

### Environmental Quality

#### Air Quality

No. 27296 (AMD): R307-110-33. Section X, Vehicle Inspection and Maintenance Program, Part C, Salt Lake County.

Published: August 1, 2004

Effective: October 7, 2004

No. 27293 (AMD): R307-214-2. Nation Emissions for Hazardous Air Pollutants.

Published: August 1, 2004

Effective: October 7, 2004

#### Drinking Water

No. 27252 (AMD): R309-302. Required Certification Rules for Backflow Technicians in the State of Utah.

Published: July 15, 2004

Effective: October 15, 2004

### Health

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

No. 27227 (NEW): R414-1B. Prohibition of Payment for Certain Abortion Services.

Published: July 1, 2004

Effective: October 6, 2004

No. 27227 (CPR): R414-1B. Prohibition of Payment for Certain Abortion Services.

Published: September 1, 2004

Effective: October 6, 2004

No. 27327 (NEW): R414-33B. Substance Abuse Targeted Case Management.

Published: August 15, 2004

Effective: October 15, 2004

No. 27323 (NEW): R414-34. Substance Abuse Services.

Published: August 15, 2004

Effective: October 15, 2004

### Insurance

#### Administration

No. 27345 (AMD): R590-102. Insurance Department Fee Payment Rule.

Published: September 1, 2004

Effective: October 7, 2004

No. 27150 (AMD): R590-167. Individual and Small Employer Health Insurance Rule.

Published: June 1, 2004

Effective: October 7, 2004

No. 27150 (CPR): R590-167. Individual Small Employer, and Group Health Insurance Rule.

Published: September 1, 2004

Effective: October 7, 2004

No. 27082 (NEW): R590-229. Annuity Disclosure.

Published: May 1, 2004

Effective: October 7, 2004

No. 27082 (First CPR): R590-229. Annuity Disclosure.

Published: July 1, 2004

Effective: October 7, 2004

No. 27082 (Second CPR): R590-229. Annuity Disclosure.

Published: September 1, 2004

Effective: October 7, 2004

NOTICES OF RULE EFFECTIVE DATES

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Public Safety

Fire Marshal

No. 27351 (AMD): R710-6-6. Fees.

Published: September 1, 2004

Effective: October 4, 2004

School and Institutional Trust Lands

Administration

No. 27347 (AMD): R850-80. Sale of Trust Lands.

Published: September 1, 2004

Effective: October 4, 2004

**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, 2004, including notices of effective date received through October 15, 2004, the effective dates of which are no later than November 1, 2004. 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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### ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

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### ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

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	27106	R307-309	NSC	06/08/2004	Not Printed
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	26693	R156-56	AMD	01/01/2004	2003-21/7
	27101	R156-56	AMD	08/17/2004	2004-9/5
	27101	R156-56	CPR	08/17/2004	2004-14/37
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	27358	R156-1	EMR	08/24/2004	2004-18/79
	26678	R156-1	NSC	01/01/2004	Not Printed
	26805	R156-1-106	AMD	01/20/2004	2003-24/4
	27103	R156-1-302	NSC	06/01/2004	Not Printed
	26917	R156-5a	5YR	01/27/2004	2004-4/74
	26754	R156-17a-612	CPR	02/19/2004	2004-2/10
	26754	R156-17a-612	AMD	02/19/2004	2003-22/11
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	26786	R156-26a-303b	AMD	01/06/2004	2003-23/7
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	27020	R156-38	CPR	07/26/2004	2004-12/73
	26834	R156-38	AMD	02/03/2004	2004-1/5
	26915	R156-39a	5YR	01/27/2004	2004-4/75
	27400	R156-42a	5YR	09/02/2004	2004-19/48
	27224	R156-44a	5YR	06/10/2004	2004-13/66
	27247	R156-46a	5YR	06/24/2004	2004-14/56
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	26580	R156-54-302b	CPR	01/20/2004	2003-24/70
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	27112	R156-55b	AMD	06/15/2004	2004-10/6
	27188	R156-55d-302f	AMD	10/05/2004	2004-12/4
	27188	R156-55d-302f	CPR	10/05/2004	2004-17/47
	27101	R156-56	AMD	08/17/2004	2004-9/5
	27101	R156-56	CPR	08/17/2004	2004-14/37
	26866	R156-56	NSC	01/01/2004	Not Printed
	26693	R156-56	AMD	01/01/2004	2003-21/7
	26692	R156-56-707	AMD	01/01/2004	2003-21/34
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	27502	R156-60a	5YR	10/21/2004	Not Printed

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	27225	R156-61	5YR	06/10/2004	2004-13/67
	26888	R156-63	AMD	03/04/2004	2004-3/5
	26956	R156-68	AMD	04/15/2004	2004-6/2
	26998	R156-71-202	AMD	05/04/2004	2004-7/3
	27140	R156-71-202	NSC	06/01/2004	Not Printed
	27355	R156-73	AMD	10/18/2004	2004-18/13
	26927	R156-74	5YR	02/02/2004	2004-4/75
	26777	R156-76-102	AMD	01/20/2004	2003-23/14
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	27135	R501-2	NSC	07/01/2004	Not Printed
	26925	R501-2	AMD	03/17/2004	2004-4/16
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	26904	R501-7	AMD	05/28/2004	2004-4/22
	27255	R501-8	NSC	07/01/2004	Not Printed
	27275	R501-12	AMD	09/09/2004	2004-15/46
	27256	R501-12	NSC	07/01/2004	Not Printed
	26804	R501-16	AMD	04/12/2004	2003-24/29
	26874	R501-16	NSC	05/01/2004	Not Printed
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	27265	R547-7	NSC	07/01/2004	Not Printed
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	27051	R708-10	NSC	06/01/2004	Not Printed
	27365	R708-24	5YR	08/25/2004	2004-18/85
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<b><u>liquefied petroleum gas</u></b>					
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	27351	R710-6-6	AMD	10/04/2004	2004-17/27
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Lieutenant Governor, Administration	27221	R622-2	5YR	06/09/2004	2004-13/71
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Environmental Quality, Air Quality	26887	R307-214	NSC	02/09/2004	Not Printed
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Commerce, Occupational and Professional Licensing	27503	R156-60b	5YR	10/21/2004	Not Printed
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	26854	R414-9	NEW	02/03/2004	2004-1/26
	27482	R414-14	5YR	10/06/2004	2004-21/39
	27481	R414-14A	5YR	10/06/2004	2004-21/39
	27315	R414-26	REP	09/16/2004	2004-16/10
	27483	R414-31	5YR	10/06/2004	2004-21/40
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	26802	R414-50	AMD	01/28/2004	2003-24/13
	26782	R414-51	AMD	01/28/2004	2003-23/25
	26798	R414-52	AMD	01/01/2004	2003-23/27
	26783	R414-53	AMD	01/28/2004	2003-23/28
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	26809	R414-99	NEW	02/17/2004	2003-24/15
	27314	R414-140	NEW	09/16/2004	2004-16/19
	26811	R414-300	NEW	02/10/2004	2003-24/17
	26781	R414-304	AMD	01/01/2004	2003-23/29
	26965	R414-305-3	AMD	05/07/2004	2004-6/50
	26810	R414-310	AMD	02/10/2004	2003-24/18
	27143	R414-401	NEW	07/02/2004	2004-11/19
	27370	R414-501	5YR	08/27/2004	2004-18/82
	27371	R414-502	5YR	08/27/2004	2004-18/82
	27373	R414-503	5YR	08/27/2004	2004-18/83
	27325	R414-504	AMD	09/15/2004	2004-16/20
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<b><u>mental health</u></b> Commerce, Occupational and Professional Licensing	27501	R156-60	5YR	10/21/2004	Not Printed
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<b><u>migratory birds</u></b> Natural Resources, Wildlife Resources	27367	R657-9	AMD	10/19/2004	2004-18/47
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	27017	R647-7	NEW	06/01/2004	2004-8/79
	27018	R647-8	NEW	06/01/2004	2004-8/83
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	27100	R714-600	NSC	08/06/2004	Not Printed
<b><u>motor fuel</u></b> Tax Commission, Auditing	27269	R865-13G-10	AMD	09/14/2004	2004-14/32
<b><u>motorcycle rider training schools</u></b> Public Safety, Driver License	26918	R708-30	5YR	01/27/2004	2004-4/76
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	27140	R156-71-202	NSC	06/01/2004	Not Printed
<b><u>naturopaths</u></b> Commerce, Occupational and Professional Licensing	27140	R156-71-202	NSC	06/01/2004	Not Printed
	26998	R156-71-202	AMD	05/04/2004	2004-7/3
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	26848	R277-720	NSC	02/01/2004	Not Printed
<b><u>occupational licensing</u></b> Commerce, Occupational and Professional Licensing	27377	R156-1	AMD	10/18/2004	2004-18/4
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	27112	R156-55b	AMD	06/15/2004	2004-10/6
<b><u>occupational therapy</u></b> Commerce, Occupational and Professional Licensing	27400	R156-42a	5YR	09/02/2004	2004-19/48
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<b><u>orthodontia</u></b>					
Health, Health Care Financing, Coverage and Reimbursement Policy	26782	R414-51	AMD	01/28/2004	2003-23/25
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	27144	R307-343	NSC	06/08/2004	Not Printed
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	27139	R651-633	5YR	05/03/2004	2004-11/91
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