# UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
Filed July 16, 2010, 12:00 a.m. through August 02, 2010, 11:59 p.m.

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The *Utah State Bulletin (Bulletin)* is an official noticing publication of the executive branch of Utah State Government. The Department of Administrative Services, Division of Administrative Rules produces the *Bulletin* under authority of Section 63G-3-402.

Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Division of Administrative Rules, 4120 State Office Building, Salt Lake City, Utah 84114-1201, telephone 801-538-3764, FAX 801-359-0759. Additional rulemaking information, and electronic versions of all administrative rule publications are available at: 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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# TABLE OF CONTENTS

# SPECIAL NOTICES

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

**Notice for September 2010 Medicaid Rate Changes**

Effective September 1, 2010, Utah Medicaid will adjust its rates consistent with approved methodologies. Rate adjustments include new codes priced consistent with approved Medicaid methodologies, potential adjustments to existing codes, and nursing home rate changes to case mix components consistent with adopted payment methodology. All rate changes are posted to the web and can be viewed at: http://health.utah.gov/medicaid/stplan/bcrp.htm

**End of the Special Notices Section**

# NOTICES OF
# PROPOSED RULES

A state agency may file a **Proposed Rule** when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between July 16, 2010, 12:00 a.m., and August 02, 2010, 11:59 p.m. are included in this, the August 15, 2010 issue of the *Utah State Bulletin*.

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

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

The law requires that an agency accept public comment on **Proposed Rules** published in this issue of the *Utah State Bulletin* until at least September 14, 2010. The agency may accept comment beyond this date and will indicate the last day the agency will accept comment in the **Rule Analysis**. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency hold a hearing on a specific **Proposed Rule**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through December 13, 2010, the agency may notify the Division of Administrative Rules that it wants to make the **Proposed Rule** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **Change in Proposed Rule** in response to comments received. If the Division of Administrative Rules does not receive a **Notice of Effective Date** or a **Change in Proposed Rule**, the **Proposed Rule** lapses and the agency must start the process over.

The public, interest groups, and governmental agencies are invited to review and comment on **Proposed Rules**. *Comment may be directed to the contact person identified on the* Rule Analysis *for each rule.*

**Proposed Rules** are governed by Section 63G-3-301; Rule R15-2; and Sections R15-4-3, R15-4-4, R15-4-5, R15-4-9, and R15-4-10.

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

# Capitol Preservation Board (State), Administration
# R131-13
# Health Reform -- Health Insurance Coverage in State Contracts -- Implementation

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 33843
FILED: 07/19/2010

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended to comply with H.B. 20 of the 2010 Utah Legislative Session which clarified and amended Section 63C-9-403. H.B. 20 amends provisions related to the requirement that contractors with certain state entities must provide qualified health insurance to their employees and the dependents of the employees who work or reside in the state. H.B. 20 clarified the waiting period; clarified that health insurance coverage must be offered to employees and dependents who work or reside in the state; clarified that the coverage that must be offered is a minimum standard and an employer may offer greater coverage; amended the definition of qualified health insurance coverage to clarify the standards; amended the enforcement provisions to provide protections for good faith compliance and clarified how an employer offering a defined contribution arrangement may comply with state contract requirements. Therefore, this rule change is being done to be consistent with state statute. (DAR NOTE: H.B. 20 (2010) is found at Chapter 229, Laws of Utah 2010, and was effective 05/11/2010.)

SUMMARY OF THE RULE OR CHANGE: The proposed changes clarify the applicability of the rule, add that an underwriter may determine actuarial equivalency, and include various grammatical and stylistic changes.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63C-9-403 and Subsection 63C-9-301(3)(a)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no anticipated cost or savings to the state budget because compliance is already required and the changes only clarify the obligations of contractors, subcontractors, consultants, and subconsultants.
♦ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government because compliance is only required in state construction contracts and the changes only clarify the obligations of contractors, subcontractors, consultants, and subconsultants.
♦ SMALL BUSINESSES: There is no anticipated cost or savings to small businesses because compliance is already required and the changes only clarify the obligations of contractors, subcontractors, consultants, and subconsultants.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no anticipated cost or savings to persons other than small businesses, businesses, or local government entities because compliance is already required and the changes only clarify the obligations of contractors, subcontractors, consultants, and subconsultants.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no anticipated cost or savings to affected persons because compliance is already required and the changes only clarify the obligations of contractors, subcontractors, consultants, and subconsultants and make it easier to obtain a determination of actuarial equivalency.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on businesses because compliance is already required and the changes only clarify the obligations of contractors, subcontractors, consultants, and subconsultants.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
CAPITOL PRESERVATION BOARD (STATE)
ADMINISTRATION
ROOM E110
EAST BUILDING
420 N STATE ST
SALT LAKE CITY, UT 84114-2110
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Alan Bachman by phone at 801-538-3105, by FAX at 801-538-3313, or by Internet E-mail at abachman@utah.gov
♦ Allyson Gamble by phone at 801-537-9156, by FAX at 801-538-3221, or by Internet E-mail at agamble@utah.gov
♦ La Priel Dye by phone at 801-538-3240, by FAX at 801-538-3313, or by Internet E-mail at ldye@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/14/2010

THIS RULE MAY BECOME EFFECTIVE ON: 09/21/2010

AUTHORIZED BY: Allyson Gamble, Executive Director

**R131. Capitol Preservation Board (State), Administration.**
**R131-13. Health Reform -- Health Insurance Coverage in State Contracts -- Implementation.**
**R131-13-1. Purpose.**

The purpose of this rule is to comply with the provisions of Section 63C-9-403.

**R131-13-2. Authority.**

This rule is authorized under Subsection 63C-9-301(3)(a) whereby the Capitol Preservation Board may make rules to govern, administer, and regulate the capitol hill complex, capitol hill facilities, and capitol hill grounds by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as well as Section 63C-9-403 that requires this rule related to health insurance provisions in certain design and construction contracts.

**R131-13-3. Definitions.**

(1) Except as otherwise stated in this rule, terms used in this rule are defined in Section 63C-9-403.

(2) In addition:

(a) "Board" means the Capitol Preservation Board established pursuant to Section 63C-9-201.

(b) "Executive Director" means the executive director of the Capitol Preservation Board including, unless otherwise stated, the executive director's duly authorized designee.

(c) "Employee(s)" is as defined in Subsection 63C-9-403(1)(a) and includes only those employees that live and work in the state of Utah along with their dependents. "Employee" for purposes of this rule, shall not be construed as to be broader than the use of the term employee for purposes of state of Utah Workers' Compensation laws along with their dependents.

(d) "State" means the state of Utah.

**R131-13-4. Applicability of Rule.**

(1) Except as provided in Subsection R131-13-4(2) below, R131-13 applies to all design or construction contracts entered into by the Board or the executive director, or on behalf of the Board, on or after July 1, 2009, [~~if:~~]and

[~~(a) the contract is for design and/or construction; and~~

~~(b)(i) the prime contract is in the amount of $1,500,000 or greater; or~~

~~(ii) a subcontract, at any tier, is in the amount of $750,000 or greater.~~](a) applies to a prime contractor if the prime contract is in the amount of $1,500,000 or greater; and

(b) applies to a subcontractor if the subcontract, at any tier, is in the amount of $750,000 or greater.

(2) Rule R131-13 does not apply if:

(a) the application of this Rule R131-13 jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

(3) This Rule R131-13 does not apply to a change order as defined in Section 63G-6-103, or a modification to a contract, when the contract does not meet the initial threshold required by Subsection R131-13-4(1).

(4) A person who intentionally uses change orders or contract modifications to circumvent the requirements of Subsection R131-13-4(1) is guilty of an infraction.

**R131-13-5. Contractor to Comply with Section 63C-9-403.**

All contractors and subcontractors that are subject to the requirements of Section 63C-9-403 shall comply with all the requirements, penalties and liabilities of Section 63C-9-403.

**R131-13-6. Not Basis for Protest or Suspend, Disrupt, or Terminate Design or Construction.**

(1) The failure of a contractor or subcontractor to provide qualified health insurance coverage as required by this[~~to comply with~~]Rule R131-13 or Section 63C-9-403:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under Section 63G-6-801 or any other provision in Title 63G, Chapter 6, Part 8, Legal and Contractual Remedies; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt or terminate the design or construction.

**R131-13-7. Requirements and Procedures a Contractor Must Follow.**

A contractor, including consultants and designers, must comply with the following requirements and procedures in order to demonstrate compliance with Section 63C-9-403.

(1) Demonstrating Compliance with Health Insurance Requirements. The following requirements must be met by a contractor, including consultants, designers and others under contract with the Board or the executive director that is subject to the requirements of Rule R131-13 no later than the time [~~of execution of the contract~~]the contract is entered into or renewed:

(a) demonstrate compliance by a written certification to the executive director that the contractor has and will maintain for the duration of the contract an offer of qualified health insurance coverage for the contractor's employees; and

(b) the contractor shall also provide such written certification prior to the execution of the contract, in regard to all subcontractors, including subconsultants, at any tier that are subject to the requirements of Rule R131-13.

(2) Recertification. The executive director shall have the right to request a recertification by the contractor by submitting a written request to the contractor, and the contractor shall so comply with the written request within ten working days of receipt of the written request; however, in no case may the contractor be required to demonstrate such compliance more than twice in any 12-month period.

(3) Demonstrating Compliance with Actuarially Equivalent Determination. The actuarially equivalent determination required by Subsections 63C-9-403(1)(c)(i) and (iii) is met by the contractor if the contractor provides the executive director with a written statement of actuarial equivalency from either the Utah Insurance Department, [~~or~~]an actuary selected by the contractor, or the contractor's insurer, or an underwriter who is responsible for developing the employer group's premium rates.

For purposes of this Subsection R131-13-7(3), actuarially equivalency is achieved by meeting or exceeding any of the following:

[~~(a) In accordance with Section 26-40-106(2)(a), the largest insured commercial enrollment offered by a health maintenance organization in the State, which details of the plan are~~

~~provided on the website of the Division at http://dfcm.utah.gov/downloads/Health%20Insurance%20Benchmark.pdf; or~~

~~(b) provides coverage that is actuarially equivalent to 75% of the benefit plan determined under R131-13-7(3)(a) above and employer premium contributions as required by statute.~~](a) As delineated on the DFCM website at http://dfcm.utah.gov/downloads/Health%20Insurance%20Benchmark.pdf, a health benefit plan and employer contribution level with a combined actuarial value at least actuarially equivalent to the combined actuarial value of the benchmark plan determined by the Children's Health Insurance Program under Subsection 26-40-106(2)(a), and a contribution level of 50% of the premium for the employee and the dependents of the employee who reside or work in the State, in which:

(i) The employer pays at least 50% of the premium for the employee and the dependents of the employee who reside or work in the State; and

(ii) for purposes of calculating actuarial equivalency under this Subsection R131-13-7(3)(a):

(A) rather than the benchmark plan's deductible, and the benchmark plan's out-of-pocket maximum based on income levels, the deductible is $750 per individual and $2,250 per family; and the out-of-pocket maximum is $3,000 per individual and $9,000 per family;

(B) dental coverage is not required; and

(C) other than Subsection 26-40-106(2)(a), the provisions of Section 26-40-106 do not apply; or

(b)(i) is a federally qualified high deductible health plan that, at a minimum, has a deductible that is either;

(A) the lowest deductible permitted for a federally qualified high deductible health plan; or

(B) a deductible that is higher than the lowest deductible permitted for a federally qualified high deductible health plan, but includes an employer contribution to a health savings account in a dollar amount at least equal to the dollar amount difference between the lowest deductible permitted for a federally qualified high deductible plan and the deductible for the employer offered federally qualified high deductible plan;

(ii) an out-of pocket maximum that does not exceed three times the amount of the annual deductible; and

(iii) under which the employer pays 75% of the premium for the employee and the dependents of the employee who work or reside in the State.

(4) The health insurance must be available upon the first day of the calendar month following the initial ninety days from the [~~beginning of employment~~]date of hire.

(5) Architect and Engineer Compliance Process. Architects and engineers that are subject to Rule R131-13 must demonstrate compliance with Rule R131-13 in any annual submittal. During the procurement process and no later than the execution of the contract with the architect or engineer, the architect or engineer shall confirm that their applicable subcontractors or subconsultants meet the requirements of Rule R131-13.

(6) General (Prime) Contractors Compliance Process. Contractors that are subject to Rule R131-13 must demonstrate compliance with Rule R131-13 for their own firm and any applicable subcontractors, in any pre-qualification process that may be used for the procurement. At the time of execution of the contract, the contractor shall confirm that their applicable subcontractors or subconsultants meet the requirements of Rule R131-13.

(7) Notwithstanding any prequalification process, any contract subject to Rule R131-13 shall contain a provision requiring compliance with Rule R131-13 from the time of execution and throughout the duration of the contract.

(8) Hearing and Penalties.

(a) Hearing. Any hearing for any penalty under Rule R131-13 conducted by the Board or executive director shall be conducted in the same manner as any hearing required for a suspension or debarment.

(b) Penalties that may be Imposed by the Board or Executive Director. The penalties that may be imposed by the Board or executive director if a contractor, consultant, subcontractor or subconsultant, at any tier, intentionally violates the provisions of Rule R131-13 may include:

(i) a three-month suspension of the contractor or subcontractor from entering into future contracts with the State upon the first violation, regardless of which tier the contractor or subcontractor is involved with the future design and/or construction contract;

(ii) a six-month suspension of the contractor or subcontractor from entering into future contracts with the State upon the second violation, regardless of which tier the contractor or subcontractor is involved with the future design and/or construction contract;

(iii) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6-804 upon the third or subsequent violation; and

(iv) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health insurance coverage for an employee and dependents of an employee of the contractor or subcontractor who was not offered qualified health insurance coverage during the duration of the contract.

(c)(i) In addition to the penalties imposed above, a contractor, consultant, subcontractor or subconsultant who intentionally violates the provisions of this Rule R131-13 shall be liable to the employee for health care costs [~~not covered by insurance~~]that would have been covered by qualified health insurance coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection R131-13-7(8)(c)(i) as provided in Subsection 63C-9-403(7)(a)(ii).

**R131-13-8. Not Create any Contractual Relationship with any Subcontractor or Subconsultant.**

Nothing in Rule R131-13 shall be construed as to create any contractual relationship whatsoever between the State, the Board, or the executive director with any subcontractor or subconsultant at any tier.

**KEY: health insurance, contractors, contracts**
**Date of Enactment or Last Substantive Amendment: [~~October 8, 2009~~]2010**
**Authorizing, and Implemented or Interpreted Law: 63C-9-403, 63C-9-301(3)(a)**

# Capitol Preservation Board (State), Administration
# R131-15
# State Construction Contracts and Drug and Alcohol Testing

**NOTICE OF PROPOSED RULE**
(New Rule)
DAR FILE NO.: 33845
FILED: 07/19/2010

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the Rule is to comply with S.B. 13 of the 2010 Utah Legislative Session which enacts Section 63G-6-604. Said statute requires that a state construction contract impose requirements related to drug and alcohol testing; addresses penalties for non-compliance; clarifies that monitoring activities are not required of the state; provides that the state is not liable in actions related to drug and alcohol testing; provides exemptions; and addresses the scope of the provision. (DAR NOTE: S.B. 13 (2010) is found at Chapter 18, Laws of Utah 2010, and was effective 07/01/2010.)

SUMMARY OF THE RULE OR CHANGE: S.B. 13 of the 2010 Utah State Legislative Session enacted Section 63G-6-604 and modified the Utah Procurement Code to address requirements for drug and alcohol testing for state construction contracts. This rule is being implemented to comply with S.B. 13 and requires that a state construction contract impose requirements related to drug and alcohol testing; addresses penalties; clarifies that monitoring activities are not required of the state; provides that the state is not liable in actions related to drug and alcohol testing; provides exemptions and addresses the scope of the provision.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63G-6-604

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The statute itself created the fiscal impacts. The rule does not add additional burdens other than those already provided by the statute. The rule will not impact the costs.
♦ LOCAL GOVERNMENTS: The statute itself created the fiscal impacts. No costs or savings are anticipated for local governments with this new rule. No new requirements were created with this new rule that impact local governments.
♦ SMALL BUSINESSES: The statute itself created any fiscal impacts to small businesses. The implementation of Rule R131-15 does not add additional burdens than already provided by the statute.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The statute itself created any fiscal impacts to persons other than small businesses, businesses, or local government entities. The implementation of Rule R131-15 does not add any additional burdens other than those already provided by the statute.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The statute itself created any compliance costs, if any, for affected persons. Implementation of Rule R131-15 does not create any compliance costs other than those that were created by the statute.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The purpose of implementing Rule R131-15 is to be in compliance with S.B. 13, and state statute. The statute created the fiscal impacts and implementation of this rule does not add additional burdens than already provided by the statute. The rule will not impact the costs.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
CAPITOL PRESERVATION BOARD (STATE)
ADMINISTRATION
ROOM E110
EAST BUILDING
420 N STATE ST
SALT LAKE CITY, UT 84114-2110
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Alan Bachman by phone at 801-538-3105, by FAX at 801-538-3313, or by Internet E-mail at abachman@utah.gov
♦ Allyson Gamble by phone at 801-537-9156, by FAX at 801-538-3221, or by Internet E-mail at agamble@utah.gov
♦ La Priel Dye by phone at 801-538-3240, by FAX at 801-538-3313, or by Internet E-mail at ldye@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/14/2010

THIS RULE MAY BECOME EFFECTIVE ON: 09/21/2010

AUTHORIZED BY: Allyson Gamble, Executive Director

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**R131. Capitol Preservation Board (State), Administration.**
**R131-15. State Construction Contracts and Drug and Alcohol Testing.**
**R131-15-1. Purpose.**
The purpose of this rule is to comply with the provisions of Section 63G-6-604.

**R131-15-2. Authority.**
This rule is authorized under Subsection 63C-9-301(3)(a) as well as Subsection 63G-6-604(4).

**R131-15-3. Definitions.**

(1) The following definitions of Section 63G-6-604 shall apply to any term used in this Rule R131-15:

(a) "Contractor" means a person who is or may be awarded a state construction contract.

(b) "Covered individual" means an individual who:

(i) on behalf of a contractor or subcontractor provides services directly related to design or construction under a state construction contract; and

(ii) is in a safety sensitive position, including a design position that has responsibilities that directly affect the safety of an improvement to real property that is the subject of a state construction contract.

(c) "Drug and alcohol testing policy" means a policy under which a contractor or subcontractor tests a covered individual to establish, maintain, or enforce the prohibition of:

(i) the manufacture, distribution, dispensing, possession, or use of drugs or alcohol, except the medically prescribed possession and use of a drug; or

(ii) the impairment of judgment or physical abilities due to the use of drugs or alcohol.

(d) "Random testing" means that a covered individual is subject to periodic testing for drugs and alcohol:

(i) in accordance with a drug and alcohol testing policy; and

(ii) on the basis of a random selection process.

(e) For purposes of Subsection R131-15-4(5), "state" includes any of the following of the state:

(i) a department;

(ii) a division;

(iii) an agency;

(iv) a board including the Capitol Preservation Board;

(v) a commission;

(vi) a council;

(vii) a committee; and

(viii) an institution, including a state institution of higher education, as defined under Section 53B-3-102.

(f) "State construction contract" means a contract for design or construction entered into by the Capitol Preservation Board.

(g)(i) "Subcontractor" means a person under contract with a contractor or another subcontractor to provide services or labor for design or construction.

(ii) "Subcontractor" includes a trade contractor or specialty contractor.

(iii) "Subcontractor" does not include a supplier who provides only materials, equipment, or supplies to a contractor or subcontractor.

(2) In addition:

(a) "Board" means the Capitol Preservation Board established pursuant to Section 63C-9-201.

(b) "Executive Director" means the Executive Director of the Capitol Preservation Board.

(c) "State" as used throughout Rule R131-15 means the State of Utah except that it also includes those entities described in Subsection R131-15-3(1)(e) as the term "state" is used in Subsection R131-15-7(5).

**R131-15-4. Applicability.**

(1) Except as provided in Section R131-15-5, on and after July 1, 2010, the Board may not enter into a state construction contract (includes a contract for design or construction) unless the state construction contract requires the following:

(a) A contractor shall demonstrate to the Capitol Preservation Board that the contractor:

(i) has and will maintain a drug and alcohol testing policy during the period of the state construction contract that applies to the covered individuals hired by the contractor;

(ii) posts in one or more conspicuous places notice to covered individuals hired by the contractor that the contractor has the drug and alcohol testing policy described in Subsection R131-15-4(1)(a)(i); and

(iii) subjects the covered individuals to random testing under the drug and alcohol testing policy described in Subsection R131-15-4(1)(a)(i) if at any time during the period of the state construction contract there are ten or more individuals who are covered individuals hired by the contractor.

(b) A contractor shall demonstrate to the Board, which shall be demonstrated by a provision in the contract where the contractor acknowledges this Rule R131-15 and agrees to comply with all aspects of this Rule R131-15, that the contractor requires that as a condition of contracting with the contractor, a subcontractor, which includes consultants under contract with the designer:

(i) has and will maintain a drug and alcohol testing policy during the period of the state construction contract that applies to the covered individuals hired by the subcontractor;

(ii) posts in one or more conspicuous places notice to covered individuals hired by the subcontractor that the subcontractor has the drug and alcohol testing policy described in Subsection R131-15-4(1)(b)(i); and

(iii) subjects the covered individuals hired by the subcontractor to random testing under the drug and alcohol testing policy described in Subsection R131-15-4(1)(b)(i) if at any time during the period of the state construction contract there are ten or more individuals who are covered individuals hired by the subcontractor.

(2)(a) Except as otherwise provided in this Subsection R131-15-4(2), if a contractor or subcontractor fails to comply with Subsection R131-15-4(1), the contractor or subcontractor may be suspended or debarred in accordance with this Rule R131-15.

(b) On and after July 1, 2010, the Board shall include in a state construction contract a reference to this Rule R131-15.

(c)(i) A contractor is not subject to penalties for the failure of a subcontractor to comply with Subsection R131-15-4(1).

(ii) A subcontractor is not subject to penalties for the failure of a contractor to comply with Subsection R131-15-4(1).

(3)(a) The requirements and procedures a contractor shall follow to comply with Subsection R131-15-4(1) is that the contractor, by executing the construction contract with the Board, is deemed to certify to the Board that the contractor, and all subcontractors under the contractor that are subject to Subsection R131-15-4(1), shall comply with all provisions of this Rule R131-15 as well as Section 63G-6-604; and that the contractor shall on a semi-annual basis throughout the term of the contract, report to

the Executive Director in writing information that indicates compliance with the provisions of Rule R131-15 and Section 63G-6-604.

(b) A contractor or subcontractor may be suspended or debarred in accordance with the applicable Utah statutes and rules, if the contractor or subcontractor violates a provision of Section 63G-6-604. The contractor or subcontractor shall be provided reasonable notice and opportunity to cure a violation of Section 63G-6-604 before suspension or debarment of the contractor or subcontractor in light of the circumstances of the state construction contract or the violation. The greater the risk to person(s) or property as a result of noncompliance, the shorter this notice and opportunity to cure shall be, including the possibility that the notice may provide for immediate compliance if necessary to protect person(s) or property.

(4) The failure of a contractor or subcontractor to meet the requirements of Subsection R131-15(4)(1):

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under Part 8, Legal and Contractual Remedies or the similar rules of the Board; and

(b) may not be used by the Board, a prospective bidder, an offeror, a contractor, or a subcontractor as a basis for an action that would suspend, disrupt, or terminate the design or construction under a state construction contract.

(5)(a) After the Board enters into a state construction contract in compliance with Section 63G-6-604, the state is not required to audit, monitor, or take any other action to ensure compliance with Section 63G-6-604.

(b) The state is not liable in any action related to Section 63G-6-604 and this Rule R131-15, including not being liable in relation to:

(i) a contractor or subcontractor having or not having a drug and alcohol testing policy;

(ii) failure to test for a drug or alcohol under a contractor's or subcontractor's drug and alcohol testing policy;

(iii) the requirements of a contractor's or subcontractor's drug and alcohol testing policy;

(iv) a contractor's or subcontractor's implementation of a drug and alcohol testing policy, including procedures for:

(A) collection of a sample;

(B) testing of a sample;

(C) evaluation of a test; or

(D) disciplinary or rehabilitative action on the basis of a test result;

(v) an individual being under the influence of drugs or alcohol; or

(vi) an individual under the influence of drugs or alcohol harming another person or causing property damage.

**R131-15-5. Non-applicability.**

(1) This Rule R131-15 and Section 63G-6-604 does not apply if the Board determines that the application of this Rule R131-15 or Section 63G-6-604 would severely disrupt the operation of a state agency to the detriment of the state agency or the general public, including:

(a) jeopardizing the receipt of federal funds;

(b) the state construction contract being a sole source contract; or

(c) the state construction contract being an emergency procurement.

**R131-15-6. Not Limit Other Lawful Policies.**

(1) If a contractor or subcontractor meets the requirements of Section 63-6-604 and this Rule R131-15, this Rule R131-15 may not be construed to restrict the contractor's or subcontractor's ability to impose or implement an otherwise lawful provision as part of a drug and alcohol testing policy.

**KEY: drug and alcohol testing, contractors, contracts**
**Notice of Enactment of Last Substantive Amendment: 2010**
**Authorizing and Implemented or Interpreted Law: 63G-6**

# Commerce, Occupational and Professional Licensing
# R156-41
# Speech-Language Pathology and Audiology Licensing Act Rule

## NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 33865
FILED: 07/29/2010

## RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule filing is to implement H.B 396 passed during the 2010 Legislative Session by: 1) adding and clarifying definitions in Section R156-41-102; 2) defining the qualifications for the issuance of a temporary license to an audiologist or a speech-language pathologist in Sections R156-41-302b and R156-41-302c; and 3) clarifying and adding to the definitions of unprofessional conduct in Section R156-41-502. (DAR NOTE: H.B. 396 (2010) is found at Chapter 397, Laws of Utah 2010, and was effective 05/11/2010.)

SUMMARY OF THE RULE OR CHANGE: In Section R156-41-102, added definitions for "clinical externship" and "legal holder of an AuD in audiology". In Section R156-41-302a, renumbered the section number and updated statute citation references. Section R156-41-302b is a new section added to clarify the qualifications for the issuance of a 12-month temporary license in audiology. Section R156-41-302c is a new section added to clarify the qualifications for the issuance of a 12-month temporary license in speech-language pathology. In Section R156-41-502, amendments are made regarding the training of speech-language pathology/aides and to update the

American Speech-Language Hearing Association's Code of Ethics. In addition, three new subsections are added making it unprofessional conduct to supervise more than two temporary licensees at one time and failing to comply with the requirements of Subsections R156-41-302b(2) and R156-41-302c(2).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-41-1 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

MATERIALS INCORPORATED BY REFERENCES:

♦ Updates American Speech-Language Hearing Association (ASHA) Code of Ethics, published by American Speech-Language Hearing Association, 03/01/2010

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The Division will incur minimal costs of approximately $75 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.
♦ LOCAL GOVERNMENTS: The proposed amendments only apply to licensed audiologists and speech-language pathologists and applicants for licensure in those classifications. As a result, the proposed amendments do not apply to local governments.
♦ SMALL BUSINESSES: The proposed amendments only apply to licensed audiologists and speech-language pathologists and applicants for licensure in those classifications. Licensees and applicants for licensure may work in a small business; however, the proposed amendments would not directly affect the business. Also, the Division does not anticipate any costs or savings beyond those identified in fiscal notes associated with H.B. 396.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The proposed amendments only apply to licensed audiologists and speech-language pathologists and applicants for licensure in those classifications. For applicants/students in either audiology or speech-language pathology who apply for a temporary license, there will be a $50 application fee. It is unknown how many students will apply for the temporary license; as a result no aggregate impact can be determined.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only apply to licensed audiologists and speech-language pathologists and applicants for licensure in those classifications. For applicants/students in either audiology or speech-language pathology who apply for a temporary license, there will be a $50 application fee.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As stated in the rule summary, this filing which clarifies and updates the rule to comport with new statutory amendments, appears to result in no fiscal impact to businesses beyond those addressed by the Legislature in passing the statutory amendments.

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:
♦ Clyde Ormond by phone at 801-530-6254, by FAX at 801-530-6511, or by Internet E-mail at cormond@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/14/2010

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 08/24/2010 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 475, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 09/21/2010

AUTHORIZED BY: Mark Steinagel, Director

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**R156. Commerce, Occupational and Professional Licensing.**
**R156-41. Speech-Language Pathology and Audiology Licensing Act Rule.**
**R156-41-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 41, as used in Title 58, Chapters 1 and 41, or this rule:

(1) "Audio electronic equipment" as used in Subsection 58-41-2(3) means equipment proven in use, accepted and standard to the profession, of known quality and function, well maintained, in current calibration and presenting no hazard to the operator or client.

(2) "Clinical externship", as used in Section R156-41-302b, means the same as a clinical fellowship as used in Subsection 58-41-5.5(1)(a)(ii).

([~~2~~]3) "Direct supervision" as used in Subsections 58-41-2(5)(c), 58-41-2(20)(c), and this rule, means supervision as defined in Subsection R156-1-102a(4)(a).

([~~3~~]4) "Evoked potentials evaluation", as used in Subsection 58-41-2(4), includes neurophysiological intraoperative monitoring.

(5) "Legal holder of an AuD in audiology", as used in Subsection 58-41-5(1)(c), means an applicant for temporary licensure as an audiologist who holds a letter from an accredited university or college, verifying the applicant is currently enrolled and has completed all the course work in a program of studies necessary to complete a doctors degree in audiology except for the completion of a clinical externship.

([~~4~~]6) "Professional training" as set forth in Subsection 58-41-12(2) means continuing professional education that meets the standards set forth in Section R156-41-304.

([~~5~~]7) "Substitute supervisor", as used in this rule, means a licensee who is designated by the supervisor to provide limited supervision to an aide. The substitute supervisor shall be licensed in the same discipline in which the aide is functioning.

([~~6~~]8) "Supervision", as used in this rule, means a supervisor-supervisee relationship requiring the supervisor to be responsible for the professional performance by the supervisee. This includes a substitute supervisor-supervisee relationship.

([~~7~~]9) "Unprofessional conduct", as defined in Title 58, Chapters 1 and 41, is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-41-502.

**R156-41-302a. Qualifications for Licensure - Application Requirements.**

In accordance with Section 58-41-5, ASHA certification as a speech-language pathologist or audiologist is one acceptable method to document that an individual has completed the requirements of Subsections 58-41-5[~~(3) through (7)~~](1)(f) and (4)(e).

**R156-41-302b. Qualifications for Licensure - Temporary Licensure - Audiology.**

In accordance with Section 58-41-5.5, the Division may issue a temporary license to an applicant for an audiology license for not more than 12 months to complete a clinical externship required for an AuD under the following conditions:

(1) The licensee shall work under general supervision, as defined in Subsection R156-1-102a(4)(c), of an audiologist licensed in Utah and approved by the Division.

(2) The supervising audiologist shall:

(a) have been licensed for not less than two years;

(b) not have been disciplined for any unprofessional or unlawful conduct within two years of the start of any supervision of a clinical externship program;

(c) assume responsibility for all audiology activities and services performed by the temporary licensee;

(d) not begin the supervision until the applicant holds a temporary license; and

(e) supervise no more than two temporary licensees at any given time.

(3) Any change in the supervising audiologist shall be preapproved by the Division.

**R156-41-302c. Qualifications for Licensure - Temporary Licensure - Speech-Language Pathology.**

In accordance with Section 58-41-5.5, the Division may issue a temporary license to an applicant for a speech-language pathology license for a period of not more than 12 months to complete a clinical fellowship as required by ASHA under the following conditions:

(1) The licensee shall work under the general supervision, as defined in Subsection R156-1-102a(4)(c), of a speech-language pathologist licensed in Utah and approved by the Division.

(2) The supervision speech-language pathologist shall:

(a) have been licensed for not less than two years;

(b) not have been disciplined for any unprofessional or unlawful conduct within two years of the start of any supervision of a clinical externship program;

(c) assume responsibility for all speech-language pathology activities and services performed by the temporary licensee;

(d) not begin the supervision until the applicant holds a temporary license; and

(e) supervise no more than two temporary licensees at any given time.

(3) Any change in the supervising speech-language pathologist shall be preapproved by the Division.

**R156-41-502. Unprofessional Conduct.**

"Unprofessional conduct" includes:

(1) using an educational title conferred by an organization or institution that is not a regionally accredited college or university;

(2) engaging in sexual intercourse or other sexual contact with a client or patient;

(3) exercising undue influence in a manner as to exploit the client, patient, or supervisee for financial or other personal advantage to the practitioner or a third party;

(4) [~~inappropriate~~ ]us[~~e~~]ing [~~of~~ ]or training [~~of~~]audiology or speech-language pathology[~~/audiology~~] aides as defined in Subsections 58-41-2(5) and (2) and inappropriately failing to follow the standards set forth in Section R156-41-601[~~by the board and the division~~];[~~ and~~]

(5) [~~failure~~]failing to comply with the American Speech-Language Hearing Association's (ASHA) Code of Ethics, [~~January 1, 2003~~]March 1, 2010 edition, which is hereby incorporated by reference;

(6) supervising more than two audiology or speech-language pathology temporary licensees at one time;

(7) failing as an audiologist supervisor to comply with any of the requirements of Subsection R156-41-302b(2); and

(8) failing as a speech-language pathologist supervisor to comply with any of the requirements of Subsection R156-41-302c(2).

**KEY: licensing, speech-language pathology, audiology**
**Date of Enactment or Last Substantive Amendment: [~~July 14, 2008~~]2010**
**Notice of Continuation: February 1, 2007**
**Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-41-1**

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# Environmental Quality, Drinking Water
# R309-215-16
# Groundwater Rule

## NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 33847
FILED: 07/19/2010

## RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change is to address a wrong reference in Subsection R309-215-16(2)(b)(iv). This rule change is necessary to maintain primacy.

SUMMARY OF THE RULE OR CHANGE: This change removes a faulty reference and inserts the correct reference. The specific change is at Subsection R309-215-16(2)(b)(iv). It is a change that is required by the EPA to maintain primacy.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 40 CFR 141 subpart S and Section 19-4-104

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no impact to the state budget with this rule amendment. The rule change changes a reference that incorrectly refers to sample invalidation when it should refer to sample analysis. The requirements for sample analysis already exist in the rule.
♦ LOCAL GOVERNMENTS: There is no impact to local government with this rule amendment. The rule change changes a reference that incorrectly refers to sample invalidation when it should refer to sample analysis. The requirements for sample analysis already exist in the rule.
♦ SMALL BUSINESSES: There is no impact to small business with this rule amendment. The rule change changes a reference that incorrectly refers to sample invalidation when it should refer to sample analysis. The requirements for sample analysis already exist in the rule.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no impact to other persons with this rule amendment. The rule change changes a reference that incorrectly refers to sample invalidation when it should refer to sample analysis. The requirements for sample analysis already exist in the rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no added compliance costs in regards to this change. The costs of sample analysis already exist as part of the rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Department of Environmental Quality agrees with the above statement in "Compliance costs for affected persons" regarding the lack of costs for this rule change.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
DRINKING WATER
THIRD FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Rachael Cassady by phone at 801-536-4467, by FAX at 801-536-4211, or by Internet E-mail at rcassady@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/14/2010

THIS RULE MAY BECOME EFFECTIVE ON: 09/21/2010

AUTHORIZED BY: Ken Bousfield, Director

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**R309. Environmental Quality, Drinking Water.**
**R309-215. Monitoring and Water Quality: Treatment Plant Monitoring Requirements.**
**R309-215-16. Groundwater Rule.**

(1) Applicability: This subpart applies to all public water systems that use ground water except that it does not apply to public water systems that combine all of their ground water with surface water or with ground water under the direct influence of surface water prior to treatment. For the purposes of this subpart, "ground water system" is defined as any public water system meeting this applicability Executive Secretaryment, including consecutive systems receiving finished ground water.

(a) General requirements: Systems subject to this subpart must comply with the following requirements:

(i) Sanitary survey information requirements for all ground water systems as described in R309-100-7.

(ii) Microbial source water monitoring requirements for ground water systems that do not treat all of their ground water to at least 99.99 percent (4-log) treatment of viruses (using inactivation, removal, or an Executive Secretary-approved combination of 4-log virus inactivation and removal) before or at the first customer as described in R309-215-16(2).

(iii) Treatment technique requirements, described in R309-215-16(3), that apply to ground water systems that have fecally contaminated source waters, as determined by source water monitoring conducted under R309-215-16(2), or that have significant deficiencies that are identified by the Executive Secretary or that are identified by EPA under SDWA section 1445. A ground water system with fecally contaminated source water or with significant deficiencies subject to the treatment technique requirements of this subpart must implement one or more of the following corrective action options: correct all significant deficiencies; provide an alternate source of water; eliminate the source of contamination; or provide treatment that reliably achieves at least 4-log treatment of viruses (using inactivation, removal, or a Executive Secretary-approved combination of 4-log virus inactivation and removal) before or at the first customer.

(b) Ground water systems that provide at least 4-log treatment of viruses (using inactivation, removal, or a Executive Secretary-approved combination of 4-log virus inactivation and removal) before or at the first customer are required to conduct compliance monitoring to demonstrate treatment effectiveness, as described in R309-215-16(3)(b).

(c) If requested by the Executive Secretary, ground water systems must provide the Executive Secretary with any existing information that will enable the Executive Secretary to perform a hydrogeologic sensitivity assessment. For the purposes of this subpart, "hydrogeologic sensitivity assessment" is a determination of whether ground water systems obtain water from hydrogeologically sensitive settings.

(d) Compliance date: Ground water systems must comply, unless otherwise noted, with the requirements of this subpart beginning December 1, 2009.

(2) Ground water source microbial monitoring and analytical methods.

(a) Triggered source water monitoring.

(i) General requirements. A ground water system must conduct triggered source water monitoring if the conditions identified in paragraphs (a)(i)(A) and (a)(i)(B) of this section exist.

(A) The system does not provide at least 4-log treatment of viruses (using inactivation, removal, or a Executive Secretary-approved combination of 4-log virus inactivation and removal) before or at the first customer for each ground water source; and

(B) The system is notified that a sample collected under R309-210-5(1)is total coliform-positive and the sample is not invalidated under R309-210-5(4).

(ii) Sampling Requirements. A ground water system must collect, within 24 hours of notification of the total coliform-positive sample, at least one ground water source sample from each ground water source in use at the time the total coliform-positive sample was collected under R309-210-5(1), except as provided in paragraph (a)(ii)(B) of this section.

(A) The Executive Secretary may extend the 24-hour time limit on a case-by-case basis if the system cannot collect the ground water source water sample within 24 hours due to circumstances beyond its control. In the case of an extension, the Executive Secretary must specify how much time the system has to collect the sample.

(B) If approved by the Executive Secretary, systems with more than one ground water source may meet the requirements of this paragraph (a)(ii) by sampling a representative ground water source or sources. Systems must submit for Executive Secretary approval a triggered source water monitoring plan that identifies one or more ground water sources that are representative of each monitoring site in the system's sample site plan under R309-210-5(1)(d) and that the system intends to use for representative sampling under this paragraph.

(C) A ground water system serving 1,000 people or fewer may use a repeat sample collected from a ground water source to meet both the requirements of R309-210-5(2)(a) and to satisfy the monitoring requirements of paragraph (a)(ii) of this section for that ground water source only if the Executive Secretary approves the use of E. coli as a fecal indicator for source water monitoring under this paragraph (a). If the repeat sample collected from the ground water source is E.coli positive, the system must comply with paragraph (a)(iii) of this section.

(iii) Additional Requirements. If the Executive Secretary does not require corrective action under R309-215-16(3)(a)(ii) for a fecal indicator-positive source water sample collected under paragraph (a)(ii) of this section that is not invalidated under paragraph (d) of this section, the system must collect five additional source water samples from the same source within 24 hours of being notified of the fecal indicator-positive sample.

(iv) Consecutive and Wholesale Systems.

(A) In addition to the other requirements of this paragraph (a), a consecutive ground water system that has a total coliform-positive sample collected under R309-210-5(1) must notify the wholesale system(s) within 24 hours of being notified of the total coliform-positive sample.

(B) In addition to the other requirements of this paragraph (a), a wholesale ground water system must comply with paragraphs (a)(iv)(B)(I) and (a)(iv)(B)(II) of this section.

(I) A wholesale ground water system that receives notice from a consecutive system it serves that a sample collected under R309-210-5(1) is total coliform-positive must, within 24 hours of being notified, collect a sample from its ground water source(s) under paragraph (a)(ii) of this section and analyze it for a fecal indicator under paragraph (c) of this section.

(II) If the sample collected under paragraph (a)(iv)(B)(I) of this section is fecal indicator-positive, the wholesale ground water system must notify all consecutive systems served by that ground water source of the fecal indicator source water positive within 24 hours of being notified of the ground water source sample monitoring result and must meet the requirements of paragraph (a)(iii) of this section.

(v) Exceptions to the Triggered Source Water Monitoring Requirements. A ground water system is not required to comply with the source water monitoring requirements of paragraph (a) of this section if either of the following conditions exists:

(A) The Executive Secretary determines, and documents in writing, that the total coliform-positive sample collected under R309-210-5(1)is caused by a distribution system deficiency; or

(B) The total coliform-positive sample collected under R309-210-5(1) is collected at a location that meets Executive Secretary criteria for distribution system conditions that will cause total coliform-positive samples.

(b) Assessment Source Water Monitoring. If directed by the Executive Secretary, ground water systems must conduct assessment source water monitoring that meets Executive Secretary-determined requirements for such monitoring. A ground water system conducting assessment source water monitoring may use a triggered source water sample collected under paragraph (a)(ii) of this section to meet the requirements of paragraph (b) of this section. Executive Secretary-determined assessment source water monitoring requirements may include:

(i) collection of a total of 12 ground water source samples that represent each month the system provides ground water to the public,

(ii) collection of samples from each well unless the system obtains written Executive Secretary approval to conduct monitoring at one or more wells within the ground water system that are representative of multiple wells used by that system and that draw water from the same hydrogeologic setting,

(iii) collection of a standard sample volume of at least 100 mL for fecal indicator analysis regardless of the fecal indicator or analytical method used,

(iv) analysis of all ground water source samples in accordance with R309-210-4(1) and R309-200-4(3)[~~using one of the analytical methods listed in the in paragraph (c)(ii) of this section~~] for the presence of E. coli, enterococci, or coliphage,

(v) collection of ground water source samples at a location prior to any treatment of the ground water source unless the Executive Secretary approves a sampling location after treatment, and

(vi) collection of ground water source samples at the well itself unless the system's configuration does not allow for sampling at the well itself and the Executive Secretary approves an alternate sampling location that is representative of the water quality of that well.

(c) Invalidation of a fecal indicator-positive ground water source sample.

(i) A ground water system may obtain Executive Secretary invalidation of a fecal indicator-positive ground water source sample collected under paragraph (a) of this section only under the conditions specified in paragraphs (c)(i)(A) and (B) of this section.

(A) The system provides the Executive Secretary with written notice from the laboratory that improper sample analysis occurred; or

(B) The Executive Secretary determines and documents in writing that there is substantial evidence that a fecal indicator-positive ground water source sample is not related to source water quality.

(ii) If the Executive Secretary invalidates a fecal indicator-positive ground water source sample, the ground water system must collect another source water sample under paragraph (a) of this section within 24 hours of being notified by the Executive Secretary of its invalidation decision and have it analyzed for the same fecal indicator using the analytical methods in paragraph (c) of this section. The Executive Secretary may extend the 24-hour time limit on a case-by-case basis if the system cannot collect the source water sample within 24 hours due to circumstances beyond its control. In the case of an extension, the Executive Secretary must specify how much time the system has to collect the sample.

(d) Sampling location.

(i) Any ground water source sample required under paragraph (a) of this section must be collected at a location prior to any treatment of the ground water source unless the Executive Secretary approves a sampling location after treatment.

(ii) If the system's configuration does not allow for sampling at the well itself, the system may collect a sample at a Executive Secretary-approved location to meet the requirements of paragraph (a) of this section if the sample is representative of the water quality of that well.

(e) New Sources. If directed by the Executive Secretary, a ground water system that places a new ground water source into service after November 30, 2009, must conduct assessment source water monitoring under paragraph (b) of this section. If directed by the Executive Secretary, the system must begin monitoring before the ground water source is used to provide water to the public.

(f) Public Notification. A ground water system with a ground water source sample collected under paragraph (a) or (b) of this section that is fecal indicator-positive and that is not invalidated under paragraph (d) of this section, including consecutive systems served by the ground water source, must conduct public notification under R309-220-5.

(g) Monitoring Violations. Failure to meet the requirements of paragraphs (a)-(f) of this section is a monitoring violation and requires the ground water system to provide public notification under R309-220-7.

(3) Treatment technique requirements for ground water systems.

(a) Ground water systems with significant deficiencies or source water fecal contamination.

(i) The treatment technique requirements of this section must be met by ground water systems when a significant deficiency is identified or when a ground water source sample collected under R309-215-16(2)(a)(iii) is fecal indicator-positive.

(ii) If directed by the Executive Secretary, a ground water system with a ground water source sample collected under R309-215-16(2)(a)(ii), R309-215-16(2)(a)(iv), or R309-215-16(2)(b) that is fecal indicator-positive must comply with the treatment technique requirements of this section.

(iii) When a significant deficiency is identified at a public water system that uses both ground water and surface water or ground water under the direct influence of surface water, the system must comply with provisions of this paragraph except in cases where the Executive Secretary determines that the significant deficiency is in a portion of the distribution system that is served solely by surface water or ground water under the direct influence of surface water.

(iv) Unless the Executive Secretary directs the ground water system to implement a specific corrective action, the ground water system must consult with the Executive Secretary regarding the appropriate corrective action within 30 days of receiving written notice from the Executive Secretary of a significant deficiency, written notice from a laboratory that a ground water source sample collected under R309-215-16(2)(a)(iii) was found to be fecal indicator-positive, or direction from the Executive Secretary that a fecal indicator-positive collected under R309-215-16(2)(a)(ii), R309-215-16(2)(a)(iv), or R309-215-16(2)(b) requires corrective action. For the purposes of this subpart, significant deficiencies include, but are not limited to, defects in design, operation, or maintenance, or a failure or malfunction of the sources, treatment, storage, or distribution system that the Executive Secretary determines to be causing, or have potential for causing, the introduction of contamination into the water delivered to consumers.

(v) Within 120 days (or earlier if directed by the Executive Secretary) of receiving written notification from the Executive Secretary of a significant deficiency, written notice from a laboratory that a ground water source sample collected under R309-215-16(2)(a)(iii) was found to be fecal indicator-positive, or direction from the Executive Secretary that a fecal indicator-positive sample collected under R309-215-16(2)(a)(ii), R309-215-16(2)(a)(iv), or R309-215-16(2)(b) requires corrective action, the ground water system must either:

(A) have completed corrective action in accordance with applicable Executive Secretary plan review processes or other Executive Secretary guidance or direction, if any, including Executive Secretary-specified interim measures; or

(B) be in compliance with a Executive Secretary-approved corrective action plan and schedule subject to the conditions specified in paragraphs (a)(v)(B)(I) and (a)(v)(B)(II) of this section.

(I) Any subsequent modifications to a Executive Secretary-approved corrective action plan and schedule must also be approved by the Executive Secretary.

(II) If the Executive Secretary specifies interim measures for protection of the public health pending Executive Secretary approval of the corrective action plan and schedule or pending completion of the corrective action plan, the system must comply with these interim measures as well as with any schedule specified by the Executive Secretary.

(vi) Corrective Action Alternatives. Ground water systems that meet the conditions of paragraph (a)(i) or (a)(ii) of this section must implement one or more of the following corrective action alternatives:

(A) correct all significant deficiencies;

(B) provide an alternate source of water;

(C) eliminate the source of contamination; or

(D) provide treatment that reliably achieves at least 4-log treatment of viruses (using inactivation, removal, or a Executive Secretary-approved combination of 4-log virus inactivation and removal) before or at the first customer for the ground water source.

(vii) Special notice to the public of significant deficiencies or source water fecal contamination.

(A) In addition to the applicable public notification requirements of R309-220-5, a community ground water system that receives notice from the Executive Secretary of a significant deficiency or notification of a fecal indicator-positive ground water source sample that is not invalidated by the Executive Secretary under R309-215-16(2)(d) must inform the public served by the water system under R309-225-5(8)of the fecal indicator-positive source sample or of any significant deficiency that has not been corrected. The system must continue to inform the public annually until the significant deficiency is corrected or the fecal contamination in the ground water source is determined by the Executive Secretary to be corrected under paragraph (a)(v) of this section.

(B) In addition to the applicable public notification requirements of R309-220-5, a non-community ground water system that receives notice from the Executive Secretary of a significant deficiency must inform the public served by the water system in a manner approved by the Executive Secretary of any significant deficiency that has not been corrected within 12 months of being notified by the Executive Secretary, or earlier if directed by the Executive Secretary. The system must continue to inform the public annually until the significant deficiency is corrected. The information must include:

(I) The nature of the significant deficiency and the date the significant deficiency was identified by the Executive Secretary;

(II) The Executive Secretary-approved plan and schedule for correction of the significant deficiency, including interim measures, progress to date, and any interim measures completed; and

(III) For systems with a large proportion of non-English speaking consumers, as determined by the Executive Secretary, information in the appropriate language(s) regarding the importance of the notice or a telephone number or address where consumers may contact the system to obtain a translated copy of the notice or assistance in the appropriate language.

(C) If directed by the Executive Secretary, a non-community water system with significant deficiencies that have been corrected must inform its customers of the significant deficiencies, how the deficiencies were corrected, and the dates of correction under paragraph (a)(vii)(B) of this section.

(b) Compliance monitoring.

(i) Existing ground water sources. A ground water system that is not required to meet the source water monitoring requirements of this subpart for any ground water source because it provides at least 4-log treatment of viruses (using inactivation, removal, or a Executive Secretary-approved combination of 4-log virus inactivation and removal) before or at the first customer for any ground water source before December 1, 2009, must notify the Executive Secretary in writing that it provides at least 4-log treatment of viruses (using inactivation, removal, or a Executive Secretary-approved combination of 4-log virus inactivation and removal) before or at the first customer for the specified ground water source and begin compliance monitoring in accordance with paragraph (b)(iii) of this section by December 1, 2009. Notification to the Executive Secretary must include engineering, operational, or other information that the Executive Secretary requests to evaluate the submission. If the system subsequently discontinues 4-log treatment of viruses (using inactivation, removal, or a Executive Secretary-approved combination of 4-log virus inactivation and removal) before or at the first customer for a ground water source, the system must conduct ground water source monitoring as required under R309-215-16(2).

(ii) New ground water sources. A ground water system that places a ground water in service after November 30, 2009, that is not required to meet the source water monitoring requirements of this subpart because the system provides at least 4-log treatment of viruses (using inactivation, removal, or a Executive Secretary-approved combination of 4-log virus inactivation and removal) before or at the first customer for the ground water source must comply with the requirements of paragraphs (b)(ii)(A), (b)(ii)(B) and (b)(ii)(C) of this section.

(A) The system must notify the Executive Secretary in writing that it provides at least 4-log treatment of viruses (using inactivation, removal, or a Executive Secretary-approved combination of 4-log virus inactivation and removal) before or at the first customer for the ground water source. Notification to the Executive Secretary must include engineering, operational, or other information that the Executive Secretary requests to evaluate the submission.

(B) The system must conduct compliance monitoring as required under R309-215-16(3)(b)(iii) of this subpart within 30 days of placing the source in service.

(C) The system must conduct ground water source monitoring under R309-215-16(2) if the system subsequently discontinues 4-log treatment of viruses (using inactivation, removal, or a Executive Secretary-approved combination of 4-log virus inactivation and removal) before or at the first customer for the ground water source.

(iii) Monitoring requirements. A ground water system subject to the requirements of paragraph (b)(i) or (b)(ii) of this section must monitor the effectiveness and reliability of treatment for that ground water source before or at the first customer as follows:

(A) Chemical disinfection.

(I) Ground water systems serving greater than 3,300 people. A ground water system that serves greater than 3,300

people must continuously monitor the residual disinfectant concentration using analytical methods specified in R444-14-4 at a location approved by the Executive Secretary and must record the lowest residual disinfectant concentration each day that water from the ground water source is served to the public. The ground water system must maintain the Executive Secretary-determined residual disinfectant concentration every day the ground water system serves water from the ground water source to the public. If there is a failure in the continuous monitoring equipment, the ground water system must conduct grab sampling every four hours until the continuous monitoring equipment is returned to service. The system must resume continuous residual disinfectant monitoring within 14 days.

(II) Ground water systems serving 3,300 or fewer people. A ground water system that serves 3,300 or fewer people must monitor the residual disinfectant concentration using analytical methods specified in R444-14-4 at a location approved by the Executive Secretary and record the residual disinfection concentration each day that water from the ground water source is served to the public. The ground water system must maintain the Executive Secretary-determined residual disinfectant concentration every day the ground water system serves water from the ground water source to the public. The ground water system must take a daily grab sample during the hour of peak flow or at another time specified by the Executive Secretary. If any daily grab sample measurement falls below the Executive Secretary-determined residual disinfectant concentration, the ground water system must take follow-up samples every four hours until the residual disinfectant concentration is restored to the Executive Secretary-determined level. Alternatively, a ground water system that serves 3,300 or fewer people may monitor continuously and meet the requirements of paragraph (b)(iii)(A)(I) of this section.

(B) Membrane filtration. A ground water system that uses membrane filtration to meet the requirements of this subpart must monitor the membrane filtration process in accordance with all Executive Secretary-specified monitoring requirements and must operate the membrane filtration in accordance with all Executive Secretary-specified compliance requirements. A ground water system that uses membrane filtration is in compliance with the requirement to achieve at least 4-log removal of viruses when:

(I) The membrane has an absolute molecular weight cut-off (MWCO), or an alternate parameter that describes the exclusion characteristics of the membrane, that can reliably achieve at least 4-log removal of viruses;

(II) The membrane process is operated in accordance with Executive Secretary-specified compliance requirements; and

(III) The integrity of the membrane is intact.

(C) Alternative treatment. A ground water system that uses a Executive Secretary-approved alternative treatment to meet the requirements of this subpart by providing at least 4-log treatment of viruses (using inactivation, removal, or a Executive Secretary-approved combination of 4-log virus inactivation and removal) before or at the first customer must:

(I) Monitor the alternative treatment in accordance with all Executive Secretary-specified monitoring requirements; and

(II) Operate the alternative treatment in accordance with all compliance requirements that the Executive Secretary determines to be necessary to achieve at least 4-log treatment of viruses.

(c) Discontinuing treatment. A ground water system may discontinue 4-log treatment of viruses (using inactivation, removal, or a Executive Secretary-approved combination of 4-log virus inactivation and removal) before or at the first customer for a ground water source if the Executive Secretary determines and documents in writing that 4-log treatment of viruses is no longer necessary for that ground water source. A system that discontinues 4-log treatment of viruses is subject to the source water monitoring and analytical methods requirements of R309-215-16(2) of this subpart.

(d) Failure to meet the monitoring requirements of paragraph (b) of this section is a monitoring violation and requires the ground water system to provide public notification under R309-220-7.

(4) Treatment technique violations for ground water systems.

(a) A ground water system with a significant deficiency is in violation of the treatment technique requirement if, within 120 days (or earlier if directed by the Executive Secretary) of receiving written notice from the Executive Secretary of the significant deficiency, the system:

(i) Does not complete corrective action in accordance with any applicable Executive Secretary plan review processes or other Executive Secretary guidance and direction, including Executive Secretary specified interim actions and measures, or

(ii) Is not in compliance with a Executive Secretary-approved corrective action plan and schedule.

(b) Unless the Executive Secretary invalidates a fecal indicator-positive ground water source sample under R309-215-16(2)(d), a ground water system is in violation of the treatment technique requirement if, within 120 days (or earlier if directed by the Executive Secretary) of meeting the conditions of R309-215-16(3)(a)(i) or R309-215-16(3)(a)(ii), the system:

(i) Does not complete corrective action in accordance with any applicable Executive Secretary plan review processes or other Executive Secretary guidance and direction, including Executive Secretary-specified interim measures, or

(ii) Is not in compliance with a Executive Secretary-approved corrective action plan and schedule.

(c) A ground water system subject to the requirements of R309-215-16(3)(b)(iii) that fails to maintain at least 4-log treatment of viruses (using inactivation, removal, or a Executive Secretary-approved combination of 4-log virus inactivation and removal) before or at the first customer for a ground water source is in violation of the treatment technique requirement if the failure is not corrected within four hours of determining the system is not maintaining at least 4-log treatment of viruses before or at the first customer.

(d) Ground water system must give public notification under R309-220-6 for the treatment technique violations specified in paragraphs (a), (b) and (c) of this section.

(5) Reporting and recordkeeping for ground water systems.

(a) Reporting. In addition to the requirements of R309-105-16, a ground water system regulated under this subpart must provide the following information to the Executive Secretary:

(i) A ground water system conducting compliance monitoring under R309-215-16(3)(b) must notify the Executive Secretary any time the system fails to meet any Executive

Secretary-specified requirements including, but not limited to, minimum residual disinfectant concentration, membrane operating criteria or membrane integrity, and alternative treatment operating criteria, if operation in accordance with the criteria or requirements is not restored within four hours. The ground water system must notify the Executive Secretary as soon as possible, but in no case later than the end of the next business day.

(ii) After completing any corrective action under R309-215-16(3)(a), a ground water system must notify the Executive Secretary within 30 days of completion of the corrective action.

(iii) If a ground water system subject to the requirements of R309-215-16(2)(a) does not conduct source water monitoring under R309-215-16(2)(a)(v)(B), the system must provide documentation to the Executive Secretary within 30 days of the total coliform positive sample that it met the Executive Secretary criteria.

(b) Recordkeeping. In addition to the requirements of R309-105-17, a ground water system regulated under this subpart must maintain the following information in its records:

(i) Documentation of corrective actions. Documentation shall be kept for a period of not less than ten years.

(ii) Documentation of notice to the public as required under R309-215-16(3)(a)(vii). Documentation shall be kept for a period of not less than three years.

(iii) Records of decisions under R309-215-16(2)(a)(v)(B) and records of invalidation of fecal indicator-positive ground water source samples under R309-215-16(2)(d). Documentation shall be kept for a period of not less than five years.

(iv) For consecutive systems, documentation of notification to the wholesale system(s) of total-coliform positive samples that are not invalidated under R309-210-5(4). Documentation shall be kept for a period of not less than five years.

(v) For systems, including wholesale systems, that are required to perform compliance monitoring under R309-215-16(3)(b):

(A) Records of the Executive Secretary-specified minimum disinfectant residual. Documentation shall be kept for a period of not less than ten years.

(B) Records of the lowest daily residual disinfectant concentration and records of the date and duration of any failure to maintain the Executive Secretary-prescribed minimum residual disinfectant concentration for a period of more than four hours. Documentation shall be kept for a period of not less than five years.

(C) Records of Executive Secretary-specified compliance requirements for membrane filtration and of parameters specified by the Executive Secretary for Executive Secretary-approved alternative treatment and records of the date and duration of any failure to meet the membrane operating, membrane integrity, or alternative treatment operating requirements for more than four hours. Documentation shall be kept for a period of not less than five years.

**KEY: drinking water, surface water treatment plant monitoring, disinfection monitoring, compliance determinations**
**Date of Enactment or Last Substantive Amendment: [~~September 24, 2009~~]2010**
**Notice of Continuation: March 22, 2010**
**Authorizing, and Implemented or Interpreted Law: 19-4-104; 63G-4-202**

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# Health, Epidemiology and Laboratory Services, Environmental Services
# R392-302
# Design, Construction and Operation of Public Pools

## NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 33873
FILED: 07/29/2010

## RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule has been updated to address recent industry trends, reorganize the rule so it is easier to use, and respond to enforcement issues brought to the attention of the Utah Department of Health (UDOH).

SUMMARY OF THE RULE OR CHANGE: The proposed rule simplifies bather load requirements. Adds gravity drains and unblockable drains as alternatives for anti-entrapment systems allowed in new pools. Adds requirements for interactive water features. Broadens allowance of pool construction methods to include some new methods. Excludes private instructional pools from regulation as public pools. Brings wastewater discharge requirements in line with the current plumbing code adopted in Utah (changes air break to air gap discharge). Provides an allowance for wading areas to be integrated into swimming pools. Makes an exception of floor slope requirements for pools used exclusively for scuba diver training. Reorganizes requirements for special purpose pool so all the requirements for each type of pool are in one place. Makes allowances for underwater ledges, underwater seats, and underwater benches under certain circumstances. Allows handrails within a pool on stairs leading from a wading area to a swimming area. Allows some deck obstructions that are common in pools. Sets requirements for latch height for entrances into pools that protect young children but allow access for wheelchair users. Allows for designs that incorporate different turnover times for different zones within a single pool. Changes requirement for the water level from a set maximum below the deck to a requirement relative to the overflow structure. Makes an allowance for the use of energy-saving variable flow pumps. Makes changes to

lifeguard requirements that are more in line with effective life guarding standard practices. Makes changes to lighting requirements that allow for energy efficient lighting. Relaxes the standard for pool water total dissolved solids to allow the use of electrolytic chlorinators. Allows the local health department to determine the maximum number of pools an operator may supervise to provide adequate oversight of the pools based on certain circumstances. Makes many nonsubstantive clarifications and corrections.

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

MATERIALS INCORPORATED BY REFERENCES:

- ♦ Adds International Cast Products Association (ICPA) standard, published by ANSI/ICPA, 04/17/2001
- ♦ Adds International Association of Plumbing and Mechanical officials, published by IAPMO IGC, 02/01/2000
- ♦ Adds International Association of Plumbing and Mechanical officials, published by IAPMO/ANSI, 06/05/1997
- ♦ Adds National Electrical Code, published by National Fire Protection Association, 08/05/2004

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: There would be no additional costs to the state budget to enforce the proposed changes to this rule.

♦ LOCAL GOVERNMENTS: The majority of the proposed changes are either cost neutral or are a potential cost savings to local governments who operate pools. The costs savings cannot be accurately estimated as it is unknown how many operators would choose to build the newly allowed features. Costs that would be additional include the requirement that local health departments inspect interactive water features, if built, or are already built in their jurisdictions. The costs would be largely offset by permit fees charged.

♦ SMALL BUSINESSES: The majority of the proposed changes are either cost neutral or are a potential cost savings. Those that can be addressed are listed as follows. The change in allowed bather load may, under certain circumstances, reduce revenue in some pools. The circumstances that would increase the likelihood of revenue loss due to the change are pools with little or no diving area and a very large non-swimming area compared to the swimming area. These pools could have a reduced allowed bather load. The revenue loss would occur if pool operators turned swimmers away from the facility because there were too many people already there. It is thought that this would be a rare occurrence for two reasons: 1) the majority of pools don't normally come close to reaching the maximum bather load allowed under the proposed rule; and 2) when there is a swimmer every four or five feet over the entire surface of the pool, swimming becomes much less attractive and thus tends to be self-limiting. Under the proposed rule, operators are allowed to not count the number of patrons in the facility who aren't actually using the pool in determining bather load. There are no records available of the allowed and actual bather loads over any period of time for all pools in the state, so determining an accurate assessment of the cost of the change can't be determined. The revenue loss of each patron turned away, if it occurs, would be about $5. Since existing interactive water facilities are not regulated in all jurisdictions (some local health departments have their own regulations for interactive water features), complying with the water quality (bacteria, chlorine, and pH) requirements of the proposed rule may have additional costs for existing facilities. Existing facilities would not have to meet new construction standards unless there is some safety problem with their present design. UDOH does not know of any facility owner who would have to modify their current design. For new interactive water features, since there were not state rules for them in the past, feature owners had few constraints in their design and construction. Features built under the proposed rule might thus be more expensive, yet more safe, to build than without the proposed rule. The number of facilities that might be built in the future or the aggregate cost to them from the proposed rule change cannot be estimated. Latch height at pool doors and gates has been a controversial issue in the past because building officials and health officials disagreed on the standard. Building officials wanted the latch to be at 48 inches to accommodate people in wheel chairs. Health officials wanted the latch to be at 54 inches to keep small children from entering the pool without supervision. The latch height requirement in the proposed rule in is line with the International Building Code which is adopted in Utah under the Utah Uniform Building Standards Act Rule. These requirements settle the controversy. If a pool has a latch at a height that doesn't meet the rule (maybe due to the controversy), there would be a cost to change the latch height. There are no records available to determine an estimate of the aggregate cost of this rule change.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Costs for other businesses are expected to be the same as for small business above.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The majority of the proposed changes are either cost neutral or are a potential cost savings. Individual costs or savings cannot be estimated as it is unknown how many operators would choose to take advantage of the newly allowed features. However, if they do choose, then the saving/additional costs are made by choice, not requirement.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Overall the fiscal impact is expected to be positive with the allowance of less costly alternatives to achieve compliance.

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

HEALTH
EPIDEMIOLOGY AND LABORATORY SERVICES,
ENVIRONMENTAL SERVICES
CANNON HEALTH BLDG

288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Ronald Marsden by phone at 801-538-6191, by FAX at 801-538-6564, or by Internet E-mail at rmarsden@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/14/2010

THIS RULE MAY BECOME EFFECTIVE ON: 09/21/2010

AUTHORIZED BY: David Sundwall, MD, Executive Director

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**R392. Health, Epidemiology and Laboratory Services, Environmental Services.**
**R392-302. Design, Construction and Operation of Public Pools.**
**R392-302-1. Authority and Purpose of Rule.**

This rule is authorized under Section 26-15-2.__ It establishes minimum standards for the design, construction, operation and maintenance of public pools.[~~—This rule does not regulate any pool used only by an individual, family, or members or guests of multiple housing units of three or fewer units.~~]

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

The following definitions apply in this rule.

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

] ([~~2~~]1) "Bather Load" means the number of persons using a pool at any one time or specified period of time.

([~~3~~]2) "Cleansing shower" means the cleaning of the entire body surfaces with soap and water to remove any matter, including fecal matter, that may wash off into the pool while swimming.

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

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

] ([~~6~~]4) "Executive Director" means the Executive Director of the Utah Department of Health, or his designated representative.

([~~7~~]5) "Facility" means any premises, building, pool, equipment, system, and appurtenance which appertains to the operation of a public pool.

([~~8~~]6) "Float Tank[~~ or Relaxation Tank~~]" means a tank containing skin-temperature salt water that is designed to provide for solitary body floatation upon or within the water.

(7) "Gravity Drain System" means a pool drain system wherein the drains are connected to a surge or collector tank and rather than drawing directly from the drain, the circulation pump draws from the surge or collector tank and the surface of the water contained in the tank is maintained at atmospheric pressure.

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

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

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

(11) "Interactive Water Feature" means a recirculating water feature designed, installed or used for recreational use, in which there is direct water contact from the feature with the public, and when not in operation, all water drains freely so there is no ponding.

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

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

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

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

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

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

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

(18) "Pool Shell" means the rigid encasing structure of a pool that confines the pool water by resisting the hydrostatic pressure of the pool water, resisting the pressure of any exterior soil, and transferring the weight of the pool water (sometimes through other supporting structures) to the soil or the building that surrounds it.

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

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

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

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

(23) "Special Purpose Pool" means a pool with design and operational features that provide patrons recreational, instructional, or therapeutic activities which are different from that

associated with a pool used primarily for swimming, diving, or spa bathing.

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

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

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

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

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

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

(29) "Unblockable Drain" means a drain of any size or shape such that a representation of the torso of a 99 percentile adult male cannot sufficiently block it to the extent that it creates a body suction entrapment hazard.

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

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

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

**R392-302-3. General Requirements.**

(1) This rule does not require a construction change in any portion of a public pool facility if the facility was installed and in compliance with law in effect at the time the facility was installed, except as specifically provided otherwise in this rule. However if the Executive Director or the Local Health Officer determines that any facility is dangerous, unsafe, unsanitary, or a nuisance or menace to life, health or property, the Executive Director or the Local Health Officer may order construction changes consistent with the requirements of this rule to existing facilities.

(2) This rule does not regulate any private residential pool. A private residential pool that is used for swimming instruction purposes shall not be regulated as a public pool.

**R392-302-4. Water Supply.**

(1) The water supply serving a public pool and all plumbing fixtures, including drinking fountains, lavatories and showers, must meet the requirements for drinking water established by the Department of Environmental Quality.

(2) All portions of water supply, re-circulation, and distribution systems serving the facility must be protected against backflow. Water introduced into the pool, either directly or through the circulation system, must be supplied through an air gap.

**R392-302-5. Sewer System.**

(1) Each public pool must discharge waste water to a public sanitary sewer system if the sewer system is within 300 feet of the property line. Where no public sanitary sewer system is available within 300 feet of the property line, the local health department may approve connections made to a disposal system designed, constructed, and operated in accordance with the minimum requirements of the Department of Environmental Quality.

(2) Each public pool must connect to a sewer or wastewater disposal system through an air break to preclude the possibility of sewage or waste backup into the piping system. Pools constructed and approved after December 31, 2010 shall connect to a sewer or wastewater disposal system through an air gap.

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

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

(2) All public pools shall be constructed with a pool shell that meets the requirements of this section R392-302-6. Vinyl liners that are not bonded to a pool shell are prohibited. A vinyl liner that is bonded to a pool shell shall have at least a 60 mil thickness. Sand, clay or earth walls or bottoms are prohibited.

([~~2~~]3) The pool shell[~~Construction~~] of a public pool must withstand the stresses associated with the normal uses of the[~~for which the public~~] pool [~~was designed~~]and regular maintenance. The pool shell shall by itself withstand, without any damage to the structure, the stresses of complete emptying of the pool without shoring or additional support.

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

] (4) In addition to the requirements of R392-302-6(3), the interior surface of each[~~Each~~] pool [~~shell~~ ]must be designed and constructed in a manner that provides a smooth, easily cleanable, non-abrasive, and slip resistant surface. The pool shell surfaces must be free of cracks or open joints with the exception of structural expansion joints. The owner of a non-cementitious pool shall submit documentation with the plans required in R392-302-8(5) that the surface material has been tested and passed by an American National Standards Institute (ANSI) accredited testing facility using one of the following standards that is appropriate to the material used:

(a) for a fiberglass reinforced plastic spa pool, the International Association of Plumbing and Mechanical Officials (IAPMO) standard IAPMO/ANSI Z 124.7-1997;

(b) for a fiberglass reinforced plastic swimming pool, the IAPMO IGC 158-2000 standard;

(c) for pools built with prefabricated pool sections or pool members, the International Cast Products Association (ICPA) standard ANSI/ICPA SS-1-2001; or

(d) a standard that has been approved by the Department based on whether the standard is applicable to the surface and whether it determines compliance with the requirements of this section R392-302-6.

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

~~(6) Sand, clay, or earth bottoms are prohibited.~~
~~(7) Vinyl or other flexible liners are prohibited.~~
~~(8) The pool shell surface coatings and textures, including flexible coating materials of at least 60 mils in thickness, may be used if they are bonded to a pool shell that is constructed as provided in Subsections R392-302-6(1), (2) and (3).~~
~~(a) The coatings must provide a smooth surface that is easily cleanable.~~
~~(b) The coatings must be slip resistant.~~
~~(9) The pool shell surfaces must be free of cracks or open joints with the exception of structural expansion joints.~~
~~(10) A pool shell constructed of materials other than concrete must:~~
~~(a) be listed by the International Association of Plumbing and Mechanical Officials (IAPMO) and the spa or other pool basin or tub shall bear the IAPMO logo; or~~
~~(b) meet construction and material standards that are equivalent to IAPMO's.~~]

**R392-302-7. Bather Load.**

(1) The bather load capacity [~~for each area~~ ]of a public pool is determined as follows:

(a) Ten square feet, 0.929 square meters, of pool water surface area must be provided for each bather in a [~~non-swimmer area~~]spa pool during maximum load.

(b) Twenty-four square feet, 2.23 square meters, of pool water surface area must be provided for each bather in [~~a swimmer area~~]an indoor swimming pool during maximum load.

(c) [~~Three hundred square feet, 27.87 square meters, of pool water surface area must be reserved for each diving area. This area may not be included in computing swimmer and non-swimmer areas.~~]Twenty square feet, 1.86 square meters, of pool water surface area must be provided for each bather in an outdoor swimming pool during maximum load.

(d) [~~A design limit of nine persons is allowed for each diving area~~]Fifty square feet, 4.65 square meters, of pool water surface must be provided for each bather in a slide plunge pool during maximum load.

(2) The department may make additional allowance for bathers when the facility operator can demonstrate that lounging and sunbathing patrons will not adversely affect water quality due to over-loading of the pool.

**R392-302-8. Design Detail and Structural Stability.**

(1) The designing architect or engineer is responsible to certify the design for structural stability and safety of the public pool.

(2) The shape of a pool and design and location of appurtenances must be such that the circulation of pool water and control of swimmer's safety are not impaired. The designing architect or engineer shall designate sidewalls and endwalls on pool plans.[~~The pool design shall separate wading pools from other pools. Wading pools may not share common circulation, filtration, or chemical treatment systems, or walls.~~]

(3) A pool must have a circulation system with necessary treatment and filtration equipment as required in R392-302-16, unless turnover rate requirements as specified in sub-section R392-302-16(1) can be met by continuous introduction of fresh water and wasting of pool water under conditions satisfying all other requirements of this rule.

(4) Where a facility is subject to freezing temperatures, all parts of the facility subject to freezing damage must be adequately and properly protected from damage due to freezing, including the pool, piping, filter system, pump, motor, and other components and systems.

(5) The pool operator or the designing architect or engineer shall submit plans for a new pool, pool renovation or pool remodeling project to the local health department for approval. This includes the replacement of equipment which is different from that originally approved by a health authority having jurisdiction. The local health department may require a pool renovation or pool remodeling project to meet the current requirements of R392-302.

**R392-302-9. Depths and Floor Slopes.**

(1) In determining the horizontal slope ratio of a pool floor, the first number shall indicate the vertical change in value or rise and the second number shall indicate the horizontal change in value or run of the slope.

(a) The horizontal slope of the floor of any portion of a pool having a water depth of less than 5 feet, 1.52 meters, may not be steeper than a ratio of 1 to 10 except for a pool used exclusively for scuba diving training.

(b) The horizontal slope of the floor of any portion of a pool having a water depth greater than 5 feet, 1.52 meters, must be uniform, must allow complete drainage and may not exceed a ratio of 1 to 3 except for a pool used exclusively for scuba diving training. The horizontal slope of the pool bottom in diving areas must be consistent with the requirements for minimum water depths as specified in Section R392-302-11 for diving areas.[

~~(2) A wading pool may not exceed a maximum water depth of 2 feet, 60.96 centimeters.~~
~~(3) A spa pool may not exceed a maximum water depth of 4 feet, 1.22 meters. The department may grant exceptions for a spa pool designed for special purposes, such as instruction, treatment, or therapy.~~]

**R392-302-10. Walls.**

(1) Pool walls must be vertical or within 11 degrees of vertical for a minimum distance of 2 feet 9 inches, 83.82 centimeters, below the water line in areas with a depth of 5 feet, 1.52 meters, or greater. Pool walls must be vertical or within 11 degrees of vertical for a minimum distance equal to or greater than one half the pool depth as measured from the water line.

(2) Where walls form an arc to join the floors, the transitional arc from wall to floor must:

(a) [~~H~~]have its center no less than 2 feet 9 inches, 83.82 centimeters, below the normal water level in areas with a depth greater than 5 feet, 1.52 meters[~~.~~];

(b) [~~H~~]have its center no less than 75% of the pool depth beneath the normal water level, in areas of the pool with a depth of 5 feet, 1.52 meters, or less[~~.~~];

(c) [~~B~~]be tangent to the wall[~~.~~];

(d) [~~H~~]have a radius at least equal to or greater than the depth of the pool minus the vertical wall depth measured from the water line, as described in Subsection R392-302-9(1), minus 3 inches, 7.62 centimeters, to allow draining to the main drain. Radius minimum = Pool Depth - Vertical wall depth - 3 inches, 7.62

centimeters, where the water depth is greater than 5 feet, 1.52 meters[~~-~~]; and

(e) [~~H~~]have a radius which may not exceed a length greater than 25% of the water depth, in areas with a water depth of 5 feet, 1.52 meters, or less.

(3) Underwater ledges are prohibited except when approved by the local health officer for a special purpose pool. Underwater ledges are prohibited in areas of a pool designed for diving. Where underwater ledges are allowed, a line must mark the extent of the ledge within 2 inches, 5.08 centimeters, of its leading edge. The line must be at least 2 inches, 5.08 centimeters, in width and in a contrasting dark color for maximum visual distinction.

(4) Underwater seats and benches are allowed in pools so long as they conform to the following:

(a) Seats and benches shall be located completely inside of the perimeter shape of the pool;

(b) The horizontal surface shall be a maximum of 20 inches, 51 centimeter, below the water line;

(c) An unobstructed surface shall be provided that is a minimum of 10 inches, 25 centimeters, and a maximum of 20 inches front to back, and a minimum of 24 inches,61 centimeters, wide;

(d) The pool wall under the seat or bench shall be flush with the leading edge of the seat or bench and meet the requirements of R392-302-10(1) and (2);

(e) Seats and benches may not replace the stairs or ladders required in R392-302-12, but are allowed in conjunction with pool stairs;

(f) Underwater seats may be located in the deep area of the pool where diving equipment (manufactured or constructed) is installed, provided they are located outside of the minimum water envelope for diving equipment; and

(g) A line must mark the extent of the seat or bench within 2 inches, 5.08 centimeters, of its leading edge. The line must be at least 2 inches, 5.08 centimeters, in width and in a contrasting dark color for maximum visual distinction.

**R392-302-11. Diving Areas.**

(1) Where diving is permitted, the diving area design, equipment placement, and clearances must meet the minimum standards established by the USA Diving Rules and Regulations 2004, Appendix B, which are incorporated by reference.

(2) Where diving from a height of less than 3.28 feet, 1 meter, from normal water level is permitted, the diving bowl shall meet the minimum depths outlined in Section 6, Figure 1 and Table 2 of ANSI/NSPI-1, 2003, which is adopted by reference, for type VI, VII and VIII pools according to the height of the diving board above the normal water level. ANSI/NSPI pool type VI is a maximum of 26 inches, 2/3 meter, above the normal water level; type VII is a maximum of 30 inches, 3/4 meter, above the normal water level; and type VIII is a maximum of 39.37 inches, 1 meter, above the normal water level.

(3) The use of a starting platform is restricted to competitive swimming events or supervised training for competitive swimming events.

(a) If starting platforms are used for competitive swimming or training, the water depth shall be at least four feet.

(b) The operator shall either remove the starting platforms or secure them with a lockable cone-type platform safety cover when not in competitive use.

(4) Areas of a pool where diving is not permitted must have "NO DIVING" or the international no diving icon, or both provided in block letters at least four inches in height in a contrasting color on the deck, located on the horizontal surface of the deck or coping as close to the water's edge as practical.

(a) Where the "NO DIVING" warnings are used, the spacing between each warning may be no greater than 25 feet.

(b) Where the icon alone is used on the deck as required, the operator shall also post at least one "NO DIVING" sign in plain view within the enclosure. Letters shall be at least four inches in height with a stroke width of at least one-half inch.

**R392-302-12. Ladders, Recessed Steps, and Stairs.**

(1) Location.

([~~1~~]a) In areas of a pool where the water depth is greater than 2 feet, 60.96 centimeters, and less than 5 feet, 1.52 meters, as measured vertically from the bottom of the pool to the mean operating level of the pool water, steps or ladders must be provided, and be located in the area of shallowest depth.

([~~2~~]b) In areas of the pool where the water depth is greater than 5 feet, 1.52 meters, as measured vertically from the bottom of the pool to the mean operating level of the pool water, ladders or recessed steps must be provided.

([~~3~~]c) A pool over 30 feet, 9.14 meters, wide must be equipped with steps, recessed steps, or ladders as applicable, installed on each end of both side walls.

([~~4~~]d) A pool over 30 feet, 9.14 meters, wide and 75 feet, 22.8 meters, or greater in length, must have ladders or recessed steps midway on both side walls of the pool, or must have ladders or recessed steps spaced at equal distances from each other along both sides of the pool at distances not to exceed 30 feet, 9.14 meters, in swimming and diving areas, and 50 feet, 15.23 meters, in non-swimming areas.

([~~5~~]e) Ladders or recessed steps must be located within 15 feet, 4.56 meters, of the diving area end wall.

(f) No pool shall be equipped with fewer that two means of entry or exit as outlined above.

[~~(6) The steps, recessed steps, and ladders, must have one or more handrails.~~

](2) Handrails.

(a) Handrails must be rigidly installed and constructed in such a way that they can only be removed with tools.

(b) Handrails must be constructed of corrosion resistant materials.

(c) The outside diameter of handrails may not exceed 2 inches, 5.08 centimeters.

(3) Steps.

(a) Steps must have at least one handrail. The handrail shall be mounted on the deck and extend to the bottom step either attached at or cantilever to the bottom step. Handrails may also be mounted in the pool bottom of a wading area at the top of submerged stairs that lead into a swimming pool; such handrails must also extend to the bottom step either attached at or cantilever to the bottom step.[~~(d) Submerged steps or rungs which are not recessed must be guarded by handrails. The hand rail must be mounted on the deck and extend to the bottom step.~~]

([~~7~~]b) Steps must be constructed of corrosion-resistant material, be easily cleanable, and be of a safe design.

([~~a~~]c) Steps leading into pools must be of non-slip design, have a minimum run of 10 inches, 25.4 centimeters, and a maximum rise of 12 inches, 30.48 centimeters.

[~~(b) Steps must have a line at least 1 inch, 2.54 centimeters, in width, and be of a contrasting dark color for maximum visual distinction within 2 inches, 5.08 centimeters, of the leading edge of each step.~~

~~~~~~~~]([e]d) Steps must have a minimum width of 18 inches, 45.72 centimeters, as measured at the leading edge of the step.

[~~(d) In a spa pool where the bottom step serves as a bench or seat, the bottom riser must be a maximum of 14 inches, 35.56 centimeters.~~](e) Steps must have a line at least 1 inch, 2.54 centimeters, in width and be of a contrasting dark color for a maximum visual distinction within 2 inches, 5.08 centimeters, of the leading edge of each step.

(4) Ladders.[~~(8) Pool ladders must meet the following requirements:~~]

(a) Pool ladders must be corrosion-resistant and must be equipped with non-slip rungs.

(b) [~~All~~]Pool ladders must be designed to provide a handhold, [~~and~~ ]must be rigidly installed, and must be maintained in safe working condition.

(c) [~~There must be~~]Pool ladders shall have a clearance of not more than 5 inches, 12.7 centimeters, nor less than 3 inches, 7.62 centimeters, between any ladder rung and the pool wall.

(d) Pool ladders shall have rungs with a maximum rise of 12 inches, 30.5 centimeters, and a minimum width of 14 inches, 35.6 centimeters.

(5) Recessed Steps.

[~~(9) Full or partial recessed steps must meet the following requirements:~~]

(a) [~~Where full or partial r~~]Recessed steps [~~are used,~~]shall have a set of grab rails[~~handrails must be~~] located at the top of the course with a rail on each side[~~. The handrails must~~] which extend over the coping or edge of the deck.

(b) [~~Full or partial r~~]Recessed steps [~~must be designed to~~ ]shall be readily cleanable and [~~to~~ ]provide drainage into the pool to prevent the accumulation of dirt on the step.

(c) Full or partial recessed steps must have a minimum run of 5 inches, 12.7 centimeters, and a minimum width of 14 inches, 35.56 centimeters.[

~~(10) The designing architect or engineer or the facility owner must anticipate maximum loads on supports, platforms and steps for diving boards, and ensure that supports, platforms, and steps are of substantial construction and of sufficient structural strength to safely carry the maximum anticipated loads.~~

~~(a) Handrails must be provided at all steps and ladders leading to diving boards more than 3'3" feet, 1 meter, above the water.~~

~~(11) Platforms and diving boards which are over 3'3" feet, 1 meter, high, must be designed to protect divers from falls to the deck or pool curb by the installation of guard railings.~~

~~(12) A spa pool must be equipped with at least one handrail for each 50 feet, 15.24 meters, of perimeter, or portion thereof, to designate the point of entry and exit. Points of entry and exit must be evenly spaced around the perimeter of the spa pool and afford unobstructed entry and egress.~~]

**R392-302-13. Decks and Walkways.**

(1) A continuous, unobstructed deck at least 5 feet, 1.52 meters, wide must extend completely around the pool. The deck is[~~as~~] measured from the pool side edge of the coping [~~must extend completely around the pool.~~]if the coping is flush with the pool deck, or from the back of the pool curb if the coping is elevated from the pool deck. Pool curbs shall be a minimum of 12 inches wide. The pool deck may include the pool coping if the coping is installed flush with the surrounding pool deck. If the coping is elevated from the pool deck, the maximum allowed elevation difference between the top of the coping surface and the surrounding deck is 19 inches, 38.1 centimeters. The minimum allowed elevation is 4 inches.

(2) Deck obstructions are allowed to accommodate diving boards, platforms, slides, steps, or ladders so long as a[~~A~~]t least 5 feet, 1.52 meters, of deck area [~~must be~~]is provided behind the deck end of any diving board, platform, slide, step, or ladder. Other types of deck obstructions may also be allowed by the local health officer so long as the obstructions meet all of the following criteria:

(a) the total pool perimeter that is obstructed equals less than 10 percent of the total pool perimeter; likewise, no more than 15 feet, 4.56 meters, of pool perimeter can be obstructed in any one location;

(b) multiple obstructions must be separated by at least five feet, 1.52 meters;

(c) an unobstructed area of deck not less than five feet, 1.52 meters, is provided around or through the obstruction and located not more than fifteen feet, 4.55 meters, from the edge of the pool.

(d) the design of the obstruction does not endanger the health or safety of persons using the pool; and

(e) written approval for the obstruction is obtained from the local health official prior to, or as part of, the plan review process.

(3) The deck must slope away from the pool to floor drains at a grade of 1/4 inch, 6.35 millimeters, to 3/8 inch, 9.53 millimeters, per linear foot.

(4) Decks and walkways must be constructed to drain away any[~~maintained free of~~] standing water and must have non-slip surfaces.

(5) Wooden decks, walks or steps are prohibited.[

~~(a) The department may grant exceptions for deck construction materials for spa pools or other applications where sealed, clear-heart redwood is used.~~]

(6) Deck drains may not return water to the pool or the circulation system.

(7) [~~Decks must be maintained~~]The operator shall maintain decks in a sanitary condition and free from litter.

(8) Carpeting may not be installed within 5 feet, 1.52 meters, of the water side edge of the coping. The operator shall wet vacuum any carpeting[~~and must be wet vacuumed~~] as often as necessary to keep it clean and free of accumulated water.

(9) Steps serving decks must meet the following requirements:

(a) Risers of steps for the deck must be uniform and have a minimum height of [~~3-3/4~~]4 inches, [~~9.53~~]10.2 centimeters, and a maximum height of 7[~~-3/4~~] inches, [~~19.7~~]17.8 centimeters.

(b) The minimum run of steps shall be 10 inches, 25.4 centimeters.
~~~~~~~~

(c) Steps must have a minimum width of 18 inches, 45.72 centimeters.[

~~(10) The deck of a wading pool may be included as part of adjacent pool decks.~~

~~(11) A spa deck must meet each of the following requirements:~~

~~(a) A spa pool must have a continuous, unobstructed deck at least 3 feet, 91.44 centimeters, wide around 25 percent or more of the spa. This width may include the coping.~~

~~(b) A pool deck may be included as part of the spa deck if the pools are separated by a minimum of 5 feet, 1.52 meters. The department may grant an exception to deck and pool separation requirements if a spa pool and another pool are constructed adjacent to each other and share a common pool sidewall which separates the two pools. The common pool side wall may not exceed 12 inches, 30.48 centimeters, in width.~~]

**R392-302-14. Fencing.**

(1) A fence or other barrier is required and must provide complete perimeter security of the facility, and be at least 6 feet, 1.83 meters, in height. Openings through the fence or barrier, other than entry or exit access when the access is open, may not permit a sphere greater than 4 inches, 10.16 centimeters, to pass through it at any location. Horizontal members shall be equal to or more than 45 inches, 114.3 centimeters, apart.

(a) If the local health department determines that the safety of children is not compromised, it may exempt indoor pools from the fencing requirements.

(b) The local health department may grant exceptions to the height requirements in consideration of architectural and landscaping features for pools designed for hotels, motels and apartment houses.

(2) A fence or barrier that has an entrance to the facility must be equipped with a self-closing and self-latching gate or door. Except for self-locking mechanisms, self-latching mechanisms must be installed [~~at least~~ ]54 inches, 1.37 meters, above the ground and must be provided with hardware for locking the gate when the facility is not in use. A lock that is separate from the latch and a self locking latch shall be installed with the lock's operable mechanism (key hole, electronic sensor, or combination dial) between 34 inches, 86.4 centimeters, and 48 inches, 1.219 meters, above the ground. All gates for the pool enclosure shall open outward from the pool.

(3) The gate or door shall have no opening greater than 0.5 inches, 1.27 centimeters, within 18 inches, 45.7 centimeters, of the latch release mechanism.

([~~3~~]4) Bathing areas must be separated from non-bathing areas by barriers with a minimum height of 4 feet, 1.22 meters, or by a minimum of 5 feet, 1.53 meters, distance separation.

**R392-302-15. Depth Markings and Safety Ropes.**

(1) The depth of the water must be plainly marked at locations of maximum and minimum pool depth, and at the points of separation between the swimming and non-swimming areas of a pool. Pools must also be marked at intermediate 1 foot, 30.48 centimeters, increments of depth, spaced at distances which do not exceed 25 feet, 7.62 meters. Markings must be located above the water line or within 2 inches, 5.8 centimeters, from the coping on the vertical wall of the pool and on the edge of the deck or walk next to the pool with numerals at least 4 inches, 10.16 centimeters, high.

(2) A pool with both swimming and diving areas must have a floating safety rope separating the swimming and diving areas. An exception to this requirement is made for special activities, such as swimming contests or training exercises when the full unobstructed length of the pool is used.

(a) The safety rope must be securely fastened to wall anchors. Wall anchors must be of corrosion-resistant materials and must be recessed or have no projections that may be a safety hazard if the safety rope is removed.

(b) The safety rope must be marked with visible floats spaced at intervals of 7 feet, 2.13 meters or less.

(c) The rope must be at least 0.5 inches, 1.27 centimeters, in diameter, and of sufficient strength to support the loads imposed on it during normal bathing activities.

(3) A pool constructed with a change in the slope of the pool floor must have the change in slope designated by a floating safety rope and a line of demarcation on the pool floor.

(a) The floating safety rope designating a change in slope of the pool floor must be attached at the locations on the pool wall that place it directly above and parallel to the line on the bottom of the pool. The floating safety rope must meet the requirements of Subsections R392-302-15(2)(a),(b),(c).

(b) A line of demarcation on the pool floor must be marked with a contrasting dark color.

(c) The line must be at least 2 inches, 5.08 centimeters, in width.

(d) The line must be located 12 inches, 30.48 centimeters, toward the shallow end from the point of change in slope.

(4) The department may exempt a spa pool from the depth marking requirement if the spa pool owner can successfully demonstrate to the department that bather safety is not compromised by the elimination of the markings.

**R392-302-16. Circulation Systems.**

(1) A circulation system, consisting of pumps, piping, filters, water conditioning and disinfection equipment and other related equipment must be provided. The operator shall maintain the normal water line of the pool [~~must be maintained~~]at the overflow rim of the gutter, if an overflow gutter is used, or at the midpoint of the skimmer opening if skimmers are used [~~within 9 inches, 22.86 centimeters, of the deck~~ ]whenever the pool is open for bathing. An exemption to this requirement may be granted by the department if [~~it can be demonstrated~~]the pool operator can demonstrate that the safety of the bathers is not compromised.

(a) [~~Except for spas, wading pools, wave pools, slide pools, vehicle slide pools, and floatation tanks, t~~]The circulation system shall meet the minimum turnover time listed in Table 1. [~~clarify and disinfect the entire volume of pool water in eight hours or less, thus providing a minimum turnover of at least three times in 24 hours.~~]

(b) [~~The turnover rate must be increased to provide a six hour turnover for pools subjected to high bather loads if a review of bacteriological water quality reports by the department or local health department having jurisdiction demonstrates that high bather loads may have contributed to unsatisfactory water samples.~~]If a single pool incorporates more than one the pool types listed in Table 1, either:

(i) the entire pool shall be designed with the shortest turnover time required in Table 1 of all the turnover times for the pool types incorporated into the pool or

(ii) the pool shall be designed with pool-type zones where each zone is provided with the recirculation flow rate that meets the requirements of Table 1.

(c) The Health Officer may require the pool operator to demonstrate that a pool is performing in accordance with the approved design.

([~~e~~]d) The operator shall run circulation equipment [~~must be operated~~ ]continuously except for periods of routine or other necessary maintenance[ ~~and~~]. Pumps with the ability to decrease flow when the pool has little or no use are allowed as long as the same number of turnovers are achieved in 24 hours that would be required using the turnover time listed in Table 1 and the water quality standards of R392-302-27 can be maintained. The circulation system must be designed to permit complete drainage of the system.[ ~~Table 1 further describes these requirements.~~]

([~~d~~]e) Piping must be of non-toxic material, resistant to corrosion and be able to withstand operating pressures.

([~~e~~]f) Plumbing must be identified by a color code or labels.

(2) The water velocity in discharge piping may not exceed 10 feet, 3.05 meters, per second, except for copper pipe where the velocity for piping may not exceed 8 feet, 2.44 meters, per second.

(3) Suction velocity for all piping may not exceed 6 feet, 1.83 meters, per second.

(4) The circulation system must include a strainer to prevent hair, lint, etc., from reaching the pump.

(a) Strainers must be corrosion-resistant with openings not more than 1/8 inch, 3.18 millimeters, in size.

(b) Strainers must provide a free flow capacity of at least four times the area of the pump suction line.

(c) Strainers must be readily accessible for frequent cleaning.

(d) Strainers must be maintained in a clean and sanitary condition.

(e) Each pump strainer must be provided with necessary valves to facilitate cleaning of the system without excessive flooding.

(5) A vacuum-cleaning system must be provided.

(a) If this system is an integral part of the circulation system, connections must be located in the walls of the pool, at least 8 inches, 20.32 centimeters, below the water line. This requirement does not apply to vacuums operated from skimmers.

(b) The number of connections provided must facilitate access to all areas of the pool through hoses less than 50 feet, 15.24 meters, in length.

(6) A rate-of-flow indicator, reading in gallons per minute, must be properly installed and located according to manufacturer recommendations. The indicator must be located in a place and position where it can be easily read.

(7) Pumps must be of adequate capacity to provide the required number of turnovers of pool water as specified in Subsection R392-302-16, Table 1. The pump or pumps must be capable of providing flow adequate for the backwashing of filters. Under normal conditions, the pump or pumps must supply the circulation rate of flow at a dynamic head which includes, in addition to the usual equipment, fitting and friction losses, an additional loss of 15 feet, 4.57 meters, for rapid sand filters, vacuum precoat media[~~diatomite~~] filters or vacuum cartridge filters and 40 feet, 12.19 meters, for pressure precoat media[~~diatomite~~] filters, high rate sand filters or cartridge filters, as well as pool inlet orifice loss of 15 feet, 4.57 meters.

(8) A pool equipped with heaters must meet the requirements for boilers and pressure vessels as required by the State of Utah Boiler and Pressure Vessel Rules, R576-201, and must have a fixed thermometer mounted in the pool circulation line downstream from the heater outlet. The heater must be provided with a heatsink as required by manufacturer's instructions.

(9) The area housing the circulation equipment must be designed with adequate working space so that all equipment may be easily disassembled, removed, and replaced for proper maintenance.

(10) All circulation lines to and from the pool must be regulated with valves in order to control the circulation flow.

(a) All valves must be located where they will be readily and easily accessible for maintenance and removal.

(b) Multiport valves must comply with National Sanitation Foundation NSF/ANSI 50-200[**4**]7, which is incorporated and adopted by reference.

(11) Written operational instructions must be immediately available at the facility at all times.

[~~(12) A wading pool must have a minimum of one turnover per hour and have a separate circulation system.~~

~~(13) A spa pool must have a minimum of one turnover every 30 minutes. The circulation lines of jet systems and other forms of water agitation used in spa and therapy pool must be independent and separate from the circulation-filtration and heating systems.~~

~~(14) Float tank circulation systems, consisting of pumps, piping, filters, and disinfection equipment must be provided which will clarify and disinfect the tank's volume of water in 15 minutes or less. The total volume of water within a float tank must be turned over at least twice between uses by patrons.~~

~~(15) Wave pool circulation-filtration systems must be operated at a minimum of one turnover every six hours.~~

~~(16) Slide and vehicle slide pools must be operated at a minimum of one turnover every hour.~~

~~TABLE 1~~
~~Circulation~~

| ~~Type of Pool~~ | ~~Minimum Number of Wall Inlets~~ | ~~Minimum Number of Skimmers per 3,500 square feet or less~~ | ~~Minimum Turnover Time~~ |
|---|---|---|---|
| ~~1. Swim~~ | ~~1 per 10 feet, 3.05 meters~~ | ~~1 per 500 sq. ft., 46.45 sq. meters.~~ | ~~8 hours~~ |
| ~~2. Swim, high bather load~~ | ~~1 per 10 feet, 3.05 meters~~ | ~~1 per 500 sq. ft., 46.45 sq. meters~~ | ~~6 hours~~ |
| ~~3. Wading pool~~ | ~~1 per 20 feet, 6.10 meters, minimum of 2 equally spaced~~ | ~~1 per 500 sq. ft. 46.45 sq. meters~~ | ~~1 hour~~ |

~~4. Spa One per 20 feet, 6.10 meters 1 per 100 sq. ft., 9.29 sq. meters 30 minutes~~

~~5. Wave 1 per 10 feet, 3.05 meters 1 per 500 sq. ft., 46.45 sq. meters 6 hours~~

~~6. Slide 1 per 10 feet, 3.05 meters 1 per 500 sq. ft., 46.45 sq. meters 1 hour~~

~~7. Vehicle slide 1 per 10 feet, 3.05 meters 1 per 500 sq. ft., 46.45 sq. meters 1 hour~~

~~8. Float tank 1 1 15 minutes with 2 turnovers between patrons~~

~~9. Special Purpose Pool 1 per 10 feet, 3.05 meters 1 per 500 sq. ft., 46.45 sq. meters 1 hour~~

~~]~~

TABLE 1
Circulation

| Pool Type | Min. Number of Wall Inlets | Min. Number of Skimmers per 3,500 square ft. or less | Min. Turnover Time |
|---|---|---|---|
| 1. Swim | 1 per 10 ft., 3.05 m. | 1 per 500 sq. ft., 46.45 sq. m. | 8 hrs. |
| 2. Swim, high bather load | 1 per 10 ft., 3.05 m. | 1 per 500 sq. ft., 46.45 sq. m. | 6 hrs. |
| 3. Wading pool | 1 per 20 ft., 6.10 m. min. of 2 equally spaced | 1 per 500 sq. ft. 46.45 sq. m. | 1 hr. |
| 4. Spa | 1 per 20 ft., 6.10 m. | 1 per 100 sq. ft., 9.29 sq. m. | 0.5 hr. |
| 5. Wave | 1 per 10 ft., 3.05 m. | 1 per 500 sq. ft., 46.45 sq. m. | 6 hrs. |
| 6. Slide | 1 per 10 ft., 3.05 m. | 1 per 500 sq. ft., 46.45 sq. m. | 1 hr. |
| 7. Vehicle slide | 1 per 10 ft., 3.05 m. | 1 per 500 sq. ft., 46.45 sq. m. | 1 hr. |
| 8. Float tank | 1 | 1 | 15 min. with 2 turnovers between patrons |
| 9. Special Purpose Pool | 1 per 10 ft., 3.05 m. | 1 per 500 sq. ft., 46.45 sq. m. | 1 hr. |

([~~17~~]12) Each air induction system installed must comply with the following requirements:

(a) An air induction system must be designed and maintained to prevent any possibility of water back-up that could cause electrical shock hazards.

(b) An air intake may not introduce contaminants such as noxious chemicals, fumes, deck water, dirt, etc. into the pool.

(13) The circulation lines of jet systems and other forms of water agitation must be independent and separate from the circulation-filtration and heating systems.

**R392-302-17. Inlets.**

(1) Inlets for fresh or treated water must be located to produce uniform circulation of water and to facilitate the maintenance of a uniform disinfectant residual throughout the entire pool.

(2) If wall inlets from the circulation system are used, they must be flush with the pool wall and submerged at least 5 feet, 1.52 meters, below the normal water level or at the bottom of the vertical wall surface tangent to the arc forming the transition between the vertical wall and the floor of the pool. Except as provided in Subsections R392-302-[~~17(4) and (5)~~]31(2)(l) and (3)(e), wall inlets must be placed every 10 feet, 3.05 meters, around the pool perimeter.

(a) The department or the local health officer may require floor inlets to be installed in addition to wall inlets if a pool has a width greater than 50 feet, 4.57 meters, to assure thorough chemical distribution. If floor inlets are installed in addition to wall inlets, there must be a minimum of one row of floor inlets centered on the pool width. Individual inlets and rows of inlets shall be spaced a maximum of 15 feet, 4.57 meters, from each other. Floor inlets must be at least 15 feet, 4.57 meters, from a pool wall with wall inlets.

(b) Each wall inlet must be designed as a non-adjustable orifice with sufficient head loss to insure balancing of flow through all inlets. The return loop piping must be sized to provide less than 2.5 feet, 76.20 centimeters, of head loss to the most distant orifice to insure approximately equal flow through all orifices.

(3) If floor inlets from the circulation system are used, they must be flush with the floor. Floor inlets shall be placed at maximum 15 foot, 4.46 meter, intervals. The distance from floor inlets to a pool wall shall not exceed 7.5 feet, 2.29 meters if there are no wall inlets on that wall. Each floor inlet must be designed such that the flow can be adjusted to provide sufficient head loss to insure balancing of flow through all inlets. All floor inlets must be designed such that the flow cannot be adjusted without the use of a special tool to protect against swimmers being able to adjust the flow. The return supply piping must be sized to provide less than 2.5 feet, 76.20 centimeters, of head loss to the most distant orifice to insure approximately equal flow through all orifices.

[~~(4) A wading pool that utilizes wall inlets shall have a minimum of two equally spaced inlets around its perimeter at a minimum of one in each 20 feet, 6.10 meters, or fraction thereof.~~

~~(a) Each wading pool shall have a minimum of two equally spaced wall inlets located to avoid the creation of a vortex in the pool.~~

~~(5) Spa pool filtration system inlets shall be wall-type inlets and the number of inlets shall be based on a minimum of one for each 20 feet, 6.10 meters, or fraction thereof, of pool perimeter.~~

~~]~~([~~6~~]4) The department may grant an exemption to the inlet placement requirements on a case by case basis for inlet designs that can be demonstrated to produce uniform mixing of pool water.

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

(1) [~~Each pool shall have a minimum of two outlets.~~ ]No feature or circulation pump shall be connected to less than two outlets unless the pump is connected to a gravity drain system or the pump is connected to an unblockable drain. All pool outlets shall meet the following design criteria:

(a) The grates or covers of all submerged outlets in pools shall conform to the standards of ASME A112.19.8a-2008.

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

(c) All pool outlets that are connected to a pump through a single common suction line must connect to the common suction line through pipes of equal diameter. The tee feeding to the common suction line from the outlets must be located approximately midway between outlets[~~must connect to pipes of equal diameter~~].

(d) An[~~The~~] outlet system with more than one outlet connected to a pump suction line must not have any valve or other means to cut any individual outlet out of the system.[~~must not allow any outlet to be cut out of the suction line by a valve or other means.~~]

(e) At least one of the circulation outlets shall be located at the deepest point of the pool and must be piped to permit the pool to be completely and easily emptied.

(f) The center of the outlet covers or grates of multiple main drain outlets shall not be spaced more than 30 feet, 9.14 meters, apart nor spaced closer than 3 feet, 0.914 meters, apart.

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

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

~~]~~([~~i~~]h) There must be one main drain outlet for each 30 feet, 9.14 meters, of pool width. The centers of the outlet covers or grates of any outermost main drain outlets must be located within 15 feet, 4.57 meters, of a side wall.

([~~j~~]i) Devices or methods used for draining pools shall prevent overcharging the sanitary sewer.

([~~k~~]j) No operator shall allow the use of a pool with outlet grates or covers that are broken, damaged, missing, or not securely fastened.

(2) Notwithstanding Section R392-302-3, all public pools must comply with Subsections R392-302-18(2) and (3). The pool operator shall not install, allow the installation of, or operate a pool with a drain, drain cover, or drain grate in a position or an application that conflicts with any of the following mandatory markings on the drain cover or grate under the standard required in R392-302-18(1)(a):

(a) whether the drain is for single or multiple drain use;

(b) the maximum flow through the drain cover; and

(c) whether the drain may be installed on a wall or a floor.

(3) The pool operator shall not install, allow the installation of, or operate a pool with a drain cover or drain grate unless it is over or in front of:

(a) the sump that is recommended by the drain cover or grate manufacturer;

(b) a sump specifically designed for that drain by a Registered Design Professional as defined in ASME A112.19.8a-2008; or

(c) a sump that meets the ASME A112.19.8a-2008 standard.

(4) Notwithstanding Section R392-302-3, all public pools must comply with this subsection R392-302-18(4). The pool owner or certified pool operator shall retrofit by December 19, 2009 each pool circulation system on existing pools that do not meet the requirements of subsections R392-302-18(1) through R392-302-18(1)([~~h~~]g) and R392-302-18(2) through (3)(c). The owner or operator shall meet the retrofit requirements of this subsection by any of the following means:

(a) Meet the requirements of R392-302-18(1)(a) and R392-302-18(2) through (3)(c) and install a safety vacuum release system which ceases operation of the pump, reverses the circulation flow, or otherwise provides a vacuum release at a suction outlet when it detects a blockage; that has been tested by an independent third party; and that conforms to ASME standard A112.19.17-2002 or ASTM standard F2387;

(i) To ensure proper operation, the certified pool operator shall inspect and test the vacuum release system at least once a week but no less often than established by the manufacturer. The certified pool operator shall test the vacuum release system in a manner specified by the manufacturer. The certified pool operator shall log all inspections, tests and maintenance and retain the records for a minimum of two years for review by the Department and local health department upon request.

(ii) The vacuum release system shall include a notification system that alerts patrons and the pool operator when the system has inactivated the circulation system. The pool operator shall submit to the local health department for approval the design of the notification systems prior to installation. The system shall activate a continuous clearly audible alarm that can be heard in all areas of the pool or a continuous visible alarm that can be seen in all areas of the pool. An easily readable sign shall be posted next to the sound or visible alarm source. The sign shall state, "DO NOT USE THE POOL IF THIS ALARM IS ACTIVATED." and provide the phone number of the pool operator.

(iii) No operator shall allow the use of a pool that has a single drain with a safety vacuum release system if the safety vacuum release system is not functioning properly.

(b) Install an outlet system that includes no fewer than two suction outlets separated by no less than 3 feet, 0.914 meters, on the horizontal plane as measured from the centers of the drain covers or grates or located on two different planes and connected to pipes of equal diameter. The outlet system shall meet the requirements of R392-302-18(1)(a) through R392-302-18(1)([~~h~~]g) and 18(2) through (3)(c)[~~.~~];

(c) Meet the requirements of R392-302-18(1)(a) and R392-302-18(2) through (3)(c) and installing (or having an existing) gravity drain system[~~, where, rather than drawing directly from the drain, the pump draws from a surge or collector tank wherein the contained water surface is maintained at atmospheric pressure~~];

(d) Install an unblockable drain[~~, of a size and shape that a human body cannot sufficiently block to create a suction entrapment hazard~~] that meets the requirements of R392-302-18(1)(a) and R392-302-18(2) through (3)(c); or

(e) Any other system determined by the federal Consumer Products Safety Commission to be equally effective as, or better than, the systems described in 15 USC 8003 (c)(1)(A)(ii) (I), (III), or (IV) at preventing or eliminating the risk of injury or death associated with pool drainage systems.

**R392-302-19. Overflow Gutters and Skimming Devices.**

(1) A pool having a surface area of over 3,500 square feet, 325.15 square meters, must have overflow gutters. A pool having a surface area equal to or less than 3,500 square feet, 325.15 square meters, must have either overflow gutters or skimmers provided.

(2) Overflow gutters must extend completely around the pool, except at steps, ramps, or recessed ladders. The gutter system must be capable of continuously removing pool water at 100 percent of the maximum flow rate. This system must be connected to the circulation system by means of a surge tank.

(3) Overflow gutters must be designed and constructed in compliance with the following requirements:

(a) The opening into the gutter beneath the coping or grating must be at least 3 inches, 7.62 centimeters, in height with a depth of at least 3 inches, 7.62 centimeters.

(b) Gutters must be designed to prevent entrapment of any part of a bather's body.

(c) The edge must be rounded so it can be used as a handhold and must be no thicker than 2.5 inches, 6.35 centimeters, for the top 2 inches, 5.08 centimeters.

(d) Gutter outlet pipes must be at least 2 inches, 5.08 centimeters, in diameter. The outlet grates must have clear openings and be equal to at least one and one-half times the cross sectional area of the outlet pipe.

(4) Skimmers complying with National Sanitation Foundation NSF/ANSI 50-2007 standards or equivalent are permitted on any pool with a surface area equal to or less than 3,500 square feet, 325.15 square meters. At least one skimming device must be provided for each 500 square feet, 46.45 square meters, of water surface area or fraction thereof. Where two or more skimmers are required, they must be spaced to provide an effective skimming action over the entire surface of the pool.

(5) Skimming devices must be built into the pool wall and must meet the following general specifications:

(a) The piping and other components of a skimmer system must be designed for a total capacity of at least 80 percent of the maximum flow rate of the circulation system.

(b) Skimmers must be designed with a minimum flow rate of 25 gallons, 94.64 liters, per minute and a maximum flow rate of 55 gallons, 208.12 liters, per minute. The local health department may allow a higher maximum flow through a skimmer up to the skimmer's NSF rating if the piping system is designed to accommodate the higher flow rates. Alternatively, skimmers may also be designed with a minimum of 3.125 gallons, 11.83 liters, to 6.875 gallons, 26.02 liters, per lineal inch, 2.54 centimeters, of weir.

(6) Each skimmer weir must be automatically adjustable and must operate freely with continuous action to variations in water level over a range of at least 4 inches, 10.16 centimeters. The weir must operate at all flow variations. Skimmers shall be installed with the normal operating level of the pool water at the midpoint of the skimmer opening or in accordance with the manufacturer's instructions.

(7) An easily removable and cleanable basket or screen through which all overflow water passes, must be provided to trap large solids.

(8) The skimmer must be provided with a system to prevent air-lock in the suction line. The anti-air-lock may be accomplished through the use of an equalizer pipe or a surge tank or through any other arrangement approved by the Department that will assure a sufficient amount of water for pump suction in the event the pool water drops below the weir level. If an equalizer pipe is used, the following requirements must be met:

(a) An equalizer pipe must be sized to meet the capacity requirements for the filter and pump;

(b) An equalizer pipe may not be less than 2 inches, 5.08 centimeters, in diameter and must be designed to control velocity through the pipe in accordance with section R392-302-16(3);

(c) This pipe must be located at least 1 foot, 30.48 centimeters, below a valve or equivalent device that will remain tightly closed under normal operating conditions. In a shallow pool, such as a wading pool, where an equalizer outlet can not be submerged at least one foot below the skimmer valve, the equalizer pipe shall be connected to a separate dedicated outlet with an anti-entrapment outlet cover in the floor of the pool that meets the requirements of ASME A112.19.8[~~A~~]a-2008; and

(d) The equalizer pipe must be protected with a cover or grate that meets the requirements of ASME A112.19.8[~~A~~]a-2008 and is sized to accommodate the design flow requirement of R392-302-19(5).

(9) The operator shall maintain proper operation of all skimmer weirs, float valves, check valves, and baskets. Skimmer baskets shall be maintained in a clean and sanitary condition.

(10) Where skimmers are used, a continuous handhold is required around the entire perimeter of the pool except in areas of the pool that are zero depth and shall be installed not more than 9 inches, 2.86 centimeters, above the normal operating level of the pool. The decking, coping, or other material may be used as the handhold so long as it has rounded edges, is slip-resistant, and does not exceed 3.5 inches, 8.89 centimeters, in thickness. The overhang of the coping, decking, or other material must not exceed 2 inches, 5.08 centimeters, nor be less than 1 inch, 2.54 centimeters beyond the pool wall. An overhang may be up to a maximum of 3 inches to accommodate an automatic pool cover track system.

**R392-302-20. Filtration.**

(1) The filter system must provide for isolation of individual filters for backwashing or other service.

(2) The filtration system must be designed to allow the pool operator to easily observe the discharge backwash water from the filter in order to determine if the filter cells are clean.

(3) A public pool must use either a rapid sand filter, hi-rate sand filter, precoat media[~~diatomaceous earth~~] filter, [~~or~~ ]a cartridge filter or other filter types deemed equivalent by the Department. All filters must comply with the standard NSF/ANSI 50-2007.

(4) [~~The following requirements are applicable to s~~]Gravity and pressure rapid sand filter[~~s~~] requirements[~~, all of which must comply with the standards of the National Sanitation Foundation, NSF/ANSI 50-2004 or is determined to be equivalent by the department~~].

(a) Rapid sand filters must be designed for a filter rate of 3 gallons, 11.36 liters, or less, per minute per square foot, 929 square centimeters, of bed area at time of maximum head loss. The filter bed surface area must be sufficient to meet the design rate of flow required by Section R392-302-16, Table 1, for required turnover.

(b) The filter system must be provided with influent pressure, vacuum, or compound gauges to indicate the condition of the filters. Air-relief valves must be provided at or near the high point of the filter or piping system.

(c) The filter system must be designed with necessary valves and piping to permit:

(i) filtering of all pool water;

(ii) individual backwashing of filters to a sanitary sewer at a minimum rate of 15 gallons, 56.78 liters, per minute per square foot, 929 square centimeters, of filter area;

(iii) isolation of individual filters;

(iv) complete drainage of all parts of the system;

(v) necessary maintenance, operation and inspection in a convenient manner.

(d) Each pressure type filter tank must be provided with an access opening of at least a standard size 11 inch, 27.94 centimeters, by 15 inch, 38.10 centimeters, manhole with a cover.

(5) Hi-rate sand filter[~~s must comply with the standards of the National Sanitation Foundation, NSF/ANSI 50-2004, or be determined to be equivalent by the department~~]requirements.

(a) Hi-rate sand filters must be designed for a filter rate of less than 18 gallons, 68.14 liters, per minute per square foot, 929 square centimeters, of bed area. The filter bed area must be sufficient to meet the design rate of flow required by Section R392-302-16, Table 1, for required turnover. Minimum flow rates must be at least 13 gallons, 49.21 liters, per minute per square foot, 929 square centimeters, of bed area. The minimum flow rate requirement may be reduced to a rate of no less than 10 gallons per minute per square foot of bed area where a multiple filter system is provided, and where the system includes a valve or other means after the filters which is designed to regulate the backwash flow rate and to assure that adequate backwash flow can be achieved through each filter per the filter manufacturer's requirements.

(b) The filter tank and all components must be installed in compliance with the manufacturer's recommendations.

(c) An air-relief valve must be provided at or near the high point of the filter.

(d) The filter system must be provided with an influent pressure gauge to indicate the condition of the filter.

(6) Vacuum or pressure type precoat media [~~Diatomaceous earth~~] filter[~~s,~~] requirements.[~~whether of the vacuum or pressure type, must comply in all respects with the standards of the National Sanitation Foundation, NSF/ANSI 50-2004, or be determined to be equivalent standards by the department. The filtering area must be compatible with the design pump capacity as required by Section R392-302-16, Table 1.~~]

(a) The filtering area must be compatible with the design pump capacity as required by R392-302-16(7). The design rate of filtration may not exceed 2.0 gallons per minute per square foot, 7.57 liters per 929 square centimeters, of effective filtering surface without continuous body feed, nor greater than 2.5 gallons per minute per square foot, 9.46 liters per 929 square centimeters, with continuous body feed.

(b) Where body feed is provided, the feeder device must be accurate to within 10 percent, must be capable of continual feeding within a calibrated range, and must be adjustable from two to six parts per million. The device must feed at the design capacity of the circulation pump.

(c) Where fabric is used, filtering area must be determined on the basis of effective filtering surfaces.

(d) The filter and all component parts must be designed and constructed of materials which will withstand normal continuous use without significant deformation, deterioration, corrosion or wear which could adversely affect filter operations.

(e) If a precoat media filter[~~device~~] is supplied with a potable water supply, then the water must be delivered through an air gap.

(f) The filter plant must be provided with influent pressure, vacuum, or compound gauges to indicate the condition of the filter. In vacuum-type filter installations where the circulating pump is rated at two horsepower or higher, an adjustable high vacuum automatic shut-off device must be provided to prevent damage to the pump. Air-relief valves must be provided at or near the high point of the filter system.

(g) A filter must be designed to facilitate cleaning by one or more of the following methods: backwashing, air-bump-assist backwashing, automatic or manual water spray, or agitation.

(h) The filter system must provide for complete and rapid draining of the filter.

(i) Diatomaceous earth filter backwash water must discharge to the sanitary sewer system through a separation tank. The separation tank must have a visible precautionary statement warning the user not to start up the filter pump without first opening the air relief valve.

(j) Personal protection equipment suitable for preventing inhalation of diatomaceous earth or other filter aids must be provided.

(7) The department may waive National Sanitation Foundation, NSF/ANSI 50-200[~~4~~]7, standards for precoat media[~~diatomaceous earth~~] filters and approve site-built or custom-built vacuum precoat media[~~diatomite~~] filters, if the precoat media[~~diatomaceous earth~~] filter elements are easily accessible for cleaning by hand hosing after each filtering cycle. Site-built or custom-built vacuum precoat media[~~diatomaceous earth~~] filters must comply with all design requirements as specified in Subsection R392-302-20(6). Any design which provides the

equivalent washing effectiveness as determined by the department may be acceptable. Where the department or the local health department determines that a potential cross-connection exits, a hose bib in the vicinity of the filter to facilitate the washing operation must be equipped with a vacuum breaker listed by the International Association of Plumbing and Mechanical Officials, IAPMO, the American Society of Sanitary Engineering, A.S.S.E., or other nationally recognized standard.

(8) Vacuum or pressure type cartridge filter[~~s~~] requirements.[~~must comply with the standards of the National Sanitation Foundation, NSF/ANSI 50-2004, or equivalent standards covering such filters as determined by the department.~~]

(a) Sufficient filter area must be provided to meet the design pump capacity as required by Subsection R392-302-16, Table 1.

(b) The designed rate of filtration may not exceed 0.375 gallons, 1.42 liters, per minute per square foot, 929 square centimeters, of effective filter area.

(c) The filter and all component parts must be designed and constructed of materials which will withstand normal continuous use without significant deformation, deterioration, corrosion or wear which could adversely affect filter operations. The filter element must be constructed of polyester fiber only.

(d) The filter must be fitted with influent and effluent pressure gauges, vacuum, or compound gauges to indicate the condition of the filter. In vacuum type filter installations where the circulating pump is rated at two horsepower or higher, an adjustable high vacuum automatic shut-off must be provided to prevent damage to the pump. Air-relief valves must be provided at or near the high point of the filter system.

(e) Cleaning of cartridge type filters must be accomplished in accordance with the manufacturer's recommendations.

**R392-302-21. Disinfectant and Chemical Feeders.**

(1) A pool must be equipped with a disinfectant feeder or feeders which conform to the National Sanitation Foundation, NSF/ANSI 50-200[~~4~~]7, standards relating to adjusted output rate chemical-feeding equipment and flow through chemical feeding equipment for swimming pools, or be deemed equivalent by the department.

(2) [~~A spa pool must be equipped with oxidation-reduction potential controllers which monitor chemical demands, including pH and disinfectant demands, and regulate the amount of chemicals fed into the pool circulation system. A spa pool constructed and approved prior to September 16, 1996 is exempt from this requirement if it is able to meet bacteriological quality as required in Subsection R392-302-27(10). S~~]Where oxidation-reduction potential controllers are used, the operator shall perform supervisory water testing, calibration checks, inspection and cleaning of sensor probes and chemical injectors[~~must be performed~~] in accordance with the manufacturer's recommendations. If specific manufacturer's recommendations are not made, the operator shall perform inspections, calibration checks, and cleaning of sensor probes[~~must be done~~] at least weekly.

(3) Where compressed chlorine gas is used, the following additional features must be provided:

(a) Chlorine and chlorinating equipment must be located in a secure, well-ventilated enclosure separate from other equipment systems or equipment rooms. Such enclosures may not be below ground level. If an enclosure is a room within a building, it must be provided with vents near the floor which terminate at a location out-of-doors. Enclosures must be located to prevent contamination of air inlets to any buildings and areas used by people. Forced air ventilation capable of providing at least one complete air change per minute, must be provided for enclosures.

(b) The operator shall not keep s[~~S~~]ubstances which are incompatible with chlorine [~~may not be kept~~ ]in the chlorine enclosure.

(c) [~~Chlorine cylinders must be secured to prevent their~~]The operator shall secure chlorine cylinders to prevent them from falling over. The operator shall maintain a[~~A~~]n approved valve stem wrench [~~must be maintained~~ ]on the chlorine cylinder so the supply can be shut off quickly in case of emergency. The operator shall keep v[~~V~~]alve protection hoods and cap nuts [~~must be kept~~ ]in place except when the cylinder is connected.

(d) Doors to chlorine gas and equipment rooms must be labeled DANGER CHLORINE GAS in letters at least 4 inches, 10.16 centimeters, in height and display the United States Department of Transportation placard and I.D. number for chlorine gas.

(e) The chlorinator must be designed so that leaking chlorine gas will be vented to the out-of-doors.

(f) The chlorinator must be a solution feed type, capable of delivering chlorine at its maximum rate without releasing chlorine gas to the atmosphere. Injector water must be furnished from the pool circulation system with necessary water pressure increases supplied by a booster pump. The booster must be interlocked with both the pool circulation pump and with a flow switch on the return line.

(g) Chlorine feed lines may not carry pressurized chlorine gas.

(h) The operator shall keep a[~~A~~]n unbreakable bottle of ammonium hydroxide, of approximately 28 percent solution in water, [~~must be~~ ]readily available for chlorine leak detection.

(i) A self-contained breathing apparatus approved by NIOSH for entering environments that are immediately dangerous to life or health must be available and must have a minimum capacity of fifteen minutes.

(j) The breathing apparatus must be kept in a closed cabinet located outside of the room in which the chlorinator is maintained, and must be accessible without use of a key or lock combination.

(k) The facility operator shall demonstrate to the local health department through training documentation, that all persons who operate, or handle gas chlorine equipment, including the equipment specified in Subsections R392-203-21(3)(h) and (i) are knowledgeable about safety and proper equipment handling practices to protect themselves, staff members, and the public from accidental exposure to chlorine gas.

(l) The facility operator or his designee shall immediately notify the local health department of any inadvertent escape of chlorine gas.

(4) Bactericidal agents, other than chlorine and bromine, and their feeding apparatus may be acceptable if approved by the department. Each bactericidal agent must be registered by the U.S. Environmental Protection Agency for use in swimming pools.

(5) Equipment of the positive displacement type and piping used to apply chemicals to the water must be sized, designed, and constructed of materials which can be cleaned and maintained free from clogging at all times. Materials used for such equipment and piping must be resistant to the effects of the chemicals in use.

(6) All auxiliary chemical feed pumps must be wired electrically to the main circulation pump so that the operation of these pumps is dependent upon the operation of the main circulation pump. If a chemical feed pump has an independent timer, the main circulation pump and chemical feed pump timer must be interlocked.

**R392-302-22. Safety Requirements and Lifesaving Equipment.**

(1) Areas of a[~~A~~] public pool with water depth greater than six feet or a width greater than forty feet and a depth greater than four feet where a lifeguard is required under Subsection R392-302-30(2) shall provide for a minimum number of elevated lifeguard [~~chair(s)~~]stations in accordance with Table 2. Elevated l[~~L~~]ifeguard [~~chair(s)~~]stations shall be located to provide a clear unobstructed view of the pool bottom by lifeguards on duty.

(2) A public pool must have at least one unit of lifesaving equipment. One unit of lifesaving equipment must consist of the following: a Coast Guard-approved ring buoy with an attached rope equal in length to the maximum width of the pool plus 10 feet[~~, American Red Cross-approved rescue tube;~~] and a life pole or shepherd's crook type pole with blunted ends and a minimum length of 12 feet, 3.66 meters. The facility operator may substitute a rescue tube for a ring buoy where lifeguard service is provided. Additional units must be provided at the rate of one for each 2,000 square feet, 185.8 square meters, of surface area or fraction thereof. The operator of a pool that has lifeguard services shall provide at least one backboard designed with straps and head stabilization capability.

(3) A public pool must be equipped with a [~~Utah Department of Health standard 27-unit~~ ]first aid kit which includes a minimum of the following items:

[~~2 Units 1 inch adhesive compress.~~
~~2 Units 2 inch bandage compress.~~
~~2 Units 3 inch bandage compress.~~
~~2 Units 4 inch bandage compress.~~
~~2 Units 3 inch square plain gauze pads.~~
~~2 Units gauze roller bandage.~~
~~]~~2 Units eye dressing packet;[~~-~~
~~1 Unit plain absorbent gauze, .5 sq. yard.~~
~~1 Unit plain absorbent gauze, 24 inches by 72 inches.~~
~~2 Units bandage tape.~~
~~1 Unit butterfly closures, 1 box.~~
~~1 Unit 3 inch ace bandage.~~
~~1 Unit assorted adhesive band-aids, 1 box.~~]

2 Units triangular bandages;[~~-~~]

1 [~~Unit~~]CPR [~~micro~~]shield;[~~-~~]

1 [~~Unit~~ ]scissors;[~~-~~]

1 [~~Unit~~ ]tweezers;[~~-~~]

[~~1~~]6 [~~Unit latex~~]pairs disposable medical exam gloves[~~, 6 pairs per unit.~~]; and

Assorted types and sizes of the following: self adhesive bandages, compresses, roller type bandages and bandage tape.

(a) The [~~27 unit~~ ]operator shall keep the first-aid kit [~~must be kept~~ ]filled, available, and ready for use.

(4) Lifesaving equipment must be mounted in readily accessible, conspicuous places around the pool deck. The operator shall maintain it[~~It must be maintained~~] in good repair and operable condition. The operator and lifeguards shall prevent the removal of lifesaving equipment or use of it[~~Lifesaving equipment may not be used or removed by anyone~~] for any reason other than its intended purpose.

(5) Where no lifeguard service is provided in accordance with Subsection R392-302-30(2), a warning sign must be placed in plain view and shall state: WARNING - NO LIFEGUARD ON DUTY and BATHERS SHOULD NOT SWIM ALONE, with clearly legible letters, at least 4 inches high, 10.16 centimeters. In addition, the sign must also state CHILDREN 14 AND UNDER SHOULD NOT USE POOL WITHOUT RESPONSIBLE ADULT SUPERVISION.

(6) Where lifeguard service is required, the facility must have a readily accessible area designated and equipped for emergency first aid care.

TABLE 2

Safety Equipment and Signs

| | POOLS WITH LIFEGUARD | POOLS WITH NO LIFEGUARD |
|---|---|---|
| [Elevated Chair 1,000 through 2,999 sq. ft., 92.9 through 278.61 sq. meters, of surface area | 1 | None |
| Each additional 2,000 sq. ft., 185.8 sq. meters, of surface area or fraction | 1 additional | None |
| ]Elevated Station | 1 per 2,000 sq. ft., 185 sq. meters, of pool area or fraction | None |
| Backboard | 1 per facility | None |
| Room for Emergency Care | 1 per facility | None |
| Ring Buoy with an attached rope equal in length to the maximum width of the pool plus 10 feet, 3.05 meters | 1 per 2,000 sq. ft., 185 sq. meters, of pool area or fraction | 1 per 2,000 sq. ft., 185 sq. meters, of pool area or fraction |
| Rescue Tube (used as a substitute[ for ring buoys when[ lifeguards are[ present)[ ] ] ] | 1 per 2,000 sq. ft., 185 sq. meters, of pool area or fraction | None |
| Life Pole or Shepherds Crook | 1 per 2,000 sq. ft. 185, sq. meters, of pool area or fraction | 1 per 2,000 sq. ft. 185, sq. meters, of pool area or fraction |
| First Aid Kit | 1 per facility | 1 per facility |

[~~(7) A spa pool is exempt from Section R392-302-22, except for Section R392-302-22(3).~~

~~(8) The water temperature in a spa pool may not exceed 105 degrees Fahrenheit.~~

]

**R392-302-23. Lighting, Ventilation and Electrical Requirements.**

(1) A pool constructed after September 16, 1996 may not be used for night swimming in the absence of underwater lighting. The local health officer may grant an exemption to this if the pool operator demonstrates[~~it can be demonstrated to him~~] that a 6 inch, 15.24 centimeters, diameter black disk on a white background placed in the deepest part of the pool can be clearly observed from the pool deck during night time hours. The local health department shall keep a record of this exemption on file. The pool operator shall keep a record of this exemption on file at the facility.

(2) Where night swimming is permitted and underwater lighting is used, [~~refer to Table 3 for illumination requirements.~~]artificial lighting shall be provided so that all areas of the pool, including the deepest portion of the pool shall be visible. Underwater lights shall provide illumination equivalent to 0.5 watt of incandescent lamp light per square foot, 0.093 square meter, of pool water surface area. The Local Health Officer may waive underwater lighting requirements if overhead lighting provides a minimum of 15 foot candles, 161 lux, illumination over the entire pool surface.[

~~TABLE 3~~

~~Underwater Illumination Requirements~~

| ~~Class~~ | ~~Application~~ | ~~Lamp lumens per square foot of pool surface area- Indoor~~ | ~~Lamp lumens per square foot of pool surface area- Outdoor~~ | ~~Illuminance Uniformity: Maximum to Minimum~~ |
|---|---|---|---|---|
| ~~I~~ | ~~International, Professional, Tournament~~ | ~~100~~ | ~~60~~ | ~~2.0 : 1~~ |
| ~~II~~ | ~~College and Diving~~ | ~~75~~ | ~~50~~ | ~~2.5 : 1~~ |
| ~~III~~ | ~~High School Without Diving~~ | ~~50~~ | ~~30~~ | ~~3.0 : 1~~ |
| ~~IV~~ | ~~Recreational~~ | ~~30~~ | ~~15~~ | ~~4.0 : 1~~ |

]

(3) Where night swimming is permitted and underwater luminaires are used, area lighting must be provided for the deck areas and directed away from the pool surface as practical to reduce glare. The luminance must be at least 5 horizontal foot candles of light per square foot, 929 square centimeters, of deck area, but less than the luminance level for the pool shell.

(4) Electrical wiring must conform with Article 680 of the National Fire Protection Association 70: National Electrical Code 2005 edition which is adopted and incorporated by reference[~~, as adopted by the State~~].

(a) Wiring may not be routed under a pool or within the area extending 5 feet, 1.52 meters, horizontally from the inside wall of the pool as provided in Article 680 of the National Electric Code, without the written approval of the department. The department may deny the installation and use of any electrical appliance, device, or fixture, if its power service is routed under a pool or within the area extending 5 feet, 1.52 meters, horizontally from the inside wall of the pool, except in the following circumstances;

(i) For underwater lighting,

(ii) electrically powered automatic pool shell covers, and

(iii) competitive judging, timing, and recording apparatus.

(5) Buildings containing indoor pools, pool equipment rooms, access spaces, bathhouses, dressing rooms, shower rooms, and toilet spaces must be ventilated in accordance with American Society of Heating, Refrigerating and Air-Conditioning Engineers Standard 62.1-2004, which is incorporated and adopted by reference.

**R392-302-24. Dressing Rooms.**

(1) The operator shall maintain all[~~Al~~] areas and fixtures within dressing rooms in an operable, [~~must be maintained in a~~ ] clean and sanitary condition. Dressing rooms must be equipped with minimum fixtures as required in Subsection R392-302-25(1). The local health department may exempt any bathers from the total number of bathers used to calculate the fixtures required in Subsection R392-302-25(1) who have private use fixtures available within 150 feet, 45.7 meters of the pool.

(2) A separate dressing room with required shower areas must be provided for each sex. The entrances and exits must be designed to break the line of sight into the dressing areas from other locations.

(3) Dressing rooms must be constructed of materials that have smooth, non-slip surfaces, and are impervious to moisture.

(4) Floors must slope to a drain and be constructed to prevent accumulation of water.

(5) Carpeting may not be installed on dressing room floors.

(6) Junctions between walls and floors must be coved.

(7) Partitions between dressing cubicles must be raised at least 10 inches, 25.4 centimeters, above the floor or must be placed on continuous raised masonry or concrete bases at least 4 inches, 10.16 centimeters, high.

(8) Lockers must be set either on solid masonry bases 4 inches, 10.16 centimeters, high or on legs elevating the bottom locker at least 10 inches, 25.4 centimeters, above the floor.

(a) Lockers must have louvers for ventilation.

(9) A dressing room must exit to the shallowest area of the pool. The dressing room exit door and the pool deck must be separated by at least 10 feet, 3.05 meters, and be connected by an easily cleanable walkway.

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

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

TABLE 4

Sanitary Fixture Minimum Requirements

Water Closets

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

Over 400, add one fixture for each additional 200 males or 150 females.
Where urinals are provided, one water closet less than the number specified may be provided for each urinal installed, except the number of water closets in such cases may not be reduced to less than one half of the minimum specified.

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

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

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

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

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

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

**R392-302-26. Visitor and Spectator Areas.**

(1) [~~When a 4 foot, 1.22 meters, fence is not present as described in Subsection R392-302-14(3), then v~~]Visitors, spectators, or animals may not be allowed within 10 feet, 3.05 meters, of the pool[~~ or 5 feet, 1.53 meters, of the pool deck~~]. [~~Animals assisting handicapped individuals~~]Service animals are exempt from this requirement.

(2) Food or drink is prohibited within ten feet, 3.05 meters, of the pool. Beverages must be served in non-breakable containers.

(3) Trash containers must be provided in visitor and spectator areas. The entire area must be kept free of litter and maintained in a clean, sanitary condition.

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

(1) Disinfection Process.[~~A public pool must be continuously disinfected by a process which meets all of the following requirements:~~]

(a) A pool must be continuously disinfected by a process which:

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

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

([e]iii) Is compatible for use with other chemicals normally used in pool water treatment[~~.~~];

([~~d~~]iv) Does not create harmful or deleterious[~~ physiological~~] effects on bathers if used according to manufacturer's specifications[~~.~~]; and

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

(b) The active disinfecting agent used must meet the concentration levels listed in Table 6 for all circumstances, bather loads, and the pH level of the water.

(2) Testing Kits.

(a) An easy to operate pool-side disinfectant testing kit, compatible with the disinfectant in use and accurate to within 0.5 milligrams per liter, must be provided at each pool.

(b) If chlorine is the disinfectant used, it must be tested by the diethyl-p-phenylene diamine method, the leuco crystal violet method, or another test method approved by the Department.

(c) If cyanuric acid or stabilized chlorine is used, a testing kit for cyanuric acid, accurate to within 10.0 milligrams per liter must be provided.

(d) Expired test kit reagents may not be used.

(3) Chemical Quality of Water.

(a) If cyanuric acid is used to stabilize the free residual chlorine, or if one of the chlorinated isocyanurate compounds is used as the disinfecting chemical, the concentration of cyanuric acid in the water must be at least ten milligrams per liter, but may not exceed 100 milligrams per liter.

(b) The difference between the total chlorine and the free chlorine in a pool shall not be greater than 0.5 milligrams per liter. If the concentration of combined residual chlorine is greater than 0.5 milligrams per liter the operator shall breakpoint chlorinate the pool water to reduce the concentration of combined chlorine.

(c) Total dissolved solids shall not exceed 1,500 milligrams per liter over the startup total dissolved solids of the pool water.

(d) Total alkalinity must be within the range from 100 to 125 milligrams per liter for a plaster lined pool, 80 to 150 milligrams per liter for a spa pool lined with plaster, and 125 to 150 milligrams per liter for a pool lined with other approved construction materials.

(e) A calcium hardness of at least 200 milligrams per liter must be maintained.

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

(4) Water Clarity and Temperature.

(a) The water must have sufficient clarity at all times that the drain grates or covers in the deepest part of the pool are readily visible. As an alternative test for clarity, a black disk, six inches in diameter, must be readily visible if placed on a white field in the deepest part of the pool.

(b) Pool water temperatures for general use should be within the range of 82 degrees Fahrenheit, 28 degrees Celsius, to 86 degrees Fahrenheit, 30 degrees Celsius.

(c) The minimum water temperature for a pool is 78 degrees Fahrenheit, 26 degrees Celsius.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(i) contains more than 200 bacteria per milliliter, as determined by the standard 35 degrees Celsius heterotrophic plate count;~~

~~(ii) shows positive test, confirmed test, for coliform organisms in any of the five 10-milliliter portions of a sample; or~~

~~(iii) contains more than 1.0 coliform organisms per 50 ml if the membrane filter test is used; or~~

~~(iv) indicates a positive MMO-MUG type test approved by the EPA.~~

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

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

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

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

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

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

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

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

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

TABLE 5

CHEMICAL VALUES AND FORMULA FOR CALCULATING SATURATION INDEX

[~~Formula for Calculating the Saturation Index: SI = pH + TF + CF + AF - 12.1 where SI means saturation index, TF means temperature factor, CF means calcium factor, ppm means parts per million, deg F means degrees Fahrenheit, and AF means alkalinity factor.~~]The formula for calculating the saturation index is:
SI = pH + TF + CF + AF - TDSF
SI means saturation index
TF means temperature factor
CF means calcium factor
mg/l means milligrams per liter
deg F means degrees Fahrenheit
AF means alkalinity factor
TDSF means total dissolved solids factor.

| Temperature | | Calcium Hardness | | Total Alkalinity | |
|---|---|---|---|---|---|
| [~~deg. F~~ | ~~TF~~ | ~~ppm~~ | ~~CF~~ | ~~ppm~~ | ~~AF~~ |
| ~~32~~ | ~~0.0~~ | ~~5~~ | ~~0.3~~ | ~~5~~ | ~~0.7~~ |
| ~~37~~ | ~~0.1~~ | ~~25~~ | ~~1.0~~ | ~~25~~ | ~~1.4~~ |
| ~~46~~ | ~~0.2~~ | ~~50~~ | ~~1.3~~ | ~~50~~ | ~~1.7~~ |
| ~~53~~ | ~~0.3~~ | ~~75~~ | ~~1.5~~ | ~~75~~ | ~~1.9~~ |
| ~~60~~ | ~~0.4~~ | ~~100~~ | ~~1.6~~ | ~~100~~ | ~~2.0~~ |
| ~~66~~ | ~~0.5~~ | ~~150~~ | ~~1.8~~ | ~~150~~ | ~~2.2~~ |
| ~~76~~ | ~~0.6~~ | ~~200~~ | ~~1.9~~ | ~~200~~ | ~~2.3~~ |
| ~~84~~ | ~~0.7~~ | ~~300~~ | ~~2.1~~ | ~~300~~ | ~~2.5~~ |
| ~~94~~ | ~~0.8~~ | ~~400~~ | ~~2.2~~ | ~~400~~ | ~~2.6~~ |
| ~~105~~ | ~~0.9~~ | ~~800~~ | ~~2.5~~ | ~~800~~ | ~~2.9~~ |
| ~~128~~ | ~~1.0~~ | ~~1,000~~ | ~~2.6~~ | ~~1,000~~ | ~~3.0~~ |
| ]~~deg. F~~ | ~~TF~~ | ~~mg/l~~ | ~~CF~~ | ~~mg/l~~ | ~~AF~~ |
| 32 | 0.0 | 25 | 1.0 | 25 | 1.4 |
| 37 | 0.1 | 50 | 1.3 | 50 | 1.7 |
| 46 | 0.2 | 75 | 1.5 | 75 | 1.9 |
| 53 | 0.3 | 100 | 1.6 | 100 | 2.0 |
| 60 | 0.4 | 125 | 1.7 | 125 | 2.1 |
| 66 | 0.5 | 150 | 1.8 | 150 | 2.2 |
| 76 | 0.6 | 200 | 1.9 | 200 | 2.3 |
| 84 | 0.7 | 250 | 2.0 | 250 | 2.4 |
| 94 | 0.8 | 300 | 2.1 | 300 | 2.5 |
| 105 | 0.9 | 400 | 2.2 | 400 | 2.6 |
| 128 | 1.0 | 800 | 2.5 | 800 | 2.9 |

Total Dissolved Solids

| mg/l | TDSF |
|---|---|
| 0 to 999 | 12.1 |
| 1000 to 1999 | 12.2 |
| 2000 to 2999 | 12.3 |
| 3000 to 3999 | 12.4 |
| 4000 to 4999 | 12,5 |
| 5000 to 5999 | 12,55 |
| 6000 to 6999 | 12.6 |
| 7000 to 7999 | 12.65 |
| each additional 1000, add | .05 |

If the SATURATION INDEX is 0, the water is chemically in balance.
If the INDEX is a minus value, corrosive tendencies are indicated.
If the INDEX is a positive value, scale-forming tendencies are indicated.
EXAMPLE: Assume the following factors:
pH 7.5[~~, T~~]; temperature 80 degrees F, 19 degrees C[~~,~~]; calcium hardness 235; total alkalinity 100; and total dissolved solids 999.[~~ CalciumHardness 235
Total Alkalinity 100
1- pH - 7.5
2- TF - 0.7
3- CF - 1.9
4- AF - 2.0~~]
pH = 7.5
TF = 0.7
CF = 1.9
AF = 2.0
TDSF = 12.1
TOTAL: [~~12.1~~]7.5 + 0.7 + 1.9 + 2.0 - 12.1 = 0.0
This water is balanced.

TABLE 6

DISINFECTANT LEVELS AND CHEMICAL PARAMETERS

| | POOLS | SPAS | SPECIAL PURPOSE |
|---|---|---|---|
| Stabilized Chlorine ([~~parts per million~~]milligrams per liter) | | | |
| pH 7.2 to 7.6 | 2.0(1) | 3.0(1) | 2.0(1) |
| pH 7.7 to 8.0 | 3.0(1) | 5.0(1) | 3.0(1) |
| Non-Stabilized Chlorine ([~~parts per million~~]milligrams per liter) | | | |
| pH 7.2 to 7.6 | 1.0(1) | 2.0(1) | 2.0(1) |
| pH 7.7 to 8.0 | 2.0(1) | 3.0(1) | 3.0(1) |
| Bromine ([~~parts per million~~]milligrams per liter) | 4.0(1) | 4.0(1) | 4.0(1) |
| Iodine ([~~parts per million~~]milligrams per liter) | 1.0(1) | 1.0(1) | 1.0(1) |
| Ultraviolet and Hydrogen Peroxide ([~~parts per million~~]milligrams per liter hydrogen peroxide) | 40.0(1) | 40.0(1) | 40.0(1) |
| pH | 7.2 to 7.8 | 7.2 to 7.8 | 7.2 to 7.8 |
| Total Dissolved Solids (TDS) over start-up TDS ([~~parts per million~~]milligrams per liter) | [~~2~~]1,500 | [~~2~~]1,500 | [~~2~~]1,500 |
| Cyanuric Acid ([~~parts per million~~]milligrams per liter) | 10 to 100 | 10 to 100 | 10 to 100 |
| Maximum Temperature (degrees Fahrenheit) | 10[~~5~~]4 | 10[~~5~~]4 | 10[~~5~~]4 |
| Calcium Hardness ([~~parts per million~~]milligrams per liter as calcium carbonate) | 200(1) | 200(1) | 200(1) |
| Total Alkalinity ([~~parts per million~~)]milligrams per liter as calcium carbonate) | | | |
| Plaster Pools | 100 to 125 | 80 to 150 | 100 to 125 |
| Painted or Fiberglass Pools | 125 to 150 | 80 to 150 | 125 to 150 |
| Saturation Index (see Table 5) | Plus or Minus 0.3 | Plus or Minus 0.3 | Plus or Minus 0.3 |
| Chloramines (combined chlorine residual, [~~parts~~]milligrams [~~per million~~]per liter) | 0.5 | 0.5 | 0.5 |

Note (1): Minimum Value

(5) Pool Water Sampling and Testing.

(a) At the direction of the Local Health Officer, the pool operator or a representative of the local health department shall collect a pool water sample from each public pool at least once per month or at a more frequent interval as determined by the Local health Officer. A seasonal public pool during the off season and any public pool while it is temporarily closed, if the pool is closed for an interval exceeding half of that particular month, are exempt from the requirement for monthly sampling. The operator or local health

department representative shall submit the pool water sample to a laboratory approved under R444-14 to perform total coliform and heterotrophic plate count testing.

(b) The operator or local health department shall have the laboratory analyze the sample for total coliform and heterotrophic plate count using methods allowed under R444-14-4.

(c) If the operator submits the sample as required by local health department, the operator shall require the laboratory to report sample results within five working days to the local health department and operator.

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

(i) Contains more than 200 bacteria per milliliter, as determined by the heterotrophic plate count or

(ii) Shows a positive test for presence of coliform or contains more than 1.0 coliform organisms per 100 milliliters.

(e) Not more than 1 of 5 samples may fail bacteriological quality standards. Failure of any bacteriological water quality sample shall require submission of a second sample within one lab receiving day after the sample report has been received.

**R392-302-28. Cleaning Pools.**

(1) [~~Visible dirt on t~~]The operator shall clean the bottom of the pool [~~must be removed at least once every 24 hours or more frequently~~]as often as needed to keep the pool free of visible dirt.

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

(3) The operator shall keep all pool[~~Pool~~] shell surfaces, handrails, floors, walls, and ceilings of rooms enclosing pools, dressing rooms and equipment rooms[~~, must be kept~~] clean, sanitary, and in good repair.

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

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

(1) [~~Each public pool must be operated by at least one qualified operator as evidenced by a current National Swimming Pool Foundation Certified Pool Operator, CPO, certification; a National Recreation and Parks Association Aquatic Facility Operator, AFO, certification; or an equivalent certification approved by the department.~~]Public pools must be supervised by an operator that is certified or recertified by a program of training and testing that is approved by the Utah Department of Health. The local health department may determine the appropriate numbers of pools any one certified operator may supervise using criteria based on pool compliance history, local considerations of time and distance, and the individual operator's abilities.

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

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

~~]~~(2) The pool operator must keep written records of all information pertinent to the operation, maintenance and sanitation of each pool facility. Records must be available at the facility and be readily accessible. The pool operator must make records available to the department or the local health department having jurisdiction upon their request. These records must include disinfectant residual in the pool water, pH and temperature of the pool water, pool circulation rate, quantities of chemicals and filter aid used, filter head loss, filter washing schedule, cleaning and disinfecting schedule for pool decks and dressing rooms, occurrences of fecal release into the pool water or onto the pool deck, bather load, and other information required by the local health department. The pool operator must keep the records at the facility, for at least two operating seasons.

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

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

(a) [~~T~~]the pool operator [~~shall~~ ]measure and record the level of disinfectant residuals, pH, and pool water temperature [~~at least~~ ]four times a day[~~.~~ ~~I~~] (if oxidation reduction potential technology is used in accordance with this rule, the [~~pool operator~~ ] local health department may reduce the water testing frequency requirement) or[~~to once per day minimum.~~]

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

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

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

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

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

(c) Name and phone number of nearest hospital.

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

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

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

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

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

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

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

(c) Have full authority to enforce all rules of safety and sanitation.

(4) A lifeguard may not have any other duties to perform other than the supervision and safety of bathers while he or she is assigned lifeguarding duties.

(5) Where lifeguard service is required, the number of lifeguards must be sufficient to allow for continuous supervision of all bathers, and surveillance over total pool floor areas.

(6) Lifeguards must be relieved in the rotation of lifeguarding responsibilities at least every [~~15~~]30 minutes with a work break of at least 10 minutes every hour[~~ to maintain mental alertness and to prevent mental and physical fatigue~~].

(7) The facility operator and staff are responsible for the enforcement of the following personal hygiene and behavior rules:

(a) A bather using the facility must take a cleansing shower before entering the pool enclosure. A bather leaving the pool to use the toilet must take a second cleansing shower before returning to the pool enclosure.

(b) The operator and lifeguards shall exclude any[~~A~~] person having a communicable disease transmissible by water [~~must be excluded~~ ]from using the pool[~~public pools~~]. A person having any exposed sub-epidermal tissue, including open blisters, cuts, or other lesions may not use a public pool. A person who has or has had diarrhea within the last two weeks caused by an unknown source or from any communicable or fecal-borne disease may not enter any public pool.

(c) Any child under three years old, any child not toilet trained, and anyone who lacks control of defecation shall wear a water resistant swim diaper and waterproof swimwear. Swim diapers and waterproof swimwear shall have waist and leg openings fitted such that they are in contact with the waist or leg around the entire circumference.

(d) Running, boisterous play, or rough play, except supervised water sports, are prohibited.

(e) Easily readable placards embodying the above rules of personal hygiene and behavior must be conspicuously posted in the pool enclosure and in the dressing rooms and offices.

(f) The lifeguards and operator shall only allow diaper changing[~~Diapers shall be changed only~~] in restrooms or changing stations [~~and shall~~ ]not[~~ be changed~~] at poolside. The person or persons who change the diaper must wash their hands thoroughly with soap before returning to the pool. The diapered person must undergo a cleansing shower before returning to the pool.[

~~(8) A spa pool must have an easily readable caution sign mounted adjacent to the entrance to the spa or hot tub which contains the following information:~~

~~(a) The word "caution" centered at the top of the sign in large, bold letters at least two inches in height.~~

~~(b) Elderly persons and those suffering from heart disease, diabetes or high blood pressure should consult a physician before using the spa pool.~~

~~(c) Persons suffering from a communicable disease transmissible via water may not use the spa pool. Persons using prescription medications should consult a physician before using the spa.~~

~~(d) Individuals under the influence of alcohol or other impairing chemical substances should not use the spa pool.~~

~~(e) Bathers should not use the spa pool alone.~~

~~(f) Pregnant women should not use the spa pool without consulting their physicians.~~

~~(g) Persons should not spend more than 15 minutes in the spa in any one session.~~

~~(h) Children under the age of 14 must be accompanied and supervised by at least one responsible adult over the age of 18 years, when lifeguards are not on duty.~~

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

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

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

**R392-302-31. Special Purpose Pools.**

(1) Special purpose pools must meet [~~the~~]all applicable requirements of all Sections of R392-302 in addition to those of this Section as they apply to special design features and uses of special purpose pools.

(a) Special purpose pool projects require consultation with the local health department having jurisdiction in order that consideration can be given to areas where potential problems may

exist and before deviations from some of the requirements are approved.

(b) The local health officer shall require such measures as deemed necessary to assure the health and safety of special purpose pool patrons.

(2) Spa Pools.

(a) This subsection supercedes R392-302-6(5). A spa pool shell may be a color other than white or light pastel.

(b) Spa pools shall meet the bather load requirement of R392-302-7(1)(a).

(c) A spa pool may not exceed a maximum water depth of 4 feet, 1.22 meters. The department may grant exceptions to the maximum depth requirement for a spa pool designed for special purposes, such as instruction, treatment, or therapy.

(d) This subsection supercedes R392-302-12(1)(f). A spa pool may be equipped with a single entry/exit. A spa pool must be equipped with at least one handrail for each 50 feet, 15.24 meters, of perimeter, or portion thereof, to designate the point of entry and exit. Points of entry and exit must be evenly spaced around the perimeter of the spa pool and afford unobstructed entry and egress.

(e) This subsection supercedes R392-302-12(3)(c). In a spa pool where the bottom step serves as a bench or seat, the bottom riser may be a maximum of 14 inches, 35.56 centimeters.

(f) This subsection supercedes R392-302-13(1). A spa pool must have a continuous, unobstructed deck at least 3 feet, 91.44 centimeters, wide around 25 percent or more of the spa.

(g) This subsection supercedes R392-302-13(5). The department may allow spa decks or steps made of sealed, clear-heart redwood.

(h) A pool deck may be included as part of the spa deck if the pools are separated by a minimum of 5 feet, 1.52 meters. The department may grant an exception to deck and pool separation requirements if a spa pool and another pool are constructed adjacent to each other and share a common pool sidewall which separates the two pools. The common pool side wall may not exceed 12 inches, 30.48 centimeters, in width.

(i) This subsection supersedes R392-302-15. The local health officer may exempt a spa pool from depth marking requirements if the spa pool owner can successfully demonstrate to the local health officer that bather safety is not compromised by the elimination of the markings.

(j) A spa pool must have a minimum of one turnover every 30 minutes.

(k) Spa pool air induction systems shall meet the requirements of R392-302-16(12)(a) through (b). Jet or water agitation systems shall meet the requirements of R392-302-16(13).

(l) Spa pool filtration system inlets shall be wall-type inlets and the number of inlets shall be based on a minimum of one for each 20 feet, 6.10 meters, or fraction thereof, of pool perimeter.

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

(i) Multiple spa outlets shall be spaced at least three feet apart from each other as measured from the centers of the drain covers or grates or a third drain shall be provided and the separation distance between individual outlets shall be at the maximum possible spacing.

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

(n) A spa pool must have a minimum number of surface skimmers based on one skimmer for each 100 square feet, 9.29 square meters of surface area.

(o) A spa pool must be equipped with an oxidation reduction potential controller which monitors chemical demands, including pH and disinfectant demands, and regulates the amount of chemicals fed into the pool circulation system. A spa pool constructed and approved prior to September 16, 1996 is exempt from this requirement if it is able to meet bacteriological quality as required in Subsection R392-302-27(5)(e).

(p) A spa pool is exempt from the Section R392-302-22, except for Section R392-302-22(3).

(q) The maximum water temperature for a spa pool is 104 degrees Fahrenheit, 40 degrees Celsius.

(r) A spa pool shall meet the total alkalinity requirements of R392-302-27(3)(d).

(s) A spa pool must have an easily readable caution sign mounted adjacent to the entrance to the spa or hot tub which contains the following information:

(i) The word "caution" centered at the top of the sign in large, bold letters at least two inches in height.

(ii) Elderly persons and those suffering from heart disease, diabetes or high blood pressure should consult a physician before using the spa pool.

(iii) Persons suffering from a communicable disease transmissible via water may not use the spa pool. Persons using prescription medications should consult a physician before using the spa.

(iv) Individuals under the influence of alcohol or other impairing chemical substances should not use the spa pool.

(v) Bathers should not use the spa pool alone.

(vi) Pregnant women should not use the spa pool without consulting their physicians.

(vii) Persons should not spend more than 15 minutes in the spa in any one session.

(viii) Children under the age of 14 must be accompanied and supervised by at least one responsible adult over the age of 18 years, when lifeguards are not on duty.

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

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

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

(3) Wading Pools.

(a) Wading pools shall be separated from other pools. Wading pools may not share common circulation, filtration, or chemical treatment systems, or walls.

(b) A wading pool may not exceed a maximum water depth of 2 feet, 60.96 centimeters.

(c) The deck of a wading pool may be included as part of adjacent pool decks.

(d) A wading pool must have a minimum of one turnover per hour and have a separate circulation system.

(e) A wading pool that utilizes wall inlets shall have a minimum of two equally spaced inlets around its perimeter at a minimum of one in each 20 feet, 6.10 meters, or fraction thereof.

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

(4) Hydrotherapy Pools.

(a) A hydrotherapy pool shall at all times comply with R392-302-27 Disinfection and Quality of Water, R392-302-28 Cleaning of Pools and R392-302-29 Supervision of Pools unless it is drained cleaned, and sanitized after each individual use.

(b) A hydrotherapy pool is exempt from all other requirements of R392-302, only if use of the hydrotherapy pool is restricted to therapeutic uses and is under the continuous and direct supervision of licensed medical or physiotherapy personnel.

(c) Local health departments may enter and examine the use of hydrotherapy pools to respond to complaints, to assure that use of the pool is being properly supervised, to examine records of testing and sampling, and to take samples to assure that water quality and cleanliness are maintained.

(d) A local health officer may grant an exception to section R392-302-31(4)(a) if the operator of the hydrotherapy pool can demonstrate that the exception will not compromise pool sanitation or the health or safety of users.

(5) Float Tanks.

(a) Float tank circulation systems, consisting of pumps, piping, filters, and disinfection equipment must be provided which will clarify and disinfect the tank's volume of water in 15 minutes or less.

(b) The total volume of water within a float tank must be turned over at least twice between uses by patrons.

(6) Water Slides.

(a) Slide Flumes.

[~~(2) Slide flumes must meet the following requirements for design, materials, construction, and maintenance:~~

~~————~~]([~~a~~]i) The flumes within enclosed slides must be designed to prevent accumulation of hazardous concentrations of toxic chemical fumes.

([~~b~~]ii) All curves, turns, and tunnels within the path of a slide flume must be designed so that body contact with the flume or tunnel does not present an injury hazard. The slide flume must be banked to keep the slider's body safely inside the flume.

([e]iii) The flume must be free of hazards including joints and mechanical attachments separations, splinters, holes, cracks, or abrasive characteristics.

([~~d~~]iv) Wall thickness of flumes must be thick enough so that the continuous and combined action of hydrostatic, dynamic, and static loads and normal environmental deterioration will not cause structural failures which could result in injury. The facility operator or owner shall insure that repairs or patchwork maintains original designed levels of safety and structural integrity. The facility operator or owner shall insure that repairs or patchwork is performed in accordance with manufacturer's guidelines.

([e]v) Multiple-flume slides must have parallel exits or be constructed, so that the projected path of their centerlines do not intersect within a distance of less than 8 feet, 2.44 meters, beyond the point of forward momentum of the heaviest bather permitted by the engineered design.

([~~f~~]vi) A slide flume exit must provide safe entry into the splash pool. Design features for safe entry include a water backup, and a deceleration distance adequate to reduce the slider's exit velocity to a safe speed. Other methods may be acceptable if safe exiting from the slide flume is demonstrated to the department.

(b) Flume Clearance Distances.[~~(3) The design of water slides or vehicle slides must incorporate the following clearances from the flumes:~~]

([~~a~~]i) A distance of at least 4 feet, 1.22 meters, must be provided between the side of a slide flume exit and a splash pool side wall[~~ of at least 4 feet, 1.22 meters~~].

([~~b~~]ii) [~~A~~]The distance between nearest sides of adjacent slide flume exits must be at least 6 feet, 1.83 meters.

([e]iii) A distance between a slide flume exit and the opposite end of the splash pool, excluding steps, must be at least 20 feet, 6.10 meters.

[~~(d) A vehicle slide must maintain the following clearances:~~

~~————~~]([e]iv) [~~A~~]The distance between the side of the vehicle flume exit and the pool side wall [~~of~~]must be at least 6 feet, 1.83 meters.

([~~f~~]v) [~~A~~]The distance between nearest sides of adjacent vehicle slide flume exits [~~of~~]must be at least 8 feet, 2.44 meters.

([~~g~~]vi) [~~A~~]The distance between [~~the~~]a vehicle slide flume exit and the opposite end of the splash pool, excluding steps, must be long enough to provide clear, unobstructed travel for at least 8 feet, 2.44 meters, beyond the point of forward momentum of the heaviest bather permitted by the engineered design.

[~~(4) Vehicles, including toboggans, sleds, inflatable tubes, and mats must be designed and manufactured of materials which will safeguard the safety of riders.~~

~~(5) splash pools must meet the following depth requirements:~~

~~————~~](c) Splash Pool Dimensions.

([~~a~~]i) The depth of a water slide splash pool at the end of a horizontally oriented slide flume exit must be at least 3 feet, 9.14 centimeters, but may be required to be deeper if the pool design incorporates special features that may increase risks to bathers as determined by the department.

([~~b~~]ii) The depth must be maintained in front of the flume for a distance of at least 20 feet, 6.10 meters, from which point the splash pool floor may have a constant slope upward. Slopes may not be designed or constructed steeper than a 1 to 10 ratio.

([e]iii) The operating water depth of a vehicle slide splash pool, at the flume exit, must be a minimum of 3 feet 6 inches, 1.07 meters. This depth must be maintained to the point at which forward travel of the vehicle ends. From the point at which forward travel ends, the floor may have a constant upward slope to the pool exit at a ratio not to exceed 1 to 10.

([~~d~~]iv) The department may waive minimum depth and distance requirements for a splash pool and approve a special exit system if the designer can demonstrate to the department that safe exit from the flume into the splash pool can be assured.

[~~(6) Pump reservoir areas must be accessible for cleaning and maintenance by a 3 foot, 91.44 centimeters, minimum width walkway.~~

~~————]~~([~~7~~]v) A travel path with a minimum width of 4 feet, 1.22 meters, must be provided between the splash pool deck and the top of the flume.

(d) General Water Slide Requirements.

([~~8~~]i) Stairways serving a slide may not retain standing water. Stairways must have non-slip surfaces and shall conform to the requirements of applicable building codes.

(ii) Vehicles, including toboggans, sleds, inflatable tubes, and mats must be designed and manufactured of materials which will safeguard the safety of riders.

(iii) Water slides shall meet the bather load requirements of R392-302-7(1)(d).

(e) Water Slide Circulation Systems.

([~~9~~]i) Splash pool overflow reservoirs must have sufficient volume to contain at least two minutes of flow from the splash pool overflow. Splash pool overflow reservoirs must have enough water to insure that the splash pool will maintain a constant water depth.

([~~10~~]ii) The circulation and filtration equipment of a special purpose pool must be sized to turn over the entire system's water at least once every hour.

([~~11~~]iii) Splash pool overflow reservoirs must circulate water through the water treatment system and return when flume supply service pumps are turned off.

([~~12~~]iv) Flume pumps and motors must be sized, as specified by the flume manufacturer, and must meet all National Sanitation Foundation, NSF/ANSI 50-200[~~4~~]7, Section 6. Centrifugal Pumps, standards for pool pumps.

([~~13~~]v) Flume supply service pumps must have check valves on all suction lines.

([~~14~~]vi) The splash pool and the splash pool overflow reservoir must be designed to prohibit bather entrapment as water flows from the splash pool to the overflow reservoir.

([~~15~~]vii) Perimeter overflow gutter systems must meet the requirements of Section R392-302-19, except that gutters are not required directly under slide flumes or along the weirs which separate splash pools and splash pool overflow reservoirs.

(viii) Pump reservoir areas must be accessible for cleaning and maintenance.

(f) Caution Signs.

([~~16~~]i) A caution sign must be mounted adjacent to the entrance to a water slide that states at least the following warnings:

([~~a~~]A) The word caution centered at the top of the sign in large bold letters at least two inches in height.

([~~b~~]B) No running, standing, kneeling, tumbling, or stopping on flumes or in tunnels.

([~~c~~]C) No head first sliding at any time.

([~~d~~]D) The use of a slide while under the influence of alcohol or impairing drugs is prohibited.

([~~e~~]E) Only one person at a time may travel the slide.

([~~f~~]F) Obey instructions of lifeguards and other staff at all times.

([~~g~~]G) Keep all parts of the body within the flume.

([~~h~~]H) Leave the splash pool promptly after exiting from the slide.

(7) Interactive Water Feature Requirements.

(a) All parts of the interactive water feature shall be designed, constructed, maintained, and operated so there are no slip, fall, or other safety hazards, and shall meet the standards of the construction code adopted by the Utah Legislature under Section 58-56-4. A copy of the construction code is available at the office of the local building inspector.

(b) Interactive water feature nozzles that spray from the ground level shall be flush with the ground, with openings no greater than one-half inch in diameter. Spray devices that extend above ground level shall be clearly visible.

(c) Areas adjacent to the water feature collection zones shall be sloped away at a minimum of two percent from the interactive water feature to deck drains or other approved surface water disposal systems. A continuous deck at least 3 feet, 0.91 meters, wide as measured from the edge of the collection zones must extend completely around the interactive water feature.

(d) Water discharged from all interactive water feature fountain or spray features shall freely drain by gravity flow through a main drain fitting to a below grade sump or collection system which discharges to a collector tank.

(e) All interactive water feature foggers and misters that produce finely atomized mists shall be supplied directly from a potable water source and not from the underground reservoir.

(f) The interactive water feature shall have an automated oxidation reduction potential (ORP) and pH controller installed and in operation whenever the feature is open for use. The controller shall be capable of maintaining disinfection and pH levels within the requirements for special purpose pools listed in Table 6. In addition, an approved secondary disinfection system the meets the requirements of in R392-302-34 (4)(c) through (4)(f)(iii) shall be installed and in operation whenever the feature is open for use.

(g) A sign shall be posted in the immediate vicinity of interactive water feature stating that pets are prohibited.

(h) If the interactive water feature is operated at night, five foot-candles of light shall be provided in the all areas of the water feature. Lighting shall be installed in accordance with manufacturer's specifications and approved for such use by UL or NSF.

(i) Hydraulics.

(i) The interactive water feature filter system shall be capable of filtering and treating the entire water volume of the water feature within 30 minutes.

(ii) The interactive water feature filter system shall draft from the collector tank and return filtered and treated water to the tank via a minimum of 4 equally spaced inlet fittings. Inlet spacing shall also meet the requirements of section R392-302-17.

(iii) The interactive water feature circulation system shall be on a separate loop and not directly interconnected with the interactive water feature pump.

(iv) The suction intake of the interactive water feature pump in the underground reservoir shall be located adjacent to the circulation return line and shall be located to maximize uniform circulation of the tank.

(v) An automated water level controller shall be provided for the interactive water feature, and the drinking water line that supplies the feature shall be protected from any back flow by an air gap.

(vi) The water velocity through the feature nozzles of the interactive water features shall meet manufacturer's specifications and shall not exceed 20 feet per second.

(vii) The minimum size of the interactive water feature sump or collector tank shall be equal to the volume of 3 minutes of

the combined flow of all feature pumps and the filter pump. Access lids or doors shall be provided to the sump and collector tank. The lids or doors shall be sized to allow easy maintenance and shall provide security from unauthorized access. Stairs or a ladder shall be provided as needed to ensure safe entry into the tank for cleaning and inspection.

(viii) The suction intake from the interactive water feature circulation pump shall be located in the lowest portion of the underground reservoir.

(ix) A means of vacuuming and completely draining the interactive water feature tank shall be provided.

(j) An interactive water feature is exempt from:

(i) The wall requirement of section R392-302-10;

(ii) The ladder, recessed step, stair, and handrail requirements of section R392-302-12;

(iii) The fencing and access barrier requirements of section R392-302-14;

(iv) The outlet requirements of section R392-302-18;

(v) The overflow gutter and skimming device requirements of section R392-302-19;

(vi) The safety and lifesaving requirements of section R392-302-22, except that an interactive water feature shall be equipped with a first aid kit as required by subsection R392-302-22(3);

(vii) The dressing room requirements of section R392-302-24 as long toilets, lavatories and changing tables are available within 150 feet; and

(viii) The pool water clarity and temperature requirements of subsection R392-302-27(4).[

~~**R392-302-32. Hydrotherapy Pools.**~~

~~(1) Unless the pool is drained, cleaned and sanitized after each individual use, a hydrotherapy pool shall at all times comply with R392-302-27-Disinfection and Quality of Water, R392-302-28-Cleaning of Pools and R392-302-29-Supervision of Pools.~~

~~(2) A hydrotherapy pool is exempt from all other requirements of R392-302, only if use of the hydrotherapy pool is restricted to therapeutic uses and is under the continuous and direct supervision of licensed medical or physiotherapy personnel.~~

~~(3) Local health departments may enter and examine the use of hydrotherapy pools to respond to complaints, to assure that use of the pool is being properly supervised, to examine records of testing and sampling, and to take samples to assure that water quality and cleanliness are maintained.~~

~~(4) A local health officer may grant an exception to section R392-302-32(1) if the operator of the hydrotherapy pool can demonstrate that the exception will not compromise pool sanitation or the health or safety of users.~~]

**R392-302-3[~~3~~]2. Advisory Committee.**

(1) An advisory committee to the Department regarding regulation of public pools is hereby authorized.

(2) The advisory committee shall be appointed by the Executive Director. Representatives from local health departments, pool engineering, construction or maintenance companies and pool owners may be represented on the committee.

(3) Consistent with R380-1, the Executive Director may seek the advice of the advisory committee regarding interpretation of this rule, the granting of exemptions and related matters.

**R392-302-3[~~4~~]3. Cryptosporidiosis Watches and Warnings.**

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

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

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

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

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

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

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

-Keep pool water out of your mouth.

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

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

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

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

(4)(a) If a cryptosporidium warning has been issued, in addition to the requirements listed in R392-302-34(3), the owner or operator of a public pool shall implement any additional

cryptosporidium countermeasures listed in subsection below sufficient to achieve at least a 99.9 percent destruction or removal of cryptosporidium oocysts twice weekly, except as provided in R392-302-34(4)(b).

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

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

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

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

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

(i) achieve cryptosporidium removal or inactivation to a level at least equivalent to the requirements in R392-302-34(4)(a);

(ii) assure safety for swimmers and pool operators; and

(iii) comply with all other applicable rules and federal regulations.

[~~Table~~]TABLE 7

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

| Chlorine Concentration | Contact Time |
|---|---|
| 1.0 [~~ppm~~]mg/l | 15,300 minutes (255 hours) |
| 10 [~~ppm~~]mg/l | 1,530 minutes (25.5 hours) |
| 20 [~~ppm~~]mg/l | 765 minutes (12.75 hours) |

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

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

**KEY: pools, spas, water slides**
**Date of Enactment or Last Substantive Amendment: [~~October 22, 2009~~]2010**
**Notice of Continuation: March 22, 2007**
**Authorizing, and Implemented or Interpreted Law: 26-15-2**

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# Health, Health Care Financing, Coverage and Reimbursement Policy
# R414-506
## Hospital Provider Assessments

### NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 33871
FILED: 07/29/2010

### RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this new rule is to implement the Hospital Provider Assessment Act in accordance with S.B. 273 of the 2010 General Session of the Utah Legislature. (DAR NOTE: S.B. 273 (2010) is found at Chapter 179, Laws of Utah 2010, and was effective 05/11/2010.)

SUMMARY OF THE RULE OR CHANGE: This new rule outlines hospital provider assessments that include hospital audit procedures, notice requirements, payment requirements, and penalties for non-compliance. It also lists the duties of the Hospital Policy Review Board, specifies rule repeal based on the repeal of the assessment, and specifies that the rule is retrospective to 01/01/2010.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-18-3

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The Department does not anticipate any impact to the General Fund because this change only implements a hospital provider assessment that will provide necessary matching funds.
♦ LOCAL GOVERNMENTS: There is no impact to local governments because they do not fund or provide hospital assessments for the Medicaid program.
♦ SMALL BUSINESSES: Inpatient hospitals may see a total increase of approximately $56,000,000 in revenue.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Inpatient hospitals may see a total increase of approximately $56,000,000 in revenue.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs should be minimal for those participating in this program and insignificant compared to the revenue. Great effort was made to implement a streamlined simple program for providers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Net fiscal impact of program should be positive for providers by increasing reimbursement rates.

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 by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/14/2010

THIS RULE MAY BECOME EFFECTIVE ON: 09/21/2010

AUTHORIZED BY: David Sundwall, Executive Director

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**R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**
**R414-506. Hospital Provider Assessments.**

**R414-506-1. Introduction and Authority.**
This rule defines the scope of hospital provider assessment. This rule is authorized under Title 26, Chapter36a and governs the services allowed under 42 CFR 447.272.

**R414-504-2. Definitions.**
The definitions in Section 26-36a-103 apply to this rule.

**R414-506-3. Audit of Hospitals.**
(1) For hospitals that do not file a Medicare cost report for the time frames outlined in Subsection 26-36a-203(3) and (4), the Department of Health shall audit the hospital's records to determine the correct discharges for the assessment.
(2) Hospitals subject to the assessment shall make their records available for reasonable inspection upon written request from the Department. Failure to make the records available shall be considered non-compliance and subject the hospital to penalties set forth in Section R414-506-5.

**R414-506-4. Change in Hospital Status.**
(1) If a hospital's status changes during any given year and it no longer falls under the definition of a hospital that is subject to the assessment outlined in Section 26-36a-204 or is no longer entitled to Medicaid hospital access payments under Section 26-36a-205, the hospital must submit in writing to the Division of Medicaid and Health Financing (DMHF) a notice of the status change and the effective date of that change. The notice must be mailed to the correct address, as follows, and is only effective upon receipt by the Reimbursement Unit:
Via United States Postal Service:
Utah Department of Health
DMHF, BCRP
Attn: Reimbursement Unit
P.O. Box 143102
Salt Lake City, UT 84114-3102
Via United Parcel Service, Federal Express, and similar:
Utah Department of Health
DMHF, BCRP
Attn: Reimbursement Unit
288 North 1460 West
Salt Lake City, UT 84116-3231
(2) For any period where a hospital is no longer subject to the assessment and notice has been given under Subsection R414-506-4 (1):
(a) the Department shall require payment of the assessment from that hospital for the full quarter in which the status change occurred and the hospital will receive full payment for the applicable quarter; and
(b) the hospital is exempt from future assessment and not eligible for payment under this rule.
(3) Facilities not subject to the assessment or payments outlined in this rule as of January 1, 2010, are not eligible to receive Medicaid hospital inpatient access payments.

**R414-506-5. Penalties and Interest.**
(1) If DMHF audits a hospital's records to determine the correct discharges for the assessment for a hospital that is required

to file a Medicare cost report but failed to provide its Medicare cost report within the timeline required, DMHF shall fine the hospital five percent of its annual calculated assessment. The fine is payable within 30 days of invoice.

(2) If DMHF audits a hospital's records to determine the correct discharges for the assessment because the hospital does not file a Medicare cost report and did not submit its discharges and supporting documentation within the timeline required, DMHF shall fine the hospital five percent of its annual calculated assessment. The fine is payable within 30 days of invoice.

(3) If a hospital fails to fully pay its assessment on or before the due date, DMHF shall fine the hospital five percent of its quarterly calculated assessment. The fine is payable within 30 days of invoice.

(4) On the last day of each quarter, if a hospital has any unpaid assessment or penalty, DMHF shall fine the hospital five percent of the unpaid amount. The fine is payable within 30 days of invoice.

**R414-506-6. State Plan Amendment -- Hospital Policy Review Board.**

(1) The Hospital Policy Review Board is established under Subsection 26-36a-209(3). It shall serve as an advisory board to DMHF.

(2) The Division Director shall act on behalf of the Executive Director of the Utah Department of Health regarding all Hospital Policy Review Board issues.

(3) DMHF shall appoint a non-voting board member who will manage the Hospital Policy Review Board.

(4) Other individuals of DMHF, as appointed by the Division Director, are non-voting ex-officio advisory members of the Hospital Policy Review Board.

(5) The board shall:

(a) review State Plan Amendments or waivers affecting hospital reimbursement between the date of enactment of this chapter and the end of State Fiscal Year 2013; and

(b) review adjustments to the payment rates for State Fiscal Years 2012 and 2013.

(6) If a board member is unable to serve, DMHF shall fill the vacancy using the same method that it originally used to appoint the board position.

**R414-506-7. Rule Repeal.**

The Department shall repeal this rule in conjunction with the repeal of the Hospital Provider Assessment Act outlined in Section 26-36a-208.

**R414-506-8. Retrospective Operation.**

This rule has retrospective operation for taxable years beginning on or after January 1, 2010, as authorized under Section 14 of the 2010 Hospital Provider Assessment Act.

**KEY: Medicaid**
**Date of Enactment or Last Substantive Amendment: 2010**
**Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3; 26-36a**

# Insurance, Administration
# R590-167
# Individual, Small Employer, and Group Health Benefit Plan Rule

## NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 33874
FILED: 08/02/2010

## RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being changed to implement the changes in Utah law as a result of H.B. 294 which was passed during the 2010 Legislative Session. (DAR NOTE: H.B. 294 (2010) is found at Chapter 68, Laws of Utah 2010, and was effective 03/22/2010.)

SUMMARY OF THE RULE OR CHANGE: The changes restrict the number of classes an insurer can use for rating insurance pools; adopts age bands for rating purposes; and disallows an insurer from rating employers based on the number of employees they have.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-2-201 and Section 31A-30-106.1

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: Health insurers will have to electronically refile their rating manuals with the department for their individual and small employer health benefit plans. This will increase the department's work load to be borne by existing employees. There will be no increased cost or savings to the state or the department's budget.

♦ LOCAL GOVERNMENTS: This rule only deals with the relationship between the department and its health insurance licensees. It will not affect local governments.

♦ SMALL BUSINESSES: Small employers may see a change in their health insurance premium rates based on the average age of their employees and the group's size.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Employees or employers may see a change in the cost of their health insurance premium due to the the average age of their employees and the group's size.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Insurers will have to use actuarial services if they don't have their own actuary, to reprice their small employer health insurance policies.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Employer groups may see a change in their health insurance premiums based upon the the average age of their employees and the groups size.

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 by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/14/2010

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 09/01/2010 11:00 AM, State Office Building, 450 N State Street, Room 3112, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 09/21/2010

AUTHORIZED BY: Jilene Whitby, Information Specialist

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**R590. Insurance, Administration.**
**R590-167. Individual, Small Employer, and Group Health Benefit Plan Rule.**
**R590-167-1. Authority, Purpose and Scope.**

(1) Authority.

This rule is intended to implement the provisions of Chapter 30, Title 31A, the Individual and Small Employer Health Insurance Act, referred to in this rule as the Act. The commissioner's authority to enforce this rule is provided under Subsections 31A-2-201(3)(a), [~~and~~]31A-30-106(1)(k), and 31A-30-106.1(10).

(2) Purpose.

(a) The general purposes of the Act and this rule are:

(i) to enhance the availability of health insurance coverage to individuals and small employers;

(ii) to regulate and prevent abuse in insurer rating practices and establish limits on differences in rates between health benefit plans;

(iii) to ensure renewability of coverage;

(iv) to establish limitations on the use of preexisting condition exclusions;

(v) to prescribe the manner in which case characteristics may be used;

(vi) to regulate the use and establishment of separate classes of business;

(vii) to provide for portability; and

(viii)[~~(vi)~~] to improve the overall fairness and efficiency of the individual and small employer health insurance market.

(b) The Act and this rule are intended to:

(i) promote broader spreading of risk in the individual and small employer marketplace; and

(ii) regulate rating practices for all health benefit plans sold to individuals and small employers, whether sold directly or through associations or other groupings of individuals and small employers.

(3) Scope.

Carriers that provide health benefit plans to individuals and small employers are intended to be subject to all of the provisions of this rule.

**R590-167-2. Definitions.**

In addition to the definitions in Sections 31A-1-301 and 31A-30-103, the following definitions shall apply for the purposes of this rule:

(1) "Associate member of an employee organization" means any individual who participates in an employee benefit plan, as defined in 29 U.S.C. Section 1002(1), that is a multi-employer plan, as defined in 29 U.S.C. Section 1002(37A), other than the following:

(a) an individual, or the beneficiary of such individual, who is employed by a participating employer within a bargaining unit covered by at least one of the collective bargaining agreements under or pursuant to which the employee benefit plan is established or maintained; or

(b) an individual who is a present or former employee, or a beneficiary of such employee, of the sponsoring employee organization, of an employer who is or was a party to at least one of the collective bargaining agreements under or pursuant to which the employee benefit plan is established or maintained, or of the employee benefit plan, or of a related plan.

(2) "Change in a Rating Factor" means the cumulative change with respect to such factor considered over a 12 month period. If a covered carrier changes rating factors with respect to more than one case characteristic in a 12 month period, the carrier shall consider the cumulative effect of all such changes in applying the 10% test.

(3) "Change in Rating Method" means:

(a) a change in the number of case characteristics used by a covered carrier to determine premium rates for health benefit plans in a class of business;

(b) a change in the manner or procedures by which insureds are assigned into categories for the purpose of applying a case characteristic to determine premium rates for health benefit plans in a class of business;

(c) a change in the method of allocating expenses among health benefit plans in a class of business; or

(d) a change in a rating factor with respect to any case characteristic if the change would produce a change in premium for any individual or small employer that exceeds 10%.

(4) "New entrant" means an eligible employee, or the dependent of an eligible employee, who becomes part of an employer group after the initial period for enrollment in a health benefit plan.

(5) "Risk characteristic" means a rating factor other than a case characteristic allowed under Section 31A-30-106 or 31A-30-106.1, as applicable, including exact age, gender, family composition, the health status, claims experience, duration of coverage, or any similar characteristic related to the demographics or the health status or experience of an individual, a small employer or of any member of a small employer.

(6) "Risk load" means the percentage above the applicable base premium rate that is charged by a covered carrier to a covered insured to reflect the risk characteristics of the covered individuals.

**R590-167-3. Applicability and Scope.**

(1) This rule shall apply to any health benefit plan which:

(a) meets one or more of the conditions set forth in Subsections 31A-30-104(1) and (2);

(b) provides coverage to a covered insured located in this state, without regard to whether the policy or certificate was issued in this state; and

(c) is in effect on or after the effective date of this rule.

(2)(a) If a small employer has employees in more than one state, the provisions of the Act and this rule shall apply to a health benefit plan issued to the small employer if:

(i) the majority of eligible employees of such small employer are employed in this state; or

(ii) if no state contains a majority of the eligible employees of the small employer, the primary business location of the small employer is in this state.

(b) In determining whether the laws of this state or another state apply to a health benefit plan issued to a small employer described in Subsection R590-167-3(2)(a), the provisions of the subsection shall be applied as of the date the health benefit plan was issued to the small employer for the period that the health benefit plan remains in effect.

(c) If a health benefit plan is subject to the Act and this rule, the provisions of the Act and this rule shall apply to all individuals covered under the health benefit plan, whether they reside in this state or in another state.

(3) A carrier that is not operating as a covered carrier in this state may not become subject to the provisions of the Act and this rule solely because an individual or a small employer that was issued a health benefit plan in another state by that carrier moves to this state.

**R590-167-4. Establishment of Classes of Business.**

(1) A covered carrier that establishes more than one class of business pursuant to the provisions of Section 31A-30-105 shall maintain on file for inspection by the commissioner the following information with respect to each class of business so established:

(a) a description of each criterion employed by the carrier, or any of its agents, for determining membership in the class of business;

(b) a statement describing the justification for establishing the class as a separate class of business and documentation that the establishment of the class of business is intended to reflect substantial differences in expected claims experience or administrative costs related to the reasons set forth in Section 31A-30-105; and

(c) a statement disclosing which, if any, health benefit plans are currently available for purchase in the class and any significant limitations related to the purchase of such plans.

(2) For policies issued or renewed on or after January 1, 2011, a covered carrier may not establish a separate class of business without a prior approval of the commissioner.

(3) In order to receive an approval to establish a separate class of business under Subsection R590-167-4(2) the covered carrier shall submit a filing in compliance with R590-220 that includes:

(a) a written request to establish a separate class of business;

(b) description of all criteria employed by the carrier, or any of its agents, for determining membership in the class of business;

(c) disclosure of which health benefit plans will be available for purchase in the class and any significant limitations related to the purchase of such plans; and

(d) demonstrate to the satisfaction of the commissioner that the use of a separate class of business is necessary due to substantial differences in either expected claims experience or administrative costs related to the following reasons:

(i) the covered carrier uses more than one type of system for the marketing and sale of health benefit plans to covered insureds;

(ii) the covered carrier has acquired a class of business from another covered carrier;

(iii) the covered carrier provides coverage to one or more association groups;

(e) a list of previously approved classes of business; and

(f) for each class of business used prior to January 1, 2010, a certification that the continued use of the class of business is necessary due to conditions specified in Subsection R590-167-4(3)(d).

(4) A carrier may not directly or indirectly use group size as a criterion for establishing eligibility for a class of business.

**R590-167-5. Transition for Assumptions of Business from Another Carrier.**

(1)(a) A covered carrier may not transfer or assume the entire insurance obligation, risk, or both of a health benefit plan covering an individual or a small employer in this state unless:

(i) the transaction has been approved by the commissioner of the state of domicile of the assuming carrier;

(ii) the transaction has been approved by the commissioner of the state of domicile of the ceding carrier;[ ~~and~~]

(iii) the carrier has provided notice to the commissioner of this state at least 60 days prior to the date of the proposed assumption. The notice shall contain the information specified in Subsection R590-167-5(1)(c)(i) for the health benefit plans covering individuals and small employers in this state; and

(iv) the transaction otherwise meets the requirements of this section.

(b) A carrier domiciled in this state that proposes to assume or cede the entire insurance obligation , risk, or both of one or more health benefit plans covering covered individuals from or to another carrier shall make a filing for approval with the commissioner at least 60 days prior to the date of the proposed assumption. The commissioner may approve the transaction, if the

commissioner finds that the transaction is in the best interests of the individuals insured under the health benefit plans to be transferred and is consistent with the purposes of the Act and this rule. The commissioner may not approve the transaction until at least 30 days after the date of the filing; except that, if the carrier is in hazardous financial condition, the commissioner may approve the transaction as soon as the commissioner deems reasonable after the filing.

(c)(i) The filing required under Subsection R590-167-5(1)(b) shall:

(A) describe the class of business, including any eligibility requirements, of the ceding carrier from which the health benefit plans will be ceded;

(B) describe whether the assuming carrier[~~will~~]intends to maintain the assumed health benefit plans as a separate class of business, pursuant to Subsection R590-167-5(3), or will incorporate them into an existing class of business, pursuant to Subsection R590-167-5(4). If the assumed health benefit plans will be incorporated into an existing class of business, the filing shall describe the class of business of the assuming carrier into which the health benefit plans will be incorporated;

(C) describe whether the health benefit plans being assumed are currently available for purchase by individuals or small employers;

(D) describe the potential effect of the assumption, if any, on the benefits provided by the health benefit plans to be assumed;

(E) describe the potential effect of the assumption, if any, on the premiums for the health benefit plans to be assumed;

(F) describe any other potential material effects of the assumption on the coverage provided to the individuals and small employers covered by the health benefit plans to be assumed; and

(G) include any other information required by the commissioner.

(ii) A covered carrier required to make a filing under Subsection R590-167-5(1)(b) shall also make an informational filing with the commissioner of each state in which there are individual or small employer health benefit plans that would be included in the transaction. The informational filing to each state shall be made concurrently with the filing made under Subsection R590-167-5(1)(b) and shall include at least the information specified in Subsection [~~R590-167-5(1)(b)(ii)~~]R590-167-5(1)(c)(i) for the individual or small employer health benefit plans in that state.

(d)[~~A covered carrier may not transfer or assume the entire insurance obligation and/or risk of a health benefit plan covering an individual or a small employer in this state unless it complies with the following provisions:~~

~~(i)~~ [~~The carrier has provided notice to the commissioner at least 60 days prior to the date of the proposed assumption. The notice shall contain the information specified in Subsection R590-167-5(1)(c) for the health benefit plans covering individuals and small employers in this state.~~

~~(ii)~~ ]If the assumption of a class of business would result in the assuming covered carrier being out of compliance with the limitations related to premium rates contained in Section 31A-30-106 or 31A-30-106.1, the assuming carrier shall make a filing with the commissioner pursuant to Subsection 31A-30-105(3) seeking an extended transition period.

(ii)[~~(iii)~~] An assuming carrier seeking an extended transition period may not complete the assumption of health benefit plans covering individuals or small employers in this state unless the commissioner grants the extended transition period requested pursuant to Subsection R590-167-5(1)(d)(i)[~~(ii)~~].

(iii)[~~(iv)~~] Unless a different period is approved by the commissioner, an extended transition period shall, with respect to an assumed class of business, be for no more than 15 months and, with respect to each individual small employer, shall last only until the anniversary date of such employer's coverage, except that the period with respect to an individual small employer may be extended beyond its first anniversary date for a period of up to 12 months if the anniversary date occurs within three months of the date of assumption of the class of business.

(2)(a) Except as provided in Subsection R590-167-5(2)(b), a covered carrier may not cede or assume the entire insurance obligation, risk, or both for an individual or small employer health benefit plan unless the transaction includes the ceding to the assuming carrier of the entire class of business which includes such health benefit plan.

(b) A covered carrier may cede less than an entire class of business to an assuming carrier if:

(i) one or more individuals or small employers in the class have exercised their right under contract or state law to reject, either directly or by implication, the ceding of their health benefit plans to another carrier. In that instance, the transaction shall include each health benefit plan in the class of business except those health benefit plans for which an individual or a small employer has rejected the proposed cession; or

(ii) after a written request from the transferring carrier, the commissioner determines that the transfer of less than the entire class of business is in the best interests of the individual or small employers insured in that class of business.

(3) [~~Except as provided in Subsection R590-167-5(4), a~~ ]A covered carrier that assumes one or more health benefit plans from another carrier [~~shall~~]and intends to maintain such health benefit plans as a separate class of business, shall submit a filing requesting approval to establish a separate class of business as provided in Subsection R590-167-4(3). The assumption shall not take place prior to approval of the request by the commissioner.

(4) A covered carrier that assumes one or more health benefit plans from another carrier and intends to incorporate them into an existing class of business[~~may exceed the limitation contained in Section 31A-30-105 relating to the maximum number of classes of business a carrier may establish, due solely to such assumption for a period of up to 15 months after the date of the assumption, provided that the carrier~~] shall [~~complies~~]comply with the following provisions:

(a) Upon assumption of the health benefit plans, such health benefit plans shall be maintained temporarily as a separate class of business, deemed to be approved by the commissioner under Subsection 31A-30-105(2)(b)(ii). A covered carrier may exceed the limitation contained in Subsection 31A-30-105(4) due solely to such assumption.

(b) During the 15-month period following the assumption, each of the assumed individual or small employer health benefit plans shall be transferred by the assuming covered carrier into a single class of business operated by the assuming covered carrier. The assuming covered carrier shall select the class of business into which the assumed health benefit plans will be transferred in a manner such that the transfer results in the least

possible change to the benefits and rating method of the assumed health benefit plans.

(c)[~~(b)~~] The transfers authorized in Subsection R590-167-5(4)(b)[~~(a)~~] shall occur with respect to each individual or small employer on the anniversary date of the individual's or small employer's coverage, except that the period with respect to an individual small employer may be extended beyond its first anniversary date for a period of up to 12 months if the anniversary date occurs within three months of the date of assumption of the class of business.

(d)[~~(c)~~] A covered carrier making a transfer pursuant to Subsection R590-167-5(4)(b)[~~(a)~~] may alter the benefits of the assumed health benefit plans to conform to the benefits currently offered by the carrier in the class of business into which the health benefit plans have been transferred.

(e)[~~(d)~~] The premium rate for an assumed individual or small employer health benefit plan may not be modified by the assuming covered carrier until the health benefit plan is transferred pursuant to Subsection R590-167-5(4)(b)[~~(a)~~]. Upon transfer, the assuming covered carrier shall calculate a new premium rate for the health benefit plan from the rate manual established for the class of business into which the health benefit plan is transferred. In making such calculation, the risk load applied to the health benefit plan shall be no higher than the risk load applicable to such health benefit plan prior to the assumption.

(f)[~~(e)~~] During the 15 month period provided in this subsection, the transfer of individual or small employer health benefit plans from the assumed class of business in accordance with this subsection may not be considered a violation of [~~the first sentence of Subsection 31A-30-106(2)~~]Subsections 31A-30-106(3)(a) or 31A-30-106.1(8)(a), as applicable.

(5) An assuming carrier may not apply eligibility requirements, including minimum participation and contribution requirements, with respect to an assumed health benefit plan, or with respect to any health benefit plan subsequently offered to an individual or small employer covered by such an assumed health benefit plan, that are more stringent than the requirements applicable to such health benefit plan prior to the assumption.

(6) The commissioner may approve a longer period of transition under Subsection R590-167-5(4) upon application of a covered carrier. The application shall be made within 60 days after the date of assumption of the class of business and shall clearly state the justification for a longer transition period.

(7) Nothing in this section or in the Act is intended to:

(a) reduce or diminish any legal or contractual obligation or requirement, including any obligation provided in Section 31A-14-213, of the ceding or assuming carrier related to the transaction;

(b) authorize a carrier that is not admitted to transact the business of insurance in this state to offer or insure health benefit plans in this state; or

(c) reduce or diminish the protections related to an assumption reinsurance transaction provided in Section 31A-14-213 or otherwise provided by law.

**R590-167-6. Restrictions Relating to Premium Rates.**

(1) A covered carrier shall develop a separate rate manual for each class of business. Base premium rates and new business premium rates charged to individuals and small employers by the covered carrier shall be computed solely from the applicable rate manual developed pursuant to this subsection. To the extent that a portion of the premium rates charged by a covered carrier is based on the carrier's discretion, the manual shall specify the criteria and factors considered by the carrier in exercising such discretion.

(2)(a) A covered carrier may not modify the rating method, as defined in Section R590-167-2, used in the rate manual for a class of business until the change has been approved as provided in this subsection. The commissioner may approve a change to a rating method if the commissioner finds that the change is reasonable, actuarially appropriate, and consistent with the purposes of the Act and this rule.

(b) A carrier may modify the rating method for a class of business only after filing an actuarial certification. The filing shall clearly request approval for a change in rating method and contain at least the following information:

(i) the reasons the change in rating method is being requested;

(ii) a complete description of each of the proposed modifications to the rating method;

(iii) a description of how the change in rating method would affect the premium rates currently charged to individuals and small employers in the class of business, including an estimate from a qualified actuary of the number of groups or individuals, and a description of the types of groups or individuals, whose premium rates may change by more than 10% due to the proposed change in rating method, not including general increases in premium rates applicable to all individuals and small employers in a health benefit plan;

(iv) a certification from a qualified actuary that the new rating method would be based on objective and credible data and would be actuarially sound and appropriate; and

(v) a certification from a qualified actuary that the proposed change in rating method would not produce premium rates for individuals and small employers that would be in violation of Sections 31A-30-106, 31A-30-106.1, and 31A-30-106.5.

(3) The rate manual developed pursuant to Subsections 31A-30-106(4), 31A-30-106.1(9), and R590-167-6(1) shall specify the case characteristics and rate factors to be applied by the covered carrier in establishing premium rates for the class of business.

(a) A covered carrier offering a health benefit plan to an individual may not use case characteristics other than those specified in Subsection 31A-30-106(1)(f)[~~(h)~~] without the prior approval of the commissioner. A covered carrier seeking such an approval shall make a filing with the commissioner for a change in rating method under Subsection R590-167-6(2)(b). Tobacco use is not an allowable case characteristic. Tobacco use is an allowable risk characteristic when utilized in compliance with [~~Section~~]Subsection 31A-30-106(1)(b).

(b)(i) A covered carrier offering or renewing a health benefit plan to a small employer on or after January 1, 2011, may not use case characteristics other than:

(A) age band, as specified in Subsection 31A-30-106.1(6)(a), applicable to the age of the employee;

(B) geographic area; and

(C) family composition tier, as specified in 31A-30-106.1(6)(c).

(ii) For any geographic area used as a case characteristic by a covered carrier, base rates for any small employer health

benefit plan offered or renewed on or after January 1, 2011 shall be subject to the following limitations:

(A) for any age band, the ratio of the base rate for the family tier to the base rate for employee only tier, shall not exceed 5; and

(B) for any family composition tier, the ratio of the base rate for any age band to the base rate for "less than 20" age band, may not exceed the following:

(I) 1.22 for age band 20 to 24;

(II) 1.34 for age band 25 to 29;

(III) 1.46 for age band 30 to 34;

(IV) 1.60 for age band 35 to 39;

(V) 1.80 for age band 40 to 44;

(VI) 2.20 for age band 45 to 49;

(VII) 2.80 for age band 50 to 54;

(VIII) 3.60 for age band 55 to 59;

(IX) 4.25 for age band 60 to 64; and

(X) 5.00 for age band over 65.

(c) A covered carrier shall use the same case characteristics in establishing premium rates for each health benefit plan in a class of business and shall apply them in the same manner in establishing premium rates for each such health benefit plan. Case characteristics shall be applied without regard to the risk characteristics of an individual or small employer.

(d)[~~(c)~~] The rate manual shall clearly illustrate the relationship among the base premium rates charged for each health benefit plan in the class of business. If the new business premium rate is different than the base premium rate for a health benefit plan, the rate manual shall illustrate the difference.

(e)[~~(d)~~] Differences among base premium rates for health benefit plans shall be based solely on the reasonable and objective differences in the design and benefits of the health benefit plans and may not be based in any way on the nature of an individual or small employer that choose or are expected to choose a particular health benefit plan. A covered carrier shall apply case characteristics and rate factors within a class of business in a manner that assures that premium differences among health benefit plans for identical individuals or small employers vary only due to reasonable and objective differences in the design and benefits of the health benefit plans and are not due to the nature of the individuals or small employers that choose or are expected to choose a particular health benefit plan.

(f)[~~(e)~~] The rate manual shall provide for premium rates to be developed in a two step process.

(i) In the first step, a base premium rate shall be developed for the individual or small employer without regard to any risk characteristics. The base rates shall reflect only the allowable case characteristics. The base rates for an individual health benefit plan offered to two individuals with the same case characteristics shall be identical. The base rates for a small employer health benefit plan offered to two small employer groups with the same case characteristics shall be identical.

(ii) In the second step, the resulting base premium rate may be adjusted by a risk load, subject to the provisions of Sections 31A-30-106, 31A-30-106.1, and 31A-30-106.5, to reflect the risk characteristics.

(g)[~~(f)~~] Each rate manual developed pursuant to Subsection R590-167-6(1) shall be maintained by the carrier for a period of six years. Updates and changes to the manual shall be maintained with the manual.

(4)(a) Except as provided in Subsection R590-167-6(4)(b), a premium charged to an individual or small employer for a health benefit plan may not include a separate application fee, underwriting fee, or any other separate fee or charge.

(b) A carrier may charge a separate fee with respect to an individual or small employer health benefit plan, but only one fee with respect to such plan, provided the fee is no more than $5 per month per individual or employee and is applied in a uniform manner to each health benefit plan in a class of business.

(5) [~~If group size is used as a case characteristic by a covered carrier, the highest rate factor associated with a group size classification may not exceed the lowest rate factor associated with such a classification by more than 20% without prior approval of the commissioner.~~

~~(6)~~ ]The restrictions related to changes in premium rates in Subsections 31A-30-106(1)(c) [~~—~~]and [~~31A-30-106(1)(f)~~]31A-30-106.1(3) shall be applied as follows:

(a) A covered carrier shall revise its rate manual each rating period to reflect changes in base premium rates and changes in new business premium rates.

(b)(i) If, for any health benefit plan with respect to any rating period, the percentage change in the new business premium rate is less than or the same as the percentage change in the base premium rate, the change in the new business premium rate shall be deemed to be the change in the base premium rate for the purposes of Subsections 31A-30-106(1)(c) [~~—~~]and [~~31A-30-106(1)(f)~~]31A-30-106.1(3).

(ii) If, for any health benefit plan with respect to any rating period, the percentage change in the new business premium rate exceeds the percentage change in the base premium rate, the health benefit plan shall be considered a health benefit plan into which the covered carrier is no longer enrolling new individuals or small employers for the purposes of Subsections 31A-30-106(1)(c) and [~~31A-30-106(1)(f)~~]31A-30-106.1(3).

(c) If, for any rating period, the change in the new business premium rate for a health benefit plan differs from the change in the new business premium rate for any other health benefit plan in the same class of business by more than 20%, the carrier shall make a filing with the commissioner containing a complete explanation of how the respective changes in new business premium rates were established and the reason for the difference. The filing shall be made 30 days before the beginning of the rating period.

(d) A covered carrier shall keep on file for a period of at least six years the calculations used to determine the change in base premium rates and new business premium rates for each health benefit plan for each rating period.

[~~(7)~~](6)(a) Except as provided in Subsection [~~R590-167-6(7)(b)~~]R590-167-6(6)(b), a change in premium rate for an individual or small employer shall produce a revised premium rate that is no more than the following:

(i) the base premium rate for the individual or small employer, as shown in the rate manual as revised for the rating period, multiplied by:

(ii) one plus the sum of:

(iii) the risk load applicable to the individual or small employer during the previous rating period; and

(iv) 15% prorated for periods of less than one year.

(b) In the case of a health benefit plan into which a covered carrier is no longer enrolling new individuals or small employers, a change in premium rate for an individual or small employer shall produce a revised premium rate that is no more than the following:

(i) the base premium rate for the individual or small employer, given its present composition and as shown in the rate manual in effect for the individual or small employer at the beginning of the previous rating period, multiplied by:

(ii) one plus the lesser of:

(A) the change in the base rate; or

(B) the percentage change in the new business premium for the most similar health benefit plan into which the covered carrier is enrolling new individuals or small employers, multiplied by:

(iii) one plus the sum of:

(A) the risk load applicable to the individual or small employer during the previous rating period; and

(B) 15%, prorated for periods of less than one year.

(c) Notwithstanding the provisions of Subsections [~~R590-167-6(7)(a) and (b)~~]R590-167-6(6)(a) and (b), a change in premium rate for an individual or small employer may not produce a revised premium rate that would exceed the limitations on rates provided in [~~Subsection~~]Subsections 31A-30-106(1)(b) and 31A-30-106.1(2)(b).

[~~(8)~~](7)(a) A representative of a Taft Hartley trust, including a carrier upon the written request of such a trust, may file in writing with the commissioner a request for the waiver of application of the provisions of [~~Subsection 31A-30-106(1)~~]Subsections 31A-30-106.1(1) through 31A-30-106.1(6) with respect to such trust.

(b) A request made under Subsection [~~R590-167-6(8)(a)~~]R590-167-6(7)(a) shall identify the provisions for which the trust is seeking the waiver and shall describe, with respect to each provision, the extent to which application of such provision would:

(i) adversely affect the participants and beneficiaries of the trust; and

(ii) require modifications to one or more of the collective bargaining agreements under or pursuant to which the trust was or is established or maintained.

(c) A waiver granted under Subsection 31A-30-104(5) [ ]shall not apply to an individual who participates in the trust because the individual is an associate member of an employee organization or the beneficiary of such an individual.

**R590-167-7. Application to Reenter State.**

(1) A carrier that has been prohibited from writing coverage for individuals or small employers in this state pursuant to Subsection 31A-30-107.3 may not resume offering health benefit plans to individuals or small employers in this state until the carrier has made a petition to the commissioner to be reinstated as a covered carrier and the petition has been approved by the commissioner. In reviewing a petition, the commissioner may ask for such information and assurances as the commissioner finds reasonable and appropriate.

(2) In the case of a covered carrier doing business in only one established geographic service area of the state, if the covered carrier elects to nonrenew a health benefit plan under Subsections 31A-30-107(3)(e) or 107.1(3)(e), the covered carrier shall be prohibited from offering health benefit plans to individuals or small employers in any part of the service area for a period of five years. In addition, the covered carrier may not offer health benefit plans to individuals or small employers in any other geographic area of the state without the prior approval of the commissioner. In considering whether to grant approval, the commissioner may ask for such information and assurances as the commissioner finds reasonable and appropriate.

**R590-167-8. Qualifying Previous Coverage.**

A covered carrier shall not deny, exclude, or limit benefits because of a preexisting condition without first ascertaining the existence and source of previous coverage. The covered carrier shall have the responsibility to contact the source of such previous coverage to resolve any questions about the benefits or limitations related to such previous coverage. Previous coverage may be coverage that continues after the issuance of the new health benefit plan. The previous carrier shall fully cooperate in furnishing the needed information required by this section.

**R590-167-9. Restrictive Riders.**

A restrictive rider, endorsement or other provision that violates the provisions of Subsection 31A-30-107.5 may not remain in force. A covered carrier shall immediately provide written notice to those individuals or small employers whose coverage will be changed pursuant to this section.

**R590-167-10. Status of Carriers as Covered Carriers.**

(1) Prior to marketing a health benefit plan, a carrier shall make a filing with the commissioner indicating whether the carrier intends to operate as a covered carrier in this state under the terms of the Act and of this rule. Such filing will indicate if the covered carrier intends to market to individuals, small employers or both, and be signed by an officer of the company.

(2) Except as provided by Subsection R590-167-10(3), a carrier may not offer health benefit plans to individuals, small employers, or continue to provide coverage under health benefit plans previously issued to individuals or small employers in this state, unless the filing provided pursuant to Subsection R590-167-10(1) indicates that the carrier intends to operate as a covered carrier in this state.

(3) If a carrier does not intend to operate as a covered carrier in this state, the carrier may continue to provide coverage under health benefit plans previously issued to individuals and small employers in this state only if the carrier complies with the following provisions:

(a) the carrier complies with the requirements of the Act with respect to each of the health benefit plans previously issued to individuals and small employers by the carrier;

(b) the carrier provides coverage to each new entrant to a health benefit plan previously issued to an individual or small employer by the carrier;

(c) the carrier complies with the requirements of [~~Section~~]Sections 31A-30-106 and 31A-30-106.1 and this rule as they apply to individuals and small employers whose coverage has been terminated by the carrier and to individuals and small employers whose coverage has been limited or restricted by the carrier; and

(d) the carrier files a letter of intent indicating the carrier does not intend to operate as a covered carrier in this state and will maintain the business in compliance with the Act and this rule.

(4) If the filing made pursuant Subsection R590-167-10(3)[-] indicates that a carrier does not intend to operate as a covered carrier in this state, the carrier shall be precluded from operating as a covered carrier in this state, except as provided for in Subsection R590-167-10(3), for a period of five years from the date of the filing. Upon a written request from such a carrier, the commissioner may reduce the period provided for in the previous sentence if the commissioner finds that permitting the carrier to operate as a covered carrier would be in the best interests of the individuals and small employers in the state.

**R590-167-11. Actuarial Certification and Additional Filing Requirements.**

(1) Actuarial Certification.

(a) An actuarial certification shall be filed annually and meet the requirements of [~~Section~~]Subsections 31A-30-106(4)(b) or 31A-30-106.1(9)(b), or both, as applicable, and the following:

(i) the actuarial certification shall be a written statement that meets the requirements of Title 31A Chapter 30, R590-167, and the applicable standards of practice as promulgated by the Actuarial Standards Board;

(ii) the actuary must state that he or she meets the qualifications of Subsection 31A-30-103(1);

(iii) the actuarial certification shall contain the following statement: "I, (name), certify that (name of covered carrier) [-]is in compliance with the provisions of Title 31A Chapter 30, and R590-167, based upon the examination of (name of covered carrier), including review of the appropriate records and of the actuarial assumptions and methods utilized by (name of covered carrier) [–]in establishing premium rates for applicable health benefit plans;" and

(iv) the actuarial certification shall list and describe each written demonstration used by the actuary to establish compliance with Title 31A Chapter 30 and R590-167.

(b) The actuarial certification shall be filed no later than April 1 of each year.

(2) Rating Manual.

(a) For every health benefit plan subject to the Act and this rule, the carrier shall file with the commissioner a copy of the applicable rating manual, for both new business and renewal rates, which includes:

(i) signed certification by an actuary that to the best of the actuary's knowledge and judgment the rate filing is in compliance with the applicable laws and rules of the State of Utah;

(ii) a complete and detailed description of how the final premium, including any fees, is calculated from the rating manual;

(iii) all changes and updates, which includes a complete and detailed description of how the final premium, including any fees, is calculated from the rating manual; and

(iv) a description of the carrier's classes of business as described in Subsection R590-167-4(1).

(b) The rate manual shall be filed:

(i) with an initial product filing; or

(ii) within 30 days prior to use for an existing health benefit plan.

(3) Index Premium Rates.

(a) A small employer carrier shall file annually the index premium rate information required by Section 31A-29-117(2). The report shall include:

(i) the small employer index premium rate as of January 1 of the previous year;

(ii) the small employer index premium rate as of January 1 of the current year; and

(iii) the average percentage change in the index premium rate as of January 1 of the current and preceding year.

(b) The information described in Subsection R590-167-11(3)(a) [-]shall be filed no later than February 1 of each year.

**R590-167-12. Records.**

Records submitted to the commissioner under this rule shall be maintained by the commissioner as protected records under Title 63G, Chapter 2, Government Records Access and Management Act.

**R590-167-13. Penalties.**

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

**R590-167-14. Enforcement Date.**

The commissioner will begin enforcing the revised provisions of this rule January 1, 2011[~~45 days from the rule's effective date~~].

**R590-167-15. Severability.**

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

**KEY: health insurance**
**Date of Enactment or Last Substantive Amendment: [~~May 20, 2008~~]2010**
**Notice of Continuation: September 10, 2009**
**Authorizing, and Implemented or Interpreted Law: 31A-30-106**

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# Public Safety, Fire Marshal
# R710-8
## Day Care Rules

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 33870
FILED: 07/29/2010

## RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the rule change is to update an incorporated reference, remove an incorporated reference, add a definition, and several code reference changes.

SUMMARY OF THE RULE OR CHANGE: In Subsection R710-8-1(1.1), it is proposed to update the currently adopted 2006 International Fire Code to the 2009 International Fire Code as enacted and adopted by the Utah State Legislature in the State Fire Code Adoption Act. In Subsection R710-8-1(1.2), it is proposed to remove the currently adopted 2006 International Building Code since it is now adopted in the State Construction Code Adoption Act by the Utah State Legislature. In Subsection R710-8-2(2.9), it is proposed to add the definition of NFPA which means National Fire Protection Association. Throughout the rest of the rule, there are several code reference changes to made the code references consistent with the 2009 International Fire Code.

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

MATERIALS INCORPORATED BY REFERENCES:

- Updates International Fire Code, published by International Code Council, Inc., 03/01/2009
- Removes International Building Code, published by International Code Council, Inc., 03/01/2006

ANTICIPATED COST OR SAVINGS TO:

- THE STATE BUDGET: There would be an aggregate anticipated cost of approximately $1,000 to purchase the needed copies of the 2009 International Fire Code for state usage.
- LOCAL GOVERNMENTS: The aggregate anticipated cost to local government would be approximately $68 per International Fire Code. There would be approximately 200 fire departments that would purchase a 2009 International Fire Code totaling approximately $14,000. Some might purchase more than one book but that number is unknown.
- SMALL BUSINESSES: There would be no aggregate anticipated cost or savings to small businesses because small businesses rarely, if ever, purchase a regulatory code.
- PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There would be no other persons affected by these proposed amendments. Those affected would be those in government that would use the code.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The only compliance cost for affected persons would be the purchase of the newly adopted 2009 International Fire Code which would be by those in government that would be using the standard as a regulatory reference.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on business for the implementation of these proposed rule changes. The only fiscal impact would be to government agencies to purchase the newly adopted 2009 International Fire Code.

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

PUBLIC SAFETY
FIRE 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 by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at bhallada@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/14/2010

THIS RULE MAY BECOME EFFECTIVE ON: 09/21/2010

AUTHORIZED BY: Ron Morris, Utah State Fire Marshal

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**R710. Public Safety, Fire Marshal.**
**R710-8. Day Care Rules.**
**R710-8-1. Adoption of Codes.**

Pursuant to Title 53, Chapter 7, Section 204, Utah Code Annotated 1953, the Utah Fire Prevention Board adopts minimum standards for the prevention of fire and for the protection of life and property against fire and panic in any day care facility or children's home.[~~The requirements listed in this rule text are in addition to the requirements listed in R710-9, Rules Pursuant to the Fire Prevention Law.~~]

There is further adopted as part of these rules the following codes which are incorporated by reference:

1.1 International Fire Code (IFC), [~~2006~~]2009 edition, excluding appendices, as published by the International Code Council, Inc. (ICC), [~~except as amended by provisions listed in R710-8-3, et seq~~]and as enacted and amended by the Utah State Legislature in Sections 102 and 201 of the State Fire Code Adoption Act.

[~~1.2 International Building Code (IBC), 2006 edition, as published by the International Code Council, Inc. (ICC), and as adopted under the authority of the Uniform Building Standards Act, Title 58, Chapter 56, Section 4, Utah Code Annotated 1953 and the Utah Administrative Code, R156-56-701.~~

~~————~~ ]1.[~~3~~]2 Copies of the above codes are on file in the Office of Administrative Rules and the Office of the State Fire Marshal.

**R710-8-2. Definitions.**

2.1 "Authority Having Jurisdiction (AHJ)" means the State Fire Marshal, his duly authorized deputies, or the local fire enforcement authority.

2.2 "Board" means Utah Fire Prevention Board.

2.3 "Client" means a child or adult receiving care from other than a parent, guardian, relative by blood, marriage or adoption.

2.4 "Day Care Facility" means any building or structure occupied by clients of any age who receive custodial care for less than 24 hours by individuals other than parents, guardians, relatives by blood, marriage or adoption.

2.5 "Day Care Center" means providing care for five or more clients in a place other than the home of the person cared for. This would also include Child Care Centers or Hourly Child Care Centers licensed by the Department of Health.

2.6 "Family Day Care" means providing care for clients listed in the following two groups:

2.6.1 Type 1 - Services provided for five to eight clients in a home. This would also include a home that is certified by the Department of Health as Residential Certificate Child Care or licensed as Family Child Care.

2.6.2 Type 2 - Services provided for nine to sixteen clients in a home with sufficient staffing. This would also include a home that is licensed by the Department of Health as Family Child Care.

[~~2.7 "IBC" means International Building Code.~~

]2.[~~8~~]7 "ICC" means International Code Council, Inc.

2.[~~9~~]8 "IFC" means International Fire Code.

2.9 "NFPA" means National Fire Protection Association.

2.10 "SFM" means State Fire Marshal.

**R710-8-3. Amendments and Additions.**

3.1 Exemptions

3.1.1 Places of religious worship shall not be required to meet the provisions of this rule in order to operate a nursery or day care while religious services are being held in the building.

3.2 Fire Code Amendments

3.2.1 IFC, Chapter 2, Section 202, General Definitions, Occupancy Classification, Educational Group E, Day Care, is amended as follows: On line three delete the word "five" and replace it with the word "four".

3.2.2 IFC, Chapter 2, Section 202, General Definitions, Occupancy Classification, Institutional Group I-4, day care facilities, Child care facility, is amended as follows: On line three delete the word "five" and replace it with the word "four". Also on line two of the Exception delete the word "five" and replace it with the word "four".

3.2.3 IFC, Chapter [~~9~~]46, Section[~~s 907.3.1.1~~] 4603.6.1 Group E is deleted.

3.3 Family Day Care

3.3.1 Family Day Care units shall have on each floor occupied by clients, two separate means of egress, arranged so that if one is blocked the other will be available.

3.3.2 Family Day Care units that are located in the basement or on the second story shall be provided with two means of egress, one of which shall discharge directly to the outside.

3.3.2.1 Type 1 Family Day Care units, located on the ground level or in a basement, may use an emergency escape or rescue window as allowed in IFC, Chapter 10, Section [~~1026~~]1029.

3.3.3 Family Day Care units shall not be located above the second story.

3.3.4 In Family Day Care units, clients under the age of two shall not be located above or below the first story.

3.3.4.1 Clients under the age of two may be housed above or below the first story where there is at least one exit that leads directly to the outside and complies with IFC, Section 1009 or Section 1010 or Section [~~1023~~]1026.

3.3.5 Family Day Care units located in split entry/split level type homes in which stairs to the lower level and upper level are equal or nearly equal, may have clients housed on both levels when approved by the AHJ.

3.3.6 Family Day Care units shall have a portable fire extinguisher on each level occupied by clients, which shall have a classification of not less than 2A:10BC, and shall be serviced in accordance with NFPA, Standard 10, Standard for Portable Fire Extinguishers.

3.3.7 Family Day Care units shall have single station smoke detectors in good operating condition on each level occupied by clients. Battery operated smoke detectors shall be permitted if the facility demonstrates testing, maintenance, and battery replacement to insure continued operation of the smoke detectors.

3.3.8 Rooms in Family Day Care units that are provided for clients to sleep or nap, shall have at least one window or door approved for emergency escape.

3.3.9 Fire drills shall be conducted in Family Day Care units monthly and shall include the complete evacuation from the building of all clients and staff. At least quarterly, in Type I Family Day Care units, the fire drill shall include the actual evacuation using the escape or rescue window, if one is used as a substitute for one of the required means of egress.

3.4 Day Care Centers

3.4.1 Day Care Centers shall comply with either I-4 requirements or E requirements of the IBC, whichever is applicable for the type of Day Care Center.

3.4.2 [~~Fire Drills~~]Emergency Evacuation Drills shall be completed as required in IFC, Chapter 4, Section 405.

3.5 Requirements for all Day Care

3.5.1 Heating equipment in spaces occupied by children shall be provided with partitions, screens, or other means to protect children from hot surfaces and open flames.

3.5.2 A fire escape plan shall be completed and posted in a conspicuous place. All staff shall be trained on the fire escape plan and procedure.

3.5.3 The AHJ shall insure at each inspection there is sufficient adult staff to client ratios to allow safe and orderly evacuation in case of fire.

3.5.3.1 For Day Care involving children, the AHJ may use the care giver to children ratios established in rule by the Department of Health as an established guideline.

**R710-8-4. Repeal of Conflicting Board Actions.**

All former Board actions, or parts thereof, conflicting or inconsistent with the provisions of this Board action or of the codes hereby adopted, are hereby repealed.

**R710-8-5. Validity.**

The Board hereby declares that should any section, paragraph, sentence, or word of this Board action, or of the codes hereby adopted, be declared invalid, it is the intent of the Board that it would have passed all other portions of this action, independent of the elimination of any portion as may be declared invalid.

**R710-8-6. Conflicts.**

In the event where separate requirements pertain to the same situation in the same code, or between different codes as adopted, the more restrictive requirement shall govern, as determined by the AHJ.

**R710-8-7. Adjudicative Proceedings.**

7.1 All adjudicative proceedings performed by the agency shall proceed informally as set forth herein and as authorized by UCA, Sections 63G-4-202 and 63G-4-203.

7.2 A person may request a hearing on a decision made by the AHJ by filing an appeal to the Board within 20 days after receiving the final decision from the AHJ.

7.3 All adjudicative proceedings, other than criminal prosecution, taken by the AHJ to enforce the Utah Fire Prevention and Safety Act, and these rules, shall commence in accordance with UCA, Section 63G-4-201.

7.4 The Board shall act as the hearing authority, and shall convene as an appeals board after timely notice to all parties involved.

7.5 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 63G-4-203.

7.6 Reconsideration of the Board's decision may be requested in writing within 20 days of the date of the decision pursuant to UCA, Section 63G-4-302.

7.7 Judicial review of all final Board actions resulting from informal adjudicative proceedings is available pursuant to UCA, Section 63G-4-402.

**KEY: fire prevention, day care**
**Date of Enactment or Last Substantive Amendment: [~~January 9, 2007~~]September 21, 2010**
**Notice of Continuation: March 16, 2007**
**Authorizing, and Implemented or Interpreted Law: 53-7-204**

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# Public Safety, Fire Marshal
# R710-11
# Fire Alarm System Inspecting and Testing

## NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 33880
FILED: 08/02/2010

## RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the rule change is to update an incorporated reference. It is proposed to update the 2006 edition of the International Fire Code to the 2009 edition as enacted and amended by the Utah State Legislature in the State Fire Code Adoption Act.

SUMMARY OF THE RULE OR CHANGE: It is proposed in Subsection R710-11-1(1.2) that the 2006 edition of the International Fire Code be updated to the 2009 edition and be incorporated by reference. In Subsection R710-11-6(6.4), it is proposed to rewrite the section on the requirement to place fire alarms in existing buildings by deleting the entire section and rewriting what is proposed in the rule. This is following the same exact adoption by the Utah State Legislature in the State Fire Code Adoption Act.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-7-225.6

MATERIALS INCORPORATED BY REFERENCES:

♦ Updates International Fire Code, published by International Code Council, Inc., 03/01/2010

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: There would be an aggregate anticipated cost of approximately $1,000 to purchase the needed copies of the 2009 International Fire Code for state usage.

♦ LOCAL GOVERNMENTS: The aggregate anticipated cost to local government would be approximately $68 per International Fire Code. There would be approximately 200 fire departments that would purchase a 2009 International Fire Code totaling approximately $14,000. Some might purchase more than one book but that number is unknown.

♦ SMALL BUSINESSES: There would be no aggregate anticipated cost or savings to small businesses because small businesses rarely, if ever, purchase a regulatory code.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There would be no other persons affected by these proposed amendments. Those affected would be those in government that would use the code.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The only compliance cost for affected persons would be the purchase of the newly adopted 2009 International Fire Code which would be by those in government that would be using the standard as a regulatory reference.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on business for the implementation of these proposed rule changes. The only fiscal impact would be to government agencies to purchase the newly adopted 2009 International Fire Code.

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

PUBLIC SAFETY
FIRE 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 by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at bhallada@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/14/2010

THIS RULE MAY BECOME EFFECTIVE ON: 09/21/2010

AUTHORIZED BY: Ron Morris, Utah State Fire Marshal

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**R710. Public Safety, Fire Marshal.**
**R710-11. Fire Alarm System Inspecting and Testing.**
**R710-11-1. Adoption, Title, Purpose, and Prohibitions.**

Pursuant to Section 53-7-204, Utah Code Annotated 1953, the Utah Fire Prevention Board adopts minimum rules to provide regulation to those who inspect and test fire alarm systems.

There is adopted as part of these rules the following codes which are incorporated by reference:

1.1 National Fire Protection Association (NFPA), Standard 72, National Fire Alarm Code, 2007 edition, except as amended by provisions listed in R710-11-6, et seq.

1.2 International Fire Code (IFC), [~~2006~~]2009 edition, excluding appendices, as published by the International Code Council, Inc. (ICC), [~~except as amended by provisions listed in R710-11-6, et seq~~]and as enacted and amended by the Utah State Legislature in Sections 102 and 201 of the State Fire Code Adoption Act.

1.3 A copy of the above-mentioned standard is on file in the Office of Administrative Rules and the State Fire Marshal's Office.

**R710-11-2. Definitions.**

2.1 "Annual" means a period of one year or 365 calendar days.

2.2 "Authority Having Jurisdiction (AHJ) means the State Fire Marshal, his duly authorized deputies, the local fire enforcement authority, and building officials.

2.3 "Board" means Utah Fire Prevention Board.

2.4 "Certificates of Registration" means a written document issued by the SFM to any person for the purpose of granting permission to such person to perform any act or acts for which authorization is required.

2.5 "Inspecting and Testing" means work completed to ensure that the system operates properly as required in Section 1.2 of these rules.

2.6 "IFC" means International Fire Code.

2.[~~6~~]7 "NFPA" means National Fire Protection Association.

2.[~~7~~]8 "NICET" means National Institute for Certification in Engineering Technologies.

2.[~~8~~]9 "SFM" means State Fire Marshal or authorized deputy.

2.[~~9~~]10 "Service" means inspecting and testing of fire alarm systems.

2.[~~10~~]11 "UCA" means Utah State Code Annotated 1953 as amended.

**R710-11-6. Amendments and Additions.**

6.1 Service.

At the time of service, all servicing shall be done in accordance with the adopted NFPA standard, adopted statutes, and these rules.

6.2 Frequency.

Fire alarm systems shall be inspected annually by a person holding the appropriate certificate of registration as required in Section 3.1 of these rules.

6.3 New Systems.

Newly installed fire alarm systems are exempt from the annual testing requirement required in Section 6.2 of these rules, for one year from the approval date of the initial installation acceptance testing.

6.4 [~~Retroactive Installation of Automatic Fire Alarm Systems.~~]International Fire Code

6.4.1 IFC, Chapter 9, Section[~~s 907.3.1.1, 907.3.1.2, 907.3.1.3, 907.3.1.4, 907.3.1.5, 907.3.1.6, 907.3.1.7, and 907.3.1.8 are deleted~~] 907.3, Where required in existing buildings and structures, is deleted and rewritten as follows: "An approved automatic fire detection system shall be installed in accordance with the provisions of this code and NFPA 72. Devices, combinations of devices, appliances, and equipment shall be approved. The automatic fire detectors shall be smoke detectors, except an approved alternative type of detector shall be installed in spaces such as boiler rooms where, during normal operation, products of combustion are present in sufficient quantity to actuate a smoke detector".

6.4.2 IFC, Chapter 46, Section 4603.6, Fire alarm systems, are deleted and rewritten as follows: "An approved automatic fire detection system shall be installed in accordance with the provisions of this code and NFPA 72. Devices, combinations of devices, appliances, and equipment shall be approved. The automatic fire detectors shall be smoke detectors, except an approved alternative type of detector shall be installed in spaces such as boiler rooms where, during normal operation, products of combustion are present in sufficient quantity to actuate a smoke detector".

6.5 National Fire Protection Association

6.5.1 NFPA 72, Chapter 2, Section 2.2 is amended to add the following NFPA standard: NFPA 20, Standard for the Installation of Stationary Pumps for Fire Protection, 2007 edition.

6.5.2 NFPA 72, Chapter 4, Section 4.3.2.2(2) is deleted and rewritten as follows: National Institute of Certification in Engineering Technologies (NICET) fire alarm level II certified personnel.

6.5.3 NFPA 72, Chapter 4, Section 4.3.3(2) is deleted and rewritten as follows: National Institute of Certification in Engineering Technologies (NICET) fire alarm level II certified personnel.

6.5.4 NFPA 72, Chapter 4, Section 4.4.3.7.2 is amended to add the following sentence: When approved by the AHJ, the audible notification appliances may be deactivated during the

investigation mode to prevent unauthorized reentry into the building.

6.5.5 NFPA 72, Chapter 4, Section 4.4.5 is deleted and rewritten as follows: Automatic smoke detection shall be provided at the location of each fire alarm control unit(s), notification appliance circuit power extenders, and supervising station transmitting equipment to provide notification of fire at the location.

6.5.5.1 NFPA 72, Chapter 4, Section 4.4.5, Exception No. 1: When ambient conditions prohibit installation of automatic smoke detection, automatic heat detection shall be permitted.

6.5.6 NFPA 72, Chapter 4, Section 4.5.2.1, RECORD OF COMPLETION, or equivalent form approved by the SFM shall be used as the accepted forms for testing and inspecting fire alarm systems.

6.5.7 NFPA 72, Chapter 6, Section 6.8.5.9 is amended to add the following section: 6.8.5.9.3 Automatic fire pumps shall be supervised in accordance with NFPA 20, Standard for the Installation of Stationary Pumps for Fire Protection, and the AHJ.

6.5.8 NFPA 72, Chapter 7, Section 7.4.1.2 is amended as follows: On line three delete "110dBA" and replace it with "120dBA".

6.5.9 NFPA 72, Chapter 8, Section 8.3.4.7 is amended as follows: On line two, after the word "notified" insert the words "without delay".

6.5.10 NFPA 72, Chapter 10, Section 10.2.2.5.1 is deleted and rewritten as follows: Service personnel shall be qualified and experienced in the inspection, testing and maintenance of fire alarm systems. Qualified personnel shall meet the certification requirements stated in Utah Administrative Code, R710-11-3, Fire Alarm System Inspecting and Testing.

**KEY: fire alarm systems**
**Date of Enactment or Last Substantive Amendment: [~~May 23, 2008~~]September 21, 2010**
**Authorizing, and Implemented or Interpreted Law: 53-7-204**

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# Tax Commission, Auditing
# R865-19S-4
# Collection of Tax Pursuant to Utah Code Ann. Section 59-12-107

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 33848
FILED: 07/20/2010

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment will treat all transactions in the same manner as bundled transactions are treated under statute.

SUMMARY OF THE RULE OR CHANGE: The amendment provides that in a purchase consisting of taxable and nontaxable items, the entire purchase is subject to sales tax unless the nontaxable items are separately stated on the invoice or the seller is able to identify by reasonable and identifiable standards the nontaxable items from the books and records the seller keeps in the seller's regular course of business. This same concept applies to a transaction with items subject to sales tax at different tax rates. The amendment also makes technical changes.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-12-107

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: None--The proposed amendment does not impact the amount of tax due; only the recordkeeping requirements of the seller.
♦ LOCAL GOVERNMENTS: The proposed amendment does not impact the amount of tax due; only the recordkeeping requirements of the seller.
♦ SMALL BUSINESSES: None--Sellers are currently acting within the scope of the proposed amendment. The proposed amendment will allow sellers who sell taxable and nontaxable items in a nonbundled transaction the same invoicing options as the seller of a bundled transaction.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: None--Sellers are currently acting within the scope of the proposed amendment. The proposed amendment will allow sellers who sell taxable and nontaxable items in a nonbundled transaction the same invoicing options as the seller of a bundled transaction.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Sellers are currently acting within the scope of the proposed amendment. The proposed amendment will allow sellers who sell taxable and nontaxable items in a nonbundled transaction the same invoicing options as the seller of a bundled transaction.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None anticipated.

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:
♦ Michael Cragun by phone at 801-297-3907, by FAX at 801-297-3919, or by Internet E-mail at mcragun@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/14/2010

THIS RULE MAY BECOME EFFECTIVE ON: 09/21/2010

AUTHORIZED BY: R. Bruce Johnson, Tax Commission Chair

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**R865. Tax Commission, Auditing.**
**R865-19S. Sales and Use Tax.**
**R865-19S-4. Collection of Tax Pursuant to Utah Code Ann. Section 59-12-107.**

(1) For purposes of this rule, "item" includes:
(a) an admission;
(b) a product transferred electronically;
(c) a service; and
(d) tangible personal property.

[~~A.~~](2)(a) An invoice or receipt issued by a [~~vendor~~]seller shall [~~show~~]separately state the sales tax collected [~~as a separate item~~ ]on the invoice or receipt.

[~~B.~~](b) If an invoice or receipt issued by a [~~vendor~~]seller does not show the sales tax collected as required in [~~A.~~]Subsection (2)(a), sales tax will be assessed on the [~~vendor~~]seller or purchaser based on the amount of the invoice or receipt.

(3) Unless otherwise provided by statute, if a purchase consists of items that are exempt from sales tax and items that are subject to sales tax, the entire purchase is subject to sales tax unless the seller, at the time of the transaction:
(a) separately states the tax exempt items on the invoice; or
(b) is able to identify by reasonable and identifiable standards, from the books and records the seller keeps in the seller's regular course of business, the items exempt from sales tax.

(4) Unless otherwise provided by statute, if a purchase consists of two or more items that are subject to sales tax at different rates, the entire purchase is subject to sales tax at the higher tax rate unless the seller, at the time of the transaction:
(a) separately states on the invoice the items subject to sales tax at each of the different sales tax rates; or
(b) is able to identify by reasonable and identifiable standards, from the books and records the seller keeps in the seller's regular course of business, the items subject to sales tax at the lower tax rate.

[~~C.~~](5) A [~~vendor~~]seller that collects an excess amount of sales or use tax must either refund the excess to the purchasers from whom the [~~vendor~~]seller collected the excess or remit the excess to the [~~Commission~~]commission.

[~~1.~~](a) A [~~vendor~~]seller may offset an undercollection of tax on sales against any excess tax collected in the same reporting period.

[~~2.~~](b) A [~~vendor~~]seller may not offset an underpayment of tax on the [~~vendor's~~]seller's purchases against an excess of tax collected.

**KEY: charities, tax exemptions, religious activities, sales tax**
**Date of Enactment or Last Substantive Amendment: [~~September 17, 2009~~]2010**
**Notice of Continuation: March 13, 2007**
**Authorizing, and Implemented or Interpreted Law: 59-12-107**

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# Tax Commission, Auditing
# R865-19S-33
# Admissions and User Fees Pursuant to Utah Code Ann. Sections 59-12-102 and 59-12-103

## NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 33849
FILED: 07/20/2010

## RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment will treat all transactions in the same manner as bundled transactions are treated under statute.

SUMMARY OF THE RULE OR CHANGE: The amendment removes language indicating that in a purchase consisting of taxable and nontaxable items, the nontaxable items must be separately stated on the invoice or the entire purchase is subject to sales tax. The standard for recording these transactions will be in the amended Section R865-19S-4. This amendment will allow the seller to separately state the nontaxable items on the invoice or be able to reasonably identify them from the books and records it keeps in its regular course of business. The amendment also makes technical changes. (DAR NOTE: The amendment to Section R865-19S-4 is under DAR No. 33848 in this issue, August 15, 2010, of the Bulletin.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-12-102 and Section 59-12-103

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: None--The proposed amendment does not impact the amount of tax due only the recordkeeping requirements of the seller.
♦ LOCAL GOVERNMENTS: The proposed amendment does not impact the amount of tax due only the recordkeeping requirements of the seller.
♦ SMALL BUSINESSES: None--Sellers are currently acting within the scope of the proposed amendment. The proposed amendment will allow sellers who sell taxable and nontaxable items in a nonbundled transaction the same invoicing options as the seller of a bundled transaction.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: None--Sellers are currently acting within the scope of the proposed amendment. The proposed amendment will allow sellers who sell taxable and nontaxable items in a nonbundled transaction the same invoicing options as the seller of a bundled transaction.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Sellers are currently acting within the scope of the proposed amendment. The proposed amendment will allow sellers who sell taxable and nontaxable items in a nonbundled transaction the same invoicing options as the seller of a bundled transaction.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None anticipated.

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:
♦ Michael Cragun by phone at 801-297-3907, by FAX at 801-297-3919, or by Internet E-mail at mcragun@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/14/2010

THIS RULE MAY BECOME EFFECTIVE ON: 09/21/2010

AUTHORIZED BY: R. Bruce Johnson, Tax Commission Chair

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**R865. Tax Commission, Auditing.**
**R865-19S. Sales and Use Tax.**
**R865-19S-33. Admissions and User Fees Pursuant to Utah Code Ann. Sections 59-12-102 and 59-12-103.**

[~~A.~~](1)(a) "Admission" means the right or privilege to enter into a place. Admission includes the amount paid for the right to use a reserved seat or any seat in an auditorium, theater, circus, stadium, schoolhouse, meeting house, or gymnasium to view any type of entertainment. Admission also includes the right to use a table at a night club, hotel, or roof garden whether such charge is designated as a cover charge, minimum charge, or any such similar charge.

[~~1.~~](b) This applies whether the charge made for the use of the seat, table, or similar accommodation is combined with an admission charge to form a single charge, or is separate and distinct from an admission charge, or is the sole charge.

[~~B.~~](2) "Annual membership dues paid to a private organization" includes only those dues paid by members who, directly or indirectly, establish the level of the dues.

[~~C.~~ ](3) "Season passes" include amounts paid to participate in specific activities, once annual membership dues have been paid.

[~~D.~~](4) If the original admission charge carries the right to remain in a place, or to use a seat or table, or other similar accommodation for a limited time only, and an additional charge is made for an extension of such time, the extra charge is paid for admission within the meaning of the law. Where a person or organization acquires the sole right to use any place or the right to dispose of all of the admissions to any place for one or more occasions, the amount paid is not subject to the tax on admissions. Such a transaction constitutes a rental of the entire place and if the person or organization in turn sells admissions, sales tax applies to amounts paid for such admissions.

[~~E.~~](5) Annual membership dues may be paid in installments during the year.

[~~F.~~](6) Amounts paid for the following activities are not admissions or user fees:

[~~1.~~](a) lessons, public or private;

[~~2.~~](b) sign up for amateur athletics if the activity is sponsored by a state governmental entity, or a nonprofit corporation or organization, the primary purpose of which, as stated in the corporation's or organization's articles or bylaws, is the sponsoring, promoting, and encouraging of amateur athletics;

[~~3.~~](c) sign up for participation in school activities. Sign up for participation in school activities excludes attendance as a spectator at school activities.[

~~G. If amounts charged for activities listed in F. are billed along with admissions or user fees, the amounts not subject to the sales tax must be listed separately on the invoice in order to remain untaxed.~~ ]

**KEY: charities, tax exemptions, religious activities, sales tax**
**Date of Enactment or Last Substantive Amendment: [~~September 17, 2009~~]2010**
**Notice of Continuation: March 13, 2007**
**Authorizing, and Implemented or Interpreted Law: 59-12-102; 59-12-103**

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# Tax Commission, Auditing
# R865-19S-64
# Morticians, Undertakers and Funeral Directors Pursuant to Utah Code Ann. Section 59-12-103

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 33850
FILED: 07/20/2010

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This section is removed since its provisions are out of date.

SUMMARY OF THE RULE OR CHANGE: This amendment removes language indicating that in a purchase consisting of taxable and nontaxable items, the nontaxable items must be separately stated on the invoice or half of the purchase is subject to sales tax. These sellers are subject to a Federal Trade Commission regulation that requires the seller separately list each item sold. The standard for recording these transactions will be in the amended Section R865-19S-4. (DAR NOTE: The amendment to Section R865-19S-4 is under DAR No. 33848 in this issue, August 15, 2010, of the Bulletin.)

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

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: None--The proposed amendment does not impact the amount of tax due only the recordkeeping requirements of the seller.
♦ LOCAL GOVERNMENTS: The proposed amendment does not impact the amount of tax due only the recordkeeping requirements of the seller.
♦ SMALL BUSINESSES: None--Sellers are currently acting within the scope of the proposed amendment. The proposed amendment will allow sellers who sell taxable and nontaxable items in a nonbundled transaction the same invoicing options as the seller of a bundled transaction.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: None--Sellers are currently acting within the scope of the proposed amendment. The proposed amendment will allow sellers who sell taxable and nontaxable items in a nonbundled transaction the same invoicing options as the seller of a bundled transaction.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Sellers are currently acting within the scope of the proposed amendment. The proposed amendment will allow sellers who sell taxable and nontaxable items in a nonbundled transaction the same invoicing options as the seller of a bundled transaction.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None anticipated.

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:
♦ Michael Cragun by phone at 801-297-3907, by FAX at 801-297-3919, or by Internet E-mail at mcragun@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/14/2010

THIS RULE MAY BECOME EFFECTIVE ON: 09/21/2010

AUTHORIZED BY: R. Bruce Johnson, Tax Commission Chair

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**R865. Tax Commission, Auditing.**
**R865-19S. Sales and Use Tax.**
**[~~R865-19S-64. Morticians, Undertakers and Funeral Directors Pursuant to Utah Code Ann. Section 59-12-103.~~**
~~A. Morticians, undertakers, and funeral directors make taxable sales of caskets, vaults, clothing, etc. They also render nontaxable services to their patrons. Their purchase of antiseptics, cosmetics, embalming fluids, and other chemicals used in rendering professional services is taxable.~~
~~B. If the books are kept in such a manner as to reflect the sales of tangible personal property separate from the services rendered, the tax attaches only to the sale of tangible personal property. If no separation is made of the tangible personal property and the services rendered, the sales tax is collected upon one-half of the total price of a standard funeral service. This includes the casket, professional services, care of remains, funeral coach, floral car, use of funeral car, use of funeral chapel, and the securing of permits.~~
~~1. Clothing, an outside grave vault, and other tangible personal property furnished in addition to the casket must be billed separately and the sales tax collected thereon.~~

**]KEY: charities, tax exemptions, religious activities, sales tax**
**Date of Enactment or Last Substantive Amendment: [~~September 17, 2009~~]2010**
**Notice of Continuation: March 13, 2007**
**Authorizing, and Implemented or Interpreted Law: 59-12-103**

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Tax Commission, Auditing
# R865-19S-80
Printers' Purchases and Sales Pursuant to Utah Code Ann. Section 59-12-103

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 33852
FILED: 07/20/2010

## RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment will treat all transactions in the same manner as bundled transactions are treated under statute.

SUMMARY OF THE RULE OR CHANGE: This amendment removes language indicating that in a purchase consisting of taxable and nontaxable items, the nontaxable items must be separately stated on the invoice or the entire purchase is subject to sales tax. The standard for recording these transactions will be in the amended Section R865-19S-4. This amendment will allow the seller to separately state the nontaxable items on the invoice or be able to reasonably identify them from the books and records it keeps in its regular course of business. (DAR NOTE: The amendment to Section R865-19S-4 is under DAR No. 33848 in this issue, August 15, 2010, of the Bulletin.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-12-103

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: None--The proposed amendment does not impact the amount of tax due only the recordkeeping requirements of the seller.
♦ LOCAL GOVERNMENTS: The proposed amendment does not impact the amount of tax due only the recordkeeping requirements of the seller.
♦ SMALL BUSINESSES: None--Sellers are currently acting within the scope of the proposed amendment. The proposed amendment will allow sellers who sell taxable and nontaxable items in a nonbundled transaction the same invoicing options as the seller of a bundled transaction.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: None--Sellers are currently acting within the scope of the proposed amendment. The proposed amendment will allow sellers who sell taxable and nontaxable items in a nonbundled transaction the same invoicing options as the seller of a bundled transaction.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Sellers are currently acting within the scope of the proposed amendment. The proposed amendment will allow sellers who sell taxable and nontaxable items in a nonbundled transaction the same invoicing options as the seller of a bundled transaction.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None anticipated.

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:
♦ Michael Cragun by phone at 801-297-3907, by FAX at 801-297-3919, or by Internet E-mail at mcragun@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/14/2010

THIS RULE MAY BECOME EFFECTIVE ON: 09/21/2010

AUTHORIZED BY: R. Bruce Johnson, Tax Commission Chair

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**R865. Tax Commission, Auditing.**
**R865-19S. Sales and Use Tax.**
**R865-19S-80. Printers' Purchases and Sales Pursuant to Utah Code Ann. Section 59-12-103.**

(1) Definitions.

(a)(i) "Pre-press materials" means materials that:

(B) are reusable;

(C) are used in the production of printed matter;

(D) do not become part of the final printed matter; and

(E) are sold to the customer.

(ii) Pre-press materials include film, magnetic media, compact disks, typesetting paper, and printing plates.

(b)(i) "Printer" means a person that reproduces multiple copies of images, regardless of the process employed or the name by which that person is designated.

(ii) A printer includes a person that employs the processes of letterpress, offset, lithography, gravure, engraving, duplicating, silk screen, bindery, or lettership.

(2) Purchases by a printer.

(a)(i) Purchases of tangible personal property by a printer are subject to sales and use tax if the property will be used or consumed by the printer.

(ii) Examples of tangible personal property used or consumed by the printer include conditioners, solvents, developers, and cleaning agents.

(b)(i) A printer may purchase tax free for resale any tangible personal property that becomes a component part of the finished goods for resale.

(ii) Examples of tangible personal property that becomes a component part of the finished goods for resale include glue, stitcher wire, paper, and ink.

(c) A printer may purchase pre-press materials tax free if the printer's invoice, or other written material provided to the purchaser, states that reusable pre-press materials are included with the purchase. A description and the quantity of the actual items used in the order is not necessary. The statement must not restrict the customer from taking physical possession of the pre-press materials.

(d) The tax treatment of a printer's purchase of graphic design services shall be determined in accordance with rule R865-19S-111.

(3) Sales by a printer.

(a) Except as provided in this Subsection (3), a printer shall collect sales and use tax on the following:

(i) charges for printed material, even though the paper may be furnished by the customer;

(ii) charges for envelopes;

(iii) charges for services performed in connection with the printing or the sale of printed matter, such as cutting, folding, and binding;

(iv) charges for pre-press materials purchased tax exempt by the printer; and

(v) charges for reprints and proofs.

(b) Charges for postage are not subject to sales and use tax.

(c) Sales by a printer are exempt from sales and use tax if:

(i) the sale qualifies for exemption under Section 59-12-104; and

(ii) the printer obtains from the purchaser a certificate as set forth in rule R865-19S-23.

(d) If the printer's customer is purchasing printed material for resale, but will not resell the pre-press materials, the printer must collect sales and use tax on the pre-press materials.

(e) If printed material is shipped outside of the state, charges for pre-press materials are exempt from sales tax as a sale of goods sold in interstate commerce only if the pre-press materials are physically shipped out of state with the printed material. If pre-press materials are retained in the state by the printer for any reason, the pre-press materials do not qualify for the sales tax exemption for goods sold in interstate commerce, and as such, the printer must collect sales tax on the part of the transaction relating to the pre-press materials.[

~~(4) If a sale by a printer consists of items that are subject to sales and use tax as well as items or services that are not taxable, the nontaxable items or services must be separately stated on the invoice or the entire sale is subject to sales and use tax.~~]

**KEY: charities, tax exemptions, religious activities, sales tax**
**Date of Enactment or Last Substantive Amendment: [~~September 17, 2009~~]2010**
**Notice of Continuation: March 13, 2007**
**Authorizing, and Implemented or Interpreted Law: 59-12-103**

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# Tax Commission, Auditing
# R865-19S-85
# Sales and Use Tax Exemptions for Certain Purchases by a Manufacturing Facility Pursuant to Utah Code Ann. Section 59-12-104

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 33853
FILED: 07/20/2010

## RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment will treat all transactions in the same manner as bundled transactions are treated under statute.

SUMMARY OF THE RULE OR CHANGE: The amendment removes language indicating that in a purchase consisting of taxable and nontaxable items, the nontaxable items must be separately stated on the invoice or the entire purchase is subject to sales tax. The standard for recording these transactions will be in the amended Section R865-19S-4. This amendment will allow the seller to separately state the nontaxable items on the invoice or be able to reasonably identify them from the books and records it keeps in its regular course of business. The amendment also makes technical changes. (DAR NOTE: The amendment to Section R865-19S-4 is under DAR No. 33848 in this issue, August 15, 2010, of the Bulletin.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-12-104

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: None--The proposed amendment does not impact the amount of tax due only the recordkeeping requirements of the seller.
♦ LOCAL GOVERNMENTS: The proposed amendment does not impact the amount of tax due only the recordkeeping requirements of the seller.
♦ SMALL BUSINESSES: None--Sellers are currently acting within the scope of the proposed amendment. The proposed amendment will allow sellers who sell taxable and nontaxable items in a nonbundled transaction the same invoicing options as the seller of a bundled transaction.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: None--Sellers are currently acting within the scope of the proposed amendment. The proposed amendment will allow sellers who sell taxable and nontaxable items in a nonbundled transaction the same invoicing options as the seller of a bundled transaction.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Sellers are currently acting within the scope of the proposed amendment. The proposed amendment will allow sellers who sell taxable and nontaxable items in a nonbundled transaction the same invoicing options as the seller of a bundled transaction.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None anticipated.

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:
♦ Michael Cragun by phone at 801-297-3907, by FAX at 801-297-3919, or by Internet E-mail at mcragun@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/14/2010

THIS RULE MAY BECOME EFFECTIVE ON: 09/21/2010

AUTHORIZED BY: R. Bruce Johnson, Tax Commission Chair

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**R865. Tax Commission, Auditing.**
**R865-19S. Sales and Use Tax.**
**R865-19S-85. Sales and Use Tax Exemptions for Certain Purchases by a Manufacturing Facility Pursuant to Utah Code Ann. Section 59-12-104.**

(1) Definitions:

(a) "Establishment" means an economic unit of operations, that is generally at a single physical location in Utah, where qualifying manufacturing processes are performed. If a business operates in more than one location (e.g., branch or satellite offices), each physical location is considered separately from any other locations operated by the same business.

(b) "Machinery and equipment" means:

(i) electronic or mechanical devices incorporated into a manufacturing process from the initial stage where actual processing begins, through the completion of the finished end product, and including final processing, finishing, or packaging of articles sold as tangible personal property. This definition includes automated material handling and storage devices when those devices are part of the integrated continuous production cycle; and

(ii) any accessory that is essential to a continuous manufacturing process. Accessories essential to a continuous manufacturing process include:

(A) bits, jigs, molds, or devices that control the operation of machinery and equipment; and

(B) gas, water, electricity, or other similar supply lines installed for the operation of the manufacturing equipment, but only if the primary use of the supply line is for the operation of the manufacturing equipment.

(c) "Manufacturer" means a person who functions within a manufacturing facility.

(2) The sales and use tax exemption for the purchase or lease of machinery and equipment by a manufacturing facility applies only to purchases or leases of tangible personal property used in the actual manufacturing process.

(a) The exemptions do not apply to purchases of [~~real property or~~ ]items of tangible personal property that become part of the real property in which the manufacturing operation is conducted.

(b) Purchases of qualifying machinery and equipment are treated as purchases of tangible personal property under R865-19S-58, even if the item is affixed to real property upon installation.

(3) Machinery and equipment used for a nonmanufacturing activity qualify for the exemption if the machinery and equipment are primarily used in manufacturing activities. Examples of nonmanufacturing activities include:

(a) research and development;

(b) refrigerated or other storage of raw materials, component parts, or finished product; or

(c) shipment of the finished product.

(4) Where manufacturing activities and nonmanufacturing activities are performed at a single physical location, machinery and equipment purchased for use in the manufacturing operation are eligible for the sales and use tax exemption if the manufacturing operation constitutes a separate and distinct manufacturing establishment.

(a) Each activity is treated as a separate and distinct establishment if:

(i) no single SIC code includes those activities combined; or

(ii) each activity comprises a separate legal entity.

(b) Machinery and equipment used in both manufacturing activities and nonmanufacturing activities qualify for the exemption only if the machinery and equipment are primarily used in manufacturing activities.

(5) The manufacturer shall retain records to support the claim that the machinery and equipment are qualified for exemption from sales and use tax under the provisions of this rule and Section 59-12-104.[

~~(6) If a purchase consists of items that are exempt from sales and use tax under this rule and Section 59-12-104, and items that are subject to tax, the tax exempt items must be separately stated on the invoice or the entire purchase will be subject to tax.~~ ]

**KEY: charities, tax exemptions, religious activities, sales tax**
**Date of Enactment or Last Substantive Amendment: [~~September 17, 2009~~]2010**
**Notice of Continuation: March 13, 2007**
**Authorizing, and Implemented or Interpreted Law: 59-12-104**

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# Tax Commission, Auditing
# R865-19S-109
## Sales Tax Nature of Veterinarians' Purchases and Sales Pursuant to Utah Code Ann. Sections 59-12-103 and 59-12-104

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 33854
FILED: 07/20/2010

## RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment will treat all transactions in the same manner as bundled transactions are treated under statute.

SUMMARY OF THE RULE OR CHANGE: This amendment removes language indicating that in a purchase consisting of taxable and nontaxable items, the nontaxable items must be separately stated on the invoice or the entire purchase is subject to sales tax. The standard for recording these transactions will be in the amended Section R865-19S-4. This amendment will allow the seller to separately state the nontaxable items on the invoice or be able to reasonably identify them from the books and records it keeps in its regular course of business. The amendment also makes technical changes. (DAR NOTE: The amendment to Section R865-19S-4 is under DAR No. 33848 in this issue, August 15, 2010, of the Bulletin.)

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

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: None--The proposed amendment does not impact the amount of tax due only the recordkeeping requirements of the seller.
♦ LOCAL GOVERNMENTS: The proposed amendment does not impact the amount of tax due only the recordkeeping requirements of the seller.
♦ SMALL BUSINESSES: None--Sellers are currently acting within the scope of the proposed amendment. The proposed amendment will allow sellers who sell taxable and nontaxable items in a nonbundled transaction the same invoicing options as the seller of a bundled transaction.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: None--Sellers are currently acting within the scope of the proposed amendment. The proposed amendment will allow sellers who sell taxable and nontaxable items in a nonbundled transaction the same invoicing options as the seller of a bundled transaction.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Sellers are currently acting within the scope of the proposed amendment. The proposed amendment will allow sellers who sell taxable and nontaxable items in a nonbundled transaction the same invoicing options as the seller of a bundled transaction.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None anticipated.

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:
♦ Michael Cragun by phone at 801-297-3907, by FAX at 801-297-3919, or by Internet E-mail at mcragun@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/14/2010

THIS RULE MAY BECOME EFFECTIVE ON: 09/21/2010

AUTHORIZED BY: R. Bruce Johnson, Tax Commission Chair

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**R865. Tax Commission, Auditing.**
**R865-19S. Sales and Use Tax.**
**R865-19S-109. Sales Tax Nature of Veterinarians' Purchases and Sales Pursuant to Utah Code Ann. Sections 59-12-103 and 59-12-104.**

[~~A.~~](1)(a) Purchases of tangible personal property by a veterinarian are exempt from sales and use tax if the property will be resold by the veterinarian.

[~~1.~~](b) Except as provided in [~~E.~~]Subsection (5), a veterinarian must collect sales tax on tangible personal property that the veterinarian resells.

[~~B.~~](2) Purchases of tangible personal property by a veterinarian are subject to sales and use tax if the property will be used or consumed in the veterinarian's practice.

[~~C.~~](3) The determination of whether a veterinarian's purchase of food, medicine, or vitamins is a sale for resale or a purchase that will be used or consumed in the veterinarian's practice shall be made by the veterinarian.

[~~1.~~](a) For food, medicine, or vitamins that the veterinarian will resell, the veterinarian shall comply with [~~A~~]Subsection (1).

[~~2.~~](b) For food, medicine, or vitamins that the veterinarian will use or consume in the veterinarian's practice, the veterinarian shall comply with [~~B~~]Subsection (2).

[~~D.~~](4) A veterinarian is not required to collect sales and use tax on:

[~~1.~~](a) medical services;

[~~2.~~](b) boarding services; or

[~~3.~~](c) grooming services required in connection with a medical procedure.

[~~E.~~](5) Sales of tangible personal property by a veterinarian are exempt from sales and use tax if:

[~~1.~~](a) the sales are exempt from sales and use tax under Section 59-12-104; and

[~~2.~~](b) the veterinarian obtains from the purchaser a certificate as set forth in rule R865-19S-23.[

~~F. If a sale by a veterinarian consists of items that are subject to sales and use tax as well as items or services that are not taxable, the nontaxable items or services must be separately stated on the invoice or the entire sale is subject to sales and use tax.~~ ]

**KEY: charities, tax exemptions, religious activities, sales tax**
**Date of Enactment or Last Substantive Amendment: [~~September 17, 2009~~]2010**
**Notice of Continuation: March 13, 2007**
**Authorizing, and Implemented or Interpreted Law: 59-12-103; 59-12-104**

# Tax Commission, Auditing
# R865-19S-111
# Graphic Design Services Pursuant to Utah Code Ann. Section 59-12-103

## NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 33855
FILED: 07/20/2010

## RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment will treat all transactions in the same manner as bundled transactions are treated under statute.

SUMMARY OF THE RULE OR CHANGE: This amendment removes language indicating that in a purchase consisting of taxable and nontaxable items, the nontaxable items must be separately stated on the invoice or the entire purchase is subject to sales tax. The standard for recording these transactions will be in the amended Section R865-19S-4. This amendment will allow the seller to separately state the nontaxable items on the invoice or be able to reasonably identify them from the books and records it keeps in its regular course of business. The amendment also makes technical changes. (DAR NOTE: The amendment to Section R865-19S-4 is under DAR No. 33848 in this issue, August 15, 2010, of the Bulletin.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-12-103

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: None--The proposed amendment does not impact the amount of tax due only the recordkeeping requirements of the seller.
♦ LOCAL GOVERNMENTS: The proposed amendment does not impact the amount of tax due only the recordkeeping requirements of the seller.
♦ SMALL BUSINESSES: None--Sellers are currently acting within the scope of the proposed amendment. The proposed amendment will allow sellers who sell taxable and nontaxable items in a nonbundled transaction the same invoicing options as the seller of a bundled transaction.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: None--Sellers are currently acting within the scope of the proposed amendment. The proposed amendment will allow sellers who sell taxable and nontaxable items in a nonbundled transaction the same invoicing options as the seller of a bundled transaction.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Sellers are currently acting within the scope of the proposed amendment. The proposed amendment will allow sellers who sell taxable and nontaxable items in a nonbundled transaction the same invoicing options as the seller of a bundled transaction.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None anticipated.

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:
♦ Michael Cragun by phone at 801-297-3907, by FAX at 801-297-3919, or by Internet E-mail at mcragun@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/14/2010

THIS RULE MAY BECOME EFFECTIVE ON: 09/21/2010

AUTHORIZED BY: R. Bruce Johnson, Tax Commission Chair

**R865. Tax Commission, Auditing.**
**R865-19S. Sales and Use Tax.**
**R865-19S-111. Graphic Design Services Pursuant to Utah Code Ann. Section 59-12-103.**

[~~A.~~](1) Graphic design services are not subject to sales and use tax:

[~~1.~~](a) if the graphic design is the object of the transaction; and

[~~2.~~](b) even though a representation of the design is incorporated into a sample or template that is itself tangible personal property.

[~~B.~~](2) Except as provided in [~~C.~~]Subsection (3), if a vendor provides both graphic design services and tangible personal property that incorporates the graphic design:

[~~1.~~](a) there is a rebuttable presumption that the tangible personal property is the object of the transaction; and

[~~2.~~](b) the vendor must collect sales and use tax on the graphic design services and the tangible personal property.

[~~C.~~](3) A vendor that provides both graphic design services and tangible personal property that incorporates the graphic design is not required to collect sales tax on the graphic design services if the vendor subcontracts the production of the tangible personal property to an independent third party.[

~~D. A vendor that provides nontaxable graphic design services and taxable tangible personal property under C. must separately state the nontaxable graphic design services or the entire sale is subject to sales and use tax.~~]

**KEY: charities, tax exemptions, religious activities, sales tax**
**Date of Enactment or Last Substantive Amendment: [~~September 17, 2009~~]2010**
**Notice of Continuation: March 13, 2007**
**Authorizing, and Implemented or Interpreted Law: 59-12-103**

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# Tax Commission, Auditing
# R865-19S-121
# Sales and Use Tax Exemptions for Certain Purchases by a Mining Facility Pursuant to Utah Code Ann. Section 59-12-104

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 33856
FILED: 07/20/2010

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment will treat all transactions in the same manner as bundled transactions are treated under statute.

SUMMARY OF THE RULE OR CHANGE: This amendment removes language indicating that in a purchase consisting of taxable and nontaxable items, the nontaxable items must be separately stated on the invoice or the entire purchase is subject to sales tax. The standard for recording these transactions will be in the amended Section R865-19S-4. This amendment will allow the seller to separately state the nontaxable items on the invoice or be able to reasonably identify them from the books and records it keeps in its regular course of business. The amendment also makes technical changes. (DAR NOTE: The amendment to Section R865-19S-4 is under DAR No. 33848 in this issue, August 15, 2010, of the Bulletin.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-12-104

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: None--The proposed amendment does not impact the amount of tax due; only the recordkeeping requirements of the seller.
♦ LOCAL GOVERNMENTS: The proposed amendment does not impact the amount of tax due; only the recordkeeping requirements of the seller.
♦ SMALL BUSINESSES: None--Sellers are currently acting within the scope of the proposed amendment. The proposed amendment will allow sellers who sell taxable and nontaxable items in a nonbundled transaction the same invoicing options as the seller of a bundled transaction.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: None--Sellers are currently acting within the scope of the proposed amendment. The proposed amendment will allow sellers who sell taxable and nontaxable items in a nonbundled transaction the same invoicing options as the seller of a bundled transaction.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Sellers are currently acting within the scope of the proposed amendment. The proposed amendment will allow sellers who sell taxable and nontaxable items in a nonbundled transaction the same invoicing options as the seller of a bundled transaction.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None anticipated.

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:
♦ Michael Cragun by phone at 801-297-3907, by FAX at 801-297-3919, or by Internet E-mail at mcragun@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/14/2010

THIS RULE MAY BECOME EFFECTIVE ON: 09/21/2010

AUTHORIZED BY: R. Bruce Johnson, Tax Commission Chair

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**R865. Tax Commission, Auditing.**
**R865-19S. Sales and Use Tax.**
**R865-19S-121. Sales and Use Tax Exemptions for Certain Purchases by a Mining Facility Pursuant to Utah Code Ann. Section 59-12-104.**
(1) Definitions.

(a) "Establishment" means a unit of operations, that is generally at a single physical location in Utah, where qualifying activities are performed. If a business operates in more than one location (e.g., branch or satellite offices), each physical location is considered separately from any other locations operated by the same business.

(b) "Machinery and equipment" means electronic or mechanical devices having an economic life of three or more years including any accessory that controls the operation of the machinery and equipment.

(2) The exemptions do not apply to purchases of [~~real property or~~] items of tangible personal property that become part of the real property.

(3) Purchases of qualifying machinery and equipment are treated as purchases of tangible personal property under R865-19S-58, even if the item is affixed to real property upon installation.

(4) Machinery and equipment used for non-qualifying activities are eligible for the exemption if the machinery and equipment are primarily used in qualifying activities.

(5) The entity claiming the exemption shall retain records to support the claim that the machinery and equipment are qualified for exemption from sales and use tax under the provisions of this rule and Section 59-12-104.[

~~(6) If a purchase consists of items that are exempt from sales and use tax under this rule and Section 59-12-104, and items that are subject to tax, the tax exempt items must be separately stated on the invoice or the entire purchase will be subject to tax.~~]

**KEY: charities, tax exemptions, religious activities, sales tax**
**Date of Enactment or Last Substantive Amendment: [~~September 17, 2009~~]2010**
**Notice of Continuation: March 13, 2007**
**Authorizing, and Implemented or Interpreted Law: 59-12-104**

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# Tax Commission, Auditing
# R865-19S-122
# Sales and Use Tax Exemptions for Certain Purchases by a Web Search Portal Establishment Pursuant to Utah Code Ann. Section 59-12-104

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 33857
FILED: 07/20/2010

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This proposed section is necessary to implement S.B. 61 from the 2010 Legislative Session. (DAR NOTE: S.B. 61 is found at Chapter 209, Laws of Utah 2010, and was effective 07/01/2010.)

SUMMARY OF THE RULE OR CHANGE: This proposed section defines the terms "establishment", "machinery and equipment", and "new or expanding establishment"; and provides guidance for when the exemption for web search portal purchases applies that is consistent with the criteria for the sales tax exemption for a manufacturing facility.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-12-104

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: None--Any revenue impacts were considered in S.B. 61 (2010).
♦ LOCAL GOVERNMENTS: None--Any revenue impacts were considered in S.B. 61 (2010).
♦ SMALL BUSINESSES: None--Any revenue impacts were considered in S.B. 61 (2010).
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: None--Any revenue impacts were considered in S.B. 61 (2010).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--This is a newly created sales tax exemption for web search portals.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None anticipated.

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:
♦ Michael Cragun by phone at 801-297-3907, by FAX at 801-297-3919, or by Internet E-mail at mcragun@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 09/14/2010

THIS RULE MAY BECOME EFFECTIVE ON: 09/21/2010

AUTHORIZED BY: R. Bruce Johnson, Tax Commission Chair

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**R865. Tax Commission, Auditing.**
**R865-19S. Sales and Use Tax.**
**R865-19S-122. Sales and Use Tax Exemptions for Certain Purchases by a Web Search Portal Establishment Pursuant to Utah Code Ann. Section 59-12-104.**

(1) Definitions.

(a) "Establishment" means a unit of operations, that is generally at a single physical location in Utah, where qualifying activities are performed. If a business operates in more than one location (e.g., branch or satellite offices), each physical location is considered separately from any other locations operated by the same business.

(b) "Machinery and equipment" means electronic or mechanical devices having an economic life of three or more years including any accessory that controls the operation of the machinery and equipment.

(c) "New or expanding establishment" means:

(i)(A) the creation of a new web search portal establishment in this state; or

(B) the expansion of an existing Utah web search portal establishment if the expanded establishment increases services or is substantially different in nature, character, or purpose from the existing Utah web search portal establishment.

(ii) The operator of a web search portal establishment who closes operations at one location in this state and reopens the same establishment at a new location does not qualify as a new or expanding establishment without demonstrating that the move meets the conditions set forth in Subsection (1)(c)(i).

(2) The exemption for certain purchases by a web search portal establishment does not apply to purchases of items of tangible personal property that become part of the real property.

(3) Purchases of qualifying machinery and equipment are treated as purchases of tangible personal property under R865-19S-58, even if the item is affixed to real property upon installation.

(4) Machinery and equipment used for non-qualifying activities are eligible for the exemption if the machinery and equipment are primarily used in qualifying activities.

(5) The entity claiming the exemption shall retain records to support the claim that the machinery and equipment are qualified for exemption from sales and use tax under the provisions of this rule and Section 59-12-104.

**KEY: charities, tax exemptions, religious activities, sales tax**
**Date of Enactment or Last Substantive Amendment: [~~September 17, 2009~~]2010**
**Notice of Continuation: March 13, 2007**
**Authorizing, and Implemented or Interpreted Law: 59-12-104**

**End of the Notices of Proposed Rules Section**

# NOTICES OF
# 120-DAY (EMERGENCY) RULES

An agency may file a **120-Day (Emergency) Rule** when it finds that the regular rulemaking procedures would:

(a) cause an imminent peril to the public health, safety, or welfare;
(b) cause an imminent budget reduction because of budget restraints or federal requirements; or
(c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

As with a **Proposed Rule**, a **120-Day Rule** is preceded by a **Rule Analysis**. This analysis provides summary information about the **120-Day Rule** including the name of a contact person, justification for filing a **120-Day Rule**, anticipated cost impact of the rule, and legal cross-references. A row of dots in the text (**. . . . . .**) indicates that unaffected text was removed to conserve space.

A **120-Day Rule** is effective at the moment the Division of Administrative Rules receives the filing, or on a later date designated by the agency. A **120-Day Rule** is effective for 120 days or until it is superseded by a permanent rule.

Because **120-Day Rules** are effective immediately, the law does not require a public comment period. However, when an agency files a **120-Day Rule**, it usually files a **Proposed Rule** at the same time, to make the requirements permanent. Comments may be made on the **Proposed Rule**. Emergency or **120-Day Rules** are governed by Section 63G-3-304; and Section R15-4-8.

## Capitol Preservation Board (State), Administration
## R131-13
## Health Reform -- Health Insurance Coverage in State Contracts -- Implementation

**NOTICE OF 120-DAY (EMERGENCY) RULE**
DAR FILE NO.: 33844
FILED: 07/19/2010

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended to comply with H.B. 20 of the 2010 Utah Legislative Session which clarified and amended Section 63C-9-403. H.B. 20 amends provisions related to the requirement that contractors with certain state entities must provide qualified health insurance to their employees and the dependents of the employees who work or reside in the state. H.B. 20 clarified the waiting period; clarified that health insurance coverage must be offered to employees and dependents who work or reside in the state; clarified that the coverage that must be offered is a minimum standard and an employer may offer greater coverage; amended the definition of qualified health insurance coverage to clarify the standards; amended the enforcement provisions to provide protections for good faith compliance and clarified how an employer offering a defined contribution arrangement may comply with state contract requirements. Therefore, this rule change is being done to be consistent with state statute. (DAR NOTE: H.B. 20 (2010) is found at Chapter 229, Laws of Utah 2010, and was effective 05/11/2010.)

SUMMARY OF THE RULE OR CHANGE: The proposed changes clarify the applicability of the rule, add that an underwriter may determine actuarial equivalency, and include various grammatical and stylistic changes.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63C-9-403 and Subsection 63C-9-301(3)(a)

EMERGENCY RULE REASON AND JUSTIFICATION:
REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.
JUSTIFICATION: H.B. 20 of the 2010 Utah State Legislative Session clarified and amended Section 63C-9-403. The statute went into effect on 05/11/2010. This emergency rule is being filed to comply with H.B. 20 and the statute, Section 63C-9-403, as soon as practicable because the Capitol Preservation Board did not meet to make a motion to approve Rule R131-13 before the statute went into effect.

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no anticipated cost or savings to the state budget because compliance is already required and the changes only clarify the obligations of contractors, subcontractors, consultants, and subconsultants.

♦ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government because compliance is only required in state construction contracts and the changes only clarify the obligations of contractors, subcontractors, consultants, and subconsultants.
♦ SMALL BUSINESSES: There is no anticipated cost or savings to small businesses because compliance is already required and the changes only clarify the obligations of contractors, subcontractors, consultants, and subconsultants.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no anticipated cost or savings to persons other than small businesses, businesses, or local government entities because compliance is already required and the changes only clarify the obligations of contractors, subcontractors, consultants, and subconsultants.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no anticipated cost or savings to affected persons because compliance is already required and the changes only clarify the obligations of contractors, subcontractors, consultants, and subconsultants and make it easier to obtain a determination of actuarial equivalency.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on businesses because compliance is already required and the changes only clarify the obligations of contractors, subcontractors, consultants, and subconsultants.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
CAPITOL PRESERVATION BOARD (STATE)
ADMINISTRATION
ROOM E110
EAST BUILDING
420 N STATE ST
SALT LAKE CITY, UT 84114-2110
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Alan Bachman by phone at 801-538-3105, by FAX at 801-538-3313, or by Internet E-mail at abachman@utah.gov
♦ Allyson Gamble by phone at 801-537-9156, by FAX at 801-538-3221, or by Internet E-mail at agamble@utah.gov
♦ La Priel Dye by phone at 801-538-3240, by FAX at 801-538-3313, or by Internet E-mail at ldye@utah.gov

EFFECTIVE: 07/19/2010

AUTHORIZED BY: Allyson Gamble, Executive Director

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**R131. Capitol Preservation Board (State), Administration.**
**R131-13. Health Reform -- Health Insurance Coverage in State Contracts -- Implementation.**
**R131-13-1. Purpose.**

The purpose of this rule is to comply with the provisions of Section 63C-9-403.

**R131-13-2. Authority.**

This rule is authorized under Subsection 63C-9-301(3)(a) whereby the Capitol Preservation Board may make rules to govern, administer, and regulate the capitol hill complex, capitol hill facilities, and capitol hill grounds by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as well as Section 63C-9-403 that requires this rule related to health insurance provisions in certain design and construction contracts.

**R131-13-3. Definitions.**

(1) Except as otherwise stated in this rule, terms used in this rule are defined in Section 63C-9-403.

(2) In addition:

(a) "Board" means the Capitol Preservation Board established pursuant to Section 63C-9-201.

(b) "Executive Director" means the executive director of the Capitol Preservation Board including, unless otherwise stated, the executive director's duly authorized designee.

(c) "Employee(s)" is as defined in Subsection 63C-9-403(1)(a) and includes only those employees that live and work in the state of Utah along with their dependents. "Employee" for purposes of this rule, shall not be construed as to be broader than the use of the term employee for purposes of state of Utah Workers' Compensation laws along with their dependents.

(d) "State" means the state of Utah.

**R131-13-4. Applicability of Rule.**

(1) Except as provided in Subsection R131-13-4(2) below, R131-13 applies to all design or construction contracts entered into by the Board or the executive director, or on behalf of the Board, on or after July 1, 2009, [~~if:~~]and

[~~(a) the contract is for design and/or construction; and~~

~~(b)(i) the prime contract is in the amount of $1,500,000 or greater; or~~

~~(ii) a subcontract, at any tier, is in the amount of $750,000 or greater.~~](a) applies to a prime contractor if the prime contract is in the amount of $1,500,000 or greater; and

(b) applies to a subcontractor if the subcontract, at any tier, is in the amount of $750,000 or greater.

(2) R131-13 does not apply if:

(a) the application of this Rule R131-13 jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

(3) This Rule R131-13 does not apply to a change order as defined in Section 63G-6-103, or a modification to a contract, when the contract does not meet the initial threshold required by Subsection R131-13-4(1).

(4) A person who intentionally uses change orders or contract modifications to circumvent the requirements of Subsection R131-13-4(1) is guilty of an infraction.

**R131-13-5. Contractor to Comply with Section 63C-9-403.**

All contractors and subcontractors that are subject to the requirements of Section 63C-9-403 shall comply with all the requirements, penalties and liabilities of Section 63C-9-403.

**R131-13-6. Not Basis for Protest or Suspend, Disrupt, or Terminate Design or Construction.**

(1) The failure of a contractor or subcontractor to provide qualified health insurance coverage as required by this[~~to comply with~~]Rule R131-13 or Section 63C-9-403:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under Section 63G-6-801 or any other provision in Title 63G, Chapter 6, Part 8, Legal and Contractual Remedies; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt or terminate the design or construction.

**R131-13-7. Requirements and Procedures a Contractor Must Follow.**

A contractor, including consultants and designers, must comply with the following requirements and procedures in order to demonstrate compliance with Section 63C-9-403.

(1) Demonstrating Compliance with Health Insurance Requirements. The following requirements must be met by a contractor, including consultants, designers and others under contract with the Board or the executive director that is subject to the requirements of Rule R131-13 no later than the time [~~of execution of the contract~~]the contract is entered into or renewed:

(a) demonstrate compliance by a written certification to the executive director that the contractor has and will maintain for the duration of the contract an offer of qualified health insurance coverage for the contractor's employees; and

(b) the contractor shall also provide such written certification prior to the execution of the contract, in regard to all subcontractors, including subconsultants, at any tier that are subject to the requirements of Rule R131-13.

(2) Recertification. The executive director shall have the right to request a recertification by the contractor by submitting a written request to the contractor, and the contractor shall so comply with the written request within ten working days of receipt of the written request; however, in no case may the contractor be required to demonstrate such compliance more than twice in any 12-month period.

(3) Demonstrating Compliance with Actuarially Equivalent Determination. The actuarially equivalent determination required by Subsections 63C-9-403(1)(c)(i) and (iii) is met by the contractor if the contractor provides the executive director with a written statement of actuarial equivalency from either the Utah Insurance Department; [~~or~~ ]an actuary selected by the contractor; or the contractor's insurer; or an underwriter who is responsible for developing the employer group's premium rates.

For purposes of this Subsection R131-13-7(3), actuarially equivalency is achieved by meeting or exceeding any of the following:

[~~(a) In accordance with Section 26-40-106(2)(a), the largest insured commercial enrollment offered by a health maintenance organization in the State, which details of the plan are provided on the website of the Division at http://dfcm.utah.gov/downloads/Health%20Insurance %20Benchmark.pdf; or~~

~~(b) provides coverage that is actuarially equivalent to 75% of the benefit plan determined under R131-13-7(3)(a) above and employer premium contributions as required by statute.~~](a) As delineated on the DFCM website at http://dfcm.utah.gov/downloads/Health%20Insurance %20Benchmark.pdf, a health benefit plan and employer contribution level with a combined actuarial value at least actuarially equivalent to the combined actuarial value of the benchmark plan determined by the Children's Health Insurance Program under Subsection 26-40-106(2)(a), and a contribution level of 50% of the premium for the employee and the dependents of the employee who reside or work in the State, in which:

(i) The employer pays at least 50% of the premium for the employee and the dependents of the employee who reside or work in the State; and

(ii) for purposes of calculating actuarial equivalency under this Subsection R131-13-7(3)(a):

(A) rather than the benchmark plan's deductible, and the benchmark plan's out-of-pocket maximum based on income levels, the deductible is $750 per individual and $2,250 per family; and the out-of-pocket maximum is $3,000 per individual and $9,000 per family;

(B) dental coverage is not required; and

(C) other than Subsection 26-40-106(2)(a), the provisions of Section 26-40-106 do not apply; or

(b)(i) is a federally qualified high deductible health plan that, at a minimum, has a deductible that is either;

(A) the lowest deductible permitted for a federally qualified high deductible health plan; or

(B) a deductible that is higher than the lowest deductible permitted for a federally qualified high deductible health plan, but includes an employer contribution to a health savings account in a dollar amount at least equal to the dollar amount difference between the lowest deductible permitted for a federally qualified high deductible plan and the deductible for the employer offered federally qualified high deductible plan;

(ii) an out-of pocket maximum that does not exceed three times the amount of the annual deductible; and

(iii) under which the employer pays 75% of the premium for the employee and the dependents of the employee who work or reside in the State.

(4) The health insurance must be available upon the first day of the calendar month following the initial ninety days from the [~~beginning of employment~~]date of hire.

(5) Architect and Engineer Compliance Process. Architects and engineers that are subject to Rule R131-13 must demonstrate compliance with Rule R131-13 in any annual submittal. During the procurement process and no later than the

execution of the contract with the architect or engineer, the architect or engineer shall confirm that their applicable subcontractors or subconsultants meet the requirements of Rule R131-13.

(6) General (Prime) Contractors Compliance Process. Contractors that are subject to Rule R131-13 must demonstrate compliance with Rule R131-13 for their own firm and any applicable subcontractors, in any pre-qualification process that may be used for the procurement. At the time of execution of the contract, the contractor shall confirm that their applicable subcontractors or subconsultants meet the requirements of Rule R131-13.

(7) Notwithstanding any prequalification process, any contract subject to Rule R131-13 shall contain a provision requiring compliance with Rule R131-13 from the time of execution and throughout the duration of the contract.

(8) Hearing and Penalties.

(a) Hearing. Any hearing for any penalty under Rule R131-13 conducted by the Board or executive director shall be conducted in the same manner as any hearing required for a suspension or debarment.

(b) Penalties that may be Imposed by the Board or Executive Director. The penalties that may be imposed by the Board or executive director if a contractor, consultant, subcontractor or subconsultant, at any tier, intentionally violates the provisions of Rule R131-13 may include:

(i) a three-month suspension of the contractor or subcontractor from entering into future contracts with the State upon the first violation, regardless of which tier the contractor or subcontractor is involved with the future design and/or construction contract;

(ii) a six-month suspension of the contractor or subcontractor from entering into future contracts with the State upon the second violation, regardless of which tier the contractor or subcontractor is involved with the future design and/or construction contract;

(iii) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6-804 upon the third or subsequent violation; and

(iv) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health insurance coverage for an employee and dependents of an employee of the contractor or subcontractor who was not offered qualified health insurance coverage during the duration of the contract.

(c)(i) In addition to the penalties imposed above, a contractor, consultant, subcontractor or subconsultant who intentionally violates the provisions of this Rule R131-13 shall be liable to the employee for health care costs [~~not covered by insurance~~]that would have been covered by qualified health insurance coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection R131-13-7(8)(c)(i) as provided in Subsection 63C-9-403(7)(a)(ii).

**R131-13-8. Not Create any Contractual Relationship with any Subcontractor or Subconsultant.**

Nothing in Rule R131-13 shall be construed as to create any contractual relationship whatsoever between the State, the Board, or the executive director with any subcontractor or subconsultant at any tier.

**KEY: health insurance, contractors, contracts**
**Date of Enactment or Last Substantive Amendment: July 19, 2010**
**Authorizing, and Implemented or Interpreted Law: 63C-9-403, 63C-9-301(3)(a)**

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# Capitol Preservation Board (State), Administration
# R131-15
# State Construction Contracts and Drug and Alcohol Testing

## NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 33846
FILED: 07/19/2010

## RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the Rule is to comply with S.B. 13 of the 2010 Utah Legislative Session which enacts Section 63G-6-604. Said statute requires that a state construction contract impose requirements related to drug and alcohol testing; addresses penalties for non-compliance; clarifies that monitoring activities are not required of the state; provides that the state is not liable in actions related to drug and alcohol testing; provides exemptions; and addresses the scope of the provision. (DAR NOTE: S.B. 13 (2010) is found at Chapter 18, Laws of Utah 2010, and was effective 07/01/2010.)

SUMMARY OF THE RULE OR CHANGE: S.B. 13 of the 2010 Utah State Legislative Session enacted Section 63G-6-604 and modified the Utah Procurement Code to address requirements for drug and alcohol testing for state construction contracts. This rule is being implemented to comply with S.B. 13 and requires that a state construction contract impose requirements related to drug and alcohol testing; addresses penalties; clarifies that monitoring activities are not required of the state; provides that the state is not liable in actions related to drug and alcohol testing; provides exemptions and addresses the scope of the provision.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63G-6-604

EMERGENCY RULE REASON AND JUSTIFICATION:
REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.
JUSTIFICATION: S.B. 13 of the 2010 Utah State Legislative Session enacted Section 63G-6-604 and modified the Utah Procurement Code to address requirements for drug and alcohol testing for state construction contracts. The statute

went into effect on 07/01/2010. This emergency rule is being filed to comply with S.B. 13 and the statute, 63G-6-604, because the Capitol Preservation Board will not be meeting to make a motion to approve Rule R131-15 before the statute goes into effect.

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The statute itself created the fiscal impacts. The rule does not add additional burdens than already provided by the statute. The rule will not impact the costs.
♦ LOCAL GOVERNMENTS: The statute itself created the fiscal impacts. No costs or savings are anticipated for local governments with this new rule. No new requirements were created with this new rule that impact local governments.
♦ SMALL BUSINESSES: The statute itself created any fiscal impacts to small businesses. The implementation of Rule R131-15 does not add any additional burdens other than those already provided by the statute.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The statute itself created any fiscal impacts to persons other than small businesses, businesses, or local government entities. The implementation of Rule R131-15 does not add any additional burdens other than those already provided by the statute.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The statute itself created any compliance costs, if any, for affected persons. Implementation of Rule R131-15 does not create any compliance costs other than those that were created by the statute.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The purpose of implementing Rule R131-15 is to be in compliance with S.B. 13, 2010 Legislative Session, and state statute. The statute created the fiscal impacts and implementation of this rule does not add additional burdens than already provided by the statute. The rule will not impact the costs. It is necessary to file a Notice of 120-Day (Emergency) Rule in order to comply with the statute. This emergency rule is being filed to comply with S.B. 13 and the statute, 63G-6-604, because the Capitol Preservation Board will not be meeting to make a motion to approve Rule R131-15 before the statute goes into effect.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
CAPITOL PRESERVATION BOARD (STATE)
ADMINISTRATION
ROOM E110
EAST BUILDING
420 N STATE ST
SALT LAKE CITY, UT 84114-2110
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Alan Bachman by phone at 801-538-3105, by FAX at 801-538-3313, or by Internet E-mail at abachman@utah.gov
♦ Allyson Gamble by phone at 801-537-9156, by FAX at 801-538-3221, or by Internet E-mail at agamble@utah.gov
♦ La Priel Dye by phone at 801-538-3240, by FAX at 801-538-3313, or by Internet E-mail at ldye@utah.gov

EFFECTIVE: 07/19/2010

AUTHORIZED BY: Allyson Gamble, Executive Director

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**R131. Capitol Preservation Board (State), Administration.**
**R131-15. State Construction Contracts and Drug and Alcohol Testing.**
**R131-15-1. Purpose.**
The purpose of this rule is to comply with the provisions of Section 63G-6-604.

**R131-15-2. Authority.**
This rule is authorized under Subsection 63C-9-301(3)(a) as well as Section 63G-6-604(4).

**R131-15-3. Definitions.**
(1) The following definitions of Section 63G-6-604 shall apply to any term used in this Rule R131-15:
(a) "Contractor" means a person who is or may be awarded a state construction contract.
(b) "Covered individual" means an individual who:
(i) on behalf of a contractor or subcontractor provides services directly related to design or construction under a state construction contract; and
(ii) is in a safety sensitive position, including a design position that has responsibilities that directly affect the safety of an improvement to real property that is the subject of a state construction contract.
(c) "Drug and alcohol testing policy" means a policy under which a contractor or subcontractor tests a covered individual to establish, maintain, or enforce the prohibition of:
(i) the manufacture, distribution, dispensing, possession, or use of drugs or alcohol, except the medically prescribed possession and use of a drug; or
(ii) the impairment of judgment or physical abilities due to the use of drugs or alcohol.
(d) "Random testing" means that a covered individual is subject to periodic testing for drugs and alcohol:
(i) in accordance with a drug and alcohol testing policy; and
(ii) on the basis of a random selection process.
(e) For purposes of Subsection R131-15-4(5), "state" includes any of the following of the state:
(i) a department;
(ii) a division;
(iii) an agency;
(iv) a board including the Capitol Preservation Board;

(v) a commission;
(vi) a council;
(vii) a committee; and
(viii) an institution, including a state institution of higher education, as defined under Section 53B-3-102.
(f) "State construction contract" means a contract for design or construction entered into by the Capitol Preservation Board.
(g)(i) "Subcontractor" means a person under contract with a contractor or another subcontractor to provide services or labor for design or construction.
(ii) "Subcontractor" includes a trade contractor or specialty contractor.
(iii) "Subcontractor" does not include a supplier who provides only materials, equipment, or supplies to a contractor or subcontractor.
(2) In addition:
(a) "Board" means the Capitol Preservation Board established pursuant to Section 63C-9-201.
(b) "Executive Director" means the Executive Director of the Capitol Preservation Board.
(c) "State" as used throughout Rule R131-15 means the State of Utah except that it also includes those entities described in Subsection R131-15-3(1)(e) as the term "state" is used in Subsection R131-15-7(5).

**R131-15-4. Applicability.**
(1) Except as provided in Section R131-15-5, on and after July 1, 2010, the Board may not enter into a state construction contract (includes a contract for design or construction) unless the state construction contract requires the following:
(a) A contractor shall demonstrate to the Capitol Preservation Board that the contractor:
(i) has and will maintain a drug and alcohol testing policy during the period of the state construction contract that applies to the covered individuals hired by the contractor;
(ii) posts in one or more conspicuous places notice to covered individuals hired by the contractor that the contractor has the drug and alcohol testing policy described in Subsection R131-15-4(1)(a)(i); and
(iii) subjects the covered individuals to random testing under the drug and alcohol testing policy described in Subsection R131-15-4(1)(a)(i) if at any time during the period of the state construction contract there are ten or more individuals who are covered individuals hired by the contractor.
(b) A contractor shall demonstrate to the Board, which shall be demonstrated by a provision in the contract where the contractor acknowledges this Rule R131-15 and agrees to comply with all aspects of this Rule R131-15, that the contractor requires that as a condition of contracting with the contractor, a subcontractor, which includes consultants under contract with the designer:
(i) has and will maintain a drug and alcohol testing policy during the period of the state construction contract that applies to the covered individuals hired by the subcontractor;
(ii) posts in one or more conspicuous places notice to covered individuals hired by the subcontractor that the subcontractor has the drug and alcohol testing policy described in Subsection R131-15-4(1)(b)(i); and
(iii) subjects the covered individuals hired by the subcontractor to random testing under the drug and alcohol testing policy described in Subsection R131-15-4(1)(b)(i) if at any time during the period of the state construction contract there are ten or more individuals who are covered individuals hired by the subcontractor.
(2)(a) Except as otherwise provided in this Subsection R131-15-4(2), if a contractor or subcontractor fails to comply with Subsection R131-15-4(1), the contractor or subcontractor may be suspended or debarred in accordance with this Rule R131-15.
(b) On and after July 1, 2010, the Board shall include in a state construction contract a reference to this Rule R131-15.
(c)(i) A contractor is not subject to penalties for the failure of a subcontractor to comply with Subsection R131-15-4(1).
(ii) A subcontractor is not subject to penalties for the failure of a contractor to comply with Subsection R131-15-4(1).
(3)(a) The requirements and procedures a contractor shall follow to comply with Subsection R131-15-4(1) is that the contractor, by executing the construction contract with the Board, is deemed to certify to the Board that the contractor, and all subcontractors under the contractor that are subject to Subsection R131-15-4(1), shall comply with all provisions of this Rule R131-15 as well as Section 63G-6-604; and that the contractor shall on a semi-annual basis throughout the term of the contract, report to the Executive Director in writing information that indicates compliance with the provisions of Rule R131-15 and Section 63G-6-604.
(b) A contractor or subcontractor may be suspended or debarred in accordance with the applicable Utah statutes and rules, if the contractor or subcontractor violates a provision of Section 63G-6-604. The contractor or subcontractor shall be provided reasonable notice and opportunity to cure a violation of Section 63G-6-604 before suspension or debarment of the contractor or subcontractor in light of the circumstances of the state construction contract or the violation. The greater the risk to person(s) or property as a result of noncompliance, the shorter this notice and opportunity to cure shall be, including the possibility that the notice may provide for immediate compliance if necessary to protect person(s) or property.
(4) The failure of a contractor or subcontractor to meet the requirements of Subsection R131-15(4)(1):
(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under Part 8, Legal and Contractual Remedies or the similar rules of the Board; and
(b) may not be used by the Board, a prospective bidder, an offeror, a contractor, or a subcontractor as a basis for an action that would suspend, disrupt, or terminate the design or construction under a state construction contract.
(5)(a) After the Board enters into a state construction contract in compliance with Section 63G-6-604, the state is not required to audit, monitor, or take any other action to ensure compliance with Section 63G-6-604.
(b) The state is not liable in any action related to Section 63G-6-604 and this Rule R131-15, including not being liable in relation to:
(i) a contractor or subcontractor having or not having a drug and alcohol testing policy;
(ii) failure to test for a drug or alcohol under a contractor's or subcontractor's drug and alcohol testing policy;

(iii) the requirements of a contractor's or subcontractor's drug and alcohol testing policy;
(iv) a contractor's or subcontractor's implementation of a drug and alcohol testing policy, including procedures for:
(A) collection of a sample;
(B) testing of a sample;
(C) evaluation of a test; or
(D) disciplinary or rehabilitative action on the basis of a test result;
(v) an individual being under the influence of drugs or alcohol; or
(vi) an individual under the influence of drugs or alcohol harming another person or causing property damage.

**R131-15-5. Non-applicability.**
(1) This Rule R131-15 and Section 63G-6-604 does not apply if the Board determines that the application of this Rule R131-15 or Section 63G-6-604 would severely disrupt the operation of a state agency to the detriment of the state agency or the general public, including:
(a) jeopardizing the receipt of federal funds;
(b) the state construction contract being a sole source contract; or
(c) the state construction contract being an emergency procurement.

**R131-15-6. Not Limit Other Lawful Policies.**
(1) If a contractor or subcontractor meets the requirements of Section 63-6-604 and this Rule R131-15, this Rule R131-15 may not be construed to restrict the contractor's or subcontractor's ability to impose or implement an otherwise lawful provision as part of a drug and alcohol testing policy.

**KEY: drug and alcohol testing, contractors, contracts**
**Notice of Enactment of Last Substantive Amendment: July 19, 2010**
**Authorizing and Implemented or Interpreted Law: 63G-6**

**End of the Notices of 120-Day (Emergency) Rules Section**

# FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to remove obsolete rules from the Utah Administrative Code. Upon reviewing a rule, an agency may: repeal the rule by filing a **Proposed Rule**; continue the rule as it is by filing a **Notice of Review and Statement of Continuation (Notice)**; or amend the rule by filing a **Proposed Rule** and by filing a **Notice**. By filing a Notice, the agency indicates that the rule is still necessary.

**Notices** are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. **Notices** are effective upon filing.

**Notices** are governed by Section 63G-3-305.

## Capitol Preservation Board (State), Administration
## R131-6
## Board Designation of Space

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**
DAR FILE NO.: 33842
FILED: 07/19/2010

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Rule R131-6 is enacted under the authority of Section 63C-9-301 which directs the Capitol Preservation Board to make rules to exercise jurisdiction over such Capitol Hill facilities and grounds for which it has responsibility to administer. This rule defines the types of space located within buildings on Capitol Hill; all Capitol Facility space(s), under the responsibility of the Board, shall be assigned by the Board for function and use.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Capitol Preservation Board and executive director have not received written comments, either in support of or opposition to Rule R131-6.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule 131-6 defines the types of space located within buildings on Capitol Hill; all Capitol Facility space(s), under the responsibility of the Board, shall be assigned by the Board for function and use. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
CAPITOL PRESERVATION BOARD (STATE)
ADMINISTRATION
ROOM E110
EAST BUILDING
420 N STATE ST
SALT LAKE CITY, UT 84114-2110
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Alan Bachman by phone at 801-538-3105, by FAX at 801-538-3313, or by Internet E-mail at abachman@utah.gov
♦ Allyson Gamble by phone at 801-537-9156, by FAX at 801-538-3221, or by Internet E-mail at agamble@utah.gov
♦ La Priel Dye by phone at 801-538-3240, by FAX at 801-538-3313, or by Internet E-mail at ldye@utah.gov

AUTHORIZED BY: Allyson Gamble, Executive Director

EFFECTIVE: 07/19/2010

## Human Services, Child Protection Ombudsman (Office of)
## R515-1
## Processing Complaints Regarding the Utah Division of Child and Family Services

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**
DAR FILE NO.: 33864
FILED: 07/27/2010

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 62A-1-111 and 62A-4a-208 authorize the Office of the Ombudsman to make rules in order to establish standards and procedures for investigations.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: As Section 62A-4a-208 still requires standards and procedures for investigations, Rule R151-1 continues to be required as it provides those standards and procedures. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HUMAN SERVICES
CHILD PROTECTION OMBUDSMAN (OFFICE OF)
195 N 1950 W
FOURTH FLOOR
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Carol Cook by phone at 801-538-4626, by FAX at 801-538-3942, or by Internet E-mail at cacook@utah.gov
♦ Julene Jones by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjones@utah.gov

AUTHORIZED BY: Palmer DePaulis, Executive Director

EFFECTIVE: 07/27/2010

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# Natural Resources, Water Rights
# R655-14
# Administrative Procedures for Enforcement Proceedings Before the Division of Water Rights

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**
DAR FILE NO.: 33863
FILED: 07/27/2010

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 73-2-25 and 73-2-26 are referenced throughout the rule as the enabling legislation requiring and authorizing the State Engineer to undertake enforcement of violations of the Water and Irrigation Code including the determination and imposition of administrative penalties. Subsection 73-2-1(4)(g) states that the State Engineer shall make rules regarding enforcement orders and the imposition of fines and penalties. Subsection 73-2-25(3) states that the State Engineer shall make rules necessary to enforce a notice of violation or a cease and desist order. Section 73-2-1, Subsection 73-2-1(2), and Section 73-2-25 state that the State Engineer is responsible to administer the distribution and use of all surface and ground waters within the state in accordance with statutory authority. Sections 73-3-25, 73-5-1, 73-5-3, 73-5-8, and 76-2-103 are referenced to define terms used in the rule.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comment has been received since it was enacted.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: In the period since the rule was enacted, the legislation requiring the State Engineer to undertake enforcement actions has not been rescinded; therefore, the statutory obligation continues and there is a continuing need for the rule to provide guidance for water right enforcement actions.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
WATER RIGHTS
ROOM 220
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Marianne Burbidge by phone at 801-538-7370, by FAX at 801-538-7467, or by Internet E-mail at marianneburbidge@utah.gov

AUTHORIZED BY: Michael Styler, Executive Director

EFFECTIVE: 07/27/2010

**End of the Five-Year Notices of Review and Statements of Continuation Section**

# NOTICES OF
# RULE EFFECTIVE DATES

State law provides for agencies to make their rules effective and enforceable after publication in the Utah State Bulletin. In the case of Proposed Rules or Changes in Proposed Rules with a designated comment period, the law permits an agency to file a notice of effective date any time after the close of comment plus seven days. In the case of Changes in Proposed Rules with no designated comment period, the law permits an agency to file a notice of effective date on any date including or after the thirtieth day after the rule's publication date. If an agency fails to file a Notice of Effective Date within 120 days from the publication of a Proposed Rule or a related Change in Proposed Rule the rule lapses and the agency must start the rulemaking process over.

Notices of Effective Date are governed by Subsection 63G-3-301(12), 63G-3-303, and Sections R15-4-5a and 5b.

Abbreviations
AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal & Reenact
REP = Repeal

Administrative Services
Finance
No. 33618 (AMD): R25-7. Travel-Related Reimbursements for State Employees
Published: 06/01/2010
Effective: 08/01/2010

Commerce
Administration
No. 33667 (AMD): R151-46b-5. General Provisions
Published: 06/15/2010
Effective: 07/22/2010

Occupational and Professional Licensing
No. 33630 (AMD): R156-17b. Pharmacy Practice Act Rule
Published: 06/01/2010
Effective: 08/02/2010

No. 33679 (AMD): R156-80. Medical Language Interpreter Act Rule
Published: 06/15/2010
Effective: 07/22/2010

Real Estate
No. 33666 (AMD): R162-2c. Utah Residential Mortgage Practices and Licensing Rules
Published: 06/15/2010
Effective: 07/22/2010

Health
Administration
No. 33425 (AMD): R380-210. Health Care Facility Patient Safety Program
Published: 04/01/2010
Effective: 07/26/2010

Health Care Financing, Coverage and Reimbursement Policy
No. 33689 (AMD): R414-320. Medicaid Health Insurance Flexibility and Accountability Demonstration Waiver
Published: 06/15/2010
Effective: 07/29/2010

Natural Resources
Oil, Gas and Mining; Coal
No. 33669 (AMD): R645-100-200. Definitions
Published: 06/15/2010
Effective: 07/28/2010

No. 33670 (AMD): R645-103-200. Areas Designated by Act of Congress
Published: 06/15/2010
Effective: 07/28/2010

No. 33671 (AMD): R645-201-300. Major Coal Exploration Permits
Published: 06/15/2010
Effective: 07/28/2010

No. 33672 (AMD): R645-300-100. Review, Public Participation, and Approval or Disapproval of Permit Applications and Permit Terms and Conditions
Published: 06/15/2010
Effective: 07/28/2010

No. 33673 (AMD): R645-301-100. General Contents
Published: 06/15/2010
Effective: 07/28/2010

No. 33674 (AMD): R645-301-400. Land Use and Air Quality
Published: 06/15/2010
Effective: 07/28/2010

# RULES INDEX
# BY AGENCY (CODE NUMBER)
# AND
# BY KEYWORD (SUBJECT)

The Rules Index is a cumulative index that reflects all effective changes to Utah's administrative rules. The current Index lists changes made effective from January 2, 2010 through August 02, 2010. The Rules Index is published in the Utah State Bulletin and in the annual Utah Administrative Rules Index of Changes. Nonsubstantive changes, while not published in the Bulletin, do become part of the Utah Administrative Code (Code) and are included in this Index, as well as 120-Day (Emergency) rules that do not become part of the Code. The rules are indexed by Agency (Code Number) and Keyword (Subject).

Questions regarding the index and the information it contains should be addressed to Nancy Lancaster (801-538-3218), Mike Broschinsky (801-538-3003), or Kenneth A. Hansen (801-538-3777).

A copy of the Rules Index is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division’s web site (http://www.rules.utah.gov/).

# RULES INDEX - BY AGENCY (CODE NUMBER)

**ABBREVIATIONS**

AMD = Amendment
CPR = Change in proposed rule
EMR = Emergency rule (120 day)
NEW = New rule
EXD = Expired
NSC = Nonsubstantive rule change
REP = Repeal
R&R = Repeal and reenact
5YR = Five-Year Review

| CODE REFERENCE | TITLE | FILE NUMBER | ACTION | EFFECTIVE DATE | BULLETIN ISSUE/PAGE |
|---|---|---|---|---|---|
| ADMINISTRATIVE SERVICES | | | | | |
| Administrative Rules | | | | | |
| R15-4 | Administrative Rulemaking Procedures | 33437 | NSC | 03/29/2010 | Not Printed |
| Archives | | | | | |
| R17-7-3 | Archives/ Research Room/Access to Records | 33320 | AMD | 05/17/2010 | 2010-3/12 |
| Debt Collection | | | | | |
| R21-3 | Debt Collection Through Administrative Offset | 33564 | NSC | 07/01/2010 | Not Printed |
| R21-3 | Debt Collection Through Administrative Offset | 33778 | NSC | 07/26/2010 | Not Printed |
| Facilities Construction and Management | | | | | |
| R23-1 | Procurement of Construction | 33621 | AMD | 07/08/2010 | 2010-11/6 |
| R23-2-15 | Negotiation and Appointment | 33766 | NSC | 07/01/2010 | Not Printed |
| R23-7 | State Construction Contracts and Drug and Alcohol Testing | 33622 | NEW | 07/08/2010 | 2010-11/16 |
| R23-22 | General Procedures for Acquisition and Selling of Real Property | 33623 | AMD | 07/08/2010 | 2010-11/19 |
| R23-22-7 | Requirements for the Disposition of Real Property by DFCM | 33683 | NSC | 07/08/2010 | Not Printed |
| R23-23 | Health Reform -- Health Insurance Coverage in State Contracts -- Implementation | 33634 | AMD | 07/08/2010 | 2010-11/23 |
| R23-26 | Dispute Resolution | 33360 | 5YR | 02/01/2010 | 2010-4/79 |
| Finance | | | | | |
| R25-7 | Travel-Related Reimbursements for State Employees | 33618 | AMD | 08/01/2010 | 2010-11/26 |
| R25-7-10 | Reimbursement for Transportation | 33302 | AMD | 04/21/2010 | 2010-3/12 |
| Purchasing and General Services | | | | | |
| R33-3 | Source Selection and Contract Formulation | 33650 | AMD | 07/08/2010 | 2010-11/28 |
| R33-5 | Construction and Architect-Engineer Selection | 33635 | AMD | 07/08/2010 | 2010-11/35 |
| R33-10 | State Construction Contracts and Drugs and Alcohol Testing | 33656 | NEW | 07/08/2010 | 2010-11/44 |
| Records Committee | | | | | |
| R35-1-4 | Committee Minutes | 33335 | AMD | 05/17/2010 | 2010-4/16 |
| R35-1-4 | Committee Minutes | 33436 | NSC | 05/17/2010 | Not Printed |
| R35-1a | State Records Committee/Definitions | 33399 | 5YR | 02/22/2010 | 2010-6/35 |
| Risk Management | | | | | |
| R37-1 | Risk Management General Rules | 33390 | AMD | 06/01/2010 | 2010-5/2 |
| R37-2 | Risk Management State Workers' Compensation Insurance Administration | 33392 | NSC | 03/10/2010 | Not Printed |
| R37-4 | Adjusted Utah Governmental Immunity Act Limitations on Judgments | 33393 | AMD | 06/01/2010 | 2010-6/6 |

AGRICULTURE AND FOOD

| | | | | | |
|---|---|---|---|---|---|
| Animal Industry | | | | | |
| R58-7 | Livestock Markets, Satellite Video Livestock Auction Market, Livestock Sales, Dealers and Livestock Market Weighpersons | 33326 | 5YR | 01/14/2010 | 2010-3/87 |
| R58-10 | Meat and Poultry Inspection | 33329 | 5YR | 01/14/2010 | 2010-3/87 |
| R58-17 | Aquaculture and Aquatic Animal Health | 33327 | 5YR | 01/14/2010 | 2010-3/88 |
| R58-20-5 | Facilities | 33217 | AMD | 01/27/2010 | 2009-24/4 |
| R58-21 | Trichomoniasis | 33340 | 5YR | 01/27/2010 | 2010-4/79 |
| Conservation and Resource Management | | | | | |
| R64-1 | Agriculture Resource and Development Loans (ARDL) | 33305 | 5YR | 01/07/2010 | 2010-3/89 |
| Plant Industry | | | | | |
| R68-2 | Utah Commercial Feed Act Governing Feed | 33813 | 5YR | 07/07/2010 | 2010-15/69 |
| R68-7 | Utah Pesticide Control Act | 33080 | AMD | 01/04/2010 | 2009-22/5 |
| R68-10 | Quarantine Pertaining to European Corn Borer | 33835 | 5YR | 07/15/2010 | 2010-15/69 |
| R68-12 | Quarantine Pertaining to Mint Wilt | 33677 | 5YR | 05/27/2010 | 2010-12/69 |
| R68-20 | Utah Organic Standards | 33315 | 5YR | 01/12/2010 | 2010-3/89 |
| Regulatory Services | | | | | |
| R70-101 | Bedding, Upholstered Furniture and Quilted Clothing | 33074 | AMD | 01/11/2010 | 2009-22/11 |
| R70-101 | Bedding, Upholstered Furniture and Quilted Clothing | 33542 | 5YR | 04/07/2010 | 2010-9/41 |

ALCOHOLIC BEVERAGE CONTROL

| | | | | | |
|---|---|---|---|---|---|
| Administration | | | | | |
| R81-1-11 | Multiple-Licensed Facility Storage and Service | 33153 | AMD | 01/26/2010 | 2009-24/5 |
| R81-1-26 | Criminal History Background Checks | 33154 | AMD | 01/26/2010 | 2009-24/6 |
| R81-3-13 | Operational Restrictions | 33152 | AMD | 01/26/2010 | 2009-24/8 |
| R81-4D-1 | Licensing | 33155 | AMD | 01/26/2010 | 2009-24/10 |
| R81-4D-14 | Reporting Requirement | 33156 | AMD | 01/26/2010 | 2009-24/11 |
| R81-4E | Resort Licenses | 33157 | NEW | 01/26/2010 | 2009-24/12 |
| R81-4E-4 | Insurance | 33339 | NSC | 02/11/2010 | Not Printed |
| R81-7-1 | Application Guidelines | 33469 | AMD | 05/26/2010 | 2010-8/6 |
| R81-10B-1 | Application Guidelines | 33504 | AMD | 05/26/2010 | 2010-8/7 |

CAPITOL PRESERVATION BOARD (STATE)

| | | | | | |
|---|---|---|---|---|---|
| Administration | | | | | |
| R131-1 | Procurement of Architectural and Engineering Services | 33363 | EXT | 02/08/2010 | 2010-5/73 |
| R131-1 | Procurement of Architectural and Engineering Services | 33544 | 5YR | 04/07/2010 | 2010-9/41 |
| R131-1 | Procurement of Architectural and Engineering Services | 33543 | NSC | 04/26/2010 | Not Printed |
| R131-2 | Capitol Hill Complex Facility Use | 33364 | EXT | 02/08/2010 | 2010-5/73 |
| R131-2 | Capitol Hill Complex Facility Use | 33545 | 5YR | 04/07/2010 | 2010-9/42 |
| R131-2-11 | Fees and Charges During Legislative Session | 33151 | AMD | 01/07/2010 | 2009-23/6 |
| R131-6 | Board Designation of Space | 33842 | 5YR | 07/19/2010 | Not Printed |
| R131-7 | State Capitol Preservation Board Master Planning Policy | 33365 | EXT | 02/08/2010 | 2010-5/74 |
| R131-7 | State Capitol Preservation Board Master Planning Policy | 33547 | 5YR | 04/07/2010 | 2010-9/43 |
| R131-7 | State Capitol Preservation Board Master Planning Policy | 33546 | NSC | 04/26/2010 | Not Printed |
| R131-8 | CPB Facilities and Grounds: Maintenance of Aesthetics | 33405 | EXT | 02/24/2010 | 2010-6/43 |
| R131-8 | CPB Facilities and Grounds: Maintenance of Aesthetics | 33549 | 5YR | 04/07/2010 | 2010-9/43 |
| R131-8 | CPB Facilities and Grounds: Maintenance of Aesthetics | 33548 | NSC | 04/26/2010 | Not Printed |

| | | | | | |
|---|---|---|---|---|---|
| R131-9 | State Capitol Preservation Board Art Program and Policy | 33406 | EXT | 02/24/2010 | 2010-6/43 |
| R131-9 | State Capitol Preservation Board Art Program and Policy | 33551 | 5YR | 04/07/2010 | 2010-9/44 |
| R131-9 | State Capitol Preservation Board Art Program and Policy | 33550 | NSC | 04/26/2010 | Not Printed |
| R131-13 | Health Reform -- Health Insurance Coverage in State Contracts -- Implementation | 33844 | EMR | 07/19/2010 | Not Printed |
| R131-14 | Parking on Capitol Hill | 33298 | NEW | 02/22/2010 | 2010-2/4 |
| R131-15 | State Construction Contracts and Drug and Alcohol Testing | 33846 | EMR | 07/19/2010 | Not Printed |

CAREER SERVICE REVIEW BOARD

Administration

| | | | | | |
|---|---|---|---|---|---|
| R137-1 | Grievance Procedure Rules | 33592 | AMD | 07/01/2010 | 2010-10/4 |
| R137-1 | Grievance Procedure Rules | 33796 | NSC | 07/26/2010 | Not Printed |
| R137-2 | Government Records Access and Management Act | 33593 | AMD | 07/01/2010 | 2010-10/16 |

COMMERCE

Administration

| | | | | | |
|---|---|---|---|---|---|
| R151-1 | Department of Commerce General Provisions | 33336 | 5YR | 01/25/2010 | 2010-4/80 |
| R151-46b | Department of Commerce Administrative Procedures Act Rules | 33150 | AMD | 01/07/2010 | 2009-23/7 |
| R151-46b | Department of Commerce Administrative Procedures Act Rules | 33616 | AMD | 07/12/2010 | 2010-11/46 |
| R151-46b-5 | General Provisions | 33149 | AMD | 01/07/2010 | 2009-23/11 |
| R151-46b-5 | General Provisions | 33667 | AMD | 07/22/2010 | 2010-12/4 |
| R151-46b-11 | Orders | 33781 | NSC | 07/26/2010 | Not Printed |

Consumer Protection

| | | | | | |
|---|---|---|---|---|---|
| R152-1 | Utah Division of Consumer Protection: "Buyer Beware List" | 33583 | 5YR | 04/28/2010 | 2010-10/165 |
| R152-1-1 | Purposes, Policies and Rules of Construction | 33168 | AMD | 01/21/2010 | 2009-24/16 |
| R152-11-1 | Purposes, Rules of Construction | 33169 | AMD | 01/21/2010 | 2009-24/17 |
| R152-11-1 | Purposes, Rules of Construction | 33238 | AMD | 02/08/2010 | 2010-1/6 |
| R152-11-5 | Repairs and Services | 33239 | AMD | 02/08/2010 | 2010-1/7 |
| R152-39 | Child Protection Registry Rules | 33598 | 5YR | 04/29/2010 | 2010-10/165 |

Occupational and Professional Licensing

| | | | | | |
|---|---|---|---|---|---|
| R156-1 | General Rule of the Division of Occupational and Professional Licensing | 33227 | AMD | 03/25/2010 | 2009-24/18 |
| R156-1 | General Rule of the Division of Occupational and Professional Licensing | 33641 | AMD | 07/08/2010 | 2010-11/49 |
| R156-15 | Health Facility Administrator Act Rules | 33560 | AMD | 06/07/2010 | 2010-9/4 |
| R156-17b | Pharmacy Practice Act Rule | 33402 | 5YR | 02/23/2010 | 2010-6/35 |
| R156-17b | Pharmacy Practice Act Rule | 33630 | AMD | 08/02/2010 | 2010-11/61 |
| R156-20a | Environmental Health Scientist Act Rule | 33812 | 5YR | 07/06/2010 | 2010-15/70 |
| R156-24b | Physical Therapy Practice Act Rule | 33584 | AMD | 06/21/2010 | 2010-10/17 |
| R156-31b | Nurse Practice Act Rule | 33631 | AMD | 07/08/2010 | 2010-11/78 |
| R156-31b-701a | Delegation of Nursing Tasks in a School Setting | 33266 | AMD | 03/29/2010 | 2010-1/9 |
| R156-37 | Utah Controlled Substances Act Rules | 33665 | NSC | 06/14/2010 | Not Printed |
| R156-37-301 | License Classifications - Restrictions | 33264 | AMD | 02/08/2010 | 2010-1/11 |
| R156-38a | Residence Lien Restriction and Lien Recovery Fund Rule | 33307 | 5YR | 01/07/2010 | 2010-3/90 |
| R156-38b | State Construction Registry Rules | 33366 | 5YR | 02/08/2010 | 2010-5/69 |
| R156-46b | Division Utah Administrative Procedures Act Rule | 33639 | AMD | 07/08/2010 | 2010-11/91 |
| R156-47b | Massage Therapy Practice Act Rule | 33293 | AMD | 02/22/2010 | 2010-2/6 |
| R156-47b-102 | Definitions | 33400 | NSC | 03/10/2010 | Not Printed |
| R156-55d | Utah Construction Trades Licensing Act Burglar Alarm Licensing Rule | 33409 | 5YR | 02/25/2010 | 2010-6/36 |
| R156-56 | Utah Uniform Building Standard Act Rules | 33566 | AMD | 07/01/2010 | 2010-10/21 |
| R156-60a | Social Worker Licensing Act Rule | 33615 | AMD | 07/08/2010 | 2010-11/94 |
| R156-60c | Professional Counselor Licensing Act Rule | 33306 | 5YR | 01/07/2010 | 2010-3/90 |

| | | | | | |
|---|---|---|---|---|---|
| R156-73-603 | Standards for Practice of Animal Chiropractic | 33712 | NSC | 07/01/2010 | Not Printed |
| R156-77-102 | Definitions | 33263 | AMD | 02/08/2010 | 2010-1/12 |
| R156-78 | Vocational Rehabilitation Counselors Licensing Act Rule | 33585 | AMD | 06/21/2010 | 2010-10/54 |
| R156-78B-4 | General Provisions | 33175 | AMD | 01/21/2010 | 2009-24/28 |
| R156-79 | Hunting Guides and Outfitters Licensing Act Rule | 33265 | AMD | 02/08/2010 | 2010-1/14 |
| R156-80 (Changed to R156-80a) | Medical Language Interpreter Act Rule | 33679 | AMD | 07/22/2010 | 2010-12/5 |
| R156-83 | Online Prescribing, Dispensing, and Facilitation Licensing Act Rule | 33638 | NEW | 07/08/2010 | 2010-11/99 |
| R156-83-101 | Title | 33814 | NSC | 07/28/2010 | Not Printed |
| Real Estate | | | | | |
| R162-2-2 | Licensing Procedure | 33526 | AMD | 05/25/2010 | 2010-8/8 |
| R162-2c | Utah Residential Mortgage Practices and Licensing Rules | 33372 | NEW | 04/12/2010 | 2010-5/7 |
| R162-2c | Utah Residential Mortgage Practices and Licensing Rules | 33666 | AMD | 07/22/2010 | 2010-12/6 |
| R162-2c-203 | Utah-Specific Education Certification | 33506 | NSC | 04/14/2010 | Not Printed |
| R162-2c-204 | License Renewal | 33470 | NSC | 04/14/2010 | Not Printed |
| R162-2c-301 | Unprofessional Conduct | 33471 | NSC | 04/14/2010 | Not Printed |
| R162-2c-301 | Unprofessional Conduct | 33726 | NSC | 07/28/2010 | Not Printed |
| R162-2c-401 | Administrative Proceedings | 33507 | NSC | 04/14/2010 | Not Printed |
| R162-3 | License Status Change | 33565 | AMD | 06/21/2010 | 2010-10/56 |
| R162-4-1 | Records and Copies of Documents | 33563 | AMD | 06/16/2010 | 2010-9/9 |
| R162-101 | Authority and Definitions | 33158 | AMD | 01/27/2010 | 2009-24/29 |
| R162-102 | Application Procedures | 33180 | AMD | 01/27/2010 | 2009-24/30 |
| R162-104 | Experience Requirement | 33224 | AMD | 01/27/2010 | 2009-24/33 |
| R162-105 | Scope of Authority | 33225 | AMD | 01/27/2010 | 2009-24/39 |
| R162-106-1 | Uniform Standards | 33226 | AMD | 02/03/2010 | 2009-24/42 |
| R162-106-7 | Sales and Listing History | 33398 | AMD | 04/28/2010 | 2010-6/7 |
| R162-110 | Trainee Registration | 33148 | NEW | 01/07/2010 | 2009-23/13 |
| R162-110-1 | Trainee Registration | 33303 | NSC | 01/28/2010 | Not Printed |
| R162-201 | Residential Mortgage Definitions | 33373 | REP | 04/12/2010 | 2010-5/20 |
| R162-202 | Initial Application | 33374 | REP | 04/12/2010 | 2010-5/21 |
| R162-203 | Changes to Residential Mortgage Licensure Statement | 33375 | REP | 04/12/2010 | 2010-5/24 |
| R162-204 | Residential Mortgage Record Keeping Requirements | 33376 | REP | 04/12/2010 | 2010-5/26 |
| R162-205 | Residential Mortgage Unprofessional Conduct | 33377 | REP | 04/12/2010 | 2010-5/27 |
| R162-207 | License Renewal | 33378 | REP | 04/12/2010 | 2010-5/29 |
| R162-208 | Continuing Education | 33379 | REP | 04/12/2010 | 2010-5/31 |
| R162-209 | Administrative Proceedings | 33380 | REP | 04/12/2010 | 2010-5/35 |
| R162-210 | Certification of Prelicensing Education Providers | 33381 | REP | 04/12/2010 | 2010-5/37 |
| R162-211 | Adjusted License Terms | 33382 | REP | 04/12/2010 | 2010-5/41 |
| Securities | | | | | |
| R164-2 | Investment Adviser - Unlawful Acts | 33389 | 5YR | 02/16/2010 | 2010-5/69 |
| R164-4-9 | Exemptions From Licensing Requirements for Certain Investment Advisers | 33006 | AMD | 01/06/2010 | 2009-20/12 |
| R164-4-9 | Exemptions from Licensing Requirements for Certain Investment Advisers | 33316 | AMD | 03/11/2010 | 2010-3/14 |
| R164-6-1g | Dishonest or Unethical Business Practices | 33580 | AMD | 06/22/2010 | 2010-10/59 |
| R164-9 | Registration by Coordination | 33010 | AMD | 02/02/2010 | 2009-20/14 |
| R164-10-2 | Registration Statements | 33011 | AMD | 02/02/2010 | 2009-20/16 |
| R164-11-1 | General Registration Provisions | 33012 | AMD | 02/02/2010 | 2009-20/18 |
| R164-12-1f | Commissions on Sales of Securities | 33013 | AMD | 02/02/2010 | 2009-20/19 |
| R164-13 | Definitions | 33014 | REP | 02/02/2010 | 2009-20/22 |
| R164-18-6 | Procedures for Administrative Actions | 33016 | AMD | 02/02/2010 | 2009-20/23 |
| COMMUNITY AND CULTURE | | | | | |
| Arts and Museums | | | | | |
| R207-3 | Capital Funds Request Prioritization | 32949 | NEW | 01/27/2010 | 2009-19/72 |

| | | | | | |
|---|---|---|---|---|---|
| History | | | | | |
| R212-11 | Historic Preservation Tax Credit | 33448 | 5YR | 03/10/2010 | 2010-7/51 |
| Housing and Community Development, Community Services | | | | | |
| R202-101 | Qualified Emergency Food Agencies Fund (QEFAF) | 33252 | NEW | 02/22/2010 | 2010-1/16 |
| Library | | | | | |
| R223-3 | Capital Funds Request Prioritization | 32936 | NEW | 01/27/2010 | 2009-19/75 |
| CORRECTIONS | | | | | |
| Administration | | | | | |
| R251-303 | Offenders' Use of Telephones | 33810 | 5YR | 07/05/2010 | 2010-15/71 |
| EDUCATION | | | | | |
| Administration | | | | | |
| R277-107 | Educational Services Outside of Educator's Regular Employment | 33800 | 5YR | 07/01/2010 | 2010-14/55 |
| R277-109 | One-time Signing Bonuses | 33651 | REP | 07/15/2010 | 2010-11/101 |
| R277-111 | Sharing of Curriculum Materials by Public School Educators | 33147 | NEW | 01/08/2010 | 2009-23/15 |
| R277-113 | One-time Performance-based Compensation Program | 33652 | REP | 07/15/2010 | 2010-11/103 |
| R277-114 | Corrective Action and Withdrawal or Reduction of Program Funds | 33440 | NEW | 05/12/2010 | 2010-7/2 |
| R277-419-3 | Minimum School Days, LEA Records, and Audits | 33441 | AMD | 05/12/2010 | 2010-7/3 |
| R277-459 | Classroom Supplies Appropriation | 33801 | 5YR | 07/01/2010 | 2010-14/55 |
| R277-464 | Highly Impacted Schools | 33802 | 5YR | 07/01/2010 | 2010-14/56 |
| R277-470 | Charter Schools | 33442 | AMD | 05/12/2010 | 2010-7/5 |
| R277-473 | Testing Procedures | 33588 | 5YR | 04/29/2010 | 2010-10/166 |
| R277-474 | School Instruction and Human Sexuality | 33803 | 5YR | 07/01/2010 | 2010-14/56 |
| R277-475 | Patriotic Education | 33804 | 5YR | 07/01/2010 | 2010-14/57 |
| R277-476 | Incentives for Elementary Reading Program | 33805 | 5YR | 07/01/2010 | 2010-14/57 |
| R277-484 | Data Standards | 33443 | AMD | 05/12/2010 | 2010-7/8 |
| R277-501 | Educator Licensing Renewal and Timelines | 33397 | 5YR | 02/18/2010 | 2010-6/37 |
| R277-501 | Educator Licensing Renewal and Timelines | 33561 | AMD | 06/08/2010 | 2010-9/11 |
| R277-517 | Athletic Coaching Certification | 33653 | REP | 07/15/2010 | 2010-11/105 |
| R277-520 | Appropriate Licensing and Assignment of Teachers | 33806 | 5YR | 07/01/2010 | 2010-14/58 |
| R277-603 | Basic Skills Education Program | 33654 | REP | 07/15/2010 | 2010-11/107 |
| R277-613-1 | Definitions | 33253 | NSC | 01/04/2010 | Not Printed |
| R277-711-4 | Fiscal Standards | 33234 | NSC | 01/04/2010 | Not Printed |
| R277-800 | Utah Schools for the Deaf and the Blind | 33254 | NSC | 01/04/2010 | Not Printed |
| ENVIRONMENTAL QUALITY | | | | | |
| Administration | | | | | |
| R305-5 | Health Reform -- Health Insurance Coverage in DEQ State Contracts -- Implementation | 33102 | NEW | 02/16/2010 | 2009-22/30 |
| R305-5 | Health Reform -- Health Insurance Coverage in DEQ State Contracts -- Implementation | 33102 | CPR | 02/16/2010 | 2010-2/48 |
| R305-5 | Health Reform -- Health Insurance Coverage in DEQ State Contracts -- Implementation | 33589 | AMD | 06/23/2010 | 2010-10/63 |
| Air Quality | | | | | |
| R307-101-3 | Version of Code of Federal Regulations Incorporated by Reference | 33251 | AMD | 03/04/2010 | 2010-1/19 |
| R307-103 | Administrative Procedures | 33428 | 5YR | 03/04/2010 | 2010-7/51 |
| R307-201 | Emission Standards: General Emission Standards | 33429 | 5YR | 03/04/2010 | 2010-7/52 |
| R307-202 | Emission Standards: General Burning | 33430 | 5YR | 03/04/2010 | 2010-7/52 |
| R307-203 | Emission Standards: Sulfur Content of Fuels | 33431 | 5YR | 03/04/2010 | 2010-7/53 |
| R307-204 | Emission Standards: Smoke Management | 33432 | 5YR | 03/04/2010 | 2010-7/53 |

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| R307-205 | Emission Standards: Fugitive Emissions and Fugitive Dust | 33433 | 5YR | 03/04/2010 | 2010-7/54 |
| R307-206 | Emission Standards: Abrasive Blasting | 33434 | 5YR | 03/04/2010 | 2010-7/55 |
| R307-207 | Emission Standards: Residential Fireplaces and Stoves | 33435 | 5YR | 03/04/2010 | 2010-7/55 |
| R307-214 | National Emission Standards for Hazardous Air Pollutants | 33427 | AMD | 06/03/2010 | 2010-7/11 |
| R307-302 | Davis, Salt Lake, Utah, Weber Counties: Residential Fireplaces and Stoves. | 33698 | 5YR | 06/02/2010 | 2010-13/143 |
| R307-305 | Nonattainment and Maintenance Areas for PM10: Emission Standards | 33703 | 5YR | 06/02/2010 | 2010-13/143 |
| R307-306 | PM10 Nonattainment and Maintenance Areas: Abrasive Blasting | 33699 | 5YR | 06/02/2010 | 2010-13/144 |
| R307-307 | Davis, Salt Lake, and Utah Counties: Road Salting and Sanding | 33700 | 5YR | 06/02/2010 | 2010-13/145 |
| R307-309 | Nonattainment and Maintenance Areas for PM10: Fugitive Emissions and Fugitive Dust | 33701 | 5YR | 06/02/2010 | 2010-13/145 |
| R307-310 | Salt Lake County: Trading of Emission Budgets for Transportation Conformity | 33702 | 5YR | 06/02/2010 | 2010-13/146 |
| R307-840 | Lead-Based Paint Accreditation, Certification and Work Practice Standards | 33308 | R&R | 04/08/2010 | 2010-3/17 |
| R307-841 | Residential Property and Child-Occupied Facility Renovation | 33309 | NEW | 04/08/2010 | 2010-3/24 |
| R307-842 | Lead-Based Paint Activities | 33310 | NEW | 04/08/2010 | 2010-3/32 |
| Drinking Water | | | | | |
| R309-100 | Administration: Drinking Water Program | 33468 | 5YR | 03/22/2010 | 2010-8/41 |
| R309-100-7 | Sanitary Survey, Evaluation, and Corrective Action of Existing Facilities | 33455 | NSC | 03/29/2010 | Not Printed |
| R309-105 | Administration: General Responsibilities of Public Water Systems | 33473 | 5YR | 03/22/2010 | 2010-8/41 |
| R309-110 | Administration: Definitions | 33474 | 5YR | 03/22/2010 | 2010-8/42 |
| R309-115 | Administrative Procedures | 33475 | 5YR | 03/22/2010 | 2010-8/42 |
| R309-115 | Administrative Procedures | 33828 | NSC | 07/28/2010 | Not Printed |
| R309-200 | Monitoring and Water Quality: Drinking Water Standards | 33476 | 5YR | 03/22/2010 | 2010-8/43 |
| R309-200-2 | Authority | 33457 | NSC | 03/29/2010 | Not Printed |
| R309-205 | Monitoring and Water Quality: Source Monitoring Requirements | 33477 | 5YR | 03/22/2010 | 2010-8/43 |
| R309-205-9 | Microbiological Contaminants | 33456 | NSC | 03/29/2010 | Not Printed |
| R309-210 | Monitoring and Water Quality: Distribution System Monitoring Requirements | 33478 | 5YR | 03/22/2010 | 2010-8/44 |
| R309-210-6 | Lead and Copper Monitoring | 33459 | NSC | 03/29/2010 | Not Printed |
| R309-215 | Monitoring and Water Quality: Treatment Plant Monitoring Requirements | 33479 | 5YR | 03/22/2010 | 2010-8/45 |
| R309-220 | Monitoring and Water Quality: Public Notification Requirements | 33480 | 5YR | 03/22/2010 | 2010-8/45 |
| R309-220-5 | Tier 1 Public Notice -- Form, Manner and Frequency of Notice | 33458 | NSC | 03/29/2010 | Not Printed |
| R309-225 | Monitoring and Water Quality: Consumer Confidence Reports | 33481 | 5YR | 03/22/2010 | 2010-8/46 |
| R309-300 | Certification Rules for Water Supply Operators | 33484 | 5YR | 03/22/2010 | 2010-8/46 |
| R309-300-5 | General Policies | 33831 | NSC | 07/28/2010 | Not Printed |
| R309-305 | Certification Rules for Backflow Technicians | 33485 | 5YR | 03/22/2010 | 2010-8/47 |
| R309-305 | Certification Rules for Backflow Technicians | 33829 | NSC | 07/28/2010 | Not Printed |
| R309-352 | Capacity Development Program | 33501 | 5YR | 03/23/2010 | 2010-8/47 |
| R309-352 (Changed to R309-800) | Capacity Development Program | 33787 | NSC | 07/26/2010 | Not Printed |
| R309-400 | Water System Rating Criteria | 33482 | 5YR | 03/22/2010 | 2010-8/48 |
| R309-405 | Compliance and Enforcement: Administrative Penalty | 33483 | 5YR | 03/22/2010 | 2010-8/49 |
| R309-500 | Facility Design and Operation: Plan Review, Operation and Maintenance Requirements | 33486 | 5YR | 03/22/2010 | 2010-8/49 |
| R309-505 | Facility Design and Operation: Minimum Treatment Requirements | 33487 | 5YR | 03/22/2010 | 2010-8/50 |
| R309-510 | Facility Design and Operation: Minimum Sizing Requirements | 33488 | 5YR | 03/22/2010 | 2010-8/50 |

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| R309-511 | Hydraulic Modeling Requirements | 32978 | NEW | 03/11/2010 | 2009-19/88 |
| R309-511 | Hydraulic Modeling Requirements | 32978 | CPR | 03/11/2010 | 2010-3/62 |
| R309-515 | Facility Design and Operation: Source Development | 33489 | 5YR | 03/22/2010 | 2010-8/51 |
| R309-515 | Facility Design and Operation: Source Development | 33832 | NSC | 07/28/2010 | Not Printed |
| R309-515-6 | Ground Water - Wells | 33462 | AMD | 05/13/2010 | 2010-7/18 |
| R309-520 | Facility Design and Operation: Disinfection | 33490 | 5YR | 03/22/2010 | 2010-8/51 |
| R309-525 | Facility Design and Operation: Conventional Surface Water Treatment | 33491 | 5YR | 03/22/2010 | 2010-8/52 |
| R309-530 | Facility Design and Operation: Alternate Surface Water Treatment Methods | 33492 | 5YR | 03/22/2010 | 2010-8/52 |
| R309-535 | Facility Design and Operation: Miscellaneous Treatment Methods | 33493 | 5YR | 03/22/2010 | 2010-8/53 |
| R309-540 | Facility Design and Operation: Pump Stations | 33494 | 5YR | 03/22/2010 | 2010-8/53 |
| R309-540 | Facility Design and Operation: Pump Stations | 33830 | NSC | 07/28/2010 | Not Printed |
| R309-545 | Facility Design and Operation: Drinking Water Storage Tanks | 33495 | 5YR | 03/22/2010 | 2010-8/54 |
| R309-550 | Facility Design and Operation: Transmission and Distribution Pipelines | 33496 | 5YR | 03/22/2010 | 2010-8/55 |
| R309-600 | Source Protection: Drinking Water Source Protection for Ground Water Sources | 33464 | 5YR | 03/17/2010 | 2010-8/55 |
| R309-605 | Source Protection: Drinking Water Source Protection for Surface Water Sources | 33465 | 5YR | 03/17/2010 | 2010-8/56 |
| R309-700 | Financial Assistance: State Drinking Water State Revolving Fund (SRF) Loan Program | 33500 | 5YR | 03/23/2010 | 2010-8/56 |
| R309-705 | Financial Assistance: Federal Drinking Water Project Revolving Loan Program | 33502 | 5YR | 03/23/2010 | 2010-8/57 |
| Environmental Response and Remediation | | | | | |
| R311-500 | Illegal Drug Operations Site Reporting and Decontamination Act, Decontamination Specialist Certification Program | 33782 | 5YR | 06/23/2010 | 2010-14/58 |
| Radiation Control | | | | | |
| R313-19 | Requirements of General Applicability to Licensing of Radioactive Material | 33554 | AMD | 07/14/2010 | 2010-9/15 |
| R313-21 | General Licenses | 33555 | AMD | 07/14/2010 | 2010-9/21 |
| R313-25-8 | Technical Analyses | 33267 | AMD | 06/02/2010 | 2010-1/21 |
| R313-25-8 | Technical Analyses | 33267 | CPR | 06/02/2010 | 2010-9/38 |
| R313-34 | Requirements for Irradiators | 33367 | 5YR | 02/10/2010 | 2010-5/70 |
| R313-34-3 | Clarifications or Exemptions | 33368 | AMD | 04/15/2010 | 2010-5/42 |
| Solid and Hazardous Waste | | | | | |
| R315-1-1 | Definitions | 32966 | AMD | 01/15/2010 | 2009-19/92 |
| R315-2 | General Requirements - Identification and Listing of Hazardous Waste | 32967 | AMD | 01/15/2010 | 2009-19/94 |
| R315-2 | General Requirements - Identification and Listing of Hazardous Waste | 32967 | CPR | 01/15/2010 | 2009-23/32 |
| R315-5 | Hazardous Waste Generator Requirements | 32968 | AMD | 01/15/2010 | 2009-19/96 |
| R315-7-27 | Air Emission Standards for Equipment Leaks | 33144 | AMD | 01/15/2010 | 2009-23/16 |
| R315-8 | Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities | 32969 | AMD | 01/15/2010 | 2009-19/99 |
| R315-13-1 | Land Disposal Restrictions | 32970 | AMD | 01/15/2010 | 2009-19/103 |
| R315-14-7 | Hazardous Waste Burned in Boilers and Industrial Furnaces | 32971 | AMD | 01/15/2010 | 2009-19/104 |
| R315-16 | Standards for Universal Waste Management | 33681 | 5YR | 05/27/2010 | 2010-12/69 |
| R315-50-1 | Instructions for Completion of Uniform Hazardous Waste Manifest | 32972 | AMD | 01/15/2010 | 2009-19/105 |
| R315-102 | Penalty Policy | 33682 | 5YR | 05/27/2010 | 2010-12/70 |
| R315-302-1 | Location Standards for Disposal Facilities | 33391 | NSC | 03/10/2010 | Not Printed |
| R315-316 | Infectious Waste Requirements | 33145 | AMD | 01/15/2010 | 2009-23/17 |
| Water Quality | | | | | |
| R317-1-1 | Definitions | 33232 | AMD | 04/01/2010 | 2009-24/43 |
| R317-1-1 | Definitions | 33232 | CPR | 04/01/2010 | 2010-4/66 |

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| R317-2 | Standards of Quality for Waters of the State | 33233 | AMD | 04/01/2010 | 2009-24/45 |
| R317-2 | Standards of Quality for Waters of the State | 33233 | CPR | 04/01/2010 | 2010-4/68 |
| R317-4 | Onsite Wastewater Systems | 33370 | 5YR | 02/10/2010 | 2010-5/71 |
| GOVERNOR | | | | | |
| Criminal and Juvenile Justice (State Commission on) | | | | | |
| R356-1 | Procedures for the Calculation and Distribution of Funds to Reimburse County Correctional Facilities Housing State Probationary Inmates or State Parole Inmates | 33073 | NEW | 01/04/2010 | 2009-22/41 |
| R356-1-7 | Calculation of Payments to Counties for Reimbursement for Housing State Probationary Inmates and State Parole Inmates | 33237 | NSC | 01/04/2010 | Not Printed |
| R356-101 | Judicial Nominating Commissions | 33586 | NEW | 07/01/2010 | 2010-10/66 |
| Economic Development, Pete Suazo Utah Athletic Commission | | | | | |
| R359-1-508 | Hepatitis B Surface Antigen (HBsAg) and Hepatitis C Virus (HCV) Antibody Testing | 33460 | AMD | 07/01/2010 | 2010-7/20 |
| HEALTH | | | | | |
| Administration | | | | | |
| R380-40 | Local Health Department Minimum Performance Standards | 33553 | 5YR | 04/08/2010 | 2010-9/44 |
| R380-210 | Health Care Facility Patient Safety Program | 33425 | AMD | 07/26/2010 | 2010-7/21 |
| Community and Family Health Services, Children with Special Health Care Needs | | | | | |
| R398-1 | Newborn Screening | 33559 | AMD | 06/15/2010 | 2010-9/27 |
| R398-2-7 | Penalty for Violation of Rule | 33134 | AMD | 03/15/2010 | 2009-22/53 |
| Community and Family Health Services, Chronic Disease | | | | | |
| R384-100-10 | Penalties | 33138 | AMD | 03/15/2010 | 2009-23/21 |
| Community and Family Health Services, Immunization | | | | | |
| R396-100-9 | Penalties | 33181 | AMD | 03/15/2010 | 2009-24/66 |
| Epidemiology and Laboratory Services, Environmental Services | | | | | |
| R392-100-2 | Incorporation by Reference | 33210 | AMD | 03/15/2010 | 2009-24/61 |
| R392-101-9 | Penalties | 33211 | AMD | 03/15/2010 | 2009-24/63 |
| R392-303 | Public Geothermal Pools and Bathing Places | 33076 | AMD | 05/17/2010 | 2009-22/46 |
| R392-303 | Public Geothermal Pools and Bathing Places | 33076 | CPR | 05/17/2010 | 2010-6/28 |
| R392-400-17 | Penalty | 33212 | AMD | 03/15/2010 | 2009-24/64 |
| R392-600 | Illegal Drug Operations Decontamination Standards | 33410 | 5YR | 02/25/2010 | 2010-6/37 |
| R392-700-11 | Enforcement and Penalties | 33213 | AMD | 03/15/2010 | 2009-24/65 |
| Epidemiology and Laboratory Services, Epidemiology | | | | | |
| R386-702-11 | Penalties | 33182 | AMD | 03/15/2010 | 2009-24/57 |
| R386-705-101 | Penalties | 33183 | AMD | 03/15/2010 | 2009-24/58 |
| R386-800 | Immunization Coordination | 33562 | 5YR | 04/15/2010 | 2010-9/45 |
| R386-800-8 | Penalties for Violation | 33185 | AMD | 03/15/2010 | 2009-24/59 |
| Epidemiology and Laboratory Services, Laboratory Improvement | | | | | |
| R444-14-8 | Penalties | 33218 | AMD | 03/15/2010 | 2009-24/86 |
| Epidemiology and Laboratory Services, Laboratory Services | | | | | |
| R438-12-2 | Authorized Individual - Qualifications | 33087 | AMD | 01/06/2010 | 2009-22/82 |
| Epidemiology and Laboratory Services; HIV/AIDS, Tuberculosis Control/Refugee Health | | | | | |
| R388-804-9 | Penalty for Violation | 33188 | AMD | 03/15/2010 | 2009-24/60 |
| Health Care Financing, Coverage and Reimbursement Policy | | | | | |
| R414-1 | Utah Medicaid Program | 33214 | AMD | 01/27/2010 | 2009-24/67 |
| R414-1-5 | Incorporations by Reference | 33342 | AMD | 04/01/2010 | 2010-4/17 |
| R414-1-28 | Cost Sharing | 33414 | AMD | 05/01/2010 | 2010-6/8 |
| R414-3A | Outpatient Hospital Services | 33413 | EMR | 03/01/2010 | 2010-6/31 |

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| R414-3A | Outpatient Hospital Services | 33515 | AMD | 06/14/2010 | 2010-8/13 |
| R414-3A-9 | Reimbursement for Services | 33600 | AMD | 06/21/2010 | 2010-10/70 |
| R414-5 | Reduction in Hospital Payments | 33215 | REP | 02/16/2010 | 2009-24/69 |
| R414-7B | Nurse Aide Training and Competency Evaluation Program | 33341 | R&R | 03/29/2010 | 2010-4/18 |
| R414-10-6 | Copayment Policy | 33415 | AMD | 05/01/2010 | 2010-6/9 |
| R414-11-8 | Copayment Policy | 33416 | AMD | 05/01/2010 | 2010-6/10 |
| R414-14A | Hospice Care | 33216 | AMD | 01/28/2010 | 2009-24/70 |
| R414-14A | Hospice Care | 33579 | AMD | 06/21/2010 | 2010-10/71 |
| R414-19A | Coverage for Dialysis Services by a Free-Standing State Licensed Dialysis Facility | 33528 | AMD | 05/27/2010 | 2010-8/15 |
| R414-19A | Coverage for Dialysis Services by a Free-Standing State Licensed Dialysis Facility | 33680 | 5YR | 05/27/2010 | 2010-12/71 |
| R414-33 | Targeted Case Management Services | 33514 | REP | 05/24/2010 | 2010-8/17 |
| R414-33C | Targeted Case Management for the Homeless | 33403 | 5YR | 02/23/2010 | 2010-6/38 |
| R414-33C | Targeted Case Management for the Homeless | 33571 | REP | 07/01/2010 | 2010-10/77 |
| R414-33D | Targeted Case Management by Community Mental Health Centers for Individuals with Serious Mental Illness | 33723 | 5YR | 06/07/2010 | 2010-13/146 |
| R414-54-3 | Services | 33343 | AMD | 04/01/2010 | 2010-4/26 |
| R414-55-3 | Copayment Policy | 33417 | AMD | 05/01/2010 | 2010-6/11 |
| R414-59-4 | Client Eligibility Requirements | 33344 | AMD | 04/01/2010 | 2010-4/27 |
| R414-60-6 | Co-payment Policy | 33418 | AMD | 05/01/2010 | 2010-6/12 |
| R414-61 | Home and Community-Based Services Waivers | 33407 | 5YR | 02/24/2010 | 2010-6/39 |
| R414-200-4 | Cost Sharing | 33419 | AMD | 05/01/2010 | 2010-6/13 |
| R414-302 | Eligibility Requirements | 33572 | AMD | 07/01/2010 | 2010-10/82 |
| R414-302-4 | Residents of Institutions | 33345 | AMD | 04/01/2010 | 2010-4/28 |
| R414-303-3 | A, B and D Medicaid and A, B and D Institutional Medicaid Coverage Groups | 33346 | AMD | 04/01/2010 | 2010-4/30 |
| R414-304-9 | A, B, and D Institutional Medicaid and Family Institutional Medicaid Income Deductions | 33573 | AMD | 07/01/2010 | 2010-10/84 |
| R414-305 | Resources | 33574 | AMD | 07/01/2010 | 2010-10/86 |
| R414-306 | Program Benefits | 33259 | AMD | 02/22/2010 | 2010-1/23 |
| R414-309 | Medicare Drug Benefit Low-Income Subsidy Determination | 33466 | 5YR | 03/18/2010 | 2010-8/57 |
| R414-320 | Medicaid Health Insurance Flexibility and Accountability Demonstration Waiver | 32925 | AMD | 02/16/2010 | 2009-18/36 |
| R414-320 | Medicaid Health Insurance Flexibility and Accountability Demonstration Waiver | 32925 | CPR | 02/16/2010 | 2009-24/94 |
| R414-320 | Medicaid Health Insurance Flexibility and Accountability Demonstration Waiver | 33689 | AMD | 07/29/2010 | 2010-12/24 |
| R414-320-7 | Creditable Health Coverage | 33529 | EMR | 04/01/2010 | 2010-8/37 |
| R414-401 | Nursing Care Facility Assessment | 33594 | AMD | 07/01/2010 | 2010-10/89 |
| R414-501 | Preadmission Authorization, Retroactive Authorization, and Continued Stay Review | 33304 | NSC | 01/28/2010 | Not Printed |
| R414-503 | Preadmission Screening and Annual Resident Review | 33722 | NSC | 07/01/2010 | Not Printed |
| R414-504 | Nursing Facility Payments | 33596 | AMD | 07/01/2010 | 2010-10/90 |
| R414-506 | Hospital Provider Assessments | 33807 | EMR | 07/01/2010 | 2010-14/39 |
| Health Systems Improvement, Emergency Medical Services | | | | | |
| R426-2-7 | Statutory Penalties | 33240 | AMD | 03/15/2010 | 2010-1/26 |
| R426-5-11 | Statutory Penalties | 33244 | AMD | 03/15/2010 | 2010-1/27 |
| R426-7-5 | Penalty for Violation of Rule | 33245 | AMD | 03/15/2010 | 2010-1/28 |
| R426-12-1400 | Penalties | 33246 | AMD | 03/15/2010 | 2010-1/29 |
| R426-14-301 | Application, Department Review, and Issuance | 33125 | AMD | 01/11/2010 | 2009-22/60 |
| R426-14-600 | Penalties | 33247 | AMD | 03/15/2010 | 2010-1/29 |
| R426-15-700 | Penalties | 33248 | AMD | 03/15/2010 | 2010-1/30 |
| R426-16-3 | Penalty for Violation of Rule | 33249 | AMD | 03/15/2010 | 2010-1/31 |
| Health Systems Improvement, Licensing | | | | | |
| R432-2-6 | Application | 33221 | AMD | 01/27/2010 | 2009-24/77 |
| R432-3 | General Health Care Facility Rules Inspection and Enforcement | 33137 | AMD | 01/05/2010 | 2009-22/72 |
| R432-4-26 | Penalties | 33186 | AMD | 02/04/2010 | 2009-24/79 |
| R432-5-17 | Penalties | 33187 | AMD | 02/04/2010 | 2009-24/80 |

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| R432-6-211 (Changed to R432-6-26) | Penalties | 33189 | AMD | 02/04/2010 | 2009-24/81 |
| R432-7-7 | Penalties | 33190 | AMD | 02/04/2010 | 2009-24/83 |
| R432-8-8 | Penalties | 33191 | AMD | 02/04/2010 | 2009-24/84 |
| R432-9-7 | Special Hospital-Rehabilitation Construction Penalties | 33184 | AMD | 02/04/2010 | 2009-24/85 |
| R432-10-8 | Penalties | 33119 | AMD | 01/05/2010 | 2009-22/74 |
| R432-11-7 | Penalties | 33120 | AMD | 01/05/2010 | 2009-22/75 |
| R432-12-25 | Penalties | 33121 | AMD | 01/05/2010 | 2009-22/76 |
| R432-13-8 | Penalties | 33122 | AMD | 01/05/2010 | 2009-22/77 |
| R432-14-6 | Penalties | 33123 | AMD | 01/05/2010 | 2009-22/78 |
| R432-16-16 | Penalties | 33118 | AMD | 01/05/2010 | 2009-22/79 |
| R432-30 | Adjudicative Procedure | 33273 | NSC | 01/04/2010 | Not Printed |
| R432-31 | Transferable Physician Order for Life-Sustaining Treatment | 33282 | R&R | 02/25/2010 | 2010-2/9 |
| R432-31 | Life with Dignity Order | 33463 | NSC | 04/14/2010 | Not Printed |
| R432-35-8 | Penalties | 33136 | AMD | 01/05/2010 | 2009-22/80 |
| R432-270 | Assisted Living Facilities | 33283 | NSC | 01/13/2010 | Not Printed |
| R432-700-30 | Home Health - Personal Care Service Agency | 33135 | AMD | 01/05/2010 | 2009-22/81 |
| R432-950-16 | State Certification | 33426 | AMD | 06/02/2010 | 2010-7/23 |

HUMAN RESOURCE MANAGEMENT

Administration

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|---|---|---|---|---|---|
| R477-1 | Definitions | 33601 | AMD | 07/01/2010 | 2010-10/97 |
| R477-2 | Administration | 33602 | AMD | 07/01/2010 | 2010-10/102 |
| R477-3 | Classification | 33614 | AMD | 07/01/2010 | 2010-10/105 |
| R477-3-5 | Position Classification Grievances | 33633 | AMD | 07/12/2010 | 2010-11/110 |
| R477-4 | Filling Positions | 33603 | AMD | 07/01/2010 | 2010-10/107 |
| R477-5 | Employee Status and Probation | 33604 | AMD | 07/01/2010 | 2010-10/110 |
| R477-6 | Compensation | 33605 | AMD | 07/01/2010 | 2010-10/112 |
| R477-6-7 | Employee Converting from Career Service to Schedule AC, AD, AR, or AS | 33761 | NSC | 07/01/2010 | Not Printed |
| R477-7 | Leave | 33606 | AMD | 07/01/2010 | 2010-10/117 |
| R477-7-2 | Holiday Leave | 33278 | AMD | 02/08/2010 | 2010-1/32 |
| R477-8 | Working Conditions | 33607 | AMD | 07/01/2010 | 2010-10/124 |
| R477-9 | Employee Conduct | 33608 | AMD | 07/01/2010 | 2010-10/128 |
| R477-9-3 | Conflict of Interest | 33762 | NSC | 07/01/2010 | Not Printed |
| R477-10 | Employee Development | 33609 | AMD | 07/01/2010 | 2010-10/131 |
| R477-11 | Discipline | 33610 | AMD | 07/01/2010 | 2010-10/133 |
| R477-11-1 | Disciplinary Action | 33647 | AMD | 07/12/2010 | 2010-11/111 |
| R477-12 | Separations | 33611 | AMD | 07/01/2010 | 2010-10/135 |
| R477-14 | Substance Abuse and Drug-Free Workplace | 33612 | AMD | 07/01/2010 | 2010-10/137 |
| R477-15 | Workplace Harassment Prevention Policy and Procedure | 33613 | AMD | 07/01/2010 | 2010-10/139 |

HUMAN SERVICES

Administration

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|---|---|---|---|---|---|
| R495-879 | Parental Support for Children in Care | 33192 | AMD | 02/23/2010 | 2009-24/87 |
| R495-888 | Department of Human Services Related Parties Conflict Investigation Procedure | 33628 | LNR | 05/01/2010 | 2010-11/131 |

Administration, Administrative Services, Licensing

| | | | | | |
|---|---|---|---|---|---|
| R501-19 | Residential Treatment Programs | 33538 | 5YR | 04/05/2010 | 2010-9/46 |
| R501-20 | Day Treatment Programs | 33539 | 5YR | 04/05/2010 | 2010-9/46 |
| R501-21 | Outpatient Treatment Programs | 33540 | 5YR | 04/05/2010 | 2010-9/47 |
| R501-22 | Residential Support Programs | 33541 | 5YR | 04/05/2010 | 2010-9/47 |

Aging and Adult Services

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|---|---|---|---|---|---|
| R510-401 | Utah Caregiver Support Program | 33027 | R&R | 01/19/2010 | 2009-21/35 |

Child and Family Services

| | | | | | |
|---|---|---|---|---|---|
| R512-10 | Youth Advocate Program | 33256 | AMD | 02/09/2010 | 2010-1/33 |
| R512-31 | Foster Parent Due Process | 33257 | AMD | 02/09/2010 | 2010-1/35 |
| R512-42 | Adoption by Relatives | 33258 | AMD | 02/09/2010 | 2010-1/37 |

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| Child Protection Ombudsman (Office of) | | | | | |
| R515-1 | Processing Complaints Regarding the Utah Division of Child and Family Services | 33864 | 5YR | 07/27/2010 | Not Printed |
| Recovery Services | | | | | |
| R527-35 | Non-IV-A Fee Schedule | 33277 | AMD | 02/23/2010 | 2010-1/38 |
| R527-37 | Closure Criteria for Support Cases | 33332 | AMD | 04/02/2010 | 2010-4/32 |
| R527-40 | Retained Support | 33301 | 5YR | 01/04/2010 | 2010-3/91 |
| R527-201 | Medical Support Services | 33627 | AMD | 07/08/2010 | 2010-11/113 |
| R527-332 | Unreimbursed Assistance Calculation | 33261 | AMD | 02/09/2010 | 2010-1/39 |
| R527-412 | Intercept of Unemployment Compensation | 33243 | AMD | 02/09/2010 | 2010-1/40 |
| Substance Abuse and Mental Health | | | | | |
| R523-1-25 | 20% Match Required to Be County Tax Revenue | 33333 | NSC | 02/11/2010 | Not Printed |
| R523-21 | Division of Substance Abuse and Mental Health Rules | 33142 | AMD | 01/20/2010 | 2009-23/21 |
| INSURANCE | | | | | |
| Administration | | | | | |
| R590-83-4 | Availability Requirements and Prohibited Transactions | 33713 | NSC | 07/01/2010 | Not Printed |
| R590-88 | Prohibited Transactions Between Agents and Unauthorized Multiple Employer Trusts | 33318 | 5YR | 01/13/2010 | 2010-3/92 |
| R590-88 | Prohibited Transactions between Agents And Unauthorized Multiple Employer Trusts | 33714 | NSC | 07/01/2010 | Not Printed |
| R590-124-5 | Penalties | 33715 | NSC | 07/01/2010 | Not Printed |
| R590-128 | Unfair Discrimination Based on the Failure to Maintain Automobile Insurance (Revised) | 33319 | 5YR | 01/13/2010 | 2010-3/92 |
| R590-128 | Unfair Discrimination Based on the Failure to Maintain Automobile Insurance | 33716 | NSC | 07/01/2010 | Not Printed |
| R590-130 | Rules Governing Advertisements of Insurance | 33717 | NSC | 07/01/2010 | Not Printed |
| R590-132 | Insurance Treatment of Human Immunodeficiency Virus (HIV) Infection | 33330 | 5YR | 01/19/2010 | 2010-4/81 |
| R590-140 | Reference Filings of Rate Service Organization Prospective Loss Costs | 33404 | 5YR | 02/23/2010 | 2010-6/39 |
| R590-142 | Continuing Education Rule | 33718 | NSC | 07/01/2010 | Not Printed |
| R590-154 | Unfair Marketing Practices Rule | 33719 | NSC | 07/01/2010 | Not Printed |
| R590-155 | Disclosure of Life and Health Guaranty Association Limitations | 33591 | AMD | 06/21/2010 | 2010-10/141 |
| R590-160 | Administrative Proceedings | 33317 | AMD | 03/10/2010 | 2010-3/46 |
| R590-160-7 | Rules Applicable to Informal Proceedings | 33467 | NSC | 04/14/2010 | Not Printed |
| R590-164 | Uniform Health Billing Rule | 33453 | 5YR | 03/11/2010 | 2010-7/56 |
| R590-166-4 | Rule | 33388 | NSC | 02/24/2010 | Not Printed |
| R590-166-4 | Rule | 33498 | NSC | 04/14/2010 | Not Printed |
| R590-171 | Surplus Lines Procedures Rule | 33678 | 5YR | 05/27/2010 | 2010-12/71 |
| R590-172 | Notice to Uninsurable Applicants for Health Insurance | 33595 | 5YR | 04/29/2010 | 2010-10/166 |
| R590-172 | Notice to Uninsurable Applicants for Health Insurance | 33642 | AMD | 07/15/2010 | 2010-11/115 |
| R590-175 | Basic Health Care Plan Rule | 33558 | REP | 06/21/2010 | 2010-9/31 |
| R590-196 | Bail Bond Surety Fee Standards, Collateral Standards, and Disclosure Form | 33387 | AMD | 04/14/2010 | 2010-5/43 |
| R590-199 | Plan of Orderly Withdrawal Rule Relating to Health Benefit Plans | 33661 | 5YR | 05/20/2010 | 2010-12/72 |
| R590-206 | Privacy of Consumer Financial and Health Information Rule | 33720 | NSC | 07/01/2010 | Not Printed |
| R590-216-1 | Authority | 33721 | NSC | 07/01/2010 | Not Printed |
| R590-220 | Submission of Accident and Health Insurance Filings | 33297 | AMD | 02/22/2010 | 2010-2/12 |
| R590-220 | Submission of Accident and Health Insurance Filings | 33401 | NSC | 03/10/2010 | Not Printed |
| R590-225 | Submission of Property and Casualty Rate and Form Filings | 33517 | AMD | 05/26/2010 | 2010-8/19 |
| R590-231 | Workers' Compensation Market of Last Resort | 33617 | 5YR | 05/04/2010 | 2010-11/129 |
| R590-234 | Single Risk Limitation | 33648 | REP | 07/15/2010 | 2010-11/117 |

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|---|---|---|---|---|---|
| R590-247-3 | General Instructions | 33505 | EMR | 03/24/2010 | 2010-8/39 |
| R590-247-3 | General Instructions | 33644 | AMD | 07/15/2010 | 2010-11/118 |
| R590-255 | Utah NetCare Alternative Coverage Notification Rule | 33260 | NEW | 02/09/2010 | 2010-1/41 |
| R590-256 | Health Benefit Plan Internet Portal Solvency Rating | 33321 | NEW | 03/10/2010 | 2010-3/52 |
| R590-256-5 | Enforcement Date | 33499 | NSC | 03/29/2010 | Not Printed |

JUDICIAL CONDUCT COMMISSION

Administration

| | | | | | |
|---|---|---|---|---|---|
| R595-1 | General Provisions | 33322 | 5YR | 01/14/2010 | 2010-3/93 |
| R595-2 | Administration | 33323 | 5YR | 01/14/2010 | 2010-3/93 |
| R595-3 | Procedure | 33324 | 5YR | 01/14/2010 | 2010-3/94 |
| R595-4 | Sanctions | 33325 | 5YR | 01/14/2010 | 2010-3/94 |

JUDICIAL PERFORMANCE EVALUATION COMMISSION

Administration

| | | | | | |
|---|---|---|---|---|---|
| R597-3 | Judicial Performance Evaluations | 33385 | AMD | 04/15/2010 | 2010-5/45 |
| R597-3-1 | Evaluation Cycles | 33578 | EMR | 04/27/2010 | 2010-10/161 |

LABOR COMMISSION

Antidiscrimination and Labor, Antidiscrimination

| | | | | | |
|---|---|---|---|---|---|
| R606-3 | Nondiscrimination Clause to be used in Contracts Entered into by the State of Utah and its Agencies | 33685 | 5YR | 05/28/2010 | 2010-12/72 |
| R606-4 | Advertising | 33687 | 5YR | 05/28/2010 | 2010-12/73 |
| R606-5 | Employment Agencies | 33686 | 5YR | 05/28/2010 | 2010-12/73 |
| R606-6 | Regulation of Practice and Procedure on Employer Reports and Records | 33688 | 5YR | 05/28/2010 | 2010-12/74 |

Antidiscrimination and Labor, Labor

| | | | | | |
|---|---|---|---|---|---|
| R610-3-22 | Payment of Wages Via Pay Cards | 33299 | AMD | 03/24/2010 | 2010-3/53 |
| R610-3-22 | Payment of Wages Via Pay Cards | 33299 | CPR | 03/24/2010 | 2010-4/75 |

Boiler and Elevator Safety

| | | | | | |
|---|---|---|---|---|---|
| R616-2-3 | Safety Codes and Rules for Boilers and Pressure Vessels | 33362 | AMD | 04/07/2010 | 2010-5/48 |
| R616-3-6 | Exemptions | 33684 | NSC | 06/14/2010 | Not Printed |
| R616-4 | Coal Mine Safety | 33300 | NEW | 03/11/2010 | 2010-3/54 |
| R616-4-3 | Examining Coal Mines | 33454 | NSC | 03/29/2010 | Not Printed |

Industrial Accidents

| | | | | | |
|---|---|---|---|---|---|
| R612-13 | Proceedings to Impose Non-Reporting Penalties Against Employers | 33230 | NEW | 01/21/2010 | 2009-24/89 |

Occupational Safety and Health

| | | | | | |
|---|---|---|---|---|---|
| R614-1-4 | Incorporation of Federal Standards | 33280 | NSC | 05/25/2010 | Not Printed |
| R614-7-1 | Roofing, Tar-Asphalt Operations | 33279 | AMD | 02/22/2010 | 2010-2/20 |

LIEUTENANT GOVERNOR

Elections

| | | | | | |
|---|---|---|---|---|---|
| R623-4 | Electronic Signatures in Initiatives and Referenda | 33815 | EMR | 07/08/2010 | 2010-15/65 |

MONEY MANAGEMENT COUNCIL

Administration

| | | | | | |
|---|---|---|---|---|---|
| R628-11 | Maximum Amount of Uninsured Public Funds Allowed to Be Held by Any Qualified Depository | 33359 | AMD | 03/24/2010 | 2010-4/33 |
| R628-11 | Maximum Amount of Uninsured Public Funds Allowed to Be Held by Any Qualified Depository | 33420 | AMD | 04/27/2010 | 2010-6/14 |
| R628-11-4 | Definitions | 33727 | NSC | 07/01/2010 | Not Printed |
| R628-15 | Certification as an Investment Adviser | 33620 | 5YR | 05/05/2010 | 2010-11/129 |

NATURAL RESOURCES

| | | | | | |
|---|---|---|---|---|---|
| Forestry, Fire and State Lands | | | | | |
| R652-70-700 | Permit Rates | 33268 | AMD | 02/25/2010 | 2010-1/43 |
| R652-90-600 | Public Review | 33276 | AMD | 02/24/2010 | 2010-1/44 |
| R652-120 | Wildland Fire | 33537 | 5YR | 04/01/2010 | 2010-8/58 |
| Oil, Gas and Mining; Coal | | | | | |
| R645-100-200 | Definitions | 33669 | AMD | 07/28/2010 | 2010-12/40 |
| R645-103-200 | Areas Designated by Act of Congress | 33670 | AMD | 07/28/2010 | 2010-12/43 |
| R645-105 | Blaster Training, Examination and Certification | 33394 | 5YR | 02/17/2010 | 2010-6/40 |
| R645-201-300 | Major Coal Exploration Permits | 33671 | AMD | 07/28/2010 | 2010-12/46 |
| R645-300-100 | Review, Public Participation, and Approval or Disapproval of Permit Applications and Permit Terms and Conditions | 33672 | AMD | 07/28/2010 | 2010-12/49 |
| R645-301-100 | General Contents | 33673 | AMD | 07/28/2010 | 2010-12/52 |
| R645-301-400 | Land Use and Air Quality | 33674 | AMD | 07/28/2010 | 2010-12/56 |
| R645-301-600 | Geology | 33509 | NSC | 04/14/2010 | Not Printed |
| R645-400 | Inspection and Enforcement: Division Authority and Procedures | 33395 | 5YR | 02/17/2010 | 2010-6/40 |
| Oil, Gas and Mining; Oil and Gas | | | | | |
| R649-3-31 | Designated Oil Shale Areas | 33510 | NSC | 04/14/2010 | Not Printed |
| R649-9-1 | Introduction | 33508 | NSC | 04/14/2010 | Not Printed |
| Parks and Recreation | | | | | |
| R651-101 | Adjudicative Proceedings | 33808 | 5YR | 07/01/2010 | 2010-14/63 |
| R651-101-1 | Authority and Effective Date | 33408 | AMD | 04/21/2010 | 2010-6/16 |
| R651-206-3 | Utah Captain's/Guides License and Utah Boat Crew Permit | 33422 | AMD | 04/21/2010 | 2010-6/17 |
| R651-219-7 | Equipment Exemptions | 33424 | AMD | 04/21/2010 | 2010-6/20 |
| R651-223 | Vessel Accident Reporting | 33724 | 5YR | 06/08/2010 | 2010-13/147 |
| R651-409 | Minimum Amounts of Liability Insurance Coverage for an Organized Practice or Sanctioned Race | 33790 | 5YR | 06/29/2010 | 2010-14/63 |
| R651-412 | Curriculum Standards for OHV Education Programs Offered by Non-Division Entities | 33421 | NEW | 04/21/2010 | 2010-6/22 |
| R651-610 | Expulsion | 33663 | NSC | 06/14/2010 | Not Printed |
| R651-620-2 | Trespass | 33664 | NSC | 06/14/2010 | Not Printed |
| R651-634 | Nonresident OHV User Permits and Fees | 33791 | 5YR | 06/29/2010 | 2010-14/64 |
| Water Rights | | | | | |
| R655-2 | Procedure for Administrative Proceedings Before the Division of Water Rights Commenced Prior to January 1, 1988 | 33629 | NSC | 05/27/2010 | Not Printed |
| R655-3 | Reports of Water Rights Conveyance | 33347 | 5YR | 01/27/2010 | 2010-4/81 |
| R655-6 | Administrative Procedures for Informal Proceedings Before the Division of Water Rights | 33632 | NSC | 05/27/2010 | Not Printed |
| R655-14 | Administrative Procedures for Enforcement Proceedings Before the Division of Water Rights | 33863 | 5YR | 07/27/2010 | Not Printed |
| R655-14-14 | Procedures for Determining Administrative Penalties, Enforcement Costs and Water Replacement | 33619 | NSC | 05/27/2010 | Not Printed |
| R655-16 | Administrative Procedures for Declaring Beneficial Use Limitations for Supplemental Water Rights | 33066 | NEW | 04/07/2010 | 2009-21/62 |
| R655-16 | Administrative Procedures for Declaring Beneficial Use Limitations for Supplemental Water Rights | 33066 | CPR | 04/07/2010 | 2010-5/58 |
| Wildlife Resources | | | | | |
| R657-5-13 | Areas With Special Restrictions | 33271 | AMD | 02/08/2010 | 2010-1/46 |
| R657-6 | Taking Upland Game | 33784 | 5YR | 06/28/2010 | 2010-14/65 |
| R657-15 | Closure of Gunnison, Cub and Hat Islands | 33439 | 5YR | 03/09/2010 | 2010-7/56 |

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|---|---|---|---|---|---|
| R657-17 | Lifetime Hunting and Fishing License | 33451 | AMD | 05/10/2010 | 2010-7/24 |
| R657-20 | Falconry | 33314 | EMR | 01/12/2010 | 2010-3/65 |
| R657-20 | Falconry | 33287 | AMD | 02/22/2010 | 2010-2/22 |
| R657-20-11 | Take of Wild Raptors | 33361 | NSC | 02/24/2010 | Not Printed |
| R657-21 | Cooperative Wildlife Management Units for Small Game and Waterfowl | 33438 | 5YR | 03/09/2010 | 2010-7/57 |
| R657-21 | Cooperative Wildlife Management Units for Small Game and Waterfowl | 33497 | AMD | 06/01/2010 | 2010-8/27 |
| R657-33 | Taking Bear | 33331 | AMD | 03/25/2010 | 2010-4/35 |
| R657-37-9 | Permit Allocation | 33272 | AMD | 02/08/2010 | 2010-1/47 |
| R657-53 | Amphibian and Reptile Collection, Importation, Transportation, and Possession | 33449 | AMD | 05/10/2010 | 2010-7/26 |
| R657-55 | Wildlife Convention Permits | 33676 | 5YR | 05/26/2010 | 2010-12/75 |
| R657-60 | Aquatic Invasive Species Interdiction | 33753 | EMR | 06/15/2010 | 2010-13/139 |
| R657-62 | Drawing Application Procedures | 33450 | AMD | 05/10/2010 | 2010-7/28 |

PARDONS (BOARD OF)

Administration

| | | | | | |
|---|---|---|---|---|---|
| R671-303 | Information Received, Maintained or Used by the Board | 33371 | AMD | 06/29/2010 | 2010-5/50 |

PUBLIC SAFETY

Criminal Investigations and Technical Services, Criminal Identification

| | | | | | |
|---|---|---|---|---|---|
| R722-310 | Regulation of Bail Bond Recovery and Enforcement Agents | 33636 | 5YR | 05/12/2010 | 2010-11/130 |
| R722-330 | Licensing of Private Investigators | 33567 | 5YR | 04/22/2010 | 2010-10/167 |

Driver License

| | | | | | |
|---|---|---|---|---|---|
| R708-32 | Uninsured Motorist Database | 33511 | 5YR | 03/25/2010 | 2010-8/58 |
| R708-36 | Disclosure of Personal Identifying Information in MVRs | 33518 | 5YR | 03/30/2010 | 2010-8/59 |
| R708-37 | Certification of Licensed Instructors of Commercial Driver Training Schools or Testing Only Schools to Administer Driving Skills Tests | 33520 | 5YR | 03/30/2010 | 2010-8/60 |
| R708-39-4 | Knowledge Testing | 33411 | AMD | 04/21/2010 | 2010-6/23 |
| R708-40 | Driving Simulators | 33519 | 5YR | 03/30/2010 | 2010-8/60 |
| R708-41 | Requirements for Acceptable Documentation, Storage and Maintenance | 33143 | AMD | 01/25/2010 | 2009-23/23 |
| R708-41 | Requirements for Acceptable Documentation, Storage and Maintenance | 33338 | AMD | 03/24/2010 | 2010-4/40 |
| R708-41 | Requirements for Acceptable Documentation, Storage and Maintenance | 33512 | 5YR | 03/25/2010 | 2010-8/61 |
| R708-45 | Exception for Renewal or Duplicate License for a Utah Resident Temporarily Residing Out of State | 33516 | NSC | 04/14/2010 | Not Printed |

Fire Marshal

| | | | | | |
|---|---|---|---|---|---|
| R710-6 | Liquefied Petroleum Gas Rules | 33357 | AMD | 03/24/2010 | 2010-4/44 |
| R710-6 | Liquefied Petroleum Gas Rules | 33513 | AMD | 05/24/2010 | 2010-8/28 |
| R710-9 | Rules Pursuant to the Utah Fire Prevention Law | 33575 | AMD | 07/01/2010 | 2010-10/143 |
| R710-10-8 | Non-Affiliated Fire Service Training | 33358 | AMD | 03/24/2010 | 2010-4/47 |

Peace Officer Standards and Training

| | | | | | |
|---|---|---|---|---|---|
| R728-409 | Refusal, Suspension, or Revocation of Peace Officer Certification | 33795 | EMR | 06/30/2010 | 2010-14/41 |

PUBLIC SERVICE COMMISSION

Administration

| | | | | | |
|---|---|---|---|---|---|
| R746-312 | Electrical Interconnection | 32881 | NEW | 04/30/2010 | 2009-17/40 |
| R746-312 | Electrical Interconnection | 32881 | CPR | 04/30/2010 | 2010-1/64 |
| R746-331 | Determination of Exemption of Mutual Water Corporations | 33472 | REP | 06/30/2010 | 2010-8/35 |

REGENTS (BOARD OF)

| | | | | | |
|---|---|---|---|---|---|
| Administration | | | | | |
| R765-604 | New Century Scholarship | 33461 | AMD | 05/11/2010 | 2010-7/36 |
| R765-609 | Regents' Scholarship | 33581 | NEW | 07/15/2010 | 2010-10/150 |
| R765-626 | Lender of Last Resort Program | 33556 | 5YR | 04/13/2010 | 2010-9/48 |
| University of Utah, Administration | | | | | |
| R805-4 | Illegal, Harmful and Disruptive Behavior on University of Utah Property | 33146 | NEW | 01/07/2010 | 2009-23/27 |
| University of Utah, Museum of Natural History (Utah) | | | | | |
| R807-1 | Curation of Collections from State Lands | 33658 | NSC | 06/14/2010 | Not Printed |

SCHOOL AND INSTITUTIONAL TRUST LANDS

| | | | | | |
|---|---|---|---|---|---|
| Administration | | | | | |
| R850-21 | Oil, Gas and Hydrocarbon Resources | 33530 | 5YR | 04/01/2010 | 2010-8/61 |
| R850-22 | Bituminous-Asphaltic Sands and Oil Shale Resources | 33531 | 5YR | 04/01/2010 | 2010-8/62 |
| R850-23 | Sand, Gravel and Cinders Permits | 33532 | 5YR | 04/01/2010 | 2010-8/62 |
| R850-24 | General Provisions: Mineral and Material Resources, Mineral Leases and Material Permits | 33533 | 5YR | 04/01/2010 | 2010-8/63 |
| R850-25 | Mineral Leases and Materials Permits | 33534 | 5YR | 04/01/2010 | 2010-8/64 |
| R850-26 | Coal Leases | 33535 | 5YR | 04/01/2010 | 2010-8/64 |
| R850-27 | Geothermal Steam | 33536 | 5YR | 04/01/2010 | 2010-8/65 |
| R850-50 | Range Management | 33557 | AMD | 06/07/2010 | 2010-9/35 |

TAX COMMISSION

| | | | | | |
|---|---|---|---|---|---|
| Administration | | | | | |
| R861-1A-23 | Designation of Adjudicative Proceedings Pursuant to Utah Code Ann. Section 63G-4-202 | 33313 | NSC | 01/28/2010 | Not Printed |
| R861-1A-42 | Waiver of Penalty and Interest for Reasonable Cause Pursuant to Utah Code Ann. Section 59-1-401 | 33637 | NSC | 05/27/2010 | Not Printed |
| R861-1A-43 | Electronic Meetings Pursuant to Utah Code Ann. Section 52-4-207 | 33231 | AMD | 01/21/2010 | 2009-24/90 |
| Auditing | | | | | |
| R865-6F-28 | Enterprise Zone Corporate Franchise Tax Credits Pursuant to Utah Code Ann. Sections 63-38F-401 through 63-38F-414 | 33643 | NSC | 05/27/2010 | Not Printed |
| R865-9I-7 | Change of Status as Resident or Nonresident Pursuant to Utah Code Ann. Section 59-10-120 | 33384 | AMD | 04/08/2010 | 2010-5/51 |
| R865-9I-13 | Nonresident's share of Pass-Through Entity Income Pursuant to Utah Code Ann. Sections 59-10-116, 59-10-117, 59-10-118, 59-10-1403.2 and 59-10-1405 | 33349 | AMD | 04/08/2010 | 2010-4/49 |
| R865-9I-13 | Nonresident's Share of Pass-Through Entity Income Pursuant to Utah Code Ann. Sections 59-10-116, 59-10-117, 59-10-118, 59-10-1403.2, and 59-10-1405 | 33645 | AMD | 07/08/2010 | 2010-11/121 |
| R865-9I-17 | Time for Withholding Tax Returns and Payment of Withholding Taxes Pursuant to Utah Code Ann. Sections 59-10-406 and 59-10-407 | 33113 | AMD | 01/21/2010 | 2009-22/86 |
| R865-9I-21 | Return By Partnership Pursuant to Utah Code Ann. Sections 59-10-507 and 59-10-514 | 33646 | AMD | 07/08/2010 | 2010-11/123 |
| R865-9I-44 | Compensation Received by Nonresident Professional Athletes Pursuant to Utah Code Ann. Sections 59-10-116, 59-10-117, and 59-10-118 | 33348 | AMD | 04/08/2010 | 2010-4/50 |

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|---|---|---|---|---|---|
| R865-9I-56 | Determination of Amounts Withheld by a Pass-Through entity that is an S Corporation Pursuant to Utah Code Ann. Section 59-10-116, 59-10-117, 59-10-118, 59-10-1403.2, and 59-10-1405 | 33351 | AMD | 04/08/2010 | 2010-4/53 |
| R865-9I-56 | Determination of Amounts Withheld by a Pass-Though Entity that is an S Corporation Pursuant to Utah Code Ann. Section 59-10-116, 59-10-117, 59-10-118, 59-10-1403.2, and 59-10-1405 | 33640 | AMD | 07/08/2010 | 2010-11/124 |
| R865-12L-5 | Place of Sale Pursuant to Utah Code Ann. Section 59-12-207 | 33350 | AMD | 04/08/2010 | 2010-4/54 |
| R865-12L-6 | Place of Transaction Pursuant to Utah Code Ann. Section 59-12-207 | 33352 | AMD | 04/08/2010 | 2010-4/55 |
| Property Tax | | | | | |
| R884-24P-35 | Annual Statement for Certain Exempt Uses of Property Pursuant to Utah Code Ann. Section 59-2-1102 | 33697 | NSC | 06/14/2010 | Not Printed |
| TECHNOLOGY SERVICES | | | | | |
| Administration | | | | | |
| R895-9 | Utah Geographic Information Systems Advisory Council | 33334 | 5YR | 01/20/2010 | 2010-4/82 |
| TRANSPORTATION | | | | | |
| Motor Carrier, Ports of Entry | | | | | |
| R912-6 | Ports-of-Entry By-Pass Permit Provisions | 33675 | 5YR | 05/26/2010 | 2010-12/75 |
| R912-9 | Pilot/Escort Requirements and Certification Program | 33819 | 5YR | 07/14/2010 | 2010-15/71 |
| R912-10 | Requirements for Pilot/Escort Qualified Training and Certification Programs | 33820 | 5YR | 07/14/2010 | 2010-15/72 |
| Operations, Construction | | | | | |
| R916-1 | Advertising and Awarding Construction Contracts | 33444 | NSC | 03/29/2010 | Not Printed |
| R916-3 | DESIGN-BUILD Contracts | 33396 | NSC | 03/10/2010 | Not Printed |
| R916-4 | Construction Manager/General Contractor Contracts | 33452 | 5YR | 03/11/2010 | 2010-7/58 |
| R916-5 | Health Reform -- Health Insurance Coverage in State Contracts -- Implementation | 33649 | AMD | 07/13/2010 | 2010-11/125 |
| R916-6 | Drug and Alcohol Testing in State Construction Contracts | 33587 | NEW | 06/21/2010 | 2010-10/154 |
| Preconstruction | | | | | |
| R930-5 | Establishment and Regulation of At-Grade Railroad Crossings | 33274 | R&R | 02/08/2010 | 2010-1/49 |
| R930-6 | Manual of Accommodation of Utility Facilities and the Control and Protection of State Highway Rights-of-Way | 33312 | NSC | 01/28/2010 | Not Printed |
| Preconstruction, Right-of-Way Acquisition | | | | | |
| R933-4 | Bus Shelters and Bus Benches | 33311 | REP | 03/10/2010 | 2010-3/56 |
| Program Development | | | | | |
| R926-7 | Scenic Byways | 33445 | REP | 06/21/2010 | 2010-7/39 |
| R926-8 | Public Partnering | 33817 | 5YR | 07/14/2010 | 2010-15/72 |
| R926-8 | Public Partnering | 33818 | NSC | 07/28/2010 | Not Printed |
| R926-13 | Designated Scenic Byways | 33446 | NEW | 06/21/2010 | 2010-7/43 |
| R926-13 | Designated Scenic Byways | 33625 | NSC | 06/21/2010 | Not Printed |
| R926-14 | Utah Scenic Byway Program Administration; Scenic Byways Designation, De-designation, and Segmentation Processes | 33447 | NEW | 06/21/2010 | 2010-7/46 |

TRANSPORTATION COMMISSION

| | | | | | |
|---|---|---|---|---|---|
| Administration | | | | | |
| R940-1-3 | Base Toll Rate and Range for HOT Lanes | 33369 | EMR | 02/10/2010 | 2010-5/67 |
| R940-1-3 | Base Toll Rate and Range for HOT Lanes | 33386 | AMD | 04/07/2010 | 2010-5/52 |

WORKFORCE SERVICES

| | | | | | |
|---|---|---|---|---|---|
| Employment Development | | | | | |
| R986-200-214 | Assistance for Specified Relatives | 33356 | AMD | 04/01/2010 | 2010-4/56 |
| R986-200-235 | Unearned Income | 33296 | AMD | 04/01/2010 | 2010-2/43 |
| R986-200-247 | Utah Back to Work Pilot Program (BWP) | 33597 | AMD | 07/01/2010 | 2010-10/155 |
| R986-700 | Child Care Assistance | 33017 | AMD | 01/13/2010 | 2009-20/34 |
| R986-700 | Child Care Assistance | 33383 | AMD | 04/21/2010 | 2010-5/53 |
| R986-700-714 | CC Payment Method | 33295 | AMD | 04/01/2010 | 2010-2/44 |
| R986-900-902 | Options and Waivers | 33412 | AMD | 05/01/2010 | 2010-6/24 |
| R986-900-902 | Options and Waivers | 33599 | AMD | 07/01/2010 | 2010-10/157 |
| Unemployment Insurance | | | | | |
| R994-106-104 | Determining the Paying State | 33114 | AMD | 01/13/2010 | 2009-22/98 |
| R994-204 | Covered Employment | 33521 | 5YR | 03/31/2010 | 2010-8/65 |
| R994-205 | Exempt Employment | 33522 | 5YR | 03/31/2010 | 2010-8/66 |
| R994-206 | Agricultural Labor | 33523 | 5YR | 03/31/2010 | 2010-8/66 |
| R994-206-101 | Agricultural Labor | 33527 | NSC | 04/14/2010 | Not Printed |
| R994-304 | Special Provisions Regarding Transfers of Unemployment Experience and Assigning Rates | 33524 | 5YR | 03/31/2010 | 2010-8/67 |
| R994-402 | Extended Benefits | 33354 | R&R | 04/01/2010 | 2010-4/57 |
| R994-406-203 | Waiver of Recovery of Nonfault Overpayments | 33355 | AMD | 04/01/2010 | 2010-4/62 |
| R994-406-401 | Claimant Fraud | 33799 | NSC | 07/26/2010 | Not Printed |

# RULES INDEX - BY KEYWORD (SUBJECT)

**ABBREVIATIONS**

AMD = Amendment
CPR = Change in proposed rule
EMR = Emergency rule (120 day)
NEW = New rule
EXD = Expired
NSC = Nonsubstantive rule change
REP = Repeal
R&R = Repeal and reenact
5YR = Five-Year Review

| KEYWORD<br>AGENCY | FILE<br>NUMBER | CODE<br>REFERENCE | ACTION | EFFECTIVE<br>DATE | BULLETIN<br>ISSUE/PAGE |
|---|---|---|---|---|---|
| abrasive blasting | | | | | |
| Environmental Quality, Air Quality | 33434 | R307-206 | 5YR | 03/04/2010 | 2010-7/55 |
| Environmental Quality, Air Quality | 33699 | R307-306 | 5YR | 06/02/2010 | 2010-13/144 |
| accelerated learning | | | | | |
| Education, Administration | 33234 | R277-711-4 | NSC | 01/04/2010 | Not Printed |
| acceptable documents | | | | | |
| Public Safety, Driver License | 33143 | R708-41 | AMD | 01/25/2010 | 2009-23/23 |
| Public Safety, Driver License | 33338 | R708-41 | AMD | 03/24/2010 | 2010-4/40 |
| Public Safety, Driver License | 33512 | R708-41 | 5YR | 03/25/2010 | 2010-8/61 |
| access | | | | | |
| Environmental Quality, Drinking Water | 33495 | R309-545 | 5YR | 03/22/2010 | 2010-8/54 |
| access to information | | | | | |
| Administrative Services, Archives | 33320 | R17-7-3 | AMD | 05/17/2010 | 2010-3/12 |
| accidents | | | | | |
| Natural Resources, Parks and Recreation | 33724 | R651-223 | 5YR | 06/08/2010 | 2010-13/147 |

| | | | | | |
|---|---|---|---|---|---|
| dismissal of employees | | | | | |
| Human Resource Management, Administration | 33610 | R477-11 | AMD | 07/01/2010 | 2010-10/133 |
| Human Resource Management, Administration | 33647 | R477-11-1 | AMD | 07/12/2010 | 2010-11/111 |
| disputes | | | | | |
| Administrative Services, Facilities Construction and Management | 33360 | R23-26 | 5YR | 02/01/2010 | 2010-4/79 |
| disruptive behavior | | | | | |
| Regents (Board Of), University of Utah, Administration | 33146 | R805-4 | NEW | 01/07/2010 | 2009-23/27 |
| distribution sysetm monitoring | | | | | |
| Environmental Quality, Drinking Water | 33459 | R309-210-6 | NSC | 03/29/2010 | Not Printed |
| distribution system monitoring | | | | | |
| Environmental Quality, Drinking Water | 33478 | R309-210 | 5YR | 03/22/2010 | 2010-8/44 |
| diversion programs | | | | | |
| Commerce, Occupational and Professional Licensing | 33227 | R156-1 | AMD | 03/25/2010 | 2009-24/18 |
| Commerce, Occupational and Professional Licensing | 33641 | R156-1 | AMD | 07/08/2010 | 2010-11/49 |
| do not resuscitate | | | | | |
| Health, Health Systems Improvement, Licensing | 33282 | R432-31 | R&R | 02/25/2010 | 2010-2/9 |
| Health, Health Systems Improvement, Licensing | 33463 | R432-31 | NSC | 04/14/2010 | Not Printed |
| drinking water | | | | | |
| Environmental Quality, Drinking Water | 33468 | R309-100 | 5YR | 03/22/2010 | 2010-8/41 |
| Environmental Quality, Drinking Water | 33455 | R309-100-7 | NSC | 03/29/2010 | Not Printed |
| Environmental Quality, Drinking Water | 33473 | R309-105 | 5YR | 03/22/2010 | 2010-8/41 |
| Environmental Quality, Drinking Water | 33474 | R309-110 | 5YR | 03/22/2010 | 2010-8/42 |
| Environmental Quality, Drinking Water | 33475 | R309-115 | 5YR | 03/22/2010 | 2010-8/42 |
| Environmental Quality, Drinking Water | 33828 | R309-115 | NSC | 07/28/2010 | Not Printed |
| Environmental Quality, Drinking Water | 33476 | R309-200 | 5YR | 03/22/2010 | 2010-8/43 |
| Environmental Quality, Drinking Water | 33457 | R309-200-2 | NSC | 03/29/2010 | Not Printed |
| Environmental Quality, Drinking Water | 33477 | R309-205 | 5YR | 03/22/2010 | 2010-8/43 |
| Environmental Quality, Drinking Water | 33456 | R309-205-9 | NSC | 03/29/2010 | Not Printed |
| Environmental Quality, Drinking Water | 33478 | R309-210 | 5YR | 03/22/2010 | 2010-8/44 |
| Environmental Quality, Drinking Water | 33459 | R309-210-6 | NSC | 03/29/2010 | Not Printed |
| Environmental Quality, Drinking Water | 33479 | R309-215 | 5YR | 03/22/2010 | 2010-8/45 |
| Environmental Quality, Drinking Water | 33480 | R309-220 | 5YR | 03/22/2010 | 2010-8/45 |
| Environmental Quality, Drinking Water | 33458 | R309-220-5 | NSC | 03/29/2010 | Not Printed |
| Environmental Quality, Drinking Water | 33481 | R309-225 | 5YR | 03/22/2010 | 2010-8/46 |
| Environmental Quality, Drinking Water | 33484 | R309-300 | 5YR | 03/22/2010 | 2010-8/46 |
| Environmental Quality, Drinking Water | 33831 | R309-300-5 | NSC | 07/28/2010 | Not Printed |
| Environmental Quality, Drinking Water | 33485 | R309-305 | 5YR | 03/22/2010 | 2010-8/47 |
| Environmental Quality, Drinking Water | 33829 | R309-305 | NSC | 07/28/2010 | Not Printed |
| Environmental Quality, Drinking Water | 33501 | R309-352 | 5YR | 03/23/2010 | 2010-8/47 |
| Environmental Quality, Drinking Water | 33787 | R309-352 | NSC | 07/26/2010 | Not Printed |
| Environmental Quality, Drinking Water | 33482 | R309-400 | 5YR | 03/22/2010 | 2010-8/48 |
| Environmental Quality, Drinking Water | 33483 | R309-405 | 5YR | 03/22/2010 | 2010-8/49 |
| Environmental Quality, Drinking Water | 33486 | R309-500 | 5YR | 03/22/2010 | 2010-8/49 |
| Environmental Quality, Drinking Water | 33487 | R309-505 | 5YR | 03/22/2010 | 2010-8/50 |
| Environmental Quality, Drinking Water | 33488 | R309-510 | 5YR | 03/22/2010 | 2010-8/50 |
| Environmental Quality, Drinking Water | 32978 | R309-511 | NEW | 03/11/2010 | 2009-19/88 |
| Environmental Quality, Drinking Water | 32978 | R309-511 | CPR | 03/11/2010 | 2010-3/62 |
| Environmental Quality, Drinking Water | 33489 | R309-515 | 5YR | 03/22/2010 | 2010-8/51 |
| Environmental Quality, Drinking Water | 33832 | R309-515 | NSC | 07/28/2010 | Not Printed |
| Environmental Quality, Drinking Water | 33462 | R309-515-6 | AMD | 05/13/2010 | 2010-7/18 |
| Environmental Quality, Drinking Water | 33490 | R309-520 | 5YR | 03/22/2010 | 2010-8/51 |
| Environmental Quality, Drinking Water | 33491 | R309-525 | 5YR | 03/22/2010 | 2010-8/52 |
| Environmental Quality, Drinking Water | 33492 | R309-530 | 5YR | 03/22/2010 | 2010-8/52 |
| Environmental Quality, Drinking Water | 33493 | R309-535 | 5YR | 03/22/2010 | 2010-8/53 |
| Environmental Quality, Drinking Water | 33494 | R309-540 | 5YR | 03/22/2010 | 2010-8/53 |
| Environmental Quality, Drinking Water | 33830 | R309-540 | NSC | 07/28/2010 | Not Printed |
| Environmental Quality, Drinking Water | 33495 | R309-545 | 5YR | 03/22/2010 | 2010-8/54 |
| Environmental Quality, Drinking Water | 33496 | R309-550 | 5YR | 03/22/2010 | 2010-8/55 |