

# UTAH STATE BULLETIN

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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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## NOTICES OF PROPOSED RULES

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A state agency may file a **PROPOSED RULE** when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between March 02, 2011, 12:00 a.m., and March 15, 2011, 11:59 p.m. are included in this, the April 01, 2011 issue of the *Utah State Bulletin*.

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

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 Rules being repealed are completely struck out.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

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least May 2, 2011. 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 July 30, 2011, the agency may notify the Division of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Division of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE OF a CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses and the agency must start the process over.

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

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

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

Agriculture and Food, Plant Industry  
**R68-7-10**  
 Responsibilities of Business and  
 Applicator

**NOTICE OF PROPOSED RULE**  
 (Amendment)

DAR FILE NO.: 34498  
 FILED: 03/09/2011

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This amendment will exempt Pesticide Applicators from having to display the license number in any advertisements.

**SUMMARY OF THE RULE OR CHANGE:** The change request is a result of industry representatives that were afraid that the cost to add the license number in advertisements would be of such a cost that it would hinder their business.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 4-14-6

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** There is no cost or saving to the state budget. This rule was amended so that the pesticide applicators no longer will be required to add their license number when advertising.
- ◆ **LOCAL GOVERNMENTS:** There is no cost or saving to local government. This rule was amended so that the pesticide applicators no longer will be required to add their license number when advertising.
- ◆ **SMALL BUSINESSES:** There are no additional costs to small businesses because they no longer have to pay for extra space when advertising. This should be a cost savings to small business.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There will be no additional cost only savings because they will not need to include their applicator license number when advertising which saves space which saves money.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There is no cost to any individuals associated with the proposed rule changes because they will no longer need to advertise their license number in any advertisements.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There will be no fiscal impact to the regulated business, the amendment will help them save money since they will not

have the additional cost of putting their license number in their advertisement.

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

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

- ◆ Clair Allen by phone at 801-538-7180, by FAX at 801-538-7189, or by Internet E-mail at clairallen@utah.gov
- ◆ Clark Burgess by phone at 801-538-9929, by FAX at 801-538-7126, or by Internet E-mail at cburgess@utah.gov
- ◆ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
- ◆ Kyle Stephens by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at kylestephens@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/02/2011

THIS RULE MAY BECOME EFFECTIVE ON: 05/09/2011

AUTHORIZED BY: Leonard Blackham, Commissioner

**R68. Agriculture and Food, Plant Industry.**  
**R68-7. Utah Pesticide Control Rule.**  
**R68-7-10. Responsibilities of Business and Applicator.**

(A) Business Licensee Duties and Responsibilities

(1) A business licensee shall ensure that a qualifying party (licensed applicator) of the business licensee receives the training that the applicator requires to comply fully with the Utah Pesticide statutes and rules and label and labeling directions.

(B) Responsibility for business and employee(s)

(1) A business licensee, qualifying party and/or applicator may be held responsible for the acts or omissions of another person who is employed by the business licensee. It is the business' responsibility to properly train, equip, and prepare the other person(s) and maintain records of proper training and equipping.

(2) Failure to fully respond to requests by the commissioners designated agent, in a stated time, for information relating to training and equipping will be evidence for a failure to properly train or equip. The supervising licensee has the burden of proof by a preponderance of the evidence that the business licensee, qualifying party or applicator has fulfilled the required duties as prescribed by this chapter, rules adopted pursuant to this chapter or a written order of the commissioner.

(C) Use of business name and license number.

(1) A business licensee must prominently display the license issued by the Department at the primary business office and each branch office.

(2) A business licensee shall prominently display the business name and license number, as recorded on the license issued by the Department, on:

(a) Customer proposals or contracts for pest management services;

(b) Service records and service notifications;

~~[(e) Advertisements; and~~

[(d)](c) Service vehicles and trailers used in providing pest management services. The business licensee shall ensure that the business name and license number is displayed on a service vehicle or trailer used in providing pest management services conforms to the following:

(i) Is affixed to the service vehicle or trailer used in providing pest management services within 30 days after the Department issues the license or issues a business license change or after the service vehicle or trailer is acquired, whichever is sooner.

(ii) Is in a color that contrasts with the color of the service vehicle and trailer;

(iii) Is prominently displayed on both sides of the service vehicle or trailer;

(iv) Uses at least two-inch letters for the principal words in the business name and at least one and one-half inch letters for other words in the business name; and

(v) Uses at least two-inch numbers for the license number.

(vi) Letters and numbers must be weatherproof.

(3) A business licensee that always uses a service vehicle and trailer together is required to mark only the service vehicle or trailer as described in subsection (2)(d). A business licensee that uses a vehicle only for sales, solicitations, or solely for inspections and does not carry a pesticide, and does not otherwise use the vehicle to provide a pest management service, is not required to mark the vehicle as described in subsection (2)(d).

(4) When complying with subsection (2), a business licensee may use a slogan, trade name, or trade mark in addition to the business name and license number. When complying with subsection (2), a business licensee may use a word or phrase to indicate its former licensed business name if it had a previously licensed business name.

(D) Customer Notification.

(1) Prior to the time of each application of a restricted-use pesticide with a Danger/Danger-Poison signal word, the licensed commercial applicator or an employee of the licensed pesticide business shall provide the customer with a written statement containing the following information:

(a) Business name and telephone number of the licensed business.

(b) Name and license number of the licensed applicator who made the application

(c) Date and time of application.

(d) Type of pesticide application service and brand name of pesticide(s) applied.

(e) Instructions to the customer to contact the business telephone number if more specific information is desired regarding the pesticide product applied.

(2) The written statement required in subsection (1) shall be provided to the customer by any of the following means:

(a) Leave at the residence.

(b) In the case of a multiunit residence leave with the property manager or his/her authorized representative, or

(c) Mail to the property manager or his/her authorized representative if management is located at a location other than the pesticide application site, within seven (7) days prior to the date of the pesticide application.

**KEY: inspections, pesticides**

**Date of Enactment or Last Substantive Amendment: ~~January 4, 2010~~2011**

**Notice of Continuation: March 16, 2006**

**Authorizing, and Implemented or Interpreted Law: 4-14-6**

## Health, Administration R380-70-6 Electronic Data Interchange Standards

### NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 34497  
FILED: 03/09/2011

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this change is to adopt a clinical exchange standard for the following: chief complaint, clinical acknowledgment and error status, discharge summary, history and physical, operative report, radiology report, standardized laboratory test result identifiers.

**SUMMARY OF THE RULE OR CHANGE:** A provider that chooses to electronically exchange laboratory results, chief complaint, clinical acknowledgment and error status, discharge summaries, history and physical, operative reports, radiology reports, and standardized laboratory test result identifiers with another provider in another health system in Utah will be required to use the standard adopted in this rule.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 26-1-30 and Section 26-1-37

#### MATERIALS INCORPORATED BY REFERENCES:

- ◆ Adds History And Physical Version 2.0, March 4, 2009, published by Utah Health Information Network, 03/04/2009
- ◆ Adds Discharge Summary Version 2.0, March 4, 2009, published by Utah Health Information Network, 03/04/2009
- ◆ Adds Clinical Acknowledgment And Error Status Version 2.0, June 15, 2009, published by Utah Health Information Network, 06/15/2009

- ◆ Adds Chief Complaint Version 2.0, March 15, 2009, published by Utah Health Information Network, 03/15/2009
- ◆ Adds Standardized Laboratory Test Result Identifiers Version 2.0, published by Utah Health Information Network, 09/05/2009
- ◆ Adds Radiology Report Version 2.0, June 21, 2010, published by Utah Health Information Network, 06/21/2010
- ◆ Adds Operative Report Version 2.0, June 15, 2009, published by Utah Health Information Network, 06/15/2009

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** Setting a statewide standard for exchanging information between the agencies with private providers will impose front-end costs for those state entities that choose to participate. Costs are estimated to be from \$5,000 to \$50,000 per entity. Long-term savings due to standardization will be evaluated by those entities before they choose to proceed.
- ◆ **LOCAL GOVERNMENTS:** Setting a statewide standard for exchanging information between the local health departments with private providers will impose front-end costs for those local entities that choose to participate. Costs are estimated to be from \$5,000 to \$50,000 per entity. Long-term savings due to standardization will be evaluated by those entities before they choose to proceed.
- ◆ **SMALL BUSINESSES:** Setting a statewide standard for exchanging information between the laboratories, hospitals and clinics, and other providers will impose front-end costs for those entities that choose to participate. Costs are estimated to be from \$5,000 to \$50,000 per entity. Long-term savings due to standardization will be evaluated by those entities before they choose to proceed.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Patients will benefit from the standardized statewide electronic clinical information exchange without additional costs to their service. Timely, accurate, and comprehensive medical information for a patient at the point of care will reduce medical errors and improve quality of care.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** To comply with the standards adopted by this rule, the affected persons and organizations will need to incorporate the following Utah Health Information Network (UHIN) standards into their current electronic communication programs. Many organizations in Utah have already used the proposed standards: Chief Complaint Version v2.0, March 15, 2009; Clinical Acknowledgment And Error Status Version v2.0, June 15, 2009; Discharge Summary Version v2.0, March 4, 2009; History And Physical Version v2.0, March 4, 2009; Operative Report Version v2.0, June 15, 2009; Radiology Report Version v2.0, June 21, 2010; and Standardized Laboratory Test Result Identifiers Version v2.0, September 5, 2009. Therefore, the costs for the initial adoption will vary among organizations from \$5,000 where the standard is in place to \$50,000 or more where the standard is not used. However,

to adopt a statewide standard for electronic exchanges of the above clinical health information will save the resources for participating organizations in the future to program proprietary communication applications.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The standards adopted by this rule for electronic exchange of clinical health information, radiology and laboratory results was developed over a period of three years with broad participation from the major laboratory systems, major hospital systems and other interested parties, coordinated by the Utah Health Information Network. This consensus process has sought to minimize fiscal impact.

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

HEALTH  
ADMINISTRATION  
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:**

- ◆ Francesca Lanier by phone at 801-538-6271, by FAX at 801-538-9346, or by Internet E-mail at [flanier@utah.gov](mailto:flanier@utah.gov)
- ◆ Wu Xu by phone at 801-538-7072, by FAX at 801-538-9346, or by Internet E-mail at [wxu@utah.gov](mailto:wxu@utah.gov)

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/02/2011**

**THIS RULE MAY BECOME EFFECTIVE ON: 05/09/2011**

**AUTHORIZED BY:** David Patton, PhD, Acting Executive Director

**R380. Health, Administration.**

**R380-70. Standards for Electronic Exchange of Clinical Health Information.**

**R380-70-6. Electronic Data Interchange Standards.**

Standards incorporated by reference in this rule are available for public inspection at the department during normal business hours or at <http://health.utah.gov/phi/rule/> <http://health.utah.gov/phi/index.php?formname=laws>.

(1) A health care provider, a clinical laboratory, or third-party payer that electronically exchanges clinical ~~laboratory results~~ health information with another health care provider, a clinical laboratory, or third-party payer must comply with the following Utah Health Information Network standards: ~~[Clinical Laboratory Results v2.0,];~~

(a) Discharge Summary v2.0, March 4, 2009;

(b) History and Physical v2.0, March 4, 2009;

(c) Chief Complaint v2.0, March 15, 2009;

(d) Operative Report v2.0, June 15, 2009;



(e) Clinical Acknowledgement and Error Status v2.0, June 15, 2009;

(f) Laboratory Test Result Identifiers v2.0, September 5, 2009;

(g) Clinical Laboratory Results v2.0, September 30, 2009;

(h) Radiology Report v2.0, June 21, 2010, which [is]are incorporated by references.

**KEY: standards, clinical health information exchange**

**Date of Enactment or Last Substantive Amendment: [February 4, 2009]2011**

**Authorizing, and Implemented or Interpreted Law: 26-1-30; 26-1-37**

## Health, Health Care Financing, Coverage and Reimbursement Policy **R414-14A** Hospice Care

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 34509

FILED: 03/14/2011

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this change is to remove the 90-day limit for retroactive hospice authorization, and to require providers to include a physician's certification statement of terminal illness when they submit a prior authorization request.

**SUMMARY OF THE RULE OR CHANGE:** This amendment removes the 90-day limit for retroactive hospice authorization, and requires providers to include a physician's certification statement of terminal illness when they submit a prior authorization request. It also clarifies election statement procedures for clients who are eligible for Medicaid hospice, clarifies reimbursement procedures for hospice care, and further clarifies a definition in the rule text. This amendment also makes other minor corrections.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 26-1-5 and Section 26-18-3

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** There is no fiscal impact to the state budget because federal law already requires the Department to remove the 90-day limit on retroactive hospice

authorization. This amendment simply implements this requirement through administrative rule.

♦ **LOCAL GOVERNMENTS:** There is no impact to local governments because they do not fund or provide hospice care for Medicaid clients.

♦ **SMALL BUSINESSES:** There is no fiscal impact to small businesses because federal law already requires the Department to remove the 90-day limit on retroactive hospice authorization. This amendment simply implements this requirement through administrative rule.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no fiscal impact to hospice clients and to hospice care providers because federal law already requires the Department to remove the 90-day limit on retroactive hospice authorization. This amendment simply implements this requirement through administrative rule.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs to a single hospice client or a to hospice care provider because federal law already requires the Department to remove the 90-day limit on retroactive hospice authorization. This amendment simply implements this requirement through administrative rule.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The removal of the 90-day limit is mandated by federal law. The fiscal impact of the other changes should be minimal, such as the certification requirement.

**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](mailto:cdevashrayee@utah.gov)

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/02/2011**

**THIS RULE MAY BECOME EFFECTIVE ON: 05/09/2011**

**AUTHORIZED BY:** David Patton, PhD, Acting Executive Director

**R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**

**R414-14A. Hospice Care.**

**R414-14A-1. Introduction and Authority.**

This rule is authorized by Sections 26-1-5 and 26-18-3. It implements Medicaid hospice care services as found in 42 U.S.C. 1396d(o).

**R414-14A-2. Definitions.**

The definitions in Rule R414-1 apply to this rule. In addition:

- (1) "Attending physician" means a physician who:
  - (a) is a doctor of medicine or osteopathy; and
  - (b) is identified by the client at the time he or she elects to receive hospice care as having the most significant role in the determination and delivery of the client's medical care.
- (2) "Cap period" means the 12 month period ending October 31 used in the application of the cap on reimbursement for inpatient hospice care as described in Subsection R414-14A-22(5).
- (3) "Employee" means an employee of the hospice provider or, if the hospice provider is a subdivision of an agency or organization, an employee of the agency or organization who is appropriately trained and assigned to the hospice unit. "Employee" includes a volunteer under the direction of the hospice provider.
- (4) "Hospice care" means care provided to terminally ill clients by a hospice provider.
- (5) "Hospice provider" means a provider that is licensed under the provisions of Rule R432-750 and is primarily engaged in providing care to terminally ill individuals.
- (6) "Physician" means a doctor of medicine or osteopathy who is licensed by the state of Utah.
- (7) "Representative" means an individual who has been authorized under state law to make health care decisions, including initiating, continuing, refusing, or terminating medical treatments for a client who is mentally unable to make health care decisions.
- (8) "Terminally ill" means the client has a medical prognosis ~~[that his or her]to live [life expectancy is]no more than six months [or less]if the illness runs its normal course.~~

**R414-14A-3. Client Eligibility Requirements.**

- (1) A client who is terminally ill may obtain hospice care pursuant to this rule.
- (2) A client's certification of a terminal condition required for hospice eligibility must be based on a face-to-face assessment by a physician conducted no more than 90 days prior to the date of enrollment.
- (3) A client dually enrolled in Medicare and Medicaid must elect the hospice benefit for both Medicare and Medicaid. The client must receive hospice coverage under Medicare. Election for the Medicaid hospice benefit provides the client coverage for Medicare co-insurance and coverage for room and board expenses while a resident of a Medicare-certified nursing facility, Intermediate Care Facility for ~~[the Mentally Retarded]~~People with Mental Retardation (ICF/MR), or freestanding hospice facility.

**R414-14A-4. Program Access Requirements.**

- (1) Hospice care may be provided only by a hospice provider licensed by the Department, that is Medicare certified in accordance with 42 CFR Part 418, and that is a Medicaid provider.

(2) A hospice provider must have a valid Medicaid provider agreement in place prior to initiating hospice care for Medicaid clients. The Medicaid provider agreement is effective on the date a Medicaid provider application is received in the Department and ~~shall~~may not be made retroactive to an earlier date, including an earlier effective date of Medicare hospice certification.

(3) At the time of a change of ownership, the previous owner's provider agreement terminates as of the effective date of the change of ownership.

(4) The Department accepts all waivers granted to hospice agencies by the Centers for Medicare and Medicaid Services as part of the Medicare certification process.

(5) Hospice agencies participating in the Medicaid program shall provide hospice care in accordance with the requirements of 42 CFR Part 418.

**R414-14A-5. Service Coverage.**

Hospice care categories eligible for Medicaid reimbursement are the following:

- (1) "Routine home care day" is a day in which a client who has elected to receive hospice care is at home and is not receiving continuous home care as defined in Subsection R414-14A-5~~[(5)]~~(2). For purposes of routine home care day, extended stay residents of nursing facilities are considered at home.
- (2) "Continuous home care day" is a day in which a client who has elected to receive hospice care receives a minimum of eight aggregate hours of care from the hospice provider during a 24-hour day, which begins and ends at midnight. The eight aggregate hours of care must be predominately nursing care provided by either a registered nurse or licensed practical nurse. Continuous home care is only furnished during brief periods of crisis in which a patient requires continuous care that is primarily nursing care to achieve palliation or management of acute medical symptoms. Extended stay residents of nursing facilities are not eligible for continuous home care day.
- (3) "Inpatient respite care day" is a day in which the client who has elected hospice care receives short-term inpatient care when necessary to relieve family members or other persons caring for the client at home.

(4) "General inpatient care day" is a day in which a client who has elected hospice care receives general inpatient care for pain control or acute or chronic symptom management that cannot be managed in a home or other outpatient setting. General inpatient care may be provided in a hospice inpatient unit, a hospital, or a nursing facility.

(5) "Room and Board" is medication administration, performance of personal care, social activities, routine and therapeutic dietary services, meal service including direct feeding assistance, maintaining the cleanliness of the client's room, assistance with activities of daily living, durable equipment, prescribed therapies, and all other services unrelated to care associated with the terminal illness that would be covered under the Medicaid State Plan nursing facility benefit.

**R414-14A-6. Hospice Election.**

- (1) A client who meets the eligibility requirement for Medicaid hospice must file an election statement with a particular hospice. If the client is physically or mentally incapacitated or is

under the age of 18, ~~his or her~~ the client's legally authorized representative may file the election statement.

(2) Each hospice provider designs and prints its own election statement. The election statement must include the following:

(a) identification of the particular hospice that will provide care to the client;

(b) the client's or representative's acknowledgment that he or she has been given a full understanding of the palliative rather than curative nature of hospice care, as it relates to the client's terminal illness;

(c) acknowledgment that the client waives certain Medicaid services as set forth in Section R414-14A-~~11~~9;

(d) acknowledgment that the client or representative may revoke the election of the hospice benefit at any time in the future and therefore become eligible for Medicaid services waived at the time of hospice election as set forth in Section R414-14A-8; and

(e) the signature of the ~~recipient~~ client or representative.

(3) The effective date of the election may be the first day of hospice care or a later date, but may be no earlier than the date of the election statement

(4) An election to receive hospice care remains effective through the initial election period and through the subsequent election periods without a break in care as long as the client:

(a) remains in the care of a hospice;

(b) does not revoke the election; and

(c) is not discharged from the hospice.

(5) The hospice provider must notify the Department at the time a Medicaid client selects the hospice benefit, including selecting the hospice provider under a change of designated hospice. The notification must include a copy of the hospice election statement and the ~~client's plan of care~~ physician's certification of terminal illness for hospice care. Authorization for reimbursement of hospice care begins no earlier than the date notification is received by the Department for an eligible Medicaid client, except as provided in Section R414-14A-19.

(6) Subject to the conditions set forth in this rule, a client may elect to receive hospice care during one or more of the following election periods:

(a) an initial 90-day period;

(b) a subsequent 90-day period; or

(c) an unlimited number of subsequent 60-day periods.

#### **R414-14A-8. Revocation and Re-election of Hospice Services.**

(1) A client or legal representative may voluntarily revoke the client's election of hospice care at any time during an election period.

(2) To revoke the election of hospice care, the client or representative must file a statement with the hospice provider that includes the following information:

(a) a signed statement that the client or representative revokes the client's election for Medicaid coverage of hospice care.

(b) the date that the revocation is to be effective, which may not be earlier than the date that the revocation is made; and

(c) an acknowledgment signed by the patient or the patient's representative that the patient will forfeit Medicaid hospice coverage for any remaining days in that election period.

(3) Upon revocation of the election of Medicaid coverage of hospice care for a particular election period, a client:

(a) is no longer covered under Medicaid for hospice care;

(b) resumes Medicaid coverage for the benefits waived under Section R414-14A-6; and

(c) may at any time elect to receive hospice coverage for any other hospice election periods that he or she is eligible to receive.

(4) If an election has been revoked, the client[-] or his ~~or her~~ representative if the client is mentally incapacitated, may at any time file an election[-] in accordance with this rule[-] for any other election period that is still available to the client.

(5) Hospice providers ~~shall~~ may not encourage clients to temporarily revoke hospice services solely for the purpose of avoiding financial responsibility for Medicaid services that have been waived at the time of hospice election as described in Section R414-14A-9.

(6) Hospice providers must send notification to the Department within ten calendar days that a client has revoked hospice benefits. Notification must include a copy of the revocation statement signed by the client or the client's legal representative.

#### **R414-14A-20. Post-Payment for Services Provided While in Medicaid-Pending Status.**

(1) If a new client is not Medicaid eligible upon admission to hospice services but becomes Medicaid eligible at a later date, the Department will reimburse a hospice provider retroactively ~~for up to 90 days~~ to allow the hospice eligibility date to coincide with the client's Medicaid eligibility date if:

(a) the Department determines that the client met Medicaid eligibility requirements at the time the service was provided;

(b) the hospice care met the prior authorization criteria at the time of delivery; and

(c) the hospice provider reimburses the Department for care related to the client's terminal illness delivered by other Medicaid providers during the retroactive period.

(2) The hospice provider must provide a copy of the initial care plan and any other documentation to the Department adequate to demonstrate the hospice care met prior authorization criteria at the time of delivery.

#### **R414-14A-21. Hospice Care Reimbursement.**

(1) ~~Medicaid~~ The Department shall provide payment for ~~covered~~ hospice care ~~is made~~ in accordance with the methodology set forth in the Utah Medicaid State Plan.

(2) A hospice provider may not charge a Medicaid client for a service ~~s for which~~ that the client is entitled to ~~have payment made~~ receive under Medicaid.

(3) Medicaid reimbursement to a hospice provider for services provided during a cap period is limited to the cap amount specified in Subsection R414-14A-22(5).

(4) Medicaid does not apply the aggregate caps used by Medicare.

(5) The Department provides ~~P~~ payment for hospice care ~~is made~~ on the basis of the geographic location where the service is provided as described in the Medicaid State Plan.

(6) Routine home care, continuous home care, general inpatient care, inpatient respite care services, and hospice room and board, are reimbursable to the hospice provider only.

(7) Hospice general inpatient care and inpatient respite care are not reimbursed by Medicaid for services provided in a Veterans Administration hospital or military hospital.

**R414-14A-22. Payment for Hospice Care Categories.**

(1) The Department establishes payment amounts for the following categories:

- (a) Routine home care.
- (b) Continuous home care.
- (c) Inpatient respite care.
- (d) General inpatient care.
- (e) Room and Board service.

(2) The Department reimburses the hospice provider at the appropriate payment amount for each day for which an eligible Medicaid recipient is under the hospice's care.

(3) The Medicaid reimbursement covers the same services and amounts covered by the equivalent Medicare reimbursement rate for comparable service categories.

(4) The Department makes payment according to the following procedures:

(a) Payment is made to the hospice for each day during which the client is eligible and under the care of the hospice, regardless of the amount of services furnished on any given day.

(b) Payment is made for only one of the categories of hospice care described in Subsection R414-14A-22(1) for any particular day.

(c) On any day in which the client is not an inpatient, the Department pays the hospice provider the routine home care rate, unless the client receives continuous home care as provided in Subsection R414-14A-5([5]2) for a period of at least eight hours. In that case, the Department pays a portion of the continuous home care day rate in accordance with Subsection R414-14A-22([5])(4) (d).

(d) The hospice payment on a continuous care day varies depending on the number of hours of continuous services provided. The number of hours of continuous care provided during a continuous home care day is multiplied by the hourly rate to yield the continuous home care payment for that day. A minimum of eight hours of licensed nursing care must be furnished on a particular day to qualify for the continuous home care rate.

(e) Subject to the limitations described in Subsection R414-14A-22(5), on any day on which the client is an inpatient in an approved facility for inpatient care, the appropriate inpatient rate (general or respite) is paid depending on the category of care furnished. The inpatient rate (general or respite) is paid for the date of admission and all subsequent inpatient days, except the day on which the client is discharged. For the day of discharge, the appropriate home care rate is paid unless the client dies as an inpatient. In the case where the client dies as an inpatient, the inpatient rate (general or respite) is paid for the discharge day. Payment for inpatient respite care is subject to the requirement that it may not be provided consecutively for more than five days at a time.

(5) Payment for inpatient care is limited as follows:

(a) The total payment to the hospice for inpatient care (general or respite) is subject to a limitation that total inpatient care days for Medicaid clients not exceed 20 percent of the total days for which these clients had elected hospice care. Clients afflicted with AIDS are excluded when calculating inpatient days.

(b) At the end of a cap period, the Department calculates a limitation on payment for inpatient care for each hospice to ensure that Medicaid payment is not made for days of inpatient care in excess of 20 percent of the total number of days of hospice care furnished to Medicaid clients by the hospice.

(c) If the number of days of inpatient care furnished to Medicaid clients is equal to or less than 20 percent of the total days of hospice care to Medicaid clients, no adjustment is necessary.

(d) If the number of days of inpatient care furnished to Medicaid clients exceeds 20 percent of the total days of hospice care to Medicaid clients, the total payment for inpatient care is determined in accordance with the procedures specified in Subsection R414-14A-22(5)(e). That amount is compared to actual payments for inpatient care, and any excess reimbursement must be refunded by the hospice.

(e) If a hospice exceeds the number of inpatient care days described in Subsection R414-14A-22(5)(d), the total payment for inpatient care is determined as follows:

(i) Calculate the ratio of the maximum number of allowable inpatient days to the actual number of inpatient care days furnished by the hospice to Medicaid clients.

(ii) Multiply this ratio by the total reimbursement for inpatient care made by the Department.

(iii) Multiply the number of actual inpatient days in excess of the limitation by the routine home care rate.

(iv) Sum the amounts calculated in Subsection R414-14A-22(5)(e)(ii) and (iii).

(6) The hospice provider may request an exception to the inpatient care payment limitation if the hospice provider demonstrates the volume of Medicaid enrollees during the cap period was insufficient to reasonably achieve the required 20% ratio.

**R414-14A-25. Payment for Nursing Facility, ICF/MR, and Freestanding Inpatient Hospice Unit Room and Board.**

(1) For clients in a nursing facility, ICF/MR, or a freestanding hospice inpatient unit who elect to receive hospice care from a Medicaid enrolled hospice provider, Medicaid will pay the hospice provider an additional per diem for routine home care services to cover the cost of room and board in the facility. For nursing facilities and ICFs/MR, the room and board rate is 95 percent of the amount that the Department would have paid to the nursing facility or ICF/MR provider for that client if the client had not elected to receive hospice care. For freestanding hospice inpatient facilities, the room and board rate is 95 percent of the statewide average paid by Medicaid for nursing facility services.

(2) ~~Reimbursement for room and board is made to the hospice provider.~~ The Department shall reimburse the hospice provider for room and board. Upon receiving payment for room and board, [—F]the hospice provider [is responsible to]shall reimburse the nursing facility[—the room and board payment received]. The reimbursement is payment in full for the services described in ~~Subsection~~ Section R414-14A-14(2). The facility cannot bill Medicaid separately.

(3) If a hospice enrollee in a nursing facility, ICF/MR, or a freestanding hospice inpatient unit has a monetary obligation to contribute to his ~~or her~~ cost of care in the facility, the facility must collect and retain the contribution. The hospice must reimburse the

facility the reduced amount received from Medicaid directly or from a Medicaid Health Plan.

**R414-14A-26. Limitation on Liability for Certain Hospice Coverage Denials.**

If the hospice provider or the Department determines that a client is ~~determined~~ not ~~to be~~ terminally ill while receiving hospice care ~~were received~~ under this rule, the client is not responsible to reimburse the Department. If the Department denies reimbursement to the hospice provider, the hospice provider may not seek reimbursement from the client.

**R414-14A-28. Marketing by Hospice Providers.**

Hospice providers ~~shall~~ may not engage in unsolicited direct marketing to prospective clients. Marketing strategies shall remain limited to mass outreach and advertisements, except when a prospective client or legal representative explicitly requests information from a particular hospice provider. Hospice providers shall refrain from offering incentives or other enticements to persuade a prospective client to choose that provider for hospice care.

**KEY: Medicaid**

**Date of Enactment or Last Substantive Amendment:** ~~[June 21, 2010]~~ **2011**

**Notice of Continuation:** September 30, 2009

**Authorizing, and Implemented or Interpreted Law:** 26-1-4.1; 26-1-5; 26-18-3

**Insurance, Title and Escrow  
Commission  
R592-6-4**

**Unfair Methods of Competition, Acts  
and Practices**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 34510

FILED: 03/15/2011

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this amendment is to clarify provisions of Section R592-6-4 of the rule that identify unfair methods of competition or acts. The Title and Escrow Commission have proposed changes and discussed them in their monthly Commission meetings with members of the industry in attendance.

**SUMMARY OF THE RULE OR CHANGE:** The changes to Section R592-6-4 of the rule include the change to

Subsection R592-6-4(9) which clarifies that a title insurer cannot furnish a room to a client or trade association except to allow them to provide escrow or title services or meetings related to such; Subsection R592-6-4(14) includes the prepayment of fees and charges in the payment of the fees or charges of a professional and specifically notes that prepayments do not include those for overnight delivery/mail fees; and R592-6-4(21) clarifies when loan and financing can and cannot be offered by a title licensee.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 31A-2-404

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** The changes to this rule will have no impact on the work of the department or the revenue coming into it or the state. The changes clarify unfair methods of competition and act and practices in a licensee's business dealings.

◆ **LOCAL GOVERNMENTS:** Local governments will not be affected by this rule. The rule continues to disallow anyone affiliated with a title and escrow transaction from also providing a loan for anyone involved in that transaction, and clarifies those transactions in which a loan may be provided.

◆ **SMALL BUSINESSES:** The title agencies that this rule regulates are small businesses. The three subsections that have been amended restrict spending by the title agency to influence the building, real estate, and mortgage lending entitles to bring their business to them. Subsection R592-6-4(14) restricts the fees that can be collected from the consumer and allows recovery of other expenses. Subsection R592-6-4(21) specifically prohibits inducements through loans.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This should have no fiscal effect on customers of the title industry.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The three subsections that have been amended restrict spending by the title agency to influence the real estate and mortgage lending industries to bring their business to them.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** Agencies should save money currently being spent attracting business from builders, real estate, and mortgage lenders, which will put everyone on the same playing field and require competition in services provided by title agencies.

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

INSURANCE  
TITLE AND ESCROW COMMISSION  
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](mailto:jwhitby@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/02/2011

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 04/11/2011 08:00 AM, Senate Building (East Bldg), 420 N State St, Copper Room, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 05/09/2011

AUTHORIZED BY: Jilene Whitby, Information Specialist

**R592. Insurance, Title and Escrow Commission.****R592-6. Unfair Inducements and Marketing Practices in Obtaining Title Insurance Business.****R592-6-4. Unfair Methods of Competition, Acts and Practices.**

In addition to the acts prohibited under Section 31A-23a-402, the Commission finds that providing or offering to provide any of the following benefits by parties identified in Section R592-6-2 to any client, either directly or indirectly, except as specifically allowed in Section R592-6-5 below, is a material and unfair inducement to obtaining title insurance business and constitutes an unfair method of competition.

(1) The furnishing of a title insurance commitment without one of the following:

- (a) sufficient evidence in the file of the title insurer, agency or producer that a bona fide real estate transaction exists; or
- (b) payment in full at the time the title insurance commitment is provided.

(2) The paying of any charges for the cancellation of an existing title insurance commitment issued by a competing organization, unless that commitment discloses a defect which gives rise to a claim on an existing policy.

(3) Furnishing escrow services pursuant to Section 31A-23a-406:

- (a) for a charge less than the charge filed pursuant to Section 31A-19a-209(5); or
- (b) the filing of charges for escrow services with the Utah Insurance Commissioner (commissioner), which are less than the actual cost of providing the services.

(4) Waiving all or any part of established fees or charges for services which are not the subject of rates or escrow charges filed with the commissioner.

(5) Deferring or waiving any payment for insurance or services otherwise due and payable, including a series of real estate transactions for the same parcel of property.

(6) Furnishing services not reasonably related to a bona fide title insurance, escrow, settlement, or closing transaction, including non-related delivery services, accounting assistance, or legal counseling.

(7) The paying for, furnishing, or waiving all or any part of the rental or lease charge for space which is occupied by any client.

(8) Renting or leasing space from any client, regardless of the purpose, at a rate which is excessive or inadequate when compared with rental or lease charges for comparable space in the same geographic area, or paying rental or lease charges based in whole or in part on the volume of business generated by any client.

(9) Furnishing any part of a title insurer's, title agency's, or title producer's facilities, for example, conference rooms or meeting rooms, to a client or its trade association, for anything other than the providing of escrow or title services, or meetings related to such, without receiving a fair rental or lease charge comparable to other rental or lease charges for facilities in the same geographic area.

(10) The co-habitation or sharing of office space with a client of a title insurer, title agency, or title producer.

(11) Furnishing all or any part of the time or productive effort of any employee of the title insurer, agency or producer, for example, secretary, clerk, messenger or escrow officer, to any client.

(12) Paying for all or any part of the salary of a client or an employee of any client.

(13) Paying, or offering to pay, either directly or indirectly, salary, commissions or any other consideration to any employee who is at the same time licensed as a real estate agent or real estate broker or as a mortgage lender or mortgage company subject to 31A-2-405 and R592-5.

(14) Paying for the fees or charges of a professional, for example, an appraiser, surveyor, engineer or attorney, or for the pre-payment of fees and charges of a client or party to the transaction, for example subordination, loan or HOA payoff request fees, whose services are required by any party or client to structure or complete a particular transaction. This subsection does not include the pre-payment of overnight delivery/mail fees that will be recovered through closing of a transaction.

(15) Sponsoring, cosponsoring, subsidizing, contributing fees, prizes, gifts, food or otherwise providing anything of value for an activity of a client, except as allowed under Subsection R592-6-5(6). Activities include open houses at homes or property for sale, meetings, breakfasts, luncheons, dinners, conventions, installation ceremonies, celebrations, outings, cocktail parties, hospitality room functions, open house celebrations, dances, fishing trips, gambling trips, sporting events of all kinds, hunting trips or outings, golf or ski tournaments, artistic performances and outings in recreation areas or entertainment areas.

(16) Sponsoring, cosponsoring, subsidizing, supplying prizes or labor, except as allowed under Subsection R592-6-5(2) or otherwise providing things of value for promotional activities of a client. Title insurers, agencies or producers may attend activities of a client if there is no additional cost to the title insurer, agency or producer other than their own entry fees, registration fees, meals, and provided that these fees are no greater than those charged to clients or others attending the function.

(17) Providing gifts or anything of value to a client in connection with social events such as birthdays or job promotions. A letter or card in these instances will not be interpreted as providing a thing of value.

(18) Furnishing or providing access to the following, even for a cost:

- (a) building plans;
- (b) construction critical path timelines;
- (c) "For Sale by Owner" lists;

- (d) surveys;
- (e) appraisals;
- (f) credit reports;
- (g) mortgage leads for loans;
- (h) rental or apartment lists; or
- (i) printed labels.

(19) Newsletters cannot be property specific or cannot highlight specific customers.

(20) A title insurer, agency or producer cannot provide a client access to any software accounts that are utilized to access real property information that the insurer, agency or producer pays for, develops, or pays to maintain. Closing software is exempt as long as it is used for a specific closing.

~~(21)(a) A [person, as defined in 31A-1-301, or individual affiliated with a] title insurer, agency or producer cannot provide [a loan or any type of financing to a client of title insurance,] title or escrow services on real property where an investment loan or financing has been provided by said title insurer, agency or producer, including its owners, employees, or affiliates.~~

~~(b) Subsection (21)(a) does not apply to such transactions:~~

- ~~(i) involving seller financing of primary or secondary residences;~~
- ~~(ii) involving commercial office property owned and maintained by those persons or entities described in (a) herein;~~
- ~~(iii) obtained through a trustee's sale; or~~
- ~~(iv) re-acquired by the original owner by a stated default.~~

(22) Paying for any advertising on behalf of a client.

(23) Advertising jointly with a client on subdivision or condominium project signs, or signs for the sale of a lot or lots in a subdivision or units in a condominium project. A title insurer, agency or producer may advertise independently that it has provided title insurance for a particular subdivision or condominium project but may not indicate that all future title insurance will be written by that title insurer, agency or producer.

(24) Advertisements may not be placed in a publication, including an internet web page and its links, that is hosted, published, produced for, distributed by or on behalf of a client.

(25) A donation may not be made to a charitable organization created, controlled or managed by a client.

(26) A direct or indirect benefit, provided to a client which is not specified in Section R592-6-5 below, will be investigated by the department for the purpose of determining whether it should be defined by the Commission as an unfair inducement under Section 31A-23a-402(8).

(27) Title insurers, agencies and producers who have ownership in, or control of, other business entities, including I.R.C. Section 1031 qualified intermediaries and escrow companies, may not use those other business entities to enter into any agreement, arrangement, or understanding or to pursue any course of conduct, designed to avoid the provisions of this rule.

**KEY: title insurance**

**Date of Enactment or Last Substantive Amendment:** ~~[June 25, 2009]~~**2011**

**Authorizing, and Implemented or Interpreted Law:** ~~[31A-2-201; 31A-23a-402]~~**31A-2-404**

**Natural Resources, Parks and  
Recreation  
R651-215  
Personal Flotation Devices**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 34511

FILED: 03/15/2011

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Thirty years ago when boating equipment requirements were being put in place, there were no recreational vessels over 65 feet. In 2010, there were 231 vessels that exceeded 65 feet in length registered in Utah. Most of these are houseboats on Lake Powell. Currently there are no state or federal laws or rules outlining the safety equipment required to be on these large boats. The Division has been inspecting boats over 65 feet to the standards for vessels 40 to 65 feet. Since no rules apply to vessels over 65 feet, there is no way to require or enforce appropriate safety equipment on board these vessels.

**SUMMARY OF THE RULE OR CHANGE:** There is an immediate need to have basic safety equipment required on these large vessels. During 2010, the Boating Section assigned a committee to study and make recommendations to the Boating Advisory Council for a list of appropriate safety equipment that should be on board these vessels. Based on research done by the committee, these rule change recommendations were made.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 73-18-8

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** There is no additional cost or savings to state government. The cost will be the responsibility of those having to provide safety equipment on their boats.

♦ **LOCAL GOVERNMENTS:** There is no additional cost or savings to local government. The cost will be the responsibility of those having to provide safety equipment on their boats.

♦ **SMALL BUSINESSES:** A few small business owners who lease vessels 40 feet or greater may need to purchase a second type four personal flotation device (PFD) and 30 feet of line. Estimated cost would be less than \$25 per boat. Approximately 1% of Utah registered boats are in this category.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Owners of vessels 40 feet or greater may need to purchase a

second type four PFD and 30 feet of line. Estimated cost would be less than \$25 per boat. Approximately 1% of Utah registered boats are in this category.

COMPLIANCE COSTS FOR AFFECTED PERSONS:  
Estimated cost would be less than \$25 per boat.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:  
Negligible impact on business.

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

NATURAL RESOURCES  
PARKS AND RECREATION  
ROOM 116  
1594 W NORTH TEMPLE  
SALT LAKE CITY, UT 84116-3154  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/02/2011

THIS RULE MAY BECOME EFFECTIVE ON: 05/09/2011

AUTHORIZED BY: Fred Hayes, Acting Operations Deputy Director

#### **R651. Natural Resources, Parks and Recreation.**

##### **R651-215. Personal Flotation Devices.**

##### **~~R651-215-2. [PFD Requirements for Vessels Less than 16 Feet in Length.]~~ Type IV PFD Requirements.**

No person shall operate or give permission for the operation of a vessel [~~less than 16 feet in length unless there is at least one Type I, II, or III PFD for each person on board.~~]

(1) 16 feet to less than 40 feet in length unless there is at least one Type IV PFD on board.

(2) 40 feet or more in length unless there is at least two Type IV PFDs on board, one shall be a minimum 18" ring buoy type with at least 30 feet of rope attached. Where reasonable, one shall be located near the bow and one shall be located near the stern of the vessel.

##### **~~[R651-215-3. PFD Requirements for Vessels 16 Feet or More in Length.~~**

~~No person shall operate or give permission for the operation of a vessel 16 feet or more in length unless there is at least one Type I, II, or III PFD for each person on board. In addition to the total number of PFD's, there shall also be one Type IV PFD on board.~~

##### **]R651-215-4. Types of Personal Flotation Devices.**

Type I - Off-shore Life Jacket - provides the most buoyancy of any type of PFD. Designed to turn the most unconscious wearers to a face-up position in the water. Effective for all waters, especially open, rough or remote waters where rescue may be delayed. Acceptable for use on all vessels.

Type II - Near Shore Buoyancy Vest - is designed to turn some unconscious wearers to a face-up position in the water. Intended for calm, inland waters where there is a good chance of quick rescue.

Type III - Flotation Aid - Good for conscious users in calm, inland waters where there is good chance of quick rescue. Designed so conscious wearers can place themselves in a face up position in the water. The wearer may have to tilt their head back to avoid turning face-down in the water.

Type IV - Throwable Device - Designed to be thrown to a person in the water and grasped and held by the user until rescued. Not designed to be worn.

Type V - Special Use Device - Intended for specific activities and may be carried instead of another PFD if used according to the approval conditions on its label.

##### **KEY: boating, parks**

**Date of Enactment or Last Substantive Amendment: [August 9, 2010]2011**

**Notice of Continuation: January 11, 2011**

**Authorizing, and Implemented or Interpreted Law: 73-18-8**

## Natural Resources, Parks and Recreation

### **R651-216-2**

## Navigation Lights On Motorboats 40 Feet To Less than 65 Feet

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

(Amendment)

DAR FILE NO.: 34512

FILED: 03/15/2011

#### **RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Thirty years ago when boating equipment requirements were being put in place, there were no recreational vessels over 65 feet. In 2010, there were 231 vessels that exceeded 65 feet in length registered in Utah. Most of these are houseboats on Lake Powell. Currently there are no state or federal laws or rules outlining the safety equipment required to be on these large boats. The Division



has been inspecting boats over 65 feet to the standards for vessels 40 to 65 feet. Since no rules apply to vessels over 65 feet, there is no way to require or enforce appropriate safety equipment on board these vessels.

**SUMMARY OF THE RULE OR CHANGE:** There is an immediate need to have basic safety equipment required on these large vessels. During 2010, the Boating Section assigned a committee to study and make recommendations to the Boating Advisory Council for a list of appropriate safety equipment that should be on board these vessels. Based on research done by the committee, these rule change recommendations were made.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 73-18-8(2)

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** There is no additional cost or savings to state government. This change clarifies the wording only with regards to the length of boats requiring safety equipment.
- ◆ **LOCAL GOVERNMENTS:** There is no additional cost or savings to local government. This change clarifies the wording only with regards to the length of boats requiring safety equipment.
- ◆ **SMALL BUSINESSES:** There is no additional cost or savings to small businesses. This change clarifies the wording only with regards to the length of boats requiring safety equipment.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no additional cost or savings to persons other than small businesses, businesses, or local government entities. This change clarifies the wording only with regards to the length of boats requiring safety equipment.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs. This change clarifies the wording only with regards to the length of boats requiring safety equipment.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** Negligible impact on business.

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

NATURAL RESOURCES  
PARKS AND RECREATION  
ROOM 116  
1594 W NORTH TEMPLE  
SALT LAKE CITY, UT 84116-3154  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

- ◆ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at [tammywright@utah.gov](mailto:tammywright@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/02/2011

THIS RULE MAY BECOME EFFECTIVE ON: 05/09/2011

AUTHORIZED BY: Fred Hayes, Acting Operations Deputy Director

**R651. Natural Resources, Parks and Recreation.**

**R651-216. Navigation Lights - Note: Figures 1 through 7 mentioned below are on file with the Utah Division of Parks and Recreation.**

**R651-216-2. Navigation Lights On Motorboats 40 Feet [~~To Less than 65 Feet~~or Greater in Length.**

Motorboats 40 feet in length [~~to less than 65 feet~~or greater in length shall exhibit the navigation lights shown in either figure 1 or 2.

**KEY: boating**

**Date of Enactment or Last Substantive Amendment:** [~~August 15, 2002~~2011

**Notice of Continuation:** February 10, 2011

**Authorizing, and Implemented or Interpreted Law:** 73-18-8(2)

## Natural Resources, Parks and Recreation **R651-217-2** Fire Extinguishers Required

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 34513

FILED: 03/15/2011

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Thirty years ago when boating equipment requirements were being put in place, there were no recreational vessels over 65 feet. In 2010, there were 231 vessels that exceeded 65 feet in length registered in Utah. Most of these are houseboats on Lake Powell. Currently there are no state or federal laws or rules outlining the safety equipment required to be on these large boats. The Division has been inspecting boats over 65 feet to the standards for vessels 40 to 65 feet. Since no rules apply to vessels over 65 feet, there is no way to require or enforce appropriate safety equipment on board these vessels.

**SUMMARY OF THE RULE OR CHANGE:** There is an immediate need to have basic safety equipment required on these large vessels. During 2010, the Boating Section assigned a committee to study and make recommendations to the Boating Advisory Council for a list of appropriate safety equipment that should be on board these vessels. Based on research done by the committee, these rule change recommendations were made.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 73-18-8(4)

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** There is no additional cost or savings to state government. The cost will be the responsibility of those having to provide safety equipment on their boats.
- ◆ **LOCAL GOVERNMENTS:** There is no additional cost or savings to local government. The cost will be the responsibility of those having to provide safety equipment on their boats.
- ◆ **SMALL BUSINESSES:** A few small business owners who lease vessels 65 feet or greater may need to purchase several additional fire extinguishers. Estimated cost would be less than \$50 per boat. Approximately 0.2% of Utah registered boats are in this category.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Owners of vessels 65 feet or greater may need to purchase several additional fire extinguishers. Estimated cost would be less than \$50 per boat. Approximately 0.2% of Utah registered boats are in this category.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:**  
Estimated cost would be less than \$50 per boat.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:**  
Negligible impact on business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
NATURAL RESOURCES  
PARKS AND RECREATION  
ROOM 116  
1594 W NORTH TEMPLE  
SALT LAKE CITY, UT 84116-3154  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

- ◆ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at [tammywright@utah.gov](mailto:tammywright@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/02/2011

THIS RULE MAY BECOME EFFECTIVE ON: 05/09/2011

**AUTHORIZED BY:** Fred Hayes, Acting Operations Deputy Director

**R651. Natural Resources, Parks and Recreation.**

**R651-217. Fire Extinguishers.**

**R651-217-2. Fire Extinguishers Required.**

TABLE

LENGTH OF MOTORBOAT	NUMBER/SIZE
Less than 26 feet in length*	1/B-I
26 feet to less than 40 feet in length	2/B-I or 1/B-II
40 feet to 65 feet in length	3/B-I or 1/B-I and 1/B-II

\* If an outboard motorboat of open construction and not carrying passengers for hire, a fire extinguisher is not required (see Section R651-217-5).

\*\* If no engine compartment, fixed system not required and B-11 shall be placed near stern. If no galley, B-11 shall be placed midships.

**KEY: boating, parks**

**Date of Enactment or Last Substantive Amendment:** [~~August 7, 2007~~]**2011**

**Notice of Continuation:** February 10, 2011

**Authorizing, and Implemented or Interpreted Law:** 73-18-8(4)

**Natural Resources, Parks and Recreation**

**R651-219**

**Additional Safety Equipment**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 34514

FILED: 03/15/2011

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Thirty years ago when boating equipment requirements were being put in place, there were no recreational vessels over 65 feet. In 2010, there were 231 vessels that exceeded 65 feet in length registered in Utah. Most of these are houseboats on Lake Powell. Currently there are no state or federal laws or rules outlining the safety equipment required to be on these large boats. The Division has been inspecting boats over 65 feet to the standards for vessels 40 to 65 feet. Since no rules apply to vessels over 65 feet, there is no way to require or enforce appropriate safety equipment on board these vessels.

**SUMMARY OF THE RULE OR CHANGE:** There is an immediate need to have basic safety equipment required on these large vessels. During 2010, the Boating Section assigned a committee to study and make recommendations to the Boating Advisory Council for a list of appropriate safety equipment that should be on board these vessels. Based on research done by the committee, these rule change recommendations were made.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 73-18-8(6)

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** There is no additional cost or savings to state government. This is wording clarification only.
- ◆ **LOCAL GOVERNMENTS:** There is no additional cost or savings to local government. This is wording clarification only.
- ◆ **SMALL BUSINESSES:** There is no additional cost or savings to small business. This is wording clarification only.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no additional cost or savings to persons other than small businesses, businesses, or local government entities. This is wording clarification only.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There is not compliance costs for anyone. This is wording clarification only.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** Negligible impact on business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 NATURAL RESOURCES  
 PARKS AND RECREATION  
 ROOM 116  
 1594 W NORTH TEMPLE  
 SALT LAKE CITY, UT 84116-3154  
 or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

- ◆ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at [tammywright@utah.gov](mailto:tammywright@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/02/2011

THIS RULE MAY BECOME EFFECTIVE ON: 05/09/2011

AUTHORIZED BY: Fred Hayes, Acting Operations Deputy Director

## **R651. Natural Resources, Parks and Recreation.**

### **R651-219. Additional Safety Equipment.**

#### **R651-219-1. Sound Producing Device.**

(1) Vessels 16 feet to less than 40 feet in length shall have on board a means of making an efficient sound, horn or whistle, capable of a four-to-six-second blast.

(2) Vessels 40 feet [~~to less than 65 feet~~] and greater in length shall have on board a horn or whistle and a bell. The horn or whistle shall be capable of a four-to-six-second blast and audible for one-half mile. The bell shall be designed to give a clear tone.

#### **R651-219-2. Bailing Device.**

All vessels, not of self-bailing design, shall have on board an adequate bail bucket or be equipped with a mechanical means for pumping the bilge. For vessels 65 feet or greater in length, there shall be a bilge pump for each below deck compartment.

**KEY:** boating, parks, life jackets

**Date of Enactment or Last Substantive Amendment:** [~~April 21, 2010~~]2011

**Notice of Continuation:** February 10, 2011

**Authorizing, and Implemented or Interpreted Law:** 73-18-8(6)

## Natural Resources, Parks and Recreation **R651-221** Boat Liveries - Boat Rental Companies

### **NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 34515

FILED: 03/15/2011

### **RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The issue of carriage of rental agreements on non-motorized craft was brought up by several rental companies and brought to the boating advisory council by the paddle sport representative. The complaint has been that on small non-motorized rental craft such as inner tubes and kayaks, there is not an adequate place to put a paper rental agreement without the document becoming wet. After discussion on the council and with several law enforcement staff, it was determined that an exception for non-motorized craft would not have any substantial impacts.

**SUMMARY OF THE RULE OR CHANGE:** The complaint has been that on small non-motorized rental craft such as inner tubes and kayaks, there is not an adequate place to put a paper rental agreement without the document becoming wet.

After discussion on the council and with several law enforcement staff, it was determined that an exception for non-motorized craft would not have any substantial impacts.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 73-18-10(2)

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: There is no cost or savings to the state budget. This is clarification only for an exception for non-motorized craft to carry paper rental agreements on board.

◆ LOCAL GOVERNMENTS: There is no cost or savings to the local government. This is clarification only for an exception for non-motorized craft to carry paper rental agreements on board.

◆ SMALL BUSINESSES: There is no cost or savings to small businesses. This is clarification only for an exception for non-motorized craft to carry paper rental agreements on board.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no cost or savings to the persons other than small business, businesses or local government entities. This is clarification only for an exception for non-motorized craft to carry paper rental agreements on board.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs to affected persons. This is clarification only for an exception for non-motorized craft to carry paper rental agreements on board.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Negligible impact on business.

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

NATURAL RESOURCES  
PARKS AND RECREATION  
ROOM 116  
1594 W NORTH TEMPLE  
SALT LAKE CITY, UT 84116-3154  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/02/2011

THIS RULE MAY BECOME EFFECTIVE ON: 05/09/2011

AUTHORIZED BY: Fred Hayes, Acting Operations Deputy Director

## **R651. Natural Resources, Parks and Recreation.**

### **R651-221. Boat Liveries - Boat Rental Companies.**

#### **R651-221-1. Boat Livery Responsibilities.**

(1) Each boat livery shall register with the Division annually and pay the appropriate fee, prior to the commencement of the operation.

(a) The annual boat livery registration requires the following:

- (i) The completion of the prescribed application form;
- (ii) Evidence of a valid business license; and
- (iii) Payment of the prescribed fee.

(b) The annual boat livery registration fee shall be:

- (i) \$50 for boat liveries with up to 25 vessels in its fleet;
- (ii) \$75 for boat liveries with up to 50 vessels in its fleet;
- (iii) \$100 for boat liveries with more than 50 vessels in its

fleet.

(c) A boat livery that is registered with the Division as an outfitting company shall not pay the boat livery registration fee.

(d) The annual boat livery registration will be required beginning January 1, 2008.

(2) The name of the boat livery shall be displayed on the outward superstructure of each vessel in the boat livery's fleet. If another governmental agency prohibits the display of a livery's name on the exterior of a vessel, the name shall be displayed in a visible manner that does not violate the agency's requirements.

(3) A boat livery shall produce a lease or rental agreement for each vessel leased or rented from its fleet.

(a) The lease or rental agreement shall contain the following information and shall be signed by the owner of the livery or his representative and by the person leasing or renting the vessel.

~~[(b) A copy of the lease or rental agreement shall be carried on board the vessel and shall contain the following information:~~

- (i) The name of the person leasing or renting the vessel;
- (ii) The vessel's assigned bow number, hull identification number, or other number if the vessel is not powered by a motor or sail;
- (iii) A description of the vessel's make, model, color and length;
- (iv) The period of time for which the vessel is leased or rented; and
- (v) A check-off list of the required safety equipment provided on the vessel.

(b) For motorboats and sailboats, a copy of the lease or rental agreement shall be carried on board.

(c) For non-motorized vessels rented or leased in a group, one rental agreement is required. ~~[and shall be carried on board one of the vessels by the person who rented or leased the vessels or the designated group leader.]~~

(4) Upon request of an agent of the Division, the owner of a boat livery or his representative shall provide the Division with a copy of a lease or rental agreement.

(5) The certificate of registration for a leased or rented vessel may be retained on shore by the boat livery.

(6) A recreational "equipment timeshare" business which leases or rents vessels for consideration is a boat livery.

(7) A boat livery shall have each vessel in its fleet that is equipped with a 50 hp or greater motor covered with liability insurance as required in UCA 73-18c-101 through 308, and UCA 31A-22-1501 through 1504.

**KEY: boating, parks**

**Date of Enactment or Last Substantive Amendment: [August 7, 2007|2011**

**Notice of Continuation: February 10, 2011**

**Authorizing, and Implemented or Interpreted Law: 73-18-10(2)**

**Natural Resources, Parks and  
Recreation  
R651-608-1  
Permit Requirements**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 34507

FILED: 03/14/2011

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Currently in the Division's rules there are references to Special Events and it is inferred that the Special Use Permit is used only for those Special Events. The park managers and region managers need the flexibility to issue permission through the Special Use Permit for additional purposes. This also fills the gap between Special Events contracts and Concession contracts.

**SUMMARY OF THE RULE OR CHANGE:** The park managers and region managers need the flexibility to issue permission through the Special Use Permit for additional purposes. This also fills the gap between Special Events contracts and Concession contracts. Some parks uses and examples of activities include Special Events, noncommercial such as family reunions, conference outings, large group parties, and noncommercial competitions; Special Events, Commercial might include boat shows, park co-sponsored events in which vendors sell items to the public, fishing tournaments, and other commercial competitions; Concession operations, temporary and emergency use and operation of concession facilities, such as cafes or boat rentals, where the prior concessioner fails to perform or ceases operations without sufficient notice to appoint another concessioner in a timely manner; Commercial services as guides, provisioners and outfitters might include providers in such areas as river guides, guided rock climbing and guided hiking. The concession contracting process requires formalized

competitive bidding using the services of Utah State Purchasing.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 79-4-501

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** There will be \$6,000 total financial gain as follows: \$1,000 savings due to the reduced cost of contracting with guides, outfitters, and provisioners. This rule will allow guides, outfitters, and provisioners to offer services under a Special Use Permit for a period of up to three years instead of one year at a time, and all contracting will be conducted at the park and region management level, decentralizing this process, and saving costs. There will be \$5,000 increased revenue, fees from operations of temporary concessions, thus using concession assets at times when they would otherwise lay idle. These will generate from 5% to 10% fees on gross receipts of such operations. This temporary concession operation is meant to fill gaps between concession contracts, at times when a concession contract may be terminated abruptly or new assets are completed, and the concession contracting process has not had full time and opportunity to enter into a new concession contract.

◆ **LOCAL GOVERNMENTS:** There would possibly be an economic benefit to local governments through a slight increase in taxable sales and increased visitor traffic to the local area.

◆ **SMALL BUSINESSES:** There will be \$1,000 saved. The guides, outfitters, and provisioners are small business persons who prefer to contract in this new manner instead of their prior options, which were: a Special Use Permit for only one year, or a formal Concession Contract.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Persons other than small businesses are not affected by this rule change because it deals with those using Special Use Permits.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The compliance costs are seen in the reduced cost to small business.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This change enhances business opportunities.

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

NATURAL RESOURCES  
PARKS AND RECREATION  
ROOM 116  
1594 W NORTH TEMPLE  
SALT LAKE CITY, UT 84116-3154  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/02/2011

THIS RULE MAY BECOME EFFECTIVE ON: 05/09/2011

AUTHORIZED BY: Fred Hayes, Acting Operations Deputy Director

**R651. Natural Resources, Parks and Recreation.**

**R651-608. Events of Special Uses.**

**R651-608-1. Permit Requirements.**

A special assembly, exhibit, public speech, public demonstration, or special activity or use (in this Rule collectively called "event") shall be by special use permit ("permit").

(1) REQUESTS. The person or group desiring to conduct an event shall request a permit from the local park manager, region or the Division's main office at least 30 business days before the proposed event. Late requests may be accepted subject to the terms of subsection (4) below.

(2) REQUIREMENTS. The Division director or his designee shall have the discretion to grant or deny the request for permit. A permit may be granted only on the following requirements: (a) No event may substantially interrupt the safe and orderly operation of the park or facility; (b) No event may unduly interfere with proper fire, police, ambulance or other life-safety protection or service to areas where the activity will take place or areas contiguous thereto; (c) No event may be reasonably likely to cause injury to persons or property; (d) ~~No event may be held for the primary purpose of advertising the goods, wares or merchandise of a particular business establishment or vendor;~~ (e) No event may involve pornographic or obscene materials or performances, or materials harmful to minors, as those terms are used in the Utah criminal code or in applicable local ordinances; and (f) liability insurance will be required, co-insuring the Division.

(3) CONFLICTING REQUESTS.

(a) Considerations. When two or more persons, groups or organizations request to use a park or facility for events that conflict as to time, place, or purpose, the Division director or his designee shall evaluate: (i) the size, nature and purpose of each event; (ii) each event's historical or traditional use of the park or facility; (iii) the date and time each conflicting request was received by the Division; (iv) whether an event would require Division support services; (v) possible alternative places or times for the conflicting events; and (vi) other factors that would resolve the conflicts, protect the public safety, health, and welfare, or assist the Division in regulating the time, place, and manner of the events.

(b) Disposition. After obtaining the relevant information and weighing the relevant considerations stated in the immediately preceding paragraph, the Division director or his designee shall resolve the conflict (i) by the parties' agreement to modify the requests to avoid conflicts and accommodate the public interest; or (ii) if no voluntary agreement is reached, by ordering the time, place, and manner for each requested event; or (iii) by exercising his discretion to deny one or more or all of the requests.

(4) LATE REQUESTS. When a request for permit is not timely made under subsection (1), the request shall state the

grounds for its untimeliness. If the Division director or his designee determines that the untimeliness should be excused because of exigency, unexpected circumstances, or other reasons, the request shall be processed.

(5) APPEALS. There shall be no right to administrative appeal of the decision granting or denying a request for permit.

**KEY: parks**

**Date of Enactment or Last Substantive Amendment:** ~~March 6, 2001~~ 2011

**Notice of Continuation:** July 7, 2008

**Authorizing, and Implemented or Interpreted Law:** 79-4-501

**Public Safety, Fire Marshal**  
**R710-10**  
**Rules Pursuant to Fire Service**  
**Training, Education, and Certification**

**NOTICE OF PROPOSED RULE**

(New Rule)

DAR FILE NO.: 34502

FILED: 03/13/2011

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of the rule filing is to replace an expired rule. The existing rule unintentionally expired and needs to be replaced due to its importance in the fire service. This new rule oversees the existence of the Utah Fire and Rescue Academy, firefighter certification, and non-affiliated fire service training. The proposed new rule also establishes the State Fire Marshal as the Fire Service Education Administrator for the State of Utah.

**SUMMARY OF THE RULE OR CHANGE:** This is a newly proposed administrative rule that is to replace the rule that expired. The proposed new rule is a compilation of administrative rule sections that were in Rule R710-9, some newly authored definitions, and a newly formed section on non-affiliated fire service training. (DAR NOTE: A corresponding 120-day (emergency) new rule is under DAR No. 34505 in this issue, April 1, 2011, of the Bulletin, and was effective 03/14/2011. The notice of the expired rule is under DAR No. 34495 in this issue of the Bulletin.)

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

**MATERIALS INCORPORATED BY REFERENCES:**

- ◆ Adds NFPA 1403, published by National Fire Protection Association, 01/31/2002

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** There is no aggregate anticipated cost or savings to the state budget for the enactment of this new administrative rule because most of the provisions in this new rule are being transferred from Rule R710-9 and have been in effect for an extended period of time.

♦ **LOCAL GOVERNMENTS:** There is no aggregate anticipated cost or savings to local government for the enactment of this new administrative rule. There are some procedural changes now required by those local fire departments that teach non-affiliated fire service training, but not an outright monetary cost.

♦ **SMALL BUSINESSES:** There is no aggregate anticipated cost or savings to small businesses for the enactment of this new administrative rule because this rule only affects government services and does not affect small businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no aggregate anticipated cost or savings to persons other than small businesses and businesses because this affects only government services. There would be no aggregate anticipated cost or savings to local government agencies because this affects training standards and does not impact local government entities.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There is no compliance costs for affected persons for the enactment of this new rule. Most of the provisions of this new rule have been transferred from an existing administrative rule and have been in effect for a number of years.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There is no fiscal impact on businesses because this newly proposed administrative rule does not affect business. It deals with state and local fire service training, education and certification.

**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](mailto:bhallada@utah.gov)

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/02/2011**

**THIS RULE MAY BECOME EFFECTIVE ON: 05/09/2011**

**AUTHORIZED BY: Brent Halladay, Acting State Fire Marshal**

**R710. Public Safety, Fire Marshal.****R710-10. Rules Pursuant to Fire Service Training, Education, and Certification.****R710-10-1. Title, Authority, and Adoption of Codes.**

1.1 These rules shall be known as the "Rules Pursuant to Fire Service Training, Education, and Certification, and may be cited as such, and will be hereafter referred to as "these rules".

1.2 These rules are promulgated in accordance with Title 53, Chapter 7, Section 204, Utah Code Annotated 1953, as amended.

1.3 These rules are adopted by the Utah Fire Prevention Board to provide minimum rules for fire service training, education and certification by establishing a Fire Service Education Administrator, a Fire Education Program Coordinator, the Fire Service Standards and Training Council, the Fire Service Certification Council, the Utah Fire and Rescue Academy, and standards for those agencies conducting non-affiliated fire service training.

1.4 There is adopted as part of these rules the following code which is incorporated by reference:

1.4.1 National Fire Protection Association (NFPA), NFPA 1403, Standard on Live Fire Training Evolutions, 2002 edition.

**R710-10-2. Definitions.**

2.1 "Academy" means Utah Fire and Rescue Academy.

2.2 "Academy Director" means the Director of the Utah Fire and Rescue Academy.

2.3 "Administrator" means Fire Service Education Administrator.

2.4 "Board" means Utah Fire Prevention Board.

2.5 "Career Firefighter" means one whose primary employment is directly related to the fire service.

2.6 "Certification Council" means the Fire Service Certification Council.

2.7 "Certification System" means the Utah Fire Service Certification System.

2.8 "Coordinator" means Fire Service Education Program Coordinator.

2.9 "EMT" means Emergency Medical Technician.

2.10 "Non-Affiliated" means an individual who is not a member of an organized fire department.

2.11 "Plan" means Fire Academy Strategic Plan.

2.12 "RCA" means Recruit Candidate Academy

2.13 "SFM" means State Fire Marshal or authorized deputy.

2.14 "Standards Council" means Fire Service Standards and Training Council.

2.15 "UCA" means Utah Code Annotated, 1953.

2.16 "Volunteer/Part-Paid Firefighter" means one whose primary employment is not directly related to the fire service.

**R710-10-3. Fire Service Education Administrator.**

3.1 There is created by the Board a Fire Service Education Administrator for the State of Utah. This Administrator shall be the State Fire Marshal.

3.2 The Administrator shall oversee statewide fire service education of all personnel receiving training monies from the Fire Academy Support Account.

3.2.1 The Administrator shall oversee fire service education in fire suppression, fire prevention, fire administration, operations, hazardous materials, rescue, fire investigation, and public fire education in the State of Utah.

3.3 The Administrator shall dedicate sufficient time and efforts to ensure that those monies dedicated from the Fire Academy Support Account are expended in the best interests of all personnel receiving fire service education.

3.4 The Administrator shall ensure equitable monies are expended in fire service education to volunteer, career, and prospective fire service personnel.

3.5 The Administrator shall as directed by the Board, solicit the legislature for funding to ensure that fire service personnel receive sufficient monies to receive the education necessary to prevent loss of life or property.

3.6 The Administrator shall oversee the Fire Department Assistance Grant program by completing the following:

3.6.1 Insure that a broad based selection committee is impaneled each year.

3.6.2 Compile for presentation to the Board the proposed grants.

3.6.3 Receive the Board's approval before issuing the grants.

3.7 The Administrator shall if necessary, establish proposed changes to fire service education statewide, insuring personnel receive the most proficient and professional training available, insure completion of agreements and contracts, and insure that payments on agreements and contracts are completed expeditiously.

3.8 The Administrator shall report to the Board at each regularly scheduled Board meeting the current status of fire service education statewide. The Administrator shall present any proposed changes in fire service education to the Board, and receive direction and approval from the Board, before making those changes.

#### **R710-10-4. Fire Service Education Program Coordinator.**

4.1 The Fire Service Education Program Coordinator shall assist the Administrator in statewide fire service education.

4.2 The Coordinator shall conduct fire service education evaluations, budget reviews, performance audits, and oversee the effectiveness of fire service education statewide.

4.3 The Coordinator shall ensure that there is an established Utah Fire Service Strategic Training Plan for fire service education statewide. The Coordinator shall work with the Academy Director to update the Strategic Plan and keep it current to the needs of the fire service.

4.4 The Coordinator shall report findings of audits, budgetary reviews, training contracts or agreements, evaluation of training standards, and any other necessary items of interest with regard to fire service education to the Administrator.

4.5 The Coordinator shall ensure that contracts are established each year for training and education of fire personnel that meets the needs of those involved in fire service education statewide.

4.6 The Coordinator shall be the staff assistant to the Fire Service Standards and Training Council and shall present agenda items to the Council Chair that need resolution or review. As the staff assistant to the Training Council, the coordinator shall ensure that appointed members attend, encourage that the decisions made

further the interests of fire service education statewide, and ensure that the Board is kept informed of the Training Council's decisions.

#### **R710-10-5. Fire Service Standards and Training Council.**

5.1 There is created by the Board, the Fire Service Standards and Training Council, whose duties are to provide direction to the Board and Academy in matters relating to fire service standards, training, and certification.

5.2 The Standards Council shall serve in an advisory position to the Board, members shall be appointed by the Board, shall serve four year terms, and shall consist of the following members:

5.2.1 Representative from the Utah State Fire Chiefs Association.

5.2.2 Representative from the Utah State Firemen's Association.

5.2.3 Representative from the Fire Marshal's Association of Utah.

5.2.4 Specialist in hazardous materials representing the Hazardous Materials Institute.

5.2.5 Fire/arson investigator representing the Utah Chapter of the International Association of Arson Investigators.

5.2.6 Specialist in wildland fire suppression and prevention from the Utah State Division of Forestry, Fire and State Lands.

5.2.7 Representative from the International Association of Firefighters.

5.2.8 Representative from the Utah Fire Service Certification Council.

5.2.9 Representative from the fire service that is an Advanced Life Support (ALS) provider to represent Emergency Medical Services.

5.2.10 Representative from the Utah Fire Training Officers Association.

5.3 The Standards Council shall meet quarterly and may hold other meetings as necessary for proper transaction of business. A majority of the Standards Council members shall be present to constitute a quorum.

5.4 The Standards Council shall select one of its members to act in the position of chair, and another member to act as vice chair. The chair and vice chair shall serve one year terms on a calendar year basis. Elections for chair and vice chair shall occur at the meeting conducted in the last quarter of the calendar year. If voted upon by the council, the vice chair will become the chair the next succeeding calendar year.

5.5 If a Standards Council member has two or more unexcused absences during a 12 month period, from regularly scheduled Standards Council meetings, it is considered grounds for dismissal pending review by the Board. The Coordinator shall submit the name of the Standards Council member to the Board for status review.

5.6 A member of the Standards Council may have a representative of their respective organization sit in proxy of that member, if submitted and approved by the Coordinator prior to the meeting.

5.7 The Chair or Vice Chair of the Standards Council shall report to the Board the activities of the Standards Council at regularly scheduled Board meetings. The Coordinator may report



to the Board the activities of the Standards Council in the absence of the Chair or Vice Chair.

5.8 The Standards Council shall consider all subjects presented to them, subjects assigned to them by the Board, and shall report their recommendations to the Board at regularly scheduled Board meetings.

5.9 One-half of the members of the Standards Council shall be reappointed or replaced by the Board every two years.

**R710-10-6. Utah Fire Service Certification Council.**

6.1 There is created by the Board, the Utah Fire Service Certification Council, whose duties are to oversee fire service certification in the State of Utah.

6.2 The Certification Council shall be made up of 12 members, appointed by the Academy Director, approved by the Board, and each member shall serve three year terms.

6.3 The Certification Council shall be made up of users of the certification system and comprise both paid and volunteer fire personnel, members with special expertise, and members from various geographical locations in the state.

6.4 The purpose of the Certification Council is to provide direction on all aspects of certification, and shall report the activities of the Certification Council to the Fire Service Standards and Training Council.

6.5 Functioning of the Certification Council with regard to certification, re-certification, testing, meeting procedures, examinations, suspension, denial, annulment, revocation, appeals, and reciprocity, shall be conducted as specified in the Utah Fire Service Voluntary Certification Program, Policy and Procedures Manual.

6.6 A copy of the Utah Fire Service Voluntary Certification Program, Policy and Procedures Manual, shall be kept on file at the State Fire Marshal's Office and the Utah Fire and Rescue Academy.

**R710-10-7. Utah Fire and Rescue Academy.**

7.1 The primary fire service training school shall be known as the Utah Fire and Rescue Academy.

7.2 The Director of the Utah Fire and Rescue Academy shall report to the Administrator the activities of the Academy with regard to completion of the agreed academy contract.

7.3 The Academy Director may recommend to the Administrator or Coordinator new or expanded standards regarding fire suppression, fire prevention, public fire education, safety, certification, and any other items of necessary interest about the Academy.

7.4 The Academy shall receive approval from the Administrator, after being presented to the Standards and Training Council, any substantial changes in Academy training programs that vary from the agreed contract.

7.5 The Academy Director shall provide to the Coordinator by October 1st of each year, a numerical summary of those career, volunteer/part-paid, and non-affiliated students attending the Academy in the following categories:

7.5.1 Those who have received certification during the previous contract period at each certification level.

7.5.2 Those who have received an academic degree in any Fire Science category in the previous contract period.

7.5.3 Those who have completed other Academy classes during the previous contract period.

7.6 The Academy Director shall provide to the Coordinator by October 1st of each year, a numerical comparison of the categories required in Section 7.5, comparing attendance in the previous contract period.

7.7 The Academy Director shall provide to the Coordinator by October 1st of each year, in accepted budgeting practices, the following:

7.7.1 A cost analysis of classes to include the total spent for each class title, the average cost per class, the number of classes delivered, the number of participants per class title, and the cost per participant for each class title provided by the Academy.

7.7.2 A budget summary comparing amounts budgeted to actual expenditures for each budget code funded by the contract.

7.8 The Academy Director shall provide to the Coordinator by October 1st of each year, a numerical summary of those students attending Academy courses in the following categories:

7.8.1 Non-affiliated personnel enrolled in college courses.

7.8.2 Career fire service personnel enrolled in college credit courses.

7.8.3 Volunteer and part-paid fire service personnel enrolled in college credit courses.

7.8.4 Non-affiliated personnel enrolled in non-credit continuing education courses.

7.8.5 Career fire service personnel enrolled in non-credit continuing education courses.

7.8.6 Volunteer and part-paid fire service personnel enrolled in non-credit continuing education courses.

7.9 The Academy Director shall present to the Coordinator by January of each year, proposals to be incorporated in the Academy contract for the next fiscal year.

**R710-10-8. Non-Affiliated Fire Service Training.**

8.1 Those training organizations that desire to offer certification through the Certification System for non-affiliated personnel must receive accreditation in writing from the Standards Council and the Academy Director.

8.2 Before accreditation is granted, the training organization requesting approval shall demonstrate the following:

8.2.1 Complete a written application requesting approval to conduct the training course.

8.2.2 Designate an approved course coordinator to oversee the course delivery and insure the course meets each of the applicable objectives.

8.2.3 Insure that qualified instructors are used to teach each subject.

8.2.4 Insure sufficient student to instructor ratios for all subjects or skills to be taught to include those designated high hazard.

8.2.5 Demonstrate that sufficient equipment and facilities will be provided to meet the training requirements of the course being taught.

8.2.6 Maintain course documentation as required through the Certification System to insure that all elements of the necessary training is completed.

8.2.7 Follow the accepted requirements of the Certification System for requesting testing and certification.

8.3 As required in Section 8.2.2 of these rules, the designated course coordinator shall meet the following requirements:

8.3.1 Be currently certified at the certification level as established by the Standards Council.

8.3.2 Insure that all assigned instructors meet the requirements as required in Section 8.4 of these rules.

8.3.3 Insure that the course syllabus and practical skills guide meet the requirements of the Certification System.

8.3.4 Insure that the requirements of Sections 8.2.4, 8.2.5, 8.2.6, and 8.2.7 of these rules are met.

8.4 As required in Section 8.2.3 of these rules, qualified instructors shall meet the following requirements:

8.4.1 Must be currently certified at the certification level as established by the Standards Council.

8.4.2 If the instructor is not certified, instructor qualification can be satisfied by special knowledge, experience or establishment of expertise.

8.5 An Introduction to Emergency Services class shall be completed by the non-affiliated student wishing to receive an RCA within the time period stated in 8.7 of these rules. The Introduction to Emergency Services class may be waived if the applicant can demonstrate to the Academy sufficient competency or prior experience in the fire service to make the class unwarranted.

8.6 Non-affiliated training providers shall follow the curriculum outline that is taught at the Academy in the Recruit Candidate Academy (RCA) program in order to award students an RCA Certificate of Completion. Any changes to the curriculum of the RCA program at the Academy shall be provided by the Academy to the non-affiliated training providers to maintain consistency in the RCA program.

8.7 An RCA Certificate of Completion may be issued to the non-affiliated student by the Academy upon successful completion of the following within a 24 month period:

8.7.1 Introduction to Emergency Services class or accepted waiver.

8.7.2 EMT Basic Course.

8.7.3 Completion of an accredited RCA.

8.8 Non-affiliated training providers that have received accreditation shall be reaccredited every five years from the date of initial accreditation.

**R710-10-9. 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.

**R710-10-10. Validity.**

The Utah Fire Prevention 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 Utah Fire Prevention Board that it would have passed all other portions of this action, independent of the elimination of any portion as may be declared invalid.

**R710-10-11. Adjudicative Proceedings.**

11.1 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.

11.2 A person may request a hearing on a decision made by the SFM, his authorized deputies, or the LFA, by filing an appeal to the Board within 20 days after receiving final decision.

11.3 All adjudicative proceedings, other than criminal prosecution, taken by the SFM, his authorized deputies, or the LFA, to enforce the Utah Fire Prevention and Safety Act and these rules, shall commence in accordance with UCA, Section 63G-4-201.

11.4 The Board shall act as the hearing authority, and shall convene as an appeals board after timely notice to all parties involved.

11.5 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.

11.6 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.

11.7 Judicial review of all final Board actions resulting from informal adjudicative proceedings is available pursuant to UCA, Section 63G-4-402.

**KEY: fire training**

**Date of Enactment or Last Substantive Amendment: May 9, 2011**

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

**Public Safety, Criminal Investigations  
and Technical Services, 911 Committee  
(Utah)  
**R720-1**  
Utah 911 Committee Rule**

**NOTICE OF PROPOSED RULE**

(New Rule)

DAR FILE NO.: 34501

FILED: 03/10/2011

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this rule is to outline procedures whereby the committee will award grants for the establishment and maintenance of a statewide, unified wireless, and land-based E-911 emergency system.

**SUMMARY OF THE RULE OR CHANGE:** This rule is authorized by Subsection 53-10-602(5) and governs the operation of the Utah 911 Committee in the provisioning of grants and assistance to local Public Safety Answering Points.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 53-10-602

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** The rule does not have anticipated cost or savings to the state budget.
- ◆ **LOCAL GOVERNMENTS:** Committee members representing local governments will not be reimbursed for expenses incurred as a result of serving on the committee and those expenses must be born by their individual sponsoring entities. Local government may benefit through the awarding of grants to their 911 centers.
- ◆ **SMALL BUSINESSES:** The rule does not impact businesses with less than 50 employees.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The committee is made up of representatives of telecommunications companies and their individual companies bear all costs associated with their service on the committee.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Expenses incurred by those serving on the Utah 911 Committee are born by their sponsoring entities.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rule should not have any fiscal impact on businesses because it merely codifies the current practices used by the Utah 911 Committee for the application for and award of grant funding from the statewide Unified E-911 Emergency Service Account established in Section 53-10-603.

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

PUBLIC SAFETY  
 CRIMINAL INVESTIGATIONS AND TECHNICAL  
 SERVICES, 911 COMMITTEE (UTAH)  
 3888 W 5400 S  
 TAYLORSVILLE, UT 84118  
 or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

- ◆ Bill Jensen by phone at 801-647-8193, by FAX at 801-965-4566, or by Internet E-mail at awjensen@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/02/2011**

**THIS RULE MAY BECOME EFFECTIVE ON: 05/09/2011**

**AUTHORIZED BY:** Lance Davenport, Commissioner

**R720. Public Safety, Criminal Investigations and Technical Services, 911 Committee (Utah).**

**R720-1. Utah 911 Committee.**

**R720-1-1. Purpose.**

The purpose of this rule is to outline procedures whereby the committee will award grants for the establishment and maintenance of a statewide, unified wireless and land-based E-911 emergency system.

**R720-1-2. Authority.**

This rule is authorized by Section 53-10-602(5).

**R720-1-3. Definitions.**

(1) Definitions used in the rule are found in Section 69-2-2.

(2) In addition:

(a) "committee" means the Utah 911 Committee established in Section 53-10-601;

(b) "department" means the Department of Public Safety;

(c) "fund" means the Statewide Unified E-911 Emergency Service Fund established in Section 53-10-603;

(d) "grant" means an appropriation of money from the fund; and

(e) "PSAP" means a public service answering point as defined in Section 69-2-2(7).

**R720-1-4. Operation of the Committee.**

(1)(a) A chairperson will be elected as provided in Section 53-10-601(3)(a) at the first meeting of each calendar year.

(b) The committee may also elect a vice-chairperson at that time to assist the chairperson with administrative duties.

(2)(a) The committee will meet once a month, unless circumstances otherwise dictate.

(b) Committee meetings will be held at 1:00 p.m. on the third Thursday of each month at the Cal Rampton Building, 4501 South 2700 West, in Salt Lake City, Utah, unless changed by a majority vote of the committee.

(c) Members of the committee may participate in the meeting by a phone bridge.

**R720-1-5. Grant Applications.**

(1)(a) A PSAP seeking a grant must make application to the committee using the form which can be found on-line at <http://e911.utah.gov/documents.html>.

(b) The application must include:

(i) a description of all equipment or services that will be purchased with the grant;

(ii) a list of vendors and contractors who will be used to provide equipment or services;

(iii) a complete narrative justifying the need for the grant;

(iv) a description of any other funding sources that will be used to pay for the acquisition of equipment, construction of facilities or services; and

(v) the signature of the authorized governmental agency official.

(2) Completed applications must be submitted to department staff no later than noon on the Monday before a scheduled meeting in order to be submitted to the committee for their consideration at that meeting.

(3) A representative from the PSAP making application must be present at the committee meeting to speak about the grant application.

**R720-1-6. Criteria for Determining Expenditures from the Fund.**

(1) In order to be eligible to receive a grant, a PSAP must comply with all of the requirements found in Title 53, Chapter 10, Part 6 and Title 69, Chapter 2.

(2) When determining which PSAPS will receive grants, the committee shall give priority to 911 projects which:

(a) enhance public safety by providing a statewide, unified, wireless and land-based E-911 service;

(b) are limited to costs that are directly attributable to implementing and maintaining wireless E-911 service;

(c) include a maintenance package that will extend the life of the 911 system;

(d) increase the value of the 911 system by ensuring compatibility with emerging technology;

(e) are necessary to replace equipment which is no longer reliable or functioning; and

(f) include a local share of funding according to the following formula:

(i) PSAPS in a county of the first class that pay at least 30% of the total cost of the project;

(ii) PSAPS in a county of the second class that pay at least 20% of the total cost of the project; and

(iii) PSAPS in a county of the third through sixth class that pay up to 10% of the total cost of the project.

(3) If a grant application includes equipment which utilizes geographical information systems or geo-positioning systems, the PSAP must consult with the State Automated Geographic Reference Center in the Division of Integrated Technology of the Department of Technology Services.

(4) When economically feasible and advantageous to the individual PSAPs, the committee may negotiate with vendors on behalf of the PSAPs as a group.

**R720-1-7. Awarding a Grant.**

(1) The decision to award a grant shall be made by a majority vote of the committee.

(2) The committee will only award grants for the purchase of equipment or the delivery of services in an amount which is equal to the amount that would be paid to a State vendor or contractor.

(3)(a) All grant awards shall be memorialized in a contract between the committee and the PSAP receiving the grant.

(b) Each contract shall include the following conditions:

(i) the state or local entity must agree to participate in the statewide 911 data management system sponsored by the committee;

(ii) the grant must be used only for the purposes specified in the application; and

(iii) the grant must revert back to the committee if the state or local entity breaches the terms of the contract.

**KEY: Utah 911 Committee**

**Date of Enactment or Last Substantive Amendment: 2011**

**Authorizing, and Implemented or Interpreted Law: 53-10-602**

**Workforce Services, Employment  
Development  
R986-100-113**

**A Client Must Inform the Department of  
All Material Changes**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 34516

FILED: 03/15/2011

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this amendment is to lessen the reporting burden on elderly and disabled individuals with no earned income receiving food stamps.

**SUMMARY OF THE RULE OR CHANGE:** The current rule requires the elderly and disabled with no earned income to report certain changes during the certification period. The Department is now opting to allow simplified reporting for these individuals under this proposed change.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 35A-1-104 and Subsection 35A-1-104(4)

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** This applies to federally-funded programs so there are no costs or savings to the state budget.

◆ **LOCAL GOVERNMENTS:** This is a federally-funded program so there are no costs or savings to the local government.

◆ **SMALL BUSINESSES:** There will be no costs to small businesses to comply with these changes because this is a federally-funded program.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There will be no costs of any persons to comply with these changes because there are no costs or fees associated with these proposed changes.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs associated with these changes for any persons because this is a federally-funded program and there are no fees or costs associated with these proposed changes.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no compliance costs associated with this change. There are no fees associated with this change. There will be no cost to anyone to comply with these changes. There will be no fiscal impact on any business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 WORKFORCE SERVICES  
 EMPLOYMENT DEVELOPMENT  
 140 E 300 S  
 SALT LAKE CITY, UT 84111-2333  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Suzan Pixton by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/02/2011

THIS RULE MAY BECOME EFFECTIVE ON: 05/09/2011

AUTHORIZED BY: Kristen Cox, Executive Director

**R986. Workforce Services, Employment Development.  
 R986-100. Employment Support Programs.  
 R986-100-113. A Client Must Inform the Department of All Material Changes.**

- (1) A material change is any change which might affect eligibility.
- (2) Households receiving assistance must report all material changes to the Department as follows:
  - (a) households receiving food stamps [~~in which all household members are elderly or disabled as defined by food stamp regulations, and the household has no earned income, must report the following material changes to the local office within ten days of the day the change becomes known by a household member:~~
    - ~~(i) change in income source, both unearned and earned;~~
    - ~~(ii) change of more than \$50 in gross monthly unearned income;~~
    - ~~(iii) change in employment status including a change from full time to part time or from part time to full time and/or a change in wage rate, salary or income from employment;~~
    - ~~(iv) change in household size or marital status;~~
    - ~~(v) change in residence and resulting change in shelter costs;~~
    - ~~(vi) gain of a licensed vehicle;~~

- ~~(vii) change in available assets including an unlicensed vehicle. A household under this subsection need only report a change in cash on hand, stocks, bonds, and money in a bank account or savings institution which reach or exceed a total of \$3,000;~~
- ~~(viii) change in the legal obligation to pay child support;~~
- and
- ~~(b) households receiving food stamps that do not meet the requirements of paragraph (2)(a) of this section ] must report a change in the household's gross income if the income exceeds 130% of the federal poverty level. [~~the following changes~~]. The change must be reported within ten days of the change occurring[.]; and~~
  - ~~(i) if the household's gross income exceeds 130% of federal poverty level;~~
  - ~~(ii) a change of address; and~~
  - ~~(iii) if an ABAWD's work hours fall below 20 hours per week.~~

] ((e)b) households receiving GA, WTE, FEP, FEPTP, AA and RRP that do not meet the requirements of paragraph (2)(a) must report the following changes within ten days of the change occurring:

- (i) if the household's gross income exceeds 185% of the adjusted standard needs budget;
- (ii) a change of address; and
- (iii) if the only eligible child leaves the household and the household receives FEP, FEPTP or AA.

(3) Households that do not meet the requirements of paragraph (2)(a) of this section will be assigned a review month. In addition to the ten-day reporting requirements listed in paragraphs (2)(b) and (c) of this section, the household must report, by the last day of the review month, all material changes that have occurred since the last review, or the date of application if it is the first review. The household is also required to accurately complete all review forms and reports as requested by the Department.

(4) Most changes which result in an increase of assistance will become effective the month following the month in which the report of the change was made. If verification is necessary, verification and changes will be made in the month following the month in which verification was received. If the change is to add a person to the household, the person will be added effective on the date reported, provided necessary verification is received within 30 days of the change. If verification is received after 30 days, the increase will be made effective the date verification was received.

**KEY: employment support procedures**  
**Date of Enactment or Last Substantive Amendment: [June 14, 2007]2011**  
**Notice of Continuation: September 8, 2010**  
**Authorizing, and Implemented or Interpreted Law: 35A-3-101 et seq.; 35A-3-301 et seq.; 35A-3-401 et seq.**

**End of the Notices of Proposed Rules Section**



## NOTICES OF CHANGES IN PROPOSED RULES

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After an agency has published a **PROPOSED RULE** in the *Utah State Bulletin*, it may receive public comment that requires the **PROPOSED RULE** to be altered before it goes into effect. A **CHANGE IN PROPOSED RULE** allows an agency to respond to comments it receives.

As with a **PROPOSED RULE**, a **CHANGE IN PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **CHANGE IN PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

While the law does not designate a comment period for a **CHANGE IN PROPOSED RULE**, it does provide for a 30-day waiting period. An agency may accept additional comments during this period, and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for **CHANGES IN PROPOSED RULES** published in this issue of the *Utah State Bulletin* ends May 2, 2011.

Following the **RULE ANALYSIS**, the text of the **CHANGE IN PROPOSED RULE** is usually printed. The text shows only those changes made since the **PROPOSED RULE** was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (e.g., example). Deletions made to the rule appear struck out with brackets surrounding them (e.g., [~~example~~]). A row of dots in the text between paragraphs (. . . . .) indicates that unaffected text, either whole sections or subsections, was removed to conserve space. If a **CHANGE IN PROPOSED RULE** is too long to print, the Division of Administrative Rules will include only the **RULE ANALYSIS**. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

From the end of the 30-day waiting period through July 30, 2011, an agency may notify the Division of Administrative Rules that it wants to make the **CHANGE IN PROPOSED RULE** effective. When an agency submits a **NOTICE OF EFFECTIVE DATE** for a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** as amended by the **CHANGE IN PROPOSED RULE** becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of the **CHANGE IN PROPOSED RULE**. If the agency designates a public comment period, the effective 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. Alternatively, the agency may file another **CHANGE IN PROPOSED RULE** in response to additional comments received. If the Division of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or another **CHANGE IN PROPOSED RULE** by the end of the 120-day period after publication, the **CHANGE IN PROPOSED RULE** filing, along with its associated **PROPOSED RULE**, lapses and the agency must start the process over.

**CHANGES IN PROPOSED RULES** are governed by Section 63G-3-303; Rule R15-2; and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

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

**Environmental Quality, Drinking Water  
R309-110-4  
Definitions**

**NOTICE OF CHANGE IN PROPOSED RULE**

DAR FILE NO.: 34243  
FILED: 03/10/2011

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule has been modified in response to written comments received from the public.

SUMMARY OF THE RULE OR CHANGE: Minor changes have been made to the proposed rule amendment in response to comments received. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the December 1, 2010, issue of the Utah State Bulletin, on page 34. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 1-4-104

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ THE STATE BUDGET: There is no change from the original rule filing. (No significant cost or savings)
- ◆ LOCAL GOVERNMENTS: There is no change from the original rule filing. (No significant cost or savings)
- ◆ SMALL BUSINESSES: There is no change from the original rule filing. (No significant cost or savings)
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no change from the original rule filing. (No significant cost or savings)

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no change from the original rule filing. (No significant cost or savings)

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes in the proposed rule amendment, adding new definitions, should assist drinking water systems who wish to revise or update their disinfection practices to one of the emerging disinfection treatment technologies. There is no change in cost impact from the original rule filing to small businesses, businesses, local government entities, or the regulated community. (No significant cost or savings.)

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:**

◆ Ying-Ying Macauley by phone at 801-536-4188, by FAX at 801-536-4211, or by Internet E-mail at ymacauley@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/02/2011

THIS RULE MAY BECOME EFFECTIVE ON: 05/09/2011

AUTHORIZED BY: Ken Bousfield, Director

**R309. Environmental Quality, Drinking Water.  
R309-110. Administration: Definitions.  
R309-110-4. Definitions.**

As used in R309:

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"Division" means the Utah Division of Drinking Water, who acts as staff to the Board and is also part of the Utah Department of Environmental Quality.

"Dose-monitoring Strategy" is the method by which a UV reactor maintains the required dose at or near some specified value by monitoring UV dose delivery. Such strategies must include, at a minimum, flow rate and UV intensity (measured via duty UV sensor[~~s~~]) and lamp status. They sometimes include UVT and lamp power. Two common Dose-monitoring Strategies are the UV Intensity Setpoint Approach and the Calculated Dose Approach.

(1) The "UV Intensity Setpoint Approach" relies on one or more "setpoints" for UV intensity that are established during validation testing to determine UV dose. During operations, the UV intensity as measured by the UV sensors must meet or exceed the setpoint(s) to ensure delivery of the required dose. Reactors must also be operated within validated operation conditions for flow rates and lamp status. In the UV Intensity Setpoint Approach, UVT does not need to be monitored separately. Instead, the intensity readings by the sensors account for changes in UVT. The operating strategy can be with either a single setpoint (one UV intensity setpoint is used for all validated flow rates) or a variable setpoint (the UV intensity setpoint is determined using a lookup table or equation for a range of flow rates).

(2) The "Calculated Dose Approach" uses a dose-monitoring equation to estimate the UV dose based on operating conditions (typically flow rate, UV intensity, and UVT). The dose-monitoring equation may be developed by the UV manufacturers using numerical methods; or the systems use an empirical dose-monitoring equation developed through validation testing. During



reactor operations, the UV reactor control system inputs the measured parameters into the dose-monitoring equation to produce a calculated dose. The system operator divides the calculated dose by the Validation Factor (see the 2006 Final UV Guidance Manual Chapter 5 for more details on the Validation Factor) and compares the resulting value to the required dose for the target pathogen and log inactivation level.

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"Presedimentation" is a preliminary treatment process used to remove gravel, sand and other particulate material from the source water through settling before the water enters the primary clarification and filtration processes in a treatment plant.

"Primary Disinfection" means the adding of an acceptable primary disinfectant or ultraviolet light irradiation during the treatment process to provide adequate levels of inactivation of bacteria and pathogens. The effectiveness is measured through "CT" values, and the "Total Inactivation Ratio[-]."and the ultraviolet light dose. Acceptable primary disinfectants are, chlorine, ozone, ultraviolet light, and chlorine dioxide (see also "CT" and "CT99.9").

"Principal Forgiveness" means a loan wherein a portion of the loan amount is "forgiven" upon closing the loan. The terms for principal forgiveness will be as directed by R309-705-8, and by the Board.

"Project Costs" include the cost of acquiring and constructing any drinking water project including, without limitation: the cost of acquisition and construction of any facility or any modification, improvement, or extension of such facility; any cost incident to the acquisition of any necessary property, easement or right of way; engineering or architectural fees, legal fees, fiscal agent's and financial advisors' fees; any cost incurred for any preliminary planning to determine the economic and engineering feasibility of a proposed project; costs of economic investigations and studies, surveys, preparation of designs, plans, working drawings, specifications and the inspection and supervision of the construction of any facility; interest accruing on loans made under this program during acquisition and construction of the project; and any other cost incurred by the political subdivision, the Board or the Department of Environmental Quality, in connection with the issuance of obligation of the political subdivision to evidence any loan made to it under the law.

"Protected aquifer" means a producing aquifer in which the following conditions are met:

- (1) A naturally protective layer of clay, at least 30 feet in thickness, is present above the aquifer;
- (2) the PWS provides data to indicate the lateral continuity of the clay layer to the extent of zone two; and
- (3) the public supply well is grouted with a grout seal that extends from the ground surface down to at least 100 feet below the surface, and for a thickness of at least 30 feet through the protective clay layer.

"Public Drinking Water Project" means construction, addition to, or modification of any facility of a public water system which may affect the quality or quantity of the drinking water (see also section R309-500-6).

"Public Water System" (PWS) means a system, either publicly or privately owned, providing water through constructed

conveyances for human consumption and other domestic uses, which has at least 15 service connections or serves an average of at least 25 individuals daily at least 60 days out of the year and includes collection, treatment, storage, or distribution facilities under the control of the operator and used primarily in connection with the system, or collection, pretreatment or storage facilities used primarily in connection with the system but not under his control (see 19-4-102 of the Utah Code Annotated). All public water systems are further categorized into three different types, community (CWS), non-transient non-community (NTNCWS), and transient non-community (TNCWS). These categories are important with respect to required monitoring and water quality testing found in R309-205 and R309-210 (see also definition of "water system").

"Raw Water" means water that is destined for some treatment process that will make it acceptable as drinking water. Common usage of terms such as lake or stream water, surface water or irrigation water are synonymous with raw water.

"Recreational Home Developments" are subdivision type developments wherein the dwellings are not intended as permanent domiciles.

"Recreational Vehicle Park" means any site, tract or parcel of land on which facilities have been developed to provide temporary living quarters for individuals utilizing recreational vehicles. Such a park may be developed or owned by a private, public or non-profit organization catering to the general public or restricted to the organizational or institutional member and their guests only.

"Reference UV Sensors (or Reference Sensors)" are off-line calibrated UV sensors that are used to assess the duty UV sensors' performance and to determine UV sensor uncertainty.

"Regional Operator" means a certified operator who is in direct responsible charge of more than one public drinking water system.

"Regionalized Water System" means any combination of water systems which are physically connected or operated or managed as a single unit.

"Rem" means the unit of dose equivalent from ionizing radiation to the total body or any internal organ or organ system. A "millirem" (mrem) is 1/1000 of a rem.

"Renewal Course" means a course of instruction, approved by the Subcommittee, which is a prerequisite to the renewal of a Backflow Technician's Certificate.

"Repeat compliance period" means any subsequent compliance period after the initial compliance period.

"Replacement well" means a public supply well drilled for the sole purpose of replacing an existing public supply well which is impaired or made useless by structural difficulties and in which the following conditions are met:

- (1) the proposed well location shall be within a radius of 150 feet from an existing ground water supply well; and
- (2) the PWS provides a copy of the replacement application approved by the State Engineer (refer to Section 73-3-28 of the Utah Code).

"Required Dose" is the UV dose required for a certain level of log inactivation. Required doses are set forth by the Long Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR) and R309-215-15(19)(d)(i) Table 215-5 the UV Dose Table.

"Required reserve" means funds set aside to meet requirements set forth in a loan covenant/bond indenture.

"Residual Disinfectant Concentration" ("C" in CT calculations) means the concentration of disinfectant, measured in mg/L, in a representative sample of water.

"Restricted Certificate" means that the operator has qualified by passing an examination but is in a restricted certification status due to lack of experience as an operator.

"Roadway Rest Stop" shall mean any building, or buildings, or grounds, parking areas, including the necessary toilet, hand washing, water supply and wastewater facilities intended for the accommodation of people using such facilities while traveling on public roadways. It does not include scenic view or roadside picnic areas or other parking areas if these are properly identified

"Routine Chemical Monitoring Violation" means no routine chemical sample(s) was taken as required in R309-205, R309-210 and R309-215.

"Safe Yield" means the annual quantity of water that can be taken from a source of supply over a period of years without depleting the source beyond its ability to be replenished naturally in "wet years".

"Sanitary Seal" means a cap that prevents contaminants from entering a well through the top of the casing.

"scfm/sf" means standard cubic foot per minute per square foot and is one way of expressing flowrate of air at standard density through a filter or duct area.

"Secondary Disinfection" means the adding of an acceptable secondary disinfectant to assure that the quality of the water is maintained throughout the distribution system. The effectiveness is measured by maintaining detectable disinfectant residuals throughout the distribution system. Acceptable secondary disinfectants are chlorine, chloramine, and chlorine dioxide.

"Secondary Maximum Contaminant Level" means the advisable maximum level of contaminant in water which is delivered to any user of a public water system.

"Secretary to the Subcommittee" means that individual appointed by the Executive Secretary to conduct the business of the Subcommittee.

"Sedimentation" means a process for removal of solids before filtration by gravity or separation.

"Semi-Developed Camp" means a campground accessible by any type of vehicular traffic. Facilities are provided for both protection of site and comfort of users. Roads, trails and campsites are defined and basic facilities (water, flush toilets and/or vault toilets, tables, fireplaces or tent pads) are provided. These camps include but are not limited to National Forest campgrounds, Bureau of Reclamation campgrounds, and youth camps.

"Service Connection" means the constructed conveyance by which a dwelling, commercial or industrial establishment, or other water user obtains water from the supplier's distribution system. Multiple dwelling units such as condominiums or apartments, shall be considered to have a single service connection, if fed by a single line, for the purpose of microbiological repeat sampling; but shall be evaluated by the supplier as multiple "equivalent residential connections" for the purpose of source and storage capacities.

"Service Factor" means a rating on a motor to indicate an increased horsepower capacity beyond nominal nameplate capacity for occasional overload conditions.

"Service line sample" means a one-liter sample of water collected in accordance with R309-210-6(3)(b)(iii), that has been standing for at least 6 hours in a service line.

"Significant deficiencies" means defects in design, operation, or maintenance, or a failure or 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.

"Single family structure" for the purposes of R309-210-6 only, means a building constructed as a single-family residence that is currently used as either a residence or a place of business.

"Small water system" means a public water system that serves 3,300 persons or fewer.

"Specialist" means a person who has successfully passed the written certification exam and meets the required experience, but who is not in direct employment with a Utah public drinking water system.

"Stabilized drawdown" means that there is less than 0.5 foot of change in water level measurements in a pumped well for a minimum period of six hours.

"Standard sample" means the aliquot of finished drinking water that is examined for the presence of coliform bacteria.

"SOCs" means synthetic organic chemicals.

"Stabilized Drawdown" means the drawdown measurements taken during a constant-rate yield and drawdown test as outlined in subsection R309-515-14(10)(b) are constant (no change).

"Stock Tight" means a type of fence that can prevent the passage of grazing livestock through its boundary. An example of such fencing is provided by design drawing 02838-3 titled "Cattle Enclosure" designed by the U.S. Department of the Interior, Bureau of Land Management, Division of Technical Services (copies available from the Division).

"Subcommittee" means the Cross Connection Control Subcommittee.

"Supplier of water" means any person who owns or operates a public water system.

"Surface Water" means all water which is open to the atmosphere and subject to surface runoff (see also section R309-515-5(1)). This includes conveyances such as ditches, canals and aqueducts, as well as natural features.

"Surface Water Systems" means public water systems using surface water or ground water under the direct influence of surface water as a source that are subject to filtration and disinfection (Federal SWTR subpart H) and the requirements of R309-215 "Monitoring and Water Quality: Treatment Plant Monitoring Requirements."

"Surface Water Systems (Large)" means public water systems using surface water or ground water under the direct influence of surface water as a source that are subject to filtration and disinfection and serve a population of 10,000 or greater (Federal SWTR subpart P and L) and the requirements of R309-215 "Monitoring and Water Quality: Treatment Plant Monitoring Requirements."

"Surface Water Systems (Small)" means public water systems using surface water or ground water under the direct influence of surface water as a source that are subject to filtration

and disinfection and serve a population less than 10,000 (Federal SWTR subpart L, T and P (sanitary survey requirements)) and the requirements of R309-215 "Monitoring and Water Quality: Treatment Plant Monitoring Requirements."

"Susceptibility" means the potential for a PWS (as determined at the point immediately preceding treatment, or if no treatment is provided, at the entry point to the distribution system) to draw water contaminated above a demonstrated background water quality concentration through any overland or subsurface pathway. Such pathways may include cracks or fissures in or open areas of the surface water intake, and/or the wellhead, and/or the pipe/conveyance between the intake and the water distribution system or treatment.

"SUVA" means Specific Ultraviolet Absorption at 254 nanometers (nm), an indicator of the humic content of water. It is a calculated parameter obtained by dividing a sample's ultraviolet absorption at a wavelength of 254 nm ( $UV_{254}$ ) (in  $m^{-1}$ ) by its concentration of dissolved organic carbon (DOC) (in mg/L).

"System with a single service connection" means a system which supplies drinking water to consumers via a single service line.

"T" is short for "Contact Time" and is generally used in conjunction with either the residual disinfectant concentration (C) in determining CT or the velocity gradient (G) in determining mixing energy GT.

"Target Log Inactivation" means the specific log inactivation the PWS wants to achieve for the target pathogen using UV disinfection. The target log inactivation is driven by requirements of the Surface Water Treatment Rule (SWTR), Long Term 1 Enhanced Surface Water Treatment Rule (LT1ESWTR), Interim Enhanced Surface Water Treatment Rule (IESWTR), Long Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR), and the log removal/inactivation requirements in R309-215-15[-], and the Groundwater Rule.

"Ten State Standards" refers to the Recommended Standards For Water Works, 1997 by the Great Lakes Upper Mississippi River Board of State Public Health and Environmental Managers available from Health Education Services, A Division of Health Research Inc., P.O. Box 7126, Albany, New York 12224, (518)439-7286.

"Time of travel" means the time required for a particle of water to move in the producing aquifer from a specific point to a ground water source of drinking water. It also means the time required for a particle of water to travel from a specific point along a surface water body to an intake.

"Total Inactivation Ratio" is the sum of all the inactivation ratios calculated for a series of disinfection sequences, and is indicated or shown as: "Summation sign ( $CT_{calc}$ )/( $CT_{req'd}$ )."  
A total inactivation ratio equal to or greater than 1.0 is assumed to provide the required inactivation of *Giardia lamblia* cysts.  $CT_{calc}/CT_{99.9}$  equal to 1.0 provides 99.9 percent (3-log) inactivation, whereas  $CT_{calc}/CT_{90}$  equal to 1.0 only provides 90 percent (1-log) inactivation.

"Too numerous to count" (TNTC) means that the total number of bacterial colonies exceeds 200 on a 47 mm diameter membrane filter used for coliform detection.

"Total Organic Carbon" (TOC) means total organic carbon in mg/L measured using heat, oxygen, ultraviolet irradiation, chemical oxidants, or combinations of these oxidants that convert organic carbon to carbon dioxide, rounded to two significant figures.

"Total Trihalomethanes" (TTHM) means the MCL for trihalomethanes. This is the sum of four of ten possible isomers of chlorine/bromine/methane compounds, all known as trihalomethanes (THM). TTHM is defined as the arithmetic sum of the concentrations in micro grams per liter of only four of these (chloroform, bromodichloromethane, dibromochloromethane, and bromoform) rounded to two significant figures. This measurement is made by samples which are "quenched," meaning that a chlorine neutralizing agent has been added, preventing further THM formation in the samples.

"Training Coordinating Committee" means the voluntary association of individuals responsible for environmental training in the state of Utah.

"Transient Non-Community Water System" (TNCWS) means a non-community public water system that does not serve 25 of the same nonresident persons per day for more than six months per year. Examples of such systems are those, RV park, diner or convenience store where the permanent nonresident staff number less than 25, but the number of people served exceeds 25.

"Treatment Plant" means those facilities capable of providing any treatment to any waterserving a public drinking water system. (Examples would include but not be limited to disinfection, conventional surface water treatment, alternative surface water treatment methods, corrosion control methods, aeration, softening, etc.).

"Treatment Plant Manager" means the individual responsible for all operations of a treatment plant.

"Trihalomethanes" (THM) means any one or all members of this class of organic compounds.

"Trihalomethane Formation Potential" (THMFP) - these samples are collected just following disinfection and measure the highest possible TTHM value to be expected in the water distribution system. The formation potential is measured by not neutralizing the disinfecting agent at the time of collection, but storing the sample seven days at 25 degrees C prior to analysis. A chlorine residual must be present in these samples at the end of the seven day period prior to analysis for the samples to be considered valid for this test. Samples without a residual at the end of this period must be resampled if this test is desired.

"Turbidity Unit" refers to NTU or Nephelometric Turbidity Unit.

"Two-stage lime softening" is a process in which chemical addition and hardness precipitation occur in each of two distinct unit clarification processes in series prior to filtration.

"UDI" means under direct influence (see also "Ground Water Under the Direct Influence of Surface Water").

"Uncovered finished water storage facility" is a tank, reservoir, or other facility used to store water that will undergo no further treatment to reduce microbial pathogens except residual disinfection and is directly open to the atmosphere.

"Unprotected aquifer" means any aquifer that does not meet the definition of a protected aquifer.

"Unregulated Contaminant" means a known or suspected disease causing contaminant for which no maximum contaminant level has been established.

"Unrestricted Certificate" means that a certificate of competency issued by the Executive Secretary when the operator has passed the appropriate level written examination and has met all certification requirements at the discipline and grade stated on the certificate.

"UV Dose" means the UV energy per unit area incident on a surface, typically reported in units of  $\text{mJ}/\text{cm}^2$  or  $\text{J}/\text{m}^2$ . The UV dose received by a waterborne microorganism in a reactor vessel accounts for the effects on UV intensity of the absorbance of the water, absorbance of the quartz sleeves, reflection and refraction of light from the water surface and reactor walls, and the germicidal effectiveness of the UV wavelengths transmitted. The following terms are related to UV dose:

(1) "Reduction Equivalent Dose (RED)" means the UV dose derived by entering the log inactivation measured during full-scale reactor testing into the UV dose-response curve that was derived through collimated beam testing. RED values are always specific to the challenge microorganism used during experimental testing and the validation test conditions for full-scale reactor testing.

(2) "Required Dose" means the UV dose in units of  $\text{mJ}/\text{cm}^2$  needed to achieve the target log inactivation for the target pathogen. The required dose is specified in the Long Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR).

(3) "Validated Dose" means the UV dose in units of  $\text{mJ}/\text{cm}^2$  delivered by the UV reactor as determined through validation testing. The validated dose is compared to the Required Dose to determine log inactivation credit.

(4) "Calculated Dose" - the RED calculated using the dose-monitoring equation that was developed through validation testing.

"UV Facility" means all of the components of the UV disinfection process, including (but not limited to) UV reactors, control systems, piping, valves, and building (if applicable).

"UV Intensity" means the UV power passing through a unit area perpendicular to the direction of propagation. UV intensity is used to describe the magnitude of UV light measured by UV sensors in a reactor or with a radiometer in bench-scale UV experiments.

"UV Reactor" means the vessel or chamber where exposure to UV light takes place, consisting of UV lamps, quartz sleeves, UV sensors, quartz sleeve cleaning systems, and baffles or other hydraulic controls. The UV reactor also includes additional hardware for monitoring UV dose delivery; typically comprised of (but not limited to): UV sensors and UVT monitors.

"UV Reactor Validation" is experimental testing to determine the operating conditions under which a UV reactor delivers the dose required for inactivation credit of *Cryptosporidium*, *Giardia lamblia*, and viruses.

"UV Transmittance (UVT)" is a measure of the fraction of incident light transmitted through a material (e.g., water sample or quartz). The UVT is usually reported for a wavelength of 254 nm and a pathlength of 1-cm. If an alternate pathlength is used, it should be specified or converted to units of  $\text{cm}^{-1}$ .

"Validation Factor" - an uncertainty term that accounts for the bias and uncertainty associated with UV validation testing.

"Validated Operating Conditions" - the operating conditions under which the UV reactor is confirmed as delivering the dose required for LT2ESWTR inactivation credit. These operating conditions must include flow rate, UV intensity as measured by a UV sensor, and UV lamp status. The term "Validated Operating Conditions" is also commonly referred to as the "validated range" or the "validated limits."

"Virus" means a virus of fecal origin which is infectious to humans.

"Waterborne Disease Outbreak" means the significant occurrence of acute infectious illness, epidemiologically associated with the ingestion of water from a public water system, as determined by the appropriate local or State agency.

"Watershed" means the topographic boundary that is the perimeter of the catchment basin that contributes water through a surface source to the intake structure. For the purposes of surface water DWSP, if the topographic boundary intersects the state boundary, the state boundary becomes the boundary of the watershed.

"Water Supplier" means a person who owns or operates a public drinking water system.

"Water System" means all lands, property, rights, rights-of-way, easements and related facilities owned by a single entity, which are deemed necessary or convenient to deliver drinking water from source to the service connection of a consumer(s). This includes all water rights acquired in connection with the system, all means of conserving, controlling and distributing drinking water, including, but not limited to, diversion or collection works, springs, wells, treatment plants, pumps, lift stations, service meters, mains, hydrants, reservoirs, tanks and associated appurtenances within the property or easement boundaries under the control of or controlled by the entity owning the system.

In accordance with R309, certain water systems may be exempted from monitoring requirements, but such exemption does not extend to submittal of plans and specifications for any modifications considered a public drinking water project.

"Wellhead" means the physical structure, facility, or device at the land surface from or through which ground water flows or is pumped from subsurface, water-bearing formations.

"Wholesale system" is a public water system that treats source water as necessary to produce finished water and then delivers some or all of that finished water to another public water system. Delivery may be through a direct connection or through the distribution system of one or more consecutive systems.

"Zone of Influence" corresponds to area of the upper portion of the cone of depression as described in "Groundwater and Wells," second edition, by Fletcher G. Driscoll, Ph.D., and published by Johnson Division, St. Paul, Minnesota.

**KEY: drinking water, definitions**

**Date of Enactment or Last Substantive Amendment: 2011**

**Notice of Continuation: March 22, 2010**

**Authorizing, and Implemented or Interpreted Law: 19-4-104; 63G-4-202**

# Environmental Quality, Drinking Water **R309-520** Facility Design and Operation: Disinfection

## NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 34244  
FILED: 03/10/2011

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule amendment has been modified in response to written comments received from the public.

SUMMARY OF THE RULE OR CHANGE: Minor changes have been made to the proposed rule amendment in response to comments received. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the December 15, 2010, issue of the Utah State Bulletin, on page 8. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 1-4-104

#### ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: There is no change from the original rule filing. (No significant cost or savings)
- ◆ LOCAL GOVERNMENTS: There is no change from the original rule filing. (No significant cost or savings)
- ◆ SMALL BUSINESSES: There is no change from the original rule filing. (No significant cost or savings)
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no change from the original rule filing. (No significant cost or savings)

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no change from the original rule filing. (No significant cost or savings)

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes in the proposed rule amendment will help drinking water systems who wish to revise or update their disinfection practices to one of the emerging disinfection treatment technologies. There is no change in cost impact from the original rule filing to small businesses, businesses, local government entities, or the regulated community. (No significant cost or savings.)

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:  
◆ Bob Hart by phone at 801-536-0054, by FAX at 801-536-4211, or by Internet E-mail at bhart@utah.gov  
◆ Ying-Ying Macauley by phone at 801-536-4188, by FAX at 801-536-4211, or by Internet E-mail at ymacauley@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/02/2011

THIS RULE MAY BECOME EFFECTIVE ON: 05/09/2011

AUTHORIZED BY: Ken Bousfield, Director

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### R309. Environmental Quality, Drinking Water. R309-520. Facility Design and Operation: Disinfection.

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#### R309-520-4. Primary Disinfectants.

Primary disinfection is the means to provide adequate levels of inactivation of pathogenic micro organisms within the treatment process. The effectiveness of chemical disinfectants is measured as a function of the concentration and time of contact, a "CT" value in units such as mg/L-min. The effectiveness of UV disinfection is determined through validation testing of [the same UV reactor design as proposed] each model and specific configuration of UV reactor proposed in the design, as described in R309-520-8.

Only four disinfectants: chlorine (i.e., gas, hypochlorite solution, and hypochlorite tablets), ozone, ultraviolet light, and chlorine dioxide are approved herein as allowable primary disinfectants of drinking water.

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#### R309-520-6. General.

##### (1) Continuous Disinfection.

Continuous disinfection is required of all ground water sources that do not otherwise continuously meet standards of bacteriologic quality. Intermittent or batch disinfection, commonly used for disinfecting new water tanks, waterlines, well casings, etc., is not acceptable for ongoing drinking water delivery service. Surface water sources, and ground water sources under direct influence (UDI) of surface water, shall be disinfected as a part of the treatment requirements for conventional surface water treatment or alternative surface water treatment.

Disinfection is not an acceptable remedy to inadequate drinking water system facilities. Systems that practice source disinfection, and whose sources are exclusively ground water sources, as defined in R309-505-8, shall meet the requirements of R309-105-10(1), Chemical Addition.

(2) ANSI/NSF Standard 60 Certification.

All chemicals, including chlorine (i.e., gas, hypochlorite solution, hypochlorite tablets, granules, and powder), chloramines, and chemicals used to generate chlorine dioxide, added to drinking water supplied by a public water system shall be certified as complying with ANSI/NSF Standard 60, Drinking Water Treatment Chemicals.

(3) Appropriate Use of Primary and Secondary Disinfectants.

Surface water, or groundwater under the direct influence of surface water, shall be filtered and disinfected.

Only ground water not under the influence of surface water can be adequately disinfected with primary disinfectants, or primary and secondary disinfectants, alone. Surface waters, as well as ground water under the direct influence of surface water, require conventional surface water treatment or alternative surface water treatment methods.

(4) Required Disinfectant Dose and Contact Time.

Minimum cyst and virus reductions for that approved primary chemical disinfectants must achieve are specified in R309-200-5(7)(a), Disinfection, and reiterated in R309-200-7(2), namely 4-log virus removal or inactivation, 3-log *Giardia lamblia* cyst removal or inactivation, and 2-log *Cryptosporidium* removal or inactivation for water sources in bin 1 classification per R309-215-15(11)(c). Minimum doses and contact times for primary chemical disinfectants are standardized as "CT" values as defined in R309-110-4, Definitions.

(5) Site Selection.

Disinfection installations shall be sited to permit convenient year-round access. These installations shall initially be sited with due consideration of possible danger to nearby population and of possible jeopardy from seismic fault zones.

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**R309-520-8. Ultraviolet Light.**

(1) General Requirements.

This rule shall apply to the public drinking water systems that use ultraviolet (UV) disinfection for inactivation of *Cryptosporidium*, *Giardia*, and virus. The Executive Secretary may reduce the requirements of ~~[validation testing,]~~ monitoring and reporting on a case by case basis for the water systems that use UV as ancillary means of disinfection and do not claim credit for UV disinfection or ~~[the water systems with UV facility of limited capacity]~~ for water systems using UV without a SCADA system and treating less than 30 gallons per minute.

Terminology used in this rule is based on the definitions in the EPA Ultraviolet Disinfection Guidance Manual for the Final Long Term 2 Enhanced Surface Water Treatment Rule (2006 Final UVDGM).

(a) Water systems using surface water or ground water under the influence of surface water shall not use UV as the sole means of disinfection. For these types of water systems, at least one

alternative primary disinfectant must be used for virus disinfection, and a secondary disinfectant shall be provided to maintain a disinfectant residual in the distribution system.

(b) The following requirements apply to the water systems that wish to receive credit for UV disinfection:

(i) The water system shall submit a UV plan which clearly identifies the dose monitoring strategy, such as the UV intensity setpoint approach, the calculated dose approach or an alternative approach.

(ii) The water system shall identify the goals for the UV facility as part of a comprehensive disinfection strategy, including target pathogens, target log inactivation, and corresponding required UV dose per Table 215-5 in R309-215-15(19)(d).

(iii) The water system shall submit a UV reactor validation report in accordance with R309-520-8(2), to the Executive Secretary for review prior to obtaining approval for installation of UV facility.

(iv) The water system must demonstrate that the reactor is delivering the required UV dose using a validated dose monitoring system and continue to comply with the monitoring and reporting requirements specified in R309-215-15(19) and (20).

(2) Validation Testing.

~~[Validation testing must conform to the guidelines in Chapter 5 Validation of UV Reactors of the EPA Ultraviolet Disinfection Guidance Manual for the Final Long Term 2 Enhanced Surface Water Treatment Rule (2006 Final UVDGM).]~~

The Executive Secretary may accept a validation report that was conducted based on the 2003 draft UV Disinfection Guidance Manual on a case-by-case basis.

(a) ~~[Each type]~~Each model and specific configuration of UV reactor must undergo off-site, full-scale validation testing by an independent third party test facility prior to being approved for use. The validation testing shall be conducted in qualified test facilities that are deemed acceptable by NSF, EPA, or the Executive Secretary.

(b) Validation testing results shall provide data, including calculations and tables or graphical plots, on dose delivery by the UV reactor under design conditions of flow rate, UV transmittance (UVT), UV intensity, lamp status, power ballast setting, as well as consideration of lamp aging and lamp fouling. The validation report shall demonstrate that the monitoring algorithm is valid over the range expected with the application. The data is used to define the dose monitoring algorithm for the UV reactor and the operating conditions that can be monitored by a utility to ensure that the UV dose required for a given pathogen inactivation credit is delivered.

(c) The UV reactor validation report shall include:

(i) Description of the reactor and validation test set-up, including general arrangement and layout drawings of the reactor and validation test piping arrangement.

(ii) Description of the methods used to empirically validate the reactor.

(iii) Description of the dose monitoring equation for the reactor to achieve the target pathogen inactivation credit and related graphical plots showing how the equation was derived from measured doses obtained through validation testing under varying test conditions.

(iv) Range of validated conditions for flow, UVT, UV dose, and lamp status.

(v) Description and rationale for selecting the challenge organism used in validation testing, and analysis to define operating dose for pathogen inactivation credit.

(vi) Tabulated data, analysis, and Quality assurance/quality control (QA/QC) measures during validation testing.

(vii) A licensed professional engineer's third party oversight certification indicating that the testing and data analyses in the validation report are conducted in a technically sound manner and without bias.

(viii) The validation report shall be accompanied with completed Checklists 5.1 through 5.5 included in the EPA Ultraviolet Disinfection Guidance Manual for the Final Long Term 2 Enhanced Surface Water Treatment Rule (2006 Final UVDGM).

(3) Design Criteria

(a) A water system considering UV disinfection shall gather sufficient water quality data prior to design. The water samples shall be representative of the source water to be treated by the UV facility. Frequent testing may be required if significant variation or seasonal trending in water quality is expected.

(b) The following water quality parameters should be considered in UV facility planning:

(i) UV Transmittance or UV Absorbance

(ii) Calcium

(iii) Alkalinity

(iv) Hardness

(v) Iron

(vi) Manganese

(vii) Turbidity

(viii) pH

(ix) Oxidation-Reduction Potential (ORP)

(x) Particle content and algae

(c) The design flow rate and UVT used to size the UV system shall be selected to provide the required dose at least 95 percent of the time, accounting for seasonal variations of flow and UVT combinations. Specifying a matrix of flow and UVT conditions for the UV reactors may be necessary.

(d) The water system may consider increasing the delivered dose beyond the required UV dose listed in Table 215-5 in R309-215-15(19)(d) to provide flexibility and conservatism.

(e) UV reactor inlet and outlet configurations shall meet the validated hydraulic distribution of flow conditions or be more hydraulically conservative. This can be achieved using one of the following approaches:

(i) The inlet and outlet configuration shall meet one of the conditions specified in Section 3.6.2 of the 2006 Final UVDGM.

(ii) Computational fluid dynamics (CFD)-based modeling may be used to demonstrate that the given conditions of inlet and outlet piping with the UV installation provides equal or greater dose delivery. The CFD modeling shall be conducted at the minimum and maximum values of the validated range of flow, UVT, and lamp status.

(f) The UV disinfection system shall be capable of applying the required design dose with a failed or out-of-service reactor. The design shall account for an on-line backup UV reactor or an operating scheme to apply the design dose with one reactor out of service.

(g) It shall be possible to isolate each reactor for maintenance.

(h) Signals and alarms shall be provided for the operation of the UV facility for the parameters necessary for dose monitoring algorithm, such as low UV dose, high flow rate, low UVT, UVT monitoring failure, UV sensor failure, off specification event, Ground Fault Interrupt (GFI), high water temperature, and low water level.

(i) All materials used in constructing or coating the UV reactors that come in contact with water shall be certified NSF Standard 61 - Drinking Water System Components - Health Effects.

(j) Any chemicals used in the cleaning of the UV reactor components in contact with the drinking water such as quartz sleeves shall be certified as meeting the ANSI/NSF Standard 60 - Drinking Water Treatment Chemicals - Health Effects.

(k) A flow or time delay shall be provided to permit a sufficient time for tube warm-up, per manufacturer recommendations, before water flows from the unit upon start up. The flow or time delay shall be included in the design so they do not result in excessive off specification conditions.

(l) To ensure a continuous supply of power, a backup power supply of sufficient capacity shall be provided for the UV disinfection system. If power quality problems, such as frequent power interruptions or brownouts, or remote location with unknown power quality, is anticipated, power conditioning equipment, such as uninterruptible power supply (UPS), shall be included in the design.

(m) The design shall include a redundant disinfection mechanism that will apply an approved primary disinfectant to achieve the CT or log removal/inactivation required for compliance if a UV facility is off specification or offline within a maximum response time of 15 minutes. One example of such response is to shut down the off- specification UV train and either bring a parallel UV train on line or initiate a back-up primary disinfection system within 15 minutes, so the continuous duration of an off-specification event is limited to no more than 15 minutes.

(n) UV disinfection units rated at 30 gallons per minute or less shall be certified as meeting the ANSI/NSF Standard 55, Class A, or other equivalent or more stringent validation or certification standards that are deemed acceptable by the Executive Secretary.

(o) The dose monitoring approach used for UV facility must be reviewed and accepted by the Executive Secretary. Typically the calculated dose approach is suitable for large systems or systems with significant flow variation, and the UV intensity setpoint approach is for small systems or systems with fixed flow rate. The dose monitoring approaches need to be consistent with the guidelines stated in the 2006 Final UVDGM.

(p) If Programmable Logic Controller (PLC) or SCADA interface is used for UV reactor's process control, the programming shall be in accordance with the validated dose monitoring algorithm and the validated conditions. The algorithm shall use inputs of flow, UV intensity sensor readings, lamps status, and/or UVT equal to or more conservative than values measured during the operation of the UV system. If the measured UVT is above the validated range, the maximum validated UVT shall be used as the input to the dose algorithm. If the measured flow rate is below the validated range, the minimum validated flow rate shall be used as the input to the dose algorithm. If the dose algorithm uses relative lamp output determined from the UV intensity sensor readings as an input, the

relative lamp output should be based on the measured UVT, even if it exceeds the maximum validated UVT.

(q) The UV reactor's PLC or microprocessor shall be programmed to record off specification events for the following conditions:

- (i) Delivered UV dose less than the required dose,
- (ii) Flow greater than the validated range,
- (iii) UVT less than the validated range,
- (iv) Lamp status outside the validated range,
- (v) Failure of UV sensors, flow meters, or on-line UVT

monitors used in the dose calculation. Laboratory measurements of UVT may be used temporarily in the program until the on-line UVT monitor is repaired.

(4) Operation and Maintenance

The operation and maintenance tasks and the frequency of performing them can be specific to the UV equipment installed. The water systems with approved UV installations should follow the manufacturer's recommendation or the operation and maintenance guidelines stated in Section 6.2 through 6.5 of the 2006 Final UVDGM.

(a) Startup testing.

(i) The UV reactor manufacturer must provide a site-specific operation and maintenance manual, which shall include the procedure for starting up and shutting down the UV treatment system.

(ii) Provide schedules and performance standards for start-up testing and initial operation. Schedules shall include

anticipated start-up date and proposed testing duration. Performance standards should reference applicable regulations and specific equipment capabilities.

(iii) Operators shall receive site-specific training on the operation of the UV disinfection system.

(b) An incident plan shall be developed to address lamp breakage and release of mercury, response to alarms, power supply interruptions, activation of standby equipment, failure of systems, etc.

(c) To verify that the UV reactors are operated within the validated limits, selected parameters should be monitored. The routine operation and maintenance shall include the monitoring and calibration requirements listed in R309-215-15(19) and (20) and are in accordance with the monitoring and reporting protocol approved by the Executive Secretary. For very small UV systems, the Executive Secretary may consider granting exception to allow reduced monitoring and reporting on a case-by-case basis.

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**KEY: drinking water, primary disinfectants, secondary disinfectants, operation and maintenance**

**Date of Enactment or Last Substantive Amendment: 2011**

**Notice of Continuation: March 22, 2010**

**Authorizing, and Implemented or Interpreted Law: 19-4-104**

**End of the Notices of Changes in Proposed Rules Section**



## NOTICES OF 120-DAY (EMERGENCY) RULES

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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.

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### Public Safety, Fire Marshal **R710-10** Rules Pursuant to Fire Service Training, Education, and Certification

#### NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 34505

FILED: 03/14/2011

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of the rule filing is to replace an expired rule. The existing rule unintentionally expired and needs to be replaced due to its importance in the fire service. This emergency new rule oversees the existence of the Utah Fire and Rescue Academy, firefighter certification, and non-affiliated fire service training. This emergency rule also establishes the State Fire Marshal as the Fire Service Education Administrator for the State of Utah and forms several other important training committees.

**SUMMARY OF THE RULE OR CHANGE:** This is an emergency proposed new administrative rule that is to replace the rule that expired. The emergency rule is a compilation of requirements that were in Rule R710-9, some newly authored definitions, and a newly formed section on non-affiliated fire service training. (DAR NOTE: A corresponding proposed new rule is under DAR No. 34502 in

this issue, April 1, 2011, of the Bulletin. The notice of the expired rule is under DAR No. 34495 in this issue of the Bulletin.)

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

**EMERGENCY RULE REASON AND JUSTIFICATION:** REGULAR RULEMAKING PROCEDURES WOULD cause an imminent peril to the public health, safety, or welfare.

**JUSTIFICATION:** The unintended expiration of this previously existing administrative rule has created an imminent peril to the public health, safety, and welfare of the fire service and its citizens in the State of Utah. The expiration of the rule has stopped the certification of firefighters at the Utah Fire and Rescue Academy, taken away the capacity of the Utah Fire and Rescue Academy to complete its core function, and stopped non-affiliated firefighter training in the State of Utah. The expiration of the rule has also stopped the oversight of the Utah Fire and Rescue Academy since the State Fire Marshal is designated as the Fire Service Education Administrator of firefighter education and certification in the State of Utah. With these significant needs stopped due to the unintended expiration of the rule, the peril to public safety requires the filing of a 120-Day (Emergency) rule to maintain continuity until the new rule is effective 05/09/2011.

**MATERIALS INCORPORATED BY REFERENCES:**

- ◆ Adds NFPA 1403, published by National Fire Protection Association, 01/31/2002

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** There is no aggregate anticipated cost or savings to the state budget for the enactment of this new administrative rule because most of the provisions in this new rule are being transferred from Rule R710-9 and have been in effect for an extended period of time.

◆ **LOCAL GOVERNMENTS:** There is no aggregate anticipated cost or savings to local government for the enactment of this new administrative rule. There are some procedural changes now required by those local fire departments that teach non-affiliated fire service training, but not an outright monetary cost.

◆ **SMALL BUSINESSES:** There is no aggregate anticipated cost or savings to small businesses for the enactment of this new administrative rule because this rule only affects government services and does not affect small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no aggregate anticipated cost or savings to persons other than small businesses and businesses because this affects only government services. There would be no aggregate anticipated cost or savings to local government agencies because this affects training standards and does not impact local government entities.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There is no compliance costs for affected persons for the enactment of this new rule. Most of the provisions of this new rule have been transferred from an existing administrative rule and have been in effect for a number of years.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There is no fiscal impact on businesses because this newly proposed administrative rule does not affect business. It deals with state and local fire service training, education, and certification.

**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](mailto:bhallada@utah.gov)

**EFFECTIVE:** 03/14/2011

**AUTHORIZED BY:** Brent Halladay, Acting State Fire Marshal

**R710. Public Safety, Fire Marshal.****R710-10. Rules Pursuant to Fire Service Training, Education, and Certification.****R710-10-1. Title, Authority, and Adoption of Codes.**

1.1 These rules shall be known as the "Rules Pursuant to Fire Service Training, Education, and Certification, and may be cited as such, and will be hereafter referred to as "these rules".

1.2 These rules are promulgated in accordance with Title 53, Chapter 7, Section 204, Utah Code Annotated 1953, as amended.

1.3 These rules are adopted by the Utah Fire Prevention Board to provide minimum rules for fire service training, education and certification by establishing a Fire Service Education Administrator, a Fire Education Program Coordinator, the Fire Service Standards and Training Council, the Fire Service Certification Council, the Utah Fire and Rescue Academy, and standards for those agencies conducting non-affiliated fire service training.

1.4 There is adopted as part of these rules the following code which is incorporated by reference:

1.4.1 National Fire Protection Association (NFPA), NFPA 1403, Standard on Live Fire Training Evolutions, 2002 edition.

**R710-10-2. Definitions.**

2.1 "Academy" means Utah Fire and Rescue Academy.

2.2 "Academy Director" means the Director of the Utah Fire and Rescue Academy.

2.3 "Administrator" means Fire Service Education Administrator.

2.4 "Board" means Utah Fire Prevention Board.

2.5 "Career Firefighter" means one whose primary employment is directly related to the fire service.

2.6 "Certification Council" means the Fire Service Certification Council.

2.7 "Certification System" means the Utah Fire Service Certification System.

2.8 "Coordinator" means Fire Service Education Program Coordinator.

2.9 "EMT" means Emergency Medical Technician.

2.10 "Non-Affiliated" means an individual who is not a member of an organized fire department.

2.11 "Plan" means Fire Academy Strategic Plan.

2.12 "RCA" means Recruit Candidate Academy.

2.13 "SFM" means State Fire Marshal or authorized deputy.

2.14 "Standards Council" means Fire Service Standards and Training Council.

2.15 "UCA" means Utah Code Annotated, 1953.

2.16 "Volunteer/Part-Paid Firefighter" means one whose primary employment is not directly related to the fire service.

**R710-10-3. Fire Service Education Administrator.**

3.1 There is created by the Board a Fire Service Education Administrator for the State of Utah. This Administrator shall be the State Fire Marshal.

3.2 The Administrator shall oversee statewide fire service education of all personnel receiving training monies from the Fire Academy Support Account.

3.2.1 The Administrator shall oversee fire service education in fire suppression, fire prevention, fire administration, operations, hazardous materials, rescue, fire investigation, and public fire education in the State of Utah.

3.3 The Administrator shall dedicate sufficient time and efforts to ensure that those monies dedicated from the Fire Academy Support Account are expended in the best interests of all personnel receiving fire service education.

3.4 The Administrator shall ensure equitable monies are expended in fire service education to volunteer, career, and prospective fire service personnel.

3.5 The Administrator shall as directed by the Board, solicit the legislature for funding to ensure that fire service personnel receive sufficient monies to receive the education necessary to prevent loss of life or property.

3.6 The Administrator shall oversee the Fire Department Assistance Grant program by completing the following:

3.6.1 Insure that a broad based selection committee is impaneled each year.

3.6.2 Compile for presentation to the Board the proposed grants.

3.6.3 Receive the Board's approval before issuing the grants.

3.7 The Administrator shall if necessary, establish proposed changes to fire service education statewide, insuring personnel receive the most proficient and professional training available, insure completion of agreements and contracts, and insure that payments on agreements and contracts are completed expeditiously.

3.8 The Administrator shall report to the Board at each regularly scheduled Board meeting the current status of fire service education statewide. The Administrator shall present any proposed changes in fire service education to the Board, and receive direction and approval from the Board, before making those changes.

#### **R710-10-4. Fire Service Education Program Coordinator.**

4.1 The Fire Service Education Program Coordinator shall assist the Administrator in statewide fire service education.

4.2 The Coordinator shall conduct fire service education evaluations, budget reviews, performance audits, and oversee the effectiveness of fire service education statewide.

4.3 The Coordinator shall ensure that there is an established Utah Fire Service Strategic Training Plan for fire service education statewide. The Coordinator shall work with the Academy Director to update the Strategic Plan and keep it current to the needs of the fire service.

4.4 The Coordinator shall report findings of audits, budgetary reviews, training contracts or agreements, evaluation of training standards, and any other necessary items of interest with regard to fire service education to the Administrator.

4.5 The Coordinator shall ensure that contracts are established each year for training and education of fire personnel that meets the needs of those involved in fire service education statewide.

4.6 The Coordinator shall be the staff assistant to the Fire Service Standards and Training Council and shall present agenda

items to the Council Chair that need resolution or review. As the staff assistant to the Training Council, the coordinator shall ensure that appointed members attend, encourage that the decisions made further the interests of fire service education statewide, and ensure that the Board is kept informed of the Training Council's decisions.

#### **R710-10-5. Fire Service Standards and Training Council.**

5.1 There is created by the Board, the Fire Service Standards and Training Council, whose duties are to provide direction to the Board and Academy in matters relating to fire service standards, training, and certification.

5.2 The Standards Council shall serve in an advisory position to the Board, members shall be appointed by the Board, shall serve four year terms, and shall consist of the following members:

5.2.1 Representative from the Utah State Fire Chiefs Association.

5.2.2 Representative from the Utah State Firemen's Association.

5.2.3 Representative from the Fire Marshal's Association of Utah.

5.2.4 Specialist in hazardous materials representing the Hazardous Materials Institute.

5.2.5 Fire/arson investigator representing the Utah Chapter of the International Association of Arson Investigators.

5.2.6 Specialist in wildland fire suppression and prevention from the Utah State Division of Forestry, Fire and State Lands.

5.2.7 Representative from the International Association of Firefighters.

5.2.8 Representative from the Utah Fire Service Certification Council.

5.2.9 Representative from the fire service that is an Advanced Life Support (ALS) provider to represent Emergency Medical Services.

5.2.10 Representative from the Utah Fire Training Officers Association.

5.3 The Standards Council shall meet quarterly and may hold other meetings as necessary for proper transaction of business. A majority of the Standards Council members shall be present to constitute a quorum.

5.4 The Standards Council shall select one of its members to act in the position of chair, and another member to act as vice chair. The chair and vice chair shall serve one year terms on a calendar year basis. Elections for chair and vice chair shall occur at the meeting conducted in the last quarter of the calendar year. If voted upon by the council, the vice chair will become the chair the next succeeding calendar year.

5.5 If a Standards Council member has two or more unexcused absences during a 12 month period, from regularly scheduled Standards Council meetings, it is considered grounds for dismissal pending review by the Board. The Coordinator shall submit the name of the Standards Council member to the Board for status review.

5.6 A member of the Standards Council may have a representative of their respective organization sit in proxy of that member, if submitted and approved by the Coordinator prior to the meeting.

5.7 The Chair or Vice Chair of the Standards Council shall report to the Board the activities of the Standards Council at regularly scheduled Board meetings. The Coordinator may report to the Board the activities of the Standards Council in the absence of the Chair or Vice Chair.

5.8 The Standards Council shall consider all subjects presented to them, subjects assigned to them by the Board, and shall report their recommendations to the Board at regularly scheduled Board meetings.

5.9 One-half of the members of the Standards Council shall be reappointed or replaced by the Board every two years.

**R710-10-6. Utah Fire Service Certification Council.**

6.1 There is created by the Board, the Utah Fire Service Certification Council, whose duties are to oversee fire service certification in the State of Utah.

6.2 The Certification Council shall be made up of 12 members, appointed by the Academy Director, approved by the Board, and each member shall serve three year terms.

6.3 The Certification Council shall be made up of users of the certification system and comprise both paid and volunteer fire personnel, members with special expertise, and members from various geographical locations in the state.

6.4 The purpose of the Certification Council is to provide direction on all aspects of certification, and shall report the activities of the Certification Council to the Fire Service Standards and Training Council.

6.5 Functioning of the Certification Council with regard to certification, re-certification, testing, meeting procedures, examinations, suspension, denial, annulment, revocation, appeals, and reciprocity, shall be conducted as specified in the Utah Fire Service Voluntary Certification Program, Policy and Procedures Manual.

6.6 A copy of the Utah Fire Service Voluntary Certification Program, Policy and Procedures Manual, shall be kept on file at the State Fire Marshal's Office and the Utah Fire and Rescue Academy.

**R710-10-7. Utah Fire and Rescue Academy.**

7.1 The primary fire service training school shall be known as the Utah Fire and Rescue Academy.

7.2 The Director of the Utah Fire and Rescue Academy shall report to the Administrator the activities of the Academy with regard to completion of the agreed academy contract.

7.3 The Academy Director may recommend to the Administrator or Coordinator new or expanded standards regarding fire suppression, fire prevention, public fire education, safety, certification, and any other items of necessary interest about the Academy.

7.4 The Academy shall receive approval from the Administrator, after being presented to the Standards and Training Council, any substantial changes in Academy training programs that vary from the agreed contract.

7.5 The Academy Director shall provide to the Coordinator by October 1st of each year, a numerical summary of those career, volunteer/part-paid, and non-affiliated students attending the Academy in the following categories:

7.5.1 Those who have received certification during the previous contract period at each certification level.

7.5.2 Those who have received an academic degree in any Fire Science category in the previous contract period.

7.5.3 Those who have completed other Academy classes during the previous contract period.

7.6 The Academy Director shall provide to the Coordinator by October 1st of each year, a numerical comparison of the categories required in Section 7.5, comparing attendance in the previous contract period.

7.7 The Academy Director shall provide to the Coordinator by October 1st of each year, in accepted budgeting practices, the following:

7.7.1 A cost analysis of classes to include the total spent for each class title, the average cost per class, the number of classes delivered, the number of participants per class title, and the cost per participant for each class title provided by the Academy.

7.7.2 A budget summary comparing amounts budgeted to actual expenditures for each budget code funded by the contract.

7.8 The Academy Director shall provide to the Coordinator by October 1st of each year, a numerical summary of those students attending Academy courses in the following categories:

7.8.1 Non-affiliated personnel enrolled in college courses.

7.8.2 Career fire service personnel enrolled in college credit courses.

7.8.3 Volunteer and part-paid fire service personnel enrolled in college credit courses.

7.8.4 Non-affiliated personnel enrolled in non-credit continuing education courses.

7.8.5 Career fire service personnel enrolled in non-credit continuing education courses.

7.8.6 Volunteer and part-paid fire service personnel enrolled in non-credit continuing education courses.

7.9 The Academy Director shall present to the Coordinator by January of each year, proposals to be incorporated in the Academy contract for the next fiscal year.

**R710-10-8. Non-Affiliated Fire Service Training.**

8.1 Those training organizations that desire to offer certification through the Certification System for non-affiliated personnel must receive accreditation in writing from the Standards Council and the Academy Director.

8.2 Before accreditation is granted, the training organization requesting approval shall demonstrate the following:

8.2.1 Complete a written application requesting approval to conduct the training course.

8.2.2 Designate an approved course coordinator to oversee the course delivery and insure the course meets each of the applicable objectives.

8.2.3 Insure that qualified instructors are used to teach each subject.

8.2.4 Insure sufficient student to instructor ratios for all subjects or skills to be taught to include those designated high hazard.

8.2.5 Demonstrate that sufficient equipment and facilities will be provided to meet the training requirements of the course being taught.

8.2.6 Maintain course documentation as required through the Certification System to insure that all elements of the necessary training is completed.

8.2.7 Follow the accepted requirements of the Certification System for requesting testing and certification.

8.3 As required in Section 8.2.2 of these rules, the designated course coordinator shall meet the following requirements:

8.3.1 Be currently certified at the certification level as established by the Standards Council.

8.3.2 Insure that all assigned instructors meet the requirements as required in Section 8.4 of these rules.

8.3.3 Insure that the course syllabus and practical skills guide meet the requirements of the Certification System.

8.3.4 Insure that the requirements of Sections 8.2.4, 8.2.5, 8.2.6, and 8.2.7 of these rules are met.

8.4 As required in Section 8.2.3 of these rules, qualified instructors shall meet the following requirements:

8.4.1 Must be currently certified at the certification level as established by the Standards Council.

8.4.2 If the instructor is not certified, instructor qualification can be satisfied by special knowledge, experience or establishment of expertise.

8.5 An Introduction to Emergency Services class shall be completed by the non-affiliated student wishing to receive an RCA within the time period stated in 8.7 of these rules. The Introduction to Emergency Services class may be waived if the applicant can demonstrate to the Academy sufficient competency or prior experience in the fire service to make the class unwarranted.

8.6 Non-affiliated training providers shall follow the curriculum outline that is taught at the Academy in the Recruit Candidate Academy (RCA) program in order to award students an RCA Certificate of Completion. Any changes to the curriculum of the RCA program at the Academy shall be provided by the Academy to the non-affiliated training providers to maintain consistency in the RCA program.

8.7 An RCA Certificate of Completion may be issued to the non-affiliated student by the Academy upon successful completion of the following within a 24 month period:

8.7.1 Introduction to Emergency Services class or accepted waiver.

8.7.2 EMT Basic Course.

8.7.3 Completion of an accredited RCA.

8.8 Non-affiliated training providers that have received accreditation shall be reaccredited every five years from the date of initial accreditation.

#### **R710-10-9. 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.

#### **R710-10-10. Validity.**

The Utah Fire Prevention 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 Utah Fire Prevention Board that it would have passed all other portions of this action, independent of the elimination of any portion as may be declared invalid.

#### **R710-10-11. Adjudicative Proceedings.**

11.1 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.

11.2 A person may request a hearing on a decision made by the SFM, his authorized deputies, or the LFA, by filing an appeal to the Board within 20 days after receiving final decision.

11.3 All adjudicative proceedings, other than criminal prosecution, taken by the SFM, his authorized deputies, or the LFA, to enforce the Utah Fire Prevention and Safety Act and these rules, shall commence in accordance with UCA, Section 63G-4-201.

11.4 The Board shall act as the hearing authority, and shall convene as an appeals board after timely notice to all parties involved.

11.5 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.

11.6 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.

11.7 Judicial review of all final Board actions resulting from informal adjudicative proceedings is available pursuant to UCA, Section 63G-4-402.

#### **KEY: fire training**

**Date of Enactment or Last Substantive Amendment: March 14, 2011**

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

**End of the Notices of 120-Day (Emergency) Rules Section**



# FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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Within five years of an administrative rule's original enactment or last five-year review, the 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.

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## Agriculture and Food, Administration **R51-3** Government Records Access and Management Act

### **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 34491  
FILED: 03/03/2011

### **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 63G-2-204 and 63A-12-104 authorize the rule. The first code reference authorizes the Department of Agriculture and Food to make rules in accordance with Title 63G, Chapter 3, specifying where and to whom requests for GRAMA access shall be directed. The second code reference authorizes the Department of Agriculture and Food to specify rules in relation to collection, storage, designation, classification, access, and management of records.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule relates to statutes currently in place. The rule meets the requirements set forth in these statutes.

For purposes of GRAMA, the current rule, based on the language of the statute, meets the needs of persons making GRAMA requests. It supplies procedures to be followed by the agency when a GRAMA request is made and provides methods by which records that were initially incorrect can be amended to be more accurate. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Stephen Ogilvie by phone at 801-538-7110, by FAX at 801-538-7126, or by Internet E-mail at [stephenogilvie@utah.gov](mailto:stephenogilvie@utah.gov)

AUTHORIZED BY: Leonard Blackham, Commissioner

EFFECTIVE: 03/03/2011

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## Agriculture and Food, Administration **R51-4** ADA Complaint Procedure

### **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 34492  
FILED: 03/03/2011

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 63G-3-201 authorizes the rule. The statute allows the following in regard to this rule: "(2) In addition to other rulemaking required by law, each agency shall make rules when agency action: (a) authorizes, requires, or prohibits an action; (b) provides or prohibits a material benefit; (c) applies to a class of persons or another agency...."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule creates a formal process to follow in case the Department of Agriculture and Food receives a complaint in relation to an ADA issues involving the Department. The rule defines persons and acts involved in an ADA action, formalizes the complaint filing, complaint investigation, complaint decision issuance, and decision appeal process. The rule also identifies its relationship to other remedies available to individuals under state and federal law. Therefore, this rule should be continued.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Stephen Ogilvie by phone at 801-538-7110, by FAX at 801-538-7126, or by Internet E-mail at stephenogilvie@utah.gov

AUTHORIZED BY: Leonard Blackham, Commissioner

EFFECTIVE: 03/03/2011

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 34489  
 FILED: 03/03/2011

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Promulgated under authority of Subsection 4-2-2(1), this rule provides information required by Junior Livestock Shows within the State of Utah to receive funds authorized by this program.

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 in favor or in opposition of the rule have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The value of continuing this rule is the fair and equitable distribution of appropriated money to qualifying Junior Livestock Shows. Money received by the shows is essential to their continued success.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov  
 ♦ Kyle Stephens by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at kylestephens@utah.gov

AUTHORIZED BY: Leonard Blackham, Commissioner

EFFECTIVE: 03/03/2011

Agriculture and Food, Marketing and  
 Development  
**R65-8**  
 Management of the Junior Livestock  
 Show Appropriation

Agriculture and Food, Plant Industry  
**R68-7**  
 Utah Pesticide Control Act



**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 34488  
FILED: 03/02/2011

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Promulgated under authority of Section 4-14-6, this rule defines and outlines the regulations that enforce the correct use of pesticides in the state. This rule describes the process for registering a pesticide sold in the state. The rule outlines the requirements for pesticide applicators as determined in accordance with the regulations promulgated by the EPA of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received in opposition to this rule. The Utah Pesticide community wishes this rule to continue. There is an effort to amend the current rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The current Pesticide Control Act requires this rule to continue. This rule is needed to protect the pesticide industry and the citizen of Utah from pesticide misuse. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: Leonard Blackham, Commissioner

EFFECTIVE: 03/02/2011

**Commerce, Occupational and  
Professional Licensing**

**R156-9a**

**Uniform Athlete Agents Act Rules**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 34499  
FILED: 03/10/2011

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 15, Chapter 9, provides for the licensure of athlete agents. Subsection 58-1-106(1)(a) provides that the Division may adopt and enforce rules. Subsection 15-9-103(1)(a) provides Title 15, Chapter 9, shall be administered by the Division of Occupational and Professional Licensing. This rule was enacted to clarify the provisions of Title 15, Chapter 9, with respect to athlete agents.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since this rule was last reviewed in June 2006, no written comments have been received by the Division.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 15, Chapter 9, with respect to athlete agents. The rule should also be continued as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements and provides licensees with information concerning unprofessional conduct, definitions and ethical standards relating to the profession.

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

AUTHORIZED BY: Mark Steinagel, Director

EFFECTIVE: 03/10/2011

**Commerce, Occupational and  
 Professional Licensing  
 R156-67  
 Utah Medical Practice Act Rule**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION**  
 DAR FILE NO.: 34504  
 FILED: 03/14/2011

**NOTICE OF REVIEW AND STATEMENT OF  
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 58, Chapter 67, provides for the licensure of physician and surgeon. Subsection 58-1-106(1)(a) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-67-201(3)(a) provides that the Physicians Licensing Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1)(a) provides that one of the duties of each board is to recommend appropriate rules to the Division Director. This rule was enacted to clarify the provisions of Title 58, Chapter 67, with respect to physicians/surgeons.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since this rule was last reviewed in June 2006, the Division has received no written comments.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 67, with respect to physicians/surgeons. The rule should also be continued as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements and provides

licensees with information concerning unprofessional conduct, definitions and ethical standards relating to the profession.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Noel Taxin by phone at 801-530-6621, by FAX at 801-530-6511, or by Internet E-mail at ntaxin@utah.gov

AUTHORIZED BY: Mark Steinagel, Director

EFFECTIVE: 03/14/2011

**Commerce, Occupational and  
 Professional Licensing  
 R156-69  
 Dentist and Dental Hygienist Practice  
 Act Rule**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION**  
 DAR FILE NO.: 34500  
 FILED: 03/10/2011

**NOTICE OF REVIEW AND STATEMENT OF  
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 58, Chapter 69, provides for the licensure of dentists and dental hygienists. Subsection 58-1-106(1)(a) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-69-201(3)(a) provides that the Dentist and Dental Hygienist Licensing Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1)(a) provides that one of the duties of each board is to recommend appropriate rules to the Division Director. This rule was enacted to clarify the provisions of Title 58, Chapter 69, with respect to dentists and dental hygienists.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was last reviewed in June 2006, the Division has only received one written comment. A 06/10/2009 email from Barbara Lowery, Professional Affairs Manager, AAOMS (American Association of Oral and Maxillofacial Surgeons), was received in which she submitted a suggested technical correction to Subsection R156-69-202(4)(c) to utilize the "Use of Sedation and General Anesthesia by Dentists" document which was adopted by the American Dental Association in October 2007. The Division and Dentists and Dental Hygienists Licensing Board reviewed Ms. Lowery's suggested change and chose to stay with the "Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students" document which was published by the American Dental Association in October 2007.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 69, with respect to dentists and dental hygienists. The rule should also be continued as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements and provides licensees with information concerning unprofessional conduct definitions and ethical standards relating to the profession.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Noel Taxin by phone at 801-530-6621, by FAX at 801-530-6511, or by Internet E-mail at [ntaxin@utah.gov](mailto:ntaxin@utah.gov)

AUTHORIZED BY: Mark Steinagel, Director

EFFECTIVE: 03/10/2011

Commerce, Occupational and  
Professional Licensing  
**R156-73**  
Chiropractic Physician Practice Act  
Rule

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 34503

FILED: 03/14/2011

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 58, Chapter 73, provides for the licensure of chiropractic physicians. Subsection 58-1-106(1)(a) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-73-201(3) provides that the Chiropractic Physician Licensing Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1)(a) provides that one of the duties of each board is to recommend appropriate rules to the Division Director. This rule was enacted to clarify the provisions of Title 58, Chapter 73, with respect to chiropractic physicians.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was last reviewed in June 2006, the Division has received only one written comment. An 08/03/2009 email was received from Hunter Finch wherein he notified the Division of an incorrect statutory citation in Subsection R156-73-501(12). A nonsubstantive rule change was filed with Division of Administrative Rules on 08/24/2009 to correct the citation.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 73, with respect to chiropractic physicians.

The rule should also be continued as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements and provides licensees with information concerning unprofessional conduct, definitions and ethical standards relating to the profession.

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:  
♦ Sally Stewart by phone at 801-530-6179, by FAX at 801-530-6511, or by Internet E-mail at sstewart@utah.gov

AUTHORIZED BY: Mark Steinagel, Director

EFFECTIVE: 03/14/2011

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary because it provides standards and procedures for educator qualifications. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

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

EFFECTIVE: 03/04/2011

Education, Administration

**R277-510**

Educator Licensing - Highly Qualified Assignment

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 34494  
FILED: 03/04/2011

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-402(1)(a) directs the Utah State Board of Education to establish rules setting minimum standards for educators who provide direct student services. Subsection 53A-1-401(3) permits the Utah State Board of Education to adopt rules in accordance with its responsibilities.

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.

Health, Epidemiology and Laboratory Services, Epidemiology

**R386-703**

Injury Reporting Rule

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 34508  
FILED: 03/14/2011

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The Department of Health has the authority (Sections 26-1-30 and 26-6-3) to require reporting for the control of diseases, health hazards, or injuries of public health concern.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received during and since the last five-year review of this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Continuation of this rule allows the department to continue to identify the causes and risks of major injuries of public health concern which helps guide public health policy and actions to reduce or eliminate those injuries.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Robert Rolfs by phone at 801-538-6191, by FAX at 801-538-9923, or by Internet E-mail at rrolfs@utah.gov  
♦ Sam LeFevre by phone at 801-538-6191, by FAX at 801-538-6564, or by Internet E-mail at slefevre@utah.gov

AUTHORIZED BY: David Patton, PhD, Acting Executive Director

EFFECTIVE: 03/14/2011

Human Services, Recovery Services  
**R527-800**  
Acquisition of Real Property, and  
Medical Support Cooperation  
Requirements

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 34490  
FILED: 03/03/2011

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 62A-11-104 requires the Office of Recovery Services to collect money due the department to offset expenditures by the state. This rule provides details for enforcement actions against real property to satisfy financial obligations when other methods have failed or are unavailable on a case. This rule describes the requirements of a recipient of medical assistance to cooperate with the Office of Recovery Services in offsetting Medicaid expenditures in accordance with 42 CFR 433.147-148.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The statutes under which this rule is enacted are still in effect. This rule describes necessary details of enforcement actions against real property taken by the Office of Recovery Services. This rule is necessary to explain the requirement of a recipient of medical assistance to cooperate with Medicaid cost recovery efforts of the Office of Recovery Services. Therefore, this rule should be continued.

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

HUMAN SERVICES  
RECOVERY SERVICES  
515 E 100 S  
SALT LAKE CITY, UT 84102-4211  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Shancie Nance by phone at 801-536-8191, by FAX at 801-536-8833, or by Internet E-mail at snance@utah.gov

AUTHORIZED BY: Mark Brasher , Director

EFFECTIVE: 03/03/2011

**End of the Five-Year Notices of Review and Statements of Continuation Section**



## NOTICES OF FIVE-YEAR EXPIRATIONS

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Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (Section 63G-3-305). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file an extension with the Division of Administrative Rules (Division). However, if the agency fails to file either the review or the extension by the five-year anniversary date of the rule, the rule expires.

Upon expiration of the rule, the Division is required to remove the rule from the *Utah Administrative Code*. The agency may no longer enforce the rule, and it must follow regular rulemaking procedures to replace the rule if necessary.

The rules listed below were *not* reviewed in accordance with Section 63G-3-305. These rules have expired and have been removed from the *Utah Administrative Code*.

The expiration of administrative rules for failure to comply with the five-year review requirement is governed by Subsection 63G-3-305(8).

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Public Safety, Fire Marshal  
**R710-10**  
Rules Pursuant to Fire Service  
Training, Education, and Certification

**FIVE-YEAR REVIEW EXPIRATION**

DAR FILE NO.: 34495

FILED: 03/07/2011

SUMMARY: Because a five-year review was not filed by the deadline, the rule has expired and is removed from the Administrative Code.

EFFECTIVE: 03/07/2011

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**End of the Notices of Notices of Five-Year Expirations Section**





## NOTICES OF RULE EFFECTIVE DATES

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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.

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### Abbreviations

AMD = Amendment

CPR = Change in Proposed Rule

NEW = New Rule

R&R = Repeal & Reenact

REP = Repeal

No. 34354 (NEW): R657-63. Self Defense Against Wild  
Animals

Published: 02/01/2011

Effective: 03/14/2011

### Administrative Services

#### Administration

No. 34347 (AMD): R13-3. Americans with Disabilities Act

Grievance Procedures

Published: 02/01/2011

Effective: 03/10/2011

### Transportation

Preconstruction, Right-of-Way Acquisition

No. 34363 (AMD): R933-1. Right of Way Acquisition

Published: 02/01/2011

Effective: 03/10/2011

### Natural Resources

#### Wildlife Resources

No. 34341 (AMD): R657-5. Taking Big Game

Published: 02/01/2011

Effective: 03/14/2011

### Workforce Services

Unemployment Insurance

No. 34361 (AMD): R994-403-113c. Work Search

Published: 02/01/2011

Effective: 03/15/2011

**End of the Notices of Rule Effective Dates Section**



**RULES INDEX  
BY AGENCY (CODE NUMBER)  
AND  
BY KEYWORD (SUBJECT)**

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The Rules Index is a cumulative index that reflects all effective changes to Utah's administrative rules. The current Index lists changes made effective from January 2, 2011 through March 15, 2011. 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/>).

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**RULES INDEX - BY AGENCY (CODE NUMBER)**

**ABBREVIATIONS**

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b>ADMINISTRATIVE SERVICES</b>					
<u>Administration</u>					
R13-3	Americans with Disabilities Act Grievance Procedures	34347	AMD	03/10/2011	2011-3/4
<u>Fleet Operations</u>					
R27-3	Vehicle Use Standards	34256	AMD	01/25/2011	2010-24/6
R27-4-11	Capital Credit or Reservation of Vehicle Allocation for Surrendered Vehicles	34257	AMD	01/25/2011	2010-24/7
<b>AGRICULTURE AND FOOD</b>					
<u>Administration</u>					
R51-3	Government Records Access and Management Act	34491	5YR	03/03/2011	Not Printed
R51-4	ADA Complaint Procedure	34492	5YR	03/03/2011	Not Printed
<u>Marketing and Development</u>					
R65-8	Management of the Junior Livestock Show Appropriation	34489	5YR	03/03/2011	Not Printed
<u>Plant Industry</u>					
R68-4	Standardization, Marketing, and Phytosanitary Inspection of Fresh Fruits, Vegetables, and Other Plant and Plant Products	34414	5YR	02/08/2011	2011-5/107
R68-7	Utah Pesticide Control Act	34488	5YR	03/02/2011	Not Printed
R68-8	Utah Seed Law	34345	5YR	01/05/2011	2011-3/55
R68-18	Quarantine Pertaining to Karnal Bunt	34412	5YR	02/08/2011	2011-5/107
<u>Regulatory Services</u>					
R70-410	Grading and Inspection of Shell Eggs with Standard Grade and Weight Classes	34378	5YR	01/24/2011	2011-4/35
<b>ALCOHOLIC BEVERAGE CONTROL</b>					
<u>Administration</u>					
R81-1-29	Disclosure of Conflicts of Interest	34337	AMD	02/24/2011	2011-2/4
R81-1-30	Factors for Granting Licenses	34336	AMD	02/24/2011	2011-2/5
R81-3-13	Operational Restrictions	34340	AMD	02/24/2011	2011-2/6
<b>COMMERCE</b>					
<u>Consumer Protection</u>					
R152-11-9	Direct Solicitations	34100	AMD	02/07/2011	2010-20/4
<u>Occupational and Professional Licensing</u>					
R156-1-102	Definitions	34323	AMD	02/24/2011	2011-2/7
R156-3a	Architect Licensing Act Rule	34396	5YR	01/31/2011	2011-4/35

R156-9a	Uniform Athlete Agents Act Rules	34499	5YR	03/10/2011	Not Printed
R156-46b	Division Utah Administrative Procedures Act Rule	34397	5YR	01/31/2011	2011-4/36
R156-50	Private Probation Provider Licensing Act Rules	34282	NSC	01/06/2011	Not Printed
R156-55c-102	Definitions	34338	AMD	02/24/2011	2011-2/10
R156-60a	Social Worker Licensing Act Rule	34310	AMD	02/10/2011	2011-1/6
R156-60c	Professional Counselor Licensing Act Rule	34339	AMD	02/24/2011	2011-2/12
R156-60d	Substance Abuse Counselor Act Rule	34395	5YR	01/31/2011	2011-4/37
R156-63a-302f	Qualifications for Licensure - Good Moral Character - Disqualifying Convictions	34360	NSC	01/26/2011	Not Printed
R156-67	Utah Medical Practice Act Rule	34504	5YR	03/14/2011	Not Printed
R156-69	Dentist and Dental Hygienist Practice Act Rule	34283	AMD	02/07/2011	2011-1/8
R156-69	Dentist and Dental Hygienist Practice Act Rule	34500	5YR	03/10/2011	Not Printed
R156-73	Chiropractic Physician Practice Act Rule	34503	5YR	03/14/2011	Not Printed
R156-78B	Prelitigation Panel Review Rule	34215	AMD	01/10/2011	2010-23/4
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R162-2a	Utah Housing Opportunity Restricted Account	34223	NEW	01/08/2011	2010-23/15
R162-2c-201	Licensing and Registration Procedures	34225	AMD	01/08/2011	2010-23/16
R162-2c-203	Utah-Specific Education Certification	34226	AMD	01/08/2011	2010-23/19
R162-2c-204	License Renewal	34227	AMD	01/08/2011	2010-23/23
R162-12	Utah Housing Opportunity Restricted Account	34224	REP	01/08/2011	2010-23/25

COMMUNITY AND CULTURE

Housing and Community Development

R199-8	Permanent Community Impact Fund Board Review and Approval of Applications for Funding Assistance	34135	AMD	01/13/2011	2010-21/5
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Olene Walker Housing Trust Fund

R235-1	Olene Walker Housing Loan Fund (OWHLF)	34463	5YR	02/24/2011	2011-6/101
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R277-400	School Emergency Response Plans	34331	AMD	02/22/2011	2011-2/17
R277-403-1	Definitions	34332	AMD	02/22/2011	2011-2/20
R277-419	Pupil Accounting	34230	AMD	01/10/2011	2010-23/26
R277-470-12	Charter School Oversight and Monitoring	34333	AMD	02/22/2011	2011-2/21
R277-503-1	Definitions	34457	NSC	03/10/2011	Not Printed
R277-510	Educator Licensing - Highly Qualified Assignment	34494	5YR	03/04/2011	Not Printed
R277-520	Appropriate Licensing and Assignment of Teachers	34334	AMD	02/22/2011	2011-2/22
R277-602	Special Needs Scholarships - Funding and Procedures	34335	AMD	02/22/2011	2011-2/26
R277-733	Adult Education Programs	34231	AMD	01/10/2011	2010-23/31
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R311-201	Underground Storage Tanks: Certification Programs and UST Operator Training	34271	AMD	02/14/2011	2010-24/23
R311-203	Underground Storage Tanks: Technical Standards	34272	AMD	02/14/2011	2010-24/27
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R311-207	Accessing the Petroleum Storage Tank Trust Fund for Leaking Petroleum Storage Tanks	34274	AMD	02/14/2011	2010-24/35
R311-212	Administration of the Petroleum Storage Tank Loan Fund	34269	AMD	02/14/2011	2010-24/38

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R325-3	Utah State Fair Patron Rules	34466	5YR	02/24/2011	2011-6/103
R325-4	Interim Patrons Rules (Other Than Utah State Fair)	34467	5YR	02/24/2011	2011-6/103
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Administration

R331-26	Ownership of Real Estate Other Than Property Used for Institution Business or Held as an Investment by Depository Institutions Subject to the Jurisdiction of the Department of Financial Institutions	34207	NEW	02/01/2011	2010-22/61
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R333-11	Ownership by State-Chartered Banks of Real Estate Other Than Property Used for Bank Business or Held as an Investment	34206	REP	02/01/2011	2010-22/63
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R512-11 Accommodation of Moral and Religious Beliefs and Culture 34368 5YR 01/18/2011 2011-4/38

R512-203 Child Protective Services, Significant Risk Assessments 34369 5YR 01/18/2011 2011-4/38

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R590-93 Replacement of Life Insurance and Annuities 34026 CPR 01/10/2011 2010-22/116

R590-133 Variable Contracts 34175 AMD 01/10/2011 2010-22/98

R590-144 Commercial Aviation Insurance Exemption from Rate and Form Filings 34478 5YR 03/01/2011 2011-6/105

R590-148-24 Premium Rate Schedule Increases 34312 AMD 02/08/2011 2011-1/27

R590-152 Health Discount Programs and Value Added Benefit Rule 34236 AMD 01/20/2011 2010-23/57

R590-167-4 Establishment of Classes of Business 34169 AMD 01/10/2011 2010-22/100

R590-177 Life Insurance Illustrations Rule 34477 5YR 03/01/2011 2011-6/105

R590-186 Bail Bond Surety Business 34259 AMD 02/10/2011 2010-24/47

R590-200 Diabetes Treatment and Management 34485 5YR 03/01/2011 2011-6/106

R590-259 Dependent Coverage to Age 26 34276 NEW 01/25/2011 2010-24/51

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R652-80 Land Exchanges 34436 5YR 02/14/2011 2011-5/116

R652-123 Exemptions to Wildland Fire Suppression Fund 34376 5YR 01/24/2011 2011-4/45

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R651-217	Fire Extinguishers	34420	5YR	02/10/2011	2011-5/110
R651-218	Carburetor Backfire Flame Control	34421	5YR	02/10/2011	2011-5/110
R651-219	Additional Safety Equipment	34422	5YR	02/10/2011	2011-5/111
R651-220	Registration and Numbering Exemptions	34423	5YR	02/10/2011	2011-5/111
R651-221	Boat Liveries - Boat Rental Companies	34424	5YR	02/10/2011	2011-5/112
R651-222	Muffling Requirements	34356	5YR	01/11/2011	2011-3/58
R651-224	Towed Devices	34357	5YR	01/11/2011	2011-3/59
R651-226	Regattas and Races	34425	5YR	02/10/2011	2011-5/112
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R657-44	Big Game Depredation	34299	AMD	02/07/2011	2011-1/32
R657-55	Wildlife Convention Permits	34303	AMD	02/07/2011	2011-1/35
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R657-63	Self Defense Against Wild Animals	34354	NEW	03/14/2011	2011-3/49

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R722-300-3	Definitions	34222	AMD	01/07/2011	2010-23/61
R722-350	Certificate of Eligibility	34324	NEW	02/22/2011	2011-2/40

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R708-18	Regulatory and Administrative Fees	34399	5YR	01/31/2011	2011-4/46
R708-19	Automobile No-Fault Self-Insurance	34400	5YR	01/31/2011	2011-4/47
R708-20	Motor Vehicle Accident Prevention Course Standards	34401	5YR	01/31/2011	2011-4/47
R708-33	Electric Assisted Bicycle Headgear	34402	5YR	01/31/2011	2011-4/48
R708-38	Anatomical Gift	34403	5YR	01/31/2011	2011-4/48
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R708-42	Driver Address Record	34371	5YR	01/20/2011	2011-4/49
R708-43	YES or NO Notification	34372	5YR	01/20/2011	2011-4/49
R708-44	Citation Monitoring Service	34374	5YR	01/20/2011	2011-4/50
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R710-9	Rules Pursuant to the Utah Fire Prevention Law	34242	AMD	01/09/2011	2010-23/58
R710-10	Rules Pursuant to Fire Service Training, Education, and Certification	34495	EXD	03/07/2011	Not Printed
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<u>Highway Patrol</u>						
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R714-161	Equipment Standards for Motorcycle and ATV Safety Inspections	34286	NEW	02/09/2011	2011-1/53	
R714-162	Equipment Standards for Heavy Truck, Trailer and Bus Safety Inspections	34287	NEW	02/08/2011	2011-1/59	
R714-600	Performance Standards for Tow-Truck Motor Carriers	34255	R&R	01/24/2011	2010-24/61	
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R850-60	Cultural Resources	34261	AMD	01/24/2011	2010-24/64	
R850-60-100	Authorities	34328	NSC	01/18/2011	Not Printed	
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R861-1A-43	Electronic Meetings Pursuant to Utah Code Ann. Section 52-4-207	34326	AMD	02/23/2011	2011-2/42	
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R912-8	Minimum Tire, Axle and Suspension Ratings for Heavy Vehicles and the Use of Retractable or Variable Load Suspension Axles in Utah	34454	NSC	03/10/2011	Not Printed	
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Unemployment Insurance

R994-403-113c	Work Search	34361	AMD	03/15/2011	2011-3/52
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KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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Public Safety, Highway Patrol	34285	R714-160	NEW	02/09/2011	2011-1/37	
	34286	R714-161	NEW	02/09/2011	2011-1/53	
	34287	R714-162	NEW	02/08/2011	2011-1/59	
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	34271	R311-201	AMD	02/14/2011	2010-24/23
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	34275	R311-205	AMD	02/14/2011	2010-24/30
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